



理 事 会

第 350 届会议，2024 年 3 月 4-14 日，日内瓦

机构部分

INS

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第十项议程

《关于理事会根据<国际劳工组织章程> 第 33 条就涉白俄罗斯事项提出的 建议措施的决议》的后续措施

► 导 言

1. 理事会在第 349 届会议(2023 年 10 月至 11 月)上“持续关切地注意到了 GB.349/INS/13(Rev.1) 号文件中提供的信息”，该文件概述了《关于理事会根据<国际劳工组织章程>第 33 条就涉白俄罗斯事项提出的建议措施的决议》的后续措施，¹旨在确保落实为审查白俄罗斯政府遵守《1948 年结社自由和保护组织权利公约》(第 87 号)和《1949 年组织权利和集体谈判权利公约》(第 98 号)情况而设立的调查委员会的建议。同时，理事会还：
 - (a) ……
 - (b) 再次敦促白俄罗斯政府紧急接待一个劳工组织三方特派团，特派团旨在就调查委员会的建议以及劳工组织监督机构随后提出的建议的落实情况收集信息，其中包括探访被监禁或被羁押的独立工会领导人和活动分子；

¹ 劳工大会文件 ILC.111/决议 I。

- (c) 提请各成员国继续采取步骤，确保有效落实大会《关于理事会根据<国际劳工组织章程>第 33 条就涉白俄罗斯事项提出的建议措施的决议》；
- (d) 要求总干事制定一份落实大会决议的行动计划，并为理事会第 350 届会议(2024 年 3 月)编写一份最新报告。

► 最新情况

2. 实施公约与建议书专家委员会(专家委员会)在其第 94 届会议(2023 年 11 月至 12 月)上审议了白俄罗斯执行第 87 号和第 98 号公约的情况，并在此背景下跟进调查委员会建议的落实情况。会上，专家委员会尤其对在落实 2004 年调查委员会的建议和处理尚未落实的劳工组织监督机构的建议方面完全缺乏进展以及该国结社自由状况持续恶化深感遗憾。专家委员会再次敦促该国政府与劳工组织合作，全面落实所有尚未落实的劳工组织监督机构建议，不再进一步拖延。
3. 调查委员会责成结社自由委员会跟进其建议的落实情况。结社自由委员会将在 2024 年 3 月的会议上审查白俄罗斯政府采取的相关措施。其结论和建议将在提交本届理事会会议的第 406 次报告中予以公布。
4. 白俄罗斯民主工会大会(BKDP)在其 2024 年 1 月 30 日的来函中²指出，政府并未执行调查委员会的建议，在 2023 年和 2024 年继续镇压工人领导人和活动分子以及独立工会。该组织特别指出，2023 年 3 月至 8 月，白俄罗斯最高法院驳回了五金工人自由工会、白俄罗斯自由工会、白俄罗斯独立工会就其 2022 年 7 月被最高法院要求清算解散提出的三项监督申诉。在白俄罗斯独立工会一案中，最高法院认为一审法院没有违反法律。在涉及五金工人自由工会和白俄罗斯自由工会的案件中，最高法院认为这两个组织的代表无权提出申诉。白俄罗斯民主工会大会解释说，根据国家立法，对法律实体的清算将终止该法律实体签发的授权书效力。因此，强制终止工会活动排除了工会代表对此提出上诉的可能性。2023 年 6 月，最高法院驳回了“Rabochy Ruch”[工人运动]就 9 名工人活动分子和独立工会会员(Hanna Ablab 女士、Siarhei Dziuba 先生、Aliaksandr Hashnikau 先生(白俄罗斯独立工会)、Aliaksandr Kapshul 先生(白俄罗斯独立工会)、Ihar Mints 先生、Andrei Paheryla 先生(白俄罗斯独立工会)、Siarhei Shelest 先生(白俄罗斯独立工会)、Valiantsin Tseranevich 先生(白俄罗斯独立工会)和 Uladzimir Zhurauka 先生(白俄罗斯独立工会))因行使结社和言论自由权而被判处 10 年以上监禁的刑事案件提出的上诉。Kapshul 先生的律师在受到报复威胁后被迫逃离白俄罗斯。
5. 白俄罗斯民主工会大会指出，截至 2024 年 1 月 30 日，已有 50 多名工人领导人和工人活动分子受到国家迫害。其中一些人遭到监禁，一些人被限制自由，还有一些人虽获释但未免罪(17 人)。现行法律规定了限制刑满释放人员权利的制度。所有因所谓的极端主义或恐怖主义罪名刑满释放者都将受到以下额外限制：未经警方允许不得离开该国或所在城市；定期在住所接受检查；每周向警察局报到一次；在犯罪记录注销之前(平均为服刑期满后 2 至 5 年)，禁止从事公职、教

² 结社自由委员会第 406 次报告将概述并详细审查白俄罗斯民主工会大会的指控。

育等特定职业活动；在犯罪记录注销之前(服刑期满后 2 至 5 年)，禁止组织群众活动；银行账户受到专门部门控制，包括可能被冻结。该组织指出，根据内务部和国家安全委员会(克格勃)的一项决定，政府批准了一份被指控为极端分子和恐怖分子的人员名单，其中包括所有获释的工会会员；从这些名单上除名的程序尚未确定。该组织称，行政拘留是另一种形式的报复行动，并提供了一份人员名单，列出了自 2023 年 2 月至 12 月期间工运领导人和活动分子因行政指控被拘留的案例。³

