

COUNCIL ON ETHICS

THE GOVERNMENT PENSION FUND GLOBAL

To Norges Bank

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Recommendation to exclude Supermax Corp Bhd from investment by the Norwegian Government Pension Fund Global

Summary

The Council on Ethics recommends that Supermax Corp Bhd (Supermax) be excluded from the Norwegian Government Pension Fund Global (GPF) due to an unacceptable risk that the company is contributing to human rights abuses. The recommendation concerns the living and working conditions experienced by migrant workers at the company's production facilities in Malaysia.

Supermax is a Malaysian manufacturer of rubber gloves, with three subsidiaries that collectively operate 12 factories in Malaysia. Supermax and its subsidiaries employ approx. 3,800 people, around 60 per cent of whom are migrant workers. At the close of 2020, the GPF owned 1.35 per cent of the company's shares, worth approx. NOK 455 million. Supermax is listed on the Bursa Malaysia stock exchange.

Due to the Covid-19 pandemic, it has not been possible for the Council to carry out its own investigations in Malaysia, and the company has declined to participate in an online due diligence assessment. The recommendation is therefore based on the information that is publicly available. Since 2019, several news reports have been published about very poor living and working conditions experienced by the company's employees. Allegations include the payment of high recruitment fees, very long working hours, an elaborate system of punishments and fines, and restrictions on workers' freedom of movement.

These practices seem to have been ongoing for several years and to have affected many workers. Even though the Council has not taken a position on whether the allegations in this case constitute forced labour, the Council notes that the treatment of the workers correspond to several of the ILO's indicators of forced labour. In any event, such treatment could contravene the right to decent, safe and healthy working conditions.

In light of the seriousness of the allegations against Supermax, the Council considers that the company's response has largely been inadequate. The company has denied that any human rights infringements have taken place, claims that living and working conditions are good, and asserts that the workers' testimonies are incorrect or exaggerated. Despite this, the company has given notice that it will implement a number of measures to improve living and working conditions, and ensure that its workers do not pay recruitment fees.

The Council takes a positive view of the measures the company has announced. However, it has not been possible to assess the measures and their implementation because the company has not replied to the Council's latest enquiries. It is also unclear whether the measures will reduce the risk of human rights abuse in the longer term. In the Council's experience, this risk is best managed by the company working systematically to uncover and manage risk, and communicating clearly that any human rights abuse is unacceptable. The Council needs solid documentation that this is the case and the company has not, so far, shared such information. On this basis, the Council has concluded that the risk of future human rights abuses is unacceptably high.

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1 Introduction

The Council on Ethics for the Norwegian Government Pension Fund Global (GPF) has assessed the GPF's investment in Supermax Corp Bhd (Supermax)¹ against the Guidelines for Observation and Exclusion from the GPF (the ethical guidelines).² The recommendation concerns the living and working conditions experienced by migrant workers at the company's production facilities in Malaysia.

Supermax is a Malaysian manufacturer of rubber gloves. It's three subsidiaries, Supermax Glove Manufacturing Sdn Bhd, Maxter Glove Manufacturing Sdn Bhd and Maxwell Glove Manufacturing Bhd, collectively operate 12 factories in Malaysia. Supermax and its subsidiaries employ approx. 3,800 people, around 60 per cent of whom are migrant workers.³

At the close of 2020, the GPF owned 1.35 per cent of the company's shares, worth NOK 455 million. Supermax is listed on the Bursa Malaysia stock exchange.

1.1 Matters considered by the Council

The Council on Ethics has considered the GPF's investment in Supermax against section 4(a) of the ethical guidelines, pursuant to which: "Companies may be excluded or placed under observation if there is an unacceptable risk that the company contributes to or is responsible for: a) serious or systematic human rights violations (...)."

