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Report of the Director-General

Fifth supplementary report: Report of the Committee set up to examine the representation alleging non-observance by Uruguay of the Protection of Wages Convention, 1949 (No. 95) and the Social Security (Minimum Standards) Convention, 1952 (No. 102)

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▶ I. Introduction

1. In a communication received by the Office on 1 December 2020, the Single National Union of Doctors of Law, Lawyers, Attorneys and Allied Workers of Uruguay made a representation to the International Labour Office under article 24 of the ILO Constitution alleging non-observance by the Government of Uruguay of the Protection of Wages Convention, 1949 (No. 95) and the Social Security (Minimum Standards) Convention, 1952 (No. 102) ratified by Uruguay on 18 March 1954 and 14 October 2010 respectively. Both Conventions remain in force in the country.
2. The provisions of the ILO Constitution concerning the submission of representations are as follows:

Article 24

Representations of non-observance of Conventions

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

Publication of representation

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.

3. In accordance with article 1 of the Standing Orders concerning the procedure for the examination of representations under articles 24 and 25 of the Constitution of the International Labour Organization, as revised by the Governing Body at its 291st Session (November 2004), the Director-General acknowledged receipt of the representation, informed the Government of Uruguay and brought it before the Officers of the Governing Body.
4. At its 341st Session (March 2021), the Governing Body decided that the representation was receivable and set up a tripartite committee for its examination. The tripartite committee is composed of Mr Vismar Ravagnani (Government member, Brazil), Mr Guido Ricci (Employer member, Guatemala) and Ms Paola del Carmen Egusquiza Granda (Worker member, Peru).
5. The Government of Uruguay submitted its observations concerning the representation in a communication received by the Office on 28 May 2021.
6. The Committee met virtually on 18 and 25 February 2022 to examine the representation and adopt its report.

► II. Examination of the representation

A. Allegations of the complainant organization

7. In its communication, the complainant organization alleges non-observance of the Government of Uruguay of Articles Nos 3, 5, 6, 7, 10 and 12 of Convention No. 95 and ArticlesNos 19, 22, 39, 42, 44, 45, 46, 50, 52, 66 and 67 of Convention No. 102.

1. Allegations under Convention No. 95

8. The complainant organization alleges that workers with tertiary or university education are prevented from collecting either a part or all of their wage or salary, making it impossible for them to provide for themselves or their family, or even to retire, if they are not up to date with payment of their contributions to the Solidarity Fund and additional contributions,¹ and to the Retirement and Pension Fund for University Graduates or the Notarial Social Security Fund, as relevant, even when they do not work in their profession, but in any other occupation. According to the complainant organization, this situation is a violation of Articles Nos 3, 6, 7, 10 and 12 of the Convention. In particular, the complainant organization contests the following legal provisions: (i) section 3(13) and (14) of Act No. 16524 establishing the Solidarity Fund as a non-state public law entity, of 25 April 1994, which sets forth that: (13) “the Solidarity Fund shall issue, upon request of contributors not affiliated to the Retirement and Pension Fund for University Graduates and the Notarial Social Security Fund, a certificate showing that payments of special contributions are up to date, which shall remain valid until the following 31 March. In the case of the contributors affiliated to those Funds, the attestations showing regular payment of contributions issued by the social security bodies shall also certify that obligations to the Solidarity Fund have been met, unless these bodies have been informed by the Fund that certain contributors are not up to date”; (14) “the public or private entities shall, on an annual basis, require persons liable to this special contribution to present the certificate referred to in the above clause. In the event the certificate is not presented, the aforementioned bodies must withhold 50 per cent of bills for services rendered, salaries, wages or remunerations of any kind, up to a threshold of 40 BPC of (forty bases of benefits and contributions), to the persons liable to this contribution. Failure to comply with these provisions shall be considered a serious offence on the part of the public official who orders or makes the payment”; (ii) section 124 of Act No. 17738 approving the organizational structure of the Retirement and Pension Fund for University Graduates, of 7 January 2004, which provides that “the Fund shall, on an annual basis, issue certificates showing that members have met their obligations to the Fund. No public law entity under the responsibility of their accountant or whoever acts in their place, shall pay salaries or fees to professionals if they have not first presented the aforementioned certificate. Private entities, in general, must require that professionals present this certificate, under penalty of being jointly liable for the debt. This requirement applies to all professionals, even where the services paid for do not fall under

