



Governing Body

319th Session, Geneva, 16–31 October 2013

GB.319/INS/14/8

Institutional Section

INS

FOURTEENTH ITEM ON THE AGENDA

Report of the Director-General

Eighth Supplementary Report: Report of the Committee set up to examine the representation alleging non-observance by Portugal of the Occupational Safety and Health Convention, 1981 (No. 155), made under article 24 of the ILO Constitution by the Occupational Association of Professional Police Officers (ASPP/PSP)

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I. Introduction

1. In a communication dated 7 April 2011, the Occupational Association of Professional Police Officers (ASPP/PSP) addressed to the International Labour Office a representation alleging non-observance by Portugal of the Occupational Safety and Health Convention, 1981 (No. 155).
2. Convention No. 155 was ratified by Portugal on 28 May 1985.
3. The following provisions of the ILO Constitution relate to representations:

Article 24

In the event of any representation being made to the International Labour Office by an industrial association of employers or of workers that any of the Members has failed to secure in any respect the effective observance within its jurisdiction of any Convention to which it is a party, the Governing Body may communicate this representation to the government against which it is made, and may invite that government to make such statement on the subject as it may think fit.

Article 25

If no statement is received within a reasonable time from the government in question, or if the statement when received is not deemed to be satisfactory by the Governing Body, the latter shall have the right to publish the representation and the statement, if any, made in reply to it.

4. The representations procedure is governed by the Standing Orders concerning the procedure for the examination of representations under articles 24 and 25 of the ILO Constitution, as revised by the Governing Body at its 291st Session (November 2004).
5. In accordance with articles 1 and 2, paragraph 1, of the Standing Orders, the Director-General acknowledged receipt of the representation, informed the Government of Portugal thereof on 26 April 2011, and brought the matter before the Officers of the Governing Body.
6. At its 311th Session (June 2011), the Governing Body found the representation to be receivable and appointed a tripartite Committee for its examination. This committee is composed of Mr M. Thierry (Government member, France), Mr J. Rønneest (Employer member, Denmark) and Ms H. Kelly (Worker member, New Zealand).
7. The Government of Portugal transmitted its observations in a communication dated 5 April 2012.
8. The Committee met on 22 October 2013 to examine the case and adopted its report.

II. Examination of the representation

A. Allegations of the complainant organization

9. In a communication dated 7 April 2011, the complainant organization alleged that the Government of Portugal had failed to comply with the obligations contained in Convention No. 155 by not giving due effect, in law and in practice, to its provisions with regard to workers in the Public Security Police (PSP). The complainant organization also alleged

breaches of the Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (as amended by European Parliament and Council Directive 2007/30/CE); articles 7, 8, 23 and 24 of the Universal Declaration of Human Rights; articles 2, 3, 6, 21 and 22 of the European Social Charter (Revised); and articles 9(d), 64, 59(1)(c) and 59(2)(c) of the Constitution of Portugal.

- 10.** Concerning the legislation, the complainant organization referred to the terms and exclusions in Legislative Decree No. 441/91 of 14 November 1991 adopted to implement the provisions of Convention No. 155; Legislative Decree No. 26/94 of 1 February 1994 on the organization and operation of occupational safety and health (OSH) activities, as amended by Legislative Decree No. 109/2000 of 30 June 2000;¹ and Legislative Decree No. 488/99 of 17 November 1999 on the application of the legal provisions regarding OSH in the public service.
- 11.** The complainant organization stated that Legislative Decree No. 441/91 applies to all branches of activity in the public sector, private sector or cooperative and social sector, and to workers and their employers, including officials of the central, regional and local government; workers in public institutions; workers in other public or private non-profit legal entities and all similar entities, and non-salaried workers as provided for in section 2(1)(a)–(c) of this Legislative Decree. The complainant organization pointed out that the obligations arising from Convention No. 155 have been transposed into Portuguese domestic law with some restrictions, meaning that they do not ensure a satisfactory level of coverage with regard to workers of the police force, and more specifically to the Portuguese PSP. It therefore alleged that in Portugal, no legislation exists either to regulate or monitor the safety, hygiene and health of workers carrying out police duties, or to monitor the conditions in the workplaces of this category of workers.
- 12.** The complainant organization also mentioned Law No. 14/2002 of 19 February 2002 (Trade Union Act) “regulating the exercise of freedom of association and collective bargaining rights and the participation of the staff of the PSP”. Reference was specifically made to article 35 on matters that are subject to collective bargaining, with particular emphasis on paragraph (h) concerning conditions of hygiene, health and safety in the workplace; and to article 38(1)(a) on participation in the monitoring and implementation of measures concerning conditions of health and safety in the workplace.
- 13.** In this regard, the complainant organization alleged that, contrary to Convention No. 155 and to Law No. 14/2002 (Trade Union Act), PSP workers had not been duly consulted on relevant matters relating to OSH; that they had not been able to participate in the monitoring and implementation of measures concerning the OSH conditions at their workplaces; and that, in spite of repeated attempts, the Government and the Minister of Internal Administration had refused systematically to negotiate with the ASPP/PSP on case reports and concerns, such as those raised in the present representation.
- 14.** The complainant organization alleged that, in practice, there was no culture of prevention and protection in the PSP and that no policy based on prevention including an appropriate risk assessment system had been formulated and implemented.
- 15.** The complainant organization further maintained that PSP workers were exposed to a wide range of occupational risks on a daily basis. These included exposure to noise, vibrations, air pollution and other factors that jeopardized their health just like workers in other professions. However, in their work, PSP workers were also regularly exposed to heavy

¹ Legislative Decree No. 26/94 has been repealed by section 120(1)(b) of Law No. 102/2009 of 10 September 2009, providing for the legal regime for the promotion of OSH.

workloads, unpredictable situations and high levels of stress. PSP workers also suffered from a lack of guidance and professional support from line management, due, inter alia, to a highly hierarchical management structure and a lack of human resource organization.

