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International Labour Organization
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To the attention of the Director-General

Bern, 5 October 2023

Request to refer Article 37.1 to the International Court of Justice (ICJ)

Dear Director-General
Ladies and Gentlemen

I am writing to you in the name of the Swiss Trade Union Confederation SGB/USS to address the matter concerning the request made by the Workers' group (WG) regarding Article 37.1 of the International Labour Organization's constitution.

The Office, as you are aware, prepared a document as per the specific request of the workers' group.

We now seek a specific, positive decision on the request to refer the matter to the International Court of Justice (ICJ).

It is clear that the right to strike derives from the ILO Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise of 1948; an established position and practice of the Swiss Trade Union Confederation, Swiss Courts, the WG and most governments as well as the ILO supervisory bodies.

It is worth noting that Article 9 of the ILO-UN agreement provides a clear basis for posing this question to the ICJ, as stated in the report.

Furthermore, it is my belief that it is not premature to propose a decision on this matter. On the contrary. It is past due.

After 15 years of discussions and the current ambiguity, Article 37.1 obligates the organization in our opinion to resolve any interpretation disputes by referring them to the ICJ. Workers have been unable to invoke this constitutional mechanism for over a decade due to existing obstacles, and it is imperative to address this issue promptly.

I appreciate your attention to this matter.

Best regards,

SWISS TRADE UNION CONFEDERATION



Luca Cirigliano, Head of international affairs