When assessing what is encompassed by the term "serious or systematic human rights violations", the Council relies on internationally recognised conventions and authoritative interpretations thereof. In this recommendation, the Council has attached particular importance to Article 8 of the International Covenant on Civil and Political Rights and the ILO's conventions prohibiting forced labour. The Council has also used Article 6 and Article 7 of the International Covenant on Economic, Social and Cultural Rights, which protect the right to work and the right to safe and healthy working conditions, as well as a reasonable limitation on working hours and periodic paid holidays. In its General Comment No. 18, the Committee on Economic, Social and Cultural Rights (CESCR) declared that the right to work included "respect for the physical and mental integrity of the worker in the exercise of his/her employment".⁴

The Council has also found guidance in the ILO's Indicators of Forced Labour,⁵ which include the abuse of vulnerability, fraud, restrictions on freedom of movement, isolation, physical and psychological abuse, threats, the confiscation of identity papers, the withholding of wages, debt bondage, extremely poor living and working conditions, and excessive use of overtime. These indicators rest on the ILO's conventions, but are not legally binding.

In this case, the Council has considered whether there is an unacceptable risk of contributing to systematic human rights abuses. The Council attaches importance to whether particularly

¹ Issuer ID: 1456415

² Guidelines for Observation and Exclusion from the Norwegian Government Pension Fund Global (GPF), <https://files.nettsteder.regjeringen.no/wpuploads01/sites/275/2021/11/Guidelines-for-Observation-and-Exclusion-GPF-29-November-2021.pdf>

³ Information from Supermax, 2020.

⁴ Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 18 on Article 6, 2006 <https://www.refworld.org/docid/4415453b4.html>

⁵ ILO, *Indicators of Forced Labour*, 2012 https://www.ilo.org/global/topics/forced-labour/publications/WCMS_203832/lang--en/index.htm

vulnerable groups have been affected. When considering human rights infringements taking place within a company's own operations, the Council takes the view that a company is directly responsible for those working at its factories and for preventing abuse of their human rights. This applies irrespective of whether the workers are employed by the company or are hired in under contract with employment agencies or the like.

International human rights conventions bind states not companies. Nevertheless, from an ethical point of view, companies can be said to contribute to human rights abuse. The Council on Ethics takes no position on the extent to which the state is responsible for the human rights abuse in question.

According to the GPFG's ethical guidelines, norm violations must be ongoing, or there must be an unacceptable risk that norm violations will occur in future. When assessing the risk of new norm violations, the Council attaches importance to the company's response to the discovery of serious infringements within its operations and what the company has done to prevent their reoccurrence. In this assessment, the Council finds guidance in the UN Guiding Principles on Business and Human Rights.⁶ According to these principles, companies must assess the actual and potential negative consequences of their operations and remedy any infringements. Furthermore, companies must consider whether the measures they have implemented are effective and, if necessary, make changes to prevent new human rights abuses. Companies must also be able to show that they have strategies and procedures in place to prevent human rights infringements and communicate their due diligence assessments. In accordance with two white papers to the Norwegian parliament (Storting), the Council also presumes that a lack of information, particularly when the company is unwilling to share information, could contribute to the risk of norm violations being considered unacceptable.⁷

1.2 Sources

In this case, the Council has relied on publicly available information deriving from the media, various countries' government authorities, international organisations and civil society bodies. The Council also received information from Supermax in 2020.

2 Background

Over 60 per cent of the world's rubber gloves are produced in Malaysia.⁸ Many of those who work in this labour-intensive sector are migrant workers. In 2019, there were around two million migrant workers in Malaysia.⁹ The bulk of these workers come from Indonesia, Nepal and Bangladesh. Migrant workers are vulnerable to numerous types of human rights abuses.¹⁰ This is how the ILO described the situation in 2020:

⁶ UN Guiding Principles on Business and Human Rights, 2011
https://www.ohchr.org/documents/publications/GuidingprinciplesBusinesshr_eN.pdf

⁷ Report to the Storting (white paper) Meld. St. No. 24 (2020–2021) and Report to the Storting (white paper) Meld. St. No. 20 (2008–2009).

