



Conseil d'administration

353^e session, Genève, 10-20 mars 2025

Section institutionnelle

INS

Date: 14 mars 2025

Original: anglais

Septième question à l'ordre du jour

Suivi de la Résolution concernant les mesures recommandées par le Conseil d'administration au titre de l'article 33 de la Constitution de l'OIT au sujet du Bélarus

► Introduction

1. À sa 352^e session (octobre-novembre 2024), le Conseil d'administration a pris note avec une préoccupation croissante des informations fournies dans le document [GB.352/INS/10\(Rev.1\)](#). En particulier, il a noté avec un profond regret que le gouvernement du Bélarus n'avait une fois encore communiqué aucun nouvel élément d'information sur les mesures prises pour mettre en œuvre les recommandations de la commission d'enquête et les recommandations ultérieures du Comité de la liberté syndicale, de la Commission d'experts pour l'application des conventions et recommandations (CEACR) et de la Commission de l'application des normes, et a prié instamment le gouvernement du Bélarus de communiquer des informations sur toute nouvelle mesure concrète prise pour mettre en œuvre les recommandations de la commission d'enquête et les recommandations ultérieures formulées par les organes de contrôle de l'OIT au sujet de la liberté syndicale. Le Conseil d'administration a demandé au gouvernement du Bélarus d'accepter de toute urgence: i) une mission humanitaire internationale visant à garantir que des médecins indépendants pourront rendre visite à tous les syndicalistes emprisonnés afin d'évaluer leur état de santé et de leur fournir une assistance médicale, si nécessaire; et ii) une mission tripartite de l'OIT visant à évaluer la situation et à rendre visite aux syndicalistes actuellement en prison ou en détention. Le Conseil d'administration a pris note des mesures adoptées par le Bureau aux

fins de la mise en œuvre de la résolution de la Conférence et des conclusions de la Commission de l'application des normes et a demandé au Directeur général de lui faire rapport, à sa 353^e session (mars 2025), sur: i) la nomination d'un(e) envoyé(e) spécial(e) doté(e) du mandat défini dans le document à l'examen; et ii) le résultat des échanges menés avec les organes des Nations Unies s'occupant des droits de l'homme et d'autres entités internationales en vue de la création d'un groupe de travail de l'OIT et d'autres institutions des Nations Unies chargé d'assurer une action coordonnée et conjointe visant à la mise en œuvre des recommandations de la commission d'enquête et des organes de contrôle de l'OIT. Il a en outre invité les mandants de l'Organisation – gouvernements, employeurs et travailleurs – à continuer de prendre des dispositions pour assurer un suivi effectif de la résolution de la Conférence concernant les mesures recommandées par le Conseil d'administration au titre de l'article 33 de la Constitution de l'OIT au sujet du Bélarus, notamment en tenant des réunions nationales tripartites de haut niveau en vue d'évaluer et d'intensifier les efforts déployés, et à présenter un rapport sur cette question au Directeur général pour transmission au Conseil d'administration.

► Évolution de la situation

Organisation internationale du Travail

2. À sa 95^e session (novembre–décembre 2024), la CEACR a examiné l'application des conventions n^{os} 87 et 98 par le Bélarus et, dans ce contexte, la suite donnée aux recommandations de la commission d'enquête. À cette occasion, elle a déploré l'absence totale de progrès dans la mise en œuvre des recommandations de la commission d'enquête de 2004 et dans le traitement des recommandations demeurées en suspens des organes de contrôle de l'OIT, ainsi que la détérioration croissante de la situation au regard de la liberté syndicale dans le pays. La CEACR a exhorté une fois de plus le gouvernement à coopérer avec l'OIT en vue de mettre pleinement et rapidement en œuvre toutes les recommandations des organes de contrôle de l'OIT auxquelles il n'avait pas encore donné suite.
3. Le Comité de la liberté syndicale, chargé par la commission d'enquête de suivre l'application des recommandations qu'elle a formulées, devrait examiner à sa réunion de mars 2025 les mesures prises par le gouvernement du Bélarus pour donner suite à ces recommandations. Les conclusions et recommandations du Comité de la liberté syndicale seront publiées dans son 410^e rapport, qui doit être soumis au Conseil d'administration à la 353^e session.

Rapporteurs spéciaux et Groupe de travail sur la détention arbitraire

4. Le 22 janvier 2025, un groupe d'experts indépendants spécialisés dans les droits de l'homme¹ a noté avec préoccupation la pratique de plus en plus répandue au Bélarus qui consiste à mener des procédures par contumace, sans que les intéressés bénéficient des garanties

¹ Les experts en question sont: M. Nils Muižnieks, [Rapporteur spécial sur la situation des droits de l'homme au Bélarus](#); M. Matthew Gillett (Président), M^{me} Priya Gopalan (Vice-présidente chargée du suivi), M^{me} Miriam Estrada Castillo et M. Mumba Malila, [Groupe de travail sur la détention arbitraire](#); M^{me} Irene Khan, [Rapporteuse spéciale sur le droit à la liberté d'opinion et d'expression](#); M^{me} Mary Lawlor, [Rapporteuse spéciale sur la situation des défenseurs et défenseuses des droits humains](#); M. Balakrishnan Rajagopal, [Rapporteur spécial sur le logement convenable en tant qu'élément du droit à un niveau de vie suffisant ainsi que sur le droit à la non-discrimination à cet égard](#); M^{me} Margaret Satterthwaite, [Rapporteuse spéciale sur l'indépendance des juges et des avocats](#); M. Ben Saul, [Rapporteur spécial sur la promotion et la protection des droits de l'homme et des libertés fondamentales dans la lutte antiterroriste](#); M. Morris Tidball-Binz, [Rapporteur spécial sur les exécutions extrajudiciaires, sommaires ou arbitraires](#).

fondamentales d'un procès équitable et à l'issue desquelles peuvent être prononcées de longues peines d'emprisonnement, une confiscation des biens et du logement, voire la peine de mort. Dans un communiqué de presse ², les experts en question font référence aux nombreux cas de personnes faisant l'objet d'une procédure par contumace au Bélarus qui n'en ont eu connaissance que par hasard et ne sont informées ni des accusations portées contre elles ni des motifs de leur condamnation, et sont privées de tout moyen de défense sur le plan juridique. Ils font observer que certaines de ces personnes ont demandé, en vain, la possibilité de participer à leur procès à distance ou d'obtenir une copie du jugement. Ils ajoutent que les personnes jugées par contumace ne sont pas informées de la procédure, ne sont pas autorisées à choisir l'avocat chargé de leur défense ni à participer à leur procès à distance, et ne sont pas autorisées à recevoir de copie de leur dossier, des actes de procédure ni des jugements les concernant. Ces documents ne sont transmis qu'aux avocats commis d'office, qui ne sont pas tenus légalement de communiquer avec leurs clients et qui s'y refusent en règle générale. Les jugements ne sont pas rendus publics et seules des informations succinctes sur le verdict sont publiées sur les sites Web du gouvernement, qui ne sont pas accessibles depuis l'étranger.

Parlement européen

5. Dans sa résolution adoptée le 22 janvier 2025 ³, le Parlement européen, se référant à la résolution de la Conférence générale de l'Organisation internationale du Travail du 12 juin 2023 concernant les mesures recommandées par le Conseil d'administration au titre de l'article 33 de la Constitution de l'OIT au sujet du Bélarus, a considéré que la «Fédération des syndicats de Biélorussie [était] depuis longtemps intégrée dans la structure gouvernementale du régime Loukachenko», «soulign[é] qu'il [était] important de protéger les citoyens biélorusses exilés contre les persécutions [...] et de leur donner la possibilité de séjourner et de travailler légalement dans l'Union [...] et demand[é] aux pays concernés de ne pas extraditer les citoyens biélorusses qui [avaient] fui le régime et qui ser[aient] persécutés à leur retour en Biélorussie»; il a en outre «demand[é] à l'Union et à ses États membres de continuer d'aborder la situation en Biélorussie au sein de toutes les organisations européennes et internationales pertinentes, en particulier [...] les Nations Unies et leurs organes spécialisés et l'OIT, afin d'accroître la surveillance internationale des violations des droits de l'homme et de renforcer l'action internationale sur la situation en Biélorussie».

Informations fournies par le gouvernement

6. Dans une communication datée du 16 janvier 2025, le gouvernement a transmis ses commentaires et des informations sur les observations et recommandations formulées par les organes de contrôle de l'OIT au sujet de la liberté syndicale, ainsi que des renseignements sur la mise en œuvre des recommandations de la commission d'enquête. Dans ces deux documents, le gouvernement fournit, d'une part, des informations qu'il avait déjà communiquées au Conseil d'administration et à la Commission de l'application des normes pour examen à sa séance spéciale et, d'autre part, les rapports sur l'application des conventions nos 87 et 98 qu'il avait présentés à la CEACR. Il juge regrettable que les organes de contrôle de l'OIT n'aient pas pris en compte ses arguments et se soient, au lieu de cela, appuyés

² L'intégralité du communiqué de presse est disponible à l'adresse suivante: <https://www.ohchr.org/en/press-releases/2025/01/belarus-un-experts-alarmed-about-widespread-absentia-trials>.

