

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

**PROJECT COMPLAINT MECHANISM
ELIGIBILITY ASSESSMENT REPORT**

**COMPLAINT: TURK TRAKTOR
REQUEST NUMBER: 2015/03**

NOVEMBER 2015

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Acronyms and Abbreviations

CBA	-	Collective Bargaining Agreement
EBRD	-	European Bank for Reconstruction and Development
E&S	-	Environmental and Social
ESAP	-	Environmental and Social Action Plan
EU	-	European Union
MESS	-	Türkiye Metal Sanayicileri Sendikası (Turkish Employers' Association of Metal Industries)
PCM RP	-	Project Complaint Mechanism Rules of Procedure <i>This Complaint was registered in accordance with the PCM Rules of Procedure approved by the EBRD Board of Directors and in force as of 7 November 2014. For the purpose of this Report, all references to the PCM RPs are to the PCM RPs 2014, unless specified otherwise.</i>
PR	-	Performance Requirement
PSI	-	Problem-solving Initiative

“Türk Traktör” and “Client” are used interchangeably in this Eligibility Assessment Report.

Note

It is important to note that the PCM has no judicial authority, and that the opinion of the PCM Expert is based solely on available information and consultations with Relevant Parties without prejudice to any ongoing litigation related to the issues described in the Complaint.

EXECUTIVE SUMMARY

On 2 September 2015, the Project Complaint Mechanism (PCM) received a Complaint entitled *Workers Rights Violations in Türk Traktör ve Ziraat Makinaları A.S.* The Complaint was submitted by Birleşik-İş Metal İşçileri Sendikası (United Metalworkers' Union) on behalf of Project-impacted workers. The Complaint sought a Problem-solving Initiative, and if that was not possible, it requested a Compliance Review.

On 11 September 2015, the Complaint was registered in accordance with PCM Rules of Procedure (PCM RP) 11-13, and was subsequently posted on the PCM website, pursuant to PCM RP 20. PCM Expert Albab Akanda was appointed as an Eligibility Assessor to conduct an Eligibility Assessment jointly with the PCM Officer in accordance with PCM RP 22.

In determining the eligibility of the present Complaint, the Eligibility Assessors examined the requirements of the relevant PCM RP to determine if the Complaint was eligible for a Problem-solving Initiative, a Compliance Review, both, or neither.

Based on PCM RP 24-26 and 28-29, the Eligibility Assessors finds the Complaint **ineligible for a Problem-solving Initiative.**

Based on PCM RP 24-25 and 27-29, the Eligibility Assessors finds the Complaint **eligible for a Compliance Review.**

In accordance with PCM RP 32, the terms of reference for a Compliance Review are attached to this Report.

I. Introduction

1. Koç, the holding company for Türk Traktör, was founded in 1926 as Koçzade Ahmet Vehbi, with the first joint stock company, Koç Ticaret A.S. registered in 1938. Over the years, Koç has partnered with Fiat, Ford, General Electric. Koç Holding A.Ş. was established in 1963. The first IPO was carried out in 1970.
2. Türk Traktör ve Ziraat Makinaları A.S. (Türk Traktör) is one of the leading manufacturers in Turkey, founded in 1954, and a publicly listed firm with Koç Holding and CNH Osterreich GmbH as principal shareholders. As one of the world's largest farming tractor and agricultural equipment manufacturers, Türk Traktör exports its products to over 130 countries, and accounts for 50 percent share of the domestic market.¹
3. Türk Traktör has two plants, one in Ankara, the other in Erenler (Sakarya), which together can produce 50,000 tractors a year, with both plants employing over 3,000 workers.
4. On 14 May 2013, EBRD signed a loan agreement providing for a syndicated loan of up to €75 million (€30 million from EBRD) to Türk Traktör for the construction of a new tractor plant in Sakarya province, and investments in research and development (the Project). On 22 October 2014, EBRD signed an additional loan of up to €20 million for additional building and infrastructure investments related to the Project.

II. Background²

5. Turkey's automotive industry was established in the 1960s, and has grown significantly in recent years. In 2007, the Turkish automotive cluster was the 18th largest in the world with an export value of \$17.6 billion, becoming the 16th largest automotive manufacturer in the world in 2010. Turkey exported four-fifths of the 1.2 million cars it produced in 2014, mostly to Western European countries like France, Germany and Italy, but also Africa and the Middle East. Autos and car-parts export components are more than 10% of the nation's total, and the government has made the auto industry a priority in its industrial development plans.³
6. Most car producers in Turkey are joint ventures. Oyak (Turkish army pension fund) of Turkey holds 49% and Renault of France holds 51% shares of Oyak-Renault. Koç Holding of Turkey and Fiat Group Automobiles of Italy own 37.8% each of Tofas-FIAT, with the remaining 24.3% owned by other companies. Ford Motor Company US and Koç Holding of Turkey equally

¹ This information is drawn from the Türk Traktör website, <http://www.turktraktor.com.tr>.

² There are several publicly available reports on the automotive industry in Turkey. There are also many news articles on the strikes in May 2015, several of which are union-centric. This section draws on a few of those, which are listed in References. There appears to be only one analytical piece published by Research Turkey, the London-based Center for Policy and Research on Turkey, which is described as an "independent, non-partisan, non-governmental organisation devoted to policy analysis and research focusing primarily on contemporary Turkey." The backdrop for the strikes was the parliamentary elections scheduled for 7 June 2015, but eventually determined inconclusive. The elections were held on 1 November 2015, with AKP winning at the polls.

³ From Medina Abylkassymova et al. *Turkish Automotive Cluster*. Page 21. John F. Kennedy School. Prepared for Institute for Strategy and Competitiveness, Harvard University 2011. Draws on Michael E. Porter, *Turkey's Competitiveness: National Economic Strategy and the Role of Business*. Harvard. October 2009.

own 41% of shares of Otosan. Toyota Turkey and Honda Turkey are foreign direct investments from Japan, and Tamsa and Karsan are local manufacturers in partnership with foreign companies.

7. In January 2015, about 15,000 workers went on strike at 22 factories, actions which the Government considered illegal. In May 2015, some 5,000 workers went on strike at the Renault factory in Bursa after it had not responded to demands to change the collective bargaining agreement (CBA) and to match the 60% pay raise (over three years) given to workers at the nearby Bosch plant. The work stoppage was also said to reflect disaffection with the way in which Türk Metal, the union representing the workers, was perceived to have mismanaged negotiations with Renault.

8. The work stoppage was soon followed by similar actions at Tofas-FIAT and Çoskunöz Holding, a large autoparts manufacturer. The strikes were supported by workers from other automotive companies, including Beltan Trelleborg Vibracoustic, Delphi Automotive, Ototrim Automotive, Rollmech and Mako.

9. The strikes were accompanied by mass resignations from Türk Metal, estimated at over 20,000. Aside from the pay raise, the workers demanded the removal of Türk Metal as the sole union at the factories, that they be able to choose their own representation, and that there be no retribution against workers who participated in the work stoppages.

10. Renault accepted the workers' demands in late May with assurances of job security, resignations from Türk Metal and appointment of new shop stewards, and wage increases, with bonuses and premiums. This was followed by similar agreements at Tofas-FIAT, Ford-Otosan JV, and the autoparts manufacturers.

III. The Complaint

11. A Complaint (attached as Annex A) was submitted to the PCM on 2 September 2015 by Birleşik Metal İşçileri Sendikası (Birleşik-İş; United Metalworkers' Union).⁴ Birleşik-İş⁵ claims to represent workers at Türk Metal, and submitted to PCM a letter from a worker/workers' representative⁶ that authorizes Birleşik-İş to represent his interests in the Complaint.⁷

12. The Complaint states: "The union...has an interest in organizing the Türk Traktör workplace...Birleşik-İş also has membership in this company and some of its members were directly affected by the incidents described in [the] complaint."

13. The Complainant alleges the following:

⁴ Preceded by an email on 3 June 2015 from Birleşik-İş to PCM claiming labor rights violation at Türk Traktör.

⁵ As a member of one of the four national trade union confederation, the Confederation of Revolutionary Workers' Unions of Turkey (Türkiye Devrimci İşçi Sendikaları Konfederasyonu, DISK), Birleşik-İş also uses the prefix DISK in formal communications.

⁶ Among the workers dismissed by Türk Traktör after the strikes.

⁷ PCM RP 4 allows for confidentiality of an individual(s) in the submission of a Complaint.

- a) Türk Traktör has consistently denied workers' right to organize, compelling them to join and stay in Türk Metal Union (para. 6a);
- b) despite assurances that no workers would be dismissed as a consequence of their work stoppage in support of strikes across several carmakers in May 2015, 20 out of 1,200 workers and their representatives were dismissed without justification. (para. 6b);
- c) annual overtime at Türk Traktör is much higher than the 270 hours a year allowed under the Turkish Labour Code, resulting in serious health problems (para. 6b);
- d) the average workplace wage of TL1,300-1,400 per month is inadequate to meet workers' basic needs (para. 6c);
- e) workers at Türk Traktör are unable to address those issues as they cannot bargain freely for their working conditions (para. 6d);
- f) Türk Metal has been the competent union to make collective bargaining agreements in the workplace (para. 6d);
- g) membership of Türk Metal is a pre-condition for employment at Türk Traktör (para. 6d);
- h) workers cannot elect their shop stewards or any other union representatives, and "workers who are in conflict with the so-called union are dismissed" (para. 6d); and
- i) workers have been threatened, pressured or subjected to violence by trade union officials.

