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OFICINA INTERNACIONAL DEL TRABAJO



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TUR 1-202

Mr. Abdulkadir I. Isa,  
National President of Customs &  
Excise and Immigration Staff Union  
(CEIMSU),  
C/o Nigeria Immigration Service,  
Borno State Command,  
P.M.B. 1013,  
MAIDUGURI  
Nigeria

29 SEP. 1999

Dear Sir,

I acknowledge receipt of your communication dated 18 July 1999 concerning an appeal for the abrogation of Decree No. 25 and of the amendment to section 11 of Decree No. 31 which was addressed to the Nigerian Speaker of the House and copied to the ILO. Due note has been taken of the information contained in your letter.

For your information, I have enclosed a copy of the latest observation made by the ILO Committee of Experts concerning the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), wherein the Committee of Experts has requested the Nigerian Government to take the necessary measures to amend its legislation so as to ensure the right to organize for certain categories of employees in the public service, such as the Customs and Excise Department (see point II. 1.(b)). I can assure you that the relevant supervisory bodies will continue to monitor this matter.

Yours faithfully

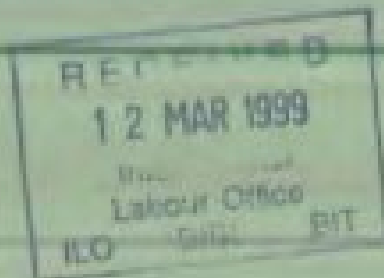
For the Director-General:

A handwritten signature in dark ink, appearing to read 'Bernard Gernigon', written over a vertical line.

Bernard Gernigon,  
Chief of the Freedom of Association Branch,  
International Labour Standards Department.

03661/3

International Labour Conference  
87th Session 1999



Report III  
(Part 1A)

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# Report of the Committee of Experts on the Application of Conventions and Recommendations

General report  
and observations concerning particular countries

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International Labour Office Geneva

Committee, the scope of this provision should be restricted only to cases in which a work stoppage may give rise to an acute national crisis or to public servants exercising authority in the name of the State, or also to essential services in the strict sense of the term, i.e. services the interruption of which would endanger the life, personal safety or health of the whole or part of the population (see 1994 General Survey on freedom of association and collective bargaining, paragraphs 158 and 163). The Committee requests the Government to indicate in its next report the measures taken or envisaged to guarantee, in law and in practice, respect for the principles of freedom of association in this regard. It also requests the Government to provide it, in future, with copies of the requisition orders adopted in case of strikes.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

#### *Nigeria (ratification: 1960)*

The Committee notes that a Commission of Inquiry was appointed at the 272nd Session of the Governing Body (June 1998) in respect of the non-observance by Nigeria of this Convention, as well as of Convention No. 98. It notes, however, that at the same session, the Governing Body decided that the commencement of the work of the Commission should be delayed for 60 days in order to allow a direct contacts mission to take place. The Committee notes that this direct contacts mission took place from 17 to 21 August 1998 and that the Governing Body at its 273rd Session (November 1998) took note of the report of the mission and decided to suspend the Commission of Inquiry. The Committee notes that according to the decision of the Governing Body, the report of the direct contacts mission has been transmitted to this Committee for examination, and it takes due note of this report.

1. 1. *The right of workers' organizations to elect officers in full freedom and to organize their administration and activities without government interference (Article 3 of the Convention).*

With reference to its previous comments, the Committee notes with satisfaction that Decrees Nos. 9 and 10 of August 1994 which dissolved the Executive Councils of the Nigerian Labour Congress (NLC) and of the National Union of Petroleum and Natural Gas Workers (NUPENG) and the Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN) were repealed on 11 August 1998 (with a commencement date of 20 July) by Repeal Decrees Nos. 13 and 14 respectively.

The Committee further notes a document entitled Resolutions and Communiqué Issued at the End of the Consultative Meeting between the Federal Government and the Representatives of the 29 Industrial Unions affiliated to the NLC held on 2 September 1998. The Committee notes that this meeting, "conscious of the urgent need to avoid a vacuum in the affairs of the Nigerian Labour Congress as a result of the repeal of Decree No. 9, and the urgent need to install democratically elected leaders of Congress", resolved to set up a presidium of six members drawn from the industrial unions and facilitated by the Permanent Secretary of the Federal Ministry of Employment, Labour and Productivity to conduct its affairs. Furthermore, it notes that this meeting agreed that the Ministry of Employment, Labour and Productivity should appoint a convenor to assist the Caretaker Committee and that the previous government-appointed sole administrator should hand over to this Caretaker Committee within two weeks. Finally, it notes that the meeting "reaffirmed the commitment of the 29 industrial unions to evolve a NLC that would be democratic and independent and urged the Federal Government to remove all obstacles towards achieving trade unions' independence and freedom".

