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Eighteenth sitting, 8 June 2022, 4.35 p.m. (cont.)

Dix-huitième séance, 8 juin 2022, 16 h 35 (suite)

Decimoctava sesión, 8 de junio de 2022, 16.35 horas (cont.)

Chairperson: Mr Topet

Président: M. Topet

Presidente: Sr. Topet

Discussion of individual cases (cont.)

Discussion des cas individuels (suite)

Discusión de los casos individuales (cont.)

Liberia (ratification: 1951)

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Convention (n° 87) sur la liberté syndicale et la protection du droit syndical, 1948

Convenio sobre la libertad sindical y la protección del derecho de sindicación, 1948 (núm. 87)

El Presidente - Pasamos a la discusión del último caso individual de la jornada y de la lista.

Se refiere a la aplicación del Convenio sobre la libertad sindical y la protección del derecho de sindicación, 1948 (núm. 87) por Liberia.

Government representative (Ms SAMPSON) – I bring you greetings from the Government of Liberia and extend our gratitude for the level of support accorded us to be present to this hearing.

The Government of Liberia takes this representation with high importance as it involves Convention No. 87, a fundamental Convention ratified by Liberia. The Government of Liberia is pleased to respond to the Committee on the following cases brought before this Committee that relates to Convention No. 87.

Case No. 3202: the Government of Liberia would like to inform the Committee that the workers allegedly dismissed for anti-union discrimination were fully reinstated without loss of benefits. This was done through social dialogue; therefore anti-union discrimination could not be established. The Government of Liberia also requested that the National Health Workers' Association of Liberia resubmit its constitution as recommended by the Committee, which they did. However, the revision of their constitution shows that the association membership was not restricted to the private sector but included workers subject to the Civil Service Standing Orders. Now we are sending in the request to ensure that the national health workers' rights are protected. The Government of Liberia, through the Ministry of Labour with assistance from the ILO Regional Office, organized a three-day Conference in November 2018 with social partners to harmonize a decent work plan to cover all workers.

The deliberations of the Conference recommendations were interrupted by the affair of the COVID-19 pandemic which shifted the attention of the Ministry of Labour and social partners to preserving existing jobs, particularly in the worst-affected sectors.

Case No. 3081: the Government of Liberia would like to inform the Committee that the investigation into the case of the two workers alleging anti-union discrimination was reopened. The workers were invited to the investigation but neglected to avail themselves after several

calls inviting them to the investigation. Now the Government of Liberia would like to avail itself of the technical assistance from the Office to address the Committee's recommendations to bring Case No. 3081 to a logical conclusion.

Employer members – Just in terms of the background, we are looking at a fundamental Convention here, Convention No. 87, an up-to-date Convention ratified by Liberia in May 1962. Observations have been issued in the past in this case in 2017, 2018, 2019, 2020 and 2021, so a fairly consistent series in the last few years.

In terms of the main issues that the Committee of Experts has commented on, the main ones are: the absence of full recognition of the National Health Workers' Union of Liberia, information requested on the legal provisions ensuring that public sector workers enjoy the rights and guarantees set out in the Convention; a similar request concerning maritime workers; and the need to amend section 45(6) of the Decent Work Act, 2015, to ensure the right to establish organizations to defend their occupational interests is fully recognized for foreign workers both in law and in practice.

With regard to the designation of essential services by the National Tripartite Council, the Committee requested information on how such designation operates in practice and asked the Government to clarify whether the President is also bound by the definition of the notion of essential services set out in section 41.4(a) of the Act.

Liberia has ratified 25 Conventions including 6 of the 8 fundamental Conventions, 2 governance Conventions and 17 technical Conventions. Liberia ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), in 1962.

We note that the Government of Liberia did not provide any additional written information on this case prior to this hearing. Turning to the Committee of Experts' observations, we note that there are issues concerning the right to strike and related issues which are outside the

scope of Convention No. 87. Accordingly the Employers will not comment on these issues raised by the Committee of Experts and these issues will not be addressed in the conclusions. As is normal practice with that particular issue.

The Committee of Experts noted allegations made by the African Regional Organization of the International Trade Union Confederation (ITUC–Africa) on the dissolution of a trade union by a state-owned company and the arrest of union leaders. The Employer members note that dissolution of employers' and workers' organizations should be either regulated in the statutes of the organization or be decided by a court. An automatic dissolution by law is not in compliance with Article 4 of Convention No. 87, which provides that workers' and employers' organizations shall not be liable to be dissolved or suspended by administrative authority. Furthermore, in line with Article 3 of Convention No. 87, it is for employers' and workers' organizations to determine in their statutes the rules and procedures for dissolution when initiated by their members. This must be regulated by law.

Regarding the arrests of trade union leaders, we express concerns and agree with the Committee of Experts' request for the Government to provide full information in this regard by 1 September 2022.

With regard to allegations concerning the failure to grant legal recognition to the National Health Workers' Union, the Government has replied that since 2018, the Ministry of Health has given functional acceptance of that union as a body representing its members, pending the revision of appropriate national laws. The Employer members request the Government to provide additional information as to other pending allegations raised by this union and to inform on specific steps taken to ensure that this organization can be granted full legal recognition without delay.

