

Joint final statement by the German National Contact Point for the OECD Guidelines for Multinational Enterprises, the European Center for Constitutional and Human Rights (ECCHR) and Otto Stadlander GmbH regarding a complaint by the ECCHR about Otto Stadlander GmbH/Bremen

On 22 October 2010, the European Center for Constitutional and Human Rights (ECCHR) and the Uzbek-German Forum for Human Rights e.V. ("complainants") lodged a complaint against Otto Stadlander GmbH/Bremen ("respondent") with the German National Contact Point for the OECD Guidelines for Multinational Enterprises. The ECCHR simultaneously lodged complaints under the Guidelines against Swiss, British and French cotton traders with the respective National Contact Points.

The OECD Guidelines for Multinational Enterprises form part of the OECD Declaration on International Investment and Multinational Enterprises and contain recommendations for responsible business conduct for enterprises. The governments of the OECD Member Countries and other participating countries have committed themselves by way of their respective National Contact Points to promoting the use of this voluntary code of conduct and to helping to arrive at solutions to complaints via confidential mediation involving relevant partners.

The main allegation made to the German National Contact Point was that the respondent supports or profits from child labour by purchasing Uzbek cotton from state-owned enterprises in Uzbekistan. Further to this, the respondent was accused of having direct possibilities due to its commercial ties to influence the Uzbek government, which is responsible for cotton production, and of having failed to use them to engage in a critical dialogue on the problem of child labour or to make a different contribution towards improving the situation.

In detail, the complainants demand that the respondent

1. should boycott Uzbek cotton as long as the child labour problem exists;
2. should advocate that Uzbekistan accept the ILO observer mission during the autumn 2011 harvest;
3. should do everything it can to combat the use of child labour in cotton production in Uzbekistan;
4. should disclose the annual quantities of Uzbek cotton imported by it and its clients.

The German National Contact Point carefully examined the facts on which the complaint was based. In this process, it obtained comments and held discussions.

A comprehensive clarification of the facts of the matter, prior to the decision to accept the case for in-depth consideration, took place in discussions held by the German National Contact Point on 11 April 2011 with the managing director of the respondent and on 15 April 2011 with representatives of the ECCHR. Both sides had previously been given the opportunity to set out their views in written comments. A concluding discussion with representatives both of the complainant and of the respondent took place on 21 July 2011 on the premises of the German National Contact Point.

The German government noted with great concern the ongoing reports about child labour in the cotton industry in Uzbekistan in 2010. Child labour is a particularly serious violation of the human rights of children. The German government vigorously opposes all forms of child labour. It therefore calls both bilaterally and in the European Union for an end to the use of child labour in the cotton harvest in Uzbekistan and has called on the Uzbek authorities in international bodies and in bilateral discussions to take effective action to abolish this practice. The German government will not relax its efforts to bring about an end to the use of child labour in the cotton harvest in Uzbekistan.

Despite the fact that no investment was involved, the German National Contact Point regarded the complaint as being sufficiently relevant as to warrant acceptance of the case for in-depth consideration.

Regarding demand no. 1

On the basis of the documents and information presented by Otto Stadlander GmbH, the German National Contact Point was able to ascertain that the respondent, contrary to the allegations made in the complaint, had not had any direct supply relations with Uzbek state-owned enterprises for 16 years, but rather obtained "central Asian" cotton exclusively via wholesalers. Around 5% of the cotton supplied on the basis of these contracts is Uzbek cotton, but it is almost impossible for the purchaser to influence this due to the structure of the transactions. There is no state-imposed import ban on Uzbek cotton. Demand no. 1. is thus unfounded.

Regarding demand no. 2

Back in 2010, the International Labour Conference (ILC), the highest body of the ILO, decided to send a high-level ILO observer mission to Uzbekistan. There was a broad consensus on this, backed both by the majority of employers' and employees' associations and by the majority of governments. The 2011 ILC also addressed in detail Uzbekistan's violations of ILO Convention 182 on the Worst Forms of Child Labour. It categorised the situation in Uzbekistan as being one of six particularly serious cases. At the 2011 ILC, Uzbekistan was again called on both by employers' and employees' associations and by a large number of governments to admit the ILO observer mission. So far, the government of Uzbekistan has rejected this high-level observer mission.

