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JSV/HTUR

1 May 2012

### **Injunction of Strike at LOT AMS SP. z.o.o.**

Dear Prime-Minister,

The International Trade Union Confederation (ITUC) writes to express its deep concern with regard to the recent decision of a civil court to enjoin a legal strike called by the Aircraft Maintenance Staff Trade Union (AMSTU), affiliated to the All-Poland Alliance of Trade Unions (OPZZ). From the information available, this move appears to constitute a serious violation of international labour standards, namely the rights of freedom of association, to organize and to bargain collectively.

On 18 March 2012, AMSTU commenced a strike against the employer, LOT AMS SP. z.o.o., in full accord with the requirements of the Polish Act on collective labour dispute resolution. The strike followed all prior required steps, including negotiation, mediation and strike-ballot procedures envisaged by the law, and in a form authorized by the Act.

From the beginning of the strike, the employer intimidated the workers, suggesting that the strike was illegal and that the workers would suffer the consequences of an illegal strike. Despite the threats, the workers continued peacefully with their industrial action. Failing to dissuade workers, the employer then sought the intervention of a civil court despite the fact that labour courts have jurisdiction to decide questions relating to the legality of strikes. The civil court, without notice to the union and thus an opportunity to contest the application, granted the employer's request for a temporary injunction pending a later hearing on the legality of the strike. The employer, using civil law principles, had argued that the potential harm of the strike was disproportionate to the aims of the strike and therefore must be enjoined. The employer thereafter dismissed all the members of the executive committee of all trade unions engaged in the collective dispute with the employer on the basis of this injunction.

This marks the first time of which we are aware that a civil court has usurped the jurisdiction of the labour court and applied civil law principles to enjoin an otherwise legal strike. We believe that the civil court brazenly overstepped its powers by hearing the case and issuing the injunction. If allowed to stand, this case could have serious implications for the exercise of the constitutionally-guaranteed right to strike. We are also deeply troubled by the lack of due process as the union was never notified of the application by LOT AMS

Sp. z o.o. The nature of the proceedings and the ruling raise serious questions about the impartiality of the judiciary in Poland.

We urge you to investigate this matter immediately and take corrective action, including such legal measures necessary to vacate the civil court's decision and to reinstate the workers dismissed on the basis of a procedurally and substantively flawed decision. We look forward your reply and corrective action.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'A. B.', written in a cursive style.

General Secretary