⁸ Bernama (Malaysian National News Agency), *Global Rubber Glove demand to hit 300 billion in 2019, 63 pct supplied by Malaysia*, 12 April 2019 <https://www.bernama.com/en/news.php?id=1715667>

⁹ ILO, Quarterly Briefing Note: Malaysia, 2021 https://www.ilo.org/asia/publications/WCMS_614381/lang--en/index.htm

¹⁰ A complete account of the Council on Ethics' understanding of migrant workers' particular vulnerability can be found in the Council's 2019 recommendation on G4S PLC, <https://etikkradet.no/g4s-plc-eng/>

*Migrant workers, who make up a significant proportion of the workforce, including in the production of medical gloves, remain vulnerable to unfair recruitment practices, confiscation of passports, withholding of wages, forced labour, excessive working hours, poor occupational safety and health practices, and inadequate living conditions.*¹¹

The workers' vulnerability is further reinforced by the fact that their relationship with their employers is one of dependency. Migrant workers in Malaysia are granted leave to work in the country for one year at a time, and the permit can only be renewed at the request of the employer.¹² Work permits are linked to a specific employer, and it is not possible to change employer. This dependency can make it difficult for workers to report censurable conditions or leave their job if they experience poor living or working conditions.

In 2018, the Malaysian government halted all recruitment of workers from Bangladesh due to serious allegations that recruitment agencies were charging workers high recruitment fees.¹³ Such fees oblige many workers to take out loans to secure employment, often at high rates of interest. A substantial portion of their wages must then be diverted to loan repayments. In January 2020, the Malaysian authorities announced that recruitment from Bangladesh would reopen under new guidelines which state that workers shall not pay recruitment fees. In May 2018, Nepal halted recruitment to Malaysia on the grounds of recruitment fees. In recent years, a number of companies – including Supermax – have repaid substantial sums to workers who had to pay for recruitment.¹⁴

Global demand for rubber gloves surged when the Covid-19 pandemic hit in 2020.¹⁵ However, due to travel restrictions, few new workers were able to enter Malaysia. This caused a major labour shortage in the country. As restrictions are gradually lifted, it is expected that many migrant workers will travel there.¹⁶

3 Allegations against the company

Response from the USA, Canada and the UK

On 20 October 2021, the US Customs and Border Protection (CBP) agency banned imports of goods produced by Supermax and its subsidiaries.¹⁷ According to the CBP, its investigations

¹¹ ILO, *Sustainable supply chains to build forward better, Rubber Gloves Production in Malaysia for the European Market*, 2020

https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/genericdocument/wcms_791248.pdf

¹² Modern Slavery and Human Rights Policy and Evidence Centre, *Forced Labour in the Malaysian Medical Gloves Supply Chain before and during the COVID-19 Pandemic: Evidence, Scale and Solutions*, July 2021. http://sro.sussex.ac.uk/id/eprint/100129/1/Bhutta%20et%20al.%202021.Forced%20Labour%20in%20the%20Malaysian%20Medical%20Gloves%20Supply%20Chain_1st%20July.pdf

¹³ Modern Slavery and Human Rights Policy and Evidence Centre, 2021.

¹⁴ Business & Human Rights Resource Centre, *Malaysian rubber glove makers pay migrant workers for recruitment fees after the U.S. halted importation of gloves over forced labor claims*, November 2020 <https://www.business-humanrights.org/en/latest-news/malaysian-rubber-glove-makers-pay-migrant-workers-for-recruitment-fees-after-the-us-halted-importation-of-gloves-over-forced-labor-claims/>

¹⁵ Reuters, *Malaysian rubber glove group says demand to outstrip supply until 2023*, 15 March 2021 <https://www.reuters.com/article/us-malaysia-gloves-idUSKBN2B709W>

¹⁶ Reuters, *Malaysia lifts migrant worker ban, to reopen holiday island to foreigners*, 22 October 2022 <https://www.reuters.com/world/asia-pacific/malaysia-lifts-migrant-worker-ban-reopen-holiday-island-foreigners-2021-10-22/>

