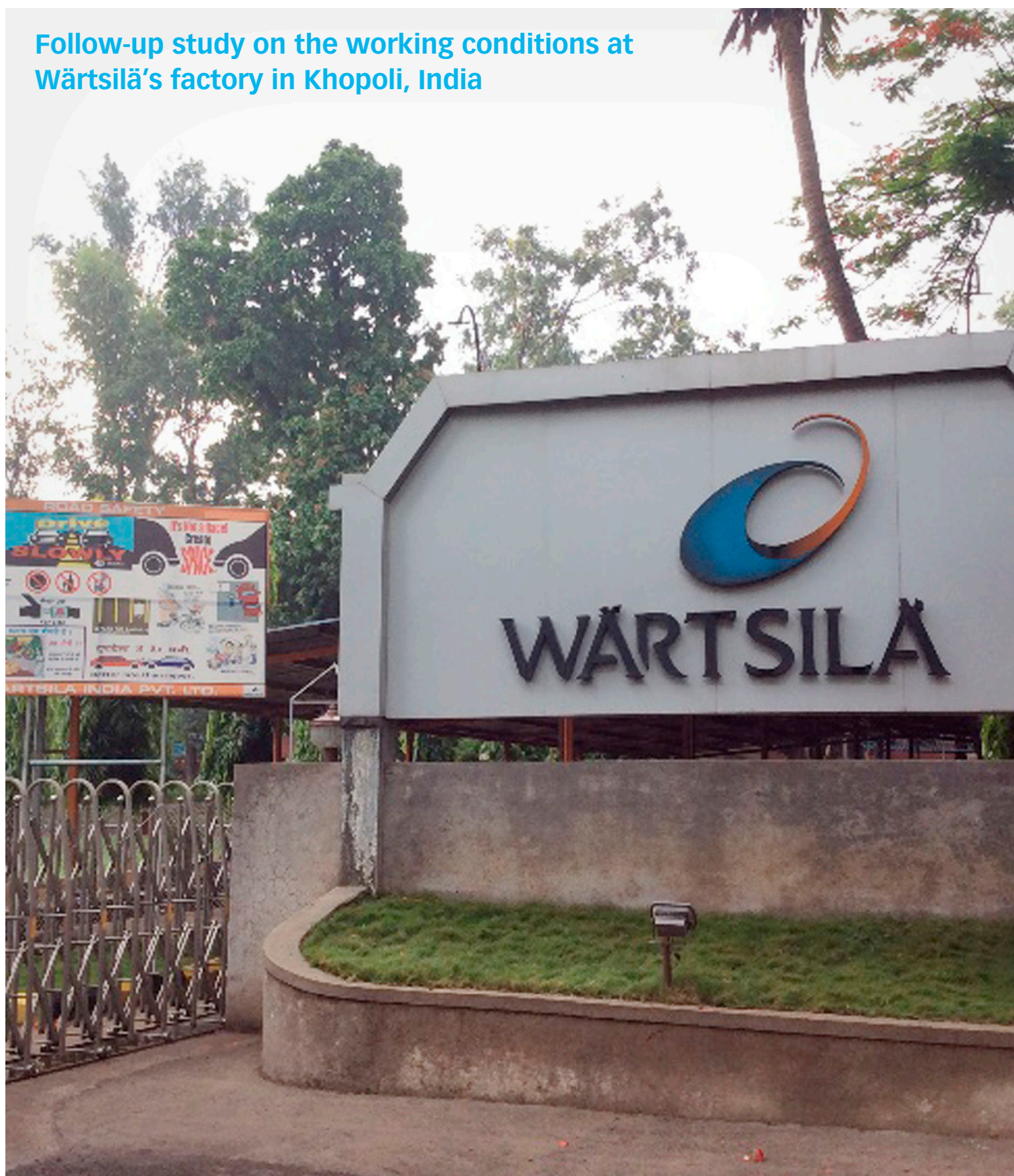


Follow-up study on the working conditions at Wärtsilä's factory in Khopoli, India



This report has been produced with the support from the Trade Union Solidarity Centre of Finland SASK, the Finnish Metalworkers' Union (as of 17th May 2017, the Finnish Industrial Union), Trade Union Pro and the Union of Professional Engineers in Finland.

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1. Introduction

In 2015, Finnwatch published a report¹ in which the organisation examined Wärtsilä's social responsibility policies and the implementation and monitoring thereof. The report included three case studies of Wärtsilä's operations in high-risk countries. Of these, one focussed on the construction of a Wärtsilä-supplied power plant in Mozambique; the second concerned Wärtsilä's own factory in India, and the third focussed on Wärtsilä's direct supplier in India.

This follow-up study examines developments in terms of employment and working conditions at Wärtsilä's own factory in India two years after the publication of Finnwatch's previous report. The report is primarily based on interviews conducted with the factory employees in summer 2017.

In 2015, the salaries paid to the employees at the Wärtsilä factory were below the living wage threshold and the company favoured contract workers whose terms of employment were much worse than those of its permanent employees and who were given multiple consecutive short-term contracts. There was a union at the factory which Wärtsilä itself had invited there against the spirit of free association of labour in trade unions of their choice. The report also noted how, despite the hazardous nature of the work, occupational safety was well managed at the factory.

The Wärtsilä factory in India is located in the city of Khopoli in Maharashtra state, near Mumbai. The factory manufactures auxiliary units and modules that are peripheral accessories to diesel generator room in power plants. In summer 2017, there were 108 permanent employees at the factory; of these, 69 were shop-floor workers and 39 were office workers. In addition, the factory employs contract workers the number of

whom varies monthly. In June 2017 when Finnwatch visited the factory, there were altogether 58 contract workers working there in shifts.

This follow-up study has been funded by the Trade Union Solidarity Centre of Finland SASK, the Finnish Metalworkers' Union – Metalli (as of 17th May 2017, the Finnish Industrial Union), Trade Union Pro and the Union of Professional Engineers in Finland.

¹ Finnwatch, 2015, *In high-tech's backyard: Labour rights as a part of Wärtsilä's value chain*, https://www.finnwatch.org/images/pdf/Wartsila_en.pdf

2. Methodology

This report is based on both on- and off-site interviews with permanent shop-floor workers and contract workers of Wärtsilä's Khopoli factory and dialogue with Wärtsilä and the Wärtsilä Employees Union which was registered in November 2016 (see Chapter 3).

The worker interviews were conducted in June 2017 in cooperation with Indian civil society organisation Cividep. The interviews were focussed on issues raised in Finnwatch's previous report: low salaries, the actions of the previous trade union which cooperated closely with the management of the factory, the situation of contract workers and the possibility of discrimination. The interviews were conducted in Hindi and recorded with the interviewees' consent. In addition to interviews, Finnwatch also examined employees' payslips, appointment letters and other documentation.

