

Complaint – Takko – Pakistan

Status: Closed

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.

1. Affiliate involved

Takko Holding GmbH

2. Accused party

A factory located in Pakistan supplying Takko.

3. Date of receiving complaint

1 July 2014

4. Filing party

CCC Germany/Spain

5. The complaint

The complainant claimed that:

- Factory is impeding a referendum to be held to elect the union that can negotiate a CBA
- Workers were fired because of being active for the Ittefaq Mazdoor union in 2000 and 2004, 29 of which want to be reinstated
- Factory is interfering in union activities
- Workers have to do excessive overtime



- Some workers are paid below legal minimum wage

6. Admissibility

FWF decided that the case is admissible on 1 July 2014.

The factory is a new supplier of FWF member Takko since Feb 2014.

The case is relevant to the following labour standards of FWF's Code of Labour Practices:

- Freedom of Association and the right to collective bargaining
- Legally binding employment relationship

7. Investigation August and September 2014

FWF informed Takko about the case on the 1st of July. Takko contacted the supplier and asked for a reaction. Contacts are made with other brands sourcing in the same factory. An investigation plan was developed.

The following stakeholders were contacted in August and September 2014:

- Management of the factory
- Lawyer of the factory
- Workers of the factory (on and off site)
- Office bearers of the Workers Union at the factory
- Office bearers of the Employees Union
- Office bearers of the Ittefaq Mazdoor Union
- Registrar Trade Unions
- Labor Education Foundation
- Textile Power Loom and Garments Worker Union Punjab
- Pakistan National Textile, Leather, Garments and General Worker's Federation
- Pakistan Textile Worker's Federation
- Pakistan Worker's Confederation
- PRGMEA Pakistan Ready Made Garments Export Association
- Employers Federation of Pakistan

Onsite investigation and document check took place during a factory audit that was conducted on the 4th and 5th of September 2014.

8. Findings and conclusions September 2014

Regarding Freedom of Association and the right to collective bargaining:

There are three unions registered. The Employees Union, The Workers Union and the Ittefaq Mazdoor Union (IMU). Management recognizes the first two unions but does not recognise IMU.

The investigation showed that there is a general lack of awareness among workers about their right to organise and bargain collectively. Workers are not aware of the office

bearers or activities of both the Workers Union and Employees Union and do not refer to those unions to discuss issues regarding working conditions. This was confirmed by checking the available documents and worker interviews. The 2 unions have not been able to provide insight into their membership. The CBA status claimed by the Employees Union is found to be not legal. Several workers were, however, found aware of IMU. IMU has indicated to be faced with serious difficulties in interacting with workers, which has been aggravated by the fact that several of the workers active for IMU have been dismissed since 2000 and others feel restricted in their opportunities to interact with other workers. IMU through its office bearers has been in litigation with the management since 2000. During the announced visit to the factory, office bearers of the union were not available for an interview according to management.

However, IMU has been recognized and elections of its office bearers approved by the Registrar of Trade Unions on the 9th of March 2012.

The High Court in its decision on 31 of January 2012, directed IMU to conduct elections of its office bearers and submit the results to the Registrar Trade Unions who was further directed to then determine the matter of registration of IMU afresh and conduct referendum at the factory involving all unions within a stipulated timeframe. The purpose of the referendum is to give workers the opportunity to participate in elections among the unions in the factory and to elect the union that will be their representative and be able to negotiate collectively on their behalf (elected union will be given CBA status). Till the date of this report, this referendum has not been held. Preparations for a referendum were initiated and took place in 2012. IMU also submitted their membership list at that time to the Registrar. Both the other 2 unions, however, did not provide their membership lists, nor did the factory management share a full list of employees. The Registrar after giving several opportunities to all parties to submit necessary documents, finally concluded that due to lack of provision of necessary information he is unable to complete the referendum proceedings within the time stipulated by the High Court. Thus, the referendum could not be held.

On 23rd of April 2014 the factory management again challenged the notification of the Registrar of Trade Unions from 9th of March 2012, wherein IMU had been recognized as legally registered and list of office bearers approved, and obtained a stay order. Last date of hearing was 23-4-2014. Case has not been listed for hearing again.

It is noted furthermore that the tensions between IMU and the management in the factory might be influenced by a difficult relation between the management and the president of the union. The president is one of workers of the factory that were fired in 2000. However, workers are free to elect their own representative and the IMU President has been chosen through an election process plus the Registrar Trade Unions approved the elections held within IMU.

With this investigation it can be concluded that the right to freedom of association and to bargain collectively at the factory have been hampered.

Regarding legally binding employment relationship

During this investigation a list of 22 workers was shared who were dismissed in 2000 and 2004 who were active for IMU. For all of them court cases were initiated. Two of them were reinstated and are currently employed by the factory. For others (including the current president of the union) up to the level of the Supreme Court of Pakistan, the dismissal was upheld.



Further, this year five workers were dismissed after a protest by workers related to a fatal accident in front of the factory. Cases have been filed against the factory for unfair dismissal.

