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Reports of the Committee on Freedom of Association (226th, 227th, 228th and 229th report)

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229TH REPORT¹

INTRODUCTION

1. The Committee on Freedom of Association, set up by the Governing Body at its 117th Session (November 1951), met at the International Labour Office, Geneva, on 24, 25 and 26 May 1983 under the chairmanship of Mr. Roberto Ayo, former Chairman of the Governing Body.
2. The Committee had before it a number of complaints of infringements of trade union rights in Poland presented by the International Confederation of Free Trade Unions and the World Confederation of Labour and a complaint concerning the non-observance by Poland 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) made by Workers' delegates to the 68th (1982) Session of the International Labour Conference under article 26 of the Constitution of the ILO.
3. At its 222nd Session (March 1983) the Governing Body adopted the interim conclusions submitted to it by the Committee in its 225th Report.
4. The Committee has examined this case in the light of the developments which have occurred subsequently. The Committee submits for the approval of the Governing Body a further report on the case and recommends the Governing Body to examine this report at its 223rd Session.²

¹ See page 1, footnote 1.

² See page 1, footnote 2.

Case No.1097

COMPLAINTS PRESENTED BY THE INTERNATIONAL CONFEDERATION OF
FREE TRADE UNIONS AND THE WORLD CONFEDERATION OF LABOUR
AGAINST THE GOVERNMENT OF POLAND
COMPLAINT CONCERNING THE NON-OBSERVANCE BY POLAND OF THE FREEDOM OF
ASSOCIATION AND PROTECTION OF THE RIGHT TO ORGANISE CONVENTION, 1948,
(NO. 67) AND THE RIGHT TO ORGANISE AND COLLECTIVE BARGAINING
CONVENTION, 1949 (No. 98), MADE BY DELEGATES TO THE 68th (1982) SESSION
OF THE CONFERENCE UNDER ARTICLE 26 OF THE ILO CONSTITUTION

5. Following the proclamation of martial law in Poland on 13 December 1961 and the measures taken by the authorities against the Solidarity trade union and its militants and leaders, the International Confederation of Free Trade Unions (ICFTU) and the World Confederation of Labour (WCL) submitted to the ILO complaints of violation of trade union rights in that country.

6. The Committee examined this case for the first time in February 1982.¹ Subsequently, a representative of the Director-General went to Poland in May 1982 and the Committee adopted a new report on the case at its meeting in May 1982.²

7. At its meetings in November 1982 and February 1983, the Committee again had before it the ICFTU and WCL complaints, as well as a complaint alleging non-observance by Poland 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), made by Workers' delegates (Mr. Marc Blondel, delegate of France, and Mrs. Liv Bück, delegate of Norway) to the 68th (1982) Session of the International Labour Conference under article 26 of the Constitution of the ILO. At each of those meetings the Committee presented an interim report to the Governing Body, which were adopted by it at its 221st Session (November 1982) and at its 222nd Session (March 1983).³

8. Poland has ratified 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).

9. A government information mission composed of three representatives, and headed by Mr. Karwanski, Director of the International Co-operation Department of the Ministry of Labour, Wages and Social Affairs, visited the ILO from 5 to 8 April 1983 and held (meetings with the Director-General and other high-level ILO officials.

¹ See 214th Report, paras. 696 to 751, approved by the Governing Body at its 219th Session (March 1982).

² See 217th Report, paras. 666 to 719, approved by the Governing Body at its 220th Session (May 1982).

³ See 221st and 222nd Reports.

10. By a communication dated 3 May 1983 the ICFTU sent more allegations concerning the case. On 6 May 1983 the charge d'affaires of the People's Republic of Poland transmitted to the Director-General a letter from the Under-Secretary of State of the Ministry of Labor, Wages and Social Affairs dated 26 April 1983. The Director-General replied to this communication in a letter dated 9 May 1983. Lastly, on 19 May 1983 the Government sent a communication in reply to the observations of the Committee of Experts on the Application of Conventions and Recommendations concerning, in particular, the application of Conventions Nos. 11 (Right of Association (Agriculture), 1921), 87 (Freedom of Association and Protection of the Right to Organise, 1948) and 98 (Right to Organise and Collective Bargaining, 1949) .

