

## Complaint Jack Wolfskin Indonesia

FWF is responsible for setting up a complaints procedure in production countries where FWF is active. The complaints procedure allows third parties to make complaints about the working conditions or the way the Code of Labour Practices is implemented in factories which supply FWF members.

The responsibility of FWF includes investigating the complaint, verifying whether the agreed corrective action plan is implemented and public reporting. This complaint report gives an overview of a complaint filed to FWF, the investigation and agreed corrective action plan as well as how the outcome is verified. For more information on the complaints procedure see the FWF website. FWF also publishes an overview of complaints received in its annual reports.

Although FWF is not active in Indonesia it was decided that FWF would investigate this complaint and coordinate corrective action with Jack Wolfskin.

### 1. Affiliate involved

Jack Wolfskin Ausrüstung für Draussen GmbH & Co. KGaA (hereafter: Jack Wolfskin)

### 2. Accused party

The complaint has been filed against a factory in Indonesia which is a supplier of FWF affiliate Jack Wolfskin: PT. Busana Prima Global (hereafter: BPG).

### 3. Date of receipt complaint

From 17 March onwards FWF received information about the case through the urgent appeals network of Clean Clothes Campaign.

The complaint was formally received by FWF staff on 1 April 2011 through [complaints@fairwear.org](mailto:complaints@fairwear.org).

### 4. Filing party

The complaint was filed by the trade union Pimpinan Tingkat Perusahaan Serikat Buruh Garmen Tekstil dan Sepatu Gabungan Serikat Buruh Independen PT Busana Prima Global (Hereafter: SBGTS).

### 5. The case

The complaint related to several issues in relation to the labour standard 'Freedom of Association and the right to Collective Bargaining' that is part of FWF's Code of Labour Practices:



The plaintiff stated that seven members of SBGTS (three worker representatives and four rank and file workers) were suspended and dismissed by BPG management on unfair grounds. This would have happened after the seven workers would have left their work stations to file a complaint at the Bogor district department of the Manpower Ministry (the governmental bureau concerned with labour relations and conditions). Management of BPG would have discriminated SBGTS members since 2003, among others by only accepting the union verbally but not in written and by denying them official facilities and access to meetings with the management.

Cited from a report that was submitted by SBGTS (received 1 April 2011) additional violations of labour standards would have occurred at BPG prior to filing the complaint to the manpower department of Bogor district:

Payment of temporary workers below the local legal minimum wage;

Discrimination against workers with a temporary contract regarding transportation fees, fringe benefits and leave;

Deliberate actions by management to terminate contracts of permanent workers and to recruit temporary workers instead;

No payment of the legally required premium for overtime work;

Verbal abuse by production supervisors;

Unreasonable pressure on workers to discourage them to take leave;

Insufficient provision of personal protective equipment.

## 6. Admissibility

On 4 April 2011 FWF decided that the complaint was admissible as it relates to the Code of Labour Practices and the involved factory has an active business relationship with an affiliate member of FWF. On the same day FWF informed Jack Wolfskin that the complaint had been filed through its complaints procedure. FWF decided in consultation with Jack Wolfskin to concentrate on the alleged discrimination of union members through dismissal and contract termination on the basis of unfair grounds.

## 7. Investigation

As FWF is not active in Indonesia all involved parties were informed that no local independent investigation would be carried out regarding this complaint. Investigation of the complaint focused on review of existing documentation and hearing the plaintiff and accused party regarding the case as described below:

Jack Wolfskin informed FWF about previous interventions that the company had undertaken after the company had first become aware of violations of labour standards at BPG;

- Through email FWF asked several questions to its contact person at SBGTS (one of the above mentioned seven workers);
- Through Jack Wolfskin FWF obtained a response from the compliance & customer care department of BPG.

