

## Committee on the Application of Standards

Date: 16 May 2022

**Governments appearing on the preliminary list of individual cases have the opportunity, if they so wish, to supply on a purely voluntary basis, written information before 16 May 2022.**

### ▶ Information on the application of ratified Conventions supplied by governments on the preliminary list of individual cases

#### China

##### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (Ratification: 2006)**

The Chinese Government has taken note of the observations made in the report of the Committee of Experts on the Application of Conventions and Recommendations on China's implementation of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). The Chinese Government attaches great importance to the observations and has conducted studies of those observations with relevant departments, local governments and social partners. A supplementary note is provided as follows:

- I. China's laws, regulations and practices are fully in line with the principles of the Convention, which is to promote equality of opportunity and treatment in employment. The Chinese Government takes employment as the top priority that serves our people's fundamental well-being. China adopts a proactive employment policy, which is based on friendly cooperation and equal consultation with social partners, and in coordination with the national economic and social development policies. China gives high priority to workers' employment rights. A series of policy measures have enabled workers to fully enjoy equal opportunities and treatments in respect of employment and occupation. China has achieved the UN Millennium Development Goals (MDGs) and Sustainable Development Goal 1 ten years ahead of schedule. Article 3 of China's Labour Law provides that "workers shall have equal right to employment and choice of occupation, the right to remuneration for work, to rest and vacations, to protection of occupational safety and health, to training in vocational skills, to social insurance and welfare, to submission of labour disputes for settlement and other rights relating to labour stipulated by law". The Labour Law has two special chapters on "Promotion of Employment" and "Vocational Training", specifying detailed requirements. Article 12 of the Labour Law stipulates, "workers, regardless of their ethnic group, race, sex, or religious belief, shall not be discriminated against in employment". Article 3 stipulates that "workers shall have equal

right to employment and choice of occupation, the right to remuneration for labour ...". The equal right to employment is an important basis for the subsistence and development of workers, and is protected by law. Article 3 of China's Law on Promotion of Employment states, "workers shall have equal right to employment and choice of occupation in accordance with law. In seeking employment, the workers shall not be subject to discrimination because of their ethnic background, race, gender, religious belief, etc". Article 21 provides that "The State supports the development of regional economy, encourages cooperation between different regions and comprehensively coordinates the efforts for balanced increase of employment in different areas. The State supports ethnic minority areas in their efforts to develop the economy and increase employment." Article 28 provides that "workers of all ethnic groups enjoy equal rights to work. When an employing unit recruits personnel, it shall give appropriate considerations to ethnic minority workers in accordance with law". Chapter II, Article 4 of China's Regulations on Employment Services and Employment Management reiterates that workers enjoy equal employment rights in accordance with the law. Workers shall not be discriminated against in employment by reason of ethnicity, race, gender, religious beliefs, etc. Article 20 stipulates that recruitment brochures or advertisements published by employing units shall not contain discriminatory content. Article 25 requires that public employment service agencies provide workers with free consultation on employment policies and regulations, supply and demand information on the job market, career guidance and job introduction services. Article 58 stipulates that employment agencies are prohibited from releasing employment information that contains discriminatory content. On April 20, 2022, the 34th Session of the Standing Committee of the 13th National People's Congress revised the Law of the People's Republic of China on Vocational Education, Article 5 of which stipulates that "citizens have the right to receive vocational education in accordance with the law". Article 11 stipulates that "The State implements a system whereby workers receive necessary vocational education before they are employed or take up posts. "The Guiding Opinions on Safeguarding the Labour Rights and Interests of Workers in New Forms of Employment (MOHRSS [2021] No. 56) clearly provides for the implementation of a fair employment system and the elimination of employment discrimination. The Chinese Ministry of Human Resources and Social Security (MOHRSS) will earnestly implement policies for safeguarding the rights and interests of workers in new forms of employment. China's laws and regulations that explicitly prohibit employment discrimination and guarantee the equal rights of workers to employment have been fully and effectively reflected in judicial practices. In addition to discrimination because of ethnicity, race, gender, and religious beliefs, as stipulated in the Labour Law, workers who suffer from discrimination for other reasons may also file lawsuits and obtain relief in accordance with the law. For example, the Hangzhou People's Court recently heard a dispute case of "Yan v. the company" on equal rights to employment. The ruling pointed out that workers enjoy equal employment rights according to law, and employers shall not discriminate against anyone when recruiting personnel. In this case, Yan suffered differentiated treatment because of his residential location from the company, which undermines Yan's right to equal employment opportunity and treatment. Yan's equal right to employment was violated. Therefore, the company was ordered to pay compensation to Yan for emotional distress, make an oral apology and a public apology through a state-level newspaper.

