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Président
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Sharan Burrow

General Secretary
Secrétaire générale
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H.E. Mohammed Ashraf Ghani

President
Islamic Republic of Afghanistan
Presidential Palace
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c/o Haroon Chakhansuri
Deputy Chief of Staff and Spokesperson to the
President
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HTUR/JB

2 October 2018

Your Excellency,

On 31 August 2016, your Cabinet issued a Protocol (No. 12) mandating the seizure of all property of the National Union of Afghanistan Workers and Employees (NUAWE), the Afghanistan Farmers' Cooperative Union and the Youth Union and the transfer and registration of it as state property.

NUAWE is a legally registered entity with a history as a trade union that dates back to 1978. The buildings were legally acquired, certified by a notary, officially registered and paid for with union membership fees. Thirteen out of 17 buildings are used for trade union activities, and three are leased out for regular income in order to finance trade union statutory activities, staff salaries and other legal obligations. One building is unlawfully usurped by the Ministry of Defence without payment of lease. None of the premises was donated or assigned by the government without payment.

The decision to confiscate NUAWE property was preceded only by the appointment of an ad-hoc advisory body that indicated that NUAWE in its current legal status was established after the entry into force of the 2003 Law on Social Organisation and that the properties had been bought before. Thus, the decision is a violation of Art. 40 of the Constitution of Afghanistan that states that no one's property shall be confiscated without the order of the law and decision of a competent court, as well as of the principle of freedom of association by which Afghanistan is bound as a member of the International Labour Organization (ILO).

On 26 April 2018, the ITUC associated itself with the complaint of NUAWE with the ILO Committee on Freedom of Association, dated 6 March 2017. Since the complaint, however, your government has intensified its efforts to take over NUAWE's properties, including attempts at violent takeover and occupation of the NUAWE offices by the police and the armed forces, the freezing of the union's bank accounts without judicial authorisation, failure to renew its license, as well as failure to engage with the union and hindering of freedom of expression and of the press.

The Ministry of Finance filed a case with the commercial court to claim the ownership of the properties. The commercial court convened on 25 July to review the documents presented by NUAWE on the ownership of the properties and ruled that the properties of NUAWE are not used for commercial purposes, referring the case to a civil court.

The Ministry of Justice sent a letter on 5 August to the Ministry of Finance stating that NUAWE's main office in Kabul should be re-opened on 7 August. However, NUAWE's main office in Kabul and all its

branches in 16 districts are still closed.

On 29 April, you approved the submission sent by the Ministry of Labour and Social Affairs to renew the registration of NUAWA “pending a reform of NUAWA’s properties and assets” (Sentence No. 217/29 April/2018). This, however, renewed the license of NUAWA only for six months instead of three years in violation of the Law on Social Organisation.

The bank accounts of NUAWA are still frozen in violation of the Law on Social Organisation. The staff of NUAWA have not received any salary for five months. Nonetheless, the union is still functioning without any office.

We call on your government to immediately withdraw the decision to seize union property and to allow for appeal against any court order to confiscate union property, as well as against the pertinent Government Decree. In light of the ILO’s centenary and its commitment to universal ratification of core labour standards by 2019, we also call on your government to ratify ILO Conventions 87 and 98 on freedom of association and the right to collective bargaining, as a matter of urgency. We consider that these issues should be addressed as a precondition to any agreement regarding a Decent Work Country Programme in Afghanistan.

Yours sincerely,

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

General Secretary