16. The complainant organization also alleged that there was no training or awareness-raising activities on the prevention of occupational health risks, including in relation to the handling of toxic substances in the weapons and explosives departments or at criminal investigations scenes, in the context of road accidents or at fire scenes; and that no instructions were provided on OSH protective measures, including on how to use personal protective equipment.
17. Regarding PSP work facilities and equipment, the complainant organization alleged that the workplaces often failed to comply with minimum standards of safety, sanitation and health and were often located in old buildings in a poor state of repair, with roofs that were at risk of collapsing and that let in rain, with poor lighting and with poor hygienic conditions due to insufficient or inadequate cleaning. Furthermore, many police vehicles were not in a proper operational condition, which increased the risk of accidents. Required personal equipment, such as handcuffs, bullet proof vests, headsets and protective gas masks, was also in very short supply, which meant that they have to be passed on from one officer to another, thereby increasing the likelihood of the transmission of infections and diseases. The same risk resulted from the fact that no protective gloves were provided for searches.
18. In addition, the complainant organization alleged that there was a lack of occupational health professionals to monitor and examine the occupational health of PSP workers on a regular basis, in spite of numerous cases of heart disease and mental disorders as well as absenteeism from work, incidences of depression, alcohol abuse, drug-taking and a high number of suicides.
19. The complainant organization maintained that the Government failed to ensure that the OSH of workers is protected by a robust and effective inspection system. It also stated that police forces are not protected by legislation regulating professionals trained in risk assessment using institutional and systematic methodology, identification of preventive and corrective measures, organizational structures to establish rules on prevention and protection of safety, hygiene and health in the workplace, or on occupational health and on specifying arrangements for monitoring and imposing penalties in the event of non-compliance with occupational safety, hygiene and health standards.
20. Against this background, the complainant organization called for the Government to be required to take all appropriate measures to ensure the full and effective application of Convention No. 155 in relation to PSP workers.

B. Observations of the Government

21. The Government refuted the allegations of the complainant organization maintaining that, both in terms of formal organization and de facto situation, the working conditions of the workers of the security forces have been subject to attention from the Portuguese Government, which has invested in training, infrastructure, equipment, materials, laws and regulations and in the verification of the effective compliance with the relevant standards.
22. In terms of legislation, the Government referred to Law No. 5/99 of 27 January 1999, which approved the organization and functioning of the PSP and which is no longer in force; Law No. 53/2007 of 31 August 2007 concerning the PSP and Order No. 11714/2010 (reprint of Order No. 19935/2008 of 17 July 2008, published in the *Official Journal*,

2nd Series, No. 144, of 28 July 2008) (hereinafter the PSP legislation); Law No. 61/2007 of 10 September 2007 on the programming of premises and equipment for the security forces; and Law No. 14/2002 of 19 February 2002 (Trade Union Act) “regulating the exercise of freedom of association and collective bargaining rights and the participation of the staff of the PSP”. Furthermore, it referred to Order No. 4 of the Minister of Internal Administration of 31 December 2007 and the Order of the Minister of Internal Administration of 22 September 2008, which provided for the implementation of an “action plan for suicide prevention in the security forces”. However, the texts of these orders were not made available to the Committee. The Government also referred to Legislative Decree No. 227/95 of 11 September 1995 on the organization and functioning of the Inspectorate General of Internal Administration (IGAI).

- 23.** Additionally, the Government indicated numerous procedural rules, typified in a specific document (Rules of Permanent Implementation (RPI)) aimed at different areas of action² and at disciplining and optimizing the behaviour of PSP workers.³ The Government stated that these procedural rules have security classification pursuant to the law and that their disclosure is subject to persons holding the appropriate security clearance. Thus, they could not be attached to its reply.
- 24.** With reference to the PSP legislation, the Government explained that the National Directorate of the PSP was organized in units with specific competences and functions. In terms of OSH, these units included: the Division of Administration and Support Services, competent to ensure “in the National Directorate of the PSP, the compliance with the applicable rules on hygiene, safety and health”; the Division of Health, responsible for proposing and implementing “adequate measures for the prevention of occupational accidents and for the prevention and screening of disease enhanced by the police activity”, and for proposing and developing “measures of individual health and of the principles and practices of occupational medicine”; the Division of Construction Works and Infrastructure, competent to “conduct studies and propose measures and standards for specific features, functionality and safety for the facilities of the units and subunits of the PSP, in coordination with the Information Systems Cabinet, Operation Department, Police Intelligence Department, Information and Communications Systems Department”; and the Office for Research and Planning. According to the Government, all the work on strategic planning (human and material resources) of the PSP “takes place also having reference to

² Namely: (i) the RPI OPERATIONS/SECURITY/DEPOP/01/02, of 17 Nov. 1999, on the transport of detainees/suspects in police vehicles; (ii) the RPI OPERATIONS/SECURITY/DEPOP/01/04, of 5 Apr. 2000, on policing/public order and the use of firearms; (iii) the RPI OPERATIONS/SECURITY/DEPOP/01/03, of 13 July 2006, on the organization and functioning of the rapid intervention sections; (iv) the RPI OPERATIONS/SECURITY/DEPOP/01/06 of 26 Sep. 2006, on the organization and functioning of the teams of inactivation of explosive devices; (v) the RPI OPERATIONS/SECURITY/DO/01/11, of 5 Jan. 2009, on the management of police tactical incidents, setting standards and operational procedures for dealing with incidents relating to serious and violent crime (use of firearm) and allowing for the adoption of practices that safeguard the physical integrity of the police element.

