



109th Session of the International Labour Conference (May-June 2021)

Agenda item III

Committee on the Application of Standards

Briefing Note for Workers' Delegates

2021 General Survey: Promoting employment and decent work in a changing landscape

BACKGROUND

Under Article 19 of the ILO Constitution, Member States are required to report at regular intervals, at the request of the Governing Body, on the measures they have taken to give effect to any provision of certain conventions or recommendations, and to indicate any obstacles, which have prevented or delayed ratification of a particular convention. At its 331st Session (November 2017) the Governing Body decided that in 2020 the

General Survey would examine the following eight instruments:

- the Employment Policy Convention, 1964 (No. 122)
- the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169)
- the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159)
- the Vocational Rehabilitation and Employment (Disabled Persons) Recommendation, 1984 (No. 168)
- the Home Work Convention, 1996 (No. 177)
- the Home Work Recommendation, 1996 (No. 184)
- the Employment Relationship Recommendation, 2006 (No. 198); and
- the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204)

The General Survey brings the eight instruments together, linking them by a common thread: the goal of promoting full, productive and freely chosen employment and decent work through the development and implementation of a comprehensive, gender-responsive and inclusive national employment policy through a process of inclusive social dialogue, with the active participation of the tripartite constituents and consultation with those individuals and groups concerned.

In view of the devastating effects of the COVID-19 pandemic and the deferral of the 2020 International Labour Conference¹, the 2020 General Survey² was supplemented with an Addendum in 2021³.

In total, 114 governments, 30 workers' organisations and 9 employers' organisations provided information and observations regarding these instruments in 2020. In 2021, 25 governments, 4 workers' organisations and 5 employers' organisations provided supplementary information.

The following briefing note aims at providing a short summary of the findings and conclusions of the Committee of Experts while offering starting points for further discussion, at national level and during the dedicated session of the Committee on the Application to be held on Friday 4 of June.

¹ GB338, March 2020: https://www.ilo.org/gb/GBSessions/GB338/ins/WCMS_747663/lang--en/index.htm

² English version: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_736873.pdf

³ English version: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_775883.pdf

1. National employment policy

113 countries have ratified Convention No. 122⁴

Convention No. 122 calls on member States to declare and pursue, as a major goal, an active policy designed to promote full, productive and freely chosen employment and aiming at stimulating economic growth and development, raising standards of living, meeting the requirements for skilled workers and overcoming both unemployment and underemployment.

While noting that the Convention does not prescribe a specific form for the national employment policy, the Committee underlines that such policy should reflect a concerted and coherent vision of the country's employment objectives and that it should set out specific means of achieving them. It should also provide a comprehensive approach cutting across both macro and microeconomic dimensions and addressing both labour supply and demand as well as labour market governance policies. To achieve job creation and inclusive and sustainable economic growth, member States must position employment as a major macroeconomic goal within the national policy agenda and ensure that trade, investment and industrial promotion policies support this goal.

The Committee also emphasises the interdependence of economic, social and employment objectives and the need to coordinate the national employment policy with other economic and social policies. In addition, coordination measures should include the relevant ministries, the social partners and local governments where relevant.

The Committee stresses that national employment policies must be inclusive in that they must promote the employment of particular categories of workers who encounter difficulties in finding lasting employment, such as women, young people, older workers, workers with disabilities, long-term unemployed workers, workers in the informal economy and migrant workers. It emphasises that one of the objectives of national employment policies must be the achievement of greater equality of opportunity in terms of access to employment, as well as equality of treatment concerning conditions of work and the protection of the various categories of workers.

The Committee indicates in its conclusions that it is essential that national employment policies be developed, implemented and evaluated through a consultative process with the social partners and representatives of those concerned by the measures to be taken and that they be monitored and evaluated in relation to the established targets.

In the context of the pandemic, the Committee reviews the measures adopted at national level to stimulate the economy, support enterprises, jobs and incomes and public investments in particular in health systems. It considers that stimulus measures should be kept in place until an economic and employment recovery is firmly entrenched and that a well thought-out employment policy will be required, within wider economic policies, for medium- to longer-term recovery of jobs and incomes. The Committee calls on governments to maintain employment retention measures (e.g. work-sharing, shorter working week, wage subsidies) and measure to help enterprises to survive the crisis (e.g. deferral of social security and pension contributions, debt payment moratorium).

