



Dutch National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises

Final Statement UNI Global Union vs. VEON

11 February 2020

ArgentinaAustraliaAustriaBelgiumBrazilCanadaChileColombiaCzechRepublicDenmarkEgyptEstoniaFinlandFranceGermanyGreeceHungaryIcelandIrelandIsraelItalyJapan

Final statement by the Dutch National Contact Point ('NCP') for the OECD Guidelines for Multinational Enterprises ('the Guidelines'). This final statement concerns the notification of a specific instance by UNI Global Union, concerning an alleged violation of the OECD Guidelines for Multinational Enterprises by VEON (dated 7 July 2016).

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1. Introduction

This Final statement describes the NCP procedure followed in this specific instance and the process after reception of the notification. It is based on the information received from the parties and on investigations by the NCP.

This Final statement marks the completion of the procedure by the NCP.

2. The NCP procedure

2.1 Details of the party submitting the notification

UNI Global Union is a global trade union federation of over 900 affiliated unions in 150 countries. It represents over 20 million workers in the services sector around the world, including 3 million in the Information and Communication Technology Services (ICTS) sector. UNI's mission is to create a better world for working people by means of organisational activities and by seeking action at political and regulatory level, thereby striving to improve working conditions and raise employment standards in the services sectors around the world. UNI represents the interests of affiliated unions and their members vis-à-vis multinational companies,

governments, and national and international bodies that take decisions affecting jobs, employment conditions and workers' rights. UNI has signed over 50 Global Agreements with multinational companies to secure respect for workers' rights in Africa, the Americas, Asia Pacific and Europe. UNI submitted the complaint on behalf of the Banglalink Employees Union (BLEU), which represents employees in VEON's Bangladeshi subsidiary Banglalink.¹

2.2 Details of the enterprise

VEON is a multinational telecom and technology company and a multinational enterprise within the meaning of the Guidelines. VEON is headquartered in Amsterdam, the Netherlands, and is traded on both the NASDAQ Global Select Market and Euronext in the Netherlands under the symbol "VEON". VEON's reporting structure is divided into three business units – Major markets (Russia and Italy), Emerging Markets and Eurasia, all of which report to the Company's headquarters in Amsterdam.² Banglalink Digital Communications Ltd. is a fully owned venture of Telecom Ventures Ltd., which itself is a 100% owned subsidiary of Global Telecom Holding. VEON owns 51.9% of the shares of Global Telecom Holding.³

2.3 The Dutch NCP procedure in this specific instance (until the initial assessment)

On 11 July 2016 UNI Global Union submitted a specific instance to the Dutch National Contact Point regarding an alleged violation of the OECD Guidelines for Multinational Enterprises (hereinafter: the Guidelines) by VimpelCom (hereinafter VEON since the company changed its name to VEON in February 2017).

As part of the initial assessment of the specific instance, in the first week of September 2016 the NCP held separate, confidential meetings with both the party raising the issue and the business involved to address the specific instance and related considerations.

The NCP received a supplement to the specific instance from UNI Global Union on 20 September 2016.

In December 2016 UNI asked the NCP to put the case on hold. VEON had expressed concerns at the conduct of the NCP's procedure and explained that it could not continue to participate in it. UNI and VEON attempted to resolve the issue directly. Between January and September 2017 several meetings and conference calls between parties took place. In September 2017, the NCP received a letter from UNI, requesting the NCP to resume the specific instance notification that was filed in July 2016. In this letter UNI described the course of the attempts to come to an agreement with VEON. VEON was given the opportunity to give a reaction on the letter of UNI. It became clear to the NCP that the issues described in the notification were not resolved.

3. Summary of the notification

On 11 July 2016 the Dutch NCP received a notification from UNI Global Union concerning VEON. A supplement to the specific instance was submitted by UNI on 20 September 2016, requesting that the dismissals of four union leaders at Banglalink on 6 and 7 September should also be considered. UNI wrote to the NCP on 13 March 2017 to withdraw the supplementary allegations as incorrect.

