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Azerbaijan (ratification: 2000)

Convention (n° 105) sur l'abolition du travail forcé, 1957

Abolition of Forced Labour Convention, 1957 (No. 105)

Convenio sobre la abolición del trabajo forzoso, 1957 (núm. 105)

Written information provided by the Government

1. Regarding the comment on “broad wording” of Articles 147, 169.1, 233 and 283.1 of the Criminal Code

It should be noted that this wording is based on general norm-setting techniques and principles and is commonly used in Azerbaijan for drafting various laws. It is in line with the Constitution and other laws of the country guaranteeing human rights and freedoms.

Article 147 (defamation)

In accordance with article 57 of the Constitution, the citizens have the right to criticize the activity or activities of state bodies. Under the legislation, the prosecution for criticism is prohibited, while insult and defamation cannot be considered criticism.

Article 147 of the Criminal Code does not diverge from similar articles of the Criminal Codes of some ILO Member States, such as Canada (article 298), Germany (article 187), Slovenia (article 160), Sweden (Chapter 5, section 1).

Article 169.1 (violation of the assembly rules)

The purpose of this article is to establish criminal liability for organizing or participating in assemblies, which cause significant violation of civil rights. It should be noted that violation of the rules on holding assemblies is also recognized as a crime in other countries (for example, in Canada).

According to article 49 of the Constitution everyone, together with others, has the right to assemble peacefully with prior notice to the relevant government authorities, provided that public order is not disturbed. However, a gross violation of public order shall invoke criminal liability.

Article 283.1 (incitement of national, racial, social or religious hatred and hostility)

The criminal elements of the acts under this article are similar to the corresponding articles in the criminal laws of other countries, and the sanctions provided for these acts include fines, community service, restriction of freedom and imprisonment.

The incitement of national, racial, social or religious hatred and hostility is a criminal offense in Germany (article 130), Kazakhstan (article 174), Republic of Moldova (article 346) and others.

Application of Articles 147, 169.1, 233 and 283.1 of the Criminal Code

Articles 147, 169.1, 233 and 283.1 of the Criminal Code are not widely used in practice (*according to the statistics of the Supreme Court of Azerbaijan*):

- under article 169.1: in 2018–21 there were no cases;
- under article 147: in 2018 – 41; in 2019 – 37; in 2020–21 – approximately 32 court cases. Penalty in the form of correctional work applied in 5 cases out 110 (only in 4.5 per cent of cases);
- under article 233: in 2018 – 8; in 2019 – 4; in 2020 – 2; in 2021 – 2 cases. Correctional work applied – in 0 cases out 16;
- under article 283.1: in 2018 – 5; in 2019 – 3; and in 2020–21 – 2 cases. Correctional work applied – in 0 cases out 10.

The information on the acts that gave rise to criminal prosecutions and court decisions will be provided at next stage.

Legislative regulation of correctional work and its application in practice

It should be noted that correctional work provided for as a punishment under a number of articles of the Criminal Code is not contradictory to Article I of the Convention due to the following reasons.

Under criminal law, correctional work is carried out at the place of work. It is defined as a deduction of 5 to 20 per cent of the convicted person's earnings in favour of the State.

Obviously, correctional work is not provided for as bringing a person to forced or compulsory labour, but as a transfer of money from his earnings in favour of the State while he participates in socially useful works at his workplace.

Fines under articles 169.1, 233 and 283.1, as a rule, are quite high and not paid by convicts within the time period established by law.

Therefore, pursuant to article 44.3 of the Criminal Code in case of wilful evasion from fine payment, the punishment is replaced with penalties such as community service, correctional work, restriction of freedom or imprisonment.

Given that, correctional work is applied in some articles of the Criminal Code as an alternative to the sanctions, without isolation from society. Some criminal law experts argue that "correctional work" is a lighter punishment than a fine or imprisonment.

In accordance with Article 1.1 of the UN Standard Minimum Rules for Non-Custodial Measures (the Tokyo Rules), these rules provide a set of basic principles to promote the use of non-custodial measures and alternatives to imprisonment.

Also, the acts under article 169.1 of the Criminal Code presume significant damage to public interests, gross violation of public order and other criminal elements reflecting the gravity of the violation.

If these acts do not result in substantial harm to the rights and legitimate interests of citizens, they are not considered crime and lead to penalty under article 513 of the Code of Administrative Offences.

Given the above, restricting to only fines of punishments imposed under certain articles of the Criminal Code for public danger, serious harm to the public interest, gross violation of coexistence rules, etc. is not considered acceptable based on the principles of justice, humanity, the Constitution, criminal and criminal procedural legislation.

- As shown below, the use of correctional labour is minimal and has been declining in recent years (according to the statistics of the Attorney General's Office):
 - In 2019, 876 (7.6 per cent) of the 11,484 people convicted by the courts were sentenced to correctional work and 157 (1.4 per cent) – to community service;
 - In 2020, 572 (6.2 per cent) of 9,282 individuals were punished with correctional work and 3 (0.2 per cent) individuals – with community service;
 - In 2021, 512 (3.5 per cent) of 14,751 individuals were sentenced to correctional work and 73 (0.5 per cent) individuals – to community service.

2. Regarding the comment on the use of articles 148, 179, 192, 213, 274, 308, 323 of the Criminal Code for prosecuting journalists, bloggers, human rights defenders and other individuals who express critical views

It should be noted that the Criminal Code does not provide for prosecution and punishment for political views, convictions or other circumstances, but for the cases when a person is found guilty of a committed socially dangerous act.

Under article 25 of the Constitution, the State guarantees equality of rights and freedoms to everyone, regardless of race, ethnicity, religion, language, gender, origin, property status, occupation, etc.

Under article 71 of the Constitution, the legislative, executive and judicial branches of government are obliged to observe and protect human and civil rights and freedoms.

Since these articles of the Criminal Code are applied without prejudice to the profession or status of the accused, no relevant statistics on professions are compiled and, thus, cannot be provided.

The following statistics show that the use of the above articles of the Criminal Code is minimal and has decreased in recent years (*according to the Supreme Court's statistics*):

Articles of the Criminal Code	Number of cases over the years		
	2018	2019	2020
Article 323 * (Defamation or humiliation of the honour and dignity of the President of Azerbaijan)	0	0	0
Article 308 (Abusing official powers)	81	84	56
Article 274 (High treason)	8	11	6
Article 213 (Evasion from payment of taxes)	65	57	53
Article 192 (Illegal business)	15	17	12
Article 179 (Misappropriation)	69	65	42
Article 148 (Insult)	25	22	25
Article 323 * (Defamation or humiliation of the honour and dignity of the President of Azerbaijan)	0	0	0

* Note: according to the "Note" part of article 323, this article does not apply to public statements about the activities of the President of the Republic of Azerbaijan, as well as to critical remarks about the policies pursued under his leadership.

In addition, in order to ensure transparency and public access to court decisions, a link can be accessed to obtain information on the application of the above-mentioned articles of the Criminal Code (<https://sc.supremecourt.gov.az/decision/>).

3. Legislative guarantees of non-prosecution for political and ideological views

According to the Constitution, the State guarantees the equality of rights and freedoms to all, irrespective of their occupation, beliefs, affiliation with political parties, trade unions and other public associations.

The law also prohibits the restriction of human and civil rights and freedoms on the basis of beliefs or political or social affiliation. No one may be harmed or denied privileges or advantages on the grounds listed above (article 25).