The following documentation was reviewed as part of the investigation:



- Review of the report of a follow up visit (29 April 2010) to an initial audit that had taken place on 28/29 August 2009 and the report of another audit (29/30 October 2010), including a report about the meeting with the dismissed workers, all carried out by Sumations on behalf of Jack Wolfskin.
- Review of correspondence between Jack Wolfskin and BPG after the above mentioned audit;
- Review of documentation submitted by SBGTS and BPG;
- Application letters by SBGTS to BPG to request union rights (11 August 2009)
- Letter by SBGTS to Bogor district Manpower department (12 October 2009)
- Announcement by SBGTS to inform BPG of visit to the manpower department (12 January 2010)
- Statement by production supervisors to refuse 7 officials in the work place (13 January 2010)
- Warning letter to seven workers by BPG management (13 January 2010)
- Mutation decree of the seven members of SBGTS by BPG management (18 January 2010)
- Letter of refusal of termination process by the seven members of SBGTS (18 January 2010)
- SBGTS defense memorandum submitted to the labour court Bogor district (5 April 2010)
- Statement by trade union SPG (4 May 2010)
- Verdict by Industrial Relations Court of Class 1 A Bandung (9 November 2010)
- Review of existing files of Clean Cloths Campaign regarding alleged violations of labour standards at BPG
- Report of an assessment (December 2003 - March 2004) of working conditions and events at BPG to research a strike that took place in July 2003 and that resulted in the termination of 166 workers of which 32 did not accept severance payment. This assessment was conducted at the request of Oxfam Australia, and Focus, a business office which purchases goods from BPG.

## 8. Findings and conclusions

According to information that FWF received the following events occurred before the complaint was filed through FWF's complaints procedure.

- 174 members and leadership of the trade union that preceded SBGTS had been fired in 2003-2004 in relation to their union membership.
- In 2009 representatives of SBGTS sent various letters to BPG management to flag violations of legal rights and request corrective action. Management of BPG repeatedly denied that violations of labour rights in the workplace took place.
- In October and November 2009 representatives of SBGTS contacted the Manpower department of Bogor district to report violations of labour rights violations.



- On 12 January 2010 seven workers that were all SBTGS members submitted an announcement letter to BPG management before working time to announce that they would visit Manpower department of Bogor district during working time to discuss violations of labour rights at BPG. Management of BPG then issued warning letters that the seven workers refused sign. After returning to the factory in the afternoon management informed them that they ignored workplace regulations. Workplace supervisors refused to let the seven workers resume work at their normal working positions.
- On 13-14 January the seven workers met with management. The meeting did not lead to an agreement.
- On 18 January management issued a decree stating that the seven workers would be given a different position in the printing department, as a result of which the wages of these seven workers would effectively be cut. On the same day 37 workers went on strike to request BPG management to accept the seven workers to return at their original positions. The strike was terminated without result.
- On 19 January the seven workers were dismissed by factory management.
- On 25 January, 2 February and 11 February meetings took place between the seven workers and BPG management. These meeting did not lead to an agreement between the parties.
- On 29 April 2010 an audit team of Sumations visited BPG on behalf of Jack Wolfskin to follow up on an audit that was carried out on 28 and 29 August 2009. At this event Jack Wolfskin became aware of the suspension of the workers. The day after the follow up visit (30 April 2010) Jack Wolfskin sent an email to its direct contract partner that subcontracted its orders to BPG as well as to BPG management directly, stating that it would request BPG to follow this request by reinstating the workers at their original position.
- BPG responded on 4 May 2010 by stating that the seven workers had been dismissed for leaving the factory during business hours. Management stressed that the other trade union that was active in the factory (SPN), which had a 95% membership rate among workers, supported management in their decision to dismiss workers. Enclosed with the letter BPG management sent a statement from SPN that supported BPG management in this decision. SPN is an affiliate of ITGLWF (International Textile, Garment and Leather Workers Federation),
- In September 2010 Jack Wolfskin offered BPG management to facilitate independent mediation to both parties in an effort to contribute to mediation of the complaint. This offer was not accepted by BPG management. On 29-30 October 2010 another audit was carried out. As part of this audit a meeting took place with the dismissed workers. A report of this meeting was included in the audit report and information from this meeting was included in the closing meeting with BPG management.
- On 29-30 October 2010 another audit was carried out at BPG by Sumations on behalf of Jack Wolfskin. As part of this audit a meeting took place with the dismissed workers. A report of this meeting was included in the audit report and information from this meeting was included in the closing meeting with BPG management. The audit team found that the conflict between management and the seven workers had not been solved. The audit team concluded that the Right to Freedom of Association and the Right to Collective Bargaining was

severely infringed in this company. The audit team demanded BPG management to:

