

Committee on the Application of Standards

Date: 17 May 2024

► Written information provided by the Government of Belarus on the implementation of the recommendations of the Commission of Inquiry

In accordance with the Constitution of the International Labour Organization (ILO), the Government of Belarus informed the Director-General of the International Labour Office of its position in relation to the recommendations of the Commission of Inquiry¹ in a letter dated 1 November 2004, from the Minister of Labour and Social Protection, Ms A.P. Morova, noting that it would take steps towards their implementation, taking into account the realities of the Republic of Belarus and its sovereign interests.

In view of its stated position, the Government of Belarus has taken a number of specific, targeted steps, as a result of which at this stage a significant number of the Commission of Inquiry's recommendations have been implemented and substantial progress has been made in implementing the remainder.

Recommendation 1

The Commission recommends that the Government take all necessary steps for the immediate registration of all those primary level union organizations listed in the complaint which have still not been registered, including, if necessary, by directing enterprise managers to provide premises to those organizations. These steps should be taken regardless of the supposed obstacles to their registration caused by Decree No. 2 and its rules and regulations.

The Government of the Republic of Belarus has taken targeted measures to liberalize the trade union registration process.

In accordance with the procedure established by law for establishing a trade union and submitting to registration bodies all necessary information and documentation, the registration procedure is essentially an administrative formality.

¹ Trade union rights in Belarus, report of the Commission of Inquiry, appointed in accordance with article 26 of the Constitution of the International Labour Organization, to examine the observance of the Government of the Republic of 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), July 2004.

In order to simplify and formalize the procedure for registering public associations (including trade unions), Presidential Decree of the Republic of Belarus No. 605 of 6 October 2006 abolished the National Commission for the Registration (Re-registration) of Public Associations.

All powers to register trade unions at the national level are vested in the Ministry of Justice, while powers to register territorial trade unions and trade unions established in the country's organizations and enterprises are vested in the relevant justice directorates of local executive and administrative bodies (regional executive committees and the Minsk City Executive Committee).

In accordance with the recommendations of the Commission of Inquiry, measures have been taken to abolish the requirement that at least 10 per cent of the total number of an organization's employees must be included in the membership in order to establish a trade union.

Thus, on 2 June 2015, Presidential Decree of the Republic of Belarus No. 4 on Amendments and Additions to the Presidential Decree of the Republic of Belarus was adopted, which amended Presidential Decree of the Republic of Belarus No. 2 of 26 January 1999 on Several Measures to Improve the Functioning of Political Parties, Trade Unions, and Other Public Associations.

With the adoption of Presidential Decree of the Republic of Belarus No. 4 of 2 June 2015, at least 10 people are required to establish a trade union at an enterprise.

To date, at the level of legislation and practice, everything necessary has been done to ensure that trade unions (their organizational structures) successfully undergo the state registration procedure.

When state bodies examine the documents submitted for state registration of trade unions and their organizational structures, and in other cases involving decisions that affect the right of citizens to form trade unions, the decisions are taken in strict accordance with legislation in force, as well as based on the principle of maximum consideration of the interests and rights of citizens and trade unions.

In order to increase the chances of obtaining a legal address, trade unions have been given the opportunity to be located not only at the employer's address, but also in any other place (non-residential premises are used for the legal address).

Practice shows that, to date, the need to confirm the existence of a legal address has not been an obstacle to the registration of trade unions.

Cases of refusal of state registration of trade unions (trade union organizational structures) are isolated in nature and are for objective reasons.

The main reasons for refusal are failure to comply with legislation concerning the procedure for establishing trade union organizations and submitting all necessary information and documentation to the registration authorities.

If the procedure for establishing a trade union organization is observed, the documents for state registration of the trade union (organizational structure of the trade union) may be resubmitted to the registration authorities after all the identified shortcomings are addressed.

In this respect, refusal to register does not amount to a ban on establishing a trade union (organizational structure thereof) and does not constitute an insurmountable obstacle to subsequent registration.

Trade unions (organizational structures thereof) successfully undergo the state registration procedure, subject to the establishment of a trade union in accordance with legislation and submission of all supporting documents to the registration authorities.

Recommendation 1 has been essentially implemented.

Recommendation 2

The Commission recommends that the Government amend the relevant provisions of Decree No. 2 and its rules and regulations so as to eliminate any further obstacles that might be caused either by the legal address requirement or by the 10 per cent minimum membership requirement at enterprise level and to ensure their transparency.

In accordance with the recommendations of the Commission of Inquiry on eliminating obstacles to establishing and registering trade unions, the Government has taken measures to abolish the mandatory 10 per cent minimum trade union membership requirement for the establishment of a trade union.

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Practice shows that, to date, the need to confirm the existence of a legal address has not been an obstacle to the registration of trade unions.

Recommendation 2 has been implemented.

Recommendation 3

The Commission is of the belief that many of the difficulties posed by the application of Decree No. 2 are due to the lack of transparency in the decision-making authority represented by the National Registration Commission. Given that registration should be a routine procedure formalizing the existence of a freely formed workers' or employers' organization, the Commission recommends that the National Registration Commission should be disbanded and all registrations should be made as a matter of mere administrative formality at the corresponding local, regional or national level. If necessary, overseeing authority may be vested in the Minister of Justice.

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The Ministry of Justice is responsible for registering national-level trade unions, while the relevant justice directorates of local executive and administrative bodies (regional executive committees and Minsk City Executive Committee) are responsible for registering territorial trade unions and trade unions established in the country's organizations and enterprises.

The Ministry of Justice closely monitors the situation concerning registration of trade unions and organizational structures thereof, and issues the necessary guidance to the registration authorities to prevent violations.

As part of its outreach efforts, in December 2006 the Ministry of Justice posted on its official website a clarification on trade union membership, stating that, under the law, citizens have the right voluntarily to establish trade unions of their choice, and also to join trade unions, provided that their statutes are observed.

On 31 January 2007, the Ministry of Justice sent a letter of instruction to local authorities indicating the need for strict compliance with the law when registering trade unions.

On 28 September 2022, the Ministry of Justice sent a letter to the regional executive committees and the Minsk City Executive Committee, explaining the issues of state trade union registration and registering trade union organizational structures (in order to ensure that the registration bodies apply a uniform approach to the processing of the documents required for registration).

To date, at the level of legislation and practice, everything necessary has been done in the Republic of Belarus to ensure that trade unions (their organizational structures) successfully undergo the state registration procedure.

When state bodies examine the documents submitted for state registration of trade unions and their organizational structures, and in other cases involving decisions that affect the right of citizens to form trade unions, the decisions are taken in strict accordance with legislation in force, as well as based on the principle of maximum consideration of the interests and rights of citizens and trade unions.

Recommendation 3 has been implemented.

Recommendation 4

In order to alleviate the damage that has already been done to the independence of the trade union movement in Belarus, the Commission recommends that all its conclusions and recommendations be made public by the Government through a wide dissemination and without delay. In order to ensure the prevention of further acts of interference, the Commission recommends that the Government declare publicly that such acts are unacceptable and will be sanctioned. To this end, it highly recommends that the Presidential Administration issue instructions to the Prosecutor-General, the Minister of Justice and court administrators that any complaints of external interference made by trade unions should be thoroughly investigated. This recommendation, similar to those made on numerous occasions by the Committee on Freedom of Association, but never implemented, should be carried out without any further delay.

The Government of the Republic of Belarus has taken steps to bring the Commission of Inquiry's recommendations to the attention of the general public.

