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

Note by the Secretary-General

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

[21 October 2004]

*Reproduced as received

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Introduction

The present report has been established according to the arrangements approved by the Governing Body of the International Labour Office¹ to give effect to resolution 1988 (LX) of 11 May 1976 of the United Nations Economic and Social Council requesting specialized agencies to submit reports, in accordance with article 18 of the International Covenant on Economic, Social and Cultural Rights, on the progress made in achieving the observance of the provisions of the Covenant falling within the scope of their activities. According to these arrangements, the International Labour Office is entrusted with the task of communicating to the United Nations, for presentation to the Committee on Economic, Social and Cultural Rights, information on the results of the operation of various ILO supervisory procedures in the fields covered by the Covenant. It should remain open for the Committee of Experts on the Application of Conventions and Recommendations to report on particular situations whenever it deems this desirable or when specifically requested to do so by the Committee on Economic, Social and Cultural Rights.

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

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

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

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

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

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

Article 6 of the Covenant

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

Article 7 of the Covenant

Remuneration

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

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

Equal remuneration

Equal Remuneration Convention, 1951 (No. 100)

Safe and healthy working conditions

White Lead (Painting) Convention, 1921 (No. 13)

Marking of Weight (Packages Transported by Vessels) Convention, 1929 (No. 27)

Protection Against Accidents (Dockers) Convention, 1929 (No. 28)

Protection Against Accidents (Dockers) Convention, 1932 (No. 32)

Safety Provisions (Building) Convention, 1937 (No. 62)

Labour Inspection Convention, 1947 (No. 81)

Radiation Protection Convention, 1960 (No. 115)

Guarding of Machinery Convention, 1963 (No. 119)

Hygiene (Commerce and Offices) Convention, 1964 (No. 120)

Maximum Weight Convention, 1967 (No. 127)

Labour Inspection (Agriculture) Convention, 1969 (No. 129)

Benzene Convention, 1971 (No. 136)

Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148)

Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152)

Occupational Safety and Health Convention, 1981 (No. 155)

Occupational Health Services Convention, 1985 (No. 161)

Asbestos Convention, 1986 (No. 162)

Safety and Health in Construction Convention, 1988 (No. 167)

Chemicals Convention, 1990 (No. 170)

Night Work Convention, 1990 (No. 171)

Labour Inspection (Seafarers) Convention, 1996 (No. 178)

Rest, limitation of working hours and holidays with pay

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

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

Hours of Work (Commerce and Offices) Convention, 1930 (No. 30)

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

Holidays with Pay Convention, 1936 (No. 52)

Holidays with Pay (Agriculture) Convention, 1957 (No. 101)

Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106)

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

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

Homework Convention, 1996 (No. 177)

Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180)

Article 8 of the Covenant

Right of Association (Agriculture) Convention, 1921 (No. 11)

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

Right to Organize and Collective Bargaining Convention, 1949 (No. 98)

Workers' Representatives Convention, 1971 (No. 135)
Rural Workers' Organizations Convention, 1975 (No. 141)
Labour Relations (Public Service) Convention, 1978 (No. 151)
Collective Bargaining Convention, 1981 (No. 154)

Article 9 of the Covenant

Workmen's Compensation (Agriculture) Convention, 1921 (No. 12)
Workmen's Compensation (Accidents) Convention, 1925 (No. 17)
Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18)
Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)
Sickness Insurance (Industry) Convention, 1927 (No. 24)
Sickness Insurance (Agriculture) Convention, 1927 (No. 25)
Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35)
Old-Age Insurance (Agriculture) Convention, 1933 (No. 36)
Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37)
Invalidity Insurance (Agriculture) Convention, 1933 (No. 38)
Survivor's Insurance (Industry, etc.) Convention, 1933 (No. 39)
Survivor's Insurance (Agriculture) Convention, 1933 (No. 40)
Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42)
Unemployment Provisions Convention, 1934 (No. 44)
Maintenance of Migrants' Pension Rights Convention, 1935 (No. 48)
Social Security (Minimum Standards) Convention, 1952 (No. 102)
Equality of Treatment (Social Security) Convention, 1962 (No. 118)
Employment Injury Benefits Convention, 1964 (No. 121)
Invalidity, Old-Age and Survivor's Benefits Convention, 1967 (No. 128)
Medical Care and Sickness Benefits Convention, 1969 (No. 130)
Maintenance of Social Security Rights Convention, 1982 (No. 157)
Employment Promotion and Protection Against Unemployment, 1988 (No. 168)

Article 10 of the Covenant

(a) Maternity protection (re para. 2)

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

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

Minimum Age (Industry) Convention, 1919 (No. 5)
Minimum Age (Sea) Convention, 1920 (No. 7)
Minimum Age (Agriculture) Convention, 1921 (No. 10)
Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15)
Minimum Age (Non-Industrial Employment) Convention, 1932 (No. 33)

Minimum Age (Sea) Convention (Revised), 1936 (No. 58)
Minimum Age (Industry) Convention (Revised), 1937 (No. 59)
Minimum Age (Non-Industrial Employment) Convention (Revised), 1937 (No. 60)
Minimum Age (Fisherman) Convention, 1959 (No. 112)
Social Policy (Basic Aims and Standards) Convention, 1952 (No. 117)
Minimum Age (Underground Work) Convention, 1965 (No. 123)
Minimum Age Convention, 1973 (No. 138)
Night Work of Young Persons (Industry) Convention, 1919 (No. 6)
Night Work (Bakeries) Convention, 1925 (No. 20)
Night Work of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 79)
Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90)
White Lead (Painting) Convention, 1921 (No. 13) (Article 3)
Radiation Protection Convention, 1960 (No. 115) (Article 7)
Maximum Weight Convention, 1967 (No. 127) (Article 7)
Benzene Convention, 1971 (No. 136) (Article 11)
Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16)
Medical Examination (Seafarers) Convention, 1946 (No. 73)
Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77)
Medical Examination of Young Persons (Non-Industrial Occupations) Convention,
1946 (No. 78)
Medical Examination (Fishermen) Convention, 1959 (No. 113)
Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124)
Worst Forms of Child Labour Convention, 1999 (No. 182)

Article 13 of the Covenant

Human Resources Development Convention, 1975 (No. 142)

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

II. INDICATIONS CONCERNING THE SITUATION OF INDIVIDUAL COUNTRIES

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

The absence of any such reference signifies either that there are no comments at the present time regarding the application of a particular Convention, or that the comments that have been made deal with points not relating to the provisions of the Covenant or to matters (for example, simple requests for information) which it would not appear to be necessary to deal

with at this stage, or again that the Government’s reply concerning the application of a Convention on which comments had been made has not yet been examined by the Committee of Experts.

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

A. Azerbaijan

Information concerning Azerbaijan has been supplied to the UN Committee on Economic, Social and Cultural Rights in 1997.

The following relevant Conventions have been ratified and are in force for Azerbaijan (for full names see the list of Conventions in Part I above): 11, 13, 14, 16, 27, 29, 32, 47, 52, 73, 77, 78, 79, 81, 87, 88, 90, 98, 103, 105, 100, 106, 111, 113, 115, 119, 120, 122, 124, 129, 131, 135, 138, 140, 142, 148, 151, 154, 159, 182.

