

## Complaint J. Lindeberg China

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

J.Lindeberg (Sweden).

### 2. Accused party

The complaint was filed against a factory in China which is a supplier of FWF affiliate J.Lindeberg.

### 3. Date of receipt complaint

The complaint was formally received by FWF through its local complaints handler in China on 3 July 2012.

### 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 'Payment of a Living Wage' that is part of FWF's Code of Labour Practices.

The worker had already consulted FWF complaints handler for legal advice in June 2012. At that time, the worker called to notify FWF that the factory had a permit to apply the comprehensive working hour system, which in practice basically means that management is given more flexibility in planning overtime work (for further information please refer to FWFs country study for China). The worker had worked for the factory for one year and filed her resignation in May 2012, meaning she would resign by the end of



June 2012. The worker inquired with the complaint handler if she could be paid the full overtime premium for last year (she did not get any overtime premium thus far).

FWF's complaints handler explained to her that according to local law (Article 13 of the Regulation of Guangdong Province on the Payment of Wages), she should be paid the overtime for last year and that the factory must compensate the salary to her on her final working day.

On July 3, 2012 the plaintiff called FWF again and stated that she resigned but would not get paid until July 15. The factory required the worker to sign an agreement stating that she will give up her legal rights stipulated in the labour contract on overtime payment. If she would refuse to sign, the factory would not pay her salary for June, nor pay the overtime premium for the previous 12 months.

## 6. Admissibility

On 3 July 2012 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 the same day FWF informed J.Lindeberg that the complaint had been filed through its complaints procedure.

## 7. Investigation

FWF reviewed the findings from an audit carried out at the factory 12 and 13 May 2011 by FWF's local audit team on behalf of J.Lindeberg.

In addition FWF's complaints handler had detailed discussions with the plaintiff and factory management. J. Lindeberg contacted the factory on numerous occasions to obtain information and to request that the problem was solved resiliently.

## 8. Findings and conclusions

The amount that was not paid for covered overtime work during the period July 2011 to June 2012, which is equal to 56 days (448 hours). The factory had a permit to apply the comprehensive working hour system during this period. However, overtime work was still required to be paid for according to the premium as specified by Chinese law.

Management presented records to FWF to prove that the worker had been paid for overtime. The worker stated that this had not happened. Based on results from the recent audit, it is very probable that these records were not accurate.

The worker presented evidence confirming she had signed a statement affirming she waived her right to overtime payment. This statement was however illegal according to Chinese law and therefore is not effective.

The audit had pointed out that overtime payment at this factory was partially withheld to be issued only at the end of the year. This is common practice among Chinese factories to make excessive overtime less visible to auditors.

Taking the interviews with the plaintiff and factory management into account, and considering the results of the recent audit, FWF finds that there is enough ground to conclude that the worker had not been paid for overtime work between June 2011 and June 2012.



## 9. Corrective action

Throughout the investigation process, factory management and the worker stuck to very conflicting stories and repetitive arguments. Taking this into account, FWF and J.Lindeberg did not see possibilities for conciliation between both parties in order to realise a solution.

FWF informed J.Lindeberg on 17 July that it had advised the worker to seek arbitration through local court. FWFs complaints handler also gave the worker contact information of several local initiatives supporting workers in filing labour rights related cases through court.

On 10 August FWFs complaints handler was informed by the worker that after filing the lawsuit in court, she had been able to negotiate with the factory that she would be paid 50% of her overtime compensation. The worker then received 1,200RMB in total from the factory.

FWF takes into consideration that it had received more complaints from workers of this factory, which had been followed up by J.Lindeberg. FWF has recommended J. Lindeberg to continue to use its influence towards its supplier to ensure that it would start to adopt a different approach towards similar issues in the future.

## 10. Verification

FWFs complaints handler will remain in contact with the worker to obtain feedback on the handling of her case in court, and will take this case into account for future handling of similar cases.

At the next brand performance check for J.Lindeberg FWF will address the handling of this case and previous cases that were also related to this factory. FWF expects J.Lindeberg to develop a specific strategy to improve dispute handling by management at this factory.