



INDEPENDENT INVESTIGATION REPORT
SITE: WESTTEX APPAREL S.A. DE C.V.
ILOPANGO, EL SALVADOR

ONSITE INVESTIGATION: MARCH 27-30, 2023

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FIELD INVESTIGATION AND REPORT PREPARED BY:
MARGARITA ESTRADA LERMA

INVESTIGATION REQUESTED BY:
FAIR LABOR ASSOCIATION

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Introduction

Background

On March 1, 2023, FLA received a formal complaint from the union federation *Federación de Asociaciones o Sindicatos Independientes de El Salvador* (“FEASIES” or the “Complainant”). FEASIES alleges the illegal termination of three union officials from the union *Sindicato de Trabajadoras y Trabajadores de la Industria del Trabajo Textil* (SITTEX) in early January of 2023. The complainant argued that these workers were entitled to what is known as *fuero sindical* protection at the time of their dismissal. The dismissal of these workers was part of a massive layoff conducted by the Factory in January when more than one hundred workers were terminated. According to FEASIES, the retrenchment process was not implemented in compliance with FLA’s Workplace Code of Conduct and Compliance Benchmarks.

The Complainant also argues the Factory has opposed setting up a regular space for dialogue with the union officials of the union branches with representation at the Factory of the SITTEX union, the union *Sindicato de Trabajadoras y Trabajadores de Industria Maquiladora, de Comercialización, Servicios y Afines de El Salvador* (SITRAIMES) and the union *Sindicato de Trabajadores de la Industria del Vestir de El Salvador* (STIVES). The three unions are trade unions (*sindicatos de industria*) affiliated with FEASIES. The lack of regular engagement with workers’ representatives has impacted the industrial relations between labor and management.

In addition to the above-mentioned allegations concerning Freedom of Association, FEASIES also alleges the Factory’s incorrect and illegal implementation of workers’ pay for the first three days of medical leave. In March 2022, the factory initiated the implementation of this practice in compliance with FLA’s workplace standards. However, since April 2022, the Factory adopted the practice of paying workers only one medical leave subsidy every two months regardless of the number of instances that workers were absent from work due to a common illness (up to or less than three days).

Finally, the complainant claims some workers have been discriminated against by Factory management and supervisors based on their sexual orientation or gender identity. The Factory is limiting workers gender expression, especially in case of trans women, and the Factory’s representatives have threatened these workers with disciplinary action if they do not dress like “heterosexual men”.

FLA initiated the Third-Party Complaint on March 16, 2023, after having informed FLA Participating Companies, Next Level Apparel and '47 Brand (hereinafter, "the Brands") about the FEASIES complaint and its allegations.

An Independent Investigator is being engaged to examine, if the Factory has observed relevant national laws, including required legal procedures and its compliance with FLA's Workplace Code of Conduct and Compliance Benchmark for

- (a) the retrenchment process conducted by the Factory in early January 2023,
- (b) the termination of the union officials of SITTEX,
- (c) the implementation of the payment of the three first days of medical leave, and
- (d) Factory's adherence to non-discrimination standards.

Factory information

Westtex Apparel S.A. de C.V. (hereinafter the "Factory") is located in the Ilopango Industrial Park in: Zona Franca San Bartolo, Calle Chaparrastique Pol. K, Edificio # 20, Ilopango, San Salvador, El Salvador, began operations in 2014 as an apparel multistyle manufacturer; it is currently producing fleece sweatshirts and t-shirts. In this location, the production processes are sewing and finished product storage. An additional building is used for the processes of fabric storage, cutting and screen printing at the number #40 of the same address.

The Factory is a sourcing facility for FLA Participating Companies, Next Level Apparel and '47 Brand. It has a production capacity of 42,000 dozen per month. The main clients of the factory are with the production percentages: Next Level Apparel (40%), '47 Brand (1%) and Spirit (59%).

Both factory buildings are leased; they cover 4,753 square meters for the sewing facility, where the spaces are dedicated to the following activities: 16 sewing lines, inspection, final product packing and storage, shipping, canteen, offices and restrooms. The cutting facility, covers 6,000 square meters, dedicated to fabric storage, manual and automated cutting, screen printing, offices, canteen and restrooms.

At the time of the investigation, total workforce is 843 workers; no migrant workers are employed. The youngest worker is 18 years old and the oldest is 64 years old; women represent 62% of the total workforce. (Table 1. General workforce breakdown, Table 2. Cutting facility worker breakdown).

JOB ACTIVITY	SEX	SEWING BUILDING	CUTTING BUILDING
Production	Male	158	109
	Female	487	33
Supervisors	Male	12	3
	Female	15	0
Management	Male	15	0
	Female	9	2
Subtotal		696	147
TOTAL		843	

Table 1. General workforce breakdown

CUTTING BUILDING	Screen printing	Cutting
Male	48	61
Female	25	8
Subtotal	73	69
TOTAL	142	

Table 2. Cutting facility worker breakdown

The working hours at the facility are Monday through Thursday from 7:00am-4:45pm and Friday from 7:00am to 3:45pm completing a total of 44 regular hours per week, workers are entitled with meal breaks of 45 minutes per work shift.

