



TÜRK-İŞ
TÜRKİYE İŞÇİ SENDİKALARI KONFEDERASYONU
CONFEDERATION OF TURKISH TRADE UNIONS
CONFEDERATION DES SYNDICATS D'OUVRIERS DE TURQUIE
TÜRKISCHER GEWERKSCHAFTSBUND



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

C87 regulating the freedom of association and protection of the right to organize has not a content and context enabling the narrow interpretation of the organizing and association issues. The right to organize and association mentioned in the Convention has a context going beyond the individual and simple understanding of these subjects.

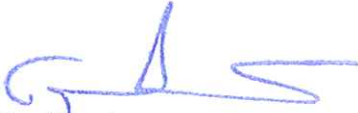
In the modern industrial relations context, the right to strike and, the freedom of association are interrelated issues. In other words, it should be emphasized that the freedom of association without the right to strike is no more than a dysfunctional regulation. In the history of modern industrial relations, the right to strike covering the derivative versions of it such as slowdown, disabling the production was/is a one of the most powerful methods of industrial action adopted by the organize labour movement to protect and maintain decent living and working standards of the working people. Due to this fact the right to strike should be taken into account in the context of the fundamental and indispensable and protected by the international jurisprudences.

In our national legislation, the right to organize and the right to strike are regulated under the same act called Trade Unions and Collective Agreement Act No 6356. The 11th Part of the respective act defines and regulates the borders of a lawful strike and lockout. In accordance with the 60th article of this act, the decision of strike can only be taken following the uncompleted collective bargaining process under the specific provisions mentioned in the paragraphs and subparagraphs of the respective article.

Besides, there are some problems concerning the exercising of the Act No 6356. The most remarkable problem is the suspension of the lawful strikes by the decrees stating the potential action of strike can "violate the national security and risk the public health". This suspension practice means that the de facto terminating of the right to strike within the frame of the right to organize and freedom of association which are defined in C87. A series of strike decisions covering the ones that are also taken by a couple of TRK-İŞ affiliated trade unions, could not be implemented depending on the abovementioned reason in the previous years.

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,



Eyp Alemdar

General Organizing Secretary