In 2005, the Commission of Inquiry's recommendations were published in the Ministry of Labour and Social Protection's journal, Occupational Safety and Social Protection (No. 4 of April

2005), and in 2006, in the newspaper, Respublika (No. 209 of 9 November), which was the country's largest print publication.

As part of the implementation of the recommendations of the direct contact mission (which visited the Republic of Belarus during January 2014), a training course on international labour standards for judges and lawyers was held in Minsk on 20–22 June 2017. This training course contributed to the implementation of Recommendations 4 and 8 of the Commission of Inquiry.

The training course was organized by the Ministry of Labour and Social Protection, the International Labour Office, and the ILO International Training Centre in Turin for judges and lawyers with competence in labour law cases and issues.

The training course was attended by representatives of the Supreme Court of the Republic of Belarus, judges of courts of general jurisdiction, representatives of the Ministry of Labour and Social Protection, the Ministry of Justice, the Office of the Prosecutor-General, and the prosecutor's offices of Minsk region and Minsk city.

Course participants were introduced to the ILO's activities and the system of international labour standards (in particular, those relating to freedom of association, collective bargaining, and the prohibition of forced labour), the structure and work mechanisms of the ILO supervisory bodies, the application of international law and national legislation in labour relations, relevant jurisprudence, as well as examples of the application of international law in resolving labour disputes.

In the Republic of Belarus, approaches to non-interference in trade union activities are enshrined in legislation and implemented in practice.

Thus, under article 14 of the Constitution of the Republic of Belarus, the State regulates relations between social, national and other communities on the basis of the principles of equality before the law and respect for their rights and interests.

Social and labour relations between state administrative bodies, employers' associations and trade unions are based on the principles of social partnership and interaction between the parties.

Guarantees of trade union rights are enshrined in Chapter 3 of the Trade Union Act of the Republic of Belarus.

In accordance with article 23 of this Act, employers (associations thereof), state bodies, economic entities, public associations and officials shall respect trade union rights. Such bodies and entities shall be held liable for violating trade union rights or obstructing their lawful activities in accordance with the law.

Under article 26 of the Act, trade union rights shall be protected in accordance with the law. Unlawful restriction of trade union rights and obstruction of the exercise of their powers shall not be permitted.

The principle of the rule of law applies in the Republic, and the State guarantees the rights and freedoms of citizens, as enshrined in the Constitution, the law and international obligations.

Article 60 of the Constitution of the Republic of Belarus guarantees everyone protection of her/his rights and freedoms by a competent, independent and impartial court in the manner and within the time limits established by law.

Decisions and actions (omissions) of state bodies and officials that infringe on rights and freedoms may be appealed in court.

All court cases are heard in public. Hearings in camera may only be held in cases specified by law, and in accordance with all the rules of legal procedure.

Justice shall be administered on the basis of adversarial proceedings and equality of arms.

Court rulings shall be binding on all citizens and officials.

Parties and persons participating in proceedings have the right to appeal against decisions, sentences and other court rulings.

There are no obstacles to citizens taking cases to court.

See also information on the implementation of Recommendations 7 and 8.

Recommendation 4 has been largely implemented.

Recommendation 5

All those organizations named in the conclusions as having suffered interference in their internal affairs should be guaranteed protection to carry out their activities freely. Any further complaints made by these organizations in this respect should be taken seriously and immediately investigated by an independent body having the confidence of all parties concerned.

Although the legislation of the Republic of Belarus provides for all necessary measures to protect trade union rights, including the prevention of interference in their internal affairs, Belarus has introduced an additional mechanism for the protection of trade union rights in accordance with the Commission of Inquiry's recommendations.

Thus, in 2005, the Council for the Improvement of Legislation in the Social and Labour Sphere, established under the Ministry of Labour and Social Protection, was entrusted with the role of a tripartite independent body, enjoying the confidence of all interested parties.

This body has been empowered to consider the full range of issues arising from the Commission of Inquiry's recommendations, from examining specific situations relating to trade union registration or collective bargaining, to discussing the desirability of legislative changes.

On 21 January 2009, a national tripartite seminar was held in Minsk on the implementation of the Commission of Inquiry's recommendations on Freedom of Association and Social Partnership in the Republic of Belarus: improvement in the light of the recommendations contained in the Commission of Inquiry's report, Trade Union Rights in Belarus, organized by the International Labour Office and the Government of the Republic of Belarus to take stock of the work done and discuss further action by the parties.

Based on the conclusions and proposals drawn up during the seminar, the Government, in cooperation with International Labour Office, prepared an Action Plan to implement the Commission of Inquiry's recommendations, supported by representatives of all social partners who participated in the seminar, and approved on 20 February 2009 by the main tripartite body of the Republic of Belarus, the National Council on Labour and Social Issues (NCLSI).

The Action Plan provided for further improvement in the effectiveness of the mechanism ensuring the protection of trade union rights (Recommendations 5 and 7). The main role in this mechanism has been assigned to the tripartite Council for the Improvement of Legislation in

the Social and Labour Sphere under the Ministry of Labour and Social Protection, whose composition and functions were revised and supplemented in the light of the expansion of the range of tasks entrusted to it.

The activities of the updated tripartite Council are organized in accordance with the International Labour Office's recommendations.

In accordance with the approved Regulations of the Council, this tripartite body shall carry out consultations between representatives of the national bodies of state administration, other state agencies, and national associations of employers and trade unions on the application and improvement of the legislation of the Republic of Belarus on labour, employers' associations and trade unions, development of the social partnership and compliance with ILO Conventions ratified by the Republic of Belarus.

The Council conducts its work based on transparent and democratic principles, taking into account the interests of all parties involved in its work.

The Council strictly adheres to the approach supported by all social partners- to make decisions and conclusions on the most important issues only on the basis of the agreed position of all Council members. At the same time, all Council members and invitees are free to express their opinions at Council meetings and remain fully independent in forming their own views.

Over the years, the Council has considered a wide variety of issues on the basis of suggestions made by the parties directly relating to the implementation of the Commission of Inquiry's recommendations and the development of methods and forms of interaction between the social partners, the application and improvement of legislation, the registration of trade union organizations, the exercise of trade union rights, complaints from trade unions and workers of anti-union discrimination, cases of termination of employment contracts, the conclusion of sectoral agreements and collective contracts, the ratification of ILO Conventions and engagement with the International Labour Office in the framework of international technical cooperation.

The Council has been directly involved in resolving a number of disputes that formed the basis of trade union complaints to the ILO.

For example, based on the proposals of the Belarusian Congress of Democratic Trade Unions (BKDP), the Council's meetings considered, inter alia, issues relating to:

- dismissals of workers referred to in the 352nd report of the Committee on Freedom of Association (14 May 2009);
- registration of trade unions (registration of trade union organizational structures) and granting them a legal address (3 March 2011);
- observance of trade union rights at the Republican Unitary Enterprise, Babruysk Plant of Tractor Parts and Assemblies, and the Unitary Enterprise, P.M. Masherov Minsk Plant of Automatic Lines (3 March 2011);
- receipt of foreign gratuitous aid (3 March 2011);
- the situation with the conclusion of the collective agreement at Open Joint-Stock Company, Naftan (17 May 2012);
- the situation with the operation of trade unions at the Republican Unitary Industrial Enterprise, Granit (26 March 2013);

