

This report documents how the State of Emergency declared in 2016 has led to a higher level of labour rights violations in Turkey. Even though violations of labour rights did not necessarily start during the State of Emergency, these violations have become more frequent and permanent as a result of it. The State of Emergency, which officially ended, is still de facto in place, especially for workers. Despite criticisms and warnings from international actors and courts' judgments, there has been no improvement. The report provides examples of widespread labour rights violations: the freedom of association, the right to collective bargaining and strike, the right to peaceful assembly, and more broadly the freedom of speech and assembly in general, which are guaranteed by ILO's fundamental conventions.

The curbs on labour rights extend to subsidiaries of European companies. It is clear that the companies in question do not have the main responsibility for this situation. Instead, it is a result of the official and de facto State of Emergency, decisions of the government and its practices. However, it can be seen that European companies also take advantage of the situation and commit widespread rights violations in Turkey. In their own countries, many European companies have to respect the rights of association, collective bargaining and striking. They have well-developed social dialogue mechanisms and established internal principles in addition to international agreements. These standards are unfortunately adhered to in a limited way by the companies while operating in Turkey. The report argues that companies must improve their performance, in particular since their practices are often in violation of the principles of human rights compliance defined by the companies themselves.

COLLECTIVE RIGHTS OF WORKERS UNDER TURKEY'S CONTINUOUS STATE OF EMERGENCY

COLLECTIVE RIGHTS OF WORKERS UNDER TURKEY'S CONTINUOUS STATE OF EMERGENCY

TRADE UNION RIGHTS IN EUROPEAN AND EUROPEAN-AFFILIATED ENTERPRISES



611



611 ESHİD
Eşit Haklar
İçin
İzleme Derneği

HAKİKAT ADALET HAFIZA MERKEZİ
TRUTH JUSTICE MEMORY CENTER

HAFIZA MERKEZİ



NETHERLANDS
HELSINKI
COMMITTEE



**COLLECTIVE RIGHTS OF WORKERS UNDER
TURKEY'S CONTINUOUS STATE OF EMERGENCY**
TRADE UNION RIGHTS IN EUROPEAN AND
EUROPEAN-AFFILIATED ENTERPRISES

119



WRITER
Hakan Koçak

DÜZELTİ
Esra Koç

DESIGN
BEK

HAFIZA MERKEZİ
Ömer Avni Mahallesi İnönü Caddesi
Akar Palas No:14 Kat:1
Beyoğlu 34427 İstanbul TR
+90 212 243 32 27
info@hafiza-mrkezi.org
www.hafiza-merkezi.org

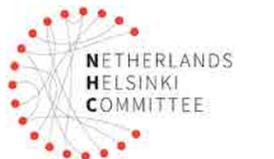
EŞİT HAKLAR İÇİN İZLEME DERNEĞİ
Gümüşsuyu, Ağa Çırağı Sk.
Pamir Apt. No:7/1,
Beyoğlu 34437 İstanbul
+90 212 293 63 77 – 0501 212 72 77
info@esithaklar.org
esithaklar@gmail.com
www.esithaklar.org

NETHERLANDS HELSINKI COMMITTEE
Riviermarkt 4
2513 AM The Hague
Netherlands
+31 (0) 70 392 67 00
office@nhc.nl
www.nhc.nl

COLLECTIVE RIGHTS OF WORKERS UNDER TURKEY'S CONTINUOUS STATE OF EMERGENCY TRADE UNION RIGHTS IN EUROPEAN AND EUROPEAN-AFFILIATED ENTERPRISES



HAKİKAT ADALET HAFIZA MERKEZİ
TRUTH JUSTICE MEMORY CENTER



CONTENTS



7	INTRODUCTION	
7	THE CONDITION OF COLLECTIVE LABOUR RIGHTS IN TURKEY	
12	THE LEGAL FRAMEWORK OF THE STATE OF EMERGENCY AND ITS LIMITS	
	Europe and Labour Rights in Turkey	
	International and Constitutional Framework of Workers' Collective Rights in Turkey	
	Short Explanation Concerning the Legislation in Turkey	
	Disputes as to competence	
24	THE PICTURE OF LABOUR RIGHTS VIOLATIONS IN TURKEY	
	State of Emergency (OHAL) Period and its aftermath	
	Right to Strike under the State of Emergency	
	Aftermath of the State of Emergency	
	A Striking Example of de facto State of Emergency: The Case of Istanbul Airport (3rd Airport) Construction Workers	
	Evaluations and Decisions of International Actors Concerning Workers' Rights Violations in Turkey	
43	EXAMPLES OF COLLECTIVE LABOUR RIGHTS VIOLATIONS IN EUROPEAN INVESTMENT ENTERPRISES	
	Petrochemicals Industry	
	Flormar	
	Recticel	
	Metal Industry	
	Renault	
	Baldur Süspansiyon	
	DIAM Vitrin	
	Roca TR Banyo	
	Günsan	
	Transportation Industry	
	DHL Express	
	Cellulose-Paper Industry	
	Saica Pack	
	Textile Industry	
	Bravo	
	H&M	
	Hugo Boss	
69	CONCLUSION	
71	SUMMARY ON THE GENERAL SITUATION OF WORKERS' RIGHTS AND VIOLATIONS IN THE COVID-19 PANDEMIC	
79	INTERVIEW SUMMARIES	

OVERVIEW OF THE COLLECTIVE RIGHTS OF WORKERS UNDER TURKEY'S CONTINUOUS DE FACTO STATE OF EMERGENCY WITH SPECIAL ATTENTION TO TRADE UNION RIGHTS IN EUROPEAN AND EUROPEAN-AFFILIATED ENTERPRISES

INTRODUCTION

This report has two main objectives. The first is to provide an understanding about the violations of the collective rights of workers during the State of Emergency, which was imposed in July 2016 and was officially lifted in July 2018. This section will also reflect on the fact that even after July 2018, collective rights continue to be violated by the emergency-like laws. This suggests the State of Emergency is de facto still in place. The second objective is to provide a perspective on the violations of these rights by European or Europe-affiliated companies based in Turkey.

The report uses the following materials: press reviews, data from reports published by various institutions, summaries of court decisions reflecting on legislation and its implementation, and interviews conducted with trade union specialists, leaders, and workers whose rights have been violated.

These materials are used to introduce the State of Emergency period and the national and international frameworks applicable in Turkey. The report then presents cases of collective labour rights violations. An overview of European investments in Turkey in relation to the country's economy and employment situation is also included in the first section. The second section describes examples of recent rights violations in European/European-affiliated companies with regard to the freedom of association. A small section has been added on the preliminary observations of the effect of the Covid-19 epidemic on labour rights.

THE CONDITION OF COLLECTIVE LABOUR RIGHTS IN TURKEY

To claim that labour rights have been freely exercised throughout the history of the Republic of Turkey would be misleading. Since the enactment of the first labour law in the Republic's history, namely Law No. 3008 in 1936, fundamental collective labour rights— consisting of freedom of



Source: Uncertain [15-16 June 1970 - Workers Protests]

association, the right to collective bargaining, and the right to strike— have been subject to bans and/or restriction. These rights were not recognized at the Constitutional level until 1961. From 1961 until the coup d'état of September 12, 1980, an atmosphere of relative freedom allowed unions to operate at their strongest, and the right to collective bargaining and the right to strike were widely exercised. In the “new” Turkey established by the 1980 coup, the first restrictions and bans imposed concerned collective labour rights. New legislation was introduced for unions, collective bargaining and strikes, and the activities of the Confederation of Progressive Trade Unions of Turkey (DİSK)— the leading trade union in the prior period— were halted and a new union regime was established.



The aftermath of the 1980 coup saw most of the development of the current framework shaping the field of employment relations and trade unions in contemporary Turkey. In the 2000's, despite the occasional raising of expectations caused by later-introduced amendments, the collective labour rights environment became increasingly restrictive. Moreover, the space to exercise the right to freedom of association, the right to collective bargaining, and the right to strike— the fundamental basis of collective labour rights— were severely limited, both legislatively and even more so in practice. Using as a legal basis Law No. 6356 on Trade Unions and Collective Labour Agreement, issued in 2012, the right to strike was almost entirely denied. Continuous postponements based on the legislation acted as de facto bans. In short, the basic paradigm of employment legislation in Turkey, established by the 1980 coup,

Source: Uncertain [1977-1980 Maden İş MESS strikes]

Source: Uncertain [12 September 1980 Turkey Coup D'etat]

remains the same. For example the framework that restricts the right to strike with workplace or sectoral bans, limits on strikes through detailed procedural impositions, or the government's competence to postpone strikes are all still in place. Moreover, the regime of authoritarian employment relations is sustained through rigid and arbitrary implementation of the relevant legislation. Collective rights continue to exist formally in the Constitution, but they have mostly turned into a thin cover as a result of added legislation and de facto practices.

The deteriorating state of collective labour rights in Turkey, occurring in parallel with the government's increasingly authoritarian political conduct, has been made even worse by the coup attempt on July 15, 2016. The bans, limitations, closures and confiscations, and pressures put in place as a result of emergency decrees (KHK) issued during the State of Emergency (OHAL), denied or severely limited the fundamental right to work for a large section of the society. Trade union rights, the rights to collective bargaining, and the right to strike have severely regressed. At the same time, increasing restrictions on the freedom of expression and freedom of assembly have weakened the ability of the labour movement to self-expression, reach public opinion and, act as a pressure group.

Source: Uncertain [12 September 1980 Turkey Coup D'etat - National Security Council Members]



THE LEGAL FRAMEWORK OF THE STATE OF EMERGENCY AND ITS LIMITS

A State of Emergency can be declared when there are serious indications of prevalent acts of violence that aim to overthrow the democratic order or remove basic rights and freedoms, or when public order is seriously disrupted by violence. Only under such circumstances, can measures that curtail fundamental rights and freedoms be introduced through emergency decrees to overcome these dangers. When determining these measures, the principle of last resort should be followed. Extraordinary measures should only be taken when ordinary measures and existing legislation fail to manage the risk or restore public order. Emergency decrees can only be declared in relation to issues pertaining to the emergency conditions.

The European Convention on Human Rights (ECHR) also presents certain limitations regarding the suspension of fundamental rights and freedoms due to a State of Emergency. According to Article 15, “In time of war or other public emergency threatening the life of the nation, any High Contracting Party may take measures derogating from its obligations under [the] Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.” Following this limitation, it also underlines that no derogation from Article 2 on the right to life, Article 3 on the prohibition of torture, Article 4 on the freedom from slavery, and Article 7 on no punishment without law shall be made under this provision. Therefore, regardless of the reason, measures that result in the violation of these rights cannot be taken. The remaining rights and freedoms can only be limited in proportion with the exigencies of the emergency situation and these limitations shall not violate other obligations under international law.

Despite the State of Emergency, which was declared on July 20, 2016, officially ending on July 18, 2018, Turkey largely remains under a de facto State of

Emergency. The effects of new legislation and practices enacted through emergency decrees are still felt today. Even though the decrees have lost their legal basis, many practices remain and are being upheld by judicial institutions such as the Inquiry Commission on State of Emergency Measures or the courts. Moreover, some laws¹ — which can be considered extensions of the emergency decrees— have been legislated by the Turkish Grand National Assembly.² This also applies to labour rights. The atmosphere created, first by the official, then by de facto State of Emergency, still persists with the aforementioned negative historical legacy of labour rights in the background.

Europe and Labour Rights in Turkey

While this report will provide general information on collective workers' rights in Turkey, it will specifically focus on the situation of companies from Europe. Under Turkey's current continuous de facto State of Emergency regime, it is of interest to assess the performance of companies from Europe, where democratic standards are relatively high and the historical achievements of labour rights are deep-rooted.

In Turkey, a significant number of European companies employ people as direct investors and thus are parties in employment relations. As the number and percentage of these companies in sum are increasing in Turkey, it should be examined to what extent the social rights of workers from Turkey are recognized, and to what extent their rights— guaranteed by the Constitution and legislation— are respected in practice.

More broadly, Turkey is within the “European circle” in terms of social rights due to its Council of Europe membership and European Union candidacy process. Turkey ratified the Council of Europe's Social Charter in 1961, and the Revised European Social Charter in 2007. With respect to the European Union, since 1998 the European Commission has been publishing regular progress reports for Turkey.³ In these reports, social rights are discussed under a separate chapter. Therefore in several ways Turkey is included in the framework of

¹ <https://www.resmigazete.gov.tr/eskiler/2018/07/20180731-1.htm>

² <https://www.ihd.org.tr/surekli-ohali-duzenleyen-7145-sayili-kanun-hakkinda/>

³ https://www.ab.gov.tr/regular-progress-reports_46224_en.html

employment relations, established by legislation and agreements that bind the home countries of European companies based in Turkey and the entire European Union. These employers' performance with regards to employment relations should also be evaluated according to European (Union) norms.

In addition, many European companies that are not direct investors are also widening their supplier networks to include Turkey. Therefore, while they are not direct parties, they are indirect parties in terms of labour rights.

Finally, unions and confederations in Turkey are members of both European and worldwide sector federations, regional union alliances and the European Trade Union Confederation (ETUC). Through these platforms, the state of, and developments in, labour rights in Turkey are discussed at European level.

The capital transfers from international investors with respect to their new or existing companies in Turkey, and contributions for their share in domestic companies, reached USD 161.8 billion between 2002 and 2020 January,⁴ of that amount, 66.7% (USD 108 billion) came from EU countries.

As of the end of January 2020 there were 74,227 foreign companies active in Turkey with local operations. For companies in the manufacturing sector, the top manufactured products are chemical materials and products, followed by textile and food products, then beverage and tobacco products. When categorised by country of origin, Germany, with 7,853 companies, ranks first among EU partnership companies, followed by the UK and the Netherlands with 3,303 and 3,214 companies respectively.⁵ The total for the entire Europe is over 30,000.

As demonstrated above, European investments constitute an important part of foreign investments in Turkey. This makes European employers' conduct concerning labour rights even more important.

At this point, it is enlightening to look at the general legal framework of labour rights in Turkey.

⁴ <https://www.sanayi.gov.tr/assets/doc/Uluslararası%C4%B1%20Do%C4%9Frudan%20Yat%C4%B1r%C4%B1m%20%C4%B0statistikleri.xlsx>

⁵ <https://www.sanayi.gov.tr/assets/doc/Uluslararası%C4%B1%20Do%C4%9Frudan%20Yat%C4%B1r%C4%B1m%20%C4%B0statistikleri.xlsx> (Accessed on 11.09.2020).

International and Constitutional Framework of Workers' Collective Rights in Turkey

Articles 48 and 49 of the Constitution of the Republic of Turkey regulate the right and freedom to work. Article 48 dictates that *"Everyone has the freedom to work and conclude contracts in the field of his/her choice,"* and Article 49 states *"Everyone has the right and duty to work. The State shall take the necessary measures to raise the standard of living of workers, and to protect workers and the unemployed in order to improve the general conditions of labour, to promote labour, to create suitable economic conditions for prevention of unemployment and to secure labour peace."*

Article 51 of the Constitution regulates the right to join unions: *"Employees and employers have the right to form unions and higher organisations, without prior permission, in order to safeguard and develop their economic and social rights and the interests of their members in their labour relations and they also possess the right to become a member of a union and to freely withdraw from*

Source: Bianet - [2012 - Our union rights cannot be prevented! protests of DİSK]



membership. No one shall be forced to become a member of a union or to withdraw from membership." Article 53 regulates collective labour agreements: "Workers and employers have the right to conclude collective labour agreements in order to regulate reciprocally their economic and social position and conditions of work." Article 54 recognizes, albeit with limitations, the right to strike: "Workers have the right to strike during the collective bargaining process if a disagreement arises. The procedures and conditions governing the exercise of this right and the employer's recourse to a lockout, the scope of, and the exceptions to them shall be regulated by law."

Law No. 6356 on Trade Unions and Collective Labour Agreements, issued in 2012, provides the legal framework to exercise the right to strike, each stage of collective labour agreements and its characteristics in detail. Individual employment relationships are regulated by the Law No.4857 dated 2003 in a comprehensive manner.

In addition to the national legislation on the issue, international agreements ratified by Turkey, reports of supervisory organs working on the implementation of these agreements, and the judgments of the European Court of Human Rights (ECtHR) should also be taken into consideration within the framework for labour rights. Article 90 of the Constitution is progressive in this area, containing a clause that dictates, "International agreements duly put into effect carry the force of law."

Turkey has been a member of the International Labour Organisation since



Source: TÜMTİS - [2012 - TÜMTİS Union Rights Protest] - No to the repressive and hostile law(no.6356) on Trade unions and Collective Labor Agreements



1932 and is party to many of its conventions. ILO Convention No.87 titled "Freedom of Association and Protection of the Right to Organise Convention," signed by Turkey in 1948 and ratified in 1993, guarantees the right to organise a union. The right to collective bargaining is also a fundamental right, recognized since Turkey's 1949 signing of the ILO Convention No. 98 "Right to Organise and Collective Bargaining Convention" (ratified and entered into effect in Turkey in 1952). Article 4 of the Convention states that: "Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements." Through the

“Promoting Collective Bargaining Convention” (No.154) and related “Collective Bargaining Recommendation” (No.163), adopted in 1981, the ILO introduced provisions that promote collective bargaining, define its broad scope, create free bargaining conditions, and strengthen the exercise of the right. However Turkey has yet to ratify these conventions.

In addition, several ILO documents also recognize and support the right to collective bargaining. Moreover, *the Committee on Freedom of Association (CFA)*, which oversees the implementation of the conventions, has underlined several aspects of the right to collective bargaining and the right to collective agreements. In its various decisions the Committee states that the right to free collective bargaining is a fundamental aspect of freedom of association. It defines a large section of workers, including public workers, who can exercise the right to collective bargaining.

The right to collective bargaining and the right to collective agreements also have a strong legal basis at the European level. Article 6 of the Revised European Social Charter regulates the right to collective bargaining in detail. It obliges Signatory States to adopt laws that enable the effective exercise of the right to collective bargaining.

Judgments of the ECtHR also consider the right to collective bargaining and agreement as part of, and inseparable from, freedom of association. In the 2000's several important rulings were made by the ECtHR in this regard, a number of which relate to Turkey.

Article 11 of the European Convention on Human Rights defines the right to form and join trade unions as a fundamental right in the context of the freedom of assembly and association. Article 5 of the Revised European Social Charter guarantees the right for workers to organise. Article 1 of ILO Convention No. 87 on “Freedom of Association and Protection of the Right to Organise” defines the freedom and its scope and provides its signatories the obligation to “*take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organise.*” According to Article 1 of ILO’s “Right to Organise and Collective Bargaining



Source: ILO - [ILO Headquarter between the years of 1940-1948]



Convention (No. 98) “*Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.*”

As stated above, international conventions, which have been ratified by Turkey, recognize the right of freedom of association as a fundamental right. These conventions impose a duty on its signatories to “*take appropriate measures*” to enable the free enjoyment of this freedom and provide “*adequate protection*” against anti-union discrimination.

The freedom of association protects both individual workers’ right to freely form or join unions and the unions’ right to continue to exist. The functional operation of a union requires unionisation efforts and the ability to engage in collective bargaining with the employer on behalf of workers. Freedom of association protects workers’ right to both join unions and not be dismissed for joining unions. It is therefore meant to guarantee both the individual and collective rights of association. Accordingly, the ECtHR judgements also recognize unions’ right to voice their opinions/concerns and be heard on behalf of workers.⁶

⁶ ASTARLI, Muhittin. “Avrupa İnsan Hakları Mahkemesinin Sendika Hakkının Etkili Korunmasına İlişkin Tek Gıda İş Sendikası/ Türkiye Kararı Ve Türk Hukuku Bakımından Çıkarımlar.” [Tek Gıda İş Union v Turkey Judgment of the European Court Of Human Rights Concerning The Effective Protection of Freedom of Association in Unions and Its Implications in Turkish Law]. *Çalışma ve Toplum*, 2019/2.



