CEACR 2021 Report on the application of international labour standards

TURKEY

Forced Labour Convention, 1930 (No. 29) (ratification: 1998)

The Committee takes note of the Government's report and the supplementary information provided in light of the decision adopted by the Governing Body at its 338th Session (June 2020).

The Committee notes the observations of the Turkish Confederation of Employers' Associations (TİSK) communicated with the Government's report.

Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. 1. Law enforcement measures. The Committee previously noted the TISK's 2014 observations, according to which Turkey was as destination and transit country for trafficked women, men and children. It noted that section 80 of the Penal Code prohibited trafficking in persons both for the purposes of sexual and labour exploitation. It noted that, in 2015, out of 514 suspects involved in adjudicated cases under section 80 of the Penal Code, 330 were acquitted and that in the first quarter of 2016, out of 148 suspects involved in adjudicated cases, 118 were acquitted. The Committee noted with **concern** the low number of convictions relating to trafficking in persons, despite the significant number of cases brought to justice. The Committee urged the Government to strengthen its efforts to ensure that all persons who engage in trafficking are subject to prosecution and that in practice, sufficiently effective and dissuasive penalties of imprisonment are imposed.

The Government indicates in its report that Turkey is a transit and destination country for the crime of trafficking in persons, especially for the exploitation of women and children. The Government states that the General Command of the Gendarmerie has taken steps to combat trafficking in persons, including: (i) the issuance of detailed application orders for 81 Provincial Commands of the Gendarmerie explaining the changes in the fight against trafficking in persons; (ii) the continuation of the activities of the anti-trafficking groups established by the Command of the Gendarmerie in 33 provinces; (iii) the inclusion, in the curriculum of the Gendarmerie Coast Guard Academy, of training on combating trafficking in persons; and (iv) the launch of an eight-month project on increasing efficiency of antitrafficking activities of the General Command of the Gendarmerie on 30 October 2018, which included training of staff on combating trafficking in persons. The Government adds in its supplementary information that training on combating trafficking in persons was also provided to 210 staff members of the General Directorate of Security between May 2019 and July 2020.

The Government further indicates that, under section 80 of the Penal Code, 26 cases of trafficking for prostitution were identified in 2017, 61 persons were arrested and 13 were imprisoned; in 2018, 16 cases of trafficking for prostitution were identified, 128 persons were arrested and 35 were imprisoned; and from January to May 2019, seven cases of trafficking for prostitution were identified, 60 persons were arrested and three were imprisoned. The Committee notes the Government's information but observes that it has not provided any information regarding the penalties applied in these cases. The Committee further notes that the Group of Experts on Action against Trafficking in Human Beings of the Council of Europe (GRETA) noted, in its report adopted on 10 July 2019 concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings in Turkey, the Government's information that in 2016, 72 cases of trafficking in persons were initiated, 42 persons were convicted, and 266 persons were acquitted; in 2017, 42 cases were initiated, 45 persons were convicted, and 96 persons were acquitted; and in 2018, 82 cases were initiated, 77 persons were convicted, and 305 persons were acquitted (paragraph 222). The Committee also notes the Government's supplementary information according to which, between October 2019 and March 2020, 19 persons were convicted for trafficking in persons and 102 persons were acquitted. Of the 19 persons convicted, the Committee notes that one person was sentenced to a fine and 18 persons were sentenced to imprisonment and a fine.

The Committee also notes GRETA's indication that, following the removal from office of some 4,500 judges and prosecutors after July 2016, newly appointed staff had not received sufficient training to efficiently investigate and adjudicate complex criminal cases, including trafficking in persons (paragraph 219). GRETA also indicated that there were practical difficulties in adjudicating trafficking in persons cases and distinguishing between trafficking in persons and certain other offences, such as prostitution (section 227 of the Penal Code) and violation of freedom of work and labour (section 117 of the Penal Code). Representatives of the judiciary indicated that cases initiated as trafficking in persons were sometimes requalified at the stage of court proceedings as other offences, usually prostitution, which are punishable by lesser penalties (paragraph 224). ***While acknowledging the measures taken by the Government to combat trafficking in persons, the Committee urges it to continue to take the necessary measures to ensure that thorough investigations and prosecutions are carried out against all persons engaged in trafficking in persons both for the purposes of sexual and labour exploitation, and that sufficiently effective and dissuasive penalties are applied in practice. In this regard, it requests the Government to continue to provide information on the practical application of section 80 of the Penal Code, including the number of prosecutions, convictions and the specific penalties imposed, as well as the facts that led to sentences of fines only. Lastly, the Committee requests the Government to pursue its efforts to provide training to law enforcement officers, including judges and prosecutors, to ensure that perpetrators of trafficking in persons are appropriately prosecuted and sanctioned under the offence of trafficking in persons, and to provide information in this regard.***

2. Protection and assistance for victims. The Committee previously noted the enactment of the Law on Foreigners and International Protection (No. 6458) 2013, which systematized victim identification procedures. It also noted the adoption of the Regulation on Combating Human Trafficking and Protection of Victims in 2016, setting forth the procedures and principles for the prevention of trafficking in persons and the protection of victims, including the granting of residence permits for foreign victims. The Committee further took note of the Voluntary and Safe Return Programme for victims wishing to leave Turkey, as well as the Victim Support Programmes, which include the provision of shelter homes or safe houses, health services, psychosocial help and legal assistance. The Committee requested the Government to provide information on the practical application of the new above-mentioned Law and Regulation with regard to the identification of victims and the provision of protection and assistance provided to them.

The Government indicates that, between July 2019 and March 2020, the most prevalent countries of origin of victims of trafficking in persons were Uzbekistan, Turkey and Moldova. The Government states that in 2017, 303 persons were identified as victims of trafficking by the Provincial Directorates of Migration Management, and 134 persons in 2018. It adds that in 2019, 215 persons were identified as victims of trafficking, and 79 in the first half of 2020, mainly women. The victims who stayed in Turkey benefited from the Victim Support Programmes (24 out of the 134 victims in 2018, 35 in 2019 and 42 in the first half of 2020), while some victims who preferred to leave the country benefited from the Voluntary and Safe Return Programme (101 victims in 2018, 153 in 2019 and 22 in the first half of 2020). The capacity of shelters for victims of trafficking has increased to 42 places. The opening of a third shelter is under consideration. Each victim admitted to a shelter has an individualized support programme, which has included, in recent years, services such as monthly financial aid, health services, psychological support, vocational training, and access to the labour market, legal assistance and leisure activities.

The Government further indicates that it has established a Department of legal support and victim rights within the General Directorate of Criminal Affairs (Ministry of Justice), which aims to inform all victims of crime, including victims of trafficking, of their rights and the assistance and support services available to them, as well as to support victims in the judicial process and to facilitate their access to justice. In addition, Forensic Support and Victim Services Directorates have been established in several courthouses to provide victims, including victims of trafficking in persons, with legal aid and support services, such as measures to prevent re-trafficking for victims of trafficking, accompanying victims of trafficking during court hearings, and referring victims to relevant institutions for psychological support, if necessary. The Committee also notes the Government's indication that a guidebook on approaching victims, with a specific headline on victims of trafficking and foreign victims, has been prepared for

professionals who provide services to victims of crime, especially law enforcement, health professionals and judicial workers.

The Committee notes the statement in the communication of the TISK that in cooperation with the International Organization for Migration, the urgent helpline 157 was established for potential victims of trafficking in persons, with operators providing services in Russian, Romanian, English and Turkish. The TISK further states that the Coordination Commission on combating human trafficking was established under the Regulation on combating human trafficking and protection of victims, and held its first meeting in 2017 to develop measures on inter-institutional cooperation, awareness activities, and training materials for personnel. The Committee further notes in this regard the Government's supplementary information that the Coordination Commission on combating human trafficking aims at conducting studies, formulating policies and strategies, developing an action plan and ensuring cooperation to prevent and combat trafficking in persons. The Commission met in 2017, 2018 and 2019, resulting, inter alia, in: (i) the designation of provincial human trafficking liaison officers in 36 provinces; (ii) awarenessraising activities for the general public; and (iii) the training of more than 1,000 professionals from public institutions and non-governmental organizations on combating trafficking in persons in 2019.

The Committee takes notes of GRETA's indication, in its 2019 report, according to which trafficking in persons for the purpose of sexual exploitation prevails (paragraph 13). GRETA also indicated that the Directorate General of Migration Management, which has been coordinating national action against trafficking in persons since 2013, has a Department of protection of victims of human trafficking (paragraph 26). The Committee notes that GRETA pointed out the limited capacity of specialized shelters for victims of trafficking, as well as the fact that only a few victims remained in Turkey and took part in victim assistance programmes. GRETA was also concerned at the lack of specialized assistance for Turkish victims of trafficking and male victims of trafficking (paragraph 169). ***While welcoming the efforts of the Government, the Committee requests it to continue to take measures in order to improve the identification of and assistance for victims of trafficking in persons, and to provide information in this regard. It requests the Government to continue to provide information on the measures that have been developed by the Coordination Commission on Combating Human Trafficking to prevent and combat trafficking in persons, as well as to indicate the activities of the Department of Protection of Victims of Human Trafficking of the Directorate General of Migration Management. Lastly, the Committee requests the Government to indicate the number of victims of trafficking in persons identified and provided with protection and assistance, through the various programmes, directorates and departments mentioned above that support victims of trafficking in persons.***

Article 2(2)(a). Compulsory military service. The Committee previously requested the Government to repeal section 10 of Act No. 1111 on military service, according to which conscripts in the surplus reserve might be assigned to work for public bodies and institutions.

The Committee notes the observations of the TISK according to which Act No. 7179 on military recruitment is a positive development with regard to bringing the national legislation in line with the Convention.

The Committee notes with **satisfaction** the entry into force of the Act No. 7179 on military recruitment on 26 June 2019, which replaces Act No. 1111 on military service and does not contain any provision regarding the fulfilment of military service obligations in public institutions and organizations. The Committee is raising other matters in a request addressed directly to the Government.

Labour Inspection Convention, 1947 (No. 81) (ratification: 1951)

The Committee takes note of the Government's report and the supplementary information provided in light of the decision adopted by the Governing Body at its 338th Session (June 2020).

The Committee also notes the observations of the Turkish Confederation of Employers' Associations (TISK), communicated with the Government's report and received on 29 September 2020, and the observations of the Confederation of Public Servants Trade Unions (MEMUR-SEN), communicated with the Government's supplementary report.

COVID-19 measures. The Committee notes the Government's indication in its supplementary report that the number of inspections decreased due to COVID-19, but that the labour inspectorate focused instead on the examination of applications for short-time working allowances (unemployment allowances provided following an application to reduce or suspend the employment period). The Government also indicates that labour inspectors informed employers, workers and OSH professionals about occupational safety and health (OSH) measures to protect against COVID-19 in the workplace. ***The Committee requests the Government to continue to provide information on developments in this regard.***

Articles 3, 5(b), 10 and 16 of the Convention. OSH inspections, including in the mining sector and in relation to subcontracting situations. The Committee previously noted the concerns of several trade unions relating to OSH inspections, including their insufficient coverage, the widespread noncompliance with OSH requirements and the high incidence of occupational accidents and diseases. In this respect, the Committee notes the statistics provided in the Government's report, including the number of workplaces and workers in the mining sector and in subcontracting situations, of OSH inspections undertaken in such workplaces and of occupational accidents and diseases recorded. The Committee notes that the total number of occupational accidents reported in 2017, 2018, and in the first five months of 2019 remain significant (359,653 in 2017; 430,769 in 2018 and 159,099 in the first five months of 2019) and that the total number of OSH inspections conducted was 10,804 in 2017, 12,649 in 2018 and 3,088 in all of 2019. The Committee also notes the observations of the International Trade Union Confederation (ITUC) on Conventions Nos 155, 167, 176 and 187, which allege that the number of fatal occupational accidents has increased in 2020, as well as the Government's response that the number of accidents should not be examined in isolation, but should be evaluated over the years, against OSH conditions and the number of employees in the country. The Government indicates that OSH inspections, including in mining, decreased due to COVID-19. ***With regard to occupational accidents, the Committee refers the Government to its detailed comments adopted in 2020 on the OSH Conventions ratified by Turkey. The Committee requests the Government to indicate the reason for the 75 per cent decrease in the number of OSH inspections in 2019, and to continue to provide statistics on the number of OSH inspections conducted and of occupational accidents and diseases registered in workplaces overall, including the mining sector and workplaces with workers in subcontracting situations. In the absence of information in this regard, the Committee once again requests the Government to provide information about arrangements in place to ensure collaboration between officials of the labour inspectorate and employers and workers or their organizations.***

