

Final Report on the complaint against Metraco 2006-2007

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1. FWF member and contact person

JSI/O'Neill; Pieter van Gent.

2. Accused party

Metraco İthalat, İhracat ve Ticaret Ltd. Şti. (Import, Export and Commerce Limited Company). The registered office of the company and the factory was at the time located in the same building at: Valide Sultan Cad. No:8 Bahçeköy, Sarıyer 34473 İstanbul.

The main contact person for the company were:

- Mr. Murat Ünsal, Assistant to the General Manager of the Company.
- The General Manager and 1/3 owner Mr. Emin Cem Okçu
- Mr. Theo van de Kroft (Dutch), owner (for 2/3) of the company (in the first months contacts were mainly with Mr. Laurens van de Kroft, who is acting as an agent for the company).

The factory had been audited on behalf of JSI/O'Neill by a FWF trained team in December 2004.

3. Summary of the complaint

Complainant: Trade Union: DISK Tekstil İscileri Sendikası. Contact person: Asalettin Arslanoglu, Manager of Training.

Complaint received by email: 4 april 2006:.

DISK/Tekstil – has been carrying out an organizing campaign at a factory: Metraco İthalat İhracat ve Ticaret Ltd. Sti., (...)

For the last two days, members in the workplace have been put under pressure On 3 April Monday at 20:00 pm. Mr Asalettin Arslanoglu Education Dept. Manager of our union talked to the Personel Manager on the phone, and said the pressure on the workers must be stopped. The Personel Manager said that there wasn't any pressure or what so ever on workers. In spite of his statement as of today the pressure on workers is increasing.

Since the partners of the company are Dutch, we kindly request from you to intervene the situation in order to prevent increasing pressures against unionist organization and possible dismissals.

Some more background information that we received later: The union started organizing confidentially in the factory early 2006 and reached very close to 50% (the legally required ratio to claim collective bargaining) of the workforce, registering them as members. Following the subsequent dismissals of workers that had become member and several others dropping their membership, the union initiated an international campaign in an attempt to put pressure on management by the clients.

4. Occasion of complaint procedure being announced

DISK did not refer directly to the formal FWF complaints procedure but has sent the appeal to different involved parties including FWF, CCC and ITGWLF.

None-the-less it was clear to FWF that this appeal could be treated as a complaint coming through the formal channels of the complaint procedure.

5. Use of internal procedures

Several representatives from DISK have appealed to the management to get the problem solved.

6. Admissibility

According to FWF's complaints procedure, a complaint is admissible if:

1. The foundation of the argumentation of the complaint is solid. Second, the complaint must fall under the mandate of FWF, meaning that the complaint must concern an issue which is covered by FWF's code of labour practice; the way in which the member company deals with it (such as factory inspections) or the way in which FWF carries out its activities, such as verification audits or contacts with local partners.
2. If the complaint concerns the relation between employer and employee(s), the CP will check whether the plaintiff has tried to solve the problem through the company's internal complaints procedure.

Disk provided a detailed report 24 April 2006 showing an apparent non-compliance with FWF labour standard no 4: Freedom of Association and Right to Collective Bargaining.

An internal complaints procedure was not available.

Hence the complaint was found admissible.

7. Metraco's response to FWF member and FWF.

Although it was requested several times by FWF, Metraco has never reacted by written statement.

By telephone at first Metraco denied that there was a problem. Later Metraco turned the argument against DISK making different kinds of allegations against this union.

In later stages however Metraco agreed to have fired employees because of their links with trade unions and the discussion turned to the exact number.

In a last email (June 4 2007) Metraco again denied all this.

8. Steps taken by FWF

FWF reacted April 5 and contacted its member company JSI/O'Neill. JSI/O'NEILL informed FWF 18 April that 'they talked with the Dutch owner (vd Kroft) who will contact the factory management. JSI/O'Neill will also invite General Manager Mr. Emin Cem Okçu to Holland to discuss matters within 1 or 1,5 week.'

Mid April FWF asked the FWF local complaint handler in Istanbul to contact the company to hear their version. The company lawyer denied that they fired workers because of Union membership. After some more contacts she reported to FWF that she had to give up dealing with this complaint since the factory simply denied everything.

Metraco denied FWF the possibility to investigate the matter, stating that FWF had been "introducing DISK-workers during the audit" and was engaged in "actively campaigning".

Mid-May 2006 FWF visited Istanbul. Metraco refused to meet with FWF.

There were many Dutch buyers involved that were not member of FWF but were member of one of FWFs founding organisations (the Dutch employers association MODINT). MODINT coordinated a large part of the activities that took place on behalf of: Scotch&Soda, Pall Mall/Just Brands, JSI/O'Neill, Gaastra and from Norway the ETI-Norway member Helly

Hansen, ASA.

