
Annex to the ACT Memorandum of Understanding (MoU) between ACT members on respect and exercise of Freedom of Association (FOA) in Türkiye.

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1. Preamble

This Annex to the ACT MOU aims at facilitating implementation of Freedom of Association (FOA) by ACT members¹ within their supply chain units² in Türkiye. This annex serves the purpose of responding to the challenges around the industrial relations system in the textile, garment and leather industries in Türkiye with a view to establishing an efficient and result-oriented protocol towards the overarching objectives of ACT to achieve living wages for workers.

ACT's objective is to transform the textile, garment and leather industries and achieve living wages for workers through collective bargaining at industry level, freedom of association and purchasing practices. In that sense, ACT Brands have adopted the ACT Global Purchasing Practices Commitments including ring-fencing labour costs, fair terms of payment, better planning and forecasting, training on responsible sourcing and buying, and responsible exit strategies.

However, trade union density in the textile, garment and leather industries in Türkiye is low, particularly in the ready-made-garment segment. The respect for Freedom of Association (FOA), including the removal of any types of barriers to exercise FOA, is considered fundamental to an enabling environment for collective bargaining. The current context around industrial relations and FOA within Türkiye constitutes a challenge for the establishment of the preliminary conditions to achieve an agreement at sector level in Türkiye.

Within this context, ACT members recognise the role that they can play to promote social dialogue, respect for the rights of Freedom of Association and Collective Bargaining between supply chain units and local trade unions, which requires a specific framework that supplements current ACT member commitments in line with the Fundamental Principles and Rights at work and jurisprudence of the International Labor Organization (ILO).

2. ACT Commitments

This Annex re-affirms the commitments of ACT members to achieve living wages for workers in the global textile and garment industry supply chains through mature industrial relations, freedom of association and collective bargaining.

Within the "Framework for Action" under the ACT MoU, signatories "commit to design strategies on how to proactively promote freedom of association".

The signatories firmly believe that Freedom of Association (FOA) 'is the necessary condition to freely exercise

Collective Bargaining and the right of workers and employers to form and join organizations of their own choosing (ILO Convention No. 87).

¹ IndustriALL Global Union and the ACT member Brands with sourcing activities in Türkiye.

² Supply Chain Unit refers to where production happens in the global supply chain.

In consequence, ACT member brands and IndustriALL Global Union agree on the following principles and framework for action:

- Workers must be free and able to exercise their right to be unionised and bargain collectively in accordance with ILO Conventions.
- A joint approach is needed where all participants in global supply chains assume their respective responsibilities in continuing to ensure the respect of the right to freedom of association.
- ACT members will provide capacity building, including training of managers and workers on freedom of association and collective bargaining.

ACT members commit to design strategies on how to proactively promote freedom of association.

3. Legal Framework

3.1 International Labour Conventions

The right to Freedom of Association and Collective Bargaining³ are internationally recognised human rights and part of the International Labour Organization's (ILO) Core Labour standards, regulated under ILO Conventions 87, 98 and 154.

3.2 Turkish Labour Law and Constitutional Guarantees

The Constitution of the Republic of Türkiye of 1982, in the last sentence (33) of the last paragraph of the article 90, states that "in the case of a conflict between international agreements, duly put into effect, concerning fundamental rights and freedoms and the laws due to differences in provisions on the same matter, the provisions of international agreements shall prevail".

Article 51 of the Turkish Constitution, under the section C. Right to Organize Labour Unions, states that "employees have the right to form labour unions, without obtaining permission, and they also possess the right to become a member of a union and to freely withdraw from membership, in order to safeguard and develop their economic and social rights and the interests of their members in their labour relations. No one shall be forced to become a member of a union or to withdraw from membership."

Article 17 of Law on Trade Unions and Collective Labour Agreements (coded 6356), entitled "Trade union membership and acquisition of membership", reads that "any person who completes 15 years of age and who is considered as a worker in accordance with the provisions of this Law may join a workers' trade union" and acquisition of membership in a trade union shall be optional. No one shall be forced to be a member or not to be a member of a trade union".

Article 25 of the same Law coded 6356 entitled "Guarantee of trade union freedom" reads "the recruitment of workers shall not be made subject to any condition as to their joining or refraining from joining a given trade union, their remaining a member of or withdrawing from a given trade union or their membership or non-membership of a trade union".