¹⁷ U.S. Customs and Border Protection, *CBP Issues Withhold Release Order on Supermax Corporation Bhd. and its Subsidiaries*, 20 October 2021 <https://www.cbp.gov/newsroom/national-media-release/cbp-issues-withhold-release-order-supermax-corporation-bhd-and-its>

had identified ten out of the ILO's 11 indicators of forced labour, which meant it had “*ample evidence to conclude that Supermax and its subsidiaries produce gloves in violation of U.S. trade law*”. The CBP further stated that the issues concerned abuse of vulnerability, fraud, restrictions on freedom of movement, threats, the withholding of wages, debt bondage and excessive use of overtime.¹⁸

On 10 October 2021, Public Services and Procurement Canada (PSPC), which is responsible for public procurement in Canada, gave notice that all orders from Supermax placed by the authorities had been paused until reassurance had been received that Supermax was not involved in the use of forced labour.¹⁹ An independent audit was expected in mid-November 2021, after which the Canadian authorities would make a decision. On 25 January 2022, it was announced that the procurement contracts had been terminated.²⁰ The authorities had, at that point, received feedback on the situation at Supermax's factories, although the final assessment would, according to the company, not be ready until the spring of 2022.

Supermax has also been under investigation by the UK authorities, a major purchaser, due to the human rights situation for its workers.²¹ The UK's Department for Business, Energy and Industrial Strategy is performing the investigation, which could result in the National Health Service (NHS) no longer being able to buy from the company. A law firm representing numerous workers has also taken the UK authorities to court for failing to perform adequate due diligence when contracts were entered into with Supermax.²²

Investigations are thus underway in the UK, and neither the CBP or the PSPC have published detailed findings from their investigations. In recent years, however, a number of serious allegations have been made about living and working conditions at Supermax and its subsidiaries. The allegations have been published in various media outlets, including The Guardian, the BBC, the online magazine The Diplomat, Focus Malaysia (an English-language business newspaper) and the online news outlet Malaysiakini. Several of the articles are based on interviews with workers who had been in Malaysia during the surge in demand for rubber gloves resulting from the Covid-19 pandemic in 2020. The interviews were undertaken after they had returned home to Nepal in 2021.²³

Living conditions and restrictions on freedom of movement

In a BBC radio programme broadcast in February 2021, workers described the Supermax factory where they worked as a prison, and said they had not been outside the factory compound since January 2020.²⁴ The workers' living quarters are located inside the factory compound.

¹⁸ The Straits Times (daily newspaper based in Singapore), *US Customs: Physical violence, abusive working and living conditions among violations by Supermax*, 26 October 2021

<https://www.nst.com.my/news/nation/2021/10/739843/us-customs-physical-violence-abusive-working-and-living-conditions-among>

¹⁹ Public Services and Procurement Canada, *Contracts with Supermax Healthcare Canada*, 10 November 2021, <https://www.tpsgc-pwgsc.gc.ca/medias-media/actualites-news/supermax-eng.html>

²⁰ Public Services and Procurement Canada, *Update on contracts with Supermax Healthcare Canada*, 25 January 2022 <https://www.tpsgc-pwgsc.gc.ca/medias-media/actualites-news/supermax-update-eng.html>

²¹ The Guardian, *UK investigates supplier of NHS PPE over alleged use of forced labour*, 21 November 2021, <https://www.theguardian.com/society/2021/nov/21/uk-investigates-supplier-of-nhs-ppe-over-alleged-use-of-forced-labour>

²² The Guardian, *UK faces legal action for approving firm accused of using forced labour as PPE supplier*, 6 January 2022, <https://www.theguardian.com/global-development/2022/jan/06/uk-faces-legal-action-for-approving-firm-accused-of-using-forced-labour-as-ppe-supplier>

²³ It is the Council's understanding that several of the interviews were performed in connection with meetings organised by the activist Andy Hall in the summer of 2021.