14. The Complainant describes the strikes during May 2015, observing that 30,000 workers joined the demonstrations against Renault, Tofas-FIAT, Ford, Magneti Marelli, Johnson Controls, Ototrim, Grupo Antolin, SKT, Türk Traktör and others, and contending that they made the following demands:

1. Freedom to choose their own unions
2. Ability to elect their own representatives and shop stewards
3. Guarantee that no-one would be dismissed because of the demonstrations and demands
4. Be paid a living wage that provided for decent living standards

15. The Complainant claims that 1,200 Türk Traktör workers joined the demonstrations, halting production at Türk Traktör that resumed on 2 June 2015. While there were no dismissals during 21 May - 1 June, five workers were dismissed on 6 June, following which 25-30 workers were sent on compulsory leave, 15 of whom were dismissed on 8 June. The Complaint states that Türk Traktör management had repeatedly announced that no-one would be dismissed because of their participation in the industrial action, specifically referring to a memo signed by the CEO agreeing to some worker demands and committing not to take punitive actions.

16. The Complaint cites the reason given by Türk Traktör for the dismissals as participation in an illegal strike, but the Complaint notes that all the 1,200 workers who participated remained employed by Türk Traktör, and were placed on administrative leave by Türk Traktör for the duration of the strike (10 days).

17. At the time of submission of the Complaint to EBRD, Birleşik-İş had not received a response from Türk Traktör on the issues it had raised. A similar communication to Türkiye Metal Sanayicileri Sendikası (MESS) on 19 August had not been answered.

18. The Complaint notes: “ILO Committee on Freedom of Association considers wildcat strikes, sit-down strikes, etc. as part of [the] right to strike as long as they are peaceful”⁸ (para. 6k).

19. The Complainant contends that EBRD failed to ensure that Türk Traktör complied with EBRD PR2, which states: “The client will not discourage workers from joining workers’ organisations of their choosing or from bargaining collectively. The client will not discriminate or retaliate against workers who act as representative, participate, or seek to participate, in such organisations or bargain collectively.” The Complaint cites specific references in PR2 to ILO Conventions 87 (Freedom of Association) and 98 (Right to Collective Bargaining).⁹

20. Observing that there were ongoing court cases regarding the reinstatement of dismissed workers the Complainant contends as the Complaint related to the responsibilities of the shareholders and not Türk Traktör directly, the ongoing legal processes would not affect the processing of the Complaint.

21. The Complainant believes that reinstatement of the dismissed workers is necessary, and contends that as the workers at Türk Traktör did not accept the current union, a mechanism must be established in the workplace which ensures that workers can freely choose their representatives.

22. The Complainant requests a Problem-solving Initiative (PSI) to “find a proper solution to [the] problem, end workers’ suffering, and establish the basic conditions of freedom of association in Türk Traktör.” If a PSI was not considered possible by PCM, the Complainant requested a Compliance Review.

IV. Management Response

23. The Management Response to the Complaint was submitted to the PCM on 12 October 2015 (attached as Annex B).

24. The Response sets out Management’s understanding of the strike actions as described in the Complaint.

- Workers who participated in the labor strikes during May 2015 were “not protesting against their companies but, rather, against the incumbent trade union in the automotive sector, Turkish Metal Trade Union (Türk Metal Sandikası), and the Turkish Employers’ Association of Metal Industries (Türkiye Metal Sanayicileri Sendikası, ‘MESS’)”
- The principal demand of the strikers was to implement a CBA that would award wage increases similar to the CBA between Bosch and Türk Metal that had resulted in substantial wage enhancement

⁸ Referenced in the Complaint, page 3, footnote 1, to *ILO Digest of Decisions* as “2006 Digest para 545; 1996 Digest paras. 496 and 497; and 360th Report, Case No. 1865, para. 337.”

⁹ ILO Convention No. 87, *Freedom of Association and Protection of the Right to Organise Convention, 1948*, was ratified by Turkey on 12 July 1995; and Convention No. 98, *Right to Organise and Collective Bargaining Convention, 1949*, was ratified on 23 January 1952.

- The demands also included workers being permitted to resign from Türk Metal, removal of responsibility of collective bargaining from the incumbent union
- The wage demands by workers had been rejected by Türk Metal and MESS on the grounds that the CBAs applicable for workplaces other than Bosch had been concluded in December 2014 and could not be changed during the agreed contract period of three years

25. The Management Response notes that it had been reported, but not verified by EBRD, that “rather than protecting against their specific companies, employees chose to protest against Türk Metal and MESS, alleging failure to represent the employees’ interests in their negotiations with management.”

26. The Response notes that the Project had been categorized as B in accordance with EBRD’s 2008 Environmental and Social Policy. It mentioned that in 2013, independent environmental and social due diligence (ESDD)¹⁰ was commissioned by EBRD, which included a site visit to Türk Traktör facilities, an Environmental and Social (E&S) Audit of existing facilities in Ankara, and an E&S analysis of the proposed project in Sakarya. The ESDD had concluded that adverse environmental and social risks associated with the Project could be addressed through continued good E&S management practices.

27. The Response describes key actions identified in the Environmental and Social Action Plan (ESAP) that had been developed to commit Türk Traktör to continuing operations in accordance with EBRD requirements and to address any gaps:

- Formal commitment to submit updated permitting documentation regarding environmental permits and monitoring data to the Turkish regulators in a timely manner
- Implementation of an integrated environmental management system at the new facility and adopt corporate management procedures that consistently apply to both facilities
- Development of a contractor management plan for expansion and construction related activities
- Address minor residual risks associated with current environmental management procedures
- Review of internal H&S and community safety procedures to manage risks associated with traffic management
- Development of an external grievance mechanism and information disclosure policy

28. The Response cites the ESDD report review of PR2 issues, summarising that:

- The workers at Türk Traktör were associated with the Turkish Metal Workers’ Union, the largest union in Turkey
- At Türk Traktör, there was a Labor Union representative and an Occupational Health and Safety Representative selected from the workers

¹⁰ *Environmental and Social Due Diligence of Türk Traktör*. March 2013.

- Workers were represented at regular meetings of the Occupational Health and Safety Board, at which occupational health and safety issues and labour rights of the workers were discussed
- Every worker had the right to present his/her demand and expectations to managers
- There was an internal grievance mechanism that had written forms and procedures¹¹
- Complaints submitted through the worker grievance mechanism were reviewed by the Ethical Committee

29. The ESSD report had concluded that that Türk Traktör's existing labor policies and procedures at the time of the assessment were aligned with Turkish laws and regulations, ILO Conventions, and EBRD's PR2. The only substantive social issue that the consultant had raised was that if staff would be relocated from the existing facility in Ankara to the new facility in Sakarya, a resettlement/retrenchment plan would need to be developed. However, at the time, relocation was at the planning stage, and decisions had to be made on the number of personnel to be relocated from the Ankara facility, after which specific actions and mitigative measures would be finalized. Making specific reference to PR2, the Report recommended that the numbers of personnel to be relocated should be determined and relocation plans prepared, after which the plans should be disclosed to the workers as soon as practicable.

30. The Management Response goes on to note: "Workers are considered stakeholders in EBRD's requirements, and have certain rights to information and the ability to raise grievances in a meaningful way." Further, it states: "A Stakeholder Engagement Plan, which included a comprehensive Grievance Mechanism in line with PR10, was developed by the ESDD consultant and provided to Türk Traktör, which formally committed to implement the SEP."

31. The Response states that the first communication from the Complainant was received by EBRD on 3 June 2015, after which the Complainant was referred by EBRD to Türk Traktör with a request for the workers to seek redress through the internal grievance mechanism. The Complainant informed EBRD that it had not received a reply to their concerns from the Türk Traktör, after which it was referred to MESS, at the request of Türk Traktör. Nonetheless, on a number of occasions, EBRD encouraged Türk Traktör to engage with the Complainant.

32. Management was sent a copy of a reply sent by MESS to the Complainant on 14 September informing it that the workers mentioned in the communications had been dismissed on legal grounds. At the time the Response was written, Management had not been able to verify that account and had initiated an assessment of the situation, which was undertaken in the last quarter of 2015.

33. The Response observed that there were three themes in the Complaint:

- a) questions regarding the ability of employees to freely associate with union of their choosing;
- b) claims that labor and working conditions did not meet Turkish, ILO or EBRD PR2 requirements relating to pay, overtime, and health and safety arrangements; and

¹¹ The Eligibility Assessors have not reviewed documentation on the internal grievance mechanism at Türk Traktör.

c) allegations of unfair dismissal and breach of worker rights during industrial action.

34. While the independent ESDD had confirmed that the Client had adequate policies and procedures in place to handle those issues in accordance with PR2, EBRD had continued to hold discussions with the Client on whether those policies and procedures were in place during the industrial action. EBRD was also reviewing the position of the Client with respect to the legality of the strike and basis for the dismissals of Türk Traktör workers. It should be noted that the first required report on the implementation of legal commitments on environmental and social issues is not due until 2016. The Eligibility Assessors have been informed that Bank Management is following up on issues and complaints as a part of normal project monitoring.

35. Finally, the Response states it would use its internal resources to make a further assessment of the situation, including whether the commitments made by the Client to implement PR2 and PR10 had been maintained, after which it would consider using specialist services to provide an independent opinion. Management was monitoring the situation closely, and continuing the dialogue it had initiated since the Complaint was made.

V. Position of Client

36. In its communication (attached as Annex C) dated 9 November 2015, Türk Traktör mentioned that it was strictly compliant with applicable legislation, international standards and human rights principles, and that it subscribed to the principles set out in the Universal Declaration of Human Rights. It was also a signatory to the UN Global Compact. Türk Traktör emphasized that as an employer dedicated to such principles, it was part of a group pioneering and advocating those principles, including gender initiatives, and had a high rate of active unionization in its jurisdiction,

37. Türk Traktör noted that as of July 2015, approximately 1.4 million workers were employed in the Turkish metal industry. Approximately 100,000 were covered by the MESS Group CBA. Türk Traktör stated that Türk Metal had the authority to conclude collective bargaining in its workplace as the CBA had been concluded in December 2014 with Türk Metal and Çelik-İş unions for a term of three years, valid from September 1, 2014 through August 31, 2017.¹² Birleşik-İş Metal-İş had rejected the agreement, then called a strike which was postponed, with the process then referred to the High Board of Arbitration which had resolved that the MESS Group CBA would be applicable for the members of Birleşik-İş Metal on the same terms of the agreements concluded by Türk Metal and Çelik-İş.