³ Résolution du Parlement européen du 22 janvier 2025 sur la nécessité d'agir face à l'oppression et aux simulacres d'élection qui se poursuivent en Biélorussie (2024/3014(RSP)).

sur les informations communiquées par des structures illégitimes qui n'ont aucun lien avec la République du Bélarus. Il indique que, dans ces circonstances, il est contraint de répéter une nouvelle fois les arguments et les renseignements qu'il avait précédemment fournis, et demande qu'ils soient de nouveau soumis au Conseil d'administration dans leur intégralité ⁴.

Informations fournies par le Congrès des syndicats démocratiques du Bélarus (BKDP)

7. Dans sa communication datée du 16 janvier 2025, le BKDP allègue que le gouvernement du Bélarus n'applique toujours pas les recommandations de la commission d'enquête et du Comité de la liberté syndicale. Aucune réponse n'est apportée aux violations, au contraire: la situation s'est aggravée du fait de la campagne menée par l'État à l'encontre de dirigeants et de militants syndicaux à l'approche de l'élection présidentielle de janvier 2025. Il est désormais impossible pour les syndicats indépendants et leurs membres d'exercer leurs activités au Bélarus. Le BKDP fait valoir que les mesures de grâce récemment accordées (entre juillet et décembre 2024) à certains prisonniers politiques ne sauraient être considérées comme des mesures visant à rétablir les intéressés dans leurs droits puisque l'octroi de la grâce est subordonné à un aveu de culpabilité, il ajoute que le gouvernement ne reconnaît pas l'illégalité des violations des droits commises ni des condamnations pénales prononcées, qu'aucune voie de recours appropriée n'est accessible et que les mesures de grâce sont utilisées par le gouvernement comme une arme psychologique pour pousser les proches des prisonniers politiques et les fonctionnaires de l'État à convaincre les condamnés de plaider coupable en échange d'une promesse de grâce.
8. Le BKDP fournit une liste de 30 dirigeants et militants syndicaux emprisonnés ou autrement privés de leur liberté de déplacement, ainsi qu'une liste de 30 dirigeants ou militants syndicaux libérés, mais non disculpés (au 16 janvier 2025). Le BKDP souligne qu'il a été obligé d'omettre des informations concernant au moins sept cas de persécution afin de ne pas faire courir aux personnes concernées de risques déraisonnables en les exposant à des persécutions accrues de la part de l'État, voire à des risques pour leur vie et leur santé. Le BKDP fournit des informations complémentaires sur la situation des syndicalistes poursuivis ci-après:
 - M. Maksim Pazniakou (président par intérim du BKDP). Une procédure pénale a été ouverte à l'encontre de M. Pazniakou pour activités «extrémistes» au sens du Code pénal. Le BKDP croit comprendre que les poursuites ont été engagées au titre de l'article 361-4 («Facilitation d'activités extrémistes») ou de l'article 361 («Appel à des mesures restrictives (sanctions) et autres actions visant à porter atteinte à la sécurité nationale de la République du Bélarus») dudit Code. Depuis le début de la procédure, la mère de M. Pazniakou, âgée de 75 ans, a reçu à cinq reprises la visite de différents agents de l'État dans son appartement, où son fils est officiellement domicilié. À l'occasion de ces visites, il a été procédé à: i) une perquisition des lieux; ii) trois interrogatoires; et iii) une tentative de localiser M. Pazniakou. Pendant leur visite, les agents ont informé la mère de M. Pazniakou que son fils était inscrit sur la liste des personnes recherchées. Cependant, aucun acte de procédure ni aucune copie d'acte de procédure ne lui a été présenté ni remis, et elle n'a donc en sa possession aucune information officielle. Lourdement éprouvée par ces visites et interactions sur le plan

⁴ Voir OIT, *Informations sur la mise en œuvre des recommandations de la commission d'enquête adressées au gouvernement de la République du Bélarus*, CAN/D/Séance spéciale Belarus-C.87-C.98, 2024, et l'annexe au présent document (en anglais).

psychologique, la mère de M. Pazniakou souffre, en raison de son âge avancé et du stress qu'elle a subi, de troubles de mémoire et peine à se souvenir des détails de ces incidents.

- M. Leonid Soudalenko (avocat du travail et militant du Syndicat biélorussien des travailleurs de la radio et de l'électronique (REP)). Le BKDP rappelle qu'en septembre 2024, la Cour suprême a examiné et rejeté in absentia l'appel formé au pénal par M. Soudalenko contre sa condamnation prononcée le 18 juin 2024. Par conséquent, le jugement rendu par contumace qui l'avait condamné à cinq ans d'emprisonnement dans un établissement pénitentiaire à régime rigoureux et à une amende de 26 000 roubles biélorussiens (environ 7 700 euros), en vertu des articles 361-4 1) et 361-4 2) («Facilitation d'activités extrémistes») du Code pénal, est entré en vigueur. Les droits à une défense et à un procès équitable de M. Soudalenko continuent d'être violés puisque l'avocat qui lui a été commis par l'État a non seulement refusé de communiquer avec lui concernant la procédure pénale ouverte à son encontre, mais a également omis de lui communiquer le jugement, et refusé de lui en remettre une copie. En octobre 2024, M. Soudalenko a déposé une demande de réexamen aux fins de contrôle auprès du Président de la Cour suprême. Cependant, la Cour a refusé d'examiner l'affaire au motif que les personnes en exil ne remplissent pas les conditions juridiques requises pour pouvoir former un tel recours. En novembre 2024, M. Soudalenko a déposé une deuxième demande de réexamen aux fins de contrôle. Bien que la législation prévoit un délai de dix jours calendaires pour l'examen de la demande, aucune réponse n'a été reçue à ce jour.
- M^{me} Volha Brytsikava (dirigeante du syndicat indépendant du Bélarus (BNP)). Faisant référence aux renseignements fournis dans le document GB.352/INS/10(Rev.1), le BKDP fait savoir que, le 24 décembre 2024, la Cour suprême a examiné l'appel formé par M^{me} Brytsikava et a réduit d'un an sa peine d'emprisonnement. Compte tenu de sa peine précédente, M^{me} Volha Brytsikava est donc incarcérée pour cinq ans.
- M^{me} Palina Sharenda-Panasiuk (militante du REP). Faisant référence aux renseignements fournis dans le document GB.352/INS/10(Rev.1), le BKDP indique que début septembre 2024, l'état de santé de M^{me} Sharenda-Panasiuk s'est détérioré (elle souffre du syndrome de Gilbert et son taux de bilirubine est trois fois supérieur à la moyenne), et qu'elle se plaint de douleurs abdominales mais qu'aucun traitement ne lui a été administré. Après son placement en cellule disciplinaire, en septembre 2024, M^{me} Sharenda-Panasiuk a été transférée dans un centre de détention provisoire, dans la ville de Retchitsa. Dans sa cellule, elle n'avait ni draps, ni matelas, ni lavabo à disposition. Le 14 octobre 2024, une audience s'est ouverte devant le tribunal de Retchitsa sur les accusations de «désobéissance volontaire aux exigences de l'administration d'un établissement pénitentiaire exécutant une peine de privation de liberté». Aucun représentant européen n'a été autorisé à assister à l'audience. M^{me} Palina Sharenda-Panasiuk a eu une crise de nerfs et, le jour même, a été envoyée de force dans un hôpital psychiatrique pour examen. Le 15 octobre 2024, elle a été condamnée à un an et un jour de privation de liberté dans la colonie pénitentiaire à régime ordinaire n° 24. Le 13 décembre 2024, elle a formé un appel qui a été rejeté, et son avocat s'est vu retirer son droit d'exercer après l'appel.
- M. Artsiom Zharnak (président du Syndicat libre des travailleurs de la métallurgie (SPM), au sein de l'usine automobile de Minsk). Le 9 décembre 2024, il a été placé en cellule disciplinaire pour une durée de dix jours.

