

Complaint – Madness – India

Status: Under remediation

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

MADNESS THE NATURE TEXTILE COMPANY GmbH (hereafter: Madness), Germany

2. Accused party

A factory located in India supplying Madness.

3. Date of receiving complaint

The complaint was received by FWF through its local complaints handler in India on 11 July 2015.

4. Filing party

A former employee of the factory, details of the identity are known to FWF. The employee has agreed to disclose his identity to factory management.

5. The complaint

The complainant claims that he has been working four hours of overtime every day as well as eight hours on most Sundays, the weekly day off. This would constitute excessive overtime according to Indian law as well as the FWF CoLP.

On 20 June, the complainant claims he had to take care of family responsibilities for a while and asked factory management whether he could work regular hours for the coming days. According to him, factory management responded that he had to work overtime hours or resign. As the factory owner was not available during that time, the employee continued to work the following days without working overtime hours and discussed the matter again with the factory owner after his return. He was then again asked to work overtime or resign. As the complainant was unable to work overtime hours, he handed in his resignation letter on 30 June to receive his final payment.

On 11 July, he received a final payment of Rs. 4 890. Factory management explained that they had deducted Rs. 8 500 for an advance the plaintiff had received in April 2014. The worker did not receive a document stating the sum and conditions of payment of this loan at this time. Also, six leave days were deducted from his salary.

According to the complainant he received a fixed monthly salary of Rs. 15 000 without legally required overtime premiums. He is therefore not compensated for any overtime he worked at the factory in his final payment. During June 2015, he worked four hours of daily overtime as well as three Sundays without compensation.

The final payment also did not include the salary for the legal notice period of one month.

Furthermore, the plaintiff claims that he has received social security payment from December 2014 onwards (after a FWF audit), but has been employed at the factory since



2011. As the factory did not provide legally binding documents before November 2014, he is unable to prove this.

6. Admissibility

FWF decided that the case is admissible on 12 July 2015

The factory is an active supplier of Madness, an affiliate of FWF.

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

Practices:

- Employment is freely chosen
- Legally binding employment relation
- No excessive overtime
- Payment of a living wage

7. Investigation

FWF informed Madness about the complaint, which discussed it immediately with its supplier. Factory management stated that the worker left on his own wish and was not forced to resign due to refusing overtime.

An FWF audit in November 2014 found excessive overtime as well as a lack of legal documents and social security payments. According to Madness, the supplier has since implemented legal employment relations and paid social security. This has not yet been verified by a FWF audit.

FWF's complaint handler met with factory management and the worker on 15th September to check further documents and mediate a solution.

8. Findings and conclusions

Based on the documents shown to FWF and the mediation meeting with the supplier and complainant, FWF draws the following conclusions:

- Both parties confirmed their original versions regarding the reason for the resignation. The complainant insisted that he was forced by factory management to resign, since he was refusing excessive overtime. During the mediation meeting he also claimed that he was beaten by his supervisor, when he refused overtime. He has filed a report with the police. Factory management insisted that the worker resigned on his own wish and that he was not forced to resign or beaten by a supervisor or other management staff. FWF is unable to conclude which version is correct.
- Regarding overtime compensation, management stated that the worker was not eligible for compensation as he worked as a supervisor (not a production worker) and overtime payment was included in his salary. FWF verified that this was included in the contract. The worker was however not aware of this. The production records shown to FWF stated that the worker did work overtime hours within legal limits.
- The factory and the worker both confirmed that he received a loan of Rs. 25 000 in 2014. This amount had been settled with this final payment. The factory did not keep documentation of this loan payment.
- The factory claimed that the worker still owed the factory Rs. 6 000 from a second loan.
- During the mediation process, it was agreed that the worker would not receive additional compensation, but factory management would waive the outstanding loan payment.
- The factory could show documentation that the worker had been with the factory since March 2014. The worker claims that he has been with the factory since 2011. Since no documentation was available for this claim, FWF is unable to conclude the correct date of joining. During the mediation process, it was agreed that the worker would receive social security payments from December 2014



onwards, since the factory introduced this for the entire workforce during that time (after a FWF audit indicated this as a non-compliance with Indian law).

9. Remediation

FWF asks MADNESS to facilitate and support remediation concerning the following points:

- The factory should continue its efforts to ensure that all workers receive legally binding employment documents like an appointment letter as well as social security according to Indian law.
- Loans given to workers should be documented and include written consent of the workers regarding the terms of the loan payment in order to minimise the risk of bonded labour.
- Wage structures must be communicated to workers in a transparent way.
- Overtime must always be voluntary and not excessive. FWF requires MADNESS to continue its root cause analysis on how its production planning influences overtime at the supplier. Since MADNESS is the biggest client at the supplier, its responsibility regarding this issue is high.
- All conflicts with workers should be solved in a non-violent, cooperative manner. FWF already conducted a Workplace Education Programme at the supplier in summer 2015. FWF recommends the supplier to ensure regular meetings of the worker committee and evaluate whether further training for supervisors and other management staff is needed.

10. Verification

FWF will verify the points mentioned under remediation at a verification audit in the first half of 2016 as well as during the Brand Performance Check 2016.

11. Evaluation by the complainant

The complainant agreed to the compromise concerning payment facilitated by FWF. He has however filed a report with the police regarding the alleged assault by the supervisor. It was agreed that this would be pursued outside the FWF complaint mechanism.