The notification concerns the actions of the multinational telecom operator VEON and its operations in Bangladesh (Banglalink) with regard to the registration of the Banglalink Employees Union (BLEU). In the notification of the specific instance under the OECD Guidelines for Multinational Enterprises of 11 July UNI Global Union stated that:

"VEON is a majority owner of the company Banglalink, which has engaged in blatant violations of workers' rights. When Banglalink employees unionized and sought to engage in dialogue with the company, Banglalink responded by dismissing a union leader, threatening and harassing union members, creating a hostile working environment, and working with the Bangladeshi authorities to suppress the union. These are serious violations of workers' human and labor rights, as well as of international labor standards as codified by the conventions of the International Labour Organization. VEON has also failed to carry out risk-based due diligence to identify, prevent and mitigate the human rights impact of their operations."

The notification specifically concerns the alleged non-observance of the parts of the Guidelines on Concepts and Principles (Chapter 1), Human Rights (Chapter IV) and Employment and Industrial Relations (Chapter V).

In the notification, UNI Global Union stated *inter alia* the following with regard to the freedom of association in Banglalink.

The notifier submits that VEON should take *"the necessary measures to stop the violations of the OECD guidelines (...) and put an end to the anti-union actions carried out by Banglalink management"*. *"VEON also needs to prevent the violations from reoccurring through publicly stating that Banglalink respects the right of all its employees to organize, and to put in place companywide mechanisms that ensure respect for workers' freedom of association. Finally, VEON must remedy the situation by recognizing BLEU for purposes of collective bargaining and engage with the union in social dialogue."*

"UNI would like to enter into a dialogue with VEON with a view to bringing about a negotiated settlement that will correct the serious violations of workers' freedom of association in Banglalink and would also like to reach an agreement with the company on mechanisms that would improve the company's due diligence monitoring and response throughout the VEON group to prevent that similar violations occur elsewhere."

¹ <http://www.uniglobalunion.org/about-us>

² <https://VEON.com/whoware/understanding-VEON/>

³ <https://www.banglalink.net/en/about-us/about-banglalink>

“UNI regards the good offices approach of the OECD process as an eminently suitable vehicle for bringing about a resolution in this case. UNI understands that the NCPs seek to resolve complaints by facilitating conciliation or mediation between the complainant and the company. UNI welcomes the opportunity to engage in such a process and looks forward to securing a positive, negotiated and mutually beneficial solution.”

“Should a negotiated agreement prove impossible, UNI would request that the NCP issues a final statement concerning whether or not the Guidelines have been respected.”

In the supplement to the specific instance, submitted on 20 September 2016, UNI states that shortly after the NCP’s meetings with UNI and VEON, four other union activists were dismissed. The company’s stated reason for the dismissals was “harassment, confinement, blockade and abuse in the workplace violating the Code of Conduct of the Company”. UNI furthermore describes the course of events after the dismissal of a union leader in February. The union will appeal against the decisions using the procedures available under Bangladeshi law but also states that dismissing employees on the basis of their support for a union violates Chapter V, paragraph 1(a) and (e), as well as Chapter IV of the Guidelines concerning respect for the human rights of workers to exercise their right to organise. Furthermore, UNI states that VEON violates Chapter II, paragraph 9 of the Guidelines which requires that companies “refrain from (...) disciplinary action against workers who make *bona fide* reports (...) on practices that contravene (...) the Guidelines.” UNI also refers to paragraph 13 of the Commentary on Chapter II.

In March 2017 UNI informed VEON and the NCP that it would withdraw the allegations of retaliation for using the OECD process but nevertheless wished to continue to pursue its allegations that the dismissals and the refusal to recognize the union were in violation of the Guidelines.

In its letter of September 2017, UNI concludes with regard to their contact with VEON in the period January – September 2017 that: *“While some advances have been made to improve our mutual understanding of the situation in Banglalink, we have not made any progress towards resolving the issues regarding trade union rights in Banglalink, even after a considerable amount of time and good-faith efforts from UNI’s side. UNI therefore asks the NCP to resume its handling of the Specific Instance and offer its good offices to find a resolution to the issue.”*

4. Summary of the initial response of VEON

At the request of the NCP VEON submitted additional comments on UNI Global Union’s notification on 17 September 2016.