³ Namely: (i) the RPI AUOOS/DO/02/015, of 5 May 2010, defining objective rules for the use of equipment for immobilization of fleeing vehicles; (ii) the RPI OPERATIONS/SECURITY/DEPOP/01/13, of 28 Feb. 2008, which disciplines and limits the situations in which the cino-technical binomial can be used; (iii) the RPI OPERATIONS/SECURITY/DEPOP/01/05, of 1 June 2004, establishing the limits of use of coercive measures, defining and clarifying the circumstances in which a member of the police is allowed to make use of force; (iv) RPI RH/DEPFOR/01/01, of 6 Mar. 2000, which focuses on the rules of use, safety and maintenance of mobile shooting ranges; (v) the RPI DN/AUORH/DF/01/01, of 14 Dec. 2009, laying down the plan for training and certification of police shooting, establishing high standards in this training area which culminate in the disarmament of the police element.

the overall national and international legislation which regulates safety, hygiene and health at work”.

25. With respect to trade union participation, the Government referred to Law No. 14/2002 (Trade Union Act) and indicated that the most representative trade unions were duly represented in the Supreme Council of Police (SCP). The Government indicated that the SCP was an advisory body to the National Director mandated to provide advice on all relevant matters concerning the PSP, including its objectives, needs and strategic plans and relevant legislation. It included four members elected from candidates presented by the trade unions.⁴
26. As regards the situation in practice, and in response to the complainant’s allegations regarding PSP facilities and equipment, the Government referred to Law No. 61/2007, which applies to the following areas: (a) the construction of new facilities (territorial coverage and nationwide); (b) the purchase of new vehicles; (c) the acquisition of arms, and police equipment; (d) the purchase of surveillance systems, command and control; and (e) the acquisition of information technology systems. The Government stated that, between 2008 and 2012, the investment made by the Ministry of Internal Administration in the PSP amounted to €56,029,980; that between 2008 and 2011, 463 new vehicles were purchased; and that a tender procedure was being completed for the acquisition of 21,000 new individual weapons for PSP workers, and a process of acquiring 37,356 holsters and 2,355 individual ballistic vests was initiated. The Government indicated that the new weapons entailed less risk both for the citizens and for PSP workers than those previously used.
27. Concerning education and training, the Government referred to the basic, higher and continuous training provided by the PSP school, and to the Superior Institute for Police Sciences and Homeland Security (ISCPSI), an institution for higher public university police education, which aims at ensuring the continuous professional development of each police officer all through their professional career, taking into account relevant issues in an evolving society and emerging threats to national security. The funds allocated for training increased from €115,520.21 in 2009 to €1,693,887.75 in 2010, which resulted in all PSP workers receiving 16 hours of training on average in 2010.
28. The Government indicated that over the recent years, questions of stress and critical incident management had been given specific attention and that an action plan for suicide prevention in the security forces was being implemented. This plan included: a programme on “management of stress and critical incidents and suicide prevention” provided to more than 3,500 police officers; re-evaluations of over 8,000 police officers; creation of a dedicated helpline available 24 hours per day, which was combined with the immediate availability of psychologists in cases of crisis; the carrying out of psychological assessments in different police commands to identify vulnerabilities among the workers; and improved intra-office collaboration between the Departments of Health and Disease Assistance, Social Services and Psychology. In addition, the Psychology Department had implemented specific measures including providing psychological support to PSP workers

⁴ The other members of the SCP included the national director, the national deputy directors, the national inspector, the regional commanders of Azores and Madeira, the metropolitan commanders of Lisbon and Oporto and of the special police unit, the directors of the police training schools, the directors of the services responsible for the areas of operations, human resources and logistics, three district commanders, one member elected from among the officials of the rank of chief superintendent, superintendent and intendant, two members elected from among the rank of deputy intendants, commissioners and deputy commissioners, three members elected from among the elements of the career of chief, five members elected from among the elements of the career of the agent, one member elected from the staff without police functions.

and their spouses, descendants and dependants; posting psychologists in nine commands of the PSP; preparing opinions regarding the transfer of police officers based on their psychological health; increased and reinforced the psychological support to police workers who are victims and their relatives; formalized cooperation between the PSP and the High Commissioner for Health for the referral of PSP workers identified as being at risk of committing suicide based on an evaluation by the Department of Psychology; preparation and dissemination of information material such as posters, leaflets and a Manual on Suicide Prevention (2010–11), produced in collaboration with the Directorate General of Home Affairs; participation in a working group for the reform of mental health through the Ministry of Internal Administration/Directorate General of Home Affairs as of 2010; and, internationally, participation in the European Medical and Psychological Experts network as determined by the European Commission in 2010.

