



NINTH ITEM ON THE AGENDA

**Reports of the Committee on
Freedom of Association**

**352nd Report of the Committee
on Freedom of Association**

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Measures taken by the Government of the Republic of Belarus to implement the recommendations of the Commission of Inquiry

A. Introduction

1. The Committee of Freedom of Association, set up by the Governing Body at its 117th Session (November 1951), met at the International Labour Office, Geneva, on 6 and 7 November 2008, under the chairmanship of Professor Paul van der Heijden.
2. Subsequent to the decision of the Governing Body, at its 291st Session, that the implementation of the recommendations of the Commission of Inquiry established to examine the observance by the Government 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), should be followed up by the Committee on Freedom of Association, the Committee last examined this matter in its 345th Report (March 2007), which was approved by the Governing Body at its 298th Session.
3. On that occasion, the Committee made the following recommendations:
 - (a) The Committee once again urges the Government to take the necessary steps to ensure the immediate registration of the primary-level organizations that were the subject of the complaint and to ensure the workers in those enterprises where the primary-level organization has been wound down are rapidly and duly informed of their right to form and join organizations of their own choosing without interference and that the registration of any such newly created organization is rapidly effectuated.
 - (b) The Committee urges the Government to establish an independent investigation into the allegations that the non-registration of primary organizations has led to the denial of registration of three regional organizations of the Belarusian Free Trade Union (BFTU) (organizations in Mogilev, Baranovitchi and Novopolotsk–Polotsk) and to take the necessary measures to ensure the registration of the primary organizations of the BFTU which had been denied registration so that the regional organizations may once again be registered.
 - (c) The Committee requests the Government to take the necessary measures to ensure that the cases of the Grodno city primary trade union organization and the primary trade union of “Avtopark No. 1” are reconsidered by the registering authorities. It further requests the Government to provide information on the decision taken in respect of the Mogilev city primary trade union.
 - (d) With regard to the process of drafting a new Law on Trade Unions, the Committee urges the Government to abandon the approach taken in the Concept Note in its present form, particularly as regards the question of representativeness which would ensure, de facto, a trade union monopoly in Belarus and to take the necessary steps to ensure that the new law will fully and truly ensure freedom of association and the rights of all workers to form and join organizations of their own choosing, including through the elimination of all remaining obstacles to trade union registration and their functioning. Noting that the Council for the Improvement of Legislation in the Social and Labour Spheres would appear to have a clear mandate to review, discuss and elaborate legislation relating to trade unions, the Committee urges the Government to consult this body rapidly in respect of the Concept Note and any preliminary draft of the Law on Trade Unions so that the members of the Council may make their views known in this regard at an early stage so that any concerns may be duly taken into account. The Committee requests the Government to keep it informed of all developments in this regard.

- (e) The Committee urges the Government to pursue vigorously, on the one hand, the instructions to be given to enterprises in a more systematic and accelerated manner so as to ensure that enterprise managers do not interfere in the internal affairs of trade unions and on the other, instructions to the Prosecutor-General, Minister of Justice and court administrators that all complaints of interference and anti-union discrimination are thoroughly investigated.
 - (f) The Committee requests the Government to ensure an independent investigation into the new alleged instances of interference and anti-union discrimination at the “Mogilev ZIV” and “Avtopark No. 1” and to ensure that the rights of any workers who suffered anti-union discrimination in these enterprises are fully redressed. In this respect, the Committee requests the Government and the complainant organizations to keep it informed as to the sufficiency of the role to be played by the Council for the Improvement of Legislation in the Social and Labour Spheres in reviewing such complaints.
 - (g) The Committee urges the Government to immediately redress the situation of those workers that have suffered consequences for cooperating with the Commission of Inquiry and refers specifically in this respect to Messrs Gaichenko, Dukhomenko, Obukhov, Shaitor and Sherbo. It further requests the Government to ensure that Mr Stukov’s rights and benefits acquired through previous years of employment are maintained.
 - (h) The Committee requests the Government to indicate the measures taken to implement the recommendations made by the United Nations Special Rapporteur on the independence of judges and lawyers.
 - (i) The Committee once again urges the Government to take the necessary measures to ensure that employers’ and workers’ organizations may benefit freely, and without previous authorization, from the assistance which might be provided by international organizations in order to carry out activities in line with the nature of their organizations and the abovementioned principles. The Government is requested to keep the Committee informed of the measures taken in this regard.
 - (j) The Committee urges the Government to take the necessary measures immediately to amend the Law on Mass Activities (as well as Decree No. 11 if it has not been repealed) so as to bring it into line with the right of employers’ and workers’ organizations to organize their activities.
 - (k) The Committee requests the Government to provide full details on the steps taken to implement the above recommendations.
 - (l) The Committee requests the Government to reply to the latest allegations of the REWU and the ITUC as a matter of urgency.
 - (m) The Committee urges the Government to continue its cooperation with the Office, as well as social dialogue with all partners, including the trade unions outside of the FPB, to implement all the recommendations of the Commission of Inquiry and ensure that any legislative changes will conform to this objective.
4. The Belarusian Independent Trade Union (BITU) sent new allegations relating to the recommendations of the Commission of Inquiry in a communication dated 28 May 2007, the Radio and Electronic Workers’ Union (REWU) submitted new allegations in communications dated 4 June, 17 and 19 October 2007, 11 and 14 February and 12 September 2008. The Congress of Democratic Trade Unions (CDTU) sent new allegations in communications dated 27 September 2007, 13 February and 11 March 2008.
5. The Government transmitted its observations on the measures taken to implement the Commission of Inquiry recommendations in a communication dated 14 May and 13 November 2008.
6. The Committee has examined the new allegations submitted by the BITU, the REWU and the CDTU and the information contained in the Government’s communication. The

Committee submits for the approval of the Governing Body the conclusions it has reached concerning the measures taken to implement the recommendations of the Commission of Inquiry.