¹ In accordance with section 1 of Act No. 16524, the Solidarity Fund is a non-state public law entity, which manages a grant scheme for students of the University of the Republic, of the tertiary level of the Vocational Technical Education Council (National Administration of Public Education) and of the Technological University, financed with the special contribution regulated in section 3 of Act No. 16524. In turn, section 7 of Act No. 17451 of 10 January 2002 establishes an additional contribution to the Solidarity Fund to be paid by graduates of the University of the Republic as from the fifth year after graduation. The contribution is assigned to the University of the Republic aimed at financing institutional projects within the country, improving infrastructure unrelated to buildings for teaching, libraries, teacher training and publications, and improving the building infrastructure for teaching.

their profession. Where no certificate is presented, the persons or bodies referred to above shall only pay maintenance allowances that have been issued or approved by the courts” and (iii) section 40 of Act No. 17437 of the Notarial Social Security Fund, of 20 December 2001, which provides that “the State, departmental authorities, autonomous bodies, decentralized services and other public entities shall not pay any remuneration to notaries where they have not presented a certificate issued by the Fund showing regular payment of contributions. This certificate shall be valid for one year. However, the Fund may suspend the validity thereof whenever the notary does not comply with his or her obligations.”

9. In this context, the complainant organization states that in recent years, the payment of salaries has been suspended to thousands of workers who owe their contributions to the Solidarity Fund, Retirement and Pension Fund for University Graduates and Notarial Social Security Fund. The complainant organization indicates that when a decision is made to suspend a salary payment, the corresponding amounts are not placed in a specific, personal bank account, where they would generate interest, but are transferred anonymously to a general revenue fund (*Rentas Generales*). As an example, the complainant organization has provided: (i) a copy of an official announcement of suspension of payment from the department responsible for oversight of enterprises and members of the Retirement and Pension Fund for University Graduates, dated 18 March 2017, which includes lists of workers who, according to the announcement, have failed to present the certificate showing that payments to the above Fund and the Solidarity Fund are up to date and have therefore had payment of wages and fees suspended. The announcement also indicates that, once their payments have been made, the workers will be able to receive their salaries upon presentation of the relevant certificate;² and (ii) copies of Circulars Nos 297/2007, 23/2012, 29/2014, 28/2015, 18/2016, 41/2017 and 20/2018 (Ref: Controller of payment of retirement contributions of graduates of university and tertiary graduates and contributions to the Solidarity Fund) of the General Directorate for Administrative Services, validated by the judiciary, indicating that “failure to present the required certificate results in the non-payment of wages, salaries or remuneration of any kind”. The complainant organization also indicates the failure of the appeal on grounds of unconstitutionality lodged in 2015 by 200 workers concerning the regulation allowing non-payment of salaries in the event that the above-mentioned certificate is not presented.
10. In addition, the complainant organization alleges that, under section 10 of Act No. 19210 on Financial Inclusion (LIF) of 29 April 2014 and section 5 *bis* of Decree No. 263/015 Regulating the LIF of 2015, workers’ wages are mandatorily paid into a bank, generally chosen by the employer and often the bank may be closed, does not have enough money to make the payment, is not in service due to health problems or only has branches in the capital. The complainant organization adds that, in practice, the banks do not give workers the full amount deposited, but retain 5.82 per cent of all minimum salaries in the country. According to the complainant organization, this situation violates Articles 3 and 5 of the Convention.
11. Lastly, the complainant organization alleges that the LIF sets out that the wages that remain deposited in a bank account for more than 180 days shall be seized in full, which, it considers, violates Article 10 of the Convention.

² This announcement includes: (1) a list of workers who, according to the document, have not complied with section 124 of Act No. 17738 of 7 January 2004 and therefore do not have the certificate showing that payments to the Retirement and Pension Fund for University Graduates are up to date for the period 1 April 2017 to 31 March 2018, and whose payment of salaries or fees are consequently suspended until they present the certificate in question; and (2) a list of workers who, according to the document, are in arrears to the Solidarity Fund, and whose salary payment is therefore suspended.

