



Federal Ministry
for Economic Affairs
and Climate Action



OECD **GUIDELINES**
FOR MULTINATIONAL ENTERPRISES

NATIONAL CONTACT POINT
GERMANY

Complaint to the German National Contact Point About an Alleged Violation of the OECD Guidelines for Multinational Enterprises

Please complete the form, save it and send it via email to GERMANNCP@bmwk.bund.de.

Title	Ms Mr Prof. Dr
Last name	Iveković
First name	Mario
Company / organisation	Novi Sindikat (New Trade Union)
Email address	mario.ivekovic@gmail.com
Telephone number	+385915148516
Street number and street name	Park stara Trešnjevka 2
Zip or postcode	10000
City	Zagreb
Country	Croatia

Are you filing the complaint on behalf of other persons or organisations?	No Yes
If yes, please state the organisation(s) or person(s).	Former workers of Croatian garment factory Orlijava d.o.o., Požega
Please state your interest in the complaint and / or your mandate.	The former workers were members of trade union Novi Sindikat

Information about the respondent (organisation or company against which your complaint is directed):	
Name of organisation / company	Olymp Bezner KG ("Olymp")
Full postal address	Höpfigheimer Str. 19, 74321 Bietigheim-Bissingen, Germany
Contact person (if known)	Johann Trischberger
Telephone number (if known)	
Email address (if known)	johann.trischberger@olymp.com
Please provide information on the object of the complaint (underlying facts of the case):	

Novi Sindikat, CCC Germany and CCC International office ('the Complainants') are filing a complaint against German company Olymp Bezner KG ('Olymp') to Germany's National Contact Point ('NCP') in accordance with the 2011 and 2023 versions of the OECD Guidelines for Multinational Enterprises ('OECD Guidelines'). The complaint relates to Olymp's business relationship with a Croatian garment factory.

German menswear brand Olymp was the main customer of Croatian state-owned garment factory Orlijava d.o.o., Požega for decades, and the two parties had agreed in a contract that the factory should not sell its products to other major German buyers. A workforce of 300 people depended for their livelihood on their employment at the shirt factory. With the start of the Covid-19 crisis, Olymp's order volumes at Orlijava decreased massively, which led the factory to let go nearly half of the workforce. In October 2020 Olymp informed the factory management that they intended to terminate the exclusivity agreement and cease sourcing shirts from the factory. While the factory received financial support from the government as part of their Covid-19 relief policy, the low prices that Olymp had been paying for their products left the factory in a precarious position by the time that the last orders were completed in April 2021.

The factory management sought new buyers for the products made at the factory, but were unable to find other customers, or, as was the Croatian state's initial intention, to find a private party interested in taking over the facility. This led the factory to become insolvent and be declared bankrupt on 13th July 2021. All 172 workers that were still employed at the Orjava factory lost their jobs without receiving any severance.

Following a ruling by the Croatian court on severance pay in October 2021, 37,5% of the owed severance was provided by the state to former workers by way of immediate relief. The remaining amount, a total of approximately €450,000, would be paid to them after the liquidation of Orjava's assets. However, it took nearly one and a half year for the workers to receive the remaining sum that was owed to them. During this period, worker representatives made several appeals to Olymp to intervene and provide financial relief to workers. The company never extended any offer to the workers. In March 2023 it was the Croatian government that made the decision to pay severance and other claims in the amount of €491.074,40 to 237 ex-workers of the factory Orjava. This group includes the group of workers that lost their jobs at the time of closure and other workers who had outstanding legal claims with the factory. The decision was confirmed at a meeting with the Croatian prime minister held on 8th March. Compensation from the government has been received by all workers.

The Complainants contend that buyer Olymp has irresponsibly disengaged from its business relationship with Orjava and failed to act in accordance with the principles and standards of the OECD Guidelines in two aspects. First, Olymp has failed to conduct appropriate risk-based due diligence over the potential impacts of its sudden decline in orders and subsequent decision to disengage from business with the factory. Olymp failed to seek to prevent or mitigate adverse human rights impacts to the workers in its supply chain arising from their decision to end the business relationship with Orjava. Second, Olymp has failed to meaningfully engage with relevant stakeholders in relation to the decision to stop working with Orjava. Complainants submit that Olymp's behavior is in breach of Chapters II and V of the OECD Guidelines, and constitutes irresponsible disengagement.

If the NCPs determine that the issues raised merit further examination, the Complainants encourage the NCP to offer its good offices as soon as possible, with the aim of encouraging Olymp to make their contribution to remedy for the workers affected by its irresponsible disengagement. The Complainants would also like to engage in conversation with Olymp about its policy for responsible disengagement as an opportunity to learn what should change to avoid similar situations in the future.