Also pursuant to the law:

- everyone has freedom of thought and speech;
- agitation and propaganda inciting hatred and enmity on racial, national, religious, social or other grounds shall not be permitted;
- everyone shall have the freedom to seek, receive, transmit, prepare and disseminate information lawfully;
- freedom of the media is guaranteed.

Under the Law on the Freedom of Assembly, the State ensures the exercise of freedom of assembly and takes appropriate measures to hold peaceful and unarmed assemblies.

Under article 6.1 of the Criminal Code, offenders are equal before the law and are prosecuted regardless of their beliefs, membership in political parties, trade unions or other public associations or other circumstances.

Article 154 of the Criminal Code establishes liability for violation of the right to equality.

4. Measures to improve the legislation

In order to humanize the sanctions provided under the Criminal Code and limit their scope, the following reforms and measures to improve the legislation were implemented.

4.1. Law No. 816-VCD of October 20,2017 “On Amendments to the Criminal Code” was adopted.

As a result of the introduction of about 300 amendments to the Criminal Code, a number of criminal offenses were decriminalized, some acts were transferred from the category of criminal offences to administrative ones.

The amendments also improved the institute of exemption from criminal liability through reconciliation with the victim, established new norms providing for exemption from criminal liability for crimes against property and those related to economic activity.

In addition, in order to reduce cases of imposing a prison sentence:

- a new type of punishment was introduced which is not related to deprivation of liberty – restriction of freedom (articles 147.2, 192.1, 192.2, 221.2, 233,314 of the Criminal Code),
- and the term of imprisonment for certain crimes was reduced (articles 308.2, 221.2 of the Criminal Code).

4.2. Law No. 68-VIQD of 1 May 2020 “On Amendments to the Criminal Code” was adopted.

The law introduced alternatives to deprivation of liberty (fines and restriction of freedom) in sanctions of several articles (articles 192.1, 221.2, 221.3, 308.1 of the Criminal Code) and also provided for reduction of fines or mitigation of imprisonment sentence for certain crimes.

In addition, the law decriminalized certain acts, including illegal entrepreneurship (article 192 of the Criminal Code), tax evasion (article 213), by increasing the threshold of liability from 20,000 to 50,000 manat.

4.3. The decision of the Milli Majlis of the Republic of Azerbaijan of 5 November 2021 “On declaring an amnesty on the occasion of 8 November - Victory Day” was adopted.

It was established that the Amnesty Act applied to 17,267 persons. This decision is the largest amnesty ever granted in terms of the number of persons covered. According to the Amnesty Act, all persons sentenced to correctional work and community service were discharged from punishment.

5. Steps taken and envisaged

Steps taken

The Ministry of Labour and Social Protection of Azerbaijan (the Ministry) as a leading state body responsible for the cooperation with the ILO has undertaken the following steps:

- Upon receipt of the ILO letter dated 7 February 2022, the Ministry urgently mobilized all relevant state bodies to thoroughly review the issues raised in the observation and direct request of the Committee of Experts.
- An interagency Working Group (national Task Force) comprised of respective state bodies and non-state institutions has been set up:
 1. Supreme Court.
 2. Ministry of Justice.
 3. Attorney General's Office.
 4. Ministry of Internal Affairs.
 5. Presidential Administration.
 6. Ministry of Foreign Affairs.
 7. Ministry of Labour and Social Protection of Population.
 8. Ministry of Economy.
 9. National Confederation of Employers' Organizations.
 10. Azerbaijani Trade Unions Confederation.
- The Minister of Labour and Social Protection of Population of Azerbaijan convened and chaired the first meeting of the Working Group on 23 February 2022.
- The Azerbaijani side has engaged in intensive consultations and discussions via its diplomatic mission in Geneva as well as the Ministry and Working Group in Azerbaijan.
- The Azerbaijani diplomatic mission in Geneva has held several meetings with ILO representatives in 2022, including:
 - Ms Corinne Vargha, Director of International Labour Standards Department;
 - Ms Deepa Rishikesh, Head of Unit;
 - Mr Horacio Guido, Chief of Branch; and
 - Mr Heinz Koller, Director, Regional Office for Europe and Central Asia.
- Deputy Minister of Labour and Social Protection addressed a letter to Ms Corinne Vargha, on 25 February 2022.
- The Azerbaijani side is currently working on ratification of Convention No. 155 in addition to 58 previously ratified ILO Conventions.
- The Azerbaijani side requested and received Technical Note on Article 1(a) of ILO Convention No. 105 and its application by Azerbaijan.
- The Working Group prepared a comprehensive Report in response to the 2022 report of the Committee of Experts on the Application of Conventions and Recommendations.
- The draft of this Report was discussed with the ILO Regional Office and National Coordinator. The Regional Office provided its valuable comments and recommendations on 25 April 2022.
- Deputy Minister of Labour and Social Protection held a zoom meeting with representatives of the International Labour Standards Department, ILO on 11 May 2022.

Steps envisaged:

- During the Report preparation process, the Working Group members have expressed diverging opinions and approaches on the criminal laws amendments. Hence, the ILO experts are required to be engaged for the purpose of formulating and discussing the common ground and framework on further criminal law reforms in Azerbaijan.
- The Ministry is preparing a formal request for ILO technical assistance to the ILO Moscow Office in order to engage ILO expertise and additional resources to address the matters raised in the observation and direct request.
- The technical assistance agreement and its scope will be discussed with the Working Group members in order to fully cover the extent of required resources.
- Initial assessment of the needs has identified that not only cases and penalties statistics should be presented to ILO but also the information on the acts that gave rise to the criminal prosecutions, the summary of the court deliberations and decisions delivered under these articles are to be presented to the ILO.
- Also, this assessment showed that in order to fully respond to the observation and direct request respective information is large in volume and should be translated into English. This submission requires more time and additional resources.
- Additional information collected from the Working Group members is being submitted to the ILO in addition to the response Report initially submitted in April 2022.

6. Conclusion

The fulfilment of all obligations under ILO Conventions ratified by the Republic of Azerbaijan is of particular importance. The Government will continue to make its best efforts to comply with the requirements of all ILO Conventions that it has ratified.

Discussion by the Committee

Government representative (Deputy Minister of Labour and Social Protection of Population) – Since the Government has already submitted written information in the form of a report, I will avoid repeating the submission. Instead, I will concentrate on the issues of particular importance that may require the kind attention of the esteemed Committee members and meeting participants. In addition, I will also clarify some aspects of the information provided given the limits imposed on the length of the submitted report.

Since we received the direct request and the observation of the Committee of Experts earlier this year, the Ministry has taken the matter very seriously. The Ministry is a major State agency, responsible for cooperation with the ILO, and here I should emphasize that the ILO is very important to Azerbaijan, which has a track record of 30 years' productive cooperation with the ILO and one of the highest ratification rates of ILO Conventions in the region. To date, 58 Conventions, including all 8 fundamental Conventions and 45 technical ones, have been ratified and integrated into national legislation. Currently there are plans to ratify another Convention, the Occupational Safety and Health Convention, 1981 (No. 155).

The ILO is a reliable social partner that has supported the Government in the preparation of numerous strategic development documents. For instance, with its support, the National Employment Strategy for the period up to 2030 was developed and adopted. It enabled better management of the labour force and employment in Azerbaijan.

Azerbaijan was also one of the first countries to engage with the United Nations Sustainable Development Group Mainstreaming, Acceleration and Policy Support platform, which focuses, among other matters, on inclusive labour markets.

Promoting decent work opportunities and quality jobs, improving working conditions and enhancing social dialogue mechanisms have been identified as country priorities. These priorities were reflected in the ILO's Decent Work Country Programme for 2016–20 and in a new programme for 2022–26 which is currently under discussion.