B. New allegations relating to the recommendations of the Commission of Inquiry

REWU

7. In its communications dated 4 June, 17 and 19 October 2007, 11 and 14 February 2008, the REWU informs that, despite the recommendations made by the ILO to the Government, unlawful actions continue to be taken in Belarus against the REWU organizations and trade union members.
8. In particular, the REWU alleges that the legal address requirement for the purpose of registering primary organizations remains to be a major obstacle to the functioning of the union and that the REWU primary-level trade union organizations continue to see their requests for registration rejected. By way of example, the REWU alleges that on 17 May 2007, the Mogilev municipal executive committee once again refused to put on record its Mogilev city primary-level organization on the grounds that on the lease, i.e. a proof of the legal address, the owner should have written “agree” in addition to the signature and seal. The REWU recalls that during 2006–07 it had applied for registration of its Mogilev city organization on three occasions. After the REWU primary organization once again had been denied registration, the owner experienced seven inspections. As a result, the owner has suggested terminating the lease “in connection with an urgent need to renovate the building”. Attempts to find another legal address have been unsuccessful, since under pressure from the local authorities, property owners refuse to rent to the union. In these circumstances, the primary organization has no legal address without which it cannot submit documents for registration. It is forced to function illegally.
9. On 4 May 2007, the Grodno city primary-level trade union once again submitted its documents for recording to the Grodno municipal executive committee, but as of June 2007, no reply has been received from the authorities.
10. In July 2007, the REWU applied for registration of its Gomel primary organization. The union supplied a full set of documents, including a letter of guarantee from “Ental” company regarding the provision of an office. A month later, the REWU received a communication stating that the registration of the primary organization had been refused and citing the letter from “Ental” company according to which, premises (and therefore, a legal address) could not be made available due to the ongoing renovation of the building. The REWU emphasizes that the letter in question was sent by “Ental” not to the union, but to the Gomel municipal executive committee and infers that the owner of the building refused to provide the union with a legal address as a result of the pressure exercised by the Gomel local authorities.
11. The primary trade union organization representing workers at the gear factory in the town of Smolevichi is registered with the Smolevichi district executive committee. Over the past three years (2004–07) it rented its premises from the Smolevichi housing services department. The company’s management (ideological activities director) have, on a number of occasions, visited the union’s office during its meetings. In 2007, the REWU office was robbed on three occasions. The Smolevichi office of the Ministry of Internal Affairs suspended the criminal investigation into the robberies as a result of the failure to identify the culprits. Repeated requests for action from the head of the REWU primary organization, have met with no response from the authorities. The REWU was involved in

organizing pickets demanding the repeal of the Law on State Benefits, Rights and Guarantees for Private Citizens. To that end, it repeatedly applied for authorization to hold pickets in different districts of Smolevichi. However, these applications were invariably turned down by the local authorities without justification. Trade union members, Messrs Sachivko and Grinevetsky, were, on a number of occasions, warned by the police with regard to the involvement in unauthorized activities and events. Moreover, on more than one occasion, Mr Sachivko received warnings from the Smolevichi housing services department that the trade union could lose its legal address as a result of its active stance. On 15 November 2007, Mr Fedynich, the chairperson of the REWU, received a letter from the Director of the Smolevichi housing services department, indicating that his department would no longer rent premises to the REWU. The Smolevichi branch of the REWU has lost its legal address without any explanation being given. Attempts to find a new legal address have not been successful.

- 12.** On 18 December 2007, the REWU applied to the Rechitsa district executive committee to register its district branch union in Rechitsa. All necessary documents were submitted along with the application. By way of explanation, the REWU indicates that according to the instructions regarding the preparation and examination of documents in connection with state registration and deregistration of trade unions, as approved by Order No. 48 of the Ministry of Justice of 30 August 2005, subordinate sections and branches of trade unions not endowed with the rights of a legal person must be entered in an official register. The registering authority may, if necessary, demand additional documents confirming the establishment of a branch or section (records of the general meeting of the union's members and of its executive body). The registration is carried out within one month of the day on which an application is made by the union's executive body. The Rechitsa district executive committee did not request any additional documentation from the REWU. The union's representatives, on their own initiative, submitted to the executive committee a record of the meeting convened to establish the primary organization. Almost two months passed from the submission of the application to the executive committee, and the REWU received no notification concerning any decision by the Rechitsa district executive committee to defer a decision regarding registration. On 8 February 2008, the district council of the REWU sent a letter to the Rechitsa district executive committee requesting immediate registration of the Rechitsa district primary trade union organization, stressing that the circumstances of the registration of the organization in question were being reviewed by the ILO, and that the issue of violations of trade union rights in Belarus would be discussed during the meeting of the Governing Body in March 2008. On 11 February 2008, the union received a faxed letter from the Rechitsa executive committee indicating that the application for registration had been refused on the grounds that the employer had revoked the letter of guarantee regarding the provision of a legal address to the union because the premises were to be let to someone else. In fact, however, the premises remain empty. The letter revoking the legal address was sent to the Rechitsa executive committee, not to the union. In this, as in other cases, the letter of guarantee was revoked in response to pressure and threats from the local authorities.
- 13.** The REWU further submits that the management of "Avtopark No. 1" in Gomel regularly commits illegal acts against its members. Further to the information the REWU had previously provided, it alleges that drivers Messrs Moskalenko, Baranov (trade union organizer) and Kuptsov, all highly skilled workers who have incurred no prior labour or disciplinary penalties, were dismissed from the enterprise for being members of the REWU and cannot find work in Gomel.
- 14.** With regard to Mr Shvedov, dismissed on 31 May 2006, the REWU indicates that on 12 April 2007, the civil division of the Gomel Regional Court upheld the ruling handed down on 30 January 2007 by the Sovetskiy District Court in Gomel rejecting the suit to

reinstate Mr Shvedov. Mr Schvedov, after having worked for some 30 years at “Avtopark No. 1” is now without a job or means of subsistence.

15. In January 2007, the management of “Frebor” enterprise dismissed Mr Anatoly Askerko, an activist of the REWU and a highly skilled worker who has worked at the enterprise from the moment it was set up. The enterprise management resorted to forgery of documents to justify in court an illegal dismissal of the worker. The trade union carried out a graphology test, which demonstrated that signatures of the trade union activist on documents, based on which the court passed a decision in favour of the employer, have been forged. Nevertheless, three judicial instances have recognized the dismissal as lawful. Mr Askerko remains unemployed.
16. On 9 October 2007, in Grodno, the police arrested Mr Ivan Roman, the chairperson of the REWU Grodno regional organization. He spent the night in the Leninsky District Police Office. On 10 October, the Grodno City Leninsky District Court sentenced Mr Roman to five days of detention. The charge was traditional – use of offensive language in public places.
17. Mr Stanislav Kovalevsky, the leader of the REWU Mogilev regional youth organization was arrested on 12 October 2007 and detained at the Mogilev City Leninsky District Police Station for more than three days. The court hearing took place only on 15 October. Mr Kovalevsky was sentenced to three days of detention for violation of public order, but was released in the courtroom as by the end of the court session the term of punishment had expired.
18. In June–August 2007, the REWU filed applications to hold social pickets against revocation of benefits in 15 cities. Authorities issued permission for only two of them, in Brest and in Mogilev. In September–October 2007, authorities everywhere forbade independent trade unions to carry out protest actions against adoption of the new Law on Occupational Pension Insurance and revocation of social benefits.
19. In late June 2007, Mr Alexander Beresnev, one of the founders of the REWU at “Belarusneft-Osobino” enterprise, was severely beaten and robbed on duty at the enterprise. A few days prior to the attack, Mr Beresnev wrote a letter addressed to the Chief Inspector of the Gomel region, Assistant to the President of the Republic of Belarus, alleging regular violation of labour legislation and humiliation of employees by the enterprise management. The REWU believes that the fact of severe beating is connected with Mr Beresnev’s address to the Presidential Administration. For more than a month, Mr Beresnev stayed at the hospital suffering from brain concussion and numerous bone fractures. While on sick leave, he learned that his employment contract had not been renewed. Despite the fact that an attack took place at the enterprise territory and during working hours, he did not receive any assistance from the employer.
20. The REWU also submits that the KGB officers had been putting pressure on the activists of the REWU regional organization in Mogilev. Also, in October 2007, after a first youth primary organization of the REWU was established and Mr Stanislav Kovalevsky was elected its chairperson, the KGB officers offered to meet the young man and hand over lists of members of the trade union organization.
21. With regard to the draft Law on Trade Unions, the REWU considers that, if adopted, the Law will bring about a deterioration of the situation of trade unions, especially those not affiliated to the Federation of Trade Unions of Belarus (FPB). In particular, the REWU informs that the draft Law lays down distinctions as to membership and occupational groups for the establishment and activity of trade unions; it divides trade unions into those that are representative and those that are not; it confers supervisory functions over the

