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NINTH ITEM ON THE AGENDA

Reports of the Committee on Freedom of Association

366th 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 1 and 2 November 2012, 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 361st Report (May–June 2011), which was approved by the Governing Body at its 311th Session.
3. On that occasion, the Committee made the following recommendations:
 - (a) The Committee regrets that, despite the time that has elapsed since the previous examination of this case, the Government has not replied to the Committee's previous recommendations and to the new allegations of violations of freedom of association rights in the country, although it has been invited on several occasions, to present its comments and observations on the case. The Committee urges the Government to be more cooperative in the future.
 - (b) The Committee once again 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.
 - (c) 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 in consultation with the social partners.
 - (d) The Committee urges the Government to take the necessary measures to ensure that all cases of non-registration of the BITU primary organization at "Delta Style" and REWU primary organizations in Mogilev, Gomel and Vitebsk are reconsidered by the registering authorities without delay and requests the Government to keep it informed in this respect. The Committee also requests the Government to provide a copy of the Supreme Court decision on the refusal to register "Razam" organization.
 - (e) The Committee requests the Government to ensure that an independent investigation into all outstanding and 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.

- (f) 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”, “Mogilev ZIV”, “Delta Style”, “Belaeronavigatsia”, “MLZ Universal” and “Belaruskaliy” companies, and at the Brest State Pedagogical University.
- (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 provide its observations on the BITU allegation concerning detention of the chairperson of its Soligorsk regional organization.
- (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 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.
- (l) The Committee requests the Government to examine the cases of alleged denial of facilities to trade unions and its leaders with a view to determining the violations of the legislation or any agreement concluded in this respect, and to take the necessary measures of redress. Furthermore, when following this examination, it has been determined that no agreement with regard to allocation of premises had been concluded between a union and an employer, the Committee requests the Government to take the necessary measures in order to encourage the parties to find a mutually acceptable solution. The Committee requests the Government to keep it informed in this respect.
- (m) The Committee urges the Government to take the necessary measures to ensure that all of the alleged instances of violation of trade union rights are brought to the attention of the tripartite Council without further delay and requests the Government to keep it informed of the outcome of the discussions.
- (n) It expects that the Government will provide full details on the steps taken to fully implement all outstanding recommendations without further delay.
- (o) The Committee urges the Government to intensify its efforts to ensure that freedom of association and collective bargaining are fully and effectively guaranteed in law and in practice and expects that the Government will intensify its cooperation with the Office, as well as social dialogue with all partners, including the trade unions outside of the FPB, to implement without delay all the recommendations of the Commission of Inquiry and ensure that any legislative changes will conform to this objective.

4. The Congress of Democratic Trade Unions (CDTU) submitted new information relating to the recommendations of the Commission of Inquiry in communications dated 15 February and 27 June 2012.

5. In light of the time that has elapsed since its previous examination of this case and the additional information provided by the national trade unions, at its meeting in May–June 2012 [see 364th Report, para. 13], the Committee requested the Government to send its observations as a matter of urgency so that they could examine the follow-up measures taken with respect to the recommendations of the Commission of Inquiry at its next meeting. To date, no observations have been provided by the Government.
6. The Committee has examined the new allegations submitted by the CDTU. 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