6. 白俄罗斯民主工会大会提供了有关其主席 Aliaksandr Yarashuk 先生监禁条件的进一步信息。Yarashuk 先生于 2022 年 12 月 26 日以“组织和筹备严重破坏公共秩序的行动，或积极参与这些行动”和“呼吁采取限制性措施(制裁)和其他旨在损害白俄罗斯国家安全的行动”罪名被判处四年监禁。该组织回顾指出，其监禁条件已从“普通”改为“严格”监禁，并于 2023 年 11 月被转移到莫吉廖夫第 4 号监狱。改变监禁条件是对被认定恶意违反既定服刑程序者的一种制裁。该组织称，对工运领导人和活动分子实施这种制裁是一种普遍做法。其法律依据由监狱管理部门确定。在严格监禁制度下，囚犯每月只能购买一个基本单位的食物和基本必需品(截至 2024 年 1 月 22 日，一个基本单位为 40 白俄罗斯卢布)⁴；一年只能接受一次探视(探视时间为 4 小时，期间有一名监狱管理人员在场)；每年只能收取一个邮包或一个小包裹；每天只能散步一小时。
7. 白俄罗斯民主工会大会还提到白俄罗斯无线电和电子工人工会活动分子 Palina Sharenda-Panasiuk 女士的案件，她被认定犯有“恶意不服从执行监禁判决的惩戒机构管教”罪，并于 2023 年 9 月 10 日被判处一年监禁。该组织回顾指出，2021 年 6 月 9 日，Sharenda-Panasiuk 女士根据《刑法》第 364 条(“对内政官员使用暴力或威胁使用暴力”)、《刑法》第 369 条(“侮辱当局代表人员”)和《刑法》第 368 条(“侮辱白俄罗斯共和国总统”)被判处两年监禁。该组织称，Sharenda-Panasiuk 女士在整个监禁期间都受到迫害。根据现有的最新资料，自 2022 年 12 月底以来，其律师一直不被允许探视。此后，她多次被关进隔离室和戒备森严的牢房，被送去进行精神病鉴定，并自 2023 年 6 月以来多次在不同监狱和拘留所之间转移。装有食物、衣物和药品的包裹未被接收。Sharenda-Panasiuk 女士谈到了恶劣的拘留条件以及遭受其他囚犯殴打的情况，据称监狱管理人员也参与其中，但当局对这些证词置之不理，也没有展开任何调查。
8. 此外，据白俄罗斯民主工会大会称，在 2020 年及以后参加和平集会的工人和工会活动分子继续受到克格勃的审讯。国有企业继续采取不与那些因行使结社、和平集会和言论自由权而被追究行政责任的工运活动分子和工会会员续签或提前终止其短期劳动合同的做法。该组织称，克格勃向企业管理层提供了这类雇员的名单。
9. 白俄罗斯民主工会大会还称，法律和实践继续严重限制工人举行和平集会的可能性，并就此指出，在 2023 年 9 月 6 日修订“关于在举行群众活动后支付与内政机构提供的公共秩序保护服务、医疗及场地清理相关费用的程序”条例之后，群众活动组织者(包括工人组织)的财政负担进一步加重。该组织指出，在没有独立工会的情况下，这些组织不可能为群众活动筹集资金。其进一步解释说，虽然参与人数少于 1,000 人的群众活动可以由个人组织，但由于禁止在获批之前

³ 结社自由委员会第 406 次报告，即将发布。

⁴ 约 11 欧元。

传播活动信息，因此作为潜在组织者的个人无法通过公开募集资金支付活动费用。此外，法律还禁止曾违反组织或举行群众活动程序者在受到行政处罚后一年内组织群众活动；禁止犯罪记录未注销者和被判犯有危害和平与安全罪、危害公共安全、公共秩序和公共道德罪或危害国家罪者组织群众活动。这实际上意味着上述人员在刑满释放后的 2 至 5 年内无权组织群众活动，并且被清算解散的独立工会的活动分子不得组织参与人数少于 1,000 人的群众活动。该组织还指出，2023 年 10 月 23 日进一步修订了可举行群众活动的地点清单，从而进一步限制了举行和平集会的权利。该组织另回顾，《群众活动法》仍旧规定，即使工会仅一次违反了该法的规定，也有可能被清算解散。