With regard to the scope of application of the Convention, the Committee of Experts noted that section 1.5(c)(1) and (2) of the Decent Work Act of 2015, excluded from its scope of application, work falling within the scope of the Civil Service Agency Act. The Government has acknowledged that the Act does not cover workers in the mainstream public sector and indicated that a national labour Conference was held in 2018 to create a framework for the harmonization of the Act and the Civil Service Standing Orders. The Employer members invite the Government to provide information on developments in this regard and to detail what legal provisions ensure that public sector workers enjoy the rights and guarantees set out in the Convention, including provisions drafted or envisaged for enactment and the time frame expected for such enactment.

Furthermore, the Committee of Experts noted that section 1.5(c)(1) and (2) of the Act also exclude from the scope of its application officers and members of the crew and any other persons employed or in training on vessels. In response, the Government indicated that there is a review on the application of the provisions in Liberia's Maritime Regulations 10/318.2 in line with the report on Liberia's Maritime Convention in 2022. The Employer members invite the Government to provide detailed information as to how the rights enshrined in the Convention are applied to maritime workers in law and in practice.

The Committee of Experts noted that section 2.6 of the Decent Work Act provided that all employers and workers, without distinction whatsoever, may establish and join organizations of their own choosing, and section 45(6) of the Act recognized the right of foreign workers to join organizations. The Government indicated that the right to establish organizations exists for foreign workers and foreign employers, and that there is no prohibition to the establishment of bodies solely composed of foreign workers or employers. On this issue the Employer members invite the Government to provide information on how section 45(6) of the

Decent Work Act ensures the right to establish organizations and to defend their occupational interests, is fully recognized for foreign workers both in law and in practice.

With respect to the determination of essential services, the Employer members will not comment on this issue, as before.

Worker members – First, we would like to reiterate our position on the right to strike in the scope of Convention No. 87 which diverges from that of the Employer members.

Liberia ratified Convention No.87 in 1962. The last time our Committee discussed this Convention in respect of Liberia was in 1990.

The space for trade unions to freely operate in Liberia is closing. The Government is increasingly interfering in trade union activities and failing to comply with its obligations under Convention No. 87 in law and in practice. We will share with this Committee some examples that raise major concern in this regard.

In November 2019, workers peacefully protested over the Government's failure to pay their allowances and salaries since March 2019. The joint security of the Liberian Government, including the Police Support Unit and the Liberia Immigration Service were deployed to break up the protests. Our colleagues reported injuries caused by the disproportionate use of police force to break up the strike.

Between December 2020 and January 2021, 298 leaders and members of the National Beverages and Industrial Workers' Union of Liberia (NBIWUL) were dismissed by their management, a state-owned enterprise. The local union rightly protested these mass dismissals. In response, the management of the state-owned enterprise announced that it had dissolved the local union for acts incompatible with decency and gross insubordination on the job, indicating that the existence of workers' union leadership is a privilege and not a right.

In June 2021, six workers of the union were arrested and detained at the headquarters of the Liberian national police for four days for carrying out a peaceful protest. In May this year, the General Secretary of the National Health Workers' Union of Liberia (NAHWUL) reported state surveillance on their activities and threats against his life. We are deeply concerned that the Government is increasingly intolerant when workers are exercising their civil liberties and labour rights under Convention No. 87 and deplore the use of police brutality to prevent workers from peacefully protesting and engaging in strikes to pursue legitimate trade union activities.

More broadly, we note with concern the numerous acts of anti-union discrimination, the lack of effective remedies made available to workers and the overall unwillingness of the Government to address this situation.

The Government must refrain from undermining the exercise of rights under the Convention. We urge the Government to provide full information to the Committee of Experts regarding the dissolution of the local union by a state-owned enterprise, the use of police force to break up peaceful strikes and the arrest of union leaders and wrongful dismissal of workers for their participation in strike action.

The next area of concern is the exclusion of some categories of workers from forming or joining a trade union. Firstly, the Government continues to deny the NAHWUL legal recognition. The Government has explained that since 2018 the Ministry of Health has given functional acceptance of NAHWUL as a body representing its members, pending the revision of appropriate national laws. We recall that in 2016, NAHWUL filed a complaint with the Committee on Freedom of Association on these same matters. We regret that, contrary to the Government's information, there has been no progress with respect to the legal status and

registration of NAHWUL. The Government must take immediate steps to register NAHWUL as a trade union organization. This cannot be delayed any further.

Secondly, the Decent Work Act of 2015 does not apply to workers covered by the Civil Service Agency Act. Section 1.5(c)(i) and (ii) of the Decent Work Act excludes from its scope of application work falling within the scope of the Civil Service Agency Act. The Government has acknowledged this and though it had indicated that a national labour conference was convened in 2018 to create a framework for the harmonization of the Act and the civil service standing orders, nothing has been done to ensure that civil servants and public servants can exercise their right to form or join a trade union, a right protected by the Convention. In a recent court ruling, the court decided that associations of public servants are not subject to the Decent Work Act. As such, they cannot be members of the Liberia Labour Congress, the umbrella organization of labour unions in Liberia. The court, therefore, declared that the Conference of the Liberia Labour Congress which was held on 30 March 2022, and in which the Association of Public Servants participated, was therefore null and void. This is a major setback for the union movement in Liberia and an interference in the independence of the Liberia Labour Congress. There is no doubt, as has been articulated by the Committee of Experts, that all workers, with the sole possible exception of the police and the armed forces, are covered by Convention No. 87. We again urge the Government to take immediate steps to register the Association of Public Civil Servants and to address any harm caused to the Liberia Labour Congress in this regard.