9. Le BKDP fait également savoir qu'il est prévu de restreindre encore les droits des personnes libérées mais non disculpées au moyen du projet de loi portant modification de la législation visant à garantir les droits de l'enfant. Selon le projet de texte, tel que publié sur le portail Internet officiel d'informations juridiques, les personnes reconnues coupables d'infractions à caractère extrémiste auront interdiction de participer à toute «activité pédagogique, notamment dans les domaines de l'éducation physique et du sport, et d'être engagées à des postes d'employés associés à des fonctions éducatives, ainsi qu'à d'autres postes d'employés et dans des professions requérant un travail permanent avec des enfants». Cette restriction s'appliquera même si la condamnation a été retirée ou effacée du casier judiciaire, ou si les poursuites pénales ont pris fin en raison du délai de prescription ou à la faveur d'une amnistie. Le 20 décembre 2024, le projet de loi a été soumis à la Chambre des représentants par le Conseil des ministres. Par ailleurs, le 30 décembre 2024, le Conseil des ministres de la République du Bélarus a introduit, par sa résolution n° 1055, un nouveau règlement sur la procédure de reconnaissance des enfants à risque et ayant besoin de la protection de l'État, qui ajoute un nouveau motif permettant le retrait forcé des enfants à leur famille lorsqu'un parent (ou toute autre personne intervenant dans l'éducation des enfants) est reconnu coupable de «distribution, production, stockage et transport de supports d'information contenant des incitations à des activités extrémistes ou promouvant de telles activités», conformément au Code des infractions administratives. Par conséquent, selon le BKDP, le retrait forcé des enfants est devenu une nouvelle forme de répression exercée par l'État à l'encontre des militants et des dirigeants des syndicats indépendants et du mouvement des travailleurs qui ont été condamnés pour des actes «extrémistes» visés dans ces dispositions.
10. Citant des exemples concrets, le BKDP allègue qu'au dernier trimestre de 2024, les détentions massives de travailleurs pendant leurs heures de travail se sont poursuivies, avec la collaboration de la direction de certaines entreprises. Le BKDP indique aussi que les syndicats affiliés à la Fédération syndicale du Bélarus (FPB) n'ont fourni aucune protection aux travailleurs concernés, et qu'en réponse à ces événements, la FPB s'est alignée sur la position de la direction des entreprises (dont les noms figurent dans la communication du BKDP) et du gouvernement. S'agissant de la FPB et de ses affiliés, le BKDP allègue en outre que les dirigeants de la Fédération ont effectué des visites dans des entreprises et ont incité vivement les travailleurs à voter pour M. Loukachenko aux élections qui approchaient, et donne plusieurs exemples de telles visites qui témoignent, selon lui, du manque d'indépendance de la FPB et des liens étroits qu'elle entretient avec le gouvernement.
11. Le BKDP allègue également que de nombreuses entreprises publiques mènent une campagne massive de non-renouvellements de contrats et de licenciements contre les travailleurs ayant participé à des rassemblements pacifiques ou à des grèves en 2020, ainsi que contre ceux ayant exprimé des opinions en lien avec la fraude électorale aux présidentielles et les violations massives des droits de l'homme, et cite des exemples concrets.
12. Dans une communication datée du 4 février 2025, le BKDP fait savoir que M^{me} Sharenda-Panasiuk a été libérée le 1^{er} février 2025. Comme tous les autres syndicalistes libérés, M^{me} Sharenda-Panasiuk n'a pas été mise hors de cause; elle reste donc inscrite sur la liste des personnes «extrémistes» et soumise à une procédure de contrôle préventif, avec toutes les restrictions de droits qui en découlent.

► Mesures prises par les mandants de l'OIT

Mesures prises par les États Membres

13. Dans une communication datée du 11 novembre 2024, le gouvernement de la Thaïlande a réaffirmé sa détermination à respecter le principe de non-refoulement des personnes vers un pays où elles seraient en danger et à assurer la protection humanitaire des personnes qui fuient les persécutions, même si la Thaïlande n'est pas partie à la Convention de 1951 relative au statut des réfugiés. Bien qu'il existe un mécanisme permettant de recenser les étrangers qui demandent une protection et de leur prêter assistance, à ce jour, aucun ressortissant du Bélarus n'a demandé le statut de «personne protégée».

Communications émanant d'organisations d'employeurs et de travailleurs

14. Dans une communication datée du 13 janvier 2025, la FPB a fourni des informations sur sa composition, son rôle dans le dialogue social national et les travaux qu'elle mène à l'échelle nationale en sa qualité de principale organisation publique du pays, notamment en ce qui concerne la conclusion de l'accord tripartite général national, diverses initiatives législatives, le suivi de la situation du marché de la consommation et le contrôle du respect de la législation du travail.

► Suivi du plan d'action élaboré aux fins de la mise en œuvre de la résolution de la Conférence et des conclusions de la Commission de l'application des normes

15. Le Bureau continuera de mettre en œuvre le plan d'action adopté par le Conseil d'administration à sa 350^e session (mars 2024) et prendra des mesures pour donner suite à la décision la plus récente de la Commission de l'application des normes, en particulier dans le cadre des démarches suivantes.
16. Le Directeur général s'emploie actuellement à examiner toutes les options et modalités envisageables pour permettre la nomination d'un(e) envoyé(e) spécial(e) dans les meilleurs délais. Une fois nommé(e), l'envoyé(e) spécial(e) de l'OIT au Bélarus devra, au cours de l'année 2025, s'acquitter des missions décrites ci-après, en qualité de représentant(e) de l'Organisation: 1) collaborer avec le gouvernement du Bélarus et tous les partenaires sociaux, dont ceux mentionnés dans les recommandations de la commission d'enquête de l'OIT, en vue: a) de rendre visite aux syndicalistes détenus, b) de faciliter leur libération et c) d'explorer les possibilités de faire reconnaître de nouveau le BKDP afin que celui-ci puisse reprendre sa collaboration avec le Conseil national tripartite du travail et des questions sociales et le Conseil tripartite pour l'amélioration de la législation sur les questions sociales et relatives au travail; 2) collaborer, dans les limites de son mandat, avec les organismes des Nations Unies et toutes les parties prenantes afin qu'une action concertée puisse être menée au sujet des recommandations de la commission d'enquête de l'OIT, en particulier de la recommandation n° 8 sur la nécessité de garantir l'impartialité et l'indépendance du système judiciaire et de l'administration de la justice; et 3) faire rapport à ce sujet au Conseil d'administration à sa 355^e session (novembre 2025). À cet égard, un budget provisoire, qui prévoira notamment le financement de l'assistance administrative et juridique nécessaire

pour permettre à l'envoyé(e) de mener ses travaux de façon efficace, est en cours d'élaboration et sera présenté à la 353^e session du Conseil d'administration.

17. Pour ce qui est de la demande de collaboration avec les organes des Nations Unies chargés des droits de l'homme et d'autres organes internationaux compétents en la matière, le Bureau continuera d'échanger avec toutes les entités internationales pertinentes en vue d'assurer une action coordonnée et conjointe en faveur de la mise en œuvre des recommandations de la commission d'enquête et des organes de contrôle. En particulier, comme suite à la demande de la Commission de l'application des normes, il a noué des contacts avec le Haut-Commissariat des Nations Unies aux droits de l'homme, au plus haut niveau, afin de former un groupe de travail permettant à l'OIT d'agir conjointement avec d'autres institutions des Nations Unies à cet égard. En outre, étant donné que Nils Muižnieks a été nommé Rapporteur spécial sur la situation des droits de l'homme au Bélarus le 1^{er} novembre 2024, le Bureau a engagé avec lui une discussion sur des questions pertinentes au regard de son mandat et de celui de l'OIT concernant la situation de la liberté syndicale au Bélarus. Il continuera également de collaborer avec d'autres rapporteurs spéciaux dans le cadre de réunions régulières pour explorer avec eux les moyens de faire progresser concrètement la mise en œuvre des recommandations de la commission d'enquête et de faire aboutir les demandes répétées visant à ce qu'une mission puisse rendre visite aux syndicalistes détenus, ainsi que pour échanger des informations sur les questions liées au non-respect croissant des droits syndicaux dans le pays.
18. Le Bureau continuera de recueillir auprès des mandants de l'Organisation – gouvernements, employeurs et travailleurs – des informations sur les mesures prises afin d'assurer le suivi effectif de la résolution de la Conférence concernant le Bélarus, pour transmission au Conseil d'administration

► **Projet de décision**

19. Le Conseil d'administration:

- a) **prend note avec une préoccupation croissante des informations contenues dans le document GB.353/INS/7(Rev.1);**
- b) **note avec un profond regret que le gouvernement du Bélarus n'a une fois encore communiqué aucun nouvel élément d'information sur les mesures prises pour mettre en œuvre les recommandations de la commission d'enquête et les recommandations ultérieures du Comité de la liberté syndicale, de la Commission d'experts pour l'application des conventions et recommandations et de la Commission de l'application des normes;**
- c) **prie instamment le gouvernement du Bélarus de communiquer au Directeur général, d'ici au 26 septembre 2025, toutes informations concernant les mesures concrètes prises à cet égard à la suite de la 353^e session du Conseil d'administration, en vue de leur soumission au Conseil d'administration à sa 355^e session (novembre 2025);**
- d) **prie de nouveau le gouvernement du Bélarus d'accepter de toute urgence:**
 - i) **une mission humanitaire internationale visant à garantir que des médecins indépendants pourront rendre visite à tous les syndicalistes emprisonnés afin**

