

**BCDTU's OWN COMMENTS ON THE APPLICATION IN BELARUS OF THE ILO  
CONVENTIONS 87, 98  
(30 August 2010)**

***Freedom of Association and Protection of the Right to Organize Convention, 1948  
(No. 87) (ratification: 1956)  
Right to Organize and Collective Bargaining Convention, 1949 (No. 98)  
(ratification: 1956)***

*The Belarusian Congress of Democratic Trade Unions (BCDTU) has to present its comments on application in Belarus of the ILO Conventions 87 and 98 as the Government of Belarus has no tradition of sending copies of its regular reports on ratified ILO Conventions to the independent trade unions.*

*Regardless of the ILO Commission of Inquiry recommendations submitted to Belarus Government as well of numerous conclusions of the ILC Standards Committee and the ILO Governing Body the violations of trade union rights of independent unions and its members continue. The cases of new violations that follow explicitly speak for themselves.*

*All the issues raised in these comments are directly related to the recommendations of the Commission of Inquiry. The BCDTU presents its own comments as well as the information on new cases of violations of trade union rights and their members in Belarus.*

**Information on new cases of violations of the rights of workers and independent unions in Belarus registered in the period between 1 September 2009 and 1 September 2010**

**1. The management of OAO “Naftan” oil refinery and chemical company in Navapolatsk**

keeps on imposing pressure on members of primary-level union organization affiliating to the Belarusian Independent Union (BNP). On 6 October, 2009, Alyaksandr Nasedkin - the worker of the production shop No.8 of “Naftan” company - has become a member of the BNP. As soon as the accountants department began arranging transfer of his union dues, the shop manager C.I. Evtushek started immediately creating obstacles to worker's affiliation with the independent union. The worker was threatened and blackmailed by his shop manager. Finally, on November 3, 2009, Alyaksandr Nasedkin was forced to leave the independent union.

The Chairperson of the company independent union organization Ivan Svyatokha reported this case of antiunion discrimination to the company general manager and urged that the case was to be investigated and those guilty were brought to justice. No reaction on the part of the general manager was followed.

**2. Alyaksei Habriel - chairperson of Lukoml hydraulic power station primary union**

organization belonging to Belarusian Free Trade Union (SPB) – was dismissed because his contract has expired on September 30, 2009. G.N. Karaliou - the director of RUP “Vitebskenerha”, Lukoml power station's branch - in his talk to A.Habriel explained the reason why his contract was not renewed: “the question concerning your contract has already been decided on: you have been too active”.

A two year struggle of the union for its right to bargain collectively and to sign the agreement permitting the power station's free trade union to join the general company collective contract in force and to extend its performance to its members has resulted in dismissal of the union leader.

The agreement on joining the general company collective contract for the period 2007 – 2009 and extending its performance to members of free trade union of the Lukoml power station has been signed on August 6, 2009 between RUP "Vitebskenergo", power station's belonging to state controlled FPB branch union and the power station's free union organization affiliated with SPB. On behalf of the free trade union the agreement was signed by Habriel and on August 24, 2009 he was warned on the forthcoming termination of his contract.

The BCDTU went to the law and lodged complaint against antiunion discrimination of free trade union leader A.Gabriel at Chashniki district court of Vitebsk region. During the court hearings the BCDTU lawyers managed to prove that when dismissing Habriel on the occasion of his contract expiry the employer deliberately has ignored the norms of the collective contract as well as the fact that A. Habriel was the chairperson of the primary free trade union organization at Lukoml hydraulic power station.

December 18, 2009 the judge Tatsiana Zaruba has satisfied the BCDTU claim on eliminating discrimination in respect of A.Habriel as a leader of independent union organization and has obliged the employer to renew Gabriel's contract for a term of his authority as a chairperson of the primary free trade union organization.

Starting from January 1, 2010 Alyaksei Habriel has proceeded with his work. However, the employer has appealed against the decision of the court in cassation proceedings. The Chashniki prosecutor office has also protested against the court decision. As a result the case of A.Habriel was forwarded for a new court hearing to the Kastychnitski district court of Vitebsk town which would take place March 5, 2010. Thus, for the second time Alyaksei Habriel has found himself under the threat of dismissal. During the next hearing the BKDP claim was dismissed and the court of cassation has left the decision standing. On 21 May, 2010 A.Habriel has been dismissed.