2. Allegations under Convention No. 102

12. The complainant organization alleges that, under section 3(15) of Act No. 16524/1994,³ the Social Security Bank and other social security bodies shall not process any application for retirement pension without requiring the presentation of the certificate showing that payments of contributions to the above-mentioned Solidarity Fund are up to date, which violates, in its opinion, Articles 19, 22, 39, 42, 44, 45, 46, 50, 52, 66 and 67 of Convention No. 102.
13. The complainant organization indicates that, by requiring compliance with this obligation to have paid contributions to the Solidarity Fund, Retirement and Pension Fund for University Graduates and Notarial Social Security Fund, the Government impedes the retirement process and access to pensions, and family, maternity and unemployment benefits, forcing workers to acknowledge debts in order to be able to access these rights.
14. The complainant organization adds that the contributions owed to the Solidarity Fund do not generate benefits or compensation for the contributor directly and therefore cannot be considered special contributions, the deduction of which from the salary would be permitted. The Government is thus in violation of Convention No. 102 by preventing workers who meet the necessary conditions for retirement from doing so without first assuming debts without legal basis.

B. The Government's reply

15. In its reply, received on 28 May 2021, the Government rejects the allegations of the Single National Union of Doctors of Law, Lawyers, Attorneys and Allied Workers of Uruguay regarding the two Conventions covered by this representation.

1. Allegations under Convention No. 95

16. In its reply, the Government indicates that the special contribution to the Solidarity Fund, which is categorized by the doctrine as "for taxes", provided for in section 1 of the Tax Code, is payable by graduates of the establishments of the education system (University of the Republic, tertiary level of the Vocational Technical Education Council of the Uruguay Vocational University and the Technological University of Uruguay), whose monthly income is higher than 8 BPC, as from the fifth year after graduation, and that this obligation is valid even if they are not working in their profession. The Government also indicates that the possibility of exempting the contribution is foreseen for those whose monthly income is lower than 8 BPC, whether they work in their profession or are unemployed.
17. Specifically, with regard to the suspension of payment of wages, the Government indicates that: (i) the suspension of payment of wages by the employer of workers who do not present the certificate showing that payments to the Solidarity Fund are up to date, provided for in section 3 of Act No. 16524, does not pertain to the whole wage but to 50 per cent of it. This is a solution that is intended to ensure a minimum for the worker's maintenance, in accordance with Article 10(2) of the Convention; (ii) this limitation was introduced by section 271 of Act

³ "Section 3: The Fund shall be sourced by a special contribution (section 13 of the Tax Code) made by the graduates of the University of the Republic, the tertiary level of the Vocational Technical Education Council and the Technological University, whose monthly income is higher than 8 BPC (eight bases of benefits and contributions). This special contribution is due as from the fifth year after graduation, until one of the following conditions is met: ... The Social Security Bank and the other social security bodies shall not process any retirement pension application without requiring the presentation of the certificate showing that payment of the contribution is up to date." The wording of section 3 was amended by section 271 of Act No. 19535 of 25 September 2017.

No. 19535 of 25 September 2017, after the Supreme Court of Justice, in a ruling of 27 July 2016, declared unconstitutional the rule prohibiting payment of the full wage, as it violated articles 53 and 72 of the Constitution by enabling a coercive measure whereby the wage of those who owe payments to the Solidarity Fund was withheld in its entirety; (iii) the prohibition against payment imposed on the employer does not constitute the withholding of the wage in the ordinary sense because the money is not withheld in order to cancel the worker's debt, but is rather a temporary suspension of payment until the worker presents the certificate showing that payments are up to date, at which time the full wage is returned to him or her, without affecting free disposal of the wage; and (iv) Act No. 17829 of 18 September 2004 on the wage and benefit retention scheme establishes payment of an unseizable minimum amount to the worker.