- d'évaluer leur état de santé et de leur fournir une assistance médicale, si nécessaire;
- ii) une mission tripartite de l'OIT chargée d'évaluer la situation dans le pays, y compris dans le cadre d'une visite aux syndicalistes qui sont actuellement en prison ou en détention;
- e) appelle l'attention de la Commission de vérification des pouvoirs de la Conférence internationale du Travail, à la 113^e session (2025) de la Conférence, sur les informations contenues dans les documents GB.352/INS/10(Rev.1) et GB.353/INS/7(Rev.1);
- f) prend note des mesures prises par le Bureau aux fins de la mise en œuvre de la résolution de la Conférence et des conclusions de la Commission de l'application des normes et attend du Directeur général:
- i) qu'il nomme sans délai un(e) envoyé(e) spécial(e) au Bélarus doté(e) du mandat défini dans le document GB.353/INS/7(Rev.1);
 - ii) qu'il lui fasse rapport, à sa 355^e session, sur le résultat des échanges en cours avec les organes des Nations Unies chargés des droits de l'homme et d'autres entités internationales en vue de la création d'un groupe de travail de l'OIT et d'autres institutions des Nations Unies, ainsi que sur les mesures prises pour coordonner et renforcer l'action conjointe menée aux fins de l'application des recommandations de la commission d'enquête et des organes de contrôle;
- g) invite les mandants de l'Organisation – gouvernements, employeurs et travailleurs – à continuer de prendre des dispositions pour assurer un suivi effectif de la résolution de la Conférence concernant les mesures recommandées par le Conseil d'administration au titre de l'article 33 de la Constitution de l'OIT au sujet du Bélarus, notamment en tenant des réunions nationales tripartites de haut niveau en vue d'évaluer et d'intensifier les efforts déployés, et à présenter un rapport sur cette question au Directeur général pour transmission au Conseil d'administration;
- h) prie le Directeur général de lui soumettre un rapport actualisé à sa 355^e session.

► Annexe

Commentaires et informations présentés par le gouvernement de la République du Bélarus concernant les observations et les recommandations des organes directeurs de l'OIT au sujet de la liberté syndicale (en anglais)

(Informations présentées en application de l'alinéa c) de la décision relative au suivi de la Résolution concernant les mesures recommandées par le Conseil d'administration au titre de l'article 33 de la Constitution de l'OIT au sujet du Bélarus (GB.352/INS/10(Rev.1)/Décision))

Taking into account paragraph (c) of the Decision concerning the follow-up to the resolution concerning the measures recommended by the Governing Body under article 33 of the ILO Constitution on the subject of Belarus adopted at the 352nd session of the Governing Body (GB.352/INS/10(Rev.1)/Decision), the Government of the Republic of Belarus (hereafter – the Government) notes that **detailed objective information and the justified position** of the Belarusian side with regard to the implementation of the recommendations of the Commission of Inquiry and the subsequent recommendations of the ILO's bodies **has already previously been provided on several occasions** under the consideration of matters relating to the application by 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), which the Government had ratified.

The Government, with great regret, notes once again that **information and explanations provided by the Government** regarding the nature of the processes that are being followed, as well as the extraordinary political motivation and bias of the unfounded and unlawful claims made against Belarus **are not being taken into account and are being openly ignored**.

In the light of these above-mentioned circumstances, the Government, in addition to the information previously provided to the Governing Body, is once again submitting its position and providing a comment on the actual situation with regard to the questions raised by the ILO's governing bodies.

1. With the Government's deep regret, the ILO's governing bodies continue to form their opinion of the situation solely on the basis of unsubstantiated statements and information from unconstructive and politically engaged biased actors and structures, acting in the interests of unfriendly countries in order to discredit Belarus and increase pressure on the Belarusian state.

Such a one-sided approach leads to the fact that ILO bodies' understanding of the situation in the country, and consequently, the conclusions and recommendations submitted to the Government are based on **unlawful allegations** against the Belarusian authorities **that have no factual basis**.

In forming their position, **the ILO's bodies are incorrectly working on the basis of unreliable information** that the protest activity in 2020 was allegedly a result of economic and/or social motives, was solely peaceful in nature, and was aimed at protecting civil and trade union rights and freedoms.

At the same time, the events of 2020 which were purely political in nature and which were in no way related to the processes of social dialogue concerning labour and the realization of trade union rights and freedoms, objectively **cannot serve as a basis for the evaluation of the situation with respect to the application of Conventions Nos 87 and 98** and, in principle, **should not be considered by the ILO's bodies as part of the monitoring of their implementation.**

The protest activity of 2020, which was artificially stimulated by destructive external forces, was **illegal**, far from **peaceful**, and aimed to **secure regime change** in the country **by unconstitutional means.**

The demands put forward by the protesters (resignation of the Head of State, holding new presidential elections and the acquittal of citizens who have violated the law) **had nothing objectively to do with the realization of trade union rights and freedoms** for the protection of citizens' labour, social and economic interests and **are not related in any way to the objectives of trade unions.**

Strikes, as a legal way of solving collective labour disputes between employers and representative workers' organizations, **were not held or notice given of the intention to hold a strike**, and the protests, which were purely politically motivated, affected only a small proportion of workers and **did not** have any **economic or social connotation** at all. No demands concerning the regulation of labour and socio-economic relations were made to employers or authorities.

The purpose of the unsuccessful attempts to involve the country's workers in **illegal political actions**, which the country's opponents present as allegedly "lawful strikes", was to stop the work of enterprises that form the basis of the Belarusian economy, that is, **the realization of political objectives by putting pressure on the legitimate authorities by undermining the potential and social well-being of the country.**

In that way, the authors of the complaints **deliberately "dragged" political issues into the ILO's work** without an objective basis for doing so.

By linking **unlawful protest actions**, which had nothing to do with the realization of trade union rights and freedoms, as well as the frankly **destructive and unlawful activities of individual citizens**, with matters that are regulated by the ILO's Conventions, the **complainants** as part of their ongoing attempts to "rock" the situation in the country **are seeking to place undue pressure on the Republic of Belarus through the ILO.**

2. Taking into account the fact that the conclusions and recommendations of the ILO's bodies to the Government are based on the assessment of situations presented by **the Belarusian Congress of Democratic Trade Unions (BKDP), which is positioning itself as a trade union association**, we draw the attention of the Governing Body to the **illegitimate status of that organization and its lack of links with the Republic of Belarus.**

The activity of the BKDP and its member trade unions – the Belarusian Union of Radio and Electronics Workers (REP), the Belarus Independent Trade Union for miners, chemists, oil refiners, power engineers, transport workers, builders and other workers (BNP), the Free Trade Union of metalworkers (SPM), the Free Belarusian Trade Union (SPB) – **were terminated** on the basis of decisions of the Supreme Court of the Republic of Belarus in accordance with Article 5-2 of the Trade Union Act, which provides for the termination of the activity of trade unions (or their associations) when they **violate the Constitution or any legislative act, causing harm to state or public interests.**

During public court sessions on 12, 14 and 18 July 2022, it was confirmed that the leaders and members of these trade unions, **in violation of the legislation and statutes of their organizations, took an active part in destructive activities, the aim of which was unconstitutional regime change in the country.**

These citizens participated in the organization and preparation of unauthorized mass events, aimed at harming state and public interests, made unlawful attempts to stop the work of enterprises in order to advance political demands, systematically committed grave violations of the law, including violating the established procedure for receiving and using foreign gratuitous aid, carried out extremist activities, distributed extremist material, and committed other illegal acts that do not correspond to the aims and objectives of trade unions to protect the labour, social and economic interests of citizens.

The national competent authorities **had full legal grounds to prosecute those persons who had violated the law and committed specific criminal offences.**

In view of the fact that the International Labour Office (ILO) and its bodies continue to cooperate with an **illegitimate and extremist body allegedly acting on behalf of the BKDP** and they take into consideration the comments provided by that body on the situation in the country, **we consider that it is necessary to once again draw your attention to the following facts.**

The body allegedly operating at the current time on behalf of the BKDP:

- has no links with the Republic of Belarus or with the national trade union movement, and has no objective information about the situation in the country;
- does not operate within the territory of the country – its office and management are based abroad on a permanent basis;
- **does not represent the interests of the workers of Belarus – the trade unions that are members of the BKDP have de facto and de jure terminated their work, do not have members and primary organizations in enterprises in the country**, and consequently do not carry out trade union activities to protect labour and socio-economic rights and interests;
- is not registered in accordance with the established procedure and is illegal – the activity of unregistered associations in the territory of the country is prohibited;
- **is financed using funds from organizations and bodies that are acting in the interests of foreign governments**, which are pursuing unfriendly and discriminatory policies against Belarus.

