

Aggressive and Unlawful: A Report into Deutsche Post DHL Operations in Turkey

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Executive Summary

For well over a year, workers at DHL Logistics in Turkey have been attempting to form a union. In response, management has apparently fired workers for union activities and engaged in a variety of other aggressive and illegal anti-union actions.

DHL's anti-union tactics have included the following:

1. At least twenty-one terminations, apparently for union membership, under the pretext of "poor performance," safety violations, or other vague violations of company policy.
2. Management pressure on workers, either through threats of dismissal or offers of financial incentives, to sign notarized letters resigning from the union.
3. Direct warnings given to employees by management that becoming unionized would harm the company and harm their personal careers at DHL.
4. Explicit anti-union threats by management intended to create an atmosphere of fear and intimidation within the workplace.
5. Derogatory statements about the union made directly to the workers, including suggestions that the union has links to a known terrorist organization.
6. Instances of management preventing DHL Logistics workers from talking to union officials during break times and outside of workplace premises.
7. Management discrimination against workers because they had joined the union.
8. Management-conducted "training sessions" warning workers against joining the union.
9. Surveillance of picket lines and discrimination against workers who visit the picket lines.
10. Alterations to the work environment designed to prevent workers from communicating with union officials and stop workers from talking to one another about the union.

These anti-union activities form part of a sustained and coordinated strategy to limit workers' freedom of association, and are not simply the "individual erratic behaviour" of a few over-zealous local managers. Rather than make a good faith effort to remedy these violations, however, Deutsche Post DHL has attempted to discredit allegations of labor rights abuses, even in the face of compelling evidence from several sources.

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Section 1: Introduction

Deutsche Post DHL is one of the world's largest companies, with over 400,000 employees across the globe. Deutsche Post DHL is headquartered in Bonn, Germany, anchored by substantial German postal operations, and backed by German state bank KfW Bankengruppe's 25% share of the company. Outside of Germany, the company is best known as DHL and operates through hundreds of subsidiaries, joint ventures and affiliates. It is the global leader in express package delivery, international freight forwarding, and 'third party' or outsourced logistics operations, which are run by its "Supply Chain" division. At the end of 2011 the group posted revenues of more than EUR 52 billion and a consolidated net profit of EUR 1,163,000,000. In 2012 the group has continued to grow within an industry generally hard hit by the global economic crisis.

In the Republic of Turkey, Deutsche Post DHL operates through its three wholly owned subsidiaries: DHL Worldwide Express, DHL Global Forwarding, and DHL Logistics (Supply Chain).

For well over a year, almost 1500 workers and about 1000 subcontracted employees who work at DHL Turkey's supply chain division have been attempting to form a union. In response, the company has apparently fired several workers for union activities and engaged in a host of other aggressive and illegal anti-union actions. This report attempts to uncover exactly what has happened at DHL Turkey and examine whether the company's actions are consistent with the principles contained in the company's Corporate Responsibility Code, its Code of Conduct and the external labor standards that it has embraced.

Much of the evidence for this report is based on extensive interviews with DHL Logistics workers in Istanbul and Ankara. During the period September 10-17, I conducted multiple interviews with current and former DHL employees (i.e., those fired, allegedly for union activities) and sub-contracted workers at DHL Logistics, officials from Tümtis (Turkish transport workers union), officials from Turkey's main labor federations, labor lawyers, journalists, academics, members of the Turkish Parliament and others. These interviews help illuminate exactly what is happening during the ongoing attempt by DHL Turkey workers to form a union, which has to date resulted in the sacking of over 21 workers since April 2011.

The interviews with DHL Logistics workers have uncovered multiple examples of anti-union activities by management. Every single interviewee describes instances of anti-union behavior – some legal under Turkish law, other clearly illegal – that he or she had either experienced firsthand or witnessed directly. But this is not simply a "little local difficulty." These activities form part of a sustained and coordinated strategy to limit workers' freedom of association, and are not simply the rogue behavior of a few over-zealous local managers.

The range and intensity of Deutsche Post DHL's anti-union campaign in Turkey, moreover, is comparable to the actions of the country's most aggressive anti-union firms. This is not a sophisticated effort based on "soft" HRM policies or behavioral science techniques to convince the employees that management can provide more effectively for employees' wellbeing. It is not an attempt to make unions unnecessary by providing DHL employees in Turkey with the best possible wages and working conditions. Indeed, by all accounts, work conditions have deteriorated significantly in recent years. Rather, it is an aggressive campaign, based on thinly veiled coercion and intimidation, to keep the union out at all costs, even if that means sacking union members, pressuring them to resign for the union, preventing them from talking to union officials and to each other about the potential benefits of unionization, creating an atmosphere of fear in the workplace, and telling workers that the union would drive the company out of business and is associated with a known terrorist organization. When implementing this aggressive anti-union campaign, DHL management has repeatedly violated the fundamental labor rights of its workers. Rather than make a good faith effort to remedy these violations and respect the rights of its Turkish workers, however, Deutsche Post DHL in Bonn has attempted to discredit allegations of labor rights abuses, even in the face of compelling evidence from multiple sources, and has instead clung to the now discredited justification of "poor performance" as a basis for the discriminatory dismissals.

¹ DHL Turkey has about 3000 direct employees in total in three separate divisions, and over a thousand subcontracted employees.

Section 2: Summary of Deutsche Post DHL's Anti-Union Practices in Turkey

Among the numerous examples of anti-union behavior discussed by the former and current workers and union officers are the following:

- At least twenty-one terminations, apparently for union membership and activism, under the pretext of “poor performance,” safety violations, disruptive behavior, failure to complete the required amount of overtime, or other vague violations of company policy. DHL management has failed to provide any credible evidence of just cause for these dismissals, and there is considerable evidence that contradicts the company’s justification for its actions. In the first eight of the unlawful terminations cases in March 2012, the Uskudar 2 and 1 Labor Courts rejected the company’s justifications for the firings and decided all cases in favor of the workers. The union believes that these decisions -- which mean that the cases are closed -- provide official backing for its position that the workers were fired for union activities. Discriminatory dismissals such as these are clearly illegal under the Turkish law and constitution.
- Management pressure on workers, either through threats of dismissal or offers of financial incentives, to sign notarized letters resigning from the union – an anti-union tactic that, like illegal terminations, is regrettably routine in Turkish labor relations. Joining a union is a difficult and expensive process in Turkey – workers are required to go to a notary, complete five copies of a detailed form, and pay a fee that is often equivalent to several days pay. One of the copies for the application form goes to the Ministry of Labour and Social Security, and one eventually goes to the employer, which undoubtedly dissuades many employees from joining. Thus, workers do not join unions without a serious level of commitment, and few would resign their membership – which also requires going to the notary, completing a form, and paying a significant fee – without outside pressure to do so. Turkish law clearly prohibits employers from pressuring workers, or offering them financial incentives, to resign from the union.
- In some cases, non-union members have been pressured by management to sign letters of resignation, which provides clear evidence of unlawful coercion. What logical reason, other than management intimidation, would non-union members have for signing letters resigning from an organization to which they do not belong? In addition to at least thirty-seven notarized letters signed by former union members, the Tumtis union has in its possession at least one letter signed by a non-member.
- Direct warnings given to employees by operations managers, HR specialists and other management personnel that becoming unionized would harm the company and harm their personal careers at DHL. Some workers reported were told by management that while their work performances were good, they would not receive promotions or other any other form of advancement while they were members of the union. Discrimination based on union membership is illegal under Turkish law.
- Explicit anti-union threats by operations managers and HR specialists intended to create an atmosphere of fear and intimidation within the workplace. This has included stating to employees: “If you lose your job, how will you support your family?” and “How could you get another job if you were sacked from here?” Management threats that are intended to discourage workers for joining a union or participating in union activities are illegal under Turkish law.
- Derogatory statements about the union made by management directly to the workers, including suggestions that the union has links to a known terrorist organization (the Kurdish Workers Party or PKK, which is involved in a long-running armed struggle against the Turkish state); and statements that the union was deliberately trying to drive DHL Turkey out of business because it favors Deutsche Post DHL’s principal competitor, United Parcel Service (which is already unionized). These kinds of anti-union statements constitute unlawful coercion under Turkish law.
- Statements by a regional manager in Ankara at a DHL facility located within an IKEA store that DHL’s clients in Turkey (including IKEA) do not want a union at the company. If the company were to become unionized, the manager explained in the presence of DHL workers and sub-contracted employees, it would lose its contract with IKEA and, as a result, the workers would lose their jobs. Statements by management that workers will lose their jobs if they choose a union are almost certainly illegal under Turkish law.

