



Convention on the Elimination of All Forms of Discrimination against Women

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Implementation of article 21 of the Convention on the Elimination of All Forms of Discrimination against Women

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

Note by the Secretary-General

Addendum

International Labour Organization

* CEDAW/C/2008/III/1.



Report of the International Labour Organization



**REPORT OF THE
INTERNATIONAL LABOUR OFFICE

UNDER ARTICLE 22 OF THE
CONVENTION ON THE ELIMINATION OF ALL FORMS OF
DISCRIMINATION AGAINST WOMEN**

Geneva, September 2008

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Part 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 188 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 166 member States;
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111), which has been ratified by 168 member States;
- Workers with Family Responsibilities Convention, 1981 (No. 156), which has been ratified by 40 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)

Part-time Work

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

Home Work

- Home Work Convention, 1996 (No. 177)

The application of ratified Conventions is supervised in the ILO by the Committee of Experts on the Application of Conventions and Recommendations (CEACR), a body of independent experts from around the world, which meets annually. The information submitted in Part II of the present report consists of observations and direct requests made by the Committee. Observations are comments published in the CEACR's annual report – produced in English, French and Spanish – which are submitted to 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, ILOLEX.

The explanations below are brief references to 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:

www.ilo.org/public/english/standards/norm/index.htm

and then referring to the APPLIS database.

Part II: Indications concerning the situation of individual countries

Bahrain

I. Among the relevant ILO Conventions, Bahrain has ratified Convention No. 111. It has also ratified Conventions Nos. 29, 89 and 182.

II. Comments made by the ILO supervisory bodies. The pending comments of the ILO Committee of Experts relevant to the provisions of CEDAW relate to:

Convention No. 111: In its 2007 direct request, the Committee of Experts noted the Government's view that non-discrimination in employment was ensured by the fact that the provisions of the Labour Code equally applied to all workers, regardless of nationality, sex, religion, political convictions or any other ground. The Committee also noted the Government's indication that a dismissal on discriminatory grounds would be considered as dismissal without legitimate reason under section 110 of the Labour Code. Noting that no cases concerning discrimination in employment or occupation had been brought before the courts, the Committee was of the view that this raises doubt as to the effectiveness of legal protection currently available for work-related discrimination. It also drew to the Government's attention that article 18 of the Constitution did not prohibit discrimination on the basis of race and colour and that it does not appear to protect non-nationals from discrimination on the grounds listed in the Convention, which may leave the many foreign workers living in the country without legal protection from such treatment. The Committee encouraged the Government to review and amend the labour legislation with a view to introducing an explicit definition and prohibition of discrimination in accordance with the Convention.

Noting that domestic workers, casual workers and agricultural workers are excluded from the scope of the Labour Code, the Committee noted the Government's statement that these workers were protected under civil law. In addition, some provisions of the Labour Code applied to them and they had the right to submit complaints to the Ministry of Labour and Social Affairs. The Committee requested the Government to indicate the provisions of the Labour Code and other relevant legislation that apply to domestic workers, casual workers and agricultural workers and the number and nature of complaints lodged by these workers with the Ministry of Labour and Social Affairs.

Noting that the Penal Code establishes the crimes of rape and sexual assault, the Committee considered that these provisions may not provide adequate protection against sexual harassment at the workplace, as certain practices or behaviour may not amount to such crimes, but nevertheless constitute discrimination on the basis of sex. The Committee requested the Government to indicate whether any cases of sexual harassment in the workplace have been brought before the courts under the relevant provisions of the Penal Code. It encouraged the Government to take specific measures to define, prohibit and prevent sexual harassment in the workplace.

In this context, the Committee noted that according to estimates for 2001 by the Central Statistical Organization the labour participation rate of Bahraini women was as low as 10.9 per cent, as compared to 44.7 per cent among Bahraini men. The Committee asked the Government to supply information on any measures taken to actively promote and ensure women's equality of opportunity in respect of access to employment and occupation. While welcoming the Government's commitment and activities to enhance the vocational efficiency of workers through skills development and training, it asked the Government to provide information on the measures taken to promote equal participation of men and women in the broadest possible range of occupations, including regarding occupations that have been traditionally carried out by men. It also requested the Government to elaborate on the law and practice with regard to women's access to judicial posts.

Further, the Committee referred to section 63 of the Labour Code (second phrase) which, according to the English translation published by the Ministry of Labour and Social Affairs provides that "the Minister for Labour and Social Affairs shall make an order prescribing the occupations and jobs in respect of which an employer may offer alternative employment to a female worker because of her marriage". However, the Government stated that section 63 of the Labour Code merely prohibits the employer from dismissing female workers due to marriage, pregnancy or giving birth. The Committee requested the Government to confirm that section 63 has been amended to the effect that it no longer authorizes the Ministry of Labour and Social Affairs to prescribe occupations and jobs in respect of which an employer may offer alternative employment to female workers because of their marriage, and to provide full information on any restrictions or exclusion in respect of employment and occupation imposed on women, in law or in practice, due to marriage or family responsibilities.

