

Complaint – De Berkel – Ukraine

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

De Berkel (the Netherlands)

2. Accused party

The complaint was filed against a factory in Ukraine which is a supplier of FWF affiliate De Berkel.

3. Date of receipt complaint

The complaint was formally received by FWF through its local complaints handler in Ukraine on 23 July 2013.

4. Filing party

The complaint was filed by a worker of the factory whose contact details are known to FWF but will be kept confidential.

5. The case

The complaint related to the labour standard 'Safe and Healthy Working Conditions' and 'Payment of a Living Wage' that is part of FWF's Code of Labour Practices.

The worker informed FWF's complaints handler that she had an accident on March 2, 2012 when working at the button machine station. As a result she sustained an injury to her index finger; her finger bone fractured. The finger is now disabled and requires a second operation. The worker was promised 100% payment for her medical treatment,

lost salary for the time that she missed, plus moral compensation. However, according to the worker she received 50 euro compensation. The injury was recorded by the doctor as "regular injury" instead of being classified as "workplace injury". This means the worker cannot demand for compensation which she would otherwise be entitled to.

The worker publically reports the case more than a year after the incident occurred given that she initially expected the case to be settled between her and the factory without involvement of external parties. Since that did not work and the plaintiff in the meantime has resigned from the factory, she called the FWF Complaints Handler and is seeking other ways to defend her rights.

6. Admissibility

On 28 August 2013, FWF decided that the complaint was admissible as it relates to the Code of Labour Practices and the involved factory has an active business relationship with an affiliate member of FWF.

On 29 August 2013 FWF informed De Berkel that the complaint had been filed through its complaints procedure.

7. Investigation

FWFs complaints handler asked the worker if she could provide evidence of the injury. The worker submitted photos of the fractured finger and gave an overview of the costs she occurred related to the injury.

De Berkel contacted the supplier, who confirmed the accident occurred in their factory. According to the manager, the worker was provided with 10 day sick leave. The manager confirmed the accident was not reported as a workplace accident at that time. De Berkel stressed that all work related injuries must be compensate by the employer according to the requirements of Ukrainian law. De Berkel will see to it that this happens in a correct manner without infringing on her rights (proper amount and without unreasonable delay).

Through local legal contacts, FWFs complaints handler investigated what an appropriate compensation sum would be according to Ukrainian law. Based on that consultation, FWF proposed compensation between 11.137 and 22,275 UAH (€1000 and €2000).

Throughout November 2013 there was communication back and forth between the factory and the plaintiff about the outcomes of the meeting. The parties did not seem to come to a solution that was acceptable to both. FWF suggested its complaints handler would contact the factory to hear their thoughts and latest status. FWF recommended another meeting should take place preferably with a neutral third party to come to an agreeable solution.

On 13 January, FWF was informed another meeting took place where both parties agreed on a compensation of 10,000 UAH (881 EUR). The factory wished to pay the sum in different parts with two payment the following two months, which the plaintiff agreed to.

8. Findings and conclusions

Based on the above investigation, the complaint was found grounded. De Berkel instructed the factory to offer the plaintiff compensation following FWFs proposal. The factory arranged a meeting with the plaintiff. According to the management, during that meeting, the plaintiff requested a higher amount for compensation. As a result, both parties agreed to solve this matter through court. The plaintiff submitted a request for an official investigation of the accident. The local Labour Protection Department had concluded the factory is in breach of Labour Law and is obligatory to compensate her for the injury. After FWF and De Berkel stressed again the preferred solution would be to come to an acceptable solution to both parties, the worker and management in the end agreed to a compensation amount.

9. Corrective action

Factory is to compensate the sum to the plaintiff by the end of March 2014.

10. Verification

FWF's complaints handler verified the worker received the first payment beginning of February. On 3 March 2014, the worker confirmed the full amount has been received.

11. Evaluation

The plaintiff thanked FWF for its commitment to realise a solution.