Thirdly, section 1.5(c)(i) and (ii) of the Decent Work Act also excludes from its scope of application officers, members of the crew, and any other persons employed or in training on vessels. We note that the Committee of Experts requested the Government to indicate how the rights enshrined in the Convention are ensured to maritime workers, including trainees, and to indicate any laws or regulations adopted or envisaged covering this category of workers.

Regrettably, the Government has not provided the specific information requested by the Committee of Experts in this regard. The Government must provide detailed information as to how, both in law and in practice, these particular rights are ensured to maritime workers, including trainees. In line with the comments of the Committee of Experts, we urge the Government to take any necessary measures, including through the amendment of section 45.6 of the Decent Work Act, recognizing the right of foreign workers to join organizations to ensure that the right to establish organizations to defend the occupational interests of foreign workers, is fully recognized both in law and in practice.

Finally, with respect to the determination of essential services, we note that section 4.1 of the Decent Work Act gives the National Tripartite Council the function of identifying and recommending to the Minister, services to be considered as essential services for consideration and determination. Though section 41.4(a) of the Act defines essential services as those that, in the opinion of the National Tripartite Council, if interrupted, would endanger the life, personal safety or health of the whole or any part of the population; the President of the Republic decides whether to designate any service as an essential service and can apparently do so without recourse to the recommendation of the National Tripartite Committee. So, the question here is whether the President is bound by the definition of essential services in section 41.4(a). We must reiterate that respect for the rule of law and civil liberties is essential for the exercise of freedom of association and we urge the Government to ensure that the powers of the President to designate any service as an essential service is in line with Convention No. 87.

Membre gouvernementale, France (M^{me} ARNAL BURTSCHY) – Je m'exprime au nom de l'Union européenne (UE) et de ses États membres. Le Monténégro et l'Albanie, pays candidats, et la Norvège, pays de l'Association européenne de libre-échange (AELE), membres de l'Espace économique européen, s'alignent sur la présente déclaration.

L'UE et ses États membres sont attachés à la promotion, à la protection, au respect et à la réalisation des droits de l'homme, y compris les droits du travail tels que le droit d'organisation et la liberté d'association.

Nous encourageons activement la ratification et la mise en œuvre universelles des normes internationales fondamentales du travail, notamment la convention n° 87 sur la liberté d'association. Nous soutenons l'OIT dans son rôle indispensable d'élaboration, de promotion et de contrôle de l'application des normes internationales du travail ratifiées et des conventions fondamentales en particulier.

L'UE et ses États membres sont des partenaires de longue date du Libéria. Ce partenariat est encore renforcé dans le cadre de notre coopération avec l'Union africaine (UA) et la Communauté économique des États de l'Afrique de l'Ouest (CEDEAO), ainsi que par l'inclusion du Libéria parmi les bénéficiaires du programme «Tout sauf les armes» (TSA) de l'UE pour les pays les moins avancés.

Nous prenons note avec préoccupation des observations des organisations syndicales concernant les allégations de violations de la liberté syndicale et du droit syndical, y compris le droit de grève, et en particulier le recours aux forces de police pour briser des grèves pacifiques, l'arrestation de dirigeants syndicaux et le licenciement injustifié de travailleurs en raison de leur participation à un mouvement de grève. Nous soutenons l'appel de la commission au gouvernement pour qu'il fournisse sa réponse à ces allégations.

En ce qui concerne le champ d'application de la convention, nous rappelons que tous les travailleurs, sans distinction aucune, sont couverts par la convention, y compris les travailleurs du secteur public. La mesure dans laquelle la convention s'applique aux forces armées et à la police doit être déterminée par les lois ou règlements nationaux.

Nous nous faisons l'écho de la demande de la commission au gouvernement de fournir des informations spécifiques sur l'évolution de la situation à cet égard, en particulier en ce qui concerne les travailleurs du secteur public et les travailleurs maritimes, y compris les stagiaires, qui ne peuvent être considérés comme faisant partie des forces armées ou de la police. Nous demandons également au gouvernement de fournir des informations supplémentaires sur le processus de désignation des services essentiels par le Conseil national tripartite et le Président.

Nous nous félicitons des informations déjà fournies par le gouvernement sur la loi de 2015 sur le travail décent, mais nous tenons également à souligner l'obligation du gouvernement de veiller à ce que le droit de constituer des organisations pour défendre leurs intérêts professionnels soit aussi pleinement accordé aux travailleurs étrangers, tant en droit que dans la pratique.