- draft Presidential Decree of the Republic of Belarus aimed at stimulating the employment of citizens (23 January 2015);
- Presidential Decree of the Republic of Belarus No. 5 of 15 December 2014 on Strengthening the Requirements for the Management Personnel and Employees of Organizations (23 January 2015);
- observance of trade union rights at Open Joint-Stock Company, Mazyr Oil Refinery, Republican Unitary Enterprise, Babruysk Plant of Tractor Parts and Assemblies, and Open Joint-Stock Company, Belshina (23 January 2015);
- implementation of paragraph 45 of the General Agreement between the Government of the Republic of Belarus and national associations of employers and trade unions for 2016–18, which laid down the procedure for collective bargaining and concluding collective agreements in organizations where several trade unions are represented (18 May 2016);
- the dismissal of Mr N.A. Sharakh, Deputy Chairperson of the Free Trade Union of Belarus, who worked at Open Joint-Stock Company, Polotsk-Fibreglass, on 30 April 2016, due to the expiry of his contract (18 May 2016);
- compliance by employers' associations with paragraph 45 of the General Agreement for 2016–18 (28 February 2017);
- Bill of the Republic of Belarus on Amendments and Additions to Certain Acts of the Republic of Belarus on Labour Relations (6 March 2018);
- precedents of non-compliance by employers' associations with paragraph 45 of the General Agreement for 2016–18 (6 March 2018);
- taking measures to implement Recommendation 9 of the Commission of Inquiry regarding amendments to Presidential Decree of the Republic of Belarus No. 24 (at that time, Decree No. 5 of 31 August 2015) on Use of Foreign Gratuitous Aid (6 March 2018).

Representatives of the International Labour Office have participated in the Council's work on several occasions, who, along with Belarusian associations of employers and trade unions, commended the Council's work and emphasized the importance of its role in the examination and resolution of complaints received from trade unions in accordance with the Commission of Inquiry's recommendations.

As part of the implementation of the proposals of the direct contact mission that visited the Republic of Belarus in January 2014 to monitor the situation with respect to trade union rights in the country and to assist the Government in implementing the Commission of Inquiry's recommendations, a seminar on International Experience of the Work of Tripartite Social Partnership Bodies was held in Minsk on 9–10 July 2014.

The seminar's aim was to assist the Government and the social partners in developing proposals to improve the effectiveness of the work of the tripartite Council for the Improvement of Legislation in the Social and Labour Sphere.

As a result of the seminar and subsequent discussions within the Council, the parties reached an agreed position on amending the Regulations on the Council to further enhance the effectiveness of its work.

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

In accordance with this version of the Regulations, the Council's powers have been considerably expanded.

In particular, the Council is additionally empowered to analyse existing legislation and draft regulatory and legal acts affecting social and labour relations for their compliance with ILO Conventions and Recommendations and international practice in order to ensure the application of international labour standards at the national level.

The Council is empowered to submit proposals to legislative bodies on the implementation of ILO Conventions and Recommendations in national legislation, and on amending and supplementing labour and trade union regulations in accordance with ILO Recommendations.

The Council has the right to initiate consideration by the NCLSI of proposals regarding amendments and additions to regulatory legal acts on labour and trade unions.

This version of the Regulations also provides for the possibility of more active involvement of international experts, including ILO specialists, in the consideration of issues by the Council.

In order to make the Council's deliberations more expeditious, provision has been made for the possibility of holding extraordinary meetings.

Thus, the tripartite Council for the Improvement of Legislation in the Social and Labour Sphere, coordinated by the Ministry of Labour and Social Protection, is an effective mechanism for examining trade union communications and protecting trade union rights.

The Council's work, previously suspended due to the Covid-19 pandemic, has resumed this year.

During the Council's meeting on 26 May 2023, based on the parties' suggestions, it considered approaches to implementing the Committee on Freedom of Association's recommendation concerning the establishment of a non-judicial mechanism for settling labour disputes.

Following the discussion of this issue and considering the recommendation of the Committee on Freedom of Association that joint work with the social partners be continued to build an effective non-judicial mechanism for resolving labour disputes, it was decided to establish an expert group from among the Council's members to examine communications from trade unions (trade union associations) and employers' associations regarding the resolution of labour disputes. It was decided that when the Council receives communications from trade unions (trade union associations) and employers' associations concerning labour dispute resolution, the expert group will conduct a preliminary examination and subsequently inform the Council of its findings.

The agenda of the Council's meeting on 22 September 2023 included proposals for the work plan of the Council for the Improvement of Legislation in the Social and Labour Sphere and information from the International Labour Office on interpreting the provisions of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), concerning the right to strike. There was a discussion by the Council regarding the framework of the implementation of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).

During the meeting, the parties came to the conclusion that the Council should continue to discuss the issues around collective bargaining regulation at various levels of social partnership.

A discussion was also held on regulating the right to strike in Convention No. 87. It was agreed that, if necessary, each party would independently inform the International Labour Office of its views.

Recommendation 5 has been implemented.

Recommendation 6

In order to avoid acts of interference occurring at the level of the enterprise, the Commission recommends that a clear instruction be given to all enterprise managers and directors, in cases where they are still trade union members, not to participate in the process of trade union decision-making in as much as such participation might unduly influence internal trade union affairs and, in effect, bring these organizations under management domination.

The Government continuously and systematically monitors interactions between enterprise administrations and trade unions and has made clear its view that enterprise managers should not interfere in the activities of trade union organizations.

At the Government's initiative, the issue of interaction between representatives of employers and trade unions at the level of organizations (enterprises) was considered at a meeting of the main tripartite social partnership body at the national level, the NCLSI, on 31 January 2007.

The National Council drew the attention of employers' and trade unions' representatives to the need for strict observance of the principles of social partnership enshrined in legislation and ILO Conventions ratified by the Republic of Belarus, while noting the inadmissibility of interference by employers in the internal affairs of trade unions, and also recommended that trade unions actively use social partnership mechanisms to protect their rights and those of their members.

Following a decision by the National Council, the established practice of interaction between employers' and trade unions' representatives at the level of organizations (enterprises) was discussed during the first half of 2007 at meetings of sectoral and territorial (that is, regional, town/city and district) councils on labour and social issues.

In 2015, work was carried out to implement the areas of cooperation, outlined in the proposals of the direct contact mission (which visited the Republic of Belarus in 2014), on enterprise-level collective bargaining.

Thus, the International Labour Office, together with the Government and social partners, organized a tripartite seminar, Enterprise-level collective bargaining and cooperation in the context of pluralism, which was held in Minsk on 13–14 May 2015.

The seminar was attended by members of the Council for the Improvement of Legislation in the Social and Labour Sphere, various representatives of employers' associations and trade unions (including heads of the Federation of Trade Unions of Belarus and the Belarusian Congress of Democratic Trade Unions), and also representatives of a number of enterprises where several trade union organizations are represented.

Following a two-day discussion, moderated by representatives of the International Labour Office, the seminar participants reached conclusions on the inclusion of representatives of all trade union organizations operating at the enterprise level in the collective bargaining commission to be established at the enterprise in question.

Based on the results of the seminar, within the framework of the meetings of the Council for the Improvement of Legislation in the Social and Labour Sphere, the parties developed agreed proposals on the procedure for collective bargaining and concluding collective agreements when there are several trade union organizations in an organization, which were then included in the General Agreements between the Government of the Republic of Belarus and the national associations of employers and trade unions for 2016–18, 2019–21 and 2022–24, and are being implemented in practice.

The drafting of guidelines for enterprise-level collective bargaining and their inclusion at the level of the General Agreement between the Government of the Republic of Belarus and national associations of employers and trade unions helped put into practice the principle of trade union pluralism, in line with Recommendations 6 and 12.

Recommendation 6 has been implemented.

