



**SUMMARY REPORT
THIRD PARTY COMPLAINT
TROON MANUFACTURING
(NICARAGUA)**

On August 21, 2015, the Fair Labor Association (FLA) accepted for review a Third Party Complaint filed by a representative of the labor union Unidos en Victoria of the factory Troon Manufacturing (also known as Pinehurst Nicaragua), located in Tipitapa, Nicaragua. The complaint alleged that the factory had violated freedom of association with respect to the dismissal of founding members of the union (in formation) with the intention of impeding the recognition of the union. Moreover, the complaint alleged irregularities in the application of the retrenchment process at the factory, with the dismissal of pregnant women and workers who were on vacation status. Finally, the complaint alleged harassment or abuse of workers by supervisors. The allegations appeared to violate a number of FLA compliance benchmarks in the areas of Freedom of Association, Employment Relationship, and Harassment or Abuse.¹ FLA-affiliated Participating Company adidas-Group sourced from this factory.

The FLA accepted the case for review, informing adidas-Group of the action, and moving the case to Step 2. Pursuant to Step 2, the Participating Company or College or University Licensee has up to 45 days to investigate the alleged noncompliance internally and inform the FLA.

adidas-Group Assessment

adidas-Group conducted an assessment of the allegations using an external third party expert and its own staff. The findings of the assessment by adidas-Group and the remedial actions taken conveyed to the FLA are as follows:

1. **Dismissal of workers who had “fuero sindical” protection.** When the workers attempting to form the union Unidos en Victoria began their unionization efforts in June 2015, they held an organizational meeting attended by 23 workers and elected a group of 13 workers as officers of the Executive Board of the union in formation. The union requested recognition from the Ministry of Labor but such recognition was denied. The union has appealed the decision of the Ministry. In the interim, nine workers with the status of founding members of the union, and therefore with “fuero sindical” protection, were dismissed by the factory as part of a reduction in force in mid-2015. Subsequently, management rehired five of the nine union founders dismissed, but at the time the complaint was filed, not the other four (María José Tenorio Vega, Marbel Huete López, Cynthia López Escobar, and Lizzett Vilchez Ruíz). The investigation conducted by adidas-Group

¹ For example, Freedom of Association Benchmark FOA.5, Anti-Union Discrimination/Dismissal; Employment Relationship ER.14, Terms and Conditions/Other/Special Categories of Workers and possibly ER.32, Termination and Retrenchment/General Policies and Practices; and Harassment or Abuse H/A.5, Discipline/Verbal Abuse.

- confirmed that these four workers were indeed founding members of the union and therefore had “fuero sindical” protections. To remediate this action, on January 11 and 12, 2016, the factory reinstated the four workers to employment in the sewing department with back pay.²
2. **Dismissal of pregnant worker.** adidas-Group investigated the allegation that a pregnant worker (Yajaira Antonia Hernández) had been dismissed in violation of national law which protects pregnant women from such actions. The investigation revealed that the worker was indeed pregnant at the time of dismissal, although factory management maintains that it was not aware of her condition when she was dismissed. The factory has reinstated the worker to her position, as required by national law, and compensated her for the days she was dismissed.³
 3. **Termination of worker who was on vacation at the time of dismissal:** The investigation by adidas-Group of the allegation that a worker had been terminated while the worker was on vacation did not corroborate the allegation. Adidas-Group documented that the worker took vacation during June-July 2015, while the termination occurred in August 2015.
 4. **Lack of retrenchment procedures; arbitrary dismissals on the part of management as part of retrenchment.** adidas-Group reviewed Troon Manufacturing’s policies and procedures to determine whether the factory had in place retrenchment policies and procedure that relied on objective criteria and were nondiscriminatory. The investigation found that in November 2014, Troon Manufacturing put in place a set of Retrenchment Procedures (Procedimiento de Despidos Colectivos) that follows closely the Retrenchment Guidelines recommended by the FLA for adoption by factories in the supply chain of its affiliated companies.⁴ The Retrenchment Procedures adopted by Troon Manufacturing include five criteria for evaluating workers for purposes of retrenchment and the weight assigned to each one.⁵ Factory management provided adidas-Group with documentation in the form of a table that evaluates each of the workers with respect to the five criteria that would be used by the factory in future retrenchment actions. These documents have been reviewed by the FLA.
 5. **Verbal harassment and abuse by supervisor:** adidas-Group informed the FLA that the supervisor who had been singled out as verbally harassing workers resigned from Troon effective November 6, 2015. To identify and promptly address possible cases of verbal harassment in the future, the factory has

² adidas-Group has provided the FLA with signed copies of agreements regarding the reinstatement and backpay between the factory and each of the four workers.

³ adidas-Group has provided the FLA with a copy of the worker’s employment contract that shows that her seniority has been maintained and proof of payment for days the worker was dismissed.

⁴ <http://www.fairlabor.org/blog/entry/fla-retrenchment-guidelines>

⁵ The criteria and associated weights are: efficiency, 35%; quality, 35%; seniority, 15%; attendance (absenteeism), 5%; and skill (ability to carry out more than one operation), 10%.

reinforced its harassment or abuse policy, grievance mechanisms, and disciplinary procedures. Additionally, Troon's parent company is conducting periodic internal audits to identify possible risks for harassment or abuse in order to mitigate such risks.

Proposed Remediation Plan

Adidas-Group, in collaboration with the factory, has developed the following remediation plan to address the issues raised in the Third Party Complaint and avoid their repetition in the future:

1. Factory's retrenchment policy to be modified to state explicitly that workers protected by "fuero sindical" or other protections (e.g., pregnant workers, workers on short-term disability leave ("subsidio"), rest period ("reposito"), or vacation will not be terminated.
2. Workers covered by the spirit of "fuero sindical," even if they exceed the number of 20 workers, will nevertheless be extended the relevant protections.
3. Upon making a decision to terminate a worker, factory management will notify the unions will be notified of the decisions and the rationale. Once the terminations are discussed with the unions and their views taken into account, the decisions will be communicated to all workers.
4. Factory to reinforce its mechanisms and systems to prevent and report cases of harassment or abuse. Steps to be taken include: (a) review and reinforcement of harassment or abuse policy, which prohibits all forms of harassment or abuse and guarantees an environment free from any type of harassment or abuse; (b) greater degree of communication to workers about the different communication channels they may use to report instances of harassment or abuse (suggestion box, email hotline, open door policy, communication to one of the factory's three unions); and (c) semi-annual audits by the factory's parent company of the operation of grievance channels, including worker interviews should workers do not feel comfortable raising issues through the specified channels or lack confidence in the ability of the local management team to address their grievances.

FLA Recommendations and Next Steps

The FLA recommends that adidas-Group follow up on the above remediation plan to ensure that it is implemented. The FLA requests that adidas-Group periodically inform the FLA of the plan's implementation and any issues that might arise.