10. 白俄罗斯民主工会大会称，独立工会及其会员不可能合法地开展活动。任何与独立工会有联系并开展合法活动的人都可能受到刑事起诉，依据分别是《刑法》第 193-1 条(“非法组织公共社团、宗教组织或基金会活动或参与其活动”)，可处以限制自由或两年以下监禁；《刑法》第 361-1 条(“建立或参与极端主义团体”)，可处以限制自由或六年以下监禁；或《刑法》第 361-4 条(“为极端主义活动提供便利”)，可处以限制自由或七年以下监禁。据该组织称，由于对工运领导人和活动分子的广泛镇压，白俄罗斯工人不敢发起成立新的工会。
11. 在 2024 年 2 月 12 日的来函中，白俄罗斯政府再次重申其立场，即：国家立法和实践完全符合第 87 号和第 98 号公约；工会权利得到充分尊重；工会组建和运作的一切必要条件均存在。该国政府认为，在白俄罗斯受到前所未有的政治经济双重压力的形势下，落实劳工组织监督机构的要求将为加强外部对该国局势的破坏性影响创造条件，因此不符合该国的国家利益，也无助于确保白俄罗斯公民的福祉。白俄罗斯政府深感遗憾地注意到，劳工组织监督机构对白俄罗斯在执行调查委员会建议方面与社会伙伴和劳工局开展建设性合作的努力作出了负面评价。该国政府重申，向白俄罗斯提出的一些建议已得到充分落实，其他建议的落实工作也取得了重大进展。它表示，愿意在该国国情和利益得到考虑的情况下就调查委员会的建议开展工作。
12. 白俄罗斯政府进一步重申，向劳工组织提出的控诉并没有反映而是故意歪曲了该国的情况；关于该国工会和公民因开展工会活动以及合法、和平行使公民权利和自由而受到迫害的指控是毫无根据的。该国政府认为，组织 2020 年抗议和所谓的罢工运动的目的是为了破坏国家经济潜力和社会福利。因此在其看来，控诉者是在没有客观理由的情况下，故意将政治问题“拖进”劳工组织的职权范围。这种行为意在诋毁白俄罗斯，为针对白俄罗斯的前所未有的单方面限制措施进行辩解，升级对合法当局的政治压力，并依照劳工组织的决定发起新一轮制裁。
13. 白俄罗斯政府称，Maksim Pazniakou 先生自称是已解散的白俄罗斯民主工会大会代理主席，他签署的上述 2024 年 1 月 30 日信函只不过是又一次企图歪曲该国的情况，使劳工组织机构相信当局迫害工会领导人和活动分子的指控，并进一步升级对白俄罗斯的非法施压。白俄罗斯政府此前曾就 Pazniakou 先生信函中提到的公民被绳之以法并因具体严重罪行而被追究法律责任的原因作出评论。该国政府补充说，他们其中的一些人是“Rabochy Rukh” / “扩大圆桌会议”的成员，这是一个由国外资助的极端主义组织，其目的是让国有工业企业的雇员参与激进的政治化活动，以获取这些企业经济活动的官方资料，造成停产，并加大对白俄罗斯的制裁压力。除了实施极端主义犯罪之外，该极端主义团体的成员还从事非法活动，旨在收集并随后向他国、境外组织及其代表转移有关该国经济实体的限制性官方资料。

14. 白俄罗斯政府回顾指出，2022 年夏，最高法院作出裁决终止了白俄罗斯民主工会大会及其会员组织的活动，因其违反了《宪法》和其他法律，损害了国家和公共利益。据称代表白俄罗斯民主工会大会行事的组织未在白俄罗斯注册，因而是非法的。白俄罗斯政府由此认为，劳工组织将上述组织作为据称代表白俄罗斯工人利益的全国性协会与之互动并无法律依据。目前，白俄罗斯工会联合会是该国的全国性工会中心。对此，白俄罗斯政府强调，这是工人意志和自主行动的结果，而并非由国家立法强制确立的。
15. 白俄罗斯政府强调，关于白俄罗斯的决议实际上要求对该国实行孤立，该决议的通过完全没有客观依据，严重阻碍了白俄罗斯政府与劳工局之间进一步开展富有成效的合作。在其看来，国际劳工组织推动针对白俄罗斯的不公平和不合理的决定是由西方国家发起的。许多劳工组织成员国不同意对白俄罗斯的指控，并充分认识到这些指控的政治化本质。白俄罗斯政府认为，为执行关于白俄罗斯的决议而采取的任何步骤都将开创一个危险的先例，即根据出于政治动机的虚假指控对白俄罗斯施加非法压力。孤立、阻碍合作机会、限制和制裁的政策是一条死路，损害了劳工组织的权威，侵蚀了其价值理念和原则，因此白俄罗斯政府呼吁撤销这些决定。
16. 劳工局再次会见了联合国白俄罗斯人权状况特别报告员。此次会晤中，劳工局介绍了根据《国际劳工组织章程》第 33 条通过的涉白俄罗斯决议的后续行动，并讨论了与联合国特别报告员及劳工组织在该国结社自由状况问题上的权责有关的事项。
17. 在为确保有效落实大会《关于理事会根据<国际劳工组织章程>第 33 条就涉白俄罗斯事项提出的建议措施的决议》而采取的措施方面，各成员国没有提供其他信息。

► 落实大会决议的拟议行动计划

18. 劳工局已着手并将继续采取以下步骤，以根据决议落实由其负责采取的措施：
 - (a) 为了确保协调行动，从而在落实调查委员会的建议方面取得进展，并就与该国工会权利状况有关的问题交流信息：
 - (i) 与：
 1. 决议中提到的国际组织合作，⁵ 从而在各机构的职权范围内确定可以采取行动的领域；
 2. 联合国白俄罗斯人权状况特别报告员、联合国促进和保护意见和表达自由权问题特别报告员、联合国和平集会和结社自由权问题特别报告员以及联合国法官和律师独立性问题特别报告员合作；

⁵ 已致函下列组织：联合国粮农组织、国际原子能机构、国际民航组织、国际农业发展基金、国际海事组织、国际货币基金组织、国际移民组织、国际电信联盟、联合国、联合国儿童基金会、联合国开发计划署、联合国教科文组织、联合国环境规划署、联合国人居署、联合国工发组织、联合国人口基金、世界银行集团、世界粮食计划署、世界卫生组织、世界知识产权组织、世界气象组织、世界旅游组织、万国邮联、世界贸易组织、经济合作与发展组织、阿拉伯劳工组织。

