

Information supplied by governments on the application of ratified Conventions

Belarus

Convention No. 29

Belarus

Forced Labour Convention, 1930 (No. 29)

Belarus (ratification: 1956). The Government has provided the following written information.

The Republic of Belarus has staunchly and consistently supported the prohibition and eradication of forced labour. The prohibition of the use of forced labour is enshrined in the country's most important legislative instruments. Article 41 of the Constitution prohibits forced labour, with the exception of work or services required under a court ruling or in accordance with the Act on Emergencies and Military Status.

The prohibition of forced labour is also covered in article 13 of the Labour Code. This article defines forced labour as work which a worker is required to perform subject to the threat of violence, which includes:

- means of political leverage or indoctrination or punishment for the exhibition or expression of political views or ideological beliefs contrary to the established political, social or economic system;
- methods for mobilizing and exploiting the workforce for the needs of economic development;
- means of promoting workplace discipline;
- means of punishing people for their participation in strikes.

The following are not, however, deemed to be instances of forced labour:

- work performed as a result of a legally valid court ruling under the supervision of the authorities responsible for upholding the law governing the execution of court rulings;
- work to be carried out as a consequence of legislation on military service or emergency situations.

The Forced Labour Convention, 1930 (No. 29), was one of the first to be ratified by Belarus immediately after it became a member of the International Labour Organization (ILO). The Convention entered into force for Belarus on 21 August 1956.

In line with its obligations under article 22 of the ILO Constitution, Belarus regularly reports on legislation and its application of the law to the Committee of Experts on the Application of Conventions and Recommendations. Before this year, Belarus had not received any comments from the Committee of Experts regarding Convention No. 29. 2016 is the first year in which Belarus has received comments from the Committee of Experts regarding Convention No. 29 and the first in which Belarus has been included in the list of countries for examination of that Convention within the Conference Committee on the Application of Standards.

The Belarusian Government has paid great attention to the comments made by the Committee of Experts. It has analysed all of the regulatory instruments referred to by the Committee of Experts, including the aims and purposes of adopting the instruments and the practice of applying them, with the aim of harmonizing the provisions of those instruments with the requirements of Convention No. 29.

As a result of this work, taking into account the position of the Committee of Experts with regard to *Presidential Decree No. 9 of 7 December 2012 on supplementary measures for the development of the wood processing industry*, the decision was taken to start to repeal Decree No. 9. **That decision has now been implemented.** Presidential Decree No. 182 of 27 May 2016 has been passed, which makes Decree No. 9 invalid.

The Belarusian Government considers that the remaining three regulatory instruments mentioned by the Committee of Experts are not at variance with the provisions of Convention No. 29.

Presidential Decree No. 18 on supplementary measures for state protection of children from dysfunctional families was adopted on 24 November 2006.

One of the most sensitive issues in any society is the situation of children from dysfunctional families and families in which parents lead an anti-social way of life, are alcoholics or drug addicts. Unfortunately, the critical issue regarding children whose parents are alcohol abusers, drug addicts or substance abusers is often not simply their regular diet or attendance at school, but their very survival and the maintenance of their life and health.

Broad public discussion was held prior to the adoption of Decree No. 18. Many Belarusian citizens requested the State and society to play a more active role in tackling this important social issue.

According to Decree No. 18, children are in a socially vulnerable situation if parents or a biological parent lead an immoral way of life that is harmful to the children, or if they are chronic alcoholics or drug addicts, or in some other way are unable to perform properly their obligations to raise and maintain children. These children are subject to state protection and are placed in state childcare facilities.

The Decree defines a system by which state bodies may identify dysfunctional families and take decisions to place the children in childcare facilities.

Decree No. 18 largely centres on working with the parents. It is important to enable parents from dysfunctional families to turn away from their anti-social and, often immoral, way of life. This is the only way in which the children may be able to return to their biological families.

Many of these parents, however, do not have work. Many of them lost their occupational skills long ago. It is extremely complicated for them to find work independently because employers are not interested in workers of this kind. Decree No. 18 therefore provides for a work placement mechanism for parents from dysfunctional families whose children have been placed in state childcare facilities following a court ruling. Job placements are arranged at workplaces defined in coordination with the local authorities.

Since, in accordance with Decree No. 18, a portion of the citizen's wage is deducted to compensate for the expenses associated with maintaining their children, one of the conditions in the selection of a workplace is that the wage level is sufficiently high.

At the same time, if parents whose children have been placed in state childcare facilities have a job or find themselves work independently and can cover the costs of maintaining the child, no court decision is required.

The main purpose of Decree No. 18 is to improve family situations so that children can safely return to their parents. During the time that Decree No. 18 has been in force (between 2007 and 2015), a total of 33,832 children have been recognized as needing state support, of which 19,162 children (more than 58 per cent) have been returned to their families and their parents.

The Act of 4 January 2010 on the procedure and modalities for the transfer of citizens to medical labour centres and the conditions of their stay governs issues related to the transfer of citizens suffering from chronic alcoholism, drug addiction or substance abuse to medical labour centres. Not all individuals experiencing these problems may be transferred to medical labour centres but only those who have repeatedly, three times or more in the course of a year, disturbed public order and been found in a state of intoxication from alcohol or caused by the use of drugs or other intoxicating substances. One further condition is that the individuals have already been warned about the possibility of returning to the centre if they commit further violations but have nevertheless committed administrative offences for similar violations within a year of that warning.