VEON is of the opinion that UNI’s notification contains material deficiencies and is an inappropriate invocation of this process

concerning VIP’s operations in Bangladesh. VEON states, for example, the following:

“VEON is committed to working with legitimate, representative unions wherever it operates. BLEU is not a legitimate representative union and, as such has not been able to obtain registration as a trade union in accordance with Bangladeshi law. VEON acknowledges and works with those unions which represent its workforce in other jurisdictions in the world.”

“VEON respects its workforce in Banglalink as well as in all of its countries of operation. (...)”

“Nothing in VEON’s policies or codes or conduct could be construed as ‘anti-union’. To the extent that the NCP feels it wishes to discuss any wording relating to VEON’s corporate responsibilities in this context, VEON’s happy to enter into such discussion with it. However, for the reasons set out below, the opening of a specific instance procedure and/or mandated mediation is not an appropriate course of action. VEON is in any event in constant dialogue with its employees.”

“The NCP is bound by the Procedural Guidelines based on its own principle of predictability and cannot legitimately open a procedure. Further, and entirely independent from the substantive insufficiencies of the UNI submission, we consider that the NCP’s own Procedural Guidelines warrant summary dismissal of the complaint because the complaint wholly fails to provide the requisite evidentiary basis substantiating UNI’s claims. Under the Procedural Guidelines the NCP may only open a procedure if all of the admissibility criteria are met. UNI has provided no evidence to substantiate any alleged infringement of the MNE Guidelines in the specific instance notification or otherwise. (...)”

“The NCP should not ask VEON to enter into mediated discussion/ negotiations with UNI or with BLEU as to do so is likely to constitute a potential infringement of Bangladeshi law and would be in direct contravention of the MNE Guidelines.”

In its letter of October 2017 VEON reacts to the request of UNI to resume the handling of the specific instance. VEON states that the issues mentioned in their talks with UNI have been addressed through the discussions or will be addressed by the courts in Bangladesh. VEON is of the opinion that “..there are no substantiated allegations nor surviving issues from the original notification which VEON can identify which are not before the Bangladeshi courts. These last will be decided through the national justice system which is the appropriate forum for the matters.”

“It is apparent that UNI is vigorously pursuing an overriding policy objective of its own – which is the establishment of unions in telecommunications companies in Bangladesh. UNI has expressly stated this to VEON. While this may be a legitimate objective for UNI, VEON does not accept that it is legitimate that UNI should pursue this regardless of circumstances, nor through inappropriate and unsubstantiated allegations to an NCP. To the extent that UNI wishes to lobby for changes in the law in Bangladesh, it should address its requests to the Bangladeshi government.”

5. The NCP's assessment of the specific instance

5.1 Scope of the assessment

In its Initial Assessment of 6 February 2018, the NCP concluded that this specific instance merited further consideration and offered its good offices to facilitate a dialogue between the parties, with reference to the Dutch NCP Specific Instance Procedure for handling notifications.⁴ In conformity with the Dutch NCP's procedure, the draft initial assessment was sent to the parties involved, inviting them to respond to the assessment in writing within two weeks, after which the initial assessment was finalised, taking into account the parties' comments. This initial assessment has been published on the NCP's website: www.oecdguidelines.nl.

The objective was to bring the parties to an agreement on the workers' freedom of association at Banglalink and on mechanisms that would improve the company's due diligence monitoring and response throughout the VEON group. In the NCP's opinion, this may help clarify the OECD due diligence recommendations for multinational enterprises regarding workers' human and labour rights.

VEON has not accepted the NCP's good offices to facilitate a dialogue between the parties on the matters raised in the specific instance in the context of the NCP procedure. The NCP refers to the OECD Guidelines for Multinational Enterprises, Part II, Commentary on the Implementation Procedures, article 35: 'If the parties involved fail to reach agreement on the issues raised or if the NCP finds that one or more parties to the specific instance is unwilling to engage or to participate in good faith, the NCP will issue a statement, and make recommendations as appropriate, on the implementation of the Guidelines. This procedure makes it clear that an NCP will issue a statement in any case, also when it feels that a specific recommendation may not be called for. The statement should identify the parties concerned, the issues involved, the date on which the issues were raised with the NCP, any recommendations by the NCP, and any observations the NCP deems appropriate to include on the reasons why the proceedings did not produce an agreement.'

