

Committee on the Application of Standards

Date: 16 May 2022

Governments appearing on the preliminary list of individual cases have the opportunity, if they so wish, to supply on a purely voluntary basis, written information before 16 May 2022.

▶ Information on the application of ratified Conventions supplied by governments on the preliminary list of individual cases

Myanmar

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1955)

The information contained in this document is submitted by the military authorities. Its publication does not imply explicit or implicit recognition of these authorities as the legitimate government of Myanmar.

Civil Liberties: Regarding the case of an individual namely Chan Myae Kyaw and information contained in the report of the Committee of Experts, it is learned that there is no registered organization in Myanmar under the name of Mining Workers' Federation of Myanmar (MWFM). There is no labour federation level mining organization and the name Chan Myae Kyaw is also not included in the list of members of basic labour organizations. Therefore, Myanmar is not in the position to identify the individual and more details of the said person are needed.

On 27 March 2021 in Monywa, there were protests in industrial zone with about 50 people, in Thanlar Ward with about 100 people, at the corner of Tharsi Road and Payshisae Road with about 400 people in the morning and evening, at the top of Kyaukkar Road and Aung Tha Pyay Road in Myawaddy Ward with about 20 people respectively. The protests turned violent and rioters attacked the members of security forces with deadly weapons. No casualties were found from the incidents.

The observation mentioned about an individual namely Nay Lin Zaw who was allegedly killed. Upon verification, there is no registered organization under the name of workers association of AD Furniture while the Industry Craft Service – Trade Unions Federation (MICS-TUsF) do not register its members. Therefore, Myanmar cannot verify the identity of the individual and more details of the said person are needed. There was no case filed to the police station as well as in administer offices of No (23) and (63) Wards, Dagon Township (South) where the industrial zone exists. The AD Furniture Industry did not file any case too. No riot control measures were taken by the members of security forces in Dagon Township (South) on 28 and 29 March 2021.

With regard to the case of Zaw Zaw Htwe, there is no registered organization under the name of Solidarity Trade Union of Myanmar (STUM). On 14 March 2021 in Shwepyithar Township, the General Administer Office was attacked and destroyed by about 200 rioters with clubs, swords, slingshots and Molotov cocktails. The members of security forces applied riot control procedures and Zaw Zaw Htwe from the crowd, a resident of No (10) Ward, Shwepyithar Township, died of his injuries and an case has been filed at Shwepyithar Township Police Station with the case number (15/2021).

In connection with 28 individuals who have been facing charges for their unlawful activities, it is learned that they targeted Hlaing Tharyar Township where factory workers are heavily populated and incited the population there by disseminating fabricated news. Accordingly, they were charged with Section 505-A of the Penal Code at Yankin City Police Station on 22 April 2021 and with Section 124-A of the Penal Code at Dagon Myothit (East) City Police Station on 14 May 2021. With regard to the Director of the Solidarity Trade Union of Myanmar (STUM) which is not a registered organization, her case was filed at Shwepyithar Township Police Station under Section 505-A of the Criminal Code on 10 March 2021 and she was detained on 15 April 2021. On 18 October 2021, the State Administration Council granted her pardon with Order No. 187/2021.

Progress on Labour Law Reform Process: The Labour Organization Law is being amended taking into account the desires and requirements of the workers and employers to be in line with the real situation of the country by holding five Technical Working Groups meetings on Labour Law Reform (TWG-LLR) and five National Tripartite Dialogue Forums (NTDF). As a result of the discussions, the draft law was prepared and shared in advance to the ILO, employer, and worker federations. It was discussed by tripartite representatives at 10th TWG-LLR, 11th TWG-LLR, 12th TWG-LLR and 13th TWG-LLR. The law amending process will be continued. According to the Labour Organization Law 2011, 2886 Basic Labour Organizations, 162 Township Labour Organizations, 26 Region or State Labour Organizations, 9 Labour Federations, 1 Labour Confederation, 27 Basic Employer Organizations, 1 Township Employer Organization, and 1 Employer Federation, a total of 3113 Workers and Employers Organizations have been registered as of present.

Regarding the refusal of registration in the Report, under the Article 14(a) of the Labour Organization Law, it is prescribed that "The Chief Registrar shall scrutinize the particulars contained in the application for registration as a labour organization submitted by the Township Registrar and documents attached whether or not they are true and sufficient and allow or refuse to register by mentioning the reason within 30 days from the day of receipt of such application" and Article 14(b) prescribed that "The Chief Registrar shall scrutinize whether or not the particulars contained in the application for registration as the Labour Federation, the Myanmar Labour Confederation and documents attached to it are true and sufficient and allow or refuse to register by mentioning the reason within 60 days from the day of receipt of such application". When the Township Registration Officer scrutinized in the application of a certificate recognizing as a labour organization, if they found insufficient members and inadequate number of elected executives, the organization was assumed as conflicting with any other existing laws and not falling within the jurisdiction of the law. Therefore, the Chief Registrar shall have the right to refuse because of these reasons. However, if the number of members and the executives are found insufficient, required facts are asked to be provided and certificates are issued without making refusal. Although the second amendment of the Settlement of Labour Disputes Law was enacted on 3 June 2019, there are challenges in implementing some provisions of the Law. In this regard, inputs and advice will be requested to the Arbitration Bodies and Arbitration Council who are exercising the law in practice. The Settlement of Labour Disputes Rules (draft) was discussed with the tripartite representatives to enact as new Rules under the second amendment of the Settlement of Labour Dispute Law.

It was also discussed with the responsible officials who are implementing the law in practice to be able to get inputs and advice regarding the difficulties and challenges facing on the ground. In addition, review of those discussion and study of the labour disputes settlement system of ASEAN countries have been carried out and inputs and advice will also be requested from the related bodies.

Regarding the Committee's request on ensuring to guarantee fully the rights to the workers in SEZs, the disputes arising among employer, workers, technicians or civil service personnel are negotiated and conciliated under Myanmar Special Economic Zone Law (2014) in coordination with Special Economic Zone Management Committee. If there is any dispute that could not be negotiated and conciliated by the relevant Special Economic Zone Management Committee, it is settled in accordance with the Settlement of Labour Disputes Law. It is clear that no one was targeted for being a trade unionist. The members of trade unions who have been facing charges are due to their unlawful activities but not for exercising labour rights peacefully.

Updated information has been published in a timely manner via media, monthly press conferences and diplomatic briefings. However, it is regrettable to learn that the contents contained in the present report of the Committee of Experts rely on the one-sided information from anti-government media and organizations in opposition and the conclusion of the report was made without duly considering the information provided by the military authorities of Myanmar . Therefore, the military authorities encourage to take into consideration the information that are correct, confirmed and provided by them for a report that reflects the actual conditions of the workers and people of Myanmar so that it can contribute to their betterment.