

## Complaint – Jack Wolfskin – Thailand

### 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

Jack Wolfskin

### 2. Accused party

A factory located in Mea Sot, Thailand supplying Jack Wolfskin

### 3. Date of receiving complaint

1 April 2014

### 4. Filing party

The case was originally reported by Democratic Voice of Burma (DVB) on 26 March 2014 on the internet:

<http://www.dvb.no/dvb-video/mae-sot-migrants-demand-labour-rights-burma-myanmar/38968>

FWF contacted the workers through local stakeholders' network on 3 April 2014. During the investigation process, the 17 workers' leaders requested that four local and international Non-Governmental Organisations (hereafter: NGOs) would communicate with FWF and Jack Wolfskin on their behalf.

It was decided in September that MAP foundation would communicate directly on behalf of the NGOs and the workers.

## 5. The complaint

According to the internet article, migrant workers from Myanmar (Burma) working at the factory had to work 14 hours a day and received less than minimum wages – 300 THB per day<sup>1</sup> (approximately 7 EUR). They were fined 200 THB (4 EUR) when they took sick leave or emergency leave.

They were also instructed to hide the information from external inspectors.

The workers demanded that they receive minimum wage plus overtime pay. They wanted adequate sick leave and financial help for those who were injured at work, and shorter working hours.

The migrant workers have complained to the Thai Department of Labour Protection and Welfare but said they would continue with their protest, until their demands would be met.

## 6. Admissibility

FWF decided that the case is admissible on 2 April 2014.

The factory is an active supplier of Jack Wolfskin.

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

1. Payment of a living wage
2. Reasonable hours of work

## 7. Investigation

FWF informed Jack Wolfskin about the case on 2 April 2014.

Jack Wolfskin had contacted the factory immediately to voice its concern. The CSR department had a discussion with a local stakeholder and a workers representative. Jack Wolfskin also commissioned a third party consultancy Sumations to visit the factory and workers on 7 April.

FWF's audit supervisor in Thailand together with a Burmese workers interviewer visited the factory on 7 April. During the investigation, the factory management was cooperative. An interview with the factory manager was conducted. FWF auditors reviewed records of contracts, working hours, and wage payments. The auditors also organised a discussion group inside the factory with about 20 workers.

FWF's Burmese workers interviewer met workers outside of the factory on 8 April 2014.

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<sup>1</sup> THB: The currency of Thailand - Thai Baht.

FWF also contacted local stakeholders and human rights activists for their input on the general labour conditions in Mea Sot. Mea Sot is located at the border of Thailand and Burma. Many Burmese migrant workers started to work in Mea Sot area before they travel to Bangkok and other cities of Thailand. Thailand has come into an agreement with Burmese government to issue travel documents and work permits to migrant workers. Minimum wage for the garment industry was raised to 300 THB per day in 2012. Due to poor enforcement in Mea Sot, a majority of factories have not paid minimum wages and did not apply for work permits for migrant workers.

## 8. Findings and conclusions

Based on management and worker interviews, document inspection and the outcomes of previous Jack Wolfskin audits, FWF's auditors had come to the following main conclusions, which were mostly consistent with Sumation's (Jack Wolfskin's third party consultancy) findings:

- 1) The factory had not paid minimum wages to most Burmese migrant workers, although workers were offered a contract stated that minimum wages would be paid. Take-home daily wage of about 80% workers in the factory ranged from 130 THB to 200 THB after deduction of accommodation, food and etc. The deduction was higher than actual cost of the factory. A small number of workers were paid 300 THB per day, which was the legal minimum wages in Thailand.
- 2) The factory worked up to 14 hours a day. Overtime work (hereafter: OT) was not voluntary and OT premium was not compensated.
- 3) The factory kept travel documents (passports and work permits) of some Burmese migrant workers. For the rest of the workers, it was in the process of registering them for work permits.
- 4) There were more issues such as lack of insurance, mandatory paying and staying in the dormitory, lack of effective communication between factory management and workers, and etc.

## 9. Remediation

On May 15, a representative from the four NGOs, FWF and Jack Wolfskin discussed a plan to follow up on the corrective action plan for the factory. The main points were as the following:

- 1) The factory should pay at least minimum wages to all workers according to the Thai labour law. It should gradually increase its wages towards living wage benchmarks given by FWF local stakeholders.

Jack Wolfskin would require the factory to implement minimum wages immediately. As a FWF member, Jack Wolfskin is committed to living wages. It would try to help the factory gradually increase wages through various ways including reviewing its own pricing practices.

- 2) OT should not be regular and should be voluntary. The factory management should consult workers to ensure reasonable working hours and announce OT in advance. Workers should have the right to refuse OT and be compensated according to the law.

Jack Wolfskin would discuss with the factory how changes in lead time and production planning might support reducing overtime. Factory manager would discuss with workers on how to ensure OT was voluntary.

- 3) The factory should return all travel documents – passports and work permits - to the workers immediately. All workers should be registered to the Thai government. The factory should acquire legal documents for all its employees.

