

Response of C&A to a letter from Community Legal Education Center raising labour rights concerns about a supplier in Cambodia

18 August 2016 & 6 October 2016

Business & Human Rights Resource Centre invited C&A to respond to:

- “Lawyers seeking clarifications re: violations of freedom of association at C&A supplier, Cambodia”, Community Legal Education Center, 18 Aug 2015

On 18 August 2016, C&A provided the following initial response:

We would like to keep you updated of the steps we have taken in the Ginwin case until today. Nevertheless we are still on top of the process.

As you are aware, there has been long history around this case and the will and intention of C&A has been always willing to positively intervene in the process.

May 2015

- BFC (ILO Better Factory Cambodia) assessment at factory concluded that Ginwin acted correctly (mainly based on the court ruling)

December 2015

- Conflict continued after BFC assessment above and as a result the union sent the case to Arbitration Council (AC).
- AC Award decision:
 1. Ginwin had violated FoA and has to reinstate all five union leaders
 2. Ginwin has to pay back salary since termination/ suspension
 3. Ginwin must drop the court case against the workers allegedly damaging factory property during the strike

March 2016

- C&A is informed by BFC that case has been opened again due to AC Award.
- Due to situation in Cambodia, AC has a higher status than court and BFC suggests to follow AC Award instead of court decision
- C&A re-starts discussion with Ginwin, supported by BFC

July 2016

- Discussion between Ginwin and workers does not move forward as Ginwin refuses to follow AC Award (reinstatement & pay back of salary); Ginwin's reason is that the court decision should overrule AC Award
- C&A convinces Ginwin to pay a mediator to solve the case: Ann Vireak (Cambodian lawyer, experienced mediator, affiliated with Arbitration Council)
- C&A contacts with IndustriALL regional representative to support the mediations.
- A mediation meeting date is set for 30 July 16, Ginwin agrees to join the meeting and be open-minded to negotiate a closure on the base that only the workers and the mediator will be present. Ginwin accepts to have a conversation with the workers to find out a solution.
- On 29 July afternoon, the mediator meets up with the union leader Pav Sina and IndustriALL, to talk about potential process on how move the discussion forward.
- Ginwin doesn't accept the participation of Pav Sina in the mediation process.
- C&A decides to call off the mediation meeting on 30 July as preconditions had changed

Tomorrow 19th August we will have another meeting with Ginwin owner. We want him to understand the consequences that will arise if he doesn't accept to meet with the workers

and the union representative (Pav Sina) in the same table. If, as we want, the meeting takes place sooner than later, C&A will be present at the negotiation table to make sure the negotiation is fair.

On 6 October 2016, C&A provided the following update:

“As promised I'm coming back to you with news regarding the Supplier Ginwin.

“Last week I flew to PP to close down the conflict that was open between the supplier and the 5 workers represented by CUMW. In order to properly close the case, we conducted a mediation process where the supplier, the 5 workers, the CUMW representatives, IndustriALL, and C&A were present.

“After providing the correct framework for common understanding and eagerness to reach out an agreement, the supplier Ginwin shared with them the current strategy that the company is taking (increasing the mechanisation of the factory and thus, maintaining if not reducing the amount of workers that they need). They provided figures showing how in the last 4 months they have reduced 39 employee from the factory premises. However the supplier acknowledge that the process occurred 2 years ago wasn't in accordance with the C&A Code of Conduct and hence it was up to set a compensation package for the 5 workers involved.

“The package is as follows:

- “1- Withdrawal all the remaining open court cases against the 5 workers.
- 2- Acceptance to back pay the salaries of the 5 workers since the date of the lay off until the date of the agreement. (4.000 USD)
- 3- Acceptance to pay a lump sum for not being able to reinstate the workers at the Ginwin. (5.000 USD)

“Additionally, IndustrALL and C&A decided to include in the agreement where we jointly compromise to jointly monitor the implementation of the international labour standards in Cambodia. As a first step, we will include Ginwin in a Mature industrial Relations programme where we aim to strengthen workers voice and avoid any new non conformance with the C&A Code of Conduct in terms of Freedom of Association and Collective Bargaining.

“I'm attaching a soft copy of the agreement signed.

Should you have any further questions or comments do not hesitate to contact me.”