18. Regarding the method of payment of wages, the Government indicates that the LIF, as amended by Act No. 19889, adopted under an urgent procedure on 9 July 2020, provides that: (i) without prejudice to the cash payment method, the payment of remunerations and any other cash item to which workers in a relationship of dependency are entitled, irrespective of their employer, are entitled, shall be made by payment into an account held in a financial intermediation institution or an electronic money instrument, in establishments that offer this service (section 10); (ii) the method of payment shall be agreed between the employee and the employer at the start of the employment relationship and will remain valid for one year; if, at the expiration of this period, a new payment method has not been agreed, the method applied shall be extended for the same period of time (section 11); (iii) where it is agreed that payment may be made into an account held in a financial intermediation institution or an electronic money instrument, in establishments that offer this service, the worker may freely choose the financial intermediation institution or electronic money issuer in which to collect his or her remuneration and any other cash item to which he or she is entitled; (iv) if the worker does not choose a particular institution, the employer is empowered to choose for him or her, and this choice remains applicable until the worker uses his or her power to choose the establishment, in which case the choice will be valid for a period of one year (section 11); and (v) sections 24 and 25 set out the minimum basic conditions of the accounts held in financial intermediation institutions and electronic money instruments into which the amounts received by workers, retired persons and beneficiaries are paid.

2. Allegations under Convention No. 102

19. In its response, the Government indicates that within the framework of tax classification, under Act No. 16524/1994 the contributions to the Solidarity Fund and its additional contribution are considered a special contribution, namely a type of tax characterized by the existence of a particular economic benefit provided to the taxpayer for the performance of public works or state activities. In this case, this is identified by the Government as public and free tertiary education for graduates who are bound to contribute to and finance the grant scheme aimed at young persons with low income, managed by the Solidarity Fund.
20. The Government adds that this is not a violation of Convention No. 102 because the legal nature of the contributions to the Solidarity Fund has already been discussed and that regardless of the type of taxation that is best suited to the contribution, this element does not affect its obligatory nature.

► III. The Committee's conclusions

21. The Committee's conclusions are based on its examination of the allegations made by the complainant organization and of the replies sent by the Government.

Convention No. 95

22. The Committee notes that the complainant organization alleges non-compliance with: (1) Articles 3, 6, 7, 10 and 12 of the Convention, based on the prohibition by law against public or private bodies from paying all or part of the salary and fees due to workers with tertiary or university studies who do not present the certificate showing that payments of contributions are up to date to the Solidarity Fund, Retirement and Pension Fund for University Graduates and Notarial Social Security, as relevant; (2) Articles 3 and 5 of the Convention as, under section 10 of Act No. 19210 on financial inclusion (LIF) and section 5 *bis* of Decree No. 263/015 regulating the LIF, workers are obliged to collect their wages from a bank, failing which they are liable to penalties, which prevents the free disposal of their wages; and (3) Article 10 of the Convention, based on the possibility set out by the LIF to seize salaries that have not been withdrawn from the accounts in which they are deposited after 180 days.
23. With respect to the first allegation, the Committee notes the complainant organization's indication that, under section 3(13) and (14) of Act No. 16524, section 124 of Act No. 17738 and section 40 of Act No. 17437 (for the full text of these sections, see paragraph 8 above), the relevant bodies must withhold part or all of the salaries, wages and fees to workers with tertiary or university education who have not presented the certificate of the Solidarity Fund or the Retirement and Pension Fund for University Graduates or Notarial Social Security showing that they are up to date with their contributions to those institutions. The Committee also notes the complainant organization's indication that, within the framework of this legislation, in recent years and in particular since August 2019, many workers who owe their contributions to the above institutions have had their salary payment suspended⁴ and are forced to incur debts to pay overdue contributions, interest and fines so as to receive their salaries. The complainant organization considers that this violates Articles 3, 6, 7, 10 and 12 of the Convention.
24. The Committee notes the Government's reply, according to which: (i) the suspension of payment of wages by the employer of workers who have not presented the certificate showing that payments to the Solidarity Fund are up to date, provided for in section 3 of Act No. 16524, does not apply to the whole wage but to 50 per cent of it, in order to ensure a minimum for the worker's maintenance, in accordance with the provisions of Article 10(2) of the Convention; (ii) this limitation (of up to 50 per cent) was introduced by section 271 of Act No. 19535 of 25 September 2017, after the Supreme Court of Justice, in a ruling of 27 July 2016, declared that the rule prohibiting the payment of the full wage to debtors of the Solidarity Fund was

