

**ILC 2018**

**COMMITTEE ON THE APPLICACION OF STANDARDS**

**INDIVIDUAL CASES: BRAZIL C98**

Intervention by Mrs Rosa Pavanelli (PSI, France)

Thank you chair.

I speak on behalf of Education International (EI), IndustriALL Global Union, the International Transport Federation (ITF) and Public Services International (PSI), which together represent over 100 million workers worldwide.

The possibility, by means of collective bargaining, to derogate from statutory minimum rights breaches the fundamental objective of Conventions 98, 154 and 151. We reject the Brazilian Government's assertion that the Experts erred in their understanding of treaty interpretation rules. Instead, we support the Experts' interpretation of Article 4 of Convention 98 and welcome their concise technical comments. We have evidence of the impact of similar reforms in many European countries, such as the case of Greece discussed yesterday.

Chair,

New Section 611-A of the Consolidation of Labour Laws Act allowing collective bargaining agreements to reduce the rights and protections afforded by labour legislation can have catastrophic and far-reaching consequences for workers and trade unions. In the aviation and maritime sectors, such derogations can interfere and slash sector-specific safety standards, including flight and sea time limitations and minimum rest periods. Indeed, some of these vital protections derive from ILO Technical Conventions. For these workers, the safeguards contained in Section 611-B, namely the inviolability of Constitutional rights, are simply not sufficient, and ILO Conventions not protected, and it is possible that collective bargaining will derogate from their application as well.

The claim that the reform is a modernization of the labour laws, aiming at strengthening negotiations and unions is contradicted by the decision of the Labour Superior Court. Less than 24 hours after the recent strike by the oil workers, the Court decided on the illegality of this measure and established a daily fine of R\$ 2 million (over US\$ 530,000) for unions that failed to suspend the strike. This creates a hostile environment that is not conducive to mature social dialogue.

Early this year, the President vetoed Law no. 3831, which regulates collective bargaining in the public administration, a decision that was a slap in the face of Brazilian civil servants, considering that ILO Convention 151 was signed by Brazil in 1978; ratified by the National Congress in 2010; and internalized by the Presidential Decree on March 6, 2013. Law no. 3831, was in fact built by consensus in the Bipartite Chamber of Government and Public Servants of the Ministry of Labour and Employment (MTE) and was approved unanimously in the Federal Senate and the Chamber of Deputies of Brazil.

The labour reform has also direct consequences for the education sector, that will see the privatization of secondary education and will have a negative impact in the teachers' minimum salary. The government has also failed to comply with the goals of the national education plan that involves the allocation of 10% of GDP in education.

Contrary to the contention of the Brazilian employers, the Act was not preceded by a broad process of discussion. Indeed, Brazilian trade unions were merely 'informed' of the proposed amendments. As the ILO supervisory bodies have held for decades, it is imperative that full and frank consultation takes place on any questions or proposed legislation affecting trade union and collective bargaining rights.

Chair, nothing short of comprehensive labour law reform, in consultation with ALL social partners, will suffice to bring the Brazil's legislation into conformity with Convention 98.