3. 联合国难民事务高级专员公署合作；
- (b) 在国际劳工大会第 112 届会议(2024 年)之前组织举办一次高级别圆桌会议，除其他人员外，由上述各组织的代表、特别报告员以及白俄罗斯民主工会大会的代表参加会议；
- (c) 与白俄罗斯政府接触，以期任命一名总干事特别代表，负责监督与确保迅速有效落实调查委员会建议有关的所有活动。该特别代表将与当局合作，协助制定相关战略和路线图；
- (d) 继续收集三方成员在落实根据《国际劳工组织章程》第 33 条通过的措施方面提供的信息。

► 决定草案

19. 理事会：

- (a) 愈发关切地注意到 GB.350/INS/10(Rev.1)号文件中提供的信息；
- (b) 再次敦促白俄罗斯政府紧急接待一个劳工组织三方特派团，以期收集有关调查委员会建议及劳工组织监督机构随后建议落实情况的信息，其中包括探访被监禁或被羁押的独立工会领导人和活动分子；
- (c) 敦促白俄罗斯政府在 2024 年 4 月 15 日之前向总干事提供为落实调查委员会建议所采取措施的全部信息，以转交标准实施委员会，并在 2024 年 9 月 15 日之前向他提供有关进一步进展情况的信息，以转交理事会第 352 届会议(2024 年 10 月至 11 月)；
- (d) 注意到落实大会决议的行动计划；
- (e) 提请劳工组织三方成员——政府、雇主和工人——继续采取措施，确保有效落实劳工大会关于理事会根据<国际劳工组织章程>第 33 条就涉白俄罗斯事项提出的建议措施特别是为确保不驱回原则得到尊重(决议第 2(b)段)而采取的措施的决议，并就此向总干事提交报告，以转交理事会；
- (f) 要求总干事编写一份最新情况报告，向劳工大会第 112 届会议(2024 年)标准实施委员会通报最新进展；
- (g) 要求总干事为理事会第 352 届会议(2024 年 10 月至 11 月)编写一份最新情况报告。

► 附 录

白俄罗斯政府来函(2024 年 2 月 12 日)

Information from the Government of the Republic of Belarus regarding the situation in the country in respect of trade union rights and the implementation of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the implementation of the recommendations of the Commission of Inquiry, the activities of tripartite social partnership bodies, the prosecution of particular individuals and the adoption during the 111th session of the International Labour Conference of a resolution on Belarus and its implementation

350th Session of the Governing Body of the International Labour Office (4–14 March 2024)

Respect for trade union rights and implementation of Conventions Nos 87 and 98

The Government of Belarus has repeatedly drawn ILO bodies' attention to the **lack of contradiction between national law and practice and the provisions of ILO Conventions on freedom of association**.

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

Belarus has **done everything necessary to ensure that trade unions and their organizational structures can be freely established, successfully go through the registration** (or recording) **procedure and carry out their lawful activities** without outside interference.

Guarantees of trade union rights are enshrined in law (the Law on Trade Unions) and implemented in practice

Employers (and their associations), state bodies, economic entities, public associations and officials must observe trade union rights. Violations of the rights of trade unions or obstruction of their lawful activity by these entities and individuals are punishable by law.

In order to fulfil the objectives set out in their charters, trade unions are entitled to organize and hold, in accordance with the law, meetings, street processions, demonstrations and other collective actions to defend their members' interests.

Trade unions are entitled to organize and hold strikes in accordance with the law (political demands may not be made in strikes called by trade unions).

Unlawful restrictions on the rights of trade unions and obstructions to the exercise of their powers are not permitted.

Any decisions affecting the right to associate in trade unions are taken in strict compliance with the law, based on the principle of maximum consideration of citizens' rights and interests.

Trade unions have been granted the right to be located not only at their employer's address but also at any other location in order to broaden their scope to obtain the legal address necessary for registration.

As practice shows, to date the need to confirm the existence of a legal address has not impeded trade union registration.

Refusals to register trade union organizational structures are isolated cases based on objective reasons (as a rule, non-compliance with legislative provisions concerning the procedure for establishing a trade union and submitting all the necessary information and documents to the registration body).

Provided the procedure for forming a trade union has been complied with, the documents for State registration of the trade union or organizational structure can be resubmitted to the registration authorities once their shortcomings have been remedied; a refusal to register (or place on record) does not amount to a ban on the establishment of a trade union or an organizational structure thereof and does not constitute an insurmountable obstacle to registration.

Citizens' membership or non-membership of trade unions does not entail any restrictions on their labour, socio-economic, political or personal rights and liberties.

Citizens of Belarus freely and actively exercise the right to associate in trade unions.

The national trade union centre is currently the Federation of Trade Unions of Belarus (FPB), which brings together 15 sectoral trade unions, six regional and Minsk city trade union associations, and 137 district and town/city trade union associations, and represents the interests of about 4 million people.

However, it should be emphasized that Belarusian legislation does not oblige trade unions to establish a single national trade union centre. Trade unions operating in Belarus have come together in the FPB *solely at their own initiative*. This practice is fully consonant with *ILO principles* and is seen in many countries around the world.

Trade unions and their leaders, members and activists may *freely* carry out their *lawful* activities to assert and protect workers' labour, social and economic rights and interests and improve citizens' living standards and social security, including by means of engaging with the authorities within the country's social partnership system.

Trade unions and employers in Belarus are the Government's fully fledged partners in developing and implementing national social and economic policy, thanks to which high labour, employment and social protection standards have been introduced into the country.

The social partners participate in drafting social and labour legislation.

Tripartite consultative bodies – councils on labour and social issues – have been set up and function at all levels (national, sectoral, regional, town/city and district) (as of 1 January 2024, 352 councils were in operation).