legitimate activities of trade unions on the Ministry of Justice and its territorial bodies. Out of 50 sections of the draft Law, 11 are on the subject of registration of trade unions, which, as previously, is subject to authorization and affords the possibility of refusing registration; it retains the requirement to submit a legal address both for trade unions and their organizational structures which are legal entities, and for those that are subject to recording. The draft contains a new Chapter 5 (six sections) which lays down extremely detailed provisions on liability of trade unions for failure to comply with their own by-laws. These provisions are analogous to those contained in the Law on Political Parties and allow direct interference by the registering bodies into legitimate activities of trade unions. In short, according to the REWU, the sole purpose of the Government's draft Law on Trade Unions is to dissolve trade unions that are not affiliated to the FPB.

22. In its communication dated 12 September 2008, the REWU alleges acts of interference and anti-union pressure exercised against members of its Brest regional organization by the management of "Riona" enterprise.

CDTU and BITU

23. In their communications dated 23 May and 27 September 2007, and 13 February and 11 March 2008, the CDTU and the BITU also allege continuing violations of trade union rights in Belarus and provide the following information.
24. On 4 May 2007, officers of the Grodno Customs seized 281 copies of the newspaper of the Polish Trade Union of Miners *Solidarnost Gurnitcha* ("Miners' Solidarity") from Mr Alexander Tkachev, an activist of the BITU. The newspaper published an article, dedicated to a meeting between the Polish and Belarusian miners. Customs officers have stated that according to Decree No. 57 on Restriction of Handling of Cargoes, the newspaper should have been transported by land. According to Mr Tkachev, the total weight of newspapers did not exceed 5 kilograms. Nevertheless, on 22 May, the Grodno City Oktyabrsky District Court imposed on Mr Tkachev a fine of about 310,000 BYR (US\$145).
25. On 6 December 2007, the office of the CDTU was searched without warrant. Office equipment and 5,000 leaflets were confiscated. The CDTU filed a claim to the Office of the Minsk City Leninsky District Prosecutor and to the Office of the General Prosecutor. Representatives of the Minsk City Leninsky District police station visited the CDTU office and asked to provide registration documents, the lease, and the risograph documentation. On 22 January, a CDTU representative had been requested to visit the Ministry of Communications and Information. Mr Nikolai Kanakh, the Deputy Chairperson, visited the Ministry where he was asked to sign a report on violation of administrative law. The CDTU was accused of violating the instruction of the Ministry of Communications and Information on procurement of printing equipment. According to the instruction, procurement of printing equipment (including risograph) requires a prior permission of the Ministry of Communications and Information. Only there and then, a search warrant, supposedly issued on 6 December 2007 by the Minsk City Leninsky District Prosecutor, was shown to Mr Kanakh. The CDTU therefore considers that the warrant was signed after the search was conducted. Moreover, the police conducting the search simply referred to a signal of a "planned violation of the law". On 4 February 2008, Mr Yaroshuk, the CDTU chairperson, was summoned to the Ministry of Communications and Information, where he explained that the risograph was given to the CDTU by the ILO project for a temporary storage after the project had been suspended. Mr Yaroshuk refused to sign the report on administrative offence. The CDTU further explains that since 1 January 2008, the risograph has been excluded from the list of typographical office equipment, the procurement and the use of which requires authorization of the Ministry of Communications and Information. Nevertheless, the CDTU was told that on the day of the

confiscation, the instruction had been in force, therefore the CDTU can still be punished for its violation.

26. Also on 6 December 2007, during the search of the CDTU office, the police arrested Mr Nickolay Sergeenko, the CDTU youth movement activist. He was charged in a standard way – use of obscene language in public places. A judge of the Minsk City Leninsky District sentenced Mr Sergeenko to ten days of detention.
27. On 19 January 2008, Mr Oleg Korban, an activist of the Belarusian Free Trade Union (BFTU) was arrested and later detained for ten days, when he brought a food parcel to his colleagues detained at the detention centre. The detained BFTU activists, Messrs Alexander Stepanenko, Roman Bogdanovich and Sergey Klyuev, were arrested and detained for 15 days in connection with their participation in a protest action of entrepreneurs on 10 January 2008. Mr Korban has been accused of the use of obscene language in public places.
28. On 9 March 2008, at about 1.30 p.m., police arrested 32 young activists of the BFTU and the Free Metal Workers' Union (FMWU) at the CDTU office. The activists had gathered to congratulate their female colleagues on the occasion of 8 March and to discuss further actions, aimed at attracting youth to independent trade unions. The police stated that it had received “a signal” from tenants of the house where the office of the CDTU is located. Neighbours allegedly complained that rubbish was being thrown out of windows of the apartment. The police officers took the trade unionists to the Minsk City Leninsky District Department of Internal Affairs, despite the statement made by the CDTU's deputy chairperson, present at the location, confirming that those present at the meeting were all members of the CDTU. Having identified the persons, after 4 p.m., the young people were released.
29. The Grodno authorities denied the primary organization of the BITU at “Grodno Azot” company an authorization to carry out a protest action on 17 May 2007 to bring the public's attention to violations of trade union rights. According to the decision of the Grodno executive committee dated 11 May 2007, “mass actions at the Sovietskaya Square can be conducted only upon the initiative of local authorities”.
30. In September–October 2007, authorities everywhere forbade independent trade unions to carry out protest actions against the adoption of the new Law on Occupational Pension Insurance and revocation of social benefits. The Grodno City executive committee denied the primary organization of the BITU at “Grodno Azot” authorization to carry out a picket. On 27 September, Mr Sergey Antusevich, the chairperson of the primary organization, was summoned to the Grodno City Leninsky District police station and given an official warning about “an inadmissibility of violation of public order or carrying out an unauthorized mass action or picketing” and an administrative and criminal liability for violation of the Law on Mass Activities. Authorities of Novopolotsk have not allowed activists of the BITU at “Polymir” company to hold a meeting of protest against adoption of the new Law on Occupational Pension Insurance and revocation of social privileges to needy citizens on 30 September.
31. In May 2007, the management of “Polymir” company launched a campaign, exerting rigid pressure on members of the BITU primary organization. Following Mr Ivan Sviatokho's, the organization's chairperson, refusal to sign the proposal by the FPB requesting to preserve trade preferences to the Government of Belarus, the management decided to “take care of” members of the organization. Chiefs of production shops threatened with the non-extension of contracts and other measures of influence and forced the BITU activists to sign the address to the ILO and the European Union. The document stated that violations of trade union rights, which resulted in the loss of the GSP, were far-fetched and nobody

exerted any pressure on trade unions. In autumn 2007, more than 100 workers of “Polymir” company following threats of non-extension of contracts of employment have been forced to withdraw their membership from the BITU primary organization.

