

Statement of the Chairperson of the Committee of Experts on the Application of Conventions and Recommendations, Judge Abdul G. Koroma

Thank you, Madam Chairperson.

Let me begin by congratulating you on your appointment to the important function of Chairperson of the Conference Committee on the Application of Standards. I also wish to convey my congratulations to Ms Sonia Regenbogen and Mr Marc Leemans for their appointment respectively as the Employer Vice-Chairperson and the Worker Vice-Chairperson. I had the pleasure to meet both Ms Regenbogen and Mr Leemans in my capacity as Chairperson of the Committee of Experts on the Application of Conventions and Recommendations on the occasion of the special sitting held by the Committee of Experts at its last session.

Madam Chairperson,

On behalf of the Committee of Experts, I wish to express our appreciation to the Committee on the Application of Standards for having renewed the invitation made to all the Chairpersons of the Committee of Experts since 1993. I feel privileged to participate as an observer in the general discussion of your Committee as well as in its discussion of the General Survey on the instruments relative to labour migration.

I am happy to announce that the Committee of Experts functions again with its full membership for the first time since 2001 following the Governing Body decisions to appoint four new experts in March and November 2015.

The representative of the Secretary-General of the Conference who spoke before me very eloquently described the close interrelationship between your Committee and the Committee of Experts since the two were founded 90 years ago. Her brief historical account of the evolution of the two Committees demonstrates the truth of the statement that the furtherance of the cause of social justice and universal peace through the effective application of international labour standards can only be sustainable if it is embedded in a solid relationship between the two Committees in the spirit of mutual respect, cooperation and responsibility which has consistently prevailed over the years.

The special sitting of the Committee of Experts with the two Vice-Chairpersons of the Conference Committee is – together with the participation of the Chairperson of the Committee of Experts in the work of your Committee – the institutional means whereby representatives of the two Committees exchange views on matters of common interest.

I am pleased to note that at the last special sitting, an interactive and thorough exchange of views took place on matters of common interest. The Vice-Chairpersons took the opportunity of this discussion to highlight the important developments that had taken place in the framework of the Standards Initiative since the last meeting of the Committee of

Experts, most notably in relation to the issue of the right to strike and the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). They referred in particular to the outcome of the Tripartite Meeting of February 2015, including the joint statement of the Workers' and Employers' groups and the two statements from the Government group. The Committee of Experts took due note of all these relevant developments with particular attention given to the statements made in February.

The special sitting also offered an opportunity to discuss certain matters related to the working methods of both Committees in particular in so much as they have implications on their respective work. The discussion centred on the manner in which the report of the Committee of Experts can provide the best possible basis for the work of the Conference Committee, with particular reference to the distinction between observations and direct requests, the treatment of observations received from workers' and employers' organizations and the identification by the Committee of Experts of cases of progress and those in which governments are required to provide full particulars to the Conference (so-called "double footnotes"). I will refer to certain of these questions in my statement today.

Consideration of its working methods by the Committee of Experts has been an ongoing process since its establishment, and, in this process, the Committee has always given due consideration to the views expressed by the tripartite constituents.

The Committee paid particular attention this year to applying in a consistent manner its criteria for distinction between observations and direct requests. As indicated in paragraph 36 of its General Report, observations are generally used in serious or long-standing cases of failure to fulfil obligations. They point to important discrepancies between the obligations under a Convention and the related law and/or practice of member States. They may address the absence of measures to give effect to a Convention or to take appropriate action following the Committee's request, or they may highlight progress, as appropriate.

Direct requests allow the Committee to be engaged in a continuing dialogue with governments often when the questions raised are primarily of a technical nature. They can also be used for the clarification of certain points when the information available does not enable a full appreciation of the extent to which the obligations are fulfilled. The Committee will continue to pay particular attention to the consistent application of this distinction in the future.

The Committee of Experts also decided to provide an explanation of its practice when treating observations received from workers' and employers' organizations. The representative of the Secretary-General illustrated in her statement the importance of this aspect of the supervisory machinery, as it evolved over 90 years, not only because it enables the Committee of Experts to evaluate the application of Conventions in national law and in practice in full knowledge of the facts, but also because of the important role entrusted to organizations of employers and workers in the ILO constitutional framework as active participants in the supervision of the application of international labour standards.

