



November 30, 2022

YOON, Suk Yoel  
President, Republic of Korea  
Office of the President  
22, Itaewon-ro, Yongsan-gu,  
Seoul, Republic of Korea

**Re: Back to Work Order**

Dear President Yoon:

The ILAW Network, which represents over 870 workers' rights lawyers in over 80 countries, deplores the November 29 decision of the Government of the Republic of Korea (GROK) to issue a return-to-work order to striking truck drivers in the construction industry. The drivers, who have been on strike since last Thursday, have demanded that the GROK simply extend rules guaranteeing minimum freight rates, or "safe rates", which their union, the Korean Public Service and Transport Workers' Union Cargo Truckers' Solidarity Division (KPTU-TruckSol), argues are necessary for maintaining a safe working environment. There is simply no credible claim that the drivers' strike creates an acute national emergency, as the GROK argues, that *might* serve as a legitimate basis to bring an end to a strike. Of particular concern, those who refuse to comply with the order, which is plainly contrary to international law,<sup>1</sup> may be subject to the suspension of their license, as well as imprisonment of up to three years or a fine of up to 30 million won (\$22,600) fine. *I therefore urge the GROK to rescind the back-to-work order immediately and to negotiate with KPTU-TruckSol over the extension of Safe Rates.*

The current strike is the result of the GROK's decision to backtrack on the Safe Rates law, which in June 2022 it agreed to extend past its sunset at the end of this year. Such laws involve the setting of legally enforceable minimum rates of remuneration necessary to ensure that drivers are not pressured to engage in unsafe driving practices such as speeding, overloading, working for excessively long hours and driving when fatigued. Indeed, the Safe Rates model was referenced in the 2019 ILO Guidelines on the promotion of decent work and road safety in the transport sector as it keeps both drivers and the public demonstrably safer.<sup>2</sup> Adoption of a Safe Rates model is one important way in which the GROK can fulfill its obligation under Convention 155, Article 4(2), which requires states to adopt a policy "to prevent accidents and injury to health arising out of, linked with

---

<sup>1</sup> The ROK's actions appear to violate several fundamental ILO conventions, including Convention 29 (forced labor), Convention 87 (freedom of association), and Convention 155 (occupational safety and health).

<sup>2</sup> [https://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---sector/documents/meetingdocument/wcms\\_716127.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/meetingdocument/wcms_716127.pdf)

or occurring in the course of work, by minimizing, so far as is reasonably practicable, the causes of hazards inherent in the working environment.”<sup>3</sup> As such, given the law’s obvious benefits, it is unclear why the GROK would walk back its commitment to extend the law.

Given that the law would help keep drivers and the public safe, it is very clear why KPTU-TruckSol advocated for the law to be extended and why it decided to strike when the GROK walked back its commitment. The decision to strike over the lapse of this important law, which is clearly related to conditions of work, is unquestionably protected by ILO Convention 87 and indeed the ILO Constitution. The International Labour Organization’s (ILO) tripartite Committee on Freedom of Association (CFA) has for 70 years defined the scope of the right to freedom of association, including the right to strike. It has consistently held that workers may engage in collective action, including strikes, including outside of the collective bargaining process. Further, the CFA has stated that, “organizations responsible for defending workers’ socio-economic and occupational interests should be able to use strike action to support their position in the search for solutions to problems posed by major social and economic policy trends which have a direct impact on their members and all workers in general, in particular as regards employment, social protection and standards of living.”<sup>4</sup> The GROK’s prior statements labelling the strike as “illegal” and unjustified and the back-to-work order for striking cement cargo truck drivers (approximately 2,500) is a serious violation of the right to strike.

I understand that the GROK is relying on Article 14 of the Trucking Transport Business Act to issue the back-to-work order – the first time that any administration has used this authority. The law requires that the refusal to transport cargo “is likely to cause a very serious crisis in the national economy.” There appears to be no evidence that the economy is experiencing a “very serious crisis”. Moreover, the ILO has repeatedly explained that the decision as to the legality of a strike, usually related to strikes in essential public services, should not left with the authorities but instead by an independent tribunal.<sup>5</sup> Such a safeguard is to avoid situations such as this one, where the authorities use their executive power to undermine the otherwise lawful activity of a union seeking to shape public policy. I also strongly caution the GROK against the imposition of fines or penal sanctions for the exercise of the right to strike. Again, the ILO has been clear that criminal sanctions are a last resort which may only be available when strikes become violent.<sup>6</sup> There is no evidence that any truck drivers involved in the strike have engaged in violence of any kind.

Finally, the GROK has likely also engaged in forced labor by issuing a back-to-work order in response to a lawful strike, backed up by fines or penal sanctions. The ILO Committee of Experts has recalled that labor may be called up by virtue of emergency powers only in so far as it is strictly necessary to deal with circumstances endangering the existence, personal safety or health of the whole or part of the population. There is no evidence that this is the case here. Further, in an Article 24 representation

---

<sup>3</sup> The GROK ratified this convention in 2008.

<sup>4</sup> See, e.g., CFA Case No. 2602 (Korea), Report 355 (Nov 2009)

<sup>5</sup> Representation (Article 24) – Greece – C29, C105 – 1987

<sup>6</sup> ILO Committee on Freedom of Association, Compilation of Decisions ¶¶ 953-56, 970-74.



concerning Greece, the tripartite committee convened to examine the case concluded that the mobilization of pilots and flight engineers ordered in anticipation of a strike in civil transport did not meet the criteria of the exception provided for in Article 2, paragraph 2, of the Convention to deal with cases of emergency. Furthermore, the obligation to remain at the disposal of the airline constituted a form of compulsory service.

Again, on behalf of the ILAW Network, I urge the GROK to rescind the back-to-work order immediately and to negotiate with KPTU-TruckSol over the extension of Safe Rates law.

Sincerely,

Jeffrey Vogt  
Chair, ILAW Network