Article 6

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| Forced Labour Convention, 1930 (No. 29) | <p>In its Direct Request of 2003, the Committee recalled section 215-1 of the Criminal Code under which unemployed persons are not subjected to proceedings for vagrancy and “other parasitic ways of life” only where they are ready to work. The possibility to impose penalties for mere refusal to work is contrary to the Convention. The Committee therefore expressed hopes that the Government will take the necessary measures to exclude from the legislation any possibility of compulsion to work.</p> <p>The Committee noted that under section 9(1) of the Act on the Status of Military Personnel, 1991, military servicemen may be made to perform work not related to military service. The Committee recalled that work or service exacted by virtue of compulsory military service laws may only be excluded from the prohibition of forced labour if such work or service is of a purely military character. The Committee requested the Government to describe the criteria for the application of the abovementioned national provisions and to provide any information on their application in practice.</p> <p>The Committee recalled section 49 of the Correctional Labour Code providing for an obligation of all prisoners to perform labour. The Committee requested the Government to indicate whether and how the consent of the prisoners to work for private enterprises is obtained.</p> |
| Discrimination (Employment and | In its direct request of 2003, the Committee welcomed the adoption of the Act on Employment, on 2 July 2001; in particular section 6 of the Act that affords equal opportunities to all citizens, irrespective of race, nationality, |

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| Occupation) Convention, 1958 (No. 111) | religion, language, sex, marital status, social origin, place of residence, property, convictions, membership in political parties and trade unions and other social organizations. The Committee also noted sections 150-153 of the Criminal Code that provide for criminal sanctions for sexual harassment. The Committee recalled that section 241 of the Labour Code prohibits the "use of women workers in labour-intensive jobs, in hazardous workplaces, and also in underground tunnels, mines, and other underground works". It invited the Government to consider the possibility of re-examining these restrictions with a view to assessing whether it is still necessary to prohibit the access of women to certain occupations, in view of the principle of equality, improvements in conditions of work and changing attitudes. The Committee also noted with interest the measures taken to enhance educational opportunities for ethnic minorities, including educational programmes provided in minority languages. |
| Employment Policy Convention, 1964 (No. 122) | In its direct request of 2003, the Committee noted with interest that the National Statistics Committee has adopted in 2000 a new form for gathering labour market statistics on a monthly, trimester and annual basis. The Committee also noted that the Government has created coordinating committees for employment promotion, which include representatives of workers and employers, as well as social organizations. |

Article 7

Remuneration

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| Minimum Wage Fixing Convention, 1970 (No. 131) | In its direct request of 2003, the Committee noted that under section 155(6) of the Labour Code the minimum wage is determined by presidential decree. The Committee requested the Government to indicate the measures taken to ensure that the employers' and workers' interests are duly considered while establishing minimum wage levels. |
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Equal remuneration

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| Equal Remuneration Convention, 1951 (No. 100) | In its direct request of 2003 and regarding sections 16, 154 and 158 of the Labour Code, the Committee noted that section 16 sets forth the principle of non-discrimination based on sex; section 154 states that workers may not be paid less than the minimum wage; and section 158 states that systems of remuneration and rates are to be specified in collective agreements and employment contracts. In the view of the Committee, these provisions do not fully reflect the principle of equal remuneration for work of equal value. |
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Safe and healthy working conditions

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| Guarding of | In its direct request of 2003, the Committee commented on section 218, |
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| Machinery Convention, 1963 (No. 119) | subsection 7 and on section 229 of the Labour Code on occupational safety. The Committee pointed out that these provisions are too general and requested the Government to indicate measures ensuring that workers shall not be required to use any machinery without the guards provided being in position. |
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Rest, limitation of working hours and holidays with pay

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| Forty-Hour Week Convention, 1935 (No. 47) | In its direct request of 1999, the Committee noted, inter alia, section 96 of the Labour Code providing for the calculation of normal hours of work over a period of up to one year, without specifying the categories of employment concerned. The Committee drew the attention of the Government to the fact that Recommendation No. 116 on the reduction of working hours, 1962, provides for the calculation of normal average hours of work; however, only in cases where "special conditions in certain branches of activity or technical needs justify it" (Paragraph 12). It must in fact be restricted to exceptional cases where the nature of the work, technical reasons or seasonal variations and periodic pressure of work make it necessary. The Committee expressed hopes that the Government will take account of the provisions of the Recommendation and amend section 96 of the Labour Code accordingly. |
| Holidays with Pay Convention, 1936 (No. 52) | In its direct request of 2003, the Committee noted section 134(3)(a) of the Labour Code which states that, at the initiative of the employee, holidays may be deferred in the case of temporary disability. The Convention however makes it compulsory that interruptions of attendance at work due to sickness shall not be included in the annual holiday with pay. The Committee asked the Government to bring the legislation into line with the Convention. The same applies to public and customary holidays under <i>Article 2, paragraph 3(a)</i> , of the Convention. The Committee therefore considered that it would be desirable for legislative measures or regulations to be adopted so as to give full effect to <i>Article 2, paragraph 3(a)</i> , of the Convention. |
| Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106) | In its direct request of 2003, the Committee noted that the Labour Code has not brought the legislation into conformity with the Convention, as section 109(2) provides that work on a rest day must be compensated by another rest day or payment of monetary remuneration at a double rate. The Committee reiterated that, under the Convention, the granting of compensatory rest is compulsory regardless of monetary compensation. |

Article 8

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| Right of Association (Agriculture) | In its direct request of 2001, the Committee took note of the Government's indication that agricultural workers are granted the right to organize and that the Labour Code applies to this category of workers. |
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| Convention, 1921 (No. 11) | |
| Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) | In its observation of 2003, the Committee urged the Government to explicitly amend or repeal section 188-3 of the Criminal Code, which contains major restrictions on collective action with a view to disrupting public transport, associated with penalties of imprisonment. Moreover, the Committee urged the Government to amend section 6(1) of Act No. 792 on trade unions, so as to eliminate the absolute prohibition of all types of political activity by trade unions. |

Article 10

Maternity protection (re para. 2)

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| Maternity Protection Convention (Revised), 1952 (No. 103) | In its direct request of 2003, the Committee noted with interest that section 125(1) of the Labour Code provides for maternity leave of 126 days. However, it noted that there is no provision laying down the compulsory nature of postnatal leave for a period of not less than six weeks from the day of confinement. The Committee trusted that the Government would indicate in its next report the measures adopted to give full effect to the Convention in this regard. |
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Protection of children and young persons in relation to employment and work (re para. 3)

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| Minimum Age Convention, 1973 (No. 138) | In its observation of 2003, the Committee recalled that the minimum age of 16 years was specified by the Government under the Convention. It therefore noted with regret that the new Labour Code in section 42(3), allows a person who has reached the age of 15 to be part of an employment contract. Moreover, the Individual Contracts of Employment Agreement Act, section 12(2), sets the minimum age for concluding an employment contract at 14 years. The Committee pointed out that the Convention does not permit lowering of the minimum age once specified. Therefore, the Committee asked the Government to indicate the measures taken or envisaged to ensure that access to employment of children of 14 and 15 years of age may be allowed exceptionally, only for work that meets the criteria set out in <i>Article 7</i> of the Convention (light work). |
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B. Chile

Information concerning Chile has been supplied to the UN Committee on Economic, Social and Cultural Rights in 1979, 1981, 1985 and 1988.