7. In its communications dated 15 February and 27 June 2012, the CDTU alleges that its leader, Mr Yaroshuk, was summoned to the Office of the Prosecutor-General on 14 February 2012 to give explanations with regard to the statement he made concerning the possibility for the European Union (EU) to boycott Belarusian goods due to continuing violations of trade union rights in the country. The Head of the Department for Supervision over the Application of Legislation and Legitimacy of Legal Acts and two other prosecutors have officially warned Mr Yaroshuk that his statement can be qualified under section 361(2) of the Criminal Code as “appeals addressed to a foreign state, foreign or international organization to commit acts in prejudice of external security of the Republic of Belarus, its sovereignty, territorial integrity, national security and defence, or distribution of materials containing such appeals”; and/or, under section 369(1) of the Code as “passing on to a foreign state, foreign or international organization, misleading information on political, economic, social, military or international situation of Belarus or its authorities (discrediting the Republic of Belarus)”. These actions are punishable by imprisonment from two to five years. Mr Yaroshuk stayed in the Prosecutor’s Office for three hours during which time he explained that the threat of boycott of Belarusian goods in the EU market was not directly linked to his statement, but was a consequence of long-term and systematic violations of human and trade union rights, as well as the unwillingness of the authorities to comply with Conventions Nos 87 and 98. The CDTU leader stressed that the international trade union movement and the ILO were well aware of the situation in Belarus and followed developments closely and with growing concern, including the situation of the newly created independent trade union organization at the “Granit” company in Mikashevichi, the members of which are denied freedom of association rights.
8. With regard to the “Granit” case, the CDTU provides the following information. At the end of 2011, workers of that enterprise decided to establish an alternative and independent trade union in protest against low wages, the contemptuous and degrading attitude of the management towards workers, and the inaction of the official trade union. On 24 December 2011, workers held a constituent assembly establishing a primary trade union organization of the Belarusian Independent Trade Union (BITU) in accordance with the BITU by-laws. Mr Stakhaevich, a driver, was elected President of the primary trade union. The BITU executive sent an official communication to the enterprise management informing them that a primary trade union had been established at the company and requesting that it be provided with a legal address required for the registration of the organization with the local authorities. In response to its request, the union received a letter dated 24 January 2012, in which the management of the company refused to consider the issue because the trade union had allegedly failed to provide the complete set of documents concerning the establishment of the primary organization. The BITU sent another written request for a legal address in which it stated that the actions of the management were

illegal. It received a reply dated 2 February 2012, which contained obscure explanations and demonstrated that the employer did not intend to provide the organization with a legal address.

9. Letters sent by the BITU executive to the Ministry of Architecture and Construction and the Ministry of Justice concerning the provision of a legal address to its primary organization failed to yield results. The CDTU states that the replies from the authorities demonstrate that the requirement laid down in the legislation that a legal address be provided in order to formally register trade union entities (primary organizations) remains an insurmountable obstacle for trade unions. The CDTU indicates that it has proved very difficult for the organization to find other locations in Mikashevichy for the purpose of having a legal address. Landlords refuse to rent offices to the BITU organizations because they fear pressure and obstruction to their commercial activities from the local authorities. The complainant points out that the ILO supervisory bodies' recommendation to amend Presidential Decree No. 2 in order to remove any other obstacles connected with the requirement for a legal address has yet to be implemented.
10. The CDTU further alleges that the "Granit" management, local authorities, the Ministry of Internal Affairs and the Committee for State Security (KGB) have launched a massive campaign to obstruct the organization's activities and to persecute its members and leadership. The local branch of the State Automobile Inspectorate issued an unfounded decision suspending Mr Stakhaevich's driving licence for a period of six months, accusing him of causing an accident. However, this accident was not confirmed by any victims or witnesses. Following the court's decision to suspend Mr Stakhaevich's licence, the management of the company began a procedure for his dismissal. His employment contract was terminated under section 42(3) of the Labour Code which regulates the situation where an employee "is not suitable for carrying out the duties for which he or she was hired owing to insufficient qualification preventing him or her from continuing to perform such duties". According to section 43(1) of the Code, an employment contract can be terminated on the grounds stated in section 42(2) if it is not possible to transfer the worker, with his or her consent, to another job (including with retraining). According to the CDTU, in a planned act of retaliation against the union leader, the employer ignored Mr Stakhaevich's request to be transferred to the position of category VI assistant drill operator following retraining and illegally dismissed him.
11. The CDTU filed a lawsuit with the Luninets District Court in Brest Region on behalf of Mr Stakhaevich against the company to have the union's President reinstated, recover the wages lost during his forced absence and to oblige the company to transfer him. On 11 April 2012, the court ruled against the claims made on behalf of Mr Stakhaevich. On 31 May 2012, the judicial board for civil cases of the Brest Regional Court upheld the original ruling of the Luninets District Court and dismissed the cassation appeal filed by the CDTU. The case is currently going through the process of supervisory appeal.
12. The complainant also alleges that, since the establishment of the BITU primary organization, the company has also dismissed, on false pretexts, Mr Karyshev, Vice-President of the organization, and Mr Pavlovski, a member of its executive board. The Luninets District Court ruled against their reinstatement. The civil cases are in the process of cassation appeal. On 8 June 2012, Mr Pashechko, a member of the BITU, testified in Luninets District Court in Mr Karyshev's reinstatement case. Following the court case, the department foreman, openly and in the presence of witnesses, swore that Mr Pashechko would also soon lose his job. On 22 June 2012, Mr Pashechko arrived at work to discover that he had been dismissed under section 42(4) of the Labour Code for systematic failure to perform duties without a valid reason. According to the CDTU, the dismissal of the BITU member took place in the most flagrant violation of labour

