

SÜDWIND Institute (SÜDWIND)  
Sedane Labour Resource Centre (LIPS)  
Stichting Schone Kleren Kampagne/Clean Clothes Campaign (CCC)

The complainants

-and-

Adidas Group  
Multinational company

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### **SPECIFIC INSTANCE COMMUNICATION**

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#### **Summary**

In July 2012, 1.300 workers who participated in a strike were dismissed by the factory PT. Panarub Dwikarya (PDK). Root causes of the strike were the refusal of the company to pay the increased minimum wage (January-March 2012), the dismissal of trade union leaders (February and March 2012), the refusal of the company to engage with the union SBGTS-GSBI, and worsening working conditions. The Panarub Group (PT Panarub Industry and PT Panarub Dwikarya) supplied goods to Adidas prior, during and after the events. During this time period the reported human rights abuses at PDK had started, and its negative impacts were not reversed nor mitigated, while up to date the Panarub Group continues to be an important business partner to Adidas. Up to date, 327 dismissed workers of PDK are struggling for their right to getting severance payments. In this struggle supported by complainants SÜDWIND, LIPS and CCC. Following the conclusion by the ILO Committee on Freedom of Association (CFA) in October 2016, which declared the dismissals a violation of the right of freedom of association, several negotiations of Government and union with PT Panarub Industry ended without result and therefore without any adequate remedy for the workers involved. As demonstrated in this complaint, this was partly due to the lack of involvement of Adidas (especially in the periods 201/13 and 2016), one of the most important buyers of PT. Panarub Industry and therefore possessing the necessary leverage to ensure remedy is provided.

German sportswear brand Adidas Group, signatory of the Freedom of Association Protocol, member of the German Alliance for Sustainable Textiles, was and is well aware of the initial rights violations as well as the fact that subsequently no remedy had been provided to workers and simply tolerated the anti-union attitude of its supplier by condoning the bad faith negotiations. Whereas it is clear that initial abuse of the associational rights of the workers was a direct responsibility of the Panarub Dwikarya factory and the Panarub Group, Adidas, through the production of its product at the factory itself and through its direct business relationship with the Panarub Group, was "directly linked" to the adverse human rights impact. Therefore, having been made aware of the situation, Adidas, especially given its important leverage, has a responsibility to seek to prevent or mitigate the risk from continuing or recurring, even if it has not contributed to original human rights impact.

The complainants approach the German National Contactpoint for the OECD Guidelines on Multinational companies in the hope, through the good offices of the NCP, to find a satisfactory remedy for the rights violations.

**Submitted by**

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## **The Parties**

### The complainants:

SÜDWIND Institute is a German NGO with 577 members (individuals as well as institutional members) and is located in Bonn (Northrhine-Westfalia). Since its foundation in 1991, SÜDWIND has been working on a wide range of issues related to global justice, for example development cooperation, climate justice, sustainability in financial markets or gender-specific division of labour. The working conditions in global value chains and especially in the textile value chain have been a focus of SÜDWINDs research and activities since its foundation. SÜDWIND is a founding member of the German Clean Clothes Campaign and a member of the German Alliance for Sustainable Textiles.

Sedane Labour Resource Centre is more known as LIPS, an acronym of Lembaga Informasi Perburuhan Sedane, was founded by Fauzi Abdullah (1949-2009) in 1991. Fauzi Abdullah was one of few Indonesian activists who devoted his life for labor movement in Indonesia. During Fauzi's early activism, he provided legal assistance for workers by joining Jakarta Legal Aid Institute (LBH Jakarta). Today, there are established labor unions. However, trade unions today face even more flexible employment relation and internal democratization. Only by being democratic, independent, dynamic and able to build network in and outside the country-labour unions will able to tackle the those challenges. Labor unions will need insights, education material, strategic organizing method, information on national and international capital structure, international labor unions, and so on. LIPS tries to fill this by becoming a supporting system for labor movement in Indonesia by being the communication channel and discussion venue, literally and figuratively. Its envision is to be the bridge for the formation of strong coalition to support Indonesian labor movement.

