



NON OFFICIAL TRANSLATION

SPECIFIC INSTANCE

“TELEPERFORMANCE IN FRANCE AND THE WORLD”

5th July 2021

Final Statement of the French National Contact Point

The NCP notes that Teleperformance and UNI Global Union did not reach an agreement in the framework of its good offices. The NCP notes that, following an emergency management phase, Teleperformance has deployed and continues to implement a policy to prevent, manage and monitor the pandemic in all its subsidiaries in order to address health risks associated with the pandemic. This policy broadly corresponds to the expectations of corporate due diligence recommended by the OECD Guidelines. In addition, the NCP recommends that Teleperformance strengthen its due diligence and engagement with stakeholders representing workers in order to ensure respect for the right to freedom of association and collective bargaining of workers as provided for in the OECD Guidelines.

The French National Contact Point for the Implementation of the OECD Guidelines for Multinational Enterprises (“NCP”) was referred on 17 April 2020 by the international trade union UNI Global Union, a specific instance concerning the French multinational company Teleperformance. UNI Global Union has submitted this specific instance jointly with four French trade union organisations affiliated to it: CFDT Fédération Communication Conseil Culture, CGT-FAPT, CGT Fédération des Sociétés d’Etudes, and FO-FEC.

The NCP accepted the referral on 4 June 2020. The UNI and Teleperformance have been actively involved in the procedure throughout the process. The NCP met with the parties beginning June 2020 and offered them to engage into a mediation. The NCP found in November 2020 that relations between the parties did not allow to further conduct its mediation. It therefore put an end to its good offices in order to move to the conclusion phase of the referral. This statement closes the procedure. The NCP will follow up on its recommendations.

The French NCP is a tripartite body for non-jurisdictional settlement of disputes related to the implementation of the Guidelines for Multinational Enterprises. Its objective is to contribute to the resolution of the issues raised to it through its good offices, mediation and conciliation. It shall endeavour to examine the issues raised as soon as possible, if possible within 12 months of receipt of the specific instance. It publishes its decisions on its website.

NON OFFICIAL TRANSLATION

1. Presentation of the Specific Instance

◆ The Initial Assessment Statement of June 26, 2020 presents the referral:

“The referral concerns the management of the COVID-19 epidemic by TELEPERFORMANCE in several countries around the world. According to the referral, Teleperformance sites, inter alia, perform call-center functions and customer’s digital service for major global digital corporates as well as governments. One function would consist in operating telephone helplines established during the health crisis on behalf of several governments. The referral is based on Teleperformance’s management of the COVID-19 epidemic in sites of the Group in ten countries: Albania, Colombia, France, Greece, India, Mexico, Philippines, Portugal, United Kingdom and United States. According to the referral, the lack or inadequacy of preventive measures (teleworking, organization of space at the workplace, health protection measures) would have directly endangered workers. The referral also includes allegations of anti-union practices, including allegations of unfair dismissals, and lack of social dialogue.

The complainants organizations deduce from these alleged facts that Teleperformance did not comply with the OECD Guidelines on respect of local law, corporate due diligence, respect for human rights, respect for the health and safety of workers, freedom of association and collective bargaining of workers, public health and safety (Chapter I, IV, V and¹ VI). The complainants organizations also consider that Teleperformance would not have respected the fundamental rights of workers on occupational health and safety recognized by the International Labour Organisation (incorporated in the Guidelines) and would not have followed the WHO recommendations and guidance set out in the context of the COVID-19 epidemic, which are intended to guide the interpretation and application of the above-mentioned international standards”.

The 26 June 2020 Initial Assessment Statement entails the list of recommendations of the Guidelines referred to in the referral.

◆ During the good offices phase (June to November 2020):

UNI informed the NCP of the urgent need to mediate with Teleperformance. UNI indicated that it preferred to deal with the referral following a “country-by-country” approach and focus the discussion on issues about workers’ freedom of association and the management of Covid 19 in the Philippines, Colombia and Albania. UNI did not consider it necessary to refer further to its points relating to France where other proceedings were initiated (Labour Inspectorate, Prud’hommes – Labour Courts). These elements contributed to structuring discussions during the attempt of mediation and the good offices conducted by the NCP.

The specific instance mentions allegations of violations of the OECD Guidelines in several countries. Nonetheless, the NCP lacked specific elements of understanding UNI’s allegations in particular in relation with the progress of trade unions recognition processes in Albania and Colombia. At its request, UNI

¹ Chapters I, IV, V, VI, respectively, relate to concepts and principles, human rights, employment and the environment.

NON OFFICIAL TRANSLATION

provided it with evidence and supporting documents that helped to substantiate its allegations concerning Colombia and Albania in September, October and then December 2020.

Teleperformance indicated that the Group denied the terms and facts referred to in the specific instance and remained prepared to engage a dialog with the NCP to prove it.

