



INTERNATIONAL
LAWYERS ASSISTING
WORKERS NETWORK

November 21, 2023

J. Paul Rollinson
President and Chief Executive Officer
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Tasiast Mauritanie Ltd. S.A
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RE: Worker Rights Violations at Tasiast Mauritanie

Dear Mr. Rollinson,

The International Lawyers Assisting Workers (ILAW) Network, which unites over 1,100 workers' rights lawyers in over 90 countries, writes to urge Kinross Gold Corporation to ensure that its subsidiary, Tasiast Mauritanie, respects domestic and international labour law. We bring three cases to your attention involving the violation of fundamental workers' rights at Tasiast.

The first case involves the unlawful dismissal of workers' representative Ahmed Abbe Traore in December 2015. Mauritanian law requires companies to obtain authorization from the labor inspectorate before dismissing a worker representative. In this case, the local labor inspector refused to grant this authorization. Tasiast appealed the decision and, in November 2015, the Minister of Labor annulled the labor inspector's decision and authorized Mr. Traore's dismissal. Mr. Traore appealed, and in 2017 the Administrative Chamber of the Mauritanian Supreme Court annulled the Minister's decision, thus rendering the dismissal null and void.¹

Rather than comply with the ruling, the company refused to reinstate Mr. Traore and instead launched a series of lengthy appeals. The Nouakchott Labour Court ruled in favor of Mr. Traore

¹ Decision No. 18/2017 (17 April 2017)



and ordered his reinstatement.² Tasiast appealed. The First Civil and Social Chamber of the Court of Appeal in Nouakchott issued a decision increasing the amount of compensation and confirming the ruling otherwise.³ Tasiast filed another appeal before the Court of Cassation, and the Supreme Court referred the case to the Court of Appeal in a different composition. In 2021, the Court of Appeal issued a decision that was flawed in many respects. While the decision concluded that Mr. Traore’s labour rights had been violated, the Court relied on a different formulation to calculate damages.⁴ As a result, Mr. Traore was forced to appeal this decision. The case is currently pending before the Mauritanian Supreme Court.

While the ILAW Network expects that the Mauritanian Supreme Court will ultimately resolve the dispute in Mr. Traore’s favor, workers should not be forced to engage in years of costly legal battles to ensure that companies simply comply with national law. Allowing the company to delay justice for seven years has caused Mr. Traore extreme economic hardship, as he has lost several years of wages and suffers from chronic diseases without the benefit of employer-covered healthcare.

The International Labour Organization (ILO) has emphasized that safeguards against anti-union discrimination are essential, as retaliation against union leaders and members “is one of the most serious violations of freedom of association, as it may jeopardize the very existence of trade unions.”⁵ The ILO has specifically stressed the need to ensure that reinstatement occurs without delay, noting that lengthy delays in proceedings concerning reinstatement of trade union representatives constitutes a denial of justice and trade union rights.⁶

In a second case, Tasiast downsized its workforce in 2015, citing economic reasons. However, Tasiast did not comply with the process required by law regarding dismissal for economic reasons. In particular, the company did not provide union representatives with a dismissal order for workers likely to be dismissed and did not inform the labor inspector of the dismissal plans -- both required

² Labor Court Judgment No. 41/2019 (3 June 2019) ordering the company to reinstate Mr. Traore and pay compensation of 2,439,207.5 MRU.

³ The First Civil and Social Chamber of the Court of Appeal in Western Nouakchott Decision No. 06/2020 (28 January 2020) also found for Mr. Traore and increased the overall penalty levied on the employer to 5,688,557 MRU.

⁴ First Civil and Social Chamber of the Supreme Court, Decision No. 14/2021 (February 16, 2021). The judgment relied on a different formulation to calculate damages, which resulted in a damages award of only 600,000 MRU instead of the 5,600,000 MRU ordered by the lower courts.