⁴ In this regard, the complainant organization has provided, by way of example: (i) a copy of an official announcement of suspensions of payment from the department responsible for oversight of enterprises and members of the Retirement and Pension Fund for University Graduates, dated 18 March 2017, which includes lists of workers whose salary and fee payments have been suspended for failing to present a certificate of showing that payments to the above Fund and the Solidarity Fund are up to date (the Committee notes that this document does not specify the proportion of the wage to be suspended); and (ii) copies of Circulars Nos 297/2007, 23/2012, 29/2014, 28/2015, 18/2016, 41/2017 and 20/2018 (REF: Controller of payment of retirement contributions of university graduates and the Solidarity Fund) of the General Directorate for Administrative Services, validated by the Judiciary, indicating that the "failure to present the required certificate results in the non-payment of wages, salaries or remuneration of any kind". (For further details see paragraph 9 and citation 2 above.)

unconstitutional as it violates articles 53 and 72 of the Constitution, but considered that withholding part of the wage was lawful where there is a failure to present the certificate, given that the aim is clearly of general interest (a grant scheme for young persons with low income);⁵ (iii) the wage suspension is temporary until the worker presents the certificate showing that payments are up to date, at which time the full wage is collected, without affecting free disposal of the wage; and (iv) Act No. 17829 of 18 September 2004 on the wage and benefit retention scheme provides for payment of an unseizable minimum amount to the worker.⁶

25. The Committee recalls that Article 10(1) and (2) of the Convention provides that wages may be attached or assigned only in a manner and within limits prescribed by national laws or regulations and shall be protected against attachment or assignment to the extent deemed necessary for the maintenance of the worker and his family. The Committee notes that the prohibition under section 3(14) of Act No. 16524 against the relevant public and private bodies from paying bills for services rendered, wages, salaries and remunerations to workers who have not presented the certificate showing that payments to the Solidarity Fund are up to date is only applied to 50 per cent of the wage and not to the entirety. With regard to sections 124 of Act No. 17738 of January 2004 and 40 of Act No. 17437 of December 2001 (see full text in paragraph 8 above), which establish that the relevant public and private bodies must withhold from paying fees and salaries to professionals who fail to present certificates showing that payments are up to date to the Retirement and Pension Fund for University Graduates and the Notarial Social Security Fund, as relevant, the Committee notes that section 3 of Act No. 17829 of September 2004, subsequent to the above-mentioned laws, provides for an unseizable minimum payment of between 30 and 35 per cent of the salary, depending on the case. The Committee also notes that this unseizable minimum amount of the wage was recognized by the Supreme Court of Justice in its ruling of 27 July 2016 (see paragraph 17 above) in which it declared that the rule prohibiting payment of the salary in its entirety from those in debt to the Solidarity Fund was unconstitutional and, as an example of current legislation that protected the unseizable minimum of the wage, cited section 381(1) of the General Procedural Code (approved by Act No. 15982 of 1988).⁷ In view of the above, the Committee considers that

⁵ In the above ruling, which the Government has attached to its reply, the Court declared that “the rule contained in section 3(6) of Act No. 16524 violates articles 53 and 72 of the Constitution by authorizing a coercive measure whereby the wages of debtors to the Solidarity Fund are withheld in their entirety. While acknowledging that safeguarding or coercive measures are possible to enable the collection of the contribution to the Solidarity Fund, *it is considered absolutely unconstitutional to establish the prohibition against paying wages to those workers who are indebted to the non-state public law entity referred to above.* The laudable purpose of the parastatal institution (funding grants for low-income students) is indisputable However, *this does not allow for the total suppression of the workers’ rights to receive their wages, as the subsistence character of these is unquestionable* and, therefore, its protection safeguards a basic human right that cannot be quashed by the sole parafiscal purpose. ... There are rules in our positive law that safeguard this ‘minimum’ wage, which must be protected against any debt of the worker, in order to ensure basic subsistence that is compatible with the right to life. A clear example of this rule is found in section 381(1) of the General Procedural Code, which establishes the minimum of the workers’ wages that cannot be seized in the case of unpaid taxes or maintenance allowances.”

