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The Supreme Court of Canada further clarifies the rights of workers

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On January 30, 2015, in the *Saskatchewan Federation of Labour* v. *Saskatchewan* (2015 SCC 4) decision, the Supreme Court of Canada further clarified the scope of the rights of workers pursuant to section 2(d) of the *Canadian Charter of Rights and Freedoms* (the “Charter”).

Indeed, in its 2007 decision better known as *B.C. Health* ([2007] 2 S.C.R. 391), the Supreme Court of Canada had already established that the right of association provided under section 2(d) of the Charter also protected the procedural right to collective bargaining. However, it had not dealt with the issue of constitutional protection of the right to strike.

In its majority (5-2) decision, the Supreme Court recognized that the right to strike is also protected under section 2(d) of the Charter. In the opinion of the Court, this right to strike allows employees, through collective action, to refuse to work under conditions imposed by the employer. This collective action at the moment of impasse is an affirmation of the dignity and autonomy of employees in their working lives. The Supreme Court of Canada added that the ability to engage in the collective withdrawal of services in the process of the negotiation of a collective agreement has always been the “irreducible minimum” of the freedom to associate in Canadian labour relations.

This decision will be further analyzed in the following days; however, we already believe that it will have a major impact, particularly with respect to the essential services provided by employees of the State and the capacity of a government to end a strike through legislative action.

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