²⁴ BBC, *Assignment, Unmasked: Stories from the PPE frontline* (from approx. 11:40), 11 February 2021 <https://www.bbc.co.uk/sounds/play/w3csz6mf>

Workers related similar experiences to The Diplomat in 2021.²⁵ According to Focus Malaysia, up to 200 workers lived in a single large dormitory, though the number of workers per room was reduced to 100–150 after the pandemic’s outbreak.²⁶

In 2019, The Diplomat reported that workers could be disciplined for sleeping elsewhere than in their dormitory.²⁷ Workers at Supermax also described poor quality food and fines if they made any complaint.²⁸ In September 2021, Malaysiakini reported that Supermax’s subsidiary, Maxter Glove, had been accused of punishing workers who reported poor living and working conditions by “locking up workers”.²⁹ This is supposed to have happened in 2014 and 2015. Up until 2019, Supermax is also alleged to have confiscated the workers’ identify papers.³⁰

Sanctions, fines and charges

Workers told The Diplomat in 2021 that the company operates an elaborate system of sanctions and fines.³¹ As described above, this could include fines for reporting poor living or working conditions. One worker recounted that he had paid over two months’ wages in “incomprehensible” fines, including fines for getting out of bed at night. In August 2021, Focus Malaysia described over 20 different categories of fines and sanctions.³² Workers have also spoken of sanctions for going to the toilet without permission.³³ Before a rule change in 2021, there were said to be two “toilet passes” per department, and it was not possible to use the toilet without one.³⁴ In extreme cases, this resulted in employees having to urinate on the factory floor or risk fines if they took a toilet break without a pass.

In 2021, Focus Malaysia reported that workers had to pay a “safety deposit” that was not repaid when the employment contract came to an end.³⁵ Workers were also waiting for their final salary payment after they had returned to Nepal in the summer of 2021. Since March 2020, worker’s bank cards and PIN codes were said to have been kept by the company. An amount is alleged to have been withdrawn from the workers’ bank accounts and the company is said to have taken part of that amount to cover mandatory meal payments.

Long working hours and little time off

In the BBC radio programme from 2021, workers described how they worked 29 days a month, 12 hours a day, in 2020.³⁶ Similarly, in 2019, workers told The Diplomat that they worked 12 hours a day and up to 30 days straight without time off.³⁷ Workers who asked for more than one

²⁵ The Diplomat, *Debt Bondage Payouts Flow to Workers in Malaysia’s Glove Industry*, 14 September 2021 <https://thediplomat.com/2021/09/debt-bondage-payouts-flow-to-workers-in-malaysias-glove-industry/>

²⁶ Focus Malaysia, *Is there double standard in CBP treatment of Supermax and Top Glove?* 10 August 2021. The article is based on information supplied by the activist Andy Hall. <https://focusmalaysia.my/is-there-double-standard-in-cbp-treatment-of-supermax-and-top-glove/>

²⁷ The Diplomat, *Clean Gloves, Dirty Practices: Debt Bondage in Malaysia’s Rubber Glove Industry*, 22 November 2019 <https://thediplomat.com/2019/11/clean-gloves-dirty-practices-debt-bondage-in-malaysias-rubber-glove-industry/>

²⁸ Focus Malaysia (2021)

²⁹ Malaysiakini, *Supermax subsidiary workers claim mistreatment, but firm says untrue*, 21 September 2021 <https://www.malaysiakini.com/news/592116>

³⁰ The Diplomat (2019)

³¹ The Diplomat (2021)

³² Focus Malaysia (2021)

³³ The Diplomat, 2019 and The Guardian, *‘A bad dream’: Nepalis who made UK’s PPE speak out on claims of abusive working conditions*, 9 February 2022 <https://www.theguardian.com/global-development/2022/feb/09/a-bad-dream-nepalis-who-made-uk-ppe-speak-out-on-claims-of-abusive-working-conditions-supermax>

³⁴ Focus Malaysia (2021)