In line with Finnwatch's ethical guidelines², the findings represented in this follow-up report have been shared with Wärtsilä and also with Wärtsilä Employees Union for comments before the report's publication. The responses from both have been incorporated below where relevant.

Finnwatch made arrangements for on-site interviews with Wärtsilä in spring 2017. Upon Finnwatch's request, the management of the Khopoli factory informed the employees about the upcoming research interviews before the visit by the field research team. On the day of the interviews (13th June 2017), Finnwatch chose the interviewees independently and randomly from the day's employee duty roster, provided by Wärtsilä.

According to permanent employees interviewed for this report, they had received an official notice about the upcoming research interviews a few days prior to Finnwatch's visit although unofficially, they had heard about the interviews approximately one month earlier. According to the interviewees,

the factory management had encouraged all employees to share freely and openly their own experiences during the interviews. Of the interviewed contract workers, none had heard about the interviews beforehand. According to Wärtsilä, a notice about the interviews was displayed, in English and Marathi (a local language), five days prior to the Finnwatch visit in visible areas to which all employees, including contract workers, have access³.

On the day of the interviews, Wärtsilä and Wärtsilä Employees Union made changes to the previously agreed interview schedule, and the meeting with the trade union which had been planned for the afternoon was moved up before the worker interviews. The prolonged meeting with the union led to delays in starting the interviews, and because Wärtsilä agreed to prolong the interviews only for an hour beyond the original schedule, Finnwatch was able to conduct fewer and shorter interviews with the workers than originally planned. In their response, Wärtsilä clarified that the factory's visitors' policy does not allow visitors to stay beyond office hours (9am to 5.30pm) and that in order to accommodate for the interviews, they had already allowed an exception to this rule⁴.

Altogether, Finnwatch conducted six interviews with permanent employees of the Wärtsilä Khopoli factory for this report and five with contract workers. In addition, in June 2017 Finnwatch was in touch with other contacts, including former employees of the Wärtsilä Khopoli factory, in order to arrange off-site interviews.

Attempts to conduct off-site interviews were made not only in order to prepare for the on-site interviews but also because, as evidenced through Finnwatch's other research work, employees usually speak more freely about the problems they may face at the

2 Finnwatch, Ethical guidelines, <https://www.finnwatch.org/en/about-us/ethical-guidelines>

3 Wärtsilä, Marko Vainikka, email on 18th August 2017

4 Wärtsilä, Marko Vainikka, email on 8th September 2017

Wärtsilä's corporate social responsibility policy and its implementation

Wärtsilä has more than 25 000 active suppliers, most of which are in Europe. The company invests in developing a strong supply chain particularly in Asia.⁵

For its 2015 report, Finnwatch analysed Wärtsilä's Supplier handbook and the chapter on supply chain management in the company's annual report. At the time, Finnwatch was critical towards the company for example because the Supplier handbook failed to address the consequences of possible labour rights violations, and reported in a about its supply chain monitoring practices misleadingly.

Wärtsilä has updated its Supplier handbook since the publication of the Finnwatch report, last in 2016⁶. The Supplier handbook still prioritises the quality of the products, timely delivery and compliance with the national legislation of the production country. The Handbook mentions specifically that when the national legislation prevents the free association of labour and collective bargaining, the supplier must offer its employees alternative means to present their views. Other possible differences between national laws and international standards are not mentioned, such as, for example, differences between legally stipulated minimum wages and a living wage.

The Handbook still does not touch upon the consequences of possible labour rights violations. Also, the Handbook does not include any reference to the UN Guiding Principles on Business and Human Rights or human rights due diligence process as a tool for the company's corporate social responsibility work. The UN Guiding Principles on Business and Human Rights were adopted unanimously by the UN Human Rights Council in 2011 and are the most authoritative and internationally recognised framework for business and human rights. Wärtsilä has partly removed the misleading informa-

tion regarding its supply chains management from its Annual report⁷. According to the Wärtsilä 2016 Annual report, the company monitors the compliance of its suppliers through supplier evaluations. The evaluations are divided into three categories: pre-assessment, auditing, and performance review. Pre-assessment involves potential new suppliers before the supplier relationship begins. Audits are conducted for new suppliers of critical components and for suppliers whose performance does not meet Wärtsilä's requirements. Performance reviews are carried out to identify and solve deviations from the requirements.⁸

The company's Annual report does not give information about the proportion of its suppliers that have been audited or have had their performance reviewed, or elaborate on the differences between audits and performance reviews. When queried, Wärtsilä clarified that a performance review is an issue specific tool that is used to solve a particular problem or challenge⁹. More detailed information about the concrete activities that the pre-assessments, audits and performance reviews comprise of and which labour rights issues they cover are, according to Wärtsilä, company internal documents.

Wärtsilä still does not require independent, third-party social responsibility audits from its suppliers. Instead, supplier evaluations are conducted by Wärtsilä staff, or commissioned by Wärtsilä, against requirements that have been defined by Wärtsilä itself.

Wärtsilä rates its suppliers on the basis of the supplier evaluations conducted by its own staff. According to Wärtsilä, these ratings draw from various sources of information, including pre-qualification questionnaires, dialogue with suppliers and/or conducted audits. According to Wärtsilä, the goal of the supplier ratings is to

5 Wärtsilä, 2017, Annual report 2016, https://cdn.wartsila.com/docs/default-source/investors/financial-materials/annual-reports/annual_report_2016.pdf?sfvrsn=6 (accessed on 25th September 2017)

6 Wärtsilä, 2016, Supplier handbook, <https://www.wartsila.com/about/suppliers/supplier-handbook> (accessed on 25th September 2017)

7 Previously, Wärtsilä reported misleadingly that its supplier ratings were based on pre-qualification questionnaires and conducted audits although not all its rated and approved suppliers had been audited.

8 Wärtsilä, 2017, Annual report 2016

9 Wärtsilä, Marko Vainikka, email on 8th September 2017

improve the suppliers' practices to the level required by Wärtsilä¹⁰.

On the basis of supplier ratings, Wärtsilä also drops suppliers which do not meet its requirements. In 2016, Wärtsilä dropped 28 suppliers, including 19 for sustainability reasons. According to Wärtsilä, this may refer to non-compliances with its environmental, health and safety or social requirements¹¹. Wärtsilä did not answer questions regarding suppliers which had been dropped due to non-compliances with social requirements.