⁶ Section 3 of Act No. 17829 stipulates that “no natural person shall receive, by way of wage or benefit, an amount in cash of less than 35 (thirty-five) per cent of the total amount, after deduction of income taxes and corresponding advances, and special social security contributions” and that “in the case of the withholdings provided for in section 1(A) of this Act, as amended by section 32 of Act No. 19210 of 29 April 2014, and of those corresponding to the cooperative acts referred to in clause (G) thereof, this proportion shall be 30 (thirty) per cent”.

⁷ Section 381(1) of the General Procedural Code stipulates that “the following assets shall not be subject to seizure: (1) Remunerations, on any grounds whatsoever, of public and private employees, retirement pensions and benefits, and maintenance allowances except where these are sumptuary. However, remunerations, retirement pensions and benefits may be seized in the following cases: (a) in the case of unpaid taxes or court-ordered maintenance allowances, up to one third may be withheld; in the case of maintenance allowances for minors or persons with disabilities cared for by their ascendants, up to one half may be withheld; (b) when a law authorizes seizure or preventive seizure, by court order, the limit of one third

section 3(14) of Act No. 16524 (obligation to withhold payment of 50 per cent of wages where debt is owed to the Solidarity Fund), as well as sections 124 of Act No. 17738 of 2004 and 40 of Act No. 17437 of 2001 (obligation to withhold payment of wages where debt is owed to the University Graduate and Notarial Funds), read in conjunction with section 3 of Act No. 17829 of 2004, which prescribes the prohibition of seizure of a part of the wage, are in conformity with the requirements of Article 10(1) and (2) of the Convention. Regarding the allegations of violation of Articles 3, 6, 7 and 12 of the Convention,⁸ the Committee considers that the legislation and the acts referred to in this allegation do not fall under the scope of these Articles, since the legal provision prohibiting employers from paying wages to workers who do not present the relevant certificate showing that payments are up to date, failing which they are subject to penalty: (i) does not affect the payment in legal tender of wages to be paid in money (Article 3); does not constitute coercion by the employer aimed at preventing the freedom of the worker to dispose of his or her wages (Article 6); (iii) does not involve coercion of workers to use work stores or similar services (Article 7); and (iv) does not affect the payment at regular intervals (in this case, of the unseizable part) of the wage (Article 12). ***In this context, the Committee will not pursue its examination of these allegations.***

26. As to the second allegation of failure to comply with Articles 3 and 5 of the Convention, the Committee notes the complainant organization's indication that under section 10 of Act No. 19210 on financial inclusion (LIF) of 29 April 2014 and section 5 *bis* of Decree No. 263/015 regulating the LIF, of 2015, workers do not have free disposal of their wages as they are obliged to collect them in a bank, failing which they are subject to penalty. The Committee also notes that the complainant organization indicates that: (i) the bank is generally chosen by the employer and is often closed, does not have enough money to make the payment, is not in service due to health problems or only has branches in the capital; and (ii) in practice, the banks do not give workers the entirety of the amount deposited from their wages, but withhold 5.82 per cent of all minimum wages in the country.
27. The Committee notes that in its response the Government indicates that, under sections 10 and 11 of the LIF: (i) without prejudice to the cash payment method, the payment of

shall apply. Where there is more than one seizure or preventive seizure, the procedure under Act No. 17829 of 18 September 2004, as amended, shall apply."

⁸ The Committee recalls that Articles 3, 6, 7 and 12 of the Convention set forth the following:

Article 3: 1. Wages payable in money shall be paid only in legal tender, and payment in the form of promissory notes, vouchers or coupons, or in any other form alleged to represent legal tender, shall be prohibited. 2. The competent authority may permit or prescribe the payment of wages by bank cheque or postal cheque or money order in cases in which payment in this manner is customary or is necessary because of special circumstances, or where a collective agreement or arbitration award so provides, or, where not so provided, with the consent of the worker concerned.

Article 6: Employers shall be prohibited from limiting in any manner the freedom of the worker to dispose of his wages.

