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HTUR/LEX

19 January 2024

Mr. President,

I write to you on behalf of the International Trade Union Confederation (ITUC) and its 191 million workers in 169 countries, including Kazakhstan, to express our concerns over the interrogation, dismissals and intimidation, by the police and by the local authorities, of the striking workers in the LLP “West Oil Software”.

We have been informed by the Industry Trade Union of Fuel and Energy Complex Workers that around 500 workers of the LLP “West Oil Software” located in the Mangistau region decided to embark on a strike action on 11 December 2023, after a mutual solution was not found for the prolonged labour dispute at the enterprise.

According to our knowledge, the same day, 11 December, the local court ruled that the strike was illegal. We are however informed that the court decision was taken without due process and procedural fairness. The court proceedings were held in a closed-door manner, without participation of a trade union representative or possibility to provide relevant information. The decision of the court has been appealed.

The strike has been ongoing for several weeks. In the meantime, as we were informed, the management of the LLP “West Oil Software” and local authorities engaged in intimidation campaign - threatening trade union activists with criminal charges, exercising pressure on their relatives, issuing distorting communications and orchestrating defamation messages.

We recall that the law in Kazakhstan allows for punishing the striking workers and their leaders with administrative and criminal sanctions.

Accordingly, on 13 January, 7 striking workers of LLP “West Oil Software” were summoned by the police for interrogation.

At the same time, the management of the LLP “West Oil Software” announced termination of employment contracts of the striking workers and at least 17 workers have already received formal notification of dismissal.

The ILO Committee on Freedom of Association (CFA) has repeatedly underlined that no one should be deprived of their freedom or be subject to penal sanctions for the mere fact of organizing or participating in a peaceful strike, public meetings or processions. Such actions are considered legitimate activities in relation with workers’ right of association and are protected under the ILO standards.

The ILO Committee on the Application of the Conventions and Recommendations (CEACR) has repeatedly criticized the contents and application of the Article 402 of the Criminal Code of 2016 (last amended in 2020) which allows for criminal sanctions in case of a strike. CEACR has been calling for the review of Article 402, most recently in the report published in 2023, so as to ensure that simply calling for a strike action, even one declared illegal by the courts, does not result in detention or imprisonment.<sup>1</sup>

Accordingly, as recognized by the CFA, the dismissal of workers because of a strike constitutes serious discrimination in employment on grounds of legitimate trade union activities and is contrary to ILO Convention No. 98, ratified by Kazakhstan.

Striking workers and their organizations are entitled to the guarantees of due process of law, including with regards the decision on the legality of strike. The absence of such guarantees may lead to abuses and result in workers and their leaders being penalized by decisions that are groundless. Abuses of the process of law create a climate of insecurity and fear which further affect the exercise of trade union rights.

Kazakhstan’s application of the ILO Conventions Nos. 87 and 98 has been subject of supervision of the International Labour Organisation for several years, While some steps have been taken by the Government to implement the recommendations of the ILO supervisory bodies - including registration of the Trade Union of Fuel and Energy Industry Workers and simplification of the industrial actions legislation - the recent actions by LLP “West Oil Software” and by local authorities again raise serious concerns and risk setting the notable progress back. Invocation and application of

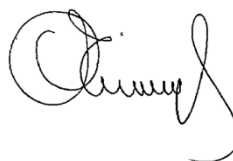
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<sup>1</sup>[https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID,P13100\\_COUNTRY\\_ID:4322409,103542](https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P13100_COUNTRY_ID:4322409,103542)

Article 402 of the Criminal Code against striking workers and no action taken against retaliatory dismissal of the striking workers by the employer would clearly signal that the Government chooses repression and escalation over resolution of labour conflicts and over respect of fundamental workers' rights.

We call on you to take necessary measures to ensure that this labour dispute is resolved through social dialogue and in line with the principles of freedom of association, while all the sanctions against workers are dropped. We continue monitoring the evolution of this conflict and will inform the ILO and international community accordingly.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Luc Triangle', enclosed in a thin black rectangular border.

Luc Triangle  
General Secretary