The Committee further indicates that tailored responses should be adopted for specific sectors which were affected differently by the pandemic (e.g. tourism, accommodation and food services; retail trade and manufacturing; maritime sector) and for specific categories of workers whose working conditions worsened during the pandemic (e.g. workers in the informal economy, casual workers, domestic workers). The Committee also emphasises the need to strengthen occupational safety and health measures, especially in

⁴ see Appendix I, p. 378, GS 2020

professions and occupations at the front lines of the pandemic (e.g. health workers, domestic workers and care providers).

The Committee considers that the pandemic serves as a wake-up call in alerting the global community to the urgency of accelerating progress in building social protection systems, including social protection floors. It notes that social protection policies cannot be dissociated from employment but stresses that this does not prevent countries from broadening their scope and integrating new social protection mechanisms that are unrelated to employment status. The Committee recalls that Recommendation No. 205 on Employment and Decent Work for Peace and Resilience (2017) gives effect to Convention No. 122 during situations of crisis.

Workers' Group Recommendations

In the context of responses to the pandemic and recovery measures, the Workers' Group may wish to support the conclusions of the Committee in ensuring that measures are adopted to maintain jobs and livelihoods and to ensure adequate protection for workers, irrespective of their contractual arrangement. Such protection must include safety and health in the workplace and adequate social protection coverage. The Workers' Group may also wish to stress that measures and policies adopted must be inclusive in that they must pay particular attention to specific categories of workers who were/are hard hit by the pandemic and its consequences due to either their overexposure to the infection risk (e.g. front line workers); their lack of protection (e.g. seafarers) or their heightened vulnerability to exclusion from the labour market (e.g. workers with disabilities or workers in the informal economy).

In addition, the Workers' Group may wish to recall that many measures at national and enterprise level were adopted without proper consultation of the workers and their representatives or in violation of existing collective agreements. While recognising that the situation of crisis called for emergency measures to be taken, the Workers' Group may wish to stress the need to lift the emergency measures including those violating the right to freedom of association and collective bargaining as enabling rights and thus preventing meaningful social dialogue. If national employment policies and recovery plans are to be successful, they must fully include the social partners in their design, implementation and review.

The Workers' Group may also wish to recall that international labour standards have to remain at the heart of any global and national level response and that the ILO should closely monitor efforts and assist member States at the national and global level to ensure a job-rich recovery and sustainable structural change, as advocated by the Experts.

2. Global governance and multinational enterprises

Recommendation No. 169 supplements Convention No. 122 on employment policy. Referring to paragraph 12 of Recommendation No. 169⁵, the Committee underlines that globalisation raises numerous challenges for labour, including the lack of effective implementation and enforcement mechanisms at the global level and the absence or weakness of enforcement mechanisms at the national level. Recalling the coordinated frameworks at the international level⁶, the Committee notes that some countries have adopted or are in the process of adopting legislative measures to establish due diligence processes.

⁵ Members should, after consultation with the organisations of employers and workers, take effective measures to encourage multinational enterprises to undertake and promote in particular the employment policies set forth in the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, 1977, and to ensure that negative effects of the investments of multinational enterprises on employment are avoided and that positive effects are encouraged.

⁶ Such as the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, the OECD Guidelines for Multinational Enterprises, the United Nations Global Compact and the United Nations Guiding Principles on Business and Human Rights

Furthermore, the Committee highlights the fundamental role of multinational enterprises (MNEs) in the economies of both home and host countries through the development of global supply chains and their responsibility with regard to due diligence. It notes, in this regard, that an increasing number of MNEs have specific supplier codes, most of which referring to the relevant international labour standards.

The Committee concludes by saying that while not addressed in the Survey in its full depth, the issue of global governance is a crucial and highly topical subject. According to the Committee, further research is needed on the influence of global supply chains on the formalisation or informalisation of national economies, as well on the interlinkages between the increase in work arrangements other than the standard employment relationships and global supply chains. The Committee also emphasises the importance of broad reflection on global governance mechanisms that can help to ensure fair competition, particularly taking into account the needs of developing countries, the disparities between North and South, and the protection of the most vulnerable workers in all countries. Therefore, the Committee calls on government and the social partners to strengthen dialogue across borders with a view to ensuring the adequate enforcement of national legislation and the realisation of the fundamental principles and rights at work at all levels of the supply chain.