All of these brands had raised the issue with Metraco management and owners already several times individually.

July 7 MODINT sends a letter on behalf of these brands asking for an independent investigation.

August 4 Metraco reacts, stating that they agree to the investigation but want the investigation to be done by an audit firm. MODINT and its partners reject this proposal because they were not sure that a commercial auditing firm would be able to deal with this sensitive issue since it would include dealing with the trade union and with workers in a very vulnerable position..

The discussion between Metraco and MODIT/FWF and the 5 brands on the investigation takes until October 18, when Metraco agrees to the ToR of this investigation, to be done by an independent person appointed by MODINT and the 5 brands.

The researcher chosen is someone who has also worked for the JOIN project in Istanbul.

In the meantime, in November, the company had moved its factory to an outskirts of Istanbul, 55 kilometers away.

December 1 MODINT receives the report. They report finds the claims from the union to be justified and the claims against FWF to be unjustified.

December 12 a meeting is held with MODINT the 5 brands and FW to discuss conclusions and follow up..

Next day MODINT on behalf of JSI /JSI/O'Neill, McGregor / Gaastra, Just Brands / Pall Mall, Scotch&Soda and HellyHansen ASA send a letter to Metraco:

"(..) The companies were unanimous in their conclusion that the assessment report clearly demonstrates that the claims presented by DISK regarding the non-compliance by Metraco in respect of the principle of Freedom of Association have been proven correct (..) The companies all agree that full compliance by Metraco regarding Freedom of Association is a condition sine qua non for continuation of their business relationship with you.

Therefore, the companies demand Metraco to take the following steps:

- 1) To accept the assessment report to be truly independent and sufficiently clear to base conclusions upon.*
- 2) To fully accept, from now on, the consequences that may be the result of Metraco's acceptance of the principle of Freedom of Association, and refrain from any action that might violate workers' rights in that respect.*
- 3) To take back and re-employ, by January 1st, 2007 at the latest, the workers that have been unjustly dismissed for their membership or their support for the labour union.*
- 4) To enter into formal dialogue with representatives of the DISK labour union. The first meeting should preferably still take place before the end of this year or, alternatively, at least the date for that first meeting should be established and confirmed by all parties involved prior to December 24, 2006.*

As far as the 4th demand listed above, the companies will appoint an observer to help, as far and long as necessary, ensure that the dialogue between Metraco and DISK will be and remain constructive and future oriented.

The companies demand Metraco to explicitly confirm by statement in writing, not later than December 18, 2006, its acceptance and / or compliance with the demands 1 through 4 above".

Metraco does not react before this deadline.

Following the proven incorrectness of Metraco's allegations against FWF, FWF takes over the coordinating role from MODINT again.

FWF informs JSI/O'Neill on December 21 that the deadline of December 18 has passed without Metraco having given any positive message. DISK, in an Email of December 19 confirmed that Metraco has not yet made contact with them.

FWF asked JSI/O'Neill to send a message to Metraco that JSI/O'Neill will give them one last chance to give out this statement by December 24 and to have contacted by that time DISK to have made an appointment for a first meeting.

FWF also brings to mind that this issue does not just affect the Metraco company in Istanbul but all subsidiaries of Metraco and/or other companies where the current owners of Metraco hold a majority share, since it is clearly the owners that are responsible for the policy that leads to non-compliance with FoA.

JSI/O'Neill does contact Metraco and convinces them in the end to agree to a meeting with DISK.

The first meeting is set to be February 5, between the president of DISK and the president of Metraco.

The president of Metraco, refused however allow the mediator that the 5 brands had hired for this occasion to join the meeting.

March 12 DISK reports: "Following the letter sent by MODINT to Metraco on 13th December 2006, on behalf of DISK/Tekstil, president Mr. Suleyman Celebi had two meetings with the employer.

The union wishes the reinstatement of the workers to be accepted who the union had filed a claim in court asserting unjust discharge, then to sign the Collective Bargaining Agreement. However Metraco employer insists on signing the Collective Bargaining Agreement immediately and wishes to leave the reinstatement issue of the dismissed workers with on going trials to the conclusion of the courts.

March 20 FWF send a preliminary conclusion to the 5 brands:

The situation at Metraco still remains unsolved because of the disagreement concerning taking back the dismissed workers.

The situation with labour courts in Turkey is such that it can take over one year for the courts to finish this case. Although in the end the workers that have been fired may be compensated, there is another element here that is crucial to us within the context of Freedom of Association (FOA).