- 29.** With regard to the inspection and monitoring of PSP activities, the Government stated that the National Director of the PSP exercised internal control over the operational, administrative, financial and technical domains, and was responsible for checking, monitoring, evaluating and reporting on the activities of all departments of the PSP including on matters related to OSH. It also stated that the PSP is subject to scrutiny of its activities by the IGAI, whose organization and functioning is provided for in Legislative Decree No. 227/95. The IGAI was, in general, responsible for ensuring compliance with relevant OSH laws and regulations, with a view to the proper functioning of the services overseen by the minister, defending the legitimate interests of citizens, safeguarding the public interest and sanctioning any violations.
- 30.** With reference to the question of the identification and mitigation of risks in terms of the construction of new police facilities and the maintenance of existing ones, the Government indicated that the PSP complies with the principles enshrined in law. Police activity involves different requirement levels, on the condition that high-risk activities have been identified. In this perspective, the plans for initial and refresher training take into account these factors, the implementation of which was monitored by the IGAI and the courts both internally and externally. The Government indicated that the procedural rules (referenced in paragraph 23 above) covered subjects such as procedures for the transportation of detainees in police vehicles; policing and public order and the use of firearms; the organization and functioning of the rapid intervention sections; the organization and functioning of the teams for the disarmament of explosive devices including fundamental safety rules for such high-risk activities; the management of police interventions, setting standards and operational procedures – including concerning the use of firearms – for dealing with incidents relating to serious and violent crime and for the safeguard of the physical integrity of the police officers. High-risk activities were carried out by a special police unit. The handling of chemical, physical and biological agents was subject to specific safety rules in accordance with international technical manuals. When need arose, the PSP would commission duly accredited external services to prepare technical studies in different domains with an impact on safety, hygiene and health at work.
- 31.** As regards the publication of information and the holding of inquiries regarding occupational accidents and diseases, the Government stated that the PSP was required to apply the same rules as those that were applicable to all public administrations. According to statistics concerning the PSP, in 2010, there had been two occupational fatalities and 1,749 accidents; 314 of which had given rise to four to 30 days' sick leave resulting in a loss of 11,578 workdays. This represented a decrease in comparison with 2008 and 2009. All workplace accidents were subject to rigorous internal investigations, the results of which were closely monitored. Accidents determined to be occupational did not entail any loss of benefits or rights.

32. The Government also referred to the application of compensatory schemes intended to “offset the risk and the professional situations potentially causing increased fatigue of the police force”. It gave details of various supplements paid in 2010 which totalled €474,454,722.46 (that is, €164,231.65 in salary supplements/performance awards; €2,523,078.54 in social benefits and other staff costs; €365,184,767.18 in salary supplements/value (euro); €2,283.34 for overtime work; €10,676.76 for regular night work and work on weekly rest days and holidays; €56,181,454.01 for on-call duty; €20,858,518.27 for other special schemes, risk, hardship and unhealthy working conditions; €307,845.51 for posting to non-urban areas; €24,997,302.86 for shift work; €1,569,423.40 in allowances provided to workers having special responsibilities related to the control of income and expenditure and cash handling and values; allowances for participation in meetings and other allowances; €573,600.76 for representation; and €2,081,540.18 for secretariat and other salary supplements).

III. Conclusions of the Committee

A. Preliminary matters

33. The Committee has based its conclusions on the review of the allegations of the complainant organization, the observations transmitted by the Government as well as the information previously communicated by the Government in the framework of its reports on the application of ratified Conventions, due under article 22 of the ILO Constitution (article 22 reports), and the comments of the Committee of Experts on the Application of Conventions and Recommendations. Account has also been taken of legislation in publicly available sources and of information available on the public website of the PSP (www.psp.pt).
34. The Committee observes that the complainant organization also alleged violation of the Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (as amended by European Parliament and Council Directive 2007/30/CE), in addition to the violation of other rights such as those safeguarded by articles 7, 8, 23 and 24 of the Universal Declaration of Human Rights, and by articles 2, 3, 6, 21 and 22 of the European Social Charter (Revised) and articles 9(d), 64, 59(1)(c) and 59(2)(c) of the Constitution of Portugal. The Committee notes that it is only competent to examine and draw conclusions on the application by the Government of ILO Convention No. 155 ratified by the country.
35. The complainant organization alleged that the Government had failed to comply with the obligations contained in Convention No. 155 by not giving due effect, in law and in practice, to its provisions with regard to PSP workers. The Committee notes that in ratifying the Convention, the Government did not make use of Article 1 or Article 2 of Convention No. 155, which entitle ratifying parties to make temporary limitations to the scope of application of the Convention regarding certain branches of economic activities and limited categories of workers. In accordance with its Article 3(a) and (b), the Convention therefore applies to all workers in all branches of economic activity in Portugal, including the public service and therefore all PSP workers. The Government is therefore bound to apply the provisions of ILO Convention No. 155 to all workers of the PSP. The Committee is called upon to examine how the Convention has been implemented in both law and practice with regard to PSP workers.
36. Neither the complainant organization nor the Government has invoked any specific provisions of the Convention. In view of the specific allegations made, the Committee will

examine the representation in the context, in particular, of Articles 4, 7, 8, 9, 16, 19 and 20 of Convention No. 155.

B. The applicable legal and policy framework

(i) The legal framework

37. The Committee notes that the complainant organization referred to the following legislative provisions:

- (i) Legislative Decree No. 441/91 of 14 November 1991;
- (ii) Legislative Decree No. 26/94 of 1 February 1994, which has been repealed by Law No. 102/2009 of 10 September 2009 providing for the legal regime for the promotion of OSH;
- (iii) Legislative Decree No. 488/99 of 17 November 1999;
- (iv) Law No. 14/2002 of 19 February 2002 (Trade Union Act) “regulating the exercise of freedom of association and collective bargaining rights and the participation of the staff of the PSP”;
- (v) Legislative Decree No. 215-B/75 of 30 April 1975 on the trade union rights of workers;
- (vi) Legislative Decree No. 84/99 of 14 March 1999 on the public administration Trade Union Act.