A. Previous examination of the case by the Committee

11. At its meeting in February 1983 the Committee took note of the developments which had taken place in this case since November 1982. In particular, it noted with interest that a law of 18 December 1982, adopted by the Parliament, had suspended the application of martial law and, according to the Government, had involved the lifting of certain measures, such as internment, the suspension of trade union activities and the right to strike.

12. In spite of the adoption of this Act the Committee however observed that the restrictions on trade union activities under the Trade Union Act - and concerning which it made comments at its last meeting - still remained in force. In particular, there could still only be one trade union organisation in the undertaking and first-level organisations could still not form federations and confederations. In fact, the timetable fixed for the revival of trade union activities (beginning of 1984 for industry-level unions, beginning of 1985 for inter-union organisations, end of 1984 for trade union unity at the level of the undertaking) did not appear to have been changed.

13. Likewise, the exercise of the right to strike would remain limited by the same conditions on which the Committee had commented in relation to the procedure for calling a strike, the excessively wide list of essential services and the imposition of prison sentences for taking part in strikes. The Committee pointed out that under the terms of the Act of 18 December 1982 (s. 5(1)) participation, during the period of suspension under martial law, in strikes, protest action or unlawful gatherings justified the termination, without prior notice, of the employment relationship.

14. The Committee, therefore, noted that the trade union activities which could be carried out in Poland were still of a very limited nature. Moreover, it observed that the Government had only supplied limited information on the practical application of the legislation and that it had not sent any information concerning the destination of the assets of the organisations that were dissolved by the Act on trade Unions.

15. While noting the Government's general statement on the lifting of measures of internment, the Committee observed with con-

corn, in the light of new allegations, that seven Solidarity leaders and advisers and experts of the trade union (who had apparently been detained since the commencement of martial law) had been charged with the attempted overthrow, by force, of the existing system. These charges were made despite the "Abolition Act", adopted in January 1982, according to which no one can be sentenced for political or trade union activities prior to 13 December 1981. The Government had not supplied any comment on these new allegations. The Committee wished the Government to specify the charges that were being brought against them and to try publicly, and without undue delay, these persons and all those other trade unionists who had already been charged with offences, or to release them.

16. The Committee also regretted that it did not have any information on the measures taken or envisaged for the granting of an amnesty to the persons sentenced for activities of a trade union character. On the other hand, the complainant organisations had presented a list of a very large number of persons who were said to have been sentenced, sometimes to very heavy sentences for organising strikes, participating in demonstrations or for carrying out trade union activities.

17. The Committee also pointed out that the Government's reply did not contain any new information as regards the deaths which had taken place during demonstrations or the dismissals of workers for trade union activities. Nor did the Government supply its comments on the new allegations concerning ill-treatment of detained persons.

18. In view of the numerous questions to which replies had not been furnished, the Committee pointed out that it could not close the case, as the Government wished.

19. In the light of the information at its disposal, the Governing Body had to decide on the appropriateness of taking action on the complaint submitted in virtue of article 26 of the Constitution by the establishment of a Commission of Inquiry. In this respect, several factors had to be taken into account. First, the Committee of Experts on the Application of Conventions and Recommendations would be called upon to examine the new trade union legislation and its practical application at its next session in March 1983. The comments which the Committee of Experts would make could then - if that was the wish of the Conference Committee on the Application of Standards - be the subject of discussion by the Conference Committee. On the other hand, despite the fact that the Government had communicated information concerning the suspension of martial law and the lifting of the measures of internment, nevertheless an important number of questions posed by the Committee and the Governing Body in November 1982 had not yet been answered by the Government. Likewise, the Government had not supplied its comments on the latest allegations presented by the complainants.