Belgium

I. Among the relevant ILO Conventions, Belgium has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 29 and 105, 138 and 182, 87 and 98, as well as Conventions Nos. 122 and 171.

II. Comments made by the ILO supervisory bodies. The pending comments of the ILO Committee of Experts relevant to the provisions of CEDAW relate to:

Convention No. 100: In its 2006 direct request, the Committee of Experts noted statistics indicating that women made up 40 per cent of the total working population in the first quarter of 2004 yet accounted for 60 per cent of workers in the bottom three pay categories (less than 70 euros per day). Conversely, only 26 per cent of the top earners (more than 150 euros per day) were women. The Committee asked the Government to provide more detailed information on the measures undertaken to correct the persistent remuneration gap between men and women workers.

Convention No. 111: In its 2006 direct request, the Committee noted statistics showing the persistence of sex-based occupational segregation in Belgium with women being over-

represented in health, social services and education and under-represented in trades, manufacturing and the private sector generally. The vast majority of workers in part-time employment are women. The Committee stressed the need to take measures to promote the equal participation of women in employment and occupation, particularly in the private sector and including in jobs of responsibility.

As regards the federal public service (FPS), the Committee noted that the FPS Personnel and Organisation (P&O) adopted an action plan on diversity for 2005-07. The target set out in the action plan is to have one-third of all senior FPS positions held by women. Noting that the permanent diversity unit of the FPS P&O has undertaken to ensure the execution of this action plan, the Committee asked the Government to indicate the measurable results achieved in the plan's implementation.

The Institute for Equality of Women and Men developed a strategic plan for 2005-07. The plan has five principle objectives including putting in place a service for managing complaints; developing and promoting tools for gender mainstreaming; preparing and implementing government decisions; improving statistical resources; and strengthening its institutional capacity. The Committee noted that the "loi-programme" of 9 July 2004, which amended the Act of 25 February 2003 on discrimination, clarified that the Institute for Equality of Women and Men can intervene in cases where the application of the law is at issue.

Cameroon

I. Among the relevant ILO Conventions, Cameroon has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 3, 29, 45, 87, 89, 98, 105, 138 and 182.

II. Comments made by the ILO supervisory bodies. The pending comments of the ILO Committee of Experts relevant to the provisions of CEDAW relate to:

Convention No. 103: In its 2007 direct request, the Committee of Experts raised the issue whether women workers who do not fulfil the qualifying period required for entitlement to maternity benefits receive appropriate benefits from public funds (in the framework of an assistance programme, for example). In this context, the Government indicated that the qualifying period laid down in section 25 of the Act of 12 June 1967 respecting the Family Benefits Code was no longer appropriate considering the economic realities of the country and should therefore be reviewed following the reform of the social security system under way in the country. The Committee requested the Government to inform it of the progress made in this respect.

Convention No. 89: In its 2004 direct request, the Committee referred to paragraphs 191-202 of its 2001 General Survey on the night work of women in industry, in which it observed that the present trend is no doubt to move away from a blanket prohibition against women's night work and to give the social partners the responsibility of determining the extent of the permitted exemptions. The Committee further recalled that member States are under an obligation to

review periodically their protective legislation in light of scientific and technological knowledge with a view to revising all gender-specific provisions and discriminatory constraints. The Committee recalled that the Protocol of 1990 to Convention No. 89 was designed as a tool for smooth transition from outright prohibition to free access to night employment, especially for those States that wished to offer the possibility of night employment to women workers but felt that some institutional protection should remain in place to avoid exploitative practices and a sudden worsening of the social conditions of women workers. The Committee invited the Government to give favourable consideration to the ratification of the 1990 Protocol.

Convention No. 100: In its 2007 direct request, the Committee of Experts noted that section 61(2) of the Labour Code stipulates that “in equal conditions of work and professional ability, wages are equal for all workers, regardless of their origin, gender, age, status and religious beliefs”. The Committee noted that this section does not fully reflect the principle of equal remuneration for men and women as set forth in the Convention, since this principle encompasses not only work in equal conditions or similar types of work, but also types of work which, while different, are of equal value. The Committee asked the Government to take all the necessary steps to give full legislative expression to the principle of equal remuneration for work of equal value.

In its previous comments, the Committee had noted observations made by the Union of Free Trade Unions of Cameroon (USLC) concerning the application by certain employers, especially in remote areas, of different wage rates for men and women. The Government stated that in order to remedy this situation, it is the responsibility of the workers affected and the trade unionists to denounce such employers. In this regard, the Committee noted that according to a survey carried out with ILO assistance in September 2007 the provisions in force relating to proof of discrimination make it very difficult for workers to prove that they are victims of wage discrimination. It was found that this is one of the reasons why, despite the widespread awareness of recurrent discriminatory practices, not many discrimination-related disputes have been noted. The Committee asked the Government to provide information on the steps taken to help workers demonstrate wage discrimination. The Committee also asked the Government to provide information on the manner in which labour inspections ensure the effective application of the Convention and particularly on the number of labour inspections carried out in remote areas and the nature of the reported violations of the principle of equal remuneration for men and women for work of equal value.