Workers are paid on a fortnightly basis on Friday, via direct deposit. Production workers are paid a basic wage of USD\$11.81 per day, in compliance with legal minimum wage. Workers' income consists of this base salary, overtime compensation, production bonus (USD\$1.50 to USD\$4.00 per day) Christmas bonus (15 to 20 days paid in December), paid annual leave. Deductions include: social

security, pension fund, tax, loan/salary advancement that are provided with no interest rate. No illegal deductions were noted.

Union activity is present and is divided into the following trade unions (*sindicatos de industria*), three of them affiliated with FEASIES:

- SITTEX (FEASIES) - Sindicato de Trabajadoras y Trabajadores de Industria Maquiladora
- SITRAIMES (FEASIES) - Sindicato de Trabajadoras y Trabajadores de Industria Maquiladora, de Comercialización, Servicios y Afines de El Salvador
- STIVES (FEASIES) - Sindicato de Trabajadores de la Industria del Vestir de El Salvador
- SGC - Sindicato General de Costureras
- SINDICOM - Sindicato de la Industria de la Costura y la Maquila
- SITITEX - Sindicato de Trabajadores y Trabajadoras de la Industria Textil de El Salvador

There is no collective bargaining agreement between any of the unions and the Factory.

Restrooms are available throughout the facility; dormitories are not provided. A lactation area has been designated within the human resources offices, but does not ensure privacy and sanitary conditions.

Methodology

An onsite investigation was conducted at the Factory between Monday March 27th and Thursday March 30th, 2023. An opening meeting was carried out with the Administrative Manager and the Head of Human Resources. Later during the first day, the President of Westtex Apparel introduced himself and expressed the Factory is open and transparent to receive this investigation and offered to support the process as necessary, viewing this as an opportunity for improving the Factory practices.

The investigation included the triangulation process of different information sources through an objective data collection process through worker interviews, management interviews, document review and onsite observation. Interviews were conducted onsite, offsite / via phone, in accordance with Table 3. Interview demographics breakdown. The workers were sampled through attendance list, payroll records, other documents sampled, work floor; aiming for a representative sample from the worker population including male and female workers from the sewing building and the cutting building, length of employment, occupation, union affiliation and age.

The sampling process aimed to include workers affiliated to the different trade unions available at the Factory, these were conducted as per Table 4. Worker interviews per union affiliation.

Interview demographics breakdown		
Location	Onsite	39
Sex	Female	25
	Male	14
Facility	Sewing	34
	Cutting	5
Type of interview	Individual	24
	Group	15
Type of work	Management	3
	Supervisor	6
	Production	40
Location	Offsite	11

Table 3. Interview demographics breakdown

Sex	Female	8
	Male	3

Union name	Number of interviews
SITTEX (FEASIES)	7
SITRAIMES (FEASIES)	3
STIVES (FEASIES)	1
SGC	2
SINDICOM	4
SITITEX	2
TOTAL	19

Table 4. Worker interviews per union affiliation

Interviews were also conducted with different stakeholders; the Factory management, their legal advisory team, the head of the unions SCM and SINDICOM, the secretary general and legal advisor of the union federation FEASIES. (Table 5. Stakeholder interviews)

STAKEHOLDER INTERVIEWS	
Stakeholder	Role/Organization
Factory	President /Westtex Apparel
Factory	Administrative Manager/Westtex Apparel
Factory	Head of Human Resources/Westtex Apparel
Factory	Head of Production/Westtex Apparel
Legal advisor	Legal Assessors - Moran y Asociados

Union Federation	Secretary General and Legal Advisor/FEASIES
Union	Secretary General/ SCM
Union	Secretary General/ SINDICOM

Table 5. Stakeholder interviews

The onsite observation included a walkthrough of the sewing building and a separate walkthrough of the cutting facility; areas toured included production, storage and common areas. The Factory management allowed access to all areas of the facility, facilitated access to documents and allowed for worker interviews to take place in the meeting room, canteen and production work floor.

The independent investigator reviewed documents relevant to the claims made by the Complainant, including policies, procedures, records issued by the Factory, the Salvadorean Social Security Institute and the Salvadorean Department of Labor. (Table 6. Documents reviewed.)

Document name
Internal Regulation, dated December 23, 2014
Freedom of Association and collective bargaining policy, October 2021, Revision 2
Nondiscrimination policy, October 2021, Revision 2
Retrenchment policy, April 2022, Revision 2
Nonretaliation policy, October 2021, Revision 2
Compensation and Benefits Policy, October 2021, Revision 2
Leave and absence policy, October 2021, Revision 2
Policy on the prohibition of harassment and abuse, October 2021, Revision 2
Freedom of Association Procedure, October 2021, Revision 2
Retrenchment procedure, November 2021, Revision 2
Procedure for the prohibition of discrimination, October 2021, Rev 2
Procedure for complaints and suggestions, October 2021, Revision 2
Compensation and Benefits Procedure, October 2021, Revision 2
Worker files, containin: labor contract, worker identity documents, severance payment (when applicable), medical leave, disciplinary actions. Sample reviewed included: interviewed workers, terminated workers
Medical leave issued by the Salvadorean Social Security Institute, June 2022-January 2023
Currently employed worker roster, issued March 27, 2023
Terminated workers roster, indicating type of termination, January 3rd, 2023 to March 24, 2023
Retrenched workers roster, January 6 and 9, 2023
Termination checklist, samples of 2022- 2023
Regular meeting minutes with worker representatives 2022, Extraordinary meeting January 2023
Induction training (Power point presentation), not dated
Training records on the company policies and procedures- through 2022, production workers, supervisors, management.