legislation. Mr Pashechko had worked at the company for nine years without any complaint against him. The union intends to file a court case to have him reinstated.

13. Finally, the CDTU alleges that, on 25 June 2012, the enterprise management attempted to have Mr Stakhaevich's brother, Sergey, dismissed for allegedly coming to work inebriated. Mr Sergey Stakhaevich, assistant excavator at the train loading department of the crushing and sorting factory, worked the first shift on 25 June 2012. Shortly after the start of work, the supervisor told him that he had to undergo a medical examination. He was escorted by the company security guards to the town clinic, where he was examined and found "not to be under the influence of alcohol or drugs". He was then taken to work where the security guards handed a copy of the report to the supervisor. However, the supervisor did not allow him to work and tried to force him to write a note explaining the condition he was in, and also tried to make other workers sign a prepared statement to the effect that Mr Stakhaevich was presumed to be under the influence of alcohol, drugs or other substances. The workers categorically refused to sign the false document. After lengthy arguments, Mr Stakhaevich was allowed to return to work. The complainant considers that these cases of discrimination against workers on the grounds of belonging to an independent trade union demonstrate that the authorities and the management of the company will stop at nothing to eliminate the BITU's primary organization from the "Granit" enterprise.

C. The Committee's conclusions

14. *The Committee deeply regrets that, despite the time that has elapsed since the previous examination of this case, the Government has once again failed to reply to the Committee's previous recommendations and to the new allegations of violations of freedom of association rights in the country, although it has been invited on several occasions to present its comments and observations on the case. The Committee is deeply concerned by the Government's lack of cooperation in providing information on the follow-up given to the Commission of Inquiry recommendations, which it had accepted, and urges it to be more cooperative in the future.*
15. *The Committee notes the information submitted by the complainant 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. The Committee further notes the discussions on this subject that took place in the Conference Committee on the Application of Standards in June 2011. It further notes the latest observations of the Committee of Experts on the Application of Conventions and Recommendations (CEACR) which examined the measures taken by the Government to implement the recommendations of the Commission of Inquiry. It observes with concern the deep regret expressed by the CEACR that no progress had been made by the Government in this regard.*
16. *In view of the absence of the Government's reply, the Committee is bound to reiterate its previous recommendations. It expects that the Government will provide full details on the steps taken to fully implement all outstanding recommendations without further delay.*
17. *The Committee recalls that one of the key recommendations of the Commission of Inquiry concerned the right for organizations outside the structures of the Federation of Trade Unions of Belarus (FPB) to register their organizations. It 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 (b) and (d)). With regard to the refusal to register the BITU primary trade union at the "Delta Style" enterprise, the Committee notes that, according to the information provided by the Government to the CEACR, the decision to deny registration to the BITU primary trade union organization was due to the process of liquidation of the undertaking and its merger*

with the “Kupalinka” enterprise that occurred on 27 April 2011 [see 2011 observation on the application of Convention No. 87]. Like the CEACR, the Committee considers that the restructuring of an enterprise, including by way of merger, should not preclude the right of workers to establish a trade union of their own choosing. It requests the Government to indicate whether the BITU has applied for the registration of its primary trade union at the “Kupalinka” and, if so, the outcome of the registration procedure.

