

STATEMENT OF THE ILO HIGH-LEVEL BIPARTITE MISSION TO TURKEY

An ILO high-level bipartite mission, consisting of the Employers' and Workers' spokespersons of the International Labour Conference Committee on the Application of Standards, Mr Ed Potter and Mr Luc Cortebeeck, respectively, accompanied by Mrs Cleopatra Doumbia-Henry, Director of the ILO International Labour Standards Department ILO Geneva, Mrs Oksana Wolfson, legal officer of the same department, and Mrs. Gulay Aslantepe, Director of the ILO Office in Ankara, visited Turkey between 3 and 5 March 2010. The mission took place following the conclusions of the Conference Committee in June 2009. At that time, the Conference Committee requested the Government to accept a high-level bipartite mission with the aim of assisting the Government in making meaningful progress on the long outstanding issues raised by the ILO supervisory bodies with regard to the application of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87).

There was an earlier high-level ILO mission to Turkey in April 2008. This mission took place pursuant to a request of the Conference Committee in June 2007 with a view to assist the Government in taking the necessary measures to bring its legislation into conformity with Convention No. 87.

In June 2009, when it discussed the case of Turkey for the fourth time since the ratification by Turkey of the Convention in 1993, the Conference Committee expressed the firm expectation that significant progress would be made in bringing the law (in particular Acts Nos 2821, 2822 and 4688) and practice into conformity with the provisions of the Convention. The Committee further called upon the Government to rapidly put forward and ensure any constitutional reforms necessary for the application of the Convention. The Committee urged

the Government to elaborate a plan of action with clear time lines for finalizing the above-mentioned steps.

While in Ankara, the mission met with representatives of the Ministry of Labour and Social Security, trade unions (TURK-IS, DISK and HAK-IS), public employees trade unions (TURK KAMU-SEN, KESK, and MEMUR-SEN), employers' association (TISK), and the chairperson of the Parliamentary Health, Family, Labour and Social Affairs Commission. The mission regrets, however, that it did not have an opportunity to meet with the Minister of Labour and Social Security and the Minister of State, as well as other high-level personalities of the Republic. . During its stay, the mission also met with officials of the European Union.

The mission welcomes the tripartite consensus that any future legislation on trade union rights should be fully in compliance with Conventions Nos. 87 and 98 (Right to Organize and Collective Bargaining Convention, 1949) ratified by Turkey. It is the responsibility of the Government and the social partners to do all in their power to seek to reach a consensus. In this respect, the mission emphasises that ultimately, it is for the Government to ensure compliance with its international obligations. The mission welcomes the good will expressed by the Presidents of TISK, TURK-IS, DISK and HAK-IS to re-engage in a dialogue and what appears to be an expression of pragmatism on their behalf. It notes, in particular, the positive attitude of the employers' association in addressing the issues raised by the trade unions in respect of the trade union legislation.

All this said, the social partners need to stop taking one position in private that is the basis for consensus and another in other fora.

Considering the high-level mission that took place in April 2008, which allowed Turkey more time to take the necessary measures, it is all the more regrettable that up to the time of this

mission, there has not been any measurable progress towards the adoption of the relevant legislative texts. However, just prior to the mission, the Government submitted a draft Law on Trade Unions to the ILO. Due to the timing of the mission, it was not possible to review this draft. The Office may wish to provide to the Government its informal opinion on this text.

Bearing in mind that Turkey has ratified Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), the mission underlines the need to ensure that the existing social dialogue institution functions on a regular basis, is effective and is engaged in addressing all issues affecting the rights and interests of the social partners.

With regard to the trade union legislation, the mission recommends that as a minimum, any future work continues on the basis of the 2009 and 2010 observations of the Committee of Experts on the Application of Conventions and Recommendations which commented on a draft text, which is apparently pending in the Parliament. These observations contained a number of areas of non-compliance with Conventions Nos. 87 and 98, including the threshold requirement of 50 per cent plus one in a workplace. The mission wishes to emphasise that any text resulting from this work should be in full compliance with Conventions Nos. 87 and 98. The mission calls on the Government not to interfere in the internal and public activities of trade unions so that they can exercise their trade union rights in accordance with Convention No. 87.

Concerning the public sector, the mission notes that no concrete steps have been taken by the Government to ensure the full freedom of association and collective bargaining rights. The mission was informed of a workshop organized by the Government in February 2010 which was attended by one of the public sector trade unions and the Minister of State. The mission understands that on that occasion, a declaration was agreed upon stating that public servants should enjoy the right to collective bargaining and the right to strike, and that the Constitution

should contain provisions allowing for these rights. The mission encourages a greater coordination between the Minister of Labour and the Minister of State with a view to addressing the longstanding comments of the ILO supervisory bodies on Act No. 4688.

The mission appreciates that a workshop on trade union rights in the public sector organized by the European Commission in cooperation with the Turkish State Personnel Presidency took place in Ankara on 2 and 3 March of this year. The mission considers, however, that all the authorities responsible for the public service, including those responsible for revising Act No. 4688, as well as the public employees' trade unions should benefit from technical assistance of the ILO. This should include the holding of a seminar on trade union rights in the public sector organized by the International Labour Office, which should address the issues of social dialogue, collective bargaining, the organization of the public sector as regulated by Act No. 657, and the right to strike.

The mission trusts that the Government will be able to come up with a plan of action that results in a submission to Parliament, before the International Labour Conference in June 2010, of a legislative text that fully implements Conventions Nos. 87 and 98.

Ed Potter

Luc Cortebeek

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