32. In September 2007, leadership of the BFTU primary organization at the Brest State Pedagogical University named after A.S. Pushkin lost its four activists after the management of the university proposed that they choose between their job and trade union membership. The CDTU further alleges that the administration of the Brest University represses members of the CDTU and refuses to grant a legal address to the union.
33. On 9 October 2007, Mr Vasily Korobov, the chairperson of the BITU, has not been allowed to enter the territory of “Belaruskaliy” Production Association. Despite a complaint lodged by the BITU to the Office of Public Prosecutor, Mr Korobov’s enterprise pass was not renewed.
34. In November 2007, the management of “Grodno Azot” enterprise refused to provide a room to the BITU primary organization to hold a solemn assembly on the occasion of the 15th anniversary of the trade union establishment. The director of the enterprise stated that according to the order of the Grodno city executive committee a jubilee can be celebrated only when an organization is 25 years old and more.
35. The director of the Lukoml Hydro Power Plant at the last minute had forbidden the BFTU primary organization activists to celebrate the 15th anniversary of the organization in the Palace of Culture of Power Engineers’ hall, despite the fact that just a few days before that, enterprise director, local authorities and the police had given their authorization. Mr Alexey Gabriel, trade union leader, received a letter from the director of the Plant, informing that carrying out a celebration is in violation of the Law on Mass Activities.
36. For over two years, activists of the BFTU primary organization at “Fiber Glass” enterprise have tried, to no avail, to sign a collective agreement with the enterprise management. No agreement could be reached over the provision on trade union activities. While representatives of the official trade union have the right to be released from work to carry out their union duties, to coordinate dismissal of workers, to free-of-charge trade union premises, the BFTU organization has to pay for the premises, situated outside of the enterprise territory, where even buses do not go. The BFTU would like to ensure that the employer provides equal conditions to all trade unions.
37. The CDTU leadership considers that the NCLSI is a dependent body, which does not solve any problems in the social sphere. In 2007, the NCLSI met only two times (rather than a minimum four, envisaged by its Statutes). None of the issues raised by the CDTU have been considered. The CDTU leadership also believes that the Council for the Improvement of Legislation in the Social and Labour Spheres (Council of Experts) does not play any role in eliminating violations of trade union rights. It is a public body of the Ministry of Labour and Social Protection, the recommendations of which are not binding. The allegations of interference and anti-union discrimination have been considered at the session of the Council of Experts only once, in January 2007. The discussions have not brought any positive results. While the members of the Council of Experts have considered in detail the disputed situations that have arisen between the BITU primary organizations and the management of “Grodno Azot” and “Belshina” enterprises, the managers of the first enterprise refused to negotiate and conclude collective agreements with the BITU primary organization and the management of the second refused to provide the independent trade union with the legal address. While, eight months later, the BITU primary organization at “Grodno Azot” finally signed a collective agreement, the pressure on its members continues. The BITU primary organization at “Belshina” has not yet received the legal address.

38. In December 2007, the Ministry of Justice had sent the CDTU a final version of the draft Law on Trade Unions and asked for its comments and suggestions. The draft contained no changes in comparison with its previous version. The CDTU suggested excluding sections 6 and 7 on conditions for establishment and activity of trade unions. According to section 6, workers of only one organization, or one branch or a trade can be united in a trade union. According to section 7, to obtain the republican (national) status, a trade union shall have at least 7,000 founders. The CDTU believes that these requirements violate Convention No. 87. In addition, the CDTU considers that sections 8 and 9 on representativeness also contradict the national legislation and international labour standards. According to section 8 of the draft Law, a more representative trade union is “empowered to cooperate at all levels of social partnership”, which is contrary to section 356 of the Labour Code, which provides that “if several representative bodies of workers exist at the level of branch, territory or the organization, each of them has the right to conduct collective bargaining on behalf of workers it represents”.
39. The CDTU further alleges that the Belarusian trade union of individual entrepreneurs “Razam”, its partner organization, has been denied registration. “Razam” is an association of individual entrepreneurs who earn their living from self-employment, although in terms of employment conditions, their situation is more comparable to that of hired workers. The overwhelming majority of them are market traders. They are dependent on those who lease trading space, in the same way as hired workers are dependent upon their employer. They face serious problems in terms of working conditions and occupational safety. Some 70 per cent of them are women. They have established a trade union in order to defend their rights effectively. The organization has 534 founder members. The union submitted the necessary documents for registration, but, for over six months, “Razam” has been unable to obtain state registration. The authorities have twice refused to register the union. On the first occasion, the reason for refusal, according to the Ministry of Justice, was a disparity in the aims and objectives of the organization’s by-laws. Representatives of the union repeatedly approached the Ministry to request an explanation as to the nature of the perceived disparity. The Ministry of Justice declined to meet representatives of the union under various pretexts. On the second occasion, “Razam” submitted its documents to the Ministry of Justice for registration on 13 December 2007. The union representatives once again approached the Ministry of Justice to ask if the documents were all in order. The Ministry replied that it had no objections. On 10 January 2008, the union received a second refusal. This time the reason given was that the amount of state duty paid by the trade union was less than required: the union had paid 775,000 roubles instead of 875,000 roubles. It should be noted that the amount of duty payable is calculated using a “base value”, which went up in December 2007. In any case, the Ministry of Justice could have informed the trade union of this increase and requested the extra payment. Furthermore, disparities in the aims and objectives of the union’s by-laws again feature among the reasons for the refusal given by the Ministry of Justice. On 10 February, “Razam” submitted a complaint to the Supreme Court of Belarus.

C. The Government’s reply on measures taken to implement the recommendations of the Commission of Inquiry

40. In its communication dated 14 May 2008, the Government provides the following information.

Consultations held by the Government with the ILO and the social partners with regard to the draft Law on Trade Unions