Convention No. 111: In its 2007 direct request, the Committee noted that according to a survey carried out the ILO Project to Support the Declaration on Fundamental Principles and Rights at Work (PAMODEC) in September 2007 of obstacles to the implementation of fundamental principles and rights at work in Cameroon, there are no provisions in Cameroonian legislation dealing specifically with sexual harassment. The survey also indicated that section 12 of the preliminary draft Uniform Act of the Organization for the Harmonization of Business Law in Africa (OHADA) regarding labour law prohibits any form of psychological or sexual harassment at work resulting from any kind of abusive and repetitive conduct. However, the Committee noted that, according to the PAMODEC survey, it would be difficult to combat

sexual harassment effectively by virtue of this section because of the gaps that exist in the OHADA preliminary draft regarding the burden of proof, protection of witnesses and applicable penalties. In view of the seriousness of sexual harassment in employment and occupation and the impact thereof, the Committee drew the Government's attention to the need to prohibit sexual harassment explicitly in law.

The Committee raised continuing concern with respect to the unequal legal status of women regarding the right to own property, the laws on credit and bankruptcy, and the right of husbands to seek a court order to prevent their wives from engaging in certain occupations. Noting that women account for only 25 per cent of public servants and only 30 per cent of jobseekers in general, the Committee requested the Government to supply information on the measures taken within the national employment policy to promote gender equality in access to employment and training and to send information on the results achieved in this field.

The Committee noted section 82 of the Labour Code, which prohibits women from working at night in industry, and section 83 of the Labour Code, which provides for the adoption of an Order determining the types of work which women are not permitted to perform. This Order excludes women from work which exceeds their physical strength and from work considered to be hazardous or insalubrious. The Committee noted that, according to the abovementioned PAMODEC survey, the vast majority of women interviewed suggested that the Order related to section 83 of the Labour Code should be updated periodically to adjust it to women's new occupational skills and capacities. The Committee requested the Government to supply information on the revision of the list of types of work which are prohibited for women and requested the Government to limit protective measures regarding women to measures intended to provide maternity protection.

Canada

I. Among the relevant ILO Conventions, Canada has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 87, 105, 122 and 182.

II. Comments made by the ILO supervisory bodies. The pending comments of the ILO Committee of Experts relevant to the provisions of CEDAW relate to:

Convention No. 100: In its 2006 direct request, the Committee of Experts noted that according to the Government there had been a progressive decline in the average wage gap from 1990 to 2003 (33.2 per cent to 29.5 per cent). However, the average earnings of employed women were still substantially lower than those of men, even when employed full time. A recent study from Statistics Canada indicated that women employed full time, full year, earned 71 per cent of what men earned in 2003, and that the gap between the earnings of men and women had not changed substantially in the past decade.

The Committee noted further that the Pay Equity Task Force, commissioned by the Government of Canada, presented its comprehensive report entitled "Pay equity: A new approach to a fundamental right" in May 2004, containing a number of recommendations for the

implementation of a proactive pay equity regime. This regime would cover all federally regulated employers in the public and private sectors as well as federal contractors, and would include new legislation administered by a Canadian pay equity commission, a Canadian pay equity hearings tribunal and pay equity adjudicators. The Committee noted that the Government was analysing the recommendations, and that policy options were being developed for the Government's consideration. Welcoming this broad-ranging review and the innovative recommendations which seek to overcome the stalemate that seems to have been reached in Canada with respect to achieving pay equity, the Committee asked the Government to keep it informed of the measures taken or envisaged to give effect to the recommendations, and the impact thereof.

Convention No. 111: The Committee welcomes the information provided regarding the activities of Status of Women Canada (SWC), including regarding the awareness-raising activities, research, the review of the Live-in Caregiver Program, and work with aboriginal women's organizations. The Committee noted in particular the work SWC undertook with Statistics Canada to develop a document entitled *Women in Canada: A Gender-based Statistical Report* which was published in 2006. The Committee noted from that report that there has been an increase in the percentage of women who were born outside the country, are members of a visible minority, are a member of the aboriginal population, or are disabled. The Committee noted that according to the report there has been a dramatic increase in employment levels of women with young children, accompanied by a substantial increase in the number of licensed childcare spaces available to families over the last decade. The report evidences, however, that the majority of employed women continue to work in occupations in which they have traditionally been concentrated, and there has been virtually no change in the proportion of women employed in traditionally female-dominated occupations over the past decade. The share of women in management positions also decreased from 1996 to 2004, and women tend to be better represented in lower level positions than at more senior levels (page 113). The Committee requested the Government to provide information on measures taken or envisaged to promote gender equality in employment and occupation, including through addressing gender imbalances with respect to unpaid work. The Committee also requests information regarding measures to promote the employment of women in non-traditional occupations and in management positions.