Recommendation 7

The Commission recommends that immediate action be taken to institute independent investigations, having the confidence of all parties concerned, into outstanding complaints of anti-union discrimination, in particular as concerns bias and discriminatory use of fixed-term contracts, and that all damages suffered in this respect be redressed. Any complaints of anti-union discrimination or retaliatory acts as a consequence of cooperation with the Commission and the ILO should be given particular attention.

Taking into account the Commission of Inquiry's recommendations, the Government and social partners have taken steps to examine carefully and resolve situations involving reported cases of alleged anti-union discrimination and non-renewal of fixed-term employment agreements (contracts) with trade union members.

Thus, on the basis of the parties' proposals, issues relating to the observance of the labour rights of trade union members are examined at meetings of the tripartite Council for the Improvement of Legislation in the Social and Labour Sphere.

For example, at the Council meeting held on 14 May 2009, the cases of termination of labour relations with the workers listed in the report of the Committee on Freedom of Association were considered. All the workers in questions were invited to the Council meeting, and the Council reached an agreed decision in each case. As a result of the Council meeting, the dismissed workers were provided with assistance in finding employment, as well as assistance in the restoration of other rights they had lost.

At the initiative of the BKDP the Council meeting of 18 May 2016 considered the dismissal, on 30 April 2016, of Mr N.A. Sharakh, Deputy Chairperson of the Free Trade Union of Belarus, who worked at Open Joint-Stock Company, Polotsk-Fibreglass (Polotsk, Vitebsk region), due to the expiry of his contract.

Following examination of the case, the allegations of the BKDP representatives that the dismissal of Mr N.A. Sharakh was the result of anti-union discrimination were not substantiated: Mr N.A. Sharakh, at his own initiative, had written a resignation letter due to the expiry of his contract and the commencement of his retirement. In view of these circumstances, the Council considered it appropriate to discontinue consideration of the case.

The situation described above can serve as clear evidence that the complaints of the now defunct BKDP and the International Trade Union Confederation (ITUC) of alleged anti-union

discrimination in the termination of contracts often lack any objective grounds and are politically motivated.

At the same time, we note that detailed information on the outcome of the examination of complaints received on alleged anti-union discrimination and non-renewal of employee contracts on the grounds of trade union membership have been submitted to the ILO monitoring bodies on several occasions as part of the periodic reports and information from the Government.

We also believe it is necessary to note that the existing legal framework in the Republic of Belarus provides adequate measures to protect citizens from acts of anti-union discrimination.

The legislation includes provisions that prohibit the use of discriminatory approaches against citizens because of their membership of trade unions (article 4 of the Trade Union Act of the Republic of Belarus, and article 14 of the Labour Code of the Republic of Belarus). The legislation also establishes special measures to protect citizens elected to trade union bodies, and trade union members.

Citizens who believe that they have been discriminated against are entitled to apply to the courts in order to protect their legitimate interests and rights. At the same time, trade unions have the right to act as legal representatives of their members in court.

The courts deal objectively and impartially with workers' claims, regardless of their participation or non-participation in trade unions.

Complaints and petitions from citizens alleging discrimination in labour relations, including discrimination on the grounds of trade union membership, are carefully examined by the courts. However, actions to address discrimination in labour relations, including on the grounds of trade union membership, are isolated in nature.

As part of the implementation of the areas of cooperation proposed by the direct contact mission (that worked in the Republic of Belarus in 2014) and supported by the social partners on the issues of labour dispute resolution and mediation, a tripartite seminar on Mechanisms of dispute resolution and mediation was held in Minsk on 25 February 2016, with the organizational assistance of the International Labour Office.

During the seminar, the participants were presented with an overview of the country's existing mechanisms of dispute resolution, and there was an active exchange of views on the situation with the examination of labour disputes under the current national system, and possible new effective mechanisms.

We also note that the Government has repeatedly informed the ILO supervisory bodies of the basis for legislative regulation of the use of contractual employment in the Republic of Belarus.

By accepting the terms of the contractual form of employment, and signing a contract as a form of fixed-term employment contract, the employee confirms her/his consent and intention to be in labour relations with the employer for the period of time stipulated in the contract as well as her/his consent and readiness to terminate the labour relations upon expiry of the contract.

As in other legal systems, in the Republic of Belarus, termination of employment at the end of a fixed-term labour contract is not considered as dismissal at the employer's initiative. In this respect, the legislation does not oblige the employer to justify her/his unwillingness to extend the employment relationship upon expiry of the contract. Expiry of the contract is in itself sufficient grounds for its termination.

Thus, if the employer has decided not to re-enter into labour relations with the employee after expiry of the contract, there is no need for additional justification on this issue.

The issue of forcing an employer to enter into a new contract with an employee cannot be resolved, including in court (except for categories of employees for whom special protective measures have been established by law).

At the same time, the legislation governing the conclusion of contracts with employees is being improved.

For example, Act of the Republic of Belarus No. 219-Z of 18 July 2019, amended the Labour Code of the Republic of Belarus (effective as of 28 January 2020) to increase the duration of concluded (extended) contracts.

In particular, article 261-3 of the Labour Code sets out the approach, according to which:

- the conclusion of a contract with an employee (except for an employee entering into her/his first contract) who does not commit any violations of production, technological, performance or labour discipline, shall be for a period of at least three years (or for a shorter period, only with the employee's consent);
- extension of the contract within its five-year period of validity with an employee who does not commit violations of production, technological, performance or labour discipline, shall be carried out for the period up to the expiry of the maximum term of the contract (or for a shorter period, only with the employee's written consent).

See also Recommendation 8.

Recommendation 7 has been implemented.

Recommendation 8

The Commission further recommends that the Government put into place effective procedures for protection against anti-union discrimination and other retaliatory acts. Adequate protection or even immunity against administrative detention should be guaranteed to trade union officials in the performance of their duties or when exercising their civil liberties (freedom of speech, freedom of assembly, etc.). In order to ensure that such protection is further guaranteed through an impartial and independent judiciary and justice administration, the Commission recommends that the Government implement the recommendations made by the United Nations Special Rapporteur on the independence of the judges and lawyers.

The Republic of Belarus has taken the necessary measures to ensure adequate protection of citizens against anti-union discrimination.

As noted above, in the information on the implementation of Recommendation 7, discrimination against citizens on the basis of their membership or non-membership of trade unions is prohibited by law (article 4 of the Trade Union Act of the Republic of Belarus, and article 14 of the Labour Code of the Republic of Belarus).

Citizens' membership or non-membership of trade unions shall not entail any restrictions of their employment, socio-economic, political, or personal rights and freedoms guaranteed by national legislative acts and provisions of international treaties to which the country is a party.

At the same time, guarantees of trade union rights are also enshrined in legislation (Chapter 2, Fundamental rights of trade unions, and Chapter 3, Guarantees of trade union rights, of the Trade Union Act of the Republic of Belarus), and are ensured in practice.

Employers (and associations thereof), state bodies, economic entities, public associations and officials are obliged to respect trade union rights. Such bodies and entities shall be held liable for violating trade union rights or obstructing their lawful activities in accordance with the law.

In order to carry out their statutory tasks, trade unions have the right, in accordance with the law, to organize and hold mass events, rallies, street marches, demonstrations, and also to take other collective action in order to protect their members' interests.

The procedure in force in the country for organizing and holding mass events does not contradict the principles of freedom of association and is fully consistent with the provisions of the International Covenant on Civil and Political Rights.

The legislative provisions penalizing breaches of this procedure that have serious negative consequences are aimed at preventing socially dangerous, unlawful acts that pose a genuine threat to the life and health of the public. These provisions objectively do not deter citizens and trade unions from exercising their right to freedom of lawful, peaceful assembly.