38. The Committee notes that the Government referred, for its part, to the following legislative provisions:

- (i) Law No. 5/99 of 27 January 1999 approving the organization and functioning of the PSP, which is no longer in force;
- (ii) Law No. 53/2007 of 31 August 2007 on the organization and functioning of the PSP and Order No. 11714/2010 (Reprint of the Order No. 19935/2008 of 17 July 2008, published in the *Official Journal*, 2nd series, No. 144, of 28 July 2008) (hereinafter the PSP legislation);
- (iii) Law No. 61/2007 of 10 September 2007 on the programming of premises and equipment for the security forces;
- (iv) Law No. 14/2002 of 19 February 2002 (Trade Union Act) “regulating the exercise of freedom of association and collective bargaining rights and the participation of the PSP”;
- (v) Legislative Decree No. 227/95 of 11 September 1995 on the organization and functioning of the IGAI;
- (vi) Order No. 4 of the Minister of Internal Administration of 31 December 2007 and the Order of the Minister of Internal Administration of 22 September 2008, which provided for the implementation of an “action plan for suicide prevention in the security forces”. The texts of these orders were not made available to the Committee.

39. The Government also indicated numerous procedural rules, as referenced in paragraph 23 above, and stated that they could not be provided because of their security classification.
40. The Committee notes that Legislative Decree No. 441/91 was adopted to implement the provisions of Convention No. 155. It recalls that the adoption of this legislation was noted with satisfaction by the Committee of Experts in its observation of 1994.
41. It also notes that section 2(4) of this Legislative Decree provides that:

This legislation does not apply to public service activities which are subject to certain safety or emergency conditions, including those of the armed forces or the police, and ... civil protection activities, subject to the adoption of measures to ensure the safety and health of the workers in question.

42. On the basis of the information provided in the Government's reports submitted under article 22 of the ILO Constitution, the Committee notes that Decree No. 26/94 has been repealed by article 120(1)(b) of Law No. 102/2009 of 10 September providing for the legal regime for the promotion of OSH. According to its section 3, Law No. 102/2009 applies to "all branches of activities in the private or cooperative and social sectors". The Committee concludes that this law is not applicable to the public sector and thus not relevant for the activities of the PSP.
43. Concerning Legislative Decree No. 488/99 approving the legal regime for employment contracts in the public service, the Committee notes that, according to its section 2(2),⁵ this Decree does not apply to the PSP.
44. As regards Law No. 14/2002 (Trade Union Act), the complainant organization referred to article 35 on matters that are subject to collective bargaining, with an emphasis, in particular, on paragraph (h) concerning conditions of hygiene, health and safety in the workplace. It also referred to article 38(1)(a) on participation in the monitoring and implementation of measures concerning conditions of health and safety in the workplace.
45. The Committee considers that documents which are not available to the Committee cannot be taken into account in this context. The Committee notes the detailed description provided by the Government of the competences of the 14 organizational units of the PSP regulated in the PSP legislation. In terms of OSH, these units included: the Division of Administration and Support Services, competent to ensure "in the National Directorate of the PSP, the compliance with applicable rules on hygiene, safety and health"; the Division of Health, responsible for proposing and implementing "adequate measures for the prevention of occupational accidents and for the prevention and screening of disease enhanced by the police activity", and for proposing and developing "measures of individual health and of the principles and practices of occupational medicine"; the Division of Construction Works and Infrastructure, competent to "conduct studies and propose measures and standards for specific features, functionality and safety for the facilities of the units and subunits of the PSP, in coordination with the Information Systems Cabinet, Operation Department, Police Intelligence Department, Information and Communications Systems Department"; and the Office for Research and Planning. According to the Government, all the work on strategic planning (of human and material

⁵ Section 2(2) of Legislative Decree No. 488/99 provides that "this regulation does not apply to the activities of public functions, when their exercise is conditioned by criteria or safety emergency, including the activities carried out by the Armed Forces, security forces, as well as specific activities of civil protection services, without prejudice to the adoption of measures to ensure the safety and health of their workers".

resources) of the PSP “takes place also having reference to the overall national and international legislation which regulates safety, hygiene and health at work”.

46. The Committee notes that the PSP legislation includes no further guidance and the Government provides no further information on which rules on OSH are applied by the Division of Administration and Support Services, and which national and international legislation that had been taken into account by the Office for Research and Planning in their strategic planning of the work of the PSP.
47. The Committee notes that the PSP legislation regulates the general terms (that is, nature, functions, symbols, authorities and bodies), organization, appointment and financial provisions of the PSP and, in terms of OSH, it includes only general descriptions of certain competences relating thereto, including requirements to apply relevant (but unspecified) national legislation.
48. In addition, the Committee notes Law No. 12-A/2008 of 27 February establishing the public employment regimes, career and remuneration schemes of civil servants, and its implementing legislation Law No. 59/2008, which approves the legal regime for employment contracts in the public service, and which contains a chapter on occupational safety and health (Chapter XIII). However, the Committee notes that, according to article 2(3) of Law No. 12-A/2008, “this law does not apply to the personnel of armed forces and the National Republican Guard, whose employment regimes, career and remuneration schemes are provided for in special laws”. It also notes that according to article 6(3) of Legislative Decree No. 126-B/2011 of 29 December 2011, the PSP, like the National Republican Guard, is governed by separate legislation defining their regime with regard to their organization, functioning, status of personnel and social protection. Noting that the parties have not invoked Law No. 12-A/2008 and Law No. 59/2008 as relevant, the Committee considers that this legislation does not appear applicable to the PSP.
49. On the basis of the review of the above legislative framework, the Committee notes that, while section 2(4) of Legislative Decree No. 441/91 establishes that “this legislation does not apply to public service activities which are subject to certain safety or emergency conditions, including those of the armed forces or the police, and ... civil protection activities, *subject to the adoption of measures to ensure the safety and health of the workers in question*” [emphasis added], the Government does not appear to have adopted legislative measures to ensure the safety and health of PSP workers.
50. The Committee concludes that the Government should take measures to give effect in law to Convention No. 155 as regards OSH protection for PSP workers.