**3. On January 22, 2010 the employer of OAO "Mazyr oil refinery" has blocked** the admission card belonging to Yury Shvets, chairperson of the company independent union organization. The employer demanded that union leader's permanent around the clock admission card, which he was using for many years, was substituted by a temporary and time limited admission card. Such an action is direct violation of the law on trade unions as well as of international norms ensuring union representatives the right to visit freely enterprises where members of their unions work. Moreover, the union registration documents in the local bodies of power confirm that the legal address and the location of the decision making body of the independent union of "Mazyr oil refinery" company have been registered in the territory of the company. Yury Shvets has reported in his letter to the Mazyr town prosecution office about the violation of trade union rights and, particularly, on illegal limitation of his access to workplaces where his union members work.

**4. Since the beginning of 2010 the mass pressure on members of free trade union at** Bobruisk tractor parts & components enterprise have been taking place. Managers and shop foremen aggressively offered the members of local organization affiliated to the Belarusian Free Trade Union (SPB) to fill in the pre-fabricated application forms having following content:

*To Automobile and Agricultural Machine Building Worker's Union  
(AAMBWU)\*  
At "Babruisk tractor part & components enterprise"*

*Application*

*You are requested to exclude (withdraw) me from the free trade union organization and affiliate me to the company organization belonging to the (AAMBWU) and hold back a portion equal to 1% of my wage as my trade union dues but not in favor of the free trade union.*

*Date*

## *Signature*

\*The AAMBWU is a sectoral union affiliated to the state controlled FPB.

On November 26, 2009 the Chairperson of the primary SPB organization Mikhail Kavalkou has received a letter from the Director of Babruisk tractor parts and components company notifying on early termination of rent contract in force permitting free rent of premise where the SPB primary union decision making body has its meetings. As it became known that instead of the old room the employer is going to provide a premise located in a place of the company site where access to it during the work time is practically impossible. The mentioned notification letter can be regarded as one of the forms of obstructing SPB union activity at the enterprise.

**5. The employer of Mogilev OAO “Lavsanstroi” construction company informed** that the contract with the SPB union activist Nikolai Rasiuk would not be renewed and he would be dismissed on March 5, 2010.

Besides, the Mahileu KGB department not only has kept a file on Mikalai Rasiuk but has issued official warning to him for the “numerous attempts to organize illegal mass protest actions in Mahiliou region”. On February 2, 2010 in the office room of the chief engineer of the company he was interrogated by the three KGB officers.

Mikalai Rasiuk has been working as an electrical technician at OAO “Lavsanstroi” company for seven years. In May last year when he went against the decision on his transfer from Mahiliou to one of the construction sites in Chaussy district, the employer’ representatives during court hearing qualified him as the best specialist of the construction department № 129 of OAO “Lavsanstroi” company.

The aggravation of relations between management of the company and Mikalai Rasiuk started in November 2008. On November 2008 the team where Rasiuk worked refused to resume the work after lunch break demanding payment of delayed wage. The Company management accused Mikalai Rasiuk in organizing strike. After one month he was transferred from Mahiliou to Chaussy district to work at the construction of agricultural farm. The attempts to challenge the decision in a judicial procedure have yielded no results. Nevertheless, after the strike the wages have been paid off.

Rasiuk has five and a half years left before his retirement. He was among those who participated in elimination of dramatic consequences of Chernobyl disaster.

**6. The chief of foundry shop at PRUP “Minsk automated line production”** company Alyaksandr Staravoitau has committed gross violation of labor legislation. In violation of article 87 of Labor Code of the Republic of Belarus and paragraph 3.22 of the collective agreement on 1 September, 2009 on an arbitrary basis he has reviewed the time rate and wage scale in the work orders of the pattern - shop.