Workers' Group Recommendations

The Workers' Group may wish to highlight, through concrete examples, the violation of workers and human rights perpetrated by MNEs to contrast the almost exclusively positive portrayal by the Experts. It will be worth pointing out that voluntary codes of conduct or initiatives have failed to incentivise responsible business conduct in global supply and value chains.

The Workers' Group may wish to refer to the conclusions of the 2016 ILC general discussion on global supply chains which pointed to the clear governance gaps that need to be addressed and called on governments to “set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations and the fundamental principles and rights at work for all workers, including migrant workers, homeworkers, workers in non-standard forms of employment and workers in export processing zones, and to implement measures to improve working conditions for all workers, including in global supply chains [...] and ensure that non-standard forms of employment meet the legitimate needs of workers and employers and are not used to undermine labour rights and decent work.”

The Workers' Group may also wish to recall that the formulation, implementation, monitoring and review of employment policies should be the result of a constructive tripartite social dialogue and not a consultation with MNEs according to their economic interests and development strategies.

Furthermore, it would be welcome to address the issue of incentives adopted by some countries to attract MNEs. The IOE stresses that businesses will not restart operations spontaneously and economies will not be able to return to previous levels of prosperity without persistent and adequate support, as well as through creating an enabling business environment with a predictable and incentivising environment for investment, innovation and employment creation. While recovery packages will understandably contain measures to revitalise economies and attract MNEs, it is crucial that such measures be weighted and evaluated against their real contribution to job creation and decent work.

3. Employment relationship

The Committee recalls that R.198 calls on member States to develop and adopt a national policy aimed at clarifying and adapting the scope of the employment relationship with a view to guaranteeing effective protection for workers who perform work in the context of an employment relationship. The national policy should facilitate the identification of the parties to the relationship (including in multiple party arrangements), workers' rights and the allocation of responsibilities between the parties. The policy should also address and combat situations in which the employment relationship is disguised and the worker is left unprotected. In

particular, the Committee indicates in its conclusions the importance of removing incentives to disguise or conceal the employment relationship. Finally, the Committee recalls that social dialogue is crucial in reaching consensus at the national level on the scope of the employment relationship.

With respect to the **determination of the existence of an employment relationship**, the Committee underlines that the determination of the true nature of the employment relationship must be based primarily on the facts relating to the performance of work and the remuneration, and not on the intention of the parties or the manner in which they describe the relationship. The Committee further highlights that the legal presumption of the existence of an employment relationship is crucial to counterbalance the unequal bargaining power of the parties and as a consequence of the principle in *dubio pro operario* which is fundamental in labour law.

In relation to the **criteria** applied to facilitate the determination of the existence of an employment relationship, the Committee refers to two key factors mentioned in R.198: subordination⁷ and economic dependency. The Committee then analyses the non-exhaustive list of other indicators which may help in establishing the existence of the employment relationship⁸. It further stresses the substantive role played by courts in the determination of the existence of an employment relationship, notably through their application of “multi-factor” tests by which factors are considered in their totality, each factor being analysed in relation to each other.

In this regard, The Experts note that in certain cases, some indicators, such as the provision of materials, machinery and tools by the worker is considered (by employers) as demonstrating the inexistence of the employment relationship. This can particularly be the case for homeworkers and workers in digital platform work. The Committee reaffirms that this element alone cannot be taken as the only determinant of the existence or not of an employment relationship.

The Committee also draws attention to two other indicators, “continuity of obligations” and “workers’ integration in the business organisation” which may tend to exclude casual workers from the scope of the employment relationship. In this light, the Experts call on member States to consider the need to establish new criteria and disregard criteria when they are no longer useful.

Furthermore, the Committee emphasises the expansion of the grey zone **between employed and self-employed workers** due to recent changes in the organisation of work and technological developments. While noting that R.198 does not envisage a third category of workers, the Committee highlights nonetheless the various national regulatory initiatives adopted to recognise some level of protection for workers who do not fall squarely under the concepts of employee or self-employed workers.

In its conclusions, the Committee reaffirms the importance of the employment relationship as a mechanism that offers clarity about the labour market in relation to the attribution of the respective rights and responsibilities of workers, employers and third contracting parties.