Articles 5(a), 7(3), 17 and 18. Effective enforcement of laws and regulations providing for sufficiently dissuasive penalties. Effective cooperation between the inspection services and the judicial system. The Committee takes due note of the statistics provided by the Government concerning the number of inspections conducted and the sanctions imposed in the period 2016–19. Nevertheless, the Committee notes an absence of information on the compliance strategy pursued to address the issue of effective enforcement of dissuasive sanctions, which had been discussed in 2015 by the Committee on the Application of Standards (CAS) of the International Labour Conference on the application of Convention No. 155. The Government indicates that, despite the increase in fines for non-compliance with the Occupational Health and Safety Law No. 6331, as amended by Act No. 6645 in 2015, the amount of administrative penalties applied per inspection during the period 2016–18 has decreased compared to 2014, and the Committee notes from the statistical information in the Government's supplementary report that there was a

further decrease from 2018 to 2019. The Committee also observes with ***concern*** that the total number of fines imposed (3,938 in 2016; 3,485 in 2017; 2,637 in 2018; and 470 in 2019) remains low compared to the number of OSH inspections effectuated in the period 2016–19 (14,287 in 2016; 10,804 in 2017 ;12,649 in 2018; and 3,088 in 2019), and the number of enterprises suspended as a result of OSH inspections has substantially declined (820 in 2016; 726 in 2017; 239 in 2018; and 49 in 2019). With regard to effective cooperation between the labour inspection services and the judiciary, the Committee notes that, according to information provided by the ILO Ankara Office, the training programmes provided to labour inspectors and auditors of the Social Security Institution (SSI) in 2018 and 2019 included a component on judicial processes, with the participation of judges from the Ministry of Justice. The Committee also notes the observations of the TISK regarding the participation in ITC–ILO training courses, in February 2020, of 40 labour inspectors and two judges from the Supreme Court and Turkish Academy of Justice. ***The Committee requests the Government to provide further information on the impact of the increase in fines introduced in 2015, particularly on compliance with OSH legislation, and to continue to provide statistics on fines and sanctions imposed, as compared to the number of violations detected. It also requests the Government to provide information on the reason for the more recent decrease in the number of fines imposed as well as for the decrease in the number of penalties applied per inspection. The Committee further requests the Government to continue to take the necessary measures to ensure effective cooperation between the inspection services and the judiciary and to provide information in this regard.***

Articles 10 and 16. Number of labour inspectors, frequency and thoroughness of labour inspections. Further to its previous comments, in which it noted a total of 974 labour inspectors, the Committee notes the Government's indication in its supplementary report that, as of August 2020, there were 939 labour inspectors, and 91 Auditors employed in the Directorate of Guidance and Inspection of the Ministry of Family, Labour and Social Services, with plans to hire 80 new Assistant Labour Inspectors. The Committee also notes the statistics provided by the Government concerning the number of OSH and administrative inspections conducted per year for the period 2010–18. With regard to activities undertaken to combat child labour, the Committee welcomes the Government's indications regarding training provided on this subject to labour inspectors and to auditors between 2017 and 2019 and the information provided on the workplaces where it was determined that children had been employed. The Committee also notes that, according to the Government's supplementary report, some activities regarding child labour have been postponed due to the COVID-19 pandemic.

With regard to its request on ensuring that the number of labour inspectors and inspections is sufficient to secure the effective application of the legal provisions, the Committee notes the observations of the TISK, which consider that the number of labour inspectors has not sufficiently increased in the face of a rising number of workers and workplaces. According to the TISK, the determination of priority sectors and enterprises, with different inspection plans according to enterprises' type and size, would also be necessary to make a more efficient use of resources. The MEMUR-SEN also considers that due to insufficient staff and insufficient amount of equipment, labour inspections cannot be carried out adequately. ***The Committee requests the Government to provide its comments in this regard. Observing that the number of labour inspectors has remained stable since its previous comments, the Committee also requests the Government to indicate the measures taken to ensure that the number of labour inspectors is sufficient to secure the effective discharge of their duties, and to ensure that workplaces are inspected as often and as thoroughly as is necessary to ensure the application of the relevant provisions. In addition, the Committee requests the Government to provide further information on the role of auditors in the labour inspection system, including their functions and powers. With respect to the monitoring of child labour, the Committee refers to its comments under the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182).***

The Committee is raising other matters in a request addressed directly to the Government.

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1993)

The Committee takes note of the supplementary information provided by the Government in light of the decision adopted by the Governing Body at its 338th Session (June 2020). The Committee proceeded with the examination of the application of the Convention on the basis of the supplementary information received from the Government and the social partners this year, as well as on the basis of the information at its disposal in 2019 (see sections on Civil liberties and Article 2 below).The Committee notes the observations of the Confederation of Public Employees Trade Unions (KESK), received on 31 August 2020, of the International Trade Union Confederation (ITUC), received on 16 September 2020, of Education International (EI), received on 1 October 2020, and the Government's detailed replies thereon. The Committee further notes the observations of the Confederation of Public Servants Trade Unions (MEMURSEN), communicated with the Government's supplementary report.

The Committee had previously noted the observations of the ITUC, received on 1 September 2019 and examined by the Committee below. It had further noted the observations of the KESK and of the Turkish Confederation of Employers' Associations (TİSK) transmitted by the Government with its report and referring to the issues raised by the Committee below. The Committee further noted the observations of the International Transport Workers' Federation (ITF), received on 4 September 2019 and referring to the information submitted by the ITUC. The Committee also noted the TİSK observations received on 2 September 2019.

The Committee recalls that it had previously requested the Government to reply to the 2018 observations of the Confederation of Turkish Trade Unions (TÜRK-İŞ) alleging that workers employed temporarily via private employment agencies could not enjoy trade union rights, as well as to the allegations of pressure exercised on workers, particularly in the public sector, to join unions designated by the employer. The Committee notes the Government's indication that in a "triangular employment contract" arrangement (in which the worker is employed by a temporary employment agency and works for a different employer), workers have the right to organize in the branch of activity in which the employment agency operates. ***The Committee requests the Government to provide further information in this regard, including concrete examples as to how the rights of workers in a triangular employment contract arrangement are exercised in practice.*** With regard to the allegation of pressure exercised on workers in the public sector, the Government refers to the legislative provisions guaranteeing protection against anti-union discrimination and points out that unions and workers are entitled to administrative and judicial means to contest such actions. It refers, in particular, to the first paragraph of article 118 of the Penal Code, according to which, any person who uses force or threats with the aim of compelling a person to join a trade union or not to join, or to participate in union activities or not to participate, or to resign from a trade union office shall be punished by imprisonment for a term of six months to two years. In addition, according to the Government, in such cases, the legislation provides for compensation equivalent to at least the amount of one year's wage and, in the case of a dismissal, the possibility of reinstatement. Public sector employers have the responsibility to respect the law in discharging their duties and thus are further liable under the public law.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 108th Session, June 2019)

The Committee notes the discussion that took place in the Conference Committee in June 2019 concerning the application of the Convention. The Committee observes that the Conference Committee noted with concern the allegations of restrictions placed on workers' organizations to form, join and function and called on the Government to: (i) take all appropriate measures to guarantee that irrespective of trade union affiliation, the right to freedom of association can be exercised in normal conditions with respect for civil liberties and in a climate free of violence, pressure and threats; (ii) ensure that normal judicial procedure and due process are guaranteed to workers' and employers' organizations and their members; (iii) review Act No. 4688, in consultation with the most representative workers' and employers' organizations, in order to allow that all workers without any distinction, including public sector workers, have freedom of association in accordance with the Convention in law and practice; (iv) revise Presidential Decree No. 5 to exclude workers' and employers' organizations from the scope; and (v) ensure that the

dissolution of trade unions follows a judicial decision and that the rights of defence in due process are fully guaranteed through an independent judiciary.

Civil liberties. The Committee recalls that for a number of years it has been commenting upon the situation of civil liberties in Turkey. Noting the Government's indication that domestic administrative or judicial remedies were available against all acts of the administration, the Committee had requested the Government to indicate whether such remedial channels had been invoked by those affected and with what results. The Committee had also requested the Government to provide information on the measures taken to ensure a climate free from violence, pressure or threats of any kind so that workers and employers could fully and freely exercise their rights under the Convention.

The Committee recalls that in its previous comment it noted the Government's reiteration that Turkey is a democratic country, upholding the rule of law and that no trade union had ever been closed or their officials suspended or dismissed on grounds of their legitimate activities. The Government indicated that: (i) with the enactment of the Act on Trade Unions and Collective Labour Agreement (Act No. 6356) and substantial amendments to Act No. 4688 on public employees unions in 2013, the rate of unionization has steadily increased, reaching 22 per cent in public and private sectors combined (66.79 per cent public sector; 13.76 per cent private sector). Currently, there are four trade union confederations in the private sector and ten confederations of public servants trade unions. Like all democratic countries, Turkey has a regulatory framework for organizing meetings and demonstrations. When trade union members transgress the law, destroy public and private property and seek to impose their own rules during the meetings and demonstrations, the security forces are obliged to intervene to preserve public order and safety. The Government indicates that marches and demonstrations can be organized with a prior notification, as illustrated by the May Day celebrations, held by all trade unions and confederations in a peaceful manner. The Government further reiterates that fundamental rights and freedoms are protected under the national Constitution. Apart from the right to seek judicial review against acts of the administration, every person may apply to the Constitutional Court against public authorities for violation of constitutional rights and freedoms. The Government further points out that the allegations mostly concern the period during the state of emergency between July 2016 and July 2018 in the aftermath of a coup attempt and that the problems occurred when the requirements of the state of emergency were ignored and disrespected persistently by some trade unions and their members. Although civil servants do not have the right to strike, strike actions were called for by some public servants' trade unions and their members; and open air meetings and demonstrations were conducted in violation of the provisions of the Act on Meetings and Demonstrations No. 2911. Consequently, the disciplinary procedures may have been applied for civil servants involved in politics.

Regarding the alleged excessive use of force by the security forces, the Government points out that it has taken all the necessary measures to prevent the occurrence of such incidences. It explains that these incidences largely occurred for two reasons: (i) infiltration of illegal terrorist organizations into the marches and demonstrations organized by trade unions; and (ii) the insistence of some trade unions to organize such meetings in areas not allocated for such purposes. The Government informs that the security forces intervened in 2 per cent of cases out of 40,016 actions and activities in 2016; in 0.8 per cent of cases out of 38,976 activities in 2017; and in 0.7 per cent of cases out of 36,925 activities in 2018. According to the supplementary information provided by the Government, the rate of interference by the security forces decreased from 0.8 per cent in 2017 to 0.7 per cent in 2019. The Government further indicates that in 2019, 51,525 demonstrations or activities were conducted involving 32,166,244 people, representing, compared to 2018, an increase of 3.6 per cent in the number of events and an increase by 11.07 per cent in terms of participants. The Government indicated in its 2019 report that the police intervention occurs only in cases of violence and attacks against the security forces and citizens and when the life of citizens is affected unbearably.

The Committee recalls that in its 2019 report, the Government indicated that a Judicial Reform Strategy was launched on 30 May 2019 by the President of the Republic. The main aims of this reform include strengthening of the rule of law, effective protection and promotion of rights and freedoms, strengthening the independence of the

judiciary and improving impartiality, increasing the transparency of the system, simplifying judicial processes, facilitating access to justice, strengthening the right of defence and efficiently protecting the right to trial in a reasonable time. The Government indicated that a clear and measurable Action Plan would also be prepared and the Ministry of Justice would issue annual monitoring reports.

While taking note of the above, the Committee noted with ***concern*** the observations of the ITUC alleging that since the attempted coup and the severe restrictions on civil liberties imposed by the Government, workers' freedoms and rights have been further restricted (the ITUC denounces, in particular, police crackdowns on protests and the systematic dismissal of workers attempting to organize). The Committee further noted with ***concern*** the allegation of the murder of a president of the rubber and chemical workers' union Lastik-İş on 13 November 2018 and the sentencing, on 2 November 2018, of 26 trade union members to a suspended five-month imprisonment for "disobeying the law on meetings and demonstrations" after taking part in a protest in March 2016 demanding the recognition of the right to organize at a private company (the ITUC alleged that the protest was violently dispersed by police). The Committee also noted with ***concern*** the ITUC allegations of criminal prosecution of the following trade union leaders for their legitimate trade union activities: (i) the General Secretary of the teacher's union Eğitim Sen was arrested in May 2019 for attending a press meeting and was thus not allowed to attend the ILO Conference; (ii) Kenan Ozturk, the President of the transport workers' union TÜMTIS, and four other union officials were arrested under Act No. 2911 for visiting, in 2017, the unfairly dismissed workers of a cargo company in the Province of Gaziantep and holding a press conference; while they await criminal trial, another TÜMTIS leader, Nurettin Kilicdogan is still in prison; (iii) Arzu Çerkezoğlu, the President of the Confederation of Progressive Trade Unions of Turkey (DISK) is facing criminal trial for speaking at the public panel organized by Turkey's opposition party in June 2016; and (iv) in May 2019, the prosecution began proceedings against Tarim Orman-is, the President of the Civil Servants Union of Agriculture, Forestry, Husbandry and Environment for criticising the Government after he publicly defended workers' right to benefit from the public facilities.

The Committee noted that the ITUC expressed its concern at the seriousness and persistence of violations of freedom of association and the Government's authoritarian measures to interfere in trade union affairs and impose heavy restrictions on the right to organize. The ITUC alleged that it has become almost impossible for trade unions in Turkey to operate. It stated, in this respect that from 2016, the Government has justified continued violations of civil liberties under the guise of the state of emergency through associated decrees. As a result, about 110,000 public servants and 5,600 academics had been dismissed; about 22,500 workers in private education institutions had had their work permits cancelled; 19 trade unions had been dissolved and about 24,000 workers were undergoing various forms of disciplinary action associated with workers' protests. More than 11,000 KESK representatives and members were suspended from their jobs or dismissed because of their trade union activities, under the pretext of national security and emergency powers. Furthermore, the ITUC stated that the Government continued to uphold emergency state laws that allow for arbitrary dissolution of trade union organizations. Decree No. 667 adopted in 2016 provides that "trade unions, federations and confederations … found to be in connection, communication or adherence to formations threatening national security or to terrorist organizations are banned upon the suggestion of the commission and approval of the minister concerned". The ITUC further alleged that the law makes no distinction between a trade union as an organization with an objective public purpose and individual actors and holds all trade union members guilty by association with a closing down of the union. Although the Government had set up an Inquiry Commission to review its actions, including cases of trade union dissolution, the process did not enjoy the trust of victims and trade unions due to the manner in which it was constituted and the results of the processes so far (the ITUC alleged that it is marred by a lack of institutional independence, long waiting periods, an absence of safeguards allowing individuals to rebut allegations and weak evidence cited in decisions to uphold dismissals).

