



National Contact Point - Brazil

FINAL STATEMENT

Itaú Unibanco S.A./ Bank Workers Union of São Paulo, Osasco and Region

Complaint NCP N° 01/2012

On 6 December 2011, the NCP Brazil received a notification from the Bank Workers Union of São Paulo, Osasco and Region – headquartered in São Paulo, Brazil – against Itaú Unibanco S.A., a Brazilian multinational company.

According to the complainants, the following conducts of Itaú Unibanco would be in disagreement with the OECD Guidelines for Multinational Enterprises:

1. Carry out "mass layoffs" since early 2011, and especially in its last months. According to the claimant, statistics produced by the Bank Workers Union of São Paulo, Osasco and Region recorded a total of 2.589 layoffs in the period January-November 2011. These data would have been verified through approvals held at the headquarters of the Bank Workers Union, but no supporting documents were attached;
2. Prioritize firing of older employees with more years of service and nearing retirement, who would have many difficulties to be reallocated at the labor market; and
3. Promotion of strong outsourcing process of its activities, which would cause more layoffs and make the banking work precarious.

According to the complaints, these practices violate the *caput*; and items b) and c) from the Article 2, and Article 6 from the Chapter V, Employment and Industrial Relations, of the OECD Guidelines for Multinational Enterprises.

From a preliminary analysis, in accordance with Resolution PCN No. 01/2007, the NCP decided for the acceptance of the Complaint No. 01/2012 - and informed the parties, the NCP for the company's host country and the OECD. On 8 May 2013, the NCP requested the considerations of ABN AMRO in relation to the notification. The report of the case was distributed to the representative of the Ministry of Labour and Employment (MTE) in the NCP because of the expertise with the subject matter of the claim.

On 4 June 2012, Itaú Unibanco sent a letter to the NCP answering the claims and requesting the closing of the complaint.

According to the company:

1. There were no "massive layoffs", an expression that characterizes aggressive and drastic reduction of the company staff, impacting on labor market statistics. Instead, in the period concerned, from January to November 2011, there were more hirings (9.874) than layoffs (7.330), and;
2. There was no prioritization in firing older employees. According to the company, the average age of the company's employees remained the same from December 2010 to December 2011, which is 35 years.



National Contact Point - Brazil

The company reported as information source the General Registry of Employed and Unemployed Persons (in Portuguese, CAGED); however, no supporting documents were attached.

The claimant sent additional information:

1. On 22 May 2012, the claimant sent links to a newspaper article, published on the claimant's *website*, on 17 May 2012, about a manifestation occurred at Avenida Paulista denouncing layoffs done by Itaú Unibanco; and radio spots about three manifestations against layoffs promoted by the company in several regions of São Paulo, and;
2. On 25 July 2012, the claimant sent new data on the layoffs process. According to the claimant, between 31/3/12 and 30/6/12, the company would have eliminated 3.777 jobs, an average of 1.259 jobs per month. In just one year and three months (March 2011 to June 2012), Itaú Unibanco would have eliminated 11.505 jobs in the country. The source of that data was not provided.

After reviewing the information provided by both parties, on 9/11/2012, the rapporteur presented to the NCP his/her considerations about the case, recommending that the parties should be invited to a mediation meeting, in order to pursue policies to reduce turnover and promote the relocation of workers laid off. On 9/11/2012, the coordination of the NCP sent invitations to the meeting, which was held on 5/2/2013.

During the mediation session, the claimant made the following demands to the company:

1. Providing information on the profile of the dismissed employees, with the whole specifications, as submitted to CAGED;
2. Conducting negotiations before the layoffs, and create a “talent pool” for the relocation of dismissed employees;
3. Specification of criteria for dismissal of employees by the company and the commitment of not laying off employees who are about to acquire stability or in medical treatment or people with disabilities (in Portuguese, PCD).

The company answered that:

1. It is possible provide information only about average wage, time and age of the employees laid off (information provided before the mediation meeting), other information remains confidential;
2. There is already a constant dialogue between the company and the union, and there is also a relocation program in case of layoffs, including those motivated by overlaps resulting from mergers and acquisitions;
3. There is no possibility of agreement regarding the establishment of criteria for layoffs.

Considering that the parties did not reach an agreement on any of the points discussed, the mediator proposed the closure of the case, suggestion accepted by both parties.

From the discussions held under this notification, the NCP Brazil makes the following recommendations to Itaú Unibanco S.A.:

1. Voluntarily provide to workers and their representatives information that may be necessary to conduct meaningful negotiations on working conditions;



National Contact Point - Brazil

2. Voluntarily provide to workers and their representatives information enabling them to get a right and proper idea about the activities and results of the entity or, where appropriate, the enterprise as a whole. This information refers to: company's structure; its economic and financial current situation and prospects; employment trends and expected substantial changes in its operations, taking into account the legitimate requirements of commercial confidentiality;
3. Notify its employees, their representatives and government authorities, with reasonable advance notice, about changes that impact on employment, seeking as widely as possible to mitigate this impact;
4. Promote consultation and cooperation between employers and workers and their representatives on matters of mutual interest, including hiring and firing employees, and implementing, if possible, a transparent policy for reducing turnover and relocation of workers dismissed, and;
5. Not to discriminate employees on terms and conditions as hiring, job assignment, discharge, compensation and benefits, promotion, transfer or reassignment, termination, training, and retirement and respect the ILO Conventions no. 111/1958, no. 183/2000 (Protection Maternity) and no. 159/1983 (Disabled Persons; and Recommendations no. 162/1980 (Older Workers) and no. 200/2010 (Labour on HIV and AIDS).

Brasília, 23 April 2013.

Translation to English made on 2 September 2013.

National Contact Point of Brazil

OECD Guidelines for Multinational Enterprises

Interministerial Ordinance No. 37, 19 February 2013