The difference in amount of piecework pay as per work orders done by workers of the pattern-shop and wages paid in accordance with the wage scale established by A.Staravoitau has made up from 30.000 to 187.000 Belarusian Rubles. The change of wage scale and time rate is regarded as a change of essential conditions of work and thus the workers were to be notified on it not less than one month before. This obligation of the employer has been ignored. In conformity with paragraph 3.22 of the Collective agreement the employer is obliged to consult the union on such issues as establishment, substitution and review of work standards. It has not been done. The chairperson of company SPB union organization Alyaksandr Surau addressed the Partizanski Prosecution office of Minsk with the demand to take measures against company personal claimed guilty in violations of labor rights. The prosecution office has confirmed illegal actions of the company management and has bound it to compensate underpaid wages in full scale. For his activities on protecting rights of his union members Alyaksandr Surau has been

persecuted on the part of company management. For four months he has not been admitted to his work and has been kept in a state of downtime with a miserable pay. Moreover, Surau in line with Director's order # 40, dated 26.02.2010 has been notified that he would be dismissed 17.05. 2010 on redundancy grounds. We note that in accordance with the article 24 of the Law on trade unions if a union is a party of a collective agreement the termination of employment contract on employer's initiative with workers elected as leaders of the union organizations (not full-time union officers) can be possible only upon the agreement of the higher trade union body. The collective agreement between the management of Minsk automated line company (MZAL) and primary-level organization of Free Trade Union (SPB) says that dismissal of not full-time union activists elected to the union governing bodies can take place only upon agreement of the union governing bodies. The SPB Council of the MZAL union organization at its meeting on 24 April 2010 has decided not to give its consent and notify the employer on that. At present the dismissal of A. Surau is postponed.

**7. The members of independent union working at OOO "GrodnoAzot" chemical** company have been subjected to pressure by the management of the company since 2006 till 2009. In February 2010 a new wave of persecutions of members of primary organization of Belarusian Independent Union (BNP) at OOO "HrodnaAzot" started. Shop managers again have initiated talks with members of independent unions and forced to leave the independent union under the threat of dismissal, depriving bonus or creating obstacles during examining and confirming worker's qualification. Four workers wrote letters to the chairperson of the company independent union Syarhei Antusevich informing him on the facts of anti-union discrimination. Here are some of them.

On 10 February the shop master C.Skuba summoned the 4th category electrician Maxim Sennik and under the threat of dismissal began forcing him to leave independent union. Similar talks took place in cyclohexane shops 1 and 2 when the shop master A.Yausei forced the installation operator Arthur Bogush to leave the union, shop master A.Ostanin imposed pressure on mechanic Piotr Huretski threatening to dismiss his son Syarhei Huretski. A.Astanin gave his promise to mechanic Ivan Aushtol that he would be deprived of 100% bonus if he would refuse to leave the independent union. The mentioned facts are the gross anti-union discrimination at workplace.

**8. The judicial assembly of the Ministry of Justice by its decision dated 23 January, 2010** has refused (for the second time) registration of the Belarusian union "RAZAM" (VMESTE) which affiliates self-employed workers, workers having status of natural and legal persons. The union was refused registration on the grounds that to the opinion of the Justice Ministry "the list of founders of the union is unreliable, the minimum number of members needed for creating a union was not respected and the procedure of setting up a union was infringed".

On the contrary, all the activities and proceedings needed for registering a union were implemented in full scale. A set of documents corresponding to the legislation in force was forwarded to the Ministry of Justice.

Thus, the permissible procedure of registering trade unions keeps on going in the country contradicting the ILO Convention 87 and relevant recommendations of the ILO.

On January 23, 2010 the "RAZAM" (together) union has forwarded its complaint against the decision of the Justice Ministry to the Supreme Court of the Republic of Belarus.

It should be noted that there have been no precedents when the decisions of Justice Ministry have ever been revoked.

The state authorities in every way are opposing the development and strengthening of independent trade union movement in the country.

March 18, 2010 the judge of the Supreme Court of the Republic of Belarus Filimonihina L.Y. has issued the ruling leaving the union complaint at the decision of Justice Ministry with refusal of registering it and without further examination. The ruling was issued without any references to the legislation norms and under the vein pretext. Thus, the union "Together" (RAZAM) not only has been refused registration, but also the right to judicial protection.