There are several priorities under this new programme that are aligned with the Sustainable Development Goals (SDGs) and the UN Sustainable Development Cooperation Framework and that include international labour standards, mainstreamed in policy and practice through social dialogue, inclusive growth that reduces vulnerability and builds resilience, and stronger institutions for better delivery of public and social services.

Therefore, upon receipt of the observation and the direct request of the Committee of Experts, the Labour Ministry carefully studied those documents. The Ministry swiftly mobilized all relevant bodies, and a National Task Force was set up, consisting of ten State bodies and public institutions. Since the comments were related to the use of the Criminal Code, the Ministry met with the relevant ministries, such as the Ministry of Justice, the Ministry of Internal Affairs, the Supreme Court and the Attorney-General's Office. Also, due to the importance of the matter, representatives from the presidential Administration have joined the working group.

In addition to State bodies, this National Task Force comprises representatives of the National Confederation of Employers' Organizations, which represents employers, and trade union confederations, which represent employees. The participation of employers' organizations and trade union confederations was necessary since social dialogue on labour relations is conducted through a tripartite commission on social and economic issues. This tripartite commission has operated as a permanent body with a secretariat since 2016 and was established as an ILO initiative to create a new institutional framework for the social partners.

The three parties involved in the dialogue are the Labour Ministry, the National Confederation of Employers' Organizations and the Azerbaijani Trade Unions Confederation. It is a major platform for the discussion and coordination of joint actions on important labour-related matters including, for example, amendments to the Labour Code, issues related to unemployment, minimum wages and others.

I would like to touch upon the application of Article 1(a) of the Convention in Azerbaijan. The Convention guarantees that compulsory labour is not used as a means of punishment for the expression of views. Meanwhile, the Convention does not prohibit punishment by penalties involving compulsory labour, including work in the community or correctional work by persons who use violence or incite to violence. In this regard, I would like to inform the esteemed Committee members of the penalties involving labour currently available under the Criminal Code.

These two types of penalty are also common in the legislation and practice of other ILO Member States. The Criminal Code, in article 42, provides for, among other penalties, two types of penalties involving labour: correctional work and work in the community. In this respect, I must mention an important aspect: in the Criminal Code, penalties are categorized as main penalties or additional penalties. Correctional work and work in the community are considered main penalties.

Why is that important? Because they cannot be applied in addition to other penalties, such as imprisonment, the limitation of freedom and others. A person cannot be imprisoned or placed in detention and at the same time be subject to penalties involving labour. Convicted persons in Azerbaijan are either imprisoned or sentenced to correctional work or work in the community, it is either of the two. Therefore, correctional work is classified as a separate category of penalty whose terms of application are clearly set out. It is regulated in detail under another law, separate from the Criminal Code, which is the Code on the Execution of Penalties. The same applies to work in the community, which is another type of penalty involving labour. This is a common type of penalty since it is carried out in the free time of the convicted person when the person is not working or studying. These two types of punishments do not fall under the definition of forced labour under the ILO Conventions since correctional work and work in the community are carried out based on a court decision and under the supervision of the public authorities. Furthermore, this is normal practice in many countries including, for example, Ukraine, Kazakhstan, Georgia, Uzbekistan and others, where both types of punishments are used and do not contradict ILO norms and their requirements.

I would like to clarify the regulation of correctional work and how it is applied, because it was highlighted in the observation presented by the Committee of Experts. Under criminal law, correctional work is carried out at the place of work, not in a prison – I would like to repeat, at the place of work, not prison. It is executed as a deduction of 5–20 per cent of the convicted person's earnings in favour of the State, so this form of penalty does not impose forced labour upon a person, but is a transfer of money from his or her earnings to the State while the convicted person participates in socially useful work at his or her workplace, not in prison. There is no isolation for persons subject to this type of penalty. Fines often are relatively high and not paid by convicted persons within the time period established by law. Therefore, under the Criminal Code, in the case of wilful evasion of the payment of a fine, the punishment is replaced by penalties such as work in the community, correctional work, the restriction of freedom or imprisonment. Correctional work is applied under some articles of the Criminal Code as an alternative sanction without isolation from society. Therefore, it may be argued that work in the community is often an even lighter punishment than a fine or imprisonment. Moreover, in some cases, we have to take into consideration the UN Standard Minimum Rules for Non-custodial Measures, also called the Tokyo Rules, which also promote the use of non-custodial measures as alternatives to imprisonment.

I would like to draw your kind attention to two very important aspects. If acts under certain articles of the Criminal Code, for example article 169, which is mentioned in the observation, do not result in particular harm to public entities, they are not considered a crime and lead to a penalty under the Code of Administrative Offences, as recommended by the ILO and the Committee of Experts.

I would like also to bring to your kind attention to some statistics indicating that the use of correctional labour is minimal and has been declining in recent years. In 2019, correctional work was imposed in 7 per cent of cases and work in the community in only 1.4 per cent of cases. In 2021, it came down to even less than 6 per cent and 3 per cent, respectively. We have provided more information in the report, so I will not take too much of your time regarding these statistics, but I would like also to mention that the observation of the Committee of Experts draws particular attention to four sections of the Criminal Code, that is, the article regarding defamation, the article regarding violations of the rules on assembly, the article regarding violations of public order, and the article on the incitement of national, racial, social or religious enmity. These articles are not widely used in practice. In the last two years, there have been no cases under three of those four articles. For example, under article 147, during

the last two years there have been only around 35 cases, so around 15 cases per year, and penalties were applied in only five of those cases, meaning that in around 4 per cent of cases some kind of penalty was applied.

So, dear Committee, what should we expect? What should be our way forward? What does Azerbaijan plan to do? Of course, the Government understands that the comments and recommendations of the Committee of Experts are intended to increase the effective implementation of ILO standards in Member States, including Azerbaijan. They also serve, for us, as an assessment of the current situation and for future reforms and improvements to national legislation and practice. Therefore, due to the importance of these recommendations and comments, the Labour Minister met with his high-level counterparts from different ministries and chaired the first meeting of the National Task Force. The Azerbaijani Working Group has been engaging in intensive consultations and discussions with the ILO diplomatic mission in Geneva as well as the capital of Azerbaijan, Baku, and the Azerbaijani diplomatic mission in Geneva has held several meetings with ILO representatives. I personally had Zoom meetings with the ILO experts, who were also requested to provide a technical note; that was a comprehensive, detailed document that addressed very sophisticated aspects of the recommendations and comments of the Committee of Experts and also the possible solutions, which we found very valuable. The Working Group also prepared and presented a comprehensive report, and an additional report was submitted. These reports were discussed with the National Coordinator here in Azerbaijan. Also, we discussed it with the ILO Regional Office.

Just a couple of weeks ago, on 19 May, a workshop on the application of the Convention was organized. Representatives of the Ministry, the National Confederation of Employers' Organizations, trade unions and ILO Experts attended this important workshop, and during the report preparation process, and during the workshop, we identified that there are diverging opinions and approaches as to how the criminal laws in Azerbaijan should be amended, so we believe that ILO experts must be engaged for the purpose of formulating and discussing the common ground and framework for further criminal law reforms in Azerbaijan. Also, we identified that the initial assessment of needs showed us that not only should reform be undertaken, but also that statistics on cases and penalties should be presented to the ILO. They are, of course, quite large in volume, so they should be translated from the national language into English, which will require more time and additional resources.