41. The Government had previously informed the Committee that the Belarusian legislation concerning the establishment and registration of trade unions is to be improved through appropriate amendments to the Law on Trade Unions. Once the Law is adopted, the provisions of Presidential Decree No. 2 will cease to have effect.
42. Following the recommendations of the ILO supervisory bodies, throughout the period of preparation of the new Law, the Government held intensive consultations with the Office. Consultations were held on the following dates: 19–20 October 2006 (Geneva), 15–17 January 2007 (Minsk), 8–9 and 14–15 February 2007 (Geneva), 14–15 May 2007 (Geneva), and 20–23 June 2007 (Minsk). The International Labour Office provided the Government with unofficial comments on the Concept Note for the Law (December 2006) and on the draft Law (May 2007).
43. In the light of the outcome of the consultations and the ILO's comments, the Government finalized the draft Law and introduced a number of amendments. In the conclusions formulated by the ILO and presented to the Government on 25 May 2007, it was noted that, "compared with the Concept Note and the February version of the Law, the latest version contains no provisions concerning monopoly of union representation at the enterprise level, and the quantitative requirements for registration of trade unions have also been reduced".
44. The Government held consultations with the social partners concerning the draft Law in the context of the Council for the Improvement of Legislation in the Social and Labour Spheres (Council of Experts). The membership of the Council of Experts comprises representatives of the main participants in national-level social dialogue: the Government of the Republic of Belarus, represented by the Ministry of Labour and Social Protection and the Ministry of Justice; the Federation of Trade Unions of Belarus (FPB); the Belarusian Congress of Democratic Trade Unions (CDTU); the Republic-level Association of Industrial Enterprises BelAPP; and the Professor M.S. Kunyavsky Business Union of Entrepreneurs and Employers (BCPN). Four meetings of the Council of Experts were held in 2007 to discuss the draft legislation.
45. From 20 to 23 June 2007, an ILO mission visited the Republic of Belarus, where it participated in the meeting of the Council of Experts on 21 June 2007. In the light of the discussions at that meeting, the mission advised the Government not to bring the draft Law before Parliament in autumn 2007 (as had been intended by the Government). Following this recommendation, the Government suspended the process of submitting the draft Law to Parliament. The decision was taken to continue work on finalizing the Law in order to obtain the agreement of all parties. The Minister of Justice informed the members of the National Council on Labour and Social Issues (NCLSI) of this decision at the Council's meeting on 1 November 2007.
46. The ILO Governing Body welcomed the Government's intention to obtain the approval of the interested parties on the draft Law. In the conclusions adopted with regard to Belarus in November 2007 and March 2008, the Governing Body urged the Government to take further steps to strengthen the positive trends in the development of social dialogue and tripartism and to continue its constructive cooperation with the ILO.
47. In December 2007, the Government held consultations with all interested parties, including the CDTU, and received comments from them on the current version of the draft Law. During 2008, consultations have been held under the auspices of the Council of Experts

between the Government and the social partners to determine the way forward to improve trade union legislation. Two meetings were held, on 3 and 11 April. All interested parties took part in the meetings, including representatives of the FPB, the CDTU and employers' associations.

48. On 16 April 2008, at a meeting of the NCLSI, the Minister of Labour and Social Protection informed the Council of the consultations that had been held in the Council of Experts. A draft resolution to enforce the obligation of all interested parties to observe ILO standards in the process of improving trade union legislation was submitted to the NCLSI for its approval. This draft resolution had previously been discussed at the 11 April 2008 meeting of the Council of Experts and had been unanimously endorsed by all of its members. The resolution approved by the NCLSI calls upon the parties:

[To] endorse the position of the representatives of the social partners participating in the work of the Council of Experts to the effect that the improvement of trade union legislation must be carried out on the basis of the standards of the International Labour Organization as set out in 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 have been ratified by the Republic of Belarus.

The Ministry of Labour and Social Protection, in conjunction with other State authorities and the organizations and Republic-level associations of trade unions and employers represented in the Council of Experts, shall ensure practical observance by this Council of the principles of tripartite consultation laid down by the ILO Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).

49. Thus, despite the complexity of the discussions within the Council of Experts, with the various parties having their own views, a certain level of consensus has been reached. The NCLSI's decision, which was adopted at its 16 April 2008 meeting, consolidated the fundamental principle for the future work of the Government and the social partners on the trade union legislation.

Registration of trade union organizations

50. As of 1 April 2008, there were 36 registered trade unions in the Republic of Belarus. Of these, some 33 have Republic-level (national) status, one is regional and two are enterprise (organization) unions. In 2007 and the first three months of 2008, some 750 new trade union member organizations were registered. As of 1 April 2008, 22,647 trade union organizations of different levels operate in the country.
51. The Government is taking steps to prevent violations by the registering authorities. The Ministry of Justice is monitoring the situation closely and issuing instructions as needed. As part of this initiative, the Ministry has posted explanatory material relating to trade union membership on its web site, stressing, in particular, that, under section 2 of the Law on Trade Unions, citizens are free to establish and join trade unions of their own choosing, subject to compliance with the union statutes.
52. In 2007, two primary organizations of the REWU were recorded: Borisov Municipal Primary Organization (8 February 2007) and Grodno city primary organization (4 June 2007). Thus, in 2006–07, a total of four primary organizations of the REWU were registered (the Brest city and Minsk city primary organizations of transport workers had been registered in 2006).
53. In response to the Committee's request concerning the regional organizations of the BFTU in Mogilev, Baranovichy and Novopolotsk-Polotsk and the territorial primary organizations of the REWU in Grodno and Mogilev and at "Avtopark No. 1" in Gomel, the Government

informs of the following. The Mogilev provincial organization of the BFTU was denied registration in 1999 for not having a legal address. The BFTU applied to the registering authority again in 2000. The registration was denied because of non-compliance with the condition laid down in the union's constitution according to which, at least three primary organizations must be established before a provincial organization can be set up. The BFTU did not make any further applications to the registering authorities. Registration documents for the Baranovichi regional organization of the BFTU were not submitted to the registering authorities in accordance with the established procedure. The Novopolotsk-Polotsk regional organization of the BFTU was registered on 3 May 2000. It has not been deregistered. The Grodno territorial organization of the REWU was recorded on 4 June 2007. In Mogilev, the territorial primary organization of the REWU was not registered due to the lack of documentary proof of its legal address.

54. The registration of the REWU member organization at "Avtopark No. 1" was denied due to the violations committed by the REWU during the establishment of the member organization in question: fewer than half of the union members were present at the meeting when the decision to establish the union was taken. The Government also points out that this REWU primary organization was made up of individuals who had no connection with the radio and electronics industry.

Protection against anti-union discrimination and interference into trade union internal affairs

55. The General Agreement for 2006–08 between the Government and national associations of employers and trade unions recommends that collective agreements incorporate provisions requiring workers elected to trade union bodies to be given additional guarantees. Moreover, the Government is carrying out constant and systematic work to increase awareness among all relevant state authorities, employers and workers regarding the substance of the Commission of Inquiry's recommendations and is making active use of ILO assistance in this process. For example, an agreement has been reached on holding a seminar in Minsk in June 2008 on the issue of protection against anti-union discrimination. The seminar will be attended by judges and prosecutors, specialists from the Ministries of Justice, Labour and Social Protection and Foreign Affairs, the State Labour Inspectorate, the Republic-level Labour Arbitration Tribunal, and representatives of the FPB, the CDTU and employers' associations.
56. In accordance with the Commission of Inquiry's recommendations, the Government, in conjunction with the social partners, is working systematically to prevent unlawful interference by employers in the internal affairs of trade unions. At a meeting on 31 January 2007, the NCLSI examined the matter of cooperation between employers' and workers' representatives at the enterprise level. The NCLSI drew the attention of employers' and workers' representatives to the need for a strict observance of the principles of social partnership contained in Belarusian legislation and ILO Conventions and stressed that interference by employers in the internal affairs of trade unions was unacceptable. In accordance with a decision of the NCLSI, the current practice of cooperation between representatives of employers and trade unions was studied at the meetings of sectoral and territorial councils on labour and social issues. The principles of collaboration between the social partners at sectoral and local levels are to be discussed at a meeting of the NCLSI planned for August 2008.
57. With regard to the Committee's request for information on the dismissal of Viktor Stukov, the Government indicates that he was dismissed on 13 April 2004 for causing harm to his employer, following a court ruling. No evidence of anti-union discrimination was found. On 29 May 2004, a little over a month after his dismissal, Mr Stukov was rehired in the same post.

