



## FOR DEBATE AND GUIDANCE

### 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)**

1. At its 298th Session (March 2007), the Governing Body had before it a document<sup>1</sup> prepared by the Office concerning the 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). The document set out the background to this question, in particular the decision taken by the Governing Body at its 297th Session (November 2006), the exchanges between the Government and the Office relating to a proposed draft trade union law and the comments made by the Committee of Experts on the Application of Conventions and Recommendations at its 77th Session (November–December 2006).
2. At its March 2007 session, the Governing Body, after a full discussion, adopted the following decision:

The Governing Body:

- (1) noting the dialogue that has taken place, calls upon the Government of Belarus to fully cooperate with the International Labour Office for the implementation of all the recommendations of the Commission of Inquiry;
- (2) calls upon the Government to ensure that all workers' and employers' organizations can function freely and without interference, and obtain registration;
- (3) urges the Government to abandon the present draft concept on the trade union law and review all its legislation in full consultation with all the social partners concerned in order to ensure fully the right to organize both in law and in practice, in accordance with

<sup>1</sup> GB.298/6.

Convention No. 87, so that free and independent trade unions may exercise their full rights;

(4) decides to keep the developments under close review.

3. At its 96th Session (June 2007), in the framework of its examination of the measures taken by the Government of the Republic of Belarus to give effect to the provisions 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), the Committee on the Application of Standards of the International Labour Conference, inter alia:

... took due note of progress made in respect of some of the Commission of Inquiry's recommendations, particularly as regards the seat for the Belarus Congress of Democratic Trade Unions (CDTU) on the National Council on Labour and Social Issues (NCLSI), the disbandment of the Republican Registration Commission, the re-engagement of Oleg Dolbik – whose contract had not been renewed following his having provided testimony to the Commission of Inquiry – the publication of the Commission of Inquiry recommendations in the Government's official newspaper, and a few recent registrations of independent trade union organizations. Nevertheless, the Committee expressed its concern since these steps were clearly insufficient and did not address the heart of the matter. The Committee recalled that what was at stake in this case was the imperative need for the Government to act without delay to ensure that all workers' and employers' organizations could function freely and without interference and obtain registration without previous authorization.

The Committee noted the concerns raised relating to the draft Trade Union Law. Noting the statements made to the effect that the registration requirements remained quite complicated and that the requirements that had been criticized by the Commission of Inquiry and the Committee of Experts for many years were still necessary to obtain legal personality, the Committee urged the Government to vigorously pursue its consultations with all social partners in the country, and its cooperation with the ILO, with a view to making the legislative changes required to bring the law and practice into full conformity with the Convention and the Commission of Inquiry recommendations. It further urged the Government to take active steps to redress the damage suffered by workers' organizations that had been noted in the report of the Commission of Inquiry.

Welcoming the Government's statement that it would continue to cooperate with the national social partners and that it had invited a high-level ILO mission immediately following the Conference, the Committee expressed the firm hope that significant progress in ensuring full respect for freedom of association would be made without any further delay. In order to appropriately monitor developments in this regard, the Committee recommended that the Governing Body reconsider this matter in November 2007.

The Committee decided to include its conclusions in a special paragraph of its report.

The Conference adopted the Committee's report.

4. From 20 to 23 June 2007, an ILO mission visited Minsk to assist the Government and the social partners in respect of the steps to be taken for full implementation of the recommendations of the Commission of Inquiry. The mission held meetings with the responsible government officials (in particular, the Minister and the Deputy Minister of Labour and Social Policy and the Minister of Foreign Affairs). Meetings were also held with representatives of trade union organizations in Belarus (both Federation of Trade Unions of Belarus (FPB) and non-federation trade unions) and of employers' organizations. The mission also had an opportunity to participate in the discussions on the draft law on trade unions at the sittings of the Council for the Improvement of Legislation in the Social and Labour Spheres. The mission concluded that the law, if adopted as drafted, would not solve the key issues such as registration of all trade unions. In addition, the draft raised several other problems, which are important and controversial and which inevitably would take time to be examined and solved. The mission therefore proposed an

alternative approach to the matter: (i) to set aside the draft law and to deal, for now, with only the key issue of registration either through a separate law, an amendment to the current Law on Trade Unions, or some other legislative way, aiming at having a simple provision enabling the registration of all trade unions, in line with the ILO recommendations; (ii) parallel to this, the registration of unions seeking it should take place promptly and without them being harassed in any way; and (iii) in general, the principle of non-interference in union work should be strictly respected. This proposal was explained to all social partners. Information regarding the mission will be submitted by the Office to the Committee of Experts on the Application of Conventions and Recommendations for its appreciation when examining the application by 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), at its next session (22 November to 7 December 2007).

5. No further substantive information had been formally received from the Government at the time the present document was completed.

Geneva, 19 October 2007.

*Submitted for debate and guidance.*