Source: ILO - [1946 - the ILO became a specialized agency of the newly formed United Nations]



Source: DİSK - [2012 - Protest on Unions and Collective Labour Agreements Law]

There is serious criticism regarding the conflict between the general framework of rights described above and the national legislation regulating its practice; in particular, Law No.6356 on Trade Unions and Collective Labour

Agreements. For example, in his research, Prof. Dr. Gülmez, the main Turkish scholar in this field, summarises findings from a detailed analysis about the conflicts between Law No.6356 and the general framework as follows:

*"If the last clause of Article 90 of the Constitution is in effect as a regulation at the top of the hierarchy of laws in domestic law, and if Turkey is bound by the Council of Europe's (CoE) European Convention on Human Rights (ECHR) and the Revised European Social Charter (REDC), the UN's Twin Covenants and ILO's Conventions No. 87, 98 and 151 and has legal obligations because it "ratified" these agreements, it means that there is a "dual legal regime" with regards to labour rights: 1) Domestic law that includes the Constitution, and Laws no. 4688 and 6356, but that is in conflict with 2) Transnational law that includes agreements and decisions taken by supervisory organs, but is no doubt integrated in domestic laws in compliance of the 'monist system,' which the Constitution recognizes."*⁸

Short Explanation Concerning the Legislation in Turkey

Before discussing examples of rights violations, it is important to provide information on the relevant substantive and procedural legislation.

Law No. 6356 contains provisions regulating the **competence** of unions to conclude collective labour agreements in a workplace, specific workplaces or workplaces covered by an operating contract. In order to have the competence to negotiate collective labour agreements for a workplace or workplaces, the Law outlines two conditions— one of which also functions as a precondition. The first condition is a trade union must represent at least 1% of workers engaged in a given sector of activity. The second condition is the trade union represents an absolute majority (50% + 1) of the workers employed at the particular workplace. For example, for a trade union to have the competence to conclude a collective labour agreement, it should have at least one thousand members in a sector that employs one hundred thousand workers. Moreover, if one hundred workers are employed in a given workplace, 51 of them should be members of the trade union.

In enterprises with more than one workplace, the threshold of this competence is 40%. For example, in an enterprise that consists of three workplaces and employs 200 workers, the union must have at least eighty members in order to

⁷ Emphasis belongs to the writer of the quotation.

⁸ Gülmez, Mesut. "Örgütlenme ÖzgürSÜZLÜĞÜ" Cephesinde Yeni Bir Şey yok! Olacağı da Yok! ["Nothing New on the Union UN Freedom Front and Nothing's Going to Happen!"] *Çalışma ve Toplum* 37.2 (2013).

have the competence. If several trade unions meet this criterion in the enterprise, the trade union having the largest number of members on the day of the application shall have the competence to conclude a collective labour agreement (STİSK Article 41/III).⁹ The procedure to determine whether a trade union is competent contains multiple stages. They are as follows:

■ A trade union that meets the requirements submits a request to the Ministry of Labour, Social Services and Family to **determine** whether it is indeed competent. In its application, the union asks the Ministry to determine the number of workers in the workplace and the number of its members.

■ Upon determining that the trade union meets the requirements and that it has the absolute majority, the Ministry shall communicate the result with other trade unions constituted in the same branch of activity and with the employers' trade union or the employers not belonging to such unions.

■ The Ministry shall issue a **competency certificate** to the union in question if there has been no objection or if the objection has been rejected within six business days. (In trade union jargon, this is called "obtaining competence.")

Disputes as to competence

Once a competence notice is received, any workers' or employers' trade union or an employer not belonging to such a union, may challenge the competence of either one or both of the parties or may claim that they themselves have met the requirements. The objection must **list reasons** for such a challenge.

■ The court will reject the objection without examining the appeal petition if it does not include any concrete evidence. The court will make a final ruling without a hearing if the time limit to object has been exceeded or if there are factual errors in the number of workers and union members. In any other objection, the court shall hold a hearing and issue a verdict, which will be open for appeal. If either party appeals to the Regional Court of Appeal, the Court will have to make a ruling within a month. If this decision is also appealed, the Court of Cassation will have to make a final ruling within a month.

⁹ <https://www.mevzuat.gov.tr/MevzuatMetin/1.5.6356.pdf>



Source: Evrensel - [2015 - Sosyal-İş Union protest on right to bargain on collective rights] - *Dispute as to competence shall be withdrawn! Respect to the union Rights! Right to collective agreement cannot be prevented!*

procedure to determine competence shall be suspended until the court gives a final decision on the objection.

■ In case no objection has been made within the objection period, a court determines that the union has competence as a result of the union's objection, or if the court rejects the objection, the Ministry will issue a certificate of competence. In case of a ruling, the certificate will be issued as of the finalisation of the trial.

However, objections with regard to competency are much more complicated in practice. The main obstacle to obtaining competency, and therefore the ability to engage in collective agreements, is Article 43(5) of Law No.6356, which states "Competence procedures shall be suspended until a final decision is made with regards to an objection." Utilising Article 43(5) to delay procedures is a practice that has been going on for nearly 40 years. It has been shown that most objections are aimed at de-unionizing or at least at exerting pressure on the union by taking advantage of the postponement of the competence procedure. Moreover, various trials show that disputes concerning the scope of the workplace, the total number of workers and number of members, are lodged deliberately at labour courts that do not have competence to rule on the dispute, a delaying tactic.¹⁰

¹⁰ Engin, E. Murat. "6356 Sayılı Yasa'da Toplu İş Sözleşmesi Yetkisi." [The Authority to Conclude Collective Labor Agreements in Law No.6356] *Çalışma ve Toplum* 39.4 (2013).

THE PICTURE OF LABOUR RIGHTS VIOLATIONS IN TURKEY

State of Emergency (OHAL) Period¹¹ and its aftermath

The State of Emergency imposed between July 20, 2016 and July 18, 2018 has had grave consequences for working life. A large number of public officials and workers have suffered the removal of the right to work and job insecurity. Also, severe restrictions were placed on exercising rights related to trade unions and other collective rights of workers.

The most widespread violation during the State of Emergency was on the right to work. Over 125,000¹² public officials have been dismissed despite an absence of concrete evidence, have had severe restrictions on their rights to a fair trial, and were denied any means of defence. Not only have they been dismissed, they have also been stigmatized or declared guilty, some have been deprived of their retirement benefits, and many have faced obstacles in finding jobs in the private sector. Moreover, those who were dismissed have also had their passports confiscated, restricting their right to freedom of movement and right to work in another country.

In 2017, the Inquiry Commission on the State of Emergency Measures was established to serve as a special body, reviewing the emergency measures directly authorized by the decree laws, and providing judicial oversight. By

¹¹ The information presented in this section is compiled from these sources:

- 1) DiSK report titled "State of Emergency (OHAL) and Working Life (July 20, 2017)" [<http://disk.org.tr/wp-content/uploads/2017/08/State-of-Emergency.doc>] (Accessed on 26.08.2019).
- 2) Eşit Haklar İzleme Derneği "Toplantı ve Gösteri Hakkı İzleme Raporu-2017" [Right to Freedom of Assembly and Association Monitoring Report-2017] [https://www.esithaklar.org/wp-content/uploads/2019/06/Toplantı_Gosteri_Hakki_2017.pdf] (Accessed on 26.08.2019).
- 3) Evrensel Newspaper archives [<https://www.evrensel.net>]
- 4) Emek Çalışmaları Topuluğu "Report on Working Class Protests -2017" [https://emekcalisma.files.wordpress.com/2019/02/lsg_workingclassprotests_2017_v02.pdf] (erişim: 26.08.2019)

¹² The number is quoted in : CHP Genel Başkan Yardımcısı ve Malatya Milletvekili Veli Ağbaba'nın hazırladığı OHAL'de Geçen 2 Yıl/ Sivil Darbenin Ağır Bilançosu" raporu [<https://chp.azureedge.net/0742807ea67b4019a2980ff81540e145.pdf>] [The report "Two Years Spent under State of Emergency/The Grave Consequences of the Civilian Coup d'Etat" prepared by CHP Deputy and Malatya MP Veli Ağbaba] (Accessed on: 26.08.2019).

December 31, 2020, the Commission had concluded approximately 112 thousand applications out of a

total of 126 thousand that had appealed their dismissal, rejecting 99 thousands of them.¹³ The Commission has been criticized by human rights organisations for not meeting the principles stated by

Source: KESK - [KESK Protest on State of Emergency and dismissals of Public Officers]

¹³ <https://soe.tccb.gov.tr/#:~:text=The%20Inquiry%20Commission%20on%20the%20State%20of%20Emergency%20measures%20reviews,and%20the%20closure%20of%20some> (accessed at 31.12.2020)

Source: Sivil Sayfalar - [KESK Protest on State of Emergency and dismissals of Public Officers] - *No to the unjust and unlawful dismissals! We will get our jobs back!*



the Venice Commission¹⁴ concerning timeliness, accessibility, independency and impartiality, thereby failing to constitute effective remedy^{15, 16, 17}.

In the course of the State of Emergency, workers and unions have faced various forms of pressure, restraints, and threats. Using the State of Emergency as an excuse, activities of trade unions and activities led by workers were banned or prevented. A report published by DİSK provides examples of the obstacles its members and other unions faced:

■ For months, workers of the Avclar Municipality and members of the Türk-İş member Belediye-İş Union had been protesting their dismissals based on union membership. On July 21, 2016, municipal guards prevented them from setting up tents and protesting due to the State of Emergency.

■ A petition entitled “Positions for Seasonal Workers in Çaykur” launched in April 2016 by DİSK member Gıda-İş Union was blocked by the Artvin Governorate in August 2016, citing the State of Emergency.

■ Workers of Tedi AŞ workers in Tuzla who were dismissed because of their membership to Limter-İş Union (DİSK member) set up tents in front of the workplace in protest. On August 12, 2016, on the 10th day of the resistance, private security guards and riot police blocked the workers from protesting at their spot, citing State of Emergency bans and an order issued by the Governor. Workers continued their resistance 100 meters away from the workplace.

■ Workers of MSC/MEDLOG Logistics started a protest against the problems they faced during the unionisation process to/with DİSK member Nakliyat-İş Union. They were not allowed to stand in front of their workplace due to the State of Emergency. In response, a press conference was organised on September 28, 2016 in Gemlik; however, it was prevented by the police. Many were taken into custody.

¹⁴ [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)037-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)037-e)

¹⁵ https://hrf.org/wp-content/uploads/2019/06/Turkey-ECTHR-Report_April-2019.pdf

¹⁶ <https://www.amnesty.org/download/Documents/EUR4492102018ENGLISH.PDF>

¹⁷ <https://www.turkeylitigationssupport.com/blog/2019/10/15/access-to-justice-in-turkey-a-review-of-the-state-of-emergency-inquiry-commissionnbsp>

■ On November 30, 2016, workers who were dismissed from the Yüksek Endüstri factory in Kandıra for being members of Birleşik Metal-İş wanted to hold a press conference in front of the factory. The police interfered due to the State of Emergency, which resulted in a large number of union members, and the union's leader and representative being taken into custody.

■ On December 11, 2016, a meeting on the collective bargaining process between Birleşik Metal-İş Union and Endüstriyel Metal İşverenleri Sendikası (EMIS) was cancelled in Gebze due to the State of Emergency.

■ Rallies protesting State of Emergency measures and dismissals in the public sector, organised by KESK in Mersin, Samsun, Van, Istanbul, and Izmir on December 10 and 11, 2016, were banned by respective governorates, citing the State of Emergency.

■ A Türk-İş member Petrol-İş Union planned press conference on December 26, 2016 in front of the Ministry of Energy and Natural Resources was cancelled due to the State Emergency. The Ankara Governorate blocked the conference on the grounds that “it could be a terrorist activity.” Additionally, workers from Batman and Adıyaman were not allowed to travel to Ankara to join the press conference.

■ The Nakliyat-İş Union notified the District Governorate of Kocaeli Gebze on December 31, 2016 that they are planning to raise the minimum wage demands of its member workers. The demands were rejected, citing that Kocaeli Governorate State of Emergency Office has banned all actions/activities until December 31, 2017.

■ In 2017, 1st of May demonstrations, traditionally been held in city centres throughout the country for many years, were banned in Anatolian cities such as Adana, Çorum, Gaziantep, Hakkari by respective their Governorates. The Governorates banned all kinds of demonstrations and activities on May 1st on the ground that these may lead to “security problems created by terrorist organisations.”

■ On June 7, 2017 DİSK organised simultaneous press conferences in several cities entitled “severance pay is our job security, don't touch it!” In Gaziantep the conference was prevented, referring to the State of Emergency.

■ PETKİM, based in Izmir/Aliağa, is the only petrochemical plant in Turkey where Petrol-İş Union has members. On June 19, 2017, police intervened when workers started a protest in response to disagreements with the collective bargaining process. Union leaders, the branch's president and representatives, were all beaten and taken into custody.

■ In the first days of September 2017, shoe workers, who work in different manufacturing workshops in nine cities, held demonstrations to protest working without social security benefits, working hours that exceed 12 hours, and low wages. However, the police did not allow them to call other workers due to the State of Emergency. The workers continued their protest anyway. One of the most important highlights of the demonstration in Adana was that it brought Syrian workers together with workers from Turkey.

■ When workers were dismissed from the Şişecam Kırklareli Glass Plant on October 21, 2017, they started a march to the headquarter in Istanbul. The march was banned by the Governorate of Tekirdağ due to the State of Emergency.

■ On October, 21, 2017, members of the KESK Platform of Branches in Ankara gathered on Sakarya Street to make a press statement and organise a sit-in against the State of Emergency and emergency decrees. Security forces told them to make the statement in front of the union's office because the Governorate of Ankara banned press statements on the streets. While members were walking to the union's office, they opened their banners, which resulted in the police using pepper spray and plastic bullets to disperse the platform members.

■ On December 26, 2017, police dispersed a march from Izmit to Ankara by 88 Posco Assan factory workers who had been dismissed because they became members of the union BMIS. Thirty workers and union executives, including the BMIS President Adnan Serdaroğlu, were beaten and taken into custody.

Security forces largely prevented workers from asking for their rights in public spaces. Especially in the capital city Ankara, where bans have been continuous, it has become nearly impossible for labour organisations to voice their demands. When they have, they have paid a heavy price for doing



so. Just in 2017, security forces dispersed 154 protests in Ankara. Most of these demonstrations, which took place on Yüksel Street, were related to demands to be reemployed by workers dismissed from the public sector.¹⁸

Led by academician Nuriye Gülmen, who was expelled from her post with a statutory decree, and attended by others who were also expelled by statutory decrees, the "I want my job back" (İşimi geri istiyorum) protest resulted in protestors being taken into custody on a daily basis. The protest completed its 1000th day at the beginning of August 2019, and continues in 2020 with intervals.

Source: Uncertain - [2017- Shoemakers in Adana] - We want the equivalent of our labor back, not charity!

Right to Strike under the State of Emergency¹⁹

During the State of Emergency, the right to strike was one of the most widely violated rights. From 2002 until the beginning of the State of Emergency the Justice and Development Party (AKP) government suspended a total of only

¹⁸ Eşit Haklar İzleme Derneği "Toplantı ve Gösteri Hakkı İzleme Raporu-2017" [Right to Freedom of Assembly and Association Monitoring Report-2017] [https://www.esit haklar.org/wp-content/uploads/2019/06/Toplantı_Gosteri_Hakki_2017.pdf] (Accessed on 26.08.2019).

¹⁹ This section is mostly based on information provided in this report: DİSK-Ar titled "The State of Emergency One Year On: Emergency Rule Hurts Workers" (July 20, 2017) [<http://disk.org.tr/wp-content/uploads/2017/08/State-of-Emergency.doc>] (Accessed on 26.08.2019)



Source: Birleşik Metal-İş Sendikası - [2017 - BMİS protest on suspension of right to strike] Get your hands off from our bread! Right to strike cannot be prohibited!

eight strikes; in comparison, in just first year of the State of Emergency seven large-scale strikes were banned/suspended on the grounds of threats to national security, public health, and financial stability.

The DİSK-affiliated United Birleşik Metal İş decided to strike on January 18, 2017 as a result of disagreements during the collective bargaining process with the Asil Çelik enterprise, based in Orhangazi, Bursa, with 674 employees. However, the strike was suspended by the Council of Ministers the midnight before.

On January 20, 2017, the same Union went on strike with 2,200 workers at GE Grid Solution, ABB Elektrik, Schneider Enerji and Schneider Elektrik—all enterprises affiliated with the employer-union EMİS. On the same day, the strikes were suspended by the decision of the Council of Ministers for a period of 60 days. The Union has continued to struggle against the practice making the right to strike subject to government permission. Resultant of the determination to exercise their right to strike, a collective labour agreement was signed between the parties at January 23, 2017 that covers 2,200 members.

A decision by the Council of Ministers, dated March 20, 2017, suspended for 60 days the strike launched by the Bank and Insurance Company Workers Union



Kaynak: Birleşik Metal-İş Sendikası - We are ready to strike!

(Banksis) at workplaces affiliated to Akbank on the grounds that it posed a threat to economic and financial stability.

In May 2017, strikes launched by Kristal-İş Union at Trakya Cam AŞ, Paşabahçe Cam AŞ, Anadolu Cam Elyaf AŞ, Anadolu Cam Yenişehir AŞ, Trakya Yenişehir Cam AŞ and Şişecam Otomotiv AŞ, and workplaces affiliated with these companies were suspended for 60 days. The decision of the Council of Ministers cited grounds that the act would disturb national security and was published in *the Official Gazette* dated May 22, 2017.

The strike at Mefar Pharmaceuticals launched by the Petrol-İş Union on June 7, 2017 was suspended on the grounds of threatening “public health.”

On January 26, 2018, strikes organised due to disagreements in collective bargaining by Turkish Employers' Association of Metal Industries (MESS)— which has leading enterprises from the metal sector under its umbrella, and three other unions (Türk-Metal, BMİS and Çelik-İş)— were postponed by a decision of the Council of Ministers on grounds of national security.

On May 23, 2018, a strike of the Petrol-İş Union at the Soda Kromsan enterprise located in Mersin was postponed by a decision of the Council of Ministers also on grounds of national security.



Source: Kristal-İş Sendikası - [2017 - BMİS protest on suspension of right to strike] - *Strike is a right, it cannot be prevented!*

Preventions of the right to strike did not only come in the form of strike postponements. There was also an expansion of the scope of strike that could be postponed (de facto bans).

The emergency decree [KHK] No. 678 added the following to Article 63 of Law No. 6356 on Trade Unions and Collective

Bargaining: *“A lawful strike or lockout that has been agreed upon or started may be suspended by the Council of Ministers for 60 days if it threatens public health, national security, urban public transportation services of the metropolitan municipalities, or economic or financial stability in banking services.”* As a result, the strike ban on urban transportation and banking services, which was annulled by the Constitutional Court in 2014, was reintroduced indirectly by statutory decree No. 678. Moreover, the expression *“threat to financial stability”* was added to the legislation, opening the way to suspend strikes for economic reasons.

Decisions to suspend strikes during the State of Emergency were not based on the framework of State of Emergency legislation; they were instead based on the provisions of Law No. 6356. Despite this, President Erdoğan underlined that strike suspensions were part of the State of Emergency during a meeting with employers' unions. During his speech on July 12, 2017 at a meeting organised by YASED (International Investors Association), which includes Turkey representatives of leading companies such as Siemens, Dow, Unilever and Sicpa in its Executive Board, President Erdoğan said:



Source: Petrol-İş Sendikası - [2018 - Petrol - İş protest on the postponement of strike]

“We use the State of Emergency so that our business world works better. Now we intervene immediately in places where there is a threat of strike through to the State of Emergency. We say, ‘No, you can't go on strike here, because you cannot disturb business life.

