

Statement made by Senator Czeslaw Ryszka and other Senators, at the 21st session of the Polish Senate, on November 7th, 2008.

Statement addressed to the Polish General Labour Inspector, Tadeusz Zajac

Dear Minister,

Two months have passed since the unlawful dismissal of Jacek Kotula, the chairman of the "Solidarity" trade-union commission at Alima Gerber SA and Nestle Polska SA and chairman of the Worker's Council at Alima Gerber SA. By committing the shameful act of firing a protected union activist, the management not only broke the Polish law, but also the European Union directives and international treaties.

It has to be said that the board of the "Solidarity" commission at the plant did not agree with the firing of its chairman. Since the beginning of his tenure as chairman, Jacek Kotula has been active in towards making the working conditions in the plant better, has taken the side of those who earned less and worked in difficult noisy conditions, spoke against unlawful overtime in conditions detrimental to health, protested against the unlawful introduction of new working regulations, incorrect counting of overtime hours, inadequate staffing, cronyism, discrimination, wasting of resources, stress and mobbing and requested information meetings with the management.

We know that the dismissal of Mr. Jacek Kotula was an act of reprisal against his active involvement in the trade union movement. He recently brought the company's attention to the destruction of Polish agriculture and the actions detrimental to the company and its owners resulting from the import of more expensive fruit from Italy, Germany and Brazil. This has caused a dramatic reduction of local suppliers of fruit and vegetables to Alima Gerber SA, from 5,000 to 100.

It has to be said that many farmers located in the Rzeszow area received share package of 20% when the company was undergoing privatization. This is the reason they turned to Jacek Kotula, with a complaint about the harsh policy of Alima Gerber this year, which aimed at lowering the sale prices. It can only be expected, that in such a situation, the farmers turned to the workplace commission of "Solidarity". The conversations which took place between Jacek Kotula and the farmers have been interpreted by the company as an act detrimental to the company. Allegedly, those conversations infringed upon employee duties, which led to the dismissal of Mr. Kotula. The reality is quite different. Those conversations served the interests of the employer, as any form of dialogue prevents the escalation of conflict and can hardly be seen as inappropriate. This is the exact role of trade-unions.

Despite the double legal protection, as trade-unionist and member of the worker's council, the employer decided to fire Mr. Kotula, referring to art. 52 of the Labour Code. However, this article permits to terminate a contract immediately only in case the employee is guilty of severe dereliction of duty as an employee, i.e. drinks alcohol in the workplace, committed a crime and was convicted of it in a court of law, or is responsible for losing permits to perform the duties of his position. Even in that case, elected trade-union activists are protected against being laid-off.

It is clear that the reason the trade-union chairman of "Solidarity" was fired was his active presidency in the workplace commission during the last 3 years. Since July 2008, the commission gained 50% new members and extended its activity to the Nestle Polska SA branch in Warsaw. Raises for employees of 120 Euro a month were demanded (a regular employee earns about 305 Euro a month. Unfortunately, the employer was not interested in negotiating.

Jacek Kotula has become inconvenient for the company for yet another reason. In the letter of the Worker's Council written on June 25th, 2007, he pointed out that the main branch of the company in Switzerland consistently lowers the profit rate of Alima Gerber Polska by subsidizing companies belonging to the corporation on non-market principles. This is a hidden way of transferring a significant part of the profits of Alima Gerber to Swiss companies owned by the corporation. Such actions, if they indeed took place, would be highly reprehensible and unethical.

As senators, we firmly protest against breaking the Polish law by Nestle, a Swiss firm operating in Poland. We firmly demand that the dismissed trade-union activist Jacek Kotula be reinstated and that the workers rights at Alima Gerber SA be respected from now on. The court case in the Labour Court can last for a long time, while the dismissed employee has been left without means to survive.

In any workplace with an active trade-union there may be conflicts. If any trade-unionist, who is involved in a conflict is to be dismissed, the role of trade-unions becomes fictitious. It appears that layoffs of trade-union activists are common in Poland. This year alone, trade-union activists have been fired from the Post Office

in Gdansk, in a multinational translation firm, Lionbridge in Warsaw and in Nestle in Rzeszow. There were attempts to fire trade-unionists in General Electric in Lodz. The employers seem to act with impunity. Shouldn't this be a concern to you, as a Minister?

We ask you to investigate the case and take a position on this matter. We would ask you to inform the President of Nestle Polska SA, Mr. Leszek Wencel (02-678 Warszawa, ul. Szturmowa 2, tel. 022 607 22 88) and the President of the main branch of Nestle in Switzerland, Mr. Paul Bulcke (1800 Vevey, Switzerland, fax: +41 21 924 4800, e-mail: Paul.Bulcke@nestle.com) and his Senior Vice President, HR responsible for the affair, Jean Marc Duvoisin (Nestle, 1800 Vevey, Switzerland, fax: +41 21 924 45 04, e-mail: JeanMarc.Duvoisin@nestle.com).

Best regards,

Czesław Ryszka
Stanisław Zając
Zdzisław Pupa
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(senators)