



ELDH European Association of Lawyers for Democracy & World Human Rights

EJDM Europäische Vereinigung von Juristinnen & Juristen für Demokratie und Menschenrechte in der Welt
EJDH Asociación Europea de los Juristas por la Democracia y los Derechos Humanos en el Mundo
EJDH Association Européenne des Juristes pour la Démocratie & les Droits de l'Homme
EGDU Associazione Europea delle Giuriste e dei Giuristi per la Democrazia e i diritti dell'Uomo nel Mondo

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Mr. Binali Yıldırım
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Letter of concern: the decree of the Cabinet of Ministers of Turkey banning strikes in the metal industry

Mr. Prime Minister,
I am writing this letter to you on behalf of ELDH www.eldh.eu, which represents lawyers in 21 European countries, to urge you to withdraw the decree dated 26 January 2018 covering 179 companies, banning the strikes in the metal industry which have been called by three unions in the sector.

It is of great concern that the Cabinet has issued the decree on the very same day as a planned meeting between the three unions and the employers' association, even though the Turkish Government is supposed to create and support a proper environment whereby free collective bargaining negotiations can take place. It is completely unacceptable to justify the decree by saying that the strikes are "prejudicial to national security".

It is unfortunate that the Turkish Government has repeatedly resorted to banning strikes. During the rule of the AKP strikes in different sectors have been banned fourteen times. We recall the previous banning of the metal industry strikes in January 2017. The decree of 26 January 2018 is intended to ban the strikes that the three unions were planning for 2nd February in many workplaces in the metal industry in different cities of Turkey. We recall that last year we sent a letter to express our concern regarding these measures, which in our view violate international law.

It is our view that the Turkish Government has regularly misused the relevant article of the Turkish Law on Trade Unions and Collective Labour Agreement, number 6356. Using this provision to ban strikes in the manufacturing sectors does not have any rational or legal ground. On the contrary, it is our firm conviction that the Turkish Government is favoring business interests rather than protecting the rights of workers.

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We vehemently protest the banning of these legitimate strikes. We consider that this is a clear violation of the right to strike, which is one of the fundamental rights of workers, guaranteed by the Constitution of Turkey

ARTICLE 54. Workers have the right to strike if a dispute arises during the collective bargaining process.

This right is also guaranteed by international conventions ratified by Turkey. Turkey has ratified International Labour Organisation (ILO) Conventions 87 (Freedom of Association and Protection of the Right to Organise) and 98 (Right to Organise and Collective Bargaining).

Furthermore, in January 2010 the European Court of Human Rights in the cases of *Demir and Baykara v. Turkey* and *Enerji Yapi-Yol Sen v. Turkey* declared that Article 11 of the European Convention on Human Rights, ratified by Turkey, includes a right to collectively bargain and precludes a blanket ban on a right to strike.

The ILO has repeatedly urged the Turkish Government not to misuse provisions for the postponement of a strike in violation of the principles of freedom of association, as it should only be used in very exceptional circumstances.

This banning of the strikes in the metal industry constitutes, once again, a violation of international core labor standards. It is clear to us that the right to strike in Turkey has de facto ceased to exist even though it is guaranteed in Turkey's Constitution and labour legislation.

Therefore, ELDH calls again on the Turkish Government to fully respect fundamental workers' rights. In consequence, we urge you to withdraw the decree banning the strikes in the metal industry, and to create a proper environment whereby free collective bargaining negotiations can take place.

We anticipate your quick reply.

Sincerely,



Thomas Schmidt
Secretary General

Professor Bill Bowring
President

CC:

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