



SIXTH ITEM ON THE AGENDA

Report of the Commission of Inquiry established to examine the complaint concerning the observance by the Republic of Belarus 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), made by delegates to the 91st Session (2003) of the International Labour Conference under article 26 of the Constitution of the ILO

Reply by the Government of the Republic of Belarus to the report of the Commission of Inquiry

1. As indicated in document GB.291/6, the report of the Commission of Inquiry was communicated to the Government of Belarus on 27 July 2004.
2. The Government's reply, dated 1 November 2004, is appended.
3. *The Governing Body will no doubt wish to take note of the reply by the Government of Belarus.*

Geneva, 5 November 2004.

Point for decision: Paragraph 3.

Appendix

Subject: The recommendations of the Commission of Inquiry

Dear Mr. Director-General,

The Government of the Republic of Belarus has studied the report of the Commission of Inquiry on Belarus, appointed by the Governing Body of the International Labour Office at its 288th (November 2003) Session, and, in accordance with article 29 of the Constitution of the International Labour Organization, communicates its response to the recommendations presented in that report.

The Government of Belarus attaches great importance to the procedures of the ILO. The Government's cooperation with the Commission of Inquiry was a clear confirmation of the Government's openness in its relations with the Organization, and of its endeavour for dialogue and cooperation.

The Commission was faced with an objectively complex task. As repeatedly pointed out by the Government of the Republic of Belarus, Case No. 2090 essentially went beyond the framework of problems of freedom of association related to the sphere of labour. The political expediency of interpreting certain events frequently proved to be more important than the practical application of freedom of association standards. It is no secret that reactions to Case No. 2090, on the part of certain countries, were directly linked to their belonging to one or another political block.

In these conditions, the Government of the Republic of Belarus took all measures to enable the Commission of Inquiry to fulfil the terms of reference assigned to it. Upon request, the Commission was supplied with all the necessary information. From 15 to 24 April 2004, the Commission conducted its work in Minsk where consultations requested by the members of the Commission were held with all relevant state bodies. The Commission's members worked freely and independently with trade unions and employers' associations. Government representatives took part in the official hearings which took place in Geneva on 27 and 28 April 2004.

The Government has examined the Commission's recommendations with great care. Probably, only those who permanently reside and work in a particular country are fully able to understand a given situation. It will not come as a surprise that we are not in agreement with all of the conclusions which the members of the Commission have made. However, there can be no question that the Commission's recommendations contain endeavours aimed at developing further our country's system of social and labour relations. This concern is in keeping with the programme that the Government of the Republic of Belarus has set itself. In this connection, we shall without doubt move, in our actions, towards the fulfilment of the recommendations, taking at the same time account of the realities of the Republic of Belarus and of its sovereign interests.

In our opinion, the recommendations designed to improve procedures and mechanisms of protection are particularly important. In our country, trade unions and their members have been accorded broad possibilities for the protection of their rights and interests (through the courts, the Public Prosecutor's office and the labour inspectorate). At the same time, we agree with the view that further improvements can be brought about in this respect. We see a certain potential for enhancing the pre-judicial examination of disputes (both collective and individual), through conciliation, mediation and voluntary arbitration, with the involvement of experts who have the knowledge of ILO standards and its recommendations.

The Commission also recommended that the Government conduct a comprehensive review of its entire system of social and labour relations. For this to be done, the Ministry of Labour and Social Protection has established a special experts group; this body will also be further refining approaches to developing national labour legislation, and defining the role of the State, trade unions and employers in the social partnership system. This advisory group will include representatives of Government, trade unions, employers' associations, non-governmental organizations and academics.

A further number of the recommendations of the Commission will be implemented in the near future. Consequently, the recommendations will be published for the information of the general public of Belarus. The Government is also taking measures to inform all directors of enterprises, including those who are trade union members, of the inadmissibility of any form of interference in trade union activities. Consideration is currently being given to the most suitable and effective form for such an instruction.

We have also commenced the examination of the issues which relate to the improvement of national legislation.

A detailed examination is being conducted of questions relating to the establishment and registration of trade unions, the convening by them of mass meetings and the receipt of foreign assistance.

The trade unions of Belarus are formed on a free and voluntary basis. Different from the conditions prevalent in former Soviet times, trade union pluralism exists in practice in Belarus. There are instances in which in the same enterprise, branch of activity or region, several trade unions are in operation. In this connection, the pressing need has arisen to define the forms and procedures for relations between the State and employers (their associations) with different trade unions.

It should be pointed out that the elaboration, adoption and implementation of legislation belong to the competence of different state bodies. The Government conducts appropriate consultations with all concerned parties, including members of Parliament, which is the body with the prerogative to pass laws. Elections were held this October to the Chamber of Representatives of the National Assembly of the Republic of Belarus, and its new membership is now complete. Naturally, in its new shape, Parliament will require a certain time to establish its priorities and organize its work. In this regard, it is to be expected that compliance with the recommendations on legislation by the relatively tight deadline proposed by the Commission (1 June 2005) will place the Government before certain difficulties.

Dear Mr. Director-General, all the measures which will be adopted by the Government with a view to complying with the recommendations of the Commission of Inquiry will be taken within the framework of the law. The Government will act in strict compliance with its competencies, the principle of the separation of power and of non-interference by the State in the internal affairs of trade unions.

In the Republic of Belarus, a socially oriented market economy is being developed. The primary aim of our social policy is the constant growth of prosperity of the citizens of Belarus. In our opinion, social partnership, an independent trade union movement and responsible employers' associations are the components of our society that will, without doubt, duly contribute to achieving this fundamental goal.

Dear Mr. Director-General, the Government of the Republic of Belarus is facing a set of complex and complicated tasks. In our action, we rely upon technical assistance of the International Labour Organization. The knowledge and experience of ILO experts will be very important to us, both in determining the directions for our future work, as well as in resolving the concrete issues for their accomplishment in practice.

With thanks for your cooperation.

Yours sincerely,

(Signed) Antonina Morova,
Minister of Labour and Social Protection,
Republic of Belarus.

The Director-General
International Labour Office
CH-1211 Geneva 22