According to its Annual report, Wärtsilä will in 2017 launch risk-based supplier assessment and management system for new suppliers which will be applied by 2018 also to its existing suppliers¹². In September 2017 Wärtsilä refused to provide more detailed information about these on the grounds that they were still under development¹³.

workplace when interviews take place off-site in conditions that enable protection through confidentiality and anonymity. In this case there was, however, no significant difference between information collected from on- and off-site interviews.

The interviewed permanent employees had been working at the Wärtsilä Khopoli factory between ten and 28 years and contract workers for a few months (see Chapter 6). The interviewees were all men. One of them was openly a Dalit¹⁴ and two were Muslims. In India, women, Dalits and Muslims often face discrimination in employment and elsewhere in society (see Chapter 7).

When Finnwatch visited the Wärtsilä Khopoli factory, both permanent employees and the representatives of Wärtsilä Employees Union were strongly critical towards Finnwatch for having included chapters on both the Khopoli factory as well as the Wärtsilä supplier Echjay Forgings in the 2015 report on Wärtsilä. According to the employees, the Finnwatch report has led to a situation where Wärtsilä now has to purchase raw material from abroad at a higher price than before. According to the trade union representatives, the report has led to a drop in the number of orders to the Wärtsilä Khopoli factory. Both parties were vocal about their concern over the report's impact on Wärtsilä's profits, and were of the opinion that because the two are separate companies, Wärtsilä cannot be called upon to influence the working conditions at Echjay Forgings.

Finnwatch's work is grounded on the UN Guiding Principles on Business and Human Rights¹⁵. According to the Guiding Principles, a company's responsibility to respect human rights extends to its full value chain, including its suppliers. When the company is not directly responsible for the human rights violations, it must use its leverage to mitigate the indirect, negative human rights impacts of its business operations.

10 Wärtsilä, Marko Vainikka, email on 8th September 2017

11 Wärtsilä, Marko Vainikka, email on 8th September 2017

12 Wärtsilä, 2017, Annual report 2016

13 Wärtsilä, Marko Vainikka, email on 8th September 2017

14 Dalits, who fall outside the caste system, are officially known in India as *Scheduled Castes*.

15 OHCHR, 2011, Guiding Principles on Business and Human Rights, available at http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

Wärtsilä does not deny its responsibility over the working conditions in its suppliers' operations. Following the publication of the Finnwatch report in 2015, Wärtsilä undertook corrective action regarding the problems at Echjay Forgings that were exposed in the report. The company stopped purchases from Echjay Forgings only after it had tried to improve the working conditions there through auditing but without success.



Case: Echjay Forgings

In 2015, Finnwatch exposed serious labour rights violations at the factory of Echjay Forgings, a former Wärtsilä supplier. Some of the Echjay Forgings employees who were interviewed for the report said they were paid illegally low wages and were given no paid holidays. The factory's living quarters for the migrant workers were dirty and both garbage disposal and sanitation were inadequate. According to the employees, there had been serious accidents at the factory and the workers were not provided with adequate personal protective equipment or training on occupational safety. In addition, the factory aggressively restricted freedom of association.

Following the publication of the Finnwatch report, Wärtsilä commissioned an audit to the Echjay Forgings factory. The audit identified problems which Echjay Forgings was requested to address. The implementation of the corrective action plan was, however, not up to Wärtsilä's expectations and therefore Wärtsilä stopped ordering from Echjay Forgings¹⁶.

¹⁶ Wärtsilä, Marko Vainikka, email on 23rd November 2016

3. Wärtsilä Employees Union was registered in November 2016

In the report published in 2015, Finnwatch highlighted that the trade union present at Wärtsilä Khopoli factory was an unregistered trade union, affiliated with General Kamgar Union. At the time, Wärtsilä told Finnwatch that the company itself had contacted General Kamgar Union and entered into an agreement with it about annual pay rises. By so doing, the company sought to avoid regular collective bargaining at the Khopoli factory. According to the employees interviewed for the 2015 Finnwatch report, the then trade union was undemocratic and did not engage with issues that the employees thought significant. The interviewees were particularly dissatisfied with the union's lack of success in salary negotiations with the management.

The employees' dissatisfaction led to the registration, in line with the Indian Trade Unions Act¹⁷, of Wärtsilä Employees Union in November 2016. Wärtsilä Employees Union is affiliated with Shramik Ekta Mahasangh. According to the Wärtsilä Employees Union, it affiliated with Shramik Ekta Mahasangh because Shramik Ekta Mahasangh offers it more, and also more professional, support than General Kamgar Union. The trade union Shramik Ekta Mahasangh is based in the nearby city of Pune and represents around 22 000 people (of whom only 980 are women), including automobile industry and forging factory workers. Some 120 unions are affiliated with Shramik Ekta Mahasangh¹⁸. Shramik Ekta Mahasangh itself is affiliated with the IndustriALL Global Union. IndustriALL represents 50 million workers in 140 countries in the mining, energy and manufacturing sectors¹⁹,

and for example three co-funders of this follow-up study, the Finnish Metalworkers' Union – Metalli (as of 17th May 2017, the Finnish Industrial Union), Trade Union Pro and the Union of Professional Engineers in Finland, are members of IndustriALL.

In June 2017, Finnwatch met with six members of Wärtsilä Employees Union committee. Altogether the committee has seven members who volunteered for the role and whose selection was confirmed by the members of the union without elections. All permanent shop-floor employees at the Wärtsilä Khopoli factory are members of Wärtsilä Employees Union. They have been added as members automatically but according to the union representatives, they are free to resign their membership at any time. The employees pay a one-time membership fee and a monthly contribution of 100 rupees (EUR 1.30²⁰) towards the union fund. The fees are not deducted from their salaries but instead, the employees pay the contribution themselves.

The Wärtsilä Employees Union committee, the management of the Wärtsilä Khopoli factory and the Wärtsilä India human resources director meet once a month. According to the union representatives, the union is currently engaged in conversations with Wärtsilä regarding salaries, the criteria for allocating pay rises, and cuts to the employees' benefits (see Chapters 4 and 5). However, Wärtsilä Employees Union has not requested to collectively bargain with Wärtsilä. According to the union representatives, it is possible that they will make such a request in the future.