Foreign gratuitous aid

58. The procedure for the receipt and use of foreign gratuitous aid is set out in Presidential Decree No. 24 of 28 November 2003. This Decree does not prohibit trade unions from receiving such aid from various sources including international trade union federations. The main conditions are that the foreign aid must not be intended for any purposes prohibited in the Decree and that it must be registered with the Department for Humanitarian Activities of the Presidential Administration. It should be noted that the procedure for registering foreign gratuitous aid is not complex and is quick to complete. Trade unions have been the recipients of foreign gratuitous aid and, to date, there have been no cases of refusal to receive such aid. Decree No. 24 provides for the dissolution of an organization for violation of the established procedure. The dissolution must be carried out in accordance with the procedure established by law that is, following a court decision. To date, no trade unions have been dissolved for violation of the procedure for receiving foreign gratuitous aid. The Government has on more than one occasion drawn the attention of the ILO to the need for further discussion on that issue. During the consultations held in Geneva on 19 and 20 October 2006, the government representatives voiced their concerns at the fact that neither the Commission of Inquiry in its report, nor other ILO supervisory bodies, give any clear indication as to how Decree No. 24 violates the provisions of Conventions Nos 87 and 98. The comments received by the Belarusian Government from the ILO Committee of Experts have only strengthened the Government's conviction that further clarification on this question is needed. The Government notes that the legislation in Belarus recognizes the right of workers to strike. This right is guaranteed by the Constitution (article 41), the Law on Trade Unions (section 22) and the Labour Code (chapter 36). However, the recognition of the right to strike and the practical procedures for exercising that right are two fundamentally different issues. The Government considers that a general observation to the effect that the right to strike is one of the fundamental elements of freedom of association does not adequately explain the demands made by the ILO supervisory bodies in respect of Decree No. 24. The Decree (like section 388 of the Labour Code) in no way undermines the right to strike. Decree No. 24 concerns one specific aspect of this issue – the receipt of aid from abroad for the purpose of holding a strike. The Government considers that this question is not covered by the provisions of Conventions Nos 87 or 98. Furthermore, the General Survey of 1994 of the Committee of Experts says nothing on the subject of receipt of foreign aid for the purpose of strikes.

Comments concerning the complaints received from the CDTU and the REWU

59. With regard to refusals to register the REWU organizations in Gomel, Mogilev and Rechitsa, the Government explains that the lack of legal addresses and other deficiencies in documentation are just the formal reasons for the refusal to register the REWU member organizations. The main problem is that the REWU is establishing structures that bear no resemblance to trade union organizations. As before, the REWU is setting up primary organizations with members who not only have no link with the radio and electronics industry, but have absolutely no common interests at all as regards their occupational activities. Trade unions have fairly broad discretion under the Belarusian legislation in determining their own membership and structures. However, the existence of shared occupational interests among trade union members is a fundamental condition under the terms of section 1 of the current Law on Trade Unions.
60. The search of the CDTU office carried out on 6 December 2007 by the Ministry of Internal Affairs was approved by the public prosecutor. At the time of the search, information had been received that a printing and copying device known as a risograph was in use at the CDTU office in violation of the current legislation, according to which, use of such a machine requires authorization from the Ministry of Communications and Information. No

such authorization had been obtained. Over 5,000 leaflets were seized during the search. According to the statement made by the CDTU Chairperson, the risograph had been given by an ILO project when it ended in November 2003. No attempt had been made to comply with the requirements of legislation. Therefore, during the search, the risograph was seized. Messrs Sergeenko and Makaev, who had used offensive language towards police officials during the search, were charged with administrative offences. As regards the unlawful use of the risograph, the Leninsky district court in the city of Minsk instituted administrative proceedings. However, the case was dropped on 21 February 2008 following the adoption, on 1 January 2008, of amendments to the relevant legislation, removing the risograph from the list of equipment for which authorization is required. On 1 April 2008, the risograph was returned to the CDTU.

61. The Soligorsk district Public Prosecutor's Office examined an appeal from Mr Korobov concerning the alleged infringement of his rights by the management of "Belaruskaliy" enterprise when it prevented him from visiting the executive body of the primary organization of the BITU, which is located in the company's administrative building. The investigation established that Mr Korobov, who had previously worked at "Belaruskaliy", had used the pass originally issued to him and which he had failed to hand in after his dismissal. On his next visit to the company premises, he presented his old pass and was stopped by the head of security. The pass was confiscated and Mr Korobov was advised to apply to the appropriate department for a visitor's pass but declined to do so. Mr Korobov worked at "Belaruskaliy" enterprise from 1984 to 2001. From 2001 to 2004, he was released to perform trade union work for the BITU. In 2004, Mr Korobov was elected president of the BITU. Following his discharge from the enterprise in accordance with the established procedure, his permanent pass was cancelled. According to the enterprise administration, Mr Korobov had visited the enterprise company using visitors' passes on a number of occasions, without hindrance.
62. According to information from the Ministry of Internal Affairs, on 9 March 2008, the main administration for internal affairs of the Minsk City executive committee received information from the inhabitants of the building at 80 Yakubov street that a large group of young people had gathered in the stairwell with the apparent intention of entering apartment No. 80 (the CDTU office). At 1.30 p.m., police officials arriving at the address found a group of 32 young people (aged between 17 and 27 years) on the premises. They were unable to confirm their membership of the CDTU and refused to give any reasons for their presence in such large numbers. There were no CDTU officials or staff in the office. The individuals in question were taken for identification to the Leninsky district administration for internal affairs. Subsequent inquiries revealed that all of them were activists of the Molodoy Front ("Youth Front"), a non-registered youth organization. Some 21 of them were unemployed and not enrolled in training or study, and two of them were high school students.
63. In its communication dated 13 November 2008, the Government transmits observations in relation to the 12 September 2008 communication of the REWU.

D. The Committee's conclusions

64. *The Committee notes the information submitted by the Government and the complainants in respect of the implementation of the recommendations of the Commission of Inquiry as well as the new allegations of violation of trade union rights and the reply thereon by the Government.*
65. *The Committee recalls that one of the key recommendations of the Commission of Inquiry concerned the right for organizations outside of the FPB structure to register their organizations. The Committee also recalls that further to the trade union organizations*

mentioned in the 2004 report of the Commission, it continued to note with concern new cases of non-registration (recommendations (a)–(c)). In this regard, the Committee deeply regrets that no information was provided by the Government in respect of the steps taken to ensure the immediate registration of the primary-level organizations that were the subject of the complaint and to ensure that the workers in those enterprises where the primary-level organizations have been wound down are rapidly and duly informed of their right to form and join organizations of their own choosing without interference and that the registration of any such newly created organization is rapidly effectuated. The Committee therefore once again reiterates its request.