The *practice of regulating social and labour relations through collective agreements and contracts* has been widely consolidated (as of 1 January 2024, 611 collective agreements and 20,924 organization-level collective contracts had been signed).

The Government and national associations of employers and trade unions systematically *conclude general agreements* reflecting the parties' agreed positions and commitments on issues surrounding economic policy, income and living standards, social protection, labour

market development and employment promotion, occupational safety and health, and social partnership.

The current General Agreement (the 16th, extended to cover 2022–2024) applies to all employers, all trade unions and all workers and students and pupils in educational institutions.

Trade unions, in compliance with the aims and objectives set out in their charters, have the right to cooperate with trade unions in other countries and to join international and other trade union associations and organizations of their choice.

In these circumstances, **the procedure for receiving foreign financial aid is unjustifiably linked** in the ILO framework to **Articles 5 and 6 of Convention No. 87**. These articles *do not contain provisions* on trade unions' right to unimpeded receipt of financial or other forms of assistance for political and campaigning work among the population.

The law of Belarus *does not prohibit* trade unions from receiving foreign financial aid, and the registration procedure is quick and easy. *There have been no instances* of trade unions being *denied* such aid.

The existing ban on receiving and using foreign financial aid for purposes involving political and campaigning work 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 in the country would be used by outside forces to *destabilize the socio-political and socio-economic situation*, which would have an extremely *negative impact on society and citizens' well-being*.

The current arrangements for organizing and holding mass events in Belarus do not conflict with the principles of freedom of association and are fully consistent with the provisions of the International Covenant on Civil and Political Rights.

Legislation punishing breaches of the existing order that result in serious negative consequences aims *to prevent unlawful, socially dangerous acts* that pose a real threat to citizens' life and health. This legislation does not deter citizens and trade unions' from exercising the right to freedom of *lawful, peaceful* assembly.

The provisions of the Law on Mass Events *do not contain rules prohibiting citizens from exercising the right to lawful, peaceful assembly*. The amendments to the Law targeted the organization, preparation and commission of acts that infringe on the State's independence, territorial integrity and sovereignty, the foundations of the constitutional order, and public safety through the organization of mass unrest, acts of vandalism involving damage to or destruction of property, the seizure of buildings and structures, and other acts that grossly disrupt public order, or active participation in such acts.

The amendments made to the Criminal Code aim to *ensure fairness, even-handedness, and uniform application of the criminal law* in practice. The amendment of legislation on criminal responsibility *does not seek to infringe citizens' and trade unions' lawful rights* to organize and hold peaceful mass events *in compliance with legal requirements*, nor to impede the exercise of other rights and liberties guaranteed by the Constitution, national law and international obligations.

The amendment of the legislation was a *necessary step* in bringing its provisions into line with the current situation and the serious challenges posed in 2020 by an unprecedented, planned attack on the State by enemy forces.

The **arrangements for organizing and holding strikes** set out in the legislation **do not contradict international labour standards** but allow citizens to fully exercise their right to hold *lawful* strikes in order to resolve *collective labour disputes*.

The *prohibition on 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.

In the context of the unprecedented political and economic pressure exerted on Belarus, implementing the ILO supervisory bodies' requirements in terms of weakening state control over money from abroad, exonerating trade unions and citizens from responsibility for gross violations of the law when holding mass events, and legalizing political strikes would **strengthen destructive outside influence on the situation in the country**. This development **would not be in the country's national interests and clearly would not serve the purpose of ensuring Belarusian citizens' well-being**.

Engagement with the ILO and social partners on the implementation of the Commission of Inquiry's recommendations

The Government of Belarus notes with *deep regret* the negative assessment by the ILO supervisory bodies of its efforts to build constructive engagement with the social partners and the International Labour Office ("the Office") concerning the implementation of recommendations addressed to the country.

The Government has always paid *due attention* to the ILO supervisory bodies' observations and recommendations. However, at present their assessments of the situation in Belarus are *based solely on unsubstantiated complaints and unconfirmed information* from particular trade union associations, which, guided by *purely political motives*, aim to *escalate pressure on Belarus* through the ILO

As practice shows, the **complaints** received by the Office **do not arise from an objective situation** and **utterly fail to reflect (that is, deliberately distort) the real state of affairs in Belarus**.

The Government of Belarus has made every effort to build an effective dialogue with the social partners and the ILO concerning implementation of the recommendations. For this purpose, the country specially created an additional negotiation platform – *a tripartite Council for the Improvement of Legislation in the Social and Labour Sphere*.

When working to implement the recommendations, the Government has *clearly followed the plans and arrangements jointly agreed with the ILO*. *The constructive position of Belarus has been repeatedly noted by various ILO missions and expert groups* visiting the country, including a direct contact mission to Minsk in January 2014.

As a result of steps taken, **several recommendations made to Belarus have been fully implemented, while significant progress has been made in implementing the remainder**.

Thus, the Commission of Inquiry's recommendations have been made available to the general public. Systematic steps have been taken to inform the courts and the prosecution service of the need to carefully examine complaints of anti-union discrimination. The impartiality, independence and openness of the judicial system has been ensured, and citizens are guaranteed the right to a fair trial (*Recommendations 4, 7 and 8*).

Background:

The Commission of Inquiry's recommendations were published in the Ministry of Labour and Social Protection's journal Occupational Safety and Social Protection (No. 4 of April 2005) and in the newspaper Respublika (No. 209 of 9 November 2006).