(ii) The national policy

51. The complainant organization alleged that a policy of prevention has not been formulated with regard to PSP workers. The Government referred to the practice to develop rules and procedures for PSP work, which were adopted with the purpose of mitigating the risks in certain specific and predictable work situations and ensuring that PSP workers were appropriately trained in this respect; and to the efforts carried out in the area of suicide prevention.
52. The Committee notes that one of the central requirements of Convention No. 155 is contained in Article 4(1), which provides as follows:

Each Member shall, in the light of national conditions and practice, and in consultation with the most representative organizations of employers and workers, formulate, implement

and periodically review a coherent national policy on occupational safety, occupational health and the working environment.

- 53.** In this regard, the Committee notes that, in its observation of 2011 concerning the application of Convention No. 155 by Portugal, the Committee of Experts noted with satisfaction the National Occupational Safety and Health Strategy (National OSH Strategy) for the period 2008–12. This Strategy defined two key priorities: the development of coherent and effective public policies, and the promotion of OSH. The outcome of this National OSH Strategy was due for final assessment by the end of 2012. This Strategy appears to constitute a comprehensive national policy based on prevention, and sets out specific objectives and means to achieve them, the first one being the development and strengthening of a culture of prevention in accordance with the provisions of the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187).⁶
- 54.** As far as the Committee has been able to determine, the National OSH Strategy does not exclude explicitly the PSP. However, based on the information received, the Strategy does not appear to be implemented as regards PSP workers.
- 55.** The Committee concludes that the Government should take measures to ensure that the implementation of the National OSH Strategy includes PSP workers.

C. Application in practice of the Convention concerning PSP workers

- 56.** The Committee notes that several allegations of the complainant organization are related to the application in practice of the Convention and notably to the requirements contained in Articles 4, 7, 8, 9, 16, 19 and 20.

(i) Consultations with PSP workers and their representative organizations on OSH matters

- 57.** The Committee notes that Convention No. 155 calls for an active involvement of employers and workers and their organizations, as appropriate, at all relevant levels. Different consultative mechanisms are provided for, depending on the context, but the main consideration is that the principle of prevention, which is the hallmark of this instrument, can only be effectively implemented through active collaboration between employers and workers. The Committee will refer in particular to Article 4(1) of the Convention, which establishes that consultations with the representative organizations should be ongoing and that they should be involved in all stages of the national policy

⁶ The Committee of Experts noted that the Strategy sets the following ten objectives: (1) develop and strengthen a culture of prevention in accordance with the provisions of the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187); (2) improve the information systems and create a single model for the monitoring of occupational accidents; (3) include OSH systems in education; (4) boost the national occupational hazard prevention system; (5) improve the coordination of the competent public services; (6) enforce, improve and simplify the specific OSH standards; (7) implement the organizational model of the authority responsible for working conditions which brings together the promotion of OSH and labour inspection; (8) promote the application of OSH legislation, in particular small and medium-sized enterprises; (9) improve OSH services; and (10) strengthen the role of the social partners in improving OSH conditions.

process.⁷ In addition, according to Article 8 of the Convention, the representative organizations of employers and workers concerned have to be consulted on the methods to give effect to Article 4.

58. The complainant organization alleged that, although the question of consultations on relevant OSH matters is covered by Law No. 14/2002 (Trade Union Act), the Portuguese Government and the Minister of Internal Administration refused to negotiate with the ASPP/PSP. The ASPP/PSP has never been able to exercise its right to participate in relevant OSH areas covered by article 35(h) and article 38(1)(a) of Law No. 14/2002 of 19 February. According to the complainant organization, the refusal of the Minister of Internal Administration was systematic, despite the fact that every year the ASPP/PSP has submitted its case reports and lists of claims specifically containing the matters covered by the provisions of the abovementioned legislation.
59. The Committee notes the information provided by the Government regarding the consultations held in the Supreme Council of Police (SCP), which was an advisory body to the National Director of the PSP mandated to provide advice on all relevant matters concerning the PSP, including its objectives, needs and strategic plans and relevant legislation. It also notes that the most representative trade unions were represented with four members in the SCP.
60. The Committee observes that the Government has not, however, provided any further information on the extent to which, in practice, the SCP had been dealing with OSH matters. Furthermore, the Committee notes that the Government has not indicated that consultations have been held with PSP workers or their representative organizations on matters relevant to OSH in any other contexts, whether institutional or otherwise.
61. In addition, the Committee notes that the annual reports of the PSP for 2010 and 2011 indicate that “the interventions of ‘OSH Committees’ do not apply to the PSP”.⁸
62. Based on the above considerations, the Committee concludes that the Government should take additional measures to ensure consultation with the workers in accordance with Articles 4(1) and 8 of the Convention.

(ii) Prevention of stress and critical incident management

63. The Committee refers to Article 4 (2) of the Convention, which provides as follows:

The aim of the policy [in paragraph 1 of Article 4] shall be to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, by minimising so far as is reasonably practicable, the causes of hazards inherent in the working environment.