⁵ Compilation of Decisions of the ILO Committee on Freedom of Association ¶ 1072 https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:70002:0::NO:70002:P70002_HIER_ELEMENT_ID,P70002_HIER_LEVEL:3946840,1

⁶ Compilation of Decisions of the ILO Committee on Freedom of Association ¶ 1145; *See also* ¶ 1143



by the Labour Code.⁷ Further, the dismissed workers worked overtime hours shortly before the announcement. Mauritanian law states that companies cannot request overtime to maintain or increase production and then dismiss these same workers within a month.⁸ Indeed, workers at the Tasiast mine site report systematically working overtime, on 12 hour shifts for 14 consecutive days. This is itself a serious violation of Mauritanian labour law.⁹ Workers have been forced to file a claim with the Nouakchott Labour Court, seeking to have the breach of their employment contracts declared null and void, and to be reinstated and paid compensation as required under the law.¹⁰

The third case, also pending before the Nouakchott Labour Court, concerns a group of workers who were terminated in 2013. The workers are not contesting their termination but are claiming rights due under law. The workers have been forced to take legal action to claim these rights, including rights to adequate compensation and hiring priority. During a case status hearing at the Nouakchott Labor Court on December 15, 2022, Tasiast lawyers raised numerous procedural objections that appear designed to draw out the proceedings.

The acts of Tasiast stand in contrast to the statements of policy of Kinross Gold, which state that the company aligns its activities with applicable regulatory requirements and actively monitors developments in laws and international standards.¹¹ As a company headquartered in Canada, Kinross Gold is subject to the OECD Guidelines for Multinational Enterprises (MNE Guidelines).¹² Under the MNE Guidelines, Kinross Gold should undertake human rights due diligence to avoid infringing on labour and other human rights, and must address adverse labour rights impacts by subsidiaries and suppliers.¹³ MNEs must respect the rights to freedom of association and collective bargaining and prevent unlawful employment practices throughout their operations.¹⁴ Further, the MNE Guidelines specifically require that enterprises ensure employers provide reasonable notice to union representatives of changes in operations that have major employment effects, to mitigate the impact of such decisions on workers.¹⁵

The above cases reflect a pattern of disregard for the rule of law and the basic rights of workers at Tasiast. We therefore urge Kinross Gold Corporation to investigate these claims and to provide a

⁷ Article 57 of the Labour Code

⁸ Article 3 of decree No. 225 of July 2, 1953, amended by Decree No. 10,298 of June 2, 1963.

⁹ Article 174 of the Labour Code prohibits working for more than six days a week.

¹⁰ Case No. 246/2022 and No. 247/2022 pending before the Nouakchott Labour Court.

¹¹ Kinross website, <https://www.kinross.com/about/governance/default.aspx>

¹² OECD Guidelines for Multinational Enterprises, 2011 Edition, OECD Publishing, Paris, *available at* <https://doi.org/10.1787/9789264115415-en>

¹³ OECD Guidelines at Chapter IV ¶ 1, 2, 3; Chapter 2 Commentary ¶ 9, 23

¹⁴ OECD Guidelines at Chapter V

¹⁵ OECD Guidelines at Chapter V ¶ 6



remedy consistent with the OECD Guidelines for MNEs. This would include the immediate reinstatement of Mr. Traore with back pay, reinstatement for the workers dismissed in 2015 in a manner consistent with the Mauritanian Labour Code, and the provision of proper compensation to the workers made redundant in 2013, also in accordance with the Mauritanian Labour Code. It would also include adopting adequate measures to prevent future labour rights violations and ensure full compliance with Mauritanian law.

Sincerely,

Jeffrey Vogt
Chair, ILAW Network

CC: Geoffrey P. Gold
Executive Vice-President, Corporate Development, External Relations & Chief Legal Officer,
Kinross Gold Corporation

CC: Brahim Ould M'Bareck
President, Tasiast Mauritanie Ltd. S.A

CC: Afjal Hashim
Vice-president and Managing Director, Tasiast Mauritanie Ltd SA