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By email

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Dear Director General,

On behalf of the TUC, its 48 affiliated unions and 5 million British union members, I want to express our thanks for your letter addressed to all ILO Member States, dated August 31.

In your letter, you confirmed the receipt of the request from the ILO Workers' Group, dated July 12, asking for an urgent referral of the dispute regarding the interpretation of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No 87) (C87) concerning the right to strike, to the International Court of Justice (ICJ). This request is in accordance with Article 37(1) of the ILO Constitution. The Workers' Group has also asked that this matter is promptly added to the Governing Body's agenda for a decision. This request has received support from 36 Governments across different regions, underlining the widespread recognition of the importance of achieving legal certainty on this matter for all constituents.

We'd also like to convey our appreciation for the comprehensive background report prepared by your Office, which will serve as a crucial resource during the upcoming Special Meeting of the Governing Body scheduled for 10th November 2023, and we welcome your invitation for all Governments and employers' and workers' organisations concerned to comment.

The right to strike is of the utmost importance for workers in United Kingdom and the inability of the ILO to supervise this right, as a consequence of the dispute, has seriously affected increasingly hostile labour relations in our country.

Legally, the right to strike is not enshrined in British law and so international law has been a necessary bulwark against further restrictions. Despite being a member of the Council of Europe's social charter of 1961, and also having ratified the ILO convention on the right to organise and bargain collectively of 1948, as well as C87, the UK has some of the most draconian restrictions on trade unions anywhere in the democratic

world. Workers in the UK are faced with disproportionate regulatory hurdles before participation in a strike can be considered legal.

The most recent piece of legislation, Strikes (Minimum Service Levels) Act 2023, has granted ministers new top-down powers which would allow them to impose an arbitrary level of service on a broad range of sectors ranging from the health service to universities. These new powers will allow the government to force union members to go into work on strike days under threat of dismissal. Any erosion of international conventions protecting the right to strike would be detrimental to the ability of UK workers to take industrial action and protect their own interests.

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, as 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 would be no added value in a protocol complementing the convention to qualify the right to strike. Rather, any such attempt would generate conflict, with C87 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.



Stephen Russell

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