Trade unions are entitled to organize and hold strikes in accordance with the law. The procedure laid down in the law for organizing and holding strikes does not contravene international labour standards, allowing citizens fully to exercise their right to hold a lawful strike in order to resolve a collective labour dispute.

However, the prohibition of political demands during strikes is a common and justified international practice since enterprises should not be turned into objects of manipulation and used as leverage to achieve purely political goals.

Trade union rights are protected in accordance with the law. Unlawful restrictions on the rights of trade unions and obstructions to the exercise of their powers are not permitted.

At the same time, trade unions must also carry out their activities in accordance with the legislation, i.e., the Constitution of the Republic of Belarus, the Trade Union Act of the Republic of Belarus, and other regulatory legal acts. The activities of trade unions may be restricted in cases stipulated by legislative acts in the interests of national security, public order or to ensure the rights and freedoms of others.

In view of the above, the Government considers it necessary to stress once again that any allegations that trade unionists in the Republic of Belarus are persecuted for carrying out lawful trade union activities, participating in peaceful protests and lawful strikes, are unreliable and inaccurate.

Citizens residing in the Republic of Belarus freely and actively enjoy the legally guaranteed right to form trade unions. In turn, trade unions, their leaders, members and activists are free to carry out their legitimate activities aimed at upholding and protecting workers' labour and socio-economic rights and interests, improving the living standards and social security of citizens, including in the process of cooperating with the authorities within the framework of the country's existing social partnership system.

However, the competent authorities had every legal basis to bring administrative and criminal proceedings against a number of citizens whose actions were unlawful and who are currently the subject of complaints received by the International Labour Office as persons who have allegedly been the victims of anti-union discrimination.

The Government of the Republic of Belarus has repeatedly drawn attention to the fact that the mass events held in the country in 2020 with the support of external destructive forces, were not authorized by the authorities and were carried out in blatant violation of the law, were not peaceful at all, and in some places openly extremist in nature and posed a real threat to public order and the safety of citizens, and furthermore sought to destabilize the situation in the country in order to secure regime change by unconstitutional means.

Illegal attempts to disrupt the operations of individual enterprises had nothing to do with the exercise by workers of the right to hold lawful strikes in order to resolve collective labour disputes and/or satisfy economic or social demands. At the same time, individual workers engaged in absenteeism, refused to perform work stipulated by labour contracts, and took action to halt the operations of enterprises.

Thus, the citizens mentioned in the complaints of trade union structures who allegedly suffered for participating in peaceful protests and lawful strikes, have been prosecuted (on disciplinary, administrative, and in certain cases, criminal grounds) totally legitimately, for committing specific illegal acts.

In this situation, prosecuting citizens is totally unrelated to anti-union discrimination or persecution for the exercise of trade union or civil rights and freedoms and does not justify any reason to debate dropping the charges, providing any compensation and/or job reinstatement.

At the same time it should be noted that representatives of the judiciary and prosecutor's office are aware of the need to examine carefully the complaints from trade unions and trade union activists of anti-union discrimination and take decisions in full compliance with the rules and requirements of the law.

In order to raise awareness among representatives of the judicial system and prosecution service on the protection of trade union rights and compliance with the relevant international standards, and with the International Labour Office's support, a seminar on Protection of trade union rights in the activities of the courts and prosecution service of the Republic of Belarus (in the light of the implementation of the recommendations included in the ILO Commission of Inquiry's report, Trade Union Rights in Belarus) was held in Minsk on 16 January 2007. The seminar was attended by judges of the Supreme Court of the Republic of Belarus, regional (Minsk city) and district (city) courts, representatives of the Office of the Prosecutor-General of the Republic of Belarus, regional and Minsk city prosecutor's offices, the Ministry of Justice, the Ministry of Labour and Social Protection, and the National Labour Arbitration.

Representatives of the judicial authorities and the Office of the Prosecutor-General of the Republic of Belarus, together with representatives of a number of ministries, as well as all trade union and employer associations, took part in a seminar on Respect for trade union rights and protection against anti-union discrimination, which was organized by the Government with the assistance of the International Labour Office, and held in Minsk on 18 June 2008.

Participants in these seminars were informed about the ILO's approach to freedom of association and also the tasks set out in the Commission of Inquiry's recommendations for the courts and the prosecution service.

As part of the implementation of the areas of cooperation recommended by the direct contact mission (2014), a training course on international labour standards for judges and lawyers was held in Minsk on 20–22 June 2017.

The training course was organized by the Ministry of Labour and Social Protection, the International Labour Office, and the ILO International Training Centre in Turin for judges and lawyers with competence in labour law cases and issues.

The training course was attended by representatives of the Supreme Court of the Republic of Belarus, judges of courts of general jurisdiction, representatives of the Ministry of Labour and Social Protection, the Ministry of Justice, the Office of the Prosecutor-General, and the prosecutor's offices of Minsk region and the city of Minsk.

Course participants were introduced to the ILO's activities and the system of international labour standards (in particular, those relating to freedom of association, collective bargaining, and the prohibition of forced labour), the structure and work mechanisms of the ILO supervisory bodies, the application of international law and national legislation in labour relations, relevant jurisprudence, as well as examples of the application of international law in resolving labour disputes.

With regard to recommendations on ensuring an impartial and independent judicial system and the proper administration of justice, we believe it necessary to note the following.

The Republic of Belarus is a State governed by the rule of law. The individual, her/his rights, freedoms and guarantees to exercise them are the supreme value and goal.

The principle of the rule of law applies in Belarus, and the State guarantees citizens' rights and liberties as enshrined in the Constitution and laws and as provided for by international obligations.

Everyone is equal before the law and is entitled, without any discrimination, to equal protection of her/his rights and legitimate interests.

Article 60 of the Constitution of the Republic of Belarus guarantees everyone protection of her/his rights and freedoms by a competent, independent and impartial court.

Decisions and actions (omissions) of state bodies and officials that infringe rights and freedoms may be appealed in court.

The judicial system in the Republic of Belarus is determined by law.

Judges are independent in the administration of justice, and subject only to the law. Any interference in the activities of judges in the administration of justice is impermissible and punishable by law.

The courts administer justice on the basis of the Constitution and other regulatory acts adopted in accordance with it.

If, during the examination of a specific case, the court comes to the conclusion that a regulatory act is inconsistent with the Constitution, it shall rule in accordance with the Constitution, and raise the issue of declaring the regulatory act in question unconstitutional in accordance with the established procedure.

Cases in the courts are heard collectively by a collegial body of judges, and in cases provided for by law, by a single judge.

All court cases are heard in public. Hearings in camera may only be held in cases specified by law, and in accordance with all the rules of legal procedure.

Justice shall be administered on the basis of adversarial proceedings and equality of arms.

Court rulings shall be binding on all citizens and officials.

Parties and persons participating in proceedings have the right to appeal against decisions, sentences and other court rulings.

There are no obstacles to citizens taking cases to court.

Recommendation 8 has been implemented.

Recommendation 9

The Commission recommends amendment of Decree No. 24 concerning the use of foreign gratuitous aid along the lines previously suggested by the ILO supervisory bodies, so as to ensure that workers' and employers' organizations may effectively organize their administration and activities and benefit from assistance from international organizations of workers and employers in conformity with Articles 5 and 6 of the Convention.

At present, the issues of registration, taxation and use of foreign gratuitous aid are regulated by Presidential Decree of the Republic of Belarus No. 3 of 25 May 2020 on Foreign Gratuitous Aid.