All of the interviewed permanent employees felt that the Wärtsilä Employees Union is taking up issues that are relevant to their interests, and they were able to name the issues that the union is currently engaged in with the management. They also felt that

17 Trade Unions Act 1926, <http://www.ilo.org/dyn/natlex/docs/WBTEXT/32075/64876/E26IND01.htm> (accessed on 25th September 2017)

18 Shramik Ekta Mahasangh, 2015, presentation at an IndustriALL World Conference on ICT, Electrical & Electronics, available at http://www.industriall-union.org/sites/default/files/uploads/documents/2015/ICTEE-Malaysia/sem_presentation_for_sarika.pdf

19 IndustriALL, About us, <http://www.industriall-union.org/about-us> (accessed on 25th September 2017)

20 1 INR = 0.0129355 EUR, exchange rate as of 25th September 2017, see <http://www.xe.com>

should they themselves face some issues at the workplace, they could raise those issues through the union. However, some of the interviewees were sceptical about the union's ability to successfully conclude the negotiations with the management. In addition, the employees were still dissatisfied with how long it takes to resolve issues. For example, the problems related to low salaries and the grounds for allocating pay rises (see Chapter 4) have been raised repeatedly over the years, also when the previous, unregistered union was still in place. According to the employees' understanding, what prevents or delays the negotiations from reaching a conclusion is the multiple changes in the Wärtsilä India human resources management and the time required for the new human resources managers to learn about the job and the issues.

According to Wärtsilä, the issues that are raised in the monthly meetings between the union and the management are resolved through discussions. Issues which are inconsistent with Wärtsilä's global compensation and benefits policy (see Chapter 4) are unlikely to proceed through these meetings²¹.

Wärtsilä Employees Union does not represent contract workers. According to the interviewees, this is because the contract workers are typically employed at the Wärtsilä Khopoli factory only for a relatively short time and because they might work for another company in between their contracts.

According to the union representatives, none of the contract workers have ever approached Wärtsilä Employees Union to raise an issue or ask assistance. The contract workers interviewed for this report confirmed this for their part. None of them said that they had ever been in touch with the Wärtsilä Employees Union. In case of possible problems, they said that instead of the union, they would turn either to the employment agency that had hired them or to their closest superior (often a permanent employer).



Wärtsilä Employees Union sign at the Wärtsilä Khopoli factory gate.

21 Wärtsilä, Marko Vainikka, email on 8th and 20th September 2017

4. The criteria for allocating pay rises create confusion and grudges

The permanent employees interviewed for this report were paid approximately 22–47 000 rupees gross per month (EUR 285–610). Their take-home pay was between 15–35 000 rupees (EUR 195–450). Contract workers earn significantly less (see Chapter 6).

All interviewed permanent employees were on the same pay grade irrespective of their job title (e.g. “operator”, “senior operator”). The salary of all permanent employees is made up of a basic salary and various allowances that are paid on top, such as house rent allowance (at Wärtsilä, 30 per cent of basic salary), conveyance allowance, and medical allowance. House rent allowance and medical allowance that are paid on top of the basic salary are typical to all employees in India.

In addition, employees are entitled to statutory gratuity²², which is paid at the end of their contract to all employees who have been employed with the same employer for at least five years. The amount of gratuity corresponds with the 15 days’ last drawn salary, including basic salary and applicable allowances, per year of service. In addition to income tax, a contribution towards provident fund²³ and pension scheme is deducted from the salary before payment (altogether 12 per cent of basic salary and dearness allowance²⁴; the employer matches the contribution²⁵).

Although even the lowest salaries paid at the Wärtsilä Khopoli factory are above the legally stipulated minimum wage levels, they are still not sufficient to afford a basic but still decent and locally appropriate standard of living for a typical family, according to the interviewees. Approximately half of the interviewees for this follow-up report had taken out loans from the Khopoli factory credit society which grants consumer credit to the employees. Credit society loan payments are deducted directly from employees’ monthly salaries. Some of the interviewees had further consumer debt for example for purchases paid for by credit cards. With these various credit arrangements, the employees were funding, for example, the schooling of their children or religious activities.

According to the interviewees, a living wage for a typical family which consists of two adults, of whom only one is earning an income, one or two underage children and the parents of the employee, would be approximately 25 000 rupees (EUR 325) net in the Khopoli area. According to the Wärtsilä Employees Union, a living wage would be approximately 30 000 rupees (EUR 390) per month²⁶.

For the report published in 2015, Finnwatch undertook a rough calculation for a living wage in Khopoli area. The calculation was made for a family of three with one provider. In 2017, this roughly calculated living wage would be approximately 17 500 rupees (EUR 225) net, adjusted to the inflation²⁷. The calculation does not take into account monthly savings. In addition it must be noted that most of the interviewees for this report had more than two dependents.

22 Payment of Gratuity Act 1972, available at <http://www.labour.nic.in/sites/default/files/ThePaymentof-GratuityAct1972.pdf>

23 A provident fund is a savings account scheme, set up by law initially to provide assistance in cases of unemployment, old-age, sickness and disablement for employees in certain professions and industrial workers.

24 Dearness allowance is a kind of daily allowance or per diem which has been in use in India since the World War II and which is often paid to the employees on top of the basic salary in order to adjust the national basic salary to inflation and local cost of living.

25 Employees’ Provident Fund and Miscellaneous Provisions Act 1952, available at http://www.epfindia.com/site_docs/PDFs/Downloads_PDFs/EPFAct1952.pdf

26 Wärtsilä Employees Union, email on 14th August 2017

27 The Finnwatch living wage calculation was made in 2014 when a living wage for the three-person family with one provider was approximately 16 000 rupees. In 2015, the average inflation in India was 6.32 per cent and in 2016, 2.26 per cent, <http://inflation.eu/inflation-rates/india/historic-inflation/cpi-inflation-india.aspx>

Living wage is a human right

A living wage is the pay received by a worker for a standard work week sufficient to afford the worker and the worker's family a basic, but decent, standard of living in a particular location. A living wage must be sufficient to satisfy the family's basic needs – food, housing, clothing, transport, healthcare, and education etc. – must allow the worker and family to put aside modest savings for unexpected events and to participate in social and cultural life.

Living wage is a family concept. Living wage calculation methodologies normally assume more than one provider per family, and the number of workers in a reference family is taken into account in calculations.

The right to a living wage is recognised as a human right in numerous UN and other international organisations' human rights instruments drafted, in ILO conventions and in the constitutions of some countries.

Although a living wage is a human right, the lowest wages actually paid may be substantially less than that. The inadequate realisation of the right to collective bargaining is the key obstacle for increasing salaries to a living wage level.

Extremely low wages are most common amongst women, young people, migrant workers and those working in the informal economy. Migrant and contract workers are usually not within the scope of collective agreements which in part explains why the salaries of these groups are so low.

Different models for calculating a living wage have been developed. Finnwatch recommends the model developed by the Global Living Wage Coalition, in cooperation with Richard and Martha Anker, the so-called Anker methodology, published in 2017. Global Living Wage Coalition is currently preparing a living wage benchmark study for an Indian city.

