

The European Union and its Member States, Iceland and Norway

PERMANENT REPRESENTATION OF SPAIN
TO THE INTERNATIONAL ORGANIZATIONS IN GENEVA
The Ambassador and Permanent Representative

[STAMP]
MINISTRY OF FOREIGN AFFAIRS, EUROPEAN UNION AND
COOPERATION
PERMANENT REPRESENTATIVE OF SPAIN TO THE UNITED
NATIONS
Ambassador, Deputy PRs
EMBADJT-SECRETARIA

Geneva, 14 July 2023

Mr Gilbert F. Houngbo
Director-General
International Labour Organization (ILO)
Geneva

Dear Director-General,

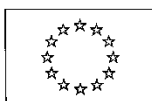
Please find enclosed a letter on behalf of the Member States of the European Union, and Norway and Iceland, members of the European Economic Area, in which we request that an item be placed on the agenda of the 349th Session of the Governing Body on the referral to the International Court of Justice of the matter concerning the interpretation of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), in relation to the right to strike.

To facilitate the Governing Body's decision, we request the Office to prepare a comprehensive report containing all of the necessary elements, including the question(s) of interpretation that should be considered for referral to the Court.

Yours sincerely,

[signed]

Aurora Díaz-Rato



EUROPEAN UNION

Permanent Delegation to the United Nations Office
and other international organisations in Geneva



Geneva, 14 July 2023

Dear Director-General,

The EU and its Member States, and the EFTA countries Iceland and Norway, members of the European Economic Area, are following up on the discussions at the 347th Governing Body and the decision point adopted on the 'Work plan on the strengthening of the supervisory system: Proposals on further steps to ensure legal certainty (GB.347/INS/5)'. We would like to request that, as a matter of utmost importance, an item concerning the referral to the International Court of Justice (ICJ) of the dispute relating to the interpretation of ILO Convention (No. 87) on Freedom of Association and Protection of the Right to Organise as regards the right to strike be placed on the agenda of the 349th Session of the Governing Body as a point for decision.

We note that several attempts have been made by the tripartite constituents to overcome the longstanding dispute, including through social dialogue. Despite these efforts, a consensual outcome has not been achieved. Where disputes on legal interpretation continue, legal dispute settlement should be sought, as provided for in Article 37(1) of the ILO Constitution, which will offer a straightforward solution and a guarantee of integrity and independence. Without legal certainty this dispute will continue to have a detrimental impact on the supervisory system, the credibility of the ILO as a standard setting agency in the UN system and beyond, as well as on the effective implementation of the international labour standards. After more than a decade of failed attempts to find a solution, having legal clarity has become a matter of urgency.

In view of the above, and in line with our long-standing position reiterated during the 347th Governing Body, we request that this item be placed on the agenda of the 349th Governing Body. To inform the decision of the Governing Body, we ask the Office to prepare a comprehensive report containing all necessary elements, including the question(s) of interpretation to be considered for referral to the Court.

Due to the utmost institutional importance of this persistent interpretation dispute, we also ask the Office to circulate this letter as soon as possible to all constituents of the International Labour Organization ahead of the Governing Body discussions.

Yours faithfully,

H.E. Ms Lotte Knudsen
Ambassador
Permanent Representative of the European
Union to the United Nations in Geneva

H.E. Ms Aurora Díaz-Rato Revuelta
Ambassador
Permanent Representative of Spain to the
United Nations in Geneva