LIPS has been working with the union, SBGTS-GSBI, since the beginning of the Panarub case in 2012. LIPS is not only documenting the case, but also provide several technical assistance, such as translation and visualization of campaign material and networking. LIPS also become discussion partner for SBGTS-GSBI in its struggle. For the last five years, LIPS and SBGTS-GSBI also work together in education for SBGTS-GSBI members in different topics such as women workers' rights.

Stichting Schone Kleren Kampagne/Clean Clothes Campaign hosts the International Office of the Clean Clothes Campaign. The International Office is a network organization facilitating a broad network of over 195 partners in over 28 countries. The 195 organisations are a global alliance dedicated to improving working conditions and empowering workers in the global garment and sportswear industries.

SÜDWIND, LIPS and CCC (hereafter 'the complainants') focus jointly on political and regulatory action to create better working conditions for workers in the garment sector. The complainants engage with companies buying goods from manufacturing facilities in order to take up their responsibility to improve workplaces and raise employment standards in their supply chain.

The complainants submit this complaint on behalf of the GSBI/SBGTS unions and their members, and, in particular, the 327 workers whose compensation is still outstanding.

The company:

German sportswear brand Adidas Group (hereafter 'Adidas') is one of the largest sportswear brands in the world. In 2016, Adidas employed more than 60,000 people in over 160 countries, produced more than 850 million product units and generated sales of € 19 billion.

In 2001, 2006 and 2016, Adidas devised a Code of Conduct for suppliers 'Workplace Standards' that purportedly applies to all business parties (see Annex 1). The company claims that this covers amongst others labour rights, drawing upon International Labour Standards and stipulates that business partners "must recognise and respect the right of employees to join and organise associations of their own choosing and to bargain collectively" (ILO core conventions Nr. 87 and Nr. 98) and that "all legal requirements relating to wages and benefits must be met."

On the 7th of June 2011, Adidas became a signatory of the Freedom of Association Protocol, which unites local unions and major sportswear brands to improve trade union rights in factories in Indonesia (see Annex 2). Adidas therefore commits to ensure implementation of protocol provisions in all of its Indonesian suppliers (especially relevant are Art. 2 Scope, Art. 3 Application and Art. 4-6 Freedom of Association)

Furthermore, on the 6th November 2014, Adidas AG establishes a complaint mechanism that purportedly aligns with the UN Guiding Principles (see Annex 3).

Since 2015 Adidas is member of the Alliance for Sustainable Textiles (Textilbündnis), which aims to ensure labour rights and especially freedom of association along the value chain of all its members.

**Jurisdiction**

Germany is an OECD member country and has established a National Contact Point (hereafter 'NCP') with responsibility for promoting and securing compliance with the OECD-Guidelines for multinational enterprises (hereafter 'the Guidelines') by foreign multinational companies operating in Germany and by German multinational companies overseas in non-adhering

countries. The present case concerns a German company (Adidas) operating globally and with business partners overseas including in non-adhering countries such as Indonesia.

The German NCP has anticipated precisely such scenarios and has established clear procedures: 'If issues arise in non-adhering countries, the National Contact Point of the home country shall as a rule take steps to develop an understanding of the issues involved, and follow these procedures where relevant and practicable.'<sup>1</sup>. In the case of Adidas therefore the German NCP has primary responsibility.

### **The OECD-Guidelines for Multinational enterprises**

The Guidelines are described as 'recommendations addressed by governments to multinational enterprises operating in or from adhering countries'<sup>2</sup>. They prescribe the responsibilities for companies in their own operations as well as the operations of their business parties and aim to prevent irresponsible and damaging business practices.

The creation of the Guidelines aimed to address such situations and in carrying out this task the Guidelines anticipated a cooperative approach to problem solving: 'the common aim of the governments adhering to the Guidelines is to encourage the positive contributions that multinational enterprises can make to economic, environmental and social progress and to minimise the difficulties to which their various operations may give rise'.<sup>3</sup>

In order to do so, the Guidelines state that companies need to carry out risk-based due diligence, to identify, prevent and mitigate actual and potential adverse impacts.<sup>4</sup> More concretely, the guidelines prescribe companies to avoid causing or contributing to adverse impacts on matters covered by the Guidelines, through their own activities, and address such impacts when they occur.<sup>5</sup> However, even when the company has not caused or contributed to the issue, but once made aware of it, it still has a responsibility to act to seek to prevent and/or mitigate it.<sup>6</sup>

