

Complaint – Deuter DE – Vietnam

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. Affiliate involved

Deuter DE (hereafter Deuter).

2. Accused party

Two production sites located in Vietnam supplying Deuter.

3. Date of receiving complaint

The complaint was received through a news report forwarded to FWF's contact person for Deuter on 14 November 2014.

4. Filing party

FWF received information through Deuter about an Australian NGO called Viet Labor, who released a report after investigating several issues at the production sites. As a result, FWF decided to consider this case as a complaint in order to further investigate the issue.

5. The complaint

In November, approximately 2000 workers of two of the production sites were on strike to ask for better payment of overtime hours, better food quality and a salary increase. The report of Viet Labor following the strike highlighted a number of issues:

1. Workers are threatened in case they speak to outsiders. As a result of the strike, workers were forbidden to speak to journalists;
2. Workers are not free to leave the factory and lose money if they terminate the contract;
3. Toilet restrictions;
4. Unhygienic meals in the canteen;
5. Late payment of 10 days;
6. Overtime payment is not paid correctly; regular working hours seems to differ from what workers say and what the factory management says;
7. Factory promised to pay the workers if they returned back to work after the strike.

6. Admissibility

FWF decided that the case is admissible 9 December 2014. The factory is an active supplier of Deuter, an affiliate of FWF. The case is relevant to the following labour standards of FWF's Code of Labour Practices:

- Employment is freely chosen
- Payment of a Living Wage
- Safe and healthy working conditions

7. Investigation

FWF's worker interviewer of South Vietnam spent 3 days conducting interviews with workers outside of the production locations to verify the abovementioned points. Aside from the 2 factories mentioned in the NGO report, the investigation was conducted at 3 production sites that all produce for Deuter and fall under the same management. The outcome resulted in detailed reports of the 3 factories that include findings on all 8 labour standards referring to each of the relevant local law. The interviewer also made a comparison between the 3 factories. The reports were sent to Deuter; a summary of the findings can be found below.

8. Findings and conclusions

1. Workers are threatened in case they speak to outsiders. As a result of the strike, workers were forbidden to speak to journalists;

Most of the interviewed workers agreed to speak to the interviewer. Some did not want to speak to a stranger and feared it would result in fewer orders from the buyer or in a decrease of their bonus.

Workers stated they were not threatened by the management; some said after the strike they heard about a meeting with the factory manager and line supervisors to suggest not

to speak to outsiders. Some supervisors had a meeting with workers to convey the message.

During the strike in October, journalist/reporters were not allowed to access factory representative. Some workers were interviewed at the gate.

2. Workers are not free to leave the factory and lose money if they terminate the contract;

All workers stated they can resign at any time. If they follow the legal procedure (30-45 days notification in advance), factory will accept their applicant for resign after 1 day without any deduction.

3. Toilet restrictions;

Factory implemented a toilet card system to ensure workers get an equal time for toilet breaks as this relates to the output bonus. After the strike, factory kept the same practice. Most of the female interviewed workers said they feel ok with the toilet card because that is the way to check who abuses working time for private things. Some workers also mentioned about their inconvenience if they get sick or get stomach-ache.

4. Unhygienic meals in the canteen;

Most of workers said there was no improvement after the strike. Some workers said the food quality was improved for only 1 or 2 weeks after strike. At one of the production sites the management changed from canteen service provider to improve the quality of meals. Currently workers feel ok with the meals.

5. Late payment of 10 days;

In all 3 factories the working month is calculated from the 26th of the last month to the 25th of the current month (for example: December 26th - January 25th). In this example the pay day is 5th of February (10 days from Jan 25th). The factory needs 10 days to calculate salary for each worker. The factory does not violate the Vietnam labour law with this payment term. All interviewed workers feel ok with this practice and said this is normal in this industry. The common situation in garment industry is that payment is regulated in the factory labour regulations, which is registered to local authorities. Payment is also mentioned in the working contract sign by factory and worker. In some factories the payment is also in the CBA.

6. Overtime payment is not paid correctly; regular working hours seems to differ from what workers say and what the factory management says;

According to workers the overtime varies between 50 and 54 hours per month which exceeds the legally allowed 30 hours. Payment methods for overtime hours differ per production location. Deuter finds the detailed information in the individual reports which should be discussed with the factory management.