More information:

Finnwatch, 2015, A living wage, a human right: A model for calculating a living wage and related recommendations, available at <https://www.finnwatch.org/images/pdf/LivingWage.pdf>

Global Living Wage Coalition, <https://www.isea-lalliance.org/our-work/improving-effectiveness/global-living-wage-coalition> (accessed on 25th September 2017)

Anker, R. and Anker, M., 2017, Living wages around the world: Manual for measurement, <https://www.elgaronline.com/view/9781786431455/9781786431455.xml> (accessed on 25th September 2017)

However, the source of particularly strong dissatisfaction among the employees was the unclarity over the criteria used for deciding on and allocating pay rises. In the Finnwatch report published in 2015, Wärtsilä told that there was an agreement on salaries between the company and the then trade union, according to which the employees were entitled to an annual pay rise whose the percentage would vary between 8–10 per cent depending on the profit made by the company.

According to Wärtsilä, it has made a conscious effort to increase salaries at the Khopoli factory following the publication of Finnwatch's 2015 report. Salaries are normally increased when they are found to be below what other, comparable companies are paying, and such increases to salaries (salary corrections) have last been made in August 2015 and in October 2016.²⁸

The salaries have been increased following a comparative study that Wärtsilä commissioned from the consulting firm Mercer. Mercer is one of the largest human resources consultancies in the world²⁹. It publishes annual assessments on developments in the cost of living and salaries around the world. The study conducted by Mercer for Wärtsilä has also had an impact on the benefits that the Wärtsilä Khopoli employees are entitled to (see Chapter 5).

The study that Mercer conducted for Wärtsilä applies to all Wärtsilä locations and pay grades, but according to Wärtsilä, its impacts have been the most significant among the least earning employees. The methodology used by Mercer is, however, not applying human rights based approach because according to Wärtsilä, it for example does not take into account the number of providers and dependents in a typical family in the area where the results are to be applied at. As such, the Mercer study cannot on its own be used to determine a living wage.

Later Wärtsilä told Finnwatch that its global compensation and benefits policy is based on data sourced from multiple sources. All countries that Wärtsilä operates in have a distinct country salary range which are based on the findings of salary surveys and information provided by Mercer but also for example by another, similar human resources consultancy group, Hay. Wärtsilä's salary package is aimed to ensure that Wärtsilä rewards employees at the median of the market and takes into account inflation and cost of living. Wärtsilä did not, however, clarify upon request whether human rights principles are also taken into account when determining salary levels.³⁰

In addition, Wärtsilä said that it has granted all employees with more than 17 years' of service at the factory an additional, out-of-cycle pay rise since 2010 and on the basis of the agreement with the then union³¹.

The employees who were interviewed for this report were aware of the Mercer study but not of its details. Many workers and the Wärtsilä Employees Union representatives said that they had requested Wärtsilä to share the study methodology and results with them but that the company had not agreed to do so. According to Wärtsilä, the Mercer study is confidential in nature and intended to be a tool for the management to base their decisions on³².

According to the interviewees, three different types of pay rises have been paid to the employees since 2015:

1) In 2015, employees whose salary levels were – according to the Mercer study – deemed too low, were granted the first of three pay rises which are aimed at bringing their salaries to the appropriate level in accordance with the Mercer study results (salary correction rate). The amount of correction rate based pay rise is fixed for applicable employees. In 2015, all permanent shop-floor employees were also granted an

28 Wärtsilä, Marko Vainikka, email on 8th September 2017. Salary correction increases have also been made previously in 2007 and 2010.

29 See Mercer, <https://mercer.com/> (accessed on 25th September 2017)

30 Wärtsilä, Marko Vainikka, email on 18th August and 8th September 2017

31 Wärtsilä, Marko Vainikka, email on 18th August 2017

32 Wärtsilä, Marko Vainikka, email on 18th August 2017

Wärtsilä's factory in India is located in the city of Khopoli in the state of Maharashtra. Khopoli is an industrial town with more than 100 000 residents.



annual, 10 per cent pay rise (increment, inflation rise).

2) In 2016, all permanent shop-floor employees received a 5 per cent increment. The 2016 correction rate was however only paid in conjunction with the 2017 pay rises.

3) In 2017, the pay rises have been allocated according to the so-called 60–40 principle. According to the interviewees, this means that 60 per cent of the employees are granted a pay rise and 40 per cent are not. According to their understanding, the 60–40 principle is applied universally at Wärtsilä but the decisions on who are and who are not granted a pay rise are made locally on the basis of employees' performance (performance based pay rise). According to the interviewees, in 2017 all permanent shop-floor employees were given either a correction rate based pay rise (from 2016) or a performance based pay rise. Some of the interviewees also thought that relatively fewer shop-floor employees than office workers were given a performance based pay rise, and that the allocation of performance based pay rises among the shop-floor employees did not correspond with the feedback they had received in individual appraisals³³. The performance based pay rise in 2017 was 9 per cent.

According to Wärtsilä, annual salary increases at the Khopoli factory have been between 8–10 per cent but in 2017, employees were given a 8–15 per cent pay rise³⁴. The 2017 pay rises were above the inflation and took into account individual performance.³⁵

In their response, Wärtsilä confirmed that its rewarding principles are pay for performance, transparency, competitiveness and responsiveness, and that of these, pay for performance is the guiding principle. Wärtsilä also said that in their view, the concept of pay for performance is not fully understood by the employees and that they will spend more time communicating and explaining this to the employees.³⁶

Wärtsilä Employees Union is demanding performance based pay rises and the 60–40 principle to be disregarded in the future and annual pay rises (increment) to be granted to all employees.

4.1 OVERTIME COMPENSATION HAS BEEN MISCALCULATED FOR YEARS

According to the interviewed employees and the Wärtsilä Employees Union representatives, following the registration of the union it came

³³ Wärtsilä Employees Union, telephone conversation 12th September 2017

³⁴ The 2017 figures include salary correction rate, increment and pay rises that are due to promotions.

³⁵ Wärtsilä, Marko Vainikka, email on 18th August 2017

³⁶ Wärtsilä, Marko Vainikka, email on 8th September 2017

to light that the overtime compensation has been miscalculated and underpaid at the Wärtsilä Khopoli factory for years. According to national law, overtime pay should be calculated on the basis of both the employees' basic salary and other monthly allowances paid (excluding statutory bonus where applicable; see Chapter 6)³⁷. At the Khopoli factory overtime pay has, however, been calculated on the basis of just the basic salary, meaning that the employees have been paid approximately one third less than they should have been paid for overtime over several years. After the Shramik Ekta Mahasangh trade union submitted a written complaint about the issue to the labour inspectors, Wärtsilä has paid its employees the previously unpaid part of the overtime compensation, backdated to January 2017. The Wärtsilä Employees Union is demanding that the employees are paid the previously unpaid third of the overtime compensation backdated to the beginning of their employment.