2.Procedure followed by the NCP in accordance with its Bylaws

The parties actively participated in the procedure. The NCP thanks them. As a result of the Covid 19 preventive health guidelines, meetings between the parties and with the NCP, as well as internal meetings of the NCP, were held by video-conferences and telephonic conferences.

◆ 1st step: Admissibility and initial assessment of referral (April to June 2020)

The NCP acknowledged receipt of the referral on 20 April 2020. It informed the six foreign NCPs potentially concerned by the referral: Colombia, Greece, Mexico, Portugal, United Kingdom, and the United States. On 29 April 2020, the NCP validated the formal admissibility of the referral, marking the beginning of the initial assessment. It adopted a [reception statement](#) announcing the referral. It published the reception statement on 12 May 2020² ([here](#)) and notified the referral to the OECD, which added it to the NCP database ([here](#))

On 14 May 2020, the NCP found that the specific instance was subject of significant media coverage since 17 April 2020, notably by UNI. It decided to invite the parties to sign a commitment to respect confidentiality and secrecy of discussions. Teleperformance transmitted its commitment on 1 June 2020 and UNI on 3 June 2020. Commitments of the co-complainant' four French trade union federations were received afterwards.

Furthermore, on 14 May 2020, the NCP noted some confusion regarding the possible link between UNI's co-complainant four French trade union federations and three trade union confederations members of the NCP. In order to ensure the impartiality and equity of the NCP and to prevent possible conflicts of interest within it, the NCP invited CFDT, CGT and FO trade union confederations members of the NCP to clarify the nature of their relations with sector federations who referred to it alongside with UNI. CFDT, CGT and FO confirmed the autonomy of these federations in their activities and in their participation in this referral. The CFDT indicated "it specially wishes to exchange with the CFDT F3C federation in order to advise and support it" and "consequently chose not to participate in the discussions of the NCP for the Teleperformance specific instance". As a result, CFDT was not associated with the NCP's work on this specific instance as of 30 June 2020. The minutes of the meetings were therefore subject of ad hoc documents, disjointed from the minutes of the NCP's meetings *stricto sensu*.

On 4 June 2020, the NCP accepted the referral and offered its good offices to the parties that promptly accepted them. The six supporting NCPs were regularly consulted during the initial assessment. The NCP

² #PCNFrance@Trésor-Info <https://www.tresor.economie.gouv.fr/Articles/2020/05/12/pcn-teleperformance-en-france-et-dans-le-monde>
NCP Reception Statement [HERE](#)

NON OFFICIAL TRANSLATION

adopted the [Initial Assessment Statement](#)³ on June 26, 2020. The communiqué was published on 3 July 2020 ([here](#)) and then notified to the OECD ([here](#)).

◆ 2nd step: Good offices and attempt of a Mediation by the French NCP (June to November 2020)

The good offices, which began on 4 June 2020 and ended on 4 November 2020. They consisted of several meetings and exchanges of information between the parties and the NCP.

■ French NCP's Mediation's attempt and Good Offices

UNI referred to the NCP while stressing the urgency to mediate with Teleperformance. The NCP conducted separate hearings of the complainants and of the Group on 30 June 2020 through video-conference. It suggested them to organize a meeting to assess the feasibility of a mediation, which they accepted. The pre-mediation meeting took place on 28 July 2020 in the form of a video-conference between UNI and Teleperformance under the auspices of the NCP's directorate. On 20 August 2020, the UNI transmitted to the NCP a draft agreement to be negotiated with Teleperformance ("*settlement agreement*"). The NCP transmitted it to Teleperformance.

On 8 September 2020, the NCP meet each party separately again. It noted the persistence of tensions and disagreements, as well as a lack of confidence among them, and later on it noted the Group's refusal to pursue a bilateral dialogue with UNI. As the conditions for mediation were not met anymore, the NCP decided to continue its good offices in the form of separate interviews with each party in order to clarify UNI's allegations, discuss the elements of the Group's response and seek to contribute to an agreement between the parties. The modalities of these meetings and the topics for discussion were validated by the NCP and the parties. The NCP appointed "rapporteurs" for each college (state, trade union, employers) to continue this step of referral. These bilateral meetings took place on 1 and 6 October 2020 in the form of video-conferences. These exchanges gave rise to the transmission of complementary elements by the parties. In addition, exchanges took place between the NCP Secretariat and the Colombian NCP. The rapporteurs and the NCP secretariat met on 22 October 2020 to prepare the review of these exchanges.

At its meeting on 4 November 2020, the NCP took stock of bilateral discussions. It noted the persistence of disagreements between the parties and the impossibility to facilitate direct dialogue between them. It therefore decided to end its good offices and to move to the conclusion phase of the referral. Parties and supporting NCPs were informed of this decision.

