

Information supplied by governments on the application of ratified Conventions

Belarus

Convention No. 87

Belarus

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

Belarus (Ratification: 1956). The Government has provided the following written information.

Measures taken by the Government of Belarus to implement the recommendations of the Commission of Inquiry

Implementation of the recommendations of the Commission of Inquiry to amend the legislation regulating the establishment of trade unions

In accordance with recommendation No. 2 made by the Commission of Inquiry, the Government of the Republic of Belarus has adopted measures to abolish the requirements for the mandatory presence of at least 10 per cent of the total number of workers to establish a trade union organization. Presidential Decree No. 4 of 2 June 2015 was adopted, which amended Presidential Decree No. 2 of 26 January 1999, “On some measures to regulate the activities of political parties, trade unions and other public associations” (hereinafter, Decree No 2) and excluded the abovementioned requirement.

Thus, according to Decree No. 4 of 2 June 2015, at least ten workers are enough to establish a trade union at an enterprise.

The Government of the Republic of Belarus considers it appropriate to note the positive role played by the tripartite Council for the Improvement of Legislation in the Social and Labour Sphere (the Council) which proposed the amendments to Decree No. 2.

Implementation of the proposals of the direct contacts mission

Since the 103rd Session of the International Labour Conference, the work on implementation of the recommendations of the Commission of Inquiry has been

organized in accordance with proposals of the direct contacts mission, approved by the ILO Governing Body at its 320th Session, held in March 2014.

The objective of the mission was to obtain a comprehensive picture of the trade union rights' situation in the country and to assist the Government in the rapid and effective implementation of all outstanding recommendations of the Commission of Inquiry.

The Government of the Republic of Belarus accepted the June 2014 Conference Committee's proposal and took the necessary steps to enable the direct contacts mission to carry out its tasks in full.

The direct contacts mission visited the Republic of Belarus from 27 to 31 January 2014. Having held a number of meetings and having studied the situation on the ground, the mission noted that there was some progress as concerned implementation of the Commission's recommendations. Moreover, the mission noted that there were elements of trade union pluralism in Belarus.

The direct contacts mission paid special attention to the role of the tripartite Council, which was composed of all the parties concerned: representatives of the Government, employers' associations and trade union associations (the Federation of Trade Unions of Belarus and the Belarusian Congress of Democratic Trade Unions). Over the past years, the Council has been the main body in which the dialogue between the Government and the social partners on implementation of the recommendations of the Commission of Inquiry has been taking place. At the same time, the mission expressed the need to improve the work of the Council.

The direct contacts mission made a number of proposals. The direct contacts mission proposed to carry out joint activities with the participation of the Government, the social partners and the ILO in the following areas:

- work of tripartite consultative bodies;
- collective bargaining at the enterprise level;
- dispute resolution and mediation;
- training of judges, prosecutors and lawyers on the application of international labour standards.

During the discussion, which took place at the 103rd Session of the International Labour Conference in June 2014, the Committee noted the fact that the Government had supported those proposals and expressed willingness to work together with the social partners and the ILO to implement them. The Government emphasized that the activities planned in accordance with the mission's proposals would contribute to implementation of a number of recommendations of the Commission of Inquiry, in particular recommendations Nos 4, 8 and 12.

In accordance with the conclusions of the Committee on the Application of Standards, adopted in June 2014, the Government together with the Office and with participation of trade unions and employers' associations made concrete steps to implement the proposals of the direct contacts mission.

For example, the Office, with the assistance of the Government, held a seminar to review the experience of work of tripartite consultative bodies of the social partnership (9–10 June, Minsk). The purpose of the seminar was to assist the Government and the social partners to develop proposals for improving the work of the tripartite Council.

The seminar was attended by members of the tripartite Council and other interested representatives of the Government, associations of employers and trade unions (FTUB and BCDTU). International experience of the work of tripartite bodies was represented at the seminar by experts of the International Labour Office, as well as by experts from Lithuania and Finland.

The seminar participants developed proposals aimed at improving the effectiveness of the Council, which were discussed in details at the meetings of the Council held on 23 January and 23 April 2015. Following the discussion, the parties represented in the Council reached a common position on amending the Regulations on the Council in order to enhance its efficiency.

The new version of the Regulations on the Council for the Improvement of Legislation in the Social and Labour Sphere was approved by Order No. 48 of the Ministry of Labour and Social Protection of the Republic of Belarus of 8 May 2015.

The new version of the Regulations has significantly expanded the mandate of the Council. In particular, now the Council has the right to analyse the existing legislation, draft laws and regulations in the sphere of social and labour relations for their compliance with ILO Conventions and Recommendations and international practice to ensure the application of international labour standards at the national level.

The Council is empowered to send to legislative bodies its proposals on implementation of provisions of the ILO Conventions and Recommendations into the national law, on amendment of laws and regulations on labour and trade unions in accordance with the ILO Recommendations.

