

Athens, November 3rd, 2023
Our ref: 0649

Mr. Gilbert Hougbo
ILO Director General
International Labour Office (ILO)
Route de Morillons 4
1211 Geneva 22

Re: The right to strike dossier

Dear Director General,

Regarding the report that the Office of ILO distributed the 31 August 2023 on an urgent referral to the International Court of Justice of a matter of interpretation of the ILO Convention No. 87 in relation to the right to strike and its following long-debated procedure, SEV Hellenic federation of enterprises re-shares with the ILO its relevant views.

As to the proper process to resolve the longstanding dispute over the interpretation of the Freedom of Association and the Protection of the Right to Organise Convention 1948 (C87), while the ILO Constitution provides an avenue to referral to the ICJ to resolve interpretation dispute, this is not the only solution available nor the most appropriate solution for this interpretation dispute for the following reasons:

- a. there are internal solutions within the ILO that have not been exhausted (ie ILC discussion, standard setting etc);
- b. there are risks and uncertainties involved with the outcome of the ICJ advisory opinion;
- c. any outcome could damage the reputation and credibility of the ILO to resolve its internal issue;
- d. any outcome would impact the mandate of the Committee of Experts to provide interpretation on instruments other than C87.

To achieve legal certainty, that is legal clarity based on wide acceptance, a solution should remain in the hands of the competent actors in ILO standards matters, in particular the ILO's tripartite constituents. Only such a tripartite social dialogue based solution in addressing the right-to-strike issue would ensure that:

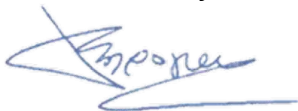
- a. all ILO constituents could actively engage in the process;
- b. solutions would be based on consensus or at least a broad majority; and
- c. outcomes adopted would be universally relevant and accepted.

Furthermore, we share the view of the employers' group that Convention 87 neither explicitly nor implicitly includes within its scope the right to strike. We firmly underline that it is clearly and explicitly documented that the right to strike intentionally was excluded when the constituents drafted and adopted Convention 87.

We are strongly convinced that standard setting is the most obvious, appropriate and logical step towards defining authoritative ILO rules on the right to strike, and thus resolving the dispute over interpretation. Standard-setting is linked to the ILO's core mandate and reflects the ILO's core values of tripartism and social dialogue. Only standard-setting will ensure that all ILO constituents can actively engage in the process, that any solution achieved is based on consensus or at least a broad majority, and that any outcome adopted is universally relevant and accepted.

Adoption of a legally binding instrument such as a Protocol to Convention 87 on the right to strike or more broadly on industrial action would determine the scope and limits of the right to strike at the international level, as far as is possible, and fill the regulatory gap that currently exists in the ILO body of standards. In doing so, the Protocol would make it clear once and for all that rules on the right to strike that have the support of ILO's tripartite constituents are only contained in the Protocol, and not in Convention 87.

Yours faithfully,



Dr George Xirogiannis
Director General