In accordance with the Decree, foreign gratuitous aid (assistance) received by legal entities of the Republic of Belarus may be used for:

- providing medical assistance, including medical and social and palliative medical care, and also for the purchase of medicines and medical devices, consumables for their maintenance, payment for medical services, health-resort treatment and recuperation for members of the public;
- providing social assistance and social services to low-income citizens, persons with disabilities, pensioners, children, families with many children, single parents, foster and adoptive families, persons with no fixed abode, as well as persons (families) in difficult life situations, including as a result of forced migration;
- preventing and responding to natural and man-made emergencies, ensuring fire, industrial, nuclear and radiation safety, and addressing the consequences of the Chernobyl disaster;
- strengthening the material and technical base of state institutions (including state bodies);
- construction, repair (reconstruction) of social facilities;
- establishing and developing libraries, and creating and maintaining library collections;
- establishing and developing museums, and curating museum collections;
- training and professional development of employees of state institutions (including state bodies);
- providing physical culture and sports organizations, educational institutions, scientific organizations, healthcare organizations engaged in physical culture and sports, sports clothing and footwear, sports equipment, kit, gear, maintenance consumables, and also prizes, medals, diplomas, flowers, souvenirs and award paraphernalia, pharmacological and restorative agents, and protein and glucose vitamin supplements;
- the preparation and participation of national teams of the Republic of Belarus in sports and reserve teams in sporting events in the territory of the Republic of Belarus and/or abroad;
- installing sewage treatment facilities, creating waste utilization facilities, waste decontamination and landfill facilities, and deploying sustainable energy sources;

- holding of international and national events (competitions, conferences, seminars and congresses) by state institutions (including state bodies);
- payment of general business expenses relating to the maintenance of the administrative apparatus of a legal entity or sole proprietor and support of their activities according to the list determined by the Office of the President of the Republic of Belarus;
- other purposes provided that the Interdepartmental Commission on Foreign Gratuitous Aid approves these uses of aid.

It is prohibited to receive and/or use aid for the following purposes (or relating to the following):

- carrying out terrorist and other extremist activities, other acts prohibited by law, as well as those causing harm to national security, state and/or public interests or threatening to cause such harm;
- financing of political parties, or unions (associations) of political parties;
- preparing or holding elections, referendums, the recall of deputies of the House of Representatives of the National Assembly of the Republic of Belarus, members of the Council of the Republic of the National Assembly of the Republic of Belarus, deputies of the local Council of Deputies, or organizing or holding meetings, rallies, street marches, demonstrations, picketing, strikes, and producing or distributing campaign materials;
- organizing events aimed at conducting political and campaigning work among the population.

Thus, Decree No. 3 does not include any provisions prohibiting the receipt and use of aid by trade unions or employers' associations.

At the same time, Decree No. 3 defines the conditions (purposes) for the use of foreign gratuitous aid and stipulates that such aid must be registered in accordance with the established procedure. However, the registration procedure is quick and easy. There have been no instances of trade unions being denied foreign gratuitous aid.

We also consider it necessary to note that the procedure established in the Republic of Belarus for receiving foreign gratuitous aid is unjustifiably linked in the ILO framework with Articles 5 and 6 of Convention No. 87.

These Articles of Convention No. 87 do not contain provisions on the right of trade unions and/or employer associations to unimpeded receipt of financial or other forms of assistance for political and campaign work among the population (organization of mass events, strikes, production and distribution of campaign materials, etc.).

The existing ban in the Republic of Belarus on receiving and using foreign gratuitous aid for purposes involving political and campaign work is dictated by national security interests and is more than justified.

It is obvious that, in the current situation, giving outside (foreign) forces the opportunity to sponsor various kinds of politically orientated events and processes in the country may be used to destabilize the socio-political and socio-economic situation in the country, which would have an extremely negative impact on society and citizens' well-being.

Therefore, Recommendation 9 does not fully meet national security interests.

Recommendation 10

The Commission further recommends amendment of the Law on Mass Events (as well as Decree No. 11 if it has not yet been repealed), as previously suggested by the ILO supervisory bodies, so as to bring it into line with the right of workers' and employers' organizations to organize their activities provided for in Article 3 of the Convention.

The Act of the Republic of Belarus No. 114-Z of 30 December 1997 on Mass Events establishes the procedure for organizing and holding meetings, rallies, street marches, demonstrations, picketing and other mass events, and is aimed at creating the conditions for the exercise of the constitutional rights and freedoms of citizens, ensuring public safety and order when these events are held in streets, squares and other public places.

The freedom of mass events that do not violate law and order and the rights of other citizens of the Republic of Belarus, are guaranteed by the State.

In accordance with the Act, mass events, as well as speeches by their participants, shall be held at a specified time and place in accordance with the purposes specified in the application.

Mass events shall be prohibited if their purpose is to promote war or extremist activities.

The organizers of a meeting, rally, street march, demonstration or picketing shall be prohibited from involving citizens in exchange for material remuneration.

During the mass event, its participants shall be obliged to observe public order and comply with all lawful requirements of the organizers of the mass event, officers of internal affairs agencies and members of the public performing public order duties.

State bodies, political parties, trade unions and other organizations, as well as citizens shall not have the right to interfere with or obstruct the holding of mass events held in compliance with the requirements of this Act and other legislative acts.

Persons who have violated the procedure for organizing and/or holding mass events established by the Act in question shall be held liable in accordance with legislative acts.

Political parties, trade unions and other organizations, whose responsible persons have failed to ensure the proper procedure for organizing and/or holding a meeting, rally, street march, demonstration or picketing, which caused extensive damage or substantial harm to the rights and legitimate interests of citizens, organizations or to state or public interests, may be dissolved in accordance with the established procedure for a single violation of the legislation on mass events.

Damage caused by the organizers of and participants in a mass event, to the State, citizens and organizations during the mass event shall be subject to compensation in the manner prescribed by law.

It should be noted that the current procedure in the Republic of Belarus for organizing and holding mass events does not conflict with the principles of freedom of association and is fully consistent with the provisions of the International Covenant on Civil and Political Rights.

Legislation providing for punishment for violating the procedure for organizing and holding a mass event, resulting in serious adverse consequences, is aimed at preventing socially dangerous, or illegal acts, that pose a real threat to the life and health of the public.

When holding mass events, trade unions are obliged to respect public order, and must not a priori permit actions which could cause the event to lose its peaceful character and cause serious harm to the public, society and the State.

The punishment provided by legislation for the organizers of a mass event for causing substantial damage, or harm to the rights and interests of citizens, organizations, and also to state or public interests, is not and objectively should not, be interpreted as a deterrent to the exercise by citizens and trade unions of the right to freedom of lawful, peaceful assembly.

Taking into account the unprecedented political and economic pressure exerted on the Republic of Belarus, we believe that diluting liability for violating the procedure for holding mass events would contribute to the creation of conditions for the strengthening of external destructive influences on the situation in the country, which would not be in the national interests of the Republic of Belarus, nor serve the purpose of ensuring the well-being of its citizens.

Thus, the Act on Mass Events does not contain provisions directly or indirectly preventing workers' and employers' organizations from exercising the right to organize their activities.

However, the requirements to dilute trade unions' liability for violating the procedure for holding mass events are not in the interests of national security.

Recommendation 11

The Commission recommends that the Government ensure that the Belarusian Congress of Democratic Trade Unions (CDTU), which already has a seat on the National Council on Labour and Social Issues (NCLSI), is allowed to participate through whichever representative it designates and also that it take steps to ensure the right of all umbrella organizations representing trade unions in Belarus to participate in the NCLSI. The CDTU's participation on the NCLSI should be ensured with immediate effect.