L'UE et ses États membres continueront à suivre et à analyser la situation et restent attachés à leur coopération et leur partenariat étroit avec le Libéria. Cette coopération pourrait également inclure une assistance technique spécifique dans le cas où le Libéria déciderait d'avancer vers la ratification des deux conventions fondamentales qu'il n'a pas encore ratifiées, à savoir la convention (n° 100) sur l'égalité de rémunération, 1951, et la convention (n° 138) sur l'âge minimum, 1973.

Worker member, Canada (Ms DUBOIS) – Liberia's Decent Work Act of 2015 clearly states that it applies to all work performed within the jurisdiction of the Republic. But there is a notwithstanding clause under section 1.5 that excludes work falling within the scope of the Civil Service Agency Act.

Issues affecting all civil servants are addressed through Standing Orders that the Liberia Labour Congress and the Civil Servants Association argue are in conflict with article 17 of the Constitution of Liberia, which affords the right to associate in trade unions.

Challenges to the application of Convention No. 87 include the refusal to grant legal recognition to the National Health Workers' Union of Liberia, and the court decision that the Civil Servants Association of Liberia is not subject to the Decent Work Act, and thus not able to join the Liberian Labour Council.

In these cases, limited judicial interpretations of the Decent Work Act, which focus on the notwithstanding clause exemptions, severely restrict the rights of Liberian workers to exercise their rights to freedom of association.

The Liberian Government, while looking to make public service workers essential services, must be aware that classification as an essential service worker does not eclipse the right to freedom of association. Classifying and compiling essential services' lists is a thorough tripartite process that is not to be used as a means to undermine workers' rights and imperil industrial relations.

Further, Liberia is signatory to the International Covenant on Economic, Social and Cultural Rights, where articles 6 and 7 protect the right to work and article 8 protects the rights of workers to form trade unions and to join the trade union of their choice.

It is also signatory to the African Charter on Human and Peoples' Rights in which Article 10 guarantees every individual the right to free association.

We call on the Government of Liberia to uphold its obligations under the Convention and universal human rights instruments to ensure workers their right to freedom of association.

Membre employeur, République démocratique du Congo (M. KALONDA NGOYI) – Au nom du groupe des employeurs de la République démocratique du Congo, il nous revient de nous appesantir sur le cas individuel d'un pays frère qui est le Libéria, lequel cas se rapportant à la convention (n° 87) sur la liberté syndicale et la protection du droit syndical, 1948.

Nous saluons non seulement le fait que la loi de 2015 sur le travail décent de ce pays frère, sauf erreur de ma part, est la seule au monde dont le titre fait directement référence à l'Agenda de l'OIT pour le travail décent, mais aussi le fait qu'en juin 2006 le Libéria a été le premier pays au monde à ratifier la convention sur le travail maritime de l'OIT.

En s'appesantissant sur ce cas individuel, il y a lieu d'aborder la question du défaut de reconnaissance juridique du Syndicat national de la santé du Libéria par le gouvernement, allégué par ledit syndicat. Il y a une évolution relative à la pleine reconnaissance juridique dudit syndicat. À ce stade-ci, il revient au gouvernement de communiquer à la commission d'experts les informations additionnelles spécifiques et concrètes prises pour accorder cette pleine reconnaissance juridique.

Aussi, l'article 1.5 (c) de la loi de 2015 sur le travail décent exclut de son champ d'application une catégorie de travailleurs maritimes et les stagiaires. Mais, contrairement à l'allégation du gouvernement qui soutient que la catégorie des travailleurs susmentionnés bénéficie des droits énoncés par la convention n° 87, nous souscrivons pleinement à la position de la commission d'experts, notant que le gouvernement n'a pas fourni des informations additionnelles spécifiques et concrètes démontrant à suffisance comment les prérogatives énoncées dans ladite convention sont garanties à ces travailleurs maritimes. En conséquence, nous invitons le gouvernement à le faire, en droit et dans la pratique.

S'agissant de l'article 45.6 de ladite loi, il ne se conforme pas à l'article 2 de la convention n° 87 et, de ce fait, ladite disposition légale nécessite sa suppression, si ce n'est sa modification.

Enfin, il nous revient de marteler que le droit de grève n'est pas prévu dans la convention n° 87 de l'OIT. Cette dernière n'a d'ailleurs pas été rédigée dans ce sens par les mandants tripartites à l'époque de son élaboration et de son adoption. L'historique législatif de la convention n° 87 est indiscutablement clair. Le rapport préparatoire de l'OIT de 1948 précise que la convention en question concerne la liberté syndicale et non le droit de grève. De plus, lors des discussions sur la convention n° 87 pendant les Conférences internationales du Travail de 1947 et 1948, aucun amendement concernant le droit de grève n'a été adopté ni même soumis.

Worker member, South Africa (Ms LOZI) – I want to note that the matter before your Committee concerns violations of the Convention on freedom of association and protection of the right to organise by the Government of Liberia.

I also note from the Committee of Experts' report that public service employees and maritime workers and others listed in the Decent Work Act of 2015 do not enjoy the right to freedom of association.

I also note that Liberia ratified Convention No. 87 on 25 May 1962. From 1962 to 2022, it is about 60 years, without public service workers enjoying their rights to freedom of association. Year after year, the Government, is here at the International Labour Conference, I just wonder what they think about their own country's compliance.