In this regard, the Minister, several weeks ago in May, despatched a formal request for ILO technical assistance to the ILO Regional Office in order to engage ILO expertise and additional resources to address matters raised in the observation and the direct request. Discussion of the technical assistance is planned during the upcoming visit of the Director of the ILO Office for Eastern Europe and Central Asia to Azerbaijan which is expected to take place in mid-June. During her visit, we plan to organize a conference on the new Decent Work Country Programme for the next five years, and we also believe that this joint effort will strengthen and support the Government's activities to comply with the requirements of all ILO Conventions, as the Government undertakes, from time to time, reforms and measures to improve legislation. For example, in October 2017 we had amendments to the Criminal Code, and approximately 300 amendments to the Criminal Code were introduced, a number of criminal offences were de-criminalized, and some criminal offences were changed to administrative ones. In May 2020, we had another package of amendments to the Criminal Code, and the last amendments and the amnesty took place just several days ago, on 28 May 2022, when we were celebrating Independence Day and 213 persons were released from criminal punishment. We believe that this is in line with the social reform programme that is

currently being implemented in Azerbaijan gradually, in stages, and this reform has already covered approximately four million persons in Azerbaijan, or 40 per cent of the population. The last package of reforms entered into force just this January, in 2022, and the budget share of the costs of the reforms has reached 46 per cent, which is a record number for the last three to four years.

Therefore, lastly, I would like to reiterate in particular that the fulfilment of ILO norms and standards is of particular importance, as the Government will continue its best efforts in this direction with the ILO's productive collaboration, valuable support and constructive dialogue.

Worker members – The abolition of forced labour is a fundamental objective of the ILO. There can be no social justice where there is forced labour. The adoption of the Convention in 1957 was a vital step towards meeting that objective, reinforcing as it did the normative framework created by the Forced Labour Convention, 1930 (No. 29). Both Conventions, of course, rightly take their place amongst the ILO's fundamental Conventions. Azerbaijan ratified Convention No. 105 in 2000. The country's implementation of this Convention has been the subject of recurrent direct requests from the Committee of Experts since 2004.

The issue we discuss today has been the subject of these observations since 2015, and yet – despite repeated opportunities, including its report for this year – the Government has never provided a complete response to these observations.

While we thank the Government for the written information provided to the Committee on 16 May, we regret that Azerbaijan waited until it had its back to the wall before responding to the observations of the Committee of Experts. The persistent lack of response over an issue covered by the fundamental Convention has led directly to the Committee of Experts issuing a double footnote on Azerbaijan in its observations this year – which we can fully understand – and the scrutiny of the Committee now reflects the gravity of the situation.

The observation of the Committee of Experts, repeated a number of times since 2015, relates to several provisions of the Criminal Code that are drafted in such broad terms that they can be used to punish the expression of political opinions or the manifestation of ideological opposition to the established political, social or economic order. These provisions provide for penalties of correctional labour or imprisonment that include an obligation to work for holding or expressing political views or views ideologically opposed to that established political, social or economic system, which is strictly prohibited under the Convention.

Indeed, while the work imposed on an ordinary offender may have the objective of reintegrating the individual in compliance with the guarantees provided for in Convention No. 29, the same cannot be said for persons convicted merely for expressing their opinion. The latter must be given special protection. And this is set out in the Convention.

The provisions in question are articles 147, 169.1, 233 and 283.1 of the Criminal Code, which respectively punish defamation, the organization of (or participation in) a prohibited public gathering, the organization of collective actions that undermine public order, and incitement to national, racial or religious enmity.

The Azerbaijani Government, having responded at last to the concerns of the Committee of Experts, argues that these provisions do not amount to forced labour, as the penalty of corrective labour is simply the confiscation of 5–20 per cent of the remuneration of the work performed by the person concerned. We cannot agree. Forced labour is defined as any work imposed by the State or a private individual under threat, including the non-payment of wages, even if only a part of them. And, in practice, it seems that these criminal provisions have been applied in an attempt to silence dissenting voices.

We appreciate the statistics provided by the Azerbaijani Government on the number of cases in which labour sentences have been imposed. As the report of the Committee of Experts points out, many European and UN bodies and institutions have observed an increasing tendency to use provisions of the Criminal Code to prosecute journalists, bloggers and human rights defenders, as well as in the punishment of insults, vandalism, State treason and the abuse of power.

The information provided by the Government states that reforms have decriminalized certain offences and made them administrative offences. However, the UN Human Rights Committee has noted that, at the same time, the administrative penalties that can be imposed for minor charges, and which are often mobilized against human rights activists, have increased considerably from 15 days in prison to 90 days.

These criminal provisions and their application in practice are contrary to Article 1(a) of the Convention, and there is an urgent need for Azerbaijan to bring its legislation and practice into line with the Convention. It is clear that the preferred course of action should be the removal of all criminal sanctions for the expression of democratic political views.

In addition, the European Court of Human Rights has, on several occasions, dealt with cases involving the detention and conviction of political opponents. In all the cases mentioned in the report of the Committee of Experts, the European Court of Human Rights concluded that the European Convention on Human Rights had been violated. In 2018, similar findings were made by the UN Working Group on Arbitrary Detention, which also concluded that ordinary criminal law provisions are being used to undermine journalists' freedom of expression. More recently, the report of the Committee of Experts refers to the July 2019 visit of the Council of Europe Commissioner for Human Rights, who came to the stark conclusion that the right to freedom of expression is still under threat in Azerbaijan.

These elements, taken together, point to an environment that is not conducive to the exercise of civil liberties. Yet, it is clear that the free exercise of these public freedoms is an absolute prerequisite for the exercise of other fundamental labour freedoms that Azerbaijan must respect. These include the rights of association and assembly, through which citizens seek to make their views known and accepted and which may be affected by political coercion of the kind we see in Azerbaijan today.

The large number of international institutions making similar findings cannot, and should not, leave the Government unmoved. It is high time to remedy this situation and to restore an environment conducive to the exercise of civil liberties, which is a precondition for full compliance with international core labour standards, including, of course, the Convention.

In particular, and as a matter of urgency, Azerbaijan should ensure that criminal sanctions for the peaceful expression of dissenting political views, especially where such sanctions are accompanied by an obligation to work, are ended in order to bring its legislation and practice into line with the Convention.

Membres employeurs – La convention fait partie des conventions fondamentales de l'OIT et, à ce titre, elle doit faire l'objet d'une attention particulière et d'un contrôle prioritaire. Nous abordons pour commencer les questions procédurales.

C'est la première fois que notre commission analyse ce cas individuel, mais c'est déjà la troisième observation formulée par la commission d'experts depuis 2015. À la lecture des observations de la commission d'experts, le défaut de réponses à ces observations depuis 2015 faisait conclure à l'absence de progrès substantiel pour éradiquer le travail forcé comme

sanction accompagnant certaines condamnations criminelles en lien avec la liberté d'expression pacifique.

Le 28 février 2022, le gouvernement a dialogué avec le BIT et a notamment pris réception d'une note technique donnant des indications nécessaires afin de mettre sa législation et sa pratique pénales en conformité avec les normes de l'OIT. Nous soulignons positivement la décision de demander l'assistance technique du BIT qui a été annoncée par le gouvernement lors de cette visite et il y a quelques minutes.

Entre-temps, le BIT vient de recevoir des informations écrites, le 16 mai. Nous avons examiné ces informations et nous y reviendrons dans quelques instants.