### **Human Rights**

A commitment to human rights is central to expectations and requirements laid out by the Guidelines. Companies, the Guidelines say, must respect human rights<sup>7</sup>. This means that they

<sup>1</sup> Procedural Notes, German National Contact Point, *Clause 1(b)*

<sup>2</sup> OECD Guidelines, Preface, paragraph 1

<sup>3</sup> OECD Guidelines, Preface, paragraph 9

<sup>4</sup> OECD Guidelines, Chapter II, Clause A10

<sup>5</sup> OECD Guidelines, Chapter II, Clause A11

<sup>6</sup> OECD Guidelines, Chapter II, Clause A12

<sup>7</sup> OECD Guidelines, Chapter IV, Clause 1. The Guidelines define human rights by reference to the following core international instruments: the Universal Declaration on Human Rights, Article 23 (1) and (4); The International Covenant on Civil and Political Rights, Article 22; The International Covenant on

should avoid causing or contributing to adverse human rights impacts, that they should avoid infringing on the rights of others, and that they should address adverse human rights impacts with which they are involved.<sup>8</sup> The Guidelines also require companies to address such impacts when they occur.<sup>9</sup>

Companies must also 'seek ways to prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products or services by a business relationship, even if they do not contribute to those impacts'<sup>10</sup>.

Part of the strategy for dealing with the wide-ranging potential impacts of business is termed 'human rights due diligence'<sup>11</sup>. Under these processes businesses must take ongoing steps to investigate, maintain awareness of, and minimise risks to human rights that arise within or in connection with their operations and relationships.

Indeed, in case a business (company) has found it contributes or may contribute to an impact, it should take the necessary steps to cease or prevent its contribution and use its leverage to mitigate any remaining impact to the greatest extent possible, in addition to ceasing or preventing its contribution. In case a company is only "directly linked", the appropriate measure to be taken depends on the leverage the enterprise has on the entity causing or contributing to the adverse impact. If the business enterprise has leverage to mitigate the adverse impact it should exercise this, as in the contribution scenario.

Leverage is considered to exist where the enterprise has the ability to effect change in the wrongful practices of the entity that is causing or contributing to an adverse impact.<sup>12</sup>

Finally, they need to provide for or co-operate through legitimate processes in the remediation of adverse human rights impacts where they identify that they have caused or contributed to these impacts.<sup>13</sup>

### **Trade union rights abuses at PT. Panarub Dwikarya (PDK)**

#### **The supplier**

PT Panarub Dwikarya Benoa (also referred to as PDK or PDB) is an Indonesian company located in Tangerang, Java. The company is a fully owned subsidiary company of PT Panarub Industry,

Economic, Social and Cultural Rights ('ICESCR'), Article 8 (1) (a), International Labour Organisation Declaration on Fundamental Principles at Work, 1998, *et al.*

<sup>8</sup> OECD Guidelines, Chapter IV, Clause 1

<sup>9</sup> *ibid*, Clause 2

<sup>10</sup> *ibid*, Clause 3

<sup>11</sup> *ibid*, Clause 5

<sup>12</sup> OECD Guidelines Chapter II, Clause A12 and Commentary paragraph 19; See further UN Guiding Principles on Business and Human Rights, principle 19, commentary

<sup>13</sup> *ibid*, Clause 6

owned by PT Asiacross Investindo. Both companies share the same managers.<sup>14</sup> Since 1979 PT Panarub Industry produces sport shoes. In 1988 it started its partnership with Adidas, which the company identifies as one of the key defining moments in its history.<sup>15</sup> This partnership was strengthened over time and in 1998 Panarub was appointed to be the "Football Speciality Centre for the adidas brand."<sup>16</sup>

Panarub produces top quality sport shoes, employing more than 11.000 workers. Famous Adidas soccer shoes like the "Predator" and later the "Tunit" are being produced by Panarub.