Further information on the object of the complaint:

In what country/region did the adverse impact occur?

The adverse impact occurred in Croatia. The complaint is being raised with the German NCP. We request that the German NCP take the lead in the matter, as Germany is the country in which the decision (at headquarters level) to curtail orders and disengage without proper conduct occurred. As the impacts of the disengagement are felt by Croatian workers, and there is existing engagement of the Croatian government with the complainants, we request that the Croatian NCP, which is a new NCP, remain engaged in a supporting capacity.

What chapter(s) of the OECD Guidelines do you regard as being affected in your case?

From the 2011 Guidelines:
-Chapter II (General Policies), Paragraphs A10 and A14.
-Chapter V (Employment and Industrial Relations), Paragraph 6.
From the 2023 Guidelines: Chapter II, Paragraph A12
The Complainants allege that Olymp's disengagement from the Orjava factory in Croatia during the COVID-19 crisis contravenes the enterprise's responsibilities under the OECD Guidelines in two key aspects:

1) Inadequate due diligence and irresponsible disengagement
The decision to disengage from a business relationship is a decision that, like any other business decision by a multinational enterprise ('MNE'), should be implemented in alignment with the OECD Guidelines. Under the Guidelines, MNEs should conduct human rights due diligence to identify, prevent and mitigate adverse impacts resulting from all of their business decisions.

Chapter II (General Policies), OECD Guidelines (2011) provides that MNEs should:
"10. **Carry out risk-based due diligence**, for example by incorporating it into their enterprise risk management systems, **to identify, prevent and mitigate actual and potential adverse impacts [...] and account for how these impacts are addressed.**"

The OECD's Due Diligence Guidance for Responsible Business Conduct recommend that enterprises consider disengagement from their supplier as a last resort.

Olymp Bezner KG announced the end of their cooperation with Orjava in October 2020. The enterprise cited three reasons for their decision to disengage from the business relationship with Orjava: lack of transparency on the privatization process of the supplier, unreliable planning and concerns over innovation. In their announcement, Olymp failed to mention the ongoing Covid-19 crisis, in which brands were routinely shifting the impact of declining orders onto their suppliers, and, in turn, onto the workers in their supply chains.

Olymp reportedly communicated with the management about finding a new customer or an investor to purchase the factory, and went into direct negotiations with a potential new customer. Neither the factory nor the trade union were involved in these discussions, which were ultimately unsuccessful. While Olymp did identify the risk associated with their departure, they did not develop any plans with the management and union to anticipate a situation in which no new buyers would be found. Given that OrLjava allegedly obligated Olymp to keep from doing business with several other major German companies for the longest time, and the factory was highly specialised in the production of a specific kind of garment (namely, men's dress shirts), Olymp should have anticipated that finding a new buyer could prove to be highly challenging, especially during the economic downturn associated with the global Covid-19 pandemic. By assuming that their decades-long business could simply be handed over to another customer, and not preparing for an alternative scenario, Olymp failed to prevent and mitigate the adverse impacts of its decision to disengage from its relationship with the factory.

Enterprises should find alternatives to disengagement during a time of crisis to prevent the harm. Alternatives can include “suspending or reducing executive pay or dividend payments to shareholders in order to continue paying suppliers and workers; seeking loans to continue to pay suppliers; shifting orders from products no longer needed in global markets to those under increased demand during time of corona; commit to future orders and providing workers ongoing compensation during the time of corona-prompted unemployment, and ensure workers can return to the same roles and seniority levels after the crisis ends.” Although there were many ways in which Olymp could have prevented the adverse impacts of disengagement, there is no indication that the enterprise has seriously considered and proposed any of these alternative solutions to OrLjava to ensure its financial survival and workers' livelihoods.