In order to ensure free and equal participation of all social partners in the dialogue with the Government, a representative of the Belarusian Congress of Democratic Trade Unions has been included in the composition of the main tripartite social partnership body at the national level: the NCLSI.

During the meeting of the NCLSI held on 31 January 2007, the inclusion of Mr A.I. Yarashuk, BKDP as chairperson, in this tripartite body, was approved.

During his membership of the NCLSI, BKDP chairperson Mr A.I. Yarashuk represented the interests of all affiliated organizations of the trade union organization he headed, the Belarusian Trade Union of Radio-Electronic Industry Workers (trade union REP), the Belarusian Independent Trade Union of Miners, Chemists, Oil Refiners, Power Engineers, Transport Workers, Construction and Other Workers (BNP), the Free Trade Union of Metalworkers (SPM), and the Free Trade Union of Belarus (SPB).

Recommendation 11 has been implemented.

Recommendation 12

The Commission recommends that the Government undertake a thorough review of its industrial relations system with the aim of ensuring a clear distinction between the role of the Government and that of the social partners and of promoting clearly independent structures of workers' and employers' organizations.

Belarus ensures a clear distinction between the roles of the Government and the social partners, which is a prerequisite for the latter to carry out their lawful activities freely and independently.

The Government's activity is regulated by Act of the Republic of Belarus No. 424-Z of 23 July 2008, on the Council of Ministers of the Republic of Belarus.

The Council of Ministers of the Republic of Belarus is the Government of the Republic of Belarus and is a collegial central body of state administration of the Republic of Belarus, which, in accordance with the Constitution of the Republic of Belarus, exercises executive power in the Republic of Belarus and manages the system of subordinate national bodies of state administration and other organizations, as well as, on issues within its competence, the system of local executive and administrative authorities.

The Council of Ministers is accountable in its activities to the President of the Republic of Belarus and responsible to the National Assembly of the Republic of Belarus.

The Council of Ministers consists of the Prime Minister of the Republic of Belarus, her/his deputies, ministers, chairpersons of state committees subordinate to the Council of Ministers, and the Chief of Staff of the Council of Ministers. The Council of Ministers may include the heads of other state bodies and organizations in accordance with the decisions of the President.

The competence of the Council of Ministers is enshrined in Chapter 3 of the Act on the Council of Ministers of the Republic of Belarus.

In accordance with the general powers vested therein, the Council of Ministers:

- ensures the implementation of the Constitution, decisions of the All-Belarusian People's Assembly, laws and Presidential acts, and oversees their implementation by national state administration bodies and other organizations subordinate to it, as well as local executive and administration bodies, individuals and organizations;
- formulates the main areas of domestic and foreign policy of the Republic of Belarus and takes measures for its implementation;
- ensures the implementation of a unified economic, financial, credit and monetary policy, state policy in the field of science and innovation, culture, education, healthcare, physical culture, sport and tourism, the environment, social security and wages, the public-private partnership, prevention of and response to natural and man-made emergencies, and in the areas of investments, concessions, digital development, etc.;
- takes measures to ensure the rights and freedoms of citizens, protect the interests of the State, national security and defence capability, protect property and public order, and combat crime and corruption;
- subject to the specific features established by other legislative acts, acts on behalf of the owner in respect of property owned by the Republic of Belarus, and organizes the management of state property;
- has the right to establish, reorganize and dissolve legal entities whose property is owned by the Republic of Belarus;
- approves, in agreement with the President, the lists of state programmes, state and regional scientific and technical programmes, and also approves the list of state scientific research programmes;

- ensures the development and implementation of state programmes and approves them.

The Council of Ministers of the Republic of Belarus also exercises other powers vested therein by the Constitution, laws and Presidential acts.

Trade unions carry out their activities in accordance with the Trade Union Act of the Republic of Belarus, No. 1605-XII of 22 April 1992.

Pursuant to the Act, a trade union is a voluntary public organization of citizens of the Republic of Belarus, foreign citizens and stateless persons (hereinafter, unless specified otherwise, "citizens"), including those receiving vocational, technical, secondary specialized, higher, science-orientated education, bound by common interests in the nature of their occupation, in both industrial and non-industrial fields, for the protection and realization of labour and socio-economic rights and interests.

Citizens have the right voluntarily to establish trade unions of their choice, and also to join trade unions, provided that their statutes are observed.

Foreign citizens and stateless persons may join trade unions established and operating in the territory of the Republic of Belarus, if their charters so provide.

Trade unions may, on a voluntary basis, establish national unions (associations), and other associations (trade union associations) enjoying trade union rights, and also join them.

National associations of trade unions may, in accordance with the procedure provided for in their statutes, establish territorial (regional, town/city and district) and other organizational structures with trade union rights.

Trade unions (trade union associations) and their organizational structures are legal entities in accordance with the law and their statutes.

The principle of trade union independence is enshrined in legislation and implemented in practice.

Thus, under article 3 of the Act, trade unions carry out their activities in accordance with the Constitution, the Trade Union Act, and other legislative acts. The activities of trade unions may be restricted in cases stipulated by legislative acts in the interests of national security, public order or to ensure the rights and freedoms of others.

Trade unions independently draw up and approve their charters, determine their structure, elect their governing bodies, organize their activities, hold meetings, conferences, plenums and congresses.

Trade unions (trade union associations), their symbols, amendments and additions to their charter shall be subject to state registration in accordance with the procedure established by law.

In accordance with their statutory aims and objectives, trade unions have the right to cooperate with trade unions from other countries, and to join international and other trade union associations and organizations of their choice.

Citizens' membership or non-membership of trade unions shall not entail any restrictions of their employment, socio-economic, political, or personal rights and freedoms guaranteed by legislation.

A trade union's activity shall be terminated by decision of its members in accordance with the procedure specified by the charter of the trade union in question.

In cases where the activities of trade unions (trade union associations) contravene the Constitution and other legislative acts, or cause harm to state or public interests, they may be suspended for up to six months, or terminated with respect to national trade unions and their associations by decision of the Supreme Court on application by the Prosecutor-General, and in respect of territorial trade unions, by a court decision on application by the prosecutor of the administrative territorial unit concerned.

Article 6 of the Act establishes the procedure for interaction between state administrative bodies, monitoring (supervisory) bodies and trade unions.

Thus, improvement and development of the system of social partnership, forms and methods of interaction between trade unions (trade union associations), employers (associations thereof) and state administrative bodies are one of the top priorities of the socio-economic policy of the Republic of Belarus.

Trade unions participate in the development and implementation of the State's socio-economic policy.

Trade unions have the right to submit proposals to the state administrative bodies, in accordance with the established procedure, on the adoption, amendment or repeal of legislation on labour and socio-economic issues. Regulatory legal acts affecting the labour and socio-economic rights and interests of citizens, shall be adopted by state administrative bodies with prior notification of the relevant trade unions (trade union associations).

Trade unions, through their authorized representatives, have the right to participate in the work of the collegial bodies of ministries and other national bodies of state administration, meetings of local executive and administrative bodies, and management bodies of organizations in accordance with the procedure established by the Council of Ministers in coordination with the relevant trade unions.

National and local budgets may provide funds for the implementation of national and local programmes (educational, research, cultural, health and fitness, information, etc.) aimed at realizing the rights, freedoms and interests of citizens, as proposed by the relevant national and regional trade union associations.

In exercising public monitoring, trade unions interact with state administrative bodies, monitoring (supervisory) bodies and other organizations.

The fundamental rights of trade unions and guarantees of those rights are enshrined in Chapters 2 and 3 of the Act.

