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Comisión de Aplicación de Normas

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Sixteenth sitting, 19 June 2019, 4.30 p.m.
Seizième séance, 19 juin 2019, 16 h 30
Decimosexta sesión, 19 de junio de 2019, 16.30 horas

Chairperson: Mr Rochford
Président: M. Rochford
Presidente: Sr. Rochford

Work of the Committee

PV.17 was adopted, as amended.

Travaux de la commission

Le PVI7 a été adopté, tel qu'amendé.

Trabajos de la Comisión

Se adoptó el acta 17 en su tenor modificado.

Discussion of individual cases (cont.)
Discussion sur les cas individuels (suite)
Discusión sobre los casos individuales (cont.)

Tadjikistan (ratification: 1993)

Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
Convention (n° 111) concernant la discrimination (emploi et profession), 1958
Convenio sobre la discriminación (empleo y ocupación), 1958 (núm. 111)

Interpretation from Russian: Government representative (Mr SAFAROV) – We would like to apologize for the fact that we do not have a full delegation for genuine reasons. We will forward any information we receive this afternoon to our social partners, and in the future we will try and make sure that they can participate in our delegation too. I would also like to tell you that the policy of the Government of the Republic of Tadjikistan in the area of discrimination at work and in employment is a major part of our Government's policy of social protection and labour relations, and is based on current international norms and standards. The Government of the Republic of Tadjikistan has ratified 50 Conventions, eight of which are fundamental, three of which are priority ones. Our Government attaches particular attention to enhancing the role of women in society, and protecting their rights and interests.

Our policies in this area have specific measures which are directed at helping our society to overcome stereotypes about women and patriarchal attitudes towards them. In order to do this, we take various approaches and use various methods of work. We work through the mass media, through the printed media, on the Internet, through personal discussions and meetings, etc. Questions of gender equality are cross-cutting issues in our national development policy and our social economic strategy. According to Tadjik legislation, men and women are equal, they have equal rights to work, to salary, to selection of a profession to work, to social protection against unemployment, equal rights to education, and so on and so forth. According to our Constitution, the State guarantees equal pay for men and women for work of equal value.

However, in our country there are differences in the professions in which women and men are employed. Generally speaking, women tend to work in the lower-paid professions, in such areas as the health system, education, culture, the arts and agriculture. On the other hand, there are more men working in areas such as construction or the extractive industries where the salary is higher. In order to tackle this problem, we have decided upon, and are carrying out, a state programme for training women and helping them to get other types of employment. The President's Office offers grants to businesswomen, and this is helpful in creating new jobs for women each year. The amount and quantity of these grants is gradually being increased. Every year, special training courses for women in leadership are held; we check our school curricula to make sure that they are gender neutral; we have gender training in the education academy; and we take other measures as well.

The Framework Law on State Guarantees for Equal Rights for Men and Women and Equal Opportunities in the Exercise of such Rights No. 89, adopted on 1 March 2005, governs relations between men and women in accordance with the principles of the Constitution, making certain that they are equal in society, in politics, in the cultural sphere, and in any other domain. This is to prevent discrimination on the grounds of sex and make sure that everyone has equal opportunities. Article 3 of the Law formally and legally prohibits discrimination in any way that would encroach upon the rights of men and women. Article 4 provides that those working in the state apparatus have to be given training on gender relations, and this again ensures equality of opportunity for men and women. We have enacted laws to guarantee this too. We have run special programmes and we have taken other measures including those aimed at getting rid of the obstacles preventing people from enjoying equal rights. There is sometimes discrimination on the grounds of sex and as I say, we have to take special measures to get rid of it. The provisions of the Convention are covered by our legislation in several different laws. As I said, we have the Law on State Guarantees. We also have one on preventing domestic violence and we have a Presidential Decree to enhance the role of women in society.