The Committee notes with interest that it would appear that the government-appointed sole administrator is no longer managing the affairs of the NLC. Noting however that the Permanent Secretary of the Ministry of Employment, Labour and Productivity is presently

acting as a facilitator to the presidium set up to conduct the NLC's affairs and that the Ministry has been requested to appoint a convenor to assist the Caretaker Committee, the Committee would like to recall the consideration set forth in its 1952 Resolution that a stable, free and independent trade union movement is an essential condition for good industrial relations and should contribute to the improvements of social conditions generally. It also recalls that *Article 3* of the Convention provides that workers' organizations shall have the right to elect their representatives in full freedom and to organize their administration and activities without interference from the public authorities. The Committee therefore requests the Government to indicate in its next report any developments which have occurred in respect of the election of NLC officers to take over from the Caretaker Committee and the manner in which it is ensured that there is no interference from the Government in the functioning of the NLC.

2. *The right to organize for academic staff unions and associations (Article 2).*

With reference to its previous comments, the Committee notes with satisfaction that the Trade Disputes (Essential Services Deregulation, Proscription and Prohibition from Participation in Trade Union Activities) Decree No. 24 and the Trade Disputes (Essential Services) (Proscription) Order 1996 of 21 August 1996 which proscribed and prohibited the participation in any trade union activities of the Non-Academic Staff Union of Educational and Associated Institutions (NASU), the Academic Staff Union of Universities and the Senior Staff Association of Universities, Teaching Hospital, Research Institutes and Associated Institutions and dissolved the National Executive Council and the Branch Executive Councils operating within any university in Nigeria were repealed on 11 August 1998 (with a commencement date of 20 July) by Repeal Decree No. 12.

II. 1. *The right of workers to form organizations of their own choosing without previous authorization (Article 2)*

(a) *The restructuring of industrial unions: Decree No. 4 of 1996.* The Committee recalls that its previous comments concerned the restructuring of the previous 41 registered industrial unions into 29 trade unions affiliated to the Central Labour Organisation (named in the law as the Nigerian Labour Congress (NLC)) through the promulgation of the Trade Unions (Amendment) Decree No. 4 of 5 January 1996. It had observed that this Decree provided for the establishment of a determined number of trade unions for each occupational category according to a pre-established list further confirming the system of trade union monopoly established in section 33 of the Trade Unions Act of 1973, as amended. It had recalled that, under *Article 2* of the Convention, workers and employers should have the right to establish and join organizations of their own choosing. Noting from the direct contacts mission report that the Government has expressed the willingness to re-examine the whole trade union question in the country, including through revisiting Decree No. 4, in order to promote the observance of this Convention, the Committee requests the Government to indicate the measures envisaged to repeal this Decree and to amend the Trade Unions Act in order to ensure full compliance with *Article 2* of the Convention.

(b) *Restrictions on the right to organize by the Trade Unions Act, as amended.* In its previous comments, the Committee had pointed out that there were a number of discrepancies in the Trade Unions Act, as amended, in respect of the right for workers to form organizations of their own choosing without previous authorization. The Committee recalls the need to amend section 3(1) and (2) which sets the excessively high requirement of 50 workers to form a trade union and grants the Minister excessive control over the registration of trade unions. It further recalls the need to amend section 11 which denies the right to organize to certain categories of employees in the public service, such as the Customs and Excise Department, the Immigration Department, the Prison Services, the Nigerian Security Printing and Minting Company, the Central Bank of Nigeria and Nigerian

External Telecommunications, contrary to *Article 2* of the Convention. The Committee requests the Government to indicate the measures envisaged to amend the Trade Unions Act in respect of these matters in order to ensure full compliance with *Article 2*.