³⁵ Focus Malaysia (2021)

³⁶ BBC (2021)

³⁷ The Diplomat (2019)

day off in a month had their wage docked. In the same article in *The Diplomat*, it also emerged that workers found the promises made to them in their homelands, about working hours, wage levels and job category, were not met when they arrived in Malaysia. Since the end of 2020, workers are said to have been given one day off a week.³⁸

According to *Focus Malaysia*, the workers understood the 12-hour day to be their compulsory shift.³⁹ Some years ago, a shift could last 14–15 hours. In an article on *Maxter Glove* in 2021, *Malaysiakini* wrote that employees were fined for refusing to work overtime.⁴⁰

Debt bondage (recruitment fees)

According to *The Diplomat*'s article in 2019, workers had paid recruitment fees of up to USD 4,800.⁴¹ This applied both to workers directly employed by the company and those hired in through subcontractors. In accordance with new regulations adopted at the national level, the company has changed its guidelines and no workers are now supposed to pay for recruitment. In June 2021, *Supermax* had also repaid fees to 1,750 employees.⁴² In a statement, the company said that it had “*fully paid to all our direct workers and in the case of the contract workers, they will also be fully paid in due course.*”⁴³

4 Information from the company

On 3 January 2022, the company published its new Foreign Worker Management Policy, whose objective is to improve the situation for its migrant workers.⁴⁴ According to the company, the new plan will “*speed up the process in meeting the ILO standards*”. The company states that at least two independent assessments of living and working conditions are currently underway, and that a further two USA-based consultants will assess the progress being made. The company points out that, since 2019, it has had rules stating that employees shall not pay for recruitment and that workers are now being repaid the expenses they have previously had. This process is scheduled for completion in March 2022.

The company further describes a number of measures that it intends to implement, including higher wages, better living conditions, equal pay for foreign and local employees, and better protection for contract workers.

In February 2022, the company published a press release stating that it was further reinforcing its efforts to repay recruitment fees to its workers.⁴⁵ According to the press release, the company

³⁸ *The Diplomat* (2021)

³⁹ *Focus Malaysia* (2021)

⁴⁰ *Malaysiakini* (2021)

⁴¹ *The Diplomat* (2019)

⁴² *The Diplomat* (2021)

⁴³ *The Diplomat* (2021)

⁴⁴ Bursa Malaysia, *Supermax Corporation Berhad (“Supermax” or “the Company”) Press Release: Supermax Rolls Out New Foreign Worker Management Policy to Strengthen its Human Resource and Migrant Workers Practices - Speeds up process in meeting the ILO standards*, 3 January 2022
https://www.bursamalaysia.com/market_information/announcements/company_announcement/announcement_details?ann_id=3223610

⁴⁵ Bursa Malaysia, *Supermax Corporation Berhad (“Supermax” or “the Company”) Press Release: Supermax committed to combat debt bondage, expands scope of remediation payment*, 8 February 2022
https://www.bursamalaysia.com/market_information/announcements/company_announcement/announcement_details?ann_id=3231432

has established a “*sinking fund*” for the repayment of recruitment fees, and has established a system of one-off payments of 5,000 Malaysian ringgit to all company employees.

In response to the allegations detailed above, Supermax has largely denied that human rights abuses have taken place. For example, in its 2020 annual report, the company wrote that it takes good care of all its employees, including migrant workers and contract personnel, and that living conditions are in compliance with prevailing standards.⁴⁶ Although the company denies that working conditions have been poor, it has confirmed that employees worked additional hours during the surge in demand in 2020.⁴⁷ The company underlined that this work was voluntary and that the employees have been properly compensated. The company also confirmed that workers have not been permitted to leave the factory compound during the pandemic, but said that this restriction was in line with national legislation and was meant to protect the workers.