The following relevant Conventions have been ratified and are in force for Chile (for full names see the list of Conventions in Part I above): 1, 2, 6, 11, 12, 13, 14, 16, 19, 20, 24, 25, 26, 27, 29, 30, 32, 34, 35, 36, 37, 38, 87, 98, 100, 103, 105, 111, 115, 121, 122, 127, 131, 135, 136, 138, 140, 151, 156, 159, 161, 162, 182.

Article 6

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| <p>Discrimination (Employment and Occupation) Convention, 1958 (No. 111)</p> | <p>In its observation of 2003, the Committee noted with interest the amendment made to section 2 of the Labour Code, broadening protection against discrimination in employment on grounds of previous debts.</p> <p>Regarding discrimination on grounds of political opinion, the Government recalled that the Legislative Decrees (Nos. 112 and 139 of 1973, 473 and 762 of 1974, and 1321 and 1412 of 1976) which grant broad discretionary powers to the vice-chancellors of universities to terminate the contracts of employment of academic and administrative personnel are no longer in force. The Committee emphasized that it would be advisable to explicitly repeal provisions which are not effectively in force. The Committee requested the Government to take the necessary measures to bring the national legislation into compliance with the Convention.</p> <p>The Committee also recalled section 349 of the Commercial Code, which provides that a married woman who is not covered by the marital regime of the individual ownership of property may only enter into a commercial partnership agreement with her husband's authorization. The Committee hoped that the Government will consider amending this provision so as to ensure that women may exercise their professional activities under equal conditions with men.</p> |
| <p>Workers with Family Responsibilities Convention, 1981 (No. 156)</p> | <p>In its direct request of 2000, the Committee noted with interest that Decree No. 1907 of 3 November 1998 enacting Convention No. 156 into national law applies to all branches of economic activity and categories of workers, without any distinction or discrimination, in both the public and private sectors.</p> <p>The Committee also noted with interest that Act No. 19.591 grants maternity protection to women working in private houses, and that a new final paragraph has been added to section 194 of the Labour Code providing that employers may not make the continuation of employment conditional on the existence or absence of pregnancy, nor require a certificate or any examination to ascertain whether or not a woman worker is pregnant.</p> <p>Regarding section 195 of the Labour Code, which explicitly provides that fathers do not enjoy the employment protection set out in sections 201 and 174, the Committee noted that the explicit exclusion of working fathers from the protection afforded by section 195, paragraph 2, to working mothers is not in conformity with the Convention. It therefore recommended the Government to amend this provision.</p> |

Article 7

Remuneration

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| Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) | In its direct request of 2001, the Committee requested the Government to review the criteria for fixing minimum wages for workers below 18 years of age and over 65 years in order to ensure that workers in these categories receive remuneration equal to that of other workers. |
| Minimum Wage Fixing Convention, 1970 (No. 131) | In its direct request of 2003, the Committee noted the various categories of workers who are excluded from the minimum wage system. It emphasized that, although the Convention does not prohibit the fixing of lower minimum wage rates for workers on the basis of their age or disability, protective clauses should be adopted to guarantee them equal remuneration to that of other workers. The Committee requested the Government to keep it informed of developments in the situation with regard to these groups of workers and to provide additional information on the reasons for the exclusion of workers in private houses and apprentices from the minimum wage system. |

Equal remuneration

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| Equal Remuneration Convention, 1951 (No. 100) | In its direct request of 2003, the Committee noted that although the amendments made to sections 2 and 5 of the Labour Code by Act No. 19.759 of 5 October 2001, admittedly contributes to the application of the principle set out in the Convention, it does not necessarily reflect it in full. Therefore, the Committee invited the Government to consider the possibility of including in its legislation in the near future the principle of equal remuneration for men and women workers for work of equal value. |
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Safe and healthy working conditions

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| Protection against Accidents (Dockers) Convention (Revised), 1932 (No. 32) | In its direct request 2001, the Committee noted with interest that the following legislation has been adopted: Resolution No. 96 of 11 December 1996 of the Port Enterprise of Chile updating and amending regulations on cargo handling and warehousing of dangerous cargo in ports; Supreme Decree No. 49 of 31 May 1999 of the Ministry of Labour and Social Affairs approving regulations on basic safety of port work; and Supreme Decree No. 113 of 15 November 1999 of the Ministry of Labour and Social Affairs amending Decree No. 49 of 1999. |
| Radiation Protection Convention, 1960 (No. 115) | In its direct request of 2003, the Committee noted that, according to section 98 of Decree No. 745 of 23 July 1992 read in conjunction with section 12 of Decree No. 3 of 3 January 1985, for workers exposed to ionizing radiations the maximum annual value currently in force is 5 rem (= 50 mSv) for the whole body and 30 rem (= 300 mSv) for the lens of the eye. The Committee recalled that the maximum permissible doses of radioactive substances were set in Recommendations adopted by the International Commission on |

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| | Radiological Protection (ICRP) in 1990, which advocates a maximum annual dose of 20 mSv for the whole body and of 15 mSv for the lens of the eye. The Committee therefore expressed hopes that the Government will adopt of new dose limits. |
| Maximum Weight Convention, 1967 (No. 127) | In its observation of 2002, the Committee noted that section 57 of Presidential Decree No. 655 of 7 March 1941 fixes the maximum weight of a load that may be transported by a single male worker at 80 kg. In contrast, Circular No. 30 of 4 December 1985 establishes a maximum weight of 55 kg for the manual transport of loads by a single worker. The Committee urged the Government to adopt regulations that provide for clear limits for the different categories of workers and expressed its firm hope that the Government will soon adopt regulations to lower considerably the existing maximum weight limits applied in the country. The Committee also commented on section 8 of Circular No. 30 of 4 December 1985 providing for the use of mechanical devices for the transportation of loads in excess of 55 kg. It also noted that Circular No. 30 does not contain a provision to limit the assignment of women and young workers to the manual transportation of loads other than light loads. The Committee accordingly reiterated its hope that the Government will take the necessary measures to this end. |
| Asbestos Convention, 1986 (No. 162) | In its observation of 2001, the Committee considered that appropriate measures should be taken to prevent pollution of the general environment by asbestos dust released from the workplace, as provided in <i>Article 19</i> of the Convention, and that action should be taken to screen those persons of the population who have been subject to exposure to asbestos, in order to adopt appropriate measures in their favour. The Committee therefore requested the Government to adopt all necessary measures to give effect to national legislation covering activities related to exposure to asbestos. |

Rest, limitation of working hours and holidays with pay

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| Hours of Work (Industry) Convention, 1919 (No. 1) | In its observation of 1999, the Committee noted that the provisions of sections 30 and 31 of the Labour Code, which allow overtime of up to two hours per day in certain jobs, are adequately restricted by section 29, which lays down the exceptions that may be allowed to normal daily working hours. However, the Committee reminded the Government that reasonable limits to such exceptions need to be set (such as a monthly or annual limit). Consequently, the Committee asked the Government to take the necessary measures to ensure that Article 6 paragraph 2 of the Convention is fully applied. |
| Hours of Work (Commerce and Offices) Convention, 1930 (No. 30) | In its observation of 1999, the Committee recalled that section 31 of the Labour Code, which permits the parties to an employment contract to agree to work two additional hours per day in jobs which by their nature do not harm the health of the worker, violate the Convention, which specifies that exceptions to normal hours of work may only be made in the cases provided for in Article 7 of the Convention. |

