

Central Organization of Trade Unions (Kenya)

All correspondence should be addressed to the Secretary General

Chairman - General

Rajabu W. Mwondi, MBS

Secretary - General

Francis Atwoli, NOM (DZA), EBS, MBS

Treasurer - General

Rebecca Nyathogora



SOLIDARITY BUILDING
DIGO ROAD
P.O. BOX 13000 CODE 00200
NAIROBI - KENYA
TELEPHONE: +254-20-2383368
& +254-20-6761375/7
Email: info@cotu-kenya.org
website: www.cotu-kenya.org

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Our Ref:

14th February, 2017

Bro. Guy Ryder
Director General
International Labour Organisation
4 route des Morillons, CH-1211,
Genève 22, Switzerland

Sis. Sharan Burrow,
General Secretary,
ITUC-Bruxelles,
Bd du Roi Albert II, 5, Bte 1. B-1210,
BRUXELLES, BELGIUM

Bro. Kwasi Adu-Amankwah,
General Secretary,
International Trade Union Confederation – Africa,
B.P.:4401,
LOME, TOGO

Bro. Arezki Mezhoud,
General Secretary
Organisation of African Trade Union Unity, OATUU
P.O. Box M. 386,
ACCRA, GHANA

Dear Colleagues,

RE: THE CLOSE TO THREE (3) MONTHS DOCTOR'S STRIKE IN KENYA AND THE SUBSEQUENT JAILING OF ITS LEADERSHIP

The Central Organisation of Trade Unions, COTU (K) as the single most representative umbrella workers body in Kenya has a total of forty four (44) affiliated Trade Unions and among them is the Kenya Medical, Practitioners, Pharmacists and Dentists Union, KMPDU.

The Union, soon after its registration and subsequent calling as its members on strike in December, 2011, the then President of the Republic of Kenya His Excellency Mwai Kibaki ordered the parties during his 12th December, 2011 Jamhuri Day Celebrations' speech to meet immediately and resolve the strike and among those directed to be involved were COTU (K) Secretary General, Federation of Kenya Employers (FKE), the Ministers for Health, Public Service and Finance as well as the Union officials.

Indeed, the parties convened the same evening and jointly with the Finance minister we did co-chair the meeting all through the night until a return-to-work formula was agreed upon and signed by the parties as doctors resumed work the following day.

Among the key outcomes of the return-to-work-formula was for the union together with the Ministry of Health to come up with a Collective Bargaining Agreement (CBA) that would address all the issues pending and otherwise between the Kenyan doctors and the Kenya government.

However, because of the then frequent changes and leadership wrangles in the Union, a CBA was developed and signed on 27th June, 2013 without the much needed professional input from COTU (K) and which action the Labour and Employment Relations Court Judge in her ruling in 2015 directed that the CBA could not be registered in its current form but be reviewed and amended to confirm with such requirements before registration and gave 90 days for these actions.

No action followed despite the spirited efforts by the union for the government to act prompting the union in November 2016 to issue a 21-days strike notice by its members effective 5th December, 2016 and within this period on 2nd December, 2016 the Council of Governors, CoG proceeded to Court and got orders from the Judge declaring the intended strike action illegal as "*the parties had not exhausted all the necessary Industrial Relations machinery*" in resolving the dispute.

However, the Union proceeded on with the strike from 5th December, 2016 prompting the Council of Governors, CoG to return to Court on 7th December 2016 and Institute contempt proceedings against the Union Officials citing their alleged defiance to obey the Court order stopping the strike.

On 20th December, 2016 the Judge found the Union Officials guilty of contempt and ordered them to end the strike or risk serving a jail term.

On 12th January, 2017 the Judge sentenced the Union officials to one month jail term for contempt but suspended the jail term to allow for parties to agree.

On 26th January, 2017, the Judge once again suspended the jail term sentence for another week to give more time for negotiations.

On 3rd February, 2017, noticing the dangerous trend the matter was taking, I personally appeared before the Honourable Judge accompanied by the Union officials in contempt and appealed to the Judge for one more week and in which I promised the Judge that as an experienced Industrial Relations' Practitioner, I would bring the parties to a table and agree on the contentious issues that required to be resolved before the Collective Bargaining Agreement (CBA) was signed and registered.

Consequently on the same day I held intensive consultations with the Union officials in my office and on Sunday, 5th February, 2017 convened a meeting with the Cabinet Secretary, Ministry of Health and agreed that each party submit a list of three names to the negotiation team lead by my Deputy Secretary General together with two other senior officials from COTU (K) besides the team from the Kenya National Commission of Human Rights that was led by its Chairperson.

This teams started off their meetings on Monday 6th February 2017 through 13th Feb, 2017 at 1:00 am and no agreement was reached and this prompted a concern from the team and myself where it was now clear in my mind that this was no common Industrial Relations Dispute as the parties could not agree because one side of the parties, namely the team from the Doctors Union was receiving contradicting telephone calls from the Principle Secretary, Ministry of Health and who apparently was using the dispute to settle differences between himself and the Cabinet Secretary and to affirm these fears the same Principal Secretary had been appointed to lead the Ministry's negotiating team but defied his Cabinet Secretary and never turned up for the negotiations' meetings.

This prompted COTU (K) to register its displeasure with the negotiations and to call upon the President to personally intervene by way of foremost ending the feud at the Ministry before any negotiations could proceed since these developments had driven the negotiators from the union to take a hard-line stand and reject any such offers from government despite the team having developed and proposed a return-to-work formula (*see attached*) based on the negotiated government offers on all allowances and which upon the start of the mediation process, I personally appealed to the President and on my request, he offered them a further USD 5 Million (*see attached*) in addition to the previous offers on all their allowances.

Further, the strike has been compounded by the direct involvement of private clinics/health services providers who are making a lot of money due to the closure witnessed of our Public hospitals where these doctors are employed and would wish the strike continued as long as they continue wrecking in more monies and now this continued involvement of non-actors in Industrial Relations Disputes' resolutions mechanisms coupled with supremacy battles within the Ministry pitting the Cabinet Secretary against the Principal Secretary has led to the Union Officials to go to jail when this would have been avoided.

Meanwhile COTU (K) is doing all it can including engaging with other relevant government agencies to secure the release of these doctors soonest.

Thank you.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Francis Atwoli', with a large, sweeping flourish extending to the right.

Francis Atwoli, NOM(DZA) EBS, MBS
SECRETARY GENERAL