The Committee noted information provided by Government in response to a communication submitted by of the former International Confederation of Free Trade Unions (ICFTU) with respect to the prevalence of sexual harassment of women in employment. The Government provided statistics indicating that, for a two-year period ending in May 2005, 158 cases of sex discrimination with an allegation of harassment were filed with the Canadian Human Rights Commission. Of these cases, only seven went to a hearing, 26 were settled and two were settled through pre-hearing processes. Given the indication of the high prevalence of sexual harassment of women in employment, and the low numbers of complaints filed and heard, the Committee requested the Government to provide information on the specific measures taken to address sexual harassment.

Ecuador

I. Among the relevant ILO Conventions, Ecuador has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 29, 45, 87, 98, 103, 105 122, 138, 142 and 182.

II. Comments made by the ILO supervisory bodies. The pending comments of the ILO Committee of Experts relevant to the provisions of CEDAW relate to:

Convention No. 100: In its 2006 observation, the Committee of Experts noted that, according to the Government, section 79 of the Labour Code, which provides for “equal remuneration for equal work”, is consistent with article 36 of Ecuador’s Constitution which establishes the principle of “equal remuneration” for men and women for “work of equal value”. Recalling that the principle of equal remuneration as defined in the Convention went beyond equal pay for equal work, the Committee trusted that the Government would take the necessary steps to bring section 79 of the Labour Code into line with the Convention.

Convention No. 103: In its 2003 observation, the Committee of Experts expressed the firm hope that the Government would take all the necessary measures to bring the national legislation into conformity with the Convention by including in the Labour Code a provision explicitly providing that in the event of a late confinement, the leave before the presumed date of confinement will be extended until the actual date of confinement and the period of compulsory leave to be taken after confinement will not be reduced on that account. The Committee also noted that section 155 of the Labour Code no longer explicitly provides, since it was amended by Act No. 133 of 1991, for the right of women workers employed in enterprises with over 50 workers (which are under the obligation to provide a crèche by virtue of subsection 1 of section 155) to interrupt their work to nurse their children, in accordance with the provisions of the Convention. The Committee therefore drew the Government’s attention to the need to introduce into the legislation a provision explicitly guaranteeing to all women working in enterprises to which the Convention is applicable, interruptions of work for the purpose of nursing which are to be counted as working hours and remunerated accordingly. The Committee also hoped that, in the case of women workers employed in enterprises which do not have a crèche, the necessary measures will be taken to supplement subsection 3 of section 155 of the Labour Code, under which women who are nursing their child shall benefit from a working day of six hours, by specifying that this reduced working day shall be counted as a full working day and remunerated accordingly.

Convention No. 111: In its 2006 observation, the Committee noted with interest the reactivation of the “Employment and Gender Policies” round table under the management of the National Council for Women (CONAMU). With reference to its previous comments on the amendment of some provisions of the Commercial Code and the legislation on cooperatives, the Committee noted that the Government had asked the National Cooperatives Directorate to take the necessary steps to repeal section 17(b) of the Regulations to the Cooperatives Act, by virtue of which married women need the authorization of their husbands to be members of housing, agricultural and family vegetable garden cooperatives.

El Salvador

I. Among the relevant ILO Conventions, El Salvador has ratified Conventions Nos. 100, 111 and 156. It has also ratified Conventions Nos. 29, 87, 98, 105, 122, 138, 142 and 182.

II. Comments made by the ILO supervisory bodies. The pending comments of the ILO Committee of Experts relevant to the provisions of CEDAW relate to:

Convention No. 100: In its 2006 direct request, the Committee of Experts noted that according to article 38(1) of the National Constitution, section 123 of the Labour Code and section 19 of the Standard Work Regulations for the private sector, the principle of equal remuneration for men and women workers applies provided the work is equal and the workers are employed in the same establishment or enterprise in the same conditions. The Committee recalled that the Convention refers to equal remuneration for men and women for “work of equal value” and does not limit the scope of comparison to equal work or work performed in the same conditions, or in the same enterprise or establishment. The Committee expressed the hope that the Government would amend the legislation to incorporate fully the principle of “equal value”.

Convention No. 111: In its 2006 observation, the Committee noted that section 627 of the Labour Code, which applies to women working in the maquila sector (export processing zones), provides for specific penalties for employers who dismiss pregnant women or women with disabilities, and that monitoring of the prohibition on pregnancy testing as a condition for being hired or maintained in a job has been stepped up. The Committee requested the Government to provide detailed information on cases detected by the labour inspectorate, the action taken and the results obtained.

The Committee noted the efforts undertaken by the Government to combat sexual harassment at work. However, it expressed the hope that the Government would continue to consider adopting specific legal provisions ensuring protection from sexual harassment at work.