Our state programme on education and training for officials of the State of Tajikistan and the recruitment of women and young men has been in operation for some time between 2007 and 2016. Then there is the national strategy to enhance the role of women in Tajikistan that is still under way and will be running until 2020. As you can see, we are doing quite a bit to try and ensure that men and women can enjoy their rights equally. We are trying to make it easier for women to find a stable job and we have already helped 32,000 people to do precisely that. We also provide vocational training programmes which help women to obtain more qualifications and retraining. According with the demands of the labour market, 17,000 persons have benefited from that. We help women to set up and run their own businesses and become self-employed – 3,000 persons have benefited from that. And of course, it goes without saying that we provide social benefits to women including unemployment benefit where that is required – 6,400 persons are covered by that. We are also providing information to women about their rights and how they can defend them through the courts. We also provide help in getting a job to women and girls who have in the past been victims of violence and/or trafficking. Between 2018 and 2019, this programme, in its various aspects, is going to help 79,000 women to obtain a job. When it comes to the involvement of women in hazardous, heavy or underground work, it is true that the situation in Tajikistan is not as good as it is in many other countries where there is special protection of women. But that is understandable, because the countries I am talking about are usually very wealthy, very well developed, socially advanced, and very technologically developed as well. Our country unfortunately is still modernizing its economy and its industry, and trying to make work safer for all its workers, both men and women. But it is a long process. In a nutshell, if working conditions can be improved, and that is of course the final goal of our Government, then we can look again at our legal provisions prohibiting women working in certain jobs, or certain types of work. Basically, what we are trying to do, is protect women's health against what can happen in certain hazardous or dangerous workplaces. We have had a traditionally humane approach to women's rights at work and indeed women's right in the family, and recently we confirmed a list of types of work where

women were restricted, particularly when it came to lifting or moving heavy loads and work of that kind. Together with the ILO we have run and are running technical cooperation programmes to deal with this kind of issue. They also cover child labour in both the formal and informal economy. And there are other areas we have been working in as well.

I would like to show you that our country believes in and will do its utmost to observe all the principles and Conventions of the ILO.

Membres travailleurs – Nous sommes finalement en mesure de traiter du cas du Tadjikistan. Cependant, nous procédons à l'examen de ce cas tout en regrettant l'absence d'un représentant des employeurs et d'un représentant des travailleurs venant de ce pays.

La question qui fait l'objet de notre discussion porte sur l'application de la convention n° 111. Il s'agit d'une des conventions fondamentales de notre Organisation et la première qui fut adoptée pour traiter de manière complète de cette question. Elle constitue la mise en œuvre d'une des plus importantes parties de la Déclaration de Philadelphie. Celle-ci affirme que: «tous les êtres humains, quels que soient leur race, leur croyance ou leur sexe, ont le droit de poursuivre leur progrès matériel et leur développement spirituel dans la liberté et la dignité, dans la sécurité économique et avec des chances égales». Bien que la déclaration cite de nombreux critères de discrimination, il était évident à l'époque que celui qui allait occuper le devant de la scène, dans un premier temps, était celui qui se rapporte au sexe. A ce titre, l'adoption de la convention en 1958 n'était pas une faveur accordée aux femmes. En effet, le terrible épisode de la seconde guerre mondiale avait permis de démontrer de manière évidente que les femmes, qui ont largement pris part aux efforts de la guerre, étaient aussi productives que les hommes. Le mythe qui prétendait le contraire et assignait les femmes à un rôle subalterne était brisé. Nous sommes soixante et un ans plus tard et pourtant nous devons continuer à déplorer que des phénomènes de discrimination persistent à des degrés divers dans pratiquement tous les pays du monde. Nous avons aujourd'hui l'occasion d'examiner la situation du Tadjikistan sur cette question.

Les commentaires de la commission d'experts portant sur la convention indiquent que des dispositions légales interdisant la discrimination ont été adoptées dans ce pays. Cette législation semble suffisamment large pour inclure les cas de discriminations intervenant dans le domaine de l'emploi et promeut l'égalité entre les hommes et les femmes. Dans les informations communiquées par le gouvernement à la commission d'experts, il est mentionné qu'une institution appelée le Comité des femmes et des affaires familiales (CWFA) a été instituée. Celle-ci constitue l'autorité centrale chargée de la mise en œuvre de la politique nationale visant à protéger et à assurer les droits et intérêts des femmes et de leurs familles. D'une part, le nom même de cet organe est interpellant. Il semble entériner l'idée selon laquelle les femmes seraient les seules à devoir assumer des responsabilités vis-à-vis des familles. D'autre part, comme le note la commission d'experts, le gouvernement ne communique aucune précision quant aux activités de ce comité et ne dit rien sur le nombre de plaintes qu'il aurait eues à traiter.

