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Labour Code Reforms

Dear Prime Minister,

On behalf of the 207 million members of the International Trade Union Confederation (ITUC), including in Jordan, we write to express our concern with several amendments to the Labour Code which were adopted by House of Representatives and which are to be considered by the Senate this week. These amendments fail to address the many, longstanding concerns which have been expressed by the supervisory system of the International Labour Organization (ILO) regarding the fundamental rights to freedom of association and to collectively bargain. Instead, the amendments worsen the Labour Code, further limiting the right of trade unions to form and carry out their activities without interference. As such, we call on the Parliament to withdraw the amendments and to introduce legislation which is in full conformity with ILO Conventions 87 and 98.¹

1. Intervention in trade union structures and preventing the registration of trade union organisations

Currently, section 98 of the Labour Code violates ILO principles on the right to freedom of association. It provides that unions may be organised only in government designated sectors and there may be only one union per sector. The government has discretion to identify these sectors – currently set at 17. Since 1976, no new trade union has been allowed to form. The limitation of one union per sector serves to exclude independent unions from organising workers in those recognised sectors.² The government has repeatedly denied recognition to independent unions.

¹ The Government of Jordan ratified ILO Convention 98 in 1968 and is thus required to protect that right in law and in practice. Although the Government has not ratified ILO Convention 87, it is nevertheless bound to protect the principles of freedom of association under the ILO Constitution and the 1998 Declaration on Fundamental Principles and Rights at Work. We urge the Government of Jordan to ratify Convention 87 without further delay.

² See Compilation of Decisions, § 477 The existence of an organization in a specific occupation should not constitute an obstacle to the establishment of another organization, if the workers so wish. See also § 482

In Case no. 2977, the ILO Committee on Freedom of Association (CFA) commented on the discretionary authority bestowed upon the Labour Minister by section 98 and has recalled that “provisions which require a single union for each enterprise, trade or occupation are not in accordance with Article 2 of Convention No. 87” (Report 376, October 2015, para. 66). It further urged the government to “ensure the immediate registration of the Independent Trade Union of Phosphate Sector Workers (ITUPSW) and the Independent Trade Union of Workers in the Jordanian Electricity Company (ITUWJEC)”. Furthermore, the CFA requested the government to “develop the labour law so as to give greater scope to union plurality and to expand union activity” (Report 376, October 2015, para. 65). So far, the Government of Jordan has taken no steps to implement the 2015 CFA recommendations. On the contrary, the new amendments to the Labour Code still impose strict trade union unity.

While the new section 98 prohibits the establishment of unions on ethnic, religious or doctrinal grounds, it does nothing to address the problems previously identified. New section 98 still gives discretionary power to the Labour Minister to classify industries and economic activities in which trade unions may be established “so that no industry or economic activity shall have more than one trade union.”

By imposing trade union unity, section 98 blatantly infringes on the fundamental right of workers to form and join trade union organisations of their own choosing, while effectively preventing independent unions from registering where a union has already been established in one of the 17 recognised sectors or in other sectors which have not been recognised by the Minister.

Furthermore, section 98 infringes on the right of workers to collectively bargain their conditions of work and employment and excludes entire groups of workers from the benefit of ILO Convention no. 98. The ILO Committee of Experts expressed concern in that regard and requested that the Government of Jordan take the necessary measures to abrogate the “trade union monopoly imposed, which is inconsistent with the principle of free and voluntary collective bargaining established in Article 4 of Convention no. 98” (see CEACR, 2018 observation, Convention 98). The comments of the ILO of Experts, which echo the CFA recommendations, have remained unheeded so far.

2. Administrative dissolution of trade union organisations

Currently, the Labour Code authorises the Minister of Labour to seek judicial dissolution of a trade union. Section 116 of the Labor Code currently provides: *(1) The Minister may institute judicial proceedings before the court of first instance for the dissolution of any trade union, if it: a) violates any provision of this Code, provided that the Minister had already sent the union, before instituting the proceedings, written notice to cease the violation within a determined time-limit and that the trade union did not respond to such notice; (b) instigates walkouts, work stoppage, stay-in strikes or demonstrations in cases where such actions are prohibited under this Code or any other legislation in force.* The existing law already violates the right to freedom of association, given that a union may be dissolved for any violation,

(“Provisions which require a single union for each enterprise, trade or occupation are not in accordance with Article 2 of Convention No. 87”)

regardless how small and regardless whether the violation is the result of the actions of individuals.³

The amendment does not bring section 116 into compliance with ILO principles, as the amendment still provides that a union may still be dissolved for *any violation* of the Labour Code, including articles that themselves violate the right to freedom of association and to bargain collectively – including articles which deny the right to form or join an independent union. The law then gives the government the right to appoint an interim administrative body to administer the union for up to 6 months, until new elections are held. We also note that an appeal of the administrative decision to dissolve a union has been transferred from the Court of Appeals to the Supreme Administrative Court. It is unclear whether the latter tribunal affords unions the right of due process under law which must be afforded in such cases.⁴

In addition, section 119 prescribes an imprisonment penalty of three months and/or a fine of not less than 500 dinars and not more than 1,000 dinars for any person who pursues trade union activities in the name of a dissolved union or its administrative board.