The Committee noted with interest the activities undertaken to implement the plan to promote women’s integration in the labour market, and the efforts of the Higher Council of Labour to formulate an equality policy.

Kyrgyzstan

I. Among the relevant ILO Conventions, Kyrgyzstan has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 29, 45, 87, 98, 103, 105, 122, 138, 142 and 182.

II. Comments made by the ILO supervisory bodies. The pending comments of the ILO Committee of Experts relevant to the provisions of CEDAW relate to:

Convention No. 100: In its 2007 direct request, the Committee noted that the Gender Equality Act aims to protect men and women from sex discrimination in labour relations and provides in section 17 that persons of different sex are entitled to equal wages given the same qualifications

and the same conditions of work. The Committee drew the Government's attention to the fact that the principle set out in the Convention goes beyond a reference to identical or similar work and that equal remuneration for men and women workers has to be understood as also covering different work performed by men and women but which is of equal value. The Committee, therefore, asked the Government to consider amending section 17 of the Gender Equality Act to bring the law into conformity with the principle of the Convention.

The Committee further noted that section 213 of the Labour Code defines wages to include "a money remuneration for work which an employer shall pay to an employee". It noted the introduction of a system of bonuses and other material incentives, which do not form part of a worker's usual wage rate, to promote increased efficiency, productivity and work quality. In this regard, the Committee pointed out that the principle of the Convention applies to both the basic wage and also any additional emolument, paid in cash or in kind. It therefore asked the Government to indicate how the principle of equal remuneration is applied to payments in kind as well as additional payments such as long-service increments, supplements, bonuses or mission allowances so as to ensure that such payments do not give rise to discrimination on the basis of sex.

The Committee noted with interest the Government's adoption of a wage reform policy (2003–10) which has as one of its main objectives the prohibition of discrimination against workers on a variety of grounds including sex. It also noted that Decree No. 141 of 18 March 2004 approved a plan of measures to implement this policy, including proposals to improve the wage organization system in the public sector and to regulate wage setting in the private sector. The Committee asked the Government to outline what measures it has taken or foresees under this wage reform policy to promote and ensure the application of the principle of equal remuneration for work of equal value. Noting that, on average, women continue to earn less than men and that they work in sectors of the economy that are less well paid compared to the sectors where men work, the Committee stressed the need to take measures to combat the wage differentials between men and women, to promote women's access to employment in male-dominated sectors and to ensure that female-dominated occupations are not being undervalued.

Madagascar

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

II. Comments made by the ILO supervisory bodies. The pending comments of the ILO Committee of Experts relevant to the provisions of CEDAW relate to:

Convention No. 100: In its 2006 direct request, the Committee of Experts noted that according to the Government, women earned 64.4 per cent of men's wages in 1993, and 61.8 per cent in 2001. In the textile industry women earned 71 per cent of the wages of their male counterparts in 2001, which constitutes considerable progress compared to 1993 when the same ratio was at

53.2 per cent. The Committee also noted that the gender wage gap remained higher in the private sector, and particularly high in the informal economy.

The Committee recalled that section 55 of the draft amendments to the Labour Code of May 2000 provided that “for the same vocational qualifications, the same job and for work of equal value, the wage shall be the same for all workers irrespective of their origin, colour, national extraction, sex, age and status under the conditions set out in the present chapter”. This wording appears to be more restrictive than the Convention, as the comparison of equal value, within the meaning of the Convention, is not necessarily at the level of the work performed in the context of two identical jobs. Instead, a comparison should also be possible between jobs that are not identical, but nevertheless of comparable value. The Government indicated that it would transmit the Committee’s concerns to the National Employment Council. The Committee urged the Government to take the measures necessary to ensure that section 44 of the draft amendments to the Labour Code reflect fully the principle of the Convention.

Convention No. 111: In its 2007 direct request, the Committee of Experts noted that the Government had integrated a gender perspective into the National Employment Policy adopted in 2005 and is implementing a National Action Plan on Gender and Development. It also noted that the Government and the United Nations Development Programme (UNDP) signed a cooperation agreement on 1 April 2005 under which an employment creation programme is being implemented. This programme has the objective of creating formal employment opportunities for unemployed young persons and women working in the informal economy and that the provision of vocational training is an important component of this programme.

According to statistical data for 2005 concerning the public service, women outnumbered men in “intermediary professions” and administrative posts, but they were under-represented in the categories of “executives and managers” (11,400 men compared to 3,863 women) and “intellectual and scientific occupations” (7,768 men compared to 4,021 women). Overall, some 40 per cent of public servants were women. The Committee stressed the importance of taking positive measures to ensure that women and men have access to public service jobs at all levels of responsibility on an equal footing.

The Committee noted that awareness-raising sessions for workers and employers on the provisions prohibiting sexual harassment contained in section 5 of the Labour Code had been held in different regions and that a number of non-governmental organizations are active in assisting victims of sexual harassment, including providing legal assistance.