That's why we use the State of Emergency [applause].”²⁰

Aftermath of the State of Emergency

Despite its official ending in July 2018, the effects of the State of Emergency have continued, through legislation established by statutory decrees and excessive authority given to provincial and district governors. There have been many examples of a brutal and unrelenting attitude towards workers' protests even after the end of the State of Emergency. Some of these are listed below:

On November 6, 2018, 7 workers were dismissed from the TARIŞ factory located in Çiğli Organised Industry Zone, due to their membership to the DİSK/Gıda İş Union. Other workers started a protest, demanding their colleagues to be re-employed. As a result, the police took 65 workers into custody. Of these 65 workers, 33 were released in the morning and the rest in the following hours.

On November 22, 2018 in Kızılay, Ankara, a group of construction workers, who were employed at General Directorate for Housing (TOKİ), started a protest due to their wages not being paid for two years. Of those protesting workers—

²⁰ <https://www.evrensel.net/haber/326078/erdogandan-itiraf-ohalle-grevlere-musaade-etmiyoruz>

whose numbers were rising and who gathered support from different sections of society— seven were taken into custody by the police on December 3. After being released, workers who wanted to continue to protest were prevented from doing so by the police using plastic bullets and tear gas. Protestors continued to be taken and detained at protests in the following days.

On August 1, 2019, participants of a collective bargaining agreements campaign from the Confederation of Public Workers' Unions (KESK), were prevented from marching or making statements. Representatives of the Confederation's executive board wanted to march to the building of Ministry of Family, Labour and Social Services with the support of a number of MPs and party representatives, but police forces prevented them from doing so by using tear gas and hitting individuals with batons. Many union executives were injured and some were taken into custody.²¹

Employees of Özüt, a well-known confectioner chain, launched a sit-in protest in July 2019 in front of the Kadıköy branch, claiming that they had not received their salaries and some of their colleagues were fired without severance. On the 24th day of the sit-in the police used excessive violence to disperse these employees and took 22 protestors into custody. Employees, who were kept at the Kadıköy police station were transferred to the Istanbul Directorate of Security on Vatan Street that night. There, once their statements were taken, the 22 workers were released.²²

A September 2018 large-scale protest of the construction workers for the 3rd (Istanbul) Airport, organised after the State of Emergency ended, was banned due to the climate created by the State of Emergency. This case will be summarised below in a separate section.

A Striking Example of de facto State of Emergency: The Case of Istanbul Airport (3rd Airport) Construction Workers

Unfit working conditions in the constructions of the new airport, which began in 2013 in the north of Istanbul, included: unhealthy accommodation, heavy

²¹ <http://www.kesk.org.tr/2019/08/01/tis-gorusmeleri-kamu-emecilerine-saldiriy-la-bastamistir/> (Accessed on 26.08.2019).

²² <https://bianet.org/bianet/emek/210854-ozsut-calisanlari-anlatti-darp-edildik-iskence-gorduk>



workload, late salary payments, and insufficient protection measures. These eventually led to rising numbers of accidents and deaths causing workers give rise to a series of protests.

Workers organised several marches to seek solutions to their problems. It is most likely that the pressure to open the airport on October 29, 2018, Republic Day, exacerbated the conditions at the construction site. A September 14, 2018 shuttle accident resulting in several injuries was the catalyst for the eruption of protests. Following this accident, more than 20,000 workers stopped working and started protesting. Through representatives, the workers communicated their 17-points of demand for improving working conditions. Other than security forces forcing some workers to continue, construction at the site completely had effectively been halted until September 17.

At a meeting held on September 14 between the district governors, district gendarmerie commander, and the CEO of IGA (the consortium formed to build the airport), the demands of the worker were found to be reasonable. Workers received verbal promises that their problems would be solved in time, and subsequently asked to return to work. Despite this verbal consensus, the representative of the employer refused the demand of workers to sign a protocol for the agreement on enhancements. Due to this, the meeting remained inconclusive and union representatives released a statement that protests will continue. On the night of September 15, 2018, on government orders, security forces broke down dormitory doors in an overnight operation around 2AM. Over 2,700 workers were subject to violence and taken into custody. While in detained, none were allowed to contact lawyers or relatives, and eventually some were arrested. Four İnşaat-İş Union leaders and 20 workers were detained for 84

Source: Uncertain
- [2018 - Protest of workers in the construction site of the 3rd Airport]

days; three workers, who were arrested later, were detained for 78 days; another four workers were detained for 70 days; and the DİSK affiliate Dev Yapı-İş Union Chairman Özgür Karabulut, who was arrested the following day, was detained for 61 days.

All demands made by the workers were in line with the application of existing laws. According to relevant legislation, administrative penalties should result when salaries are not paid on time or necessary measures are not taken to protect worker's health and safety. Moreover, according to Article 13, Law No. 6331 workers have the right to abstain from work in the event of serious and imminent danger. Similarly, according to Article 54 of the Labour Law, workers can also exercise this right when salaries are not paid over a certain period of time.

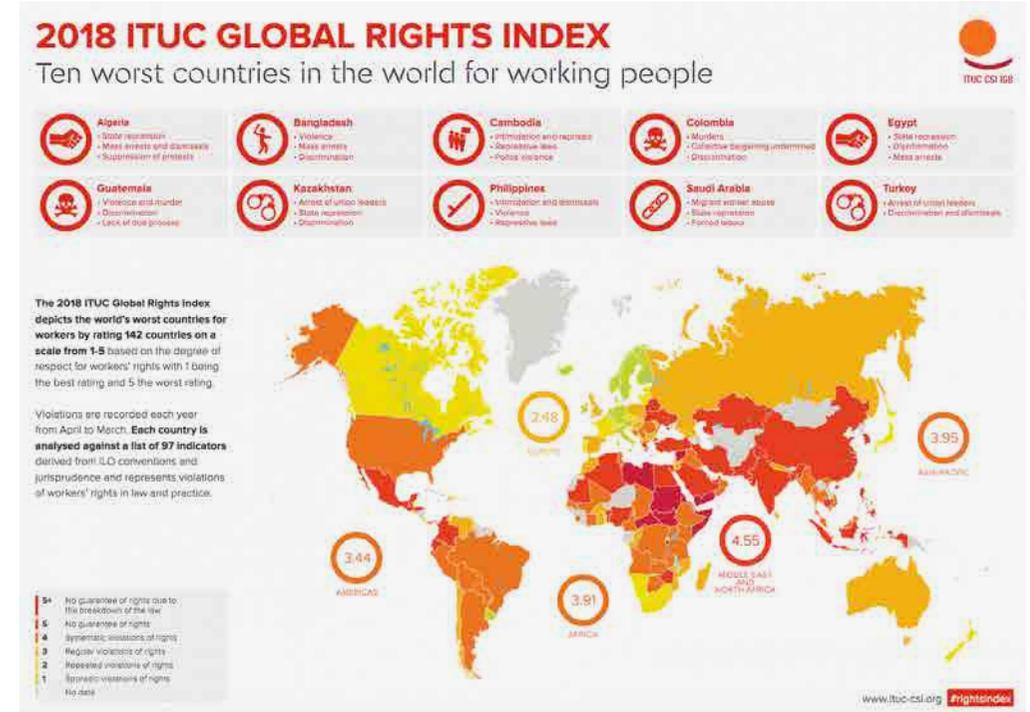
The Ministry of Transportation said that under current legislation and practices, it would be impossible to unite tens of thousands of workers dispersed in around 500 subcontractor companies under one umbrella union to conduct collective bargaining. Still, the workers had to find a de facto way of acting collectively in order to improve their conditions.

Through these protests, workers exercised their right to collective action in accordance with Article 54 of the Constitution, and Article 6(4) of the European Social Charter. Jurisprudence from the Court of Cassation confirms this right.²³

Evaluations and Decisions of International Actors Concerning Workers' Rights Violations in Turkey

As described in an earlier section, Turkey's record in protecting workers' rights have been significantly insufficient for a long time. This is also true for the 2000s, when economic indicators were relatively positive for some period of time. This

²³ Gülmez, Mesut. "Toplu Eylem Hakkına Dahil Protesto Grevleri, Yasa Dışı Grev Değildir: Yargıtay 7. Hukuk Dairesi Kararı Karar Eleştirisi." [Strikes Are Part of the Right to Collective Action, They Are Not Illegal] *Çalışma ve Toplum Dergisi* 14 (2014): 233-255. The 7th Civil Chamber of the Court of Cassation gave a striking decision on the half-day protest the article talks about since it is a rare example of the recognition of the "right to take collective action." The protest was held by Mersin dock workers in 2013, where they closed down the entrance of the dock. To sum up: "In its decision against Turkey, the ECtHR confirmed that the government's decision to impose a total ban on the one-day general strike, which was not related to the Collective Labor Agreement procedure, and take disciplinary action against the employees, were against the rules adopted by the ECHR, European Social Charter and ILO. In conclusion, in line with international norms, short-term acts of protest, which involve the exercise of a democratic right, against [conditions] that affect workers economically and socially or against practices in the workplace, are part of the right to take collective action. Such actions cannot be banned unless they are purely political." <http://www.calismatoplum.org/sayi43/gulmez.pdf>



Source: ITUC 2018 Global Rights Index

has been strikingly documented in reports and evaluations of international trade unions and intergovernmental organisations.

Every year rights violations in Turkey are mentioned in the International Trade Union Confederation's (ITUC) *Annual Survey of Trade Union Rights Violations*. These surveys frequently mention practices against unionisation and problems in exercising trade union rights of public workers, including the right to strike and collective bargaining.²⁴ In the 2018 survey, Turkey was among the worst ten countries for workers' rights. The report listed Turkey, Kazakhstan, and Belarus among the top countries where the state represses independent trade unions. The report also mentioned the dismissals as a result of the State of Emergency and arrests of trade union members and leaders of KESK, DİSK and TÜMTİS. In the Turkey section of the report, numerous strike bans in various sectors, including the glass and metal sectors, were also mentioned.²⁵

²⁴ For detailed information on the issue, see Köse, S. *ITUC Raporlarına Göre 2000'li Yıllarda Sendikal Hak İhlalleri (2000-2010)*. [Trade Union Rights Violations in the 2000s According to ITUC Reports] (<http://www.sosyalhaklar.net/2010/bildiri/kose.pdf>)

²⁵ <https://www.ituc-csi.org/ituc-global-rights-index-2018?lang=en>

In the 2019 survey of ITUC, Turkey was among the worst ten countries for workers' rights. The report ranks the ten worst countries for workers' rights in 2019 as Algeria, Bangladesh, Brazil, Colombia, Guatemala, Kazakhstan, the Philippines, Saudi Arabia, Zimbabwe and Turkey, and covers violations of workers' rights in Turkey widely. The report also cites Turkey among 54 countries that deny or constrain the rights to freedom of speech and association. Along with China, India and Vietnam, Turkey is among countries listed where most union members have been arrested. The report lists Renault and IGA (the airport construction consortium) as companies that violate workers' rights. The report extensively deals with the protests and the ensuing rights violations at the Istanbul Airport, and the prison sentences given to Renault workers who protested at the workplace.²⁶

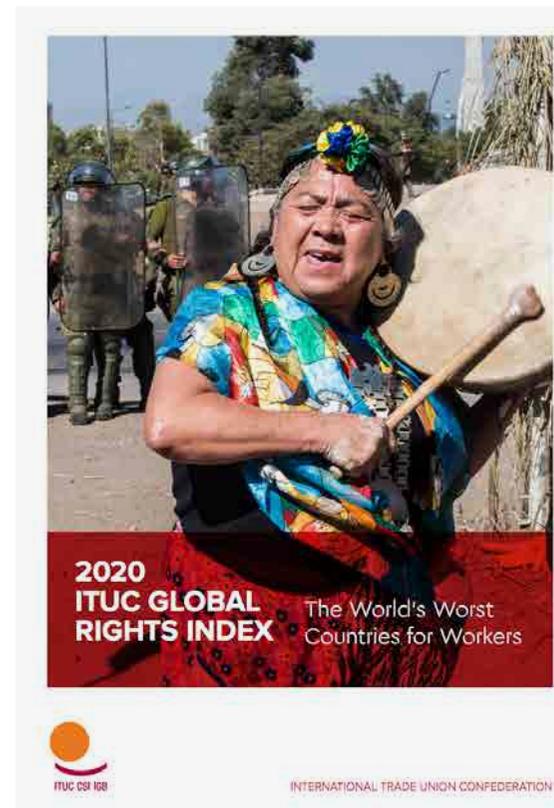
In its 2018 report, the Committee of Experts of the International Labour Organisation underlined the need to adopt specific provisions establishing protection against union discrimination. It also outlined the need to adopt procedures that ensure rapid, objective, cheap and effective examinations of any complaints of union discrimination, along with preventive and corrective mechanisms and sufficiently dissuasive sanctions. In its 2019 report, the Committee drew attention to the bans of demonstrations and press statement organised by DiSK, KESK and affiliated unions, and arrests of its members and representatives.²⁷ The Committee noted with concern the restrictions on strikes that were expanded during the State of Emergency via statutory decrees. The report also identified provisions related to **the procedure of competence** as harming the right to collective bargaining in practice, and highlighted the government's failure to respond to questions related to this issue. It also added that, "In light of the above, the Committee requests once more the Government to take the necessary measures to amend the legislation, in consultation with the social partners, and to provide information in this respect."

In 2020 Turkey was once again among the worst ten countries in the ITUC Global Rights Index.²⁸ Along with Hong Kong, Turkey was listed as a country

²⁶ <https://www.ituc-csi.org/RI19?lang=en> (Accessed on 26.08.2019).

²⁷ https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---ilo-ankara/documents/meetingdocument/wcms_676283.pdf (Accessed on 26.08.2019).

²⁸ https://www.ituc-csi.org/IMG/pdf/ituc_globalrightsindex_2020_en.pdf (access: 21.07.2020)



Source: ITUC

violations concerning the right to freedom of association and strike bans in Turkey. Triangle also added "As European trade unions, what's happening in Turkey is on top of our agenda. We have supported Turkey's membership to the EU from the beginning onwards. Along with the European Commission's expectations from Turkey, we also have our red lines about workers. We asked the European Commission to put pressure on Turkey with regard to respecting workers' rights. Our red line was about respecting millions of workers' right to choose their unions, and to respect the right to work and right to organise."²⁹

The European Commission's Annual Progress Reports have also continuously drawn a problematic portrait of Turkey with regards to labour rights. In its 2014 report, the Commission stated that insufficient protection against dismissals of trade union members and uncertainties continue to pose problems. Similarly the 2016 report of the Commission stated that there is no effective protection against union discrimination.

²⁹ http://www.cumhuriyet.com.tr/haber/turkiye/782825/Kuresel_Sanayi_iscileri_Sendikalari_endiseli__Hak_gaspinda_en_kotu_ulke.html



where freedom of expression is most restricted. Moreover, it was listed as a the country with the highest number of prosecuted, dismissed and arrested union members. The report also described the climate of fear in the country, where workers struggled to unite and form unions and employers actively deterred any attempt to do so by firing union organisers and engaging in union busting practices.

Representing 7 million workers in Europe and with more than 300,000 members in Turkey, IndustriAll Europe General Secretary Luc Triangle has voiced deep concern about rights

In 2018, the Commission observed further deterioration in labour rights in Turkey during the State of Emergency, including mass dismissals and suspensions. Moreover, double thresholds for collective bargaining at the workplace and sector levels and public servants not having the right to strike continued to be major obstacles in Turkey's compliance with European standards and ILO conventions on trade union rights. The report noted that the de facto ban on on-going strikes had been expanded to include grounds of economic stability and continuation of service. The Commission concluded that Turkey should remove all obstacles limiting the full enjoyment of trade union rights in the coming year.³⁰

In its 2019 progress report, the European Commission stated that managers and members of trade unions continued to face arbitrary dismissal, harassment and arrests due to various peaceful union activities. It also drew attention to detentions that were a result of the Istanbul Airport protests.³¹ According to the report, these incidents and other breaches of fundamental labour rights, such as the right to freedom of association and the right for collective bargaining have raised the attention of the International Labour Organization. Again, according to the report, in 2018, two strikes in the private sector were postponed (and de facto banned) by the government. Meanwhile, the Constitutional Court ruled that a government decision in 2015 to postpone a strike in the metal sector on grounds of national security had in fact violated the right to strike.³²

Labour rights violations in Turkey have also been the subject of European Court of Human Rights (ECtHR) judgments. These judgments are enlightening and encouraging in terms of the protection and advancement of these rights. Below, a recent judgment of the Court will be summarised as an example of the topics discussed before:

³⁰ https://www.ab.gov.tr/siteimages/pub/komisyon_ulke_raporlari/2018_turkiye_raporu_tr.pdf

³¹ https://www.ab.gov.tr/siteimages/birimler/kpb/2019_trkiye_raporu_tr.pdf (Accessed on 26.08.2019).

³² The Constitutional Court has ruled in favor of the DİSK-affiliated Birleşik Metal-İş on the union's petition about the Council of Ministers' decision to postpone the strike of the union, which exercised its right to strike for MESS group agreements in the metal sector on January 29, 2015, and ordered the government to pay 50,000 Turkish Liras to the union as compensation. For more information see: <http://www.birlesikmetal.org/index.php/tr/guncel/basin-aciklamasi/830-ba-aym> (Accessed on 26.08.2019).



Source: Uncertain

ECtHR judgment dated April 4, 2017 - Tek Gıda İş Sendikası v. Turkey:³³

A number of employees from three factories belonging to the Tukas Gıda Sanayi ve Ticaret company joined the Tekgıda-İş Union. On February 20, 2004, the trade union requested an establishment of competence by the Ministry so that it could conclude, on behalf of its members, collective labour agreements with the company in question. On May 26, 2004, the Ministry approved the competence and provided the union the necessary document. The employer subsequently lodged an objection to the Ministry. The Labour Court accepted the objection and the Court of Cassation upheld the decision.

Meanwhile, in the beginning of 2004, the company had asked employees, who were members of that trade union, to cancel their membership and threatened to dismiss them. Some workers resigned from the membership, but forty employees refused. Soon afterwards, the company dismissed those forty workers, citing economic reasons (market fluctuations) or professional shortcomings (unsuccessful results). In

³³ European Court of Human Rights, Tek-Gıda İş Union v. Turkey, 04.04.2017, Application no. 35009/05. Statement and assessment: ASTARLI, Muhittin. "Avrupa İnsan Hakları Mahkemesinin Sendika Hakkının Etkili Korunmasına İlişkin Tek Gıda İş Sendikası/Türkiye Kararı ve Türk Hukuku Bakımından Çıkarımlar." [Tek Gıda İş Union v Turkey Judgment of the European Court Of Human Rights Concerning The Effective Protection of Freedom of Association in Unions and Its Implications in Turkish Law *Çalışma ve Toplum*, 2019/2.

March 2004, the employees in question applied to the Izmir Labour Court on grounds of being dismissed wrongfully and requested to be reinstated to the company. Between July and December 2004, a number of Izmir Labour Courts (No. 1, 2, 3, 4, and 5) ruled in favour of the workers, stating they were dismissed for trade union activities and ordering the company to either reinstate the dismissed workers or pay them union compensation equalling one year's salary. Between December 2004 and June 2005, the Court of Cassation 9th CC. upheld those judgments. The company failed to reinstate any of the workers, instead paying them the compensation ordered by the courts. By 2005, the applicant trade union had no members in the company.

The ECtHR examined the union's application and issued its judgment based on the following three determinations:

■ First, even though the domestic courts ordered the payment of compensation for wrongful dismissals, these decisions lost their deterrent effect. This is because compensation was paid as a result of proceedings that lasted between one and one and a half year, exceeding the legal three-month time limit.

■ Second, the compensation lost their deterrent effect towards the company because the domestic courts awarded the minimum amounts authorized by the law. They did not take into account the fact that the workers' wages were low and/or that the employer's economic power was high. Nor did the courts provide any explanations on why only the minimum amounts were awarded.