Workers within Metraco have tried to get organized. The company fired those workers who were pursuing this. This also has an effect on the workers that are still working for Metraco in the sense that they will be scared to join the union now.

With the dismissal of the workers who were trade union members, Metraco has not only removed these workers from the factory, but also the trade union as a representative body. That is why we have requested that Metraco should agree with Disk, how the workers shall be reinstated. The outcome of the court will rule about rights and possible compensation for individual workers. But that does not compensate for the effective impediment of the function of the union in the factory. That latter is what Freedom of Association is about.

Therefore in order to respect FOA, immediate re-employment of the workers that have been dismissed because of their trade union support remains a crucial requirement.

There might be all kinds of legal and technical details to be solved here. In order to make sure that both parties would be willing to find a solution to this, FWF, MODINT and the 5

brands have insisted on having a mediator present at the meeting. Again this requirement has not been met by Metraco.

Since Metraco fails to meet these requirements FWF finds that they cannot be a supplier to buyers that work on the basis of a code of conduct including FOA. Since the owners have been directly involved in the policies leading to the non-compliance and in the refusal to correct this FWF regards this as an issue that relate to all factories that fall under the 'Metraco group' (= those companies where Mr. v.d. Kroft and/or Mr. Okcu have a majority share).

March 23 and April 10 FWF sent, on behalf of the 5 brands, two mails with a last and final call to Metraco to re-open the talks.

This is supported by messages from Helly Hanssen and Just Brands.

June 4 Metraco reacted with a message to FWF now denying that workers have been dismissed because of their union membership.

June 13 MODINT and FWF received a message from DISK , that they also cc-ed to ITGWLF, FNV and FSE:

June 13 MODINT and FWF received a message from DISK , that they also cc-ed to ITGWLF, FNV and FSE stating their dissatisfaction with the lack of progress and asking FWF to take action.

June 21 FWF forwards this message to the brands, MODINT, DISK and CCC:

9. Communications with complainant and stakeholders

As required by our Complaints procedure during this process FWF has kept DISK informed by email and personal visits (2006 May, June, December; 2007 February, May) about the current affairs as far as possible, being sometimes restricted by promises of confidentiality. Because DISK had directly contacted also other stakeholders within FWF (unions and CCC), FWF staff have had several meetings with the committee of experts representing stakeholders in FWF to discuss and coordinate matters being sometimes restricted by promises of confidentiality and respecting each others mandate to act autonomously.

10. Conclusions

In June FWF came to the final conclusion after considering all the events that Metraco not only has been acting in clear violation with the International Labour Standards on Freedom of Association and the Right to Collective Bargaining; but has also not shown the will to correct this serious non-compliance by refusing to come to an agreement with the trade union on the issue of the workers that have been dismissed because of their trade union membership.

FWF closed the case and prepared formal report on this case, as our complaint procedure requires.

After consultation with the 5 brands, MODINT and CCC, and giving DISK the opportunity to react, the report was published in August 2007.

11. Evaluation of responsibilities of the FWF members.

According to FWF's Complaint Procedure :

- If necessary, the member company and the accused party shall formulate a corrective action plan together. Plaintiffs and/or their appointed representatives must not only be informed, but also be involved in the formulation of the corrective actions as much as possible. Plaintiffs and/or their appointed representatives must be involved in the

implementation of the corrective action plan whenever appropriate. FWF can facilitate this.

- The member company is responsible to follow up on the complaint and to monitor that the agreed improvements are implemented.

JSI/O'Neill contacted Metraco several times to urge them to solve the issue by agreeing to mediated meetings with the union and re-instating the dismissed workers. They also joined the MODINT organised coalition that came forward with the same demands and that agreed to pay for the mediator who would attend the meeting between Metraco and DISK but was not allowed to do so.

JSI/O'Neill informed FWF –strictly confidentially- in October that they would stop ordering from Metraco, mainly because of business reasons but also because of their reluctance to correct their non-compliance. This message was not yet transmitted to Metraco by then. But JSI/O'Neill remained committed to solving the issue at least until the last of their orders were produced (late November). Even after that JSI/O'Neill has been very active in December/January to get Metraco to agree to a mediated meeting with the trade union.

Another former buyer from Metraco joined FWF in February 2007: McGregor, the parent company of Gaastra. Gaastra had already no production at Metraco by end 2006. They stopped orders because of other reasons than the non-compliance. Gaastra supported the MODINT initiative to try and make Metraco confirm to compliancy rules, with the intention of leaving open the possibility to do business again with Metraco in Istanbul or elsewhere where Metraco is active.

FWF has assessed the member companies attempts to come to remediation, and concludes that they have seriously tried to get the issues solved. Hence the termination of orders are not to be seen as 'cut&run' policy.