The Council has the right to initiate a review of proposals for amendments and additions to laws and regulations on labour and trade unions by the National Council for Labour and Social Issues.

Also, the new version of the Regulations on the Council provides for more active involvement of international experts, including experts from the International Labour Office, into consideration of issues within the Council.

In order to facilitate consideration of the issues, the Council can hold extraordinary sessions.

In 2015, we carried out the work related to the second area identified in the proposals of the direct contacts mission. Thus, on 13–14 May 2015, the Office in cooperation with the Government and the social partners held a tripartite seminar “Collective Bargaining and Cooperation at the Enterprise Level in the Context of Pluralism”.

In this regard, it should be noted that, in the context of trade union pluralism, there are several trade union organizations in a number of enterprises in the Republic of Belarus, and each of them, regardless of its size, wants to participate in collective bargaining with the employer. According to the practice established in Belarus, only one collective agreement is concluded within an enterprise. The employer shall enter into collective bargaining with a single workers’ side, represented by trade unions. However, the procedure of interaction between different trade unions within the single trade union group set up for negotiations with the employer is not clearly defined. In fact, the issue is solved with the agreement between the trade unions affiliated to the FTUB and the BCDTU. For example, at the largest enterprise of the republic, JSC “Belaruskali” (Soligorsk), three trade unions are participating in collective bargaining with the employer to conclude a collective agreement (primary trade union organizations of the Belarusian Trade Union of Workers in the Chemical, Mining and Petroleum Industries and the Trade Union of Workers of

Agriculture, affiliated to the FTUB, as well as the primary trade union organization of the Belarusian Independent Trade Union, affiliated to the BCDTU). However, in practice the agreement between trade union organizations at other enterprises is not always achieved. This usually entails a conflict between the trade unions, which, in turn, has a negative impact on the collective bargaining process at the enterprise.

It should be emphasized that, given the current situation in the trade union movement in Belarus, the Government has been repeatedly informed by the ILO experts that at this stage a most acceptable solution was not creating a legislative procedure for the formation of a united trade union group (as new legislative provisions were not likely to be accepted in a positive way by all the participants), but rather reaching an agreement by all the interested parties on the guidelines of interaction of the social partners during the collective bargaining, including situations when there were several trade unions acting at an enterprise, and reflecting those principles in an agreement or some other document, which could be supported and approved by the social partners.

The seminar, which took place on 13–14 May 2015 in Minsk, was attended by members of the Council and representatives of the employers' and trade unions' associations (including the heads of the FTUB and the BCDTU), as well as representatives from a number of enterprises (trade unions and employers), where several trade unions exist. As a result of the two-day debates, moderated by ILO representatives, the participants drew up conclusions, which provided for inclusion of representatives of all the trade unions, acting at the enterprise, into the Commission on Collective Bargaining.

In the near future, the conclusions of the seminar will be discussed in the Council, which is supposed to prepare a document to be presented to the social partners for approval.

The next activity within the framework of the direct contacts mission's proposals will be a tripartite seminar on dispute resolution and mediation. It is expected that the exchange of views of all the parties concerned will improve the situation with settlement of labour disputes in the framework of the existing national system, as well as generate new effective mechanisms in the framework of the tripartite Council.

Thus, the work to implement the proposals of the direct contacts mission is carried out in full compliance with the agreements reached between the Government and the ILO. The joint activities are aimed at solving specific problems, directly arising from the recommendations of the Commission of Inquiry.

The Government considers it is also necessary to emphasize the fact that the intensification of cooperation between the ILO and the Government, as well as joint activities involving all the parties concerned, have a positive impact on the nature of relations between the social partners within the country. Thus, despite certain differences, the Government noted positive trends in the development of relations within the trade union group. The issue of participation of the BCDTU representative in the work of the National Council on Labour and Social Issues has been resolved. The BCDTU leader Mr Yaroshuk participated in all of the last three meetings of the National Council, which took place on 25 September 2014, 13 January 2015 and 1 April 2015.

The Government assesses positively the level of cooperation between the parties of social dialogue reached at this stage within the social partnership system.

The National Council for Labour and Social Issues is carrying out its work. Along with the Government, all the associations of employers and trade unions are represented within the National Council.

A General Agreement between the Government, national associations of employers and trade unions for 2014–15, in the development of which representatives of both the FTUB and the BCDTU had been taking part, was signed on 30 December 2013. As well as the previous General Agreement, this General Agreement shall apply to all employers, workers and all trade union organizations in Belarus. Both trade union associations (the FTUB and the BCDTU), regardless of their representativity, have an opportunity to take advantage of the guarantees provided by the General Agreement.

Thus, at present, the principles of trade union pluralism are fulfilled in practice in the Republic of Belarus.