



KRİSTAL-İŞ



Glass, Cement and Soil Workers Union of Turkey
Affiliated to Türk-İş IndustriALL and IndustriALL Europe

Istanbul, 15 July 2014

Our Ref: 2014/334

Mr. Guy Ryder
Director-General,
International Labour Office
4, Route des Morillons CH-1211 Geneva
Switzerland

Violation of Freedom of Association, the Right of Collective Bargaining and the Right to Strike: Official Complaint Against the Government of Turkey

Dear Mr. Ryder,

On behalf of Kristal-İş (Trade Union of Glass, Cement and Soil Workers of Turkey) we submit an official complaint against the Government of Turkey upon violation of the right to organise, the right to collective bargaining and the right to strike which are protected by ILO Conventions Nos. 87 and 98.

On 27 June 2014, the Turkish Government issued a decree (no 2014/6524) to suspend, on the grounds of “public health and national security” and for 60 days, a major strike in the entire glass industry (10 companies and some 5800 workers at Siscam Group, a leading Turkish multinational glass maker group) which was taken place on 20 June 2014. The decree was based on the article 63 of the act no. 6356 (Law on Trade Unions and Collective Agreements), which allows the government to suspend any strike for 60 days if it is deemed to endanger national security and public health.

The provision relating suspension of the labour legislation (article 63) has been misused systematically by the Government of Turkey to undermine the freedom of association and the right to strike that are protected by the ILO Conventions. The article 63 and practices of Turkish Government violate ILO Conventions Nos. 87 and 98, both of which have been ratified by Turkey.

We would like to submit an official complaint letter against Turkish Government under the ILO Constitution.

We would like to apply to the Committee of Freedom of Association and the Committee of Experts on the Application of Conventions and Recommendations.

Detailed information relating to our complaint is submitted in the enclosed letter.

Yours sincerely,

Bilal ÇETİNTAŞ
President

THE LETTER OF COMPLAINT OF KRISTAL-IS UNION AGAINST THE GORVERNMENT OF TURKEY

- *To the attention the Committee of Freedom of Association*
- *To the attention the Committee of Experts on the Application of Conventions and Recommendations*

On 27 June 2014, the government of Turkey issued a decree (2014/6524) to suspend, on the grounds of public health and national security and for 60 days, a major strike in the entire glass industry (10 companies and some 5800 workers at Sisecam Group, a leading Turkish multinational glass maker group) which was taken place on 20 June 2014. The decree was based on the article 63 of Act No. 6356 which allows the Government to suspend any strike for 60 days if it is deemed to endanger national security and public health.

According to the article 63 of the act of 6356 “A lawful strike or lock-out that has been called or commenced may be suspended by the Council of Ministers for 60 days with a decree if it is prejudicial to public health or national security. The suspension shall come into force on the date of publication of the decree. If an agreement is not reached before the expiry date of the suspension period, the High Board of Arbitration settles the dispute upon the application of the either parties within six working days. Otherwise, the competence of workers’ union shall be void.”

Thus "suspension" of any strike under the current Turkish labour legislation usually means an indefinite ban in practice, because the law imposes compulsory arbitration mechanism at the end of the sixty days suspension, unless the parties have either come to an agreement or voluntarily sought arbitration. This article means that it is extremely difficult to exercise the right to strike in Turkey.

The article 63 is not applied only to the essential services the interruption of which would endanger the life, safety and health of the whole or part of the population as made clear in the decisions of ILO supervisory bodies, but also it is applied to any ordinary strike in any service or industry such as rubber or glass. Claiming that any strike in the glass industry threatens national security is unreasonable, unlawful and unfair. Turkish governments systematically misuse the mechanism of strike suspension as a tool eliminating the right to strike.