**9. August 9, 2010 the Soligorsk Town Executive Council for the second time has refused to register** the BNP primary trade union organization functioning at JV "Delta Style" company. For nearly a year the town authorities and the employer have impeded legitimate activities of the BNP primary trade union organization. In the process of registration the officials demanded to provide detailed information on the founding conference. As a result, having received from the Executive Committee lists of union members, the administration of JV "Delta Style" started intimidating workers and forcing them to leave independent union. 30 workers were forced to leave the BNP. The Belarusian Congress of Democratic Trade Unions (BCDTU) has expressed its resolute protest against the repeated refusal to register BNP primary trade union organization at JV "Delta-style" company. Biased refusals to register the BNP affiliate is a deliberate blocking the legitimate union activities contradicting the ILO Convention 87 ratified by the Government of Belarus, Constitution of the Republic of Belarus and the Law "On Trade Unions" setting forth fundamental principles of establishment and function of trade union organizations.

**10. Natallia Mikhnyukevich, chairwoman of Salihorsk BNP regional organization,** while trying to meet union members of JV "Delta Style" near the entrance door of the company was detained by police on August 4, 2010.

The union leader was taken to the Salihorsk police station, where she was requested to write and explain the reason of her presence near the gate of the company. As a result the court hearing on BNP regional union leader Nataliya Mikhnyukevich was scheduled on 27 August, 2010. She was accused of illegal holding trade union meeting near the gate of the company on 4 August 2010. Natallia Mikhnyukovich has not acknowledged her guilt. Before that she addressed general director of the company with the request to hold a trade union meeting at the company and she was refused. On 4 August, 2010 while trying to meet union members of JV "Delta Style" near the entrance gate of the company she was detained by police and a protocol on administrative violation has been drawn up. Having learned about the incident all those women who earlier were forced to leave the union have come back to the union in solidarity with Mikhnyukovich.

The attempt to bring Mikhnyukevich to administrative responsibility for organizing unauthorized meeting is illegal. In accordance with the Law on Mass Actions "a meeting is a gathering of citizens on a fixed time and in the preselected place indoors or outdoors. Holding trade union meeting outdoor at a certain time was not planned by union organization of JV "Delta Style". Moreover, a union meeting has a quorum if attended by more than half of union members. Thus, the conversation of Mikhnyukevich with several women workers hurrying up to their workplaces does not fall under the jurisdiction of the Law "On Mass Actions". If action committed by Mikhnyukevich will be considered by the court as an action committed by the organizer, this may entail a fine of from 20 to 40 basic units or administrative detention.

**On 27 August, 2010 Nataliya Mikhnyukovich has been called to the court. The court after** hearing the case has found her guilty in committing administrative violation and punished her with fine amounting to 0,5 of basic units. The court has decided that having met members of the union near the entrance gate of the company Mikhnyukovich has violated the law on Mass Actions. The example with Mikhnyukevich confirms that the Belarusian court system has created

another precedent of miscarriage of justice and gross violation of the rights of a union activist. To read more, please, click here:

[http://www.praca-by.info/eng/art.php?sn\\_nid=3307](http://www.praca-by.info/eng/art.php?sn_nid=3307);

[http://www.praca-by.info/cont/art.php?sn\\_nid=3304](http://www.praca-by.info/cont/art.php?sn_nid=3304)

**11. The management of UP “LES” instrument making company has dismissed a** young worker who has affiliated to the Free Metalworkers’ Union (SPM). On February 26, 2010 the management of UP “LES” company has sent notification to the lathe operator Viacheslav Reut on termination of his contract. V.Reut was a scrupulous worker having no penalties at workplace. A month ago he has joined the company SPM union. On February 25, Chair person of the company SPM union Vasil Leuchankau has delivered applications on dues transfer from newly affiliated members to the accountant department. Next day Viachaslau Reut received notification that he had been dismissed because of termination of his contract.

The chairperson of primary SPM union organization at UP “Les” company is convinced that this case is apparent discrimination based on affiliation to independent union and was caused by active position of the SPM union during the negotiations with the employer on issues of wage increase and fair distribution of bonus.

The disturbances have begun among the workers who were indignant at director’s decision to fire Viachaslau Reut.