38. The letter from Türk Traktör recapitulated the events of May and June 2015, noting that some of the industry-wide demonstrations amounted to illegal strikes, and that production at Türk Traktör had ceased for almost two weeks. The strike at Türk Traktör facilities was considered illegal by its management, but was ended by factory employees who resumed production after deciding to comply with local laws.

¹²The MESS Group CBA included a six-months initial pay raise of 9.78%, complemented with pay increases in the amount of Consumer Price Index for the remaining semi-annual periods of the three-year agreement, with the fifth semi-annual raise including a CPI+3.5% increase.

39. Türk Traktör stated that it had been very careful to ensure that no illegal actions were taken in applying the means available to the firm under the labor laws and other applicable legislation toward its former employees, who had claimed to be the representatives of the protesters without relying on a legitimate election process.

40. Türk Traktör offered its own views of the events of May and June 2015:

- Following the conclusion of the MESS Group CBA, collective negotiations covering the workplaces of Bosch, which were formerly part of the Group CBA, had been left out “due to rivalry between Türk Metal and Birleşik-İş Metal,” and were later concluded with different provisions regarding pay raises.
- Following the conclusion of the agreement in mid-April, a social media campaign was launched, mainly targeting automotive plants, accusing Türk Metal for the difference between Bosch agreement and the MESS Group CBA. The campaign was apparently mainly organized by an “Association of Metal Workers”.
- The Association of Metal Workers called for a halt to production in the factories, with the following demands:
 - Workers should resign from their Türk Metal memberships
 - Türk Metal union should no longer have authority to conclude collective agreement in those workplaces
 - A new union should be formed to replace all three labor unions active in the metal industry
 - Adjustment to the hourly wages, equal to the Bosch CBA should be made throughout all factories

41. Türk Traktör stated that in looking to an amicable solution without prejudice to the CBA agreement in force, and in the absence of legitimate counterparts, it was agreed, through MESS, that a support payment of TL4,500 TL would be paid by the employers to each worker during the term of the Group CBA. Türk Traktör stressed that that was an act to address the unrest and did not represent the outcome of a negotiation, nor an amendment to the wage provisions of the recently-signed Group CBA.

42. Türk Traktör pointed out that under Labor Law No. 6356 on *Trade Union and Collective Labour Agreements Act*, Articles 58 and 70, disruption of production in the absence of a formal negotiation process was defined as an unlawful strike and allowed the employers to take certain legal measures, including termination of employment contracts of those participating in the strike. In accordance with the provisions of those articles, a lawful strike could be held during collective bargaining negotiations by the union that had the authority to conclude collective bargaining (by majority of membership at such workplaces).

43. Türk Traktör emphasized that no employment agreement of any worker was terminated due to exercise of union rights at any point during the protests, which was evidenced by the fact that some of the resigned workers joined other trade unions, most of the others having rejoined Türk Metal, and some reportedly trying to establish a new trade union in the metal sector. All those employees continued to be employed by Türk Traktör regardless of their union memberships.

Türk Traktör management clearly had stated on many occasions that employees were at liberty to select the union of their choosing and that that matter was clearly between the employees and their respective union.

44. Türk Traktör disputed the claim by Birleşik-İş Metal that employers did not respect free union rights of employees. Currently, thousands of employees were believed to be members of different unions compared with the time that the “illegal” strikes had begun, or were not union members at all. Some of the employees who had claimed to be the representatives of the protesters continued to be employed by Türk Traktör.

45. The letter from the Türk Traktör mentioned that the holding company, Koç Group – comprising seven companies – Arçelik, Arçelik-LG, Aygaz, Ford Otosan, Otokar, Tofaş and Türk Traktör – was a leading conglomerate in Turkey in both number of employees and number of union members. The current rate of unionization was around 61% among total employees of the Koç Group. Over 45,000 within the Group were union members and were covered within the scope of a CBA. The letter mentioned that in the metal industry, Türk Metal had 89,000 members within the scope of the MESS Group CBA, and had a total of 177,000 members; Birleşik-İş and Çelik-İş had approximately 31,000 and 32,000 members, respectively.

46. The response from Türk Traktör concludes by stating that membership of Türk Metal was not a precondition for employment at Türk Traktör, and as a constitutional right, all employees benefited from the liberty to choose their own membership to labor unions. Türk Traktör, together with the Koç Group claimed to have adopted a holistic approach, establishing and encouraging direct and open communication channels by and between the employers’ association, labor unions and other related parties. As part of that process, Türk Metal had announced a solutions package with the aim of establishing a more pro-active and inclusive union management accompanied by direct communications channel with its members, including direct elections of employee representatives at the workplaces.

47. Although Birleşik-İş Metal was not a party to collective bargaining process at any of the Koç workplaces, the letter from Türk Traktör stated that it had been informed that it could contact Koç management directly.

VI. Findings of Environmental and Social Due Diligence of Türk Traktör

48. ESDD for Türk Traktör was carried out by a consulting firm in March 2013¹³ which included a corporate audit of Türk Traktör to review its current environmental and social management systems, a site audit of the existing facility in Ankara, and a desktop review of the proposed facility in Sakarya.

49. Among the findings of the ESDD relevant to the Complaint were:

- During the audit carried out by the Ministry of Labour and Social Security in December 2012, the Türk Traktör facility in Ankara was found to be in compliance with application

¹³ See Footnote 11.

regulations and the *Labour Law* (Section 4.2.1 External Audits, and Section 5.3.3, External Audits)

- Corporate Policies included Working Organization Instruction, Personnel Employment Procedures Instruction (Section 5.3, Corporate Policies and Management)
- Workers at the Ankara facility were associated with the Turkish Metal Workers Union (Türk Metal), with a Labour Union representative and an Occupational Health and Safety representative selected from the workers (Section 5.3.2, Workers' Unions)
- Workers were represented in the Labour Union and in regular meetings of the Occupational Health and Safety Board Meetings by the same representatives above (Section 5.3.2, Workers' Unions)
- Every worker had the right to present his/her demand and expectations to managers, and were represented in the Labour Union and the Occupational Health and Safety Board meetings, where they were able to raise issues (Section 5.4, Grievance Procedures)
- There was an internal grievance mechanism for workers that included written procedures and forms, and if workers had complaints, they could fill out the forms, which were then evaluated by the Ethical Committee (Section 5.4, Grievance Procedures)
- Aside from some re-employment lawsuits, there were no court cases, disputes and complaints related to employment and employees (Section 5.5, Disputes, Court Cases and Other Complaints)
- Türk Traktör had disclosed its environmental and social policy, and the grievance mechanism to the public. However, the facility had no formal external grievance mechanism, which ESDD recommended be developed together with written procedures (Section 6.2, Stakeholder Engagement)¹⁴
- While Türk Traktör had complied with all applicable local laws and regulations, relocation plans should be developed for those to be assigned to the Sakarya facility (Section 7.3, Labour and Working Conditions)

VII. Events Following Submission of Complaint, and Management and Client Responses

50. On 27 October 2015, the Eligibility Assessors held a conference call with EBRD. The Assessors were informed that an independent labour expert was being considered to be engaged to accompany a mission in mid-November to further assess the compliance of the Client with national labor laws and regulations, and conformity with ILO convention requirements.

51. The Eligibility Assessors were informed that on 10 November 2015, an EBRD mission visited Turkey and held meetings with representatives of the Koç Group and Türk Traktör. It was decided that further investigations would continue with the engagement of an independent and impartial labour expert. The mission was informed that measures were currently being initiated by the Client to engage with all stakeholders to clarify issues, strengthen relations and create better communications, and attempt to reach, among others, an amicable agreement on labour relations, including those raised in the Complaint.

¹⁴ EBRD's *Operational Performance Assessment*, 24 July 2014, Section J (Environmental and Social Impact) notes: "An external grievance mechanism and information disclosure policy for the public has been developed within the scope of ISO14001."

VIII. Eligibility for a Problem-Solving Initiative

52. The PCM RP state that of the PCM's two functions, the Problem-solving Initiative (PSI) "has the objective of restoring a dialogue between the Complainant and the Client to resolve the issue(s) underlying a Complaint without attributing blame or fault." There are several conditions to be met for a Complaint to be considered for a PSI:

- The Complaint must be submitted by one or more individuals located in an Impacted Area, or who has or have an economic interest, including social and cultural interests, in an Impacted Area [PCM RP24(a)(i)]
- The Complaint must raise issues covered by a Relevant EBRD Policy [PCM RP24(a)(ii)]

53. PCM RP 25 states that the Complaint include, if possible:

- an indication of which PCM function the Complainant expects the PCM to use to address the issues raised in the Complaint;
- an indication of the outcome(s) sought as a result of use of the PCM process;
- copies of all correspondence, notes or other materials relate to communications with eth Bank or other Relevant Parties; and
- if applicable, details pf the Relevant EBRD Policy at issue in the Complaint.

54. Under PCM RP 26, where the Complaint raises issues appropriate for a PSI, the Eligibility Assessors are required to consider whether the PSI could assist in resolving the dispute or would be likely to have a positive result, in particular:

- Whether the Complaint has raised the issue in the Complaint with the Client's dispute resolution or grievance mechanism, or with the complaint or accountability mechanism of a co-financing institution, or before court, arbitration tribunal or other dispute resolution mechanism and, if so, the Eligibility Assessors will consider the status of those efforts
- Whether the PSI may duplicate, interfere with or be impeded by any other process brought by the same Complainant (or where the Complainant is a group of individuals, by some members of the group) regarding the same Project and/or issues

55. PCM RP 28 states that a Complaint will not be eligible for either a PSI or Compliance Review if:

- It was filed fraudulently or for a frivolous or malicious purpose
- Its primary purpose is to seek competitive advantage through the disclosure of information or through delaying the Project
- In the case of a request for a PSI, the subject matter of the Complaint has been dealt with by the accountability mechanism of any cofinancing institution and the PCM officer is satisfied that the Complaint was adequately considered by such accountability mechanism, unless there is new evidence or circumstances not known at the time of the previous complaint
- It relates to the obligations of a third party, such as an environmental authority and the adequacy of their implementation of national requirements, or relating to the rights and

obligations of the country under international law or treat, rather than to issues which are under the control of the Client or the Bank

56. **Who may submit a Complaint:** The Eligibility Assessors consider that Birleşik-İş represents the workers who are affected by the Project, that is, in an Impacted Area, in this Assessment defined as the Project workplace, and hence meets the requirements of PCM RP 24(a)(i). The Assessors consider that Birleşik-İş, together with any workers that it represents, may be regarded as Relevant Parties.