20. In these circumstances, the Committee pointed out that, in a situation involving serious allegations of violations of trade union rights affecting the workers of a member State, the full cooperation of the government concerned in maintaining a constructive dialogue was of vital importance if the ILO supervisory bodies were to assist the parties to seek appropriate solutions to the problems involved. The Committee, therefore, urged the Government to

demonstrate its willingness to maintain such a dialogue by supplying detailed and precise information on the questions raised in November 1982, namely the measures taken to amend the legislation so as to bring it into conformity with Conventions Nos. 87 and 96, the practical application of the law, in particular as regards the role played in the new trade unions by the former leaders of the dissolved organisations, including those who were interned, the destination of the assets of the dissolved organisations, the sentencing of workers for activities of a trade union character and the measures taken or envisaged to grant an amnesty to these persons, the deaths which took place during demonstrations in September 1982 and the situation of the workers dismissed for trade union activities. The Government was also urged to supply detailed information and observations on the trials that had been, or would be, held involving the leaders and advisers of Solidarity, on the measures taken to ensure that they were tried publicly or released and on the ill-treatment allegedly suffered by detained persons.

21. In addition to requesting this information, the Committee considered that, in order to elucidate the numerous aspects of the case that remained outstanding, it would be highly desirable if the Government were to accept a further on-the-spot visit by a representative of the Director-General. The purpose of such a visit would be to examine jointly with the parties concerned the measures that could be taken to amend the trade union legislation in the light of Conventions Nos. 87 and 98, ratified by Poland, and also to examine the situation of trade unionists who are interned or charged with offences, in particular as regards the conditions in which they were being detained and the manner in which they would be tried. The Committee was convinced that, not only would the acceptance of such a visit constitute an additional indication of the Government's willingness to co-operate in the procedure, but such a visit would also enable the Committee to reach conclusions in, a fuller knowledge of the facts.

22. In these circumstances, the Governing Body, on the recommendation of the Committee, approved the following conclusions:

- (a) The Committee deeply regrets that the Government has not supplied precise replies and observations on the questions raised by the Committee and by the Governing Body in November 1982, or on the latest allegations.
- (b) The Committee notes with interest that the Parliament has suspended the application of martial law and that, accordingly, the measures of internment have been lifted. However, it observes that the trade union activities which can be carried out in Poland today are still of a very limited nature.
- (c) The Committee again considers it necessary to draw the legislative aspects of the case to the attention of the Committee of Experts on the Application of Conventions and Recommendations at its next session in March 1983.
- (d) The Committee considers that, in a situation involving serious allegations of violations of trade union rights affecting the workers of a member State, the full co-operation of the government concerned in maintaining a constructive dialogue is

of vital importance if the ILO supervisory bodies are to assist the parties to seek appropriate solutions to the problems involved,

(e) The Committee urges the Government to demonstrate its willingness to maintain such a dialogue by supplying detailed and precise information on:

1. the questions raised in November 1982, namely:

- the measures taken to amend the legislation;
- the practical application of the law, in particular as regards the role played in the new trade unions by the former leaders of the dissolved organisations, including those who were interned;
the destination of the assets of the dissolved organisations;
the sentencing of workers for activities of a trade union character and the measures taken or envisaged to grant them an amnesty;
- the deaths which took place during the demonstrations in September 1982;
the situation of workers dismissed for trade union activities;

2. the latest allegations concerning:

- the trials that have been, or will be, held involving the leaders and advisers of Solidarity;
the ill-treatment suffered by detained persons.

(f) In order to elucidate the numerous aspects of the case that remain outstanding, and to enable it to reach conclusions in a fuller knowledge of the facts, the Committee requests the Government to indicate, by 15 April 1983 at the latest, its willingness to accept a further on-the-spot visit by a representative of the Director-General to take place sufficiently in advance of its May meeting to enable the Committee to consider the report on the visit at that meeting.