- Instances of the physical separation of pro-union workers by management at DHL Logistics (for example, by assigning all pro-union employees to the same warehouse work teams) and other physical alterations to the work environment intended to limit contact between union and non-union members and restrict communication around the issue of unionization.
- Instances in Istanbul and Ankara of management preventing DHL Logistics workers from talking to union officials during break times and outside of workplace premises. In Ankara, communication between Tumtis officials and workers had taken place prior to recent union activity in Istanbul. However, DHL fired several union activists in Istanbul, management at the Ankara warehouses have repeatedly stopped workers from having any contact with Tumtis officials. Preventing workers from talking to each other and talking to the Tumtis officials about unionization is clearly contrary to the position of the Committee on Freedom of Association of the ILO on ensuring union access in order to inform workers about the benefits of union membership.²
- Management discrimination against DHL logistics workers because they had joined the union. For example, shortly after joining the union, one long-serving and high-performing Istanbul employee asked his long-term operations manager for financial support to help with urgent medical expenses. Having worked alongside him for almost a decade, he considered the manager a close friend, and management routinely granted requests of this nature to other employees, even those without his long record of service and outstanding performance record. However, the manager informed him that he might get financial assistance from DHL, but not while he was a member of the union. Anti-union discrimination during the course of employment is unlawful under Article 31/6 of the Union Act, and workers who are discriminated against are entitled to so-called unionism pay, “the minimum amount of which corresponds to the basic annual wage of the worker.”³
- Warnings by management, often shortly prior to dismissals, that while a worker’s performance was good, membership in the union would cause him or her “difficulties” at work. Some workers have been warned directly by management that membership in the union may result in their dismissal. Such statements almost certainly constitute unlawful coercion and intimidation of pro-union workers.
- In an effort to protect itself against charges of unlawful conduct, DHL management has developed an elaborate language to discourage union membership, without explicitly having to mention Tumtis. Management warns workers that they are “on the wrong side,” or that they have “gone over to the dark side,” or that they are “supporters of Fenerbahçe” (an Istanbul football and sports club based in the Asian side of the city). Workers understand that these phrases are code for the union – the equivalent of management saying, “We know that you are a member of Tumtis” -- and that they are intended as warnings against union membership.
- So-called “training sessions” conducted by operations managers and other management personnel at which workers are warned against joining the union. Workers report that management has regularly confiscated their cell phones prior to attending these training sessions to ensure that they cannot record management statements at the meetings. DHL understands that recordings of anti-union statements and threats could be used as evidence of unlawful management coercion.
- Security guard surveillance of picket lines – which have been in effect now for well over 100 days -- protesting the firing of union members outside DHL Turkey warehouses. After having been seen visiting sacked workers on the picket line, several workers have been warned by management against joining the union. Some workers who subsequently joined Tumtis were apparently fired for doing so, which is clearly in violation of Turkish labor law.
- Alterations to the work environment by management designed to prevent warehouse workers from communicating with union officials and stop workers from talking to one another about the union, such as fencing off certain warehouse areas and putting all union members in the same work teams.
- DHL management has employed a variety of other anti-union tactics – some of them borderline legal under Turkish law, others clearly illegal – designed to undermine workers’ right to form a union. These tactics are described in the interviews with individual workers later in the report.

² 2006 ILO Committee on Freedom of Association, Digest para. 1103, “Governments should guarantee the access to trade union representatives to workplaces, with due respect for the rights of property and management, so that trade unions can communicate with workers in order to apprise them of the potential advantages of unionization.” Available at http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@normes/documents/publication/wcms_090632.pdf

³ Nurhan Sural, “Anti-Discrimination Rule and Policies in Turkey,” *Comparative Labor Law and Policy Journal*, 13: 01 (2009), p. 269.

Section 3: The Cost of Doing Business (and Keeping the Union Out): DHL Management Exploits the Weakness of Turkish Labor Law

As of October 2012, DHL Turkey has fired some 21 workers allegedly for pro-union activities. In each case, the company has claimed that the workers were terminated for “poor performance,” safety violations, failure to complete the required overtime or other often-vague performance-related reasons. However, it seems clear that these are spurious justifications for sacking those workers who were most identified with the union organizing campaign.

What do we know about the sacked workers? Many of the sacked workers had previously received promotions (several had been promoted to team leader), performance awards, or other commendations for outstanding service at work – often just weeks before being sacked for poor performance. Several of the sacked workers had been held up by management as exemplary employees, but then terminated shortly after joining the union. Other justifications for the firings appear equally spurious. All of the workers fired for failing to complete (voluntary) overtime requirements, for example, possess pay slips and other documentary evidence proving they had completed long hours of overtime -- often between 50-100 hours per month during the six months prior to their terminations.

In some cases, friendly supervisors or operations managers had previously warned workers that this would likely happen to them. In two cases, management admitted to a worker that the real reason for his termination was because of the worker’s union activities, not because of poor work performance, but explained that if he did not fire the worker for this trumped-up reason, he himself would soon face the sack.

Why is the Court system Ineffective at Protecting Freedom of Association? The Turkish Court system provides limited redress for individual workers fired unjustly and illegally, if one considers several months pay adequate compensation for being fired from one’s job for union activities. But the process is often complicated and lengthy, with the time from the original complaint to the decision taking many months. Fired workers first need to submit a petition of “individual work dispute” to the Regional Directorate of the Ministry of Labour and Social Security. Decisions from the Regional Directorate can take several months, but if they conclude that the worker was indeed dismissed unfairly, this decision can be used as evidence before the courts in reinstatement cases. Workers then have to bring their dismissal case to the lower court, which, after several more months, may find in favor of the worker and order his or her reinstatement. Thus, the process for remedying unlawful dismissals offers many opportunities for powerful corporations such as DHL to exploit delay for their own anti-union purposes.

More importantly, the court system is completely ineffective at protecting workers’ collective right to form a union. Most of the workers who are fired illegally only ever receive from their employer a few months wages in compensation -- so-called “unionism pay” or “job security pay” for workers with increased job security.⁴ Unfortunately, as DHL management understands well, the court system offers no meaningful penalties against unlawful anti-union terminations. The right to join a union is clearly protect under Turkish law and its new constitution, and discrimination against employees on the basis of union membership is also illegal, but the weak penalties for unlawful management practices act as no real deterrent against this behavior.

The Court Rejects DHL’s Position on Unlawful Terminations: In April 2012, the lower court issued decisions on eight unlawful terminations cases at DHL Turkey. In each case, the court has rejected management’s official justifications for the terminations, and the company has accepted that its justifications were indeed illegitimate. However, while the courts have ordered the reinstatement of the fired workers – and seems likely to do so in the remaining unfair dismissal cases -- DHL has thus far refused to reinstate the workers and has instead exercised its option to pay compensation. Given the low wages received by DHL warehouse workers – most receive little over minimum wage, or about 800 Turkish Lira per month,⁵ before overtime -- a powerful company such as DHL can easily afford this sum, and thus the financial penalties for unlawful dismissals act as no real deterrent against the company’s illegal behavior. For a company with DHL’s considerable resources, such a paltry penalty is simply the cost of doing business in Turkey, and well worth the price of stopping workers from forming a union.

⁴ If a non-management worker has been working for more than six months under an open-ended employment contract at a workplace with at least thirty workers (or fifty in the agricultural sector), he or she enjoys the benefits of “increased job security.” Workers with increased job security enjoy, among other things, greater legal protection against dismissal.

