



ФЕДЕРАЦІЯ ПРОФЕСІЙНИХ СПЛОК УКРАЇНИ (ФПУ)

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На № _____ від _____

ILO Director-General

Mr. Gilbert F. Hounghbo

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 Ukraine and the inability of the ILO to supervise this right, as a consequence of the dispute, in our national context can seriously affect labour relations in our country.

In Ukraine, the procedure for exercising the right to strike is set out in the Law "On the Procedure for Settlement of Collective Labour Disputes (Conflicts)". However, its procedures are very lengthy and bureaucratic, making it very difficult to hold a legal strike in practice. In addition, 22 legislative acts restrict the right to strike for various categories of employees.

Certain issues of restriction of the right to strike in Ukraine were considered by the European Court of Human Rights. It concluded that there is a contradiction between the provisions of different laws of Ukraine regarding the grounds for prohibiting strikes. In order to avoid this and similar legal conflicts, it is necessary to amend a number of legislative acts of Ukraine and develop a new legislation governing strikes to make them possible to be organised in practice.

We believe that the settlement of the long-standing dispute at the level of the International Labour Organization regarding the protection of the right to strike in ILO Convention No. 87 and confirmation of the competence of the Committee of Experts on the Application of ILO

Conventions and Recommendations to consider and clarify issues related to the scope of the right to strike and the conditions for its exercise will contribute to ensuring legal certainty and the integrity and credibility of the ILO supervisory system, and will have a positive impact on the level of protection of employees in Ukraine, in particular in the context of drafting the new Labour Code and the new legislation on labour conflicts resolution.

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,

FPU President

A handwritten signature in black ink, appearing to read 'G. Osovyyi', with a stylized flourish at the end.

Grygorii Osovyyi