⁷ See Figure 2.2, p. 107, GS 2020

⁸ Recommendation No. 198, paragraph 13: Members should consider the possibility of defining in their laws and regulations, or by other means, specific indicators of the existence of an employment relationship. Those indicators might include:

(a) the fact that the work: is carried out according to the instructions and under the control of another party; involves the integration of the worker in the organization of the enterprise; is performed solely or mainly for the benefit of another person; must be carried out personally by the worker; is carried out within specific working hours or at a workplace specified or agreed by the party requesting the work; is of a particular duration and has a certain continuity; requires the worker's availability; or involves the provision of tools, materials and machinery by the party requesting the work;

(b) periodic payment of remuneration to the worker; the fact that such remuneration constitutes the worker's sole or principal source of income; provision of payment in kind, such as food, lodging or transport; recognition of entitlements such as weekly rest and annual holidays; payment by the party requesting the work for travel undertaken by the worker in order to carry out the work; or absence of financial risk for the worker.

With regard to **digital or platform work**, the Committee notes the very diverse criteria used to determine the status of platform workers and the varied outcomes among member States. It considers that this new form of work calls for a thorough examination of the real conditions of such workers. It also states that the common characteristic of the use of technological means to distribute tasks to an indeterminate workforce cannot justify these activities being considered forms of work separate from the rest of the labour market. The Committee concludes by recalling that the full range of fundamental principles and rights at work are applicable to platform workers in the same way as to all other workers, irrespective of their employment status.

Workers' Group Recommendations

The Workers' Group may wish to support the conclusions of the Committee on the continued relevance of the employment relationship as a cornerstone of the organisation of work and its importance in guaranteeing to workers employment and income security and access to employment-related rights and benefits. It is pointing out, in particular, the negative impact of the pandemic on precarious and vulnerable workers serving in the frontlines but suffering decent work deficits including working outside the protection of an employment relationship⁹. The Workers' Group may also wish to stress the need to establish, through national legislation, a broad presumption of the existence of an employment relationship and the principle of the primacy of facts. The Workers Group may wish to recall that the Centenary Declaration reaffirmed the continued relevance of the employment relationship as a means of providing certainty and legal protection to workers¹⁰ which must be extended to workers such as those performing frontline services during the pandemic. Regarding criteria, the Workers' Group may wish to concur with the Experts in recognising the need to review and adapt them to evolving working arrangements and conditions so as to ensure the broadest coverage possible to all workers and avoid grey zones.

In this regard, the Workers' Group may wish to respond to the IOE's comments indicating that the criteria and indicators, as well as the presumption of employment relationship "pose a risk in that many independent contractor relationships may be mischaracterised as employment relationship" and that R.198 "goes beyond disguised employment relationships and its provisions interfere with legitimate civil and commercial relationships." According to the IOE, R.198 "lack[s] relevance owing to the changes that have been occurring in the world of work and do[es] not respond to current needs and appear[s] to enjoy little support at national level."

The Workers' Group may wish to show broad support and reliance on R.198 emphasising its continued relevance in achieving protection for workers, including precarious and vulnerable workers, through national law and practice by providing relevant criteria for defining and assessing the scope of the employment relationship in a changing world of work.

The Worker's Group may also wish to comment on IOE's statement that "Measuring employee performance less on the number of hours worked each day, and more on achieving key deliverables or performance indicators is proving to be not just popular both with business and employees but a critical contributor to rises in productivity¹¹ by strongly asserting the fundamental role that maximum limits on working time play in the protection of workers in the employment relationship as affirmed in the Centenary Declaration¹² noting that such limits on working time also provide a clear framework for organizing the workplace to ensure effective performance, productivity and decent work¹³.

⁹ See Figure 2.1, "the multiple functions of the employment relationship", p. 83, GS 2020

¹⁰ See section III (B) of ILO Centenary Declaration, June 2019

¹¹ See para 81 of the Addendum to the General Survey: Promoting employment and decent work in a changing landscape CEACR/XCI/2020/4

¹² See Section III (B) (iii).

¹³ See para 5 of the General Survey concerning working time instruments, 107 Session of the ILC, 2018

Finally, the Workers' Group may wish to reinforce the Committee's conclusions on the need to promote and foster collective bargaining and social dialogue as a means of finding solutions to questions related to the scope of the employment relationship at national level, as called for by R.198.