Are illegal anti-union terminations commonplace in Turkey? Illegal firings for union activity are, regrettably, routine in Turkish labor relations. A study of metal workers estimates that three in every five workers who attempt to join a union face the sack.⁶ The International Trade Union Confederation (ITUC) reports that Turkey has more cases of discriminatory dismissals than any other single country in Europe. Its 2012 “Annual Survey of Violations of Trade Union Rights” states that 2011 saw “many cases of employers dismissing workers simply because of their union membership.” As a result of the fact that Turkish employers sack workers for union membership with virtual impunity, the former president of one of Turkey’s main union federations has stated: “In Turkey, becoming a union member has the same meaning as being unemployed, and being unemployed means being poor.”⁷

There is no mystery as to why Turkish employers violate the law with such regularity: under the Turkish system of labor relations, crime pays great dividends, as most employers consider the courts’ meager sanctions a small price to pay to prevent unionization. For companies such as DHL, the financial penalties imposed by the lower courts are a mere pittance, and thus anti-union companies have no fear of the law and the court system. In common with other large anti-union companies, DHL Turkey appears intent on exploiting the weakness of the labor relations system in order to undermine workers’ fundamental right to form a union.

Section 4: DHL’s Anti-Unionism Originates at the Top

Management opposition at DHL has followed the classic pattern of behavior for anti-union campaigns in Turkey: First the company apparently fires workers closely associated with the union campaign, knowing that, at most, it will have to pay a few months salary as compensation and will not need to reinstate the workers. This not only eliminates union activists from the workplace, but also sends a chilling message to the remaining workers who may be sympathetic to the union. It is the equivalent of management stating to workers: “We fired these workers and suffered no meaningful sanctions, and we can do the same to you.” Companies such as DHL do not fear the financial penalties imposed by the courts in cases of unfair dismissals.

Second, management pressures workers, either through threats of dismissal or offers of financial and other incentives, to sign notarized forms resigning from the union. At DHL Turkey, almost 40 workers have resigned from the union as a result of this pressure, including at least one non-union member, thereby providing clear evidence of management coercion. Workers have reported that the national HR director for DHL Turkey, Riza Balta, has offered some employees incentives to resign from the union, and employees have been offered incentives to persuade others to resign.

Next, management warns the employees against the allegedly disastrous consequences of union membership, telling them that unionization would have a dire impact both on company (which lose contracts or even go out of business) and on their own careers: they may be denied promotions as a result of being associated with the union, or be unable to support their families if they lose their jobs due to union membership. Management also attacks the union, telling workers, for example, that the union is seeking to destroy the company, and that it is connected with disreputable (or even terrorist) organizations, and so on.

Anti-Unionism at DHL Turkey Originates at the Top: Management at DHL Turkey has employed all of the aforementioned anti-union tactics and others. But DHL’s anti-union activities in Istanbul and Ankara are not simply the result of illegal behavior by a few rogue local managers. This is not simply a “little local difficulty.” Rather, DHL’s anti-unionism appears to be part of a sustained, coordinated and sophisticated campaign that involves management at the highest levels of the corporation. At individual warehouses, operations managers, HR specialists, warehouse managers, regional managers, and even the national HR director for DHL Turkey have all participated in the company’s anti-union activities.

However, the involvement of management in anti-union activities appears to go higher even than regional and national managers. National managers have reported in conversations with Tumtis officials that they are acting directly on the orders of executives at Deutsche Post DHL in Bonn.

In conversations in July and August 2012 between the President of Tumtis union, Kenan Ozturk, and the HR

⁵ In December 2011, the Turkish government set a new minimum wage for workers over sixteen years of age of 701.1 TL net for the first half of 2012 and 739.8 TL net for the second half of the year.

⁶ Erdinc Iskur, Iskur Law Office, “A Brief on the Obstacles to Unionization in Turkey” (2012). Copy in author’s possession.

⁷ Quoted in Erdinc Iskur, Iskur Law Office, “A Brief on the Obstacles to Unionization in Turkey” (2012).

Director for DHL Turkey, Riza Balta, Ozturk was told that Deutsche Post DHL in Bonn did not want a union at DHL Turkey, and that Balta intended to implement that policy. Deutsche Post DHL took the position that the global union federations ITF and UNI were involved in ongoing labor disputes with the company in several countries – India, Indonesia, Colombia, South Africa, Bahrain and others – and Turkey was simply one additional country on that list.

Moreover, Balta told Ozturk that DHL Turkey could not afford a union because its warehouses were all rented and expensive to maintain; thus, the higher labor costs associated with unionization could drive it out of business. Balta dismissed Ozturk's assurances that the parties could negotiate appropriate wage levels at the bargaining table -- as the union had done with UPS -- that would ensure the prosperity of the company and its employees. Tumtis wants both DHL Turkey and its workers to thrive. Nor was Balta interested in hearing that what the union wanted from DHL was a productive and cooperative relationship. It was not simply his personal choice that DHL Turkey operates non-union, but it was also corporate policy. Thus, it did not matter that workers were joining Tumtis, and it did not matter if the union were to recruit international support for the workers' campaign. DHL International was prepared to face down such campaign, if necessary.

As a result of this uncompromising opposition to unionization originating from the most senior levels of the company, Balta informed Ozturk that DHL Turkey would refuse any further dialogue with Tumtis. And there has been no further dialogue between the union and the company's Turkish management. These conversations indicate beyond doubt that the aggressive and unlawful anti-union actions taken by DHL management at warehouses in Istanbul and Ankara are not aberrations, not simply unauthorized and over-zealous activities by rogue local management, but part of a centralized, coordinated strategy to limit workers' freedom of association.

Is DHL management's behavior consistent with its obligations under Turkish labor law and international labor standards? There seems little doubt that management at DHL Turkey is failing to comply with Turkish law, failing to uphold the values of Deutsche Post DHL's Corporate Responsibility Report and Code of Conduct, failing to respect the principles of the UN Global Compact, the core conventions of the ILO, the OECD Guidelines for Multinational Enterprises, UN Guiding Principles on Business and Human Rights, UN Global Reporting Initiative, and a variety of other international labor standards. In its efforts to prevent its workers from exercising their fundamental right to form a union, Deutsche Post DHL has engaged in a variety of practices that contravene its internal codes, international standards, and Turkey's national labor laws and its new constitution.

Section 5: Deutsche Post DHL and The United Nations Global Compact

Launched in 2000, the United Nations Global Compact (UNGC) is an international effort to encourage corporations to adopt socially responsible practices and report on their implementation. The limitations of the UNGC are well recognized: it is a voluntary system of self-monitoring, self-reporting, and self-correction. Moreover, Principle 3 of the UNGC -- concerning freedom of association and the effective recognition of the right of collective bargaining -- is clearly the most neglected and most violated of all of its principles. Principle 3 states: "Employers should not interfere in an employee's decision to associate [i.e. or organize or join a trade union], or discriminate against the employee or their representative."⁸ Deutsche Post DHL became a signatory to the Global Compact in July 2006, and its Corporate Responsibility Report also stresses its adherence to the principles of the UNGC. The 2011 Report states: "We are guided by the principles of the United Nations Global Compact."⁹ (However, the code does not explain exactly what it means by the somewhat imprecise phrase "guided by the principles of the UNGC.")

DHL last submitted a "Communication in Progress" to the UNGC in 2011.¹⁰ On labor issues, the company has repeatedly submitted incomplete Communications. Recent events in Turkey directly contradict the information provided when it comes to adherence to Principle 3 of the UNGC. Thus far, moreover, the company failed to provide any mechanism for external stakeholders to monitor the claims and commitments made in its Communication to the UNGC.

⁸ UN Global Compact, Principle Three, *What does Freedom of Association mean?*

⁹ Deutsche Post-DHL, Corporate Responsibility Report (2011), p. 38. Available at http://www.dp-dhl.com/content/dam/Investors/Publications/Further_Publications/2012/DPDHL_Corporate_Responsibility_%20Report_2011.pdf

¹⁰ DHL submission to UNGC available at <http://www.unglobalcompact.org/COPs/detail/16473>

This is not the first time that DHL has submitted vague information to the UNGC. In June 2011, the global union federations UNI and ITF filed a complaint against DHL under the Global Compact procedures for violation of Principles 1 and 2 relating to human rights, Principle 3 regarding freedom of association and the right to collective bargaining, and Principle 6 concerning the elimination of discrimination.¹¹ The violations of the UNGC affected DHL workers in several countries: Panama, Costa Rica, Columbia, South Africa, El Salvador, India and the United States. The company has suggested that many of the violations were outdated and already resolved, or that the facts of the cases were different than those stated in the complaint. But the violations of freedom of association in Turkey are serious, ongoing, and based on the testimony of many DHL workers, and backed up by court decisions. In Turkey, the company appears to be moving backwards instead of making progress when it comes to adherence to Principle 3 of the UNGC. In other areas – such as on Principle 10 of the UNGC on corruption – the company has clearly gone to considerable lengths to ensure compliance with the principles and set up mechanisms for monitoring and investigation alleged violations. But it appears to place much less importance on violations of workers’ freedom of association. Contrary to Principle 3, DHL management has clearly attempted to interfere with its employees’ decision to join a union in Turkey, and has clearly discriminated against those employees who have decided to join a union.