The Committee notes that in its supplementary report, the Government indicates that Mr Kenan Ozturk, the President of the transport workers' union TÜMTIS, and four other union members arrested in 2017 were acquitted in May 2018 and that another TÜMTIS leader, Mr Nurettin Kilicdogan, was released in February 2020. Regarding the

ITUC allegation on the work of the Inquiry Commission, the Government indicates that the Commission began its work on 22 December 2017 and as of 2 October 2020 it has delivered 110,250 decisions (12,680 accepted and 97,570 rejected). According to the Government, 60 of the acceptance decisions are related to the opening of organizations that were shut down (associations, foundations, and television channels). The Government points out that 87 per cent of the applications have been decided within a period of 33 months. The Government further informs that currently, six Ankara Administrative Courts are competent to deal with the annulment cases brought against the decisions of the Inquiry Commission and that the "average completion time" (to finalize an application for annulment) varies, depending on the court, between 191 and 347 days.

The Committee notes with ***concern*** the most recent ITUC allegation that in 2019 and 2020, trade union leaders continued to face arrests and prosecution as the Government tried to suppress critical voices. According to the ITUC, while the courts dismissed several cases, the authorities have fallen into a pattern of systematic targeting, arrest and prosecution of trade union leaders. The ITUC refers to the pending case of Umar Karatepe, director of communication of DISK, noting that his house was raided on 5 March 2020; he was arrested and taken to the police headquarters in Istanbul; and charges against him were unspecified but reportedly related to several statements made on his account on social media.

The Committee further notes with ***concern*** the MEMUR-SEN allegation of pressure and harassment put on its members, members of Bem-Bir-Sen, its affiliate, and members of Hizmet-Is, affiliated to Hak-Is, following the local elections of 31 March 2019.

While noting the Government's reply to some of these allegations, the Committee requests the Government to provide its detailed comments on the remaining lengthy and serious allegations of violations of civil liberties and trade union rights. The Committee observes that the issue of dismissal of trade unionists following dissolution of trade unions is being considered by a tripartite committee of the Committee on Freedom of Association established to examine a representation under article 24 of the ILO Constitution alleging non-observance by the Government of Turkey of Convention No. 87. The Committee will proceed with its examination of these matters once the tripartite committee finalizes its work.

Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish and join organizations. In its previous comments, the Committee had noted that section 15 of Act No. 4688, as amended in 2012, excludes senior public employees, magistrates and prison guards from the right to organize. The Committee noted the Government's reiteration that the restrictions under section 15 of the Act are limited to those public services where the disruption of service cannot be compensated, such as security, justice and high level civil servants.

The Committee notes that the MEMUR-SEN points out to the need to ensure freedom of association rights for pensioners, locum workers (teachers, nurses, midwives, etc.) as well as public servants who are not on the payroll and work without a contract of employment. ***The Committee requests the Government to provide its comments thereon.***

Recalling that all workers, without distinction whatsoever, shall have the right to establish and join trade unions of their own choosing and that the only possible exceptions from the application of the Convention in this regard pertain to the armed forces and the police, the Committee encourages the Government to take the necessary measures to review section 15 of Act No. 4688, as amended, with a view to ensuring to all public servants the right to form and join organizations of their own choosing. It requests the Government to provide information on all measures taken or envisaged in this respect.

Article 3. Right of workers' organizations to organize their activities and formulate their programmes. The Committee recalls that in its previous comments it had noted that section 63(1) of Act No. 6356 provides that a lawful strike or lockout that had been called or commenced may be suspended by the Council of Ministers for 60 days by a decree if it is prejudicial to public health or national security and that if an agreement is not reached during the suspension period, the dispute would be submitted to compulsory arbitration. For a number of years, the Committee had been

requesting the Government to ensure that section 63 of Act No. 6356 was not applied in a manner so as to infringe on the right of workers' organizations to organize their activities free from government interference. While observing that in a decision dated 22 October 2014, the Constitutional Court ruled that the prohibition of strikes and lockouts in banking services and municipal transport services under section 62(1) was unconstitutional, the Committee noted that pursuant to a Decree with power of law (KHK) No. 678, the Council of Ministers can postpone strikes in local transportation companies and banking institutions for 60 days. The Committee further noted with concern that in 2017, five strikes were suspended including in the glass sector on the grounds of threat to national security, while in 2015 the Turkish Constitutional Court had found a strike suspension in the same sector unconstitutional. The Committee recalled that the right to strike may be restricted or banned only with regard to public servants exercising authority in the name of the State, in essential services in the strict sense of the term, and in situations of acute national or local crisis, for a limited period of time and to the extent necessary to meet the requirements of the situation. Recalling the Constitutional Court ruling that strike suspensions in these sectors were unconstitutional, the Committee had requested the Government to take into consideration the above principles in the application of section 63 of Act No. 6356 and KHK No. 678. It further requested the Government to provide a copy of KHK No. 678. The Committee notes a copy of the Decree and will examine it once the translation thereof is available. The Committee further notes the Government's indication that the power to suspend a strike for 60 days rests with the President when a strike action is harmful to the general health and national security or to urban public transportation of metropolitan municipalities or to economic and financial stability in banking services. The Government indicates that where the strike has been suspended, the High Board of Arbitration makes maximum effort to bring the parties to an agreement. Judicial procedure is open for the stay of execution against the decision of the Board. The Government points out that pursuant to article 138 of the Constitution on "Independence of Courts," no organ, authority, office or individual may give orders or instructions to courts or judges relating to the exercise of their judicial power, send them circulars, or make recommendations or suggestions. The Committee notes that, according to the ITUC, while the legislation indicates that the measure of suspension should be limited to strikes that may be prejudicial to public health or national security, it has been interpreted in such a broad manner that strikes in non-essential services have also been effectively prohibited. It informs in this respect that in January 2019 a strike called by the ITF-affiliated railway union in Izmir has been postponed under these laws. ***The Committee requests the Government to provide its comments thereon. Considering that strikes can be suspended only in essential services in the strict sense of the term, for public servants exercising authority in the name of the State or in an event of an acute national crisis, the Committee requests the Government to ensure that the above is taken into consideration in the application of section 63 of Act No. 6356 and KHK No. 678.***

The Committee recalls that the ITUC has previously alleged that Decree No. 5 adopted in July 2018 provided that an institution directly accountable to the Office of the President – the State Supervisory Council (DDK) – had been vested with the authority to investigate and audit trade unions, professional associations, foundations and associations at any given time. According to the ITUC, all documents and activities of trade unions may come under investigation without a court order and the DDK has discretion to remove or change the leadership of trade unions. Recalling that any law that gives the authorities extended powers of control of internal functioning of unions beyond the obligation to submit annual financial reports would be incompatible with the Convention, the Committee had requested the Government to transmit a copy of Decree No. 5 in order to make a thorough examination of its conformity with the Convention. It had also requested the Government to provide specific information on any investigations or audits undertaken pursuant to Decree No. 5 and their results, including any dismissal or suspension of trade union leaders. The Committee notes the Government's indication that there has never been an investigation or audit of a trade union organization or suspension of a trade union official by the State Supervisory Council pursuant to Decree No. 5. The Government explains that the Council's powers to investigate with the purpose of ensuring the lawfulness, regular and efficient functioning and improvement of the administration emanates from of article 108 of the Constitution. It further indicates that the Council has no authority to dismiss trade union officials and has never interfered and has no intention to interfere with the internal functioning of the unions. The measures of dismissal can be taken only by the courts within the framework of existing legal arrangements. Furthermore, suspension is a measure applied to public officials in cases where the provision of public services so requires during

an administrative investigation. When a suspension measure needs to be taken for elected officials such as trade union officials, the State Supervisory Council can only propose the application of this measure to the competent authorities which, in the case of trade unions, refers to the trade unions' own supervisory boards and the disciplinary committees. The Committee notes a copy of Decree No. 5 transmitted by the Government and will examine it once its translation is available. ***The Committee requests that the Government continue to provide information on any investigations or audits undertaken by the Council, pursuant to Decree No. 5 or article 108 of the Constitution, and their results including any sanctions assessed.***

Article 4. Dissolution of trade unions. The Committee recalls that after the attempted coup of 15 July 2016, Turkey was in a state of acute national crisis, and that an Inquiry Commission was established to examine applications against the dissolution of trade unions by a decree during the state of emergency. The Committee firmly hoped that the Inquiry Commission would be accessible to all the organizations that desired its review and that the Commission, and the administrative courts that reviewed its decisions on appeal, would carefully examine the grounds for the dissolution of trade unions paying due consideration to the principles of freedom of association. It requested the Government to provide information on the number of applications submitted by the dissolved organizations and the outcome of their examination in the Commission. The Committee had further requested the Government to provide information on the number and outcome of appeals against the negative decisions of the Commission concerning dissolved trade unions. The Committee observes that the Government refers only to cases of Cihan-Sen and Aksiyon-İş Confederations. According to the Government, these organizations, together with their affiliated trade unions, were dissolved on the basis of their connection to the FETO terrorist organization that perpetrated the coup attempt to overthrow the democratically elected government. The Government indicates that the cases of the above-mentioned organizations are still pending before the Inquiry Commission. Recalling that the dissolution and suspension of trade unions constitute extreme forms of interference by the authorities in the activities of organizations, the Committee observes, as noted above, that the issue of dissolution of trade unions is being considered by a tripartite committee of the Committee on Freedom of Association established to examine a representation under article 24 of the ILO Constitution alleging non-observance by the Government of Turkey of Convention No. 87. The Committee will proceed with its examination of this issue once the tripartite committee finalizes its work.

The Committee is raising other matters in a request addressed directly to the Government, which reiterates the content of its previous request adopted in 2019.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1952)

The Committee notes the observations of the Confederation of Public Employees Trade Unions (KESK), received on 31 August 2020, of the International Trade Union Confederation (ITUC), received on 16 September 2020, Education International (EI), received on 1 October 2020, and the Government's detailed replies thereon. The Committee further notes the observations of the Confederation of Public Servants Trade Unions (MEMUR-SEN) and of the Confederation of Turkish Trade Unions (TÜRK-IS), communicated with the Government's report. The Committee notes the Government's reply to the observations submitted by the TÜRK-IS. The Committee finally notes the observations of the Turkish Confederation of Employer Associations (TİSK), received on 29 September 2020.

Scope of the Convention. In its previous comments, the Committee had noted that while the prison staff, like all other public servants were covered by the collective agreements concluded in the public service, this category of workers did not enjoy the right to organize (section 15 of the Act on Public Servants' Trade Unions and Collective Agreement (Act No. 4688)). The Committee had requested the Government to take the necessary measures, including legislative review, with a view to guaranteeing that the prison staff can be effectively represented by the organizations of their own choosing in negotiations which affect them. The Committee notes that the Government reiterates that it is forbidden to this category of public servants to establish and join trade unions due to the nature of their work and considerations of public order and safety, discipline and hierarchy, which are overarching principles in the public service administration. ***Recalling that all public servants not engaged in the administration of the State or those who are members of the armed forces or the police, defined in a restrictive manner, must enjoy the rights afforded by the Convention, the Committee once again requests the Government to take the necessary measures, including legislative review of section 15 of Act No. 4688, with a view to guaranteeing that the prison staff can be effectively represented by the organizations of their own choosing in negotiations which affect them. The Committee requests the Government to provide information on all measures taken in this respect.***

Further noting that the MEMUR-SEN points out to the need to ensure freedom of association and collective bargaining rights to locum workers (teaches, nurses, midwives, etc.) as well as public servants who work without a written contract of employment, the Committee requests the Government to provide its comments thereon.

Articles 1 and 3 of the Convention. Adequate protection against anti-union discrimination. Following up on the recommendations of the June 2013 Committee on the Application of Standards of the International Labour Conference (hereafter, the Conference Committee), the Committee has been requesting the Government to establish a system for collecting data on anti-union discrimination in both private and public sectors. The Committee notes the Government's indication that it is currently not possible to obtain reliable data on the cases of trade union discrimination. In this respect, the Government points out the difficulties with carrying out data collection, which include the length of judicial processes and the need to make considerable arrangements in the records and databases of various institutions. The Government indicates that it is necessary to carry out work with all relevant institutions and organizations on the issue of discrimination and that these institutions have to develop their own database infrastructure and recording systems to detect trade union discrimination. The Committee notes this information and underlines the importance of statistical information for the Government to fulfil its obligation to prevent, monitor and sanction acts of anti- union discrimination. ***The Committee reiterates the June 2013 request of the Conference Committee and expects that the necessary work will be conducted within each relevant institution to that end. The Committee requests the Government to provide in its next report information on the measures taken in this respect.*** The Committee notes the TISK indication that the social partners are committed to work together in this respect. ***The Committee recalls that the Government can avail itself of the technical assistance of the ILO in this regard.***

Articles 1, 2 and 3. Massive dismissals in the public sector under the state of emergency decrees. In its previous comments, the Committee had noted the information on the high number of suspensions and dismissals of trade union members and officials under the state of emergency. It had noted in this respect the allegation that the state of emergency was used by the political power to target and punish certain trade unions and to exert pressure on

oppositional trade unions through dismissals of their members. Firmly hoping that the Inquiry Commission (established to review such dismissals) has the necessary means to examine the relevant facts, the Committee had requested the Government to provide information on the functioning of the Commission and to indicate the number of applications received from trade union members and officials, and the outcome of their examination. The Committee had also requested the Government to provide information on the number and outcome of appeals against the negative decisions of the Commission concerning trade union members and officials. The Committee notes the Government's indication that as of 2 October 2020, there were 126,300 applications submitted to the Inquiry Commission. Since 22 December 2017, the Commission delivered its decisions in respect of 110,250 applications, out of which, 12,680 were accepted (for reinstatement) and 97,570 were rejected while 16,050 applications are still pending. The Government explains that the decision of the Commission are circulated to the institutions where the persons lastly took office, which then carry out the appointments together with the Council of Higher Education, where relevant. The Government further indicates that an annulment action against the decision of the Commission and the institution or organization where the relevant person lastly tool office may be brought before any of the six Ankara Administrative Courts within a period of sixty days as from the date of notification of the decision. The Government points out that there is no statistical information available on the number of trade union members or officials who have applied to either the Inquiry Commission or Ankara Administrative Courts.