As mentioned by the representative of the Secretary-General, the possibility of examining comments by employers' and workers' organizations evolved considerably over the years based, *inter alia*, on decisions by the Governing Body to extend the reporting cycle in response to the increasing workload of the supervisory bodies. The most important safeguard in this context, to ensure that effective supervision of the application of ratified Conventions is maintained, consists in giving due recognition to the possibility afforded to employers' and workers' organizations to draw the attention of the Committee of Experts to matters of particular concern arising from the application of ratified Conventions, even in a year when no report is due.

The Committee provides some explanations on its practice in this year's Report. It explains that it examines observations from employers' and workers' organizations in various contexts, as these reports can be sent along with the Government's report or separately, in the year when a regular report is due or outside the regular reporting cycle. I would like to recall that the Committee can always examine observations in exceptional circumstances, such as those where the allegations are sufficiently substantiated and there is an urgent need to address the situation, either because they refer to matters of life and death or to fundamental human rights, or because any delay may cause irreparable harm. I invite all of you to read carefully paragraphs 58 to 61 which address this matter in detail.

The Committee of Experts recalled the importance of respecting the obligation under article 23(2) of the Constitution to communicate to the representative employers' and workers' organizations copies of the reports on ratified Conventions, emphasizing that if a government fails to comply with this obligation, these organizations are denied their opportunity to comment and an essential element of tripartism is lost.

In relation to the workload and time constraints, the Committee of Experts reiterated its long-standing concern at the low proportion of reports received by 1 September each year and highlighted once again the fact that this situation disturbs the sound operation of the regular supervisory procedure. It reiterated its request that member States make a particular effort to ensure that their reports are submitted in time next year and that they contain all the information requested so as to allow a complete examination by the Committee.

As regards possible ways of giving more visibility to the Committee's findings by country, the Committee invited the Office to use the electronic means available, in particular through the NORMLEX database, to facilitate access to all the comments made on the application of ratified Conventions for each country.

The Committee of Experts intends to continue the examination of its working methods in the future, so as to pursue further improvements, as may be necessary.

I will not indulge further into a detailed presentation of the content of the Committee of Experts' report. This report provides your Committee with an analysis of the extent to which member States have fulfilled their obligations under the ILO Constitution in relation to standards and the extent to which their legislation and practice are in conformity with ratified Conventions. In this regard, I would like to draw your Committee's attention in particular to the cases in which, in view of the seriousness of the issues addressed, the Committee of Experts has requested governments to provide full particulars to the Conference (known as "double-footnoted" cases). As always, serious consideration was given by the Committee as a whole in identifying these cases, which are contained in paragraph 45 of its General Report.

Let me finish this statement with the General Survey which concerns, as the representative of the Secretary-General mentioned, Conventions Nos 97 and 143 and Recommendations Nos 86 and 151. This General Survey on migrant workers' instruments is extremely timely, and the Committee of Experts noted that governments and social partners shared a common awareness of the critical importance of international labour migration today. The labour migration instruments call, in essence, for international cooperation to promote a rights-based approach to labour migration. The Committee believed that this objective was as relevant now as it was when the instruments were adopted in 1949 and 1975 even if having not foreseen current migration developments, certain details in the provisions appeared somewhat outdated. The Committee of Experts underlined the importance of good governance, the rule of law and respect for human rights to the effective regulation of international labour migration. It recalled the pivotal role of social dialogue and of international and regional cooperation. The Committee of Experts was of the view that migrant workers continued to require specific protection to ensure their rights, including

equality of opportunity and treatment, are respected, and recalled that certain groups of migrant workers, including many migrant women, were especially vulnerable to violations of their basic human rights and abuse throughout the labour migration process.

Further, the Committee of Experts noted the legal and practical obstacles reported by member States to the effective implementation of the instruments, and recalled the potential of the instruments to provide a framework for the fair and effective governance of labour migration. It observed that a number of governments and social partners expressed a need to exchange information on good practices and experiences in relation to the effective implementation of the instruments, and encouraged the Office to facilitate this. The Committee of Experts further pointed to the considerable experience that existed in the Office to assist countries that have experienced challenges in developing and implementing innovative initiatives.

Madam Chairperson, distinguished members of the Committee on the Application of Standards, allow me to join you in celebrating 90 years from the creation of this Committee along with the Committee of Experts and underline the long path that the two sister bodies travelled together always through constructive interaction and a meaningful dialogue, in the interest of an authoritative and credible ILO supervisory system and ultimately for the cause of international labour standards and social justice worldwide. With these thoughts in mind, I wish you a fruitful discussion again this year.