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Why urgent action is needed to protect and promote the right to strike?

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Overview

I. What is it about?

II. What are the consequences?

III. Why now?

IV. What to do?

V. What to conclude?

I. WHAT IS IT ABOUT?

The problem is twofold:

- The Employers' Group in the ILO denies that a right to strike is enshrined in the ILO Conventions
- The Employers' Group in the ILO questions the role of the experts interpreting the ILO Conventions in such a way (Committee of Experts)

What happened in practice?

2012: Refusal to discuss the 25 country reports with the most serious violations of trade union rights

2013: Only willing to discuss those reports that do not address the right to strike - Workers' Group agreed for one time

2014: Only willing to discuss those reports that do not address the right to strike - Workers' Group opposed → no discussion has been held

II. WHY NOW?

- 1919: creation of the ILO
- 1947: adoption of most important ILO Conventions (87 trade union freedom; 98 collective bargaining) and interpretation of the Committee of Experts as containing a right to strike
- From the 1970's onwards:

Period of economic liberalisation and increasing violation of trade union rights

Difficult to adopt new ILO Conventions

Trade unions make more use of the legal argument, leading to the recognition and strengthening of the right to strike by international and national courts, relying on the interpretation on the ILO level

III. WHAT ARE THE CONSEQUENCES?

1. International level

Courts will not longer rely on the ILO interpretation

2. National level:

Especially important in those countries where the right to strike is not recognised in national law

e.g. Cambodia: ILO has nothing to say on the killing of trade unionists that went on strike

But not only there

e.g. Spain

→ Direct impact on the rights and lives of workers and trade unionists

If we take I, II and III together we can conclude:

- biggest attack on the right to strike and the ILO since its creation (1919);
- urgent need to find a solution, crucial issue at stake;

IV. WHAT TO DO?

1. Information (on all levels)
2. Mobilisation (on all levels)
3. Two possible legal remedies (Art. 37 ILO Constitution)

International Court of Justice: tradition to approach international law as a whole and respect for 'rulings' of committee of experts – fact that ILO Convention 87 does not contain explicitly a right to strike can be put aside

'A tribunal': everything still has to be determined - too many questions remain, in particular the danger that this proposal has been formulated together with the proposal to diminish the role of the Committee of Experts and therefore the tripartite composition of the ILO

- **Decision should be taken in November 2014 by the Governing Body of the ILO – majority needed**
- **Therefore: discussions needed with trade unions and governments to support this view**

V. WHAT TO CONCLUDE?

1. Long-term conflict & need to adapt strategy

This is a crucial issue:

- it concerns the ILO ;
- it concerns the most important means of workers and trade unions versus the economic power of employers ;
- it concerns the existence of trade unions.

2. Short-term action needed: relation battle on the field – battle in the courts

3. More legal information:

- ITUC, *The legal foundations of the right to strike*, March 2014
- J. Buelens : « The use of international instruments on the right to strike: the case of Belgium », 2013

Contact

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