



## SPECIFIC CIRCUMSTANCE

### Communiqué of the Moroccan National Contact Point

#### The Moroccan Labour Union (UMT)

#### against the company Business Casablanca 2S Comdata Group

07 September 2022

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Following its initial assessment, the NCP accepts the referral and offers its good offices to the parties.

The Moroccan National Contact Point (NCP) for the responsible conduct of multinational enterprises was seized on May 12, 2022, by Mr. Ayoub Saoud, Secretary General of the Union Marocaine du Travail (UMT) des Centres d'Appel, hereinafter referred to as "the Complainant", against the Business Casablanca 2S Comdata Group, hereinafter referred to as "the Company", operating in the offshoring and outsourcing sector.

#### Procedure followed by the Moroccan NCP according to its internal rules:

**In accordance with its internal rules, the NCP endeavours to complete the handling of the complaint as soon as possible, i.e. 03 months for the initial assessment, 06 months for the good offices and 03 months for the final statement. However, due to the complexity of the complaint, the feedback from the parties and the collection of the necessary information and documents, this timeframe may be extended.**

#### **1. Receipt of the referral :**

The Moroccan NCP was seized on 12 May 2022 by the Secretary General of the UMT Call Centre Union.

The complaint concerns the company Business Casablanca 2S Comdata Group, a subsidiary of Group Comdata in Morocco.

According to the Complainant, the Company would not have respected the OECD guidelines, in this case **Chapter V** on employment and industrial relations.

In this sense, the complainant reproaches the Company for not respecting the freedom of association within the company, and the suspension of seven employee representatives and members of the most representative trade union, the UMT, after a strike movement held by the said representatives to assert the fundamental right to collective bargaining.

## **Employment and Industrial Relations**

### **Chapter V on Employment and Industrial Relations provides that:**

**"Enterprises should, within the framework of applicable laws and regulations and prevailing employment and industrial relations practices and applicable international labour standards:**

**1. a) Respect the right of workers employed by the multinational enterprise to form or join trade unions and representative organizations of their choice.**

**(b) respect the right of the workers employed by the multinational enterprise to mandate trade unions and representative organizations of their choice to represent them in collective bargaining, and to engage, either individually or through employers' associations, in constructive negotiations with such representatives, with a view to reaching agreements on terms and conditions of employment..... "**

**2. (a) Provide workers' representatives with the necessary means to facilitate the development of effective collective agreements.**

**(b) Provide workers' representatives with the information necessary for constructive negotiations on terms and conditions of employment..... "**

**4. a) Observe standards of employment and industrial relations as favourable as those observed by comparable employers in the host country.... "**

**8. To permit the authorized representatives of their workers to conduct negotiations on matters relating to collective agreements or employee-employer relations and to permit the parties to enter into consultations on matters of mutual interest with the representatives."**

After contacting the Complainant and discussing the matter with him, the Moroccan NCP explained its tasks and procedures and the OECD Guidelines. The Complainant was asked to provide the NCP with all documents related to the referral.

On May 31, 2022, the Complainant provided the NCP with the requested documents supporting the allegations against the company to enable the NCP to complete the initial assessment.

According to the Complainant, the Company's management impeded the free exercise of trade union activity by instructing security officers to deny employee delegates and trade union representatives access to the Company's premises. According to the Complainant, the Company did not comply with the provisions of the Labour Code, which regulates collective bargaining and disciplinary measures against employee representatives.

The Complainant also specified his expectations in relation to this referral, namely

- To recall the duty of vigilance of the multinational Comdata vis-à-vis its subsidiary Business Casablanca 2S for the respect of the fundamental rights of freedom of association and collective bargaining,

- Reinstate the employee representatives wrongfully arrested on 21 April 2022.

## **2. Formal admissibility of the referral :**

The Moroccan NCP validated the formal admissibility of the referral on 1 June 2022 and started its initial assessment.

### **Initial assessment:**

The Moroccan NCP informed the Complainant of the formal admissibility of the referral and asked the Complainant to confirm whether it was seeking its good offices.

The Moroccan NCP contacted the Company on July 14, 2022, via email, to inform it of the receipt of a circumstance against it, and to introduce the NCP, its missions, and the Guidelines for Multinationals.

Through this email, the NCP informed the Company of the steps in the referral process and of the mediation that can be offered in case the NCP considers that the referral merits further consideration, in accordance with the procedures set out in the OECD Procedural Guidance

The Company's lawyer has contacted the NCP Secretariat for further information on the Complaint that was filed by the Complainant.

The NCP introduced the lawyer to the body, its tasks, the background to the filing of the complaint, the steps that will be followed in its processing, how the initial assessment is made, and its duration. The lawyer was also informed that the Moroccan NCP will inform the supporting NCPs according to the nationality of the parent company.

The NCP emphasised that the Company is invited to mediate with the complainant, and that it is desirable that it agrees to negotiate a solution to the dispute through mediation.

The NCP also explained to the lawyer the principle of non-confidentiality of documents exchanged between the parties and transmitted to the NCP, except for those designated as such, and that confidentiality in case it is requested by one of the parties must be justified.

He also informed him that the initial assessment statement and the final report, prepared by the NCP in the context of this specific instance, will be published both on the Moroccan NCP website and on the OECD website.

The lawyer informed the NCP that a file has been prepared by the Company in response to the email sent to it and that it will be forwarded to the NCP shortly.

He also informed the NCP that the Company has 13 trade union offices within the Group and that the Group employs almost 10,000 employees. Furthermore, in the context of this case, he informed the

NCP that a criminal complaint has been filed by the Company against the Complainant. The lawyer also pointed out that the Complainant stopped the Company's activity for one day, and that the Company has material evidence of this.

The Company sent the NCP a written reply dated 18 July 2022, attaching information.

### **3. Conclusion of the initial assessment:**

The NCP has examined all the documents submitted to it by the Complainant and the Company.

In assessing the admissibility of the submission, the NCP determines whether the issue raised is bona fide and in accordance with the Guidelines, based on the following elements, among others

- The identity of the party concerned and its interest in the case;
- The significance of the issue and the evidence provided in support of it;
- The apparent link between the company's activities and the issue raised in the specific circumstance;
- The relevance of applicable laws and procedures, including court decisions;
- The manner in which similar issues are (or have been) dealt with at national or international level;
- The relevance of the issue to the objectives of the Guidelines and the effectiveness of their implementation.

The NCP considers that the specific instance meets the criteria as set out above, as it has been explained and supported by the documents justifying the facts referred to in the complaint. It includes the identities of the two parties, the chapter of the guidelines in question, the details and facts of the complaint against the Company, as well as the complainant's expectations.

>>After studying these documents, the NCP concluded

- The admissibility of the referral in terms of form.

As such, the issues raised in the referral merit further consideration. The NCP will also offer a platform for dialogue to the parties to help them find a solution to their dispute, including through mediation.

To this end, the NCP will, in accordance with its rules of procedure, consult with the parties to the dispute and, as appropriate, may seek advice from the competent authorities and/or representatives of the business community, workers organisations, other non-governmental organisations and experts.

The formal acceptance of the referral by the NCP does not determine whether the Company has acted or not acted in accordance with the OECD Guidelines.