Some of the interviewees said that they felt cheated over the overtime pay because it could be assumed that the factory management knew that the overtime compensation was being miscalculated at the factory for years. According to Wärtsilä, the law in India is ambiguous on matters pertaining to overtime, and the miscalculation was based on legal advice that they had received in the past. The company says that it is addressing the issue but did not respond to follow-up questions on 'how'.³⁸

Otherwise the relationship between the employees and the Wärtsilä Khopoli factory management appeared to be good. Both the permanent and contract workers said in interviews that they felt that they could raise possible issues directly with either the site management or representatives of the upper management. According to the employees, the upper management, including the Khopoli factory director, visit the factory floor regularly and can be reached by the employees.

37 See e.g. Wageindicator, Paycheck India: Compensation, <http://www.paycheck.in/main/labour-law-india/compensation> (accessed on 25th September 2017)

38 Wärtsilä, Marko Vainikka, email on 18th August and 8th September 2017

5. Some benefits of permanent employees have been cut

According to the employees interviewed for this follow-up report, the above-mentioned Mercer study (see Chapter 4) has led to the cuts of some of the benefits that the employees were previously entitled to.

Khopoli factory employees have extensive, private health insurance through Wärtsilä. However, since March 2017, the private health insurance no longer covers the employees' parents but only their spouse and children under the age of 25. According to Wärtsilä, the maximum compensation paid from the insurance has simultaneously with the cuts, been raised from 400 000 rupees to 800 000 rupees (EUR 5 170–10 340).

Employees can still opt in to cover also their parents at their own cost. The cost of the premium (parental cover) depends on the age and health condition of the parents. Some of the interviewees estimated that in their case, the annual premium would be between 20–35 000 (EUR 260–450) which corresponds roughly with their one month's salary.

In India, medical treatment is free at government-run hospitals and clinics but these are of poor quality and queues can be long. As such, most people use private healthcare³⁹. According to the interviewed employees, the cuts to the medical insurance cover have introduced significant financial insecurity to their lives.

All interviewed employees felt that the cuts to the private medical insurance cover were unfair. Some of the Wärtsilä Khopoli factory employees earn just a little (approximately 1000 rupees, EUR 12.90) more than employees who are entitled to India's public medical insurance scheme (ESIC, see Chapter 6) which covers also the employees' parents,

and several of them have no savings for the rainy day.

The Wärtsilä Employees Union said that they are engaged in conversations with the factory management about the insurance issue. The union is demanding that the medical insurance cover is extended to the employees' parents. The union is not demanding that the maximum payable compensation from the insurance (currently set at 800 000 rupees, see above) be raised even if the parental cover was added back.

In addition to the cuts to the medical insurance cover, the permanent employees' mortgage interest subsidy has been discontinued for new loans since April 2017. According to the interviewees, they were only informed about this change after it came to force. Consequently at least two employees who had bought a home shortly before subsidy cuts were announced and had not yet had a chance to apply for it, felt mistreated. At least one of them had cashed his provident fund account and all his other savings in order to pay the deposit on the flat.

Wärtsilä Employees Union is also engaged in conversations with Wärtsilä over the cuts to the mortgage interest subsidy. The union demands that the factory's 13–14 employees who have not yet benefitted from the subsidy are guaranteed the benefit before it is discontinued.

Some interviewees also mentioned cuts to other benefits such as furniture loan and vehicle loan since 2015.

According to Wärtsilä, the decision to discontinue parental insurance and mortgage interest subsidy were made because they are not generally granted in the local market in

³⁹ According to statistics, 70% of urban households and 63% of rural households use private healthcare in India, and the trend of having a medical insurance is increasing, see e.g. <http://dhsprogram.com/pubs/pdf/FRIND3/FRIND3-Vol1AndVol2.pdf>

India. The company notes that at the same time, the amount of employees' leave travel allowance⁴⁰ has been increased from 75 per cent of the monthly salary to 100 per cent, a two-day paternity leave and a three-day bereavement leave have been introduced, and the levels of per diems have been reduced (for domestic travel) or unified (for overseas travel).⁴¹

40 Leave travel allowance is an allowance, commonly paid by Indian employers to their employees when they are travelling with their family or alone. The amount paid as leave travel allowance is tax free and can be claimed only for domestic air, rail and bus fares that meet certain criteria.

41 Wärtsilä, Marko Vainikka, email on 18th August 2017

6. Contract workers are paid significantly lower salaries

The Finnwatch report published in 2015 noted that overtime compensation was paid to contract workers in cash, and there were shortcomings in noting overtime hours in their pay-slips. In addition, some employees said that contract workers had complained that their employment agency sometimes compensated them at a lower rate than usual for overtime. Some interviewees claimed that the lower rate applied to contract workers who were originally from India's other states and who had migrated to Khopoli.

According to the contract workers interviewed for this follow-up report, all their salaries, including overtime pay, are now paid directly to their bank accounts and overtime hours are adequately noted down in pay-slips. The contract workers said that they are compensated between 105–156 rupees (EUR 1.40–2) per overtime hour, although none of them was able to explain how the overtime rate is calculated. On the basis of contract workers' payslips, Finnwatch was able to calculate that the contract workers' overtime pay had been calculated on the basis of the employees' basic salary and dearness allowance, at least in the couple of months immediately before the interviews. At least some of the contract workers said that they had received overtime pay arrears, although they were uncertain about the reasons for such payments (see Chapter 4.2).

Overtime is not always available at the Khopoli factory but when it is available, contract workers work four hours overtime per day, sometimes on every working day of the month. The regular working hours at the Wärtsilä Khopoli factory are eight hours per day, six days per week. The regular working hours include breaks for lunch and tea, and there is an additional break for snacks before possible overtime.

The gross salary of the interviewed contract workers ranged approximately between 14–18 000 rupees (EUR 180–230). The

contract workers' pay is made up of a basic salary and dearness allowance⁴². In addition, contract workers received house rent allowance, compensation for annual leave (leave payable) and a statutory bonus. All employees earning less than 21 000 rupees (inclusive of basic salary and some allowances; EUR 270) are entitled to a bonus⁴³. The amount of the annual bonus depends on the profit made by the company (between 8,33–20 per cent of the applicable minimum wage).