2. *The right to elect officers in full freedom, to organize their administration and activities and to formulate programmes without government interference (Article 3)*

(a) *Conditions of eligibility.* In its previous comments, the Committee had noted the need to amend sections 7 and 8 of the Trade Unions (Amendment) (No. 2) Decree No. 26 of 1996 which require officers of a trade union to be card-carrying members who in turn must be engaged in the trade or industry which the union represents under punishment of a fine and/or five years' imprisonment. It recalls in this respect that provisions requiring members of trade unions to belong to the occupation concerned coupled with a requirement that the officers of the organization be chosen from among its members entails a serious risk of interference by the employer through the dismissal of trade union officers with the aim of depriving them of their trade union office and is not in conformity with the organization's right to elect representatives in full freedom as it prevents qualified persons, such as full-time union officers or pensioners, from carrying out union duties or by depriving unions of the benefit of the experience of certain officers when they are unable to provide enough qualified persons from among their own ranks (see General Survey on freedom of association and collective bargaining, 1994, paragraph 117). Noting the willingness of the Government to review the whole trade union question, including Decree No. 26, the Committee requests the Government to indicate the measures envisaged to amend these provisions either by admitting as candidates persons who have previously been employed in the occupation concerned, or by exempting from the occupational requirement a reasonable proportion of the officers of an organization.

(b) *The imposition of compulsory arbitration.* In its previous comments, the Committee had recalled the need to amend the Trade Disputes Act, as amended, in so far as it permits the exercise of the right to strike to be restricted by means of imposing compulsory arbitration, under penalty of a fine or six months' imprisonment for any person failing to comply with a final award issued by the National Industrial Court. The Committee recalled the need to limit any possibility of imposing compulsory arbitration awards in respect of collective disputes to essential services in the strict sense of the term, that is to say, those the interruption of which would endanger the life, personal safety or health of the whole or part of the population, or to public servants exercising authority in the name of the State. It requests the Government to indicate in its next report, any measures envisaged in this respect.

(c) *The powers of the Registrar to supervise trade union accounts.* In its previous comments, the Committee had noted that sections 39 and 40 of the Trade Unions Act conferred on the Registrar broad powers to supervise the union accounts at any time and recalled the importance it placed on the right of workers' organizations to organize their administration and activities without interference from the public authorities. The Committee observed that supervision should be limited to the submission by a trade union of periodic reports and that interference should only be permitted in the case of lodged complaints and on the condition that there be a right to appeal to the competent authority. The Committee requests the Government to indicate the measures envisaged to amend these sections of the Trade Unions Act in order to ensure full conformity with the Convention in this regard.

3. *Cancellation of registration by administrative authority (Article 4)*

In its previous comments, the Committee had noted with concern that section 3 of the Trade Unions (Amendment) (No. 2) Decree No. 26 further extended the Minister's control over trade union registration by providing that decisions to cancel registration may only be appealed to the Minister. The Committee noted this with particular concern in the light of

further amendments made in this Decree which enabled the Minister, due to overriding public interest, to revoke the certificate of registration of any trade union specified in the Schedule to the Act (section 3) and under section 7, to revoke registration in the event that a non-card-carrying member assumes a functional role in any of the policy or decision-making organs.

Recalling that according to *Article 4 of Convention No. 87*, workers' and employers' organizations should not be liable to dissolution by administrative authority, the Committee requests the Government to amend Decree No. 26 by repealing the absolute authority of the Minister to cancel registration and by enabling workers and their organizations to appeal to the courts concerning any cancellation of registration.

#### *4. International affiliation (Articles 5 and 6 of the Convention)*

In its previous comments, the Committee recalled the need to repeal the Trade Unions (International Affiliation) Decree No. 29 of 1996 which annulled the international affiliation of the Central Labour Organization and all registered trade unions with any international labour organization or trade secretariat other than the Organization of African Trade Union Unity, the Organization of Trade Unions for West Africa and any other international labour organization for which a specific application had been made and approval given by the Provisional Ruling Council. Under this Decree, any subsequent international affiliation is subject to prior approval and any contravention may be punishable by up to five years' imprisonment and the certificate of registration of the offending trade union shall be revoked. Recalling that *Articles 5 and 6* provide that workers' organizations shall have the right to affiliate with the international organization of their own choosing, and noting from the direct contacts mission report the Government's indication that the matter of this Decree could also be addressed, the Committee requests the Government to indicate the measures envisaged to amend the legislation in order to ensure full conformity with these Articles of the Convention.

#### *Norway (ratification: 1949)*

The Committee notes the information contained in the Government's report, as well as the comments made by the Independent Unions' Forum (UFF).