PDK, the factory where the labour rights violations occurred, served as an "overflow factory and subcontractor to the parent company PT Panarub".<sup>17</sup> According to information provided by Adidas, Adidas products have been produced in the PDK factory for all in all 19 months, and during this time this facility has been subject to regular audit visits.<sup>18</sup> During this time period the reported human rights abuses at PDK had started, and its negative impacts were not reversed nor mitigated.

### **The trade union rights abuses**

On 12 July 2012, more than 2.000 workers of PT. Panarub Dwikarya (PDK) went on strike to protest against their employer's unilateral cancellation of the agreed meeting for negotiation with the union SBGTS-GSBI, demanding the payment of the wage deficiency of the period January – March 2012 and improvement of working conditions at the workplace. Also, prior to the strike in February and March 2012, 9 (nine) union leaders who declared the formation of their union had already been dismissed. During the strike, the workers were confronted with police violence and intimidation. When the strike was over and workers tried to return to work, they reported being threatened and forced to quit their union. On the 23rd of July 2012, 1,300 workers who participated in the strike were dismissed by the factory, without severance payment.

In October 2016 ILO Committee on Freedom of Association published its interim report<sup>19</sup> concerning case no. 3124 (Indonesia) on the reported freedom of association abuses by management of Panarub Dwikarya. In their conclusion the committee states clearly that "bearing in mind the circumstances of this case and recalling that, as was acknowledged by the Government and the employer representative, the company had not paid several months of wages, the Committee considers that calling a strike if necessary to protest against the non-payment of part of all of the workers' wages and to demand better working conditions constitutes

<sup>14</sup> See Annex IV: Company Profiles Panarub Industry and Panarub Dwikarya

<sup>15</sup> See <http://www.panarub.co.id/profile/company-profile>

<sup>16</sup> *ibid*

<sup>17</sup> See Adidas Response to Clean Clothes Campaign Letter, 2<sup>nd</sup> of October 2017

<sup>18</sup> *ibid*.

<sup>19</sup> [http://www.ilo.org/dyn/normlex/en/?p=1000:50002:0::NO:50002:P50002\\_COMPLAINT\\_TEXT\\_ID:3302041](http://www.ilo.org/dyn/normlex/en/?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:3302041)

a legitimate trade union activity and would thus not give rise to considerations of justified or unjustified absence pursuant to section 168 of Act No. 13 of 2003”, thereby establishing that the dismissal of the Panarub Dwikarya workers was unjustified and an abuse of the workers fundamental right to freedom of association, according to the ILO standards. As such the strike constitutes a fundamental and inalienable right of the workers. Therefore, no party can dismiss, ignore or declare the strike “illegal”, and the associational rights of the worker who were dismissed as a result of their participation in the strike have been infringed.<sup>20</sup>

In response to the concerns raised by the ILO Committee on Freedom of Association, the government of Indonesia has convened several meetings, either bilaterally with the union representing the workers (GSBI/SBGTS) as well as together with the Adidas supplier Panarub. The latest meeting dated from the 22th February 2018. Nevertheless, as demonstrated further, due to the lack of involvement of Adidas, these meeting have not resulted in an adequate remedy for the workers involved.

### **Role of Adidas**

The Panarub Group (PT Panarub Industry and PT Panarub Dwikarya) supplied goods to Adidas prior, during and after the events. Up to date the Panarub Group continues to be an important business partner to Adidas and vice-versa.

In response to the decision of PT. Panarub Dwikarya to ask a waiver delaying the implementation of the 2012 sectoral wage in their Tangerang factory, Adidas instructed the Panarub Group to no longer produce their orders in this particular facility while at the same time remaining a client of the Panarub Group.

However, production of Adidas shoes continued at the facility PT. Panarub Dwikarya during the time of the wage abuses in 2012, and at the exact moment that the leadership of the newly formed trade union SBGTS-GSBI was dismissed in February and March that year, as

<sup>20</sup> It is important to note that the mandate of the ILO Committee on Freedom of Association (CFA) is restricted to addressing governments only and not addressing the responsibility of either businesses itself (in this case the supplier Panarub) as well as the business relationships (in this case Adidas). However, the mandate of the ILO CFA does include the capacity to establish, interpret and conclude whether the events on the ground constitute a abuse of the workers right to Freedom of Association. The findings of the ILO CFA are important to this case in the extend that they do clearly and legitimately establish and conclude that the facts on the ground are an abuse of the workers fundamental associational and human rights.

