

Statement by Mr. Ulf Edström (Sweden) on behalf of the Workers Group on the 336th Report of the Committee on Freedom of Association (CFA), 23.03.05



Mr. Chairman!

The Workers Group supports the statement by the Rapporteur and asks for the adoption by the Governing Body of the conclusions and recommendations of the Committee.

The case on **Nepal (case 2340)** was considered as serious and urgent. This joint complaint by all the major trade union confederations in the country dealt with two issues. Firstly the Government was requested not to resort to arrests of trade unionists. As could be seen (in para 637) 132 trade unionists including the leadership of all three confederations were arrested. In addition freedom of assembly and freedom of expression by workers are restricted. Secondly, the Government continued and even extended its practice of notifying numerous sectors (14) as essential - thereby deliberately depriving the workers their right to strike - despite the fact that the Committee previously has clearly stated that non-essential services should not be included. Therefore the Government is requested to take expeditious measures to amend the legislation. The Government shows no respect for the recommendations made by the Governing Body. The apparent absence of good governance is illustrated by the information provided by the Government itself that it is now thinking of having two involved Ministries work together in future!

Also in **case 2300 (Costa Rica)** the Committee requests the Government to amend the legislation thereby allowing the right to strike in the public sector that do not involve essential sectors in the strict sense of the term.

The Committee strongly regrets that for the third time it has to underline, as can be seen in **case 2236 on Indonesia**, that examination of allegations of anti-union discrimination should take precedence over dismissal procedures. The Workers Group indeed expect the Government to change its non-cooperative attitude reflected in para 79. The Committee also was forced to emphasize that its not enough just having legislation against anti-union discrimination unless there are speedy procedures to effectively implement such legislation in practice. **Case 2336** also on Indonesia is another example where workers try to form a union and resulting in the dismissal of 11 workers including the whole leadership of the union. The reason given was seasonal fluctuations of work – but, as could be seen, both the chairperson and the general secretary had been employed for five years. Despite the fact that the Manpower and Transmigration Municipal Office mediator concluded that the company did not agree with the establishment of the trade union and as a result terminated the 11 workers' employment, no procedure was taken against the company. The Committee, after referring in para 535 to the jurisprudence on the right to be reinstated in cases of anti-union dismissals, was again forced to conclude that workers in Indonesia are insufficiently protected against acts of anti-union discrimination and therefore the legislation need to be amended and that prompt and impartial procedures are installed.

There were four cases on **Zimbabwe**. As could be seen in **case 2328** the President of Zimbabwe Congress of Trade Unions, Mr. Lovemore Matombo, was dismissed for unauthorized leave from his work, when he led the Zimbabwe delegation attending the 8th OATUU Congress in Khartoum. Due to conflicting statements additional information is requested, but in addition the Government is requested to convene an independent investigation which, as pointed out specifically, should also be regarded as independent by the parties concerned. **Case 2365** dealt with arbitrary arrests and detentions, dismissals and other violations affecting Zimbabwe Congress of Trade Unions and its affiliates, despite previous recommendations to the Government to refrain from such action. The Committee

stated in para 914 d.: "The Committee again calls on the Governing Body's special attention on the extreme seriousness of the general trade union situation in Zimbabwe." In **cases 1937** and **2027** again the Committee expressed its deepest concern due to the Government's refusal to cooperate and amend the legislation as requested.

The Committee again dealt with **Canada/Province of British Columbia (case 2324)**. Here the Committee considered that the adoption of the Railway and Ferries Bargaining Assistance Act, which stopped a legal strike just after 48 hours, constituted a violation of freedom of association principles. Instead of back-to-work legislation, the Government should encourage voluntary mechanisms for dispute settlement including voluntary agreed minimum services. Similarly, the adoption of the Health Sector Partnerships Agreement Act and the Coastal Ferry Act, which set aside previously agreed collective agreements, violated freedom of association principles and therefore these acts should be amended in line with C. 87. Furthermore the Government is again requested to abstain from such behaviour in future and to engage in full and frank consultations with the trade unions concerned.