In addition, the Viet Labor report also mentioned extras for workers which work for a long time at the factory. A few of the interviewed workers have been employed for 5-7 years and have not experienced such practice.

7. Factory promised to pay the workers if they returned back to work after the strike.

Most of the workers said that the factory promised to pay them during strike and all allowances were paid on December 2014. Factory did not pay for the days of strike because of piece rate (no product no pay).

After 7 days of the strike, factory management said that workers were on an illegal strike; and that if workers did not come back to work, the factory would be closed. Finally workers went back to work.

9. Remediation

Deuter must follow up the above findings with factory management. Remediation should focus on: the toilet restrictions, payment system (discuss payment term with workers and overtime payment), overtime hours and the canteen hygiene. Most importantly the factory must work on strengthening the communication between workers, management and supervisors. During the next audits in the factories, working hour records must be reviewed carefully to assess the correct payment of overtime hours.

Given that the strike was a wildcat strike of which factory management and supervisors were not informed beforehand, there is an evident lack of communication channels and internal grievance mechanisms available to workers and management to discuss their grievances.

As an additional means to improve the relationship between workers and management, FWF suggest conducting a factory-training at all three sites as part of the Workplace Education Programme, which Deuter already committed to have their suppliers participate in.

10. Verification

Findings of the complaint have been verified through the off-site worker interview reports.

To verify remediation, FWF audited at all three production sites in September 2015. The following progress was observed:

1. Workers are threatened in case they speak to outsiders. As a result of the strike, workers were forbidden to speak to journalists;

During the earlier investigation workers were interviewed about this. Most of the interviewed workers agreed to speak to the interviewer. Some did not want to speak to a stranger and feared it would result in fewer orders from the buyer or in a decrease of their bonus. Workers stated they were not threatened by the management; some said after the strike they heard about a meeting with the factory manager and line supervisors to suggest not to speak to outsiders. Some supervisors had a meeting with workers to convey the message

2. Workers are not free to leave the factory and lose money if they terminate the contract;

During the earlier investigation all workers stated they can resign at any time. If they follow the legal procedure (30-45 days notification in advance), factory will accept their applicant for resign after 1 day without any deduction.

3. Toilet restrictions;

Workers confirmed toilet restrictions have been stopped after Lunar New Year.

4. Unhygienic meals in the canteen;

The canteen subcontractor of the production locations has obtained a certificate on food safety and hygiene.

5. Late payment of 10 days;

In all 3 factories the working month is calculated from the 26th of the last month to the 25th of the current month (for example: December 26th - January 25th). In this example the pay day is 5th of February (10 days from Jan 25th). The factory needs 10 days to calculate salary for each worker. The factory does not violate the Vietnam labour law with this payment term.

Payment for resigned workers is still made later than required by law. The annual leave days and the severance payment are paid between the 5th and 8th day of the next month, which is longer than 7 days as required by law.

6. Overtime payment is not paid correctly; regular working hours seems to differ from what workers say and what the factory management says;

The factories pay overtime in fixed amounts for all piece rate workers, which is higher than the legal requirements.

However, workers still work more overtime than the legal limits (over 30hrs/month). Additionally, overtime voluntary agreements are not signed by individual workers, but by the line leader for the whole month.

7. Factory promised to pay the workers if they returned back to work after the strike.

Workers were paid for the days they went on strike.

Other issues have been found during the audit, such as the late payment for resigned workers and excessive and involuntary overtime. Deuter as well as the factories will work on remediating those findings as part of their regular CAP follow-up. This will be verified during the next regular FWF audit.

All three production sites already participated in FWF's Workplace Education Programme in August 2015. The audits verified that communication between workers and management has improved: Most interviewed workers have better awareness of the FWF Code of Labour Practices, complaints mechanism and relevant legislation.



Fair Wear Foundation complaints report – Date of reporting: 13 November 2015

Furthermore, a written grievance procedure has been developed. Information about FWFs hotline is posted in places that are more convenient for workers.

11. Evaluation by the complainant

N/A