57. **Relevant EBRD Policy:** The Eligibility Assessors conclude that this condition is fulfilled as the issues raised in the Complaint relate to EBRD's Environmental and Social Policy 2008, in particular PR2.

58. **PCM Function Requested:** In accordance with PCM RP 25, the Complainant has requested a PSI.

59. **Outcome of a PSI:** In looking to the provisions of PCM RP 26, the Eligibility Assessors considered whether the Complaint covers issues that are within the mandate of the PCM, and in particular:

- Were the issues clearly Project-related?
- Were the parties to the dispute amenable to mediation that could bring them into negotiations?

60. The Eligibility Assessors considered that there were legal issues that belonged in the national domain, such as the adequacy and enforcement of relevant laws and regulations, particularly the labor codes, and should not be addressed by the PCM.

61. The Eligibility Assessors noted that while it was difficult to focus on a narrow field of inquiry, the issues raised by the Complainant could form the basis of a dialogue at the firm level that might allow for progress toward a positive outcome. The Assessors considered that reference to a PCM mediation process as an example could not be precluded, but that did not mean PCM could not take that initiative as the intent was to facilitate resolution or achieve a positive outcome to the issues presented in the Complaint. The positive outcome of a PSI would lie principally in bringing the parties together in a dialogue on employment conditions that were relevant to the issues covered by PR2. It has been emphasized that the PCM could not take a substantive position on issues that were under litigation or being reviewed as part of a judicial process.

62. The issue of duplication of efforts was considered by the Eligibility Assessors. As the Complainant itself had not sought recourse to any process other than the PCM toward addressing the issues in the Complaint, a PSI was technically permissible. However, as there were ongoing efforts by EBRD and the Client toward addressing labour-related issues in the workplace, which overlap with many concerns raised in the Complaint, the participation of PCM in the process could be considered duplication of efforts toward the same outcome. EBRD had already fielded a

mission¹⁵ to engage in dialogue with the Client on ways to address labour-related matters. In its response to PCM, the Client had indicated that it is embarking on an inclusive process of dialogue to strengthen employee relations and address worker representation issues to which the Complainant has access. The Assessors understand that there is considerable discussion on industrial relations matters pertinent to the Complaint.

63. The Eligibility Assessors conclude that while a PSI could have been an appropriate route toward achieving a positive outcome to the issues in the Complaint, given that the Eligibility Assessors are of the understanding that there is a significant process of opening more effective communications and relationship-building with workers and unions currently underway, the potential duplication of efforts by involving PCM in a PSI would make the achievement of a positive outcome more complicated and would not be in the interest of the Relevant Parties.

64. **Exclusion factors for PSI:** The Eligibility Assessors observed that the Complaint had not been filed frivolously, did not seek competitive advantage in any way, had not been the subject of review at any other accountability mechanism, and did not relate to the obligations of a third party.

65. The Eligibility Assessors have concluded that while the Complaint may be largely eligible for a Problem-solving Initiative based on reasons set out above and the provisions of PCM RP 24, 25, 26 and 28, there are efforts being initiated to resolve labour-related issues, which overlap with issues raised in the Complaint. The potential duplication of efforts would not be in the interest of the Relevant Parties. Accordingly, it would be premature to conclude that a PSI would not be duplicative. The Complaint cannot therefore be considered eligible for a PSI.

IX. Eligibility for a Compliance Review

66. The PCM RPs state that of the PCM's two functions, the Compliance Review function is intended to determine whether or not the EBRD had complied with a Relevant EBRD Policy in respect of an approved Project. For a Complaint to be considered for a Compliance Review, the Complaint must have been filed within 24 months after the date on which the Bank ceased to participate in the Project and must relate to a Relevant EBRD Policy. [PCM RP24(b)]

67. Under PCM RP 27, where the Complaint raises issues appropriate for a Compliance Review, the Eligibility Assessors are required to consider whether the Compliance Review relates to:

- Actions or inactions that are the responsibility of the Bank
- More than a minor technical violation of a Relevant Bank Policy unless such technical violation is alleged to have caused harm
- A failure of the Bank to monitor Client commitments pursuant to a Relevant EBRD Policy

68. A Complaint will not be eligible for either a PSI or Compliance Review if the conditions in para. 55 above are not met. [PCM RP 28]

¹⁵ 10 November 2015.

69. **Relevant EBRD Policy:** The Eligibility Assessors conclude that this condition is fulfilled as the issues raised in the Complaint relate to EBRD's Environmental and Social Policy 2008, in particular Performance Requirement 2.

70. **Exclusion factors for Compliance Review:** The Assessors conclude that as no other issues had been raised that would make the Complaint ineligible.

71. **Other Requirements for Eligibility for Compliance Review:** The Eligibility Assessors consider that the requirements of RCM RP 25 have been met.

72. **Key PR provisions that may be considered for the Compliance Review:** The Eligibility Assessors noted the following provisions of the 2008 Environmental and Social Policy, which are connected to the issues raised in the Complaint. These provisions clearly highlight actions which are the responsibility of the Bank under the Policy:

- a) PR1, para. 5, states that "...the client will consider in an integrated manner the potential environmental issues and impacts associated with the proposed project. The information gained will inform EBRD's own due diligence related to the client and [project and will help to identify the applicable PRs..."
- b) PR2, para. 11, states that "The client will not discourage workers from forming or joining worker's organisations of their choosing or from bargaining collectively, and will not discriminate or retaliate against workers who participate, or seek to participate, in such organisations or bargain collectively..."
- c) PR2, para. 12, states that, "Wages, benefits and conditions of work offered should, overall, be comparable to those offered by equivalent employers in the relevant region of that country/region and sector concerned. Where the client is a party to a collective bargaining agreement or is otherwise bound by it, such agreement will be respected"
- d) PR2, para, 18, requires that: "the client will provide a grievance mechanism for workers (and organisations where they exist) to raise reasonable workplace concerns...." It goes on to note that "the mechanism should not impede access to other judicial or administrative remedies that might be available under law or through existing arbitration procedures, or substitute for grievance mechanisms provided through collective agreements"
- e) PR10 sets out the structure of the consultative process, from identification of stakeholders to engagement process, particularly para. 24, "... the client will establish a grievance mechanism, process, or procedure to receive and facilitate resolution of stakeholders' concerns and grievances about the client's environmental and social performance....," and para. 26, "Grievance mechanisms for workers will be separate from public grievance mechanisms and must be in accordance with PR2"

73 In making it clear that the dismissals of certain workers were being reviewed under judicial process and could not be considered by PCM, the Eligibility Assessors also considered whether PR2, para. 17, Retrenchment applied to the case, that is, whether the dismissals constituted

redundancies both in concept and numbers, which would then require that a retrenchment plan be prepared. Article 1 of EU Directive 98/59 states that “collective redundancies’ means dismissals effected by an employer for one or more reasons not related to the individual workers concerned.” As there were no redundancies anticipated at any time, the Assessors concluded that RP2, para. 17 did not apply.

74. Given the reasons set out above, and the applicability of the PRs under EBRD’s 2008 Environmental and Social Policy the Eligibility Assessors conclude that the Complaint is eligible for a Compliance Review.

X. Conclusion

75. The Eligibility Assessors sought to determine the eligibility of the Complaint for a Problem-solving Initiative or a Compliance Review. The determination was made in accordance with the provisions of PCM RP 24, which requires that that Eligibility Assessors “do not judge the merits of the allegations in the Compliant and do not make a judgement regarding the truthfulness or correctness of the Complaint.”

76. Having reviewed the circumstances of the Complaint, and on the basis of the facts presented in this Eligibility Assessment Report, the Eligibility Assessors conclude that the Complaint is **not considered eligible for a Problem-solving Initiative**, but is **eligible for a Compliance Review**.

77. With that conclusion, and in accordance with PCM RP 32, the Terms of Reference for the Compliance Review are attached.

78. This Eligibility Assessment Report has been prepared in accordance with PCM RP 30.

COMPLAINT: Türk Traktör (DTM 44173)

Request Number: 2015/03

TERMS OF REFERENCE FOR A COMPLIANCE REVIEW

Application

1. These Terms of Reference apply to any inquiry, action or review process undertaken as part of the Compliance Review, with a view to determining, in accordance with PCM RP 41, “if (and if so, how and why) any EBRD action, or failure to act, in respect of the Project has resulted in non-compliance with a Relevant EBRD Policy,” in the present case, the EBRD’s 2008 Environmental and Social Policy and applicable Performance Requirements (PRs). If it is determined that there has been non-compliance, the Compliance Review will recommend remedial changes in accordance with PCM RP 44.

2. Activities carried out as part of the Compliance Review, and in accordance with these Terms of Reference, are subject to any modification which the Compliance Review Expert and the PCM Officer may, at any time, expressly agree upon, except any modification that may prejudice the interests of any Relevant Party or is inconsistent with accepted review practice.

Compliance Review Expert

3. In accordance with PCM RP 40 the PCM Officer appoints PCM Expert Halina Ward as the Compliance Review Expert.

4. The Compliance Review Expert shall conduct the Compliance Review in a neutral, independent and impartial manner and will be guided by principles of objectivity and fairness giving consideration to, *inter alia*, the rights and obligations of the Relevant Parties, the general circumstances surrounding the Complaint and due respect for EBRD staff.