Document name
Notebook to record grievances 2018-2023
Payroll records and time records of sampled periods and workers: July 4-17, 2022, October 24-November 6, 2022, January 16-29, 2023, January 30-February 12, 2023, February 13-26, 2023, February 27-March 12, 2023.
Labour court ruling, "Worker D" - date October 28, 2022, file number 6468-JIT-18-2021
Labour court ruling, "Worker E" - File number F-06433-21-LBIO-1LB1, date December 20, 2022
Psychosocial Risk Study Report, May 2022
Production record - "Bihoral de produccion del modulo" March 2023
Daily production performance evaluations, not named, examples of February-March 2023
Severance calculation, issued by the Department of Labor, examples January 2023
Performance evaluation - new hires, February - March 2023
Special Inspection Record (MoL) Number 01559-TE-01-2023, March 23, 2023
Special Inspection Record (MoL) Number 03487-10-00-2023-E4C, March 29, 2023
Special Inspection Record (MoL) Number 05001-10-03-2021-E, June 3, 2021
Certificate issued by the Ministry of Labor on the union board registration of the SITTEX trade union, issued November 29, 2022
Union official card: "Worker C", card number 670, issued February 7, 2022, valid for the period of September 17, 2021 to September 4, 2022
Union official card: "Worker A", card number 5148, issued on September 22, 2021, valid for the period of June 27 2021 to June 11, 2022
Union official card: "Worker B", card number 185, issued February 14, 2023, valid for the period of September 22, 2022 to September 4, 2023
Common conciliation hearing, at the Ministry of Labor offices, dated February 16, 2023; file S.S./CO/CONC/0043/01/2023

Table 6. Documents reviewed.

Assessment of Complaints

Assessment of Complaint: (a) The retrenchment process conducted by the Factory in early January 2023

The Factory has a production capacity of 42,000 dozen per month. The current products being manufactured include fleece sweatshirts and t-shirts. At the time of the investigation, the main customers of the Factory are Next Level Apparel (40%), '47 Brand (1%) and Spirit (59%). Top management reports that in August 2022, the business relationship with the customer Fruit of The Loom was terminated, which represented 50% of production for the Factory, and resulted in a significant business impact to the Factory.

The Factory management worked to address such impact by working to develop new products and programs with new and current customers. Meanwhile, the loss of production orders impacted the Factory financially and eventually led to the reduction of the workforce that occurred in January 2023.

President of Westtex Apparel reports that this was a last resort decision as they do not take lightly the termination of the workers and the impacts it has on themselves and their families; and after multiple months of losses the decision was made to reduce the workforce. This reduction of 38 workers, represents 4.5% of total workforce.

About the Factory policy and procedure on retrenchment

The Factory has developed a Retrenchment policy, dated April 2022, Revision 2, in which it is described that the main goal of the Factory is to mitigate the negative impact on workers and on the Factory and it will ensure any retrenchment process is implemented with transparency, fairness and objectivity. This policy also states the Factory will:

- Ensure worker continuity in employment, through seeking alternatives to retrenchment.
- Meet with workers and its representatives to ask for suggestions.
- Seek alternatives with current clients.
- Provide motivational talks to workers to mitigate the negative impact in morale of remaining workers.
- Not hire new workers on the terminated worker's job positions.

- Maintain union officers informed, on the reasons why this retrenchment is necessary while providing any other relevant information that may affect labor stability, through extraordinary meetings.
- State briefly that the calculation of payment and time of payment during a retrenchment process will be made in alignment with the legal requirements, including owed salaries, benefits, and severance.

Despite being mentioned in the policy, the Factory did not consult workers and their representatives to find alternatives to retrenchment, which is not aligned with the FLA Code of Conduct and Benchmarks, ER.16.2¹

The Factory has developed a Retrenchment Procedure, dated November 2021, Revision 2; this document describes the steps the Factory will take towards meeting the retrenchment policy and current country laws regarding worker terminations.

This document includes the definitions of the following terms:

- Grace period
- Voluntary resignation
- Terminating the labor relationship through mutual agreement
- Termination of labor contract with no responsibility for employer
- Termination of contract with responsibility
- The criterion considered for the selection of workers to be retrenched are:
 - o Efficiency and quality on the job
 - o Number of disciplinary actions
 - o Compliance with internal regulation

Retrenchment process January 2023

A retrenchment process was conducted in January 2023 with the dismissal of 38 workers, the Factory notified the union officials of three out of six trade unions on the morning of the same day where the first terminations were made, January 6th. 2023. The other three trade unions present at the Factory were not included in the meeting as per the extraordinary meeting minutes Number 1/2023.

¹ FLA Code of Conduct and Compliance Benchmarks, ER.16.2 When employers are faced with major changes in production, program, organization, structure, or technology and those changes are likely to result in temporary or permanent layoffs, employers shall communicate any alternatives to retrenchment that have been considered and consult any workers' representatives as early as possible with a view to averting or minimizing layoffs.

The union officials present at this extraordinary meeting included the trade unions: SITITEX and STIVES, employer representatives including the Plant Manager and the Head of Human Resources, also a worker committee representative (a worker that has been appointed, not democratically elected by workers, for functions related to worker committee on sexual harassment and abuse and other activities). The union officials of the trade union SINDICOM were not present at the meeting. The trade unions not summoned to this meeting included: SITTEX, SITRAIMES and SGC, which suggests the Factory does not recognize their presence, the management claims they are not aware of their existence.²

The Factory did not consult workers and their representatives in advance to find alternatives to retrenchment.