(g) The Committee recalls the position it took at its session in November 1982 and points out that, if all the information thus requested is not supplied, and if the Government does not accept a farther on-the-spot visit by a representative of the Director-General, it would then have no alternative but to recommend the Governing Body to establish a Commission of Inquiry under article 26 of the ILO Constitution.

B. New allegations

23. In a telegram of 3 May 1983 the ICTTU states that it was deeply concerned by the brutal intervention by the police 031 1 May against the peaceful demonstrations which were held in many towns throughout Poland in favour of the trade union Solidarity. The ICFIU states that the supporters of Solidarity clashed with the riot police who used truncheons, clubs, tear-gas and water-canon. During this repression, adds the ICTTO, a young worker was killed in Nova Huta and in a number of towns the security forces checked the identity of a large number of demonstrators, thus rendering them liable to immediate dismissal. According to the ICFTU a large number of dismissals followed and many people were arrested and immediately sentenced to prison or fined.

C. Information and observations supplied by the Government

(a) Indications given by the information mission sent by the Government

24. The Government mission informed the Director-General that 9,000 new trade unions had been established and registered and that a further 2,000 requests for registration had been received. In 80 per cent of the 40,000 enterprises in Poland, groups or constituent bodies had been created to form unions and small groups were preparing the statistics of these organisations. Unions had been created either at the level of the workshop or at the level of the enterprise as a whole. The structure was relatively simple as regards industry but complex as regards educational institutions. The Government hoped that the structure could be simplified in the future.

25. The mission indicated that a Social Consultative Committee had been set up at the level of the Council of State. This Committee included trade union representative of both the former and present trade unions, members of Parliament and judges. It was working on the basis of suggestions put to it by the rank and file and it was preparing draft legislation some of which was already being considered by the Council of State. One such draft till concerned the possibility of workers joining trade unions on the basis of professions, trades or branches of industry. This draft bill which, according to the mission, would probably be adopted by the end of April 1983, would open the way for regional and national-level trade unions by the end of 1983.

26. As regards the integration of former trade unionists in the new trade unions, the mission pointed out that the new unions were open organisations which everyone could -join by simply applying to dc so. The new union leaderships included certain former members of the branch unions and Solidarity, Some former presidents of the previous unions had even become presidents of some of the new unions.

27. The Government mission stated that the legislation would be revised at some future date. It had been prepared without the

participation of the trade unions and, in three years' time, it would be necessary to revise it in consultation with the new trade union movement. As regards the draft bill before the Council of State, the object of which was to reduce the transitional periods, the mission explained that it had been realised that a national trade union structure was necessary at least in certain industries. Although such a national structure did not yet exist, trade union activity on a national basis was being carried out in such industries as, for example, the railways and transport.

28. As regards the assets of the former trade unions a special Commission had been set up in October 1982 whose function was to safeguard these assets and to ensure that they were transferred to the new unions. This objective was being pursued and the costs involved in the transfer were borne by the State. Most of the transfers had already been effected; the assets having been transferred to those unions which were considered to be continuing the work of the former unions. However, all assets belonging to regional or national organizations were being managed by the Commission. As regards the branch unions the sum involved was US\$400,000 and as regards Solidarity US\$52,000.

29. The Government mission stated that the Chief Prosecutor had received 817 amnesty petitions from persons sentenced under the Martial Law, and that, out of the 268 petitions that had been considered, 244 had been granted. The Government considered that the granting of amnesty was a part of its stabilisation policy.

30. As regards conditions of detention, the Government mission pointed out that these were reasonable and that every place of detention was under government control. Proceedings had been instituted against those who had given false information about conditions of detention.

31. The Government mission explained that the total number of persons sentenced for anti-State activities was 2,580 of whom 1,440 had been sentenced for violation of the martial law provisions. These latter persons could benefit from an amnesty, according to the mission, no one had been sentenced on account of trade union activity. Various charges had been brought, including, for example, fraud and illegal entry into the country of printing equipment.