■ Third, the applicant trade union's core union activities were limited when the company opted to pay the compensation ordered by the domestic courts due to wrongful dismissal. As such, the company excluded the applicant trade union from its premises, resulting in the loss of all the members of the trade union in question.

In summary, the Court found that the relevant law had not sufficiently imposed a deterrent penalty on the employer. This had annihilated the applicant trade union's freedom to try to persuade employees to join. Consequently, neither the legislature nor the courts involved in the case had fulfilled their positive obligation to guarantee the applicant trade union's effective enjoyment of its right to attempt to convince the employer to listen to its comments on behalf of its members and, in principle, of its right to collective bargaining.

In this case, a fair balance had not been struck between the conflicting interests of the applicant trade union and the company. As a result, the Court found that Article 11 of the European Convention of Human rights had been violated.

EXAMPLES OF COLLECTIVE LABOUR RIGHTS VIOLATIONS IN EUROPEAN INVESTMENT ENTERPRISES

Petrochemicals Industry

Flormar

Background Information

Yves Rocher (Groupe Rocher) is a French company that produces cosmetics and beauty products for women and has numerous brands under its umbrella.

Yves Rocher is a company that pledged to respect the principles of UN Global Compact between 2007 and 2011, but because it failed to report its progress, it was removed from the company list in 2011.³⁴ The company's "Code of Business Conduct" published in 2017, states that the company respects its employees' rights, and aims to create a working environment that is free from violence, pressure and intimidation/threat. It also stresses that the company respects union rights within the legal framework.³⁵

³⁴ <https://www.unglobalcompact.org/what-is-gc/participants/10267>

³⁵ https://www.groupe-rocher-fournisseurs.com/sites/default/files/gr-code_of_business_conduct_gr_september_2017-en.pdf (Accessed on 26.08.2019).

Flormar operates close to Istanbul, at the Gebze Organised Industrial Zone, and manufactures cosmetic products for the well-known French cosmetic brand Yves Rocher. Since 2013, it has been among Turkey's top 500 exporters. In 2012, a 51% share of Kosan Cosmetics company, which has been manufacturing for Flormar since 1972, was acquired by Laboratoires de Biologie Vegetale Yves Rocher S.A, which itself is affiliated with the Yves Rocher SA company. In other words, Flormar has since become a brand of Groupe Rocher. As majority shareholder of Kosan Cosmetics, Groupe Rocher selected the company's executive board, making Bris Rocher the Chairman of the Board of Kosan Cosmetics (which manufactures Flormar).

In January 2018, the Confederation of Turkish Trade Unions (Türk-İş) affiliated Oil, Chemical, and Rubber Workers' Union (Petrol-İş), began recruiting members in the workplace to obtain a majority and start the collective bargaining process. The Union established the necessary majority in May and applied for competency to the Ministry of Labour so it could be a part of the collective bargaining agreement. At this point, instead of starting negotiations for the agreement, the employer chose to dismiss 120 (mostly female) workers, preventing further unionisation. Supported by the Union, the dismissed workers began a protest and were later joined by other colleagues, who were also dismissed for supporting the protestors. The number of dismissed workers exceeded 130. Those who were dismissed were not given any compensation, to which they were legally entitled.

Source: Petrol-İş Sendikası - [2018 - Petrol-İş Flormar Protest] - *Resistance would make you beautiful not Flormar!*



On 23



Source: Petrol-İş Sendikası - [2018 - Petrol-İş Flormar Protest]

May, BBC Turkey was following the protest in front of the factory and three workers claimed that they were taken to another room by the management because they had supported their colleagues by clapping during their breaks. They said that they were told that they would have to resign if they did not transfer to the production department.³⁶

Merve Atmaca, who had been working at the factory for 5 months, was one of these people. She explained that they supported their colleagues by clapping during their breaks and were forced to resign the same day: *"They've called us and said that they're going to sack us. Then they told us that it was a crime to support them (protesting workers) during working hours. They said 'either work in the production [section.]' In another area... 'Or give your resignation.'* Because I cannot work in an indoor department, I preferred to resign. I gave my resignation and left." Sebahat Zengin, who had been working in the factory for 5 years, told a similar story: *"Our production manager talked with us one by one. He wanted to transfer us to another department. I am an office employee. I work at the office. He wanted to transfer me to the production department. He put pressure on me by saying 'You either work at the production or give your resignation and leave.' I can say that he gave me no choice but to write my resignation."*

³⁶ <https://www.bbc.com/turkce/haberler-turkiye-44248357>

The protests in front of Flormar started during the State of Emergency, on May 15, 2018 and lasted for 297 days until March 8, 2019. It gained significant public support despite the pressure exerted by the employer and security forces. This protest was a significant example of strong worker mobilization, which proved that while protesting under the State of Emergency was difficult it was not impossible. Due to the State of Emergency, unlike previous protests held in front of company headquarters, security forces prohibited workers from setting up tents or shelters and bringing heaters such as stoves—despite the fact that winter had begun. Moreover, announcement buses, used in similar protests, were also not allowed.³⁷

Due to an agreement being made between the union and the employer, dismissed workers would receive their severance, notice payments, and union compensations. However, because workers were not reinstated, the union is still unable to start negotiations for a collective labour agreement at the workplace.

Recticel:³⁸

Background Information

Recticel is a Belgium-based company that produces polyurethane foam and operates in 29 countries. Article 11 of Recticel's "Ethics Policy" states the following

*"Recticel recognizes the right of any employee to join or to refrain from joining a trade union. Recticel encourages communication with its employees and their representatives. Recticel will comply with the laws and the collective labour agreements in all countries in which it operates. When the applicable law, the collective labour agreements, and the Recticel Ethics Policy specify diverging standards, the most stringent regulation will be applied. Recticel supports the United Nations Universal Declaration of Human Rights and the conventions and the recommendations of its International Labour Organisation."*³⁹

³⁷ <https://www.evrensel.net/haber/366958/flormar-iscisine-yasak-uzerine-yasak> and <https://www.petrol-is.org.tr/haber/flormar-iscisine-yine-yasak-12120>

³⁸ The information presented here was compiled from the communications of Petrol-İş Union's International Relations Services in addition to the cited references.

³⁹ https://www.recticel.com/sites/default/files/who_we_are/discover_the_recticel_group/business_ethics_integrity/01_Ethics_policy_English.pdf (Accessed.08.2019)



Recticel Teknik Sünger İzolasyon San.ve Tic. AŞ, the Turkish branch of Recticel, is an enterprise operating in Tuzla, Istanbul. It produces heat and sound insulation, sealant, filtration, vibration, and beddings materials in numerous sectors, including automotive, home appliance and construction sectors. Most of its workers joined the Petrol-İş Union in 2014. However, utilizing loopholes in Turkey's employment legislation, local management of the company submitted objections that would delay the determination of competence and the collective bargaining process. Despite domestic courts' judgments to the contrary, the company's management argued that the company does not operate in the chemical industry beginning a lengthy determination of the sector process. This effectively prevented the Union from starting the collective agreement procedure. To protest the employer's refusal to recognize the Union, workers locked themselves in the factory. During the protest, the Petrol-İş Union gave

Source: Petrol-İş Sendikası - [2018 - Petrol-İş Recticel Protest]



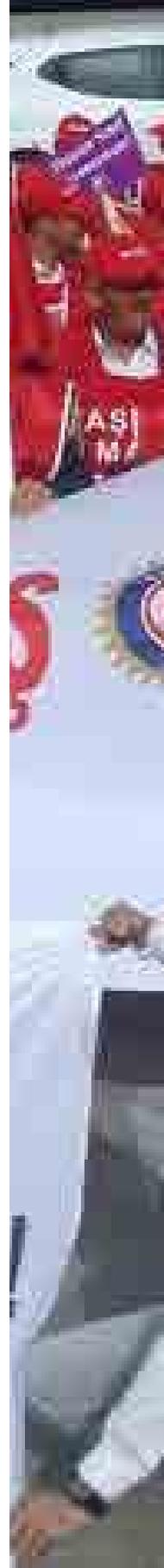


Source: Petrol-İş Sendikası
- [2018 Petrol-İş Recticel
workers in protest]

a press conference in front of the factory, stating that the employer wanted to prevent the workers' right to freedom of association.

At the European Business Council⁴⁰, which includes the company's management and representatives from other European branches, the Petrol-İş Union, its affiliate federation IndustriAll and Belgian unions in the same sector requested the employer recognize the Union— the request was a success. The company agreed to withdraw its objection of the Union's competence, enabling it to be part of collective labour agreements. At the time this report was being prepared, the unionisation process, which has been going on for four years, had just reached the collective bargaining stage.

⁴⁰ <http://www.ewcdb.eu/body/786>



On June 20, 2019, an important unionisation step at Recticel was taken: company management and Petrol-İş management held a meeting and signed a protocol to initiate bargaining for a collective labour agreement. As a result of the bargaining carried out within the framework of this protocol, Petrol-İş and Recticel management signed a collective labour agreement on December 17, 2019. After about six years of forming an association, Recticel workers managed to use their right to a collective labour agreement.

Metal Industry

Renault:⁴¹

Background Information

The French group has a Global Framework Agreement (GFA) signed with IndustriAll in 2013 entitled "Committing Together for Sustainable Growth and Development."⁴² The company also signed the UN Global Compact in 2001.

French Renault Group owns 51% of Bursa-based Oyak Renault. It was one of the first workplaces where, in May 2015, a massive wave of strikes began in the metal sector.⁴³ Workers were protesting (de facto strikes) for their right to choose which trade union would belong to and also expressing their discontent of a collective labour agreement that was held in secret. The protest/strike resonated with the public. During this time, Renault employers negotiated with representatives chosen by the workers.

⁴¹ The information presented here was compiled from the communications of the Birleşik Metal-İş Union's International Relations Services in addition to the cited references.

⁴² For the full agreement please see: http://www.IndustriAllunion.org/sites/default/files/uploads/documents/GFAs/Renault/GFA2013renault_gfa_-_turkish.pdf (Accessed on 26.08.2019)

⁴³ The union members, who opposed to the collective agreement signed following the collective bargaining process conducted by the Turkish-Metal Union with Turkish Employers' Association of Metal Industries (MESS) for many enterprises operating in the metal sector, started a wave of protests and made history with this important movement known as the Metal Storm (Metal Fırtına). For more information on the subject see: Hakan Koçak, "Metal İşçilerinin İsyanı Nele-re İşaret Ediyor." [What Is the Meaning of the Metal Workers' Protest?] *Birikim Dergisi*, <http://www.birikimdergisi.com/guncel/metal-iscilerinin-isyani-nelereisaret-ediyor> (2015). Aziz Çelik, Çelik, Aziz. "The wave of strikes and resistances of the metal workers of 2015 in Turkey." *Centre for Policy and Research on Turkey (Research Turkey)* 4.10 (2015): 21-37.



Source: Evrensel - [BMİS Renault protest]

Once workers resigned from the Türk-Metal union,⁴⁴ to which the majority of the workers were members, and gravitated towards the DİSK-affiliated Birleşik-Metal-İş Union (BMİS), the employer accepted the formation of a social dialogue mechanism to conduct negotiations with BMİS, including the attendance of its international federation IndustriAll. Effectively exerting undue influence on which trade union workers would choose to join. An election, planned to choose workers' representatives, was also cancelled just days before by the employer. Moreover, the employer dismissed 60 workers, including union representatives. Once workers started to protest the situation, the employer called security forces to the factory. Forces dispersed the workers and some of them were taken into custody. Nearly 500 workers were forced to resign with compensation. Some workers were dismissed without severance pay. Among the dismissed workers were representatives chosen by the workers. Later on, approximately 150 workers lodged a lawsuit in which the court found that the workers were dismissed due to union activities and ruled that the applicants should receive union compensation.

Thirty-five people who demonstrated in front of the factory, including union

⁴⁴ Türk-İş affiliated Turkish-Metal Union is the largest union of the sector which has very close relations with the employer's organisation MESS. Because it is not independent from the state or the employer, and does not have an internal democratic structure, it has not been embraced by the international trade union community. It is characterised as "an autocratic trade union" in an extensive study based on interviews conducted with its members, Theo Nichols and Nadir Suğur, *Global İşletme ve Yerel Emek: Türkiye'de İşçiler ve Modern Fabrika*, [Global Company and Local Labor: Workers in Turkey and the Modern Factory]. İletişim Publications, İstanbul, 2005.



Source: Birleşik Metal-İş Sendikası

branch executives, workers and the union's international relations specialist Eyüp Özer, were indicted for disobeying the Law on Assemblies and Demonstrations. They received 5-month sentences, however their sentences were conditionally suspended.

In summary, over 500 workers of Renault were dismissed because they wanted to leave a union they did not identify with and because they wanted to join another union. This occurred despite the right to choose, protected under Article 51 of the Constitution and Article 17 of the Law No. 6356, and ILO's Convention No.87 (Renault's GFA refers to the Convention).

Baldur Süspansiyon:⁴⁵

Background Information

The Spanish company MBHA (Muebles Y Ballestas Hispano-Alemanas, S.A.) produces leaf springs for vehicles in the automotive sector. They supply products to many automotive companies such as Mercedes, Man, Isuzu and Renault etc. In addition to the company's code of ethics⁴⁶, some of the companies it supplies to also signed global framework agreements.⁴⁷

⁴⁵ The information presented here was compiled from the communications of the Birleşik Metal-İş Union's International Relations Services and the interview conducted with Eyüp Özer in addition to the cited references.

⁴⁶ <https://mbha.com/descargas/>

⁴⁷ <https://mbha.com/tr/customers/>



Source: Birleşik Metal-İş Sendikası - [BMIS Baldur protest]



Source: Evrensel - [BMIS Baldur protest]

Operating in the Şekerpınar Organised Industrial Zone as part of an investment of the Spanish company MBHA, Baldur Suspension Factory produces leaf springs for trucks. It is one of the suppliers of Mercedes. While the Birleşik-Metal-İş Union (BMIS) pursued its unionisation efforts at the workplace and applied to the Ministry of Labour for a competency certificate on December 21, 2016, three workers were dismissed. In the following days, dismissals continued eventually reaching a total of seven dismissed workers. Moreover, the human resources manager of the factory began exerting pressure on the workers to resign from the Union, claiming that the factory's customers would cancel their orders if the Union would be given the competence certificate. In the meantime, an objection was made to the Union's request for the competence certificate, postponing the collective bargaining process. Subsequently, the employer enabled rival Türk-Metal's



Source: Birleşik Metal-İş Sendikası - [Solidarity demo of German workers to Mercedes Workplace at Germany] - "Solidarity is our strength!"

unionisation efforts at the workplace. As BMIS's lawsuits related to the competence procedure continued, it was unable to conduct collective bargaining at this workplace. A BMIS specialist recalls the words of the company's lawyer: "Your friends [workers] decided to organise themselves in your union [BMIS], but human resource managers has chosen Turkish-Metal unionisation." This is a striking example of the lack of awareness regarding the right to freedom of association in Turkey among jurists.

The collective labour agreement competency case filed by BMIS in Baldur recently ended,⁴⁸ granting the union competency for collective labour agreements in the workplace. Although Türk-Metal has not yet signed a collective labour agreement in the workplace, it provides some kind of recognition through the protocol it has signed with the employer. The employer expresses its preference and attempts to direct workers by including notices for this Türk-Metal into the items it distributes to the workers as promotions etc. Meanwhile, BMIS, which finally obtained a certificate of competency after 4 years, has seen declining membership in the workplace. It was also in a reorganisation effort, trying to reach the required number of members in order to make collective labour agreements.

Having received the competency authorization document by Ministry, BMIS presented a draft agreement in October 2020, calling the management for the collective labour bargaining. While waiting for a response to this call, three new members of BMIS were dismissed on grounds including, "threat, tease and insult to their colleagues."⁴⁹

⁴⁸ Decision of the 9th Civil Chamber of the Supreme Court of Appeals, File No: 2020/1484, Decision No: 2020/6245 Date: 13.02.2020

⁴⁹ <https://www.evrensel.net/haber/417798/baldur-suspansiyon-fabrikasinda-birlesik-metal-iste-orgutlenen-3-isci-isten-atildi>

Workers took action in front of the factory, and started a protest, claiming that they were dismissed due to their union membership. On November 2020, Baldur, Özer Elektrik and HSK workers wanted to march together from Gebze to the Ministry in Ankara, to protest the restriction of trade union freedoms and the related dismissals of workers. However, police blocked the march, and a total of 97 people were detained.⁵⁰

BMIS, whose demands for better working conditions and reengagement of the three dismissed workers were not accepted, has started a strike on December 25, 2020.⁵¹

DIAM Vitrin:^{*}

Background Information

Diam International SAS is a French company. It produces specially designed shop display cabinets etc. for world-famous cosmetics brands. The company became a signatory of the UN Global Conduct in 2012.⁵²

Vitrin Tasarım Hizmetleri Ambalaj San. Tic. Ltd. Şti., which operates in Tuzla, has 210 workers. It is affiliated with the French company Diam International SAS. It primarily produces shop display cabinets for cosmetics and fashion brands.

⁵⁰ <https://www.evrensel.net/haber/419535/metal-iscilerinin-ankara-yuruyusu-engellendi-97-kisi-gozaltina-alindi>

⁵¹ <https://www.evrensel.net/haber/420804/baldur-iscileri-fabrikaya-grev-kararini-asti>

* Konuya ilişkin bilgiler, referans verilen kaynakların dışında Birleşik Metal-İş Sendikası Uluslararası İlişkiler Servisi yazışmalarından ve BMİS uzmanı Eyüp Özer ile yapılan görüşmeden derlenmiştir. Bu vakayla ilgili detaylar için rapor ekinde sunulan Sevda Toprak görüşmesine bakılabilir.

Source: Birleşik Metal-İş Sendikası - [BMİS DIAM protest] - *We protect the union rights at DIAM, on the guidance of 15-16 June*

⁵² For the full text of the letter sent by the company's CEO to the UN's General Secretary see: https://s3-us-west-2.amazonaws.com/ungcproduction/commitment_letters/16359/original/UNGC_Lettre_engagement.pdf?1329502053 (Accessed on 26.08.2019)



Source: Birleşik Metal-İş Sendikası - [BMİS DIAM protest] - *Dismissed workers shall be reinstated!*

Birleşik-Metal-İş Union started to register new members at the workplace in May 2017. When the company heard about the unionisation efforts, five workers, who were the first to become members of the trade union, were dismissed. The Union organised a press conference on May 15 in front of the factory to protest the dismissals. The employer locked workers in the cafeteria to hinder them from joining the Union. Later, nine additional workers who had been leading the unionisation efforts were dismissed. In response to this, workers stopped work and started protests inside and in front of the factory, asking their colleagues to be reinstated. On May 22, the union received the competency certificate for collective bargaining from the Ministry of Labour after having the majority of members in the workplace. On June 15, the employer sent all Union members a text message, informing them that they were dismissed without severance pay. It also objected to the Union's competence. In the meantime, the employer did not respond to the letters sent by the Union and the sector federation IndustriAll in any way. The Union subsequently lodged a complaint to the OECD.

As a result of the protests at the workplace, the employer Diam started legal proceedings against the "unlawful strike" (but the Court turned down their complaint) and objected to the Union's competence to conclude collective labour agreements. This objection was deliberately submitted to the court of a different region to delay the legal process. In the end, the local court awarded competency to BMİS for collective labour agreements. At the time of writing this report, the proceedings were still pending; the Union was expecting the employer to file an appeal against this decision. On the other hand, during the complaint process to the OECD, the OECD announced that it would attempt to mediate, and create an opportunity for negotiation between the parties; this meeting is now expected to be held.

Sevda Toprak (22), who worked at the Diam Vitrin factory for five years explained why she wanted to join the union: “Those in charge of us and employers constantly insulted us when we were working. They did not treat us like humans. In addition to not receiving raises and having low wages, we worked overtime. Even though I was an employee for 5 years, I was still paid minimum wage. That is why we believe that everybody here, from 7 to 70, should enjoy the same rights and we collectively decided to join the union to have job security.”⁵³

Roca TR. Banyo:⁵⁴

Background Information

A long-established Spanish company, Roca produces bathroom products. Internationally, it employs a total of 22,000 workers at 78 production centres. No agreements or codes of ethics etc. by the company have been found.

