

Athens, October 6th, 2023

Our ref.: 0571

Mr. Gilbert Hounbo
ILO Director General
International Labour Office (ILO)
Route de Morillons 4
1211 Geneva 22

Subject: Hellenic Republic's lack of compliance with ratified ILO Convention 144

Dear Director General,

We have been informed that the Government of the Hellenic Republic wrote a letter dated 14 July 2023 to the ILO Director-General supporting the Workers' Request to place an item on agenda of the 349th Session of the Governing Body for discussion and decision on a referral to the International Court of Justice (ICJ) concerning the longstanding dispute over the interpretation of the Freedom of Association and the Protection of the Right to Organise Convention 1948 (C87).

C87 is a fundamental convention, which the Hellenic Republic ratified on 30 March 1962. Given the importance of the issue of the right to strike at stake as well as the wide implications of the outcome of this interpretation dispute, **we are deeply concerned that the Government did not undertake any "effective consultations"** with social partners on this important matter prior to sending their letter, as required in accordance with Art 2 of C144.

The Government of the Hellenic Republic ratified the ILO Tripartite Consultation (International Labour Standards) Convention 1976 (C144) on 28 August 1981. **In particular, Art 2 of C144 requires Member States to ensure "effective consultations" between representatives of the governments, employers and workers on matters concerning the ILO.**

Given the importance of the right to strike issue in relation to the fundamental Convention 87, as well as the wide implications of the outcome of this interpretation dispute, we are deeply concerned that **the Government did not consult us prior to sending their letter expressing their support for the Workers' request.**

The Government's failure to comply with C144, **which obliges ratifying States to undertake tripartite consultations on this very important issue**, undermines our voice as the most representative employers' organization and hinders tripartism in our country.

Consequently, we hereby express our serious concerns about the forementioned action of the Greek Government prior to consulting SEV, the national peak employers' organization in Greece, and remind the Government of the Hellenic Republic the need to comply with its legal obligations under C144 and to respect the principles of tripartism and social dialogue.

As to the proper process to resolve the longstanding dispute over the interpretation of the Freedom of Association and the Protection of the Right to Organise Convention 1948 (C87), while the ILO Constitution provides an avenue to referral to the ICJ to resolve interpretation dispute, **this is not the only solution available nor the most appropriate solution for this interpretation dispute** for the following reasons:

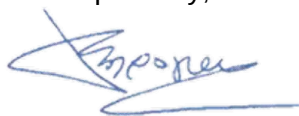
- a. there are internal solutions within the ILO that have not been exhausted (ie ILC discussion, standard setting etc);
- b. there are risks and uncertainties involved with the outcome of the ICJ advisory opinion;
- c. any outcome could damage the reputation and credibility of the ILO to resolve its internal issue;
- d. any outcome would impact the mandate of the Committee of Experts to provide interpretation on instruments other than C87.

To achieve **legal certainty**, that is legal clarity based on **wide acceptance**, a solution should **remain in the hands of the competent actors in ILO standards matters**, in particular the ILO's tripartite constituents. Only such a **tripartite social dialogue based solution** in addressing the right-to-strike issue would ensure that:

- a. all ILO constituents could actively engage in the process;
- b. solutions would be based on consensus or at least a broad majority; and
- c. outcomes adopted would be universally relevant and accepted.

Consequently, we invite the Government of the Hellenic Republic to support a **tripartite social dialogue based solution through the ILC discussion and standard setting processes**.

Respectfully,



Dr George Xirogiannis
General Director

CC: Office of the ILO Legal Adviser