Thus, that body **is acting outside the legal framework of Belarus and does not represent the country's workers either in practice or legally** and, as a result, **cannot and should not be considered to be a national trade union association.**

Today, **under the banner of the BKDP, a destructive cell is operational**, which was established in one of the countries of the European Union, which receives from that country **support and funding for promoting** (under the appearance of trade union activity) an **anti-Belarusian agenda**, and which **uses ILO instruments and procedures for that purpose.**

In this connection, the Government insists that the **ILO's bodies should take a critical approach to the fabricated accusations against Belarus provided by that body and should not agree to consider information from illegitimate bodies that were unconnected to the country.**

There is no objective legal basis for the cooperation between the so-called BKDP and its representatives and the ILO and its bodies.

In turn, the Government cannot be obligated to provide comments on any petitions from illegitimate bodies or organizations that are not linked in any way to the country.

The Government notes with deep regret and serious concern the systematic disregard by the ILO and its bodies of factual information and positions stated by the Belarusian side, standards set out in national legislation, and the illegitimate status of the body allegedly acting on behalf of the BKDP, as well as the seriously biased and one-sided approaches to the assessment of the situation in Belarus.

The Government insists that its arguments should be given full attention in order to restore constructive dialogue and cooperation.

3. The Government of Belarus once again draws the Governing Body's attention to the **unfounded and absurd nature of the statements that trade unions and citizens are allegedly persecuted for carrying out trade union activities and the lawful and peaceful realization of civil rights and freedoms** (participation in peaceful protests, lawful strikes, trade union work, etc.).

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

In the country, everything necessary has been done so that trade unions can freely be established and can carry out their lawful activities without any interference or discrimination. Guarantees of trade union rights are enshrined in legislation and are implemented in practice.

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.

In order to carry out their work, trade unions **have the right to organize and conduct, in accordance with legislation, meetings, street marches, demonstrations and other collective action to protect the interests of their members.**

Trade unions have the **right to organize and hold strikes** in accordance with the law (when a trade union decides to conduct a strike, no political demands can be made).

The unlawful curtailment of rights of trade unions and the creation of obstacles to the full exercise of their powers are not permitted.

It should be noted that **citizens** living in Belarus **freely and actively exercise their right to organize in trade unions** which is guaranteed by legislation.

Background.

An analysis of the dynamics of the number of trade union organizations in Belarus shows an increase in their number.

Thus, as of 1 October 2020, 26,424 trade union organizations were registered in the country, and as of 1 October 2024, that number was 28,157 (an increase of more than 1,700 organizations). That means that, over the four years, there was a growth of 6.5% in the number of trade union organizations in the Republic of Belarus.

In turn, **trade unions, their leaders, members and activists are able to freely 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.

In addition, the competent authorities **had full legal grounds for the prosecution of various citizens**, whose actions were **unlawful in nature**.

The Government has repeatedly drawn attention to the fact that **mass events** held in the country with the support of external destructive forces **were not authorized by government authorities**, were held **in blatant violation of the requirements set out in legislation**, were **not peaceful** in nature, and in some places were openly **extremist**, posed a **real threat** to public order and the safety of citizens, and sought to **destabilize** the country in order to **secure regime change by unconstitutional means**.

Unlawful attempts to block the work of certain enterprises were unrelated to workers exercising their right to hold legitimate strikes with a view to resolving collective labour disputes and/or to satisfying economic or social demands.

The Government must once again draw the Governing Body's attention to the fact that citizens who appear in the information provided by organizations allegedly acting on behalf of the BKDP have been **lawfully prosecuted for specific illegal acts (or crimes), which were in no way related to the lawful and peaceful realization of trade union, civil or other rights and freedoms**.

The essence of the unlawful acts committed by these citizens confirms that they are unrelated to the guaranteed right to exercise lawful trade union activities.

The Government has already **repeatedly commented on the reasons for prosecuting** the above-mentioned citizens.

Once again, we draw attention to the fact that these people have been **prosecuted for crimes related to extremism and terrorism** – including gross violation of public order, resulting in the disruption of transport and the work of enterprises; violence against workers in departments related to internal affairs; calls for action that would harm national security; incitement to national or social hostility and dissension on the grounds of national and social affiliation; promotion of extremist activities; slander; and damage to property in public places.

A number of citizens were members of the **extremist group known as Rabochy Rukh/Extended round table, funded from abroad**, which sought to involve employees from state-owned industrial enterprises in the country in radical politicized activities in order to obtain official information about their economic activities, stop manufacturing processes and increase the sanctions pressure on Belarus. Those participating in this group, in addition to committing crimes relating to extremism, carried out illegal activities to collect and subsequently transfer to a foreign government, a foreign organization and their representatives official restricted information concerning economic entities in the country.

As the **prosecution of these individuals is not related to the legal performance of trade union activities or the lawful realization of other civil rights and freedoms**, the ongoing **attempts to manipulate the situation** made by opponents to the Republic of Belarus **are of serious concern**.

These citizens have committed serious crimes against the interests of national security, society and the State, and they are serving lawful sentences.

In this regard, any calls for the dismissal of the charges against them, their immediate release, the full restoration of their rights, the provision of any compensation and/or the reinstatement of their employment have no objective legal basis.

Background.

The reinstatement of a worker to their employment position (return of the worker to their previous position they held legally prior to their dismissal) is possible only in the case of the termination of an employment contract without legal basis.

Disputes on reinstatement to an employment position, regardless of the grounds for the dismissal, are considered in the general courts. When considering individual labour disputes, workers are exempt from paying court costs.

On the basis of the result of the consideration of the dispute, the court is entitled to make a decision on the reinstatement of the worker to their previous position of employment, which is the basis on which the employer is to reinstate the worker.

Thus, matters of reinstatement may be resolved solely on the basis of a worker's appeal to the court.

Such appeals may be considered to be interference in the country's internal affairs, or the open support of unlawful and extremist activities aimed at disrupting the stability of the Belarusian state.

It should also be noted that matters relating to the revision of sentences, interaction with convicted individuals and release from custody are the **exclusive responsibility of law enforcement agencies and the courts, interference in the activity of which is not permitted, and which is subject to liability** in accordance with the law.

4. The Government has previously already provided comments on requests submitted by ILO bodies for copies of court decisions.

We reiterate that national legislation **does not provide for the provision of copies of court and other documents to persons who are not related to the process in question.**

Such approaches are related, inter alia, to the provisions set out in legislation, which aim to **protect citizens' personal data**, and their rights and freedoms when processing their personal information.

In addition, as the prosecution of the citizens mentioned in the reports of the ILO's supervisory bodies is completely unrelated to their trade union activity and their realization of other legal rights and freedoms guaranteed by, inter alia, Conventions Nos 87 and 98, we consider that the requests to provide the ILO's supervisory bodies with copies of court decisions **go beyond the obligations assumed by the Belarusian side** under the aforementioned ILO Conventions and **are redundant.**

5. Taking into account the calls of the ILO's bodies to guarantee the right of citizens to a fair trial and, in general, to ensure the impartiality, independence and transparency of the judicial system, the Government considers it necessary to once again underline that **the principle of the rule of law is applied in the Republic of Belarus** and that the **State guarantees the rights and freedoms of citizens** as enshrined in the Constitution and laws and as provided for under its international obligations.

Everyone is equal before the law and **is entitled**, without any discrimination, **to the equal protection of their rights and legal interests.**

In Belarus, there is an **independent, autonomous and unified system of general courts for the whole country** with clear distinctions between courts and with simple and understandable procedures for the consideration of cases and the review of court decisions.

In accordance with article 110 of the Constitution of the Republic of Belarus, the most important principles of the judicial system in the country are **the independence of judges in the administration of justice, their subordination solely to the law**, and the fact that **interference in the work of judges is not permitted**.

According to the provisions of article 60 of the Constitution, **every person is guaranteed the protection of their rights and freedoms by a competent, independent and impartial court** in accordance with the procedures and time frames set out in law. Decisions and actions (or lack of actions) of state bodies and officials that infringe rights and freedoms **may be appealed in court**.

The principle of the independence of judges and their subordination solely to the law in the administration of justice is also established in article 11 of the Civil Procedure Code of the Republic of Belarus, article 12 of the Economic Procedure Code of the Republic of Belarus, article 22 of the Criminal Procedure Code of the Republic of Belarus, article 2.13 of the Administrative Offences Code of the Republic of Belarus, and article 11 of the code of civil legal proceedings of the Republic of Belarus (which will enter into legal force on 1 January 2026).

In addition, the **principle of independence of judges and people's assessors** is developed in article 67 of the Code of the Republic of Belarus on the Judicial System and the Status of Judges (hereafter, the Judicial System Code), particularly: that a judge and a people's assessor are independent and subordinate only to the law in the exercise of justice (article 67-1 of the Judicial System Code).

The independence of judges and people's assessors is ensured by the procedure set out in legislation for their appointment (election, confirmation), suspension and termination of their authority, their immunity, the procedure for the consideration of cases and other matters, the confidential nature of their deliberations when issuing judicial rulings and the fact that it is not permitted to require their disclosure, their liability for contempt of court or interference in its activities, other guarantees relating to the status of judges and people's assessors, as well as the creation of appropriate organizational and technical conditions for the activity of the courts (article 67-2 of the Judicial System Code).