With the Office's support, seminars on respect for trade union rights and protection against anti-union discrimination were held for judges and representatives of the prosecution service (16 January 2007 and 18 June 2008). Participants were informed about the ILO's approach to freedom of association and the tasks set out in the recommendations for the courts and the prosecution service.

The principle of the rule of law applies in Belarus.

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

Judges are independent and subject only to the law. Interference in the activities of judges is impermissible and punishable.

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

There are no obstacles to citizens taking cases to court.

Despite the fact that the law provides all the necessary measures to protect trade union rights, Belarus has introduced an additional mechanism to this end by establishing the Council for the Improvement of Legislation in the Social and Labour Sphere in 2005.

The concept of the Council, its powers and its role in implementing the Commission of Inquiry's recommendations were jointly developed with the Office. In 2009, the Council was reformed as a tripartite body consisting of an equal number of representatives from the Government, trade unions and employers' associations.

The Council has become the central forum for reviewing the implementation of the Commission of Inquiry's recommendations. The Council has been charged with operating as a tripartite independent body, trusted by all parties and mandated to address complaints (Recommendations 5 and 7).

Background:

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

Over the years, the Council has considered a wide variety of issues directly relating to the implementation of the recommendations and concerning interaction between the social partners, the application and improvement of legislation, the registration of trade union organizations, the exercise of trade union rights, complaints of anti-union discrimination, cases of termination of employment contracts, the conclusion of sectoral agreements and collective contracts, the ratification of ILO Conventions and engagement with the Office in the framework of international technical cooperation.

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

Representatives of the Office have participated in the Council's work on several occasions and, together with employers' and trade unions' associations, have commended its work and emphasized its important role in resolving trade union grievances.

The Government has taken measures to liberalize the trade union registration process. So as to simplify and formalize the procedure for registering public associations (including trade unions), the National Registration Commission has been abolished, the requirement for at least 10 per cent of the total number of employees to form a trade union has been removed, and trade unions have been given the option of being located (that is, obtaining a legal

address) not only at the employer's address but also at any other location (*Recommendations 2 and 3*).

Background:

Presidential Edict No. 605 of 6 October 2006 abolished the National Commission for the Registration (Re-registration) of Public Associations. The Ministry of Justice is responsible for registering national-level trade unions, while the justice directorates of local executive and administrative bodies are responsible for registering territorial trade unions and trade unions established in organizations.

The Ministry of Justice closely monitors the situation concerning trade union registration and issues the necessary guidance to the registration authorities to prevent violations.

On 2 June 2015, Presidential Decree No. 4 was adopted, amending Presidential Decree No. 2 of 26 January 1999 on several measures to improve the functioning of political parties, trade unions and other public associations. Under Decree No. 4, at least 10 people are required to establish a trade union at an enterprise.

The Government continuously monitors interactions between enterprise administrations and trade unions and has made clear *its view that there should be no interference* in the activities of trade union organizations (*Recommendation 6*).

Background:

At the Government's initiative, the issue of interaction between representatives of employers and trade unions at the level of organizations was considered at a meeting of the National Council on Labour and Social Issues on 31 January 2007.

The National Council, as the main tripartite body, drew attention to the need for strict observance of the principles of social partnership enshrined in legislation and ILO Conventions, noted the inadmissibility of interference by employers in the internal affairs of trade unions, and recommended that trade unions actively use social partnership mechanisms to protect their rights and those of their members.

Following a decision of the National Council, interaction between employers' and trade unions' representatives at the level of organizations was considered at meetings of sectoral and territorial (that is, regional, town/city and district) councils on labour and social issues.

In order to ensure that all social partners can freely and equally participate in dialogue with the Government, a representative of the Belarusian Congress of Democratic Trade Unions (BKDP) was included in the main tripartite social partnership body at the national level, the National Council on Labour and Social Issues (*Recommendation 11*).

Background:

The inclusion in the National Council of Mr A. Yarashuk, BKDP chairperson, was approved at the National Council's meeting on 31 January 2007.

As the activity of the BKDP has been terminated, it is now impossible for representatives of this (defunct) trade union association to participate in the National Council's work.

Belarus ensures a *clear distinction between the roles of the Government and the social partners*, which is a prerequisite for the latter to carry out their lawful activities freely and independently (*Recommendation 12*).

Background:

The Government's activity is governed by the Law of 23 July 2008 on the Council of Ministers of the Republic of Belarus.

Trade unions operate in accordance with the Law of 22 April 1992 on Trade Unions.

Employers and employers' associations operating in Belarus are covered by the Law of 12 December 2022 on Employers' Associations.

Following a direct contact mission to the country in 2014, **the Government worked with the ILO to implement a number of international technical cooperation measures to implement specific recommendations** of the Commission of Inquiry.

Thus, activities to increase the Council's effectiveness, improve dispute resolution and develop mediation aimed to implement *Recommendations 5 and 7*.

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

An event for judges, prosecutors and lawyers on the application of international labour standards contributed to the implementation of *Recommendations 4 and 8*.

Further impetus for the development of social dialogue and tripartism in Belarus has been provided by the *entry into force of Law No. 225-Z of 12 December 2022 on Employers' Associations* from 16 December 2023.

The Law was drafted at the initiative of business associations engaged in social dialogue with trade unions and takes full account of ILO standards and principles.

