

5.10.2023

International Labour Organization

Director-General

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 Finland and the inability of the ILO to supervise this right, as a consequence of the dispute, is potentially seriously affecting labour relations in our country.

For instance, the ongoing dispute is currently being referred into in the assessments and the preparatory work of the tripartite committee discussing the limitations to the right to strike as dictated by the government programme. In this regard, the dispute, as such, is being used as a tool or a justification to introduce restrictions to workers' rights that would not otherwise be in accordance with the decisions of the CFA as they are presented in the Compilation of Decisions. While these grounds are, and have been, questioned by the workers representatives, the fact is that in the current state, the ILO-supervisory mechanism is directly questioned by the government, or at least the margin of appreciation of the state in restricting the right to strike is considered extremely wide, due to the lack of a proper resolution to the dispute.

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,

A handwritten signature in blue ink, appearing to read 'J. Eloranta', is positioned above the printed name.

Jarkko Eloranta

President

Central Organisation of Finnish Trade Unions SAK