Jack Wolfskin would require the factory to return all travel documents to the workers. It would also require the factory to start the process to register the workers immediately.

- 4) The factory should not require workers to stay in the dormitory. It should provide insurance that covers all workers.

Jack Wolfskin would require the factory to let the workers choose whether or not to stay in the dormitory. It would help the factory explore possibilities to insure its workers before the workers could register legally with the Thai government.

## 10. Verification

The NGOs informed FWF in August that the factory had fired at least 13 workers leaders. For the sake of clarity, FWF has treated these dismissals as a separate complaint. The report is available at <http://www.fairwear.org/506/resources/>

Jack Wolfskin informed FWF that it has been difficult to communicate with the factory since August 2014. The factory was not active in discussing the corrective action plan. According to the information submitted by Jack Wolfskin and MAP foundation, the current situation in the factory was as follows:

- 1) The factory had paid minimum wages until September 2014, although workers claimed that the payment was often later than what the factory agreed with Jack Wolfskin.

In the beginning of September, the factory told the workers that it had no interest to continue paying minimum wages. Jack Wolfskin immediately reacted and the factory management finally paid minimum wages by 20 September.

- 2) The workers were not working OT.
- 3) The factory had come to an agreement with the workers to sign a contract in July. But the management did not proceed further. Until 13 October, the factory had not signed the contracts and did not apply for work permits for the workers.
- 4) The factory agreed to let workers stay in the dormitory voluntarily in May. However in September, it informed all workers that they had to move back to the dormitory if they want to be registered as documented workers to the Thai government.

The factory had not purchased insurance for the workers. It had agreed with worker representatives to start a “welfare fund” in May. The fund was contributed to by both workers and the management. It could be used for medical expenses etc for workers. The management agreed that it would

return the fund to the workers after the workers would be legally registered and covered by Thai social security.

At the end of October 2014, the factory announced that it had to close down on 10 December 2014 because it did not have enough orders from its customers. According to Jack Wolfskin, the factory did not agree to continue payment of minimum wages, and rejected to keep on producing for Jack Wolfskin if it had to comply with the requirements.

Based on the new situation, some of the previous corrective actions were no longer relevant. FWF thus expected Jack Wolfskin to develop strategies and plans based on the following requirements:

- o Jack Wolfskin should require and support the factory to pay severance payment, wages and OT premium until 10 December to all workers according to Thai labour laws.
- o Jack Wolfskin should require and support the factory to pay back the owed wages to all workers who were employed but had not received legal minimum wages until April 2014. This point was discussed during a meeting in May 2014 with the NGOs. At that moment, all parties involved agreed to look forward and seek for living wages in the future. Since the factory is closing down, it is no longer possible to continue employing the workers. FWF believe that Jack Wolfskin should address this issue with the factory.
- o As mentioned in 10.4, Jack Wolfskin should require and support the factory to refund the “welfare fund” to all workers. According to Jack Wolfskin, this amount has already been returned to the workers..

On 16 November 2014, Jack Wolfskin’s COO met with the owner of the factory to discuss severance pay and wages. The factory owner promised to pay 100% severance pay and minimum wages to all workers who would stay on until 10 December. There was no overtime work in the factory after April 2014. In addition, the factory said it would pay 50% severance to all workers who would leave the factory voluntarily before 10 December. To facilitate this, Jack Wolfskin had committed to support the factory financially, if the factory needs help and is able to demonstrate that the payments are according to law. On 10 December, the factory was closed.

In accordance with the above, Jack Wolfskin had subsequently supported the severance payments which depend on the tenure of employees and are based on the minimum wages.

- Workers who worked at the factory for more than six years received a severance payment of 72.000 Bath
- Workers who worked at the factory for between 3 and 6 years received a severance payment of 54.000 Baht
- Workers who worked at the factory for up to 3 years received 27.000 Baht

Jack Wolfskin supported the severance payments with € 115.000.

The complainant’s group furthermore suggested that Jack Wolfskin should explore possibilities to provide job opportunities to workers in the same neighbourhood. Since



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Jack Wolfskin did not have suppliers in the neighbourhood, FWF recommended Jack Wolfskin to discuss with its supplier in Myanmar to find out the possibilities.

Both offsite workers interview and MAP foundation indicated that the payment of owed wages was not provided to workers. Jack Wolfskin has addressed this issue with the factory management which is responsible for workers payment.

As the refunding of the welfare fund to the workers, FWF was unable to verify this situation as the factory was already closed and the workers were confused about the welfare fund. Nonetheless, Jack Wolfskin indicated that, eventough it doesn't have any written evidence confirming that the factory paid back the welfare fund to the workers, its auditor Sumations observed during one of its visits that the money has – based on documents – been refunded to the workers.

## **11. Evaluation by the complainant**

According to offsite workers interviews conducted by FWF and information from MAP foundation, the factory had in fact paid severance payment, outstanding wages and overtime premium for November and December 1-10 to all workers.