⁷ ILO: *General Survey concerning the Occupational Safety and Health Convention, 1981 (No. 155), the Occupational Safety and Health Recommendation, 1981 (No. 164), and the Protocol of 2002 to the Occupational Safety and Health Convention, 1981*, Report III (Part 1B), International Labour Conference, 98th Session, 2009, paras 47–52.

⁸ Polícia de Segurança Pública (PSP) – Departamento de Recursos Humanos, “Balanço Social 2010”. Available at: <http://www.psp.pt/Documentos%20Varios/Balan%C3%A7o%20Social%202010%20vf.pdf> [accessed 14 Feb. 2013], p. 42; Polícia de Segurança Pública (PSP) – DGCRH-DRH DNPS, “Balanço Social 2011”. Available at: <http://www.psp.pt/Documentos%20Varios/Balan%C3%A7o%20Social%20da%20PSP%202011.pdf> [accessed 14 Feb. 2013], pp. 48–49.

64. It notes that the complainant organization alleged that, in practice, there was no culture of prevention and protection in the PSP and that the workers were exposed to a heavy workload, unpredictable situations and high levels of stress.
65. The Committee notes that in response to these allegations the Government has referred to numerous measures it has taken to address the management of stress and critical incidents and suicide prevention among PSP workers including the adoption in 2007 of an action plan for suicide prevention. The information provided in this respect illustrates an acute awareness of the Government and the responsible managers on the significance, importance and scale of the problem and recognition of their responsibility to address it.
66. The Committee takes due note of the importance that the Government, through its action, has attached to the prevention of stress and critical incident management. It deems it relevant to note the efforts made by the Government to “offset the risk and the professional situations potentially causing increased weariness of the police force” through monetary compensation. As for 2010, it appears that a total amount of €474,454,722.46 had been paid for this purpose. The Committee, while recognizing this development, would have wished to receive more information concerning the prevention of the occupational risks to which PSP workers were exposed.
67. In addition, the Committee observes that no information has been provided regarding any mapping of the problem of stress and analyses carried out of its causes, nor on the impact of the measures taken since they were adopted and whether they have had the desired effect.
68. In light of the above considerations and taking into account that some efforts had been made, the Committee concludes that the Government should take additional measures in consultation with the organizations concerned to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, by minimizing, so far as is reasonably practicable, the causes of hazards inherent in the working environment, in accordance with Article 4(2) of the Convention.

(iii) Monitoring and inspection

69. The Committee refers to Article 9 of the Convention, which provides as follows:
1. The enforcement of laws and regulations concerning occupational safety and health and the working environment shall be secured by an adequate and appropriate system of inspection.
 2. The enforcement system shall provide for adequate penalties for violations of the laws and regulations.
70. The Committee notes that the complainant organization alleged that the Government failed to ensure the enforcement of safety and health rules by a robust and effective inspection system and the imposition of penalties in the event of non-compliance with occupational safety, hygiene and health standards. The Government replied that the National Director of the PSP exercised internal control over the operational, administrative, financial and technical domains, and was responsible for checking, monitoring, evaluating and reporting on the activities of all departments of the PSP including on matters related to OSH. External inspection was carried out by the IGAI that, inter alia, was responsible for ensuring compliance with relevant OSH laws and regulations, the proper functioning of the services overseen by the minister, defending the legitimate interests of citizens, safeguarding the public interest and sanctioning any violations.

71. The Committee notes that no information has been provided on the outcome of these internal and external monitoring functions, and that no reference has been made to any report or decisions taken or to any contraventions imposed. The statistical information provided, which was limited to information on fatalities and accidents for 2010, contained no information on any inquiries held or on any sanctions imposed for any breaches.

72. The Committee concludes that the Government should take additional measures to ensure the application to the PSP of Article 9 of the Convention.

(iv) Safe workplaces, machinery, equipment and processes

73. Regarding the state of PSP work facilities and equipment, the Committee notes that Article 16 of the Convention provides as follows:

1. Employers shall be required to ensure that, so far as is reasonably practicable, the workplaces, machinery, equipment and processes under their control are safe and without risk to health.

2. Employers shall be required to ensure that, so far as is reasonably practicable, the chemical, physical and biological substances and agents under their control are without risk to health when the appropriate measures of protection are taken.

3. Employers shall be required to provide, where necessary, adequate protective clothing and protective equipment to prevent, so far as is reasonably practicable, risk of accidents or adverse effects on health.

74. The complainant organization stated that the workplaces often failed to comply with minimum standards of safety, sanitation and health and were often located in old buildings in a poor state of repair, with roofs at risk of collapsing and which let in rain, with poor lighting and with poor hygienic conditions due to insufficient or inadequate cleaning. It further alleged that many police vehicles were not in a proper operational condition, and that required personal equipment (that is, handcuffs, bullet proof vests, headsets and protective gas masks) was also in very short supply which meant that they have to be passed on from one officer to another, thereby increasing the likelihood of the transmission of infections and diseases. The same risk resulted from the fact that no protective gloves were provided for searches.

75. In this regard, the Committee notes that according to the Government, between 2008 and 2012, the investment made by the Ministry of Internal Administration in the PSP amounted to €56,029,980; that between 2008 and 2011, 463 new vehicles were purchased; and that a tender procedure was being completed for the acquisition of 21,000 new individual weapons for PSP workers, and a process of acquiring 37,356 holsters and 2,355 individual ballistic vests was initiated.

76. The Committee notes that, while this investment seems to reflect an effort on the part of the Government to modernize the equipment, it has not been provided with specific information on the investment made with regard to the facilities, workplaces and protective equipment other than ballistic vests.

