

3 October 2023

Mr Gilbert Hougbo, Director General
International Labour Organisation (ILO)
International Labour Office
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Geneva, Switzerland
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Dear Director General

Dispute over the interpretation of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

On behalf of the Australian Union movement, 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 Organise Convention, 1948 (No 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 received support in the meantime from 36 Governments from different regions, recognising the importance of legal certainty on this issue for all constituents.

We 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 around the world and the inability of the ILO to supervise this right, as a consequence of the dispute, is having a serious impact on workers around the world. For over a decade now, the ILOs tripartite constituents have been unable to benefit from authoritative guidance and interpretation of the legal boundaries of the right to strike. This increasingly creates legal uncertainty for all involved parties.

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,



Michele O'Neil

President