4. Transition from the Informal to the Formal Economy

Workers in the informal economy account for 2.5 billion workers worldwide¹⁴.

The Committee underlines the multifaceted and widespread nature of informality and the need to address it within the context of a coherent and integrated policy framework¹⁵. While recalling the role and importance of constructive social dialogue and consensus in elaborating and implementing this framework, the Committee also stresses that addressing informality is a long process which requires tailored measures sustained over time. It therefore calls on governments to start with more modest measures focused on certain aspects or sectors and which can be extended coherently in future phases.

The Committee makes interesting parallels between the lack of labour regulations and policies and the expansion of informality. It highlights that informality is closely linked to the employment policy and when the latter is not inclusive and does not promote full, productive and freely chosen employment, informality tends to expand. The Experts also emphasise that the lack of clarity concerning the employment status of workers can contribute to the informalisation of the economy. In that regard, the Experts use the example of digital labour platforms. The Committee recalls that the recognition of the existence of an employment relationship is critical for formalisation and refers, in that regard, to paragraph 26 of Recommendation No. 204 and to Recommendation No. 198. Similarly, the Committee notes that multi-party employment arrangements, especially in local and global supply chains, also have a clear impact on the development of informality.¹⁶

The Committee also highlights the impact of the pandemic on the informal economy. To illustrate the dire need for adequate occupational safety and health protection for informal workers, the Committee specifically mentions informal workers who carry out essential activities (e.g. waste pickers, domestic workers, street vendors) as being at high risk of infection. The Experts also underline the need to provide income support and to ensure adequate earnings to informal economy workers¹⁷ and to progressively extend social protection to all workers in the informal economy. In this regard, the Experts indicate that the pandemic has revealed significant gaps in coverage and a lack of both financial and geographical access to quality health care for workers in the informal economy. The Committee also stresses the importance of both Recommendation 204 and Recommendation 205 on Employment and Decent Work for Peace and Resilience (2017) in guiding policy interventions for recovery at all stages of the crisis.

Workers' Group Recommendations

The Workers' Group may wish to underline the extremely precarious situation of workers in the informal economy, including heightened in-work poverty risk and the overexposure of women to the most vulnerable forms of informal work.

¹⁴ The informal sector represents 85.8 per cent of total employment in Africa, 68.2 per cent in Asia, 68.6 per cent in the Arab States, 40.0 per cent in the Americas and 25.1 per cent in Europe and Central Asia.

¹⁵ See Figure 3.4, p. , GS 2020

¹⁶ See para. 473, GS 2020. The Committee specifically states that by seeking more work at lower prices in a shorter time, successive layers of subcontracting place excessive pressure on some tiers of supply chains. This pressure, combined with excessive competition between countries and enterprises to obtain contracts, is also an element at the origins of informality.

¹⁷ According to ILO estimates from April 2020, almost 1.6 billion workers in the informal economy had been significantly impacted by the pandemic, leading to an estimated decline in their earnings of 60 per cent.

The Workers' Group may therefore wish to call on governments to strengthen, in consultation with the social partners, their national policy frameworks and labour regulations, especially in the context of recovery, in order to: conduct rapid assessments, as provided under paragraph 8 of R.204; ensure the centrality of the employment relationship as critical to the formalisation of the informal economy in line with Recommendation No. 204 and Recommendation No. 198; create sustainable paths to formalisation through the generation of decent jobs, the respect for and promotion and realization of fundamental principles and rights at work, support for low-income households to escape poverty and access freely chosen employment including appropriately designed wage policies, social protection schemes, training and skills development and enhanced outreach and delivery of employment services to those in the informal economy as well as training and skills development.

At a global level, an estimated 60 percent of global trade (some USD20 trillion) is dependent on contracts in supply chains. Ensuring that the exploitation of workers in the informal economy is not a part of global supply chains is central to an effective transition to the formal economy. Reference could be made to the recommendations of the Workers' Group in section 6 below.

Moreover, in October 2015, the Governing Body adopted a follow-up strategy for the period 2016-2021 to give effect to the resolution which was adopted with R.204. The strategy for action is based on four interrelated components: a promotional awareness-raising and advocacy campaign; capacity-building of tripartite constituents; knowledge development and dissemination; and international cooperation and partnerships. The Workers' Group may wish to recall this strategy and request an assessment of progress made in implementing R.204 and the follow-up actions described above.

