

## **Women organising for changes in working conditions – Biedronka case**

### **1. Introduction**

The transformation processes after 1989 led to the development of capitalism that was characterised by little concern/consideration for social justice and the protection of labour rights. At that time making profit seemed to justify various forms of activities. The rights that were protected by the former socialist system, including labour rights, were questioned or denied since they were perceived as a relict of communism. The only rights that were not questioned were those that could support the conservative, fundamentalist view of the Catholic Church on the family and the role of women within the society. For example: maternity leaves were being made longer and longer in so called “best interest of the child” while in fact that was aimed at pushing women off the labour market. At the same time the child care system was being dismantled and the lack of child care facilities created a barrier which was extremely hard to overcome by women with small children wanting to enter the labour market.

The problem of the observance of the workers’ rights was not raised since the argument was being used that too much concern for the labour rights and for the working conditions would limit the development of the new economic system based on the free market rules which, of course, was the best one for all people in Poland. An important element of that new system was the introduction of supermarket chains owned by large foreign corporations. So no wonder that public opinion silently accepted the violations of the rights of people employed in the supermarkets, the majority of whom are women.

It is interesting that the only context in which the role of supermarket chains could be discussed was the competition within free market economy and consumers’ rights – will the supermarkets push the small shops off the market or not - or are they delivering goods of adequate quality or not.

This historical context helps to understand why it took so long for women, whose rights were being violated every day, to organise protest for better working conditions. They were powerless as:

- most of them were/are unskilled workers;
- were afraid of losing their jobs in times of very high unemployment rate;
- they had no support from feminist movement (which – unlike in Slovenia was weak and in the process of self-organising);
- they had no support from trade unions which are also weak; additionally, women’s position in TUs is marginalised.

But in 2003 a case was brought to the court by a former employee of one of the supermarket chains – Bożena Łopacka and the situation started to change.

## **2. Case of Bożena Łopacka, 2003-2007**

Bożena Łopacka was a manager in one of the markets belonging to the chain called Biedronka (“Ladybug” in Polish) and owned by the Portuguese corporation Jeronimo Martins (JMD) with headquarters in Lisbon. She sued her employer for 35000zł for failing to remunerate her for overtime. In 2004 the court accepted the claim and ordered the amount to be paid to her. JMD appealed the ruling. At this level of the case a non-governmental organisation stepped in – the Helsinki Foundation of Human Rights, which presented its independent opinion. Finally in 2007 Bożena Łopacka was granted 26000zł on account of remuneration for the overtime hours (instead of 35000zł) because claims related to work relations are a subject to expiration after 3 years.

When granting Bożena Łopacka with the right to remuneration for overtime the court claimed that the hours worked were not reported properly, and that the staff of the store was too small to be able to carry out all the responsibilities. The female employees had to transfer and pull loads exceeding the norms on hand-pulled carts instead of electric ones, and deliveries to stores were poorly organised and late – that was the verdict.

Łopacka stated then that the dispute with Biedronka had been exhausting for her, however she was satisfied that her case led to important changes in this chain of stores. She said: “One should notice that Biedronka significantly changed the work conditions for the better. If it happened thanks to me, I am very happy.”

The win was possible thanks to the lawyer who represented her before the court on the no-win-no-fee basis. This form of legal services has not been popular in Poland at all. An independent amicus curiae brief of the human rights defending and monitoring NGO was also very important in this case. Since that time a lot of other similar cases against Biedronka supermarkets were brought to the court. So far, all of them have been won.

However, this first win did not result immediately in organised protests of women employed in supermarkets, not even those working for Biedronka. Nonetheless, public opinion and the media attitude to labour rights violations have changed for the better. Thanks to extensive media coverage public opinion learned what work conditions were present in Biedronka markets and how employees’ right were violated, especially the ones related to not paying remuneration for overtime, and also how she, a store manager, was forced by her employer to forge the time sheets so women for whom she was a supervisor would not be paid for overtime. The revealed violations shocked public opinion. The consumers’ awareness is rising in Poland, therefore companies are forced to take better care of their public image. JMD, as the first one in Poland, experienced the fact that the poor image which it gained as a result of revealing of the systemic violations of employees’ right, may bring significant financial losses.

Finally, when 2-3 years later such protests occurred, they did get the adequate media coverage and the message reached the public opinion. Those protests were organised in Tesco supermarkets, not in Biedronkas.