I also note that in 2015, the Government enacted the Decent Work Act. However, I am surprised to find that there are indecent provisions in the Act, in particular section 1(5)(c) which excludes public service and maritime workers in the scope of coverage. What decent work is the Government talking about when certain groups of workers are not allowed to unionize or join federations, and bargain collectively.

We all understand that one of the pillars of the Decent Work Agenda is the promotion and protection of workers' rights. As explained by the workers of Liberia and pronounced by their courts, their rights are being trampled upon. Six days before the commencement of this Conference, on 20 May 2022, a court in Liberia, in Montserrado County ruled that public service workers have no right under the Decent Work Act. So, the Government must tell us where those rights are enshrined.

Let me share some of the best practices from my country, South Africa. We only ratified this Convention in 1996, 34 years after Liberia's ratification. This was soon after dismantling apartheid regime and its policies in 1994. Both our Constitution and labour laws recognize the right to freedom of association of all workers including public service workers, they all enjoy the rights to freedom of association. They have their own trade unions which are affiliated to federations in the country. Our Government went further to accord these rights to soldiers, police and correctional service workers. They also have trade unions that represents them and bargain for their members. These unions are affiliated to federations.

I would therefore like to invite the Government of Liberia and its social partners to visit my country to see for themselves. My call is only for compliance.

Worker member, Ghana (Mr NYANTAKYI) – I am speaking on behalf of the Organizations of Trade Unions of West Africa (OTUWA).

Workers in West Africa are appalled that Liberia remains the only ECOWAS and African Union (AU) Member State that refuses to recognize the right of public sector workers to freely join or form trade unions of their choosing. To date, the Government cannot advance any genuine justification for taking this action. The instruments of the AU and ECOWAS, as well as those of the ILO are not expected to be observed in the breach as the Government has continued to do with impunity.

The provisions of Convention No. 87 have manifestly demonstrated that the protection and respect of the right to organize and to collective bargain, serve the cause of the national labour market and contribute to labour harmony. It is inconceivable that the Government and its officials past and present continue to assume and treat organized workers as threats. These same officials are organized as politicians under political parties' platforms.

This Convention accords governments the task of ensuring the just and effective application of their provisions. It neither arrogates nor accords the Government the power or privilege to whimsically administer the human and labour right of workers to freely join trade unions. In specific terms, Article 1 of the Convention was emphatic that workers without distinction shall enjoy the rights to freely organize and to use the benefits of association to advance their rights in the world of work. It is immoral, reckless and unacceptable for the Liberian supervisory ministry to accord itself the right to discriminately administer the provisions of this Convention.

At the recently held Convention of the Liberia Labour Congress (LLC), some invited guests witnessed with shock, the threats issued on the floor of the event by Liberia's Minister of Labour. In an imperial manner, the Minister announced that public sector workers cannot take part in the LLC's Convention and be elected as officers of the national labour centre. To follow up this naked threat and intimidation, the Ministry failed to nominate the elected LLC leadership as the genuine workers' representatives to this Conference. It took the protest of the ITUC–Africa and ITUC to the Conference's Credential Committee to get the Ministry to reverse its decision.

Trade unions are the legitimate representative organizations of working people, reflecting their aspirations, and translating their concrete material needs into collective action for change. They are agents for transformative change. We are confident that if the

Government changes its attitude towards public sector workers, the country will be the winner for it. We urge this Committee to call on the Government to take well-measured and timely steps to ensure genuine application of the provisions of this Convention.

Membre travailleuse, France (M^{me} SCHLACTHER) – Des violations graves de la convention n° 87 ont lieu au Libéria, et ce en contradiction totale avec les engagements pris en 2015. En effet, en juin 2015, la Présidente du Libéria promulguait la loi sur le travail décent, première législation du travail dans ce pays depuis les années cinquante. Avec cet acte, pour la deuxième fois, ce pays africain se montrait précurseur dans la promotion des normes de l'OIT. En juin 2006, le Libéria avait été le premier pays du monde à ratifier la convention du travail maritime, 2006, telle qu'amendée (MLC, 2006). En 2015, il adoptait la première législation du travail au monde à faire explicitement référence à l'Agenda du travail décent dans son titre. Qui plus est, l'engagement du Libéria envers cet agenda allait bien au-delà du titre d'une nouvelle loi. Cette dernière énonçait clairement ses objectifs, et le tout premier d'entre eux était de promouvoir le travail décent au Libéria. Entre autres, cela devait correspondre à un environnement favorable à la création d'emplois de qualité et être censé permettre aux travailleurs d'exercer leurs droits au travail.

La loi en gestation faisait explicitement la promotion des droits fondamentaux au travail, y compris la liberté syndicale et le droit à la négociation collective dans son chapitre II section 2.6, spécifiant que chacun était libre d'adhérer à l'organisation de son choix sans autorisation préalable et que chacun pouvait s'engager dans une grève ou un lock-out en accord avec le chapitre 41.

Mais, à la lecture plus attentive du chapitre 41 de la loi sur le travail décent de 2015, il apparaît que des restrictions importantes au droit de grève étaient déjà prévues, et le titre de ce chapitre, au 41.2 «Interdictions de certaines grèves et lock-out», est tout à fait explicite.

