



FIAN International
FoodFirst Information and Action Network

Euzkadi case in Mexico - A success story of advocating ESCR For TNC accountability

The Euzkadi-Continental conflict erupted after the German tyre producer Continental, a leading transnational enterprise on the European market, bought the modern and renowned Mexican Euzkadi tyre plant in 1998, and started to restructure its management, trying to cancel wage tariff agreements and set up new working standards. These decisions to buy the factory and to reorganise working conditions were of course taken in the main office in Germany and not in Mexico. The ensuing controversy between Euzkadi's management and the SNRTE labour union (Sindicato Nacional Revolucionario de Trabajadores de Euzkadi) led to the dismissal of 18 union leaders in June 1999 which was declared illegal by the corresponding Labour Court so that all 18 workers had to be reinstated into their jobs. However, as no agreement could be reached in the ongoing labour dispute Continental all of sudden closed the Euzkadi plant on December 16, 2001, dismissed all 1.164 workers and stopped paying salaries.

In response the Euzkadi labour union SNRTE in January 2002 declared to be on strike as it considered the plant's closing to be an illegal interruption of labour and infringement of tariff agreements. The union also maintained that Continental did not obey valid Mexican procedure according to Art. 434-439 of the Federal Mexican Labour Legislation which stipulates that permission for closing production facilities must be submitted to the relevant Mexican authorities for approval. Permission can be given, for example, if notorious uneconomic production can be substantiated. Continental argued that it had to close the plant because it was not possible to implement international production standards and asked the national arbitration board (consisting of government, company and labour union) to pronounce the workers' strike as illegal because the plant had been closed beforehand. In order to prevent Continental from dismantling parts of the factory and installing these in other factories bought by the company in Mexico, the Euzkadi union workers picketed the factory continuously. When the arbitration board declared the workers' strike illegal the Euzkadi labour union protested and appealed against this decision with the Mexican Labour Court.

After a thorough investigation of the aforementioned case FIAN advocating the Euzkadi workers' right to food officially asked the Mexican Government to submit Continental's decision to a legal examination. FIAN also informed the human rights commissioner of the German Government, several German members of parliament, the European Commission on Trade and Development, several member of European Parliament as well as the Continental's German management about this demand. In May 2002 FIAN then organised a lobbying tour of Euzkadi Union representatives through Germany, visiting the Mexican embassy, the German Foreign Ministry, German parliament, the Economic Ministry, the German Union Confederation, IG BCE and Continental in Hannover, also attending Continental's Main Shareholder Meeting. On May 27, 2002 the Mexican Euzkadi Union and the German environmental and development agency Germanwatch presented an official complaint against Continental with the German OECD contact bureau in the Economic Ministry arguing that the company had violated OECD Directives for multinational companies (this complaint was also officially presented in Mexico in June 2002).

After already more than six months of strike the Euzkadi workers' situation has become quite precarious. Each day that passes without having their outstanding salaries paid and being reinstated in their jobs, the right to food of workers' families which has been guaranteed by Mexico signing the International Pact on Economic, Social and Cultural Rights, Art. 11, was threatened. Not all workers are able to maintain the strike and picket the plant because the 2 others have to look for alternative jobs, some even had to emigrate to the US, in order to feed their families. The Euzkadi Labour Union does not have the necessary funds to maintain the striking workers and spent its last resources when organising a protest caravan towards Mexico City, visiting 7 industrial cities on its way. The so called Caravan for Labour Dignity ended on the main square of Mexico City on February 5, 2002, the Mexican Constitution Day, where about 10.000 people met to demonstrate their solidarity.

In the meantime the Euzkadi-Continental case has reached national and international attention through not only the aforementioned caravan but also continuous press releases, intensive lobbying work with Mexican and German authorities, solidarity from other labour unions in Mexico and Germany, also the assistance of the German Association of Critical Shareholders and other human rights NGOs like the German Human Rights Coordination for Mexico, the Foundation Heinrich Böll, the EED, attac Hannover, the Third World Forum Hannover. On July 5, 2002 the Third Local Labour Court decided in favour of Euzkadi Union and Continental appealed against this decision. In October 2002 the highest Labour Court confirms this decision and refers the case back to the Arbitration Board. Hopes for a positive solution for the Euzkadi workers rise even higher, when the Mexican President Vicente Fox, visiting Germany in January 2003, expressed during talks with German NGOs that

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Mexican Law has to be observed.