The Committee recalls that it had previously noted that according to the ITUC 2019 observations, more than 11,000 KESK representatives and members were suspended from their jobs or dismissed because of their trade union activities and requested the Government to provide its comments thereon. The Committee notes that in its most recent observations, KESK points out that close to 89 per cent of all applications are rejected by the Commission and alleges that the examination of cases involving its members is postponed. The Committee further notes that the Government reiterates that given the higher rate of positive decisions in relation to KESK members (one in three, which is above the average rate), KESK allegations are unfounded. The Government further denies that measures imposed on KESK members were based on anti-union grounds and refers to the legislative provisions providing protection against acts of anti-union discrimination.

Further in this respect, the Committee notes the EI allegations that: during the state of emergency period, 1628 members of the Education and Science Workers Union of Turkey (EĞİTİM SEN) were dismissed from the public service by virtue of Decrees with the force of law; only 12.7 per cent of files pertaining to this union members have been examined, among which 126 applications were rejected and only 79 accepted; and as of May 2020, 1178 EĞİTİM SEN members were still without employment. While noting the Government's reply that the acceptance rate for reinstatement of EĞİTİM SEN (38,5 per cent) is much higher than the average rate (11,5 per cent), the Committee expresses its ***concern*** at the allegation that close to 75 per cent of the dismissed EĞİTİM SEN members are still without employment. ***The Committee requests the Government to provide its comments thereon.***

While taking note of the general statistics provided by the Government, as well as the detailed information in which it recalls the reasons for the state of emergency, the Committee ***regrets*** once again the absence of specific information on the number of trade union members and officials involved. The Committee notes with ***concern*** the high number of rejection cases (currently 88.5 per cent) and further ***regrets*** the absence of information regarding the number and outcome of appeals against the negative decisions of the Inquiry Commission concerning trade union members and officials. ***The Committee reiterates its firm hope that the Inquiry Commission and the administrative courts that review its decisions carefully examine the grounds for the dismissal of trade union members and officials in the public sector and order reinstatement of the trade unionists dismissed for anti-union grounds. The Committee once again requests the Government to provide specific information on the number of applications received from trade union members and officials, the outcome of their examination by the Inquiry Commission and on the number and outcome of appeals against the negative decisions of the Commission concerning trade union members and officials.***

Article 1. Anti-union discrimination in the course of employment. The Committee recalls the observations of KESK and the EĞİTİM SEN, alleging that hundreds of their members, mostly in the education sector, were transferred against their will from their workplaces in 2016 (at least 122 transfers, mainly for participation in trade union activities and events) and in 2017 (1,267 transfers, 1,190 of whom from the education sector). The Committee had requested the Government to take the necessary measures to prevent the occurrence of anti-union transfers and demotions in the future, and to ensure that if any anti-union discriminatory measures remained in force, they were revoked immediately. The Committee notes the most recent KESK allegations concerning relocation of its members, termination of their contracts and suspensions for having exercised their trade union rights, as well as administrative investigations launched by employers. It further notes the ITUC allegations of trade union busting at various enterprises and the Government's detailed reply thereon. The Committee notes that the Government denies any discrimination against legitimate trade union activities of any trade union organization and emphasizes that under the national legislation, no dismissal or suspension can take place because of a legitimate trade union activity or trade union affiliation. The Government points out that the protection of the legislation against anti-union discrimination in both public and private sectors are further strengthened and adjudicated through the judicial system that includes individual application to the Constitutional Court and the European Court of Human Rights against violation of fundamental rights and freedoms by public authorities. Referring to the KESK allegation of relocation, the Government points to the legislation applicable to public service, which allows for relocation if the needs of the service require. The Committee takes note of the observations submitted by workers organizations and the detailed information provided by the Government. ***The Committee requests the Government to continue engaging with the social partners regarding complaints of anti-union discrimination practices in both the private and public sectors.***

Article 4. Promotion of collective bargaining. Cross-sector bargaining. In its previous comments, the Committee had noted that while cross-sector bargaining resulting in "public collective labour agreement framework protocols" was possible in the public sector, this was not the case in the private sector. It noted in this respect that pursuant to section 34 of Act No. 6356, collective work agreement may cover one or more than one workplace in the same branch of activity, thereby making cross-sector bargaining in the private sector impossible. The Committee had requested the Government to consider, in consultation with the social partners, the amendment of section 34 of Act No. 6356 in a manner so as to ensure that it does not restrict the possibility of the parties in the private sector to engage in cross-sector regional or national agreements should they so desire. The Committee notes the Government's indication that section 34 of the Act was drafted taking into account the views of the social partners. The Government indicates that this provision regulates the scope and level of collective bargaining with a view to protect and strengthen workplace peace and that the legislation in question does not restrict collective bargaining to the level of workplace but allows also the enterprise and group level bargaining as well as framework agreements. The Committee notes the TISK indication that because of the sectoral characteristics and the difficulties to compile all of them in a single agreement, inter-sectoral or national agreements are not favoured by the social partners. While taking note of these explanations, the Committee recalls that in accordance with Article 4 of the Convention, collective bargaining should remain possible at all levels and that the legislation should not impose restrictions in this regard. ***The Committee therefore once again requests the Government to consider, in consultation with the social partners, the amendment of section 34 of Act No. 6356 so as to ensure that the parties in the private sector wishing to engage in cross sector regional or national agreements can do so without impairment. It requests the Government to provide information on the steps taken in this regard.***

Requirements for becoming a bargaining agent. The Committee recalls that in its previous comments, it had noted that section 41(1) of Act No. 6356 initially set out the following requirement for becoming a collective bargaining agent: the union should represent at least 1 per cent (progressively, 3 per cent) of the workers engaged in a given branch of activities and more than 50 per cent of workers employed in the workplace and 40 per cent of workers of the enterprise to be covered by the collective agreement. It further recalls that the 3 per cent threshold was decreased to 1 per cent by Act No. 6552 of 10 September 2014 and that additionally, section 1 of Act No. 6356 stipulating that the 1 per cent membership threshold should be applied as 3 per cent with regard to trade unions

that are not members of confederations participating in the Economic and Social Council was repealed by the Constitutional Court. Therefore, the 3 per cent branch threshold was reduced to 1 per cent with regard to all trade unions. Furthermore, the Committee recalls that until 6 September 2018, legal exemptions from the branch threshold requirement were granted to three categories of previously authorized trade unions, so as to prevent the loss of their authorization for collective bargaining purposes. Recalling the concerns that had been expressed by several workers' organizations in relation to the perpetuation of the double threshold and noting that the exemption granted to the previously authorized unions was provisional, the Committee had requested the Government to indicate whether the exemption had been extended beyond 6 September 2018, and the impact of the decision made in this regard on the capacity of previously authorized organizations to bargain collectively. It had further requested the Government to continue reviewing the impact of the perpetuation of the branch threshold requirement on the trade union movement and the national collective bargaining machinery as a whole in full consultation with the social partners, and should it be confirmed that the perpetuation of the 1 per cent threshold had a negative impact on the coverage of the national collective bargaining machinery, revise the law with a view to its removal.

The Committee recalls that the Government had previously pointed out that Act No. 6356 was drafted in consultation with the social partners and taking into consideration the universal principles regarding trade union rights and freedoms. Following the entry into force of the arrangements outlined in the Act, the Government proceeded to obtain the views and evaluations of the social partners. While some of the social partners asked for the continuation of the branch level threshold, others were of the view that it needs to be reduced or abolished; there was no agreement on this issue. The Government had indicated, however, that should a consensus be achieved on this matter, steps would be taken to make the necessary arrangements.

The Committee notes the Government's indication that the provisional exemption of the branch of activity threshold requirement was extended until 12 June 2020 by Act No. 30799, published on 12 June 2019. The Government indicates that following publication of the Act, the exempted trade unions concluded collective agreements. The Committee notes the TISK indication that the exempted trade unions have been given a significant opportunity to increase their membership. However, following three consecutive extensions, most of the unions in question have not reached the branch level threshold. The TISK indicates that there was a consensus among the social partners for the discontinuation of the exemption. ***Noting that the provisional exemption has expired on 12 June 2020, the Committee requests the Government to indicate if further extension has been decided and if not, to provide information on the impact of the non-extension on the capacity of previously authorized organizations to bargain collectively and to indicate the status of the collective agreements concluded by them. It also requests the Government to continue monitoring the impact of the perpetuation of the branch threshold requirement on the trade union movement and the national collective bargaining machinery as a whole in full consultation with the social partners and to provide information in this regard.***

With regard to the workplace and enterprise representativeness thresholds, in its previous comments, the Committee had noted section 42(3) of Act No. 6356, which provides that if it is determined that there exists no trade union which meets the conditions for authorization to bargain collectively, such information is notified to the party which made the application for the determination of competence. It had further noted section 45(1), which stipulates that an agreement concluded without an authorization document is null and void. While noting the "one agreement for one workplace or business" principle adopted by the Turkish legislation, the Committee had recalled that under a system of designation of an exclusive bargaining agent, if no union represents the required percentage of workers to be declared the exclusive bargaining agent, all unions in the unit, jointly or separately, should be able to engage in collective bargaining, at least on behalf of their own members. The Committee highlighted that by allowing for the joint bargaining of minority unions, the law could adopt an approach more favourable to the development of collective bargaining without compromising the "one agreement for one workplace or business" principle. The Committee had requested the Government to take the necessary measures to amend the legislation, in consultation with the social partners, and to provide information in this respect. The Committee notes that the Government refers to its previous indication that: (1) the issue of the amendment of the collective bargaining system

was discussed with the social partners but no model could be agreed upon by everyone; and that (2) it would consider the proposal for the amendment to the legislation if put forward by the social partners and if such a proposal represented a consensus. The Committee recognizes that while the search for a consensus with regard to collective bargaining is important, it cannot constitute an obstacle to the Government's obligation to bring the law and practice into conformity with the Convention. ***The Committee therefore once again requests the Government to amend the legislation so as to ensure that if no union represents the required percentage of workers to be declared the exclusive bargaining agent, all unions in the unit, jointly or separately, should be able to engage in collective bargaining, at least on behalf of their own members. It requests the Government to provide information on all measures taken or envisaged in this regard.***

Articles 4 and 6. Collective bargaining rights of public servants not engaged in the administration of the State. Material scope of collective bargaining. The Committee had previously noted that section 28 of Act No. 4688, as amended in 2012, restricts the scope of collective agreements to "social and financial rights" only, thereby excluding issues such as working time, promotion and career as well as disciplinary sanctions. The Committee notes that the Government reiterates its previous indication that the demands of the unions and their confederations that do not fall within the category of financial and social rights are received and considered at the other, more appropriate platforms established beside collective bargaining. The Committee is therefore bound to once again recall that public servants who are not engaged in the administration of the State should enjoy the guarantees of the Convention and therefore be able to negotiate collectively their conditions of employment and that measures taken unilaterally by the authorities to restrict the scope of negotiable issues are often incompatible with the Convention. The Committee wishes to further recall however, that the Convention is compatible with systems requiring competent authorities' approval of certain labour conditions or financial clauses of collective agreements concerning the public sector, as long as the authorities respect the agreement adopted. ***Bearing in mind the compatibility with the Convention of the special bargaining modalities in the public sector as mentioned above, the Committee again requests the Government to take the necessary measures to ensure the removal of restrictions on matters subject to collective bargaining so that the material scope of collective bargaining rights of public servants not engaged in the administration of the State is in full conformity with the Convention.***

Collective bargaining in the public sector. Participation of most representative branch unions. In its previous comment, the Committee had noted that pursuant to section 29 of Act No. 4688, the Public Employers' Delegation (PED) and Public Servants' Unions Delegation (PSUD) are parties to the collective agreements concluded in the public service. In this respect, the proposals for the general section of the collective agreement were prepared by the confederation members of PSUD and the proposals for collective agreements in each service branch were made by the relevant branch trade union representative member of PSUD. The Committee had also noted the observation of the Turkish Confederation of Public Workers Associations (Türkiye KAMU-SEN), indicating that many of the proposals of authorized unions in the branch were accepted as proposals relating to the general section of the agreement meaning that they should be presented by a confederation pursuant to the provisions of section 29 and that this mechanism deprived the branch unions from the capacity to directly exercise their right to make proposals. Noting that although the most representative unions in the branch were represented in PSUD and took part in bargaining within branch-specific technical committees, their role within PSUD was restricted in that they were not entitled to make proposals for collective agreements, in particular where their demands were qualified as general or related to more than one service branch, the Committee had requested the Government to ensure that these unions can make general proposals. The Committee notes that the Government refers to its previous indication that collective bargaining is held every two years in order to discuss the issues that concern service branches and general issues together. On that occasion, collective bargaining offers for all service branches are determined separately by the authorized trade unions having the highest number of members in that service branch. Naturally, the proposals of the trade unions are determined exclusively for the service branches due to the differences in the service branches and the public servants within the scope of those branches and discussed in the special committees established separately for the service branches by the Heads of PED and PSUD. ***Considering that where joint bodies within which collective agreements must be concluded are set up, and the conditions imposed by law for participation in these***

bodies are such as to prevent a trade union which would be the most representative of its branch of activity from being associated in the work of the said bodies, the principles of the Convention are impaired, the Committee again requests the Government to ensure that Act No. 4688 and its application enable the most representative unions in each branch to make proposals for collective agreements including on issues that may concern more than one service branch, as regards public servants not engaged in the administration of the State.

