



EIGHTH ITEM ON THE AGENDA

**Report of the Officers of the
Governing Body****Complaint concerning the non-observance 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), made by delegates to the 91st Session
(2003) of the International Labour Conference
under article 26 of the ILO Constitution**

1. During the 91st Session of the Conference, the Director-General of the ILO received a letter dated 18 June 2003, signed by Sir Roy Trotman, Workers' delegate from Barbados and Chairperson of the Workers' group, in his own name and in the name of the following Workers' delegates: Mr. K. Ahmed (Pakistan), Ms. H. Anderson Navarez (Mexico), Mr. W. Brett (United Kingdom), Ms. B. Byers (Canada), Ms. M. De Vits (Belgium), Mr. U. Edström (Sweden), Ms. U. Engelen-Kefer (Germany), Mr. Z. Rampak (Malaysia), Mr. A. Oshiomhole (Nigeria), Mr. E. Patel (South Africa), Mr. M. Shmakov (Russian Federation), Ms. H. Yacob (Singapore) and Mr. J. Zellhoefer (United States), presenting a complaint under article 26 of the Constitution, to the effect that the Government of Belarus had failed to adopt measures to ensure the satisfactory implementation 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 text of this communication and its appendix are attached.
2. Article 26 of the ILO Constitution provides as follows:
 1. Any of the Members shall have the right to file a complaint with the International Labour Office if it is not satisfied that any other Member is securing the effective observance of any Convention which both have ratified in accordance with the foregoing articles.
 2. The Governing Body may, if it thinks fit, before referring such a complaint to a Commission of Inquiry, as hereinafter provided for, communicate with the government in question in the manner described in article 24.
 3. If the Governing Body does not think it necessary to communicate the complaint to the government in question, or if, when it has made such communication, no statement in reply has been received within a reasonable time which the Governing Body considers to be

satisfactory, the Governing Body may appoint a Commission of Inquiry to consider the complaint and to report thereon.

4. The Governing Body may adopt the same procedure either of its own motion or on receipt of a complaint from a delegate to the Conference.

5. When any matter arising out of articles 25 or 26 is being considered by the Governing Body, the government in question shall, if not already represented thereon, be entitled to send a representative to take part in the proceedings of the Governing Body while the matter is under consideration. Adequate notice of the date on which the matter will be considered shall be given to the government in question.

3. 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), were ratified by Belarus on 6 November 1956 and thus have been in force for that country since 6 November 1957. All the authors of the complaint were Workers' delegates of their respective countries to the 91st Session of the Conference on the date of filing the complaint. They accordingly had the right to file a complaint, under article 26, paragraph 4, of the Constitution, if they were not satisfied that Belarus was securing the effective observance of these Conventions.
4. The authors of the complaint have requested that it be referred to a Commission of Inquiry, as provided for in article 26, paragraph 3, of the Constitution. It is for the Governing Body to decide on this request.
5. No discussion on the merits of the complaints is admissible at this stage. Indeed, it would be inconsistent with the judicial nature of the procedure provided for in article 26 and the following articles of the Constitution that there should be any discussion in the Governing Body on the merits of the complaint while a proposal to refer the complaint to a Commission of Inquiry is pending before the Governing Body and until the Governing Body has before it the contentions of the government against which the complaint is filed, together with an objective evaluation of these contentions by an impartial body.
6. It is now for the Governing Body to adopt the necessary decisions as to procedure regarding the complaint submitted under article 26 of the Constitution.
7. It will be recalled, in this connection, that the Committee on Freedom of Association has been examining complaints submitted by workers' organizations alleging violation of trade union rights in Belarus. The Governing Body has approved the provisional conclusions drawn up by the Committee. The Government has invited a mission to discuss matters relating to this case, which took place in September 2003.
8. It will also be remembered that the Committee of Experts on the Application of Conventions and Recommendations has made observations to the Government of Belarus regarding the observance of the Conventions referred to in the complaint submitted under article 26 of the Constitution and that in 2001 and 2003 the Committee on the Application of Standards of the Conference discussed some matters relating to the observance, in practice and under law, of Convention No. 87.
9. In the present case, the complaint filed by a number of delegates to the Conference, under article 26 of the Constitution, largely concerns matters which are already before the Committee in the context of the special freedom of association procedure. The Committee has proceeded with the examination of the case pending under this procedure, which is once again before the Governing Body for approval in the 332nd Report of the Committee on Freedom of Association. In accordance with established practice, when a commission

of inquiry is appointed, the relevant matters before the various ILO supervisory bodies are referred to this commission.¹

10. The Officers have agreed to refer the matter to the Governing Body for consideration. *The Governing Body may thus wish to decide if, in the light of the situation described in the complaint, and the subsequent examination by the Committee on Freedom of Association, it wishes to institute the procedure provided for in article 26.4 of the Constitution and consequently to proceed to appoint a Commission of Inquiry to consider the allegations referred to in paragraph 1 above.*

Geneva, 14 October 2003.