The Factory did not develop a documented plan for the termination to detail the mitigation actions to be carried out.³ Such a plan should include providing a notice period and time off for workers to apply for other jobs or prepare for retrenchment, training or assistance to find new positions or access to professional development resources.

As a follow up action, this plan should be clearly communicated and posted and include feedback channels for workers and their representatives to ask questions and provide feedback.⁴

Human Resources Management claims that workers are selected based on performance evaluations. The investigator reviewed the overall Factory evaluation and promotions systems, and noted that these are not robust enough to support worker selection on this retrenchment process and should be improved. For the purposes of the retrenchment occurred in January 2023, the Factory HR department completed in concert with the worker's supervisor a document named "Termination checklist" that grades performance of the following aspects:

- Accepts changes
- Accepts instructions
- Efficiency
- Contributes to department/module

² FLA Code of Conduct and Compliance Benchmarks, FOA.13.1 Employers shall not interfere with the right to freedom of association by favoring one workers' organization over another.

³ FLA Code of Conduct and Compliance Benchmarks, ER.16.3 Where temporary or permanent layoffs are unavoidable, a plan should be developed and implemented that mitigates the adverse effects of such changes on workers and their communities.

⁴ FLA Code of Conduct and Compliance Benchmarks, ER.16.4 The plan should be clearly communicated and posted, and include feedback channels for workers to ask questions and provide feedback.

- Demonstrates skills
- Meets internal regulation
- Demonstrates good conduct
- Has received verbal disciplinary actions
- Has received written disciplinary actions

These are rated 25%, 50%, 75% and 100%. As a footnote it refers to “View performance evaluation”, which as per management report is not yet in place. There is no clear guidance on the determination of such scores and no supporting evidence for the scores selected.

Additionally, there is not a universal worker performance system, the production lines are separated into two groups, the general supervisor of each area maintains a different system to evaluate workers, this system is not determined in written procedures and is not systematized to ensure objectivity, relevance and fairness in its application. ⁵

The Retrenchment procedure criterion for retrenchment selection does not consider length in employment, implementation of policies of affirmative action, union membership or activity, race, age, and others. Since the criteria is not detailed and the evaluation process is not robust and clear, it is not possible to determine that workers were selected fairly during the retrenchment process.

The Factory documents in worker files the evidence of the cause of termination, these records contain dismissal letters, voluntary resignation letters, paystub for severance payment and evidence of payment. A sample of nine (9) workers terminated on January 6 and 9, 2023 was selected for review from the retrenchment roster/list. On the sample selected of nine (9) workers, three (3) were incorrectly mislabeled into this list; as reviewed in the worker files, their terminations of contract were due to voluntary resignations, as noted through the resignation letters and calculation of payment based on 15 days per year of service.

An additional sample for voluntary resignations was selected, four (4) cases from January 2023, this selection is made from the general terminations roster, where the detail on the terminations are indicated and includes: dismissal without just cause, voluntary termination, job abandonment and

⁵ FLA Code of Conduct and Compliance Benchmarks, ER.7.1 Employers shall have written policies and procedures with regard to performance reviews that outline the review steps and process, demonstrate linkages to job grading, prohibit discrimination, are provided in writing and seek feedback and agreement/disagreement from employees in writing, and that follow all local legal requirements.

death. Through this review, inconsistencies are noted on how the two lists mentioned are manually fed and maintained.⁶

No concerns or issues are raised on calculation and payment of the severance of workers retrenched or workers who voluntary quit at this facility. Worker files include proof of payment – reception signature for bank cheques. For the case of retrenched workers, severance is calculated and paid in accordance with termination without just cause, counting 30 days for each year of service.

The severance payment record is clearly itemized, listing: indemnification, proportional annual bonus, proportional vacation; deductions applied include legally required social security and pension fund. Calculation appears accurate, no errors were observed.

The paystub that breaks down the incomes and deduction of the severance payment includes language, at the bottom of the document, that is not aligned with the FLA CoC and Benchmarks, ER.15.3 that reads that the employee exonerates Westtex Apparel from all future labor liability, since all corresponding benefits have been compensated. Similarly, the notarial certificate issued in case of voluntary resignation and for termination includes language in which workers waive all rights to raise any judicial or extrajudicial labor claim.⁷

The Factory procedure on retrenchment and termination of labor relations does not include details on calculation of severance, which is not aligned with the FLA CoC and Benchmark ER.15.1.⁸

Finally, the Factory has not set a confidential channel for workers to express concerns through retrenchment and severance payment; this is not covered in the current grievance mechanism of the Factory.⁹

⁶ FLA Code of Conduct and Compliance Benchmarks, ER.16.1 Employers shall maintain proper and accurate records in relation to termination and retrenchment.

⁷ FLA Code of Conduct and Compliance Benchmarks, ER.15.3 Employers shall not demand that workers sign any declaration of good health, waivers or releases of other rights as a condition of receiving severance pay or other legal benefits* from the company, and shall not threaten to withhold benefits if workers do not sign.

⁸ FLA Code of Conduct and Compliance Benchmarks, ER.15.1 Employers shall have in place a procedure for determining termination payouts, including methods for correct assessment of payouts for all modes of termination/ retrenchment, taking into account national legal requirements.