Mr Chairman,

this case and numerous similar cases on **Canada** raises the fundamental question of who is to be held accountable when it concerns a Federal State? The Government of Canada itself gives no replies or assessment on these cases, but act only as a transmission belt of replies from provincial governments. Neither are there any reports on effective efforts made to persuade provinces to abide by the recommendations made by the Governing Body. In the case mentioned above (and others on Canada) ILO technical assistance is recommended. May I suggest that the Federal Government recognize that the acceptance or not of such technical assistance is not solely a matter for the Province concerned, but rather a matter for the Federal Government bound by constitutional obligations to the ILO. Personally, I indeed have no doubts whatsoever that if forced labour or child labour or gender discrimination prevailed in the labour market in a province - the Federal Government would not tolerate such a situation. But apparently so far violations of the fundamental rights of workers to organize freely in trade unions and being able to bargain collectively are considered to be something different.

Case 2239 on Colombia deals with the dismissal of 100 unionized textile workers in a company which replaced them by workers from labour cooperatives, where workers are denied their right to belong to a trade union. The Government is obviously totally satisfied with this situation and therefore even refuses to send the information requested by the Committee on the legislation and statutes of these cooperatives (para 337). The Committee, on the contrary, deeply regrets this situation and stresses that such workers should have the right to form or join trade unions and requests the Government to take steps to guarantee full respect for freedom of association. The Committee here specifically also recommends technical assistance by the ILO. Apparently the ILO's special technical programme on freedom of association has not been of any help in this regard. For us Workers this is not the first and probably not the last attempt we face by companies and governments to try, by definition, to deprive us of our fundamental rights. Let me add that, not surprisingly, this case on Colombia also involves the murder of Mr. Luis Alberto Toro Colorado - a member of the national executive committee of the union (SINALTRADIHITEXCO) to which the dismissed 100 workers belonged.

Case 2203 on Guatemala is worrying. It deals with allegations of assaults, death threats and intimidation against trade unionists as well as attacks against trade union headquarters. In a general comment the Committee observes that not only are judicial orders for reinstatement of dismissed trade unionists frequently not complied with in Guatemala, but also that judicial procedures frequently takes years and that a lengthy delay in concluding the proceedings concerning reinstatement of trade union leaders dismissed due to anti-union discrimination constitute a denial of justice and therefore a denial of the trade union rights of the persons concerned (para 428).

Case 2321 on Haiti also causes great concern as it deals with police raids of union headquarters, brutal physical attacks, arrests and detentions of 10 trade unionists for more

than a month without any charges brought against them. Therefore the Committee had to make a reference to the International Covenant on Civil and Political Rights on treatment of imprisoned persons. The Government of Haiti has not bothered to reply to the Committee, which of course indicates the regrettable state of affairs in this Member State.

The Committee again looked at **case 1996 on Uganda**. Despite the fact that a complaint was lodged six years ago by the Uganda Textile, Garments, Leather and Allied Workers' Union (UTGLAWU) due to the refusal by a number of textile companies to recognize the union and despite the last recommendations made by the Committee one year ago, obviously the situation remain unchanged. The Government explains that, although the legislation provides for compulsory recognition of the union by the employer "it is not applied in practice" (para 91)!

Finally, let me say that the Workers Group is extremely disturbed by the fact that freedom of association is denied in most Export Processing Zones (EPZs), which is reflected in a growing number of complaints to the Committee on Freedom of Association. **Case 2380 (Sri Lanka)**, which deals with an attempt by workers of Workwear Lanka (Pvt.) Ltd. (located in the Biyagama Free Trade Zone) to form a trade union is worth reading. The Government indicates that it will take action to prosecute the management for unfair labour practices. As this is an interim case the Committee will again review if such action is actually taken and the results, if any.

The Workers Group strongly emphasizes that it can never accept a global development in which a whole economic sector like textiles and clothing (often located in EPZs), due to intense economic competition globally, the workers concerned will be deprived of their fundamental right to set up free trade unions and to be able to freely bargain collectively!

Thank You!