According to the article 118 of Turkish Penal Code numbered 5237 entitled "Prevention of use of trade union rights", "any person who uses violence or threat against a person in order to force him to become or not to become a member of a trade union, or to participate or not to participate in the activities of the union, or to cancel his membership from the union or to declare his resignation from the management of the union, is sentenced to imprisonment from six months to two years" and "in case of prevention of activities of the trade union by using violence or threat or performing any other act contrary to the law, the offender is subject to punishment of imprisonment from one year to three years".

³ Collective bargaining is a key means through which employers and their organizations and trade unions can reach living wages and improve working conditions.

4. Respect of the rights of FOA and CBA in ACT Brand Members' supply chain in Türkiye⁴**4.1 All ACT brands, in their supply chains in Türkiye, shall:**

Labour standards

A. Commit to abide by the ILO's fundamental labour standards as well as national legislation. International labour standards will prevail over national laws in case the latter are less favourable than the respective ILO Conventions.

Access and respect of the right of Freedom of Association

B. Require factory management, in relevant circumstances where grievance and disciplinary matters are at issue, to permit a directly affected worker to avail of trade union representation in the course of any proceeding. Such representation can take place in a mutually agreed location for the purpose of discussing the subject matter, and the employer shall be required to deal in good faith with said worker's representatives.⁵

C. Ensure the respect of the workers' right of FOA and Collective Bargaining.

D. Commit to treat trade unions fair and respectfully and refrain from all anti-union activities and remain strictly neutral concerning employee preference to join, remain with, transfer, or abandon their relationship with a union organization.

E. Guarantee that workers have the right to be represented by their union/employee representatives about their individual and collective grievances; In this sense, union/employee representatives have the protections enshrined in the article 23 and 24⁶ of the Law coded 6356.

F. Conditions for election of trade union/employee representatives will be secured under ILO Convention 135, integrated into Turkish law.⁷

4.2 Factory and Enterprise Collective Bargaining Agreement (CBA)

A. In case there is any concern regarding the certificate of competency legal document issued by the Ministry of Labour and Social Security in line with the article 42 of Law of 6356, in favour of a union by confirming that the union concerned has sufficient majority for being eligible party to negotiate and sign a collective bargaining agreement, ACT brands' supply chain units will be required to enter, without any undue delay into a social dialogue process with the respective IndustriALL affiliates to confirm that process followed complied with all the legal guarantees.⁸

B. ACT brands' supply chain units shall conduct - after the respective request from the union which has received the corresponding certificate of competence in line with the article 44 of the Law of 6356 as stipulated by law - a good-faith⁹ collective bargaining negotiation with a view to signing a collective bargaining agreement (CBA).

C. In case of an allegation regarding the compliance with point B, a mediation process will be initiated with the support of IndustriALL representatives and ACT Brands to find the most appropriate solution.¹⁰ The mediation process shall start within 10 working days and be finalized within 15 working days,¹¹ or longer if agreed between the ACT members related with the allegation.

4 The respective Global Framework Agreements content/proceedings will apply for Brands with Global Framework Agreement with IndustriALL Global Union.

5 For ACT members with a GFA with IndustriALL, pre-existing provisions on access will prevail.

6 Where CBA exists.

7 If the situation arises that an election of worker representatives cannot be organized, an appointment may be organized according to the law. Factory should clearly communicate this reason why an election cannot be organized, as it is stipulated as per National Law. Factory management and trade unions should give priority to organize elections of workers' representatives.

8 IndustriALL Global Union affiliates will recognize the affiliate which has obtained the certificate as per the articles 42, 44 and 43 In case of any dispute, this will be managed among IndustriALL Global Union and its affiliates in a reasonable period of time. Any change in the legal status should be inform to the ACT Brands related with the affected supply chain unit.

9 Good faith bargaining requires employers and unions involved in collective bargaining to use their best endeavours to agree to an effective bargaining process, providing relevant information; to meet and consider and respond to proposals made by each other; to respect the role of the other's representative and to respond in time to the proposal of other parties; and not do anything to undermine the bargaining process or the authority of the other's representative.

10 In the case of Brands with a Global Framework Agreement, the specific coordination/communication channel will be followed in terms of mediation.