⁹ FLA Code of Conduct and Compliance Benchmarks, ER.15.2 Employers shall establish channels for workers to confidentially express any concerns or problems they may be experiencing around legally owed payment during a retrenchment process.

Assessment of Complaint: (b) the termination of the union officials of SITTEX

About policies and procedures related to termination and retrenchment

As mentioned in the section “Assessment of Complaint: (a)” the Factory has developed a Retrenchment policy and procedure, these documents do not include language to consider that current union officials and past union officials/ board may not be dismissed, transferred or demoted in their working conditions, during the period of their election and until after one year has elapsed after leaving their functions, except for just cause previously evaluated by the competent authority, under Salvadorean Labor Law, Art. 248.¹⁰

On the termination of the SITTEX union officials

One of the complaints brought forward alleges the illegal termination of three union officials from the union *Sindicato de Trabajadoras y Trabajadores de la Industria del Trabajo Textil* (SITTEX). Through the review process of the records of the terminations occurred in January 2023, it is noted:

- None of the three union officials are listed in the “Retrenched workers roster, January 6 and 9, 2023”
- The workers “Worker A” and “Worker B”, for whom The Factory claims committed job abandonment, are not listed on the “Terminated workers roster, indicating type of termination, January 3rd, 2023 to March 24, 2023” where all terminations are listed (dismissal without just cause, voluntary termination, job abandonment and death).

These discrepancies between the worker roster and the worker files leads to the belief the Factory has an inefficient document system, and/or is purposely altering records to avoid including certain workers into the retrenchment or termination records and is improperly documenting the type of contract termination.¹¹

To the claim that “Worker C” quit voluntarily, the Factory provided the signed voluntary resignation dated January 6, 2023. “Worker C” argues that she was called to the HR office on January 6th and was asked to sign the document through intimidation. It is worth to mention that “Worker C”, has a union official card issued on February 7, 2022 for the period of September 17, 2021 to September 4, 2022, and at the time of the events was covered in the year of grace established by the Labor Code.

¹⁰ Labor Code of the Republic of El Salvador, Art. 248, on the protections of employment of union officials.

¹¹ FLA Code of Conduct and Compliance Benchmarks, ER.16.1 Employers shall maintain proper and accurate records in relation to termination and retrenchment.

Through the interview process, the workers "Worker A" and "Worker B" explain that they were also called to the HR office on January 6th, 2023. but did not agree to sign the document presented.

On January 10, 2023, the legal assessor of the union federation reached out via email to the Human Resources department to make them aware of the situation and request for workers to be reinstated, it is reported there was no response.

On February 16, 2023, a common conciliation hearing was held at the Ministry of Labor offices, file S.S./CO/CONC/0043/01/2023, in this hearing, the following points were addressed:

- On the possibility of any further terminations; it is stated that the Factory is not planning any others.
- On the discrimination concerns; the Factory representative claims the Factory is committed to anti-discrimination practices.
- On the request to maintain meetings union-management ("*mesa de diálogos*") with FEASIES as legal assessor of the trade unions; the Factory representative responding that the internal procedures allow up to two representatives from each trade union.
- On the request of handing copies of the Factory policies to workers; the Factory representative indicates that the policies are provided during orientation and are posted onsite.
- On the termination of three union officials, the Factory legal representative and legal advisor declined to address the topic arguing that a union federation is unable to represent the trade union

On Wednesday, March 22, 2023, "Worker B" was requested to show up at Westtex Apparel and she did in company of the General Secretary of the trade union SITTEX. During this meeting, it is reported she was requested to sign the voluntary termination and receive severance payment, which she declined and expressed her wishes to be reinstated and receive lost wages.

"Worker B" has a union official card issued on February 14th, 2023 number 185 as Secretary of Union Culture and Development/Training, valid from September 22, 2022 to September 4, 2023.

On Thursday, March 23, 2023, "Worker A" was requested to show up at Westtex Apparel and did so in company of an inspector of the Ministry of Labor who verified the case and pointed out in the Special Inspection Record (MoL) Number 01559-TE-01-2023, that the employer should reinstate the worker no later than March 29th since the termination was in violation of the Art. 248 of the Labor Code. "Worker A", has a union official card number 5148, issued on September 22, 2021, valid for the period

of June 27 2021 to June 11, 2022, which indicates that at the time of events she was covered in the subsequent year established by the Labor Code.

"Worker A" was reinstated on the 29th of March, but has not received retroactive payment for the payroll periods from January 6th to the 29th of March. ¹²

On that very same day, "Worker B" arrived to the Factory in company of an inspector of the Ministry of Labor, through the Special Inspection Record (MoL) Number 03487-10-00-2023-E4C, dated March 29, 2023, the inspector concluded that the worker had been terminated in violation of Art. 248 of the Labor Code, with the recommendation of reinstatement and payment of retroactive wages. It is worth to mention that in both inspection records, the Factory Head of Human Resources declined to sign in a show of disagreement.

The Factory legal advisor reported later, that the worker "Worker B" would be reinstated in accordance with the inspection record, and paid as indicated in the document. Articulating that the Factory committed to conform with the legal requirements. (Post-onsite visit update: the worker "Worker B" was reinstated to her previous job position on April 13, 2023)

The Factory Head of Human Resources claims that they did not have access to the union official credentials at the time of termination, and could not properly ascertain that they were worker representatives. This contradicts the first claim, that the workers were not terminated and instead had abandoned the job.