66. With regard to the Committee's request to register primary organizations of the BFTU so as to ensure registration of its three regional organizations in Mogilev, Baranovichi and Novopolotsk-Polotsk, as well as its request to reconsider cases of denial of registration of the REWU Grodno city primary trade union organization and the REWU primary trade union of "Avtopark No. 1" and to provide information on the registration of the REWU Mogilev city primary trade union, the Committee regrets to note that besides the Novopolotsk-Polotsk organization, which, according to the Government has been registered since 2000, only the REWU Grodno city primary trade union has been registered since the last examination of this case by the Committee. Furthermore, the Committee notes new allegations of denial of registration of the REWU organizations in Gomel, Smolevichi and Rechitsa and of the Belarusian trade union of individual entrepreneurs "Razam", a partner organization of the CDTU. With regard to "Avtopark No. 1" primary trade union, the Committee notes that the Government reiterates its previous argument to the effect that, contrary to the REWU's by-laws, less than half of trade union members were present at the meeting held for the purpose of establishing the union and that the workers of "Avtopark No. 1" could not be the members of the REWU primary trade union as they were not employed in the radio-electronics industry. In this respect, the Committee recalls that the amendments of January 2006 to the REWU's by-laws were aimed at opening membership to workers employed in the automobile and agricultural machinery sector. With regard to the Mogilev BFTU organization and possibly, the Baranovichi one, the Committee understands that as previously, these organizations cannot register due to the non-registration of their primary organizations. The main obstacle to registration of the BFTU and the REWU organizations is the absence of legal address. While noting the Government's indication that with the adoption of the new Law on Trade Unions, the provisions of Decree No. 2 will cease to have effect, the Committee regrets to note that in the meantime, the legal address requirement continues to hinder the establishment and functioning of trade unions despite the recommendation of the Commission of Inquiry to amend the relevant provisions of the Decree, its rules and regulations so as to eliminate any obstacles that might be caused by this requirement. The Committee urges the Government to take the necessary measures to ensure that all of the abovementioned cases of non-registration are reconsidered by the registering authorities without delay and requests the Government to keep it informed in this respect. The Committee further requests the Government to provide information on the decision taken in respect of the registration of the "Razam" organization.
67. With regard to the process of drafting of a new law on trade unions, the Committee notes the information provided by the Government that, following an ILO mission in June 2007, the Government decided to hold back the draft Law on Trade Unions and had indicated that the new legislation would be developed in consultation with the social partners concerned. The Committee expects that the final law will be in full conformity with the provisions of Conventions Nos 87 and 98. It requests the Government to keep it informed of any progress in this respect. In light of the fact that the requirement of legal address, as provided for in Decree No. 2, continues to pose difficulties with the registration of trade unions, the Committee once again requests the Government to take the necessary measures

to immediately amend the Decree, pending the drafting of the new trade union legislation. The Committee requests the Government to keep it informed in this respect.

68. The Committee expresses concern at the new allegations of interference and anti-union pressure by the authorities submitted by the REWU and the CDTU, including allegations of arrest and detention of trade union leaders and members (Messrs Roman and Kovalevsky of the REWU, Messrs Korban, Stepanenko, Bogdanovich and Klyuev of the BFTU, Mr Sergeenko of the CDTU and 32 young activists of the BFTU and the FMWU), alleged beating of Mr Beresnev, the REWU activist, alleged KGB pressure on the REWU organizations in Mogilev, confiscation of 281 copies of the Polish trade union newspaper and imposition of penalty on the BITU activist for its improper handling from Poland and the search of the CDTU's office. The Committee regrets that with the exception of the search of the CDTU's office and the incident of 9 March 2008 when 32 young trade unionists were brought to the police station, no other information was provided by the Government. The Committee requests the Government to ensure that an independent investigation into all of these new allegations of interference and pressure is carried out without delay by a body having the confidence of all parties concerned. If it is found that the above alleged measures were taken against trade unionists for having exercised their trade union rights or their participation in legitimate trade union activities, the Committee expects that those who suffered from anti-union measures will be fully compensated and that appropriate instructions will be given to the relevant authorities so as to avoid any recurrence of such acts.
69. The Committee further notes with deep regret the new allegations of interference, anti-union pressure and anti-union discrimination against BITU members at "Polymir" company and "Grodno Azot", BFTU leaders at the Brest State Pedagogical University and dismissals of Messrs Moskalenko, Baranov and Kuptsov, members of the REWU from "Avtopark No. 1", dismissal of Mr Askerko, REWU activist from "Frebor" enterprise and non-renewal of contract with Mr Beresnev, REWU founder at "Belarusneft-Osobino" enterprise. The Committee further regrets that no information has been provided by the Government in respect of the independent investigation into the alleged anti-union discrimination at "Mogilev ZIV" and "Avtopark No. 1". The Committee notes that according to the information provided by the REWU, Mr Shvedov, dismissed on 31 May 2006 from the latter enterprise lost his case for reinstatement before the Gomel Regional Court and was still without a job. While noting the Government's information on the measures taken to implement the relevant recommendations of the Commission of Inquiry (in particular, June 2008 seminar on anti-union discrimination with the participation of representatives of trade unions, representatives of the Ministry of Justice and the Ministry of Labour and Social Protection, judges and prosecutors, and the use of the Council for the Improvement of Legislation in the Social and Labour Spheres to discuss the relations between trade unions and employers at the enterprise level), the Committee considers that the measures taken so far by the Government are insufficient. The Committee notes, in particular, that the complainant organization, the CDTU, considers that the Council fails to play an effective role in eliminating violations of trade union rights. The Committee therefore continues to urge the Government to pursue more vigorously, on the one hand, the instructions to be given to enterprises in a more systematic and accelerated manner so as to ensure that enterprise managers do not interfere in the internal affairs of trade unions and on the other, instructions to the Prosecutor-General, Minister of Justice and court administrators that complaints of interference and anti-union discrimination shall be thoroughly investigated. The Committee further requests the Government to carry out an independent investigation into all alleged instances of interference and anti-union discrimination at "Polymir", "Grodno Azot", "Frebor", "Belarusneft-Osobino", "Avtopark No. 1" and "Mogilev ZIV" companies, and the Brest State Pedagogical University and to keep it informed in this respect.