Collective bargaining in the public sector. Public Employee Arbitration Board. In its previous comment, the Committee had noted that pursuant to sections 29, 33 and 34 of Act No. 4688, in case of failure of negotiations in the public sector, the chair of PED (the Minister of Labour) on behalf of public administration and the chair of PSUD on behalf of public employees, can apply to the Public Employees' Arbitration Board. The Board decisions were final and had the same effect and force as the collective agreement. The Committee had noted that seven of the 11 members of the Board including the chair were designated by the President of the Republic and considered that this selection process could create doubts as to the independence and impartiality of the Board. The Committee had therefore requested the Government to take the necessary measures for restructuring the membership of the Public Employee Arbitration Board or the method of appointment of its members so as to more clearly show its independence and impartiality and to win the confidence of the parties. The Committee notes that the Government refers to its 2019 report in which it confirms that in addition to the Head of the Board, its five other members with knowledge in public administration, public finances and public personnel regime, as well as one member among the academics proposed by the competent confederations, are appointed by the President. ***The Committee requests the Government to consider reviewing, in consultation with the social partners, the method of appointment of the Board members so as to more clearly show its independence and impartiality and to win the confidence of the parties.***

[The Government is asked to reply in full to the present comments in 2021.]

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1967)

The Committee notes the observations from the Confederation of Public Employees Trade Unions (KESK), received on 31 August 2020 and the Government's reply thereto received on 4 November 2020. Furthermore, the Committee notes the observations of the Confederation of Turkish Trade Unions (TÜRKIS) transmitted by the Government on 3 November 2020.

The Committee also notes the observations of the Turkish Confederation of Employer Associations (TİSK) received on 31 August 2017, which were supported by the International Organisation of Employers (IOE) and the Government's reply thereto. The Committee also notes the observations of Education International (EI) and the Education and Science Workers' Union of Turkey (EGITIM SEN) received on 1 September 2017 and the Government's reply thereto. It further notes the observations of the Turkish Confederation of Public Workers Associations (Türkiye Kamu-Sen) and the TÜRK-IS which were attached to the Government's report.

Articles 1 and 4 of the Convention. Discrimination based on political opinion. *Activities prejudicial to the security of the State.* In its previous comments, the Committee noted with deep regret that the Government had not provided any information on the practical application of the Anti-Terrorism Act and the Penal Code in cases involving journalists, writers and publishers expressing their political opinions. ***Noting that it did not provide the required information, the Committee firmly urges the Government to provide information on the practical application of the Anti-Terrorism Act and the Penal Code in cases involving journalists, writers and publishers, as well as on all the cases brought before the courts against them, indicating the charges brought and the outcome.***

Massive dismissals in the public sector: Civil servants, teachers and members of the judiciary. The Committee notes the observations of EGITIM SEN alleging the arbitrary dismissals of hundreds of its members (1,546 as of August 2017) from their teaching positions without any proof and without any court hearing; more than 300 were dismissed from their university positions because they had been critical of the Government and signed a petition in this regard. It also notes that, according to Türkiye Kamu-Sen, in 2015, 75,000 head teachers lost their jobs overnight (50,000 of these were members of EGITIM SEN). The Committee notes the Government's indication in its report that the dismissals of civil servants, members of the judiciary and teachers took place after the coup attempt in July 2016, "on the grounds of membership, affiliation or connection with a terrorist organization". The Government adds that under the Penal Code and the Public Servants Law (Law No. 657), public officials who have been under investigation on charges of membership of a terrorist organization or an offense against constitutional order can be suspended from their posts, because "their conducting public duties constitutes a major threat to the security of public services, causing the disruption of it". The Government emphasizes that the criteria of loyalty to the State has to be met by civil servants. It also indicates that it has adopted several state of emergency decrees, including Decree-Law No. 667 on measures taken within the scope of state of emergency stating that "members of the judiciary, including the Constitutional Court, and all State officials shall be dismissed from the profession or the public service, if they are considered to have an affiliation, membership, cohesion or connection to terrorist organizations or to groups, formations or structures determined by the National Security Council to be engaged in activities against the national security of the State". Members of the judiciary who have been expelled from the profession can file a complaint before the Council of State. The Government adds that, pursuant to Emergency Decree-Law No. 6851, a commission to review the actions taken under the scope of state of emergency (hereafter the Inquiry Commission) has been established for a term of two years to assess and decide upon applications lodged by public servants, through the governorates or the last institution in which they were employed, against expulsion from their profession, cancellation of fellowship, dissolution of organizations, or the reduction in ranks in the case of retired personnel. According to the Government, the examination of complaints takes place on the basis of the documents that are in the file, and the decision of the Inquiry Commission is subject to review by the courts. In this regard, the Committee notes the KESK's allegations that, although 4 years passed, as of 3 July 2020 there were still 18,100 cases pending in front of the Inquiry Commission. It further alleges that: (1) there is no transparent mechanism through which public officers, who have no idea of the reason for their dismissal, can challenge any so called evidence against them; (2) there is no clear criteria that the Inquiry Commission adopted in its procedure; and (3) the selection of cases to be

examined is arbitrary since there is no chronological or other order. The KESK also indicates that, according to a press statement issued by the Inquiry Commission, 96,000 of the applications were rejected and 12,200 public officers were reinstated, which shows that 89 per cent of the applications were rejected. It further underlines that even if public officers whose applications are rejected have a chance to apply to administrative courts, it will take several years.

The Committee notes from the Report of the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the impact of the state of emergency on human rights in Turkey (January– December 2017), that "following the coup attempt [July 2016] at least 152,000 civil servants were dismissed, and some were also arrested, for alleged connections with the coup, including 107,944 individuals named in lists attached to emergency decrees" and over "4,200 judges and prosecutors were dismissed". The OHCHR's report also indicates that "an additional 22,474 people lost their jobs due to closure of private institutions, such as foundations, trade unions and media outlets" (paragraph 8). The Committee notes that the OHCHR observed that "dismissals were accompanied by additional sanctions applied to physical persons dismissed by decrees or through procedures established by decrees", including a lifelong ban from working in the public sector and in private security companies and the systematic confiscation of assets and the cancellation of passports (paragraph 68). According to the OHCHR's report, "[d]ismissed people lost their income and social benefits, including access to medical insurance and retirement benefits". Finally, the Committee notes the concern expressed by the OHCHR that "the stigma of having been assessed as having links with a terrorist organization could compromise people's opportunities to find employment" (paragraph 70).

The Committee also refers the Government to its 2018 observation, under the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), on the massive dismissals that took place in the public sector under the state of emergency decrees, and to the discussion that took place in the Conference Committee on the Application of Standards (CAS) in June 2019 on the application by Turkey of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and to its current observation under Convention No. 98.

The Committee recalls that, under Article 1(1)(a) of the Convention, discrimination on the basis of political opinion is prohibited in employment and occupation. It also recalls that in paragraph 805 of its General Survey of 2012 on the fundamental Conventions, the Committee indicated that protection against discrimination on the basis of political opinion implies protection in respect of the activities of expressing or demonstrating opposition to established political principles and opinions and in respect of political affiliation. The Convention allows for exceptions, including measures warranted by the security of the State under Article 4, which are not deemed to be discrimination and must be strictly interpreted to avoid any undue limitations on the protection against discrimination. The Committee also recalls that it indicated in paragraphs 833–835 of its General Survey of 2012 that such measures "must affect an individual on account of activities he or she is justifiably suspected or proven to have undertaken" and they "become discriminatory when taken simply by reason of membership of a particular group or community". As "the measures refer to activities qualifiable as prejudicial to the security of the State[,] [t]he mere expression of opinions or religious, philosophical or political beliefs is not a sufficient basis for the application of the exception. Persons engaging in activities expressing or demonstrating opposition to established political principles by non-violent means are not excluded from the protection of the Convention by virtue of Article 4. […] [A]ll measures of state security should be sufficiently well defined and precise to ensure that they do not become instruments of discrimination on the basis of any ground prescribed in the Convention. Provisions coached in broad terms, such as 'lack of loyalty', 'the public interest' or 'anti-democratic behaviour' or 'harm to society' must be closely examined in the light of the bearing which the activities concerned may have on the actual performance of the job, tasks or occupation of the person concerned. Otherwise, such measures are likely to entail distinctions and exclusions based on political opinion […] contrary to the Convention." In addition, the Committee recalls that "the legitimate application of this exception must respect the right of the person affected by the measures 'to appeal to a competent body established in accordance with national practice'". The Committee also recalls that "it is important that the appeals body be separate from the administrative or governmental authority and offer a guarantee of

objectivity and independence" and "be competent to hear the reasons for the measures taken against the appellant and to afford him or her the opportunity to present his or her case in full".

The Committee urges the Government to take appropriate steps to ensure that the requirements of the Convention are fully adhered to, taking into account the various criteria explained above. The Committee asks the Government to continue to provide information on the number of dismissals in the public sector, including teachers, that have taken place for reasons linked to the security of the State. The Committee further asks the Government to continue to provide information on the total number of appeals reviewed by the Inquiry Commission or by the courts, and their outcome, and to indicate whether in the course of the proceedings dismissed employees have the right to present their cases in person or through a representative. The Committee asks the Government to provide its comments regarding the KESK's allegations on the length of judicial reviews. The Committee further asks the Government to provide information on the number of complaints brought by dismissed employees alleging discrimination on the ground of political opinion.

Recruitment in the public sector. The Committee notes the Government's indications regarding the recruitment of personnel in the public sector, in reply to its request regarding the previous allegations made by the KESK regarding discrimination against civil servants (the recording in personnel files of inappropriate data, discriminatory use of promotion and appointments, and of the rewards system) and to the lack of adequate sanctions in the event of discrimination. The Committee notes that the Government indicates that, for a first appointment or a reappointment in the public sector, a "security investigation" and an "archive screening" have to be conducted in strict confidentiality at every stage. According to the Government, it is therefore not possible to give information to individuals or institutions other than the institution requesting the investigation. The Government adds that recruitment in public institutions and organizations is made through a merit-based central examination and placement procedure. The Committee notes from the observations made by Türkiye Kamu-Sen that appointment and promotion practices by way of oral examination or interviews work in favour of unions close to the Government and subject members of other unions to discrimination. The union adds that "while it has been recorded in court judgments […] that the interviews were not a fair means of evaluation", "the Government still does not implement these court decisions and continues to discriminate". In addition, the Committee notes that the KESK, in its 2020 observations, reiterates its concerns about the impartiality, neutrality and independency of the majority of those who serve in committees in charge of making decisions about new public officers' suitability to the public sector and alleges that oral exams are used to select those who are loyal to the Government rather than eligible for public services. The organization alleges that there is a broad and vague interpretation of the Penal Code and the Anti-Terrorism Act as regards the recruitment of new public officers and working life of public officers. The KESK also alleges that Presidential Decree No. 225 published on 25 October 2018 requires that "candidates shall be subjected to a 'security investigation' and 'archive screening' in a way that covers also family members". According to the organization, dozens of people were not recruited on the ground that there had been a judicial investigation against them in the past, even if they had been acquitted since. The KESK further states that: (1) the Decree was taken to the Constitutional Court that ruled that it was contrary to articles 13 and 20 of the Constitution and was therefore abolished; and (2) a draft law regulating the same issues would be discussed at the Parliament in October 2020. The Committee notes the Government's statement in its reply that, further to the annulment of the existing regulation on "security investigation" and "archive screening" by the Constitutional Court, and in line with the Constitutional Court decision, works are under way to submit a new piece of legislation to the Parliament as of October 2020, and the objections put forward by the KESK lack any legal basis. The Committee notes that the Government recalls that, in accordance with article 3(3) titled "Basic principles" of the Law No. 657 on Civil Servants, "the State is to base the entry into public service duties, the progress and promotion within the classes and the termination of duty on the merit system and to ensure that the civil servants have security in the implementation of this system with equal opportunities" and that entering the public office and promoting to senior management is based on merit. ***The Committee takes due note of the abolishment of Presidential Decree No. 225 published on 25 October 2018 and firmly hopes that the new piece of legislation announced by KESK and the Government will ensure that recruitment in the public sector is taking place without discrimination based on the grounds set out in the Convention, in***

particular political opinion. The Committee asks the Government to provide information on any development in this regard in law and in practice, including any procedure of "security investigation" and "archive screening" put in place by the future regulation. The Committee also asks the Government to ensure that persons alleging discrimination in recruitment and selection in the public sector have effective access to adequate procedures to review their case and to appropriate remedies. The Government is asked to provide information on any existing procedure allowing for an appeal against a negative decision in the recruitment process, the number and outcome of such appeals, and the effective implementation of court decisions relating to discrimination in recruitment and selection in the public sector.