The union official card of "Worker B" had not been issued at the time of the dismissal, instead, there was a Certificate issued by the Ministry of Labor on the union board registration of the SITTEX trade union, issued November 29, 2022, indicating the role of "Worker B". The card number 185 was issued on February 14, 2023, valid for the period of September 22, 2022 to September 4, 2023.

The legal advisor of the Factory, articulates that the Factory is fully available to address any issues and the workers should have resorted to the Ministry of Labor immediately in January rather than wait until late March; which is seen as a lack of transparency. To which she mentions has requested the

¹² FLA Code of Conduct and Compliance Benchmarks, FOA.6 Workers who have been unjustly dismissed, demoted or otherwise suffered a loss of rights and privileges at work due to an act of union discrimination shall, subject to national laws, be entitled to restoration of all the rights and privileges lost, including reinstatement and retroactive payment of wages, if they so desire.

union and the union federation to remain transparent and to address issues at the appropriate times and through the appropriate legal routes.

These three workers were entitled to “*fuero sindical*” or union official legal protection at the time of the dismissal and should have not been considered for termination, unless the due process was begun through the labor authority first.¹³

Additional cases of terminations of union officials

Former worker "Worker D" was terminated while being covered by the union official legal protection and began a legal process through the labor court; he obtained a favorable court ruling on October 28, 2022. In the court ruling, file number 6468-JIT-18-2021, the Factory is requested to reinstate him to his previous job position and pay retroactive wages. The Factory decided to appeal the court ruling.

Similarly, a worker identified as "Worker E", opened a legal process against the Factory on the File number F-06433-21-LBIO-1LB1; the labor court issued a favorable ruling on December 20, 2022. The Factory is requested to reinstate him to his previous job position and pay retroactive wages. The Factory decided to appeal the court ruling.

The Factory legal advisor indicates that they will continue the legal process on these cases and await on the results of the appeal process.

Given the information presented, it is noted that on all five cases workers were entitled to the legal protections of union officials, and the terminations suggest a form of antiunion discriminatory practice.

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Industrial Relations: Factory - Trade Unions

Policies and procedures on Industrial Relations

The Factory has developed a Freedom of Association and collective bargaining policy, October 2021, Revision 2 and a Freedom of Association Procedure, October 2021, Revision 2; such documents

¹³ FLA Code of Conduct and Compliance Benchmarks, FOA.7 Employers shall comply with all relevant provisions where national laws provide special protection to workers or worker representatives engaged in a particular union activity (such as union formation) or to worker representatives with a particular status (such as founding union members or current union office holders).

¹⁴ FLA Code of Conduct and Compliance Benchmarks, FOA.5.1 Employers shall not engage in any acts of anti-union discrimination or retaliation, i.e. shall not make any employment decisions which negatively affect workers based wholly or in part on a workers' union membership or participation in union activity, including the formation of a union, previous employment in a unionized facility, participation in collective bargaining efforts or participation in a legal strike.

describe that the Factory will recognize workers right to freely associate, in accordance with the Salvadorean Labor Code, Art. 204, and allow free constitution of unions and worker participation in union activity and collective bargaining, and prohibiting any form of discrimination based on union activity. Moreover, it articulates the willingness of the General Management and Human Resources Office to attend, reason and negotiate any worker concern.

There is not a documented recognition of the trade unions present at the factory, and no documented systems have been established in terms of the communication protocols available, their frequency, conflict resolution processes. During 2022, the Factory and trade unions began maintaining quarterly meetings, a topic which will be detailed in the coming section.

Factory - Trade Union meetings

A memorandum was issued on November 15, 2021 inviting the worker representatives to participate in the meetings “*mesas de diálogo*”, with up to two representatives from each trade union. The representatives were asked to submit in writing the topics of discussion three days in advance. Three trade unions were invited in this memorandum.

The first of these meetings was held on December 3, 2021, Meeting minute Number 1/2021. This one was followed by meetings on February 4, 2022, July 25, 2022, and November 11, 2022. The latter being the last ordinary meeting. No meeting was held in February 2023 (despite that it was planned to occur). No reasons were documented for the lack of meeting and a rescheduling process was not initiated.

The meeting minutes include a summary of the points reviewed and lists commitments by trade unions, such as

- Improving worker commitment to quality,
- Abiding to internal regulation requirements such as restricting the use of cellphones during working hours,
- Not engaging in selling activities and,
- No departure before the time of lunch or end of day.

The topics addressed in the meetings range from the following concerns/petitions:

- Annual payment of severance (annual indemnification), to which the Factory has responded they will assess the viability of it.
- Annual leave to be provided in the same period for all workers, the management is evaluating the possibility, but indicates this presents challenges for production planning purposes.

- To review ventilation in the sewing building to improve thermal conditions; to which the management has responded they are assessing the investment necessary to make the improvements.

The “*mesas de diálogo*” have not been an effective communication system; complaints are raised by both parties in the implementation of the process. Trade union board members do not agree with the approach of the Factory on not making any implementation plans and some members refuse to sign the minutes; the Factory management complains that the trade union members do not bring other topics relevant for discussion and have only focused on those points, moreover that the commitments made above have not been implemented in particular, the use of cellphones and departing before for lunch break and end of day.