In February 2003 the Arbitration Board goes back on its initial decision and declares the strike as illegal. The Euzkadi labour union then submits a constitutional complaint on the basis of the "Right to Strike". At the same time, labour problems are also increasingly prevalent in the other Mexican Continental plant in San Luis Potosi. All national and international forces are gathered to make this labour conflict even more public and to increase pressure also with regard to International Pacts signed by Mexico. In May 2003 representatives of the Euzkadi Labour Union again travel to Germany, and are also invited by the National OECD Contact Bureau which mediates a meeting with Continental. When the case is again presented on occasion of the Main Shareholders Meeting of Continental in Hannover, CEO Wennemer is disposed to start negotiating again in Mexico. In June 2003 The Constitutional Court in its first instance declares Euzkadi Union's constitutional complaint as lawful. The Mexican government decides to commission a university feasibility study to examine whether the unionists could take over the Euzkadi plant in the context of a cooperation agreement. Nevertheless, the conflict lingers on and remains unsolved. In September 2003 the Director of the Arbitration Board Virgilio Mena is dismissed because of irregularities also in the Euzkadi case. In January 2004 two years have passed since the beginning of the strike.

Upon invitation of the Mexican Labour Ministry a meeting between Jesús Torres Nuño of SNRTE labour union and Continental's CEO Wennemeyer takes place in Mexico. CEO Wennemeyer again delivers an ultimatum: until the middle of March the company is willing to pay slightly higher compensation payments than offered so far. However, the sum indicated is only about 1/3 of the outstanding salaries since December 2001.

On February 5, 2004, the Euzkadi Labour Union wins its case in the highest court. The Arbitration Board is called to judge the case according to Mexican Law. Also the individual suits which were presented on the basis of illegal dismissals are considered to be lawful so that these plaintiffs will take further legal steps. On February 17, the Federal Arbitration Board declares the workers' strike as existent. With this pronouncement the Arbitration Board and therefore the Mexican Government have taken a complete turnaround in their politics and have recognised the strike on the basis of Mexican Law and according to all court judgments 3 taken so far. Continental then appealed against this decision and it was feared, that legal procedures would continue endlessly for months, if not to speak of years.

The Euzkadi-Continental case again called considerable media attention in newspapers and radio and then in television not only in Mexico but also in Germany: short documentation spots and a half hour long film is shown in Germany in May 2004 and has a resounding echo.

This is most convenient as the Mexican Euzkadi union representatives again travel to Germany and Brussels lobbying their case. They speak with parliamentarians, ministries, with German labour unions and again visit Continental's Shareholder Meeting in Hannover.

When during this meeting Continental announces its best operative result in the company's history, the Association of Critical Shareholders uses the occasion to criticise the company's behaviour in view of the Mexican Court decisions. It points out the CEO Board's responsibility for costs accrued in the Euzkadi conflict and the illegality of the initial decision to close the plant. They call attention to the workers' plight which due to the illegal dismissal have been suffering a social and economic catastrophe.

All the aforementioned described actions, press releases, television emissions, meetings, public expressions of solidarity and also as one important point, the appearance during the Continental's Shareholders Meeting which called public attention and was observed diligently by other labour union representatives of other transnational companies led to the resumption of talks between the striking workers and Continental management. Luckily, at the same time a Mexican consortium Lantisystem showed interest in buying the Euzkadi plant and to reopen it in cooperation with the SNRTE labour union.

The German advocacy network of FIAN, Germanwatch and the German Human Rights Coordination for Mexico took the occasion of public attention in Germany to question the German Government and German Parliament about their co-responsibility in this case which is just one of many in view of the ongoing globalisation process. They argued that this corresponsibility was given as in the Euzkadi-Continental case three international regulations had been violated which are valid not only for Mexico but also for Germany: first, laws are violated which are consecrated under the International Pact on Economic, Social and Cultural Rights. Second, the protection of human rights is expressively included in the general agreement between the European Union and Mexico. This also means that all commercial and investment measures of private actors with their main seat in the EU must not violate any kind of economic and social human rights in Mexico. Third, the OECD Directives for multinational companies must be observed which are valid in both countries Mexico and Germany.

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FIAN International as human rights organisation with consultative status at the United Nations called attention upon several human rights protected by the general Agreement between EU and Mexico and the International Covenant on Economic, Social and Cultural Rights in the Euzkadi-Continental case: Right to Strike (Art. 8 ICESCR); Right to Labour Union Liberty (Art.7 ICESCR); Right to Social Security (Art.9 ICESCR), Right to Health (Art. 12 ICESCR). Right to adequate Standard of Living, including the Right to Food (Art. 11 ICESCR). With regard to the OECD Guidelines for transnational companies Germanwatch and FIAN also questioned the German co-responsibility and asked in which way German parliament representatives should monitor the fulfilment of these Directives by German transnational companies.

