



Trade Union Congress of Namibia

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Gilbert F. Hougbo
Director General
International Labour Organisation

Dear Gilbert F. Hougbo - Director General

RE: APPEAL FOR GOVERNMENT SUPPORT FOR THE 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 REFERRED TO THE INTERNATIONAL COURT OF JUSTICE (ICJ) FOR DECISION, IN ACCORDANCE WITH ARTICLE 37(1) OF THE ILO CONSTITUTION.

We thank you for your letter to all ILO Member States dated 31 August 2023 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 discussion 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 Namibia and the inability of the ILO to supervise this right, as a consequence of the dispute, in our national context has seriously affected labour relations in our country.

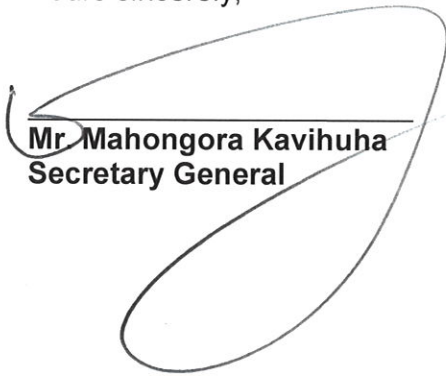
Namibian workers, like workers all over the world have engaged in a long and bitter struggle to secure for themselves the protections that come with trade union membership, including the right to withhold their labour in appropriate circumstances,

The right of workers to join and form trade unions, including the right to withhold their labour, is enshrined and guaranteed in the bill of rights of our national constitution – the apex law of the land. It is a right that ought to enjoy maximum protection by both

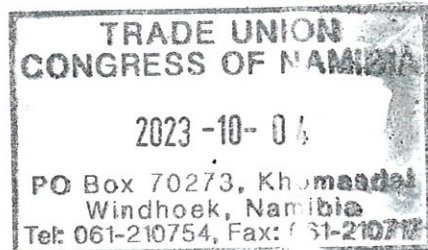
the legislature and the courts. It ought to be inviolable and sacrosanct. Not so! This right is being hewed up and watered down systematically by both the legislative enactments and equally degenerate court judgements, to the extent of rendering it worthless.

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,



Mr. Mahongora Kavihuha
Secretary General



Towards greater unity amongst independent trade unions