Trade union members are allowed by law to request leave permits to attend on the union activities, and for this purpose, these workers will request the HR department to accept the request for absence. In practice, union officials are requested to present this request with two or three days in advance; however, this process was not included in the leave and absence policy and procedure, October 2021, Revision 2. This procedure covers other type of absences such as:

- Paternity leave
- Death or severe illness of family members
- Absence due to violence, government procedures
- Absence due to accident or disease

There is no mention of absence due to union activities for union officials.

There are claims that union officials have faced difficulties in the past to obtain such permits and it has been unclear what the steps are to request them, as they have changed a couple times. The denial of such permits is seen as a form of antiunion intimidation practices, and such process has room for improvement.¹⁵

Through the general worker interviews, it is noted that there is a vast misinformation between workers on their right to freedom of association and collective bargaining, on what is a union and what are their functions, what are the rights and obligations of their members and the obligations of employers with regard of union activity.

¹⁵ FLA Code of Conduct and Compliance Benchmarks, FOA.4.1 Employers shall not use any form of physical or psychological violence, threats, intimidation, retaliation, harassment or abuse against union representatives and workers seeking to form, in the process of forming, or who have joined an organization of their own choosing.

Training has been provided on the Factory policies, which includes the Freedom of association policy, however, this training has been ineffective. There is a perception that workers should not approach union officials as this can get them in trouble or that somehow these workers are in conflict with the management and in order to remain free of issues and with a stable employment, workers should refrain from engaging in such activities. ¹⁶

¹⁶ FLA Code of Conduct and Compliance Benchmarks, ER.1.2 Employers shall assign responsibility for the administration of human resources to a clearly defined and adequately qualified staff member or staff members and ensure workers at all levels receive communication and training about existing policies and procedures or any revisions.

Assessment of Complaint: (c) the implementation of the payment of the three first days of medical leave.

About the Factory compensation and benefits structure

The Factory has developed a Compensation and Benefits Policy, October 2021, Revision 2 and a Compensation and Benefits Procedure, October 2021, Revision 2. These documents explain the Factory will pay workers on a fortnightly basis on Friday, via direct deposit. Workers are provided with a paystub that lists incomes and deductions and indicates the number of regular work days, base wage, payment of medical leave, overtime hours, overtime payment, production bonus, annual bonus and annual leave payment, as well as deductions such as social security, pension fund, tax, loan/salary advancement.

The policy states that the Factory guarantees workers their respective salaries established by the Labor Code Articles 144 and 148, and will cover the payment of legal benefits such as vacation, annual bonus, indemnification for voluntary resignation, pay bonuses and any other compensation rights acquired through the labor relationship.

The procedure includes an example of the paystub provided to workers and describes the steps to enroll a new worker into the payroll system and bank system. Production workers are paid a basic wage of USD\$11.81 per day, in compliance with current legal minimum wage. Production bonus are ranked on three different daily goals A, B and C compensation is USD\$1.50, USD\$2.50 and USD\$4.00 respectively. Alternatively, workers can depart after they complete the daily quota instead of remaining and achieving higher bonus payments, a few cases of workers were noted on this option, which leave the Factory at around 2:00pm after completing the daily quota.

About the three-day medical leave payment

The Factory began issuing payment for the three-day medical leave back in March 2022, as reported by the Head of Human Resources, to be in alignment with FLA requirement and the customers affiliated to the FLA. ¹⁷

¹⁷ The FLA has determined that employers are responsible to pay for medical leave that is three days or less due to common illness. See FLA's issue brief [here](#).

Through the interview with the Head of Human Resources, she expresses that all cases of three-day medical leaves issued by the social security system have been paid by the employer, without restriction since March 2022. The payroll records and time records reviewed included the following periods: July 4-17, 2022, October 24-November 6, 2022, January 16-29, 2023, January 30-February 12, 2023, February 13-26, 2023 and February 27-March 12, 2023p.

On these payroll periods, on average, it is noted the Factory is paying between 220 and 560 days of medical leave at 75% daily wage per each pay period.

Interviewed workers report the Factory is currently paying 75% of the regular wage for medical leave and has been doing so since March 2022. There are no reports of issues on lack of payment.

On the payroll periods referred above, the three-day medical leaves are observed correctly calculated and paid. In most instances the medical leave is for two or three days, there are also cases where more than one medical leave of three days is paid in the same payroll period.

Through the interview process with external stakeholders, the investigator was made aware of instances where the Factory did not pay the three-day medical leave. The medical leave records issued by the Salvadorean Social Security Institute were made available for review.

The Payroll Clerk facilitated the process of review of the medical leave payment; through the Factory software, where time records, payment calculation and payment itemization are maintained. A crosscheck process allowed to verify that in 19 out of 29 cases reviewed, the three-day medical leave had not been paid to the workers, in 3 out of 29 cases the payment was partially made and in 7 out of 29 the payment had been issued correctly. ¹⁸

The workers affected by this lack of payment are eight people in total, four of them comprising the majority of medical leaves. Among those four workers there are between five and seven medical leaves unpaid, from the months of June 2022 through January 2023.¹⁹

It is unclear whether these workers have been unfairly affected due to their medical conditions, due to their union affiliation status or another circumstance.

¹⁸ Salvadorean Labor Code, Art. 307

¹⁹ FLA Code of Conduct and Compliance Benchmarks, C.21.1 Employers shall provide all legally mandated benefits, including holidays, leave, bonuses, severance payments and 13th month payments to all eligible workers within legally defined time periods.