Nous pouvons saluer le fait que le gouvernement ait enfin pris au sérieux les observations de la commission d'experts, car la convention est, comme je l'ai dit, une convention fondamentale de l'OIT, et la liberté d'expression pacifique un droit humain tout aussi fondamental. Il serait à l'avenir incompréhensible que, malgré la ratification de cette convention depuis l'an 2000, l'Azerbaïdjan reste en défaut de transmettre à l'OIT en temps utile des rapports complets sur l'application de cette convention fondamentale.

Venons-en au fond du dossier. En droit, depuis ses observations de 2015, la commission d'experts a constaté que plusieurs dispositions du Code pénal prévoient de lourdes sanctions, y compris des peines de travail obligatoire, en cas de diffusion de fausses informations, également via Internet, ou en cas d'organisation de manifestations publiques.

Selon le Comité des droits de l'homme des Nations-Unies, la peine de prison maximum pour des infractions mineures, telles que la résistance aux forces de l'ordre en cas de manifestation pacifique, a été portée de 15 à 90 jours.

Un nouveau délit a été introduit récemment dans le Code pénal pour incriminer la publication de calomnies ou d'insultes sur Internet en utilisant de faux noms d'utilisateur, profil ou compte. Cette infraction donne lieu à un emprisonnement jusqu'à un an. Enfin, récemment, un emprisonnement jusqu'à trois ans a été ajouté dans le Code pénal en cas d'utilisation des outils numériques en ligne par lesquels l'auteur se rendrait coupable de diffamation ou d'humiliation de l'honneur et de la dignité du Président.

En pratique, plusieurs institutions et organes européens et des Nations-Unies confirment que ces dispositions pénales sont interprétées de manière très large par les tribunaux. Ces organes et la commission d'experts ont ainsi pu constater que des poursuites judiciaires sont régulièrement engagées contre des journalistes, blogueurs, défenseurs des droits de l'homme et autres, qui avaient exprimé leurs opinions de manière pourtant pacifique.

D'après le rapport de la Commissaire aux droits de l'homme du Conseil de l'Europe faisant suite à sa visite en Azerbaïdjan en juillet 2019, aucun progrès n'aurait été accompli en ce qui concerne la protection de la liberté d'expression en Azerbaïdjan. Le Groupe de travail des Nations-Unies sur la détention arbitraire a conclu que la privation de liberté d'un journaliste qui avait été accusé de crimes liés à la drogue, soi-disant, et condamné à neuf ans de prison, découlait de l'exercice de son droit à la liberté d'expression. Enfin, la Cour européenne des droits de l'homme a rendu plusieurs décisions depuis 2008 par lesquelles elle estime que les condamnations basées sur l'article 147 du Code pénal, comportant une obligation de travailler, constituent une violation de l'article 10 de la convention européenne des droits de l'homme qui protège la liberté d'expression. La même Cour a entre-temps continué à auditionner des cas concernant l'Azerbaïdjan portant sur des détentions et des condamnations d'opposants politiques.

Toutes ces sources officielles concordent pour constater que la liberté d'expression n'est pas encore garantie sur le territoire de l'Azerbaïdjan.

Dans ses informations écrites du 16 mai, le gouvernement explique cependant, par des arguments de droit et de fait, que la liberté d'expression serait garantie sur son territoire et qu'aucune personne ne serait à proprement parler forcée d'effectuer un quelconque travail obligatoire au profit de l'État, en exécution d'une condamnation pénale.

Dans son Étude d'ensemble de 2012, la commission d'experts constate que «les constitutions nationales et autres textes législatifs en vigueur dans presque tous les pays du monde contiennent des dispositions qui reconnaissent la liberté de pensée et d'expression, le droit de réunion pacifique, la liberté d'association, le droit de ne pas être arrêté pour un motif arbitraire et le droit à un procès équitable». Cette étude poursuit en précisant: «à cet égard, la convention n'interdit pas d'appliquer des sanctions comportant du travail obligatoire aux personnes qui utilisent la violence, incitent à la violence ou préparent des actes de violence».

Tenant compte de tous les éléments recueillis récemment sur le territoire de l'Azerbaïdjan, les membres employeurs prient instamment les autorités de ce pays de garantir la liberté d'expression, en commençant par réviser le Code pénal. Seuls les comportements qui utilisent la violence, incitent à la violence ou préparent des actes de violence en lien avec l'expression d'une opinion peuvent être passibles de sanctions pénales. Le droit pénal doit définir plus précisément les incriminations et empêcher toute interprétation extensive par les tribunaux. Il en va d'un principe démocratique fondamental.

Les membres employeurs prient le gouvernement de prendre des mesures immédiates et efficaces pour s'assurer que, tant en droit qu'en pratique, aucune personne qui, de manière pacifique, exprime des opinions politiques ou s'oppose au système politique, social ou économique établi ne puisse être condamnée à des sanctions impliquant un travail obligatoire ou l'emprisonnement.

Nous avons compris que le gouvernement a décidé de mettre en place un groupe de travail inter-agences, une *task force* nationale, composé d'organismes publics, d'institutions non étatiques et des partenaires sociaux pour étudier ces faits. Nous comprenons également que, pour avoir plus d'éléments d'analyse, une première évaluation des besoins a permis d'identifier, d'une part, que les statistiques sur les cas et les sanctions sont nécessaires, mais aussi, d'autre part, que les informations sur les actes ayant donné lieu à des poursuites pénales, le résumé des délibérations des tribunaux et les décisions rendues dans le cadre de ces poursuites pénales doivent être présentés à l'OIT. Nous encourageons le gouvernement à faire un effort dans ce sens.

Enfin, nous nous réjouissons que le gouvernement de l'Azerbaïdjan ait décidé de recourir à l'assistance technique du BIT, afin d'avoir des indications pour mettre sa législation et sa pratique en conformité avec la convention. C'est une étape positive, que les membres employeurs encouragent fortement. Il est enfin requis du gouvernement qu'il remplisse désormais toutes ses obligations de rapport et qu'il réponde, de manière complète et sans dépasser les délais requis, aux questions qui lui seront posées par les organes de l'OIT.

Worker member, Azerbaijan – I would like to give some information on the application of the Convention at the national level. In early February of this year, the Azerbaijani Trade Unions Confederation (AHIK) received information through colleagues from the Bureau for Workers' Activities (ACTRAV) that the Government had not provided a detailed report on the application of the Convention or the documents required by direct request from the Committee of Experts. AHIK took the information into consideration during its full examination

of the Azerbaijan case and held initial meetings with the social partners and the ILO National Coordinator in Baku.

On 23 February 2022, the Ministry of Labour and Social Protection organized an online ad-hoc meeting with the participation of the social partners and the relevant public authorities (the Ministry of Justice, the Ministry of Internal Affairs, the Attorney General's Office and the Ministry of the Economy). The participants in the ad-hoc meeting agreed to establish a task force working group to address the case relating to the Convention and collect feedback from the relevant agencies.

AHIK has requested the technical support of ACTRAV to conduct awareness-raising and develop the professional skills and knowledge of its members. With that technical support, AHIK held a tripartite workshop on the role of trade unions in the application of the Convention in Baku in May 2022. The workshop was attended by the Chair of AHIK, managerial officials of the Ministry of Labour and Social Protection and the National Confederation of Employers' Organizations, as well as Mr Sergeyus Glovackas, ACTRAV Desk Officer for Europe and Central Asia, Mr Gocha Aleksandria, Senior Specialist at the ILO Country Office for Eastern Europe and Central Asia in Moscow, Ms Mélanie Jeanroy, ACTRAV Legal and Labour Law Officer, and the ILO National Coordinator in Baku.

As a trade union, we are strongly committed to improving national legislation and bringing it into line with the Convention while taking account of all the comments raised by the Committee of Experts.