Together, these sections constitute a serious attack on the right of workers to form and join trade union organisations of their own choosing. Based on these provisions trade unions in Jordan are at risk of arbitrary dissolution and their members potentially face imprisonment sentences and fines.

3. Interference in the right of trade unions to organise in full freedom

Newly amended section 100 provides that the General Federation of Trade Unions establishes and deposits with the Registrar of Trade Unions the internal structure of trade unions, including the objectives for which the union is formed, the conditions and procedures to become a union member, to exclude a union member, to be candidate to a union office and to set up union committees. This section constitutes an undue interference in trade union affairs and gravely infringes the rights of trade union organisations to draw up their constitutions and rules and to elect their representatives in full freedom.

In addition to the concerns expressed above regarding the pending amendments to the Labour Code, we note the following outstanding concerns expressed repeatedly by the ILO supervisory system.

Migrant Workers: While the Labour Code was amended in 2010 to allow migrant workers to join unions, it does not permit them to form unions or to hold union office.⁵ Thus, in sectors in which migrant workers predominate, it is very unlikely that trade unions will be formed and as a consequence bargain collectively over the terms and conditions of their employment.

³ ILO, Compilation of Decisions, § 995 “To deprive many workers of their trade union organizations because of a judgement that illegal activities have been carried out by some leaders or members constitutes a clear violation of the principles of freedom of association.”; §1000 The dissolution of a trade union is an extreme measure and recourse to such action on the basis of a picket action resulting in the disruption of a public event, the temporary termination of an organizations activities or the disruption of transport, is clearly not in conformity with the principles of freedom of association.

⁴ Compilation of Decisions 1003 “The suspension of the legal personality of trade union organizations represents a serious restriction on trade union rights and in matters of this nature the rights of defence can only be fully guaranteed through due process of law.”

⁵ ILO, Committee of Experts on the Application of Conventions and Recommendations, Convention 98 (Jordan) 2018; See also Committee on Freedom of Association, Compilation of Decisions (2018), § 320.

It remains a legal question as to whether migrant workers can vote in elections for union executive boards.

Domestic and Agricultural Workers: Though the Labour Code was amended in 2008 to extend certain rights to domestic and agricultural workers, it remains unclear whether the law permits domestic and agricultural workers to form or join unions or whether the Labour Code grants them other protections. There appears to be a split in judicial opinion as to whether the entire Labour Code applies to domestic workers or whether only a specific regulation for domestic workers, cooks, gardeners, and similar workers applies. Of course, these workers should be able to form or join unions and to bargain collectively over the terms and conditions of work.⁶

Minimum Age for Union Membership: Section 98(f) provides that trade union members must attain the age of 18 years, though persons who have attained the age of 16 years work. The Labour Code should be amended to allow workers between 16-18 years of age to be members of unions.⁷

Public Sector Workers: The law prohibits public sector workers from exercising the right to bargain collectively. ILO Convention 98 provides that all workers in the public sector should have the right to bargain collectively, with the narrow exception being that a government may elect to exclude public servants engaged in the administration of the State.⁸

Inadequate protection against acts of interference: The ILO has observed that the fines provided for in section 139 of the Labour Code (50-100 dinar / appx 62-124 Euro) could not have a sufficiently dissuasive effect. We urge the fines to be significantly increased.⁹

Additionally, we note that your predecessor sent an official memo, dated 7 April 2016, to all government ministries, directorates, and stated-owned companies, instructing them not to recognise trade unions unaffiliated to the General Federation of Jordanian Trade Unions (GFJTU). While fully supporting our affiliate, GFJTU, we believe that it is problematic that applications to register other unions are routinely denied by the Ministry of Labour.

Therefore, the ITUC calls on the Government of Jordan to address the concerns expressed above and to take, without any delay, the necessary measures to amend the Labour Code in line with ILO Conventions nos. 87 and 98.

Yours sincerely,



Sharan Burrow, General Secretary

⁶ ILO, Committee of Experts on the Application of Conventions and Recommendations, Convention 98 (Jordan) 2018; See also, Compilation of Decisions, §§ 347 (agricultural workers) and §§ 406-07 (domestic workers).

⁷ ILO, Committee of Experts on the Application of Conventions and Recommendations, Convention 98 (Jordan) 2018

⁸ Ibid

⁹ Ibid