In order to discuss practical aspects of the implementation of the Law, on 19 September 2023 the Ministry of Labour and Social Protection hosted a seminar with Vladimir Churovich, Senior Specialist in Employers' Activities from the Decent Work Technical Support Team and the ILO Country Office for Eastern Europe and Central Asia, who acquainted employers' representatives with international experience of drafting legislation on employers' associations and the ILO's views on this issue.

The above information confirms that the **implementation by Belarus of the Commission of Inquiry's recommendations is steadily progressing**. Moreover, the ILO supervisory bodies have repeatedly noted *with interest* the measures taken by the Government, observing that *certain progress* has been made.

In this regard, the allegations that the Government of Belarus has not taken action to implement most of the Commission of Inquiry's recommendations and has completely failed to make progress in their implementation sound completely unfounded and do not correspond to reality.

The Government of Belarus is ready to work on the Commission of Inquiry's recommendations, **on the mandatory condition that account is taken of today's realities and national interests**, to which the country's stable socio-economic development, the Belarusian people's well-being and high standard of living, social harmony and the fundamental principles of government of the people, the rule of law and the State's independence, territorial integrity and sovereignty are central.

Activity of tripartite social partnership bodies

Tripartite consultative bodies are fundamental to the country's social partnership system. They examine current social and labour-related developments and other issues raised by the social partners.

The **tripartite Council for the Improvement of Legislation in the Social and Labour Sphere** ("the Council"), coordinated by the Ministry of Labour and Social Protection and previously suspended in connection with the Covid-19 pandemic, **resumed its work** this year.

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

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

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

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

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

In 2023, **four meetings** were held (on 11 January, 14 April, 26 July and 3 November) of the main tripartite social partnership body, the **National Council on Labour and Social Issues** ("the National Council").

At these meetings, the following issues were considered among others: the concept of a "parent-friendly" company; the results of the trade unions' exercise of their powers of non-government oversight; implementation of the General Agreement in 2022 and the first half of 2023; implementation of the Set of Measures for 2022–2023 to decrease the shortage of manual workers; the improvement of the regulatory framework governing the crisis management mechanism designed to help financially failing organizations recover; the situation on the consumer market of Belarus; and the level of the monthly minimum wage from 1 January 2024.

It should be noted that, in view of the previous positive practice of Office representatives attending meetings of the Council for the Improvement of Legislation in the Social and Labour Sphere, the Government *invited Office representatives to participate in the Council's meetings* and those of the National Council (including through videoconferencing).

Unfortunately, these *invitations were not accepted*.

Despite the fact that particular ILO supervisory bodies and the Office are casting *completely unjustified* doubt on the status and legitimacy of tripartite social partnership bodies operating in Belarus, the Council for the Improvement of Legislation in the Social and Labour Sphere and the National Council on Labour and Social Issues will continue their active work.

We count on Office representatives participating in meetings of these tripartite bodies. We are convinced that this could help ILO bodies and structures to form an *objective picture* of the social partnership system in Belarus, and would also make it possible to resolve baseless questions about the status and legitimacy of the country's main tripartite bodies.

Prosecution of individuals and organizations

The Government of Belarus has repeatedly drawn attention to the **baselessness and outright absurdity of allegations that the country's trade unions and citizens are persecuted for carrying out trade union activities and legally and peacefully exercising civil rights and liberties**.

ILO bodies have been misled by the complaints of politically motivated individuals and organizations and, deeply regrettably, continue to **erroneously** assume that the 2020 protests were motivated by economic and social considerations, were lawful and peaceful, and were directed at protecting civil and trade union rights and liberties.

The Government insists that **purely political events**, unrelated to the processes of social dialogue in the workplace and the exercise of trade union rights, **should not serve as a basis for assessing compliance with Conventions Nos 87 and 98 and should not be considered when monitoring their implementation**.

The 2020 protests were artificially encouraged by outside forces, *unlawful* and intended to *seize power by unconstitutional means*.

The protestors' demands (the resignation of the Head of State, fresh elections, exoneration of law breakers) had nothing to do with the protection of citizens' labour, social and economic interests and or the tasks that trade unions have the duty of performing.

Strikes as a legal way of resolving collective labour disputes were not announced or held, the mood of protest had no economic or social basis, and no demands were made to employers and the authorities in terms of regulating labour and socio-economic relations.

The attempts to organize a strike movement at the country's enterprises aimed to stop the enterprises that form the basis of the Belarusian economy from operating, in other words to **pursue political ends by exerting pressure on the lawful authorities by undermining the country's economic potential and social well-being**.

The **authors of complaints** to the Office are therefore **deliberately "dragging" political issues into the ILO's sphere of competence without objective grounds for doing so**.

Their aim is clear – they wish to **discredit Belarus** in the international arena, **justify** unprecedented **unilateral restrictive measures** against the country, **escalate political pressure** on the lawful authorities, and **unleash another wave of sanctions** based on the ILO's decisions.

In this connection, the Government is compelled yet again to draw attention to the fact that **the individuals and trade unions mentioned in complaints made to the ILO and comments issued by its supervisory bodies have been prosecuted for specific offences that are absolutely unrelated to the lawful and peaceful exercise of trade union rights and liberties**.

The **nature** of the **offences** committed by particular organizations and citizens fully **confirms the lack of connection with the guaranteed right to carry out lawful trade union activities**.

In view of the above, we note that the **information (complaint) that we received from the Office on 30 January 2024 signed by Maksim Poznyakov**, identifying himself as the current Chair of the defunct Belarusian Congress of Democratic Trade Unions (BKDP), ⁶ is nothing but **another attempt to misrepresent the situation in Belarus and to convince ILO bodies of the alleged persecution of trade union leaders and activists by the Belarusian authorities**. The purpose of these actions is clear: to use ILO decisions to further escalate undue pressure on Belarus.