■ Exchange of information between the parties and the NCP during the good offices

UNI's specific instance describes its allegations of violations of the OECD Guidelines supported by online petitions launched by Teleperformance workers in several countries, a report by the French Labour Inspectorate concerning a site in France, as well as by references to online press articles. The specific instance refers to WHO Guidelines on Covid 19, ILO Conventions on Freedom of Association and the Right to Organise and Collective Bargaining, and the OECD Guidelines. UNI sent letters to the NCP (19 August and 19 October 2020). UNI submitted a proposal for agreement on 19 August 2020. In addition to

³ #PCNFrance@Trésor-Info <https://www.tresor.economie.gouv.fr/Articles/2020/07/03/pcn-francais-teleperformance-en-france-et-dans-le-monde>
EN : [HERE](#)

NON OFFICIAL TRANSLATION

information exchanged during various meetings, at the request of the NCP, UNI provided additional information on its referral and supporting documentation to support its request on 17 and 30 September and on 7 and 8 October 2020. This information were transmitted to Teleperformance with UNI's agreement.

Teleperformance also provided many elements of response to the referral. In addition to the information exchanged during the various meetings, Teleperformance provided the NCP with a presentation and a detailed file on 16 July together with a supplementary note on 31 August 2020, accompanied by supporting documents. The NCP invited Teleperformance to authorize the transmission of these documents to the complainants as part of its good offices. The Group agreed to this transmission on 31 August 2020. These documents were forwarded to UNI on 1st and 2^d September 2020.

In these documents, Teleperformance presents the measures taken to prevent, manage and monitor the risks associated with the Covid 19 pandemic in its subsidiaries and at the group level and to massively deploy work at home. Teleperformance provided information on all the countries cited by the referral and responded to specific questions regarding the Philippines, Colombia and Albania as well as on social aspects referred to by UNI. Teleperformance submitted a second supplementary note on 7 October 2020 containing personal information on cases raised by the referral. Because of the confidentiality of this information relating to physical persons named and specifically identified, this note has not been transmitted to the complainants and some accompanying documents have been reserved for the attention of the NCP directorate.

The NCP Secretariat requested Colombian NCP' support, whose information was transmitted to the parties with its agreement. The NCP requested the Regional Economic Service "Danube Balkans" at France Embassy in Bulgaria, which is territorially competent for Albania. It provided information on social law and management of Covid 19 in Albania. The NCP thanks the Colombian NCP and the Sofia Regional Economic Service for their support.

◆ 3rd step: Conclusion of Referral (November 2020 – June 2021)

At its meeting on 4 November 2020, the NCP took stock of the mediation attempt and its good offices. It noted that direct dialogue between the parties had reached its limits and that the negotiation of an agreement in accordance with the terms desired by the UNI could not take place. Nevertheless, the NCP felt that its action could lead to substantial results on some issues. It decided to continue its engagement with each party. With good offices completed, the information transmitted by the company during the conclusion phase of the procedure was not transmitted to the complainants.

In November and December 2020, the NCP continued its engagement with the parties to clarify outstanding issues and seek points of agreement between the parties. It addressed questions to the parties on 7 December 2020. UNI responded to the NCP on 14 December 2020 and provided supporting documents. Teleperformance sent the NCP elements of response on 2 and 18 November 2020 and then a 4th reply file with supporting documents on 16 December 2020. The NCP consulted with the Manila Economic Service of France Embassy in the Philippines, which provided background information on social law and management of Covid 19 in the Philippines.

The NCP discussed the case at its meetings on 12 January and 11 February 2021. The NCP secretariat and the rapporteurs prepared a draft final statement. The NCP noted a communication from the parties on matters raised by the referral and on the procedure. Teleperformance signaled to the NCP a press release and then a tweet by UNI in February 2021. In March 2021, UNI informed it that the Group's annual report referred to the Group's action in the procedure and that a letter from the Group to its shareholders included elements

NON OFFICIAL TRANSLATION

of the procedure before the NCP. For its part, UNI sent a letter to shareholders of the Group about elements raised in the specific instance.

The NCP adopted an [Intermediary Statement](#) on 6 April 2021⁴, published on 12 April 2021, announcing the end of the good offices and the preparation of the final statement and recalling the confidentiality of the procedure ([here](#)).

The draft final statement was adopted by the NCP on 26 April 2021. The NCP then consulted with the parties and the six supporting NCPs between 27 April and 11 May 2021. The NCP took into account comments received from Teleperformance and UNI. Supportive NCPs didn't raise comments. The NCP continued its work. It adopted the final statement on 5 July 2021 by consensus with the exception of two trade union organizations (Force Ouvrière and Confédération Générale du Travail). The final statement was published on 30 July 2021, after having been send for information to the parties and supporting NCPs. The NCP secretariat notified the statement to the OECD in order to update the NCP database ([here](#)).

The NCP notes that the issue of confidentiality proved difficult to manage during the conclusion phase.