When it comes to DHL’s internal monitoring and investigation of labor rights abuses, it seems clear that this system is not serving the company well. As a signatory to the UNGC, DHL must identify and remedy abuses that result in violations of the Principles of the Compact. In response to the complaint filed against it with the UNGC, DHL stated: “Deutsche Post DHL respects the rights of its employees and, in particular, the right to freedom of association.... We do not tolerate violations against these principles. If we get knowledge of a violation we investigate every single case. In an organisation with more than 470,000 employees, *you cannot generally eliminate individual erratic behaviour.*”¹² The allegations of labor rights violations in Turkey were brought to the company’s attention not by its own internal monitoring and reporting mechanisms, but by the global union federations, International Transport Workers’ Federation (ITF) and UNI Global Union (UNI). How much longer will DHL rely on ITF and UNI to monitor its labor practices and to report back on serious violations? Now that the company has been made aware of the violations of fundamental labor rights, moreover, it has adopted the untenable and discredited position that the discriminatory dismissals were due to poor performance – a contention the courts have rejected – and has ignored widespread evidence of many other forms of aggressive and illegal anti-union behavior.

Deutsche Post DHL management has stated that it currently sees no need for a global framework agreement with ITF and UNI. However, the evidence presented in this report suggests that such an agreement is urgently needed to protect fundamental labor rights at DHL’s operations in Turkey and throughout the rest of the world. DHL appears to be in clear breach of UNGC Principle 3 on freedom of association. In contrast with DHL’s current lack of compliance, a framework agreement would provide effective monitoring and ensure compliance with the UNGC.

Section 6: Deutsche Post DHL’s Corporate Responsibility Report: “A Culture of Constructive Dialogue”?

Each year, DHL publishes a detailed Corporate Responsibility Report (CRR). In the area of “employee representatives,” DHL calls itself as an “exemplary employer,” but its actions in Turkey and elsewhere have failed to back up this claim. It appears not to place the same importance on protecting freedom of association – mostly consisting of vague and bland statements concerning DHL’s adherence to various international standards -- as it does on other aspects of its code of conduct, such as disaster management.¹³ DHL’s CRR stresses the “culture of constructive dialogue” promoted “through an exchange between executive management and employee representatives.” The report also states that DHL respects the “principles of the 1998 declaration by the International Labour Organization on the fundamental rights and principles of work in accordance with national laws and customs (in particular the ILO core standard number 87 ‘Freedom of Association and Protection of the Right to Organize’ and number 98 ‘Right to Organize and Collective Bargaining’).”¹⁴

¹¹ David Cockcroft, General Secretary, ITF, and Philip Jennings, General Secretary, UNI Global Union, letter to George Kell, Executive Director, United Nations Global Compact, June 29, 2011.

¹² Quoted in *Market Flash*, Issue 432, July 26, 2011, p.12, emphasis added. Available at <http://www.ipc.be/~media/Documents/PUBLIC/Market%20Flash/401-500/MF432.ashx>

¹³ Corporate Responsibility Report, 2011, p. 38.

¹⁴ Corporate Responsibility Report, 2011, p. 38.

The CRR discusses in considerable detail DHL's involvement with works councils and collective bargaining with the labor union ver.di in Germany. But it fails to provide any real evidence that the company is ensuring freedom of association or the effective recognition of collective bargaining outside of Germany. In Turkey, where this "culture of constructive dialogue" is noticeably absent and freedom of association is under sustained attack, Deutsche Post DHL appears to be acting as a major obstacle to constructive dialogue and respect for fundamental labor rights.

DHL's Code of Conduct also stresses respect for the international labor standards. The Code states: "Deutsche Post DHL will be guided by the principles of the United Nations' Global Compact.... We respect the principles of the 1998 International Labor Organization's "Declaration on Fundamental Principles and Rights at Work" in accordance with national law and practice."¹⁵ The company has stated that its code "applies to every employee in our group and its subsidiaries around the world. We expect and require from our managers that they actively support our Code of Conduct."¹⁶ In Turkey, however, managers are clearly not supporting the Code.

When questioned about its relationship with employee representatives, DHL has stressed its "engagement" with UNI and the ITF. The 2011 CRR states: "We continued to hold meetings... with representatives of the global union federations UNI Global Union and the International Transport Workers' Federation (ITF)... We exchanged our different views on the issue of 'international framework agreements', among other issues." Thus, DHL boasts that it enjoys a constructive relationship with ITF and UNI – it "engages in regular dialogue with representatives from the global labor union associations." At the same time, however, Deutsche Post DHL in Bonn is encouraging the company's senior management in Turkey not to engage in dialogue with the transport workers union, Tumtis, and to do whatever is necessary to prevent its workers from choosing a union. In addition to DHL in Bonn telling management in Turkey not to engage with the union, DHL Turkey has been preventing workers from talking to Tumtis officials about the union. Thus, DHL management in Bonn and Turkey seems intent on preventing dialogue of any kind on the issue of unionization in Turkey. Rather than help resolve this destructive dispute and protect the fundamental rights of its Turkish workforce, Deutsche Post DHL appears to be acting as an obstacle.

Section 7: DHL and the Violations of Turkish Labor Law

Turkish labor law clearly protects the right to join a union, and discrimination on the basis of union membership is clearly illegal. It is also illegal to pressure workers to resign from the union or not to join in the first place, and illegal to treat workers differently on the basis of their union membership or activities. According to the worker interviews in this report, DHL management has engaged in all of these activities, and in several other anti-union activities that are almost certainly illegal under Turkish law.¹⁷

Which Union Activities Are Protected Under Turkish Law? Under Turkish law, employment discrimination is a violation of the "fundamental right to equal treatment." The Labor Act 2003 (Labour Code No. 4857) and other statutes prohibit discrimination on the basis of union membership or involvement in trade union activities. Under Article 31 of the Unions Act, anti-union discrimination is considered a violation of freedom of association. Employers are prohibited from discriminating against workers on the basis of union membership or activities when workers are hired, during their term of employment, and when they are terminated from employment.

In addition to these labor law statutes, the Criminal Code in Turkey prohibits employer interference with workers who choose to exercise their right to form a union. Employers are prohibited from using either force or threats to compel workers to resign from the union or refrain from joining the union or participating in union activities. Under Article 118/1 of the Criminal Code, the use of force or threats by employers is punishable by one to three years of imprisonment. Under Article 118/2 of the Criminal Code, the use of threat or force by employers to obstruct union activities is punishable by one to three years of imprisonment.¹⁸

¹⁵ DHL, *Code of Conduct: It's How We Do What We Do (2006)*. Available at http://www.dp-dhl.com/content/dam/dpdhl/verantwortung/organisation_und_strategie/DPDHL_Verantwortung_Organisation_Code_of_Conduct_en.pdf

¹⁶ Quoted in *Market Flash*, Issue 432, July 26, 2011, p. 12. Available at <http://www.ipc.be/~media/Documents/PUBLIC/Market%20Flash/401-500/MF432.ashx>

¹⁷ On anti-discrimination law in Turkey, see Nurhan Sural, "Anti-Discrimination Rule and Policies in Turkey," *Comparative Labor Law and Policy Journal*, 13: 01 (2009). On the evolution of Turkish labor law, see Melda Sur, "General Framework and Historical Development of Labor Law in Turkey," 13:01 (2009), *Comparative Labor Law and Policy Journal*.

¹⁸ Nurhan Sural, "Anti-Discrimination Rule and Policies in Turkey," *Comparative Labor Law and Policy Journal*, 13: 01 (2009).

Illegal Pressure to Resign from the Union: Article 31 of the Unions Act states no one may be compelled into withdrawing from union membership. As described in the interviews below, management has repeatedly pressured workers to resign from the union, in clear violation of the law. As a result of this unlawful pressure, at least thirty-seven DHL workers have indeed resigned from Tumtis, and at least one non-member has also signed a notarized form resigning from the union.

