

Statement by Mr. Ulf Edström (Sweden) on behalf of the Workers Group on the 338th Report of the Committee on Freedom of Association (CFA), 16.11.05



Chairperson!

The Workers Group endorses the statement made by the Rapporteur and ask for the adoption by the Governing Body of the conclusions and recommendations made by the Committee.

Cambodia (case 2374) was regarded as extremely serious and urgent. The Government regrettably failed to reply despite an urgent appeal by the Committee. After legitimate strike action, the Raffles Hotels dismissed in total 297 workers at the hotels in Phnom Penh and Siem Reap for "serious misconduct". Despite the finding of the Tripartite Arbitration Council that the dismissals were illegal, the management regarded that decision as non-binding. Instead the company and its management at Raffles Hotel Le Royal in Phnom Penh, after dismissing 97 workers including the whole union leadership, arranged unlawful elections of worker delegates and signed a collective agreement with that group which according to the Arbitration Council, was done with the purpose to bypass the union. The Government failed to take action even to uphold existing legislation on protection of workers rights and against interference by management in union affairs. The Committee urgently requested the Government to ensure the reinstatement of the dismissed workers or, if found by an independent body that it was not possible, to pay adequate compensation to the workers concerned. In addition the employer should be given penalties which together would represent sufficiently dissuasive sanctions for such anti-trade union actions. The Government should also end the practice of management-controlled union at the Raffles Hotel in Phnom Penh. Finally the Government was requested to secure effective protection and binding decisions when workers suffered anti-union practices.

In **case 2068 (Colombia)** the Committee once again deeply regretted that despite the time that had lapsed since the murders of trade union leaders Jesus Arley Escobar, Fabio Humberto Burbano Cordoba, Jorge Ignacio Bohada Palencia and Jaime Garcia and the request made by the Committee in March 2004 - no new information about the investigations has been sent by the Government, who urgently must take the necessary steps to identify and punish those responsible for these murders. In **case 2239** the Workers Group notes with regret the failure by the Government to grant trade union rights to workers who belong to a cooperative. This case relate to the dismissal of 100 unionized workers in a textile company replaced by contracted workers from cooperatives, where workers are denied their right to organize. The Government seem not to bother despite the fact that it is contrary both to Art. 2 of C.87 (ratified by Colombia) or to the specific provisions in the ILO Recommendation No. 193 on Cooperatives adopted by the Conference just three years ago. Therefore technical assistance is recommended by the Committee and it is indeed the expectation of the Workers Group that the Colombian Government should take the opportunity to take advice on how to fulfill its obligations. The Workers Group also look forward to receiving a much fuller written report at the next session of the Committee of the tripartite ILO mission to Colombia.

As could be seen in **case 2326 (Australia)** the Government has introduced a number of anti-union measures in the building sector that violates fundamental workers rights including curbing the right to strike and introducing excessive penalties and sanctions, restrictions in bargaining levels and power given to inspectors to interfere in internal union affairs to an extent normally not found in democracies. The Committee rightly request the Government to amend the legislation so that it conforms to freedom of association principles and, in addition, request the Government to promote collective bargaining as provided for in C. 98 ratified by Australia. This case is indeed worth reading, because it also reveals further intended actions against free collective bargaining which, to the very deep regret of the Workers Group, now

have been enacted in Australia covering the whole labour market, showing again that grave violations of freedom of association occur in developed countries.

Also in **case 2387 (Georgia)** the Government failed to reply despite an urgent appeal and despite the fact that a similar case (2144) was dealt with in March 2003. This current case involved even more serious allegations of seizing trade union property and intimidation of trade union leaders including lengthy detention. The Committee condemned the anti-union tactics and strongly urged the Government to be more cooperative in future, to fully consult the social partners on changes in the labour legislation and consult with the trade union to settle the assignment of property.

As could be seen in **case 2252 (Philippines)** the Committee had to remind the Government of its obligation to submit follow-up information which it has failed. In this serious case, still the Toyota Motor Philippines Corporation refuses to recognize and bargain with the union TMPCWA since 1999. No information is given of any moves to reinstate the 227 dismissed trade union members and officers. Instead, while the union case for recognition keeps going on for years in courts, the Ministry of Labour apparently without hesitation agrees to authorizing a new certification ballot at the company requested by an alleged company-controlled union. Further the Government is reminded that it should amend Art. 263(g) of the Labour Code concerning the right to strike.

There were four cases on **Turkey**. **Case 2329** dealt with the systematic practice of the Government to end strikes and impose compulsory arbitration in sectors on the grounds that the strike would be a threat to national security! This has been done previously in 2003 with regard to a strike at the Turkish Glassware Factories and repeated now again in 2004 in the tyre industry where a strike was banned in three multinational companies (Goodyear, Bridgestone and Pirelli), which the Committee criticizes. For the Workers Group this is another deplorable example where Governments sacrifices their own workers legitimate rights in order to attract FDI and please multinational companies. The Committee in addition request the legislation to be amended, because it should be an independent body with confidence of the parties concerned and not the Government that should have the authority to suspend strikes. In **case 2303** again the Government was requested to amend section 12 of the Collective Agreements, Strike and Lockout Act No. 2822 because of too high requirements of union representativity in order to be allowed to bargain collectively. In case 2200 the Committee expresses its regret that the Government had continued to ignore its recommendations concerning anti-union discrimination faced by KESK in Turk TELEKOM and the Office of Agricultural Products.