Background Information: A long-established Spanish company, Roca produces bathroom products. Internationally, it employs a total of 22,000 workers at 78 production centres. No agreements or codes of ethics etc. by the company have been found.

Workers say that their plant was bought by the Spain-based ROCA group in 2016, adding that, “When Spanish executives came to visit our factory, they asked us to wait for six months. They told us that they were going to remedy the material and immaterial deficiencies. Even though one year has passed since their visit, our situation has not improved.”⁵⁵

After the union acquired a majority of membership of workers, it applied to the Ministry of Labour and received the necessary certificate. The employer objected to this competence and dismissed some of the workers leading the unionisation efforts. The employer, who turned down the union’s request to initiate dialogue, contacted rival union Çelik-İş and forced workers to join the latter. According to BMIS’s statement, a female worker was hospitalised

⁵³ <https://www.evrensel.net/haber/324413/diam-iscileri-ise-donuceye-kadar-mucadeleye-devam>

⁵⁴ The information presented here was compiled from the communications of Birleşik Metal-İş Union’s International Relations Services in addition to the cited references.

⁵⁵ <https://www.evrensel.net/haber/305147/nsk-iscileri-birligimizi-bozmayacagiz>



Source: Birleşik Metal-İş Sendikası - [BMIS Roca TR protest]

because of the pressure put on workers.⁵⁶ In the end, the Çelik-İş received the competency certificate and BMIS’s attempts to organise at the factory were unsuccessful.

Günsan.⁵⁷

Background Information

Schneider Electric SE, the owner of Günsan Electric since 2014 is a global company that joined the Global Compact in 2003.⁵⁸ The company’s CEO Jean Pascal-Tricoire is currently a member of the Executive Board of Global Compact. In the ethical conduct document of the company entitled “Principles of Responsibility” the company states that “We respect the right of workers to form and join representation groups and unions; Provide workers the necessary conditions to perform these representation activities; do not prevent representation activities.”⁵⁹ In the company document entitled “Human Rights Global Policy” the company again states that it respects its employees’ rights to the freedom of association and collective bargaining.⁶⁰

⁵⁶ <https://www.birlesikmetal.is.org/index.php/tr/guncel/basin-aciklamasi/730-ispanyol-roca-sirketi-suc-islemeye-devam-ediyor>

⁵⁷ The information presented here was compiled from the communications of Birleşik Metal-İş Union’s International Relations Services in addition to the cited references.

⁵⁸ <https://www.unglobalcompact.org/what-is-gc/participants/8251-Schneider-Electric-SE>

⁵⁹ https://www.se.com/tr/tr/download/document/principles_of_responsibility/

⁶⁰ https://www.se.com/tr/tr/download/document/Human_Rights_Policy/



Source: Evrensel - [Protest of Günsan workers] - *Dismissed workers shall be reinstated!*



Source: Twitter
- [Protest of Günsan workers]

2014, Schneider Electric bought Turkish electrical grid equipment producer Günsan Electric. At the time the company had three factories in Turkey, in Manisa, Izmir and Gebze. BMIS was the union at these workplaces that met the criteria for entering into the collective bargaining process.

In November 2016, BMIS started its unionisation efforts at factory of Günsan, where approximately 300 workers were working in Istanbul. On the day the Union applied to the Ministry for the competence certificate, the employer dismissed six workers who had led the unionisation efforts. Moreover, the employer obtained the workers' passwords of the e-government system to check whether certain workers were members of the Union.

In



Source: İlerihaber.org - [Protest of Günsan workers]

IndustriAll contacted the company's headquarter in France, encouraging it to intervene. In response, it was argued that the dismissals were based on economic reasons. Yet, in the documents handed to the workers when they were dismissed, it clearly stated that workers' were dismissed on grounds of disrupting the workplace order or harming the company's prestige.

Workers stopped working and started a protest to call for the reinstatement of their dismissed colleagues. The protest ended with security forces blocking the factory; this was followed by negotiations. On November 21, 2016, the Ministry issued the Union the competency certificate enabling it to commence collective bargaining at the workplace. Afterwards, at a meeting between the company's and Union's management, company representatives informed the Union that the dismissed workers would not be reinstated and that they would object to the Union's competence on grounds that it operated in a different sector. The fact that the company objected to the sector of activity, and argued that it does not operate in the metal sector but in the plastic sector is questionable with view of the fact that the company is the founder of the Electromechanical Employers' Union (EMIS). At the same time, Schneider Electric's Izmir factory was closed and the moulds were transferred to Günsan to resume the production there.

Following this, pressure in the workplace to resign from the Union increased. Management representatives showed workers a photograph of a Union specialist taken with an MP from the Peoples' Democratic Party (HDP) and claimed that the Union is a "terror supporter." In this way, they created the risk of provoking political and ethnic divisions amongst workers.

The unionisation process at the enterprise failed with legal proceedings concerning these topics are still on-going.

Transportation Industry

DHL Express

Background Information

DHL International GmbH is a US-based German company that carries out Deutsche Post DHL's international shipping and parcel delivery services. It works in over 220 countries and regions with 380,000 employees. The DHL has a protocol signed with global unions ITF and UNI⁶¹ DHL also has a *Code of Conduct* document.⁶² In the document, the company states that its employees are free to join or that they cannot be forced to join a union. It states that the right to collective bargaining shall be respected.

Türk-İş affiliated All Transport Workers' Union (Tümtis) organised at DHL with the support of global solidarity campaigns in 2014.⁶³ In 2017, Tümtis started unionisation efforts at DHL's logistics company DHL Express. Once it achieved the necessary majority membership in February 2017, it received its certificate of competency from the Ministry of Labour. On March 8, 2017, without providing

⁶¹ The said joint protocol was signed between two global unions and the company with the facilitation of the German National Contact Point established by the German state in July 2016 and extended until December 2019 on September 21, 2017. A platform that is based on the OECD Guidelines for Multinational Enterprises has been established. (<https://www.itfglobal.org/en/news/joint-statement-dp-dhl-itf-and-uni-global-union-agree-continuous-dialogue-until-december-2019>) (Accessed on 26.08.2019)

⁶² <https://www.dpdhl.com/content/dam/dpdhl/en/media-center/responsibility/dpdhl-code-of-conduct.pdf> (erişim: 26.08.2019)

⁶³ For a detailed account of the unionisation process see: Birelma, Alpkan. "When local class unionism meets international solidarity: A case of union revitalisation in Turkey." *Global Labour Journal* (2018). Source: TÜMTİS - [2017 - TÜMTİS DHL protests]



Source: TÜMTİS - [2017 - TÜMTİS DHL protests]

any evidence or providing an explanation, the employer filed an objection against the Union's competence and requested a court investigation into whether the workers' memberships were real. The case was part of a strategy to delay the determination of the Union's competence and in the meantime, the company engaged in activities aimed at suppressing unionisation efforts, including increasing pressure on workers, targeting and dismissing some workers, intimidation and discrimination, and refusing their demands. Nine workers, who had been leading the unionisation efforts, were dismissed. On July 17, 2017, workers held a sit-in in front of the company's headquarters in Yenibosna, Istanbul. Other unions and representatives from the international federation of the relevant sector, International Transport Workers' Federation (ITF), supported the protest.

It was underlined that DHL Express did not adhere to the protocol signed between DHL Express and the global unions ITF and UNI, and that it applied double standards.⁶⁴

⁶⁴ The joint protocol in question was signed by these two global unions in July 2016 with the mediation of the German National Contact Point (NCP) and extended by the parties until December 2019 on September 21, 2017. It has provided a platform that aims to create social dialogue for better working life and follows the OECD Guidelines for Multinational Enterprise. (<https://www.itfglobal.org/en/news/joint-statement-dp-dhl-itf-and-uni-global-union-agree-continuous-dialogue-until-december-2019>)



Source: TÜMTİS -
[TÜMTİS DHL protests]

On June 8, 2018, following a call by ITF and ETF, protests were held around the world. These were organised because DHL Express refused to recognize Tümtis's competence for collective bargaining, even though the Union had received a certificate from the Ministry of Labour and had majority membership at the workplace. It was emphasised that DHL broke its promise to international unions to conduct fair negotiations with workers' representatives in every country where it operates. These protests were held at the company's workplaces, letters were sent to DHL management, and online support for the DHL workers aimed at putting pressure on the company to promote labour rights. The protest ended following these solidarity actions and 556 days of sit-ins. The employer recognized the Union and the collective labour agreement negotiations started. Negotiations ended when the collective labour agreement was signed on January 23, 2019.

Cellulose-Paper Industry

Saica Pack

Background Information

Spanish company Saica Pack produces paper packaging at global level. The Code of Ethics and Legal Compliance published by the company provide a detailed description of the workers' fundamental rights, Article 2.3 guarantees to respect its workers' right to freedom of association.⁶⁵

Türk-İş affiliated Selülöz-İş unionised at Saica Pack, based in Eskişehir around 2013 and conducted collective bargaining agreements on behalf of the workers. The company then bought a domestic factory located in the Sakarya 3rd Organised Industrial Zone. In April 2019, Selülöz-İş started to unionise at this factory as well, applying for the competency certificate on April 24.⁶⁶ The employer objected to the certificate. After a short while, six leading union member workers were dismissed on May 29. No reasons were given. In response to this, workers started a protest in front of the workplace. The union demanded that the company reinstate the dismissed workers and ensure that no other workers be dismissed from this point onwards. At the same time, the Union also requested the employer, Saica Pack, to respect the workers' right to freedom of association and to discuss problems in the workplace through collective negotiations. As this report was prepared, the

⁶⁵ <https://www.saica.com/wp-content/uploads/2018/02/CODE-OF-ETHICS-AND-LEGAL-COMPLIANCE.pdf> (Accessed on 26.08.2019)

⁶⁶ <http://selulozis.org.tr/haber/saica-pack-sakarya-ambalajda-direnis-basladi/>

Source: Selülöz-İş Sendikası - [Selülöz - İş SaicaPack protest] - Saica Pack, stop dismissing workers!



demonstration in front of the workplace exceeded 90 days and the trial on the competence of the company was still on-going. At the same time, with the support of its affiliate international union federation, the Union continues its efforts to establish a dialogue with the employer on different levels.

In January 2020, Selülöz-İş ended the protest after securing the right to association in the workplace. Additionally, the workers who were dismissed were paid severance, notice pay and 12 months of gross salary.

Textile Industry

Many workers employed in the textile industry in Turkey are working for the supply chains of European companies. Facing various rights

violations, these workers, who work in small and large-scale enterprises under difficult conditions, manufacture products that are sold in internationally renowned luxury clothing and accessory stores around the world, as well as in Turkey. One of these enterprises was the Bravo factory, where the workers were subjected to a serious violation of their rights.

Bravo

Bravo factory workers manufacture products for the brands Zara, Next and Mango; accordingly, these companies have been conducting monthly inspections in the Bravo factories. Workers' wages and working conditions were decided by Zara, Next and Mango. In the first half of 2016, the workers' wages were at first delayed, then stopped all together by the employer. When they asked the employer about this, they were told, "the company is facing difficult times, be patient and everything will be alright." One morning, when they arrived at the factory, they saw that it was emptied out and its doors were wide open. They were left without receiving their



Source: Temiz Giysi Kampanyası Türkiye / Clean Clothes Campaign Turkey - [Bravo workers campaign] - *I manufactured the product you are about to buy, but couldn't get my money for it!*



Source: Temiz Giysi Kampanyası Türkiye / Clean Clothes Campaign Turkey - [Bravo workers campaign] - *Give us our right, so we get even!*

salaries for the last three months and their severance pays. They communicated the situation to the companies for which they produced and asked to be paid. One of these companies, Zara, according to its agreement with IndustriAll had accepted direct responsibility for any debt

that was owed to workers, but still resisted to make any payment. In 2016, the DİSK affiliated Tekstil Union brought a foreclosure suit against Bravo and won the case. But they received no payment because the company's bank accounts were empty. The international NGO Clean Clothes Campaign got involved, started to negotiate with these brands at an international level on behalf of the workers, and requested payment of the debt owed to workers. As a result of these efforts, the brands accepted responsibility, but said only agreed to cover a certain amount of the debt owed to workers.⁶⁷ At the beginning of 2019 a partial payment was made from a fund formed by the three companies, but this arrangement continued to be criticised by workers for being discriminatory and insufficient.⁶⁸

Problems concerning wages are an important category of rights violations in the textile industry. A report prepared by the Clean Clothes Campaign showed that in Europe, in Turkey, along with post-socialist countries, the wages of many workers in the textile sector fall below the legal minimum wage.⁶⁹ It also showed that these workers work exceed the legal weekly working hours.

⁶⁷ <http://www.temizgiysi.org/zaraya-uretim-yapan-isciler-magaza-onunde-tek-sira-dizildi/>

⁶⁸ <http://umutsen.org/index.php/bravo-iscilerinden-aciklama-mucadelemiz-disk-tekstil-sendikasi-industrial-terafindan-satildi/>

⁶⁹ *Stitched Up: Poverty Wages for Garment Workers in Eastern Europe and Turkey*, Clean Clothes Campaign report, 2014, p.29, 36



Source: Tez-Koop-İş Sendikası
- H&M workers are not alone,
right to associate cannot be
prevented!

H&M

A September 2018 Clean Clothes Campaign report on the working conditions in Swedish company H&M's supplier firms confirms these findings. According to interviews conducted with workers in Bulgaria, Cambodia, India and Turkey in that year, a portion of workers only get paid the legal minimum wage if they work overtime and fulfil their quotas.⁷⁰ This violates the legal requirement that the statutory minimum wage must be earned in regular working hours. The International Labour Organization defines this as **forced labour**.

At the same time, H&M has a large store network in Turkey, with 3,100 employees and 72 stores. At these stores an employee leading unionisation efforts was dismissed in 2018 without severance pay. In an interview with Tez-Koop-İş Union's *Gencemek* magazine he talked about the company's stance towards its employees as following:

“H&M is getting Turkified (he smiles). The fact that rules are not applied in Turkey, flexible rules, lack of sanctions and the working class not seeking for its rights.... Because they are aware of this situation, I think that they got to the point of 'We're already doing this, we have many rules, but it will be fine

⁷⁰ H&M: Fair Living Wages Were Promised, Poverty Wages are the Reality (Research Findings on Wages at H&M's Strategic Suppliers) Clean Clothes Campaign report [https://turnaroundhm.org/hm-wages-september2018-full-107815e8a7bc3bd4ffbfeca3426f1dcd.pdf]

if we do not follow them.' Principles and policies are only for H&M. They are only followed when they serve H&M and when H&M is winning.”⁷¹

There has however been some success with a different union at H&M stores in Turkey. In September 2017, Türk-İş, a member of Turkey Cooperatives, Commerce and Office Workers' Union's (Koop-İş), began unionisation efforts at H&M. The Union's application to the Labour Ministry received a positive result, subsequently receiving a competency certificate with a letter dated February 15, 2019.⁷² A social dialogue was established between the parties with the support of global unions, and collective bargaining negotiations started on April 24, 2019.⁷³

Hugo Boss

Background Information

Specialised in mens-wear and womens-wear, Hugo Boss AG is a German company that produces clothes. It has at least 6,100 stores in 110 countries.

The company has published a “Code of Conduct.” The document guarantees that HUGO BOSS has committed itself and its suppliers to comply with the internationally recognized social and labour rights laid down in the Conventions of the ILO.⁷⁴ In Article 3.9 of the company's “Social Standards” document, in addition to all other rights, it states that the company recognizes the right to freedom of association.⁷⁵

Since 1999, Turkey has been a production site for Hugo Boss. The production site in the Aegean Free Zone is among the foremost manufacturing centres in the world for products such as suits, shirts and women's clothes.

⁷¹ Gencemek, Sayı:2, s.69 (http://www.tezkoopis.org/uploads/genc2.pdf)

⁷² https://www.koopis.org.tr/haber/koop-is-sendikasi-ndan-yeni-bir-oerguetlenme-zaferi/120 (Accessed on 26.08.2019)

⁷³ https://www.koopis.org.tr/haber/h-m-birinci-doem-toplu-is-sozlesmesi-goeruesmelerine-baslandi/186 (Accessed on 26.08.2019)

⁷⁴ https://group.hugoboss.com/fileadmin/media/pdf/sustainability/EN/Code_of_Conduct.pdf (Accessed on 26.08.2019)

⁷⁵ https://group.hugoboss.com/fileadmin/media/pdf/sustainability/EN/Social_Standards_EN.pdf (Accessed on 26.08.2019)



Source: Ekmek Ve Gül - [TEKSİF Hugo Boss protest] Hugo Boss: Show respect to the union rights of workers! Dismissed workers shall be reinstated!

Throughout 2017 and during the first three months of 2018, the enterprise dismissed more than 500 workers who had joined and were involved with the unionisations efforts for the TEKSİF Union. Ergin Yıldız, who had been working for Hugo Boss as a buttonhole machine operator for 14 years, was one of the dismissed workers. He was one of the Union representatives and said he was first transferred to another department from one he worked at for the last 13.5 years, adding that: *“Even though I have a doctor’s report regarding my arm injury, they forced me to work in a department where I am less efficient. I have a report stating that I cannot iron. Even though I wanted to be transferred to my old department, they did not change my post. In the end, they dismissed me due to inefficient performance. I was under surveillance all the time. My friends were in the same situation. They tried to put pressure on us by constantly asking us questions.”*⁷⁶

Workers tried to make their voices heard to the public by starting a demonstration in front of Hugo Boss stores in Izmir. Referring to the State of Emergency, the Governorate of Izmir banned the demonstration in front of the Hugo Boss stores. With the help of the Union, workers then went to Istanbul to start a demonstration in front of the Hugo Boss store in Istinyepark. However, two workers were dismissed here for “damaging the brand’s reputation” while protesting the violation of their right of association. One of these workers, Eda Türk, talked

⁷⁶ <https://www.evrensel.net/haber/376403/hugo-bossta-3-ayda-150-isci-isten-atildi>

about the process:⁷⁷ *“Unlike claimed by the management of Hugo Boss, we never discredited the products. There is also no evidence in this regard. A lot of friends joined this demonstration, but only Zeynel and I were dismissed. We think that this is the because we had participated in the unionisation efforts at the factory. There was already systematic pressure and intimidation. They were messing with us. They used the Istinyepark demonstration as an excuse to dismiss us. Our struggle will continue.”*

⁷⁷ <http://haber.sol.org.tr/emek-sermaye/hugo-boss-sendikali-iscileri-marka-itibarina-zarar-verdikleri-iddiasıyla-isten-atti>

CONCLUSION

As illustrated above, the State of Emergency declared in 2016 has led to a higher level of labour rights violations in Turkey. Even though violations of labour rights did not necessarily start during the State of Emergency, these violations have become more frequent and permanent as a result of it. The State of Emergency, which officially ended, is still de facto in place, especially for workers. Despite criticisms and warnings from international actors and courts’ judgments, there has been no improvement. The report provides examples of widespread labour rights violations: the freedom of association, the right to collective bargaining and strike, the right to peaceful assembly, and more broadly the freedom of speech and assembly in general, which are guaranteed by ILO’s fundamental conventions.

It is clear that the European companies in question do not have the main responsibility for this situation. Instead, it is a result of the official and de facto State of Emergency, decisions of the government and its practices. However, it can be seen that European companies also take advantage of the situation and commit widespread rights violations in Turkey. In their own countries, many European companies have to respect the rights of association, collective bargaining and striking. They have well-developed social dialogue mechanisms and established internal principles in addition to international agreements. These standards are unfortunately adhered to in a limited way by the companies while operating in Turkey, often in violation of the principles of human rights compliance defined by the companies themselves.

