ILO Conference 2016

Speech in the CAS on the Trade Union Act

Monday 6 June 2016

Global transport unions 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, Ruwan Subasinghe from the International Transport Workers’ Federation (ITF) made the following speech.*

Thank you, Madam Chair.

I speak on behalf of the International Transport Workers’ Federation and its five million members worldwide.

This evening, I’d like to comment on Sections 2 and 3 of the Trade Union Act, namely the new requirement of a 50% participation quorum in strike ballots and the heightened requirement of 40% support of all workers in ‘important public services’, including transport.

The ITF is all too familiar with the critical economic role of transport being used as a pretext to defend the free movement of passengers and goods beyond the rights of people involved in the transportation itself. From Korea to Greece, we have seen some spectacular crackdowns of transport sector strikes in recent years.

While the Trade Union Act does not ban strikes in the sector outright, the additional requirement of 40% support will effectively take away the right to strike from transport workers, and will do so without putting in place the compensatory guarantees for workers deprived of the right to strike.

This amounts to a de facto ban on strikes in ‘important public services’.

It is inconceivable why such limits are being set at a time when annual days lost to strikes has fallen to 704,000 from an annual average of nearly 13 million in the 1970s. This fall can of course be partly attributed to the existing legal restrictions that make it easy for employers to obtain injunctions to have action stopped.

Let’s not forget that the UK has the most restrictive industrial relations laws in Western Europe.

Madam Chair,

If we take a closer look at the thresholds, the additional 40% requirement for important public services means that where 50% +1 members vote in a ballot, 80% must vote in favour of industrial action to be lawful. These thresholds do not apply to any other elections, like those for Police Commissioners or the Mayor of London. Indeed, this level is far higher than that needed to win a general election.

In Germany, where some unions voluntarily lay down ballot thresholds in their rulebooks, ballots are held in workplaces rather than by post. This of course produces higher turnouts. The same applies in Australia where within a highly prescriptive system of strike ballots it is possible to permit workplace and electronic voting. As colleagues from our benches will no doubt explain, the TUC’s request for electronic balloting must be considered in this context.

Madam Chair,

I’ve provided this background information to reinforce the point that the new balloting requirements contravene Article 3 of Convention 87, as indicated very clearly by the Experts.

Regarding the compatibility of a 50% + 40% ballot threshold with Convention 87, the Experts have previously stated that it is not reasonable.

Furthermore, It has been unequivocally held by the ILO’s supervisory bodies that the right to strike may only be restricted in the public service for those exercising authority in the name of the state or in essential services in the strict sense of the term (that is, services the interruption of which would endanger the life, personal safety or health of the whole or part of the population).

Transport generally does not constitute an essential service. Other than air traffic control, the transport occupations listed by the government, namely local bus services, passenger railway services, airport security services, and port security services, cannot be considered essential services.

Madam Chair,

These new thresholds will make it far more difficult for transport workers to take action in defence of their jobs, livelihoods and working conditions and to protect the quality of public services and public safety.

The right to strike is a human right protected under international law. Not only is it covered by Convention 87, it is also our firm belief that the right to strike is a customary international law norm.

We therefore urge the government to comply with the Experts’ request to drop the heightened 40% requirement for education and transport services.

This is the minimum that workers engaged in important public services deserve.

Thank you.