



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

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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-traktor.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 Osterreich, 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