AHIK stands ready to take very seriously any case related to forced labour in its member enterprises and entities. For the time being, no complaints of forced labour have been received by AHIK. All cases related to labour relations and violations of national labour legislation and international labour standards are under AHIK's ongoing supervision.

In line with the Law on Trade Unions, AHIK has contributed to preparing national labour and social protection legislation and economic policy. AHIK is also contributing to developing a criminal code and the relevant national legislation under its competence and capacities. I would also like to inform the Committee about the outcomes of the seminar entitled "The Role of Trade Unions in Meeting the Requirements of ILO Conventions Nos 29 and 105" that was held in Baku this May.

The outcomes are the following. The scope of the legal definition of forced labour in Convention No. 29 is interpreted much more broadly than in the Labour Code of the Republic of Azerbaijan (article 17, paragraph 1). Here, the very concept of forced labour applies only to the context of labour relations and labour functions, while in the Convention itself it applies to both labour and service, or civil, contractual relations. A proposal was made to bring this norm of the Labour Code of the Republic of Azerbaijan into line with the ILO Convention.

It would be useful to study the experience of Member States with examples of indicators in the field of the abolition of forced labour, as well as the international experience of mechanisms, or procedures, in limiting the scope of certain provisions of the Criminal Code in accordance with Article 1 of the Convention. In order to prevent forced labour, it is important for the social partners to organize collective bargaining for all workers, regardless of the organizational and legal form of the workplace, and to promote the right to organize in trade unions.

Employer member, Azerbaijan – The Deputy Minister and my colleague from the trade unions gave brief information about our response to the ILO's request as well as about what we have been doing in the last two months in the working group. All partners, including the National

Confederation of Employers' Organizations, gave their comments to this working group, and our comments to the working group were reflected in the general document provided by the Government to the Committee. Here we see that the ILO and the Committee of Experts assess forced labour and provide recommendations in relation to the alignment of legislation. I also would like to give some information on the penalties. In our opinion, correctional work and work in the community cannot constitute forced labour. The Worker members said that correctional work can be considered forced labour, but it is actually a monetary sanction, and it is lighter than an ordinary fine. Actually, the penalty of correctional work provided for in the legislation is, in practice, one of the lighter penalties of the Criminal Code, in comparison to imprisonment or sanctions restricting freedom of liberty. Nevertheless, we can work on the definitions and narrow the scope of our definitions of crimes, and we can undertake an analysis of the act. But, generally, as the Deputy Minister indicated in Azerbaijan in the last four or five years we have made some legal reforms that have decriminalized many acts. There are, perhaps, some aspects that we should accept. However, concluding that our general legislation is not in line with the ILO Conventions or other general human rights conventions is not a fair approach.

Membre gouvernementale, France – Je m'exprime au nom de l'**Union européenne (UE) et de ses États membres**. Le **Monténégro** et l'**Albanie**, pays candidats, l'**Islande** et la **Norvège**, pays de l'Association européenne de libre-échange (AELE), membres de l'espace économique européen (EEE), s'alignent sur cette déclaration.

L'UE et ses États membres s'engagent à promouvoir, protéger, respecter et réaliser les droits de l'homme, y compris les droits du travail. Nous encourageons activement la ratification et la mise en œuvre universelles des normes internationales fondamentales du travail, y compris la convention, et nous soutenons l'OIT dans son rôle indispensable d'élaboration, de promotion et de contrôle de l'application des normes internationales du travail ratifiées et des conventions fondamentales en particulier.

Les relations entre l'UE et l'Azerbaïdjan sont fondées sur l'accord de partenariat et de coopération en vigueur depuis 1999, et sont également guidées par les priorités de partenariat communes en place depuis 2018, qui incluent parmi ses domaines d'intervention la coopération en matière de renforcement des institutions et de bonne gouvernance.

Nous remercions le Bureau et lui apportons notre plein soutien pour son engagement constant dans la promotion des droits du travail en Azerbaïdjan. Nous remercions la commission pour le rapport sur la mise en œuvre de la convention en Azerbaïdjan.

L'UE et ses États membres déplorent que les dispositions du Code pénal continuent d'être utilisées pour poursuivre et condamner des personnes qui expriment leurs opinions politiques ou des points de vue idéologiquement opposés au système politique, social ou économique établi, ce qui conduit à des peines de travail correctionnel ou d'emprisonnement, les deux impliquant des formes de travail forcé ou obligatoire que le gouvernement est explicitement censé supprimer et ne pas utiliser selon la convention.

Nous nous associons pleinement à l'appel de la commission d'experts et demandons instamment au gouvernement de prendre des mesures immédiates et efficaces pour garantir que, tant dans la loi que dans la pratique, aucune personne qui, de manière pacifique, exprime des opinions politiques ou s'oppose au système politique, social ou économique établi ne puisse être condamnée à des sanctions prévoyant le travail obligatoire.

Nous sommes également profondément préoccupés de constater que la commission d'experts n'a observé aucun progrès en ce qui concerne la protection de la liberté d'expression en Azerbaïdjan et que les journalistes, les militants des médias sociaux et les militants

politiques de l'opposition qui expriment leur désaccord ou leurs critiques à l'égard des autorités sont condamnés et emprisonnés en vertu de diverses dispositions du Code pénal et risquent d'être soumis au travail forcé.

Nous nous félicitons des informations écrites fournies par le gouvernement de l'Azerbaïdjan, nous prenons note des premières mesures prises, y compris la création d'un groupe de travail interagences pour examiner les questions soulevées dans l'observation et la demande directe de la commission d'experts. Cependant, ces mesures initiales du gouvernement devraient couvrir toutes les questions soulevées dans le rapport sans exception. Nous prenons également note des mesures envisagées qui reconnaissent le rôle fondamental de l'OIT dans la lutte contre les déficits de travail décent et la pertinence de son assistance technique. Nous souhaiterions disposer d'un calendrier précis pour l'abolition de l'utilisation du travail forcé et obligatoire en Azerbaïdjan, y compris comme forme de coercition politique.

L'UE et ses États membres sont prêts à aider l'Azerbaïdjan à respecter ses obligations et continueront à suivre de près la situation dans le pays.

Government member, Türkiye – We would like to thank the Government for the detailed response that they have provided to the Committee. We take note of Azerbaijan's efforts to work closely with the ILO and we believe that the ILO can, and should, play a key role here in settling the issues by providing technical assistance in order to support the Government's efforts to improve working conditions in the country. The Government of Azerbaijan shows willingness to benefit from the technical assistance of the ILO.

As a Member of the ILO, Azerbaijan has ratified 58 Conventions, including all the fundamental and priority Conventions. We commend the positive and significant developments, such as the declining use of correctional labour, the introduction of about 300 amendments to the Criminal Code and the decriminalization of a number of criminal offences, the reduction of fines and the mitigation of prison sentences for certain crimes.

We welcome the fact that the Azerbaijani Constitution and its national legislation enshrine and protect the exercise of freedom of assembly, and that the Government demonstrates its strong desire to continue engaging in social dialogue with the social partners. We also appreciate that Azerbaijan has established an inter-agency working group to review the issues raised in the observation and direct request of the Committee of Experts.

The intensive consultations and discussions with the social partners, the several meetings with ILO representatives and the work on the ratification of the Convention are significant indications of the Government's strong readiness to strengthen and adapt its current legislative framework to bring it into line with ILO standards. We encourage the Government to continue to undertake the necessary steps in this regard.

We believe that Azerbaijan will continue to work with the ILO and the social partners in the spirit of constructive cooperation regarding the ILO and international labour standards and comply with reporting obligations and the ratified Conventions.