Point for decision: Paragraph 10.

¹ GB.288/7.

Appendix

Workers' group of the
Governing Body of the ILO

Secretariat

Mr. J. Somavia,
Secretary-General,
91st Session of the
International Labour Conference
Geneva

Geneva, 18 June 2003

Dear Mr. Somavia,

**Re: Complaint under article 26 of the ILO Constitution against the
Government of Belarus for non-observance of Conventions Nos. 87 and 98**

In my own name and on behalf of the Workers' delegates to the 91st Session of the International Labour Conference (Geneva, June 2003), whose names are included hereunder, I hereby lodge a complaint under article 26 of the ILO Constitution against the Government of the Republic of Belarus for violations 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), both ratified by Belarus on 6 November 1956.

The present complaint rests on numerous instances of gross violations of these fundamental ILO Conventions, committed in recent years by the Belarus authorities and many employers against the country's trade union movement, including:

1. government interference in the unions' internal affairs, including in such matters as trade union elections and the holding of congresses, conferences and other statutory meetings of unions' decision-making bodies at national, regional and local levels;
2. adoption and promulgation of anti-union legislation and executive decrees;
3. refusal of registration of union organizations;
4. harassment and threats, including threats of physical abuse;
5. arbitrary transfers of union leaders, members and/or activists;
6. demotion, dismissal or forced resignation of elected trade union leaders from their elective or executive union positions;
7. forced resignation by workers from their union membership;
8. refusal by governmental authorities and employers to provide union organizations with the necessary means to carry out their legitimate activities, including material means such as a legal address, office space and commodities such as electricity and telecommunication facilities;
9. cancelling of check-off facilities for the collection of union membership fees;
10. interference in the unions' free disposal of collected union dues and membership fees;
11. freezing of unions' bank accounts;
12. denial of national workers' organizations' right to take part in statutory meetings of national tripartite labour institutions;
13. lack of consultation of representative national organizations of workers concerning the selection of the Worker representative in the national delegation to the International Labour Conference; and
14. other gross violations of trade union rights.

Details of these violations have already been presented to the Committee on Freedom of Association on numerous occasions, including in complaints lodged before the Committee on 6 June 2000 by the International Confederation of Free Trade Unions, the Congress of Democratic Trade Unions of Belarus (KDPB), the Belarus Automobile and Agricultural Machinery Workers'

Unions, the Agricultural Sector Workers' Union and the Radio and Electronics Workers' Union. The Federation of Trade Unions of Belarus (FPB) associated itself with this complaint on 6 July 2000 and submitted additional information in a communication dated 28 September 2000. The International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) associated itself with the complaint in communications dated 29 June and 18 July 2000, respectively. The case has been registered by the CFA under the number 2090 of the Committee.

Further violations of trade unions were reported by the ICFTU to the Committee on Freedom of Association in the course of 2001, 2002 and 2003. This case has become an important case before the Committee. Nevertheless, the Government has consistently refused to implement the recommendations of the Committee. Violations of Convention No. 87 have also been examined by the Conference Committee on the Application of Standards (CAS) in 2001 and 2003, leading in each case to the inclusion of the CAS' conclusions in a special paragraph of its report. The CAS has also found the Government of Belarus to have consistently failed in its implementation of Convention No. 87. The Government had refused to appear before the CAS during the 90th Session of the ILC (Geneva, June 2002).

Under these circumstances, I and the Workers' delegates to the 91st Session of the International Labour Conference whose names are attached hereto feel compelled to lodge the present complaint under article 26 of the Constitution against the Government of Belarus for non-observance of ILO Conventions Nos. 87 and 98. In doing so, they call on the Governing Body to appoint a Commission of Inquiry charged with the examination of the present complaint. The complainants reserve the right to submit additional information hereto at the appropriate time.

Yours sincerely,

(Signed) Sir Roy Trotman,
Chairperson, Workers' group,
91st Session of the ILC.

Annex

Workers' delegates

1. Ahmed, Khurshid, Mr. (Pakistan).
2. Anderson Navarez, Hilda, Ms. (Mexico).
3. Brett, William, Mr. (United Kingdom)
4. Byers, Barbara, Ms. (Canada).
5. De Vits, Mia, Ms. (Belgium).
6. Edström, Ulf, Mr. (Sweden).
7. Engelen-Kefer, Ursula, Ms. (Germany).
8. Oshiomhole, Adams, A., Mr. (Nigeria).
9. Patel, Ebrahim, Mr. (South Africa).
10. Rampak, Zainal, Mr. (Malaysia).
11. Shmakov, M.V., Mr. (Russian Federation).
12. Yacob, Halimah, Ms. (Singapore).
13. Zellhoefer, Jerry, Mr. (United States).