



UNIJA SLOBODNIH SINDIKATA CRNE GORE
UNION OF FREE TRADE UNIONS OF MONTENEGRO



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No: 661
Podgorica, October 3, 2023

INTERNATIONAL LABOUR ORGANIZATION

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, recognizing 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' organizations concerned to send in comments.

Indeed, the right to strike is of the utmost importance for workers in Montenegro, and the inability of the ILO to supervise this right, as a consequence of the dispute, in our national context is potentially seriously affecting labor relations in our country. **Thus bearing in mind that the labor legislation in our country (as well as in other countries of the Western Balkans and beyond) is neoliberal and gives great rights to employers. The result is a large number of precarious labor contracts (fixed-term contracts, agency contracts...) which gives employers the possibility to carry out anti-union discrimination and prevent employees from union organizing. In addition, unlike employees, employers have numerous legal mechanisms to protect their interests, such as conducting disciplinary procedures, punishing employees for irregular performance of work duties, imposing fines, and terminating the employment relationship. On the other hand, the only way for**

employees to protect their interests with the employer (excluding institutional protection outside the framework of the employer) is to organize in a trade union, and the key mechanism of the trade union struggle to protect the rights of employees is the strike. At the same time, it should be borne in mind that even during the exercise of the right to strike, workers suffer because during that time they do not receive wages, so they sacrifice one right (wages) in order to preserve or exercise another right. Because of all the above, it is clear that the right to strike as one of the universal human and labor rights must be treated and subject to control by the ILO through the application of C87.

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 has already been 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,



Secretary General

Srdja Kekovic