5.2 Applicability of the Guidelines to the telecom sector

The NCP observes that all Dutch companies, including foreign companies that are head-quartered in the Netherlands, that conduct business abroad are expected to adhere to the Guidelines. The Dutch government regards the Guidelines as the normative framework for responsible business conduct in an international context.

The 2011 update of the Guidelines confirmed that they apply to all sectors, including the telecom sector. The Guidelines do not

provide more detailed guidance on their application to telecom companies or any other specific sector, but they do state that enterprises should:

'Seek to prevent or mitigate an adverse impact where they have not contributed to that impact, when the impact is nevertheless directly linked to their operations, products or services by a business relationship. This is not intended to shift responsibility from the entity causing an adverse impact to the enterprise with which it has a business relationship.'

5.3 Steps taken after the Initial Assessment

The NCP started its examination of the case by holding a meeting with the notifying parties on 9 March 2018.

On 4 April 2018, the NCP had a meeting in Dhaka, Bangladesh, with the Banglalink union leadership and a representative of UNI Global Union in Bangladesh, to get further clarifications on the specific instance.

The NCP sent a draft of the Final Statement to the parties for comments within 14 days on 20 December 2018. The reason for the delay in the drafting of the Final Statement has been the large number of specific instances handled by the NCP and the lack of capacity in the second half of 2018.

On 8 January 2019, the NCP received written comments of UNI. VEON requested an additional meeting with the NCP before submitting its comments. The meeting took place on the 14th of January in the Hague. On February 1, the NCP received written comments, sent on behalf of VEON, and additional information. The NCP, on request, has been able to share this information with UNI and received their comments by the end of March.

Following the receipt of the documents, and considering the positions of VEON and UNI in this specific instance, the NCP decided to ask further clarifications on Bangladesh Labour Law to an independent legal expert.

After the receipt of the information of the expert, and taking into account all the documents and positions, the NCP has revised the draft Final Statement. It was sent to the parties on 3 May 2019, offering them both the possibility of one further meeting for final comments.

The NCP had a telephone call with UNI on 15 May and a meeting with VEON in the Hague on 23 May 2019.

After this meeting, the NCP offered the parties the possibility to have a joint meeting with the NCP, taking into account that the NCP's good offices to facilitate a mediation dialogue between the parties had not been accepted until then, to explore potential common ground regarding the issues of the specific instance. As the opinions of the parties concerning the possible purpose of this meeting were too divergent and did not leave room for a common agenda on the matters raised in the specific instance, the NCP

⁴ <http://www.oecdguidelines.nl/notifications/documents/publication/2015/3/5/specific-instance-procedure-ncp-v-15-3>

decided to close the specific instance procedure and issue a Final Statement.

A draft of this Final Statement was sent to the parties on 23 December 2019 for comments.

The Final Statement was published on the NCP website on 11 February 2020.

6. The NCP's observations

As the Commentary on the Implementation Procedures of the OECD Guidelines for Multinational Enterprises stipulate, the NCP may make any recommendations on the implementation of the Guidelines as appropriate and any observations the NCP deems appropriate to include in the Final Statement on the reasons why the proceedings did not produce an agreement⁵.

The NCP observes that unfortunately there was and still is no meaningful dialogue between the local trade union BLEU and Banglalink. Also, it has not been possible to establish a meaningful dialogue with an agreed agenda within the context of this specific instance between the international trade union organisation (Uni-Global Union as a representative of the local union and VEON..

The NCP notes that according to VEON it has explicitly taken on board the obligation to comply with international labour standards, as according to its CSR report it has signed the United Nations Global Compact. According to principle 3 of the UN Global Compact, 'Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining'.

According to VEON, Banglalink is committed on an ongoing basis to ensuring meaningful engagement and dialogue with its employees as well as very high standards of employee welfare, and Banglalink supports freedom of association and works collaboratively with unions or other collective bargaining organisations wherever such organisations are legitimate and represent the workforce throughout the group.