Articles 1 and 2. Protection of workers against discrimination in recruitment. Legislation. For a number of years, the Committee has been referring to the fact that section 5(1) of the Labour Code, which prohibits any discrimination based on language, race, sex, political opinion, philosophical belief, religion and sect, or similar reasons in the employment relationship, does not prohibit discrimination at the recruitment stage. The Committee notes with ***satisfaction*** the adoption, in April 2016, of the Law on the Human Rights and Equality Institution of Turkey (Law No. 6701) which, in article 6, prohibits discrimination on the basis of gender, race, colour, language, religion, faith, sect, philosophical or political opinion, ethnic origin, wealth, birth, civil status, medical condition, disability or age, during the application, recruitment and selection processes, in employment and for termination of employment, and with respect to job advertisements, working conditions, vocational guidance, access to vocational training, retraining, on-thejob training, "social interests and similar subjects". According to article 6(3) of the Law, it is prohibited for employers or their representatives to reject a job application due to pregnancy, motherhood or childcare. The Committee notes that labour contracts or contracts for services which are excluded from the scope of labour legislation, and self-employment are covered by the provisions of article 6 of Law No. 6701. The Committee also welcomes the inclusion of employment in public institutions and organizations within the scope of this article. ***The Committee asks the Government to provide information on the application in practice of article 6 of Law No. 6701 and, in particular, to indicate if any complaints by workers or any labour inspection reports were made under article 6, and their outcome.***

Article 2. Non-discrimination. Equality between men and women. Vocational education and training and public and private employment. The Committee recalls that in its previous comments, it underlined the need to promote the access of women to adequate education and vocational training and to increase their participation in the labour force and in the public sector. With respect to the employment of women in the public service, the Committee notes the Government's indication that their participation has substantially increased due to temporary arrangements regarding working time and unpaid leave made available to mothers and fathers. As regards the private sector, it further notes that, according to the labour force statistics of February 2019, the labour force participation rate for women was 34 per cent (against 33.3 per cent in February 2018). The Committee welcomes the detailed information provided by the Government in its report, on the numerous programmes, projects, measures and activities developed and implemented with a view to promoting gender equality, including awareness-raising initiatives to fight against gender stereotypes and violence against women, strategies to reconcile work and family responsibilities such as the development of kindergartens and the provision of support for child care, vocational training programmes for women in non-traditional fields, and on-the job and entrepreneurship training programmes. The Committee notes that the Government also mentions the adoption of a Women's Employment Action Plan (2016–18) within the framework of the programme entitled "More and better jobs for women: Women's empowerment through decent work in Turkey" implemented jointly by the ILO and the Turkish Employment Agency (ISKUR) and financed by the Swedish International Development Agency (SIDA). The Government adds that the Action Plan aims to increase women's vocational skills and their means of access to the labour market and that 81 Provincial Gender Representatives, who received gender training, were appointed to monitor and report on its implementation together with the staff of ISKUR. The Committee also notes from the observations made by the TİSK that, according to the labour statistics, "one of the issues that needs to be addressed in order to facilitate the access of women to the labour market is education". The TİSK adds that, given the large number of women employed in the informal economy – in particular in agriculture – "priority must be given to the policies which will decrease undocumented

work or informal employment of working women". The TİSK further points out that one of the main obstacles for women entering employment and on progressing in their career is the difficulties they face in reconciling work and domestic duties and that, despite the efforts made, there are not enough childcare institutions. The Committee notes the TÜRK-IS's allegations that, despite all the legal measures and policies put in place against discrimination, examples of differential treatments are still reported in practice. According to the TÜRK-IS, while the rights of pregnant women are regulated by law, women face the threat of dismissal from their employers when they fall pregnant or when they request to use lawful maternity leave, in particular in the private sector. The organization also raises concern regarding the new post-natal leave that would directly turn the way women work into long-term low paid jobs or part time working. In addition, the Committee notes the allegations by the KESK that equality between men and women is still a problem in the public sector since current policies and practices lead to discrimination and the Government's policies affect women very deeply, with an objective to keep them away from public, social, economic and professional life. It further alleges that the participation rate of women in the public sector is 38 per cent while it is 62 per cent for men, and women are channelized into some positions and sectors, such as health, social services and education that are considered suitable for women. Moreover, being a woman public officer means there are certain social and professional barriers and, as a result, only 8 per cent of higher and managerial posts are held by women. There are about 650,000 women teachers but only 25 women out of 1,299 senior managers in the Ministry of Education (1.9 per cent). The KESK adds that, according to official figures, the participation rate of women in the labour force was 29.7 per cent in May 2020 while it was 34.4 per cent one year before, corresponding to 1.3 million fewer women. According to the KESK, although it is a fact that there was a decrease in the employment rate due to the COVID-19 pandemic, this deeply affects women. The Committee notes the Government's statement in its reply that it is of great importance that women become individually and socially stronger, have more qualified education opportunities, enhancing their efficiency in decision-making mechanisms, increasing their employment level by facilitating their entry into the labour market, providing their social security, increasing the number of women entrepreneurs and creating more added value in the economy. The Government adds that empowering women in the labour market and increasing their participation in working life are among its main priorities and recalls the investments made in the private sector in crèches, day-care centres and pre-school education. The Committee welcomes the information provided by the Government regarding the quantitative targets established in the "Women section" of the 11th Development Plan (2019–2023). Through the provision of guidance services and subsidies to female entrepreneurs, the development of digital environments and cooperatives and the promotion of training in non-traditional fields, it is expected to increase: (1) the female labour force participation rate to 38.5 per cent; (2) the female employment rate to 34 per cent; (3) the rate of women in self-employment to 20 per cent; and (4) the rate of women employers to 10 per cent. The Committee also welcomes the adoption of the "Strategy Paper and Action Plan on Women's Empowerment" to cover the period 2018–2023, which is built on the following five elements: awareness of women of their own value; the right to have options and to choose among them; the right to access opportunities and resources; the right to have the power to control their own lives inside and outside the home; and their ability to influence the direction of social change in order to create a fairer social and economic order at national and international level. The Committee notes that it is envisaged in this framework to conduct an assessment of the legislation on the labour market in a way to ensure women's empowerment and making necessary improvements for effective implementation as well as studies for the employment of women in professions that are not limited to traditional employment areas and more generally various measures to tackle occupational segregation. The Government also emphasizes the improvement of the female labour force participation and the female employment rates between 2002 and 2019 (respectively from 27.9 to 34.4 per cent and from 25.3 to 28.7 per cent). The Committee notes that, in its concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern about "the persistence of deep-rooted discriminatory stereotypes concerning the roles and responsibilities of women and men in the family and in society", which "overemphasize the traditional role of women as mothers and wives, thereby undermining women's social status, autonomy, educational opportunities and professional careers". The CEDAW also noted with concern that "patriarchal attitudes are on the rise within State authorities and society" and expressed concern "about the high dropout rate and under-representation among girls and women in vocational training and higher education, in particular in deprived rural areas and refugee communities" (CEDAW/C/TUR/CO/7,

25 July 2016, paragraphs 28 and 43). ***Noting the encouraging developments regarding the promotion of gender equality in employment but also the very slow increase in the labour force participation rates of women, the Committee asks the Government to step up its efforts and continue taking specific proactive measures, including within the framework of the "Strategy Paper and Action Plan on Women's Empowerment" (2018–2023), the 11th Development Plan (2019–2023) and the ILO–ISKUR–SIDA programme, to promote the access of women to adequate education and vocational training and to formal and paid employment, including to higher level positions. The Committee also asks the Government to provide information on the implementation of the quantitative targets in the "Women section" of the 11th Development Plan and the results of any assessment of the legislative framework concerning women's employment and the conclusions of any studies conducted in the field of gender occupational segregation. The Committee asks the Government to adopt proactive measures to actively combat persistent gender stereotypes and stereotypical assumptions regarding women's aspirations, preferences and capabilities and "suitability" for certain jobs or their interest or availability for full-time jobs and their role in society. The Committee also asks the Government to continue to take steps to enable both men and women to reconcile work and family responsibilities, including through the development of childcare and family facilities and support and by the removal of administrative obstacles to which the Government refers in this regard. Finally, the Committee asks the Government to provide its comments in reply to the TÜRK-IS' allegations regarding dismissal or threats of dismissal of pregnant women because of their pregnancy or taking full maternity leave.***

Dress code. The Committee welcomes the Government's indication that further to the amendment in 2013 and 2016 of the Regulations on the dress code of personnel employed in public institutions, security organizations and armed forces, women working in these institutions and organizations are now allowed to work with a headscarf. The Committee hopes that the Government will continue to ensure that all persons working in public institutions, security organizations and armed forces continue to enjoy protection against religious discrimination on the basis of a dress code.

The Committee is raising other matters in a request addressed directly to the Government, which reiterates the content of its previous request adopted in 2019.

Workers' Representatives Convention, 1971 (No. 135) (ratification: 1993)

The Committee takes note of the supplementary information provided by the Government in light of the decision adopted by the Governing Body at its 338th Session (June 2020). The Committee proceeded with the examination of the application of the Convention on the basis of the supplementary information received from the Government this year, as well as on the basis of the information at its disposal in 2019.

Article 1 of the Convention. Massive dismissals of public servants. The Committee had previously noted that following the coup attempt in July 2016, a great number of public servants, including an unknown number of trade union representatives, were dismissed on the basis of emergency decrees. In these circumstances, the Committee had requested the Government to ensure that workers' representatives were not dismissed on the basis of their status or activities as a workers' representative or of their union membership or participation in union activities, in so far as they acted in conformity with existing laws. In case of existence of grounds to believe that a workers' representative had been involved in illegal activities, the Committee had requested the Government to ensure that all guarantees of due process were fully afforded. The Committee had further requested the Government to provide statistical information on the number of union representatives affected by the dismissals and suspensions based on emergency decrees. The Committee had noted the establishment, for a two year period, of an ad hoc Inquiry Commission to review the dismissals based on the state of emergency decrees and, in this respect, noted with concern that the Commission would have to deal with a very significant caseload in a relatively short period of time. The Committee had requested the Government to ensure that the Inquiry Commission was accessible to all dismissed workers' representatives who desire its review, and that it was endowed with the adequate capacity, resources and time to conduct the review process promptly, impartially and expeditiously. The Committee had further requested the Government to ensure that the dismissed workers' representatives did not bear alone the burden of proving that the dismissals were discriminatory, by requiring the employers or the relevant authorities to prove that the decision to dismiss them was justified based on other grounds. Finally, the Committee had requested the Government to provide statistical information on the number of applications lodged and processed in the Inquiry Commission and administrative courts by affected workers' representatives and to indicate the outcome of those procedures.

The Committee noted the Government's indication in its 2019 report that the dismissal of public servants from public service, which may include some trade union representatives, by the state of emergency decrees, was based on the grounds of their membership, affiliation or connection to terrorist organizations, following the coup attempt in 2016. The Government reiterated that after the coup attempt, it issued state of emergency decrees to eliminate the influence of terrorist organizations, such as Fethullahist Terrorist Organization (FETO), Kurdistan Workers' Party (PKK) or ISIS (DAISH). According to the Government, these terrorist organizations, in particular the one that perpetrated the said coup attempt to overthrow the democratically elected legitimate government in Turkey, established themselves within the state structure of the central and local government institutions and agencies, particularly in the armed forces, police, judiciary and educational institutions. The Government further reiterated that public servants are obliged, on the one hand, to carry out their duties with loyalty to the Constitution and the existing laws, in a manner respecting the principles of neutrality and equality, while on the other, not to join or assist any movement, group, organization or association that carry out illegal activities. It pointed out that being a public servant or a trade union member or representative or even a trade union officer does not ensure immunity from prosecution for illegal activities. The Government further explained that dismissal or suspension procedures of the public servants who were deemed to be member or affiliate of or in liaison or cohort with the terrorist organizations or the structures, entities or groups that were considered by the National Security Council as operating against the national security of the State were conducted in conformity with the provisions of the State of Emergency Act No. 2935, Civil Servants Act No. 657 and the Decrees with the force of law. The Government referred in this respect to the decision of the Constitutional Court of Turkey in a case involving the dismissal of two members of its court: "although the coup attempt was de facto prevented, taking measures in order to eliminate the dangers against the democratic constitutional order, fundamental rights and freedoms and national security, and to prevent future

attempts is not only within the scope of the state's authority, it is also a duty and responsibility towards individuals and society that cannot be postponed […] in some cases, it may not be possible for the state to eliminate the threats against democratic constitutional order, fundamental rights and freedoms and national security through ordinary administrative procedures. Accordingly, it may be necessary to impose extraordinary administrative procedures until these threats are eliminated".

The Government explained that the Inquiry Commission was established to ensure that those affected by the state of emergency decrees enjoyed due process of law. Public servants dismissed directly by a decree with the force of law could apply to the Commission and the applicants whose application was rejected by the Commission could bring their case to the competent administrative courts. The Government reiterated that a dismissal through a decree with the force of law was a measure applied only during the state of emergency and all of the judicial recourse avenues are open against the decisions of the Inquiry Commission through the judicial system, including the Constitutional Court of Turkey and the European Court of Human Rights. The Inquiry Commission's period of office is renewable by one year after the initial two-year period. Hence, the operation of the Commission will continue until its work has been fully carried out. All dismissed public servants, including trade union representatives, have the right to apply to the Inquiry Commission for a review of their dismissals; the only exception being the members of the judiciary whose application should be made to the judicial bodies indicated in the relevant decree and law. The Commission's activities can be followed by the public through its announcements on its web page. The Government emphasized that the Commission undertook its work with no other intention than to protect the democratic constitutional order, the rule of law and the rights of individuals and works in a transparent manner respecting the rights of individuals. According to the Government, due process of law was functioning well and every dismissed public servant had access to legal remedies.

