

Individual Complaint to:

- **the Special Rapporteur on the rights to freedom of assembly and of association; and**
- **the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression**

Country: Republic of Korea

Incident / Violation: On October 24th, 2013, the government of the Republic of Korea declared that the Korean Teachers and Education Workers' Union (hereinafter referred to as the "KTU") was an illegal trade union for allowing nine wrongfully dismissed teachers to remain union members. On June 19th, 2014, the Seoul Administrative Court also sided with the government. KTU has lost its status as a lawful trade union and has lost its office space and funding subsidized by the government. KTU's union officials who are now on leave for union affairs should return to their schools. This is a clear violation of freedom of association. After the Seoul Administrative court's decision, the Ministry of Education accused of 36 teachers for participation in the "early-leave protest" to join rallies against the government and also accused of 71 teachers for the "Declaration of the Teachers", which seriously threatened freedom of opinion and expression¹.

Date of Fact Sheet: 19 June 2014² to present

<i>A Essential Information</i>	<i>B Useful information</i>
1. Name of alleged victims	
Members of Korean Teachers and Education Workers Union (KTU)	The Korean Teachers and Education Workers Union, http://english.eduhope.net/
2. Status of the victims	

¹ Related news article "KTU members face punishment" http://koreatimes.co.kr/www/news/nation/2014/06/113_160003.html

² The date of decision of Seoul Administrative Court against KTU

<p>On October 24th, 2013, the government of the Republic of Korea declared that the Korean Teachers and Education Workers' Union (hereinafter referred to as the "KTU") was an illegal trade union for allowing nine wrongfully dismissed teachers to remain union members and on June 19th, 2014, the Seoul Administrative Court also sided with the government. KTU has lost its status as a lawful trade union and has lost its office space and funding subsidized by the government. KTU's union officials who are now on leave for union affairs should return to their schools.</p> <p>Now, KTU appealed the decision of Seoul Administrative Court, the case is pending in the Seoul High Court.</p>	<p>The KTU was founded in 1989 in the midst of the dictatorial military regime by progressive teachers who shared the common goal of reforming Korean education system.</p> <p>Since its recognition as a legal trade union, KTU has aimed to provide a public education for every Korean student and has pursued a larger goal of bringing social justice into Korean society as a whole, fighting against corrupt private school leaders, excessively bureaucratic leaders, and unhealthily vicious competition among students.</p> <p>As of 2014, KTU has more than 60,000 union members.</p>
<p>3. Alleged violations committed against the victims</p> <p>On October 24th, 2013, the Ministry of Employment and Labor declared that KTU was an illegal trade union, claiming that they had ordered KTU multiple times to amend by-law that allowed dismissed teachers to maintain their union membership.</p> <p>In response, KTU cited a 2012 report from the International Labour Office ("ILO") requesting that the Korean government "repeal the provisions prohibiting dismissed and unemployed workers from keeping their union membership and making non-union members</p>	<p>In another report from March 2014, the ILO denounced the Korean government for repeatedly interfering with the affairs of various workers' and employers' organizations with regards to the drawing up of their constitutions and rules, urging the government to uphold their principles of freedom of association it has enunciated over the years.</p> <p>The ILO cited its own previous reports that it had "consistently considered that a legislative provision prohibiting dismissed workers from being union members is contrary to the principles of freedom of association" and that</p>

<p>ineligible to stand for trade union office.”³</p> <p>The KTU sued the Korean government on November 13th 2013, with the accusation that KTU’s deprivation of its legal status as ordered by the government was unconstitutional and was a blatant infringement of KTU’s freedom of assembly and association.</p> <p>However, on June 19th 2014, Seoul Administrative Court ruled against the KTU, claiming that teachers and their union should be treated in different view from general trade unions because they are responsible for the growth of the next generation.</p> <p>Because of all these alleged reasons, the KTU has lost their status as a lawful trade union, been formally denounced as an illegal trade union and has lost office space and funding subsidized by the government. The Ministry of Education ordered KTU’s union officials who are now on leave for union affairs to return to their schools soon and warned that teachers who will not return to school will be punished or dismissed.</p> <p>After the Court’s decision, teachers belonging to the KTU left work</p>	<p>they had repeatedly requested the Korean government take the necessary measures to repeal or amend these provisions ever since they were first enacted in 1997. The Korean government has steadfastly ignored these requests.</p> <p>Furthermore, the ILO also pointed out that if the government was really so keen on preserving a “pure” worker’s union that best represents the interests of the workers themselves, dissolving the entire trade union (that numbers 60,000+ members) based on the disputed membership of a handful of unionists are hardly the best way to represent their interests.</p> <p>The 2(4)(d) of TULRAA forbidding dismissed workers from being union members is a clear contravention of the principles of freedom of association (explain/cite). Furthermore, the complete dissolution of the legal recognition of a major trade union in the education sector – with 60,000 members and counting – based on the union membership of a select few is nothing short of outrageous and a blatant breach of the principles of freedom of association.</p> <p>Under the Article 65 of the State Public Servants Act, political action of public servants including joining the political party and political campaign is prohibited. And according to the Article 66 of the State Public Servants Act,</p>
--	---

³ Sections 2(4)(d) and 23(1) of The Trade Union and Labor Relations Adjustment Act (“TULRAA”)

<p>early one day to participate in nationwide rallies on June 27th, 2014. And many teachers joined the “Declaration of the Teachers” which published as a newspaper advertisement. The Ministry of Education accused of 36 teachers for participation in the “early-leave protest” to join rallies and also accused of 284 teachers for demanding resignation of President through bulletin board of a website and 71 teachers for the “Declaration of the Teachers”, claiming that the teachers violates law prohibiting the political action and collective action of the public servant.</p>	<p>collective action of public servants is generally prohibited.</p> <p>However, teachers left work early as they exercised their right of paid leave and participating “Declaration of Teachers” against government nor demanding resignation of President through a website is not political action of public servants prohibited under the law. Moreover, prohibition of political action and collective action of public servants is serious threat to freedom of opinion and expression of public servants.</p>
<p>4. Alleged Perpetrators</p> <p>The Government of the Republic of Korea The Ministry of Employment and Labor The Ministry of Education</p>	
<p>5. Action by authorities</p> <p>N/A</p>	<p>Action taken by the victim or by human rights organizations</p> <p>On March 2014th, The Committee on the Freedom of Association (part of the Governing Body of the International Labour Office) issued a report on the state of affairs of various human rights issues worldwide, specifically focusing on various infringements on the freedom of association.</p> <p>On June 19th, 2014, KTU contacted Fred van Leeuwen, General Secretary of Education International, informing him that the KTU had just been deprived</p>

	of their legal status.
<p>7. Who is submitting this information?</p> <p>This letter is submitted by: Ms. Gayoon Baek Coordinator, People's Solidarity for Participatory Democracy Email: pspdint@pspd.org, Phone: +82 (0)2-723-5051, +82(0)10-9436-0316 Ms. Nam Hee Kim Director, People's Solidarity for Participatory Democracy Email: labor@pspd.org, Phone: +82 (0)2-723-5036</p>	