Olymp had a responsibility to cooperate with OrLjava and worker representatives to mitigate the adverse effects of its disengagement. Chapter V (Employment and Industrial Relations) of the 2011 OECD Guidelines state that enterprises should:

“6. In considering changes in their operations which would have major employment effects, **in particular in the case of the closure of an entity involving collective lay-offs or dismissals**, provide reasonable notice of such changes to representatives of the workers in their employment and their organisations, and, where appropriate, to the relevant governmental authorities, and **co-operate with the worker representatives and appropriate governmental authorities so as to mitigate to the maximum extent practicable adverse effects.**”

Companies should use their leverage to encourage suppliers to engage in good-faith dialogue with workers and their representative unions in order to develop a fair transition plan for workers. Olymp, however, never made sure that the factory gave reasonable notice to workers and their representatives. Workers were actually discouraged to discuss the status of the factory's business on the work floor for the longest time and were not kept informed by management. While Olymp notified the factory management of Orjava of their decision to stop placing orders in October 2020, trade union Novi Sindikat was not informed until 2021. In failing to ensure that the workers were given reasonable notice and given opportunity to develop mitigation plans (which may have included the payment of severance, re-skilling and re-training opportunities or other benefits), Olymp failed to mitigate the adverse human rights impacts that their disengagement had on the workers. As such, Olymp's exit from Orjava also contravenes the Employment and Industrial Relations chapter of the OECD Guidelines.

2) Failure to meaningfully engage with relevant stakeholders Chapter II (General Policies), OECD Guidelines (2011) states that MNEs should:

"14. Engage with relevant stakeholders in order to **provide meaningful opportunities for their views to be taken into account in relation to planning and decision making** for projects or other activities that may significantly impact local communities."

According to the OECD's Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector, "workers and trade unions and representative organisations of the workers' own choosing in the enterprise's supply chain that are affected by the enterprise's activity" are likely to be relevant stakeholders for enterprises in the garment and footwear sector. As Orjava's former workers "have interests that are or could be impacted" by Olymp's activity (referring to the OECD's Due Diligence Guidance for Responsible Business Conduct definition of stakeholders), Olymp should have made sure that the workers and their representative trade unions were given meaningful opportunities to respond to the company's intention to leave the factory in accordance with the above-mentioned part of the OECD Guidelines General Policies. However, Olymp did not do so, nor did it require its supplier Orjava to facilitate such dialogue. The company thus failed to act in accordance with the above-mentioned part of the OECD Guidelines' General Policies.

<p>What do you hope to achieve through filing this complaint and what measures should the respondent take to resolve the problem?</p>	<p>If the NCP decides that the issues raised merit further examination and offers its good offices to the parties, the Complainants would seek the following outcomes through this process:</p> <ol style="list-style-type: none"> 1. For Olymp to ensure indemnification to the 172 workers that lost their jobs at the time of OrLjava's closure as a reparation for the harm caused by Olymp's failure to follow up and the damage caused to workers by delayed payment and high inflation. The proposed amount for this is €1000 per worker. 2. For Olymp to mitigate the harms caused to former OrLjava workers by its irresponsible disengagement. This may include supporting the former OrLjava workers in finding alternative employment. Most of the workforce consists of women over 45 years of age who cannot find work in other sectors without significant retraining. The vast majority has not been able to find new jobs. If Olymp aims to resume sourcing from Croatia, for example at a different plant in the city of Požega where OrLjava was based, this should be done in consultation with the former workers' trade unions from the very beginning of the process. 3. Clarification of what the company should have done in order to responsibly disengage, and improvements to Olymp's human rights and/ or responsible disengagement policies to ensure timely consultation with workers and their trade union representatives in the future and prevent similar situations from happening in the future.
<p>For cases in the supply chain: Please describe the relationship between the different companies involved.</p>	<p>OrLjava was producing men's dress shirts for Olymp for several decades.</p>
<p>Contact with the respondent to date:</p>	
<p>Have you already contacted the respondent? If yes, please explain how this took place and what the results were.</p>	<p>Several attempts have been made to constructively engage with the company. Novi Sindikat, as one of the Complainants, has made different attempts to engage with Olymp about their sourcing from OrLjava. Olymp reached out after the union had made critical comments about the company's behavior in German media. However, Olymp did not want to engage further with the union unless they agreed to signing a confidentiality agreement. Novi Sindikat argued that this was an unreasonable demand, since they were not discussing any sensitive company information, but focused on workers' rights. There has also been engagement with the mutli-stakeholder initiative Fair Wear, which Olymp joined as a member in 2021, but this has not led to any concrete attempts from Olymp's side to contribute to remedy.</p>
<p>Has the complaint also been dealt with by courts, other National Contact Points or in other forums? If yes, please explain how this took place and what the results were.</p>	

<p>Have there been any other activities undertaken towards finding a solution? If yes, please explain what has taken place and what the results were.</p>	
<p>Annexes accompanying your complaint (certificates, reports, studies and witness statements to support your complaint):</p>	
<p>Are you supplying any annexes?</p>	<p>Yes No</p>
<p>If yes, please provide a full list of annexes.</p>	
<p>Additional remarks and information for the NCP:</p>	

Place and date

Your full name