18. The Committee recalls that one of the main obstacles to the registration of independent trade unions was the absence of legal address. The Committee notes with concern the CDTU’s new allegation that the management of the “Granit” enterprise refuses to provide a newly established BITU primary organization with the legal address required, pursuant to Presidential Decree No. 2, for registration of trade unions and their entities and that other landlords refuse to rent offices to the BITU organizations because they fear pressure and obstruction to their commercial activities from the local authorities. The Committee requests the Government to provide its observations thereon.
19. The Committee regrets to note, in this regard, that 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 Decree No. 2, its rules and regulations so as to eliminate any obstacles that might be caused by this requirement. Noting with deep regret that, despite the numerous requests by the ILO supervisory bodies, there have been no tangible measures taken by the Government to amend the Decree, nor have there been any concrete proposals to that effect, the Committee once again urges the Government to take the necessary steps to amend Decree No. 2 in consultation with the social partners so as to ensure that the right to organize is effectively guaranteed. The Committee requests the Government to indicate all measures taken in this respect.
20. The Committee recalls that it had previously expressed concern at the allegations of interference and anti-union pressure by the authorities submitted by the Radio and Electronic Workers’ Union (REWU), the CDTU and the BITU, including allegations of arrest and detention of trade union leaders and members, beating of a REWU activist, KGB pressure on the REWU organizations in Mogilev, etc. [see 352nd Report, para. 68] as well as the allegations of a search of REWU’s regional organization’s office in Brest and seizure of its computers, documents and seal and a physical attack on the chairperson of the BITU primary trade union at “Belshina” by the agents of the State Inspectorate for Animal and Plant Protection [see 361st Report, para. 29]. The Committee notes with concern the new allegation submitted by the CDTU regarding the summoning of Mr Yaroshuk, its Chairperson, to the Office of the Prosecutor-General on 14 February 2012 to give explanations with regard to the statement he made concerning the possibility for the EU to boycott Belarusian goods due to continuing violations of trade union rights in the country. The CDTU explains that, pursuant to the legislation in force, Mr Yaroshuk’s statement can be qualified under section 361(2) of the Criminal Code as an appeal addressed to a foreign state, foreign or international organization to commit acts in prejudice of external security of the Republic of Belarus, its sovereignty, territorial integrity, national security and defence or/and, under section 369(1) of the Code as an act of discrediting the Republic of Belarus. These acts are punishable by imprisonment from two to five years. The Committee recalls that the right to express opinions, through the press or otherwise, is an essential aspect of trade union rights and that the freedom of expression, which should be enjoyed by trade unions and their leaders, should also be guaranteed when they wish to criticize the Government’s economic and social policy [see **Digest of decisions and principles of the Freedom of Association Committee**, fifth (revised) edition, 2006, paras 155 and 157]. The Committee urges the Government to provide its observations on the above allegation.

21. *The Committee recalls that it had previously requested the Government to carry out an independent investigation into the alleged instances of interference, pressure and anti-union discrimination, particularly through threats of non-renewal of fixed-term contracts, at “Polymir”, “Grodno Azot”, “Frebor”, “Belarusneft-Osobino”, “Avtopark No. 1” and “Mogilev ZIV”, “Delta Style”, “Belaeronavigatsia”, Rail Transport Directorate of “Belaruskaliy”, and “MLZ Universal” companies, and the Brest State Pedagogical University. In the absence of the Government’s reply, the Committee notes the following information contained in the 2011 CEACR observation on the application of Convention No. 98:*

... The [CEACR] notes that with regard to the allegations concerning Mozyr Oil Refinery, the Government indicates that there are two primary trade unions at the enterprise: one is affiliated to the [FPB] and the other, to the BITU. According to the Government, sometimes workers change their affiliation from one union to the other, and in the period from 2009 to March 2011, 648 workers (some of whom were members of the BITU-affiliated union) left the enterprise for various reasons. With regard to the “Grodno Azot” company, the Government indicates that the allegations have been investigated by the Prosecutor’s office on two occasions and that the allegations of pressure have not been confirmed. With regard to Bobruisk Plant of Tractor Parts and Units and Minsk Automated Lines company, the Government indicates that both the BFTU and BITU primary trade unions are signatories to the respective enterprises’ collective agreements alongside the FTUB-affiliated unions.