◆ Coordination with foreign NCPs

The NCP secretariat organised coordination meetings with the 6 supporting NCPs in the form of video-conferences and regularly informed them of the progress of the procedure. Colombian NCP support was particularly sought between September and December 2020. It provided the French NCP with important elements for the procedure concerning the health crisis of Covid 19, Colombian social law and the registration process of Sinditecc trade union into Colombian trade union register. The French NCP thanks its Colombian counterpart for its commitment and support.

The supporting NCPs were consulted on the draft initial evaluation and final statement. The French NCP thanks them for their support.

3. Substantive analysis of issues raised on the effectiveness of the OECD Guidelines

➔ See next pages.

⁴ [Intermediary Statement, 6 April 2020 : HERE](#)

NON OFFICIAL TRANSLATION

3. Substantive analysis of issues raised on the effectiveness of the OECD Guidelines

At the end of the procedure, the NCP notes the persistence of disagreements between the parties on the substantive issues raised by UNI in the specific instance. It notes a lack of confidence between the parties and afterwards Teleperformance's refusal to continue bilateral dialogue with UNI. It notes that the negotiation of an agreement in accordance with the terms desired by UNI could not take place within the framework of the procedure. It further notes that, during the conclusion phase of the referral, UNI challenged elements of response provided by Teleperformance during the procedure.

In the light of the information brought to his knowledge, the NCP reviews the following on issues raised by the referral:

◆ **About health and safety issues related to the occurrence of the Covid pandemic 19**

UNI's Specific Instance:

In its referral of 17 April 2020, UNI alleges the absence of a comprehensive policy of the Group to ensure the health and safety of Teleperformance's workers. The referral refers to allegations of non-compliance with WHO health guidelines on social distancing, cleaning of workstations and work equipment's since March 2020 at several sites of the Group's in several countries (the Philippines, Colombia, France, the United Kingdom, Greece, Portugal, India). The referral mentions in particular the situation of many workers in the Philippines and in India where many workers are hosted at the sites in very difficult conditions (mattresses on the floor, sleeping bags). These situations would, according to UNI, constitute serious violations of human rights and of the OECD Guidelines due to the endangerment of workers' health. UNI emphasizes that if workers' accommodation at their workplaces takes place during the hurricane seasons in these countries, this practice should be avoided in the context of the pandemic due to the risk of contagion. The UNI also indicates that the "no work, no pay" policy applied by Teleperformance in the Philippines, which would have led workers to stay on site, would not have been applied by other call-center companies.

The referral also mentions allegations of non-compliance with health instructions at one site of the Group in Bogota (Colombia) and in Blagnac (France). The referral indicates that "workers' movements are organizing themselves, in an anxious climate, to denounce these situations" (Colombia, 25 March 2020), exercise their right of withdrawal (France), ask to shift to work at home (petition in Mexico and the United States).

With regard to the deployment of work at home, UNI informed PCN that some Teleperformance subsidiaries would have charged the workers a connection fee; these costs would be equivalent to two days' salary in the Philippines.

UNI informed the NCP in April 2021 that workers from a Group's customer present on the "Mall of Asia" site in Manila were temporarily accommodated on site before returning home using the Group's shuttles or being accommodated at the hotel⁵.

⁵ Telstra Press Release, 28 April 2020 :
<https://exchange.telstra.com.au/working-conditions-in-our-global-operations/>

NON OFFICIAL TRANSLATION

Teleperformance's response:

During the procedure, Teleperformance presented the measures taken immediately after the outbreak of the pandemic in a context of legitimate concern of workers for their health. Teleperformance presented the comprehensive policy that was developed to manage the risks associated with the Covid 19 pandemic in order to protect workers and secure jobs. According to Teleperformance, this policy aims, on the one hand, to protect workers by implementing a strict safety and hygiene policy on all sites: follow-up of WHO recommendations, social distancing, frequent and strengthened cleaning, provision of hydro-alcoholic cleaners and protective masks, temperature testing subject to applicable laws and regulations. This policy is also aimed at the rolling out work at home. Teleperformance reports that it has massively rolled out work at home in many subsidiaries, which enabled to reduce worker travel and to reduce the occupancy rate in call centers. Teleperformance reports that by mid-April 2020 nearly 170 000 jobs had been switched to work at home (80 % of total staff) since mid-March 2020, and that this figure was more than 250 000 in December 2020, while highlighting disparities between countries. Teleperformance reports that it has developed new tools to professionalize work at home (the “TP Cloud Campus” virtual platform), to measure its impact on workers (“continuous listening”, opinion polls) and to support them, particularly with regard to women (internal communication). The Group indicates that rolling out work at home is experiencing difficulties in some subsidiaries due to local conditions, particularly in the Philippines. The NCP has been informed of Teleperformance’ decisions to cover connecting costs of workers in certain subsidiaries.