During the investigations interviews have been conducted, and documents were checked. However, based on the evidence available it was not possible to conclude whether correct procedures were followed for the dismissals.

Regarding reasonable hours of work

Due to lack of clarity of records no final conclusions could be drawn whether excessive overtime was found. It is, however, found that transport offered to workers does not match with the shift hours of workers, due to which workers have to wait and often work after their shift has finished. The record of hours worked between shift end and transport time are not transparent.

Regarding payment below minimum wage

With the information from the investigation it can be concluded that minimum wage is not being ensured for 30 workers, hired through a contractor, in the loading section in stores. Next to that it was found that workers do not understand how wages are calculated as the wage details are not clear and that the factory was not able to provide a final clarification due to a lack of clarity and transparency regarding wage, time and production records.

9. Remediation

Freedom of association for workers should by no means be restricted by the employer. Workers should feel free to organise and trade union leaders should have free access to other workers to inform them about the union or union activities. This should be respected for all unions active in the factory.

Due to the recent stay order and the expired period in which the referendum should be held, at the moment it is not clear what the legal requirements are regarding holding a referendum. Seen the right of workers to organise and to bargain collectively, steps do need to be taken.

It is suggested to take steps to prepare for the organisation of a meeting between the management and the IMU with a neutral facilitator. To give the possibility to find a solution through dialogue, parties should agree to put all court cases against each other on hold as long as the talks are taking place and to agree to drop the cases when a solution is agreed upon during the talks.

Post compromise reached, the process for determining the Collective Bargaining Agent or agreement be initiated involving all unions that are willing to participate. All participating unions should share a list of their members with the neutral facilitator.

It has been noted that for the dismissed workers in 2000 and 2004, already several court cases took place. FWF is not in the position to provide conclusions to these cases, other than the court rulings. It is noted that High Court in W.P. 8219/2010 (Annexure D) does acknowledge that IMU members in litigation with CBL are former employees of the factory, whose services were terminated. And notes that it is disputed between the parties whether the proceedings challenging the said termination/dismissal, are pending

adjudication or not. The issue of how to deal with the requests for reinstatement should be put on the agenda of further talks between the IMU and management.

For the recently fired workers, shortly after the protest after the deadly accident in front of the factory, it should be checked whether correct procedures are followed.

Regarding the payment below minimum wage for the loaders, the FWF member and the factory are to set up a time bound action plan, to ensure the remediation of this, the latest within 3 months.

The FWF member and the factory should agree on a time bound action plan to ensure clarity in (Over) time records and wage calculations.

10. Verification

The plan was that remediation would be verified during the investigation of the complaint regarding payment of wages December 2015. As that investigation could not take place, FWF has not been able to verify the remediation process, nor has it been able to draw a conclusion on the issue regarding wages.

11. Evaluation by the complainant 2015

Despite several reminders, FWF has not received feedback of the complainant on this final report.

12. Update 2015

Regarding Freedom of Association and the right to collective bargaining.

After an inspection by the Labour inspection, it was concluded as well there were three unions registered at the factory. On the 27 of February 2015 the Registrar concluded however to cancel the registration of the IMU union. IMU started an appeal against this decision.

A referendum for the two other unions was held in April 2015.

Regarding payment below minimum wage

In October 2015 FWF received information from the CCC according to which for some workers their wage calculation was not clear and their take home wage was below legal minimum wage. FWF agreed with Takko to assign a new investigation. Part of that investigation (the off-site part) was done in December 2015. However, the auditors were not able to conduct the full investigation. In the conversations between Takko and their supplier and FWF, it became clear that there are no current orders running at the factory from Takko. Because of that, it hasn't been possible to plan for the further audit.

As there is no leverage anymore through FWFs member company, FWF had to close the case beginning of 2016.

13. Update 2016

From information from the factory and from assessments of other buyers it appears that several steps have been taken to increase awareness among workers about the two existing unions, freedom of association and worker management dialogue. Trainings have been provided and will continue to be provided as still improvement can be made.

From information shared with FWF from other buyers it is clear that steps have been made to correct non compliances regarding payment of minimum wages, both in 2015 and 2016..

From contacts with the complainant, information was received that there were concerns about some recent dismissals (from the period after the FWF carried out the audit in 2014) and about payment of wages.

Representatives of CBL met with FWF and with CCC. An update was shared on the current situation and CBL indicated to be open for a dialogue with representatives of the workers that would still have concerns and had shared those with the people that have been active with IMU.

FWF welcomes the willingness of both parties to start a dialogue and hopes this will be an opportunity to find solutions acceptable for both parties. It is recommended to have this dialogue facilitated by a neutral person, accepted by both parties. At the time of writing this update, initial steps haven been taken to engage in a dialogue.

14. Update 2017

Several meetings have been held between CBL and LEF who has been communicating the position of workers that faced problems. No meetings were held with worker representatives directly. The meetings did not lead to any results so far (update May 2017).