Case 2378 (Uganda) deals with serious anti-union practices by the Sri Lankan textile company Apparel Tri-Star Ltd. that started its operations in Uganda 2003. It refused to recognize the union (the Uganda Textiles, Garments, Leather and Allied Workers Union). The beating of a women worker caused a strike for union recognition in October 2003. The company dismissed the total workforce of 1900 workers, but rehired 1607 of them the next day after forcing them to sign short term contracts. 293 workers were dismissed without pay. The Committee welcomes the efforts made by the Government and expects that the union will be recognized and that an independent investigation will be instituted into the dismissals of the 293 workers and if found to be due to anti-union motives – to secure their reinstatement without loss of pay or if not possible to pay them severance benefits.

Case 2348 (Iraq) is another example where the Government failed to respond. Here the Government is requested to amend Decree no. 16 from 28 January 2004, which imposes a trade union monopoly situation recognizing the IFTU (Iraqi Federation of Workers' Trade Unions) as the only legitimate and legal trade union organization in Iraq. The Workers Group indeed had expected that such monopoly imposed by law, alien to democracy and freedom of association, should not continue to exist in Iraq. In addition, the Committee requested the Government to review the law from 1987 banning the right to strike in public enterprises, which could be restricted only when essential services in the strict sense of the term was provided.

The Committee again requested the Government of **Pakistan (case 2399)** to amend the

legislation in line with the ratified conventions 87 and 98 on freedom of association. Here the workers at the Liaquat National Hospital were denied the right to organize in trade unions because the hospital was regarded as a charitable institution and workers were severely harrassed and dismissed for their union efforts without any legal possibility to challenge it. The Committee recommended technical assistance from the ILO in this case.

In **case 2186 (China/Hong Kong Special Administrative Region)** the Committee again requested the Government, in relation to the case relating to anti-union practices at Cathay Pacific Airways, to adopt legislation prohibiting interference in the internal affairs of workers' organizations including sufficiently dissuasive sanctions. In **case 2253** it was bound to underscore the duty of the Government, according to Art. 4 of C.98 which is applicable in the territory of China/Hong Kong SAR without modifications, to encourage and promote voluntary negotiations between employers or employers' organizations and workers' organizations. Legislation should also recognize the right of workers in the public sector not engaged in the administration of the State to organize and bargain collectively.

The Workers Group also endorses the recommendation on the **Art. 26 - complaint on Venezuela** to send a direct contact mission in order to obtain information on the current situation.

Chairperson,

The Workers Group continues to express its support for the promotional nature of the Committee's work. It is indeed satisfactory when Governments act to bring effect to the Committee's recommendations of which there are several examples in the Committee report. We note indeed the very positive development in **case 2182 (Canada/Ontario)** where the Government repealed the legislation that encouraged decertification of workers' organizations. Also **case 2316 (Fiji)** indicate actions taken by the Government to enact legislation ensuring trade union rights. In addition, in **case 2330 (Honduras)** we are informed that the authorities have abandoned a lawsuit intended to suspend the legal personality of two trade union organizations. Another example is **case 2229 (Pakistan)** where the Government declares its intention to amend several provisions of the legislation.

My final comment is in regard to the lack of replies from Governments in numerous cases. This is deplorable not least because of the delay it causes to the procedures of the Committee which should be as speedy as possible. One additional serious example of this concerns **India (case 2364)** involving arrests of over 2000 trade unionists and where the Committee strongly urges the Government to be more cooperative in the future.

Statement on behalf of the Workers Group on the 339th Report of the Committee on Freedom of Association

The Workers Group share the deep concern expressed by the Committee concerning whether the Belarus Government actually has any intention of following the recommendations made by the Commission of Inquiry. In reality no concrete measures have been taken, which of course is a sad message to us in the Governing Body - that this Government believes that it has no obligation to follow our recommendations on voluntary ratified conventions and respect the fundamental rights of workers to exercise freedom of association. We assume that those Governments that elected Belarus to sit in the Governing Body, a body which has to defend the core values of this Organization, seriously have to reconsider the wisdom of their action.

The conclusions and recommendations including deadlines have not been met. Trade unions are denied registration, labour laws are not amended, no independent body has been created to investigate complaints of violation of trade union rights or the independent investigations requested in cases of anti-union discrimination. The Committee specifically requests for the re-registration of the REAAMWU and for the registration of primary organizations of the BFTU. The Committee also urges the Government not to introduce proposed changes in the legislation in determination of trade union representativeness, which "can only be understood as an attempt to eliminate any independent voices within the trade union movement in

Belarus" (para 89).

Members of the Governing Body,
the Belarus Government has, not surprisingly, failed to inform its people of the considerations and recommendations made by the Commission of Inquiry despite a specific recommendation to do this. But thanks to the existence of ILOs supervisory bodies the grave attacks on freedom of association in Belarus cannot be hidden to the international community. The Workers Group expect Governments and international organizations to take due account of the failure of the Government to cooperate with the ILO.

Thank you!