**12. On November 23, 2009 the worker from the Belarusian heavy-duty truck** producing company (BelAZ) Yury Loban was illegally dismissed because of termination of his contract. Yury Loban worked as a team-leader of loaders having spotless reputation and numerous management acknowledgements. He was dismissed upon termination of his contract despite the protests of team members. The dismissal of Y.Loban showed that the BelAZ management is trying to get rid of qualified workers having independent civil position. On November 24 the activists of REP union in the town of Zhodzina have organized a solidarity action and collection of signatures in defense of Y.Loban. The action was accompanied by dissemination of informational leaflets. The protest action under the title “Hands off Yuri Loban!” was brutally terminated by policemen who without clarification of essence of the event have ceased trade union informational materials. Trade union activists were detained and taken to the local police station where they have been given summons issued to their names as lawbreakers. Yury Loban was among them.

On 4 January 2010 the Zhodzina court of Minsk region having considered in open hearing the claim of Y.Loban against RUPP ”BeAZ” and on his reinstatement has taken a decision to refuse in satisfaction of his claim demands.

**13. Serious anxiety is caused by the attempts of FPB to impose on unions not affiliated** to it and on employers’ organizations its own conception of collective bargaining which discriminates unions affiliated to the BKDP and limits their right to bargain collectively.

The FPB Presidium by its Ruling dated 30 July, 2009, # 134 has adopted “Regulation on preparation of procedures, adoption and signing a collective agreements (contracts) in the organizations”. In this Regulation document the FPB, referring to the Presidential Decree # 257 dated July 15, 1995 “On development of social partnership in the Republic of Belarus” where it was recommended to conclude only one collective agreement (contract) in the organizations, determines a common and the only procedure for all the unions and employers in respect of collective bargaining. In accordance with this Regulation only the unions affiliated to the FPB can act as the initiators of collective bargaining. The FPB unions are entitled to set up a joint bargaining body and put their signatures under the text of a collective agreement (contract).

At the same time it should be emphasized that the FPB is not an organization which has the right to issue regulatory and legal acts and its documents are not entitled to state registration

and to entry into the official register of regulatory and legal acts and thus, can be applied only internally inside of the organization. However, supported by the employers and the authorities, the FPB is trying to impose the application of its regulation in companies where several unions are available and to push the unions affiliated with the BKDP out of negotiation process.

The BKDP addressed the General Prosecutor of the Republic of Belarus requesting him to give, in a manner provided by the law on procuracy supervision, legal expertise whether the norms of the FPB document “Regulation of preparation procedures, adoption and signing collective agreements in organizations” have legally binding force and are in compliance with the international and national legislation. General Prosecution Office without considering the above request has forwarded it to the Ministry of Justice which, in its turn, has also evaded its assessment of the FPB document.

Meanwhile, the Council for improvement of social and labor legislation functioning under the auspice the Ministry of Labor and Social Protection has made an attempt to impose this issue on the agenda of one of its meetings. When the BKDP refused the agenda proposed by the Ministry of Labor it has set a date for the next meeting but with an open agenda. On 26 November, 2009 the Ministry of Labor supported by employers’ organizations has insisted on considering the issue of collective bargaining in the companies where several union organizations are available. As a result, the BKDP resolutely rejected the procedure of collective bargaining proposed by the FPB as the one limiting and violating the rights of democratic trade unions.

As for the proposals of the BKDP concerning registration of union organizations, social dialogue at the companies “Naftan” and “HrodnaAzot” and preparation of a concrete time-bound plan of actions to implement the recommendations of the ILO Commission of Inquiry they practically were ignored and not considered at all.

**14. The chairperson of the SPB primary-level organization Viktor Stukau at OAO “Polatsk-Fiber glass”** company was brought to disciplinary responsibility without the consent of the union (article 24 of the Law “On Trade Unions”). The Polatsk court on 23 November, 2009 has taken a decision refusing to satisfy his claim demands on cancellation of disciplinary penalty.

The company management and the court deliberately have ignored the agreement that had been concluded between the employer of OAO “Polatsk-Fiber Glass” company and primary SPB organization of the same company. That agreement was dedicated to the procedures of regulating relations between the employer and workers-members of SPB union.

