



Complaint – Jack Wolfskin, Salewa & Dynafit – Myanmar

Status: Resolved

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. Member company involved

Jack Wolfskin

Salewa & Dynafit

2. Accused party

A shared supplier located in Myanmar supplying Jack Wolfskin and Salewa & Dynafit.

3. Date of receiving complaint

16 September 2015

4. Filing party

The Confederation of Trade Unions of Myanmar (CTUM).

5. The complaint

On 16 September 2015 Jack Wolfskin received a communication from the Worker Rights Consortium (WRC), stating, among others, the following:

“The country of Myanmar, where the factory is located, recently adopted a national minimum wage for the garment industry of 3,600 Myanmar Kyat (U.S. \$ 2.80) per day. The new minimum wage took legal effect on Sept. 1, however, local sources have reported widespread noncompliance with this law by many factories as well as several subsequent instances of mass layoffs.

We have received credible reports from the Confederation of Trade Unions of Myanmar (CTUM), that the factory without prior notice dismissed 204 of its 1332 workers on September 9, 2015, including the entire local union leadership. The dismissals at the factory are violating Burmese law and buyers codes of conduct in several ways. First, the dismissals were carried out without providing the legally required prior notice of one month. Second, the inclusion of the entire union leadership amongst the dismissed workers clearly shows that the dismissals are motivated by anti-union animus.

Despite subsequent rounds of negotiations with CTUM, management of the factory is refusing to reinstate the workers. It is important that Jack Wolfskin communicate to the factory that it first needs to reinstate the workers illegally dismissed on September 9, 2015, and if really needing to downsize, subsequently carry out any needed dismissals in accordance with Burmese law through negotiation with the union representing the workers.”

6. Admissibility

FWF decided that the case is admissible on 17 September 2015. The factory is an active supplier of Jack Wolfskin, and Salewa & Dynafit, both members of FWF.

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

- Legally Binding Employment Relation
- Freedom of Association

7. Investigation

Jack Wolfskin and Salewa & Dynafit immediately contacted the supplier and asked for a response.

Furthermore, it was decided that FWF launches an independent investigation. For this investigation, FWF Auditor Supervisor cooperated with a local auditor, who took responsibility for off-site and on-site worker interviews. The investigation took place in November 2015, with meetings at the factory taking place on 18 November 2015.

8. Findings and conclusions

The investigation revealed the following:

Factory Management indicated that, in order to keep the factory in business, rather than shutting down altogether and having to lay off all 1,400 workers, the factory has no alternative than down-sizing the factory by dismissing the 203 poor performance workers. The factory has informed the Local Labor Department at Hlaing Thar Yar Township and associated organization such as the Hlaing Thar Yar Garment Employers Organization and the Myanmar Garment Manufacturer Association about this matter. In addition, it has processed and provided the severance compensation as per the legal requirements. Management indicated that the factory announced the list of workers to be dismissed on September 8, 2015 and started handing out the severance compensation on September 9, 2015.



The majority of the dismissed workers (161) accepted to collect the severance pay. Only 43 workers did not agree to receive this compensation as they believed that it was not fair to them and they wanted to be reinstated. With the support from CTUM, the case was brought to the Labor Department and Arbitration Court to judge. The Arbitration Court ruled on 21 October 2015 the following:

Decision No. 1

- a) Related to 204 workers, except those who get compensation, require to be reinstated back in their old position, salary and period of working during 7 days after the A/C decision.
- b) Require pay back for workers, who were dismissed from 9 September 2015, until their reinstatement with normal wage without OT wage.

Out of the 43 workers, an additional number of workers finally agreed to take the severance pay with the additional pay as per A/C order (ref point b. above). In the end, 24 workers still appealed their dismissal and wanted to be reinstated as per the A/C order; however, despite the A/C decision, the factory continued to insist that the factory cannot accept those 24 workers back to work as they have damaged the factory reputation and business which is harmful to the factory.

Furthermore, on 9 December, CTUM informed FWF that on the 5th of December another batch of 52 workers were dismissed, followed by another 52 on the 7th of December. For the sake of clarity, this case will be subject of a separate complaints report.

9. Remediation

A Skype call was facilitated by FWF on 14 April 2016. The agenda was to find a solution for the 24 workers that continued to oppose their dismissal and wanted to be reinstated. Participants included the CTUM, the factory union, IndustriALL, the two brand Jack Wolfskin and Salewa & Dynafit and the factory management.

Following the Skype call, on 27 April 2016 the factory informed the brands of its decision to:

- Allow all 24 workers to resume work at the factory
- Compensate for back pay for salary during the whole court processing.

A number of conditions were stated by the factory management:

1. Union should engage in more direct talks and collective bargaining instead of always resorting to striking.
2. NSG management should treat the returning colleagues fairly and equally.
3. Although employment position and pay will not change but the actual task and working location (within the factory) will be decided by management.
4. Factory rules and regulations will strictly followed as they will have to sign the same employment contract as did their peers.
5. Failure to adhere to factory rules and regulation will be subjected to disciplinary action as according to the said rules and regulations, this is fair as to every other colleague.



6. Return date is currently set on 2nd of May (but 1st May salary will be counted).

Factory management furthermore confirmed that it has contacted all 24 workers, who maintained that they wanted to be reinstated. In accordance with the above, factory management approved and has accepted them to return.

10. Verification

FWF was informed by the factory union and CTUM, which confirmed that the 24 workers concerned were in fact reinstated and back pay was made as per the agreement.

11. Evaluation by the complainant

The CTUM confirmed, on behalf of the factory union, that the case of the 24 workers was resolved satisfactorily.

CTUM, however, maintained that it is still seeking a solution for the second group of 104 workers that were dismissed. Again, for the sake of clarify, this will be reported upon in a separate complaints report.