- D. In case a CBA is reached and signed, the signatory parties of the CBA shall administer the agreement for a continuous improvement of working conditions through constructive social dialogue. In this sense, the CBA shall have effective mechanisms for dispute resolution as it is an essential part of any well-functioning industrial relations system. The options available to the signatories are numerous and range from formal litigation to resolve labour disputes, including extra-judicial mechanisms of conciliation to informal negotiations which do not involve going to court or appearing before a labour tribunal.
- E. In case any allegation is communicated in relation to a misuse of an existing Collective Bargaining Agreement, an investigation will be carried out through the involvement of the related ACT Brands in coordination with IndustriALL Global Union representatives. In case any breach was identified, a resolution based on mediation will be implemented and supported by ACT Brands. This process should be concluded within a reasonable and agreed timeline.
- F. IndustriALL and its affiliates will put all their efforts into improving the working conditions and dialogue mechanisms in the supply chain units where there are collective bargaining agreements. Coordination among IndustriALL Global Union affiliates will be guaranteed by IndustriALL Global Union, with special attention to those cases where more than one affiliate has presence in one supply chain unit.

5. Remediation: Handling Dispute Cases

5.1 Brand/IndustriALL case handling process

- A. Any dispute case should be solved as close as possible to where it occurs.
- B. Supply chain unit internal mechanism: A worker or a group of workers and/or their representatives who would like to raise an issue about Freedom of Association (FOA) should do so with their closest supervisor, leader, or manager with a view to find a mutually agreeable solution. If the worker or group of workers fear retaliation or feels that the dialogue at this level does not lead to a mutually agreeable solution, they can also bring the issue up directly to a higher level in the factory.
- C. Trade union role: Trade unions that have membership in workplaces, and worker representatives, have the right to represent workers for individual and collective grievances. Supply chain units shall receive any demand raised by trade unions to address and handle disputes.
- D. ACT brands and IndustriALL Global Union will make every effort to support social dialogue between supply chain units and IndustriALL affiliates for the resolution of any cases. Refusal by supply chain units shall be considered as violation of FOA.
- E. The following is relevant in cases where there is no brand/IndustriALL Global Framework Agreement (GFA) or where more than one ACT member brand is involved:
 - a. Brands will designate a representative to receive emails of complaints from IndustriALL and the union concerned.
 - b. In the case that a complaint has been raised at a supply chain unit, but efforts of social dialogue have not yet yielded results, IndustriALL will communicate¹² with all of the brands sourcing from that unit to explain the case and request a meeting between the brands, IndustriALL and the respective IndustriALL affiliates to discuss the case and to agree together upon a process for moving forward and follow-up actions.
 - c. Where brands do not have staff based in Türkiye, Head Quarter representatives will be appointed to engage in a meeting between the parties.

¹² Any type of allegation should be shared in a formal written way.

- F. In cases where a brand has a GFA with IndustriALL: Where a complaint is raised concerning a supply chain unit that produces for a brand that has a GFA with IndustriALL and also produces for other ACT brands, as first step, the respective GFA channel regarding complaint mechanism will be activated between GFA Brand and IndustriALL Global Union (as per its respective GFA) and as a second step, the involvement in the discussions of ACT Brands with no GFA will be also taken.

5.2 Access to Remedy

In those situations where a FOA/CB breach is jointly detected, and after the pertinent investigation and agreed process for the resolution of the case, the following standard remediation activities (or any other action or actions agreed by ACT members involved) will be taken with the participation of ACT Brands, workforce, their representatives, IndustriALL national affiliates and IndustriALL Global Union's representation:

- A. Supply chain units shall be required to ensure that workers shall be able to get correct, full, transparent information about their fundamental rights guaranteed by international and national standards through various tools, including, but not limited to, mass meetings, written announcements, online channels, and others;
- B. Supply chain units shall be required to clearly announce their respect for FOA and workers' free union choice through written documents inside the workplace in a way all the workers can easily access the information.
- C. Training and education sessions shall be organized for workers (if freely elected worker representatives, it will be worker representatives) and company officials about respect of the rights of FOA, CB, and social dialogue.
- D. Remediation and corrective actions shall be monitored and supported by ACT members through objective, efficient and effective methods and tools to verify this.
- E. Unnecessary delays that go against the principle of good faith shall be avoided in the process.

6. Implementation and Monitoring of the Annex

- A. ACT members in Türkiye shall regularly observe and evaluate the implementation and monitoring of this Annex with reports to the Member Council.
- B. When and if necessary, adjustment of the Annex may be discussed and agreed by ACT members. In case of any general conflict under this Annex that cannot be solved at local level, the ACT members will have the possibility to escalate it to the ACT Member Council.