



Int Dept/KT/gp

DATE  
2012-10-17

OUR REFERENCE  
KT/gp

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Hon. Mwai Kibaki, President  
Republic of Kenya  
Nairobi  
Kenya

Dear Mr. President,

The Swedish Trade Union Confederation (LO), representing more than 1.5 million members, is writing to you to vigorously protest the conviction of the General Secretary of the Central Organization of Trade Unions (COTU) of Kenya, Mr. Francis Atwoli.

We have been informed that last Friday, 12 October 2012, the High Court of Kenya found Brother Atwoli guilty of inciting tea pickers to destroy property in an unlawful strike and also of defying a court order which requested him to call off the strike.

While recognising the importance of upholding the rule of law, the LO wishes to strongly condemn this conviction.

The first reason is that, according to the Kenyan Industrial Court Act 2011, all matters related to industrial disputes should be referred to the Industrial Court. However, the Kenya Tea Growers Employers Association (KTGEA) decided to pursue this matter through the High Court of Kenya.

Secondly, in his capacity as General Secretary of both COTU as well as the Kenya Plantation and Agricultural Workers Union (KPAWU), Brother Atwoli did comply with provisions of the law which require unions to give a 21 days' notice before going on strike. The KTGEA, however, only reacted after the expiry of the 21 days, after which it sought a High Court injunction. It seems that this was done intentionally so that the strike could not be called off anymore.

Brother Atwoli furthermore was given a 500,000 Ksh (6,000 USD) fine for contempt, because he would have refused to appear in court. This is pertinently untrue, as he was attending the International Labour Organisation's (ILO) Governing Body in Geneva, Switzerland, when the first summons were issued. Brother Atwoli is indeed internationally known, appreciated and commended for his commitment to the

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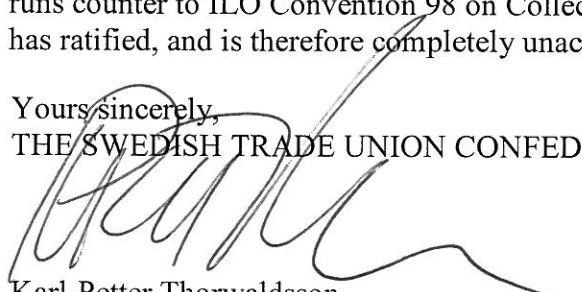
**The Swedish Trade Union Confederation**

international trade union movement, and does as such carry out a large number of international assignments.

Mr. President, the LO considers his conviction should be declared null and void, as the course of justice was not respected. We furthermore wish to stress that abusing the justice system to harass and indeed silence a union runs counter to ILO Convention 98 on Collective Bargaining, which Kenya has ratified, and is therefore completely unacceptable.

Yours sincerely,

THE SWEDISH TRADE UNION CONFEDERATION (LO)



Karl-Petter Thorwaldsson  
President