It should be noted that the SPB company organization was the first to address the employer with the demand to start collective bargaining in May 2008 that is much earlier than the FBP Belnaftakhim company union has done it. The employer declared that he would negotiate with the joint trade union negotiation body. The FPB Belnaftakhim company union has refused to set up such a joint body. Thus, the SPB company union actually has been pushed away from collective bargaining process. It is a gross violation of existing legislation and international standards. The agreement concluded in January 2009 (8 months after the start of collective bargaining) on ensuring activities of the SPB organization in the company was a serious ground so that the guaranties stipulated by the article 24 of the Law “On Trade Unions” were extended to the SPB members as well. The employer’s deliberate ignoring the guaranties under the article 24 of the above law when bringing Viktor Stukau to disciplinary liability as well as arbitrary interpretation of the agreement signed by two parties on SPB activities actually are the cases of discrimination based on affiliation to the SPB union.

**15. In June 2010 the ILO noted with satisfaction the reducing the premise rent for independent unions tenfold by the State commission responsible for managing state-owned**

buildings, production facilities and other state-owned working areas following the decision of the Government.

In November 2008 at the 303-d Session of the ILO Governing Body on this occasion the Vice-Prime Minister V.Patupchik has made a statement mentioning this fact as the measure eliminating the antiunion discrimination in the country.

But very soon October 23, 2009 the Presidential Decree # 518 “On some issues related to renting and gratis using of state property” has appeared and the State commission that had previously adopted the above Government decision has been abolished.

Now the Supplement 2 adopted by this Decree regulates rental rates and determines reduction factors to the basic renting rates to various categories of tenants. Particularly, as per paragraph 1.1.3 when determining the rent payment the 0,1 reduction factor can be applied to public associations, associations of legal persons or individual entrepreneurs or their unions or associations in compliance with the list approved by the Council of Ministers of the Republic of Belarus and agreed on by the President.

To avoid the comeback to the previous practice of discriminative tenfold increased rent payment the BKDP addressed the Presidential Property Management Department and the Government (Vice-Prime-Minister V.Patupchik) with the demand to take necessary measures and to include independent unions into the list of public associations enjoying the right for 0,1 reduction factor in rent payment. Nevertheless, despite numerous promises of the Government the issue of including unions into the above mentioned list has not been solved yet. Meanwhile, the BKDP is receiving information from its affiliates that the office owners starting from 1 April 2010 have forwarded them the leasing contracts without 0.1 reduction factor.

The Government having cancelled its previous decision on reducing rent payment for independent unions actually now is keeping on its practice of antiunion discrimination and hindering of union activities through financial pressure.

#### **16. The adoption of the Decree # 164 dated 31 March, 2010 by the President has not solved the problem of short-term contracts in the country.**

The system of short-term contracts incompatible to article 17 of the Labour Code of the Republic of Belarus and international labor standards keeps on functioning in Belarus. According to the international experts almost 90% of all workers in Belarus are covered by short-term contracts. It is not compatible also to the EU standards fixed by the Maastricht Agreement of 1991 where short-term employment contract is regarded as an “abnormal” form of employment which can be applied only to a specific category of workers.

The Decree #164 has given the employer the right to conclude with the worker who does not violate labor discipline and has already been employed for not less than 5 years a contract for a certain period. That means that after 5 years of a worker’s employment the Decree does not envisage automatic transformation of his/her short-term contract into a termless employment contract. Judging from the context of the Decree # 164 the employer may exercise his right to conclude termless contract or he may not and to dismiss a worker or sign a new contract with him. For example, on 4 May, 2010 **Leanid Gaishun**, a member of Free Trade Union (SPB) and set-up operator of an automated and semi-automated machines at Babruisk tractor parts and components company was dismissed upon his contract expiry. He is a highly qualified worker and has been employed at the company for more than 36 years, i.e. more than 5 years as specified by the Decree. Moreover, there is a norm in the company collective agreement obliging the employer to renew contracts with highly qualified workers. Despite all this the worker was dismissed. The real reason of dismissal of Gaishun was his affiliation to the Free Trade Union. Now the union is preparing a statement of claim in order to reinstate Gaishun at his workplace.