In 2021, a company spokesperson told The Diplomat that the allegations against the company were incorrect and that workers have a tendency to “*exaggerate and to over-complain on even the most minor of issues. Sometimes, it is better to understand that migrant workers can be dramatic without being reasonable and substantive in their comments and complains.*”⁴⁸

On the basis of the allegations, the Council contacted the company in February 2020. In its reply to the Council, the company wrote that treating its employees fairly and well is a corporate priority. The company also disclosed that it had performed an independent Sedex Members Ethical Trade Audit (SMETA) audit at one factory, and that this had not returned any serious findings. The Council was sent a copy of the audit report.

The SMETA report is from October 2019 and covers one factory belonging to Maxter Glove, with a workforce of 123 people. The report points out that the factory has no guidelines relating to human rights, nor do any employees have responsibility for human rights. While the report does not point out any serious non-conformances, it emerges that 40 per cent of the employees had worked over 60 hours per week. Since the report covered a small portion of Supermax’s operations, the Council wished to obtain an updated and broader picture of living and working conditions at the company. Supermax was therefore invited to perform an online due diligence assessment, facilitated by a consultant contracted by the Council. Supermax was initially open to the proposal, but discussions foundered in January 2021. In November 2021, the Council sent the company a draft recommendation, to which has not responded.

5 The Council’s assessment

The Council on Ethics has assessed the GPFG’s investment in Supermax against the human rights criterion in its ethical guidelines.

The starting point for this case is that Supermax, in its capacity as employer, is responsible for any human rights infringements in its own production premises. In similar cases, the Council has often performed its own, physical investigations, including interviews with workers. Due to the Covid-19 pandemic, this has not been possible. Since the company has declined to participate in an online due diligence assessment, this recommendation rests on publicly available information.

The allegations against Supermax are wide-ranging and include Very long working hours, an extensive system of punishment and fines, restrictions on workers’ freedom of movement and

⁴⁶ Supermax, *Annual Report 2020*, http://www.supermax.com.my/html/annual_reports.aspx

⁴⁷ BBC, 2021

⁴⁸ The Diplomat (2021)

access to toilet facilities, the confiscation of identity papers and bank cards, and poor living conditions. Some workers also had to pay for their recruitment. These practices seem to have continued over many years and to have affected many employees. The Council also attaches importance to migrant workers' particular vulnerability.

Although the Council has taken no position on whether the allegations in this case could constitute forced labour, it notes that the treatment of the workers matches several of the ILO's indicators of forced labour. The Council also notes the statement by the US CBP that its investigations had identified 10 out of 11 indicators of forced labour. Extremely poor working conditions may, in any event, infringe the right to decent, safe and healthy working conditions.

While previous norm violations can be an indicator of future patterns of behaviour, the core of the Council's assessment is what the company has done to reduce the risk of norm violations going forward. In the Council's experience, this risk is best handled by working systematically to uncover and address risk and by clearly communicating that norm violations are unacceptable.

The Council notes that the company has long denied that any infringements have taken place, while claiming that living and working conditions are good, and that the workers' testimonies are incorrect or exaggerated. Nevertheless, it now seems as though the company will implement a number of measures to improve workers' living and working conditions. Workers will, for example, not have to pay for recruitment, will receive better pay and be provided with higher quality living quarters.

Although the announced improvements are positive, the fact that the company does not publish or share information with the Council on the actual implementation of the measures is a challenge. In light of the changes that the company has announced, the Council would normally recommend that it be placed under observation. However, when the company has stopped communicating with the Council, it is difficult to assess whether it has, in practice, put in place a system capable of uncovering, preventing and remedying serious human rights abuses. On this basis, the Council has concluded that the risk of future norm violations is unacceptably high and recommends the company's exclusion.

6 Recommendation

The Council on Ethics recommends that Supermax Corp Bhd be excluded from the Norwegian Government Pension Fund Global.

Johan H. Andresen Chair	Svein Richard Brandtzæg	Cecilie Hellestveit	Trude Myklebust	Siv Helen Rygh Torstensen
(Sign.)	(Sign.)	(Sign.)	(Sign.)	(Sign.)