### **3. Association of Persons Harmed by Large Commercial Chains – ‘Biedronka’**

In 2002, the Association of Contractors Harmed by Jeronimo Martins Distribution – the owner of the chain of stores Biedronka, was founded out of an initiative of three companies–producers, suppliers of the chain of discount stores Biedronka. This was a sign of small and large entrepreneurs uniting in order to protect themselves from dishonest practices of the Portuguese company Jeronimo Martins Distribution L.L.C. with headquarters in Poznań. In many cases the said practices forced the contractors of JMD to go out of business. In 2004 the name was changed to Association of Persons Harmed by Large Retail Chains “Biedronka” because of a decision to accept also past and current employees of the stores of the chain Biedronka as members. The reason for this decision was the fact of the Association receiving numerous claims, especially coming from women, about mass scale violations of employees’ rights in the Biedronka stores. It was because of this that the Association decided to also deal with problems of employees of that chain. Bożena Łopacka became the vice president of the Association (currently she does not work there). The Association supports, also legally, persons suing supermarkets and monitors the court proceedings.

### **4. Trade Unions in Biedronka**

When the media started reporting on the situation of female and male employees of supermarkets in connection to Bożena Łopacka’s case, the trade union NSZZ “Solidarność” Region Mazowsze began actions preparing to organise female and male employees of Biedronka. Within the first few months several hundred contacts were arranged with female/male employees. A schedule of meetings with the employees in the stores and outside the stores at various hours during the day showed, however, that it is very difficult for someone from the outside to reach the employees. The difficulties are caused by: lack of motivation of the employees themselves to get organised, high rotation of employees, being hired under temporary contracts, shift work, using temporary agencies by employers, family responsibilities, mainly of the women. Creation of trade unions in Poland is also made difficult by employers – members of trade unions are often discriminated against and persecuted at work. Because of that the employees of supermarkets did not see realistic advantages of belonging to trade unions.

The creation of a trade union in Biedronka was not a low level decision of female and male employees. An outside partner was necessary, an organization which motivated and helped the employees to organise themselves. The persons contacted by “Solidarność” then, were mainly young, the majority of them women (85%), often mothers with small children. For most of them the job in Biedronka was their first paid job and they were hired under temporary contracts. A significant portion of them were persons who wanted to complete their educations or raise their educational level: they wanted to graduate from high school or

university. The employees were mainly persons who lived in areas with a high level of unemployment, who had to travel even several dozen kilometres to get to work.

At the end of May 2004 a group of people wanting to create a union and become its leaders assembled. On May 13 2004 a Factory Commission NSZZ “Solidarność” at JMD Biedronka was registered in Poznan. The Commission, with the help of other regions of NSZZ “Solidarność” began informative actions intended to aid with the organisation of a nationwide trade union “Biedronka” in Poland. The effects of those actions are successive department commissions in the regions. Currently the leaders of 11 commissions are 6 women and 5 men.

The first activities of the trade unions already showed to the female and male employees how important it was to have a representative of the staff and a trade union in talks with the employer, and how important it is to have the possibility of presenting and negotiating, in accordance with law, work conditions and pay. The union continues to gain new members out of the employees who begin to want to take care of their own interests themselves and become strong partners in talks with the employer.

According to the union members, the attitude of store management and regional managers to the members of unions has changed in the last years. In several instances the union had a direct influence over the change of the management of the store and the region. The Board of the Factory Commission carries out consultations on the subjects of employment and work conditions and pay, interventions in cases of violations of employees’ rights, while the Social Commission, with its trade union members, makes decisions and grants benefits from the social fund. Currently the Factory Commission “Biedronka” holds meetings with the employer’s representatives twice a month. Seeing the real changes in the work conditions of the employees, the union has not deemed it necessary to take upon protest actions; there are no reports of strikes in Biedronka.

## **5. Strikes in Tesco, February 2008**

The need to call a strike was, however, seen by the members of the trade union WZZ “Sierpień ‘80” (August ‘80) in Tesco and in February 2008 they organized the very first protest in a supermarket in Poland. The head of the union and the leader of the protest was Elżbieta Fornalczyk, later named “Person of the Year 2008” in Silesia (she is currently nicknamed “Lech Wałęsa in a skirt”).

What might be interesting is the main reason for the protests, which were not violations of employees’ rights (what must be added: less intensive than in Biedronka), but the wages, which were/are much lower than in Biedronka. The other thing is that only the representatives of WZZ “Sierpień ‘80” took part in the protest and not those belonging to the other trade union operating in Tesco – NSZZ “Solidarność”.

It was mainly women, the checkout clerks, who make up 80% of the employees in Tesco, who went on strike, because, as they said “a man would not work for such money”. The strike was

supported by miners, families of protesters and inhabitants of Tychy in Silesia, where the strike took place.