Mongolia

I. Among the relevant ILO Conventions, Mongolia has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 29, 87, 98, 103, 105, 122, 13 and 182.

II. Comments made by the ILO supervisory bodies. The pending comments of the ILO Committee of Experts relevant to the provisions of CEDAW relate to:

Convention No. 100: In its 2007 direct request, the Committee of Experts noted that section 49(2) of the 1999 Labour Code provides that “male and female employees performing the same work shall be entitled to the same amount of remuneration”. The Committee pointed out that this wording is narrower in scope than the expression used in *Article 2(1)* of the Convention, namely “equal remuneration for work of equal value” and requested the Government to consider amending the legislation to apply fully the principle of equal remuneration for men and women workers for work of equal value.

Section 49(1) of the 1999 Labour Code provides that remuneration shall be fixed on the basis of an hourly or output rate, or other criteria, taking into account the results of the work performed. While recalling that performance appraisal criteria, such as skill and output and their equivalents, are not discriminatory per se as a basis for wage differentiation, the Committee pointed out that such factors must be applied in good faith, since insistence on “equal conditions as regards work, skill and output” can be used as a pretext for paying women lower wages than their male counterparts. In this context, the Committee stressed the importance of objective job evaluation.

Convention No. 103: In its 2005 direct request, the Committee noted with interest that the 1999 Labour Code provides for maternity leave of 120 days, or around 17 weeks. However, it noted that the Labour Code does not provide that part of the leave must be taken after confinement. The Committee recalled that the prohibition on working for a period of six weeks after confinement, as envisaged by the Convention, constitutes a measure of additional protection to the right to maternity leave intended to prevent the worker from resuming her work as a result of pressure or with a view to material advantage before expiry of the legal period of postnatal leave to the detriment of her own health and that of her child. The Committee trusted that, in the light of these considerations, the Government would take the necessary measures in the very near future to supplement the Labour Code with a provision setting out the compulsory nature of a period of postnatal leave, which shall not be less than six weeks.

The Committee noted the Government’s indication that women who are not entitled to social insurance benefits as a matter of right are provided with social assistance maternity allowances equal to the minimum wage in force in the country. The Government indicated in this connection that the amount of the allowance is not enough to provide food and adequate housing for the mother and her child. The Committee recalled the requirement set out in the Convention that women who fail to qualify for cash benefits provided as a matter of right shall be entitled to *adequate benefits* out of social assistance funds and it trusted that the Government will take the necessary measures to ensure the provision of adequate maternity allowances within the framework of social assistance.

The Committee noted that section 100 of the Labour Code establishes the principle of the prohibition of terminating the employment of a pregnant woman or a woman with a child under 3 years of age. However, it noted that this provision authorizes termination of employment in certain limited cases of serious fault which it enumerates, whereas the Convention provides for an absolute prohibition for the employer to give a woman notice of dismissal during the period

of maternity leave, or at such time that the notice would expire during such absence. The Committee hoped that the Government would be in a position to re-examine the relevant provisions of the Labour Code so as to prohibit termination of employment during the period protected by the Convention.

Convention No. 111: In its 2007 direct request, the Committee noted the National Programme on Gender Equality of December 2002 and that a number of measures were taken to raise the awareness of labour market actors and the population in general of the importance of non-discrimination and equality between men and women. The Committee noted with interest that some of these activities are conducted on a regular basis and address men and their roles and responsibilities within the family. It stressed the continuing need to take specific action to promote gender equality in employment and occupation.

Recalling that Chapter 7 of the 1999 Labour Code provided certain job protections, including restrictions on overtime work, business travel and childcare leave to working mothers as well as single fathers, the Committee noted with interest that section 106 concerning childcare leave had been amended in 2003 and that this provision now provides for men and women to take childcare leave on an equal basis. However, the Committee encouraged the Government to amend also other provisions which continue to assume that the burden of family responsibilities would be shouldered solely by working mothers.

The Committee noted Order No. A/204 of 1999, establishing the list of occupations considered hazardous, from which women and minors are prohibited. The Committee noted that the list of occupations prohibited for women is very extensive. It requested the Government to take the necessary measures to review, in cooperation with the social partners, whether it is still necessary to exclude women from such a wide range of occupations, in the light of improvements in working conditions, technological changes and taking into account the principle of gender equality.

Myanmar

Myanmar has not yet ratified any the ILO Convention most relevant to CEDAW. It has, however, ratified Conventions Nos. 29 and 87.

Portugal

I. Among the relevant ILO Conventions, Portugal has ratified Conventions Nos. 100, 111 and 156. It has also ratified Conventions Nos. 29, 45, 87, 98, 103, 105, 122, 138, 142, 171, 175 and 182.