5. Homework

In total, 10 countries have ratified Convention No. 177.¹⁸

The Committee recalls that homework is a main source of income for millions of workers around the world, most of whom are women¹⁹, and who are concentrated in the informal economy²⁰. Homework is also an important link in national and global supply chains, often at the lowest levels. The Experts stress that concern is often expressed at both the national and international levels at the particularly vulnerable position of homeworkers in the labour market, the inadequacy of their legal protection, their weak bargaining position and their isolation, and consequent invisibility.

The Experts note that during the pandemic, millions of homeworkers who live in poverty need to continue working to survive and to feed themselves and their families. Homeworkers have been particularly affected by a plummeting demand, in particular in the garment sector, which disproportionately affected their income as they lack access to income support and social protection. Support measures adopted by governments and employers to mitigate the impact of the crisis frequently exclude homeworkers.

The Committee recalls that under Convention No. 177, governments must, in consultation with the social partners, adopt, implement and revise a national policy aimed at improving the situation of homeworkers and at promoting as far as possible equality of treatment between homeworkers and other wage earners. Equality of treatment includes homeworkers' right to establish and join trade unions, protection against discrimination in employment, protection in the field of occupational safety and health, remuneration, statutory social security protection, access to training, minimum age admission to employment or work and maternity protection (art. 4, C.177). The Committee also stresses the importance of involving organisations representing

¹⁸ Albania, Argentina, Belgium, Bosnia and Herzegovina, Bulgaria, Finland, Ireland, Netherlands, North Macedonia, Tajikistan (see Appendix I, p. 378, GS 2020)

¹⁹ See Figure 4.1, p.198, GS 2020.

²⁰ In developing and emerging countries, more than 90 percent of home-based workers are in informal employment. See also Figure 4.4., p. 211, GS 2020.

the interests of homeworkers. The Experts underline the fact that this policy needs not be a stand-alone policy and may be a part of a broader national policy covering all workers. It recalls in that regard the close links between the objectives of Convention No. 122 on employment policy and of Recommendation No. 204 on the transition to formality.

Furthermore, the Experts emphasise the importance of clarifying the employment status of homeworkers, and explicitly states that the coverage of the Convention is not limited to workers who are clearly in an employment relationship but extends to all cases in which homeworkers work under some form of economic dependency, including workers in the informal economy. In that regard, Recommendation No. 198 should also be taken into account.

On **teleworking**, the Committee recalls that the definition of homework contained in C.177 encompasses telework. The Committee further notes that in some countries, the definition of telework covers situations that go beyond the scope of C.177, such as alternating work at the employer's premises and at home. It considers that, in such cases, the legal regime applicable to the work carried out in the employer's premises also applies to work carried out at home.

In addition, the Experts note that following the outbreak of the pandemic, the urgent measures adopted by many countries to contain the spread of the virus gave rise to a significant increase in the use of teleworking as a way to both protect workers from infection and ensure business continuity.

With regard to **digital platform work as a form of homework**, the Experts emphasise the numerous common features shared by both forms of work²¹. The Committee considers that, insofar as digital platform work or crowdwork is carried out at home or in a place other than the employers' premises on a regular basis and for remuneration, it could fulfil the conditions to be considered a form of regular homework and as such, could be covered by the provisions of the Convention. With regard to the health of workers on digital platforms, the Experts emphasise that any digital platform work that consists of the processing of thousands of violent or pornographic images or films may have serious damaging impact on the mental health of workers. The Committee therefore considers that this type of work should be subject to particular scrutiny by the public authorities.

The Committee calls on governments to strengthen monitoring of homework, including labour inspection and enforcement measures. Finally, the Committee calls on constituents to conduct more research and collect more data to improve understanding of the weight of homework in national economies²² and to shed more light on their working conditions.

Workers' Group Recommendations

The Workers' Group may wish to stress the prevalence of homework in the informal economy in certain regions of the world and its interlinkages with global supply chains and to underline the many decent work deficits that homeworkers suffer from, which were made even more visible during the pandemic. Based on these observations, it would be essential to reiterate the need to develop and implement national policies on homework and equal treatment of homeworkers, preferably as part of comprehensive national employment policies and in consultation with workers' organisations (especially those representing homeworkers). Specific attention should also be paid to strong enforcement measures and monitoring mechanisms (including labour inspection) and to the accessibility of adequate settlement dispute mechanisms.

