ILO Conference 2016

Speech in the CAS on the Trade Union Act

Monday 6 June 2016

CGIL speak out against the Trade Union Act

*As part of the Committee on the Application of Standards’ consideration of the UK Trade Union Act 2016, CGIL international officer Silvana Cappuccio, Italian worker delegate to the ILO made the following speech.*

In addition to the measures outlined in the Trade Union Act, the UK Government is also proposing to remove the ban on the supply of agency workers to replace striking workers, contained in the legislation from 2003. A succession of previous governments, including conservative governments, has recognised that this regulation forms an important part of the industrial relations landscape in the UK.

We wish to express our serious concern as this proposal infringes workers' freedom of expression, organisation and protest, in violation to C.87, and we believe that this proposal will have seriously detrimental effects for employment businesses.

The removal of the ban on the supply of agency workers will mean that employment businesses are forced to become involved in industrial disputes which are not of their making. Agencies will also be perceived as taking sides. For many years, the agency industry has promoted the view that it is not good practice to supply agency workers during industrial action. Ciett, the International Confederation of Private Employment Agencies, has issued a Code of Conduct which prohibits the supply of agency workers during strikes.

We are seriously concerned that the government’s proposal will seriously harm employment relations within the hirer’s organisation. If employers decide to ‘bus in’ groups of agency workers during a strike, this will increase tensions between the union and the employer and between the employer and their workforce. It will mean that the dispute will be more difficult to be resolved.

Staff are also likely to feel less committed to the organisation and may decide to look for new employment. The loss of experienced staff will undermine organisational effectiveness and increase recruitment and training costs for employers. It will also place increased pressure and stress on remaining staff. The overall effect will be to reduce productivity.

The ILO Freedom of Association Committee has confirmed that ‘the hiring of workers to break a strike in a sector which cannot be regarded as an essential sector in the strict sense of the term constitutes a serious violation of freedom of association’.

Last year, the Italian Government and trade unions made a Joint Statement reiterating “the need for reaffirming the right to strike in all national and international fora in which the fundamental rights of people and workers are protected, as key elements of democracy. The Treaty of Lisbon recognizes this right as one of the E.U. fundamental rights and defines a sort of joint European notion of this right, in addition to the national ones, by considering it a universal right. The ILO Committee of Experts, entrusted with the task of analysing national reports and detecting the infringements of Convention 87 signed by all EU Member States, has operated along these same lines. Said Convention, together with the other seven, contributes to define the minimum level of protection to be ensured to the rights recognized by the E.U. Charter of Fundamental Rights” (quotation from the Joint Statement).

Indeed, the Statement did not mention anything new in the Italian Republican democracy.

In Italy, during the fascist regime strike was a crime against the national economy. Because of those provisions it was decided to state clearly the strike as a fundamental right with the highest of all legal protections: the constitutional one. The recognition in Article 40 of the constitutional right to strike is a guarantee of effectiveness of freedom of association under Article 39, since it allows trade unions to exist and operate in an economic system based on the market and the freedom of private economic initiative. This is the foundation of the Italian democratic Republic.

That's why we feel, need, want and ask the UK Government to reconsider this proposal carefully and to review it together with the social partners.