*Articles 3 and 10 of the Convention.* In its previous comments, the Committee had recalled the need to remove the possibility of imposing legislative intervention in the right to strike in different sectors of the economy other than essential services in the strict sense of the term and, in particular in the oil industry which in no way can be considered to be an essential service in the strict sense of the term. It noted the Government's indication that the Labour Law Council was working on a proposal for a new Labour Disputes Act. The Committee expressed its hope that the Bill to be proposed would be in full conformity with the principles of freedom of association and would remove any restrictions imposed on the right of workers' organizations to organize their activities and formulate their programmes for furthering and defending their interests, without interference from the public authorities, through the use of compulsory arbitration.

The Committee had further noted comments from the Federation of Oil Workers' Trade Union (OFS) indicating that the suggestions made by the Labour Law Council entitled "principles for a new Labour Disputes Act" were in contradiction with the principles of the Convention and requested the Government to reply to these comments and to provide information on any further developments in respect of the proposals made by the Labour Law Council.

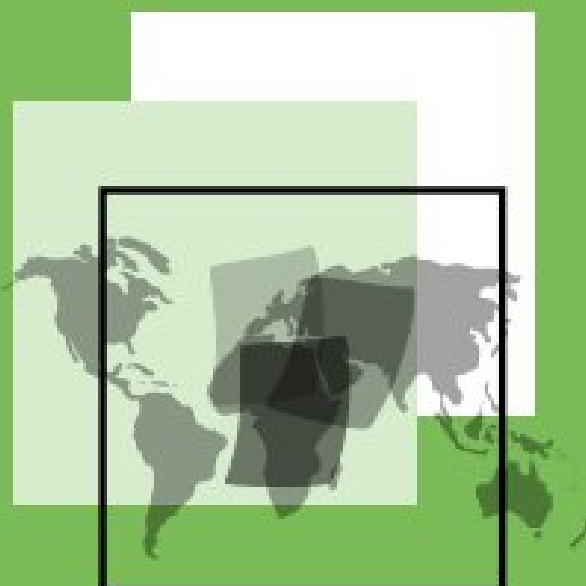
The Committee now notes the comments of the UFF which was founded in 1995 as a reaction to the proposals being developed by the Labour Law Council and represents

International Labour Conference, 107th Session, 2018



International  
Labour  
Office  
Geneva

# Application of International Labour Standards 2018



REPORT III (Part A)

Report of the Committee  
of Experts on the Application  
of Conventions  
and Recommendations

adequate protection for public servants not engaged in the administration of the State against acts of anti-union discrimination and interference and, for that purpose, establishing expeditious and effective penalties and procedures. The Committee notes that the Government confines itself to indicating that freedom of association and the right to collective bargaining are recognized by article 9 of the Constitution of 10 November 2010 and that several categories of personnel who are not governed by either the provisions of the Labour Code or of the General Public Service Regulations have established trade unions. *The Committee therefore once again requests the Government to take the necessary measures without delay to include in the legislation provisions protecting public servants not engaged in the administration of the State against acts of anti-union discrimination and interference and to provide information on any developments in this regard.*

**Article 4. Promotion of collective bargaining.** The Committee takes due note of the Government's indications in reply to its previous comments concerning the conditions for the deposit, publication and translation of collective agreements established by sections 52–54 of the Regulations of the Labour Code. The Committee also notes the Government's indication that it is the organizations of employers and workers which appoint their representatives to the bargaining commissions referred to in section 242 of the Labour Code.

**Criteria for the representativity of employers' and workers' organizations.** In its previous comments, the Committee requested the Government to provide information on the holding and outcome of occupational elections with a view to determining the representativity of workers' and employers' organizations. The Committee notes that the Government refers to a document prepared by the National Occupational Election Commission (CONEP), entitled *Origins of occupational elections in Niger*, of which it has not however provided a copy. *Recalling that the procedures for determining the representativity of workers' and employers' organizations must be based on objective, precise and pre-established criteria and implemented by an independent body which has the confidence of the parties, the Committee once again requests the Government to provide information on the organization and holding of occupational elections and their results.*