Membres travailleurs, Belgique – Nous sommes préoccupés par les informations contenues dans le rapport de la commission d'experts. Nous sommes également soucieux que le gouvernement n'ait pas respecté son obligation de répondre aux différentes préoccupations soulevées quant au non-respect de la convention. En particulier, le fait que des condamnations à des peines de travail obligatoire soient infligées à des personnes qui expriment leurs opinions politiques ou qui manifestent leur opposition à l'ordre politique, social ou économique établi, nous préoccupe.

Dans son rapport, la commission d'experts a noté que plusieurs dispositions du Code pénal prévoient des sanctions de travail correctionnel ou d'emprisonnement impliquant le travail obligatoire. Ces dispositions pénales sont formulées en termes larges et se prêtent à une interprétation permettant de sanctionner pénalement l'expression d'opinions opposées au système politique, social ou économique établi. Le rapport, d'ailleurs, fait état d'une tendance de plus en plus marquée à utiliser ces dispositions du Code pénal pour engager des poursuites judiciaires contre des journalistes, des blogueurs, des défenseurs des droits de l'homme qui expriment des opinions.

La criminalisation de la liberté d'expression crée une atmosphère de peur. Elle dissuade les défenseurs des droits de l'homme et les défenseurs des travailleurs. Elle entrave aussi gravement la liberté d'association. Nous soutenons fermement l'appel de la commission d'experts au gouvernement, afin qu'il prenne des mesures immédiates et efficaces pour garantir que, en droit comme en pratique, aucune personne, qui de manière pacifique exprime des opinions politiques ou s'oppose au système politique, social ou économique établi, ne puisse être condamnée à des sanctions dans le cadre desquelles le travail obligatoire est imposé.

Nous comprenons que certaines mesures ont déjà été prises par le gouvernement comme cela a été rapporté à la Conférence, notamment l'amnistie qui a concerné des personnes condamnées au travail obligatoire. Nous comprenons aussi que le gouvernement a approché l'OIT et les partenaires sociaux au sujet de la révision de la législation en question. Nous demandons instamment à l'OIT de fournir une assistance technique à ce processus afin que les libertés civiles soient garanties en droit et en pratique, et qu'il n'y ait plus de sanction de travail obligatoire à la suite d'une condamnation pour avoir exprimé des opinions idéologiquement opposées au système politique, social ou économique établi.

Government member, Belarus – I would like to thank the delegation of Azerbaijan for their complete report. The report before us contains a number of comments reflecting answers to the questions relating to the application of provisions in the Criminal Code and the penalties applied resulting from the infringement of laws applying to individuals, the State and organizations. The application of correctional work is covered in a number of provisions of the Criminal Code of Azerbaijan, and there are also substantive statistics on this issue.

With regard to the complaints raised against the Government concerning the application of such penalties and these provisions to those carrying out strikes, the interpretation of the Committee indicates, regarding the right to carry out strikes, that there can be no direct threat to public order, and they must be carried out in observance of national law. We consider that failure to respect such provisions allows the forces of law and order to impose respect for those laws, so there needs to be a proportionate response in Azerbaijan, and in other countries as well.

We believe that Azerbaijan is not departing from its national laws and that it also fully respects the provisions of the ILO.

Government member, Canada – We thank the Government of Azerbaijan for the recent information provided to address the observations of the Committee of Experts and additional details provided by the Deputy Minister. Protecting the freedom of expression of journalists, social media activists and political protesters is of utmost importance to Canada. Canada believes freedom of expression, both online and offline, is at the core of human individuality and is one of the essential foundations of a safe and prosperous society. We also strongly believe that media freedom remains an important part of democratic societies, and it is essential to the protection of human rights and fundamental freedoms.

We are therefore deeply concerned by persistent reports of provisions of the Azerbaijan Criminal Code being used to prosecute and convict persons who express their political views or views ideologically opposed to the established political, social or economic system, leading to penalties of correctional work or imprisonment involving compulsory labour, in violation of the Convention.

We therefore urge the Government of Azerbaijan to:

- take immediate action to ensure that, both in law and in practice, no one who in a peaceful manner expresses political views or opposes the established political, social or economic system can be sentenced to sanctions under which compulsory labour is imposed;
- review all relevant sections of the Criminal Code identified by the Committee of Experts and clearly restrict the scope of these provisions to situations connected with the use of violence or incitement to violence or repeal sanctions involving compulsory labour;
- avail itself of ILO technical assistance towards these goals. We welcome the Government's recent stated intention to cooperate with the ILO on this matter. We sincerely hope that the Government, in its next report to the Committee of Experts, will highlight positive developments.

Membre gouvernemental, Suisse – Le travail forcé constitue une violation des droits de l'homme. La Suisse s'inquiète dès lors du large champ d'application de plusieurs dispositions du Code pénal de l'Azerbaïdjan qui prévoit des sanctions de travail correctionnel. Elle est préoccupée par l'utilisation de telles dispositions pour sanctionner l'expression d'opinions. La Suisse condamne fermement l'application de dispositions impliquant du travail obligatoire, que ce soit pour sanctionner des personnes qui, de manière pacifique, expriment des opinions politiques ou s'opposent au système politique, ou pour toute autre raison. Ces dispositions et cette pratique sont incompatibles avec la convention.

Tout en remerciant le gouvernement de l'Azerbaïdjan pour l'information fournie par écrit, la Suisse appelle le gouvernement à continuer à prendre toutes les mesures visant l'élimination de cette pratique et à fournir toutes les informations requises par la commission dans son rapport.

Government representative – I would like to extend my sincere gratitude for the invitation to participate in this honourable platform and for the opportunity to present our case. We have attentively taken note of the valuable comments and recommendations expressed by the Committee of Experts and the delegates.

The exchange of views from diverse perspectives once again demonstrates the good spirit of cooperation and constructive dialogue, as well as the commitment of the Azerbaijani Government to adhere to and implement ILO norms and principles. The comments and recommendations are well noted, they will be conveyed to the National Task Force and, certainly, will also serve as a basis for the planned technical assistance agreements with the ILO in order to tackle the matters raised in the observation and the direct request of the Committee of Experts.

Certainly, the ILO appreciates the understanding of the esteemed speakers today, as they appreciate the efforts and action already undertaken in recent months. However, of course, the scope of the matters already raised indicates that significant effort should continue to be exerted in the coming months. In the written information that was provided by the Azerbaijani side on 16 May, the Government made its best effort to capture and address the crucial aspects given the current circumstances and capacities. Therefore, in our written information,

explanations in relation to the legislative wording and drafting were provided. In addition, statistics on cases and penalties were provided. However, based on the feedback expressed today, we well understand that additional information and explanations should be provided, and we will do so. It seems that there are still certain aspects of legislation and practice in the field of criminal law that require additional elaboration, explanation and clarification. Given that, our probable future steps on the Azerbaijani side can be grouped into two directions.

Our first line of action is to collate and provide all available information on the current situation of legislation and practice from the different line ministries engaged in the application of the Criminal Code, including the Ministry of Justice, the Supreme Court, the Ministry of Internal Affairs and the Attorney General's Office. As I stated in my presentation, since the start of the criminal law reforms over the last three or four years, 300 amendments have been made to criminal processes, and information about the reforms is still fresh. This is new information, which we have to properly share and present for consideration and review by the Committee of Experts. I believe that we may also have to shed more light on the Criminal Code reform.