Any form of influence on a judge or people's assessor with a view to preventing the full, comprehensive and objective consideration of a specific case or to obtain an unlawful court ruling **is liable** under chapter 25 of the Administrative Offences Code and chapter 34 of the Criminal Code of the Republic of Belarus (article 67-3 of the Judicial System Code).

The **legal institution that regulates the appointment of judges and the termination or extension of their authority** is separate in order to ensure the independence of the judicial system as a whole.

As a result of the Constitutional referendum of 2022, which resulted in amendments to the Constitution that entered into force on 15 March 2022, in connection with granting the constitutional and legal status of the supreme representative body of the people's power in the Republic of Belarus to the All-Belarusian People's Assembly, **powers in the area of staffing of the judicial system were redistributed** between the All-Belarusian People's Assembly and the Head of State.

In order to strengthen the guaranteed independence of judges in accordance with part 2 of article 112-1 of the Constitution, the President, Vice-Presidents and judges of the Supreme Court of the Republic of Belarus are currently elected and dismissed by the All-Belarusian People's Assembly. This not only strengthens the status of the judges of the Supreme Court of the Republic of Belarus, but also imposes on them even greater responsibility for the results of their work.

In accordance with article 81-1 of the Judicial System Code, judges for district (or city) or specialized courts or courts in economic regions (or the city of Minsk) are appointed by the President of the Republic of Belarus.

Guarantees relating to the terms of office of judges are provided for in articles 68 and 81 of the Judicial System Code. A judge may not be transferred to another position or to another court without their personal consent. The powers of a judge may not be suspended or terminated, except in accordance with the procedure and on the grounds set out in the Judicial System Code (article 68 of the Judicial System Code).

The **bodies of the judicial community** play a particular role in strengthening the judicial system and ensuring the independence of judges. These bodies carry out, inter alia, procedures relating to the appointment of judges, the extension of their terms of office, and the imposition of any disciplinary sanctions.

The bodies of the judicial community carry out their activities collectively through collegial bodies of judges and in a transparent manner, in strict compliance with the principle of independence of judges (article 129-1 of the Judicial System Code).

The powers granted to these bodies and, above all, to qualified collegial bodies of judges, allow them to actively influence the processes that are carried out within the judicial community.

Thus, in accordance with article 159-1 of the Judicial System Code **qualified collegial bodies of judges** shall be formed in order to maintain the highest professional and moral standards of judges as enshrined in the Judge's Code of Honour of the Republic of Belarus, to strengthen guarantees of judges' independence, to increase responsibility and discipline in the work of courts and judges, and to maintain the prestige of judicial work.

Thus, today, Belarus has a sustainable and independent judicial system, which complies with all international standards and which effectively ensures the judicial protection of human and civil rights and freedoms.

6. Taking into account the **references of the ILO's bodies to Recommendation 8 of the Commission of Inquiry**, according to which, adequate protection or even immunity from administrative arrest should be guaranteed to trade unionists in the performance of their duties or the exercise of their civil freedoms, the Government notes that **this recommendation bears no relation to the exemption of trade unionists from prosecution in cases where they had committed unlawful acts.**

Moreover, the **need for workers and employers and their organizations to respect the law** when exercising the rights provided for in Convention No. 87 **is enshrined in paragraph 1 of article 8 of that Convention.**

In view of the above and taking into account the **principle of inevitability of responsibility for unlawful acts**, the **calls** addressed to the Government to release and dismiss all charges against trade union activists who, it should be highlighted, have been prosecuted for **specific violations of legislation, appear**, as it has been repeatedly noted previously, **to be completely unfounded**.

In view of the most important constitutional principle (article 22 of the Constitution), according to which all people are equal before the law and have the right without any form of discrimination to the equal protection of their rights and legal interests, it is absolutely unacceptable to grant representatives of trade unions “immunity from administrative arrest and from being subject to various types of liability” or to exempt them from legal liability on the grounds of their membership or leadership of a trade union.

Information on the results of inspections carried out in connection with illegal actions alleged to have been committed by members of law enforcement agencies (arbitrary detention, arrests, physical violence and harassment) was provided as part of the Government’s sixth periodic report on the implementation by the Republic of Belarus of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (August 2022).

In this regard, we note that citizens and organizations, whose rights and legal interests, in their opinion, have been infringed by the actions (or lack of action) of workers in internal affairs agencies have the right to submit a complaint against those actions (or lack of action) in accordance with the procedure established in law.

A system of restricting the rights of persons who have served a sentence is provided for in national legislation and is applied depending on the criminal or legal status of the citizen in order to prevent their commission of new crimes.

As the consideration by the ILO’s bodies of alleged instances in which law enforcement personnel exceeded their powers does not arise from the Government’s obligations under the provisions of Conventions Nos 87 and 98, which it has ratified, and is in general **not related to the mandate of the ILO**, the calls for the Government to provide information on the results of inspections (or investigations) in connection with the alleged illegal acts of internal affairs personnel are **unnecessary** and **unfounded**.

7. The Government’s detailed comments relating to the allegations of the discriminatory use of the contractual form of employment have been previously submitted on several occasions.

In light of the repeated recommendations of the ILO’s bodies regarding the adoption of legislative measures to guarantee the protection of workers from the failure to renew contracts as a form of anti-union discrimination, the Government finds it necessary to once again provide its position and explanations in that regard.

In the Republic of Belarus, **the equality of all citizens before the law and the right, without discrimination, of all people to equal protection of their rights and legal interests** is guaranteed under article 22 of the Constitution.

The discrimination of citizens in the area of labour relations and on the basis of their membership of a trade union **is prohibited**. The relevant standards can be found in the Labour Code of the Republic of Belarus and in the Trade Union Act of the Republic of Belarus.

Thus, in accordance with article 14 of the Labour Code, **discrimination**, that is the restriction of labour rights or the receipt of any advantage on the basis of gender, race, national and social origin, language, religious or political beliefs, **participation or non-participation in trade unions or other public associations**, property or official status, age, place of residence, physical or mental disabilities that do not prevent the performance of duties of employment, and other circumstances unrelated to business and not determined by the particular nature of the worker's position, **is prohibited**.

Discriminatory terms of collective bargaining and collective agreements are **invalid**.

Any person who believes that they have been discriminated against in the area of labour relations **has the right to take legal action** by submitting a claim requesting that the discrimination be reversed.

The prohibition of discrimination against citizens on the basis of their membership of a trade union is guaranteed in article 4 of the Trade Union Act of the Republic of Belarus. Thus, **a citizen's membership or lack of membership of a trade union shall not entail any restrictions** on their labour, socio-economic, political or personal rights and freedoms, which are guaranteed by legislation of the Republic of Belarus.

Trade unions **have the right**, at the request of their members and other citizens **to take legal action in court** in order to defend their labour and socio-economic rights and interests. To this end, trade unions may establish trade union legal services and other bodies, the responsibilities of which are established by the statutes of the trade union and legislation of the Republic of Belarus.

Complaints and statements made by citizens regarding discrimination in relation to labour relations, including discrimination on the basis of membership of a trade union, **are carefully considered by the courts**.

The social partners have the opportunity to consider and discuss any problems, including possible complaints of anti-union discrimination, within the framework of the country's social partnership bodies – the tripartite National Council on Labour and Social Issues (a body operating at the national level) and the Council for the Improvement of Legislation in the Social and Labour Sphere (which operates under the Ministry of Labour and Social Protection and whose functions include inter alia, the examination of complaints and suggestions made by social partners on improvements to legislation and law enforcement practices).

Previously, the Government has repeatedly provided information to the ILO's bodies about the basis for legislative regulation of the regulation of matters relating to contractual forms of 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 their consent and intention** to be in labour relations with the employer for the period of time **stipulated in the contract** as well as their **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 their 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, it is important to note that **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 their 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).

8. The Government has repeatedly drawn the attention of the ILO's bodies to the fact that national **legislation and practice do not contradict the provisions of ILO Conventions on matters related to the freedom of association**.

In connection with calls for the introduction of amendments to current legislation regulating the organization and conduct of mass events, strikes, and receipt of foreign gratuitous aid, the **Government finds it necessary once again to provide clarifications on this matter**.

In the Republic of Belarus, everything necessary has been done to ensure that trade unions and their organizational structures can **freely, without interference from any external entity**, carry out their **lawful activity**, which is aimed at defending and protecting the labour and socio-economic rights and interests of workers, and improving the standard of living and social security of citizens, including in the process of collaboration with the authorities within the framework of the social partnership system in the country.

Guarantees of trade union rights are enshrined in legislation (Trade Union Act of the Republic of Belarus) and implemented in practice.

Employers (or their associations), 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.