Article 8

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| <p>Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)</p> | <p>In its direct request of 2003, the Committee noted that officials in the judicial authorities continue to be governed by special conditions of service which prohibit them from establishing trade union organizations. The Committee requested the Government to take measures to ensure that officials of the judicial authorities are afforded the guarantees set forth in the Convention. The Committee made similar comments regarding article 23 of the Political Constitution that provides that the holding of trade union office is incompatible with active membership in a political party.</p> <p>As regards sections 372 and 373 of the Labour Code on ballots and strike actions, the Committee recalled that legislative provisions that require a vote by workers before a strike can be held must ensure that account is taken only of the votes cast, and that the required quorum and majority are fixed at a reasonable level. In these conditions, the Committee requested the Government to take measures to amend the above sections of the Labour Code.</p> <p>The Committee noted that section 381 of the Labour Code provides for the possibility of the replacement of striking workers, subject to compliance by the employer with certain conditions in the final offer during the negotiating process. The Committee recalled that the replacement of strikers seriously impairs the right to strike and requested the Government to amend the legislation to ensure that enterprises cannot hire new workers to replace those who are engaged in a lawful strike.</p> <p>The Committee also commented on section 384 of the Labour Code, which provides that strikes cannot be called by workers in enterprises which supply public utility services or those the interruption of which would seriously endanger the health, public supply, the national economy or national security. The Committee considered that the definition of services in which strikes may be prohibited is too broad and goes beyond services the interruption of which would endanger the life, personal safety or health of the whole or part of the population. The Committee therefore requested the Government to take measures to amend the law and practice in the sense indicated above.</p> <p>The Committee also noted that section 385 of the Labour Code provides that in the event of a strike which causes a serious risk to the health, the supply of goods or services to the population, to the national economy or national security, the President of the Republic may order the resumption of work. The Committee considered that the definition contained in section 385 appears to go beyond essential services in the strict meaning of the term. The Committee requested the Government to take measures to repeal or amend the provision in question.</p> |
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| | <p>The Committee made similar comments regarding section 254 of the Penal Code that provides for penal sanctions in the event of the interruption of public services or public utilities or the abandonment of their posts by public employees, and section 48 of Act No. 19296 that grants broad powers to the Directorate of Labour for the supervision of the accounts and financial and property transactions of associations.</p> |
| <p>Right to Organise and Collective Bargaining Convention, 1949 (No. 98)</p> | <p>In its direct request of 2003, the Committee noted that section 1 of the Labour Code does not apply to officials of the National Congress or the judiciary, nor to workers in state enterprises or institutions, provided that such officials and workers have a special status in law. The Committee requested the Government to take measures to secure the right of collective bargaining for the officials concerned in so far as they are not officials engaged in the administration of the State.</p> <p>Under the terms of sections 314bis and 315 of the Labour Code, groups of workers are authorized to submit draft collective agreements even where there exist workers' organizations in the relevant sector. The Committee emphasized that groups of workers should only be able to negotiate collective agreements or contracts in the absence of workers' organizations. It requested the Government to take measures to amend the legislation as indicated above.</p> <p>The Committee also noted that, by virtue of section 320 of the Labour Code, the employer has an obligation to communicate to all workers in the enterprise the submission of a draft collective agreement so that they can propose draft texts or subscribe to the one that has been submitted. The Committee considered that this provision does not promote the full utilization of machinery for voluntary negotiation between employers and workers' organizations, and requested the Government to take measures to repeal this provision.</p> |

Article 9

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| <p>Sickness Insurance (Industry) Convention, 1927 (No. 24)</p> | <p>In its observation of 2001, the Committee noted that under Legislative Decree No. 3501 of 1980, all social insurance payments, except those of the occupational injury compensation scheme, are paid by the worker. Gross salaries have been increased in order to compensate for the worker's obligation to pay contributions in their entirety. The Committee noted with regret that the salary increase to which the Government refers can not be considered as giving effect to <i>Article 7, paragraph 1, of the Convention</i> which stipulates that employers shall share directly in providing the financial resources of the sickness insurance system. The Committee expressed hopes that the Government will be able to re-examine this</p> |
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| | question. |
| Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35) | <p>In its observation of 2000, the Committee noted the conclusions of the committee set up by the Governing Body of the ILO to examine the representation made by a number of Chilean unions of employees of pensions funds administrators (AFPs), under article 24 of the Constitution, alleging non-observance by Chile inter alia of Convention No. 35. This committee recommended the adoption of measures to ensure that:</p> <p>(i) the pension system established in 1980 by Legislative Decree No. 3500 is administered by non-profit-making institutions in accordance with the provisions of Conventions Nos. 35 and 36 and Conventions Nos. 37 and 38, unless the administration is entrusted to institutions founded on the initiative of the parties concerned or of their organizations and duly approved by the public authorities, in accordance with Conventions Nos. 35 and 36 and Conventions Nos. 37 and 38;</p> <p>(ii) representatives of the insured persons participate in the administration of the system under conditions determined by national laws and regulations, in conformity with the provisions of Conventions Nos. 35 and 36 and Conventions Nos. 37 and 38;</p> <p>(iii) the competent services carry out and strengthen their oversight of employers and impose effective sanctions to discourage recurrences of failure to pay pension contributions.</p> <p>The Committee of Experts expressed the hope that the Government will take the necessary measures to implement the decisions of the Governing Body.</p> |

Article 10

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

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| Minimum Age Convention, 1973 (No. 138) | <p>In its direct request of 2003, the Committee noted that the national legislation governing labour rights does not apply to employment relationships which are not based on a contract, such as self-employment. The Convention applies to all sectors of economic activity and covers all forms of employment or work. The Committee therefore requested the Government to provide information on the manner in which the protection envisaged by the Convention is ensured for children exercising an economic activity on their own account.</p> <p>The Committee also noted that section 13(2) of the Labour Code provides that, with the authorization of certain persons, young persons between the ages of 16 and 18 years may be parties to a labour contract. Section 13(6) lays down that the provisions of subsection 2 shall not apply to married women, whose situation is governed by section 150 of the Civil Code. Under the terms of this section, a married woman may freely exercise an occupation irrespective of her age. In accordance with the legislation governing marriage, a man over 14 years of age and a woman over 12 years of age may marry, with the authorization of certain persons. A joint reading</p> |
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| | <p>of these provisions shows that a woman over 12 years of age could marry and work. The Committee therefore requested the Government to provide information on the measures adopted or envisaged to ensure that the provisions respecting the minimum age for admission to employment or work also apply to married women between the ages of 12 and 15 years.</p> <p>The Committee also requested the Government to take the necessary measures to ensure that the national legislation provides that no person under 15 years of age shall be employed as a domestic worker. It also requested the Government to take the necessary measures to determine in the national legislation the types of employment or work which are likely to jeopardize the health, safety or morals of young persons under 18 years of age.</p> |
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C. Denmark

Information concerning Denmark has been supplied to the UN Committee on Economic, Social and Cultural Rights in 1979, 1981, 1985, 1987, 1998.