Discrimination in treatment on the basis of union membership: During the course of workers' job tenure, it is illegal for employers to subject union and non-union workers to different forms of treatment. As described in the interviews below, several workers at DHL Turkey have suffered discrimination because of their union membership. Union members have had work-related requests denied, while similar requests have been granted to non-members, and workers have been warned that they will not receive promotions or other forms of on-the-job advancement while they are members of the union. This treatment is clearly illegal under Turkish law.

Discriminatory Dismissals on the basis of union membership or union activities: It is clearly unlawful to dismiss workers on the basis of union membership or for involvement in union activities. Dismissing workers on the basis of union membership or union activities is deemed a discriminatory dismissal and a wrongful dismissal. In these cases, employers are required to prove that there is a valid reason for the dismissal and that the reason is not based on union membership or activities. As described in the interviews, DHL Turkey has apparently fired several workers for union membership and union activities, which is a clear violation of Turkish law.

In cases of discriminatory dismissals, employers almost always make reference to Article 25(2) of the labor law, which allows them to terminate workers without the proper notice period when workers are guilty of "immoral, dishonorable, or malicious" conduct. In every case at DHL Turkey, however, management has failed to provide evidence of valid justifications for the terminations. At the time of termination, workers were informed they were being fired for "poor performance," but many had previously received commendations for good performance, sometimes only several weeks before joining the union and being fired. According to the leader of one of Turkey's main union federations: "When they fire workers for union activities, Turkish employers always use the justification of 'poor performance.'" ¹⁹

Multiple Violations of Turkish Labor and Criminal Law: On each of the major union-related protections provided by Turkish law – protections against discriminatory dismissal, protection against discriminatory treatment, protection against unlawful coercion to resign from the union or unlawful intimidation not to join the union – DHL management appears to have behaved illegally. The interviews provide multiple and unambiguous examples of unlawful behavior.

In addition to the protections offered by national laws and its Constitution, Turkey is a State Party to all of the fundamental conventions of the ILO. Turkey has signed and ratified the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, ILO C87 concerning Freedom of Association and Protection of the Right to Organize, and ILO C98 concerning the Right to Organize and Collective Bargaining.²⁰ Moreover, the Turkish constitution states: "International agreements duly put into effect bear the force of law ... In the case of a conflict between international agreements in the area of fundamental right and freedoms duly put into effect and the domestic laws due to differences in provision on the same matter, the provision of international agreements shall prevail."²¹ Thus, DHL's efforts to limit workers' freedom of association are both a violation of Turkish national law and a violation of international standards to which Turkey is a party.

In practice, the Turkish state offers weak protections for workers' collective rights: It is important to emphasize that in practice, as opposed to on paper, the Turkish state often offers limited protections for workers' collective labor rights. Since the beginning of 2012, the Ministry of Labour and Social Security has issued no new labor "certifications of competence," a necessary condition for unions to gain recognition and engage in collective bargaining. As a result, there are now between 300,000-350,000 Turkish workers at over 950 workplaces waiting to exercise their collective bargaining rights. This failure to issue new certifications is contrary to ILO Convention 98 on the right to collective bargaining, Turkey's Constitution, and the Collective Labour Agreement, Strike and Lock-out Act. In response to this failure to uphold the law, the global union federation

¹⁹ Interview with Faruk Buyukkucak, TURK-IS, September 12, 2012.

²⁰ Nurhan Sural, "Anti-Discrimination Rule and Policies in Turkey," *Comparative Labor Law and Policy Journal*, 13: 01 (2009), p. 269.

²¹ Turkey Constitution, Ratification of International Treaties, Article 90, 1982.

IndustriALL has filed a complaint against Turkey with the International Labor Organization because of its de facto suspension of collective bargaining rights in 2012.

The International Labor Organization's Committee of Experts, the European Union, European Trade Union Confederation (ETUC), and the ITUC have all repeatedly criticized the failure of Turkish labor law to protect adequately fundamental labor rights. The ILO has consistently express concern about the right of freedom of association in Turkey. During its 99th session in 2009, the ILO Committee on the Application expressed concern about "legislation and practice" in Turkey on one hand, and ILO Convention 87, on the other." In June 2011 the 100th Session of the Committee on the Application of Standards expressed "concern about the new allegations of the restrictions placed on freedom of association and assembly of trade unionists." In its October 2011 report on Turkish accession, the European Commission criticized the "limited progress in the area of social dialogue," and called on the government to "ensure that full trade union rights are respected in line with EU standards" prior to the country's accession to the EU. The ETUC warns of "serious concerns regarding the implementation of existing legislation."²² The ITUC has consistently stressed that Turkey has a serious problem with discriminatory dismissals. Its 2012 Annual Survey of Violations of Trade Union Rights concludes: "Trade union rights are not adequately secured in the law."

In its attempts to attract foreign investment the Justice and Development governing party of Prime Minister Recep Tayyip Erdogan is far more concerned with promoting "competitiveness" and "flexibility" (often at the expense of workers' collective rights) than it is in enforcing the country's labor and employment laws. The government is currently considering reforms to the labor code that would significantly weaken fundamental labor rights and protections. The new legislation, the "Collective Labour Relations Law," presently being debated in the Turkish parliament, would replace the "Trade Unions Law" and the Trade Unions Law and the Collective Labour Agreement, Strike and Lock-out Act. But even without this change, current legal protections have severe limitations and existing processes offer limited protections. As a result of these limited protections, it is extremely difficult for workers to exercise their rights to organize and bargain collectively and union density has declined significantly over the past three decades is now extremely low – below 6% of the workforce, and below 4% in the private sector.²³

Deutsche Post DHL's assurances are not reassuring: DHL's assurances that it is obeying the law in Turkey and investigating allegations of violations should not be considered in any way reassuring. First, there is compelling evidence that the company is violating the law in several ways – firing union activists, pressuring workers not to join and coercing them to resign from the union, and discriminating against union members in the workplace. Second, even in cases that involve clear and unambiguous evidence of illegal behavior – such as appears to be the case at DHL – it is often extremely difficult for Turkish workers to rectify violations of fundamental rights. The company's investigation of violations, moreover, has not involved contacting a single worker arguing that they were fired for union activities and seems aimed exclusively at trying to discredit evidence of the company's unlawful activities in Turkey.

Section 8: Interviews with DHL Warehouse Workers

Employee interviews were conducted with former and current workers at 8 DHL warehouses in Istanbul: Kirac, Esenyurt, Esenyurt-2, Gebze, Gebze-2, Gebze-3, Gebze-6 and Gebze-7. The employees interviewed were both DHL and subcontracted workers. Interviews were conducted outside the warehouses on the European and Asian sides of Istanbul and at nearby locations. Current DHL employees did not want to be seen being interviewed outside the warehouse for fear of management retribution. The interviews have been edited for length, but otherwise kept exactly as they were recorded. In addition to the ten interviews below described, several other workers were interviewed. These additional interviews stressed the same general themes of discriminatory dismissals, anti-union threats, pressure to resign from the union and deteriorating working conditions.

²² European Trade Union Confederation, "Turkish Trade Unions and Industrial Relations," 2011. Available at http://www.etuc.org/IMG/pdf_TURKISH_3.pdf

²³ OECD Stat.Extract, http://stats.oecd.org/Index.aspx?DatasetCode=UN_DEN; Molly McGrath and Demet Dinler, "Strategic Campaigning in Multinational Companies: The Case of UPS in Turkey" (2011).

1. Interview with Vural Erkol, Kirac Warehouse, Istanbul, September 10, 2012

“Wages have not kept up with inflation, bonus payments have been eliminated, and the pace of warehouse work has intensified.”

Erkol was fired on June 15th, 2012. He was called to a meeting with regional HR managers on the Asian side of the city (he worked on the European side) and was told that he was being terminated for failing to complete the required amount of overtime hours. Over the previous 5 months, however, Erkol had completed a substantial amount of overtime – over 480 hours – and has evidence of overtime schedule on his pay slips. A regional HR manager, Samet Yesildag, asked him to sign the letter of termination, but he refused, as he rejected the company’s justification. During his 4 years with DHL, Erkol had never received any warnings for poor performance, and had completed over 1000 hours of overtime per year.