Article 7: 1. Where works stores for the sale of commodities to the workers are established or services are operated in connection with an undertaking, the workers concerned shall be free from any coercion to make use of such stores or services. 2. Where access to other stores or services is not possible, the competent authority shall take appropriate measures with the object of ensuring that goods are sold and services provided at fair and reasonable prices, or that stores established and services operated by the employer are not operated for the purpose of securing a profit but for the benefit of the workers concerned.

Article 12: 1. Wages shall be paid regularly. Except where other appropriate arrangements exist which ensure the payment of wages at regular intervals, the intervals for the payment of wages shall be prescribed by national laws or regulations or fixed by collective agreement or arbitration award. 2. Upon the termination of a contract of employment, a final settlement of all wages due shall be effected in accordance with national laws or regulations, collective agreement or arbitration award or, in the absence of any applicable law, regulation, agreement or award, within a reasonable period of time having regard to the terms of the contract.

remunerations and any other cash item to which workers in a relation of dependency, irrespective of their employer, are entitled, shall be made by payment into an account held in a financial intermediation institution, or an electronic money instrument, in establishments that offer this service; (ii) the method of payment shall be agreed between the employee and the employer at the start of the employment relationship and will remain valid for one year; if, at the expiration of this period, a new payment method has not been agreed, the method applied shall be extended for the same period of time; (iii) where it is agreed that payment may be made into an account held in a financial intermediation institution or an electronic money instrument, in establishments that offer this service, the worker may freely choose the financial intermediation institution or electronic money issuer in which to collect his or her remuneration and any other cash item to which he or she is entitled; and (iv) if the worker does not choose a particular institution, the employer is empowered to choose for him or her, and this choice remains applicable until the worker uses his or her power to choose the establishment, in which case the choice will be valid for a period of one year (section 11). The Government also indicates that sections 24 and 25 set out the minimum basic conditions of the accounts held in financial intermediation institutions and electronic money instruments into which the amounts received by workers, retired persons and beneficiaries are paid.

28. The Committee recalls that Article 3(2) of the Convention requires that the competent authority may permit or prescribe the payment of wages by bank cheque or postal cheque or money order in cases in which payment in this manner is customary or is necessary because of special circumstances, or where a collective agreement or arbitration award so provides, or, where not so provided, with the consent of the worker concerned. The Committee also recalls that Article 5 of Convention No. 95 requires that wages shall be paid directly to the worker concerned except as may be otherwise provided by national laws or regulations, collective agreement or arbitration award or where the worker concerned has agreed to the contrary. The Committee notes that under sections 11(2) and (3) of Act No. 19210 as amended by Act No. 19889, the method of payment shall be agreed between the worker and the employer at the beginning of the employment relationship and that, where the payment is made into an account held in a financial intermediation institution or an electronic money instrument in establishments that offer this service, the worker shall have the right to freely choose the financial intermediation institution or the electronic money issuer in which to collect his or her wages and any other cash item to which he or she is entitled. The Committee also notes that under section 24(1) of the above-mentioned Act, as amended by Act No. 19924 of 18 December 2020, in the case of the services described in section 10 of the same Act (payment of remuneration and all other items to workers), the establishment receiving the funds may not charge any fee to any party for the provision of such services. The Committee lastly notes that section 25 of the above Act establishes the basic minimum conditions to be met by the financial intermediation institutions and electronic money instruments into which the amounts received by workers are paid.⁹ In this context, the Committee considers that the above-mentioned provisions of Act No. 19210 do not give rise to problems of conformity with Articles 3 and 5 of the Convention. ***In this respect, taking into account that the complainant organization has not provided specific information on particular cases in which there may be difficulties for workers in receiving their wages through electronic bank transfer, the Committee invites the***

⁹ Section 25 of the LIF requires, inter alia, that the establishment shall: (i) have no opening, acquisition, maintenance or closure costs, and no minimum amount requirements; (ii) allow funds to be withdrawn at any time, without the need for prior notice or minimum amount requirements, and shall establish at least one mechanism for the withdrawal, in a single monthly transaction at no cost, of all the funds deposited; and (iii) shall guarantee access to a network with multiple withdrawal locations throughout the national territory.

complainant organization to provide specific information to the national authorities on non-compliance with the requirements under section 25 of the LIF, with a view to enabling them to take the necessary measures in order to give full effect to the legislation in force.