The following relevant Conventions have been ratified and are in force for Denmark (for full names see the list of Conventions in Part I above): 2, 6, 11, 12, 14, 16, 18, 19, 27, 29, 42, 52, 73, 81, 88, 87, 98, 100, 102, 105, 106, 111, 115, 119, 122, 129, 130, 135, 138, 141, 142, 148, 151, 152, 155, 159, 167, 169, 180, 182.

Article 6

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| Discrimination (Employment and Occupation) Convention, 1958 (No. 111) | In its observation of 2002, the Committee noted with interest the adoption on 30 May 2000 of the Act on equality between men and women (Act No. 388 of 2000), as amended by Act No. 396 of 6 June 2002. The Committee also noted the establishment of the Danish Equal Opportunities Board, and the Equal Opportunities Knowledge Centre, in which the principal labour market organizations are represented. The Danish Equal Opportunities Board is competent to examine complaints under this Act, as well as complaints concerning discrimination under various Acts. The Committee welcomed these initiatives to improve the legislative, administrative and enforcement framework to combat gender discrimination and promote gender equality. |
| Indigenous and Tribal Peoples Convention, 1989 (No. 169) | In its observation of 2003, the Committee noted that a representation under article 24 of the ILO Constitution was filed in November 1999 by the Greenlandic trade union Sulinermik Inuussutissarsiuqartut Kattuffiat (SIK) concerning the application of the Convention by Denmark. Its examination was concluded by the Governing Body at its 280th Session (March 2001). The report adopted by the Governing Body concluded that in general the measures taken in this respect since 1997 (when the Convention entered into force for Denmark) by the Government are consistent with the |

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| | <p>Convention.</p> <p>The Governing Body requested the Government to provide information to the Committee of Experts on a certain number of points arising under the representation:</p> <ul style="list-style-type: none"> - the decision of the Danish Supreme Court on the appeal taken from the 20 August 1999 decision of the High Court of the eastern district of Denmark in the case arising out of the 1953 relocation of the population of the Uummannaq community in the Thule district of Greenland; - any further measures taken or envisaged to compensate the persons relocated from the Uummannaq community for losses incurred as a result of the relocation; - any consultations as prescribed by sections 12(1) and (2) of the Home Rule Act with the Home Rule authorities regarding future use of the land occupied by the Thule Air Base or the use of any other land in the Thule district; - the measures which have been taken or are contemplated to ensure that no Greenlanders are relocated without their free and informed consent or, if this is not possible, only after appropriate procedures in accordance with the Convention. |
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Article 7

Equal remuneration

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| <p>Equal Remuneration Convention, 1951 (No. 100)</p> | <p>In its direct request of 2003, the Committee noted with interest that since 2001 the gender equality section has been working on the implementation of the mainstreaming strategy as prescribed by Act No. 388, and that this work is based on an interministerial steering group, which has drawn up a framework action plan for 2002-06. It also noted that the Minister for Gender Equality submits every year a ministerial action plan on gender equality. The Committee also noted with interest the adoption of the Act on Gender Equality of 30 May 2002, according to which municipal authorities have a statutory obligation to give a report on gender equality every second year; of the Consolidation Act No. 553 of 2 July 2002 that prescribes compensation to aggrieved persons due to violation of Act No. 373; and of the amendments to Act No. 445 of 7 June 2001, under which an employee has the right to pass on information relating to his/her own wage conditions to anyone.</p> <p>The Committee noted with interest that according to the Union of Commercial and Clerical Employees in Denmark, women's wages have risen by up to 1 per cent more than those of men in the private labour market.</p> <p>It also noted with interest that in 2002 the Ministry of Finance agreed to ensure a balanced wage development in the new wage systems.</p> |
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Safe and healthy working conditions

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| Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148) | In its direct request of 2002, the Committee noted that no branches of economic activity have been excluded from the application of the Convention. The Committee also noted the information that an ISO standard has been adopted on criteria for vibration dampening gloves - hand-arm vibration - Method of measurement of the vibration transmissibility of gloves at the palm of the hand, EN ISO 10 819. |
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Rest, limitation of working hours and holidays with pay

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| Holidays with Pay Convention, 1936 (No. 52) | In its direct request of 2003, the Committee noted the indication according to which the Ministry of Labour has submitted to the Parliament a new bill on holidays which takes into account European Directive No. 93/104/EC of 23 November 1993. |
| Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106) | In its direct request of 2003, the Committee noted that according to section 12 of the Order No. 324 of 23 May 2002, a compensatory rest period is granted for derogations from the ordinary weekly rest period. The Committee recalled that, for temporary exemptions, the Convention requires in all cases a compensatory rest period of a total duration at least equivalent to the period provided for under the Convention. The Committee therefore asked the Government to take the necessary action to bring the legislation in line with the Convention. |

Article 8

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| Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) | In its observation of 2003, the Committee recalled that, since 1989, it has been requesting the amendment of section 10 of Act No. 408 of 23 June 1988, which sets up a Danish International Shipping Register (DIS), because it has the effect of prohibiting workers employed on Danish flagships who are not residents of Denmark from being represented in collective bargaining, if they so wished, by Danish trade unions of which they are members, in contravention of the Convention. The Committee underlined that section 10 of Act No. 408 has the effect of restricting the activities of Danish trade unions and requested the Government to keep it informed on the measures taken or envisaged to amend section 10 of Act No. 408. |
| Right to Organise and Collective Bargaining Convention, 1949 (No. 98) | In its observation of 2003, the Committee recalled that section 10 of Act No. 408 has the effect of restricting the scope of negotiable issues by the Danish trade unions, by excluding from their bargaining power seafarers working on Danish flagships who are not considered Danish residents. By the same token, these seafarers cannot freely choose the organization they wish to represent their interests in the collective-bargaining process. The Committee requested the Government to indicate any measures taken to bring section 10 of Act No. 408 into full conformity with Article 4 of the Convention. |

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| | <p>Regarding section 12 of the Conciliation Act, an issue was raised following the examination by the Committee on Freedom of Association of Case No. 1971. This provision makes it possible for an overall draft settlement to cover collective agreements involving an entire sector of activity even if the organization representing most of the workers in that sector rejects the overall draft settlement. In its previous comments, the Committee had requested the Government to review the legislation, in consultation with the social partners. According to the Government, the case has been dealt with by the "permanent ILO committee", and it will be taken up in this committee again once the social partners have completed their discussions. The Committee requested the Government to provide information in its next report on the contents of the discussions taking place between the social partners.</p> |
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Article 10

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

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| <p>Minimum Age Convention, 1973 (No. 138)</p> | <p>In its direct request of 2003, the Committee noted that sections 10 to 16 of Order No. 516 of 14 June 1996 provide for certain types of work which young persons under the age of 18 years shall not perform. It also noted that sections 10(4) and 11(2) of Order No. 516 of 14 June 1996 exceptionally allow young persons who have reached the age of 15 years to be employed in work enumerated in Appendices 1C and 2A of the Order, respectively, under certain conditions. Recalling that, under the Convention, the exception to the prohibition of employment of young persons in hazardous work can be authorized only as from the age of 16 years on condition that their health, safety and morals are fully protected and that the young persons have received adequate specific instruction, the Committee requested the Government to indicate the measures taken to ensure that no person under the age of 16 years can be employed in such work. The Committee noted that the National Working Environment Authority has presented a draft for a revision of the current rules and expressed hopes that this revision will take account of the Committee's previous comments.</p> <p>The Committee reminded the Government that sections 45 and 46 of Order No. 516 of 1996, stating that an individual permission by the competent authority is required only when a young person under the age of 13 years is employed in artistic activities, seem to be not in accordance with the Convention. The Committee recalled that the specified minimum age for admission to employment in Denmark is 15 years. The Committee therefore requested the Government to indicate the measures taken or envisaged to ensure that approval for young persons of below 15 years of age to take part in such activities is granted in individual cases.</p> |
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D. Italy

Information concerning Italy has been supplied to the UN Committee on Economic, Social and Cultural Rights in 1982 and 2000.