*The Committee notes the information provided by the Government with respect to the use of fixed-term contracts. In this respect, it notes with **concern** allegations contained in the 2011 CDTU communication to the effect that short term contracts at the company level are used by employers to fight independent trade unions and that under this system, numerous trade union activists have been dismissed and that the courts consistently dismiss such cases. The Committee considers that not only dismissal, but also non-renewal of a contract, when imposed as a result of trade union membership or legitimate trade union activities, would be contrary to the principle that no person should be prejudiced in his or her employment by reason of trade union membership or activities.*

*The Committee **regrets** that the Government provides extremely limited information with regard to the alleged cases of anti-union discrimination and interference at the abovementioned enterprises, despite the Conference Committee’s explicit request to the Government to submit, after an independent and impartial investigation, detailed observations on the allegations of anti-union discrimination, including as regards the anti-union impact of fixed-term contracts and employer interference in workers’ organizations, as well as information on any proposed amendments to the legislation to the Committee of Experts. The Committee further notes with **regret** new allegations of attempts to dissolve the BITU’s primary trade union at Mozyr Oil Refinery through pressure on its members. The Committee recalls that it had previously noted with regret that according to the CDTU, the Government refused to use the tripartite working group created by the Council to discuss in substance the issue of trade union rights’ violation. The Committee notes with **deep regret** that in this regard, the Government has not referred to any discussions on the issue of anti-union dismissals, threats, interference and pressure which had taken place at the tripartite Council within the reporting year.*

22. *The Committee notes with concern new allegations of anti-union dismissals and pressure occurred at the “Granit” enterprise. It notes, in particular, that three leaders of the newly established BITU primary trade union – Mr Stakhaevich, President, Mr Karyshev, Vice-President, and Mr Pavlovski, member of the executive board – have been dismissed. While noting that their reinstatement cases are currently pending, the Committee requests the Government to provide its observations on the alleged anti-union dismissals without delay, as well as all relevant court decisions regarding these cases.*
23. *The Committee requests the Government to ensure that an independent investigation into all outstanding and 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.

24. *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”, “Mogilev ZIV”, “Belaeronavigatsia”, “MLZ Universal”, “Belaruskaliy” and “Granit” companies, and at the Brest State Pedagogical University.*
25. *The Committee recalls that it had previously noted with concern the BITU allegation that following a refusal by the “Delta Style” company’s management to authorize a trade union meeting, the Chairperson of its Soligorsk regional organization met with several women workers (on their way to their workplaces) near the entrance. Following this event, the Chairperson was detained by the police on 4 August 2010 and subsequently found guilty of committing administrative offence and fined. According to the BITU, the court had decided that having met members of the union near the entrance gate of the company, the trade union leader had violated the Law on Mass Activities. The Committee once again requests the Government to provide its observations in this respect. Furthermore in this connection, the Committee recalls that for a number of years it has been requesting the Government to amend the Law on Mass Activities and regrets that no information has been provided by the Government on concrete measures taken in this respect. Referring to its previous examinations of the case, the Committee once again requests the Government to conduct independent investigations into the alleged cases of refusal to authorize the BITU and the REWU 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.*
26. *The Committee urges the Government to take the necessary measures to ensure that all of the abovementioned alleged instances of violation of trade union rights are brought to the attention of the tripartite Council for the Improvement of Legislation in the Social and Labour Sphere (“the Council”) without further delay and requests the Government to keep it informed of the outcome of the discussions.*
27. *The Committee once again must observe with regret that no substantial progress has been made by the Government towards implementing the recommendations of the Commission of Inquiry and improving the situation of trade union rights in the country. The Committee urges the Government to intensify its efforts to ensure that freedom of association is fully and effectively guaranteed in law and in practice and expects that the Government will intensify its cooperation with the Office, as well as social dialogue with all partners, including the trade unions outside of the FPB, to implement without delay all the recommendations of the Commission of Inquiry and ensure that any legislative changes will conform to this objective.*