De plus, dans son jugement, prononcé en mars 2020 puis renforcé en mai 2022, la Cour civile de Montserrado réitère le fait que le Syndicat «Civil Servant Association of Liberia» (CSAL) ne peut bénéficier des droits octroyés par la loi sur le travail décent au prétexte que les employés du secteur public du Libéria ne sont pas autorisés à se syndiquer et que leurs organisations ne sont pas autorisées à adhérer au «Liberia Labour Congress».

Au regard de tant de restrictions à la convention n° 87, les violations sont avérées, et les jugements rendus par la cour le confirment. Il s'agit donc pour le gouvernement de se mettre en conformité avec la convention n° 87, qu'il a ratifié en 1962, et de ne pas se prévaloir d'avancées en matière de travail décent dès lors que des observations de l'Organisation régionale africaine de la Confédération syndicale internationale (CSI-Afrique), reçues le 31 août 2021, dénoncent: la dissolution d'un syndicat par une entreprise publique; le recours aux forces de police pour briser des grèves pacifiques; l'arrestation de dirigeants syndicaux; et le licenciement injustifié de travailleurs en raison de leur participation à un mouvement de grève.

Worker member, Republic of Korea (Ms RYU) –I am speaking on behalf of the Workers of the Republic of Korea and the United States of America.

First, I want to associate myself with the concerns articulated by my trade union colleagues that the Decent Work Act of 2015 continues to exclude civil servants, employees of state-owned enterprises and maritime workers. Article 2 of Convention No. 87 applies to all workers, with narrow exceptions for the armed forces and police.

As noted by the Committee of Experts' report, the Government has so far failed to articulate existing laws, including the Civil Service Agency Act, adequately protect the rights of public workers to organize trade unions. The consequences of this legal uncertainty are clear as the National Health Workers' Union of Liberia (NAHWUL) has still not been granted full legal recognition to bargain with the Ministry of Health. This unwarranted delay is particularly

shameful given the essential and heroic role health workers have played in combating the COVID-19 pandemic.

In the private sector, there are concerning reports that a large multinational tyre and rubber company has been converting employees to “independent contractors”, undermining the existing trade union through employee misclassification. We call on the Government to grant full legal recognition to the NAHWUL, fully investigate allegations of employment misclassification on its rubber plantations and revise its labour laws in line with the Committee of Experts’ recommendations.

Observer, International Trade Union Confederation (ITUC) (Mr CISCO) –I am Edwin B. Cisco representing the Liberia Labour Congress. I am unable to join you at the International Labour Conference because the Government, through the Ministry of Labour, has refused to acknowledge and accept the public sector workers of Liberia as being part of the Liberia Labour Congress so therefore we are denied access to participate in the Conference.

We present compliments and thank you for this opportunity to speak on behalf of the workers of Liberia.

Our country has been based on a foundation of discrimination, in all its body politics and governance structure. The labour movement is of no exception and does bear the brunt of these discriminatory laws preventing public service and maritime workers from organizing or forming unions. This is done under the guise of protecting the State at the expense of the national Constitution, the workers and people of Liberia. Our country, as the oldest African ILO Member State, has clear and explicit constitutional guarantees for workers without distinction to freedom of association. The Convention under discussion today is under serious attack by our Government. I totally agree with the statement of our spokesperson in the findings of the Committee of Experts in its 2022 report. In support of such findings, let me inform this

Committee that public sector workers in Liberia who comprise the National Teachers' Union, the Civil Service Association and the National Health Workers' Union are denied the right to organize, form unions and affiliate to the Liberia Labour Congress. The Government does this using a discriminatory law called the Civil Service Agency Act. In 2015, the Government passed the Decent Work Act and it provides as follows: in section 1, subsection 5 and C "(i) except where expressly provided, this Act shall not apply to work falling within the scope of the Civil Service Agency Act as contained in Chapter 66 of the Executive Law or such other law as may be enacted in its place; and (ii) this Act shall not apply to officers, members of the crew, seamen, mariners, greasers, firemen, stevedores, launch drivers, stewards, cooks, laundrymen, and any other persons employed or in training on vessels registered under the provisions of Chapter 2 of the Maritime Law or their employers".

In this respect, public service association and other categories of workers mentioned in the Act are not allowed to belong to the Liberia Labour Congress. On 27 March 2020 and on 20 May 2022, a court nullified the election of the Liberia Labour Congress on the grounds that civil service associations, the national teachers of Liberia, are not recognized trade unions in terms of the Decent Work Act and so are not eligible to be members of the federation. The court also stated that the election of Mr Mulba Johnson as president of the Liberia Labour Congress is declared null and void and that the Government of Liberia should, under the Ministry of Labour, conduct an election for the workers of Liberia.

As a result of this infringement of our rights, we sought to attend this year's International Labour Conference as delegates. Our case is pending before the Credentials Committee and the Government is empowered to constitute a body to re-conduct our elections. This is unacceptable.

The Committee on Freedom of Association has pronounced, similarly, that employers' organizations did not have the status of trade union organizations in the eyes of the national legislation.