The following relevant Conventions have been ratified and are in force for Italy (for full names see the list of Conventions in Part I above): 2, 3, 6, 11, 12, 13, 14, 16, 18, 19, 26, 27, 29, 35, 36, 37, 38, 39, 40, 42, 44, 48, 73, 77, 78, 79, 81, 87, 90, 98, 99, 100, 102, 105, 106, 111, 115, 117, 118, 119, 120, 122, 124, 127, 129, 132, 135, 136, 138, 141, 142, 148, 151, 152, 159, 167, 170, 175, 182, 183.

Article 6

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| Forced Labour Convention, 1930 (No. 29) | In its direct request of 2003, the Committee noted with interest the adoption of Act No. 228 of 23 August 2003 (measures against the trafficking of persons), which gives a more expanded definition of reducing or maintaining a person in slavery or servitude, and which provides for the establishment of a fund to finance social assistance programmes for victims of trafficking. |
| Abolition of Forced Labour Convention, 1957 (No. 105) | In its direct request of 2001, the Committee commented on sections 1091 and 1094 of the Maritime Code which provides that sentences of imprisonment involving compulsory labour may be imposed on naval and aeronautical staff, in the event of desertion if it results in considerable difficulty in the navigation service; and in the event of insubordination in a technical service of a ship or an aircraft. The Committee reiterated its hope that amendments will soon be made to the Maritime Code with a view to restricting the application of penalties including compulsory labour to acts endangering the safety of the vessel or the life or health of persons. |

Article 7

Remuneration

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| Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99) | In its direct request of 2003, the Committee recalled the incompatibility between section 2099 of the Civil Code and the Convention, as section 2099 does not prevent the possibility of the payment of wages wholly in the form of allowances in kind. The Convention authorizes only the partial payment of wages in kind. The Committee expressed hopes that the Government will adopt all the appropriate measures to ensure that remuneration in kind is limited to a fraction of the wage. |
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Equal remuneration

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| Equal | In its direct request of 2003, the Committee noted the threefold approach |
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| Remuneration Convention, 1951 (No. 100) | taken by the Government in order to advance equality in employment and occupation: it noted section 3 of Decree 151/2001 which confirms respect for the principle of non-discrimination, section 4 of Act No. 903 providing for equality of treatment in pensions, and the progressive lightening of the cost of female labour. |
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Safe and healthy working conditions

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| Radiation Protection Convention, 1960 (No. 115) | In its observation of 2003, the Committee noted with interest the legislation adopted, in particular Legislative Decree No. 230 of 17 March 1995 transposing the European Council Directives 80/836, 84/467, 84/466, 89/618 and 92/3/Euratom into domestic law, and Legislative Decree No. 241 of 26 March 2000 transposing the European Council Directive 96/29/Euratom laying down basic safety standards for the protection of the health of the workers and the general public against the dangers arising from ionising radiation into national law. The Committee noted with satisfaction that the dose limits contained in Annex III to Legislative Decree No. 230 of 17 March 1995 reflect the dose limits recommended by the International Commission on Radiological Protection (ICRP), and thus gives effect to the Convention. |
| Maximum Weight Convention, 1967 (No. 127) | In its observation of 2001, the Committee noted with satisfaction that section 7 of Decree No. 151 of 26 March 2001, provides for a general prohibition to assign women to the transport of loads, either manually, on their back or with wheeled carts on roadways or rails, as well as the lifting of weights. The Committee noted that item 1 of Annex VI of Decree No. 626/94 specifies individual risk factors with regard to the manual transport of loads. It noted that 30 kilograms is not legally established as the maximum weight, but constitutes a point of reference for taking further preventive measures. The Committee recalled that, in conformity with <i>Article 3</i> of the Convention, read together with Paragraph 14 of its accompanying Recommendation, 1967 (No. 128), the maximum permissible weight that may be transported manually by one adult male worker should under no circumstances exceed 55 kilograms. The Committee therefore requested the Government to indicate the measures taken to ensure that the maximum permissible weight to be carried by one worker is legally specified. |

Rest, limitation of working hours and holidays with pay

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| Holidays with Pay Convention (Revised), 1970 (No. 132) | In its direct request of 2003, the Committee noted that under Section 2109 of the Civil Code, holidays must be enjoyed "where possible in a continuous period" and that, in addition, the employer may divide holidays according to the needs of the enterprise within specified limits. The Committee asked the Government to indicate the measures it contemplates to ensure that one of the parts of holiday consists of at least two uninterrupted working weeks, unless otherwise agreed. The Committee also noted that according to decisions Nos. 935/99 and |
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| | 13980/2000 of the Court of Cassation, the worker is entitled to compensation in addition to the remuneration, where he is unable to take the holidays and these cannot be deferred. These decisions are incompatible with the Convention. The Committee, therefore, requested the Government to indicate the measures taken or envisaged to ensure that effect is given to the Convention. |
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Article 8

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| Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) | In its direct request of 2003, the Committee noted a Bill modifying the Judicial Regulations to prevent judges from joining or participating in any organization with political objectives or which conducts political activities. The Committee recalled that under the Convention, workers and employers, <i>without distinction whatsoever</i> , shall have the right to establish and to join organizations of their own choosing without previous authorization. The Committee therefore requested the Government to state whether this provision has the effect of excluding judges from the right to organize and, if this is the case, to take the necessary measures to guarantee that judges continue to enjoy the right to organize. |
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Article 9

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| Equality of Treatment (Social Security) Convention, 1962 (No. 118) | <p>In its observation of 2002, the Committee noted that seasonal workers, who are entitled to a temporary work permit, are no longer covered by the unemployment insurance and family benefit schemes. Under the Convention, nationals of a member State which has also ratified the Convention shall be granted equality of treatment with Italian nationals as regards both coverage and the right to benefits in respect of every branch of social security for which Italy has accepted the obligations of the Convention, without any condition of residence. The Committee hoped that the Government would indicate in its next report the measures taken or envisaged to ensure that seasonal workers who are not nationals of a member State of the European Union or the European Economic Area, but are nationals of a State which has ratified the Convention, as well as refugees and stateless persons, are also granted access to unemployment and family benefits under the same conditions which apply to Italian nationals.</p> <p>The Committee also noted that non-Community women workers are entitled to maternity benefit only if they hold a residence card. A residence card can only be obtained after at least five years of legal residence in Italy. Such a condition is contrary to the Convention. The Committee would like the Government to indicate the measures taken or contemplated to ensure that the maternity benefits are granted to non-nationals covered by <i>Article 3, paragraph 1</i>, of the Convention, as well as to refugees and stateless persons, under the same conditions as for nationals.</p> |
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Article 10