The Government further explained that following the examination, the Commission may dismiss or accept the application. In case of acceptance of the application concerning those who were dismissed from the public service, profession or organization, the decision is notified to the public organization/institution where the applicant was last employed for his/her reinstatement within 15 days. In case of a rejection, the applicant can have recourse to the competent administrative courts. With regard to burden of proof, the Commission demands from the relevant institution to submit the documents and information showing the applicant's membership, affiliation or connection to a terrorist organization. If no such document and information is provided and no investigation or prosecution exists about the applicant, then the Commission accepts the application for reinstatement. The decisions of the Commission are transmitted to the relevant institution or organization, which then appoints the person whose reinstatement was pronounced. The Council of Judges and Prosecutors may bring an annulment action before the Ankara Administrative Court against the decision of the Commission and the relevant institution or organization within a period of 60 days as from the date of notification of the decision. The Committee notes in this respect that in its supplementary report, the Government indicates that six Ankara Administrative courts are designated to deal with annulment cases.

The Committee further notes that in its supplementary report, the Government reiterates that apart from its seven members, the Commission employs a total of 250 persons, 80 of whom are judges, experts and inspectors employed as rapporteurs. Following the establishment of a data processing infrastructure for the application process, the information on the applications received from 20 institutions and organizations has been recorded in this system. The Government further indicates that a total of 490, 000 files, including personnel files, court files and former applications, have been classified, registered and archived.

The Government informs that 131,922 measures were taken through the state of emergency decrees, including the dismissal from public service of 125,678 persons. As of 2 October 2020, the Commission pronounced itself on 110,250 applications out of 126,200 applications received; 16, 050 applications are still pending. Among these 110,250 applications for which a decision was made, 12,680 were accepted for reinstatement and 97,570 were rejected.

The Committee recalls that the Government had previously indicated that no statistical information is available on the number of trade union representatives affected and the number of applications to the courts.

The Committee recalls that *Article 1* of the Convention requires the effective protection of workers' representatives against dismissals based on their activities as a workers' representative or on union membership or participation in union activities, in so far as they act in conformity with existing laws or collective agreements or other jointly agreed arrangements. The Committee further recalls that in this respect that it had requested the Government to ensure that the dismissed workers' representatives did not bear alone the burden of proving that the dismissals were discriminatory. ***While noting the updated information provided by the Government in this respect, the Committee once again requests it to provide further details on the handling of cases where workers' representatives allege before the Inquiry Commission or the administrative court that they were subject to a dismissal based on their legitimate trade union activity or affiliation***. The Committee notes with ***regret*** that no statistical information is available on the number of trade union representatives affected and the number of applications made by them to courts and points out that this information is crucial in order to assess whether the protection of workers' representatives afforded by the Convention is effectively ensured. ***Noting the detailed and updated information provided by the Government regarding the data processing system established for the purpose of the Inquiry Commission, the Committee urges the Government to take the necessary measures in order to ensure that it allows retrieving information on the number of trade union representatives affected. The Committee once again requests the Government to provide this information and to indicate, in particular, the number of trade union representatives reinstated following the decision of the Commission and the number of appeals to the administrative courts, as well as the outcome of such appeals.***

Radiation Protection Convention, 1960 (No. 115) (ratification: 1968)

Guarding of Machinery Convention, 1963 (No. 119) (ratification: 1967)

Maximum Weight Convention, 1967 (No. 127) (ratification: 1975)

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 2005)

Occupational Health Services Convention, 1985 (No. 161) (ratification: 2005)

Safety and Health in Construction Convention, 1988 (No. 167) (ratification: 2015)

Safety and Health in Mines Convention, 1995 (No. 176) (ratification: 2015)

Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) (ratification: 2014)

In order to provide a comprehensive view of the issues relating to the application of ratified occupational safety and health (OSH) Conventions, the Committee considers it appropriate to examine Conventions Nos 115 (radiation protection), 119 (guarding of machinery), 127 (maximum weight), 155 (OSH), 161 (occupational health services), 167 (OSH in construction), 176 (OSH in mining) and 187 (promotional framework for OSH) together.

The Committee takes note of the supplementary information on the ratified OSH Conventions provided by the Government in light of the decision adopted by the Governing Body at its 338th Session (June 2020).

The Committee also notes the observations of the Confederation of Public Employees' Trade Unions (KESK) on the application of Conventions Nos 155 and 161, received on 31 August 2020, the observations of the International Trade Union Confederation (ITUC) on the application of Conventions Nos 155, 167, 176 and 187, received on 16 September 2020, the observations of the Turkish Confederation of Employers' Associations (TISK) on the application of Conventions Nos 115, 119, 127, 155, 161, 167, 176 and 187, received on 29 September 2020, and the observations of the Confederation of Public Servants Trade Unions (MEMUR-SEN) on the application of Convention No. 155, communicated with the Government's supplementary report. In addition, the Committee notes the Government's responses to the observations of the ITUC and the KESK, received on 4 November 2020. The Committee proceeded with the examination of the application of Conventions Nos 115, 119, 127, 155, 161, 167, 176 and 187 on the basis of the supplementary information received from the Government and the social partners this year, as well as on the basis of the information at its disposal in 2019.

COVID-19 measures. The Committee notes the observations of the TISK concerning measures taken in response to the COVID-19 pandemic, including the dissemination of general and sector-specific OSH and COVID-19 information by the General Directorate of Occupational Safety and Health, and measures taken by employers' organizations and their member companies in the metal and textile sectors, such as the distribution of personal protective equipment. The Committee also notes the observations of the ITUC alleging that contagions and deaths due to COVID-19 have become worryingly predominant in factories. In this regard, the ITUC refers to: (i) the situation in a fish company where more than 1,000 employees allegedly work without preventive measures; and (ii) the alleged lack of preventive and protective measures for workers in the construction sector, and the dismissal of workers who raise concerns about OSH issues. The Committee notes the Government's response to the ITUC's observations regarding the actions it has taken in the COVID-19 context, including legislative changes and the provision of guidance materials, taking into account comparative practices. The Government states that necessary procedures regarding certain complaints duly made by employees have been carried out by the competent authorities. ***The Committee requests the Government to continue to provide information on the developments in this respect, including on the measures taken to ensure the application in practice of the ratified OSH Conventions in the COVID-19 context.***

It notes the observations of the TISK, communicated with the Government's report in 2019 on Conventions Nos 115, 119, 127, 155, 161 and 187.

Articles 2, 3, 4(3)(a) and 5 of Convention No. 187, Articles 4, 7 and 8 of Convention No. 155, Article 1 of Convention No. 115, Article 16 of Convention No. 119, Article 8 of Convention No. 127, Articles 2 and 4 of Convention No. 161, Article 3 of Convention No. 167 and Article 3 of Convention No. 176. Continuous improvement of occupational safety and health in consultation with the most representative organizations of employers and workers and the national tripartite advisory body. National OSH policy and programme. The Committee previously noted the Government's indication that the tripartite National Occupational Safety and Health Council (National OSH Council) met twice a year, and had the objective of advising the Ministry of Family, Labour and Social Security and the Government on developing policies and strategies to improve OSH conditions. It also noted the adoption of the National OSH Policy (III) and National Action Plan for the period 2014–18, which included objectives related to the development of an occupational accident and disease statistics and recording system and the improved performance of occupational health services.

The Committee notes with ***concern*** the Government's indication in its report that the last meeting of the National OSH Council was held in June 2018 and that the review of the National OSH Policy and Action Plan for 2014–18, and the adoption of a new OSH Policy and Action Plan for 2019–23, are still pending. The Committee recalls that the previous Regulations on the National OSH Council of 2013 specified that its composition included 13 representatives from the social partners (and 13 from public institutions), and it notes the Government's indication that, pursuant to Decree-Law No. 703 of 2018, the National OSH Council will be reorganized and its new members will be nominated by the President. In this regard, the Committee notes the concerns of the KESK that there have been no meetings of the National OSH Council since 2018, which is confirmed by the Government's response. The Committee also notes the MEMURSEN's observation regarding the need for social dialogue mechanisms to establish a schedule of occupational diseases. The Government also provides information, in response to the Committee's request, on the progress achieved with respect to the annual performance indicators in each of the seven objectives set out in the National Action Plan 2014–18. The Committee further notes the Government's reference to tripartite meetings and consultations with sector representatives in the construction and mining sectors, and the observations made by the TISK on the application of Convention No. 155 stating that steps are being taken to improve social dialogue in the area of OSH. The Committee nevertheless notes the KESK's observation that the National Action Plan 2019–23 has yet to be adopted. ***The Committee requests the Government to provide information on the review undertaken of the National OSH policy and Action Plan for the period 2014–18, including the evaluation of the progress made with the performance indicators. It requests the Government to provide information on the formulation and adoption of a new OSH policy and programme for the subsequent period. It requests the Government to provide information on the consultations held with the most representative organizations of employers and workers in this respect. The Committee further requests the Government to provide information on the re-establishment of the National OSH Council and to indicate if it includes representatives of employers' and workers' organizations. Finally, the Committee requests the Government to provide its comments in respect of the MEMUR-SEN's observations on the need to establish a schedule of occupational diseases in consultation with social partners.***

Articles 2 and 3 of Convention No. 187 and Article 4 of Convention No. 155. Prevention as the aim of the national policy on OSH. In its previous comments, the Committee noted the proposed measures in the National OSH Policy Document III (2014–18) to reduce occupational accidents in the metal, construction and mining sectors.

The Committee welcomes the detailed information provided by the Government, in response to its request, on the application in practice of Conventions Nos 167 and 176, including the number of occupational accidents and fatal occupational accidents. The Committee notes the Government's indication that, while desired levels in the performance indicators in the National Policy Document III (2014–18) have not been reached, efforts to reduce occupational accidents and occupational diseases continue. The Government states that there are plans to revise the relevant targets and indicators in the preparation of the 2019–23 Action Plan to provide for more effective actions, after the restructuring of the National OSH Council. In this regard, the Committee also welcomes the information provided by the Government concerning several activities in the construction sector to reduce occupational accidents and the Government's reference to the imminent launch of a major project to improve OSH

in the mining sector. In addition, the Committee notes the observations of the TISK concerning the publication of two communications on major industrial accidents in June and July 2020. The Committee notes, however, with ***concern*** the Government's indication that, in 2017, there were 587 fatal occupational accidents in the construction sector and 86 such accidents in the mining sector. The Committee also notes that, according to the ITUC, the number of fatal occupational accidents has increased in 2020 compared to 2019, with the main causes of fatalities being crush syndrome, traffic-related incidents and falls. In this respect, the Committee notes the Government's response that the number of accidents should not be examined in isolation, but should be evaluated over the years, against OSH conditions and the number of employees in the country. The MEMUR-SEN also alleges the existence of insufficiencies regarding various aspects of the national OSH system, and a high number of industrial accidents per day. ***The Committee requests the Government to provide its comments in respect of the MEMUR-SEN's observations. The Committee also requests the Government to continue to take measures to reduce occupational accidents in the sectors and workplaces where workers are particularly at risk (particularly in the metal, mining and construction sector and where workers use machinery). It requests the Government to continue to provide detailed information on the number of occupational accidents, including fatal occupational accidents, in all sectors and workplaces. It also requests the Government to provide information regarding occupational diseases, including the number of cases of occupational disease recorded disaggregated, if possible, by sector, age group and gender.***

The Committee is raising other matters in a request addressed directly to the Government.

[The Government is asked to reply in full to the present comments in 2021.]

Minimum Age Convention, 1973 (No. 138) (ratification: 1998)

The Committee takes note of the Government's report and the supplementary information provided in light of the decision adopted by the Governing Body at its 338th Session (June 2020).

The Committee notes the observations of the Turkish Confederation of Employers' Associations (TİSK) communicated with the Government's report.

Article 1 of the Convention. National Policy designed to ensure the effective abolition of child labour and application of the Convention in practice. In its previous comments, the Committee noted that the Time Bound National Policy and Programme Framework for Prevention of Child Labour (2005-2015) was in the process of being updated, and therefore requested the Government to provide information in this regard, as well as to strengthen its efforts to ensure the elimination of child labour.

The Government indicates in its report that the Time Bound National Policy and Programme Framework for Prevention of Child Labour 2005-2015 was renewed in 2016 under the name "National Programme on the Elimination of Child Labour", which has been implemented since March 2017, for the period 2017-2023. The main objective of this Programme is to prevent and eliminate child labour, especially the worst forms of child labour. It includes comprehensive measures such as measures to eradicate poverty, to improve the quality and accessibility of education, and to enhance awareness. The Government further indicates that the Monitoring and Evaluation Board for Eliminating Child Labour, which meets twice a year, is responsible for monitoring and evaluating the National Programme and its Action Plan.

