



October 04, 2023

File: 20903-01 & 20403-L01

Mr. Gilbert Houngbo
Director General
International Labour Organization (ILO)
4 route des Morillons, CH-1211,
Genève 22, Switzerland
By email: houngbo@ilo.org; ilo@ilo.org;

Dear Director General,

**Re: Referral of an interpretation dispute to the International Court of Justice (ICJ)
under article 37(1) of the ILO Constitution**

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 Canada and we expect our government to express a position that upholds and reflects the principles recognized and protected in Canada's constitution. In January 2015, the Supreme Court of Canada recognized that a union's right to strike is constitutionally protected under freedom of association in s.2(d) of the Canadian Charter of Rights and Freedoms. This decision recognized that the right to strike is an indispensable component of collective bargaining.

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We, therefore, wholeheartedly support the request for a referral from the 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 black ink, appearing to read 'Bea Bruske', with a stylized, cursive script.

Bea Bruske
President

cc: The Honourable Seamus O'Regan Jr., P.C., M.P.
Lily Chang, Secretary-Treasurer, CLC
ITUC