**Articles 4 and 6. Right to collective bargaining of public servants not engaged in the administration of the State.** In its previous comments, after noting with satisfaction the conclusion between 2012 and 2014 of four major collective agreements concerning workers in both the public and private sectors, the Committee invited the Government to ensure that the legislation in force is aligned with the practice relating to the recognition and exercise of the right to collective bargaining in the public sector and to continue providing information on the number of collective agreements signed, the sectors concerned and the workers covered. *In the absence of further information from the Government on these two issues, and recalling that it is not aware of precise legislative provisions guaranteeing the right to collective bargaining of public servants not engaged in the administration of the State who are governed by a specific legislative or regulatory status, and accordingly excluded from the application of section 252 of the Labour Code, the Committee reiterates the requests referred to above.*

## Nigeria

### Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

The Committee recalls that it had previously requested the Government to provide its comments on the allegations made by the International Trade Union Confederation (ITUC) of denial of the right to join trade unions, massive dismissals for trying to join trade unions, mass persecution and arrests of union members and other violations. The Committee notes that, in its report, the Government generally indicates that it continuously ensures that the rights of workers are protected through strict compliance with the Trade Unions Act and the Labour Act, thus ensuring a peaceful industrial relations climate in the country and that the presence of security agents in any gathering is due to security risks such a gathering might have posed. The Committee takes note of the observations of the ITUC and the Nigeria Labour Congress (NLC) received on 1 and 8 September 2017, respectively, containing similar allegations of arrests, reprisals and dismissals against union leaders and members. *The Committee regrets that the Government limits itself to a general statement and once again requests the Government to provide a detailed reply on each specific allegation made by the ITUC in 2015, 2016 and 2017, as well as on the observations made by the NLC in 2017.*

**Civil liberties.** The Committee had previously requested the Government to provide detailed information on the results of the judicial proceedings regarding the prosecution of the eight suspects arrested in connection with the assassination of Mr Alhaji Saula Saka, the Lagos Zonal Chairman of the National Union of Road Transport Workers. The Committee notes the Government's indication that, on 5 May 2017, the Federal Ministry of Labour and Employment requested the Inspector General of Police for an update on the judicial process and was awaiting the reply. *Recalling that the events occurred in 2010, the Committee deeply regrets that no resolution has been reached and therefore urges the Government to provide detailed information on the results of the judicial proceedings, and, in the case of conviction, on the nature and implementation of the sentence.*

**Article 3 of the Convention. Right of workers to join organizations of their own choosing.** In its previous comments, the Committee had noted that the dispute between the Association of Senior Civil Servants of Nigeria (ASCSN) and the Nigeria Union of Teachers (NUT), with regard to the allegation that, teachers in federal educational



institutions have been coerced to join the ASCSN and denied the right to belong to the professional union of their own choice, was referred to the National Industrial Court of Nigeria (NICN). The Committee had noted the Court's judgment of 20 January 2016, according to which: (i) the right of choice of a trade union to join is not absolute, as section 8 of the Trade Unions Act provides that "the qualification for membership of a trade union which shall include the provision to the effect that a person shall not be eligible for membership unless he or she has been normally engaged in the trade or industry which the trade union represents"; (ii) however, any worker who wishes to disassociate from the ASCSN can write to the employer stating so and directing that the deduction of the check-off dues be stopped; and (iii) he or she can then join the NUT. The Committee had requested the Government to provide information on the practical application of section 8 of the Trade Unions Act, including the frequency of workers exercising their option to disassociate from a legislatively assigned trade union and any complaints filed in this regard, and to take any necessary measures to ensure the full respect of the right of workers to establish and join organizations of their own choosing. The Committee notes the Government's indications that according to section 12(4) of the Trade Unions Act and sections 9(6) and 5(3) of the Labour Act: (i) membership of a trade union by employees shall be voluntary; (ii) no employee shall be forced to join any trade union or be victimized for refusing to join or remain a member; (iii) no contract shall make it a condition of employment that a worker shall or shall not join a trade union; and (iv) the workers have the right to opt out of a trade union in writing. The Government further indicates that following the NICN's judgment, some of the education officers displeased with it have exercised their right to opt out of the ASCSN. *In light of the information provided by the Government, the Committee requests it to continue to provide information on the practical application of the abovementioned provisions and in particular, whether teachers of the federal education institutions continue to be automatically affiliated to the ASCSN (albeit with an option of subsequent dissociation). It further requests the Government to engage with the relevant organizations with a view to amend section 8 of the Trade Unions Act so as to ensure the right of workers to establish and join organizations of their own choosing.*