The following deductions are made to the contract workers' salaries: income tax, provident fund, and social and medical insurance fee (Employees State Insurance, ESIC⁴⁴). In India, all employees who earn less than 21 000 rupees are within the scope of the public social and medical insurance. The insurance covers the employee and employee's spouse, parents, and children under the age of 18⁴⁵. According to Wärtsilä, all its contract workers are covered through ESI (in other words, earning less than 21 000 rupees). Whereas contract workers interviewed for Finnwatch's previous report (published in 2015) were not aware of any insurances, now all of the interviewed contract workers were aware of the ESI insurance although their knowledge about its contents and coverage was very limited.

42 Only the contract workers' payslips seen by Finnwatch included a separate dearness allowance component; the payslips of Wärtsilä's permanent employees did not. Usually when a dearness allowance is not mentioned, it is merged with the basic salary. Although it would be best practice to include a separate dearness allowance component it is not mandatory. Many companies do not mention a separate dearness allowance component in order to "save the hassle" of periodic calculations and salary increases (or decreases) to reflect inflation. Interview with a labour lawyer, July 2017.

43 Payment of Bonus (Amendment) Act 2015, <http://www.employmentlawalliance.com/firms/trilegal/articles/the-payment-of-bonus-amendment-act-2015> (accessed on 25th September 2017)

44 Employees State Insurance Act 1948, http://esic.nic.in/esi_act.php (accessed on 25th September 2017)

45 In addition, children who are receiving education and are below 21 years of age, or an unmarried daughter, or if they are infirm are covered under the insurance.



Occupational safety is well-managed at Wärtsilä's Khopoli factory. It's been eight years since the last serious accident.

Following the deductions, the take-home of the contract workers varied between approximately 12–16 000 rupees (EUR 155–205) without overtime. According to the interviewees, this is sufficient for a basic but decent standard of living for a single person but not enough to support a family. The households of the interviewed contract workers who had a family also had other sources of income such as agricultural land or a small family-run business.

6.1 INTERVIEWED CONTRACT WORKERS HAD NO APPOINTMENT LETTER OR CONTRACT

None of the contract workers interviewed for this follow-up report were in possession of a written employment contract or an appointment letter. As already at the time of Finnwatch's previous report (published in 2015), the interviewed contract workers had made arrangements to start working at the Wärtsilä Khopoli factory over the phone with their employment agency. The contract workers interviewed for this follow-up report had been hired to the Wärtsilä Khopoli factory through three different agencies. During the interviews, none of the interviewees was able to say, for how long they would continue working at the factory, or had settled on an end date for their employment. All the interviewed contract workers were working as welders at the factory.

According to Wärtsilä, appointment letters of all the contract workers are available in the Wärtsilä India records. In their response, Wärtsilä also said that they would implement a system of paid orientation for the contract workers during which issues such as overtime pay calculation and methodology and contract terms will be explained.⁴⁶

At the time of the interviews, there were altogether 58 contract workers employed at the Wärtsilä Khopoli factory, compared with 69 permanent, shop-floor employees. The interviewed contract workers had been employed at the Wärtsilä Khopoli factory for approximately 2–8 months. Some were working for Wärtsilä for the first time and others for the second. Those interviewed contract workers who were working for Wärtsilä for the second time, had had several months or even over a year between their contracts. However, some of the interviewed permanent and contract workers said that they knew that there were contract workers at the factory who had been working there for several years in multiple stints. Based on the interviews conducted for this follow-up report and the interview sample, it is however impossible to draw conclusions about the possible purposeful use of multiple, consecutive short-term contracts to employ contract workers at the Wärtsilä Khopoli factory in a way that would be illegal in India.

⁴⁶ Wärtsilä, Marko Vainikka, email on 18th August 2017

According to Wärtsilä, the nature of work at the Khopoli factory is “made to order” and contract workers are engaged on a need basis. As such, the number of contract workers is fluctuating and multiple stints for the same contract worker are probable. Indian authorities check the Khopoli factory’s employment records every month and have not found any illegality in the way contract workers are engaged there.⁴⁷

Wärtsilä did not respond to a request for information on the number of contract workers engaged each month in the last year. The high number of contract workers at the time of the interviews, however, suggests that the company is outsourcing the risks stemming from variation in the volume of orders to its employees.

⁴⁷ Wärtsilä, Marko Vainikka, email on 18th August 2017

7. Employees did not report discrimination

All employees interviewed for this report said that there is no discrimination on the basis of caste, religion or gender at the Wärtsilä Khopoli factory. All the upper management, site management and colleagues treat all employees equally.

Interviewees who belong to minorities said that they are open about their caste status or religion without any negative consequences at the workplace. The interviews for this follow-up report fell during the Ramadan (known as *Ramzan* in India) in June 2017, and those Muslims who were observing Ramadan said that they could rearrange their work shifts or arrange to leave early if they wanted to easily and directly with their immediate supervisor.

The number of women, Dalit and Muslims in the shop-floor at the Wärtsilä Khopoli factory still remains very low (less than 10 people altogether as estimated by the interviewees). The low representation of these groups in the workforce compared with the demography of Khopoli⁴⁸ can probably be partly explained by the low attrition rates and the fact that the factory hires new permanent shop-floor employees relatively rarely (last in January 2015⁴⁹). The number of women, Dalits and Muslims is proportionately higher among contract workers (at least 25 people altogether as estimated by the interviewees).

In the Finnwatch report published in 2015, Wärtsilä said that it will add diversity related indicators to the performance indicators of its human resources management in India. In June 2017 Wärtsilä said that the company's hiring decisions are made on the basis of qualifications and merit only and that the company does not engage in positive discrimination. However, Wärtsilä did say that

they would favour female candidates in hiring if the female applicants were as qualified or almost as qualified as male candidates.

Finnwatch notes that already in 2012, Wärtsilä committed to increasing diversity in its workforce through a specific programme called Diversity Initiative, setting out to increase particularly the number of women in its global operations and management.⁵⁰

In the Indian context, however, diversity targets require more attention and affirmative action must extend not only to the underrepresented gender but also *Scheduled Castes*, *Scheduled Tribes* and religious minorities. Affirmative action in employment and education is included in India's Constitution⁵¹ and for example in public sector jobs and housing and in university admissions, there is a quota system in place for Dalits.

48 In Khopoli, approximately 48 per cent of the population is female and 15 Muslims. In Raigarh district where Khopoli is located, 5 per cent of the population belong to Scheduled Castes and 12 per cent in Scheduled Tribes, see e.g. <http://www.census2011.co.in/data/town/802799-khopoli.html> and http://pibmumbai.gov.in/English/PDF/E2013_PR798.PDF

49 Wärtsilä, Marko Vainikka, email on 18th August 2017

50 See e.g. FIBS, Wärtsilä Diversity Initiative, <http://www.fibsry.fi/fi/palvelut/monimuotoisuusverkosto/jasen-hyvät-kaytannot-2/2-uncategorised/401-diversity-initiative> (accessed on 25th September 2017)

51 Constitution of India, <http://lawmin.nic.in/olwing/coi/coi-english/coi-indexenglish.htm> (accessed on 25th September 2017)

8. Conclusion

Wärtsilä acted in an open manner during the research for this follow-up study. Finnwatch met with several company managers at the local, country and regional levels in summer 2017. The company gave Finnwatch permission to interview Khopoli factory employees on-site and engaged in dialogue over the field research findings by commenting on a draft version of this report.