Everyone in his warehouse knew that Erkol was a union activist. Indeed, on May 7th, 2012, he had been sacked for advocating for warehouse workers’ rights – around issues of low pay and excessive overtime -- but had been reinstated on the same day after protests by the other warehouse workers. Like all of the other workers interviewed, Erkol says that working conditions at the DHL warehouses had deteriorated significantly over the past few years. He states: “Wages have not kept up with inflation, bonus payments have been eliminated, and the pace of warehouse work has intensified.” These poor working conditions were a major reason that he and other workers had turned to the union and sought to work for improvements.

Since being fired from his position, Erkol has survived exclusively on financial support from Tumtis. Through the union, the company’s national HR director, Riza Balta, communicated to him that he would receive twice the normal compensation for dismissal if he did not join the picket line, but he refused this offer. In common with other sacked workers, Erkol wants his job back and his right to join a union protected, not financial compensation for his unjust and discriminatory dismissal.

2. Interview with Burham Ervon, Esenyurt Warehouse, Istanbul, September 10, 2012.

“If DHL respect workers’ rights to form a union in Germany, why can’t it respect the rights of its Turkish workers?”

Like his brother, Vural, Burham was sacked on June 15th, 2012, allegedly for failing to complete the required amount of overtime, and for violating unspecified company security procedures. Both he and his brother were told they were being taken to a so-called “training session” on the Asian side of the city. However, like his brother, he had completed a great deal of overtime, including 51 hours in June 2012 alone, and approximately 50-60 hours per month over the six previous months. Burham had worked for DHL for seven years -- first for 2 years, followed by one year’s absence due to military service, then another 5 years service -- and during that time he had never once received a written or oral warning about poor performance. During his time in the warehouse, he had never known a regular DHL worker to be terminated for the reason of “poor performance.” If anyone lost his or her job for this reason, it was likely to be a subcontracted worker. Although they worked the same jobs and received the same wages, subcontracted employees are universally regarded as being more vulnerable when it comes to arbitrary terminations. Burham, in contrast, had frequently been commended for his good work performance and had been promoted to team leader in April 2012 – just two months before he was fired. In his role as team leader, he was responsible for working directly with corporate clients.

Burham joined the union in May 2012 as a result of low wages and a deteriorating work environment. Everyone in the warehouse knew that he was an active member of the union, in part because he had recruited several others to join. Management also knew that he was a union activist. Indeed, after joining the union, he had been warned by operations managers that he had been involved in (unspecified) activities that “team leaders should not be doing.” He understood these comments as a clear warning that he should not be active in the union and should not be recruiting other workers to join the union. After several workers were sacked for union membership, he reported an increasing level of fear among the warehouse workers, many of whom were now afraid even to talk to him about the union for fear that they also might be sacked if they were identified as supporters of the union.

Like his brother, Burham Ervon wants reinstatement to his job from the Court, not financial compensation, and protection for his right to form a union from the law. And he wants respect from the company: “If DHL respect workers’ rights to form a union in Germany,” he asks, “Why can’t it respect the rights of its Turkish workers?”

3. Interview with Dogan Ervan, Esenyurt-2 Warehouse, Istanbul, September 10, 2012.

“I was told by the operations manager, ‘because you are a team leader, others will follow you, so you should not be involved with the union.’”

Ervan was fired on June 15th, 2012, also allegedly for a failure to complete overtime and for violations of company security procedures. In common with the others sacked that day, DHL failed to provide him with any evidence of the alleged violations. He possesses evidence of having worked 80-100 hours of overtime per month, and states that his team members often continued working through their breaks and after the end of regular shift hours in order to complete urgent orders. As a team leader, Ervan was well aware of the company’s security regulations, and always followed closely the instructions given to him by warehouse managers.

Ervan had started working at DHL in 2006 and was promoted to team leader four year later. Eight employees worked in his team, and his responsibilities included talking directly to corporate clients – such as Johnson and Johnson -- and DHL managers. During his six years at the company, Ervan had never once received a warning for poor performance of any kind; on the contrary, he had consistently received positive performance evaluations from management. Nor did he know of any DHL workers fired for reasons of “poor performance” before the start of the union activities at the warehouses in Istanbul.

Ervan reports that working conditions had deteriorated significantly over the past few years. Management had withdrawn most of the social support that workers had enjoyed over and above their basic wage rates, and during the past few years, DHL had relied increasingly on a workforce of subcontracted employees. All the warehouse workers complained of low wages. Even as a team leader, Ervan received a basic monthly wage of just over 800 Turkish Lira per month, which by 2012 was only slightly above the national minimum wage,²⁴ and well below what is considered an adequate “living wage.” If workers complete an additional 100-120 hours of overtime, they can earn an additional 300-400 TL per month. But even with overtime, this is still an extremely low rate. According to August 2012 research by the TURK-IS confederation of trade unions – by far the biggest of the country’s three main union confederations, with over 2.25 million members in 33 affiliated unions -- the so-called “hunger threshold” for a family of four in Turkey is 935 TL per month, whereas the “poverty threshold” for a family of four is 3,048 TL per month.²⁵ As a result of low wages and poor conditions, Ervan joined the union in April 2012 and became an outspoken advocate for other workers. Thus, both his co-workers and management knew that he was active in Tuntis.

Beginning in April 2012, Ervan reports that warehouse operations managers started holding meetings with groups of workers to talk to them about the union. In one meeting, Ervan was told that being a member of the union was a “disadvantage,” it was “not good for the company and not good for you,” and that “because you are a team leader, others will follow you, so you should not be involved with the union.” After attending these meetings, many of his fellow workers feared talking about the union, as they believed they might be sacked. Ervan reports that management put pressure on a number of employees, including several he worked alongside, to sign notarized forms resigning from the union, and several did so (although some subsequently joined the union again). In order to get workers to sign these notarized forms, management personnel would drive them to the notary, which was several kilometers away, in a company car or in a private taxi.

Ervan wants reinstatement from the Court and protection for his right to join a union from the law. Without the protection of a union, he fears that even if he were to gain reinstatement, DHL management could sack him at any time on trumped up charges, just like it did before.

²⁴ The minimum wage is currently 739.8 TL net per month for workers aged over sixteen.

²⁵ The “hunger threshold” (935 TL) includes food expenses for adequate and balanced nutrition for a family of four; the “poverty threshold” (3,048 TL) includes food expenses, clothing, housing, transportation, education, health, and other basic expenses. TURK-IS study in author’s possession.

4. Interview with Burcu Sonbahar, Subcontracted Worker, Kirac Warehouse, Istanbul, September 10, 2012

“After I joined the union, the HR specialist called me to a meeting and told me: ‘You are going over to the dark side’ and ‘You are going to the other side.’ I knew this was a warning.”

Sonbahar was fired along with three other subcontracted workers on July 6th, 2012. All of the subcontracted employees work for the Platin Group. According to a number of international standards, including the Ruggie Principles on Business and Human Rights and OECD Guidelines on Multinational Enterprises, DHL is required to exercise “due diligence” to ensure that fundamental rights are also protected for subcontracted employees. Managers of their agency, whom they had never met before, informed them that they had failed to complete the required amount of overtime and that customers had called to complain about their poor performance. None of sacked subcontracted workers were provided with any evidence or specific instances of their alleged poor performance.

Sonbahar had received prior warning about her possible termination. One week before being sacked, an operations manager and a HR specialist met with her to say that they were pleased with her work, but they had heard that she was “going over to the dark side” and “going over to the other side” and this would cause her problems at DHL Turkey. She understood these statements to be a clear reference to her membership of the union, which she had joined in May 2012.

Sonbahar had received several commendations for outstanding performance at work. She had first been hired as a warehouse worker in August 2009, and then promoted to a position in information systems in 2011. That year, she also received an award for “2nd best worker of the year” and a promotion. Like many other workers at DHL warehouses, she had joined Tumtis in May 2012 as a result of her frustration at the low wages and her lack of a raise, even though she had a superlative work record.