Time Frame

5. The Compliance Review will commence as soon as possible following the posting of the Eligibility Assessment Report containing these Terms of Reference in the PCM Register on the EBRD website.

6. Every effort shall be made to ensure that the Compliance Review is conducted as expeditiously as circumstances permit, and it is intended that the Compliance Review shall be concluded within 60 Business Days of its commencement. At the request of the Compliance Review Expert, the PCM Officer may extend this time period for as long as necessary to ensure full and proper conduct of the Compliance Review. Any such extension shall be promptly notified to all Relevant Parties.

Scope of Compliance Review

7. The Compliance Review Expert will determine the exact requirements, in the specific context of the present Project, of each of the relevant provisions of the EBRD 2008 Environmental and Social Policy and the PRs therein, in respect of which the Complaint alleges non-compliance. Relevant provisions of the 2008 Policy that may be considered by the Compliance Review Expert include:

- 2008 Policy
 - Section B : *EBRD's commitment* (Paras. 2, 3)
 - Section C: *Integrating environmental and social considerations into the project cycle: EBRD's role and responsibilities* (Paras. 14, 15, 25, 26, 27, 28, 34-35, 37)
- PR1
 - *Environmental and social appraisal* (Para. 5)
- PR2
 - *Objectives* (Para. 2)
 - *Working conditions and terms of employment* (Paras. 7, 10, 11, 12)
 - *Grievance mechanism* (Para. 18)
- PR 10
 - *Requirements* (Para. 6)
 - *Stakeholder identification and analysis* (Para. 9)
 - *Stakeholder Engagement Plan* (Para. 11)
 - *Grievance Mechanism* (Para. 24-26)

8. The Compliance Review process examine the core compliance issues in the context of the 2008 Policy and EBRD performance, and in all cases limit the review to matters raised in the Complaint, particularly the following aspects:

1. Adequacy of Due Diligence (2008 Environmental and Social Policy; PR1)
2. Non-discrimination and Equal Opportunity (PR2)
3. Freedom of Association (PR2)
4. Wages, Benefits and Conditions of Work (PR2)
5. Internal Grievance Mechanism (PR2, 10)

9. The Compliance Review will not address any issues under litigation or being considered by judicial processes, or reach conclusions that are prejudicial to or may affect the conduct of those processes.

Procedure: Conduct of the Review

10. The Compliance Review Expert may conduct the Compliance Review process in such a manner as she considers appropriate, taking into account the Rules of Procedure of the PCM, the concerns expressed in the Complaint, and the general circumstances of the Complaint.

11. Specifically, the Compliance Review Expert may:

- a. Review the Complaint to identify the compliance issues to be included in the Compliance Review, specifically whether EBRD complied with the 2008 Policy;
- b. Review all documentation relevant to the Complaint;
- c. Consult with EBRD staff involved in the Project, including personnel from the Bank's Environment and Sustainability Department, the Project Team Group, and the relevant EBRD Resident Office;
- d. Solicit additional oral or written information from, or hold meetings with, the Complainant, any other Relevant Party and, further, any interested person or party as may be appropriate for the conduct of the Compliance Review;
- e. If necessary to ascertain relevant facts, conduct a visit to the Project site accompanied by such officials of the Bank, the Complainants, the Client or other persons as he may consider necessary and appropriate;
- f. Request the PCM Officer to retain additional expertise if needed;
- g. Identify any appropriate remedial changes in accordance with PCM RP 41, subject to consideration of any restrictions or arrangements already committed to by the Bank or any other Relevant Party in existing Project-related agreements; and
- h. Take any other action as may be required to complete the Compliance Review within the required timeframe and in consultation with the PCM Officer, as appropriate.

Procedure: General

12. The Compliance Review Expert shall enjoy, subject to the provision of reasonable notice, full and unrestricted access to relevant Bank staff and files, and Bank staff shall be required to cooperate fully with the Compliance Review Expert in carrying out the Compliance Review.

13. In conducting the Compliance Review, the Compliance Review Expert shall take care to minimize any disruption to the daily operations of all involved parties, including relevant Bank staff.

14. Generally, all Relevant Parties shall cooperate in good faith with the Compliance Review Expert to enable the Compliance Review to be carried out and concluded as expeditiously as possible and, in particular, endeavor to comply with requests from the Compliance Review Expert for obtaining access to sites, submission of written materials, provision of information and attendance at meetings. The Compliance Review Expert will advise the PCM Officer of situations where the actions or lack of action by any Relevant Party hinders or delays the conduct of the Compliance Review.

15. Access to, and use and disclosure of, any information gathered by the Compliance Review Expert during the Compliance Review process shall be subject to the Bank's Public Information Policy and any other applicable requirements to maintain sensitive commercial and/or other information confidential. The Compliance Review Expert may not release a document, or information based thereon, which has been provided on a confidential basis without the express written consent of the party who owns such document.

Compliance Review Report

16. In accordance with PCM RP 42, the Compliance Review Expert shall prepare a Report. The Report may include a summary of the facts and allegations in the Complaint, and the steps taken to conduct the Compliance Review. The Relevant Parties shall be provided an opportunity to comment on the draft Report, and the Compliance Review Expert shall consider the comments of the Relevant Parties when finalizing the Report. In addition, in cases of non-compliance, the Report shall include recommendations according to PCM RP 44.

17. The recommendations and findings of the Compliance Review Report shall be based only on the circumstances relevant to the present Complaint and shall be strictly impartial.

18. Prior to submitting the Compliance Review Report to the Relevant Parties and to the Board in accordance with PCM RP 43, or sending the draft Compliance Review Report to the Bank's Management and the Complainant in accordance with PCM RP 45, the PCM Officer will verify that there are no restrictions on the disclosure of information contained within the Report, and will consult with the Relevant Parties regarding the accuracy of the factual information contained therein.

Exclusion of Liability

19. Without prejudice to the privileges and immunities enjoyed by PCM Experts, the Compliance Review Expert shall not be liable to any party for any act or omission in connection with any Compliance Review activities undertaken pursuant to these Terms of Reference.

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ANNEXES

Annex I – Complaint

Annex II – Bank’s Response

Annex III – Client’s Response

Annex I: Complaint



BİRLEŞİK METAL-İŞ
BİRLEŞİK METAL İŞÇİLERİ SENDİKASI
UNITED METALWORKERS' UNION



Genel Merkez: Tünel Yolu Cad. No. 2 34744 Bostancı-İstanbul Tel: (216) 380 8590 Fax: (216) 373 6502

İstanbul, 02.09.2015

██████████ **PCM Officer**
Project Complaints Mechanism
European Bank for Reconstruction and Development
via E-mail: ██████████ pcm@ebrd.com

Re: Workers Rights Violations in Türk Traktör ve Ziraat Makineleri AŞ

1. Name of the Organization filling the Complaint:

DİSK - Birleşik Metal İşçileri Sendikası (United Metalworkers' Union)

2. Contact Information of the Complainant:

Birleşik Metal İş
Tünelyolu Cad. No: 2
Bostancı - İstanbul/Turkey
Tel: 00 90 5362059121
00 90 216 3808590
Email: international@birlesikmetal.org / eyupozer@gmail.com

3. This complaint is made by Birleşik Metal İş union itself. Birleşik Metal İş union is recognized by the Turkish Ministry of Labour and Social Security as a competent trade union in metal sector in Turkey. The union also has interest in organizing the Türk Traktör workplace, as well as other workplaces. Birleşik Metal İş also has membership in this company and some of its members were directly affected by the incidents described in this complaint. On behalf of the Birleşik Metal İş, Eyüp Özer, International Secretary of the Union will follow the process.

4. There is no need for this complaint to be kept confidential

5. We are filing this complaint regarding workers rights violations in **Türk Traktör ve Ziraat Makineleri AŞ**, in Ankara. You can find more information about the EBRD financed project here:

<http://www.ebrd.com/work-with-us/projects/psd/turk-tractor.html>

6. Detailed description of the case:

a. Türk Traktör AŞ, has consistently denied workers' right to organize, compelling them to join and stay in Türk Metal union. As a result, workers at Turk Traktor joined with 30,000 metalworkers across the country in an industrial action to demand their right to establish and join a union of their choosing. Despite promises by Turk Traktor that no one would be dismissed as a result of the action, Turk Traktor dismissed 20 workers and their representatives. These dismissals and the pre-existing conditions at the Turk Traktor factory violate workers' rights protected by international law and the EBRD's Environmental and Social Policy and Performance Requirements.

b. According to Turkish Labour Code, the maximum overtime work in a year is 270 hours. In violation of national law, the annual over-time in this factory is compulsory and much higher than 270 hours. Given the manual labor involved, working extensive overtime hours causes serious health problems, mostly musculoskeletal disorders. Much of the workforce have herniated discs or similar conditions.

c. The average wage in the workplace ranges between 1300-1400 TLs (approximately 430-460 Euros) per month. The work at the factory is officially classified as heavy work. The workers, who are doing heavy work for long hours, are unable to meet their basic needs with these salaries. As a result, many of the workers have incurred debt.

d. The workers are unable to address these issues because they cannot freely bargain for their working conditions. For many years, Türk Metal union has been the competent union to make collective bargaining agreements in the workplace. Membership in Türk Metal is a pre-condition for employment. There are several newspaper articles which describe this situation. Workers cannot elect their shop-stewards or any other union representatives. Workers who are in conflict with this so-called union, are dismissed. Previously, there have been cases where workers have been threatened, pressured or subjected to violence by trade union officials. The company allows this to happen in order to protect the management-friendly union.

e. In May 2015, there was a massive and historical wave of strikes in Turkish metal industry. The strikes first started in Renault and Tofaş (FIAT) then spread to many other auto producers, suppliers and other metal workplaces including; FORD, Magneti Marelli, Johnson Controls, Ototrim (Grupo Antolin), Türk Traktör and many others. More than 30,000 workers joined these demonstrations and work-stoppage. They all also collectively resigned from Türk Metal union.