Teleperformance provided details on the management of the pandemic in the Philippines, where national curfew and containment decisions, in the context of martial law, the closure of transport and hotels, as well as the weakness of public aid to workers. In particular, the absence of partial unemployment has resulted in a “no work no pay” situation. In response to the urgency of the situation in March 2020 and in view of the containment and closure of transport and hotels, accommodation for workers blocked on the spot took place in difficult conditions (insufficient sleeping accommodations, mattresses laid on the ground). Teleperformance has deployed transport shuttles for the workers (as in other countries). Many workers have chosen to reside at their workplace for long periods, particularly in the capital region and in Cebu. Dormitories and premises have been arranged taking into account social distancing. This involved a total of approximately 3 000 employees between March 2020 and end of May 2020 on the 42 000 employees of the Philippine subsidiary. The Group indicated that this practice is legal in the Philippines and applied during typhoon periods.

To oversee the implementation of its pandemic management policy, Teleperformance indicated that it had set up an ad hoc centralized governance led by a very high-level monitoring committee composed exclusively of representatives of the group’s management. This monitoring committee is composed of the Director General, the Deputy Director General, the two Directors Operations and the Legal Group Director. New monitoring tools have been put in place: daily reporting of pandemic monitoring (number of confirmed cases and quarantine, etc.), monitoring of the development of work at home, monitoring of masks reception and distribution at each site, centralized monitoring of health authorities’ interventions. Teleperformance reported that in July 2020 of 206 health authorities interventions, only two were negative and that measures were taken for these two cases (one site in France and one site in the Philippines). Teleperformance reports that it put in place new tools to monitor the impact of work at home on workers. Finally, Teleperformance reports that it has set up an ad hoc internal communication on Covid 19 in the form of video-conferences in order to enhance transparency on the pandemic management. Regular meetings (weekly or fortnightly) have been set up with the Board, the Bureau of the European Central Committee, the Executive Committee, managers and all employees. It has also developed its external communication by issuing official press release on its action. The Group believes that it succeeded in containing the effects of the pandemic during

NON OFFICIAL TRANSLATION

the April 2020 peak (for example, it counts on 2 April 2020 when the crisis began: 134 positive cases and 3,483 workers in quarantine).

Furthermore, in response to questions from the NCP, Teleperformance indicated that the frequency of health and safety committees meetings at its sites was accelerated and then accommodated according to the evolution of the pandemic situation in the different countries of intervention.

NCP's analysis

→ The outbreak of the Covid 19 pandemic has led to emergency crisis management responses in many countries, including by many employers, in a sometimes anxiety context for workers. In the case at hand, the complainants reported what they consider to be breaches of the OECD Guidelines as a result of the endangerment of workers and the alleged absence of the Group's engagement with the UNI on the one hand and with workers' representative organizations, on the other hand, to define appropriate due diligence measures. The NCP notes that, after a phase to manage emergency, Teleperformance has deployed and continues to implement a prevention, management and monitoring policy of the pandemic in all its subsidiaries to address health risks associated with the pandemic. This policy is broadly consistent with the expectations of corporate due diligence recommended by the Guidelines. This policy should be the subject of an engagement with stakeholders representing workers at the level of subsidiaries in countries where there is no collective agreement and at the Group level, for example, as part of the monitoring of the vigilance plan. The NCP notes that the situation in the Philippines remains worrying because of the accommodation of workers at the workplace in a however specific local context (see below).

The Regional Economic Service of Manila indicated to the NCP that *"In the Philippines, the Manila capital region has been cut off from the rest of the country by stopping all land, air and sea transport as of 12 March 2020 in order to stop the spread of the virus. Road checkpoints, curfews and various obstacles to travel imposed by authority (martial law) by the Philippine Government had the effect of blocking hundreds of thousands of employees in Manila for long weeks, at the time when all hotel activity was stopped/prohibited. Sleeping at the workplace could enabled many employees who were unable to return to their homes to avoid having to sleep on the street, without it being possible to determine precisely the nature of the relationship between the company and its employees on these cases. The situation in Cebu was roughly the same as that in Manila during the period March - June 2020"*.

RECOMMENDATION 1: Teleperformance has a Group policy to manage and monitor the pandemic to protect their workers' health and safety. While naturally taking into account different national legal frameworks and their specificities, the NCP recommends that Teleperformance work towards greater convergence within the Group of its policies for leave, sick leave and work at home costs in order to take into account the impact of Covid 19.

RECOMMENDATION 2: The NCP recommends Teleperformance to develop an enhanced monitoring and specific due diligence measures for its activities in the Philippines towards CSR risks (notably human rights, social rights) and to report back on it to the Group's governance and social dialogue bodies. For example, Teleperformance could rely on the International Trade Union Confederation index on world rights (Edition 2020 [here](#)) in its country risk analysis. The NCP recommends that Teleperformance avoid using workers' accommodation at the workplace at time of a pandemic. In exceptional situations and when this cannot be avoided, it recommends that it "takes

NON OFFICIAL TRANSLATION

necessary measures to ensure health and safety at the workplace”⁶. In the absence of trade union organizations within the Philippine subsidiary, the NCP recommends that the Group promote consultation and co-operation on matters of mutual concern with stakeholders representing Filipino workers present in the Philippines or active at the international level⁷. As such, the NCP recommends that the Group establish a constructive engagement with one or more workers’ associations covering its sector of activity in the Philippines.