Management knew Sonbahar was a union member because she had visited workers sacked for union membership on the picket line. Security guards keep records of who visits the picket line. After she joined the union, Sonbahar reports that management met with her and several other workers and told them, “We know that you are supporters of Fernabahce,” which everyone understood as a warning against joining the union. She reports that management put pressure on subcontracted workers or offered them financial incentives to sign notarized forms resigning from the union. Subcontracted workers are even more worried about being associated with the union than are regular DHL employees because they believe they are more likely to get sacked, and fear that if this were to happen, they might not get paid for the hours they have already worked. Subcontracted workers are well aware that management had sacked DHL workers for union membership and had only been required to pay a few months of wages in compensation.

After her termination, management told Sonbahar that it had put several months in salary in compensation into an account for her, but she would not received it until she agreed not to sue the company. She has not signed this statement and says that she wants reinstatement to her position, not financial compensation.

5. Interview with Ali Yilmaz, Subcontracted Worker, Kirac Warehouse, Istanbul, September 10, 2012.

“When I protested that I had a good work record, the operations manager said: ‘We can talk about this into the morning and the result will not change. Let’s just accept [the sacking] and move on.’”

Yilmaz has worked in the DHL warehouse since 2010, after spending a year in the press department labeling products. A subcontracted employee, he was also sacked on July 6th as part of the meeting discussed in the previous interview. He was told that he had not completed sufficient overtime hours and had quarreled with managers and co-workers. When he protested that he had worked 110 hours of overtime during the previous month – and possessed documentary evidence of this -- and had never had any problems with managers or other workers, an operations manager told him: “We can talk about this into the morning and the result will not change. Let’s just accept [the sacking] and move on.”

During his 3 years with the company, management had never once warned Yilmaz about any issues related to poor performance. Indeed, his job reassignment from product labeler to warehouse worker was considered a promotion for good performance. Yilmaz liked his job and had a good relationship with his managers, but

like the other workers, he worried about low wages and poor working conditions. As a result, he joined the union in May 2012. His co-workers and managers knew he was active in the union because he had recruited others to the union. He would take their identification documents to Sonbahar, who would copy them. Shortly before being fired, Yilmaz learned that coworkers had been pressured or offered financial incentives to resign from the union. Some resigned but did not receive the financial incentives that management had promised to them.

Following several terminations for union membership, Yilmaz reported several subcontracted workers told him they were afraid to talk to him about the union for fear of being sacked, even though they still supported the union. And the threat of dismissal is very real: Yilmaz's own bother was also sacked, simply because of his relationship to him, even though his brother was a student working at DHL on the weekends and therefore ineligible to join the union. Yilmaz also reported several other anti-union actions. Shortly before his termination, for example, management fenced off a break area in order to make it more difficult for workers to communicate with one another, and to limit discussion about unionization.

6. Ugur Ilgun, Current DHL Employee, Kirac, Istanbul, September 10, 2012.

“Management said at the meetings: ‘Either you are with us or against us, and if you are against us, you will be fired.’”

Ilgun has worked at DHL for 9 years – starting at the company when he was just 17 years old. He states that, in recent years, working conditions have been getting worse by the day, while salaries for warehouse workers have barely increased. Ilgun joined the union in April 2012 as a result of the steady deterioration in work conditions. This was not the first time he had advocated on behalf of the rights of warehouse workers. He talked to management about low salaries, and was sacked for doing so on April 8, but subsequently reinstated as a result of protests from other workers.

After he joined the union, management started organizing meetings with workers at which it warned them, “Either you are with us or against us, and if you are against us, you will be fired.” One HR specialist, Mustafa Gitok, accused Ilgun of pressuring other workers to join the union – which he denies categorically – and stated that he must sign a notarized form saying that he would refrain from doing this.

Beginning in May 2012, Ilgun states, DHL management started meetings asking employees about problems in the workplace and about their relationships with supervisors. In nine years of working at the company, Ilgun had never before encountered meetings like this. Several of his co-workers were offered financial incentives to resign from the union, and in at least one case, Riza Balta, national HR director for DHL Turkey, had personally offered a financial incentive to a worker.

In August 2012, Ilgun asked his operations manager for 700 Turkish Lira to assist with his mother's upcoming operation for cancer. He considered the manager a friend, having worked alongside him for several years, and stated that similar requests were routinely granted, even to workers who did not enjoy his long service and good record of performance. Indeed, one of his co-workers had recently received financial assistance for his wedding expenses. The manager stated that Ilgun might received support from DHL, but not while he was a member of the union. Ilgun believes that most operations managers are hostile to the union because they know that it will hurt their own careers if the workers under them were to join the union. In contrast, if they are effective in opposing the union, it is good for their careers. Despite this management hostility, Ilgun estimates that ninety-percent of the workers in his warehouse (Kirac) and the neighboring one (Esenyurt-2) support of the union.

7. Interview with Hakan Alkan, Current DHL Employee, Istanbul, September 10, 2012

“We are told that the union was ‘not for your own good’ and would hurt our ‘future at the company.’”

Alkan has been working at DHL as a systems operator since June 2008. He joined the union in April 2012 as a result of poor wages and worsening working conditions. After some pro-union workers were sacked, he attended a union meeting outside of work and decided to advocate for better conditions. Like the other workers interviewed, he reports that management has repeatedly employed threats and anti-union comments. After the firings, for example, operations managers started holding meetings with workers at which they would state that joining the union was “not for your own good” and would hurt workers’ “future at the company.”

Several workers, all of whom were union members, including the new team leader, were reassigned into Alkan’s work team. They believed that these reassignments were intended to isolate several union members in a single work team, thereby limiting their contact with non-union members within the warehouse.

Several of Alkan’s co-workers were offered financial incentives to resign from the union, and at least one co-worker was offered such an incentive directly by the national HR Director for Turkey, Riza Balta. The same worker was offered financial incentives to persuade other workers to resign from the union. In August 2012 he attempted to persuade several of Alkan’s co-workers to resign their membership so he could collect on his reward.

8. Interview with Cengiz Sahanci, Gebze 2 Warehouse, Ankara, September 10, 2012

“He [the operations manager] said: ‘How will you provide for your children? DHL does not argue about the union, they will just fire you. As a friend, I am asking you to think again [about joining the union].’”

Sahanci had worked for DHL for 10 years, eight of them as a team leader, before being fired on July 11th, 2012. He had previously worked at Exel logistics. He joined the union in June 2012 because of low wages and worsening work conditions in the warehouses. Starting at the end of June 2012, weeks after he joined Tumtis, Sahanci was called to meetings at which operations managers and HR specialists asked, “What will happen if you are fired? How will you earn a living? How will you provide for your family?” At two of these meetings, management informed him (wrongly) that Tumtis was connected with PKK or the Kurdish Workers Party, a terrorist group involved in a long-running armed struggle with the Turkish state, and asked him, “Do you know what kind of organization you are a member of?” At the third of these meetings, he was told he would get both a promotion and salary increase if he were to resign from the union. At the final meeting, Sahanci was told he was being fired, allegedly for quarreling with managers and disrupting working conditions.

During his decade working at DHL, management had repeatedly praised Sahanci for his good performance. In 2011, for example, one of his work projects received an award for the “best project of the year.” Not only has DHL management failed to provide any evidence of his allegedly disruptive activities, one manager admitted he was being sacked for union activities. At the meeting at which he was fired, the operations manager, Serkan Yardima, told Sahanci: “What can I do? I can’t write you are being fired for union activities. If I don’t do this, tomorrow someone will be talking to me about the termination of my contract.” Yardima admitted that the real reason for his termination was his membership in the union, but stated that he was not able to acknowledge this officially. The operations manager, whom he considered a friend, had previously met with him four times to warn him against union membership and stated: “How will you provide for your children? DHL does not argue about the union, they will just fire you. As a friend, I am asking you to think again [about joining the union].”

Shortly before his termination, four of his friends, two whom were members of his team, resigned from the union because they were afraid of losing their jobs. Having spent most of his working life at DHL, Sahanci was devastated when he was fired abruptly for union membership. But he is confident that he will ultimately gain reinstatement and win his basic workplace rights. He states: “I know I am right. I trust the union, and I am waiting to exercise my rights.”

9. Interview with Israfil Cavdar, Gebze 2 Warehouse, September 12, 2012.

“He [the operations manager] told me, ‘You know the real reason [for your termination].’ He meant it was because I was active in the union.”