The **Government has already commented on the reasons for the prosecution of the individuals** referred to in Maksim Poznyakov's information. They were **completely legally prosecuted for specific serious offences**.

Some of these individuals were members of a group by the name of Rabochy Rukh [Workers' Movement] / Extended Round Table. This is an *extremist formation* financed from abroad. It principally aims to involve employees of state-owned industrial enterprises in *radical political activity* so as to obtain internal business information, *stop their operations* and *strengthen sanctions* against Belarus. It has been established that, in addition to committing extremist crimes, the members of this extremist organization engaged in illegally gathering and passing on confidential business information about Belarusian economic entities to foreign states, foreign organizations and their representatives.

Other individuals referred to in the information have also been prosecuted for *specific offences* that have *nothing at all to do with the lawful and peaceful exercise of trade union, civil or other rights and liberties*, such as gross violation of public order resulting in disruption to transport and enterprises; violence against internal affairs officers; calls for action to harm national security; incitement to ethnic or social enmity and discord on the grounds of ethnic and social affiliation; facilitation of extremist activities; defamation; and damage to property in public places.

Since the criminal prosecution of these individuals is *unrelated to lawful trade union activity or exercise of other civil rights and liberties*, ongoing **attempts** by opponents of Belarus **to manipulate this situation are extremely concerning**.

These citizens have committed **serious offences** against national security, society and the State. Any **calls for all charges to be dropped**, their **immediate release** and the full restoration of their rights **have no legal basis**.

Questions surrounding the review of sentences, contact with offenders and parole are solely for the law enforcement agencies and courts, **interference in the activities of which is impermissible and punishable by law**.

Moreover, we consider it necessary once again to draw the attention of ILO bodies to the fact that the **activities of the Belarusian Congress of Democratic Trade Unions (BKDP) and its member organizations were terminated** in the summer of 2022 by the Supreme Court of Belarus as contravening the Constitution and other legislation and damaging the State and the public's interests.

⁶ The activities of the BCDP and its member organizations were terminated pursuant to decisions of the Supreme Court of Belarus as contravening the Constitution of Belarus and other legislation and harming the interests of the State and society.

The **structure** that is currently **acting allegedly on the BKDP's behalf** in Belarus is **not registered and is illegitimate** (by law, unregistered associations may not operate in the country).

There are therefore **no legal grounds for the Office and ILO bodies to engage with it as a national association** allegedly representing the interests of Belarusian workers.

Adoption of an anti-Belarus resolution during the 111th session of the International Labour Conference (ILC) and its implementation

The Government insists that **there were absolutely no grounds for article 33 of the ILO Constitution to be applied to Belarus or the adoption** at the 111th session of the ILC in June 2023 **of a resolution on Belarus** calling, in effect, for the isolation of the Belarusian State.

National law and practice do not contravene the obligations undertaken by Belarus to comply with ILO Conventions Nos 87 and 98.

Belarus is making steady progress in implementing the recommendations of the Commission of Inquiry. The Government has clearly followed the agreements reached and the plans developed jointly with the ILO. ILO supervisory bodies have repeatedly noted *with interest* the measures taken by the Government, observing that a certain amount of progress has been made.

In this regard, the allegations that the Government of Belarus has not taken action to implement most of the Commission of Inquiry's recommendations and has completely failed to make progress in their implementation sound **completely empty** and **do not correspond to reality**.

The Government has always been open to constructive collaboration with the social partners and the Office across the entire spectrum of social and labour issues, **under the mandatory condition that the realities and sovereign interests of Belarus are taken into account**.

At the same time, the **anti-Belarus resolution**, which is contrary to the ILO's spirit, fundamental principles, goals and objectives and contains unfounded calls for the implementation of restrictive measures (in effect, sanctions) against the country and the curtailment of cooperation with its Government, **is a serious obstacle** to any effective and productive **further engagement** whatsoever.

It is obvious that the adoption of unfair and unjustified decisions against the Belarusian State and society within the ILO framework is **part of the policy of pressure and confrontation initiated by Western countries**, on the pretext of unsubstantiated, untrue accusations of the Government's alleged lack of progress in the implementation of the recommendations of the Commission of Inquiry, non-compliance with the provisions of ILO Conventions Nos 87 and 98 and persecution of so-called "independent" trade unions

It should be noted that many ILO Member States do not agree with the accusations made against Belarus and are fully aware of the **politicized nature of the campaign launched against it**. They oppose the use of United Nations agencies as **levers to bring undue pressure on sovereign States in order to interfere in their internal affairs**.

For its part, the **Government of Belarus insists on the need to curtail the unconstructive anti-Belarus processes launched within the ILO framework** that seek to implement plans to destroy the country's economy and social and labour sphere

The Government of Belarus calls on the **tripartite constituents of the ILO** – governments of the Organization’s member States and employers’ and workers’ associations – **not to take any steps to implement the resolution on Belarus** adopted at the ILC’s 111th Session, which sets a dangerous precedent of exerting unlawful pressure on a country on the basis of fallacious, politically motivated accusations.

This policy of isolation, blocking of opportunities for cooperation, restrictions and sanctions is a dead end that undermines the ILO’s authority and erodes the Organization’s ideology and principles.

Politically motivated, totally unjustified, discriminatory decisions on Belarus must be withdrawn.