Rappelons que l'article 2 de la convention prévoit que «tout Membre pour lequel la présente convention est en vigueur s'engage à formuler et à appliquer une politique nationale visant à promouvoir, par des méthodes adaptées aux circonstances et aux usages nationaux, l'égalité de chances et de traitement en matière d'emploi et de profession, afin d'éliminer toute discrimination en cette matière». Il ne s'agit donc pas seulement d'élaborer des lois, mais aussi et surtout de mettre en œuvre des politiques concrètes visant à éliminer toute discrimination. Comme le précise la commission d'experts: «Afin de faire face concrètement aux réalités complexes de la discrimination et à ses diverses manifestations, il est nécessaire d'adopter des mesures différenciées. Des mesures volontaristes sont nécessaires pour s'attaquer aux causes sous-jacentes de la discrimination et des inégalités de fait, qui sont la résultante d'une discrimination profondément ancrée dans les valeurs traditionnelles de la société.» Il est indispensable de donner corps à ces principes et d'en faire une réalité tangible. Le gouvernement avance un certain nombre de données et informations visant à établir qu'il y aurait des améliorations à ce propos. A cet égard, il n'est pas contestable que le pays

connait une mutation dans ce domaine à l’instar d’autres Etats dans la région. Il convient néanmoins de s’assurer que les dispositions prises sont effectives et accessibles aux femmes. Les mesures à prendre ne peuvent se limiter uniquement à des actions de promotion et de sensibilisation, mais s’étendent avant tout à une modification structurelle des valeurs sous-jacentes qui traitent les femmes comme une catégorie exogène.

Employer members – The Employers’ group would like to take this opportunity to also thank the representative of the Government of Tajikistan for the information provided. We also appreciate the Government’s commitment to, in future, bring along and work with its social partners.

Tajikistan joined the ILO in 1993 and has ratified in total 50 Conventions, including all fundamental Conventions and 39 technical Conventions. Tajikistan ratified Convention No. 111 in 1993 and today is the first time that this Committee is examining the case. We note that the Committee of Experts has made observations three times in the past, in 2010, 2014 and 2016 on the same issue. We take note of Tajikistan’s cooperation with the ILO in the past, framed in three Decent Work Country Programmes, namely 2007–10, 2011–13, 2015–17. We also note that a new Decent Work Country Programme has, in principle, been agreed upon for 2019–23, with signature scheduled for August 2019. The three priorities of the Programme are: (1) ensuring inclusive economic growth by creating decent jobs and strengthening labour market institutions; (2) improving working conditions and enhancing the coverage of social protection for women and men; and (3) strengthening capacities of tripartite constituents and social dialogue institutions to address priority labour issues.

Turning now to the experts’ observations, we note the following issue of compliance in law and practice, being “Equality of opportunity and treatment between men and women: Legislative developments”. The main issue concerns Article 2 of the Convention which requires that ratified member States undertake to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to

eliminating any discrimination in respect thereof. The Committee of Experts noted again that the Framework Law on State Guarantees of Equal Rights for Men and Women and Equal Opportunities in the Exercise of such Rights No. 89 of 1 March 2005, in short the Law on State Guarantees of 2005, contains a number of provisions prohibiting discrimination based on gender in all spheres, including in employment, and promoting the principle of equal opportunities for men and women. The Committee of Experts has requested the Government on several occasions to provide information on its implementation of the law in practice.

We note that the Government indicated in its report requested in the past, that Government Decree No. 608 of December 2006 approved the Regulation on the Committee for Women's and Family Affairs (CWFA), which is the central authority responsible for the implementation of state policy to protect and provide for the rights and interests of women and families. However, the Government fails to provide any information on the activities of the CWFA to implement the Law on State Guarantees of 2005, as well as any information on the manner in which violations of this Law are dealt with.

The Convention provides the necessary tools to eliminate discrimination in all aspects of work. The Employers believe that discrimination at work is not only a violation of a human right, but it also hinders the development of workers and the utilization of their full potential on the labour market. We fully agree with the Committee of Experts that legislative measures to give effect to the principles of the Convention are important, but not sufficient to achieve its objective and that to respond effectively to the complex realities and variety of ways in which discrimination occurs requires the adoption of differentiated measures, such as proactive measures designed to address the underlying causes of discrimination and de facto inequalities resulting from discrimination deeply entrenched in traditional and societal values.

So, we therefore urge the Government to provide, without any delay, information on the implementation in practice of the Framework Law on State Guarantees of Equal Rights

for Men and Women and Equal Opportunities in the Exercise of such Rights, such as for example, through the development of codes, tools and guides or affirmative action measures, including on the manner in which violations of its provisions are being addressed by the CWFA, the labour inspectorate or the courts.

Government member, Romania (Mr TACHE) – I am speaking on behalf of the European Union (EU) and its Member States. The Candidate Countries the Republic of North Macedonia, Montenegro and Albania as well as the EFTA country Norway, member of the European Economic Area, align themselves with this statement. We would like to start by expressing disappointment that the delegation of Tajikistan is not tripartite as it is essential to meaningful social dialogue at this Committee.