Employers (associations thereof), state bodies, economic entities, public associations and officials are obliged to respect trade union rights. Such bodies and entities shall be held liable for violating trade union rights or obstructing their lawful activities in accordance with the law.

Employers (associations thereof), state bodies, economic entities, public associations and officials have no right to prevent trade union representatives from visiting organizations in which members of these trade unions work, unless otherwise provided by legislative acts.

Trade union rights shall be protected in accordance with the law. Unlawful restriction of trade union rights and obstruction of the exercise of their powers shall not be permitted.

On 16 December 2023, Act of the Republic of Belarus No. 225-Z of 12 December 2022 on Employers' Associations, drafted at the initiative of business associations engaged in social dialogue with trade unions, came into force.

The adoption of the Act is aimed at developing the institution of employers' associations as subjects of social partnership in the country.

The Act defines the procedure for establishing employers' associations, their legal status and principles of activity, rights and obligations, and also the rights and obligations of their members.

The Act applies to employers and associations thereof operating in the Republic of Belarus.

In accordance with national legislation, employers' associations, along with state bodies and trade unions, are parties to the social partnership system.

According to the Act, an employers' association is a non-profit organization, established in the form of an organization (union), bringing together, on the basis of voluntary membership, employers and/or associations of employers for the purpose of representing and protecting their rights and legitimate interests in the field of social, labour and related economic relations, included in the register of employers' associations ("the Register").

Employers have the right, on a voluntary basis, to establish employers' associations, and are also free to join or leave such organizations under the conditions established by law and specified by the charters of these associations.

The activities of employers' associations are regulated by the legislation on employers' associations, as well as international treaties of the Republic of Belarus and other international legal acts containing obligations of the Republic of Belarus.

Employers' associations are established and act to represent and protect the rights and legitimate interests of employers and employers' associations in social, labour and related economic relations, as well as to implement the tasks assigned to them.

The main tasks of employers' associations are:

- interaction with state bodies, trade unions (their associations and organizational structures) and other representative bodies of workers authorized in accordance with legislative acts to represent their interests, in the system of social partnership;
- participation in the formulation and implementation of the State's social, labour and economic policy;
- conducting collective negotiations to conclude, amend or supplement general, tariff and local agreements, and ensuring the fulfilment of their obligations under the agreements;
- coordinating the activities of members of employers' associations to fulfil their obligations under the agreements;
- providing advisory and methodological assistance to employers and employers' associations in averting and resolving collective labour disputes.

Employers' associations:

- independently draw up their statutes, elect their governing bodies and organize their activities;
- in accordance with their statutory goals and objectives have the right to collaborate with other employers' associations, associations (unions) and public associations established in

the Republic of Belarus, associations (unions) of employers from other countries, and also with international unions (organizations) of employers;

- have the right to join international unions (organizations) of employers.

Employers' associations operate on the principle of voluntary accession to, and withdrawal from, membership.

Relations between employers' associations, state bodies and trade unions are based on the principles of social partnership and cooperation between the parties.

Employers' associations may be national or territorial (regional, district, or town/city).

The most representative national employers' association, the Confederation of Employers of the Republic of Belarus, coordinates the activities of employers' associations within the framework of the social partnership system.

The Confederation of Employers is recognized as a national employers' association, which includes more than half of the national employers' associations operating in the Republic of Belarus.

Employers' associations, as subjects of social partnership, have the right to interact with state bodies and trade unions on formulating and implementing state social, labour and economic policy, and protecting the rights and legitimate interests of employers and employers' associations.

Employers' associations are entitled to submit proposals to state bodies regarding the adoption, amendment or repeal of legislative acts that affect the interests of employers and employers' associations.

Representatives of employers, taking into account their status and sectoral affiliation, are included in labour and social councils established at the industry and territory level.

Employers' associations represent the interests of their members in collective bargaining to conclude, amend or supplement agreements.

When entering into a general agreement, the employers' side is represented by the Confederation of Employers of the Republic of Belarus, and in the event of its absence, representation of the employers' side is determined by agreement between the national employers' associations.

The structure, formation procedure and powers of the management bodies of the employers' associations, and their decision-making procedure are determined by the charter of the employers' association.

Since the Act regulates the exercise of powers of employers' associations as one of the parties to the social partnership system, non-profit organizations established in the form of associations (unions) must be recognized as employers' associations through inclusion in the Register of Employers' Associations in order to acquire such powers.

The Register contains a list of employers' associations operating in the Republic of Belarus, indicating their status.

A non-profit organization is included in the Register on the basis of an application submitted to the Ministry of Labour and Social Protection.

The decision on whether to include a non-profit organization in the Register is made on the basis of an assessment of the conformity of its charter and the composition of its membership with the provisions of this Act.

The creation and maintenance of the Register, as well as organizational and methodological support for the creation and maintenance of the register, are carried out by the Ministry of Labour and Social Protection.

The rights and obligations of employers' associations are enshrined in Chapter 3 of the Act.

Employers' associations have the right to:

- carry out activities aimed at achieving its statutory aims and objectives;
- receive and disseminate freely information relevant to the activities of an employers' association, unless to do so would contravene legislative requirements;
- protect the rights and legitimate interests, and also represent their members' legitimate interests, in state bodies and other organizations, in relations with trade unions;
- initiate and conduct collective bargaining for the purpose of concluding, amending or supplementing agreements;
- obtain from the relevant state bodies and trade unions information necessary to conduct collective bargaining to conclude, amend or supplement agreements, and to monitor their implementation;
- participate in the implementation of measures to promote employment, develop vocational education and training, and draw up draft professional standards;
- exercise other rights stipulated by the Act, other legislative acts and the charter of the employers' association.

The employers' association shall:

- conduct, in accordance with the procedure established by law, collective bargaining to conclude, amend or supplement agreements;
- implement the agreements entered into, to the extent they relate to the obligations of employers' associations;
- provide its members with details on agreements concluded by the employers' association;
- provide state bodies and trade unions with the information necessary to conduct collective bargaining and relating to the competence of the employers' association;
- monitor implementation of agreements entered into by the employers' association;
- assist in its members' fulfilment of the obligations stipulated in the agreements;
- report to its members on the activities of the employers' association in accordance with the procedure provided for by the charter;
- provide its members with advisory and methodological assistance on the regulation of social, labour and related economic relations, including on the conclusion of collective contracts and agreements, and the resolution of individual and collective labour disputes;

- perform other duties stipulated by the Act, other legislative acts and the charter of the employers' association.
- An employers' association shall not be liable for the obligations of its members, including their obligations under the agreements entered into by the employers' association.

Recommendation 12 has been implemented.

Thus, the information provided above confirms that the situation with the implementation by the Republic of Belarus of the Commission of Inquiry's recommendations has been steadily developing. At the same time, the ILO supervisory bodies have repeatedly noted with interest the measures taken by the Government, stating that progress has been made.

At this stage, most of the Commission of Inquiry's recommendations (except for those that are not in the interests of national security) have been implemented.

In this regard, statements that the Government of the Republic of Belarus has failed to take measures to implement most of the Commission of Inquiry's recommendations, and also regarding a complete lack of progress in their implementation, are totally unfounded and do not correspond with reality.

The Government of the Republic of Belarus is ready to cooperate with the International Labour Office on issues concerning the implementation of the ratified ILO Conventions Nos 87 and 98, provided that account is taken of present day realities and national interests, at the forefront of which are the stable socio-economic development of the Republic, the well-being and high quality of life of the Belarusian people, social harmony, the unshakeable foundations of democracy and the rule of law, and the country's independence, territorial integrity and sovereignty.