In turn, the UN Guiding Principles on Business and Human Rights as well as the OECD Guidelines clearly state that it is the responsibility of internationally operating companies, irrespective of the actions of the state, to ensure that human rights are respected throughout their supply chains. Companies should use, and if needed increase, their leverage over business partners to end human rights abuses, mitigate the adverse impacts and contribute to the provision of remedy in case of such abuses. The ILO CFA findings clearly establish such an abuse.



demonstrated by production sheets. Adidas was duly aware that production continued during this time.<sup>21</sup>

In response to the violations itself, Adidas assisted with the appointment of a mediator, with the intention of supporting a resolution of the conflict between union and management following the strike.<sup>22</sup> In 2016 Adidas equally asked the supplier to meet with the union in order to reach a settlement. As mentioned, on both occasions, the Panarub Group refused to negotiate in good faith<sup>23</sup>. On the latter occasion, Panarub refused to bring a serious offer for compensation to the table, thereby aborting the negotiation before it could even properly start, despite the repeated confirmation of the union SBGTS-GSBI in their letter dated 28<sup>th</sup> of September 2016 that they were willing to lower their demand would the company propose a new calculation and continue the process of negotiation as agreed. Instead the process has been allowed to fail without the further intervention that would have been required to ensure continued and ongoing engagement.

However, although in both cases Panarub management refused to negotiate in good faith, Adidas did not attach any serious consequences to the recalcitrant attitude of their supplier. It therefore did not use its leverage to make their key supplier understand the absolute need to pay the workers full severance in order to align the practices of their supplier with local and international norms, as well as the norms Adidas espouses for its suppliers (see Annex 1).

Indeed, while Adidas stopped orders at the subcontracted facility, it continued afterwards and up to date to do business with the same business group (Panarub Group). Given that PT Panarub Industry and PT Panarub Dwikarya are not independent businesses, and given the highly fungible nature of the product (a claim further reinforced by the loss of PDK as an overflow facility), the move of production of sport shoes from one facility to another, is assumably resulting in the other clients production being moved to the PT. Panarub Diwikarya facility, and therefore does not constitute any meaningful impact to the Group at all.<sup>24</sup>

<sup>21</sup> Adidas claims that these were „residual orders“ and that the decision to allow for finishing their orders was inspired by their responsible sourcing policies to manage impacts on workers when shifting orders (letter to CCC dated 10th of May, 2017). This general reference to responsible sourcing policies however does not take into account the particular situation when the reason for shifting orders are the observation that there are negative human rights impacts. Gradually shifting orders from one facility to another belonging to the same business group cannot be considered an adequate response that will result in the prevention or mitigation of negative human rights impact.

<sup>22</sup> See Adidas presentation of its own role in different letters from Adidas to CCC (dates 16.12.2016, 11.04.2017, 2.10.2017)

<sup>23</sup> The refusal to bargain in good faith constitutes in itself an anti-union policy and practice. The OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector (Guidance) clearly advance this under II Module 6. Trade Unions and Collective Bargaining. The Guidance further stipulate that any credible supplier assessment should include whether there is a refusal to bargain in good faith.

<sup>24</sup> The shifting away of product is a disengagement as described by the Guidelines Chapter II, Commentary 22

The actions of Adidas can therefore not be considered at all as adequate use of its leverage to prevent and mitigate human rights abuses that continued by Panarub Dwikarya and the Panarub Group. Furthermore, continuing its business relationship with the Panarub Group while being aware of severe human rights abuses in the operations Adidas is condoning these same abuses. By refusing to provide remedy to the workers, the actions of Adidas contribute<sup>25</sup> to the continuation of these rights abuses.

### **Breaches of the Guidelines**

Adidas Group's public pronouncements and official corporate responsibility policies support good working conditions, fair wages and benefits, and the right to freedom of association in its suppliers factories. However, in the case of Panarub Adidas clearly ignores and compromises on these principles.