The EU and its Member States are committed to the promotion, protection and respect of human rights and labour rights, as safeguarded by the fundamental ILO Conventions and other human rights instruments. We support the indispensable role played by the ILO in developing, promoting and supervising the application of international labour standards and of fundamental Conventions in particular. The EU and its Member States are also committed to the promotion of universal ratification, effective implementation and enforcement of the core labour standards. The prohibition of discrimination is one of the most important principles of international human rights law. In the European Union's founding treaties, in the Charter of Fundamental Rights of the European Union, and in the European Convention on Human Rights, the prohibition of discrimination is a core principle. ILO Convention No. 111 is founded on the same principle. The EU and its Member States are long-term partners of Tajikistan, with relations guided by the bilateral Partnership and Cooperation Agreement which came into force in 2010 and the Joint Communication on the new EU Strategy on Central Asia, which was adopted on 15 May 2019. The new Strategy reaffirms the crucial importance of continuing a meaningful dialogue on good governance, the rule of law and human rights. The EU also welcomes Tajikistan's steps towards becoming a GSP+

beneficiary, which would imply even stronger commitment to implementation of ILO fundamental Conventions.

With regard to the implementation of Convention No. 111, we share the Committee's observations recognizing that key pieces of legislation, and in particular the Framework Law on State Guarantees of Equal Rights for Men and Women and Equal Opportunities in the Exercise of such Rights No. 89 of March 2005 (Law on State Guarantees of 2005), contain a number of provisions prohibiting discrimination based on gender in all spheres, including in employment, and promoting the principles of equal opportunities for men and women. However, we note with regret that the Government did not provide information about its implementation in practice. Similarly, information on the activities of the Committee for Women's and Family Affairs approved by Government Decree No. 608 in December 2006 to implement the state policy to protect and provide for the rights and interests of women and families, including to implement the Law on State Guarantees of 2005, is not provided; neither is the information on how violations of this Law are dealt with.

We appeal to the Government to provide information on the implementation of the anti-discrimination laws in practice, including on the manner in which violations of its provisions are being addressed by the Committee for Women's and Family Affairs, the labour inspectorate and the courts. In line with the Committee's recommendations, we also advise the Government to strive towards achieving the objectives of Convention No. 111 in its entirety, and while legislative measures are important, they need to be complemented with a number of differentiated measures, such as proactive measures designed to address the underlying causes of discrimination and de facto inequalities resulting from discrimination deeply entrenched in traditional and societal norms.

The EU and its Member States will continue to support the Government of Tajikistan in this endeavour, as proven by the recent 7th Cooperation Committee meeting held on 7 June in Dushanbe.

Miembro empleadora, Argentina (Sra. GIMÉNEZ) — Queremos tomar la palabra para apoyar la preocupación del sector empleador sobre este caso. Coincidimos con la Comisión de Expertos en que, si bien las medidas de tipo normativo para efectivizar los principios del Convenio son importantes, no son suficientes para alcanzar sus objetivos. Es necesario que cada país adopte una política y medidas concretas, que permitan responder a los complejos y variados rostros que la discriminación adopta en cada región. Medidas diseñadas para incidir sobre las causas que subyacen a la discriminación y las inequidades estructurales, muchas veces sustanciales en los valores tradicionales de una sociedad.

En relación a ello, resulta crucial el cumplimiento de las obligaciones de los gobiernos, vinculadas al mecanismo de reporte permanente, presentando las memorias en los plazos debidos y respondiendo las solicitudes directas recibidas, con información detallada y pertinente. La deficiente provisión de información por parte de los gobiernos perjudica la capacidad de la Oficina y los expertos para analizar, en profundidad, el estado del cumplimiento de las normas internacionales del trabajo. Esta casa cuenta con el compromiso de los gobiernos con respecto a los convenios que han ratificado, y necesita de su cooperación, para el adecuado funcionamiento del sistema de control y la consecución de los objetivos y valores que la OIT custodia. Por este motivo, tomamos nota con preocupación de la ausencia de una delegación tripartita, acreditada en esta 108.^a reunión de la Conferencia Internacional del Trabajo.

Combatir la discriminación en el mundo del trabajo es una política fundamental que refleja el compromiso de una nación con los derechos humanos. Pero es también una contribución al desarrollo profesional de los trabajadores y al crecimiento empresarial. Contribuye, en suma, al desarrollo económico de un país. Aquellos gobiernos que trabajan en el fortalecimiento de la diversidad en el mercado de trabajo, y que aseguran la libertad y la igualdad de asociación y participación en asociaciones de trabajadores y empleadores, sin discriminación por razones de género o de cualquier otra naturaleza, trabajan en la reducción de la conflictividad y la ampliación de derechos. Pero también ven mejoras vinculadas a la

atracción y retención de talentos, la rentabilidad y productividad de las empresas y, finalmente, en el crecimiento del producto bruto interno a nivel nacional.