I appeal to this Committee to make a conclusion that the Government is violating this Convention. It must amend the Decent Work Act to include public service workers and maritime employees in its scope. The Government must recognize the elected leadership of the Liberia Labour Congress and report to the Committee of Experts on 1 September 2022.

Finally, I implore your Committee to place the Government of Liberia in a special paragraph.

Observer, International Transport Workers' Federation (ITF) (Mr SUBASINGHE) – As a proud maritime nation, Liberia plays a critical role in the global shipping industry. The Liberian shipping registry is the world's second largest and is comprised of over 5,000 vessels aggregating over 200 million gross tons. This represents almost 15 per cent of the world's ocean-going fleet.

Therefore, it is particularly important that all national and foreign seafarers, including cadets and trainees, working on board Liberian vessels, both domestically and internationally, enjoy full trade union rights under the Convention. As the Committee of Experts and many speakers have noted, sections 1.5 (c)(i) and (ii) of the Decent Work Act of 2015 explicitly exclude from its scope of application, officers, members of the crew and any other persons employed or in training on vessels. There is no justification under the Convention for the exclusion from coverage of this particularly vulnerable occupational category.

In practice, we have observed that over 60 per cent of Liberian-flagged vessels are covered by an ITF-approved collective bargaining agreement and we certainly hope to see even

higher coverage in the future. Nevertheless, it is imperative that national law explicitly grants full trade union rights to seafarers.

Under the Maritime Labour Convention, which Liberia ratified in 2006, the Government must satisfy itself that the provisions of its law and regulations respect, in the context of the Convention, the fundamental rights to freedom of association and collective bargaining. It is also therefore in this regard that we encourage the Government of Liberia to act swiftly on this matter so as to bring its laws and regulations into conformity with both Convention No. 87 and the MLC.

The ITF would be happy to work with and assist the Government, the shipping registry and the national social partners to rapidly bring about this necessary labour law reform.

Observer, Public Services International (PSI) (Mr RUBIANO) – I speak in this case on behalf of PSI and its affiliate in Liberia, the National Health Workers' Union of Liberia (NAHWUL).

Despite the Committee on Freedom of Association's recommendations on Case No. 3202, of March 2018, the Government has still not recognized and certificated NAHWUL. Yet, in September of 2019, the Government signed a Memorandum of Understanding with NAHWUL, the union they do not recognize. The Memorandum stated that the Ministry of Health would facilitate the granting of legal status to the union and that the union would be considered as a stakeholder when decisions were made affecting health workers. However, none of the items of the Memorandum have ever been respected by the Government.

For instance, during the COVID-19 pandemic, NAHWUL was left out of all planning, as was the case during the Ebola crisis. As a direct result, there were no PPEs, no training, no medication, no laboratories functioning properly, all of which exposed most of our colleagues and patients to health hazards that could have been avoided and prevented.

NAHWUL complained in this regard, which led to the Government to issue serious threats against trade union members and the leadership. After finishing a study trip to Germany, in September 2020, NAHWUL's General Secretary, Mr George Poe Williams, facing imminent detention, was not able to go back to the country and ever since lives in exile. As a result, among the many other obstacles and pains of his life in exile, Mr Williams has not seen his wife and four kids since the fall of 2019. Almost three years and during the pandemic.

I would like to emphasize the following facts to the attention of this Committee.

By 16 December 2021, a bill to amend the Decent Work Act 2015 was introduced on the floor of the lower house of the Liberian Parliament, once again ignoring unionization in the public sector. Meanwhile, on 28 February 2022 when the Decent Work Act was being discussed in the Senate, the Senate Judiciary Committee Chair and also member of the Committee on Labour, denied public sector workers who were invited to the hearing the opportunity to speak, instructing them to go to the court to obtain amendments.

Yet, on 20 May 2022, two weeks ago, Judge Dunbar of the 6th Judicial Circuit, Civil Law Court B passed a ruling making it illegal for public sector workers to form unions citing the Decent Work Act 2015. We regret the Government has not made any comments about this development as if trying to hide the facts from this discussion.

In addition, the Government is currently in "social dialogue"; this is an irony, with a small group of health workers negotiating under the name of South-Eastern Health Workers' Network. They have requested and subsequently agreed on salary adjustment. A thing that NAHWUL has called for, for many, many years without obtaining any result.

We deplore these practices; we demand the Government to state before this Committee that it will refrain from harassing and threatening trade unionists, or interfering with trade union affairs, and that it will allow the safe return of Mr Williams to the country. And that it will

take the necessary steps in law and practice for the recognition certification of NAHWUL and public sector unions in general.

Government representative (Ms SAMPSON) – The Government would like to thank the Employer and Worker representatives and to all who made comments. The Government takes note and is committed to ensure that all workers within Liberia are covered under Convention No. 87. The Government acknowledges that it is a long journey that would involve the judiciary and the legislature. It has taken a step in getting that done.

The Government would like to note that all workers within the private sectors are fully covered by the Decent Work Act of 2015 and have the right to unionize. The Government cannot validate cases mentioned by the Worker representative as it has just been brought to our attention.