The Adidas Group has an obligation to avoid causing or contributing to adverse human rights impacts. In order to achieve this, the Guidelines define Human Rights Due Diligence as a central strategy. Human Rights Due Diligence needs to be understood as a dynamic concept, and in the context of a supply chain, the credibility of the Human Rights Due Diligence determines the degree to which a company is either directly linked, contributing or even causing the negative impact.<sup>26</sup>

Whereas it is clear that initial abuse of the associational rights of the workers was a direct responsibility of the Panarub Dwikarya factory and the Panarub Group, Adidas, through the production of its product at the factory itself and through its direct business relationship with the Panarub Group, was "directly linked" to the adverse human rights impact.<sup>27</sup> Therefore, having been made aware of the situation, Adidas has a responsibility to seek to prevent or mitigate the

<sup>25</sup> OECD Guidelines, Chapter II, Commentary 14 state that 'contributing to' an adverse impact should be interpreted as a substantial contribution, meaning an activity that causes, facilitates or incentivises another entity to cause an adverse impact. By continuing the business relationship with the Panarub Group in the mutual knowledge that Adidas knows about the serious human rights abuses at PT. Panarub Dwikarya and did not terminate the business relationship despite continued infringement on a human right in effect facilitates the human rights abuse.

<sup>26</sup> The OECD Due Diligence Guidance for Responsible Business Conduct Annex Question 29 state "An enterprise's relationship to adverse impact is not static. It may change, for example as situations evolve and depending upon the degree to which due diligence and steps taken to address identified risks and impacts decrease the risk of the impacts occurring."

<sup>27</sup> See OHCHR, "The corporate Responsibility to Respect Human Rights: an Interpretive Guide", 2012. HR/PUB/12/02 [http://www.ohchr.org/Documents/Publications/HR.PUB.12.2\\_En.pdf](http://www.ohchr.org/Documents/Publications/HR.PUB.12.2_En.pdf) see page 17 for examples. Especially the example of child labour and embroidery is meaningful, as the retail company has neither caused or contributed to the harm. It has even directly prohibited the conduct through its supplier contract but is directly linked. Although the Adidas group has requested no longer to produce at the factory prior to the original events, production for Adidas did continue at the factory where the adverse human rights impacts occurred.

risk from continuing or recurring, even if it has not contributed to original human rights impact, especially, given the significant leverage Adidas possesses of the Panarub-Group.<sup>28</sup>

However, the ensuing due diligence actions following the original adverse impact determine the level of contribution further down the road. Therefore, once made aware of the initial abuses, the Adidas Group failed to demonstrate that it has carried out sufficiently convincing due diligence commensurate with the risk level to whether it was not involved in any further adverse impact and to ensure whether appropriate remedy was provided.

Indeed, the lackadaisical reaction of the Adidas Group in response to the adverse human rights impact and further aggravation through additional human rights abuse of the workers associational rights have gradually shifted the responsibility of the Adidas Group.

As highlighted above, it is to be noted that the Adidas Group indeed did encourage the Panarub Group at two occasions to try to amicably resolve the dispute with the workers. However, once it was apparent that the Panarub management had no intention in entering, pursuing and concluding these negotiations in good faith, it failed to attach any meaningful consequences for the Panarub Group.

Adidas was well aware that no remedy had been provided to workers and simply tolerated the anti-union attitude of its supplier by condoning the bad faith negotiations (an anti-union act in its own right) while continuing a strong and important business relationship with the Panarub Group (even if production was effectively moved to another production line) therefore resulted in the gradual complicity and contribution of the Adidas Group to the negative impact.<sup>29</sup>

Indeed, the continuing of business under the special relationship between Adidas and the Panarub-Group means that the ongoing rights violations were without negative consequence. On the contrary, even after the initial violations, the Panarub-Group continued to benefit substantially from its relationship with Adidas, attracting new orders and new models from Adidas, as well as other clients such as Reebok.<sup>30</sup> The activities of Adidas therefore did not mitigate in any meaningful degree the adverse impact nor decreased the risk of the impact occurring. Condoning anti-union activity including unfair dismissal without proper redress and bargaining in bad-faith has a chilling effect as it actually further limits the political space in which workers exercise their associational rights.