During these strikes, workers had 4 main demands:

1. They want to choose their union freely
2. They want to elect their own representatives and shop stewards
3. They want a guarantee that no one will be dismissed because of these demonstrations and demands
4. They want to be paid a living wage that provides for decent living standards

f. 1200 Türk Traktör workers joined 30,000 other metalworkers in Turkey in this industrial action on May 21, 2015. Workers started to picket and wait in the factory yard, the workers who are not assigned to that shift arrived in front of the factory and they also started to wait outside the factory. As a result, production stopped from May 21 to June 6, 2015. On June 1, 2015, the workers decided to end the strike and return to production. The company directed them to return the following day after they scheduled the shifts, which they did. Production resumed on June 2, 2015. There were no dismissals between May 21 and June 1st. The first dismissals started on midnight 01.06.2015 after workers decided to end the strike, when five workers were dismissed. Then, some workers (around 25-30) were sent on compulsory leave, 15 of whom were dismissed on June 8, 2015.

g. During the first days of strike, there was communication between the company and workers' representatives. Even the CEO of Türk Traktör, ██████████, joined some of these meetings. But later, the company stopped negotiations, and on June 1, the 5 workers including the workers' representatives were dismissed.

h. Company management repeatedly announced that no one would be dismissed because of these actions. The workers relied on these commitments and did not expect any dismissal because of the strike. On May 28, 2015, the company circulated a memo/note, signed by ██████████ (CEO), agreeing to some of the workers' demands and committing not to take any action against those workers who returned to work by May 29, 2015. You can find that document in the Attachment A. Despite the fact that workers did not return to work on the 29th, the company did not take any action. Instead, the company sent an SMS to all employees on June 1st, calling them back to their jobs.

i. Although 1200 Turk Traktor workers participated in the strikes, only 20 of them were dismissed. These 20 workers did not do anything which would justify their dismissal.

j. The reason given by the company for the dismissals was that the action that took place from May 21 to June 1st was an illegal strike and workplace occupation. But, if that were the case, then the company would have dismissed all 1200 workers who joined the strike. But those 1200 workers are still employed and were paid for the 10 days of the strike. **In their payrolls, those ten days are recorded as administrative leave.** The workers even received 1000 TL extra bonus, demonstrating that the company had accepted some of their financial demands.

k. The ILO Committee of Freedom of Association considers, wild-cat strikes, sit-down strikes etc. as part of right to strike as long as they are peaceful: "*Regarding various types of strike action denied to workers (wild-cat strikes, tools-down, go-slow, working to rule and sit-down strikes), the Committee considers that these restrictions may be justified only if the strike ceases to be peaceful.*"¹ In the Attachment B, you can find Birleşik Metal İş's urgent intervention request to ILO Committee on Freedom of Association regarding the strikes in metal industry.

l. The objective of Performance Requirement 2 is to ensure the respect of workers' rights, including those protected by ILO Conventions 87 (freedom of association) and 98 (right to collective bargaining). Specifically, PR2 states that, "The client will not discourage workers from joining workers' organisations of their choosing or from bargaining collectively. The client will not discriminate or retaliate against workers who act as representatives, participate, or seek to participate, in such organisations or bargain collectively."² As detailed above, EBRD has failed to ensure that Turk Traktor complied with PR2, and other relevant provisions of the Performance Requirements, in its appraisal, monitoring and supervision of this project.

7. On June 3, 2015, we first raised these issues with ██████████ and ██████████. They forwarded our email to ██████████ who responded to us on July 1, recommending we contact the company directly. We contacted Türk Traktör following his recommendation, but we have not received a response from the company yet. On 12th August 2015, ██████████ EBRD contacted us and suggested us to contact Metal Employers' Union about this matter. Even though we had

¹ See the , 2006 Digest para 545; 1996 Digest, paras. 496 and 497; and 306th Report, Case No. 1865, para. 337."

² PR2, para. 13.

many previous communications with MESS on these issues without any result and we don't find it appropriate that company wouldn't speak with us directly. Regardless of our concerns, we have contacted MESS directly on 19th of August and still we haven't received any reply yet. Attachment C contains the correspondence with EBRD. Attachment D contains our letter to Türk Traktör ve Ziraat Makineleri AŞ. Attachment E, contains our letter to MESS Ankara office.

8. There are few other ongoing process, none of which would interfere with the PCM's handling of this complaint. First of all, there are individual court cases, demanding the reinstatement of dismissed workers. However, because Turkish law does not adequately protect the right to organize and because of unreasonable delays in the Turkish judicial system, complainants do not consider these court cases to represent effective recourse. Also we are preparing for an OECD complaint to the Austrian National Contact Point against CNH Österreich, which is the 37,5 percent shareholder of Türk Traktör AŞ. As that complaint is about the responsibilities of the shareholder and not Turk Traktör directly, we do not foresee that it would interfere in the processing of this complaint.

9. We would like to ask the PCM to undertake a problem-solving initiative to help us find a proper solution to this problem, end the workers' sufferings, and establish the basic conditions of freedom of association in Türk Traktör. As we believe that these workers were dismissed without any proper reason, we think that reinstatement of the dismissed workers would be a necessary step for company. As the strike made clear, the workforce does not accept the current union. A mechanism must be established in the workplace which ensures that workers can freely choose their representatives. Based on ILO Committee on Freedom of Association's decisions in previous cases, we believe that best way to do this is to organize a secret ballot in the workplace based on "closed voting, open counting" principles. If it is not possible to undertake a problem-solving initiative, we would request that the PCM conduct a compliance review.


General Secretary

Annex II: Bank’s Response

Project	Türk Traktör, Turkey
Project Team	Operation Leader: [REDACTED] Office of the General Counsel (Banking): [REDACTED] Environment and Sustainability Department: [REDACTED] [REDACTED]
To: PCM Office	[REDACTED]
Via: VP Risk	[REDACTED]
From:	[REDACTED]
Director, ESD	[REDACTED]
Director, M&S	[REDACTED]
RO Head, Istanbul	[REDACTED]
Date of issue to PCM Officer	12 th October 2015

EBRD’s Project Complaint Mechanism (PCM) Office received a complaint issued by a representative of the United Metalworkers' Union (Birlesik Metal-Is), Turkey in relation to EBRD’s investment in the Türk Traktör project (<http://www.ebrd.com/work-with-us/projects/psd/turk-traktor.html>). The complaint, titled “Workers’ Rights Violations in Türk Traktör ve Ziraat Makineleri AŞ”, is dated 2nd September 2015 and was registered by the PCM office on 10th September 2015. The complaint primarily relates to labour issues and Türk Traktör’s handling of industrial action that occurred at its facilities in Ankara in May and June 2015 and which affected the whole sector

The following sections provide i) a summary of the Project; ii) an overview of the wider situation in the Turkish automotive sector; iii) a summary of the Environmental and Social appraisal and management of EBRD’s investment; and iv) EBRD’s handling and response to the complaint.

Project Background

Türk Traktör ve Ziraat Makinalari A.S. (“Türk Traktör” or the “Company”), a JV between CNH Osterreich Gmbh and Koc Holding, is the leading tractor and agricultural equipment manufacturer in Turkey with a 50 per cent market share in the domestic market. On 14th May 2013, the EBRD signed a loan agreement providing for a syndicated loan of up to EUR 75m to Türk Traktör for the construction of the new tractor plant in Sakarya, as well as investments related to research and development. The EBRD financed EUR 30m, while EUR 45m was syndicated to commercial banks. On 22nd October 2014, the EBRD signed an additional loan agreement for up to EUR 20m loan to the Company for the purposes of financing the supplementary building and infrastructure investments related to the Project.

Strategic

The Project is consistent with the Bank’s Strategy for Turkey which identifies the need to support growth and development of the enterprise sector in a broad range of industrial sectors, with a particular focus on agribusiness, supporting energy efficiency investment, innovation and high value-added industries and sectoral value chains.

The Project supports the setting up R&D activities which have been transferred from CNH Global to Turkey with the aim of by promoting the manufacture of energy efficient tractor engines. The Project has also a strong indirect impact on the development and efficiency of the

Context

agricultural industry in the country through the creation of backward linkages with suppliers. Furthermore, the Project sets best practice environmental standards for the sector by requiring the company to qualify for SO 14064 (GHG Emissions Inventories and Verification) and ISO 50001 (Energy Management System) certifications.

Summary of General Industrial Action in the Turkish Automotive Industry in 2015

EBRD's understanding of the strike action that is cited in the PCM is as follows.

In May 2015, a wave of labour strikes occurred in the main industrial sites of the Turkish automotive industry. This included other vehicle manufacturers such as Renault, Tofas, Ford Otosan, Türk Traktör and suppliers namely Mako, Ototrim Trakya Döküm, ZF Sachs, Opsan, O.R. and Coskunoz. Workers were not protesting against their companies but, rather, against the incumbent trade union in the automotive sector, Turkish Metal Trade Union (Turk Metal Sendikası), and the Turkish Employers' Association of Metal Industries (Türkiye Metal Sanayicileri Sendikası "MESS") - an association representing the employers, including Türk Traktör. The first strike happened at the Renault plant in Bursa and was quickly followed by strikes at the Tofas plant in Bursa, the Ford Otosan plant in Kocaeli and the Türk Traktör plants in Ankara and Sakarya. Worker action was also experienced by manufacturers such as Mercedes, and some other suppliers' employees initiated different forms of protests to raise their joint demands.

