



FOR INFORMATION

NINTH ITEM ON THE AGENDA

Measures taken by the Government of Belarus to implement the recommendations of the Commission of Inquiry established to examine the observance of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Information provided by the Government of Belarus on the measures taken to implement the recommendations of the Commission of Inquiry

1. On 30 October 2007, the Minister of Labour and Social Protection of the Republic of Belarus, Mr Vladimir Potupchik, forwarded the attached information to the International Labour Office, requesting that it be made available to the Governing Body for the discussion on the agenda item “Measures taken by the Government of Belarus to implement the recommendations of the Commission of Inquiry”.

Geneva, 1 November 2007.

Submitted for information.

Appendix

Information supplied by the Government of Belarus

Recommendation No 1. Registration and organizational structures of trade unions

1. The Government is implementing specific measures to liberalize the process of trade union registration. The Ministry of Justice is taking steps to prevent contraventions by the registration authorities, and is monitoring the situation closely and issuing appropriate instructions.
2. In December 2006, the Ministry of Justice put an announcement on its Internet page concerning trade union membership, stating that under the law, citizens have the right to establish trade unions of their own choosing, on a voluntary basis, and to join unions subject to the terms of the union's own statutes.
3. On 31 January 2007, the Ministry of Justice sent a letter of instruction to local authorities indicating the need for strict observance of legislation when registering trade unions.
4. In 2006, the judicial authorities registered 916 trade union organizational structures including two regional, nine district (municipal) and 905 primary-level trade union organizations. During the first six months of 2007, a total of 225 trade union organizational structures were registered.
5. In the period 2006–07, applications were submitted for the registration of six organizational structures of the non-FPB affiliated Trade Union of Radio and Electronic Industry Workers (REhP). Four of these were actually registered (in Minsk, Brest, Borisov and Grodno).

Recommendation No. 3. Dissolution of the Republican Registration Commission

6. This recommendation has been implemented. Presidential Order No. 605 of 6 October 2006 concerning certain issues of state registration of public associations and federations thereof abolished the Republican Registration Commission. The latter's trade union registration functions have been transferred in their entirety to the Ministry of Justice and to local executive and administrative authorities.

Recommendation No. 4. Measures to publicize the recommendations of the Commission of Inquiry

7. The Government has had the Commission's recommendations published in *Respublika* (No. 209 of 9 November 2006), the printed publication with the biggest readership.
8. The Government is taking steps to inform representatives of the judicial system and the prosecution service of the importance of thoroughly examining complaints from trade unions; a seminar for judges and prosecution staff was organized on 16 January 2007 in Minsk with the International Labour Office. Participants included Mr K. Tapiola, Executive Director of the ILO, and Ms C. Doumbia-Henry, Director of the ILO's International Labour Standards Department. The seminar discussed in detail the ILO's general approach to the issue of freedom of association and the particular tasks facing the courts and prosecution service under the terms of the recommendations made by the Commission of Inquiry.

Recommendation No. 5. Measures to ensure that complaints from trade unions are examined by an independent body having the confidence of all the parties concerned

9. Additional mechanisms have been introduced to protect the rights of trade unions.
10. The Council for the Improvement of Legislation in the Social and Labour Spheres (also referred to as the “Council of Experts”) has assumed the role of independent body which enjoys the confidence of the parties concerned.
11. In addition to representatives of the Government, the Council also includes on a voluntary basis representatives of the Federation of Trade Unions of Belarus (FPB) and of the Belarus Congress of Democratic Trade Unions (BKDP).
12. The Council examines complaints of interference in trade union affairs, without duplicating judicial procedures or the work of the prosecution service or of other state supervisory and monitoring bodies.
13. At a meeting on 25 January 2007, the Council of Experts examined a complaint from the BKDP-affiliated Belarus Independent Trade Union concerning the situation at the *Grodno Azot* and *Belshina* enterprises. On the basis of the examination, the Council adopted conclusions which were endorsed unanimously by its members, including the BKDP representatives.

Recommendation No. 6. Measures to prevent interference by enterprise management in trade union activities

14. The Government constantly and systematically follows up issues of collaboration between enterprise managers and trade unions, and the Government has clearly set out its position regarding the inadmissibility of any interference by managers in trade union activities. At a meeting on 31 January 2007, the National Council on Labour and Social Issues (NCLSI) examined the question of collaboration between representatives of employers and trade unions at the organization level.
15. The NCLSI drew the attention of the employer and trade union representatives to the necessity of strict adherence to the principles of social partnership enshrined in the legislation of Belarus and the ILO Conventions ratified by Belarus; noted that interference by employers in the internal affairs of trade unions was not acceptable; and recommended that the trade unions make active use of social partnership mechanisms to defend their rights and those of their members.
16. In accordance with the decision taken by the NCLSI, during the first six months of 2007 the practice of collaboration at organization level between employers and unions was examined at meetings of branch and regional councils on labour and social issues.