◆ About the issue of employees’ representation in the Group’s health and safety committees.

Teleperformance presented the basis and governance of its occupational health and safety Group policy. All of the Group’s subsidiaries and sites have health and safety committees (e.g.: Albania, Colombia, France). The frequency of meetings of these committees has been accelerated to monitor the evolution of epidemic situations in each subsidiary. The NCP found that the committees of certain subsidiaries targeted in the referral did not include employees’ representatives (India, the Philippines) or no members elected by the workers (Greece, Portugal). Where local legal framework permits it, the NCP has invited the Group to move forward on this issue. In response, Teleperformance committed to improve employees’ representation in its Philippine and Indian subsidiaries and to set up the election of workers’ representatives in Greece.

During the conclusion of the referral, Teleperformance informed the NCP that, in accordance with the roadmap it had presented to it in November 2020, employee representatives strengthened Teleperformance’s health and safety committees in India and the Philippines in December 2020. The Group reported that the first meetings of these committees were held on 29 April 2021 in India and 16 March 2021 in the Philippines. Finally, it said that in Greece and Portugal, the plan to make progress towards the election of members of these committees by workers was being analyzed, with the covid-19 crisis and successive confinements slowing down the procedure.

RECOMMENDATION 3: The NCP encourages Teleperformance to continue to implement the roadmap set up at the end of its good offices to strengthen employees’ representation in health and safety committees in India and the Philippines. Where this is not yet the case, the NCP recommends that it make progress towards the election of these committees’ members by workers, particularly in Greece, Portugal, India and the Philippines

◆ About the issue of social dialogue at Group level

UNI’s Specific Instance:

In its referral of 17 April 2020, UNI mentions the absence of trade unions in Teleperformance subsidiaries located outside Europe, as well as the absence of collective agreements and social dialogue in these subsidiaries. UNI said that, in the absence of social dialogue, workers in several countries took other avenues to express their concerns about the pandemic: referral to Members of Parliament (United Kingdom), on-line petition (Greece, Portugal, Mexico, the United States), work stoppage (Colombia), right of withdrawal (France). According to UNI, decisions taken against certain workers and trade union leaders in Albania (2

⁶Chapter V. Enterprises should, within the framework of applicable law, regulations and prevailing labour relations and employment practices and applicable international labour standards: 4.(c). Take adequate steps to ensure occupational health and safety in their operations.

⁷Chapter V. Enterprises should, within the framework of applicable law, regulations and prevailing labour relations and employment practices and applicable international labour standards: 3. Promote consultation and co-operation between employers and workers and their representatives on matters of mutual concern.

NON OFFICIAL TRANSLATION

people), Colombia (6 people) decided in 2020 would participate, according to UNI, in an anti-union policy by Teleperformance (see below).

During the conclusion of the referral, UNI informed the NCP of situations where, according to UNI, workers' freedom of association would not be respected and where trade unions were not independent.

Teleperformance's response:

In response to the referral, Teleperformance Group presented the organisation of social dialogue within the Group, indicating that it takes different forms according to national laws. Teleperformance states that the Group “*respects freedom of association and recognises the right to collective bargaining, in accordance with the third principle of the Global Compact. All employees can freely gathered or joined organisations without interference, reprisals or discrimination*”. The Group indicates that it has collective agreements in 17 countries covering 50 % of the CEMEA area⁸ and 56 % of the Iberian-LATAM zone⁹. The Group has a European Works Council (EWC). In accordance with the French PACTE Act, two workers members now sit on the Board of Directors. The Group states that it favours local partners and that “*in Asia social representation is much less established and that the dialogue is based on pragmatic local solutions*”. Teleperformance refutes UNI's allegations and states that personal decisions taken in Albania and Colombia are in accordance with local law and do not consist of anti-union measures.

NCP's analysis

→ Teleperformance is present in 80 countries and has 330 000 employees, including 2/3 outside Asia. UNI's referral has taken place in a context of difficult relations between UNI and Teleperformance for several years. UNI is an international trade union that covers, inter alia, information, communication, technology and services sectors. UNI and Sherpa Association issued Teleperformance a formal notice in July 2019 under the French Duty of Vigilance Act. UNI and Teleperformance tried to negotiate a Global Framework Agreement (GFA) on corporate social responsibility in 2019. This draft global framework agreement, transmitted to the NCP by UNI, foresaw the opening of negotiations with local trade unions in Albania, Colombia, Poland, Romania and the Czech Republic. These negotiations did not succeed at the end of 2019. UNI continued its union activity. UNI made public several cases concerning Teleperformance and its workers. UNI referred to the NCP in April 2020 and then UNI proposed in August 2020 the terms of an agreement with Teleperformance within the framework of the NCP good offices (see step 2.2). Teleperformance did not wish to continue the direct dialogue with UNI considering that conditions for a serene dialogue were not met.