Furthermore, according to VEON, Banglalink is continuously engaged in and further developing a culture of open and transparent communication; through a participative management modality, employees of each level are encouraged to be involved in organisational decision-making to foster a culture of ownership, collaboration (one of VEON's core values) and mutual trust/respect. The results of Banglalink's most recent annual employee engagement survey, itself are according to VEON an example of world class methods of engaging in meaningful dialogue with its employees (carried out by an independent, internationally recognised third party), would demonstrate

Banglalink's success in its ongoing dialogue with its employees. VEON claims that these practices go far beyond requirements of Bangladeshi law and the OECD Guidelines.

The OECD Guidelines Chapter V, article 1, sub a and b look at the obligations of enterprises concerning the rights of workers employed by multinational enterprises and refer to applicable law, labour relations and employment practices, as well as to applicable international standards. The Commentary on Employment and Industrial Relations under 48, says the ILO is the competent body to set and deal with international labour standards, and to promote fundamental rights at work. According to the Commentary, the Guidelines, as a non-binding instrument, have a role to play in promoting observance of these standards and principles among multinational enterprises. The NCP observes that the case concerns rights guaranteed by article 2 of ILO Convention no. 87, which states "*Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.*" Bangladesh ratified this Convention in 1972.

The NCP observes that the ILO has stated on many occasions that the stringent procedural conditions for the registration of trade unions in Bangladesh are not in line with with international legislation and necessitate amendment of local legislation.

In its 2016 report, for instance, the ILO Committee on the Application of Standards (CAS) 'recalls the critical importance which it gives to freedom of association as a fundamental human and enabling right and expresses its firm hope that significant progress will be made in the very near future to bring the legislation and practice (of Bangladesh) into conformity with the Convention'.

The NCP notes that in its 2017 Report, published at the ILC session of 2018, the Committee of Experts of the ILO (CEACR) repeated its strong concerns about the application of Convention 87, notably with regard to the rules on registration of unions, noting high numbers of rejected applications (64 percent), many of which were rejected without a clear indication as to the reasons. It requested the Government of Bangladesh to continue to take all necessary measures to ensure that registration is a simple, objective and transparent process, which does not restrict the right of workers to establish organisations without previous authorisation. Another point for strong concern was the high membership requirement (30 %), on which it requested Government action to truly reduce membership thresholds.

The NCP observes that the Committee of Experts also commented on developments regarding the definition of a worker under the Bangladesh Labour Act (BLA), emphasizing the need to broaden the definition of worker to include members of watch and ward staff, firefighting staff and confidential assistant of any establishment.

⁵ Procedural Guidance, under C. 3, sub c and Commentary on the Implementation Procedures under 35.

The NCP draws attention to the fact that, under the OECD Guidelines, enterprises are not expected to go as far as to contravene local law but, if local law is inconsistent with the Guidelines, enterprises are expected to 'seek ways to honour such principles and standards to the fullest extent which does not place them in violation of domestic law'. The NCP therefore is of the opinion that VEON should endeavour to comply with international labour law standards to the fullest extent, taking into account if and to what extent this would place them in violation of domestic law.

The NCP's further inquiries in Bangladesh on the specific instance have shown that the local trade union, which claims to represent more than the 30% of the workforce required by local law⁶, has been seeking registration for years, but the competent authorities have so far rejected this. Judicial proceedings contesting this rejection are still in progress.

Based on the comments by both parties on the draft Final statement, the NCP has sought expert clarification on the legal situation according to national/domestic law regarding a local union, such as BLEU, pending a decision on registration.

In this situation, there seems to be a difference between a union that has been registered before, of which the registration has been cancelled, according to section 191 and 191 (1), in which case the union continues to be able to function as a union pending appeal, and the situation in which the union has not been registered before and appeals of a decision to reject registration, in which case it would not be able to function as a union during the appeal procedure. It seems that, according to the Bangladesh Labour Act (BLA) - as long as a trade union has not been registered before - it cannot exercise any rights of a union until its registration has been accepted, and that an appeal against the rejection of registration would not change that situation.

For the NCP, it has not been possible to get a clear picture of the way in which these provisions are implemented in practice, for instance to companies and unions that are in the process of registration and seeking dialogue with each other.

From the situation as described above, the NCP understands that according to domestic law a union cannot function without previous authorisation, which as such is a clear violation of article 2 of ILO Convention 87.

In any case, the NCP understands that, if and in so far as these provisions may lead to limitations for dialogue, these would only apply to the enterprise based in Bangladesh, in this case the daughter company of VEON, Banglalink, but not to VEON itself as it is headquartered in the Netherlands.