- Officially accept SBGTS with all legal consequences
- Rehire the dismissed workers and SBGTS leaders who had been dismissed because of SBGTS membership
- Stop discrimination of workers who are demanding compliance with labour rights

### **Conclusions**

Basing itself on the chronology of events that was analysed on the basis of available information FWF concludes that the seven union members were suspended and dismissed on the basis as a result of their activities demand improvements in workplace conditions as active members of SBGTS. The suspension of the seven workers cannot be seen in isolation from the fact that these workers submitted several written complaints regarding infringements of their rights to BPG management in July and August 2009. Independent investigations and audit reports point out that these complaints would be justified. As part of this conclusion FWF considers that the seven workers were suspended and dismissed for leaving their work station, but that other workers which did not return at their work station were not given the same treatment.

In light of the above FWF concludes that BPG management has taken measures to discourage workers to join the union of their preference. This resulted in systematic discrimination against SBGTS members.

Considering previous cases that were investigated by other parties FWF concludes that the Right to Freedom of Association and the Right to Collective Bargaining is not secured at BPG.

Regarding the role of its member company Jack Wolfskin in this process FWF concludes that the company until the time of writing this report had actively made efforts to help resolve the complaint before and after the complaint was filed through FWFs complaints procedure. FWF finds that the audits and follow up visit that were carried out on behalf of Jack Wolfskin made an accurate assessment of violations of the Right to Freedom of Association and the Right to Collective Bargaining at BPG.

## **9. Corrective action**

During the investigation of the complaint, Jack Wolfskin tried to make contact with various other customers of BPG to assess if they would support a common statement to BPG. FWF facilitated this process by gathering contact details of various brands from Clean Clothes Campaign, Workers Rights Consortium and Ethical Trade Initiative.

Jack Wolfskin contacted the following brand companies: Ping, Haggar, Le Coq Sportif, Inditex. Haggar and Le Coq Sportif did not respond, Ping and Inditex informed Jack Wolfskin that they could support a common statement as they had not recently done business with BPG.

On 11 May 2011 Jack Wolfskin sent a formal statement, signed by top management, to both the direct contract partner and BPG top management to request from both companies that steps are taken to ensure that the Right to Freedom of Association and the Right to Collective Bargaining is guaranteed at BPG. A copy of this letter has been shared with the plaintiff.



On 16 May 2011 the director of BPG sent a response to Jack Wolfskin, stating that it has secured the Right to Freedom of Association and the Right to Collective Bargaining in its workplace. The letter again stated that the majority of workers in BPG and the trade union SPN supports its decision to dismiss the seven workers.

Next steps:

FWF consulted ITGLWF (International Textile, Garment and Leather Workers Federation) about an appropriate approach regarding the conflicting position of the two different trade unions. ITGLWF recommended to again pursue a common statement with other customers of BPG. FWF will inquire with ITGLWF if they could help Jack Wolfskin contact other customers of BPG. In addition ITGLWF recommended to offer BPG management a training by a credible party that could help strengthen work place dialogue between BPG and SBTGS.

If all steps to facilitate reconciliation between BPG and SBTGS turn out to be unsuccessful and if no credible steps are taken by BPG management to secure that the Right to Freedom of Association and the Right to Collective Bargaining is secured, FWF will expect Jack Wolfskin to develop an exit strategy to phase out production at BPG in a responsible manner.