Before the Decree 164 came into force the employer had the right but not the obligation to sign short-term contracts with workers. Moreover, the employer had and has now the right to conclude contracts with workers when they are hired for work for the first time as well as upon

contract termination, e.g. one year contract. It becomes obvious that the Decree stipulates additional terms for applying this right, i.e. contract for 5 years and no disciplinary penalties and good performance. The Labor Code envisages the withdrawal of the disciplinary penalties if during one year the worker has not received new ones. The Decree 164 assumes concluding termless contracts but with regard of disciplinary punishments received during 5 year period including those which in compliance with the Code are to be cancelled automatically.

It is worthwhile to note that the Labor Code has an adequate set of measures of disciplinary penalties. Nevertheless, the regime of the country widely applies the disciplinary penalties through the system of short-term contracts. The adoption of the Decree # 164 not only weakens the advocacy of labor rights of workers but it gives the employer additional opportunity to divide workers into reliable or loyal workers and unreliable ones thus strengthening discrimination in labor relations.

**17. The Decree # 240 “On Execution of Public Control by the Trade Unions” was adopted** on 6 May, 2010. Presidential Decree # 240 identifies the mechanism of execution of public control by trade unions. In this legislative act the law and order were formulated concerning the inspections by the trade unions. The number of inspections and their timing were limited as well. From now on the national union centers are to approve their schedules of inspections upon agreement with state controlling authorities. The execution of verifications and inspections by primary-level union organizations is forbidden. The responsibility of the unions is introduced for violation of the established procedure of initiating and conducting inspections as well as for making appeals against their actions. It is envisaged in the Decree that after revealing the violations of the rights of trade unions and its members the unions can submit to the employer only their recommendations but not representation document that requires responding on the part of the employer.

The Decree is in serious contradiction with the Law on Trade Unions in force and contains instructions to bring the existing legislation acts in conformity with the above Decree. Hence, all articles of the Decree limiting the rights of trade unions are recommended to be included into the Law.

The above Decree is a direct interference in the trade union activities on execution of public control and is contrary to the ILO Convention 87 which says that the state refrains from interference in trade union activities. It limits trade union rights and worsens considerably the legislation on trade unions in force.

## **Comments and Conclusions of the BCDTU**

*In its conclusions the Standards Committee of the ILO Conference in June 2009 in Geneva encouraged the Government of Belarus to redouble its efforts to ensure the implementation of the ILO recommendations so that the Committee would be in position to note significant progress at its meeting next year.*

**Although the Action Plan has been prepared by the Government of Belarus in 2009, nevertheless, despite the insistent recommendations of the Standards Committee, till now it has not been filled up with concrete content which could allow the Government to advance even if slowly but consistently on the way of implementation of the ILO recommendations.**

**The situations in Belarus has not changed significantly in law and in practice and does not yet ensure full compliance with ILO Conventions. The efforts made by the Government were directed at technical issues instead of the substance of the recommendations of the Commission of Inquiry. It is well shown by the continuing obstacles to trade union registration under Decree No. 2 and the continuing pressure exercised on independent trade unions through the short-term contract system. The**

number of violations of trade union rights has been increasing. Members of trade unions affiliated to the CDTU are still suffering from anti-union discrimination, including dismissals and the non-renewal of labor contracts, pressure and harassment.

The national legislation still does not guarantee the right of workers to organize their activities free from interference by the public authorities and the requirement of a legal address continues to hinder the establishment of trade unions. As a result, millions of workers in Belarus are deprived of the right to establish and join trade unions of their own choosing.

There are as yet no concrete proposals to amend Presidential Decree No. 2 dealing with trade union registration, the Law on Mass Activities, or Presidential Decree No. 24 concerning the use of foreign gratuitous aid, as requested by the Commission of Inquiry six years ago. On the contrary, the regime has recently adopted legislation acts limiting rights of trade unions and their members. No clear and time-bound Action plan for the full implementation of all recommendations of the CI as yet has been prepared.

The Government has deliberately waged a campaign against independent trade unions and thereby confirmed that it was not ready to implement the ILO's recommendations. It refuses to use the tripartite Council to discuss in substance the issues of the violation of trade union rights. Its efforts are focused on demonstrating steps rather than making them. There is also strong impression that the Government seems to stick to its strategy of providing smokescreens of minor achievements, masking the fundamental problems of non-registration and harassment.