RECOMMENDATION 4: In particular for India and the Philippines, the NCP recommends that Teleperformance formally involve the social partners in the monitoring of the Covid's management policy and of the work at home rolling out. In addition to local social dialogue, the NCP recommends that Teleperformance exchanges regularly with international trade unions “on matters of mutual concern” concerning workers as part of its engagement with its stakeholders and its duty of vigilance (see Recommendation V.3 of the OECD Guidelines).

⁸ Germany, Italy, Finland, France, Netherlands, Norway, Sweden, Switzerland, United Kingdom as well as Morocco and Tunisia

⁹ Spain, Brazil, Chile, Mexico

NON OFFICIAL TRANSLATION

◆ About workers' freedom of association in Teleperformance subsidiaries in Albania and Colombia

UNI's Specific Instance:

In the referral, UNI denounced situations in Albania and Colombia which it presents as anti-union measures and violations of workers' freedom of association and collective bargaining. UNI provided details on these issues between September and November 2020.

a) Concerning the non-recognition of trade unions by Teleperformance subsidiaries:

- UNI indicated that Teleperformance would oppose the recognition of the Solidariteti trade union in Albania and of the Sinditecc trade union in Colombia. Regarding Albania, Solidariteti trade union was founded on 17 February 2019 and then Italian and French trade unions supported its request for notification to the Albanian subsidiary during a mission to Tirana in February 2019. Solidariteti was recognised by the Court of Tirana on 15 July 2019. The referral includes letters from Solidariteti President on 2 March 2020 requesting the opening of negotiations with Teleperformance and on 9 March 2020 requesting the creation of conditions conducive to the exercise of trade union rights.

During the conclusion, the UNI reminded the NCP that, according to Albanian law, according to her Teleperformance should have responded to this request and opened collective bargaining with Solidariteti. The labour inspectorate would be informed of the case. UNI reports that Solidariteti continued its trade union action at the end of 2020 to denounce surveillance teleworkers would be subjected to.

- In Colombia, Sinditecc was founded in March 2020 by 46 founding members including 43 of Teleperformance. It sent its recognition request by email to Teleperformance on 25 March 2020. The Ministry of Labour reportedly recognised it on 22 September 2020. The trade union registration process by the Ministry of Labour has been delayed by confinement.

b) Concerning the cases of 7 redundancies and 2 terminations of employment contracts by Teleperformance in Albania and Colombia:

UNI mentioned the dismissal of three Solidariteti trade union leaders decided by the Albanian subsidiary of Teleperformance in March 2020. It was the President of the union and two members of its Board of Directors. UNI also referred to the dismissal of four workers from a Teleperformance site in Colombia who had organized a work stoppage on 26 March 2020 for fear of being contaminated by Covid 19 at their workplace. UNI then referred to the suspension of two Sinditecc officials and founders from March 2020 and the non-renewal of their fixed-term contract at a Teleperformance site in Colombia. UNI considers these 9 decisions contrary to workers' freedom of association and would have an anti-union character. UNI states that trade union leaders in Albania and Colombia should have benefited from the principle of protection due to trade union representatives. UNI believes that these decisions would have weakened the union's action in the company both in Albania and in Colombia. UNI called for the reintegration of all these workers within the framework of the good offices of the NCP.

Teleperformance's response:

Concerning Albania, Teleperformance indicated that Solidariteti could not be recognised by the subsidiary because it would not have provided all the necessary documents. In December 2020, Teleperformance informed the NCP that another trade union had requested its recognition on 23 November 2020 by the Albanian subsidiary. During the conclusion phase of the referral, the Group informed the NCP that its Albanian subsidiary had recognized this trade union and the collective bargaining is ongoing.

NON OFFICIAL TRANSLATION

Teleperformance states that the dismissals referred to by UNI resulted from the unjustified absence of these workers before the closure of the workplace and the evacuation of employees decided on 19 March 2020. The President of the trade union has been dismissed for economic reasons; the programme to which he was assigned was almost stopped at the request of the client impacted by the Covid 19 crisis, which led to layoffs. The other two employees were dismissed for abandonment of post; they reportedly refused alternatives proposed to them at the beginning of March 2020. Teleperformance states that these workers did not enjoy trade union protection because the subsidiary did not recognise their union and did not have an agreement with that union.