The NCP therefore concludes:

1. There seem to be some limitations under domestic law for the daughter company of VEON, Banglalink, to engage directly with the local union seeking registration, however the NCP has not been able to get a clear picture of how the relevant provisions are implemented in practice;
2. It is also not clear if and how far these limitations would apply to Banglalink when it would itself engage directly in a possible dialogue or mediation with UNI-Global Union, in its own capacity as well as in its capacity as a representative of BLEU.
3. When it comes to the situation of VEON, it is the understanding of the NCP that nothing in Bangladeshi law would prohibit VEON, a multinational based outside Bangladesh, to enter – outside Bangladesh – into dialogue with the local trade union in question, BLEU, and/or its international representative UNI-Global Union, for instance in the context of an NCP specific instance procedure.
4. This space can be used by the parties to have a dialogue about the best way forward, taking into account the relevant international standards of the ILO and the OECD guidelines.

Taking into account that under the OECD Guidelines enterprises are expected to 'seek ways to honour such principles and standards to the fullest extent which does not place them in violation of domestic law' and given the fact that it is the understanding of the NCP that there are no legal restrictions for VEON as a multinational company based outside Bangladesh to engage in dialogue with the complaining party, the NCP is of the opinion that VEON should have considered engaging into dialogue in the context of the current NCP procedure with UNI-Global Union as a representative of the local union BLEU.

Furthermore, the NCP is of the opinion that it can be expected from VEON under the OECD Guidelines to carry out risk-based due diligence to identify, prevent and mitigate the human rights impact of their operations in Bangladesh, notably when it comes to the freedom of association both as a fundamental labour right and as an enabling right.

According to the NCP, VEON can also be expected, under the OECD Guidelines, to use its leverage towards its daughter company Banglalink for it to adopt a more positive and proactive attitude to resolve the ongoing registration issue between the local union and Banglalink.

The OECD Guidelines Chapter V, art. 3 stipulate that "Enterprises should, within the framework of applicable law, regulations and prevailing labour relations and employment practices and applicable international labour standards, promote consultation and co-operation between employers and workers and their representatives on matters of mutual concern."

The NCP notes that, at this moment, there is no registered trade union in VEON's daughter company Banglalink. The NCP's further inquiries also show that, under local/domestic legislation, every business with more than 50 workers should have a Worker

⁶ In 2018, this law has been revised, and now contains a lower threshold, of 20 percent.

Participation Committee (WPC), according to section 205, and hold elections for that purpose.

According to the recent changes in the Labour Law, this would only not be the case if there already existed a registered trade union in the company, which in this case is not the situation. The NCP notes that at this moment there is no WPC within Banglalink, nor have elections for that purpose been held. The NCP is aware that the Bangladesh labour law allows for some exemptions from the definition of a worker for the application of this obligation. However, taking into account the total amount of staff employed by Banglalink (the NCP understands that there are around 700), the case law of the Bangladesh Labour Appellate Tribunal⁷ confirming that a worker does not cease to be a 'worker' merely because he/she is employed in a supervisory capacity, and the recent opinions of the Committee of Experts of the ILO⁸ on this matter, the NCP assumes that the obligation to establish a WPC is applicable to VEON's daughter Banglalink. The NCP notes that at this moment there is no formalised dialogue of VEON's daughter Banglalink with its workers and their representatives through a WPC, in a situation in which there isn't (yet) a registered trade union in the company either.

7. The NCP's recommendations and conclusions

The NCP regrets that the efforts of the parties have not led to a dialogue facilitated by the NCP, in order to resolve the issues raised in the specific instance.

In this context, the NCP recommends:

- that VEON draws up policies and measures to promote and facilitate freedom of association throughout the company and with its subsidiaries and daughter companies as well as business relations in line with the OECD Guidelines, Chapter V, art. 1 under a, and b.;
- that VEON considers to address its international obligations regarding freedom of association and collective bargaining, for instance by entering into dialogue and negotiations with trade union parties at international level.
- that VEON uses its leverage on its daughter company Banglalink, in line with the responsibility of the company under the OECD Guidelines, to promote consultation and cooperation

⁷ Reference: *Managing Director, Contiforms Limited and Peasant Trading Cold Storage (Pvt) Ltd vs Member, Labour Appellate Tribunal, Dhaka and others* 50 DLR 1998 476. [DLR= Dhaka law Report].