*Freedom of association in export processing zones (EPZs).* The Committee recalls that its previous comments related to issues of unionization and entry for inspection in the EPZs, as well as to the fact that certain provisions of the EPZ Authority Decree, 1992, make it difficult for workers to join trade unions as it is almost impossible for worker representatives to gain access to the EPZs. The Committee had noted the establishment of a tripartite committee under the chairmanship of the Federal Ministry of Labour and Employment to review and update the Federal Ministry of Labour and Productivity Guidelines on Labour Administration and Issues in Contract Staffing/Outsourcing in the Oil and Gas Sector and to incorporate emerging trends in the world of work. The Committee had expressed the hope that concrete measures would be taken in order to ensure that EPZ workers enjoy the right to establish and join organizations of their own choosing, as well as other guarantees under the Convention. The Committee notes the Government's indication that workers in EPZs are now exercising their right to join a trade union of their own choosing and labour officers have been accessing the EPZs to carry out routine labour inspection. The Committee *regrets*, however, that the Government does not provide any information on the review and update of the guidelines related to the provisions of the EPZ Authority Decree (1992). *The Committee requests the Government to provide, without delay, information on the review and update of the ministerial guidelines. The Committee further requests the Government to provide statistics on the number of trade unions operating in EPZs and the membership thereof.*

*Articles 2, 3, 4, 5 and 6.* The Committee recalls that in its previous comments, it had requested the Government to amend the following provisions:

- section 3(1) of the Trade Union Act, which requires a minimum of 50 workers to establish a trade union, so as to explicitly indicate that the minimum membership requirement of 50 workers does not apply to the establishment of trade unions at the enterprise level (while this minimum membership would be permissible for industry trade unions, it could have the effect of hindering the establishment of enterprises organizations, particularly in small enterprises);
- section 7(9) of the Trade Union Act, which provides that the Minister may revoke the certificate of registration of any trade union, by repealing the broad authority of the Minister to cancel the registration;
- sections 30 and 42 of the Trade Union Act, which impose compulsory arbitration, require a majority of all registered union members for calling a strike, define "essential services" in an overly broad manner, contain restrictions relating to the objectives of strike action, impose penal sanctions including imprisonment for illegal strikes and outlaw gatherings or strikes that prevent aircraft from flying or obstruct public highways, institutions or other premises, so as to lift these restrictions on the exercise of the right to strike; and
- sections 39 and 40 of the Trade Union Act, which grant broad powers to the registrar to supervise the union accounts at any time, so as to limit this power to the obligation of submitting periodic financial reports, or in order to investigate a complaint.

The Committee welcomes the Government's indication that it has established a Tripartite Technical Committee (TTC) for the purpose of bringing into conformity the relevant sections of the Labour Standards Bill (LSB), Collective Labour Relations Bill (CLRB), Labour Institutions Bill (LIB) and Occupational Safety and Health Bill (OSH Bill) with international labour standards. The Committee notes the Government's indication that five meetings were held and appropriate amendments were made, and that the proposed review of the LSB will give the opportunity to the social partners to consider the amendments to sections 3(1), 7(9), 30, 39, 40 and 42 of the Trade Union Act. *The Committee*

expects that the laws referred to above will be adopted in the near future, and that they will take into account the Committee's comments. The Committee requests the Government to provide information on all progress made in this respect, and to furnish a copy of the texts when enacted.

The Committee notes that there are currently no proposals to amend the following legislative provisions:

- section 3(2) of the Trade Union Act, which restricts the possibility of other trade unions from being registered where a trade union already exists. The Committee notes that the Government explains that the purpose of this provision is to bring order and good administrative structure of trade unionism in Nigeria. *Recalling that it is important for workers to be able to change trade union or to establish a new union for reasons of independence, effectiveness or ideological choice and that trade union unity imposed directly or indirectly by law is contrary to the Convention (see the 2012 General Survey on the fundamental Conventions, paragraph 92), the Committee once again requests the Government to take all necessary measures to amend section 3(2) of the Trade Union Act and to indicate all progress made in this regard;*
- section 11 of the Trade Union Act, which denies the right to organize to employees in the Customs and Excise Department, the Immigration Department, the prison services, the Nigerian Security Printing and Minting Company Limited, the Central Bank of Nigeria, and Nigeria Telecommunications. The Committee notes the indication of the Government that for security reasons, the initial section 11 of the Act has not been modified but a subsection has been added creating Joint Consultative Committees (JCC) in the establishments concerned, which perform similar functions to trade unions. *The Committee recalls that all workers, without distinction whatsoever, shall have the right to establish and join organizations of their own choosing and that the only authorized exception are the members of the police and the armed forces. The Committee once again requests the Government to take measures to amend section 11 so as to bring it into conformity with the Convention;*
- section 8(a)(1), (b) and (g) of the Trade Unions (Amendment) Act 2005 and section 1 of the 1996 Trade Unions (International Affiliation) Act, which require federations to consist of 12 or more trade unions in order to be registered and that the application of a trade union for international affiliation shall be submitted to the Minister for approval. The Committee takes note of the Government's indication that the Trade Unions (International Affiliation) Act provides for the right of any union or central labour organization to affiliate with any international labour organization and that the Nigeria Labour Organization and the Trade Union Congress are members of various international labour organizations. While taking note of this information, the Committee observes that this does not address the Committee's concern. *The Committee therefore once again requests the Government to take the necessary measures to amend section 1 of the 1996 Trade Unions (International Affiliation) Act, so as to ensure that the international affiliation of trade unions does not require the Government's permission. It further once again requests the Government to take measures to amend section 8(a)(1), (b) and (g) of the Trade Unions (Amendment) Act 2005 so as to lower to a reasonable minimum the number of affiliated trade unions necessary for the registration of a federation.*

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1960)**

The Committee notes the new observations of the International Trade Union Confederation (ITUC), received on 1 September 2017, relating to legislative issues and referring to a high number of allegations of anti-union discrimination and of impediments to collective bargaining. The Committee recalls that, since 2010, it has received many observations from trade union organizations containing serious allegations of violations of the Convention in practice and notes with regret that the Government still has not sent its comments. *Noting with concern, in particular, the persistence of many and serious allegations of acts of anti-union discrimination and interference, the Committee urges the Government to ensure that the events reported since 2010, through the various comments of the ITUC, Education International (IE) and the Nigeria Union of Teachers (NUT), have been or are being investigated by the public authorities. The Committee urges the Government to send information in this respect.*

The Committee notes with concern that the Government's report has not been received. It is therefore bound to repeat its previous comments, initially made in 2012.

In its previous comments, the Committee noted that certain comments submitted by international trade union organizations concerned in particular the fact that: (1) according to the Trade Disputes Act, certain categories of workers are denied the right to organize (such as employees of the Customs and Excise Department, the Immigration Department, the Nigerian Security Printing and Minting Company Limited, the prison services and the Central Bank of Nigeria) and therefore are deprived of the right to collective bargaining; (2) every agreement on wages must be registered with the Ministry of Labour, which decides whether the agreement becomes binding according to the Wages Board and Industrial Council Acts and to the Trade Dispute Act (it is an offence for an employer to grant a general or percentage increase in wages without the approval of the Minister); (3) section 4(e) of the 1992 Decree on Export Processing Zones states that "employee-employee" disputes are not matters to be handled by trade unions but rather by the authorities managing these zones; and (4) section 3(1) of the same Decree makes it very difficult for workers to form or join trade unions as it is almost impossible for workers' representatives to gain free access to the export processing zones (EPZs).

The Committee had noted that the Government had indicated that: with respect to point (1), the Collective Relations Bill has taken care of the mentioned exemptions from the rights to organize and bargain collectively; and as regards points (3) and (4),

unionization has commenced, for example, the Amalgamated Union of Public Corporations, Civil Service, and Technical and Recreational Services Employees has started organizing its members within the EPZs. The Committee takes note of this information.

Concerning point (2), the Committee had previously noted a similar more recent allegation of the ITUC (2009) that private sector collective bargaining rights are restricted by the requirement of government approval for any collective agreements on wages. The Committee notes that the Government had indicated in its report that this practice seeks to ensure that there is no undue economic disruption in a particular industry as there is usually a benchmark agreed to by the relevant employers and trade unions. In this regard, the Committee recalls that legal provisions which make collective agreements subject to the approval of the Ministry of Labour for reasons of economic policy, so that employers' and workers' organizations are not able to fix wages freely, are not in conformity with *Article 4 of the Convention* respecting the promotion and full development of machinery for voluntary collective negotiations. *The Committee requests the Government to ensure that the relevant provisions are amended to give effect to the principle of free collective bargaining.*