The Government acknowledged that the Decent Work Act of 2015 excluded maritime workers and public workers but is making efforts to ensure that the law is harmonized.

It is a known fact that Liberia has suffered 15 years of civil conflict and the Decent Work Act of 2015 is a recognition of the ILO decent work. Under post-war economic status, coupled with the pandemic, the Government is making progress in harmonizing the labour law.

Aside from the Decent Work Act of 2015, the Constitution of Liberia has given everyone their right to form association. Currently, the Liberia Labour Congress has a leadership crisis that has caused the delegation to arrive late at this Conference. The Government has to await court ruling to complete the delegation. The Government remains independent to attend a Conference of the Liberia Labour Congress and is willing to work with any of the parties.

Employer members – We have listened very carefully to the positions of the groups and participants, and we share the views on the gravity of the situation expressed by the majority in this room. In this light, the Employers' group urge Liberia to uphold its obligations under

Convention No. 87 and in particular it should provide full information on the dissolution of trade unions or a trade union and the arrest of trade union leaders.

It should provide additional information as to other pending allegations raised by NAHWUL and inform on specific steps taken to ensure that this organization can be granted full legal recognition without delay.

it should also, provide information on how section 45.6 of the Act ensures the right to establish organizations to defend their occupational interests is fully recognized to foreign workers both in law and in practice.

It should provide information on legal provisions that ensure that public sector workers enjoy the rights and guarantees set out in the Convention, including provisions drafted or envisaged for enactment and the time frame expected for such an enactment.

And, finally, it should provide detailed information as to how the rights enshrined in the Convention will ensure maritime workers are protected in law and in practice.

Worker members – We note the comments of the Government and thank all those who took the floor to throw more light on the situation in Liberia with respect to the application of the Convention. We deplore the absence of the Workers' delegates from Liberia to the ILC.

In light of the comments made by some Employers' delegates during the discussion, the Worker members are bound to recall particularly the long-standing and consistent case law of the Committee on Freedom of Association and the comments of the Committee of Experts which confirm that the right to strike is an essential component of the right to freedom of association.

We have raised the serious violations with respect to the Government's application of the Convention in law and in practice. The Government must take urgent steps, in full consultation

with the social partners, to bring its law and practice into line with Convention No. 87. In particular, we call on the Government to:

- ensure that all workers are able to exercise their labour rights under the Convention in an environment of respect for civil liberties, including freedom of association, freedom of expression, peaceful assembly and protest without interference and fear for their personal safety and physical integrity;
- ensure that trade union leaders and members are not jailed for engaging in trade union activities and that threats against trade union leaders are fully investigated and the perpetrators duly punished;
- put in place measures including dissuasive sanctions to ensure that employers will not be able to dissolve the trade union and that trade unions can only be dissolved by a judicial authority only as a last resort for serious violations of law;
- register the National Health Workers' Union of Liberia (NAHWUL) as a trade union organization without further delay and provide additional information to the Committee of Experts on any pending allegations as well as information to the Committee on Freedom of Association concerning Case No. 3202;
- review the Decent Work Act and any other related legislation to ensure that all workers, with the sole possible exception of the police and the armed forces, are able to exercise the right to form or join a trade union of their choice, in particular, ensure that public sector workers and civil servants enjoy the rights and guarantees set out in the Convention;
- provide information to the Committee of Experts on provisions drafted or envisaged for enactment and the time frame expected for such an enactment;

- review the law to ensure that officers, members of the crew and any other person employed or in training on vessels are able to exercise their rights under the Convention, and provide information to the Committee of Experts on how the rights are ensured to maritime workers, including trainees;
- review section 45.6 of the Decent Work Act to ensure that the right to establish organizations to defend their occupational interests is fully recognized to foreign workers, both in law and practice;
- review the Decent Work Act to ensure that a designation of essential services is done in line with the Convention;
- provide information to the Committee of Experts on measures taken and results achieved to provide adequate remedies to workers, victims of anti-union discrimination, especially measure of reinstatement.

The Government must provide information to the Committee of Experts by 1 September 2022 on all the measures being taken to comply with its obligation under the Convention, and any developments in this regard.

We call on the Government of Liberia to avail itself of an ILO advisory mission to ensure that it brings its law and practice into compliance with the Convention.

El Presidente - Damos entonces por concluido el examen de este caso. Agradezco a la miembro gubernamental de Liberia y a todos quienes han hecho uso de la palabra en la discusión del caso. Las conclusiones serán adoptadas por la Comisión en la mañana del viernes 10 de junio. Hemos completado nuestro trabajo del día.

La Comisión reanudará su trabajo a las 15 horas, mañana jueves 8 de junio y se dedicará a los siguientes puntos: la adopción del resultado de la discusión del Estudio General; la

discusión del informe del Comité Mixto OIT/UNESCO de Expertos sobre la aplicación de las Recomendaciones relativas al personal docente (CEART), y la adopción de las 11 conclusiones relativas a los 11 primeros casos individuales examinados por la Comisión.

La séance est levée à 17 h 45.

The sitting closed at 5.45 p.m.

Se levantó la sesión a las 17.45 horas.

DRAFT