(b) Communication from the Government

32. On 26 April 1983, the Government sent to the Director-General a letter in the following terms:

"Director-General:

In name of the Minister of Labour Wages and Social Affairs, I have the honour to express my thanks to you for being good enough to receive, from 5 to 8 April 1983, an information mission from my country.

I hope that the additional information provided by that mission on the progress made in stabilising the social and political situation in Poland and as regards the process of

renewal of the trade union movement will be useful to the Office and that the transmission of this new information will lead to a better understanding of the problems that are presently of interest to the International Labour Organisation. I also hope, and it is my conviction, that these meetings have been useful from the point of view of present and future relations between Poland, the International Labour Organisation and the Office. These meetings seem to demonstrate that, in spite of the obstacles that have arisen as a result of a crisis of confidence in our relations following the conclusions that were adopted in November 1962 and March 1983, there is nevertheless an intention to find a solution in order to avoid a deterioration in the situation, with all the consequences which that would entail.

It is, accordingly, in a spirit of continuing willingness to pursue a dialogue that we have considered it appropriate to take this fresh initiative in order to inform you of the recent developments in the trade union field.

It is with this objective that I have the honour to transmit to you for your consideration an invitation for Mr. Nicolas Valticos to visit Warsaw from 9 to 13 May 1983, on a personal basis, and as your representative.

I should assure you that Mr. Valticos, being thus invited by us, could count on having genuine and constructive meetings with representatives of the Polish Government. On our part, we shall do everything possible to arrange for contacts to be made with the representatives of the newly formed unions and with Polish employers.

Please accept the assurance of my highest consideration."

(Signed) Józef Bury,
Under-Secretary of State,
Ministry of Labour, Wages
and Social Affairs.

D. Replay of the Director-General

33. By letter of 9 May 1983 the Director-General replied to the Government in the following terms:

"Mr. Minister:

I have the honour to acknowledge receipt and to thank you for the message which you communicated to me through Mr. Bury in a letter of 26 April 1983.

A useful exchange of views on developments in your country has taken place with the information mission sent by your Government to the ILO from 5 to 8 April 1963. I sincerely hope that these contacts may be pursued and that they will lead to positive results being achieved.

I thank you for the invitation extended to Mr. Valticos through me, so that he might, in a personal capacity and as my representative, visit Poland from 9 to 13 May 1983.

I have noted your intention to ensure contacts between Mr. Valticos and the authorities of your country as well as with the representatives of the newly formed trade unions and the Polish employers. In this connection, and in order that the visit might produce the desired results, it would, in accordance with the practice followed by the ILO in similar cases, be essential for my representative to be able to have private contacts with the representatives of all the interested parties, and especially with the former leaders of those trade union organisations which, in June 1981, represented the Polish workers at the International Labour Conference.

If your Government is prepared to grant the necessary facilities for a visit to take place under these conditions, I shall not fail to make the necessary arrangements for Mr. Valticos to visit Poland in the very near future and at a date to be determined.

Accept, Mr. Minister, the assurance of my highest consideration.

(Signed) Francis Blanchard.

E. Communication of the Government in response to the observations of the Committee of Experts

34. As regards the Act of 8 October 1982 concerning the social-occupational organisations of agriculturalists, the Government points out that in a communication of 19 May 1983 the National Union to which the law attributes the absolute right to represent individual agricultural workers is not monopolistic in character. In fact, the branch unions, which represent the rights of agricultural workers in the specialised area of vegetable or animal production do not belong to the National Union, nor do many other social organisations which carry out activities in the countryside. The Government recalls, in addition, that this law covers neither salaried agricultural workers in the nationalised or private sectors nor the members of co-operatives. These workers may belong to unions that are regulated by the Law on Trade Unions.

35. On the question of the application of Convention No. 87, the Government, in the first place, points out that the officials of penitentiaries - who are excluded from the trade union law - are part of the military services, and that the hierarchical and disciplinary system in their case is similar to that of the army. One of their duties is to ensure order and security in places of detention. Accordingly, they possess identical characteristics to those of the militia and should be considered as such.