The unlawful **curtailment of rights of trade unions** and the **creation of obstacles** to their full realization of their powers **are not permitted**.

In order to carry out their statutory tasks, trade unions **have the right to organize and conduct**, in accordance with legislation, **meetings, street marches, demonstrations and other collective action to protect the interests of their members**.

Moreover, the **procedure for organizing and holding mass events** currently in force in Belarus **does not contradict the principle of the freedom of association and is fully consistent with the provisions of the International Covenant on Civil and Political Rights**.

The freedom to hold mass events that do not violate law and order, or the rights of other citizens, is guaranteed by the State.

Legislative standards set out the punishment for violating that law and order, and they aim to **prevent dangerous unlawful acts in public** that pose a real threat to the life and health of citizens. These standards do not objectively constitute a deterrent for citizens and trade unions to exercise their freedom of **lawful and peaceful** assembly.

The provisions of the Mass Events Act **do not contain any standards that prohibit citizens from exercising their right to lawful and peaceful assembly**. The updates made to the Act are aimed at preventing the organization, preparation and conduct of activities that infringe upon the independence, territorial integrity and sovereignty of the State, and upon the foundations of constitutional order and public security through the organization of mass riots, the commission of acts of vandalism involving damage to or destruction of property, the seizure of buildings and facilities, and other acts that constitute gross violations of public order, or the active participation in them.

The amendments made to the Criminal Code of the Republic of Belarus aim to ensure **fairness, even-handedness, and the uniform application of criminal law** in practice.

Updates to legislation on criminal liability **are not aimed at infringing the lawful rights of citizens and trade unions** to organize and conduct **peaceful** mass events **subject to the requirements of the law**, nor at impeding the exercise of other rights and freedoms guaranteed by the Constitution, national legislation and international obligations.

Amending legislation was **a necessary step** to ensure that its provisions were aligned to the current situation and serious challenges faced in the country in 2020 as a result of the unprecedented, planned attack on the State by unfriendly forces.

Trade unions have the **right to organize and to conduct strikes** in accordance with legislation. When trade unions decide to conduct a strike, **they are prohibited from making political demands**.

At the same time, workers are guaranteed the right to organize and to conduct **lawful** strikes in order to obtain “better working conditions” or to make “collective claims of an occupational nature” (as stated by the Committee on Freedom of Association in its 406th Report, as well as **to resolve collective labour disputes on matters relating to social and economic policy** (including matters relating to employment, social protection, standard of living, etc.) and concluding, amending, supplementing, implementing or terminating **collective bargaining agreements** (concluded with organizations) and **collective agreements** (concluded at the national, sectoral and local levels).

The **procedure** for organizing and conducting strikes, as enshrined in legislation, **does not contradict international labour standards**, and allows citizens to fully exercise their right to conduct a **lawful** strike in order to resolve a collective labour dispute without any subsequent discrimination.

The **prohibition of raising political demands** during strikes is a **widespread and justified international practice**, as enterprises should not be manipulated or used to apply pressure to achieve purely political goals.

The law may establish limitations on the right to strike to the extent that it is necessary in the interests of national security, public order, the health of the population and of the rights and freedoms of other people.

It is prohibited to provide material assistance to people participating in strikes at the expense of political parties, movements, and other public associations, as well as foreign legal entities and individuals.

Coercion to participate in a strike or **to refuse to participate** in a strike **is prohibited**.

Trade unions, in accordance with their statutory goals and tasks have the **right to cooperate with trade unions in other countries** and to choose for themselves whether to join international and other trade union associations and organizations.

Furthermore, in Belarus, the **procedure for receiving foreign gratuitous aid is unjustifiably linked** in the ILO framework **to articles 5 and 6 of Convention No. 87**. These articles **do not contain provisions** relating to the right of trade unions to the unhindered receipt of financial or other forms of aid for political and campaigning work among the population.

The legislation in force in the country – Presidential Decree No. 3 of 25 May 2020 on foreign gratuitous aid – **does not prohibit** trade unions from receiving foreign gratuitous aid for generally useful, socially important goals, and the registration procedure is easy and quick to complete. **There have been no instances** of trade unions being denied or being unable to register for such aid.

The existing ban on receiving and using foreign gratuitous aid for purposes involving political and campaign work, which is extended **to all organizations without exception** (not solely trade unions) is dictated by **national security interests** and **is more than justified** in the current situation.

It is obvious that the opportunity to sponsor mass events (or strikes) in the country could be used by outside forces **in order to destabilize the socio-political and socio-economic situation** in Belarus, which, in turn, would have an extremely **negative impact on society and citizens' well-being**.

In the context of the unprecedented political and economic pressure being exerted on the Republic of Belarus, implementing the ILO bodies' requirements in terms of weakening state control over money from abroad, (in fact, to give external forces the opportunity to sponsor political events and processes in Belarus), exonerating trade unions and citizens from liability for gross violations of the law when conducting mass events (in fact, to give them the right to break the law with impunity), and legalizing political strikes aimed at achieving political goals and tasks would create favourable conditions for strengthening the external destructive influence on the situation in the country.

In this regard, the Government once again draws the attention of the Governing Body to the fact that such demands and recommendations that are based solely on unsubstantiated and unfounded accusations against the Government, are not in the national interests of the Republic of Belarus, do not serve the purpose of ensuring the well-being of its citizens, constitute interference in the internal affairs of a sovereign nation, are aimed at destroying the foundation of the stability of the Belarusian state, and, thus contravene the principles, aims and objectives of the ILO as an organization, which are focused on maintaining peace, cooperation and socio-economic development.

9. The Government is extremely concerned regarding the ongoing **unjustified and unlawful attempts to discredit** within the framework of the ILO the **national trade union centre of the country, the Federation of Trade Unions of Belarus (FPB)**, which brings together approximately four million citizens within its membership.

The Government condemns and categorically opposes unsubstantiated statements about the alleged control of the FPB by the authorities and the calls made within the ILO to limit the lawful participation of this trade union association of Belarus in the work of the International Labour Conference.

We consider such statements to be an **assault on the lawful right of workers in Belarus to freedom of association**.

The Government has already **repeatedly had to refute inaccurate information** that was shared to discredit the legitimate authorities and social partners, in particular the **most representative workers' organization in the country, which is the FPB**.

The Government understands the motives behind such activity from opponents of Belarus and expresses regret that there is a place for **unprincipled political games** within the framework of the ILO, **which are completely unrelated to labour or to the realization of trade union rights**.

In view of the above, **we consider that it is necessary to draw the attention of the Governing Body to the following facts confirming the legitimate status of the FPB as an independent and representative trade union association in Belarus**.

Currently, the FPB is the only trade union association that is active across the whole territory of the country.

The FPB system comprises member organizations – **15 sectoral trade unions at the national level**, the total number of members of which is approximately 4 million people, and **organizational structures of the FPB** which coordinate the activity of the trade unions at the regional level – six regional and the city of Minsk trade union associations.

Within organizational structure of the member organizations of the FPB are:

- 89 regional (or city of Minsk) sectoral trade union organizations;
- 5 sectoral trade union organizations;
- 500 district or city organizations;
- 82 trade union association organizations;
- approximately 24,000 primary trade union organizations.

Background.

The following trade unions, which are not members of the FPB, are also registered in the Republic of Belarus:

1 (one) territorial trade union – union of citizen entrepreneurs and employed persons;

3 (three) trade union organizations which operate solely within a specific organization:

- *union of workers in the National Olympic Committee;*
- *union of workers in the Open Joint-Stock Company United Directorate of Construction Sites (city of Minsk);*
- *union of workers in the unitary production enterprise Zapad-transnefteprodukt (Golmen region).*

Thus, the **FPB is the single most representative workers' organization in line with the provisions of paragraph 5 of article 3 of the ILO Constitution**. There are no other trade union organizations that meet the criteria of the most representative workers' organization in the country.

In accordance with the Trade Union Act, a trade union is a **voluntary** public organization. Trade unions are **independent in their activity** from employers and from state authorities. According to the standards set out in the Act, trade unions **independently** develop and approve their own statutes, determine their structure, elect their governing bodies, organize their own activities, and hold meetings, conferences, plenaries and congresses.

The FPB carries out its activity in accordance with national legislation and its Charter, which was registered by the Ministry of Justice of the Republic of Belarus on 16 April 1991.

According to its Charter, the **FPB was created to coordinate activities** to defend and protect the rights and legal interests of members of the **trade unions belonging to this association**.

The FPB **is independent in its activity** from state, economic and administrative bodies, political parties and other public associations. It **independently** develops and approves its Charter, it determines its structure, it elects its governing and supervisory bodies, it organizes its own activity and it manages its own staffing policy.

The governing bodies of the FPB are the FPB Congress (the supreme body), the FPB Council and the Presidium of the FPB Council.

The President of the FPB is elected at the FPB Congress.