And: *Mujibur Rahman Sarker vs. Chairman, Labour Court, Khulna and another*, 31 DLR (1979).

⁸ See also under 6. The NCP's observations: 2017 Report, Committee of Experts of the ILO (CEACR), published at the ILC session of 2018.

between the employer and the workers and their representatives on matters of mutual concern within Banglalink⁹.

- That VEON uses its leverage on its daughter company Banglalink to ensure that Banglalink will respect its employees' decision on trade union membership, will refrain from any interference with the registration of the local union and will enter into constructive social dialogue with it, taking into account the scope and possible constraints of national law, in the understanding that according to the OECD Guidelines 'enterprises should seek ways to honour the principles and standards of the Guidelines to the fullest extent which does not place them in violation of domestic law' (Concepts and Principles, art.2).
- That VEON uses its leverage on its daughter company Banglalink to promote the establishment of the required Worker Participation Council within Banglalink, based on the applicable national legislation which among other things requires holding elections, as a way to enhance formalized dialogue with the workers in the company, as long as there does not (yet) exist a registered union, while taking into account the comments by the Committee of Experts of the ILO to not use a too narrow definition of a worker, so as to not directly or indirectly avoid the company's obligations in this regard; The NCP hereby refers to the OECD Guidelines Commentary that stipulates, in line with ILO Recommendations¹⁰, that consultative arrangements between workers and employers should not substitute for the workers' right to bargain over terms and conditions of employment.

The NCP concludes that, based on the information available to the NCP, neither VEON nor Banglalink has yet taken appropriate action regarding the issues above, also when taking into account the possible limitations of national Bangladesh Labour law.

Based on all information available to the NCP and the positions of both parties the NCP concludes that VEON, a Netherlands based international enterprise, is not acting in line with what can be expected from it under the OECD Guidelines.

The NCP regrets the fact that VEON until now has not been willing to enter into dialogue with the complaining party on the matters raised in the specific instance in the framework of the NCP procedure.

The NCP takes the view that a dialogue facilitated by the NCP between VEON and the notifying party would have been of great benefit in resolving the issues raised in this specific instance, and regrets that it has not been possible to enter into such dialogue.

⁹ OECD Guidelines, Chapter V. Employment and Industrial Relations, art. 3

¹⁰ OECD Guidelines, Chapter V. Commentary on Employment and Industrial Relations, under 56.

Monitoring

The NCP recommends that an evaluation of the recommendations of the NCP be conducted one year after the publication of the NCP's Final statement.

The NCP will invite both parties to a meeting for this purpose. The evaluation will be published on the NCP's website.

The NCP hopes that, in the run-up to the evaluation in February 2021, VEON will follow up on the recommendations in this final statement and will recognize the importance of engaging into a dialogue with all parties involved.

The NCP emphasizes that if the parties jointly would call upon the NCP to offer its good offices regarding the issues raised in this specific instance, the NCP is willing to consider this.

List of abbreviations

BLA	Bangladesh Labour Act
BLEU	Banglalink Employees Union
CAS	ILO Committee on the Application of Standards
CEACR	Committee of Experts of the ILO
CSR	Corporate Social Responsibility
ICTS	Information and Communication Technology Services sector
ILC	International Labour committee
NCP	National Contact Point for the OECD Guidelines for Multinational Enterprises
WPC	Worker Participation Committee

The role of National Contact Points (NCPs) is to further the effectiveness of the OECD Guidelines. The Dutch government has chosen to establish an independent NCP, which is responsible for its own procedures and decisions, in accordance with the Procedural Guidance section of the Guidelines. In line with this, the Dutch NCP consists of four independent members, supported by four advisory government officials from the most relevant ministries. The NCP Secretariat is hosted by the Ministry of Foreign Affairs. The Minister for Foreign Trade and Development Cooperation is politically responsible for the functioning of the Dutch NCP. More information on the OECD Guidelines and the NCP can be found on www.oecdguidelines.nl.

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