

Recommendations of the Direct Contacts Mission to North Macedonia concerning the application of the Right to Organise and Collective Bargaining Convention, 1949 (No.98)

(Skopje, 3–6 October 2023)

The DCM recalls that, based on the conclusions adopted by the CAS in June 2023 and related CEACR observations, its objective was to receive from the relevant public institutions and main social partners of the country information on the last developments concerning the application of Convention No 98 and, on this basis and through dialogue and exchange of views, to provide support on the identification of further initiatives in this respect. To address the considerations of the CAS and based on its findings, the DCM makes the following recommendations:

- a) Concerning the **allegations of anti-union discrimination**, the DCM recalls that justice delayed is justice denied. The DCM considers that there is a need to: clarify through trainings and other measures the meaning and scope of article 200 of the labour relations law in line with ILO standards; consider the establishment of a prioritised/fast track procedure for anti-union acts; and address the broader issue of the workload of courts through different proactive actions, including, inter alia, the development and promotion of mechanisms for the amicable resolution of conflicts.
- b) With respect to the allegations of **mass transfers of trade union membership** and the absence of adequate redress mechanisms, the different tripartite constituents, including the affected confederations, should review the situation to determine the most appropriate actions to be taken, including the possible necessity of a legal reform.
- c) With respect to the **limitations on the right to end union membership**, the DCM considers that this right must be respected and cannot be undermined, while recognizing that reasonable procedures to leave a union may be established by trade union statutes.
- d) Concerning the Rulebook of registration of CAs and its provisions on collective bargaining in the public sector, the DCM recalls that while the involvement of the Ministry of Finance during the negotiations is in line with conventions 98 and 154, the **approval or consent after the collective agreement is signed** is not. It therefore suggests revising the rulebook accordingly.
- e) The DCM highlights that the ability of workers to freely organise at all levels, including at enterprise level, is not only a fundamental right but also essential for the development of a dynamic system of collective bargaining. The need to **obtain higher level union+ approval to obtain legal personality for enterprise level unions** is contrary to ILO conventions 87 and 98, and the right to freely establish unions at all levels, including at enterprise level should be explicitly guaranteed both in law and in practice. The ILO is available to facilitate support through in-depth discussions with all stakeholders involved, and in particular with workers confederations to identify measures that may be necessary to address the workers' concerns in this respect.

- f) Concerning the **expiration of collective agreements**, the DCM highlights once again the importance of finding the right balance between the need to promote collective bargaining by ensuring that it is a dynamic process, the need to protect key elements of workers' rights, and the need to respect for the will of the parties. The examination of comparative legislations would certainly be very useful, and the ILO can provide its support in this respect.
- g) Concerning the **Commission for Representativeness** the tripartite constituents may consider a system where the members of the Commission are independent members appointed on a consensus basis by the representative/main social partners and by the Government. These members could then appoint an independent chair. The DCM considers that the Commission's rulebook needs to be revised with a view to facilitating the effective functioning of the Commission and made publicly available. In this respect, the constituents could, *inter alia*, consider issues such as adjustment of the quorum requirements and the introduction of a system of substitute members.
- h) The DCM considers that the constituents should review the **adequacy of the sources of information used by the Commission for Representativeness** to assess representativeness and that the Commission should address in an effective manner the situations where employers do not provide the required information.
- i) The DCM encourages the **Economic and Social Council** to continue fostering its inclusive practice by inviting a plurality of workers' and employers' organizations to participate in its discussions. More broadly the DCM highlights that the solutions to difficulties stemming from trade unions and employers' organizations plurality cannot be resolved without the involvement of all the different parties concerned.
- j) The DCM highlights the importance of **systematically consulting the social partners**, especially in the context of ongoing legal reforms concerning labour and social issues which provide an opportunity for addressing the concerns raised by the CAS and the recommendations of the DCM.

The DCM would like to underline that all its findings and recommendations, as well as the ILO supervisory bodies comments and the points raised by the different ILO technical memoranda should be taken on board in the ongoing legal reform that will hopefully be completed soon. The ILO is fully available to provide its technical assistance with respect to the different points raised, including, *inter alia*, through the preparation of a technical memorandum of comments on any draft texts resulting from the ongoing labour law reform, the facilitation of information on comparative legislation and practice, the delivery of training activities and/or the facilitation of different types of tripartite meetings. The constituents should hold further discussions with the ILO Budapest Office and the ILO National Coordinator to develop a list of concrete actions to be carried out considering the DCM recommendations.

Niklas Bruun (signed)

Xavier Beaudonnet (signed)

Emil Krstanovski (signed)

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