The current President, Mr Y.A. Senko, **was elected** at the extraordinary IX FPB Congress on 5 April 2024.

The objectives of the FPB include:

increasing the standard of living and the material well-being of trade union members and their families;

coordinating the activity of its member organizations towards the protection of labour and socio-economic rights and lawful interests of trade union members belonging to the FPB;

strengthening solidarity and unity of action across the trade union movement in the country;

improving and developing the system of social partnership, the forms and methods of collaboration between trade unions (and their associations), employers (and their associations) and state administrative bodies.

In accordance with the Charter, assets of the FPB are procured from joining fees, fees paid by member organizations and other income.

The activity of the FPB is not financed or monitored by the Government.

The FPB participates in social dialogue with employers' associations and the Government, protecting the rights of workers when considering draft legislation on social and labour-related matters, developing and implementing the general agreement between the Government of the Republic of Belarus and national employers' and workers' associations.

The FPB, its member organizations and organizational structure actively participate in collective bargaining processes.

As one of the three co-presidents of the National Council on Labour and Social Issues, the President of the FPB signs the general agreement on behalf of the workers.

As of 1 January 2025, **597 agreements** (1 general, 37 tariff and 559 local agreements) and **21,125 collective agreements** have been concluded with the participation of the FPB, its member organizations and organizational structure, as a result of which workers are granted social and labour guarantees that are additional to those set out in legislation.

Thus, there are no objective grounds for ILO bodies to question the legitimacy, independence, and representative nature of the FPB.

Attempts to discredit the FPB and remove its authority to represent the interests of the workers of Belarus within the ILO are, in fact, a violation of the right of workers in the country to the freedom of association, which is guaranteed by ILO Conventions Nos 87 and 98.

10. With regard to the question of the **implementation of the recommendations of the Commission of Inquiry by the Government of the Republic of Belarus**, we believe that it is necessary to note the following.

Detailed information on the implementation of the recommendations of the Commission of Inquiry, which confirms the **groundless and unlawful nature of the anti-Belarusian campaign launched within the ILO and the application of article 33 of the ILO Constitution**, has already been **submitted to the ILO repeatedly** for the attention of the bodies of the ILO authorized to consider the matter (for example, letters from the Ministry of Labour and Social Protection of the Republic of Belarus No. 11-1-2/2045 of 9 April 2024 and No. 11-1-2/5343 of 16 September 2024).

In light of the fact that the **explanations and comments provided by the Government** on that subject are repeatedly **openly ignored** and are **not taken into account by the ILO's bodies** when preparing conclusions and recommendations on the "Belarusian matter", the Government considers that it is necessary to once again submit, for the attention of the ILO's bodies and the Governing Body, information on the implementation of the recommendations of the Commission of Inquiry by the Belarusian side (*see Appendix 2*).

From the information provided by the Government, it can be clearly seen that the **absolute majority of recommendations of the Commission of Inquiry, namely 10 of the 12 recommendations – Recommendations 1, 2, 3, 4, 5, 6, 7, 8, 11 and 12 – have been implemented**. Recommendations 9 and 10 have been partially implemented, to the extent that they do not contradict the national interests of the Republic of Belarus.

In this regard, any **statements and conclusions that the Government has not taken measures to implement the majority of the recommendations** of the Commission of Inquiry, as well as that no progress has been made in their implementation, **are not true**.

Background.

The Government has already explained above its position with regard to Recommendations 9 and 10.

With regard to recommendation 9, the country's procedure established for receiving foreign gratuitous aid is incorrectly linked to articles 5 and 6 of Convention No. 87. These articles do not contain provisions on the unlimited right of trade unions and/or employers' associations to receive financial or other forms of aid for political and campaigning work (the organization of mass events or strikes, or the preparation and distribution of campaign materials, etc.).

The existing ban on the receipt and use of foreign gratuitous aid for purposes involving political and campaigning work, is dictated by national security interests.

With regard to recommendation 10, the freedom to hold mass events in Belarus that do not violate law and order or the rights of other citizens is guaranteed by the State. The current procedure for the organization and conduct of mass events currently in force does not contradict the principle of the freedom of association and is fully consistent with the provisions of the International Covenant on Civil and Political Rights.

The punishment provided for in legislation for organizers of mass events that cause damage and harm to the rights or interests of citizens, organizations, or state or public interests is not an obstacle to the realization of the right to the freedom of lawful and peaceful assembly.

11. Taking into account all of the above information, the **Government insists that there were then, and there are now, absolutely no objective grounds for the application of article 33 of the ILO Constitution in the case of Belarus, nor for the resolution adopted at the 111th Session of the International Labour Conference in June 2023, which called, in fact, for the isolation of the Belarusian state.**

National legislation and law enforcement practices do not contradict the obligations accepted by the Republic of Belarus following its ratification of Conventions Nos 87 and 98.

The implementation of the Commission of Inquiry's recommendations by Belarus has continued to develop. At the current time, an absolute majority of recommendations (10 of 12) have been implemented by the Government.

The Government has carefully followed the agreements reached and the plans developed together with the ILO. The ILO's supervisory bodies have repeatedly noted **with interest** the measures accepted by the Government, stating that **progress has been made**.

The Government of Belarus is **categorically opposed to the ILO's politically motivated anti-Belarusian resolution** and the **plan of action for its implementation** developed by the International Labour Office, as well as the **discriminatory recommendations** made in those documents addressed to international structures and ILO Member States.

The Government insists that the **pressure on states and organizations** that do not take steps to implement unjustified decisions or review their relationship with the Republic of Belarus is **unacceptable**.

The Government draws attention to the **absurd and unacceptable nature** of the steps taken by the International Labour Office to **organize an ILO round table on the situation in Belarus** with the participation of representatives from illegitimate and non-representative workers' structures from Belarus that are carrying out unlawful activity in the interests of foreign governments under the auspices of the BKDP.

The Government **does not support and opposes the appointment of a special representative of the ILO Director-General** to monitor the situation, as well as the **establishment of a working group comprising representatives from the ILO and other United Nations agencies** to coordinate actions to place pressure on Belarus. We consider that this step reflects the wish of our opponents to include the issue on the ILO's agenda in the long term in order to further discredit Belarus and its legal government authorities.

In the context of the **extremely discriminatory and openly politicized decision on Belarus**, proposed by Western countries during the 111th Session of the International Labour Council in June 2023 with the aim of increasing the unlawful pressure on the Belarusian State, **the Government does not see any political or practical value in the organization of a visit by a tripartite ILO mission to Belarus** to visit citizens who are serving **lawful sentences** in detention facilities, as it is highly likely that these steps would also be used to escalate the unlawful pressure on Belarus.

The Government considers that it is important to note that **many ILO Member States are not in agreement with the accusations made against Belarus**, are fully aware of the politicized nature of the campaign against the country and are against the use of the United Nations system as a lever to exert unlawful pressure on a sovereign state in order to interfere in its internal affairs.

The Government insists that it is **necessary to immediately curtail the anti-Belarusian initiatives** lobbied for by Western countries and the structures controlled by them, as they are aimed at implementing plans to destroy the country's economy and social and labour spheres.

The policy of isolation, blocking opportunities for cooperation, restrictions and sanctions is a **dead-end path that undermined the ILO's authority** and eroded the ideology and principles of the Organization.

The Government insists that the politically motivated, absolutely unjustified and discriminatory decisions against Belarus should be revoked.

The Government calls on the tripartite constituents and the ILO bodies, including the Governing Body, to refuse to participate in the politically motivated, anti-Belarusian campaign, not to take measures in the follow-up to the resolution on Belarus adopted without grounds in June 2023, which sets a dangerous precedent of unlawful pressure on a country on the basis of false accusations, and to return to constructive dialogue and cooperation.

12. The Government insists that the **compulsory consideration by the International Labour Office and the bodies of the ILO, including the Governing Body, of the realities of the current situation and the national interests of the Republic of Belarus is necessary**, at the centre of which is the stable socio-economic development of the country, the well-being and high quality of life of the Belarusian people, harmony in society, the unshakeable foundations of democracy and the rule of law, and its independence, territorial integrity and sovereignty.

In this regard, any recommendations and conclusions of the ILO's bodies submitted to the Government should be based on the factual situation in the country, should not go beyond the mandate of the ILO and the areas of regulation covered by its Conventions, should not constitute interference in the internal affairs of a state and should not deprive a country of its sovereign right to choose its political, economic, social and legal systems.

13. The Government reiterates the commitment of the Belarusian side to the fundamental principles and rights at work and expresses its **readiness to collaborate constructively** with the International Labour Office and the ILO's bodies, **subject to the compulsory consideration of the realities and sovereign interests of the Republic of Belarus.**

In this regard, the Government urges all members of the Governing Body to give due attention to the comments and information provided above, which reflect the real situation in relation to the questions raised by the ILO's bodies, in order to avoid the Governing Body making decisions that are unjustified and politically motivated with regard to Belarus.