Such conclusions can be supported by the recent statement of the Prime-Minister of Belarus Syarhei Sidorsky. Hereunder we present newspaper publication:

### **Сидорский - о зарплате, инвестпроектах, строительстве жилья и о ФПБ....**

25.08.2010, 15:31 »Новость дня, Людмила Сац, БЕЛТА.....

*Федерация профсоюзов Беларуси должна играть более активную роль в налаживании сотрудничества с Международной организацией труда, заявил Сергей Сидорский на встрече с активом ФПБ.*

*"Нам бы хотелось, чтобы Федерация профсоюзов Беларуси играла более активную роль в решении задачи по налаживанию сотрудничества нашей страны с Международной организацией труда", - сказал Сергей Сидорский.*

*"Правительство Беларуси в течение последнего десятилетия ведет сложный диалог с МОТ по навязанной проблеме соблюдения прав профсоюзов в нашей стране. В последние годы Беларуси удалось добиться более объективного отношения со стороны МОТ к этому вопросу. Однако окончательно проблемы не сняты, не решена главная задача: ЕС не восстановил для Беларуси таможенные преференции в рамках обобщенной системы преференций ЕС, которые были приостановлены в 2007 году. Мы сегодня при поставках нашей продукции платим пошлины от 5% до 15% по разным видам. Таким образом, нас давят на внешнем рынке, и наша продукция становится неконкурентоспособной", - отметил премьер-министр. По его словам, "принципиальные наши оппоненты в решении этого вопроса находятся в среде международного профсоюзного движения".*

*По мнению Сергея Сидорского, ФПБ могла бы более настойчиво использовать свой авторитет, свои связи с международными и*

национальными профцентрами для того, чтобы оказывать влияние на переговорный процесс и содействовать правительству Беларуси в окончательном снятии претензий со стороны МОТ.

### Unofficial translation

#### Federation of Trade Unions should play a more active role in promoting cooperation with the International Labor Organization, said Sergey Sidorsky meeting FPB activists.

*"We would like to see the Federation of Trade Unions to play a more active role in solving the issue of promoting cooperation between our country and the International Labor Organization", - said Sergei Sidorsky.*

*"The Government of Belarus in the last decade had a quite a complex dialogue with the ILO on the imposed issue of respect of trade union rights in our country. In recent years, Belarus has managed to achieve a more balanced relationship with the ILO on the issue. However, this problem is not completely removed and the major goal is not achieved: the custom preferences under the Generalized System of Preferences, withdrawn from Belarus in 2007 by the EU, have not been returned back. Today, when exporting our products we have to pay taxes from 5% to 15% depending on the type of goods. So we are pressed in the external market, and our products become uncompetitive," – noted the Prime-Minister. According to him, "the major our opponents on this issue are in the international trade union movement".*

*According to Syarhei Sidorsky, the FPB could use more aggressively its authority and its ties among international and national trade union centers in order to influence the negotiation process and assist the Government of Belarus in the final withdrawal of claims on the part of the ILO.*

From what the Prime-Minister has said at the meeting with activists of the FPB we can make the main conclusion - the Government is not willing to recognize its responsibility for the systematic violation of trade union rights in the country. The Prime-Minister alleges that the respect of trade union rights in Belarus is an imposed issue. Who has "imposed" this problem on the Government of Belarus? May be, the ILO and the international trade union movement? May be, these were the ILO and world unions who for the last 10 years have been adopting discriminatory laws making registration and establishment of independent trade unions in the country impossible? Maybe for all those years the ILO and world unions have been exerting permanent pressure on independent unions? May be, they have been imposing squall of repressions on members of independent unions, dismissing them by using a specially invented short-term contract system – a mechanism to fight dissidence at workplace.

We would advise the Prime-Mister not to lay the blame on someone else and not to give strange instructions to the FPB organization that is not able to solve anything and has no authority whatsoever in the international trade union movement. It is obvious, that the problem of cooperation with the ILO in this case is the exclusive prerogative of the Government.

Although the Government believes that it has made considerable progress in implementing the recommendations of the Commission of Inquiry, the CDTU and its affiliates are still awaiting firm evidence and tangible progress with regard to the Government's commitment to ensure a friendly environment for independent trade union activity and social dialogue.

Minsk, Belarus

**30. 08. 2010**