

**MICHAEL SOMMER**  
PRESIDENT  
PRÉSIDENT  
PRÄSIDENT  
PRESIDENTE

All Affiliates

**SHARAN BURROW**  
GENERAL SECRETARY  
SECRÉTAIRE GÉNÉRALE  
GENERALSEKRETÄRIN  
SECRETARIA GENERAL

GS/km

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## **Employers' Attack on ILO Supervisory System - Update**

Dear Friends,

I write to provide you with an update on our efforts to defend the ILO supervisory system and, more broadly, the exercise of fundamental labour rights (including the right to strike) from the ill-founded attacks by the Employers' Group. This letter follows a thorough discussion of this matter at the recent ITUC General Council and the adoption of a comprehensive resolution.

Since June 2012, the issue has been discussed at each subsequent session of the ILO Governing Body. Additionally, there have been a number of tripartite 'informal discussions' with representatives of the Committee of Experts. The Swiss Government has also facilitated, to no avail, an attempt to reach a consensus on a way forward.

### **Position of the Employers' Group**

To date, the Employers' Group has not fundamentally altered its position. They argue that the International Labour Conference (ILC) never conferred upon the Committee of Experts the mandate to "interpret" ILO conventions and that their observations of those conventions are therefore not to be viewed as legally binding. In practical terms, however, the Employers' Group simply refuses to defer to the observations of the Experts, while at the same time refusing to avail themselves of the judicial means available under Article 37 of the ILO constitution to challenge those observations, which creates great instability for the entire ILO supervisory system.

Instead, the Employers insist that the Experts' reports state clearly that they have not been approved by the tripartite constituents. This is part of an effort to put tripartite bodies in the role of interpretation and to diminish the authority of the experts to arrive at independent, considered views. . The Employers do not find that the existing, detailed statement of the Experts' mandate already found in the reports is sufficiently clear and thus want a "clarification", "Statement of Truth", or "disclaimer" which defines to their satisfaction the mandate of the Committee of Experts and the legal status of the Experts' opinions. The Employers' Group wants this "disclaimer" in order to be able to better discourage tribunals and courts around the world from relying on the Experts' reports to interpret the scope of the right of freedom of association, collective bargaining or the right to strike in national laws and regional instruments.

As to the right to strike, the position of the Employers also remains the same. They deny that any such right is found in connection with Convention 87, insisting on a sentence to that effect in the CAS conclusions of the 102nd ILC. The Employers' Group expanded their attack in 2013, taking issue, for example, with the concept of "good faith" collective bargaining.

### **What You Need to Do**

Much work remains to be done despite your and our best efforts to date. We need your help now to ensure that governments understand that the cornerstone of the ILO, its effective supervisory mechanism, is under dire threat.

I know and appreciate that a number of you have already on various occasions contacted your respective governments and Employers' organisations, and have sought, even secured, their support for a strong ILO supervisory system consistent with our views. As we move into the next session of the Governing Body, we will need to ensure that we achieve the strongest support possible among as many of the tripartite constituents as possible.

I am asking you to contact your government as soon as possible, especially if they are Governing Body members, to urge them to stand strong and defend the integrity of the ILO supervisory system. Government members of the governing body must take up this issue and strongly reaffirm their support for the Committee of Experts, the supervisory system, and the continued relevance of the ILO.

I am also asking you to contact your Employer organisations to raise your concerns regarding the positions taken by the Employer representatives in the ILO Committee on Application of Standards, and the implications for the role of the ILO and its Supervisory System in the future.

Yours sincerely,

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

General Secretary