As the table shows “suspension of strike” in Turkey is not an exceptional situation but a routine habit of governments. These kinds of suspensions mean a clear violation of the right to strike,

which is protected by C87. In the years of 2000 four major glass strikes were suspended on the ground of national security or public health. And also several strikes in rubber industry and mining have been suspended since 2000. Here are some examples in the years of 2000:

Table: Strikes which suspended by the government on the grounds of national security and public health by 2000s.

<i>Date of Governmental Decree</i>	<i>On what grounds</i>	<i>Industry or Company concerning</i>	<i>Trade Union concerning</i>
5 May 2000	National security	Rubber	Lastik-İş
8 June 2001	National Security	Glass/Sisecam Company	Kristal-İs
17 May 2002	National Security	Rubber	Lastik-İş
25 June 2003	National Security	Rubber	Petrol-İs
8 December 2003	National Security	Glass/Sisecam Company	Kristal-Is
14 February 2004	National Security and Public Health	Glass/Sisecam Company	Kristal-Is
21 March 2004	National Security	Rubber	Lastik-Is
1 September 2005	National Security	Mining	Maden-İş
27 June 2014	National Security and Public Health	Glass/Sisecam Company	Kristal-Is

Source: The Official Journal of the Government of Turkey

Strikes in Turkish glass industry have been suspended four times in 2000s, shown as in table. We would like to note that the suspension of strikes amounts to a serious and systematic violation of the right to strike. The suspension of strikes by applying the article 63 of Act No.6356 in glass industry, which have nothing to do with national security or public health, is not an exceptional case but a regular strategy which amounts to a systematic violation of the right to strike in Turkey.

The Council of State, a high court, has annulled governmental decrees suspending strikes for several times. But against the decision of the Council of State of Turkey, the Government of Turkey has insisted on suspension of strike. For instance, a governmental decree no. 2003/6479 was annulled by a decision of the 10th Department of the Council of State upon the complaint of Kristal-Is and consequently, the strike started on 30 January 2004. However, the Government of Turkey issued a new decree on 11 February 2004 (No. 2004/6782), which suspended the strike again. The second decree meant not only the violation of the right to strike but also the violation of the rule of law.

In all decrees of suspension, the government indicated no reason why a strike in the glass industry might be considered as harmful to public health and national security. The repeated suspension of strikes so as to prevent strikes in sectors such as glass and rubber, which do not

appear to have any direct connection to national security or public health, might amount to a systematic violation of the right to strike. We would like to repeat the view that there is no reasonable connection between the glass industry and the Turkey's national security.

Following the suspension earlier in 2000s, we applied to the Committee of Freedom of Association. In the case no 2303, the committee concluded the case as follows (paragraph 378):

“(d) The Committee deplores the fact that strikes have been suspended and compulsory arbitration imposed in numerous cases, and requests the Government to ensure in the future that such restrictions may only be imposed in cases of essential services in the strict sense of the term, public servants exercising authority in the name of the State or an acute national crisis.

(e) The Committee requests the Government to amend section 33 of Act No. 2822 so that the authority to decide whether to suspend a strike rests with an independent body which has the confidence of all parties concerned.”

In this respect, despite the promises made by the Government for many years, there is no meaningful improvement to amend the current labour legislation especially in terms of the right to strike. In 2012, Turkish Parliament adopted a new trade union act numbered 6356. In the new act the strike suspension mechanism was not amended, the same provisions as in the old act (number 2822) incorporated into the new act (number 6356).

The article 63 of the law no. 6356 and the decrees of Turkish Government regarding strike suspension are not in conformity with the C87 and C98 and decisions of ILO's supervisory bodies. Clearly, current strike suspension mechanism under the law no 6356 should be wholly modified immediately in line with the ILO conventions as mentioned in the previous reports of the Committee of Experts on the Application of Conventions and Recommendations and of the Committee on Freedom of Association.

Finally, we complain the Government of Turkey under the ILO Constitution for violations of the freedom of association, the right to collective bargaining and the right to strike systematically.

**Kristal-Is
(Glass, Cement and Soil Workers Union of Turkey)**

15 July 2014