The Committee's recommendations

28. *In the light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:*
- (a) *The Committee deeply regrets that, despite the time that has elapsed since the previous examination of this case, the Government has once again failed to reply to the Committee's previous recommendations and to the new allegations of violations of freedom of association rights in the country, although it has been invited on several occasions, to present its comments and observations on the case. The Committee is deeply concerned by the Government's lack of cooperation in providing information on the follow-up given to the Commission of Inquiry recommendations, which it had accepted, and urges it to be more cooperative in the future.*
 - (b) *The Committee once again 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.*
 - (c) *The Committee urges the Government to take the necessary measures to ensure that all cases of non-registration of REWU primary organizations in Mogilev, Gomel and Vitebsk are reconsidered by the registering authorities without delay and requests the Government to keep it informed in this respect. The Committee requests the Government to provide a copy of the Supreme Court decision on the refusal to register "Razam" organization and to indicate whether the BITU has applied for the registration of its primary trade union at the "Kupalinka" and if so, the outcome of the registration procedure.*
 - (d) *The Committee requests the Government to provide its observations on the alleged refusal by the company management to provide the BITU primary trade union at the "Granit" enterprise with a legal address, needed for the registration purposes, and refusals by other landlords to rent an office space to the independent trade union due to the pressure from the local authorities.*
 - (e) *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 urges the Government to take the necessary measures to amend the Decree in consultation with the social partners.*
 - (f) *The Committee urges the Government to provide its observations on the alleged summon of Mr Yaroshuk to the Office of the Prosecutor-General.*

- (g) *The Committee once again requests the Government to ensure that an independent investigation into all outstanding 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.*
- (h) *The Committee requests the Government to provide its observations on the alleged anti-union dismissals of Mr Stakhaevich, Mr Karyshev and Mr Pavlovski without delay as well as all relevant court decisions regarding their reinstatement cases.*
- (i) *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”, “Mogilev ZIV”, “Belaeronavigatsia”, “MLZ Universal”, “Belaruskaliy” and “Granit” companies, and at the Brest State Pedagogical University.*
- (j) *The Committee requests the Government to provide its observations on the BITU allegation concerning the detention of the Chairperson of its Soligorsk regional organization.*
- (k) *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 in line with the right of employers’ and workers’ organizations to organize their activities.*
- (l) *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.*
- (m) *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.*
- (n) *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.*

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- (o) *The Committee requests the Government to examine the cases of alleged denial of facilities to trade unions and its leaders with a view to determining the violations of the legislation or any agreement concluded in this respect, and to take the necessary measures of redress. Furthermore, when following this examination, it has been determined that no agreement with regard to allocation of premises had been concluded between a union and an employer, the Committee requests the Government to take the necessary measures in order to encourage the parties to find a mutually acceptable solution. The Committee requests the Government to keep it informed in this respect.*
- (p) *The Committee urges the Government to take the necessary measures to ensure that all of the alleged instances of violation of trade union rights are brought to the attention of the tripartite Council without further delay and requests the Government to keep it informed of the outcome of the discussions.*
- (q) *The Committee expects that the Government will provide full details on the steps taken to fully implement all outstanding recommendations without further delay.*
- (r) *The Committee urges the Government to intensify its efforts to ensure that freedom of association is fully and effectively guaranteed in law and in practice and expects that the Government will intensify its cooperation with the Office, as well as social dialogue with all partners, including the trade unions outside of the FPB, to implement without delay all the recommendations of the Commission of Inquiry and ensure that any legislative changes will conform to this objective.*

Geneva, 9 November 2012

(Signed) Professor Paul van der Heijden
Chairperson