

**COLLECTIVE OF FORMER GECAMINES EMPLOYEES DISMISSED  
IMPROPERLY AND EN MASSE UNDER THE “VOLUNTARY DEPARTURES”  
OPERATION**

Contact Information: Telephone: 0814003668, 8 Avenue du Bronze, C/Panda, Likasi,  
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Likasi, February 19, 2009

**REQUEST TO THE WORLD BANK INSPECTION PANEL**

From: Collective of Former Gecamines Employees dismissed improperly and en masse  
under the “Voluntary Departures” Operation

Contact Information: Telephone: 0814003668, 8 Avenue du Bronze, C/Panda, Likasi,  
Email: [badikam@yahoo.fr](mailto:badikam@yahoo.fr), Province of Katanga, Democratic Republic of Congo

To: Mr. Serge Selwan, Executive Director of the World Bank Inspection Panel

Cc: [Plallas@worldbank.org](mailto:Plallas@worldbank.org), [Dbardas@worldbank.org](mailto:Dbardas@worldbank.org), [eabdott@worldbank.org](mailto:eabdott@worldbank.org)

Attachments: Documents related to the case involving the dismissal of 10,655 Gecamines  
employees (marked 1-26)

We authorize publication of this request, the nature of which is to state a claim.

Mr. Executive Director,

We, the former Gecamines employees dismissed under the so-called “Voluntary  
Departures” Operation (ODV), have the honor of bringing to your attention the following  
facts, the contents of which will surely draw special attention on your part and no doubt  
give rise to feelings of compassion.

## **BACKGROUND**

The gradual collapse of operations of the Gecamines Congolese public corporation had in fact resulted in a situation of default on roughly 36 months of wages and other legal and contractual employee benefits.

In view of these difficulties, and to boost the company's productivity, on the one hand, and revive its operations, on the other, it became necessary to appeal for financing from international financial institutions, including the World Bank, which agreed to provide financing, but only under a number of strict requirements including, among others, a drastic work force reduction.

### **1/ WORLD BANK INVOLVEMENT**

Thus, in agreement with the World Bank and under the auspices of the Congolese Government, Gecamines moved to dismiss en masse, as so-called "Voluntary Departures," 10,655 employees and workers of all categories.

The Voluntary Departures Operation would not have taken place if the World Bank had not made itself a "stipulating party" to finance the restructuring of Gecamines by imposing its superiority and the requirement to dismiss and pay a portion of the work force deemed excessive in its view. The responsibility of the World Bank as stipulating party is well established.

### **2/ STATUS OF FORMER EMPLOYEES**

After 36 months of nonpayment of wages and more than 56 months of nonpayment of maintenance allowance (corn flour), the "Voluntary Departures" Operation was presented to employees as a heaven-sent opportunity that absolutely needed to be accepted while awaiting a better day. It was only to escape certain death, or at least immediate impoverishment, that employees instinctively signed on to this operation.

As proof, more than 90 percent of employees fulfilling the one and only condition of seniority of at least 25 years of professional activity agreed to leave.

We trust that you will understand that they did not sign on to this operation at their own volition, but rather under material, moral, and psychological duress.

### **3/ LUMP SUM PAYMENT TO FORMER EMPLOYEES**

The Congolese Labor Code addresses and regulates all situations that can possibly arise between employers and workers, including en masse dismissal for economic reasons (Article 78 of the Congolese Labor Code).

In the case now under review, all Imperative and Law and Order provisions pertaining to en masse dismissal were not followed: Gecamines and the World Bank granted former employees a miniscule amount, equivalent to one-fifth of what they were due, even though the campaign that was carried out to sign up these former employees had offered much more attractive payoffs.

Gecamines and the World Bank did not even comply with the recommendations laid out as law in Presidential Decree 035/2003 of March 18, 2003.

### **5/ HARMFUL EFFECTS OF THE “VOLUNTARY DEPARTURES” OPERATION**

The sum of all payments that Gecamines, as “promising party,” and the World Bank, as “stipulating party,” granted to former employees and workers who were objectified, impoverished, and bruised after 36 months of wage arrears and non-distribution of foodstuffs sufficed only to pay debts contracted to ensure their survival.

**The consequences of this ultimate swindle are many and varied. Among others, they include:**

- impoverishment
- dismantling and destruction of households
- prostitution of girls who are still minors
- juvenile delinquency among boys
- lack of school enrollment for children
- famine and malnutrition (one meal per day, or even one meal every other day)

- a spike in the morbidity rate (due to a lack of medical care) and the mortality rate among former employees (an average of 2.5 deaths per week at the present time).

What hope can there be for these people who have given their all by working for more than 25 years, only to find themselves treated as wholly undesirable? What hope indeed, when they today find themselves sentenced to a collective suicide, imposed and programmed from without?

Their hope can only reside in payment of their claims due, henceforth recognized as liquid and payable.