Regarding Colombia, Teleperformance indicated that its subsidiary was experiencing difficulties in recognising Sinditecc due to the lack of administrative documents. Teleperformance informed the NCP of the reasons for the dismissals of the four workers for real cause (unjustified work stoppage). Teleperformance informed the NCP that the suspension of the other two workers was due to the termination of the client's contract and that their remuneration had been maintained until the end of their fixed-term contract. Teleperformance indicates that they have not contested their dismissal. Teleperformance indicated that these two workers were not covered by trade union protection because their union was not recognised by the subsidiary at that time.

During the conclusion of the referral, Teleperformance stated that it challenged “*the subjective reading away from the facts*” and that the doubts expressed by some members of the NCP “*are unfounded as evidenced by the recognition of the union in Albania and the conduct of negotiations with this union throughout the winter of 2020*”.

NCP's analysis about workers' freedom of association in Albania and Colombia:

a) Concerning the non-recognition of trade unions by Teleperformance subsidiaries:

The NCP reiterates its commitment to social dialogue.

Teleperformance Albania did not recognize the Solidariteti trade union. Teleperformance Colombia did not recognize the Sinditecc.

➔ In Colombia, the Ministry of Labour reported on 22 October 2020 that Sinditecc had been legally registered in response to its request of 25 August 2020. The support of the Colombian NCP enabled to trace the registration process of the trade union by the Ministry of Labour, whose process has been delayed by confinement. In Albania, Solidariteti was recognized by the Tirana Court on 15 July 2019 and then it sent a request for negotiation to Teleperformance in March 2020. The NCP sought to facilitate an agreement between Teleperformance and UNI for the recognition of these two unions. It notes that the Group referred to administrative problems (without giving any details) that would prevent their recognition by its subsidiaries. The processing of the recognition of applications by these trade unions in Albania and Colombia is likely to create serious doubts about the respect of workers' freedom of association within the meaning of the OECD Guidelines. The employer's college does not share this analysis.

b) Concerning the cases of 8 redundancies and 2 terminations of employment contracts by Teleperformance in Albania and Colombia:

The NCP reiterates its commitment to social dialogue.

The NCP is seized of dismissals of 5 unionized workers and 4 workers who protested against the risk of contamination. The Group provided explanations for these dismissals. It refused to reinstate the three

NON OFFICIAL TRANSLATION

union representatives of the Albanian trade union Solidariteti (President, member of the Board of Directors), the two trade union representatives of the Colombian trade union Sinditecc, and the four Colombian workers dismissed following the organization of a work stoppage in connection with the pandemic.

➔ The NCP reviewed the cases of 9 personal situations submitted by UNI and Teleperformance' explanations. It notes the temporal concomitance between these decisions, the trade unions requests for recognition and the breach of client's contracts due to the Covid 19 crisis. The NCP sought to facilitate agreement on these personal cases. It notes that Teleperformance maintains its position on the legality of the dismissals, refutes the allegation of anti-union actions and opposes their reinstatement. There is a concordant item of evidence concerning the 7 dismissals and 2 suspensions of fixed-term contracts decided by Albanian and Colombian Teleperformance subsidiaries that they are contrary to the freedom of association of workers, as recommended by the OECD Guidelines, thus akin to anti-union practices. The employer's college does not share this analysis.

RECOMMENDATION 5: The NCP recalls the importance of workers' freedom of association respect as provided for in the OECD Guidelines and the 1998 ILO Declaration in all Teleperformance countries. The NCP recommends that the Group ensure, as soon as possible, that its Albanian and Colombian subsidiaries respect the right of workers to form or join trade unions and representative organizations of their choice. The NCP recommends that the Group, including from its headquarters, exercise a particularly strengthened vigilance in cases of dismissals involving staff representatives, trade union representatives and unionized workers in its countries of activities. The NCP recommends that the Group provide appropriate remediation measures if cases of non-compliance with the OCED Guidelines are found.

4. Conclusion

The NCP thanks the parties for their participation in the procedure.

The NCP recalls that concepts and principles of the Guidelines provide that “2. *Obeying domestic laws is the first obligation of enterprises. The Guidelines are not a substitute for nor should they be considered to override domestic law and regulation. While the Guidelines extend beyond the law in many cases, they should not and are not intended to place an enterprise in situations where it faces conflicting requirements. However, in countries where domestic laws and regulations conflict with the principles and standards of the Guidelines, enterprises should seek ways to honour such principles and standards to the fullest extent which does not place them in violation of domestic law*”. The NCP states that compliance with local law does not, as a matter of principle, exclude additional improvement measures to comply with the OECD Guidelines.

RECOMMENDATION 6: The NCP recommends that Teleperformance strengthen its due diligence towards its subsidiaries in Albania, Colombia, India and the Philippines to ensure compliance with employment and industrial relations recommendations of the OECD Guidelines by its subsidiaries in those countries provide appropriate remediation measures if non-compliances with the OCED Guidelines are found.

The NCP closes this specific instance.

The NCP will follow up on its recommendations in twelve months.