II. Comments made by the ILO supervisory bodies. The pending comments of the ILO Committee of Experts relevant to the provisions of CEDAW relate to:

Convention No. 100: In its 2006 direct request, the Committee noted that the concepts of “equal work” and “work of equal value” found in article 32 of Act No. 35/2004 presuppose that the terms of comparison relate to work being performed for the same employer. It recalled that the meaning of equal remuneration under the Convention applies to work of equal value, even if it is work of a different nature or performed under different conditions for different employers. The purpose of expanding the comparison of jobs more widely beyond individual employers is to be able to identify instances of discrimination in remuneration between men and women, particularly in circumstances where women are concentrated in particular sectors or occupations which are undervalued precisely because the work is being performed by women. The Committee therefore asked the Government to indicate whether any measures are being taken or envisaged to ensure that wages set in sectors predominantly employing women are not based on a gender-biased undervaluation of the work performed.

In Portugal, the ILO has provided technical assistance to an EQUAL project financed by the European Commission for the development of a job evaluation method free from gender biases for the restaurant and beverage sectors. The project involved the Committee for Equal Opportunities in Employment (CITE), the General Directorate for Labour Inspection, as well as the major trade unions in these sectors.

Convention No. 111: In its 2006 direct request the Committee of Experts noted that according to the Government, the concept of sexual harassment under section 24 covers both sexual and moral harassment, as well as harassment carried out with the aim and the effect of undermining a person’s dignity or creating an intimidating, hostile, degrading, humiliating or destabilizing environment. It also noted that the infringement of this section constitutes a serious offence under section 642(1) of the Code and that the Inspectorate-General of Labour is mandated by section 639 to institute labour-related administrative proceedings. The Committee requested information on the enforcement of these provisions, and on the practical measures taken, in both the public and private sectors, to raise awareness about sexual harassment at work, how to prevent it and how to address it appropriately when it occurs.

The Committee noted that, according the General Union of Workers (UGT), despite higher levels of education among women under the age of 24, discriminatory practices still exist with regard to access to employment, salaries and professional development and that unemployment affects women more than men, leading to higher rates of poverty among the female population. The Committee noted that an analysis of the labour market between 2003 and 2005 confirms the existence of higher rates of female unemployment among young women, new jobseekers and highly educated women. It also noted that women earn less on average than men, are concentrated in occupations which are traditionally less well remunerated and are more likely than men to work under non-permanent contractual arrangements. The Committee noted the Government’s information on the numerous activities under the National Plan for Equality for 2003-2006 (NPI) in an effort to put into practice the principle of gender equality.

One of the activities under the NPI includes the promotion of equality plans in enterprises along with the creation of incentives for adopting measures to promote equality between men and

women. It also noted the proposal under the NPI to reassess the content of collective agreements from a gender perspective. The Committee asks the Government to provide information on the number of equality plans adopted by enterprises and to include examples of such plans. The Government is also asked to include information on its initiative to evaluate collective agreements from a gender perspective, indicating how many agreements have been considered and what impact this process has had on improving equality of opportunity and treatment between men and women through collective agreements.

Slovenia

I. Among the relevant ILO Conventions, Slovenia has ratified Conventions Nos. 100, 111 and 156. It has also ratified Conventions Nos. 3, 87, 89, 98, 103, 105, 122, 138, 142, 175 and 182.

II. Comments made by the ILO supervisory bodies. The pending comments of the ILO Committee of Experts relevant to the provisions of CEDAW relate to:

Convention No. 100: In its 2006 direct request, the Committee noted that while the average monthly wage received by men continued to be higher than for women, the gap was decreasing. Statistics from 2003 indicate a wage gap of 7 per cent, compared with 12 per cent in 2001. One of the largest wage gaps continued to be found in the category of “skilled workers” (19 per cent); however, the wage gap for those with a university degree had surpassed that of skilled workers at 22 per cent. The Committee also noted that the resolution on the National Programme for Equal Opportunities for Women and Men, 2005–13, was adopted by the National Assembly in October 2005, pursuant to the Act on Equal Opportunities for Men and Women, with the aim of improving the position of women. The concrete tasks and activities needed are to be defined in biennial periodic plans, the first of which was adopted in April 2006 and includes as one of its goals the reduction of vertical and horizontal segregation and the reduction of wage differentials for women and men.

The Committee noted that according to the Government all regulations and mechanisms to determine wages, including collective agreements, apply uniform criteria for the determination of wages irrespective of sex. While it was important that uniform criteria be applied irrespective of sex, the Committee recalled that it must also be ensured that there is no gender bias in the selection and weighting of such criteria, as often criteria traditionally associated with “female” jobs are undervalued. The Committee requested the Government to specify how it promotes the use of appropriate machinery and procedures to ensure an evaluation free from discrimination based on sex, and in particular any measures taken to promote objective job evaluation methods.

Convention No. 111: In its 2006 direct request, the Committee noted with interest that the amended Civil Service Act (No. 32/2006) now contains a provision prohibiting undesired physical, verbal or non-verbal treatment or behaviour of a civil servant based on any personal circumstance, creating an intimidating, hostile, degrading, humiliating or offensive working environment for a person and offending a person’s dignity.