Cavdar was fired on December 22, 2011 after working as a forklift operator at DHL for over five and a half years. Shortly after joining the union, Cavdar was called to a meeting with two HR managers and asked to turn off his cell phone. They questioned him about why he had joined the union and whom else he had spoken to about the union. He declined to answer questions about the union. About a week later, an operations manager, Bora Bozdenir, presented him with his letter of termination. According to Cavdar, the letter stated that he had engaged in (unspecified) behavior that had damaged the company, but Bozdenir, whom he considered a friend, confirmed there was no record of his disruptive behavior, and stated: “You know the real reason [for his termination],” implying it was because of his union membership and activities. Indeed, in his testimony to the Court, Bozdenir admitted that DHL had no evidence of any poor performance or any other wrongdoing by Cavdar.

Cavdar was not surprised when he was sacked for union membership. Two weeks before his termination, his warehouse manager, Ahenby Demircioglu, warned him that if he didn’t resign from the union, he would likely be fired from his position. In common with the other warehouse workers, Cavdar was well aware of DHL management’s uncompromising hostility to the union. HR managers had been holding meetings, which had never taken place before the union activity, warning workers against the dangers of union membership. After DHL management had fired workers for union activities, many of Cavdar’s co-workers were afraid to be associated with the union in any way, including discussing it with him. One warehouse worker told him directly that he was newly married and had a baby, thus he could not afford to have any connection with the union for fear of losing his job. This kind of fear and intimidation, he reports, is now widespread in the warehouse.

10. Interview with Sener Yucel, Gebze 2 Warehouse, September 12, 2012

“Managers warned my co-workers: ‘Stay away from him for your own good – he is involved with the union.’ [As a result], they were afraid to be seen talking to me.”

Prior to being sacked on July 24th, 2012, Yucel had worked for DHL Logistics for 8 years, including 6 years as a team leader. Yucel was called to a meeting with a HR specialist and an operations manager – Serkan Yardimci and Samet Yeşildağ -- and was told he was being sacked for poor performance and for quarreling with management. He refuted these accusations and requested details of his “poor performance,” but management failed to provide him with any further information.

In his eight years at DHL Logistics, Yucel had never had any problem with his managers, and he had often been complimented for his good work performance. His work team often worked through the night to complete urgent orders, and at the instruction of warehouse management, the team occasionally engaged in practices that violated safety regulations. They did not know they were doing anything improper, and only wanted to complete their work on time.

Both his co-workers and managers knew that Yucel was active in the union. One week before he was sacked, an operations manager had warned Yucel that he would lose his job if he persisted in his union activities. Management also warned some of his co-workers to stay away from him “for their own good” because he was involved with the union. As a result, several workers, even those whom he had known for years, were afraid to talk to him in the presence of management.

Section 9: Deutsche Post DHL's Response to Labor Rights Violations in Turkey

The response of DHL Turkey and Deutsche Post DHL to this evidence of violations of fundamental labor rights in Turkey appears to be two fold. First, the company has denied that management has broken Turkish law. Second, Deutsche Post DHL in Bonn has stated that the company will investigate the allegations of unlawful terminations and deal with them "in-house." On the first issue, it appears clear that, contrary to the company's assertions – for example, DHL's Corporate Responsibility Report states, "We work together with employee representatives and unions in the individual countries in accordance with national laws and customs"²⁶ -- DHL Turkey management is not obeying the law of the land. The Court has ruled against the company and the workers' testimonies offer compelling evidence of many illegal anti-union actions, even if these actions are often difficult to remedy under the limited protections for freedom of association provided by Turkish labor law.

If the company's position is merely that it obeys the law of the land and nothing more than that, moreover, this raises the question of why it bothers having a corporate responsibility report governing labor standards or why it is a signatory to the U.N.'s Global Compact. The point of having these voluntary internal and external standards is to demonstrate to important stakeholders that the company follows a level of conduct higher than that the limited protections provided by the government in countries such as Turkey, and not simply to state: "We obey the law."

Limiting Freedom of Association is Company Policy: DHL's violation of fundamental labor rights in Turkey is not the unintended consequence of a poorly designed policy. In this case, the violation of labor rights is the policy. The examples of aggressive and anti-union behavior cited in the interviews are not isolated incidents, but part of a systematic and centralized strategy to remain union free. In cases in which corporations cause pollution as a byproduct of their manufacturing processes or are found to have underage workers in their global supply chain, for example, violations are usually the result of poorly designed and enforced policies. The company's intention is not to pollute or to employ child laborers in its supplier factories. At DHL Turkey, however, the violation of core labor rights is not the byproduct of a substandard policy or rogue management – "individual erratic behaviour,"²⁷ as Deutsche Post DHL has called it in response to evidence of violations -- but a result of a systematic effort to limit workers' freedom of association.

DHL's determination to remain union free at all costs – which has apparently involved sacking union activists, intimidating workers into resigning from the union, telling workers they may be terminated for joining the union, and employing several other coercive anti-union tactics -- is the company's policy, not an unintended consequence of a poorly designed and poorly implemented policy intended to prevent labor rights abuses. This means that the company has the ability to change its policy and address the labor rights violations, but to do so, it must reinstate the sacked workers, stop intimidating workers who are union members or who wish to join, and engage in dialogue with the union that represents the workers.

²⁶ Deutsche Post-DHL, Corporate Responsibility Report (2011), p. 38. Available at http://www.dp-dhl.com/content/dam/Investors/Publications/Further_Publications/2012/DPDHL_Corporate_Responsibility_%20Report_2011.pdf

²⁷ Quoted in Market Flash, Issue 432, July 26, 2011, p. 12. Available at <http://www.ipc.be/~media/Documents/PUBLIC/Market%20Flash/401-500/MF432.ashx>

Section 10: Limiting Freedom of Association: A Different Path is Possible

“DHL management has learned that Turkish law does not protect workers’ rights. For democracy to prevail, DHL must treat workers under the same rules as it applies to its German workers.”

CHP (Republican People’s Party) Vice President Yakup Akkaya, September 14, 2012.

DHL’s current path of aggressive and illegal anti-unionism is not irreversible. The company has the option of abandoning its strategy of violating workers’ rights by undermining their freedom of association. The example provided by another corporation in operating Turkey shows that employers can change course and choose cooperation over conflict. Like DHL, one of the other major express carriers in Turkey, United Parcel Service (UPS), initially followed a path of illegal anti-unionism. UPS management fired over 150 workers who had joined Tumtis and aggressively resisted any attempt by its employees to secure independent representation. In common with DHL, UPS management initially claimed that it had fired the workers because of their “poor performance,” but it was unable to provide any credible evidence in support of firing, which had clearly targeted union activists and member. As a result, the Regional Directorate of the Ministry of Labour and Social Security ruled that the UPS firings were without merit.²⁸

In response to an international campaign coordinated through ITF and UNI in 2010, however, UPS – which, unlike DHL, is not a signatory to the UNGC -- abandoned its strategy of confrontation and adversary. Management reinstated the fired workers and stopped interfering with the free choice of its employees. Given a free and un-coerced choice, the employees chose unionization and collective bargaining through Tumtis. The company and union have now negotiated a collective agreement covering the terms in conditions of employment, which has benefited both UPS and its workers. Workers have enjoyed improvements in wages and working conditions and the company has benefitted from a cooperative and productive workforce, while avoiding the destructive and disruptive employment relationship it had in the past.

DHL could choose a similar path. If the company were to respect the principles of “constructive dialogue” described in its Corporate Responsibility Report, and uphold the core conventions of the ILO and the UNGC, it could resolve this dispute and the protect rights of its employees in Turkey. However, recent developments at DHL warehouses -- where workers are fearful of joining and even talking about the union -- suggest that the company is unable to implement and monitor the principles contained in its own code of conduct. Despite compelling evidence to the contrary, the company maintains that the union activists and members were fired for “poor performance,” and states that it cannot afford to have a union in Turkey. Instead of refraining from interference, management intimidates workers against joining the union, pressures union members into resigning, and discriminates against union members at work. It appears that Deutsche Post DHL is still committed to limiting the freedom of association of its workers in Turkey.

²⁸ Molly McGrath and Demet Dinler, “Strategic Campaigning in Multinational Companies: The Case of UPS in Turkey” (2011); International Transport Federation, “UPS ordered to reinstate workers in Turkey,” November 12, 2010.