In the previous report about Wärtsilä, Finnwatch considered monitoring of supply chain responsibility to be the key development area for the company. In this regard, Wärtsilä has undertaken only minor actions. Wärtsilä is only now developing tools for risk-based supply chain management, and the company still does not use independent, third-party audits, and audits are done as second-party audits instead. Wärtsilä has not incorporated the UN Guiding Principles on Business and Human Rights or the human rights due diligence process into its responsibility practices regarding supply chains, nor has it incorporated a living wage into its supplier requirements or into its own compensation and benefits policy.

Working conditions at Wärtsilä's Khopoli factory largely remain unchanged since the publication of Finnwatch's 2015 report. According to the interviewees, the lowest salaries paid to the factory employees are still not sufficient to afford a basic but decent standard of living for a typical family. Employees are unsatisfied with annual pay rises and do not understand the basis on which they are allocated.

Wärtsilä Employees Union was registered in November 2016. The Wärtsilä Khopoli factory employees interviewed for this report consider the Wärtsilä Employees Union to represent the interests of the employees better than the previous, unregistered trade union did, and this is an important improvement. Wärtsilä Employees Union is engaged in regular talks with the company management representatives over issues such as salaries and the benefits that have been cut.

According to the Wärtsilä Employees Union, it is possible that the union will ask to collectively bargain in the future.

Following the registration of Wärtsilä Employees Union it transpired that the overtime pay at the factory has been too low for years. Wärtsilä has so far committed to compensating the unpaid overtime pay to the employees from the beginning of 2017. Wärtsilä Employees Union is demanding a more comprehensive compensation.

The interviewed employees did not report discrimination on the basis of gender, social status, religion, or on any other grounds. However, women, Dalits and Muslims are underrepresented in the Wärtsilä workforce, compared with the overall population in the Khopoli area. Women, Dalits and Muslims face discrimination in India in employment and in society and therefore, their situation requires special attention.

At the Wärtsilä Khopoli factory, there is a large number of contract workers who all have short-term contracts. Contract workers are paid a lower salary than the permanent employees and they are not represented in talks with the factory management. The large number of contract workers raises questions about the possible outsourcing to the employees of the risks that are caused by variation in the number of orders.

In its response to a draft version of this report, Wärtsilä committed to improving its communications to the employees regarding the allocation of pay rises, and to beginning inductions for contract workers that cover the terms of employment and the overtime pay calculation methodology.

9. Recommendations

TO WÄRTSILÄ

- Wärtsilä must commit to the UN Guiding Principles on Business and Human Rights and fully embed and implement in practice human rights due diligence across the company's value chain.
- In 2017, Wärtsilä is transitioning into risk-based assessment and management of new suppliers. In 2018, the risk-based approach will be extended to existing suppliers. Wärtsilä must ensure that in the process of assessing risks, the human rights risks applicable to the operations and operating context of its suppliers, and the means to mitigate these risks, are taken into account.
- Wärtsilä must report in a transparent manner, what issues pertaining to labour rights are taken into account during supplier assessments, and how.
- In the monitoring of suppliers, it is recommended to use independent, third-party social responsibility audits instead of second-party audits. Finnwatch also recommends that Wärtsilä obtains independent, third-party certification, for example SA8000 certification, for its own manufacturing units.
- By inviting Wärtsilä Employees Union to the European Works Council meeting, social dialogue can be deepened and the representatives of the employees at the Wärtsilä Khopoli factory given an opportunity to participate in the development of global policies that impact them.
- Wärtsilä can become a forerunner in the advancement of labour rights by being the first Finnish company to enter into a global framework agreement with trade unions.
- A living wage must be incorporated into Wärtsilä's corporate responsibility, and compensation and benefits policies. Living wage must extend to contract workers. Wärtsilä must calculate a living wage for the areas where it has operations, including Khopoli in India. Finnwatch recommends that the living wage be calculated using the methodology developed by the Global Living Wage Coalition.
- Wärtsilä must compensate to the employees the underpaid overtime pay since the beginning of their contracts, with interest.
- Wärtsilä must ensure that the contract workers employed at its Khopoli factory have the opportunity to name their own representatives for regular talks with the factory management and possible collective bargaining, should the contract workers want to do so.
- Wärtsilä must ensure that the contract workers not only have access to induction but also are given copies of employment contracts or appointment letters.
- In recruitment, Wärtsilä must pay more attention not only to the situation of women but also Dalits, Muslims and other minority groups in the region.

TO GOVERNMENT OF FINLAND

- An amendment to the Accounting Act, approved at the end of 2016, requires certain types of companies⁵² to report on their corporate social responsibility. The first such reports are required to be issued in 2018 for the 2017 financial year. In accordance with the legislation on reporting, the corporate governance statements of listed companies employing more than 250 people must also include information on the company's diversity policy and the implementation and results of that policy. The legislation is based on an EU directive, and a robust implementation has the potential to significantly enhance corporate social responsibility. If the reporting requirement does not produce the desired results, the European Commission may propose changes to the directive at the end of 2018. The Government of Finland must encourage companies to report in an ambitious manner, and monitor the implementation of the reporting requirement by companies. The government must publish a list of companies to which the reporting requirement applies and compile to a single, public platform all non-financial reports at least in the early years of the implementation of the reporting requirement.
- The Ministry for Foreign Affairs and the Ministry of Economic Affairs and Employment are currently preparing a stakeholders' Shared vision on the direct human rights impacts of Finnish companies in risk countries. The Shared vision must include concrete and detailed recommendations on such human rights issues that have been proven challenging to Finnish companies. These include in particular, the right to freedom of association and living wage.
- The implementation of the UN Guiding Principles on Business and Human Rights must be strengthened by introducing in law mandatory human rights due diligence for companies.

⁵² The reporting obligation applies to large undertakings that are public-interest entities, i.e. listed companies, credit institutions and insurance companies with an average of more than 500 employees during the financial year. In addition, the company's turnover must be greater than EUR 40 million or its balance sheet total more than EUR 20 million. See e.g. <http://tem.fi/en/csr-reporting> (accessed 25th September 2017)



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