For this reason, the international community is exerting constant political pressure on the Uzbek government. However, all efforts have so far been in vain. The influence of individual companies on the Uzbek government should therefore generally be regarded as being very limited, and all the more so in the present case, as the respondent does not maintain any direct trading relations with the relevant Uzbek state-owned enterprises. The demand made of the respondent under no. 2 is thus not feasible. Despite this, companies continue to be called on to do what they can to end child labour.

Regarding demand no. 3

In general, given the current market situation – a pure sellers' market with a scarce supply – it seems difficult for the buyers' side to influence those bearing responsibility for the cotton business in Uzbekistan. The respondent is only trading comparatively small quantities of Uzbek cotton and, contrary to the allegations made by the complainant and as stated under no. 1 above, does not obtain these directly from the Uzbek state-owned enterprises. This was also conceded by the complainant in two cease-and-desist declarations of 17 and 18 November 2010.

The complainant stated that the staff member of the company in Tashkent does not have any direct relations with decision-makers in the Uzbek government and is not involved in the conclusion of specific commercial transactions.

Otto Stadlander GmbH is a founding member of the Association of Cotton Merchants in Europe (ACME), which has approached the Uzbek leadership several times with calls to end the practice of child labour, most recently in a letter to the Foreign Economic Relations Minister dated 17 June 2011. In this letter, Uzbekistan is called on, inter alia, to engage in a dialogue with the ILO, UNICEF and European retail associations and to admit ILO and UNICEF observer missions during the cotton harvest.

The respondent also announced its intention to voluntarily adopt the Code of Conduct for the Textile and Fashion Industry drafted by the Confederation of the German Textile and Fashion Industry and to inform its business partners about this, for example when concluding contracts. These guidelines for corporate conduct refer not least to the ILO's core labour standards and thus also to the ban on child labour.

In addition, the company intends to accede to the United Nations Global Compact network, which also includes the abolition of child labour as one of its Ten Principles. Every company which participates in the United Nations Global Compact is required to publish an annual written progress report on the status of the implementation of these Principles in the company.

Further to this, the respondent has assured that it will do what it can on appropriate commercial occasions, with appropriate commercial contacts, and in the relevant bodies, to clearly express its opposition to child labour and will advocate that cotton from child labour should not be purchased. Finally, the respondent stated its willingness to raise awareness of the problem amongst its staff in an internal training session on supply-chain risk management, particularly regarding child labour in the cotton industry, in order to act appropriately in the supply chain wherever possible. A year after the publication of this ruling, Otto Stadlander GmbH will report to the German National Contact Point on the measures taken. The aforementioned measures mean that the complainants' demand no. 3 can be deemed to have been met.

Regarding demand no. 4

The respondent cooperated with the German National Contact Point and disclosed a substantial amount of data on its business activities. However, the respondent justifiably rejected the complainants' demand that it disclose its clients on the grounds of commercial confidentiality. Demand no. 4 should therefore be deemed partially met, and apart from that unfounded.

With the mediation of the National Contact Point, both sides agreed on the above final statement. The complainants agree to cease publicly criticising the respondent's past business practices relating to trade in Uzbek cotton. This does not apply to statements regarding violations of human rights in Uzbekistan without any recognisable reference to the respondent and its business practices. The complainants will clarify in a press release that the allegations that the respondent purchases large amounts of Uzbek cotton directly from Uzbek state-owned enterprises have proven to be false. To the extent that reporting in the media about the complaints procedure regarding these allegations has resulted in damage to the respondent's reputation, the complainants regret this.

Berlin, 1 November 2011

[signature]
For the National Contact Point
Head of Division Joachim Steffens
Federal Ministry for Economics and Technology

Berlin, 7 November 2011

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For the complainants
Dr Miriam Saage-Maaß
European Center for Constitutional and Human Rights (ECCHR)

Berlin, 17 November 2011

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For the respondent
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Otto Stadlander GmbH