The employees demanded a salary raise by 700zł (a monthly salary of a cashier with 7 years of experience was 800zł after taxes), and also improvement of work conditions, that is, exchanging hand carts causing strain for their backs for electric carts, replacing defective price scanners, increasing the night shift bonus, introducing bonuses for work on Sundays and holidays, for workers with long work experience, changes in the motivational system.

The information about the preparation of the strike reached the employer. The male and female employees started being threatened and members of the unions were fired. Elżbieta Fornalczyk received phone calls with threats. Despite fears the women decided to go ahead with the protest actions. The strike lasted 2 hours and during it the cashiers left the cash registers. None of the Tesco representatives met with the protesters. The store management attempted to prevent the negative impact of the strike on functioning of the store by hiring several temporary workers for that day. The situation, however, forced the store to close down for the time of the strike.

“Sierpień ‘80” did not manage to sign an agreement concerning the salary raise, but, what is important, they did manage to force upgrading of the store equipment – electric carts were purchased, meat cutters repaired, anti-slip mats placed, and cameras in cafeteria and smoke room were removed. Tesco, after additional pressure, signed in March 2009 a wage agreement, but with a different trade union functioning in this chain – NSZZ “Solidarność”. The employees’ wages were raised by 19%. An additional raise for the so called basic employees (floor employees, especially women) in the Tesco stores, negotiated by “Solidarność”, was introduced on 1 July 2009 and in the amount of 45zł gross. “Solidarność” also negotiated additional employees supplements, including a higher supplement for washing workclothes.

“Sierpień ‘80” currently demands salary raises by 300zł gross and improvement of work conditions. It is actively helping to create trade unions and organising pickets in other cities, such as Lublin, Krakow, Wrocław, Łódź and Bydgoszcz. Members of the trade union in Tesco are mainly women (about 80%).

## **6. Women’s rights in supermarkets – KARAT’s project**

For the past several years KARAT has been cooperating with the Association of Persons Harmed by Large Supermarket Chains “Biedronka” and with the lawyers supporting its activities and providing legal assistance to women whose labour rights had been infringed. Karat supported the Association in preparing the report on the observance of the work safety and health rules in Biedronka supermarkets. In 2008 we conducted the research sponsored by

Friedrich Ebert Stiftung focusing on the work conditions in supermarkets in Poland from the gender perspective<sup>1</sup>.

At the moment media attention and public interest in the problems of retail chain employees has diminished while many problems have still not been solved. According to the Coalition KARAT, what is especially important now is taking upon actions aimed at strengthening the protection of women's labour rights and thus at improving the working conditions of women employed in super/hypermarkets as well as strengthening women acting within TUs.

The research shows that employees of supermarkets, being afraid of losing their job or being persecuted at work, often abandon the difficult process of claiming their rights. It happens especially on the difficult job market (years 2002-2005 in Poland and nowadays because of the global economic crisis), when the work conditions are dictated by employers. Lack of economic stability is also caused by low legal awareness, lack of knowledge concerning employees' rights and employers' obligations (the research showed, among other things, that mobbing is confused with discrimination by employees) and no access to professional and affordable legal aid. Supermarket employees receive remuneration that is usually on the level of minimal remuneration and they cannot afford to hire a lawyer who could take on their case. Social organisations attempt to fill the gap in access to legal aid, but this does not bring the desired effect. Polish legal councils do not promote *pro bono* aid for economically handicapped social groups.

In face of this state of affairs it seems not accidental that employees of supermarkets choose defence actions such as a strike. The female and male employees have reached the point of revolt. It seems to us that it is necessary to essentially strengthen the union workers, especially the rather weak women's sections, which are the problem sectors of the union without a real impact on decision making.

Therefore, KARAT, motions, among other things, for:

- Raising among the employees the awareness of their rights and rules of the legal system as well as helping them become active in the area of acquiring knowledge of their rights and obligations at work.
- Developing legal culture in order to create good will for proper application of labour law in super- and hypermarkets, training the management staff in the area of labour law.
- Carrying out an analysis of ways of managing large area stores.
- Supporting the creation of groups representing employees.

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<sup>1</sup> Research: "Situation of female employees of super- and hypermarkets. Research report." KARAT Coalition, Warsaw 2008. The research, a starting point for future actions, was designed to collect information from women - employees of super- and hypermarkets about their work conditions and helped to identify areas and forms of violations of employee rights in the supermarket chains. It also pointed out weak points of the system of following the labour law.