Esperamos, por ello, que esta Comisión urja al Gobierno de Tayikistán para que cumpla en mandar, sin demora, información relativa a las medidas ejecutadas para implementar las normas adoptadas, para asegurar el cumplimiento del Convenio y, en especial, sobre la forma en que se gestionan las violaciones a tales disposiciones, y el contenido y extensión de las sanciones aplicadas si las hubiera.

Worker member, Norway (Ms MJØBERG) – I am speaking on behalf of the trade unions in the Nordic countries. The Republic of Tajikistan is discussed due to discrimination and that the Government of the country has once again failed to report on a number of issues which have been raised earlier such as: measures on sexual harassment at work in civil and in the labour law; how steps are taken to prohibit discrimination on all grounds, including colour and social origin; and access of women to education, employment and occupation. I would like to remind the Government of Tajikistan that Convention No. 111 in terms of discrimination includes any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation. The Convention also includes access to vocational training and terms and conditions of employment. According to our information there is still a very low number of women in various levels of education and training courses. The Government should therefore take specific measures to improve women's and girls' educational opportunities.

According to the Committee on the Elimination of Discrimination against Women's (CEDAW) report in 2018 the participation in the working life for women remains low – only around 32.6 per cent. Around 80 per cent of women are working in the agricultural sector – only 12 per cent of private farms were run by women. The CEDAW also expressed concern of adverse cultural norms, practices and traditions, as well as patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family

and society. We urge the Government to improve the access of rural women to employment and to address prevailing stereotypes on the role of women. As far as we are aware, hardly any concrete measures have been taken to improve the situation.

As to sexual harassment, we are aware that there is a provision of this in the criminal code. However, it is not sufficient to only address sexual harassment through criminal proceedings. As we are all aware, sexual harassment is a sensitive issue. It is therefore necessary to take effective measures to prevent and prohibit sexual harassment at work, in civil and labour law.

We urge the Government of Tajikistan to take its obligations in the ILO seriously, comply with the Convention and provide the information requested by the Committee of Experts urgently.

Interpretation from Russian: Government representative – The Constitution and the laws of Tajikistan do enshrine prohibition of discrimination and preventing it is a major concern for our Government. The Labour Code of the Republic of Tajikistan, the Taxation Code, as well as our laws on social protection, offer protection to those who need it. Any restrictions on being hired for work are prohibited in our Constitution and we offer men and women equal pay for work of equal value. We will take into account all the comments which have been made by the distinguished experts and we can assure you that in the very near future the Republic of Tajikistan will provide additional information on these matters.

Employer members – We have noted the information that the Government has shared about measures taken to uplift women in various sectors in Tajikistan, including the National Strategy to Enhance the Role of Women that will run until 2020, a training given to women to start their own businesses, etc. However, we also appreciate the Government's candid admission that discrimination still exists in Tajikistan.

The Employers wish to underscore the importance of Convention No. 111 in the world of work. We believe that discrimination at work is not only a violation of a human right, as

we previously said, but it also hinders the development of workers and the utilization of their full potential. We urge the Government to provide, without any further delay, information on the implementation in practice of the Framework Law on State Guarantees of Equal Rights for Men and Women and Equal Opportunities in the Exercise of such Rights. The proper functioning of this Committee and the entire ILO supervisory mechanism depends largely on available information. In this regard, we stress the importance of compliance with the reporting and other standards-related obligations of governments. Failure by the Government of Tajikistan to provide information previously requested by the experts on the way the Convention applies in practice impede meaningful supervision of the ILO legal standards. We accordingly call upon the Government to strengthen its commitment and cooperation with the ILO supervisory system.

Membres travailleurs – Nous remercions le gouvernement pour les explications apportées durant cette discussion. Nous avons rappelé dans notre introduction l'importance d'une lutte sans merci contre tous les phénomènes de discrimination subis par les femmes au Tadjikistan. Il s'agit d'un principe fondamental au sein de notre Organisation. En effet, le fait d'être Membre de cette institution implique de faire de cette question un sujet central de la politique nationale. Par conséquent, le groupe des travailleurs insiste sur l'importance d'une lutte contre la discrimination non seulement sur le plan légal, mais surtout dans la pratique. Dès lors, nous invitons le gouvernement à communiquer à la commission d'experts les données et informations relatives à l'effectivité des règles adoptées afin que celle-ci puisse l'examiner lors de sa prochaine session.

The sitting closed at 5.15 p.m.

La séance est levée à 17 h 15.

Se levantó la sesión a las 17.15 horas.