<sup>28</sup> See again <http://www.panarub.co.id/profile/milestone> which clearly demonstrate the unique relationship between the Panarub Group and Adidas.

<sup>29</sup> See OECD Due Diligence Guidance for Responsible Business Conduct Annex Question 29

<sup>30</sup> *ibid*

As for Adidas, it was foreseeable that the absence of meaningful use of its leverage would continue the rights violations. Both to the violation of the workers right to join or form a union of their choosing and exercise legitimate union activities, as well as the non-payment of both the due wages that led to the protest in the first place, as well as the non-payment of the severance after the unrightful dismissal. It is equally foreseeable that the absence of a resolution in the last years has further aggravated the financial hardship of the workers.

## **Conclusion**

The Guidelines are not 'optional' or 'aspirational' but are minimum standards of conduct required of a global corporation. The Adidas Group has failed to meet these standards through its failure to ensure that one of its business partners, namely the Panarub Group respects basic and fundamental workers' rights.

Furthermore, Adidas has not sufficiently contributed to an effective remedy for the workers, despite its significant leverage, has witnessed further abuse of the workers associational rights and has therefore further contributed to the negative impact. These actions are flagrant abuses of the Guidelines and are not compatible with the ILO-based framework for industrial relations that the Guidelines seek to establish.

## **Towards a solution**

The complainants have sought over the last five years to resolve these matters through amicable discussion with Adidas but have thus far been unsuccessful in persuading the company to enter seriously into such a dialogue with the workers and their representatives, or to obtain effective commitment to a solution. Even a recent attempt (autumn 2017) to discuss the Panarub case with Adidas via mediation of the German Alliance for Sustainable Textiles was unsuccessful. Adidas declined as it feels 'there's no need to discuss the case'.<sup>31</sup>

The complainants therefore request the German NCP to make use of its good offices to bring all parties to the table in order to achieve a sustainable long-term solution for the human rights violations and their consequences on the workers.

<sup>31</sup> Mail of BMZ to CCC Germany, dated 8/10/2017, as a reply to a Mail of CCC Germany dated 8/01/2017, asking BMZ as leading organisation in German Alliance for Sustainable Textiles to arrange a meeting between Adidas and CCC Germany on Adidas responsibility and leverage to solve the Panarub case.

### **What solution is anticipated?**

The Adidas Group must take critical steps to ensure remedy to the PDK workers.

The complainants wish to enter into a constructive dialogue with Adidas with the aim to negotiate a settlement that will provide effective remedy to the PDK workers. The parameters defining and implementing such a settlement need to be agreed by the workers and their representatives and be in line with the ILO standards in general and the ILO recommendations in the CFA complaint in specific. Ensuring the identification and actual provision of effective remedy will therefore end Adidas contribution to serious breach of the OECD Guidelines, and bring Adidas back in line with the Guidelines, the UN Guiding Principles and its own aspiration to be a responsible company.

The complainants regard the 'good offices' approach of the OECD process as an eminently suitable vehicle for bringing about a resolution in this case, and to this end the complainants would welcome the opportunity to engage in constructive discussions with the Adidas Group.

The complainants understand that the NCPs seek to resolve complaints by facilitating conciliation or mediation between the complainant and Adidas. The complainants welcome the opportunity to engage in such a process and look forward to securing a positive, negotiated, and mutually beneficial solution.

In the event, a negotiated agreement proves impossible to achieve, then the complainants will request that the NCP makes a determination and issues an appropriate final statement clarifying whether or not the Guidelines have been breached in this case. The complainants recognise that the NCP may wish to consult, advise, or otherwise engage with other parties (for example the local union or the ILO) where this is viewed as appropriate.

### **Disclosure**

The complainants are aware that information provided to the NCP will be shared with the company. The complainants are content for all information shared in the process to be publicly available.

## **Annexes**

- Annex 1 Adidas Workplace Standards
- Annex 2 FoA-Protocol
- Annex 3 Third Party Complaint Process for Breaches to the adidas Group Workplace Standards or Violations of International Human Rights Norms<sup>1</sup>
- Annex 4 Company-profile PT. Panarub Industry and PT. Panarub Dwikarya
- Annex 5 Chronology of events