In addition, citizens may be sent to medical labour centres if they are obliged to compensate the child-rearing expenses incurred by the State and have twice violated work regulations during the year through alcohol or other substance abuse, and have furthermore been warned of the possibility of being sent to the centre and yet reoffended within a year of that warning.

Citizens are sent to medical labour centres for a period of 12 months following a court ruling. The court may decide to extend the period of time spent in the centres or to curtail it by up to six months.

Citizens placed in medical labour centres are required to undergo a medical examination to establish whether they suffer from chronic alcoholism, drug addiction, substance abuse or have any illness which might disrupt their stay in the centre.

Citizens are placed in medical labour centres so that social and medicinal rehabilitation measures may be used in relation to them, including the provision of medicine and of medical and psychological assistance.

For citizens who lead an anti-social way of life, one of the most important avenues to ensuring their social rehabilitation is through work. Under the Act, measures for medical and social reintegration also include career guidance, vocational training, retraining, the acquisition of additional qualifications and work.

Finding work for citizens in medical labour centres depends on their age, fitness for work, state of health, specialization and qualifications. They are paid and granted leave from work and welfare-related forms of leave in accordance with labour law.

The Act includes a provision on the possibility of using incentives to those who conscientiously fulfil obligations required of them, show initiative in their work or mastery of their profession; it also provides for disciplinary action for the refusal to accept work or the decision to discontinue it.

The possibility of applying punitive measures is a necessary factor for ensuring that the provisions of the Act are enforced in practice. Taking into consideration the population category of individuals sent to medical labour centres and their social and behavioural attitudes, it is practically impossible to carry out the programme for social reintegration without specific restrictive measures.

The Act has been considered by the Constitutional Court of Belarus as part of initial mandatory checks. In a decision of 24 December 2009, the Constitutional Court reached the conclusion that the Act was in line with the Constitution of Belarus as regards the content of the provisions, its form and the method of its adoption.

The Constitutional Court in particular deemed that arranging work for citizens sent to medical labour centres on the basis of a court decision was legally justified, since work constitutes one of the means for the social and medical reintegration of citizens, alongside medical and other measures.

The main purpose of *Presidential Decree No. 3 of 2 April on the prevention of dependency on social aid* is to enable Belarusian citizens to fulfil their constitutional obligation to contribute to the financing of government expenditure.

The social dimension is given great emphasis in the state policy of Belarus. The State spends considerable sums on supporting and developing the social infrastructure and many key services are provided to Belarusian inhabitants free of charge, such as education and health services. Belarusian inhabitants pay a significantly lower real price for public transport services and municipal utilities.

Each year some 50 per cent of the country's consolidated budget is spent on social goals.

Obviously, the availability of funds and the possibility of achieving these high social standards depend on the common input of all Belarusian inhabitants.

However, in recent years, a fairly large number of people have been recorded in reality as having considerable income flows which they conceal using various underhanded schemes. Many of these citizens say that they do not work anywhere at all and have no income and therefore do not pay any taxes. At the same time, they are fully entitled to services provided by the State, including those which are free of charge.

To make the situation fairer, Decree No. 3 compels all persons of working age who have been in Belarus for more than six months during the calendar year to contribute to the financing of government expenditure.

This contribution may be through the citizen carrying out work on an employment or civil law contract, or any other activity which provides for the receipt of legal earnings. In this case, taxes are levied on the earnings accordingly.

Citizens who do not carry out an income-bearing activity and do not pay taxes are required to pay an annual levy to the tax authorities equal to the sum of 20 times the base reference value. In 2016, the base reference value was 210,000 Belarusian rubles, and the annual levy was therefore 4,200,000 Belarusian rubles. This is equivalent to approximately US\$200.

Decree No. 3 does not provide for the compulsory labour of citizens but deals with their financial contribution.

Under Decree No. 3, it is taken into consideration that some citizens may perform independent, income-bearing activities throughout the course of a year, or work on an employment contract only for a short period of time, i.e. less than 183 days per year. The following procedures have been established for these cases: if the amount paid in taxes is over 20 times the base reference value, the citizen is exempted from paying the levy. However, if it totals less than 20 times the base reference value, the individual is required to pay the levy, although the figure is reduced by the amount paid in taxes.

The Decree establishes an exemption from paying the levy for population groups which may have difficulties earning income due to reasons beyond their control. These categories include: citizens registered as unemployed; persons with disabilities; and one of the parents of a family bringing up a child of up to seven years of age, a child with disabilities or three or more minors, and a number of other categories.

Decree No. 3 covers working relations which have come about since 1 January 2015. The levy for 2015 must be paid no later than 1 July 2016. People who do not pay the levy themselves are sent a notification by the tax office by 1 October 2016 for payment of the levy by 15 November. Non-payment or partial payment of the levy results in a fine of two to four times the base reference value, or up to 15 days of administrative detention. The courts decide on the specific penalty. Under the provisions of Decree No. 3, citizens must perform community service during the period of the administrative detention.

In view of the above, the Government of Belarus emphasizes that the country's regulatory and legal instruments do not contain elements of forced labour. They are designed to address socially significant tasks such as the protection of children and the prevention of alcoholism, drug addiction and tax evasion.