36. The Government recalls that workers may belong to the unions created, or in the course of being created, independently of their former trade union membership. In addition, everyone can be elected to trade union office by secret ballot.

37. Concerning a decision to strike by a majority of the workers by means of a secret ballot, the Government indicates that this kind of ballot guarantees that the action so taken is democratic and in accordance with the wish of the workers. In fact, the Government considers that, since the decision to strike is a serious one, it should not be left to a minority of the workers, nor should it be imposed by an executive committee against the wishes of the majority.

38. The Government states that the list of essential services in which the right to strike is not recognised will be the subject of revision in the light of the practical application of the law. This might be done in the context of the updating of the Labour Code.

39. As regards the prohibition of strikes, protest action and meetings during the suspension of the martial law (section 5 of the law of 18 December 1982 on the suspension of martial law) the Government recalls that this is a transitional measure. It is right to expect, continues the Government, that, in the near future, martial law will be lifted. For the Government, these provisions do not in any case limit the right of the unions to formulate the programme of action.

40. The Government considers that the cancellation of the registration of existing trade unions by section 52 of the Trade Union Act does not violate Article 4 of Convention No. 87. It notes, in this regard, that this measure was taken by the legislature and not by the administration.

41. As regards the periods laid down for the commencement of trade union activity of national trade union organisations and federations, the Government points out that the Council of State, en 12 April 1983, adopted Decision Ho. 34/53 concerning the principles and the means of creating national trade union organisations. This Decision grants the right to establish national trade union organisations and to commence their activities before 31 December 1983. In addition, the Council of State has decided that the Federation of Steel Workers may commence its activities as from the date on which it becomes registered.

42. On 16 September 1982 a law was adopted to regulate the principles of representation of state employees. In accordance with section 40 of this law the employees in the state administration have the right to belong to the union of employees in the state administration, with the exception of employees occupying highly responsible posts whose activities are considered, as a general rule, as being linked to the formulation of policy or as being management functions and employees whose duties are, to a large extent of a confidential nature. The employees excluded from the right to organise can, like all other workers, set up workers' councils whose task is to protect and represent the social and occupational interests of the workers in these councils before the management of the administration. The principles and the field of co-operation between the management and the workers' councils are stated in the decision of the Council of Ministers of 8 November 1982. The workers' councils must be consulted on numerous questions concerning the personnel and, in particular, wages and conditions of work.

43. The Government points out that the Trade Union Act provides for forms of protest other than strikes. Those other forms can go beyond the undertaking, the occupation or the industrial sector on condition that they do not violate the legal order or the principle of social co-existence.

44. In accordance with the Trade Union Act, section 54, the assets of the Union of Organisations and those of the trade unions were assigned temporarily to a provisional administration. For this purpose a Commission for the administration of trade union assets was set up, composed of 11 persons, 5 from the unions (including Solidarity), 5 from government offices and a president. The assets of unions at the level of the undertaking have remained under the control of the managers of the undertakings who are transferring the assets to the new unions in the undertakings as and when the statutory executive committees are set up. These questions are regulated by the provisions of the decision of the Council of Ministers of 27 December 1982 concerning the principles and the modalities for the transfer of assets from the former to the new unions at the level of the undertaking.

45. As regards the taking over of the assets of those unions about enterprise-level unions by the temporary administrators the Commission has called upon 24 other administrators to administer the assets of the former central unions and branch unions. It must be pointed out that this Committee only fulfils an administrative function, that is to say, it only performs work that is indispensable for the preservation of the assets and in conformity with their functions and the eventual destination of the assets. All expenses in connection with the administration of the assets are covered by the State.

46. For over more than 100 years the trade unions have accumulated property, including 41 sanatoria, 88 rest houses, more than 50 administrative buildings, hotels and residences. The unions formed after August 1980 had no significant property holdings. The assets of Solidarity consisted mainly of means of communication, printing equipment and a large number of printing presses, office equipment and small bank accounts. In view of the absence of proper inventories and of incomplete records, there has been much difficulty in taking over these assets.