Our second line of action will be to prepare and present more detailed information, not only on cases and statistics on penalties, but also information on the acts and the facts that give rise to criminal prosecutions, and probably more detailed information on court deliberations and decisions, indicating why those decisions were delivered under the articles of the Criminal Code. This information is currently not available in English, but it is already publicly available so that all local experts and interested parties may easily familiarize themselves with court decisions and court deliberations via the web page of the Supreme Court and the Azerbaijani judicial authorities. Court deliberations are already open to the public, and the process can easily be accessed. However, the volume of this information is quite large, and it needs to be properly translated into English. This requires more time and additional resources.

Also, we will be able to identify within this process outstanding gaps that have not yet been covered by the current reforms but that may serve as a framework for future reform. For this reason, we believe that technical assistance from the ILO would assist in creating a more concrete framework for those reforms, as that would address the matters raised by the esteemed Committee members today. I would also like to share with you that, based on the statements, comments and recommendations expressed today, we believe that – and all Committee members likely also agree – it is not just a straightforward matter of replacing all correctional work, work in the community and penalties with fines or other forms of penalties; this approach requires study, and we will likely require experts, and we will also need to engage with Azerbaijani line ministries, because they are the major drivers behind the criminal law reforms, in order to explain and to bring it into the context and the platform of ILO cooperation.

Therefore, we will work closely with the ILO through the Geneva Office, through the regional office that is coming to Azerbaijan in mid-June, and also through technical assistance.

Worker members – We thank the representative of the Azerbaijani Government for the information he was able to provide during the discussion. We also thank the speakers for their contributions. There are, nevertheless, many consistent reports calling into question whether the free exercise of public freedoms is possible in Azerbaijan.

Those public freedoms are essential to the observance of international labour standards and the rights and freedoms that they enshrine. For this reason, the Convention itself provides, in Article 1(a), that the imposition of labour penalties for the expression of political opinions or

the manifestation of ideological opposition to the established political, social or economic order is expressly prohibited.

Sadly, it is apparent that Azerbaijani legislation and practice have been in clear contradiction with this provision for many years.

We can, therefore, only call on the Government to amend its legislation as soon as possible to abolish the criminal sanctions imposed on persons expressing peaceful, dissenting political opinions. In order to comply with Article 1(a) of the Convention, Azerbaijan must ensure that any criminal sanctions involving an obligation to work are abolished for such persons.

We also consider it essential that Azerbaijan cancels all the labour sentences currently being served, or still to be served, that were imposed for the expression of political opinions or the manifestation of ideological opposition to the established political, social or economic order. We acknowledge the positive signal sent by the Amnesty Act passed in November 2021 which cancelled correctional labour sanctions for more than 17,000 people and hope that these sanctions will not be imposed in the future so that such an amnesty law will no longer be necessary.

Furthermore, we call on the Government to restore an environment in which the free exercise of public freedoms is fully guaranteed, without which all fundamental labour rights and freedoms cannot be fully guaranteed. To fully restore this environment for the exercise of civil liberties, we call on the Azerbaijani Government to ensure that victims of labour sentences in contravention of the Convention have access to adequate remedies and redress for the harm suffered.

We welcome, however, the initiatives announced by the Government to remedy the situation and hope that these initiatives will be implemented in practice, in consultation with the social partners.

We encourage the Government of Azerbaijan to continue the dialogue with the ILO on this issue and to provide it with all relevant information for a thorough analysis of the compliance of Azerbaijan's legislation and practice with the Convention. Finally, in order to implement these recommendations, we call on the Government

to honour its commitment to avail itself of ILO technical assistance.

Membres employeurs – Nous remercions les différents intervenants, et en particulier le gouvernement de l'Azerbaïdjan pour les informations écrites et orales qu'il vient de communiquer à la commission concernant la mise en conformité du droit et de la pratique nationale avec la convention. Sur le fond, nous insistons sur le fait que la convention est une convention fondamentale, et qu'à ce titre elle nécessite une attention particulière de l'OIT, des gouvernements, et des partenaires sociaux.

Notre position par rapport à l'Azerbaïdjan est claire: on ne transige pas avec la liberté d'expression pacifique ni avec les droits fondamentaux connexes. Ceci est un cas d'une extrême gravité.

En ce qui concerne le Code pénal et son application aux personnes qui expriment leur opinion, le groupe des employeurs prie le gouvernement de prendre des mesures immédiates et efficaces pour s'assurer que, tant en droit qu'en pratique, aucune personne, qui de manière pacifique exprime des opinions politiques ou s'oppose au système politique social ou économique établi, ne puisse être condamnée à des sanctions impliquant un travail obligatoire.

Nous espérons que la demande d'assistance technique pour mener les réformes législatives nécessaires, actuellement promises par le gouvernement, parviendra auprès du BIT dans les plus brefs délais. C'est une opportunité unique pour veiller à l'application conforme de la convention. Le groupe des employeurs prie le gouvernement de l'Azerbaïdjan d'y collaborer de manière constructive afin que la réforme du Code pénal et des pratiques actuelles soient menées à bien.

Enfin, et ceci est d'une extrême importance, nous comptons sur le gouvernement pour qu'il dépose en temps utile les informations demandées, et qu'il se conforme au cycle de rapportage. Nous insistons sur la qualité et la pertinence de ces données afin de pouvoir évaluer les progrès effectifs en droit et en pratique. Nous comptons donc sur l'attitude positive du gouvernement afin que ce cas ne revienne pas une deuxième fois devant la commission.

Conclusions of the Committee

The Committee took note of the written and oral information provided by the Government representative and the discussion that followed.

The Committee deplored the continued use of penal sanctions involving compulsory labour as a punishment for the expression of political views or views ideologically opposed to the established political, social or economic system. The Committee also noted with disappointment that various provisions of national legislation that provide for such penalties have not been repealed or amended in order to bring them into conformity with the Convention.

Taking into account the discussion, the Committee urges the Government of Azerbaijan to take effective and time-bound measures to:

- **ensure that the right to hold or express political views or views ideologically opposed to the established political, social or economic system without the threat of penalties involving compulsory labour is fully respected in line with Article 1(a) of the Convention;**
- **repeal or amend relevant provisions of the Criminal Code, including those leading to penalties of correctional work or imprisonment, in consultation with the social partners, in order to bring them into conformity with the Convention;**
- **quash convictions and drop all charges brought against individuals for having expressed political views or views ideologically opposed to the established political, social or economic system;**
- **ensure access to effective judicial remedies for victims of compulsory labour in violation of the Convention; and**
- **develop an action plan, in consultation with the free and independent employers' and workers' organizations, to implement these conclusions without delay.**

The Committee invites the Government to avail itself of ILO technical assistance to effectively implement the Committee's conclusions.

The Committee requests the Government to submit a report to the Committee of Experts by 1 September 2022 with information on the application of the Convention in law and practice, in consultation with the social partners.

Government representative – We would like to, once again, thank the Committee members, social partners and governments for their constructive and forward-looking

discussion on our case and for the acknowledgment of the developments and the efforts made by the Government relating to the subject matter.

We take good note of the conclusions adopted by the Conference Committee. They will be conveyed to the national task force. They will also serve as cases for detailed consultations with the large team of experts from the ILO's regional office coming to Azerbaijan on 20–22 June this year. The discussions are planned to take place during the Conference, followed by a series of bilateral meetings that will result in planned steps to be taken in the coming months.

We would like to reiterate that our country is committed to fully respect and implement its obligations under the ILO Conventions, so we will continue to work with the social partners and the relevant stakeholders within the Government, and with ILO technical assistance on legislation and practice related to the implementation of the Convention in Azerbaijan.