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

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| <p>Minimum Age Convention, 1973 (No. 138)</p> | <p>In its direct request of 2003, the Committee noted with interest the adoption of Law No. 73 of 23 April 2002 which aims at ending all labour, including child labour, in the informal economy.</p> <p>Regarding <i>self-employment</i>, which does not fall under the legal provisions concerning the employment of children or adolescents and for which no such protection exists, the Committee recalled that the Convention applies to all types of employment or work, including self-employment. It therefore requested the Government to indicate any measures taken or envisaged to ensure the application of the minimum age of 15 years to all types of work outside an employment relationship.</p> <p>The Committee noted with interest the Presidential Decree No. 365 of 20 April 1994, which provides for an authorization for the employment of children in cultural, artistic, sport or advertising activities and in the entertainment sector.</p> <p>The Committee also noted with interest the 2002 report on data on child work. The violations of the child labour provisions increased by 19.52 per cent over the year 2000. The Committee asked the Government to give information on the measures envisaged to ensure that the legislation on child labour is applied.</p> |
| <p>Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77)</p> | <p>In its direct request of 2001, the Committee noted the amendment of Act No. 977 of 17 October 1967 on the protection of work by children and young persons by Legislative Decree No. 345 of 4 August 1999 implementing EC Directive 94/33/EC of 22 June 1994 on the protection of young people at work.</p> <p>Under sections 1 and 2 of Act No. 977, the Act does not apply to young persons assigned to occasional or short-term work not considered to be harmful, prejudicial or dangerous in a family enterprise. The Committee recalled that the Convention does not provide for any possibility of restricting its scope of application and must apply to all children and young persons working in an industrial activity. It therefore requested the Government to indicate the measures which have been taken or are envisaged to ensure that all children and young persons benefit from the protection afforded by the Convention.</p> |
| <p>Medical Examination of Young Persons (Non-Industrial Occupations) Convention,</p> | <p>In its direct request of 2001, the Committee noted sections 1 and 2 of Act No. 977 of 17 October 1967 (cf. <i>supra</i>, the direct request of 2001 on Convention No. 77). The Committee recalled that <i>Article 1, paragraph 4</i>, of the Convention allows national laws or regulations to exempt from the application of the Convention family enterprises in which only parents and their children are employed on work which is not dangerous to the health of</p> |

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| 1946 (No. 78) | children. The Committee therefore requested the Government to indicate the measures which have been taken or are envisaged to ensure that, apart from the exemption provided in <i>Article 1, paragraph 4</i> , national laws and regulations protect all young persons employed for wages, or working directly or indirectly for gain, in non-industrial occupations. |
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E. Malta

The following relevant Conventions have been ratified and are in force for Malta (for full names see the list of Conventions in Part I above): 1, 2, 11, 12, 13, 14, 16, 19, 26, 29, 32, 35, 36, 42, 62, 73, 77, 78, 81, 87, 88, 96, 98, 99, 100, 105, 106, 111, 117, 119, 124, 127, 129, 131, 132, 135, 136, 138, 141, 148, 159, 180, 182.

Article 6

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| Discrimination (Employment and Occupation) Convention, 1958 (No. 111) | <p>In its direct request of 2002, the Committee noted with interest the activities organized by the Department of Women in Society in order to promote and mainstream gender equality in the country. Recalling that women are poorly represented in management positions, the Committee noted with interest the course "Women in public management" and the new project to formulate a strategy for increasing women's representation in decision-making positions in the public service.</p> <p>The Committee also noted with interest that the Employment and Training Corporation (ETC) has, among other initiatives, set up a working committee on gender equality in employment and training.</p> <p>The Committee noted that the employment service of female employees accumulated prior to the time they were required to resign due to marriage is not recognized for purposes of calculating pensions. The Committee expressed the hope that the Government will consider providing legal recourse to those negatively affected and will report on any such measures taken. The Committee also requested the Government to indicate how many women are still in service whose pensionable remuneration will be negatively affected by the fact that they were forced to resign before 1980.</p> |
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Article 7

Equal remuneration

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| Equal Remuneration Convention, 1951 (No. 100) | <p>In its direct request of 2002, recalling that family responsibilities constitute the greatest hurdle to the entry of women into the labour force, the Committee noted with interest the establishment of a Child Care Task Force, which was set up in 2000 to explore childcare options, disseminate information and help pilot viable childcare cooperatives throughout Malta.</p> <p>The Committee also noted with interest that the Management and Personnel</p> |
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| | Office, together with the Department for Women in Society and the Commonwealth Secretariat, has undertaken a project to address the serious under-representation of women in the top five scales of the public service. |
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Safe and healthy working conditions

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| Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148) | In its direct request of 2002, the Committee commented on the adoption of the Occupational Health and Safety (Promotion) Act of 1 March 1994 (Act No. VII of 1994) that appears to cover all branches of economic activity, giving full application of the Convention and repeals the Factory's Ordinance (Chapter 107) of 1940, on the Factory's (Health, Safety and Welfare) Regulations of 1986, and on the tripartite Commission for the Promotion of Occupational Health and Safety that was established in 1994 |
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Rest, limitation of working hours and holidays with pay

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| Weekly Rest (Industry) Convention, 1921 (No. 14) | In its direct request of 2003, the Committee noted that, by explicitly restricting the entitlement to a minimum of one day of rest in every week to full-time workers and thus excluding part-time workers, section 2(1) of the new Employment and Industrial Relations Act (Cap. 452) of 2002 contravenes the wide scope of the Convention. The Committee therefore requested the Government to indicate any measures envisaged to ensure that the principle of weekly rest also applies to part-time workers. The Committee made a similar comment regarding section 17 of the Employment and Industrial Relations Act. |
| Holidays with Pay Convention (Revised), 1970 (No. 132) | In its direct request of 2003, the Committee noted with regret that part-time workers working less than 20 hours per week are not entitled to annual paid holiday. The Committee reiterated that the Convention does not differentiate between part- and full-time workers. The Government was therefore requested to take all necessary action to ensure that all employed persons in Malta will be entitled to paid annual leave. |

Article 8

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| Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) | In its observation of 2002, the Committee recalled the incompatibility between the Industrial Relations Act and the provisions of the Convention expressed regrets that no amendments have been made to date to improve voluntary procedures for the settlement of industrial disputes. The Committee pointed out that restrictions on strike action, in particular through the imposition of a compulsory arbitration procedure, constitutes a prohibition which seriously limits the means available to trade unions to further and defend the interest of their members, and is not compatible with the Convention. The Committee expressed the firm hope that the Government will take the necessary measures in the very near future to bring its legislation into greater conformity with the Convention. It drew the Government's attention to the availability of the technical assistance of the |
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| | Office, should it so desire. |
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Article 10

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

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| Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124) | In its direct request of 2000, the Committee noted with interest that the scope of Act No. VII of 1994 for the promotion of occupational health and safety, under the terms of section 19(c), includes quarries and mines as a "workplace" (<i>Articles 1 and 2</i> of the Convention). However, the Committee recalled that the Convention aims to ensure the fitness for employment of young workers for the work assigned to them (<i>Article 2, paragraph 1</i> , of the Convention). Therefore, even though this Act establishes the possibility of regulating work in mines and quarries, it does not constitute an adequate measure for the direct application of the Convention. The Committee requested the Government to indicate any provisions which are already in force or which are envisaged to give effect to the Convention. |
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ANNEX

