

Belarus (ratification: 1956)

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

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

The Committee noted the long-standing nature and the prior discussion of this case in the Committee, most recently in 2021.

The Committee deplored and deeply regretted the allegations of extreme violence to repress peaceful protests and assembly, and the detention, imprisonment and violent treatment of workers while in custody. The Committee deplored the escalating measures deployed to repress trade union activities, as well as the systemic destruction of independent trade unions.

The Committee expressed its deep concern that, 18 years after the Commission of Inquiry's report, the Government had failed to take measures to address most of the

Commission's recommendations. The Committee recalled the recommendations of the 2004 Commission of Inquiry noting the failure to make progress on its implementation and the need for their full and effective implementation, without further delay.

Taking into account the discussion, the Committee urges the Government, in consultation with the social partners, to:

- restore without delay full respect for workers' rights in respect of freedom of association;
- refrain from the arrest, detention, violent treatment, intimidation or harassment, including judicial harassment, of trade union leaders and members conducting lawful trade union activities;
- investigate without delay alleged instances of intimidation or physical violence through an independent judicial inquiry;
- immediately release all trade union leaders and members arrested for participating in peaceful assemblies or arrested for exercising their civil liberties pursuant to their legitimate trade union activities and drop all related charges, including for the following persons: Aliaksandr Yarashuk, a member of the Governing Body of the ILO;

Siarhei Antusevich, Vice-President of the Belarus Congress of Democratic Trade Unions (BKDP); Gennadiy Fedynich, leader of the Belarusian Union of Radio and Electronics Workers (REP); Mikalai Sharakh, President of the Belarusian Free Trade Union (SPB); Aliaksandr Bukhvostov, President of the Free Trade Union of Metal Workers (SPM); and Zinaida Mikhniuk, Vice-Chairperson of the Belarusian Union of Radio and Electronics Workers (REP);

- give access, as a matter of urgency, to visitors, including officials of the ILO, to ascertain the conditions of arrest and detention and the welfare of the abovementioned persons;
- take immediate action to implement fully the 2004 report of the Commission of Inquiry and the conclusions of the Conference Committee on the Application of Standards, including the conclusions adopted by the Committee in 2021.

The Committee also refers this matter to the Governing Body to follow up at its June 2022 session and consider, at that time, any further measure, including those foreseen in CAN/PV.CCL.2 17 in the ILO Constitution, to secure compliance with the recommendations of the Commission of Inquiry.

In addition, the Committee reproduces its 2021 conclusions in full: The Committee took note of the written and oral information provided by the Government representative and the discussion that followed.

The Committee noted the longstanding nature and the prior discussion of this case in the Committee, most recently in 2015.

The Committee noted with great concern and deeply regretted the numerous allegations of extreme violence to repress peaceful protests and strikes, and the detention, imprisonment and torture of workers while in custody following the presidential election in August 2020 as well as the allegations regarding the lack of investigation in relation to these incidents.

The Committee expressed its deep concern that, 17 years after the Commission of Inquiry's report, the Government of Belarus had failed to take measures to address most of the Commission's recommendations. The Committee recalled the outstanding recommendations of the 2004 Commission of Inquiry and the need for their rapid, full and effective implementation.

Taking into account the discussion, the Committee urges the Government to:

- restore without delay full respect for workers' rights and freedom;
- implement recommendation 8 of the Commission of Inquiry on guaranteeing adequate protection or even immunity against administrative detention for trade union officials in the performance of their duties or when exercising their civil liberties (freedom of speech, freedom of assembly, etc);
- take measures for the release of all trade unionists who remain in detention and for the dropping of all charges related to participation in peaceful protest action;
- refrain from the arrest, detention or engagement in violence, intimidation or harassment, including judicial harassment, of trade union leaders and members conducting lawful trade union activities; and
- investigate without delay alleged instances of intimidation or physical violence through an independent judicial inquiry.

As regards the issue of legal address as an obstacle to trade union registration, the Committee calls on the Government to ensure that there are no obstacles to the registration of trade unions, in law and in practice, and requests the Government to keep it informed of further developments on this matter, in particular any discussions held and outcomes of these discussions in the Tripartite Council.

As regards the demand by the President of Belarus for the setting up of trade unions in all private companies by 2020 on the request of the Federation of Trade Unions of Belarus (FPB), the Committee urges in the strongest terms the Government:

- to refrain from any interference with the establishment of trade unions in private companies, in particular from demanding the setting up of trade unions under the threat of liquidation of private companies otherwise;
- to clarify publicly that the decision whether or not to set up a trade union in private companies is solely at the discretion of the workers in these companies; and
- to put an immediate stop to the interference with the establishment of trade unions and refrain from showing favouritism towards any particular trade union in private companies. ¶ CAN/PV.CCL.2 18

As regards the restrictions of the organization of mass events by trade unions, the Committee urges the Government, in consultation with the social partners, including in the framework of the Tripartite Council:

- to amend the Law on Mass Activities and the accompanying Regulation, in particular with a view:
 - o to set out clear grounds for the denial of requests to hold trade union mass events, ensuring compliance with freedom of association principles;
 - o to widen the scope of activities for which foreign financial assistance can be used;
 - o to lift all obstacles, in law and practice, which prevent workers' and employers' organizations to benefit from assistance from international organizations of workers and employers in line with the Convention;
 - o to abolish the sanctions imposed on trade unions or trade unionists participating in peaceful protests.
- to repeal the Ordinance No. 49 of the Council of Ministers, as amended, to enable workers' and employers' organizations to exercise their right to organize mass events in practice; and
- to address and find practical solutions to the concerns raised by the trade unions in respect of organizing and holding mass events in practice.

As regards consultations in respect of the adoption of new pieces of legislation affecting the rights and interests of workers, the Committee requests the Government to amend the Regulation of the Council of Ministers No. 193 to ensure that social partners enjoy equal rights in consultations during the preparation of legislation.

As regards the functioning of the Tripartite Council for the Improvement of Legislation in the Social and Labour Sphere, the Committee urges the Government to take the necessary measures to strengthen the Tripartite Council so that it can play an effective role in the implementation of the recommendations of the Commission of Inquiry and other ILO supervisory bodies towards full compliance with the Convention in law and practice.

The Committee expresses its disappointment at the slow process in the implementation of the recommendations of the Commission of Inquiry. Recent developments indicated a step backward and further retreat on the part of the Government from its obligations under the Convention. The Committee therefore urges the Government to take before the next conference, in close consultation with the social partners, all necessary steps to fully implement all outstanding recommendations of the Commission of Inquiry.

The Committee invites the Government to avail itself of ILO technical assistance.

The Committee requests the Government to provide detailed and complete information on measures taken and progress made on all of the above issues and to transmit all relevant legislative texts to the Committee of Experts before its next meeting in consultation with the social partners.

The Committee invites the Government to avail itself of technical assistance from the Office.

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

The Committee decides to include its conclusions in a special paragraph of the report and to mention this case as a case of continued failure to implement the Convention.