Recommendation No. 7. Independent investigations into complaints of anti-union discrimination in the sphere of labour relations

17. Oleg Dolbik, who is alleged to have suffered anti-union discrimination (failure to conclude a new employment contract), was hired on 5 January 2007 as an air traffic controller (first class) at the company *Belaeronavigatsiya*.
18. The Government has proposed that the ILO should examine the possibility of holding a joint seminar in Minsk on issues of discrimination on grounds of union membership.

Recommendation No. 11. Allocation of a seat on the NCLSI to a representative of the Belarus Congress of Democratic Trade Unions (BKDP)

19. This recommendation has been implemented.
20. By a decision of the NCLSI on 17 August 2006, a representative of the unions that make up the Belarus Congress of Democratic Trade Unions now has a seat on this Council.
21. At a meeting on 31 January 2007, the NCLSI approved certain changes in its membership, among which was the inclusion of the Chairperson of the Belarus Congress of Democratic Trade Unions, Aleksandr Yaroshuk.

Preparation of a revised text of the Trade Unions Act

22. In order to improve legislation and practice with regard to the establishment and registration of trade unions, the Government, with the participation of the social partners and with the assistance of the ILO, has drawn up a revised text of the Trade Unions Act. With the adoption of that new text, Presidential Decree No. 2 of 26 January 1999 concerning measures to regulate the activities of political parties, trade unions and other public associations, will cease to have effect.
23. Following the recommendations of the ILO's Governing Body, throughout the period of preparation of the new Act, the Government carried out intensive consultations with the ILO. Consultations were held on the following dates: 19–20 October 2006 (in Geneva), 15–17 January 2007 (in Minsk), 8–9 and 14–15 February 2007 (in Geneva), 14–15 May 2007 (in Geneva), and 20–23 June 2007 (in Minsk).
24. In the light of the outcome of the consultations with the ILO, the Government finalized the new Act and introduced a number of corrections. In the conclusions formulated by the ILO and presented to the Government of Belarus on 25 May 2007, it was noted that compared with the Concept Note and the February version of the Act, the latest version contains no provisions concerning monopoly union representation at the enterprise level, and the quantitative requirements for registration of trade unions have also been reduced.
25. The Government of Belarus has carried out consultations on the proposed Act with the social partners under the auspices of the Council for the Improvement of Legislation in the Social and Labour Spheres (the Council of Experts).
26. The Council of Experts included representatives of the main social dialogue partners at the national level, namely:
 - the Government of Belarus, represented by the Ministry of Labour and Social Protection and by the Ministry of Justice;
 - the Federation of Trade Unions of Belarus (FPB);
 - the Belarus Congress of Democratic Trade Unions (BKDP);
 - the Republican Association of Industrial Enterprises "BelAPP";
 - the Professor M.S. Kunyavsky Business Association of Entrepreneurs and Employers (BSPN).
27. At the initiative of the Government, the revised Trade Unions Act has been submitted for examination by the Council of Experts.
28. The Council of Experts held four meetings to examine the new Act, on 20 and 27 April, 8 May and 21 June 2007.
29. At these meetings, all interested parties had an opportunity to express their views on the new Act in general and its specific provisions.

30. The Government has undertaken a comprehensive revision of the Trade Unions Act in order to bring it more into line with contemporary conditions and to create the legal framework for more intensive development of trade union pluralism in Belarus.
31. Between 20 and 23 June 2007, an ILO mission led by Mr Kari Tapiola, ILO Executive Director, visited Belarus. The mission held meetings at the Ministry of Labour and Social Protection and Ministry of Foreign Affairs with representatives of trade unions and employers' associations, and also took part in a meeting of the Council of Experts which took place on 21 June 2007.
32. During the examination of the new Trade Unions Act, the ILO representatives expressed the view that it would not be helpful at the present stage to introduce amendments to legislation which are not supported by all the parties involved in social dialogue. It was emphasized, in particular, that the text of the Trade Unions Act, as drawn up by the Government, raises a number of important and difficult questions (for example, the representativeness of trade unions), which will inevitably require time for further examination. In this regard the ILO mission proposed that the Government consider the possibility of an alternative approach: not adopting the new Act for the time being but focusing on the key issue, namely, registration of trade unions. It was also underlined that the choice of the concrete solution to the question remained with the Government.
33. The results of the ILO mission in Minsk were subsequently discussed by the Government. In the light of the mission's recommendations, the decision has been taken to continue with efforts to improve trade union legislation with a view to achieving consensus between the parties.
34. During the period 2006–07, the Government adopted a range of specific measures to implement the recommendations made by the Commission of Inquiry. As a result of these measures, some of the recommendations have been fully implemented, and significant progress has been achieved with the others.
35. The Government wishes to draw attention to the fact that at the 96th Session of the International Labour Conference in June 2007, the Conference Committee on the Application of Standards, in its conclusions regarding Belarus, **“took due note of the progress that had been made with regard to some of the Commission of Inquiry's recommendations”**.
36. The Government will continue with its efforts to implement the recommendations of the Commission of Inquiry and will actively involve the social partners in that process.
37. The Government will also be taking steps to ensure the future development of cooperation with the International Labour Office on issues relating to the implementation of the recommendations of the Commission of Inquiry.