77. The Committee concludes that the Government should continue to make efforts to ensure the application to the PSP of Article 16 of the Convention.

(v) Training

78. As regards the requirements in Convention No. 155 regarding training, the Committee refers to paragraphs (c) and (d) of Article 19, which read as follows:

- (c) representatives of workers in an undertaking are given adequate information on measures taken by the employer to secure occupational safety and health ... ;
- (d) workers and their representatives in the undertaking are given appropriate training in occupational safety and health.

79. The Committee notes that in response to the allegation of the complainant that there were no training or awareness-raising activities on the prevention of occupational health risks, and that no instructions were provided on OSH protective measures, including on how to use personal protective equipment, the Government referred to the basic, higher and continuous training provided by the PSP school, and the ISCPSP and to the fact that the funds allocated for training of PSP workers were increased from €115,520.21 in 2009 to €1,693,887.75 in 2010, resulting in all PSP workers having received 16 hours of training on average in 2010.

80. The Committee notes that, while it appears from the Government's reply that the training provided at the PSP school and at the ISCPSP takes into account the specific rules and procedures developed to mitigate risks and that there is training on management of stress and critical incidents and suicide prevention, the Government has not otherwise specified to what extent the training provided dealt with OSH matters. As regards the funds allocated for training, the Committee considers that the 15-fold increase in 2010 as compared to 2009 is remarkable. The Committee notes, however, that the Government has not provided any information on the content of the training provided since 2010.

81. The Committee further notes that the annual reports of the PSP for 2010 and 2011 indicate that: "There has been no training or awareness-raising activity related to OSH."⁹

82. Based on the above considerations, the Committee concludes that the Government should take additional measures to ensure the application to the PSP of Article 19(c) and (d) of the Convention.

(vi) Cooperation at the level of the undertaking

83. Article 20 of the Convention provides for cooperation at the level of the undertaking in the following terms:

Co-operation between management and workers and/or their representatives within the undertaking shall be an essential element of organisational and other measures taken in pursuance of Articles 16 to 19 of this Convention.

84. The Committee notes the complainant's allegation that PSP workers suffered from a lack of guidance and professional support from line management caused, inter alia, by a highly hierarchical management structure of the PSP and a lack of human resource organization. The Committee notes that the Government has not responded to this allegation nor referred to any form of cooperation mechanisms within the PSP.

85. The Committee concludes that the Government should take measures to ensure the implementation to the PSP of Article 20 of the Convention.

⁹ *ibid.*

(vii) Monitoring of health

86. The complainant organization alleged that there was a lack of occupational health professionals to monitor and examine the occupational health of PSP workers on a regular basis. In this respect, the Committee notes the information provided by the Government regarding the specific services set up to provide for a psychological monitoring of PSP workers in accordance with the action plan for suicide prevention, namely, the programme on “management of stress and critical incidents and suicide prevention”; the creation of a dedicated helpline available 24 hours per day, which was combined with the immediate availability of psychologists in cases of crisis; the carrying out of psychological assessments in different police commands to identify vulnerabilities among workers; and improved intra-office collaboration between the Departments of Health and Disease Assistance, Social Services and Psychology; the psychological support to PSP workers and their spouses, descendants and dependants; the posting of psychologists in nine commands of the PSP; and the preparation of opinions on the transfer of police officers based on their psychological health.

87. Article 4 of Convention No. 155 refers to a “national policy on occupational safety, occupational health and the working environment”. The Committee notes that Article 3 of the Convention defines “health” as follows:

- (e) the term “health”, in relation to work, indicates not merely the absence of disease or infirmity; it also includes the physical and mental elements affecting health which are directly related to safety and hygiene at work.

The Occupational Safety and Health Recommendation, 1981 (No. 164), which complements Convention No. 155, in paragraph 3(r) provides as follows:

3. As appropriate for different branches of economic activity and different types of work and taking into account the principle of giving priority to eliminating hazards at the sources, measures should be taken in pursuance of the policy referred to in Article 4 of the Convention, in particular in the following fields:

...

- (r) supervision of the health of workers.

88. In light of these elements, the Committee is of the view that the Government should take additional measures to address the concerns expressed by the complainant in this regard.

89. Finally, taking into account the specificity of the sector concerned, the Committee considers that, in accordance with Article 7 of the Convention and in consultation with the social partners, the Government should review the current policy, identify major problems concerning the OSH of PSP workers, design effective measures for dealing with them and evaluate results.

IV. Recommendations of the Committee

90. *In the light of the conclusions set out above in paragraphs 50, 55, 62, 68, 72, 77, 82, 85, 88 and 89, the Committee recommends to the Governing Body that it:*

- (a) *approves the present report;*
- (b) *invites the Government to take such measures, in consultation with the social partners, as may be necessary to ensure the effective application of Convention No. 155 with regard to the PSP, in law and in practice. This*

should include measures to ensure the review of the situation regarding the occupational safety and health and the working environment of the PSP, taking into account their specificities, in accordance with Article 7 of Convention No. 155, with a view to identifying major problems, evolving effective methods for dealing with them and evaluating results;

- (c) entrusts the Committee of Experts on the Application of Conventions and Recommendations with following up on effect given to the conclusions of this report with respect to the application of Convention No. 155; and*
- (d) makes this report publicly available and close the procedure initiated by the representation of the complainant organization alleging the non-observance by Portugal of Convention No. 155.*

Geneva, 22 October 2013

(Signed) M. Thierry
Chairperson

J. Rönne

H. Kelly

Point for decision: Paragraph 90