

MICHAEL SOMMER
PRESIDENT
PRÉSIDENT
PRÄSIDENT
PRESIDENTE

SHARAN BURROW
GENERAL SECRETARY
SECRÉTAIRE GÉNÉRALE
GENERALSEKRETÄRIN
SECRETARIA GENERAL

To: Speaker of the Parliament
(Mazhlis) of Republic of Kazakhstan
Nigmatulin N.Z.
fax: +7 7172 243532
e-mail: spiker_m@parlam.kz

PERC/al

17 Feb. 14

Draft law on trade unions

Dear Mr. Nigmatulin,

On behalf of the International Trade Union Confederation (ITUC), which represents more than 176 million workers in 161 countries and territories and has 325 national affiliates, I would like to share with you our views and concerns in relation to the amendments to the law on trade unions – amendments developed by the government of Kazakhstan and submitted to the Parliament.

Following the dramatic events and the overreaction towards striking workers in the western town of Zhanaozen, the ITUC supports the view of the leadership of Kazakhstan that such a tragedy should not happen again and that trade unions of the country can play a positive role in channelling the demands of workers via collective bargaining mechanisms or through peaceful industrial actions. We understand that the respective changes of legislation were designed precisely to serve that purpose. The proposed text, however, as it was developed, particularly in some parts (e.g., sections 13-15), is in obvious contradiction with the Conventions of the International Labour Organisation (ILO) ratified by Kazakhstan and in its present version could easily exacerbate tensions and lead to new labour conflicts internally – as well as justified criticism internationally.

A special memorandum was prepared by the International Labour Office that underlined the deficiencies of the governmental proposals. According to the international labour standards (particularly ILO Convention 87) that Kazakhstan is bound to, trade unions should be allowed to freely establish and join (or stay outside) any higher-level trade union organisations such as federations and confederations, which on their part should be free to group together unions from different sectors. Within its work at the ILO and in its overall policy, the mandate of the ITUC is to promote and be a guardian of the international labour standards so as to provide real chances for workers in all countries to advance and protect their interests.

Currently, it is the opinion of both the International Labour Office and the ITUC that the draft amendments fall short of compliance with the ILO Conventions and create a possibility for a practical monopolisation of the trade union space in the country. The work and procedures at both the ILO and the ITUC would bring this non-compliance in the open

through the ILO supervisory mechanisms of the laws where the ITUC presents violations of labour standards from around the world. Thus, the national legislation of Kazakhstan, if adopted with the outlined deficiencies, would be recognised as infringing the international obligations of the country and would potentially bring reputational losses both to the country and its trade union movement.

We are carefully following different public debates about the draft legislation and the respective input of Kazakh trade union organisations, and we sincerely hope that proper consideration of the expertise of the International Labour Office will be given due attention by the Parliament in its debates, so that the final text will be in full compliance with the international labour standards ratified by Kazakhstan. In our opinion, the International Labour Office Memorandum provides the best guide for the Parliament to base its decisions on, while the International Labour Office can provide the legislative authority of Kazakhstan with further guidelines and clarifications.

The ITUC would be happy to support that process. We would welcome any inquiry on the issues by the interested parties in Kazakhstan and are ready to facilitate expertise. We also will not hesitate to use the existing ILO supervisory mechanisms in relation to the Conventions ratified by your country where it is deemed necessary to make sure that freedom of association and collective bargaining is fully respected in law and in practice.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'A. B.', written in a cursive style.

General Secretary

Cc:

Duissenova T.B., Ministry of Labor and Social Protection of Population of the Republic of Kazakhstan (mintrud@enbek.kz)

Kusainov A.K., Chairperson of the Federation of Trade Unions of Republic of Kazakhstan. (fprkastana@fprk.kz)

Kharkova L.N., Chairperson of the Confederation of Free Trade Unions of Kazakhstan (larisa_harkova@mail.ru)