Convention No. 156: In its 2007 observation, the Committee noted with satisfaction that recent legislative amendments have consolidated and strengthened the range of available protection and entitlements for workers with family responsibilities and, as requested by the Committee, guarantees them to women and men on an equal footing. The Committee noted in particular that the Employment Act (Act No. 42/2002) prohibits direct and indirect discrimination based on a number of grounds, including family status and “other personal circumstances” and prohibits the employer from requesting from job applicants information on family or marital status, pregnancy or family planning (sections 6 and 26). The Committee welcomed that the Act places a general obligation on the employer “to allow the workers easier adjustment of their family and business obligations” (section 187) and recognizes the right to special protection in employment due to pregnancy and parenthood. In cases of disputes concerning the exercise of such special measures of protection, the burden of proof is on the employer.

The Committee also noted the adoption of the Parental Care and Family Benefits Act (Act No. 110/2003), which had been amended by Act No. 47/2006. Under the Act, workers have the right to take maternity leave, paternity leave (up to 90 days), parental leave (260 days for one child, extendable 90 days for each additional child) on the grounds of birth or adoption, either on a full-time or part-time basis. During such leave, wage compensation is guaranteed. In addition, both parents have the right to work part-time until the child reaches the age of three. These entitlements are also available to self-employed parents, including independent workers, private company owners and farmers and that, during part-time work, the State compensates the worker for lost income up to the level of the minimum wage and covers social security contributions.

The Committee welcomed that the Government is implementing a number of measures to promote the Convention’s application in practice under the National Programme for Equal Opportunities for Women and Men. In this context, the Committee particularly noted that guidelines and recommendations for companies on measures for work–family reconciliation were being developed. In addition, an annual award competition for family friendly companies was under preparation. The Committee also noted that a study on the situation of single parents with regard to reconciliation of work and family obligations is being carried out.

Uruguay

I. Among the relevant ILO Conventions, Uruguay has ratified Conventions Nos.100, 111, and 156. It has also ratified Conventions Nos. 29, 87, 98, 103, 105, 122, 138 and 182.

II. Comments made by the ILO supervisory bodies. The pending comments of the ILO Committee of Experts relevant to the provisions of CEDAW relate to:

Conventions No. 103: In its 2005 direct request, the Committee noted the information provided by the Inter-Union Assembly of Workers - National Convention of Workers (PIT-CNT) concerning the frequent failure to comply with the provisions of national laws and regulations relating to nursing breaks. The Committee requested the Government to keep it informed of the manner in which it ensures, in practice, compliance with the right of women workers to be able

to nurse their child, on the understanding that the time granted for this purpose must in all cases be counted as working hours and remunerated accordingly, whether such time consists of nursing breaks or a reduction in daily working hours.

Convention No. 100: In its 2006 observation, the Committee noted that according to the Inter-Union Assembly of National Convention of Workers (PIT-CNT) wageboard decrees still contained discriminatory criteria, such as the female form of names for certain activities (oficial cortadora (cutter), mucama (maid), secretaria (secretary), lavandera (washerwoman), operaria volante (temporary manual worker), etc.) and that 85 per cent of these decrees contain no general clauses on equality. The PIT-CNT indicated that these instruments are those that are most often and directly used by workers, in particular at trade union level, and that the incorporation into such decrees of the principle set forth in the Convention would constitute an important means of dissemination and awareness raising. Finally, it indicated that women are under-represented on the wage boards mentioned. The Committee asked the Government to provide information regarding any measures taken to address the issues raised by the PIT-CNT.

The Committee noted that no progress had been made as regards the incorporation of definitions of the terms “remuneration” and “work of equal value” into the national legislation and trusted that the Government would take the necessary measures to give legal effect to the principle enshrined in the Convention.

Convention No. 111: In its 2006 direct request, the Committee noted that according the Inter-Union Assembly of Workers – National Convention of Workers’ (PIT-CNT) there is no legislation expressly prohibiting and sanctioning requests for pregnancy tests or proof of not being pregnant as a requirement for access to employment. The Committee requested the Government to provide information on the measures adopted or envisaged to eliminate such practices. More generally, the Committee sought further information on how the labour inspectorate addresses complaints concerning workplace discrimination.

The Committee noted the draft law on domestic labour which was before Parliament at the time. According to the PIT-CNT, the draft law significantly amended the previous regulation which it had considered discriminatory. Noting that domestic labour was not covered by the Wage Council, the Committee trusted that the draft law would be adopted soon and that the Government would take the necessary steps to ensure that domestic labour is covered by the Wage Council.

Further, the Committee noted with interest the Government’s indication that a draft law has been prepared on the prevention and punishment of sexual harassment, with ILO assistance. The Committee also noted that various awareness-raising activities had been undertaken in respect of discrimination in the form of sexual harassment and that the General Labour Inspectorate had put in place a summary procedure for complaints relating to sexual harassment.