The often-used excuse of “acting in accordance with legislation in Turkey” should not be automatically accepted. As illustrated above, even though objections against unions’ competence are legal, in practice they are used as anti-union measures. In his 2013 book examining hundreds of examples from the textile, metal and petrochemical sectors in Turkey, lawyer and Chief Editor of *Çalışma ve Toplum Dergisi* (Work and Society Journal in Turkey), Murat Özveri shows that collective labour agreements are signed in merely 27% of workplaces where unions received a competency certificate. This is despite the fact that decisions in the objection procedure mostly favour unions.⁷⁸ As the average amount of time for the resolution of an employer objection to competency case is 424 days, there is ample time for conditions of unionisation to change or be altered by employers themselves through methods such as dismissals and harassment of union members. This explains why unions are often unable to sign collective labour agreements even though they win these cases.

The aforementioned examples, and the decisions and reports of international organisations and international courts show that the legislation that regulates the right to freedom of association and its implementation in Turkey complies neither with the international legal norms, more foremost with ILO Conventions. Instead of complying with the national framework, which prevents unionisation, European companies should be expected to comply with the norms of organisations such as ILO, which they refer to in their documents of responsibility.

We believe that actors, who want to develop good practices in Turkey, should examine international reports that portray workers’ rights violations in Turkey and take into consideration their warnings, criticisms and suggestions, and the above-mentioned cases. European actors should not embrace this continuous unnamed State of Emergency, which is the main cause of rights violations.

⁷⁸ Özveri, Murat. *Türkiye’de Toplu İş Sözleşmesi Yetki Sistemi ve Sendikasılaştırma (1963-2009)*. [The System of Collective Bargaining Competence in Turkey and de-Unionisation] Ankara University Faculty of Political Sciences Center for Social Policy Research, 2013.

SUMMARY ON THE GENERAL SITUATION OF WORKERS’ RIGHTS AND VIOLATIONS IN THE COVID-19 PANDEMIC

Since the Covid-19 pandemic started to affect Turkey in March 2020, the situation of the workers have worsened and rights violations increased. Undoubtedly, the primary problem area has been the right to work. There is data showing the rate of unemployment has actually increased significantly, though official statistics have yet to demonstrate this fact due to an inadequacy of variables.

The April 2020 Household Labour Force Survey published by the Turkish Statistical Institute (TurkStat) covers the effect of the Covid-19 pandemic in the most intense period (March-April-May 2020). According to TurkStat, the unemployment rate was 12.8 per cent with a 0.2 percentage point decrease. The number of unemployed in Turkey decreased by 427,000 persons in April 2020 compared to the same period last year, numbering 3.77 million. Turkstat data for September 2020 conveys a similar picture, indicating Covid-19 did not significantly affect unemployment rates in Turkey. According to the September 2020 data, unemployment was at 12.7 per cent with a 0.1 percentage decrease, and the number of unemployed people was 4.16 million with a decrease of 550,000 compared to the same period last year.

However, TurkStat data has been met with widespread distrust in the public. The July and December 2020 reports of DiSK-AR, which processes unemployment data with alternative definitions and variables and generating series, put the “Broadly Defined Number of Unemployed” at 9.756 million (28.7 %) in April 2020, and at 9.47 million, (26,4%) in September 2020. This category however does not include the employment losses of the workers who receive short-time working allowance and unpaid leave allowance. To cover the broader effect of Covid-19, DiSK-AR created a category for people



who are not able work (unemployed people + workers who appeared to be employed but not able to work) based on ILO's method.⁷⁹ In April 2020, when lockdown measures were still in place, the number of "Broadly Defined Number of Unemployed and Employment Losses Revised with the Covid-19 Effect" exceeded 17.7 million.⁸⁰ This means that Covid-19 led to at least 10.7 million "equivalent job losses" and unemployed compared to the April 2019.⁸¹

From early June 2020, with the beginning of softened lockdown measures, the rate of employment loss decreased. As a result the "Broadly Defined Number of Unemployed and Employment Losses Revised with the Covid-19 Effect" was calculated to be 14.2 million in June 2020 and 9.93 million in September 2020.^{82, 83}

This steep growth of unemployment weakened the power of workers against widespread rights violations in the workplaces. It suppressed their motivation for seeking their rights collectively, becoming a union member, and demanding effective measures against Covid-19.

The increase in the number of unemployed or out of work, in absolute terms, made compensation in case of lost or reduced income a matter of survival for many of them. The policies developed by the government in this regard in accordance with the social state principle enshrined in the Constitution became vital for them. In

⁷⁹ ILO Monitor: COVID-19 and the world of work. Second edition - https://www.ilo.org/wcmsp5/groups/public/---dgreports/-dcomm/documents/briefingnote/wcms_740877.pdf

⁸⁰ <http://disk.org.tr/2020/07/temmuz-2020-issizlik-ve-istihdam-raporu-turkiye-tarihinin-en-buyuk-issizligi/> (Access: 01.08.2020)

⁸¹ The definition of equivalent employment loss used here is made with reference to the ILO's method of calculating employment loss as a result of Covid-19, by converting the non-working time due to Covid-19 to equivalent full-time employment. Only those seeking job in the last 4 weeks before the reference week of the research is considered unemployed by TurkStat. However, in the Covid-19 lockdown, millions of workers appeared to be employed due to the short-time working allowance and unpaid leave allowance, rather than layoffs. According to the TurkStat's method, workers who receive short-time working allowance and unpaid leave allowance are not considered unemployed because they are not looking for a job. Although 3.5 million workers have received short-time working allowance and 1.8 million workers have received unpaid leave allowance (cash wage support) so far, İŞKUR has not regarded these people as unemployed, even though they were not actually working. (aforementioned DISK-Ar report)

⁸² <http://arastirma.disk.org.tr/wp-content/uploads/2020/10/D%C4%B0SK-AR-Eyl%C3%BCl-2020-%C4%B0%C5%9Fsizlik-ve-%C4%B0stihdam%C4%B1n-G%C3%B6r%C3%BCn%C3%BCm%C3%BC-Raporu-Son.pdf>

⁸³ <http://arastirma.disk.org.tr/wp-content/uploads/2020/12/D%C4%B0SK-AR-2020-Aral%C4%B1k-%C4%B0%C5%9Fsizlik-ve-%C4%B0stihdam%C4%B1n-G%C3%B6r%C3%BCn%C3%BCm%C3%BC-Raporu.pdf>



late March 2020, the government announced a package on the issue.

The social package, containing worker-related regulations, came into force with the Law No. 7226 of 25/03/2020, and Law No. 7244 of 16/04/2020. Law No. 7226 allowed for a partial improvement of conditions due to *short-time working allowance*. This was a mechanism under the Unemployment Insurance Fund, which aimed to compensate loss of income of workers due to a reduction in working time. February 29, 2020 was the determined starting date of "Covid-19" allowance; it was considered a force majeure according to the criteria laid down in the applicable legislation. Short-time working allowance is paid from Unemployment Insurance Funds to the workers, only if the working hours in a work place are decreased by one-third of the ordinary working hours or the business operations of a work place have been wholly or partially suspended for at period of at least 4-weeks due to general economic, sectoral or regional crisis or a force majeure event. This mechanism, first intended to end on June 30, 2020, has been extended till the end of February 2021.

Law No. 7244 introduced the *cash wage support* mechanism for those who could not benefit from short-time working allowance and unemployment allowance. Termination of employment contracts was also prohibited, except for cases falling under Article 25/II of the Labour Law. The Article grants employers rightful termination in cases against morality and bona fide rules (called "prohibition of termination of employment contracts" in the public). Employers were also granted a right to *send workers on unpaid leave*; this was not a part of the legislation beforehand. The practice of sending workers on unpaid leave and providing cash support during this period meant that workers could not claim their compensation rights if they quit and attempted to find a new job. The unpaid leave allowance mechanism, which began in April 2020, extended to the end of March 2021 by the President. Workers who went on unpaid leave had to live on approximately TL 1200 per month (approximately half the net minimum wage of 2020).

At the same time, some periods applied in the collective bargaining procedures under the Law on Trade Unions and Collective Bargaining were extended. In practice, this meant suspension of collective bargaining processes.

According to calculations made by scholar Assoc. Prof. Aziz Çelik based

on the data of the Ministry of Family, Labour and Social Services, in the 4.5-month period from the beginning of the pandemic to the beginning of August 2020, 22.4 billion cash payments were made to 6 million workers and unemployed (İŞKUR allowances for short-time working, unpaid leave [cash wage] and unemployment allowances). Workers, receiving these allowances were paid on average TL 822 monthly, which is one third of the net minimum wage of 2020.⁸⁴

During the 4.5 months of the pandemic, based on pre-pandemic and current amounts, only TL 15-16 billion has been used from the Fund. This demonstrates that it would have been possible to provide greater support with the funds of ISF during the pandemic.

During the pandemic, in addition to those who lost their jobs, those who continued to work also suffered a significant reduction of income. According to a DİSK report⁸⁵, 36% of the workers affiliated to the trade unions participating in the study, suffered from lost wages and reduced income, 40% turned to cheaper food items, and the debt level of more than 25% of the workers increased. The data showed that even union member workers suffered a loss of income and became indebted during the Covid-19 outbreak.⁸⁶

Many workers had to work under conditions that increased their chances of catching Covid-19. Workers in the manufacturing industry were obliged to work for a long time in factories that continued operations under special permits. These continued operation even when curfews were declared as a precaution against the spread of the pandemic. They were consequently exposed to the health and social effects of Covid-19 more than others. A report prepared by DİSK-AR, which contained data from members of affiliated unions, revealed that the concerns of workers about Covid-19 were not

⁸⁴ <https://www.birgun.net/haber/salgin-doneminde-yoksula-ve-isciye-verilen-destek-yeterli-mi-sosyal-koruma-kalkani-gercekleri-310519>

⁸⁵ **WHAT IS THE IMPACT OF COVID-19 ON WORKERS? The Effects of the Outbreak on Working Life According to the Field Study among DİSK Member Worker** <http://disk.org.tr/wp-content/uploads/2020/07/DISK-COVID-19-Alan-Arast%C4%B1rmas%C4%B1-Rapor-8-7-2020.pdf>

⁸⁶ <http://disk.org.tr/wp-content/uploads/2020/07/DISK-COVID-19-Alan-Arast%C4%B1rmas%C4%B1-Rapor-8-7-2020.pdf>



Source: DİSK Tekstil
İşçileri Sendikası

unfounded.⁸⁷ According to the report, the rate of Covid-19 positive cases among workers who are members of DİSK is 3.2 times higher than the rate of the total cases in Turkey, with DİSK members at 4.1 per thousand compared with 1.3 per thousand in the general population of Turkey.⁸⁸

Mehmet Türkmen, Gaziantep representative of the Textile Union affiliated to DİSK, was detained for his social media posts on the pandemic that spread to the factories in the city. Türkmen, who announced that workers were forced to work in factories despite the pandemic, was targeted on a local news site, and was accused of being a provocateur. On April 3, 2020, Turkmen was taken from his home into custody at the Gaziantep Provincial Security Directorate on the charges of "inciting or humiliating the public to hatred and hatred," following a report made to the police. After giving his statement at the prosecutor's office, he was released. However, the factory, which was mentioned in social media posts, stopped production for 15 days upon the protests of the workers. Following Mehmet Türkmen's statements, about 10 factories in the region stopped production and sent their workers on paid leave.⁸⁹

A Closed System Working Method was implemented between July 27 and August 9, 2020 at the Dardanel Fish Processing Factory in Çanakkale. This

⁸⁷ <http://disk.org.tr/2020/04/covid-19-disk-raporunun-ucuncusu-yayinlandi/>

⁸⁸ <http://disk.org.tr/2020/04/covid-19-disk-raporunun-ucuncusu-yayinlandi/>

⁸⁹ <https://www.sessizkalma.org/defender/mehmet-turkmen/>

was done after a decision of the Provincial Sanitation Board, and meant the introduction of a forced labour system that was not included in the labour legislation, causing serious reactions. In the workplace where some workers tested positive, the quarantine practice was implemented by continuing to work in the form of a closed camp, instead of sending workers on leave.⁹⁰ According to the information received from the workers, nearly 40 positive cases were found in three departments within the factory, where more than 1,000 workers work. Despite this, workers were not tested. The workers, who were said to be placed in dormitories, stated: "We will stay in the dormitories at night for 14 days, and continue to work during the day. There are many factories in similar situation in Biga, but they do not want media exposure. Workers cannot speak out for fear of losing their jobs."

The Covid-19 outbreak also resulted in a further consolidation of the de facto State of Emergency. There were even further restrictions on the possibility of the workers and unions to demand their rights. The events of April 30 and May 1, 2020, constitute the most striking example of this situation. Based on Covid-19 measures and restrictions, police intervened in press conference demands and attempts of many unions, trade associations and political parties in several cities such as Istanbul, Ankara and Izmir.

Following the most intense period of Covid-19 (March - May 2020), a new period of "Controlled Social Life" as it was called by the Ministry of Health began in Turkey. From early June to November 2020 lockdowns on the weekends, closures of public institutions and places like restaurants, cafes and bars were eased. In this period however, it turned out that the Health Ministry made public only the relatively small number of Covid-19 patients with symptoms, instead of all positive cases.⁹¹ As a result, and despite warnings by some NGO's, the impression was given that the pandemic was under control, and managed well. However, when figures covering all positive cases started to be released at the end of November 2020, Turkey moved to the top of the list for new daily cases in Europe, showing the extent of how harshly Turkey had been effected by Covid-19.

⁹⁰ <https://www.evrensel.net/haber/410345/pozitif-vaka-cikan-dardanelde-k-r-oncelikli-onlem-bantta-karantina>

⁹¹ <https://www.evrensel.net/haber/419693/fahrettin-koca-uzun-zaman-sonra-gunluk-vaka-sayisini-acikladi-28-bin-351>



Source: DISK - [2020 - Closed System Working protest in Çanakkale] "This workplace is detrimental to the workers and health"

No doubt, health workers bear the heaviest burden during the pandemic period, with few others. Highlighting the importance of transparency for the sake of public health, the Turkish

Medical Association (TTB) has repeatedly requested the systematic sharing of data of positive healthcare workers (with current details of city, province, organisation, occupation, and sex). However, officials have failed to share almost any data about the infected healthcare workers, except for a few cases.

The fact that Covid-19 is not accepted as an occupational disease for healthcare professionals is another important problem that causes intense reactions in public opinion, despite the studies showing the risk of infection is much higher for healthcare workers than for others^{92, 93} In addition, for the



Source: Turkish Medical Association - [Protest of TMC on Covid-19 management] - We are dying out as you fail to manage!

⁹² Nguyen LH, Drew DA, Graham MS, et al. Risk of COVID-19 among front-line health-care workers and the general community: a prospective cohort study. *Lancet Public Health* 2020; 5: e475-83

⁹³ <https://www.evrensel.net/haber/413519/turk-toraks-dernegi-saglik-calisanlari-duzenli-tarama-kapsamina-alinmali>



Source: Turkish Medical Association - [2020 - Support demo to Prof. Dr. Kayihan Pala]

vast majority of healthcare professionals, no regular testing mechanisms have been implemented. As of 6 January 2021, 334 health workers have died from Covid-19 since the beginning of pandemic, according to the data collected by TTB.⁹⁴ Meanwhile, over 120,000 health workers have been infected by Covid-19 till the December of 2020, according to the official statement of Ministry of Health.⁹⁵ TTB constantly points out inconsistencies in the data shared with public and demands full transparency on the management of Covid-19.⁹⁶

Working hours and workloads of employees working in units with Covid-19 patients have regularly reached the point that exceeds their capacity. The need to regulate working conditions in a way to protect their physical and mental health is one of the important demands recently voiced in a joint declaration by Turkish Medical Association and other relevant organisations. For example, according to the information provided by Turkish Medical Association 59% of Family Health Centres— the first step of health system and most commonly used one— the workers have no opportunity for unpaid leave even if they are pregnant, breastfeeding or have chronic diseases.

Healthcare professionals trying to inform the public about the pandemic have also faced various forms of pressures. On April 21, 2020, the Bursa Governorship Administrative Board filed a criminal complaint against Prof. Dr. Kayihan Pala, who works as a Public Health specialist at Bursa Uludağ

⁹⁴ <https://www.siyahkurdele.com>

⁹⁵ <https://www.evrensel.net/haber/420735/fahrettin-koca-acikladi-kovid-19a-yakalanan-saglik-calisanlari-sayisi-120-bini-gecti>

⁹⁶ <https://www.cumhuriyet.com.tr/haber/ttbden-gercek-vaka-sayisi-aciklamasi-1797971>

University. He was charged due to an interview he gave to a local internet news site about the Covid-19 outbreak. The complaint of “misinforming the public and causing panic” was sent to the university administration after the Prosecutor’s Office made a decision of non-jurisdiction. Although the investigation committee formed at the university found Pala not guilty by stating that he used his constitutional right, this case and other similar ones prevented doctors from making statements about the pandemic.

Dr. Osman Sağlam, Co-chair of Mardin Medical Chamber and Dr. Özgür Deniz Değer, President of Van-Hakkari Medical Chamber were summoned to give statements in March 2020 regarding the interviews on the impact of the Covid-19 pandemic on public health and the provinces for which they are responsible. In their interviews, both of them pointed out the inadequacies of epidemic management and the amendments which should be made for an effective combat against Covid-19. The accusation brought against them is “causing fear and panic among the public”. On the other hand TTB’s requests that Medical Chamber representatives would be included in the Covid-19 Pandemic Provincial Coordination Committees and Provincial Public Health Councils remained unanswered.⁹⁷

⁹⁷ <https://www.sessizkalma.org/defender/van-hakkari-ve-mardin-tabip-odasi-baskanlari/>

INTERVIEW SUMMARIES

Below are the summaries of comprehensive interviews we conducted with workers who have faced rights violations in the cases mentioned in the report, and specialists from their unions. We hope that these summaries will provide further insight into the cases discussed in the report.

DİSK- BMİS, Eyüp Özer (July 17, 2019)

Eyüp Özer: has been working as BMİS’s International Relations Service specialist for 7 years. He represented the Union in numerous unionisation processes at various foreign companies, in international contacts on these issues and applications.



Almost all the companies in our sector of activity where we have unionisation efforts are either European or a supplier of a European firm. Most of their approaches are not very different from their domestic companies. This is in part due to the structure of our sector of activity. This is because, especially in the automotive sector, Türk-Metal Union is the union that is organised in large workplaces and employers are hesitant to allow other unions to organise at their workplaces out of fear that production will drop. Most of the time, when violations occur as a result of preventing unionisation efforts, framework agreements or company declarations, etc. signed or declared by companies are not functional. Even global unions treat Turkey as a special case and do not want to break their relationship with global companies. There is hardly a single company that does not dispute unions' competence for collective labour agreements. They usually work with a Turkish lawyer and lawyers tell them that "it is their right to do so." The only example that I can think of where the company did not object to the Union's competence is the case of an Austrian company called Voestalpine High Performance Metal A.Ş, where the Union started to organise two years ago in Gebze. Later, a collective agreement was signed with this company. There are even examples such as Schneider Electric, which systematically opposes unionisation efforts at its newly-bought Günsan workplace, even though BMİS is organised in its remaining four workplaces. Considering that the same company is the founder of the Electromechanical Employers' Union (EMIS), it is rather interesting that it claimed to be in the plastic industry instead of the metal industry.

Objections to union competence are used as a bargaining tool. The objection procedure last for take years. The employer expects the union to accept a weaker agreement in exchange of withdrawing its objection to the union's competence. We also struggle in explaining international organisations that unionisation is prevented through objections to the Union's competence. For example, during an OECD application a few years ago, following several correspondences, the issue remained unresolved. In our Diam application, even though the French Trade Advisor got involved, there was no solution because the company could not be persuaded. Here, the important issue is that there is no collective bargaining at an industry level in Turkey. As a result, the company where the Union is organised sees itself at a huge disadvantage against other companies that do not have unions and agreements, and the company thinks that it faces a serious cost increase. When its opponents do not have such issues, it makes the

company aggressive towards unionisation. That is why, for example, they may even consider paying high compensations as a result of dismissals [instead of unionizing].