The Committee had noted the Government's statement that the Collective Labour Relations Bill, which has been elaborated with the technical assistance of the ILO, is still before the National Assembly and will be forwarded when passed. *The Committee expects that the Collective Labour Relations Act will be in full conformity with the requirements of the Convention. It requests the Government to send the new law once adopted.*

*Lastly, the Committee once again invites the Government to accept an ILO mission in order to tackle the pending issues. The Committee expects that the Government will make every effort to take the necessary action in the near future.*

## Pakistan

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

The Committee notes the observations from the International Trade Union Confederation (ITUC) received on 1 September 2017, which refer to issues relating to the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and alleged anti-union dismissals, harassment and acts of interference, as well as the observations from the Pakistan Workers Federation (PWF) received on 25 October 2017 referring mainly to legislative issues under examination by the Committee and alleged acts of employer interference through systematic undue promotions. Furthermore, the Committee *regrets* that the Government has failed to provide its comments on the 2015 ITUC allegations concerning acts of anti-union discrimination and to fully respond to the 2012 ITUC allegations of anti-union dismissals and acts of interference in trade union internal affairs by employers (intimidation and blacklisting of trade unions and their members). *Noting with concern the persistence and seriousness of the numerous allegations of acts of anti-union discrimination and interference, the Committee urges the Government to provide its comments on the above-mentioned observations and to ensure that investigations are conducted by the public authorities into the relevant 2012, 2015 and 2017 ITUC and PWF allegations.*

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2016.

*Legislative issues.* The Committee recalls that, in its previous comments, it had noted: (i) that the 18th Amendment to the Constitution had been enacted, whereby the matters relating to industrial relations and trade unions were devolved to the provinces; (ii) the adoption of the Industrial Relations Act (IRA), 2012, which regulates industrial relations and registration of trade unions and federations of trade unions in the Islamabad Capital Territory and in the establishments covering more than one province (section 1(2) and (3) of the IRA), and the content of which did not address most of the Committee's previous comments; (iii) the adoption in 2010 of the Balochistan IRA (BIRA), the Khyber-Pakhtunkhwa IRA (KPIRA), the Punjab IRA (PIRA), and the Sindh Industrial Relations (Revival and Amendment) Act, all of which raised similar issues as the IRA. The Committee notes the adoption in 2013 of the Sindh Industrial Relations Act, 2013, (SIRA) which replaces the former industrial relations legislation and the amendment of the BIRA in 2015. It also notes the Government's statement that the responsibility for the coordination of labour-related issues and the responsibility to ensure that provincial labour laws are drafted in accordance with international ratified Conventions lie with the federal Government.

*Scope of application of the Convention.* The Committee had previously noted that the IRA, BIRA, KPIRA and PIRA excluded numerous categories of workers (enumerated by the Committee in its observation on the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)) from their scopes of application, and – as far as the BIRA is concerned – workers employed in tribal areas. The Committee notes that the SIRA contains the same provisions as the KPIRA and PIRA. It also notes the Government's indication that the exclusions are based on the peculiar nature of the workers' organizations and their functioning, and that the list of exclusions has been reduced considerably compared to the former legislation. The Committee emphasizes that the only categories of workers which can be excluded from the application of the Convention are the armed forces, the police and public servants engaged in the administration of the State (*Articles 5 and 6 of the Convention*). The Committee further notes that in its report under Convention No. 87 the Government states that according to the Government of Balochistan, necessary amendments to the BIRA are being proposed, in order to ensure that only armed forces and police are excluded from its scope and allow workers employed in the Provincially Administered Tribal Areas to enjoy freedom of association rights. The Committee notes however that the BIRA, as amended, still excludes tribal areas from its scope of application and retains the exclusions enumerated under Convention No. 87. *The Committee requests the Government to ensure that it, as well as the Governments of the provinces, take the necessary measures in order to amend the legislation so as to ensure that all workers, with the only possible exception of the armed forces, the police and public servants engaged in the administration of the State, fully enjoy the rights enshrined in the Convention.*

With regard to public servants in particular, the Committee had previously noted that the IRA does not apply to workers employed in the administration of the State other than those employed as workmen (section 1(3)(b)), and that the BIRA, KPIRA and PIRA add the words "as workmen employed by the Railway and Pakistan Post". The Committee had requested the Government to specify the categories of workers employed in the administration of the State excluded from the scope of