The strikes in the automotive industry were triggered by a Collective Bargaining Agreement (CBA) between Bosch and Turk Metal which resulted in a substantial wage increase (an increase covering three years to be given all at once). Accordingly, employees in other automotive companies demanded the revision of their existing CBAs in addition to several other demands such as: workers being permitted to resign from Türk Metal; the removal of the responsibility of CBA from the incumbent union; and adjustments of salaries to match the outcome of the Bosch workers agreement. This was, however, refused by both MESS and Turk Metal on the basis that the CBA's applicable for those workplaces were concluded in December 2014 for a term of three years and that those CBAs are/were not subject to change during the contract period. It has been reported, but not verified by EBRD, that rather than protesting against their specific companies, employees chose to protest against Turk Metal and MESS, alleging failure to represent the employees' interests in their negotiations with management. Due to the protests, a number of manufacturing plants temporarily suspended production in summer 2015. Following individual negotiations of the affected companies with their workers the strikes ended (Tofas on 25th May, Renault on 27th May, Türk Traktör on 1st June and Ford Otosan on 4th June).

Environmental and Social Context of the Project

The EBRD financed project was Categorised B in accordance with the EBRD's 2008 Environmental and Social Policy (ESP, 2008). Independent environmental and social (E&S) due diligence (ESDD) was commissioned by the Bank which included a visit to the company facilities in 2013, an E&S audit of the existing facilities in Ankara and an E&S analysis of the proposed Project in Sakarya. The ESDD concluded that adverse environmental and social risks associated with the Project were site specific, readily identifiable and could be addressed through mitigation measures. This confirmed the categorisation as a 'B'.

ESDD further concluded that the Company had international standard management systems in place at the existing facilities and intended to implement these at the 'new build' facility and to synergise the systems within a single corporate management system. The results of the ESDD indicated that the risk profile of the Project and the Sponsor were relatively low and that any residual adverse environmental and social issues associated with the Project could be addressed

through continued good E&S management practise. No significant issues were brought to the attention of the Bank in 2013, by consultants carrying our due diligence with respect to labour requirements, as per Performance Requirement 2 of the ESP.

Key findings of project appraisal, approval and monitoring

Key findings of project appraisal

A number of issues were identified by way of the ESDD that required corrective measures to meet the PRs in full. Most of these were included within existing management plans and were fairly minor in context. An Environmental and Social Action Plan (ESAP) was developed to formally commit the company to continue to operate in accordance with international / EBRD's requirements and to address any gaps, as identified. This document was included as part of the legal documentation agreed with the client. The key issues included in the ESAP were as follows:

- formal commitment to submit updated permitting documentation regarding environmental permits and monitoring data to the Turkish regulators in a timely manner;
- implementation of an integrated environmental management system at the new facility and adopt corporate management procedures that consistently apply to both facilities;
- Development of a contractor management plan for expansion and construction related activities;
- To address minor residual risks associated with current environmental management procedures;
- To review internal H&S and community safety procedures to manage risks associated with traffic management; and
- Development of an external grievance mechanism and information disclosure policy.

Specific Issues highlighted in independent ESDD relating to the labour policies / practices of Türk Traktör

The report of the independent consultant concluded that the Company's existing labour policies and procedures, at the time of the assessment, were aligned with Turkish Law, ILO conventions and EBRD's Performance Requirement 2. The only issue that was raised by the independent consultant was the requirement to develop a plan to relocate staff from the existing facility in Ankara to the new facility in Sakarya.

Pertinent sections of the ESDD report are summarised below:

Workers' Unions

The workers at the facility are associated with a labour union, namely Turkish Metal Workers Union, which is the largest union in Turkey. There is a Labour Union representative and Occupational Health and Safety representative selected from the workers. Therefore, workers are represented in the Labour Union and in regular meetings of Occupational Health and Safety Board Meetings by these representatives. In these meetings, occupational health and safety issues and labour rights of the workers are discussed.

Grievance Procedures

The facility representative stated that every worker had the right to present his/her demand and expectations to the managers. Workers are represented in the Labour Union and Occupational Health and Safety Board Meetings where they can raise issues about their demands. [The consultant] was informed that there is an internal grievance mechanism for the workers which

include written procedures and forms. When workers have any complaints, they fill out the forms and the Ethical Committee evaluates the complaints.

Conclusion - Labour

Türk Traktör complies with the applicable local laws and regulations. However, there will be potential social issues for the personnel to be relocated to the Sakarya facility. [The consultant] was informed that Türk Traktör has started to plan the details of the personnel relocation and will take necessary actions and mitigations for these personnel. [The consultant] was informed that these issues were at the planning stage and the management will first decide the number of workers to be relocated from Ankara facility and then determine the workers to be relocated accordingly. It was stated that after these decisions would be finalized, the specific actions and mitigatory plans will be finalized accordingly.

Performance Requirement 2: Labour & Working Conditions

- *[the consultant] recommends that the personnel to be relocated should be determined and informed and the relocation plans should be prepared accordingly. Then, the plans should be disclosed to these workers as soon as practical.*

Workers are considered stakeholders in EBRD's requirements, and have certain rights to information and the ability to raise grievances in a meaningful way. A Stakeholder Engagement Plan, which included a comprehensive Grievance Mechanism in line with PR10, was developed by the ESDD consultant and provided to Türk Traktör, who formally committed to implement the SEP.

Monitoring

The EBRD's investment was monitored by way of review of annual E&S reports prepared and submitted by the client. The client reported to EBRD that all ESAP items had been addressed, that no material changes had occurred and that the SEP and Grievance Mechanism had been adopted in full. Furthermore, the company reported that no significant E&S issues had occurred during the previous reporting periods.

EBRD response to the complaint, interaction with the complainant and the client

As indicated in the PCM complaint, communication regarding the dismissal of Türk Traktör employees was first received by EBRD on 3rd June 2015 after which the complainant was referred to Türk Traktör, with a request for the workers to address their concerns directly through the Company's Grievance Mechanism. The complainants informed the Bank that they did not receive a reply to their concerns and, as such, EBRD directed the complainant to the employers union (MESS), at the request of Türk Traktör. EBRD has encouraged Türk Traktor to engage with the complainant on a number of occasions to address the concerns.

The Bank was sent a copy of a reply sent to the complainant from MESS on 14 September indicating that workers had been dismissed on legal grounds. To date, EBRD has not been able to verify this account of events and has therefore launched an assessment of the situation.

The complaint to the PCM office addresses the following themes:

- Questions regarding the ability of employees to freely associate with a union of their choosing;
- Claims that labour and working conditions do not meet Turkish, ILO or EBRD PR2 requirements, relating to pay, overtime and Health & Safety arrangements; and
- Allegations of unfair dismissal and breach of worker rights during industrial action.

As indicated above, independent ESDD completed prior to the EBRD's financing of the Türk Traktör Project confirmed that the client had adequate policies and procedures in place to handle

such issues in accordance with EBRD's PR2. Confirmation on whether these policies and procedures were in place during the recent industrial action is pending and EBRD remains in discussion with the client. Following receipt of the initial complaint EBRD entered into a lengthy dialogue with Türk Traktör, who reiterated their commitments to PR2 and grievance management as required by EBRD. Furthermore, the client has set out to EBRD their position regarding the legality of the strike and the basis for the dismissals. This, also, is currently being reviewed by EBRD.

To make a further assessment of the claims and the position of the client, EBRD will initially use its internal resources to carry out an assessment of the situation and may then consider the appointment of a labour specialist to provide an independent opinion.

Summary

EBRD commits to support its clients to uphold the highest standards with respect to Environmental and Social management, including Labour and Working conditions as set out in Performance Requirement 2 of the EBRD's 2008 Environmental and Social Policy.

Prior to entering into a financing relationship with Türk Traktör EBRD appointed an international firm of independent consultants to undertake Environmental and Social Due Diligence of the company and the proposed project to be financed. The due diligence concluded that Türk Traktör had policies and procedures in place that meet Turkish Law, relevant ILO conventions and EBRD's PR2. Through project monitoring Türk Traktör has confirmed that such policies and procedures were in place, were being implemented and were not subject to material change. In addition, Türk Traktör confirmed that a Grievance Mechanism was in place to address internal and external concerns. When an issue was brought to the Bank's attention, discussions ensued and additional information was sought from the client. It is important to note that the strike action was not unique to the client's workers nor to its facilities, but it is indicative of a regional dispute in the sector. Nonetheless, EBRD is monitoring the situation closely and will make a decision on next steps in close coordination with the EBRD Resident Offices in Turkey and political counsellors.

Due to the rapidly developing situation surrounding the industry wide strike action, EBRD is not yet to be able to comment on the specific claims made in the letter to the PCM office. As such EBRD has initiated an evaluation of the situation, the claims made and the Company's handling of the situation, including whether the commitments made by the Company to implement PR2 and PR10 were maintained. Following the internal assessment, EBRD shall consider the verification of the issues and status by an independent specialised consultant in labour, with a duty of care to the Bank.

November 9, 2015

From : Türk Traktör

To : European Bank for Reconstruction and Development

Re : Information Note on Illegal Strikes and Occupation of Workplaces in Turkey May-July 2015

Dear [REDACTED],

Please kindly find below the management response on the Project Complaint Mechanism process triggered by the complaint of Birleşik Metal-İş union regarding Türk Traktör. We understand that PCM is an accountability mechanism and commit our full cooperation and support to EBRD in this process.

Türk Traktör, established in 1954, is currently a joint venture between CNHI and Koç Group, realizing exports to more than 130 countries. Production of tractors exported throughout the world is performed with devoted efforts of our employees. We attach utmost importance and priority to human rights, occupational health, safety, working conditions and labor peace in all our production processes as required by our modus operandi, our corporate culture and international standards. It is our principle that all processes and procedures of Türk Traktör must be strictly compliant with applicable legislation, international standards and human rights principles. As a company part of Koç Group, we have always sought to set our values in line with highest principles, such as those engrained in the Universal Declaration of Human Rights and in this respect, such approach is reflected across our operations. We also further note that as part of the Koç Group, we adhere with the UN Global Compact, to which our parent company is a signatory, one of the pioneers in Turkey. As an employer devoted to such principles, and as part of a group pioneering and advocating such principles including among others, gender initiatives and a high rate of unionization actively in our jurisdiction, we are deeply concerned by the unjust allegations of Birleşik Metal.