There would be no serious rights violations after the Union receives the competence certificate and the workplace adopts the new structure set out by collective agreements despite all obstacles, but this is partially because unions are forced to make compromises during unionisation efforts. Most of these companies have European Work Councils.⁹⁸ We can only participate in these meetings as observers. But in some cases, these Councils contribute to our unionisation efforts. The fact that employment relations in Turkey have very complicated, unique methods also makes our job difficult. Most of the time, we have difficulties explaining this complex system to our foreign interlocutors.

Posco produces automotive steel and is an important supplier of Volkswagen, Mercedes, Renault, etc. The Netherlands' and the Swiss Pension Funds (Nordea Bank) are also among its stakeholders. Therefore, even though it is a South Korean firm, it is an example worth mentioning within the European context. During unionisation attempts at Posco, around 90 workers were dismissed and their severance pay lawsuits are still ongoing.

When there are dismissals because of unionisation efforts and prolonged lawsuits because of competence disputes, workers cannot exercise their right to collective bargaining, even if the union receives the competence for collective bargaining in the end because they are no longer working for the workplace (either because they have been dismissed or forced to resign).

The State of Emergency did not have a very unique effect on unionisation efforts. We always experience difficulties and restrictions. But, for example, before the State of Emergency (February-March 2016), political interventions into the Renault unionisation process were stemmed from the highest levels and our Union was removed from the workplace.

⁹⁸ The purpose of a European Works Council (EWC) is to bring together employee representatives from different European countries where multinational companies have operations. During EWC meetings, these representatives are informed and consulted by central management on transnational issues of concern to the company's employees. Directive 94/45/EC – governing the establishment of such EWCs – is applicable to transnational undertakings and groups of undertakings employing in total more than 1000 employees in the EEA, and at least 150 of them in two member states.

Günsan Worker Özkan Bulkurcuoğlu, DİSK-BMİS member (July 31, 2019)

Özkan Bulkurcuoğlu: 36 years old, father of two. Electronics technician. He worked at the Quality Department of Günsan's workplace bought by Schneider Electric company for 6,5 years and was dismissed because he led unionisation efforts. Still a member of the same union, he now works at another workplace where the union is organised.

The new management told us "We bought this [the firm] but there will certainly be no dismissals." Schneider arrived but only the sign changed. They did not even change their name. It remained Günsan. Only our employer changed. But we saw no improvements in social rights, there was no mention of premiums. On the contrary, with the previous owner, we had 2 leave days per month when we got sick and they did not cut our salary for using them. When Schneider arrived, they told us "when you get sick and get a doctor's note, we won't cover you and will cut [your leave from] your salary." Inspections became more frequent. Some departments have been very warm, the Injection Department... They requested a cooling mechanism, but their demands were not met. It was the same method with salaries: those with acquaintances in the company got better raises etc. That is why workers decided to unionise.

With great difficulty, we managed to convince our friends to join the Union and conducted our activities in secret. On the day we were about to apply for the competency certificate, I was somewhere else due to an order and received an urgent call from my manager, calling me to the factory. I was told to go to the Human Resources Department. When I went there, I found out that six people, including me, who had been leading the unionisation efforts, had been dismissed. We were dismissed without severance pay on grounds of displaying "discomfort in the workplace, disruption the workplace" as per Article 26(2) of the Labour Law. Without allowing us to say goodbye to our friends, they brought two of our friends to the changing room and then escorted them outside the factory with the help of security guards. Then, we consulted each other, ran inside and informed our friends about the developments. Suddenly, the machines were shut down. Then, people gathered. Slogans were chanted. That night, we did not leave the factory until midnight. Meanwhile, they tried to persuade us by saying: "sign these papers and leave." Union police arrived and said, "you are engaging in an unlawful protest, you can be union members but your union does not have the competency

certificate, you have to comply with the employer here, you cannot walk off your jobs." We ended the protest at midnight.

The next morning, when we went to work, union managers also joined us and our 40-day protest begun. In cold weather, we put up fire and resisted in front of the workplace. Nobody interfered while we waited. This was during the State of Emergency period but since we only occasionally shouted slogans, and were not inside the factory but on the sidewalk in front of the factory, nobody interfered. Meanwhile, there were no new dismissals, but we heard that persuasion rooms were set up inside the workplace. They especially tried to persuade female workers to share their e-government passwords.⁹⁹ Those inside were told to stop organising and that the Union works together with a terrorist organisation. Therefore, our friends with strong nationalist sentiments were being told: "you should leave these PKK [Kurdistan Workers' Party] members, those are all terrorists." That is why, an investigation was launched against a manager, but then it was dropped. Some workers were affected by the propaganda.

During these events, not a single representative came to see us. Stefanus Audrey, the French CEO of the company, parked his car inside, not even saying hello while passing us, even though he knew we were dismissed unfairly, without justification and compensation. In the end, we had to stop our protest due to our difficulties in making a living for ourselves. With the help of the Union, I started to work in another workplace where this Union is organised. Most of the others resigned from the Union out of fear. Around 30 of them were dismissed at some point, one way or another. We filed lawsuits to claim our severance pays and for reinstatement. The employer filed another lawsuit for disturbing peace at the workplace. But they could not find anyone who would testify against us. The proceedings were held before the 9th Labour Court. The Court ruled on our reinstatement but did not order for a union compensation. Their reasoning was "they fired you, but why did they not fire more workers? Why did they stop?" Both sides went to the regional court. One year later, their cases were rejected. And our request to be reinstated to our jobs and union compensation were accepted. Approximately one month ago, we received our compensations.

⁹⁹ Current practice requires workers to use their e-government passwords, which are for personal use only, to join a union. There are frequent cases of workers, who were forced to share these secret passwords, to check their [union] status in the system.

After what we went through, we no longer maintained the assumption that “European employers provide better social rights.” They establish business enterprises here because of cheap labour. They also have certain guarantees from the government such as tax exemptions, and they receive deductions in electricity and water costs, etc.

DIAM Worker Sevda Toprak, DİSK-BMİS member (July 31, 2019)

Sevda Toprak: a 24-year-old female worker. She currently works at an enterprise where BMİS is organised. Before, between 2012 and 2017, she worked as a quality supervisor at Diam. She was fired from this position during unionisation efforts.

Working overtime at Diam occurred frequently. Our salaries were paid regularly but the real problem was their behaviour towards us. Regardless of being male or female, managers were cursing at us. During the month of Ramadan, people, who were fasting for long hours, were doing overtime and wanted to go home. I witnessed a manager cursing at the workers when one asked the manager “Do you have no conscience?” Eventually, in April 2017, together with our friends, we decided to unionise against such behaviour. Workers were mostly women. We started to meet with everyone and register them as members. I was in the committee conducting the process. Then, the employer found out. One day, we were working overtime again, and our director arrived and wrote down the names of those who would work overtime. I said “me,” and the director said, “there is no need.” Then, five minutes before the end of the shift, they asked me to go to the human resources [department]. I went up, four other friends were there. These were all people I met throughout the process. We realised that something was clearly wrong. They gave us notices of termination, and said: “you’re going to sign these.” Human resources finance manager, CEO, floor managers, etc. We asked for the justification and they told us “we do not want to work with you.” We had to leave but in the following days, we continued to gather in front of the workplace. Some of our friends joined the Union after witnessing the situation. Protests, such as slowing down work inside, were held.

Managers were acting provocatively in the face of protests. They recorded the events on their phones, yelled at us, etc. Eventually, we decided to organise



a protest in front of the workplace with the support of workers from other enterprises. Nearby, there was an enterprise where our union was organised. The employer, who had heard that we would hold a protest with others who would come from the nearby enterprises, locked our friends in the factory during their break time. Some people were locked in the cafeteria. Some people jumped out of windows from the second floor. They showed this kind of inhumane behaviour on the first day we went there. Afterwards, they also dismissed our friends who joined us while we were waiting in front of the factory. Our protest continued for around one month. The employer contacted a famous labour law specialist to act as a mediator. Through him, they told us to end the strike and that what is necessary will be done. But they did not keep their promise. Even the specialist left the job saying that this damaged his reputation.

During the last nine days, workers stopped working and around 100 friends were dismissed. The factory was surrounded by razor-wire, they hired security guards and the police parked a water cannon vehicle in front of the door. The protest that consisted of halting work started after a petition was sent to request competence to complete collective agreements. However, following the mass dismissal of those who remained inside, we had to stop the protest, which had continued for 10 days, due to financial reasons. The employer hired new workers through İşkur. The entire management of the factory changed. The lawsuits we filed to be reinstated and to be compensated have been going on for two years. They [the cases] are now at the regional court. They contacted our co-workers to testify against us at court. All of them, except for our supervisor, told the truth and did not give false testimonies.

The company had a French CEO while we were employed there. We saw him once or twice a year. But he did not show a positive attitude during the events. The workplace did not have an atmosphere of open dialogue even though it was a European company. On the contrary, even though it was illegal and incorrect, a sign was posted on the wall that read “unions cannot recruit members in workplaces that have less than 250 workers.” [This happened] exactly at the time when we were striving to attain the necessary majority to apply for competency to enter agreements. Meanwhile, we also contacted other companies or branches of the company in other countries, such as England, but we did not achieve any results.

DİSK- Devrimci Yapı-İş Union, Özgür Karabulut (August 4, 2019)

Özgür Karabulut: He has been a manager since 2015, and president since 2017 at Dev Yapı-İş—a union in the construction sector that has a small number of members, but strives to perform effective efforts. 20 days after the 3rd (Istanbul) Airport protest held in September 2018, he was taken into custody on charges of provocation and was later arrested. He was detained between October 5 and December 5, 2018.

The 3rd Airport has been a construction site known for the ecological destruction it has caused and work accidents that occurred since 2013. As Dev Yapı-İş, we have been there since 2015. We tried to unionise workers or interfere in rights violations; we had new members. This has always been a construction site with high production pressure and high turnover. At one point, it became an employment area where almost all of our friends worked for some time and then left once they found a better job. There were hundreds of subcontractors. According to our investigations, their numbers reached up to 700. Of course it was very difficult to organise workers in such a messy picture. Even though it was only on paper, a union (refers to Yol-İş Union) was organised at the main company and it lead a collective agreement. Yet, except these couple of thousands of workers, ten thousand subcontracted workers were not union members. Therefore, even though we did not have the competence to carry out collective agreements as a union, we addressed these workers' problems, ensured that they received their unpaid wages, etc.

Time after time, there were protests related to unpaid wages and food, especially before national/religious holidays and vacations. In 2018, three large protests took place at the site. The one held in February 2018 was against the pressure to complete work rapidly. These protests, which were usually attended by 2 to 3 thousand workers, generally resulted in workers' demands being met and the dismissal of those who had been leading the protest. Yet, the one held in September 2018 was different. This time, the course of the protest changed due to the presence of İnşaat-İş specialists at the site and our fast reaction to the protest. This was a protest with much publicity. Actually, İGA,¹⁰⁰ which undertook

¹⁰⁰ İGA: it is a consortium that was established on October 7, 2013 to construct and operate the Istanbul Airport for 25 years. Its co-founders are Kalyon, Cengiz, Mapa, Limak, Kolin (which later withdrew from the consortium), which are among construction companies that have mostly been grown by winning public tenders since the 2000s. These companies are

the construction, also used it to its advantage. We were already saying that it [the construction] would not be complete by October 29. The protest was their excuse. Indeed, they were able to postpone the opening date twice after that.

Following the protest, the anticipated performance was not met. They called in the gendarmerie to supervise the workers. After the protest, around 3000 workers were taken into custody, 600 of them were taken to police stations, and the remaining were kept at the construction site. The custody period was extremely brutal and did not comply with existing law. Many workers were unofficially taken into custody. Extraordinary measures were taken. But productivity was very low now. New workers who were recruited after the protests struggled adapting etc. Of what we know, around 3000 workers packed their stuff and left the site, seeing that working conditions were unbearable here. One of the reasons this protest was criminalised to this extent by the public was the high number of young Kurdish workers among the workers. We observed that there was a possibility of dialogue, but people had a stronger reaction once the gendarmerie was called in. It was also our failure that no real results were achieved despite strong public support.

Before this protest, we did not have direct contact with the main employer İGA. They did not deal with us because we were criminalised. Moreover, we were always confronted with Yol-İş—the Union that entered a collective agreement with them. Our main dispute was the union's lack of concern for the problems of subcontractor workers and acceptance of the employer's boundaries as absolute. Yol-İş is not a grassroots union. It is dependent and formed as a result of relations with the employer. We cannot ignore its victories for the industry, but this was its position concerning the airport.

İnşaat-İş, which is a small union like ours, also called upon the company, but the demands were also unreciprocated. But I should also add that even though İGA did not address us directly, it met the demands of the subcontractor workers to avoid problems, and even sometimes warned the subcontractor company and ended its contract. The demands that were voiced during the large protest in September were quite archaic. Normally, the state should have stepped in much earlier as a result of frequent inspections. These [conditions] are all stated

known for their close ties with the current government.

in articles of labour legislation etc. Even those rules were not followed. İGA management already accepted that the demands were right, but did not find the protests legitimate. İGA was almost part of the state. During the protest, we also saw that security forces acted as if they were İGA's private security.

There have been some partial improvements since the protests. But no investigations were conducted and no sanctions were imposed for issues that range from unpaid insurance premiums to lack of measures to ensure workers' health and safety. In lawsuits filed against us, they had no evidence or witness that would prove/testify that we had been provocative. What is interesting is that in the beginning, the İGA management conducted official negotiations with us, but once we decided to continue with the protest, the situation changed. Following the protest, social media posts were used to dismiss a large number of workers. At the same time, there were many workers who decided to resign out of fear of being taken into custody.

I was arrested for two months based on accusations such as violating of the freedom to work, harming public property, participating in a demonstration with an unarmed weapon, property violation, disobeying the Law on Demonstrations and Assemblies. I was released as a result of high public support. The case is currently ongoing.

If we want to we talk about foreign companies in our sector, the situation is as follows: Maybe they have international labour agreements and they comply with these there [in their home countries], but they comply with the employment regime of their host country. They see this as an opportunity. For example, 11 workers burned to death at the Marmara Park AVM shopping mall.¹⁰¹ Maybe

¹⁰¹ 11 workers burned to death in a fire on March 11, 2012 at the Marmara Park Shopping Mall construction site. The investors of the project worth EUR 220 million were the investment fund DWS owned by the Deutsche Bank and ECE/Otto Group with each having a 50% share. ECE Turkey was founded by the German ECE Group in 2000. They work in the development, planning, construction, renting, management and financing of large scale mall investment projects. They manage large malls such as Metrocity, Beylikdüzü Migros AVM, CarrefourSA Maltepe Park in Istanbul; ANKA mall in Ankara, Antalya Migros AVM and Terracity AVM in Antalya, EM in Eskişehir and CarrefourSA Karşıyaka AVM in Izmir. The company opened the doors of Marmara Park located in Esenyurt/Beylikdüzü region of Istanbul with a 100 sqm rentable space to the public in October 2012.

The fire of Marmara Park construction site became a symbol of the results of severe work safety negligence. The related legal cases are still ongoing. In these cases, the persons responsible in the contractor domestic firms of the German company and for the construction stand trial. The Workers' Families Seeking Justice Platform, composed of the families of the workers who lost their lives and legal experts, tries to keep the issue alive in the public.

(<http://iscinayetleriniunutma.org/11-iscinin-yanarak-can-verdigi-bir-olayda-yakinlarinin-karsisina-cikma-cesaretleri-yok/>).

this is not possible in other countries in the world and only seen in 3rd world countries. But the owners of the company were from Germany. Let's look at Qatar or Iraq or Afghanistan. All of the companies that have construction projects in these countries are international; they are either from the US, Germany or the Netherlands etc. They may be complying with labour laws in their own countries, working conditions may be better there, but if there are no laws in the countries they go to, or if laws merely remain on paper, they can be more daring.

3rd (Istanbul) Airport Construction Worker, Osman Üney, member of DİSK-Devrimci Yapı-İş Union (August 4, 2019)

Osman Üney: 21 years old, works as an electrician at constructions. He has been working in construction for the last 3 years. He worked at subcontractor companies at the İstanbul Airport construction since 2018. He was taken into custody after the September 2018 protest and was later released on judicial control. During the protest, he was not a member of a trade union. He later became a member of Dev-Yapı İş. His trial is ongoing.

In February 2018, I was employed by a firm that worked on the Airport construction site. After completing two months, I argued with an engineer and my employment ended. Three months later, I went back to the Airport and continued working there until September 14, 2018. I worked at a subcontractor company of a subcontractor company for eight months. I was responsible for electrical construction on floor E of the TB1 terminal region. As subcontractor, you are under extra pressure. As the subcontractor of a subcontractor, you are under even more pressure. For example, they pressure you to finish a job that otherwise cannot be completed in two days. They usually do this by threatening you, saying: "if you do not deliver the job, your contract will be cancelled." When a contract gets cancelled, we lose our job. So you ignore job safety and only care about earning your living; you work quickly, you panic.

I was staying at the Akpınar camp in room 35 of dormitory C-6. Four people shared a room in the prefabricated structure. The conditions were very bad. Insects were roaming around in the room. 300 people stayed in the prefabricated building and it got cleaned only once a day. For example, if we left in the morning, they cleaned it after we left and when we arrived in the evening, the rooms would get dirty within just an hour. Because 300 people were walking around. They were



using the showers, the sinks. It got dirty again but we could not do the cleaning. We filed several petitions to the camp directorate on the issue of insects, but they never came to take any measures. The cafeterias were not clean either. For example, we would wake up at 6.30, would get dressed and wash up, would go to have breakfast and would wait there 15-20 minutes to have breakfast. After breakfast, we would wait again. This time we would wait in line for 20 minutes, waiting for the shuttles. It took 15 minutes to arrive at the site. Upon our arrival, we would walk for 15 to 20 minutes to go to our work locations, where we would have to sign in. We would be there at 08.00, and would work until noon without taking any breaks. Normally we had the right to take a break at 10.00, but they did not give us this right. We would go for lunch at noon. We would have a 1-hour lunch break, but we would spend 30 minutes of it waiting. Pictures of this were posted on social media anyway. It was clear that the queues were horrible. By the time you waited in line, ate lunch and walked back, one hour would be over. So you do not have time to rest. You spend your right to rest on waiting in lines. They were making us work until 18.00 and it was mandatory to overwork one hour; you are going to work whether you want to or not. If you want to stop at 17.00, you cannot, because there is nowhere to go. In order to leave, you would have to take the shuttle, which would leave at 18.00, not earlier. So you stop working at 18.00, but if they made you do [additional] mandatory overtime, you worked until 21.00 to 22.00. So you would go back to the dormitory at 21.00-22.00.

They did not transfer our full salary to our bank accounts. They did not pay all of it so they could pay lower social security premiums. They paid the minimum wage on the 15th of the month, which was around 2000 TL. Then they transferred the overtime payments after the 15th. We always had payments that were transferred to the next month. The subcontractor did not pay. It had an irregular payment system. They paid us when it suited them.

Very serious work accidents were taking place. Once, I waited for an ambulance for 23 minutes, holding a friend in my arms who had fallen from a height of five meters. His jaw was shattered, his arm was broken, a couple of rib bones were injured. His teeth were broken, there was blood in his mouth. We had friends who worked at a height of 30 meters. They walked on 30 to 40 cm thick steel on the ceiling floor. A friend asked the occupational safety specialist to “either construct a catwalk or give us a lifeline to tie ourselves. We work at these heights, and there is only a belt but this won’t hold us. We fasten it on our heads, it slides forward



and falls off, thus pulls us with it and increases the risk of accidents.” When he said that, the specialist answered “we informed management about this, but they don’t do it because the costs are too high.” I realized that they were constantly profit-driven. When you do not provide the worker a lifeline, if there are no anchorage points, if there is nowhere to tie himself to, it would be foolish for him to wear a safety harness. How would they tie themselves up? There is no reason to carry it around as a prop because it creates additional weight. The robes may get in the way and throw the worker down or may cause him to lose his balance and increase the risk of accidents. If I ask you to construct a catwalk or give a lifeline, and you avoid the costs, why should I wear a safety harness? Giving me a safety harness is pointless in this case.