- II. The laws and practices of the Xinjiang Uyghur Autonomous Region are consistent with the requirements of China's national legal framework and in compliance with the Convention's requirements Just like any other province, region or municipality in China, Xinjiang implements national laws and regulations such as the Labour Law and the Law

on Promotion of Employment under a unified national legal framework, follows the principles of equal employment and equal treatment, and facilitates decent work by promoting economic growth that creates jobs. The autonomous region's subnational administrative regulations, departmental rules, and normative documents are all in line with the principles of national laws and conform to the principles and requirements of the Convention. Employment with higher quality is always a top priority. First, establish an active policy system for the promotion of employment. Xinjiang has enhanced the effective connection between employment policies and economic policies. The local government has comprehensively evaluated their impact on jobs, employment environment and unemployment risks when formulating major fiscal and taxation, financial, industrial, trade, investment and regional policies, and promotes the linkage between economic growth and employment expansion and the coordination between structural improvement and employment transformation. Second, implement supporting policies covering the whole process of employment for all types of workers. To support economic and social development, Xinjiang has adopted a series of measures in accordance with the law to encourage workers to get jobs in enterprises, start their own businesses, take flexible employment and participate in vocational training while providing various of public services. Third, implement policies to support employment by encouraging entrepreneurship. Xinjiang has continued to deepen the reform of streamlining administration, delegating power and improving government services, constantly improved the business environment, opened up channels for business start-ups and wealth creation, stimulated and protected entrepreneurship, and encouraged more social entities to make innovations and start businesses. Fourth, provide equal access to employment services. Xinjiang has provided basic public employment services free of charge, including policy consultation, employment and unemployment registration, career guidance and job introduction, skills training, and entrepreneurship training, for both employers and jobseekers to promote equal employment opportunities. The region has promoted the establishment of a unified, open, competitive and orderly human resources market, enhanced the flexibility of market-led employment and the initiative of workers in choosing their own jobs, and promote the free mobility of workers among regions (including between regions inside and outside Xinjiang and between areas within Xinjiang), industries and enterprises. The local government has established information platforms for monitoring supply and demand information in the human resources market, surveyed and collected information on urgently needed talents, and managed personnel files of mobile workers, and broadened online public service channels. A lifelong vocational skills training system has been introduced for all urban and rural workers to help them improve their employability and ability to start their own businesses. Xinjiang has built an "Internet plus" public employment and entrepreneurship service platform; put in place an information network of public employment services covering urban and rural areas and all kinds of groups; expanded the scope of self-service; promoted online application, processing and feedback sending; and facilitated the use of information technology in employment and entrepreneurship services and the whole process of management to continuously improve the capacity and quality of public employment services. More than half of Xinjiang's population is made up of ethnic minorities, and it is the basic duty of the Government to protect their rights to freely chosen employment on an equal footing in accordance with the law. The above-mentioned policies in Xinjiang are within the framework of the State's employment promotion system, which are similar to those in other regions of China. They are implemented after taking into account the overall economic and social development of

Xinjiang, and are formulated through dialogue and consultation with various government departments and social partners.

- III. Conclusion. Since the ratification of Convention No. 111 in 2007, the Chinese Government has deepened cooperation with all stakeholders, including social partners, earnestly fulfilled the requirements of the Convention, continuously improved its legal system, and made positive achievements in ensuring equal employment opportunities and equal treatment for workers. In particular, in promoting and protecting the employment rights of ethnic minorities, rapid development has been achieved in all minority-populated areas, including Xinjiang, which is a well-recognized fact. For instance, in 2018, the UN Committee on the Elimination of Racial Discrimination (CERD) affirmed the efforts and achievements of the Chinese Government in fulfilling the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). The Chinese Government will continue its unwavering commitment to ensuring equal employment and career opportunities and equal treatment for workers of all ethnicities across the country, and is willing to further international labour cooperation on the basis of equality and mutual respect. It should be pointed out that in recent years, under the pretext of “protecting human rights”, a few countries and organizations have openly boycotted and sanctioned products and enterprises from Xinjiang, which is unjustified, irresponsible and extremely wrong, not only depriving all ethnic groups in Xinjiang of the opportunity to work, obtain jobs and receive labour remuneration, but also violating the basic principle of respecting human rights, especially the right to subsistence and development. This violates the basic requirements of Convention No. 111 for anti-discrimination, runs counter to the human-centered approach advocated in the ILO Centenary Declaration, and is detrimental to the achievement of the UN’s Sustainable Development Goals by 2030 as well as an inclusive, sustainable and resilient socio-economic recovery. It should be further pointed out that certain materials received by the Committee of Experts fabricated by organizations that openly deny China’s territorial sovereignty and seek to split China’s territory, and some of which even have close ties with terrorist activities. The so-called accusations carry obvious political intentions and are seriously inconsistent with the facts. China welcomes the cooperation and dialogue between Member States and the Committee of Experts which should be based on the principle of respecting state sovereignty and territorial integrity as stipulated in the UN Charter. The allegations which are in clear violation of the UN Charter should not serve as a basis for the Committee’s concluding observations.