



САВЕЗ САМОСТАЛНИХ СИНДИКАТА СРБИЈЕ

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Dear Director General,

We thank you for your letter to all ILO Member States dated 31 August that was brought to our attention. In this letter you confirmed that you have received the request from the ILO Workers' group of 12 July 2023 for the urgent referral of the dispute over the interpretation of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No 87) (C.87) in relation to the right to strike to the International Court of Justice (ICJ) for decision, in accordance with article 37(1) of the ILO Constitution. The Workers' group also requested this matter to be put urgently on the agenda of the Governing Body for decision. This request has in the meantime received support from 36 Governments from different regions, recognising the importance of legal certainty on this issue for all constituents.

We also express our appreciation for the background report that was prepared by your Office to inform the decision during the Special Meeting of the Governing Body on 10 November 2023 and welcome your invitation to all Governments and employers' and workers' organisations concerned to send in comments.

Indeed, the right to strike is of the utmost importance for workers in Republic Serbia and the inability of the ILO to supervise this right, as a consequence of the dispute, in our national context is potentially seriously affecting labour relations in our country.

The existing Law on Strike in Serbia was passed in 1996. The issue of strike is regulated by various special regulations, such as the Law on Mining and Geological Exploration, Law on Security Information Agency, Law on Health Care, Law on Public Enterprises, Law on Social Protection and others. These regulations apply to different issues related to strike, meaning that some professions are not allowed to strike (for example Law on Mining and Geological Exploration prescribes the prohibition of strike in pits) or the strike is limited by the obligation to introduce the minimum work process (for example Law on Pre-School Upbringing and Education, Law on Primary School Education and Upbringing, Law on Secondary School Education) and the like. Trade unions think there is a need to harmonize the Law on Strike with the Constitution of the Republic of Serbia, as well as with the special laws regulating the issue of strike.

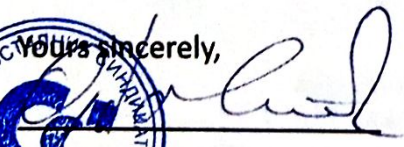
For us in the CATUS, it is crucial to protect the right to strike which is organized following the conditions determined by this Law, which means that it does not represent a failure to comply with workplace obligation and it cannot be the basis for initiating the procedure for

determining employee's disciplinary or material responsibility and cannot lead to dismissal. An employee who takes part in a strike realizes their fundamental right stemming from employment, except for the right to salary, and in line with the regulations on social insurance also the right to social insurance. Contrary to the Convention no.87, army and police of Serbia are prohibited from organizing strike while the right to strike is limited in the professions of general interest (professions securing human life and health).

There is no employee's disciplinary responsibility if the strike is fully organized by the law. Otherwise, the failure to comply with workplace obligation can cause dismissal. However, in practice it happens that trade union representatives organizing strike in line with the conditions stipulated by the Law are still laid off or made undergo disciplinary measures.

Passing the new Law on Strike represents one of the obligations of the Republic of Serbia in the EU accession process, taking into account that the recommendations of the European Commission within the Annual Progress Report for the Republic of Serbia underline that the Law on Strike of 1996 is not in line with the EU and ILO standards, especially in the area of limiting the right to strike. Therefore, the new law should secure that the right to strike is aligned to the ILO positions and principles and EU standards, in a way that this right is limited only in professions where the stopping of work could harm life, health and safety of population or its part; social partners have the possibility to take part in determining the minimum work process in these professions, as well as the priority in the labour disputes caused by the strike is given to their peaceful settlement.

We, therefore, wholeheartedly support the request for a referral from our Workers' representatives in the Governing Body and call for an urgent decision by the Governing Body to ensure an immediate referral of the dispute to the ICJ. In addition, since we firmly believe that the right to strike is an essential part of freedom of association and already elaborated by the ILO supervisory bodies, there will be no added value in a protocol complementing the convention to qualify the right to strike. On the contrary, any such attempt would generate a conflict with C.87 already guaranteeing the right to strike as a fundamental principle and right at work. This would further exacerbate the dispute rather than solve it. We are convinced that legal certainty through an advisory opinion of the ICJ that is binding on the ILO is urgently required.

Yours sincerely,

Jelisav Orbović
president