In June 2004 Continental suffered another legal defeat when the Labour Court decided to declare the Euzkadi union strike as legal. But it took several months more until a final solution of the case showed up on the horizon. In November 2004 Continental offered a participation of 50 % to the Euzkadi workers and intended to sell the remaining 50 % to 4 Lantisystems. It was suggested that a cooperative type of company be founded to run the plant. A General Assembly took place on November 12 during which Continental's North American CEO Martien de Louw offered to pay the compensation fund deposited with the Arbitration Board in December 2001 and to hand over symbolically half of the plant's shares to the workers in compensation for salaries not paid.

Finally, on January 17, 2005, this long lasting conflict between the labour union of the Euzkadi tyre plant and Continental was settled in the presence of President Vicente Fox. After three years of strike the workers achieved their most important objectives: the reopening of the Euzkadi plant and the maintenance of their jobs. "For all workers and those, who supported the fight for their rights, this solution represents a huge success", said Cornelia Heydenreich of Germanwatch. Together with Lanti Systems the labour union formed a joint company. The workers will receive, besides compensation payments already offered by Continental, ownership of 50 % of the plant. Its value is estimated at about 80 Mio US-Dollar.

"In reality, Continental in this way pays the major part of outstanding salaries to the workers", commented Martin Wolpold-Bosien of FIAN International very pleased about this outcome.

Furthermore, the Mexican Government committed itself to assist financially the resumption of production . The reopening of the plant was celebrated on Februar 25, 2005. On July, the first new tires were produced, in December 2005 they passed tire number 100.000. On 25 of January, 2006, the successful campaign got the Public Eye Positive Award 2006 in Davos, Switzerland.

PRESS Release

Davos 25/01/06: Today, the German Environment- and Development-Organization Germanwatch, the Human Rights Organization FIAN and the Mexican Trade Union Euzkadi receive a "Positive Award" of the "Public Eye on Davos" Initiative for having campaigned successfully against the illegal closure of a Mexican tyre factory of Continental. The award is given to campaigns which have led to a positive change in the policies and conduct of a company. It is part of the "Public Eye Award", which is presented every year in the beginning of the World Economic Forum (WEF) in Davos by the Swiss organizations "Declaration of Bern" and "Pro Natura".



The "Positive Award" is given today to Jesús Torres Nuño, former trade union leader and current president of the workers cooperative of Euzkadi, as well as to Cornelia Heydenreich, coordinator of Germanwatch for corporate accountability, and to Martin Wolpold-Bosien, coordinator of FIAN International for Central America.

"We were very satisfied about this award", says Cornelia Heydenreich. "The success in Mexico should encourage other people and demonstrate: it's worthwhile to fight against violations of human rights committed by companies!". "It if had not been for the resistance and the strategic intelligence of the trade unionists to transnationalise their rights, the success would have never been possible", says Martin Wolpold-Bosien. And Jesús Torres Nuño stressed the importance of the international solidarity: "In this globalized world which is being steered by the influence of transnational companies, we depend on globalising our struggle. This was the key to our success: to count on allies and friends, who fought



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with us in Mexico and in Germany against Continental at shareholder meetings, in the media and with parliamentarians."

FIAN and Germanwatch have been fighting for years against the misconduct of companies in the South. Since 2002, they supported the employees of the Continental tyre factory Euzkadi in Guadalajara, Mexico, in their struggle against the illegal closure of the plant. After having maintained a strike during three years, numerous talks in Mexico and Germany with representatives of Continental, politicians and journalists, many actions and a complaint because of violation of the OECD-Guidelines, the workers reached their most important aims in the beginning of 2005: the re-opening of the Euzkadi-factory and the maintenance of their jobs. Furthermore, the workers became 50 percent co-owners of the factory, which was taken over by the trade union and the Mexican company Lanti Systems in a common society.

Parallel to this positive award presented this year for the first time, "negative awards" are given in Davos since 2005 to companies which lack socially and ecologically responsible conduct. "Public Eye Awards" are being presented in the categories environment, social conduct and taxes. Activities of "Public Eye" are taking place in Davos already for the seventh time parallel to the World Economic Forum.