The industry-wide demonstrations which took place in Turkey during the months of May and June 2015 caused adverse effects for all parties in the metal sector operating in Turkey. During these demonstrations, some of which amounted to illegal strikes, workplaces of Türk Traktör were occupied and production was ceased for almost two weeks. The illegal strike was ended by our employees who decided to comply with laws and production resumed.

During this period, means granted to us by the labor laws and other applicable legislation were exercised towards some of our former employees who claimed to be the representatives of the protesters without relying on a legitimate election process, actively advocated disruptions of production, applied peer pressure to their fellow employees and sought employer-forced action to force the union with authority to conclude collective agreement out of our workplace. During this process, utmost care was shown and no illegal actions were taken.

Türk Metal union has authority to conclude collective bargaining in our workplaces and trade union rights of our employees are secured and respected. Collective bargaining agreement signed in December 2014 is in place in all our premises for three years beginning valid as of September 1st, 2014.

Please find below certain background information and detailed explanation regarding the events.

Overview and Background

Unionization in Turkish Metal Industry, MESS Group Collective Bargaining Agreement:

As of July 2015, approximately 1.4 million workers are employed in Turkish metal industry. Approximately 100,000 of them are covered by the Group Collective Bargaining Agreement (the “**MESS Group CBA**”) entered into by the Turkish Employers' Association of Metal Industries (“**MESS**”) on behalf of employers which are members of MESS, with three labor unions namely the Turkish Metal Workers Union (“**Türk Metal**”), United Metal Workers Union (“**Birleşik Metal**”), Iron, Steel, Metal and Metal Products Workers Union (“**Çelik-İş**”) respectively.

- The most recent MESS Group CBA was concluded in December 15, 2014 with Türk Metal and Çelik-İş unions for a term of three years, valid from September 1, 2014 through August 31, 2017.
- Following a lengthy negotiations process, the concluded MESS Group CBA included a six-months initial pay raise of 9.78%, complemented with pay increases in the amount of Consumer Price Index for the remaining semi-annual periods of the three-year agreement, with the fifth semi-annual raise including a CPI+3.5% increase.
- Birleşik Metal-İş union rejected the agreement, went on a strike which was postponed and the process was then referred to the High Board of Arbitration which resolved that the MESS Group CBA shall be applicable for the members of Birleşik Metal with the exact same terms of the agreements concluded by Türk Metal and Çelik-İş.

Triggering Event and Demands

Following the conclusion of the Group CBA, collective negotiations covering the workplaces of Bosch, which were formerly part of the Group CBA and were left out due to rivalry between Türk Metal and Birleşik Metal since 2012 were concluded with certain different provisions regarding pay raises.

Following the conclusion of the agreement in mid-April, a social media campaign was launched, mainly targeting automotive plants, accusing Türk Metal for the difference between Bosch agreement and the MESS Group CBA. The campaign was apparently mainly organized through a Facebook account called “Association of Metal Workers”.

The protests further escalated in the month of May, caused disruption of production in the automotive industry, starting by Renault, including parts suppliers. The Association of Metal Workers persistently called for disruption of production in the factories, with the following demands:

- Workers shall resign from their Türk Metal memberships;
- Türk Metal union shall lose authority to conclude collective agreement in these workplaces by, among others, forceful action from the employers (including removal or relocation of Türk Metal’s union office from the premises);
- A new union to be formed to replace all three labor unions active in the metal industry;
- Adjustment to the hourly wages, equal to the Bosch CBA shall be made throughout all factories.

Certain parts of these demands are obviously not possible to be addressed on a legal basis and are not in compliance with freedom of association and union rights. A complete work stoppage occurred at Renault plant on May 15th and the plant was occupied by workers. This illegal strike spread on to the Tofaş-Fiat plant in the next few days, and to a number of major automotive supplier industries such as Coşkunöz, Magneti Marelli-Mako. In spite of successive persuasive efforts by the employers, the illegal strikes further spread to other plants, including Türk Traktör. In search for an amicable solution without prejudice to the agreement in force and in the absence of legitimate counterparts, MESS committed on May 24th, 2015 to make a one-off payment of 1,000 TL to the accounts of workers covered by the Group

CBA and to explore additional measures within a month. From May 27th, some illegal strikes subsided and production was back to normal at Tofaş-Fiat, Renault and other suppliers. Eventually, support payments in the total amount of 4,500 TL were agreed to be paid by the employers during the term of the Group CBA. We note that this was an act to address the unrest and does not represent the outcome of a negotiation, nor an amendment to the wage provisions of the recently-signed Group CBA.

Under the Law numbered 6356 on Collective Bargaining Agreement and Unions, articles 58 and 70, disruption of production in the absence of a formal negotiation process is defined as unlawful strike and allows the employers to take certain legal measures, including termination of employment contracts of those participating. In accordance with the provisions of these articles, a lawful strike may be held during collective bargaining negotiations, by the union which has authority to conclude collective bargaining (by majority of memberships at such workplace). During this process, Türk Traktör did not resort to mass layoffs, and opted to try and find a peaceful solution through an ideal compromise.

The main challenge for the companies at this time was the absence of a legitimate counterpart but rather an internet based organization that claimed to represent workers' interests but ended up destabilizing workplaces and stripping workers off their trade union memberships, mostly through peer pressure.

Following many calls on our employees to keep production without resorting to illegal strikes, certain individual actions of a limited number of former employees and their leading involvement in workplace disruptions and continued calls to cease production and occupy the workplace even though the employers opted for an optimum compromise, required their dismissal, as a last resort. We further note that during the events, these persons were believed to apply peer pressure on their fellow colleagues for either changing their unions or joining the protests. We would like to emphasize that no employment agreement of any worker was terminated due to exercise of union rights at any point during these protests, which is evidenced by the fact that some of the resigned workers joining other trade unions, most of the others having re-joined Türk Metal and some others reported trying establishing a new trade union in the metal sector. All these employees continue to be employed by Türk Traktör regardless of their union memberships. Furthermore, Türk Traktör management clearly stated on many occasions that the employees were at liberty to select the union of their choosing and that the matter was clearly between the employees and their union. Although Birleşik Metal alleges that the employers did not respect free union rights of employees, contrary is evidenced by certain facts. Currently thousands of employees are believed to be members of different unions as compared to when the illegal strikes began or not union members at all. Furthermore, some of the employees who claimed to be the representatives of the protesters continue to be employed by Türk Traktör.

When analyzed with tensions resulting from ever-increasing union rivalry and competition, the illegal strikes created extensive damage to Turkish metal industry, dislocated many workers from their union memberships mostly through peer pressure. We note that Birleşik-Metal was one of the unions that was criticized by the protesters for a number of reasons in many workplaces and is believed to utilize international organizations to pressurize the employers and destabilize other unions.

Koç Group

Koç Holding and Koç Group companies have been in the forefront of raising awareness on U.N. Global Compact and disseminating its principles in Turkey. Koç Group is a leading conglomerate in Turkey both by number of employees and by number of union members. Labor union rights and protection of peace at work is a primary focus. A continuous and constructive social dialog is considered to be the main constituent of industrial relations. Koç Group respects freedom of unionization and collective bargaining. The current rate of unionization is around 61% among total employees of Koç Group. Over

45,000 within the Group are union members and are covered within the scope of a collective bargaining agreement. In these workplaces, collective agreements are concluded following negotiations with competent unions.

Seven companies within the Koç Group, namely Arçelik, Arçelik-LG, Aygaz, Ford Otosan, Otokar, Tofaş and Türk Traktör are included within the scope of the MESS Group CBA, with a total of approximately 33,000 workers. In the metal industry Türk Metal has 89,000 members within the scope of the MESS Group CBA and as a total of 177,000 members whereas Birleşik Metal and Çelik-İş each hold approximately 31,000 and 32,000 members respectively.

Conclusion

At Türk Traktör, regulatory provisions relating to working life in matters such as occupational health and safety and human rights are respected and are also included in the current collective agreement. Monitoring is also implemented by Türk Traktör for determining violation of labor union rights in supply processes. Compulsory working, including overtime working is prohibited by law and is not applied in Türk Traktör workplaces. Health issues are continuously monitored both by the Türk Traktör medical and occupational health and safety teams, as well as on a central and holistic basis by Koç Holding, via Occupational Health and Safety Coordination Board. Occupational hazards and accidents are monitored and reported to the Koç Group on a regular basis. Membership to Türk Metal union is not a pre-condition for employment, and as a constitutional right, all employees benefit from the liberty to choose their own membership to labor unions. The allegation that the company allows unlawful actions, including threatening of fellow employees to protect management-friendly union is outrageous.

As the issues surrounding the events remained very complex, Türk Traktör, together with Koç Group adopted a holistic approach, establishing and encouraging direct and open communication channels by and between the employers' association, labor unions and other related parties. As a result, the employers' association created a long-term road map and solution proposals.

As another result of this process, Türk Metal union announced a solutions package with the aim of establishing a more pro-active and inclusive union management accompanied by direct communications channel with its members, including direct elections of employee representatives at the workplaces.

We note that Birleşik Metal is not counterparty to collective bargaining process in any of our workplaces and is not known to be conducting unionization. Birleşik-Metal was further criticized by the protesters on many occasions, especially on the Facebook page of Association of Metal Workers. However, we attach utmost importance to open communication with all our social constituents and representatives of labor organizations, and we provide channels to serve to this end. Information on communication channels are readily available to all members of the society and as such, the complainant is also aware that their organization may contact us directly on any queries and such contact was established pro-actively on our part recently. We also believe that more than adequate remedies exist under Turkish law for dismissed employees. Unlike the statement of Birleşik Metal, academia and employers are mostly of the belief that Turkish judicial system favors employees over employers in its interpretation of the law.

We hereby would like to assure all interested parties that no employee was laid-off during that time for exercise of union rights. A large majority of the employees decided to remain with their current union after the protests were over, and prospective solutions were developed to address these matters by the stakeholders of the process, namely the employers, employer association, and the labor unions in the form a road map for increased member engagement.