²¹ See para. 624, GS 2020. These features include the organisation of work and payment structure by task, performance of work outside the employer's premises, the use of matching services as intermediaries, the lack of clarity regarding the employment relationship, rejection of work by the employer, work predominantly performed in the informal economy the blurring of lines between work and leisure time and between workplace and home.

²² For an estimate of the proportion of home-based workers by country and by region, see Figures 4.2 and 4.3, pp. 199-200

The Workers' Group may also want to support the Experts' suggestion to carry out more research on homework and working conditions of homeworkers, including workers performing digital platform work or crowdwork, both at national and international level.

In addition, the Workers' Group may want to react to the IOE's statement that "it is important that homework policies not be restricted or limited to the existing forms of technological advancement by heavy regulations and policies, in order to reap the benefits and opportunities of these changes". The determination of the conditions of work of homeworkers cannot be left entirely to the parties and regulation is highly needed in that regard. Therefore, policies on homework must have as a primary objective to ensure the protection and equal treatment of homeworkers taking into account Recommendation 198.

The Workers' Group may want to point out that teleworking and digital platform work have been a core part of the measures governments encouraged to protect workers and businesses during the pandemic. Noting the prospect that such forms of work may feature significantly in the future, the Workers' Group may need to call on the Office to promote the ratification of Convention No. 177 and to provide the necessary technical assistance to member states for that purpose.

6. Employment and vocational rehabilitation for workers with disabilities

84 countries have ratified Convention No. 159.²³

The Committee emphasises that persons with disabilities, accounting for approximately 15% of the world's population (around 1 billion adults and children), face discrimination and exclusion: they are less likely to be in employment and to have decent working conditions; they tend to experience higher levels of poverty; they are overrepresented in the informal economy and they face obstacles that play a significant role in limiting their job opportunities (lower education levels, stigma, lack of accessible transport to and from work, lack of reasonable accommodation). The pandemic has deepened these vulnerabilities and risks. Persons with disabilities are also one of the most excluded groups in terms of health prevention and response actions, and economic and support measures.

The Experts advocate for the adoption and implementation of anti-discrimination legislation and proactive national employment policies which should address the many dimensions of disability and should include the provision of reasonable accommodation; education and training programmes; employment services (tailored to specific needs, where necessary); social protection schemes (targeted to persons with disabilities, where needed); public information programmes to overcome prejudice, misinformation and attitudes unfavourable to the employment of persons with disabilities; and incentives to encourage employers of all sizes to recruit persons with disabilities and to adopt a disability policy or a declaration of non-discrimination (depending on the size and capacity of the enterprise).

The Committee also refers to newer international frameworks such as the UN Convention on the Rights of Persons with Disabilities (2006) and therefore, recommends to give consideration to measures to ensure that C.159 and R.168, which date back to 1983, are more closely aligned with current international terminology and objectives, reflect more directly the elements of substantive and inclusive equality and address the gender dimension of disability and the impact of intersectional discrimination.

Workers' Group Recommendations

The Workers' Group may wish to recall the necessity to adopt and effectively implement legislation prohibiting discrimination on the ground of disability in training and employment and to ensure enforcement and monitoring through labour inspection as well as effective access to remedy. Definitions of persons with

²³ see Appendix I, p. 378, GS 2020

disabilities in the laws should be based on the human rights approach to disability, rather than a medical approach. National policies and legislation should take into account the situation of people with disabilities who face discrimination on multiple grounds, including women with disabilities and people of indigenous or ethnic origin, as well as the additional barriers faced by people with certain types of disability, especially those with intellectual and psycho-social disability.

Moreover, 80% of persons with disabilities live in developing countries with limited access to services they need. In developed countries, austerity measures have also curtailed access to services that would allow persons with disabilities to engage in decent work. In this regard, the Workers' Group may wish to highlight the need to provide vocational guidance, training, placement, employment and related services available to persons with disabilities in order to assist them in securing, retaining and advancing employment. In addition, workers with disabilities from poor backgrounds living in remote areas cannot afford to relocate or commute regularly with their private means of transport to urban centres, where suitable jobs are easier to find. Policies should therefore particularly focus on facilitating adequate means of transport to and from the places of rehabilitation and work according to the needs of workers with disabilities.

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