70. *The Committee notes the allegations of interference and anti-union pressure submitted by the REWU in respect of its members at “Riona” enterprise in its communication of 12 September 2008 and the Government’s recent reply thereto (13 November 2008) which it will examine once a translation is available.*
71. *With regard to the Committee’s request to immediately redress the situation of those workers who have suffered consequences for cooperating with the Commission of Inquiry and, specifically, Messrs Gaichenko, Dukhomenko, Obukhov, Shaitor and Sherbo, the Committee regrets that no new information was provided and therefore once again reiterates its previous request. With regard to Mr Stukov, while once again noting the Government’s indication that he was rehired in the same post a little over a month after his dismissal, the Committee requests the Government to clarify whether the rights and benefits acquired through his years of employment were maintained.*
72. *As regards the Government’s comments with respect to the long-standing request by the Committee and the Commission of Inquiry for the amendment of Decree No. 24 concerning the use of foreign gratuitous aid and, in particular, its consideration that the question of the receipt of aid from international organizations of workers and employers for the purpose of holding a strike is not covered either by Convention No. 87 nor by the principles of the Committee of Experts on the Application of Conventions and Recommendations, the Committee points out that its mandate consists in determining whether any given legislation or practice complies with the principles of freedom of association and collective bargaining laid down in the relevant Conventions [see **Digest of decisions and principles of the Freedom of Association Committee**, fifth edition, 2006, para. 6]. Within this mandate, the Committee has been examining this question since 2001. In its last examination of this case [see 345th Report, para. 96], the Committee recalled that its concerns were twofold: (1) employers’ and workers’ organizations should not be required to obtain approval for receipt of international financial assistance for activities relating to the nature of their organizations; and (2) such assistance should not be prohibited as far as it concerns the legitimate activities of employers’ and workers’ organizations. The Committee recalled in this regard that it had always recognized the right to strike by workers and their organizations as a legitimate means of defending their economic and social interests. In addition, while purely political strikes do not fall within the scope of the principles of freedom of association, trade unions should be able to have recourse to protest strikes, in particular where aimed at criticizing a government’s economic and social policies [see **Digest**, op. cit., paras 521 and 529]. The Committee therefore once again urges the Government to take the necessary measures to amend Decree No. 24 so as to ensure that employers’ and workers’ organizations may benefit freely, and without previous authorization, from the assistance which might be provided by international organizations in order to carry out activities, including strikes, in line with the nature of their organizations and the abovementioned principles. It requests the Government to keep it informed of the measures taken in this regard.*
73. *The Committee regrets that no measures have been taken by the Government to amend the Law on Mass Activities. The Committee further expresses its concerns at the allegations of repeated refusals of authorization requested by the complainant trade unions to hold pickets and meetings. The Committee recalls that protests are protected by the principles of freedom of association and that permission to hold public meetings and demonstrations, which is an important trade union right, should not be arbitrarily refused [see **Digest**, op. cit., para. 142]. The Committee requests the Government to conduct independent investigations into the alleged cases of refusal to hold pickets and meetings and to bring the attention of the relevant authorities to the right of workers to peaceful demonstration to defend their occupational interests and to keep it informed in this respect. Furthermore, the Committee once again urges the Government to take the necessary measures to immediately amend the Law on Mass Activities so as to bring it into line with the right of*

employers' and workers' organizations to organize their activities and to keep it informed of the measures taken in this respect.

- 74.** *While noting some positive steps taken by the Government, the Committee regrets that the current situation in Belarus still remains far from ensuring full respect for freedom of association and that several recommendations of the Commission of Inquiry have still not been implemented. The Committee therefore once again calls upon the Government to continue its cooperation with the Office, as well as social dialogue with all partners, including the trade unions outside of the FPB, to implement all the recommendations of the Commission of Inquiry and ensure that any legislative changes will conform to this objective.*

The Committee's recommendations

- 75.** *In the light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:*

- (a) The Committee urges the Government to provide information in respect of the steps taken to ensure the immediate registration of the primary-level organizations that were the subject of the complaint and to ensure that the workers in those enterprises where the primary-level organizations have been wound down are rapidly and duly informed of their right to form and join organizations of their own choosing without interference and that the registration of any such newly created organization is rapidly effectuated.*
- (b) The Committee urges the Government to take the necessary measures to ensure that the cases of non-registration of the BFTU organizations in Mogilev and Baranovichi, including their primary-level trade unions, as well as Mogilev city primary organization, "Avtopark No. 1" and "Ental" primary organizations in Gomel, Smolevichi primary trade union and Rechitsa district trade union of the REWU are reconsidered by the registering authorities without delay. The Committee further requests the Government to provide information on the decision taken in respect of the registration of the "Razam" organization.*
- (c) The Committee expects that the Law on Trade Unions will be in full conformity with the provisions of Conventions Nos 87 and 98. Pending the drafting of the new trade union legislation, in the light of the fact that the requirement of legal address, as provided for in Decree No. 2, continues to pose difficulties with the registration of trade unions, the Committee once again requests the Government to take the necessary measures to immediately amend the Decree.*
- (d) The Committee requests the Government to ensure that an independent investigation into all of the new allegations of interference and pressure is carried out without delay by a body having the confidence of all parties concerned. If it is found that the alleged measures were taken against trade unionists for having exercised their trade union rights or their participation in legitimate trade union activities, the Committee expects that those who suffered from anti-union acts will be fully compensated and that appropriate instructions will be given to the relevant authorities so as to avoid any recurrence of such acts.*

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- (e) *The Committee continues to urge the Government to pursue more vigorously, on the one hand, the instructions to be given to enterprises in a more systematic and accelerated manner so as to ensure that enterprise managers do not interfere in the internal affairs of trade unions and, on the other, instructions to the Prosecutor-General, Minister of Justice and court administrators that complaints of interference and anti-union discrimination shall be thoroughly investigated. The Committee further requests the Government to ensure an independent investigation into all alleged instances of interference and anti-union discrimination at “Polymir”, “Grodno Azot”, “Frebor”, “Belarusneft-Osobino”, “Avtopark No. 1” and “Mogilev ZIV” companies, and at the Brest State Pedagogical University.*
- (f) *The Committee urges the Government to immediately redress the situation of those workers who have suffered consequences for cooperating with the Commission of Inquiry and refers specifically in this respect to Messrs Gaichenko, Dukhomenko, Obukhov, Shaitor and Sherbo. It further requests the Government to clarify whether the rights and benefits acquired through Mr Stukov’s years of employment were maintained.*
- (g) *The Committee requests the Government to indicate the measures taken to implement the recommendations made by the United Nations Special Rapporteur on the independence of judges and lawyers.*
- (h) *The Committee once again urges the Government to take the necessary measures to amend Decree No. 24 so as to ensure that employers’ and workers’ organizations may benefit freely, and without previous authorization, from the assistance which might be provided by international organizations in order to carry out activities, including strikes.*
- (i) *The Committee requests the Government to conduct independent investigations into the alleged cases of refusal to hold pickets and meetings and to bring the attention of the relevant authorities to the right of workers to peaceful demonstration to defend their occupational interests.*
- (j) *The Committee once again urges the Government to take the necessary measures to immediately amend the Law on Mass Activities so as to bring it into line with the right of employers’ and workers’ organizations to organize their activities.*
- (k) *The Committee requests the Government to provide full details on the steps taken to implement the above recommendations.*

- (l) The Committee calls upon the Government to continue its cooperation with the Office, as well as social dialogue with all partners, including the trade unions outside of the FPB, to implement all the recommendations of the Commission of Inquiry and ensure that any legislative changes will conform to this objective.***

Geneva, 14 November 2008.

(Signed) Professor Paul van der Heijden
Chairperson

Point for decision: Paragraph 75.