29. Lastly, with respect to the allegation that the provision of the LIF establishing that wages that remain deposited in a bank account for more than 180 days shall be seized in full is in violation of Article 10 of the Convention, the Committee notes the Government's indication that section 20 of the LIF confirms the system safeguarding wages from seizure.¹⁰ The Committee recalls that Article 10(1) of the Convention provides that wages may be attached or assigned only in a manner and within limits prescribed by national laws or regulations. In this respect, the Committee notes that section 20 of the LIF does not invalidate the system (circumstances and limits) against seizure of wages provided for in section 381(1) of the General Procedural Code (see full text in citation 7 above) but establishes a corresponding time limit of 180 days. The Committee thus considers that section 20 of the LIF does not give rise to problems of conformity under Article 10(1) of the Convention.

Convention No. 102

30. With respect to the allegation of non-compliance with Convention No. 102 based on the obligation to be up to date with all contributions to the Solidarity Fund, Retirement and Pension Fund for University Graduates and Notarial Social Security Fund in order to qualify for a retirement pension based on age and duration of contribution, the Committee notes that Uruguay has not ratified Part V of the Convention, Articles 25 to 30 of which refer to old-age benefits. ***In this context, the Committee will not pursue its examinations of these allegations.***
31. With regard to the allegations concerning the obligation to be up to date with contributions to the Solidarity Fund and Retirement and Pension Fund for University Graduates and Notarial Social Security Fund in order to qualify for unemployment, maternity and family benefits, the Committee notes that the final part of section 3 of Act No. 16524¹¹ stipulates that the Social Security Bank and other social security bodies shall not process any application for retirement pension without requiring the presentation of the certificate showing that payments of contributions are up to date, while access to unemployment, maternity and family benefits are not subject to any explicit provision.
32. The Committee also recalls that Articles 23 (Part IV, ratified by Uruguay), 40 and 43 (Part VII, ratified by Uruguay), and 51 (Part VIII, ratified by Uruguay) provide that unemployment, family and maternity benefits may be subject to rules concerning the eligibility of beneficiaries. ***In these circumstances, noting that the legislation in force does not prohibit the payment of the benefits in question in the event of non-payment of contributions to the Solidarity Fund and the pension funds, and that the complainant organization has not provided specific***

¹⁰ Section 20 of the LIF stipulates that "the sums deposited in accordance with the provisions set out in Chapters I, III and IV of this Title shall be subject to the system against seizure provided for in section 381(1) of Act No. 15982 of 18 October 1988 (General Procedural Code), as amended by section 1 of Act No. 19090 of 14 June 2013, for a period of 180 calendar days as of the date of the deposit."

¹¹ The wording of section 3 of Act No. 16524/1994 was amended by section 271 of Act No. 19535 of 25 September 2017 as follows: "Section 3.- The Fund shall be sourced by means of a special contribution (section 13 of the Tax Code) made by the graduates of the University of the Republic, the tertiary level of the Vocational Technical Education Council and the Technological University, whose monthly income is higher than 8 BPC (eight bases of benefits and contributions). This special contribution shall be paid as from the fifth year after graduation, until one of the following conditions is met: ... The Social Security Bank and the other social security bodies shall not process any application for retirement pension without requiring the presentation of the certificate showing payment of this contribution".

information on cases in which workers have encountered difficulties in accessing unemployment, maternity and family benefits, the Committee will not pursue its examination of these allegations.

► IV. The Committee's recommendations

- 33. In the light of the conclusions set out in paragraphs 25, 28, 29, 30, 31, and 32 above with regard to the matters raised in the representation, the Committee recommends that the Governing Body:**
- (a) approve the present report;**
 - (b) make the report publicly available and close the procedure initiated by the representation.**

Geneva, 25 February 2022

(Signed) Government member: Vismar Ravagnani

Employer member: Guido Ricci

Worker member: Paola del Carmen Egusquiza Granda