

THAILAND



LEGAL FRAMEWORK

The processes for handling labour migration complaints is established under the Recruitment and Jobseekers Protection Act (1985).¹ The Department of Employment, MOL-Thailand handles complaint mechanisms for Thai migrant workers abroad.

Article 61 of the Employment and Jobseekers Protection Act (B.E. 2528) specifies the composition of the Employment and Jobseekers Protection Committee.² The Committee is headed by the Permanent Secretary of Labour and comprises representatives from the Ministry of Foreign Affairs, National Economic and Social Development Board, Royal Thai Police, Department of Skills Development and Department of Employment. The Director of the Overseas Employment Administration Division serves as the Committee secretary.

LEGAL AND INSTITUTIONAL FRAMEWORK

- *Employment and Job-Seekers Protection Act (1985)*
- *Ministry of Labour (MOL)*
- *Department of Employment (DOE)*
- *The Thailand Overseas Employment Administration (TOEA)*

Box 1: Employment Development and Jobseekers Protection Commission - Complaint Handling (Section 61)

- (1) Puts forward opinions and relevant perspectives on policies and measures related to employment and jobseekers' protection, for consideration of the Minister of Labour
- (2) Puts forward opinions and relevant perspectives on measures implemented to solve problems related to employment and jobseekers' protection
- (3) Puts forward opinions and relevant perspectives on measures related to prevention and suppression of deceptive schemes against jobseekers, for consideration of the Minister of Labour
- (4) Provides counselling and recommendations on standards related to overseas employment of Thai workers to relevant agencies
- (5) Provides counselling and recommendations on possible approaches and methods to promote employability and skills development among Thai workers to relevant agencies
- (6) Provides counselling and recommendations related to specifying standards and methods of skills testing and assessment to relevant agencies

¹ Recruitment and Jobseekers Protection Act was amended in 1985, 1994 and 2001

² The committee includes another eight individuals appointed by the Cabinet of Thailand. The committee must also include at least a member representing employers and another representing workers.

(7) Performs other related tasks as assigned by the Cabinet of Thailand or Minister of Labour.

Source: Employment and Jobseekers Protection Act (1985)

For outgoing labour migration³ the Thailand Overseas Employment Administration, under MOL-Thailand's Department of Employment, is mandated to manage complaints through an online system. The administration keeps track of unsuitable or exploitative employers by maintaining a blacklist of employers, formed by complaints received from Thai workers abroad through the labour attachés and the Royal Thai Embassies.

COMPLAINT CHANNELS

Thai workers can file complaints against private employment agencies to the Inspection and Central Employment Registration and Jobseekers Protection Division under the Department of Employment, MOL-Thailand. Thai migrant workers could also go to local Provincial Employment Offices.

The MOL-Thailand has established volunteers (in Thai "*ar-sa-smak-raeng-ngan*") to reach out to villages and districts through receiving reporting complaints and raising awareness.

DESTINATION SIDE

On the destination side, migrant workers from Thailand can lodge complaints to the Office of Labour Affairs (OLA), which is under the supervision of the Permanent Secretary of MOL-Thailand. OLA has 12 offices in 11 destination countries and assists Thai workers, while diplomatic missions in countries of destination receive complaints. In countries with no OLA, consular offices also handle assistance efforts.

The OLA provides support services through its labour attachés to protect the rights of overseas Thai workers by giving advice, counselling and assistance for a range of issues, including wage payments, health or personal safety. It also provides access to legal recourse for Thai migrants who face problems while working overseas, such as by negotiating directly with related parties on behalf of the migrant worker. Should negotiations be unsuccessful, it can enlist assistance from lawyers and/or government agencies in the host State.

INITIAL RESOLUTION

The Department of Employment's Inspection and Jobseekers Protection Division investigates complaints, encompassing collecting physical evidence and testimony from witnesses. The primary source of evidence is generally from the jobseeker and any witnesses. The evidence collection process must be conducted as per regulations outlined in the Administrative Procedure Act (ILO, 2013).

³ Recruitment through the Department of Employment, direct recruitment, recruitment through private employment agency, sent to work abroad by an employer, sent to work abroad as an intern or trainee by an employer (ILO, 2013).

The OLA provides access to legal recourse for Thai migrants working overseas. It will negotiate directly with litigants and should negotiations fail, OLA will enlist assistance from lawyers and/or government agencies in the host country (IOM Bangladesh, 2011).

SECONDARY RESOLUTION

Unresolved cases relating to fraud and deception can be taken to court (ILO, 2013).