47. The Commission has taken over, up to the end of April 1983, all the available assets. The property value is as follows:

- Branch unions - more than 3,719,228,000 zlotys.
- Solidarity - more than 36,900,000 zlotys.

In addition to the work involved in the taking over of the assets and their preservation, the Commission organises and supervises the activities of the sanatoria and rest houses, takes care of investments and the renovation of these centres, ensures the normal functioning of cultural establishments, hotels, clubs, administrative buildings etc.

48. As regards the application of Convention No. 98, the Government states that, taking account of the suspension of trade union activities during the period of martial law, it authorised the

central administrative authorities and other bodies and institutions representing undertakings in the collective bargaining process to introduce into contracts modifications that were favourable to the workers. An example of this is the liberalisation of the principles relating to the grant of allowances for length of service. In addition, following the independence that was granted to undertakings within the framework of economic reform as regards the means of fixing wages, they obtained the right to modify partially the principles of wages at the level of the undertaking and to fix their own wage scales. The Government gives other examples of this kind, e.g. in the steel and coal-mining industries.

49. The Government notes that the law regulates the problem of collective bargaining at the level of the industry. It does not, however, exclude the possibility of carrying out negotiations at other levels, especially in the light of the independence of the undertakings, resulting from the reform of the economy.

F. Conclusions of the Committee

50. The Committee has carefully examined the developments that have taken place in this case since March 1983. In particular, it notes that the Government sent an information mission to Geneva and that this mission had meetings with the Director-General in the course of which certain information concerning the trade union situation in Poland was supplied.

51. The Committee notes that the Government has addressed to the Director-General an invitation to send to Poland a person designated by him to be his representative. The Director-General has, however, had to point out to the Polish Government that the terms of this invitation, in so far as they relate to the contacts which his representative should have been able to make in Poland, would not have enabled the purpose of the on-the-spot mission to be achieved, as defined by the Committee and approved by the Governing Body at its February-March Session 1983, namely "to examine jointly with the parties concerned the measures that could be taken to amend the trade union legislation in the light of Conventions Nos. 87 and 98, ratified by Poland, and also to examine the situation of trade unionists who are interned or charged with offences, in particular as regards the conditions in which they are being detained and the manner in which they will be tried". Having regard to these objectives and, in more general terms, the objectives of any mission of this kind, the Committee considers, as it has always done, that the representative of the Director-General charged with an on-the-spot mission will not be able to perform his task properly and thereby be fully and objectively informed on all aspects of the case if he is not able to meet freely with all the parties involved. In the present case the parties involved would necessarily include the leaders of the former trade union organisations. The Committee cannot but regret that, in these circumstances, the direct contacts mission which it would have strongly wished to see carried out, did not take place.

52. The Committee notes the information communicated by the Government mission and that communicated in reply to the

observations of the Committee of Experts. It notes, in particular, that the Government has supplied information on certain aspects of the case, and especially on the destination of assets of dissolved organisations. In addition, the Government has reduced some of the transitional periods provided for in the legislation for the setting up of national trade union organisations. The Committee observes, however, that since its previous meeting, the Government has not supplied additional written information on numerous allegations made and on which the Committee had requested information, namely, the situation of workers dismissed for trade union activities, sentencing of workers for activities of a trade union nature, the situation in the trials involving the leaders and advisers of Solidarity and the ill-treatment of detainees.

Recommendation of the Committee

53, Taking account of all these considerations, the Committee notes with regret that the requests it made in February 1983 for information and for an on-the-spot visit have not been fully met. Accordingly, the Committee, having regard to the conclusions it reached in February 1983, considers that it can only recommend the Governing Body to refer the examination of the case as a whole to a Commission of Inquiry in accordance with article 26, paragraph 3, of the ILO Constitution. It is for the Governing Body to take a decision on this recommendation and on the manner in which effect should be given to it.

(Signed) Roberto AGO,
Chairman.

Geneva, 26 May 1983.