## 10. Verification

As FWF is not active in Indonesia no local activities will be carried out to verify implementation of corrective action. FWF verified through the annual management system audit at Jack Wolfskin that company took adequate action to follow up on the corrective action plan that has been specified above. [Link to the report.](#)

***Update January 2012:***

*On November 18-19 Sumations carried out an audit at BPG on behalf of Jack Wolfskin to monitor progress on the pending corrective action plan. As a part of the audit Sumations carried out off-site interviews with the 7 workers that had been dismissed by BPG.*

*Most importantly the audit pointed out that BPG did not take significant corrective action regarding the infringements of labour rights that had been identified in the past. Besides other things it was found that the problem of overtime work not being voluntary and not properly paid still existed.*

*Following the audit, Jack Wolfskin informed BPG and the direct contract partner who subcontracts orders to BPG on 6 February that it would give the factory a final chance to immediately start the improvement process and remediate all infringements of labour rights. Additionally they pointed out 3 very seriously infringements with special emphasis*

- 1. Stop forcing workers to do overtime and stop forcing workers to do unpaid overtime;*
- 2. Offer workers permanent contracts in order to enable them to set up trade unions of their own picking;*
- 3. Work towards payment of living wages by submitting a living wage calculation and a detailed schedule on how BPG would plan to raise wages.*



*Jack Wolfskin required BPG to report its progress in implementing the corrective action plan on a monthly basis. The company informed BPG that it may carry out unannounced visits until September 2012.*

*Jack Wolfskin informed BPG formally that it would have to draw consequences on BPG in case they would not fulfil the above requirements.*

**Update July 2013:**

*On 27 June 2012 Jack Wolfskin staff made an unannounced visit to BPG to assess conditions in the facility. It was then found that the requested improvements had not been implemented by BPG. In line with the announcement that was made to BPG previously (see update January 2012) Jack Wolfskin informed the supplier in July 2012 that no new orders would be placed at BPG.*

*During the process of handling this case, Jack Wolfskin made several attempts to get other customers of BPG involved to have more leverage with the supplier. Unfortunately Jack Wolfskin did not get a positive response on its request to adopt a common position towards BPG from any of the other known active customers.*

*At several stages during the process of handling the complaint FWF and Jack Wolfskin discussed the role of other customers with CCC. CCC has been informed in detail about efforts by Jack Wolfskin to contact other customers. CCC and Jack Wolfskin agreed that further actions regarding other customers could only be taken by CCC. FWF and Jack Wolfskin left the decision to follow up with these companies to CCC.*

*As part of a responsible exit strategy Jack Wolfskin offered the 7 dismissed workers wage compensation from 1 February 2010 (date of dismissal) until 31 August 2012 (formal ending date of production at BPG), proportionate to the average share of BPG's production capacity that was dedicated to production for Jack Wolfskin during 2010-2012, which was set at 5%.*

*Following a dialogue between (involving Jack Wolfskin, the 7 workers, CCC and FWF) the parties agreed in May 2013 to a compensation payment of 3.738.000 IDR per worker. This amount was based on 5% of their annual salaries including statutory holiday allowance and all allowances that were required according to Indonesian law.*

*The compensation payment has been transferred in cash on 22 June 2013 to the workers. A meeting was organised in Bogor with 6 workers (1 worker was absent but gave her consent in writing to pass her money to a representative) and staff of the audit company Sumations on behalf of Jack Wolfskin. The meeting was observed by a local representative of Workers' Rights Consortium. The workers signed a statement to confirm that their money was received. Photos were taken of the meeting.*

*In May 2013 FWF transferred (additionally to the compensation payment of Jack Wolfskin) a sum of approximately 320 Euro to the 7 workers to support them in purchasing a computer in order to maintain contact with FWF and other parties during the process of following up the complaint.*

*Jack Wolfskin agreed with CCC to develop a short statement in its annual social report, containing the main facts from the process to handle the complaint.*

*FWF will upload this report to its website as the final version of the complaints report.*