The Committee notes the statement in the communication of TISK that the Action Plan associated with the National Programme on the Elimination of Child Labour 2017-2023 contains, in addition to the above measures, measures aimed at implementing and updating legislation; strengthening existing institutional structures and creating new ones; and widening the social protection and social security net. TISK also indicates that a Joint Declaration to Combat Child Labour has been signed by six ministries including the Ministry of Family, Labour and Social Services, seven social partners, and the ILO, in order to ensure that all children are protected from child labour and its worst forms, through access to education, employment of adult family members, and the extension of social protection. In addition, TISK indicates that in the framework of the National Employment Strategy Action Plans (2014-2023), it is provided, inter alia, that (i) annual plans will be developed to combat child labour; (ii) activities will be organised to raise awareness on child labour at the national and local levels, including among families; and (iii) a monitoring system on child labour will be set up to ensure coordination.

In its report formulated under the Worst Forms of Child Labour Convention, 1999 (No. 182), the Government indicates that units for combating child labour were established in 81 provinces under the Provincial Directorates of Labour and Employment Agency.

The Government states in its supplementary information that a survey on child labour has been conducted by the Turkish Statistical Institute and was published on 31 March 2020. The Committee notes from this survey (Statistics on Child 2019 of the Turkish Statistical Institute) that 146 000 children aged 5- 14 years, representing 1.1 per cent of this age group, were engaged in economic activities and that 28 per cent of these children (41 000) did not attend school. In addition, the Committee notes that 32 000 children aged 5-11 years, representing 0.4 per cent of this age group, were engaged in economic activities. Children worked in sectors including services and industry (pages 113, 114 and 116). ***While duly noting the Government's efforts, the Committee requests it to continue to take measures to ensure the progressive elimination of child labour in all sectors. It also requests the Government to provide information on the implementation of the National Programme on the Elimination of Child Labour 2017- 2023 and its Action Plan, as well as of the National Employment Strategy Actions Plans 2014-2023. Lastly, it requests the Government to provide information on the activities of the units to combat child labour as well as the results achieved.***The Committee is raising other matters in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee takes note of the Government's report and the supplementary information provided in light of the decision adopted by the Governing Body at its 338th Session (June 2020).

The Committee notes the observations of the Turkish Confederation of Employers' Associations (TİSK) communicated with the Government's report.

Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or practices similar to slavery. Sale and trafficking of children. The Committee previously urged the Government to take the necessary measures to ensure that the perpetrators of trafficking of children under 18 years of age were prosecuted, and that sufficiently effective and dissuasive penalties were applied in practice. It requested the Government to provide information on the number of prosecutions, convictions, and penalties imposed.

The Government indicates in its report that it introduced numerous administrative and legal measures to combat the trafficking of children under 18 years of age. It states that in the framework of a project to increase the organisational capacity of the women and children sections of the Gendarmerie General Command (2016-2020), training on child abuse and modern slavery were provided to the Gendarmerie staff. The Committee however observes the absence of information in the Government's report regarding the number of prosecutions, convictions and penalties imposed on perpetrators of trafficking of children.

The Committee notes the indication of the Group of Experts on Action against Trafficking in Human Beings of the Council of Europe (GRETA), in its report adopted on 10 July 2019 concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings in Turkey, that there are reports of refugee and migrant children, including Syrian children, sometimes unaccompanied, being trafficked or at risk of being trafficked for the purposes of sexual and labour exploitation, including begging, in the agricultural sector and in forced criminality (paragraphs 13 and 124). ***The Committee requests the Government to pursue its efforts to combat the trafficking of children under 18 years of age, including of migrant and refugee children, and to provide further information on the measures that have been taken in this respect. It once again requests the Government to provide information on the specific number of cases of trafficking of children identified, investigated, prosecuted and convicted, as well as the penalties imposed in this regard.***

Clause (d) and Article 4(1). Hazardous work and excluded categories of work. In its previous comments, the Committee noted that the Labour Law and the Child Employment Regulation excluded from their scope of application workers in businesses with less than 50 employees in the agricultural and forestry sector, construction work related to agriculture within the framework of the family economy, and domestic service. It noted that the Occupation Health and Safety Law (OSH Law) applied to all workers, including those excluded from the Labour Act, with the exception, inter alia, of domestic workers and selfemployed workers. The Government indicated that the Code of Obligations No. 6098 covered domestic service and provided for the obligation of the employers to ensure occupational health and safety at the workplace. The Committee pointed out that children working in the informal economy and the domestic and agricultural sectors constituted high-risk groups who were usually outside the normal reach of labour controls and vulnerable to hazardous working conditions. It urged the Government to ensure that all children under 18 years of age were protected from hazardous work, including those working outside a labour relationship or out of the normal reach of labour controls.

The Government indicates that children working in heavy and hazardous work in Small and MediumSized Enterprises were determined as one of the primary target groups of the National Programme on the Elimination of Child Labour (2017-2023) (National Programme). The Committee notes the statement in the communication of TISK that children working on the streets, as well as in agricultural work other than family work and itinerant and temporary agricultural jobs were also determined as priority target groups by the National Programme. This National Programme provides for the modification of the scope of provisions of the Labour Law and the Regulation on Working Conditions in Works Counted as Agriculture and Forestry to cover children working in seasonal agricultural works and enterprises in which

the number of workers is 50 or below. The Committee notes that the National Programme also provides for the modification of the Child Employment Regulation in this regard. The National Programme has determined work on the streets, heavy and hazardous work in Small and Medium-Sized Enterprises, and mobile and temporary agricultural work, except for family business, as worst forms of child labour in the country. The National Programme underlines that child labour in seasonal mobile and temporary agricultural labour is one of the most hazardous sectors in terms of occupational diseases and work accidents (page 21). Most children work on a seasonal basis, for four to seven months, leaving their homes to work notably in plant production work such as weeding, cleaning, harvesting, in extreme hot and humid environments. They are exposed to dangers caused by chemical substances, bug bites, back pain, hazards of machinery and equipment, long working hours, and heavy load lifting. In addition, a child's vulnerability to violence, neglect and abuse can be increased by agricultural work and seasonal agricultural migration (pages 33 and 34).

The Committee also notes, from the Government's supplementary information, that according to the Statistics on Child 2019 of the Turkish Statistical Institute, published on 31 March 2020, 720 000 children aged 5–17 years were engaged in economic activities, including 30.8 per cent in agriculture. The survey indicates that the risk of accident concerns 6.4 per cent of children engaged in economic activities. On average, 9.1 per cent of children aged 5–17 years engaged in economic activities were exposed to factors negatively affecting their physical health, such as: working in extremely hot/cold weather or in an excessively humid environment for 12.9 per cent of these children; exposure to chemicals, dust, fumes, smoke or gases for 10.8 per cent of these children; as well as working in difficult work postures or work movements and handling heavy loads for 10.1 per cent of these children (page 119). ***The Committee therefore once again urges the Government to ensure that all children under 18 years of age are protected from hazardous work, including in the agricultural sector, and to provide information on any progress made in this regard. It also requests the Government to provide information on any eventual modification provided for by the National Programme on the Elimination of Child Labour of the scope of the provisions of the Labour Law and related Regulations to cover children working in seasonal agricultural works and enterprises in which the number of workers is 50 or below.***

Articles 5 and 7(2). Monitoring mechanisms and effective and time-bound measures. Children working in seasonal hazelnut agriculture. The Committee previously took note of a Pilot Project on the Prevention of the Worst Forms of Child Labour in Seasonal Hazelnut Agriculture until 2018, as well as a Pilot Project on "Testing United States Department of Agriculture's Application Proposals in Hazelnut Supply in Turkey", carried out in collaboration with the ILO. It further took note of the Circular "Access to education for the children of seasonal agricultural workers, migrants and semi-migrant families" of 2016, providing for concrete measures regarding the provision of education to the children of migrant workers and semimigrant families engaged in seasonal agricultural work, in order to protect them from child labour. The Committee however noted the absence of labour inspection activities covering seasonal agricultural work, in particular the activity of hazelnut picking, between 2013 and 2016, and requested the Government to strengthen the capacity and expand the reach of the labour inspectorate in agriculture. It also requested the Government to continue its efforts to ensure that children under 18 years of age are not engaged in hazardous work in the agricultural sector, particularly in seasonal agricultural work and the nut harvest.

The Government indicates that a project entitled "Seasonal Agricultural Workers Project" (METIP) has been developed to eliminate the problems faced by seasonal agricultural workers and their families, including directing their children to education instead of work, and is being carried out successfully. In the framework of this project, a Seasonal Agricultural Information System (e-METIP) has been established within the Ministry of Family, Labour and Social Services in cooperation with the Ministries of Interior, Health and National Education, in order to monitor seasonal agricultural workers, their children, and their children's school attendance when they are of compulsory school age. As a result of this monitoring, absenteeism has decreased significantly. The Government further indicates in its supplementary information that the children of families working in seasonal agriculture were 21,023 attending school in the academic year 2017–18, 16,247 in 2018–19, and 15,581 in 2019–20 (in the latter academic year, the COVID-19 Pandemic should be taken into account).

The Government also indicates that the project carried out in cooperation with the ILO, entitled "Integrated Model for the Elimination of the Worst Forms of Child Labour in Seasonal Agriculture in Hazelnut Harvesting in Turkey" and implemented in the provinces of Ordu, Düzce, Sakarya and Şanlıurfa, was extended until 2020. It states that training and awareness-raising activities were carried out for families, garden owners and employers, and that many children working in seasonal agriculture were withdrawn from work and directed to education.

The Committee notes the ILO's information that, in the framework of the "Integrated Model for the Elimination of the Worst Forms of Child Labour in Seasonal Agriculture in Hazelnut Harvesting in Turkey", 1,022 children were withdrawn or prevented from work through provision of education services during the hazelnut harvesting season of 2018. In addition, children in the seasonal agriculture were provided with on-site education, guidance, counselling and rehabilitation services within social support centres during the hazelnut harvesting seasons in 2018 and 2019 in target provinces of Ordu, Düzce and Sakarya. ***Taking due note of the measures taken by the Government to reduce child labour in seasonal hazelnut agriculture, the Committee requests it to continue to provide information on the activities and results of the various projects implemented to reduce child labour in seasonal hazelnut agriculture, including information on the activities and results of the social support centres. Noting the absence of information regarding the activities of the labour inspectorate in agriculture, the Committee requests the Government to take the necessary measures to enable labour inspectors to have access to the sites where seasonal agricultural work is carried out, particularly hazelnut harvesting, in order to ensure that children under 18 years of age are not engaged in hazardous work in seasonal hazelnut agriculture.***

Article 7(2). Effective and time-bound measures. Clause (b). Provide the necessary and appropriate assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Child victims of trafficking. The Committee previously noted that the 2016 Regulation on Combatting Human Trafficking and Protection of Victims provided for measures to protect and assist child victims of trafficking. In particular, it provided for the presence of psychologists or social workers during interviews with child victims, for the handling of these children by the relevant units of the Ministry of Family, Labour and Social Services, and for access to education services as well as a voluntary and safe return programme for these children. The Committee requested the Government to continue its efforts to provide the necessary and appropriate direct assistance to child victims of trafficking, including their rehabilitation and social integration, and to provide information on the results achieved.

The Government indicates that it closely works with civil society to assist and protect child victims of trafficking. It specifies that in 2016, 33 victims of trafficking under the age of 18 were identified, 36 in 2017 and 56 in 2018. In addition, the Government indicates in its supplementary information that between January and June 2019, 37 child victims of trafficking were identified. It states that victim identification procedures, which are provided for in the Regulation on Combating Human Trafficking and Protection of Victims, are carried out by the Provincial Directorates of Migration Management. The Government further indicates measures that is has taken to protect unaccompanied minors, such as the establishment of Child Support Centres of the Ministry of Family, Labour and Social Services, which provide support and assistance to unaccompanied children aged 13–18 years of age. The Government also indicates, in its supplementary information, that it has established a Department of Legal Support and Victim Rights as one of the main units of the Ministry of Justice, which aims to support all victims of crime, including victims of trafficking, especially children, as well as to provide them with guidance and to prevent repeated victimization. In this framework, Forensic Support and Victim Services Directorates have been set up and are currently operating in 99 courthouses. The Government indicates that "forensic interview rooms" are in place in 72 courthouses, to ensure that child victims are interviewed in an appropriate environment. The Government adds that, in the framework of various projects carried out in partnership with international organisations in the field of trafficking in persons, two field studies on child trafficking are envisaged.

The Committee takes note of TISK's statement under the Forced Labour Convention, 1930 (No. 29), according to which the Coordination Commission on Combatting Human Trafficking has been established under the Regulation on Combatting Human Trafficking and Protection of Victims, and has decided to create a working group on children. The Committee further notes the indication of the GRETA, in its abovementioned report adopted on 10 July 2019,

that according to the Turkish authorities, the working group on children met in September 2018 and decided that staff dealing with child victims should be provided with awareness-raising activities and training (paragraph 29). The GRETA also indicated that pursuant to the above-mentioned Regulation, child victims of trafficking were referred to the relevant units of the Ministry of Family, Labour and Social Services (paragraph 33). ***The Committee requests the Government to continue its efforts to ensure that child victims of trafficking are removed from this worst form of child labour, rehabilitated and socially integrated. The Committee also requests the Government to provide information on the concrete activities of the units of the Ministry of Family, Labour and Social Services responsible for the care of child victims of trafficking, as well as the measures that have been taken by the working group on children of the Coordination Commission on Combatting Human Trafficking. Lastly, the Committee requests the Government to provide information on the activities of the Department of Legal Support and Victim Rights and its Directorates to support child victims of trafficking, and to provide copies of any studies that have been carried out on child trafficking.***

The Committee is raising other matters in a request addressed directly to the Government.