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

| Country | Document reference |
|--------------------------|---|
| Afghanistan | E/1986/60, E/1989/6, E/1990/9, E/1991/4, |
| Algeria | E/1995/127 |
| Argentina | E/1995/5, E/C.12/1999/SA/1 |
| Armenia | E/C.12/1999/SA/1 |
| Australia | E/1979/33, E/1981/41, E/1985/63, E/1986/60 |
| Austria | E/1981/41, E/1987/59, E/1988/6, E/1995/5 |
| Azerbaijan | E/1997/55, E/2004 |
| Barbados | E/1982/41 |
| Belgium | E/1994/63 |
| Bulgaria | E/1983/40, E/1980/35, E/1985/63, E/1988/6, E/1998/17, E/C.12/1999/SA/1 |
| Belarus | E/1979/33, E/1981/41, E/1985/63, E/1987/59, E/1996/98 |
| Benin | E.CN.12/2002/SA/1 |
| Cameroon | E/1998/6 |
| Canada | E/1982/41, E/1988/6, E/1989/6, E/1994/5, E/1998/17 |
| Central African Republic | E/1997/55 |
| Chile | E/1979/33, E/1981/41, E/1985/63, E/1988/6, E/2004 |
| Colombia | E/1979/33, E/1985/63, E/1990/9, E/1995/127 |
| Costa Rica | E/1990/9, E/1991/4 |
| Cyprus | E/1979/33, E/1981/41, E/1985/63, E/1986/60, E/1989/6 |
| Czech Republic | E.CN.12/2002/SA/1 |
| Denmark | E/1979/33, E/1981/41, E/1985/63, E/1987/59, E/1998/17, E/2004 |
| Dominican Republic | E/1990/9, E/1991/4, E/1995/127, E/1996/98 |
| Ecuador | E/1978/27, E/1985/63, E/1990/90, E/1991/4, E/2004 |

| Country | Document reference |
|-------------------------------------|--|
| Egypt | E/C.12/2000/SA/1 |
| El Salvador | E/1995/127, E/1996/40 |
| Estonia | E/C.12/2002/SA/5 |
| Finland | E/1979/33, E/1981/41, E/1985/63, E/1986/60, E/1996/98 |
| France | E/1986/60, E/1989/6 |
| Georgia | E/C.12/2000/SA/1, E/C.12/2002/SA/5 |
| Germany | E/1978/27, E/1979/33, E/1981/41, E/1985/63, E/1986/60, E/1987/59 |
| Greece | E/2004 |
| Guatemala | E/1995/127, E/1996/40, E/C.12/2002/SA/5, E/C.12/2003/SA/2 |
| Guinea | E/1996/40 |
| Guyana | E/1995/127, E/1997/55 |
| Honduras | E/1996/98 |
| Hungary | E/1978/27, E/1985/6, E/1986/60 |
| Iceland | E/1994/5, E/1998/17 |
| India | E/1986/60 |
| Iran (Islamic Republic of) | E/1978/27, E/1994/5 |
| Iraq | E/1981/41, E/1985/63, E/1986/60, E/1997/55 |
| Israel | E/1998/17 |
| Ireland | E.CN.12/2002/SA/1 |
| Italy | E/1982/41, E/C.12/2000/SA/1, E/2004 |
| Jamaica | E/1980/35, E/1989/6 |
| Japan | E/1985/63, E/1987/59 |
| Jordan | E/1987/59, E/C.12/2000/SA/1 |
| Kenya | E/1994/63 |
| Koweit | E/2004 |
| Libyan Arab Jamahiriya | E/1996/98, E/1997/55 |
| Lithuania | 2002, E/2004 |
| Luxembourg | E/1990/9 |
| Madagascar | E/1981/41, E/1985/63, E/1986/60 |
| Malta | E/2004 |
| Mauritius | E/1995/127 |
| Mexico | E/1985/63, E/1990/9, E/1994/5, E/C.12/1999/SA/ |
| Moldova | E/C.12/2003/SA/2 |
| Mongolia | E/1978/27, E/1981/41, E/1985/63, E/1987/59 |
| Morocco | E/1994/63 |
| Netherlands | E/1989/6, E/1998/17 |
| Netherlands (Antilles) | E/1987/59, E/1998/17 |
| Netherlands (Aruba) | E/1998/17 |
| New Zealand | E/1994/5 |
| Nicaragua | E/1986/60, E/1994/5 |
| Nigeria | E/1997/55, E/1998/17 |
| Norway | E/1979/33, E/1981/41, E/1985/63, E/1988/6, E/1995/127 |
| Panama | E/1981/41, E/1988/6, E/1989/6, E/1990/9, E/1991/4, E/1992/4 |
| Paraguay | E/1995/127, E/1996/40 |
| Peru, | E/1985/63, E/1995/127 |
| Philippines | E/1978/27, E/1985/63 |
| Poland | E/1979/33, E/1981/41, E/1986/60, E/1987/59, E/1989/6, E/1998/17, E/C.12/2002/SA/5 |
| Portugal | E/C.12/2000/SA/1 |
| Portugal (Macau) | E/1996/98 |
| Romania | E/1979/33, E/1981/41, E/1985/63, E/1988/6 |
| Russian Federation | E/1997/55, E/C.12/2003/SA/2 |
| Rwanda | E/1985/63, E/1986/60, E/1989/6 |
| Saint Vincent and the Grenadines | E/1997/55 |

| Country | Document reference |
|--|--|
| Senegal | E/1981/41, E/1994/5 |
| Slovak Republic | E/C.12/2002/SA/5 |
| Solomon Islands | E/1998/17, E/C.12/2002/SA/5 |
| Spain | E/1980/35, E/1982/41, E/1985/63, E/1986/60, E/1996/40, E/2004 |
| Sri Lanka | E/1998/17 |
| Suriname | E/1995/5 |
| Sweden | E/1978/27, E/1981/41, E/1985/63, E/1987/59 |
| Syrian Arab Republic | E/1980/35, E/1981/41, E/1990/9, E/1992/4 |
| Trinidad and Tobago | E/1989/6, E.CN.12/2002/SA/1 |
| Tunisia | E/1978/27, E/1988/6, E/1989/6, E/1998/17 |
| Ukraine | E/1995/127 |
| Ukrainian SSR | E/1979/33, E/1982/41, E/1985/63, E/1986/60, |
| United Kingdom of Great Britain and Northern Ireland | E/1978/27, E/1981/41, E/1985/63, E/1991/4, E/1995/5, E/1997/55, E.CN.12/2002/SA/1 |
| United Kingdom (Hong Kong) | E/1996/98 |
| United Kingdom (Non-metropolitan territories) | E/1979/33, E/1982/41, E/1985/63, E/1996/98, E.CN.12/2002/SA/1 |
| United Republic of Tanzania | E/1981/41 |
| Uruguay | E/1994/5, E/1994/63 |
| USSR | E/1979/33, E/1981/41, E/1985/63, E/1987/59 |
| Venezuela | E/1985/63, E/1986/6 |
| Viet Nam | E/1994/5 |
| Yemen | E/1990/9, E/1991/4, E/C.12/2003/SA/2 |
| Yugoslavia | E/1983/40, E/1985/63 |
| Zaire | E/1988/6 |
| Zambia | E/1986/60 |
| Zimbabwe | E/1997/55 |