## **6/ STEPS TAKEN TOWARD A RETURN TO LEGALITY**

**Based on the legitimacy that we derive from:**

1. the Universal Declaration of Human Rights, in its provisions pertaining to the sacred nature and dignity of the human being (Articles 1, 3, 4, and 23);
2. the Constitution of the Republic, in its provisions obligating the Government to respect and protect human beings from all forms of torture or inhuman, cruel, or degrading treatment (Article 16);
3. the Constitution of the Republic, in its provisions related to the sacred nature of labor (Article 36); and
4. the Congolese Labor Code, in its provisions related to en masse dismissal and calculation of the final cost, acceptance of a detailed written final breakdown, and acquittance (Articles 78, 103 and 104 Paragraph 1, and Article 77); and issuance of a certificate of end of service and wage claim privileges in the event of dismissal of workers for economic reasons (Articles 79 and 110);

We have undertaken steps to reestablish our trampled-upon rights following payment of the lump sum amount to the last former employee in April 2004.

Steps have been taken in all institutions of the Republic, at all levels of responsibility, both during the transition period and during the period of setting up a nation governed by the rule of law in the Democratic Republic of Congo.

Significant advances have been noted and recorded: all institutions of the Republic have been unanimous in recognizing that our rights have been trampled upon and that there is a need to correct the harmful effects of the ill-conceived “Voluntary Departures” Operation by paying the final breakdown in full, in accordance with the spirit of Article 103 of the Congolese Labor Code, and as stipulated in Recommendation VII of the Permanent Framework for Social Dialogue.

**7/ CONCLUSIONS**

In view of the utter destitution faced by the 10,655 direct victims and roughly 350,000 collateral victims of this notorious operation;

And given the slowness and complacency shown in regard to implementation of Recommendation VII of the CPDS;

We hereby call upon you, within the framework of your responsibilities, to undertake all appropriate steps and initiatives in approaching the President of the Republic and the Prime Minister, CPDS chair, so as to speed up implementation of said recommendation;

For your guidance, we shall append hereto a few important documents of relevance to this case;

We look forward to hearing from you, Mr. Executive Director, and send our sincere regards.

On behalf of the Collective of ODV Former Gecamines Employees

[Name]	President, ODV Collective/Center	[Signature]
[Name]	Secretary, ODV Collective/Center	[Signature]
[Name]	Secretary, ODV Collective/Center	[Signature]
[Name]	Advisor, ODV Collective/Center	[Signature]
[Name]	Advisor, ODV Collective/Center	[Signature]
[Name]	Advisor, ODV Collective/Center	[Signature]
[Name]	Advisor, ODV Collective/Center	[Signature]
[Name]	Member, ODV Collective/Center	[Signature]
[Name]	Member, ODV Collective/Center	[Signature]
[Name]	Member, ODV Collective/Center	[Signature]
[Name]	Member, ODV Collective/Center	[Signature]
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[Name]	Member, ODV Collective/Center	[Signature]
[Name]	Member, ODV Collective/Center	[Signature]
[Name]	Member, ODV Collective/Center	[Signature]

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Email: [badikam01@yahoo.fr](mailto:badikam01@yahoo.fr)

Ref. No. : 019/ODV/C/2009

Likasi, March 13, 2009

**REQUEST FOR INSPECTION**

**REQUEST TO THE ATTENTION OF THE EXECUTIVE DIRECTOR OF THE  
WORLD BANK INSPECTION PANEL**

From: Collective of Former Gecamines Employees dismissed improperly and en masse  
under the so-called “Voluntary Departures” Operation  
Contact Information: Telephone: 0814003668, 8 Avenue du Bronze, C/Panda,  
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[jfmwamba@yahoo.fr](mailto:jfmwamba@yahoo.fr)

Mr. Executive Director:

We, former Gécamines employees dismissed improperly and en masse under the  
so-called “VOLUNTARY DEPARTURES” Operation (ODV) financed by the World  
Bank, find that:

The Bank failed to take into account, in its financial support, the aspect of social  
management of the restructuring that it imposed on Gécamines for it to resume its  
activities; and that:

Subsequent to the failure to observe the legal, contractual, and labor contract-  
based provisions of the Congolese Labor Code and the Presidential Decree calling for the

afore-mentioned operation, our rights were violated, causing us intangible and tangible damages with multiple and serious consequences.

We have approached the Bank staff with a request, No. 017/ODV/C/2009 of 2/27/2009 addressed to Mrs. OBIA KATRYN EZERWESILI, Africa Region Vice President. However, we have received no reply from her or from her staff.

We consider ourselves to be the victims of injustice and of acts contrary to the rules and procedures applicable to dismissal on economic grounds, and are approaching the Inspection Panel to seek the registration of our request to open an inquiry aimed at resolving this social conflict, which has lasted too long.

Our principal claims are for:

- Payment of 36 months' of arrears in compensation
- Pension principal
- Payment of legally paid leave
- All social benefits associated with the contract.

We remain at your service for any detailed information you may require.

Pending your reply, we remain

Sincerely yours,

**For the Collective of ODV former Gécamines employees**

[15 lines of hand printed names, titles, and affiliations with ODV Center [one characterized only as a member, another illegible], followed by signatures]