



Governing Body

346th Session, Geneva, October–November 2022

Institutional Section

INS

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Reports of the Officers of the Governing Body

Fifth report: Representation alleging non-observance by Austria, Belgium, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Employment Policy Convention, 1964 (No. 122)

1. By a communication received on 21 June 2022, the Belarusian Trade Union of Forestry and Environment Management Workers (TUFEMW), made a representation to the International Labour Office under article 24 of the ILO Constitution alleging non-observance by each of the 27 European Union Member States (Austria, Belgium, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden) of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Employment Policy Convention, 1964 (No. 122). A summary of the representation is contained in the appendix.
2. In accordance with article 1 of the Standing Orders concerning the procedure for the examination of representations, as revised by the Governing Body at its 291st Session (November 2004), the Director-General acknowledged receipt of the representation and informed the Governments of the European Union (EU) accordingly.

3. Pursuant to article 2(1) of the Standing Orders, the Director-General brought the representation before the Officers of the Governing Body, who, according to paragraph 3 of the same article, shall report to the Governing Body on the receivability of the representation. Article 2(2) lays down the conditions for the receivability of a representation. In the light of these conditions, the following observations can be made in the present case:
 - (a) the representation was communicated to the International Labour Office in writing;
 - (b) it emanates from an industrial association of workers;
 - (c) it makes specific reference to article 24 of the ILO Constitution;
 - (d) it concerns Members of the Organization;
 - (e) except for one country (Malta), it refers to Conventions to which the Members against which the representation is made are parties.¹
4. With regard to article 2(2)(f) of the Standing Orders ("it must indicate in what respect it is alleged that the Member against which it is made has failed to secure the effective observance within its jurisdiction of the said Convention"), the Officers of the Governing Body note that the representations do not indicate in what respect it is alleged that the Members against which it is made have failed to secure the effective observance **within their own jurisdiction** of the said Conventions. Taking into account the above conditions, the Officers of the Governing Body consider that the representation against each of the 27 European Union Member States is not receivable in terms of article 2(2) of the Standing Orders. According to article 2(4) of the Standing Orders, the Governing Body, in reaching a decision on the receivability of the representation, on the basis of the report of its Officers, shall not enter into discussion of the substance of the representation.

► Draft decision

5. **In light of the information contained in document GB.346/INS/18/5, and taking into consideration the recommendation of its Officers, the Governing Body decided that the representation was not receivable.**

¹ The following countries have ratified Conventions No. 111 and No. 122 on the indicated dates, respectively in Austria in January 1973 and July 1972; Belgium in March 1977 and July 1969; Bulgaria in July 1960 and June 2008; Croatia in October 1991 (both); Cyprus in February 1968 and July 1966; Czechia in January 1993 (both); Denmark in June 1960 and June 1970; Estonia in August 2005 and March 2003; Finland in April 1970 and September 1968; France in May 1981 and August 1971; Germany in June 1961 and June 1971; Greece in May 1984 (both); Hungary in June 1961 and June 1969; Ireland in April 1999 and June 1967; Italy in August 1963 and May 1971; Latvia in January 1992 (both); Lithuania in September 1994 and March 2004; Luxembourg in March 2001 and March 2021; Malta in July 1968 for Convention No. 111 (it has not ratified Convention No. 122); Netherlands in March 1973 and January 1967; Poland in May 1961 and November 1966; Portugal in November 1959 and January 1981; Romania in June 1973 (both); Slovakia in January 1993 (both); Slovenia in May 1992 (both); Spain in November 1967 and December 1970; and Sweden in January 1962 and June 1965.

► Appendix

Summary of the representation

1. By communication received on 21 June 2022, the Belarusian Trade Union of Forestry and Environment Management Workers (TUFEMW), submits a single representation against each of the 27 Governments of the European Union Member States alleging that they had imposed “unilateral coercive measures” which had resulted in certain negative consequences for the economy of Belarus (in particular, artificially narrowing available markets, disrupting value chains, blocking financial flows and discouraging investment). The TUFEMW alleges that these measures have had a negative impact on the employment situation in Belarus, thereby reducing employment opportunities for its citizens. It adds that they are part of the national policy of the States in question which is contrary to the goal of promoting full, productive and freely chosen employment – as required under Article 1(1) of Convention No. 122 – since in practice these measures lead to an increase in unemployment in Belarus.
2. The TUFEMW affirms that: (i) the EU Council Regulation No. 2022/355 amending Regulation (EC) No. 765/2006 “concerning restrictive measures in view of the situation in Belarus”, and (ii) the EU Council Decision (CFSP) No. 2022/356 amending Decision No. 2012/642/CFSP “concerning restrictive measures in view of the situation in Belarus”, prohibits business entities of the EU from directly or indirectly importing timber products such as wood, wood products and charcoal from Belarus. As a result, members of the TUFEMW allegedly suffered a decrease in salary and risks of dismissal due to reduced demand from foreign companies.
3. In relation to Convention No. 111, the TUFEMW considers the measures adopted by the EU (see above) and applied by its Member States to be discriminatory because they arbitrarily affect a certain group of people on the basis of their nationality. It affirms that Article 2 of the Convention, according to which each ratifying State “undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof” applies to both domestic and external national policies and is not limited to persons residing in the territory of the State but is of universal application.
4. The TUFEMW requests the ILO to call upon the EU to lift the “unlawful restrictive coercive measures against Belarus”, alleging that these measures were imposed in violation of Conventions No. 111 and No. 122 and the Charter of the United Nations.