Before the September 14 protest, we stopped working on September 5. We said “our bosses should meet us, we should talk. We have a problem. Our salaries are always deferred to the next month. This won’t work anymore. We have needs.” We had just returned back from [eid] holidays and were penniless. I borrowed money to travel back to work. If I had not borrowed money, I would not have been able to return. That is when we called our bosses and the foremen came. The foremen told us to return to work and that “you’re going to be paid in a couple of days.” So we said, “if the boss does not deal with us, then we won’t care about his rights either, we won’t go there, we won’t work.” So we stopped working and that evening they paid all our money. If we had listened to the foremen, the payment would have stalled for another couple of days. There was irregularity. Representatives was not giving time to us to spoke.

It was not really possible to see the IGA representatives. However, one day, during Ramadan, the CEO Kadir Samsunlu came in and had dinner with us. That day, we left work and were going to have iftar [dinner during Ramadan]. I arrived in the cafeteria, it was shining, they even scrubbed between the tiles because he was going to come.

In the evening of September 13, it was just before the end of the shift, a cable was left on the floor. I had a couple of minutes to catch the 22.00 shuttle, otherwise, I would have taken the 23.00 shuttle. If this cable remained on the floor... There was a problem on floor F. Kadir Bey arrived. In the beginning of September, he told us “I will be sitting in my office by the end of this month, so finish this floor.” The floor was newly being constructed. It only had a [structural] frame. Tile installers,

electricians, drywall finishers, painters, all entered the floor at the same time. If I would have left the cable there, it would be gone by the next morning, it would be trash, I would have to open a new one. So I was rushing and placed the ladder clumsily. It slid away [from under me], I was hanging in the air and my friend came and helped me down. My shoulders hurt badly. I was planning on going to the hospital the next day and would not work. I did not leave my room that [the next] day and slept until 09.00 in the dormitory. At 09.00, my friend Mehmet, who would later stand trial with me, came to the ward. We stayed in the same room. He woke me up. He said, "wake up, there is a protest." I joined the protest. I saw that a Gendarmerie Commander was there, talking to workers and trying to calm them down, telling them things like "Don't do it. What you're doing is unlawful, you'll all get into trouble, just leave." In that moment, me and some friends reacted. We said "You should leave. Do you provide us bread? Do you give us jobs or food? Why are here, talking to us? Who are you?" Then we entered the cinema hall with colleagues. There, we talked about our problems for a while and voiced our demands. Our unionist friends were also there, they took notes.

Then we went to the dormitory and toured around to call other friends to join us. We toured the camp with slogans. Meanwhile, I left the group and decided to go to my room to change my clothes because I had left in my pyjamas. Then, I went to the protest area and saw a crowd of workers. That is where I joined the resistance. I stayed at the resistance until 01.00. I was a little tired, so I went back to the dormitory to rest and stayed there until 17.00. I woke up and went to the cafeteria. Nothing had changed, it was the same food. I rested in the dormitory for a long time. We received a call at around 22.00 and were told we would be taken into custody tonight. They started the operation around 02.00. They also took our unionist friends into custody. They are standing trial with us. In the morning, I went to the protest area and saw that the gendarmerie formed a thick wall around the workers. We were walking to work under the shadow of guns. We went to the cafeteria. Again, the gendarmerie was there. We walked down the stairs, the gendarmerie was everywhere. They stopped the busses and checked our IDs. We arrived at the workplace. Again, the gendarmerie was there. That day, we worked until 22.30-23.00 under the shadow of guns. We were called at 23.00 and were called into the office. We went to the office and were told that "a custody decision has been issued for you." We were actually only called to testify, but they tricked us saying that we would be taken into custody. We, four people, went to the gendarmerie station. I did not have my phone with me because I thought they would seize it and would not

give it back to me for months. I did not take my phone with me and they asked me where my phone was. I said: "it's in the car." They said, "Wherever it is, you find it and bring it here." I said fine and brought the phone. He opened the phone, searched my WhatsApp, my social media accounts and gallery. Then he took my phone and started asking "Do you know this and that person? Who is this?" at the gendarmerie station inside the camp.

Then a quick custody decision was issued and we were brought to a police station in Arnavutköy. There, we, 20 people, stayed in a two-person cell for hours until our statements were taken. From there, we were transferred to the gendarmerie station in Maslak. They took our fingertips, written statements, etc. But throughout this entire process we did not have a chance to see lawyers. Later on, lawyers from the Progressive Lawyers Association (Çağdaş Hukukçular Derneği), who were there completely by chance, helped us. We were escorted by a large group of gendarmerie to a court at the Gaziosmanpaşa Courthouse. We faced a judge towards the morning and I was released on judicial control.

Apparently I participated in an unauthorised assembly, I resisted against a gendarmerie and prevented him from completing his tasks, I prevented his right to work, I damaged public property and Cengiz's property (he refers to the construction company that is part of the consortium).

They released us, but my arrest continued in another way. I went to my hometown Batman, but it was like I was in prison. The only advantage was that I was outside, at my home, but I did not have any other advantages. Because I had to go to the police station every other day to give my signature. By the way, I should also add that when I was released from custody, I went back to the camp and found out that I was dismissed without compensation. I filed a reinstatement lawsuit against IGA, IGA's subcontractor EHA, and EHA's subcontractor Akar. I filed it against three companies. IGA said "we're a consortium of five companies, so you have to file individual lawsuits against all five of us." There were extra expenses but we filed lawsuits against all five of them, and they are still ongoing.

It is not true that the protest was provocative. The protest started while people were waiting in line for the busses. You're waiting in the rain and have 300 people in front of you. 4 busses are to leave until it is your turn. A bus departs every ten minutes and you are panicking about making it to work on time. Eventually workers

burst with anger and said “enough is enough. We’re also human. What is this that we are experiencing?” Moreover, this was not the first protest. There had been other small and large protests before. [Back then] They suppressed the workers immediately and fired them.

Türk-İş – Petrol-İş Union, Rıza Köse (July 29, 2019)

Rıza Köse: has been a Petrol-İş Union International Relations Services Specialist since 2005. On behalf of the Union, he took part in unionisation efforts at many foreign investment enterprises, and was part of international contact and applications. At the same time, he conducts these efforts in collaboration with the global union IndustriAll.

The number of foreign investment workplaces where Petrol-İş is organised is increasing. Our Union has valuable experience in such enterprises. These enterprises have different approaches toward union rights. In most of the cases that I observed, at first sight it appears as if European headquarters have a positive attitude towards union rights, whereas the local management does not. But once you dig deeper, you witness that they are acting in some form of “collusion.” In recent cases such as Recticel, Flormar (Yves Rocher) etc., we saw that local management frequently used methods such as competence disputes, etc. to prevent unionisation efforts, but when we contacted the European headquarter, we saw that they allow this and do not interfere. For example, in the Recticel case, during our contact with the head office in Europe, we realised that they were pretty familiar with unionisation procedures and processes in Turkey.

When our efforts achieve results with regards to the recognition of union rights from European headquarters, it is not because these companies respect these rights. It is because they signed binding international agreements and documents, or because they do not want to risk losing prestige. European companies’ compliance with documents of responsibility or global framework agreements is a result of balance of power. For example, in the Flormar case, we learned that Yves Rocher had signed a global agreement on workers’ rights, but our French colleagues informed us that the company did not renew this agreement. A company that feels strong can abandon such things. The ability to achieve respect for union rights through mechanisms set up by framework agreements, code of conducts, the Global Compact or European Business Councils while carrying out

unionisation efforts in European countries depends on whether there are strong unions and/or Business Council in the home country, and whether they have the capacity to weaken the company’s international prestige, etc. Achieving results by filing complaints through such mechanisms takes a very long time. On the other hand, even when there are results, there are no sanctions. The company gets a warning and is called upon to obey the rules.

In recent years, I do not recall a single case, including European companies, that showed respect to and recognized unionisation without objecting from the beginning onwards. However, there are employers who try to prevent it at first and then change their attitudes. Perhaps the most positive example is Veritas, which produces automotive parts in Çerkezköy in the Thrace region. At first, the employer threatened to dismiss workers etc., and then as a result of the Union’s efforts, it sought a settlement, the Union obtained competency and concluded a collective agreement.¹⁰² This example shows us that companies can have a respectful attitude towards labour rights without resorting to the objection mechanism of competence or dismissals, which companies may sometimes consider to be their rights.

Another example in which we managed to establish a dialogue during unionisation efforts is the Contitech company, which is under the umbrella of the German company Continental.¹⁰³ The collective bargaining process that resumed in 2015 was being postponed for years due to the employer’s continuous objections. As a result of our contact with the European Business Council and the German Chemical Union, Continental’s management met with the representatives of the Council, the international union and Petrol-İş. In the meeting held in Bursa, we informed them that the Union actually is competent and even though laws in Turkey allow a dispute mechanism, they do not comply with universal employment norms. In order to create peace at the workplace, we asked them to withdraw their objection and called them to sustain dialogue. The meeting had positive results and we started the collective bargaining process. We signed

¹⁰² The union received its certificate of competence for conducting collective agreements on 13.02.2018 by registering 67 workers out of 117 workers in the workplace following its application dated 07.02.2018 to the Ministry. Collective labour agreement negotiations started on 24.04.2018. The first collective agreement was signed on 08.08.2018. (<https://petrol-is.org.tr/haber/veritas-isyerinde-tis-imzalandi-11958>)

¹⁰³ The unionisation efforts that had started in Bursa before were fruitless due to the dismissal of leading workers. They have been resumed later on. The union received its certificate of competency on 18.02.2015 following its application to the Ministry. The Contitech management objected to the union’s competence and has started a legal process.

an agreement. Our Union is still organised/present at this workplace. With the new conditions created by a new partnership between Trelleborg (the owner of Vibracoustic, which produces anti-vibration products) and the German company Freudenberg, we contacted the German employer in coordination with Business Councils and German unions. Even though the local employer had a negative approach at first, we established a social dialogue mechanism. This made it possible to sign a collective agreement.¹⁰⁴ I should emphasise that such results are a consequence of European Business Councils' power. For example, if there was a Business Council involved in the case of Flormar, the situation might have been different. I should say that companies from Germany seem to be more open to unionisation.

From our perspective, the example that portrays the difference between domestic and international companies may be Ak-Kim. Similar to the Flormar case, our unionisation efforts at this workplace were hindered through dismissals. Similar to the Flormar case, we held a protest in front of the workplace for a year.¹⁰⁵ But unlike Flormar, we were unable to gain strong, widespread public support. Ak-Kim was producing for European companies, such as the German company Henkel. But it was a domestic investment enterprise. Through our colleagues at German unions, we called upon Henkel to put pressure on the company they are purchasing products from, but we did not get any response from them.¹⁰⁶ (In its letter addressed to Henkel, the [German] Union made a reference to the documents entitled "Henkel Group's Social Standards."¹⁰⁷ In the document, it is stated that "Henkel suppliers and service providers are evaluated with respect to their abilities to meet Henkel's Corporate Standards and ethical expectations, which includes striving for internationally accepted labour standards").

¹⁰⁴ <https://www.petrol-is.org.tr/haber/yeni-orgutlendigimiz-vibracoustic-isyerinde-tis-muzakereleri-basladi-10955>

¹⁰⁵ Petrol-İş's statement on the issue: <https://petrol-is.org.tr/haber/akkime-sendika-girecek-11211> and the news on the end of the protest held in front of the workplace: <https://www.evrensel.net/haber/348331/akkim-iscileri-cadir-direnisini-sonlandirdi>

¹⁰⁶ Here, we would like to add that Ak-Kim is a highly active company in the European market and established a company to market the chemicals it produces in Germany. Ak-Kim signed the Global Compact in 2007 (<https://www.akkim.com.tr/surdurulebilirlik/kuresel-ilkeler-taahhudumuz/kuresel-ilkeler-taahhudumuz/i-584>) and the company even submits regular reports on its activities within this framework. Moreover, it might be interesting to know that the president of its umbrella company Akkök Holding is also the President of the Executive Board of the Global Compact Turkey. (<https://www.globalcompactturkiye.org/yonetim-kurulu/>)

¹⁰⁷ <https://www.henkel.com/blob/20078/e572da939631c61e9e35eafe9dda80e2/data/social-standards.pdf>

We can give Unilever, a company with Dutch roots, as an example of positive relationships built between European investment companies and unions. For decades, Petrol-İş has signed collective agreements with the employer Unilever San. ve Tic. A.Ş. Recently, when the company wanted to move its factory in Dilovası, İzmit to Konya, a positive dialogue was established with the company and eventually a protocol was signed. Through this protocol, which was signed on June 19, 2014, union members were reallocated to Konya without losing their rights and it was decided that the company would support a housing cooperative to ensure workers' accommodation.

Of course, the global union IndustriAll, which we are connected to, makes important contributions throughout all these efforts.¹⁰⁸

Saica Pack Worker, Türk-İş affiliated Selüloz-İş Union member Aytaç Kaya and Selüloz-İş Union Specialist Aykut Güner (7.08.2019)

Aytaç Kaya: 41 years old. After working at several enterprises for 21 years, he started to work at the Norm Ambalaj factory in 2017. After a while, the factory was bought by Saica Pack. Kaya is a worker who lead unionisation efforts here.

Aykut Güner: has been working as a specialist at the Selüloz-İş Union since February 2016. He is actively involved in Union publications, in collective bargaining and organisation efforts.

Aytaç Kaya:

I realized that there were a lot of problems when I joined the factory. You go to the restroom; you do not have soap or napkins. You leave the restroom with wet hands and touch bread baskets in the cafeteria. This is an unpleasant situation. In the meantime, work health and safety... I leave safety aside, there was no work health. We definitely did not have work safety. For example, when we requested work shoes, they said: "it will arrive next month, wait for three months to pass and it will arrive or not this year, you should wait for next year and manage until then" etc. There were times we worked in our everyday clothes. In the meantime, we worked an extra half hour every day. Look, I am not talking about (legal) overtime,

¹⁰⁸ IndustriAll has a number of Global Framework Agreements with many multinational companies in the sector. (<http://www.IndustriAll-union.org/global-framework-agreements>)

we were being made work half an hour longer.

Let's say I have to work 45 hours a week, if its 10 hours more, it makes 55 hours. But we were not even working for 55 hours, but for 65, 70 or 75 hours a week. We were subjected to rude behaviour and speeches. We heard that a company called Saica would buy the company. The manager gathered us before April 1 and talked to us. He said "As long as I am here, no union can enter this factory. If we have to, we can leave this place and have fist fights, but this won't work." He said "You will get severance pays, everybody should know their places from now on."

Eventually, the sale happened and the new employer arrived. We had heard that there was a union at Saica's factory in Eskişehir. So we said, "let's bring that union here, apparently it is our legal right." In the meantime, we saw that the new foreign general director was holding meetings with us and talked transparently. He said: "We don't have any connection in Turkey, we're a very strong company, we'll pay your salaries on time, we will no longer pay your salaries in cash." Another problem was that part of our salaries was transferred to our bank accounts and the remaining amount was paid in cash. Overtime pays were paid in cash. These were not recorded in our payrolls. That is why we never received any payrolls.

So we started to unionise from that day onwards. Within one day we recruited 79 people out of 86 blue-collar workers, and the Union only needed 50+1 to obtain competency. We applied to the Ministry of Labour as a union. After we received the competency determination notice from the Ministry, the director of the factory called some of our friends to the office, and others, including myself, to the printing machine inside the factory. We passed by the dispatching warehouse and arrived at security. There he said "you should definitely give up. Nobody should get hurt. If necessary, I'll give you 200-300 [TL] and you let this go." I said, "If that's the case, why didn't you pay 200-300 [TL] before?" Then he said "Not this union. Don't bring Selüloz-İş Union here. They are aggressive. Bring me another union, bring me Ağaç-İş Union." I thought if someone who is against me is telling me this, then it will not be good for me.

May 29, I cannot forget that day because it is my birthday. They dismissed us three days before the end of the month of Ramadan. They wanted me to sign a paper that was unacceptable in every way. It read "Due to familial and personal

reasons and because I need money, and the employer changed, I would like to receive severance pay and quit my job based on my own consent." They told us to have the notary sign this paper. "Then bring me the paper and I'll pay you," they said. They thought we would accept the compensation and leave, but I refused.

We started to resist in front of the workplace and demanded the employer to recognize our freedom of association and reinstate the six dismissed workers. We have been continuing our resistance for days with the help of our Union and those who come here to support us. We are determined to continue.

Aykut Güner:

Saica Pack started its production in Turkey earlier when it purchased a domestic company in Eskişehir called OMK. Similar to here, unionisation at this factory started after it was bought by Saica and workers were also dismissed there. In fact, the main union representative there is one of our friends who was dismissed during the unionisation and was later reinstated to his job when they won the reinstatement lawsuit. We have been organised at that factory for 6 years. It is a workplace where collective agreement continues. Saica Pack bought this place in April 2019. Their company there is called "Saica Pack Ambalaj" and the legal entity of this place here is called "Saica Pack Sakarya Ambalaj." Because their legal entities are different, they do not have the status of enterprise.^{109*} Here, we unionised ourselves in a very short period and made an application to the Ministry to determine the majority on April 24. Mid-May, around May 15-20, our competency was determined. We waited for six workdays and as expected, the employer used its right object within six working days. Nearly two weeks following their objection, dismissals started. Before their objection and after the unionisation, we had already heard that there would be dismissals. The factory director from Norm Ambalaj had already put some serious pressure. Encouraging our friends to join another union, offering them a raise, threatening them with dismissals, etc. The reason he was pushing so much, as my friend mentioned, was that he had said: "as long as I am here, no union can enter this place." Because he did not want to be embarrassed for not achieving what he said, he used all kinds of anti-democratic measures. Eventually, he was the first to be dismissed.

^{109*} According to current legislation different workplaces under the same title are considered an enterprise and the union competency covers all of them.



We contacted the employer. We even contacted the Spanish union organised at Saica's workplace in Spain through our global union. We sent them e-mails and were in contract through IndustriAll. The employer said, "As is evident in the factory in Eskişehir and all other factories in Europe, we are definitely not against unions." They said that problems arose as a result of the agreement they made with the previous employer and added that they lost their most fundamental activity area, e.g. they produce pizza boxes and export them to the UK. The general director said that they disputed the competence to delay the process because they wanted recuperate economically.

The process of union competency and the workers' reinstatement lawsuits are still ongoing. In the meantime, we are trying to get the assistance from the international union in order to exert pressure on them. For example, two weeks ago, the representatives of the union in Spain and Saica's headquarter employer held a meeting in Spain. They also tried to convey what has happened using our words. As far as we were informed by managers in Turkey, dismissals were purely due to economic reason; however, we doubt that this is the case. Even if there are economic reasons, we know based on which criteria our friends were dismissed, based on what these 6 friends were selected, that 4-5 of these friends were dismissed after they lead unionisation efforts. We are questioning whether all of this is coincidence. Currently, our contact with the employer continue at all levels.

The Sakarya 3rd Organised Industrial Zone is a zone where there are no unions and unionisation efforts at all. Across of us, there is a workplace that is part of the textile industry: Seher Tekstil. Back in the day, they had a unionisation process, but 140 workers were dismissed at once and this ended the entire process. This is not a fertile ground in that sense. Today, this [our] unionisation and resistance experience is also an important example for other workplaces.

© Hakikat Adalet Hafıza Merkezi, 2021