The Payroll Clerk reports that on some occasions these workers do not provide the medical leave record until days later, after the calculation of payroll has been completed and he is not able to include it on time to be compensated and there is not a method to correct this situation in subsequent payroll periods.

Assessment of Complaint: (d) Factory's adherence to non-discrimination standards.

The Complainant claims some workers have been discriminated against by Factory management and supervisors based on their sexual orientation or gender identity. The Factory is limiting workers' gender expression, especially in case of trans women, and the Factory's representatives have threatened these workers with disciplinary action if they do not dress like "heterosexual men".

With regard to nondiscrimination, the Factory has developed a Nondiscrimination Policy, dated October 2021, Revision 2, this policy describes that the employer will not make distinction, exclusion or preference through employment opportunities other than objective job criteria and in alignment with legal requirements. It describes that through hiring, payment, promotion, discipline and termination of employment, the decisions will not be influenced by workers' gender, race, marital status, pregnancy status, age, disability, sexual orientation, gender identity, gender expression, nationality, social group, ethnical group, religious beliefs, political opinion, and prohibits HIV or pregnancy tests.

The Procedure with regard to Prohibition of Discrimination, October 2021, Revision 2, describes that the employer will perform its activities in alignment with the Labor Code and ILO Convention 111, and will not discriminate, describing in more detail the selection process for hiring workers and describing the restrictions on health testing and health considerations for pregnant workers. It also addresses that in case of reports of discrimination, such claims will be investigated by the Human Resources department. It does not include further details on the process of investigation and closure.

The Factory has developed a Procedure for complaints and suggestions, October 2021, Revision 2. This document describes that the Factory has put in place suggestion boxes for workers to report any issue and addresses the open-door policy of the Factory. It is worth to mention that suggestion boxes are found at the restrooms in the sewing facility, aiding in the confidential nature of the system; however, in the cutting building, the suggestion box is found at the main entrance where confidentiality cannot be assured.

The suggestion box system has proven to be ineffective, during 2022 and up to March 2023, there are only three records of use of the suggestion box, for a workforce of 843 workers. It seems underutilized. The Factory management maintains a book where grievances would be recorded, however, most of the content of this book is the interactions of workers requesting absence permits or requesting salary advancements to the Human Resources Department.

The general perception of the grievance systems of the Factory by workers is that the suggestion box is not practical, as the complaints are not addressed; it is best to go directly to the Human Resources department. However, there is lack of trust in this open-door policy as the complaints are not recorded and there is a perception that these complaints will be dismissed by the Human Resources Department, in particular when reporting issues with a supervisor, as it is understood that supervisors and the human resources department are in collusion. ²⁰

In the document review process of the management-trade union meetings, on the record Number 3/2022, dated July 25, 2022, a discrimination complaint is raised with regard to a member of the LGBTIQ+ community, though the complaint is addressed in this record and it is mentioned that the HR department will interview the worker to understand the situation, there is not a documented investigation and resolution process. ²¹

The Internal Regulation has set rules and disciplinary actions for the workplace; in the rules section there is an explanation of clothing expectations and its restrictions. This is also addressed in the induction power point presentation; the descriptions are broken down by sex. Example, tied hair for women, prohibition of use of long earrings for women, prohibition of use of tank tops for male workers, short hair for male workers, etc. During the review process of this power point presentation, the Head of Human Resources made adjustments to the power point presentation, recognizing that the language should reflect the safety precautions and these requirements should not be based on sex or gender expression.

Through worker interviews, it was corroborated that derogatory terms are used towards workers with different sexual orientation or gender expression. Reportedly, this behavior happens with people in authority, HR management, supervisors, and also with co-workers. In about 35% of interviewed workers, there seem to be an implicit prejudice and misconceptions towards people on the LGBTIQ+ community. Training has been conducted on the content of the nondiscrimination policy; however, it seems insufficient as there is a perception that any expression that is non heteronormative should be

²⁰ FLA Code of Conduct and Compliance Benchmarks, ER.17.2 There shall be a mechanism that allows workers to report harassment and grievances confidentially, including any concerns or problems they may be experiencing around legally owed payments during a retrenchment process.

²¹ FLA Code of Conduct and Compliance Benchmarks, ER.17.5 Employers shall have in place procedures to track the number, types, and timing and resolution of grievances, and to communicate the resolution of grievances to the workforce.

suppressed as it does not align with culturally appropriate practices.²² The employer has an opportunity to make additional efforts to provide a safe work environment for all workers, free of harassment and discrimination.

The disciplinary system of the Factory is progressive in nature and is documented in worker files. The disciplinary actions are described in the induction training material, with the following classification: non severe, severe, very severe. And the disciplinary actions range from verbal warning, written warning, suspensions and termination of labor contract.

The written warnings are maintained in worker files; however, in average only 1 in 10 are signed by workers. As reported by management, workers avoid signing as an expression of disagreement.²³ In some warning records there is a space at the back of the page for workers to include their comments; however, in no case this space is observed in use. Additionally, as it is set after the main description of the infraction and the signatures (worker, supervisor, HR department and witnesses), it does not seem to be adding to the document as an actual appeal process.²⁴ The disciplinary action procedure does not include steps to allow an appeal process and workers to have a third-party witness of their choosing, instead, it usually is someone else at the Human Resources office if workers are not enrolled in a union.²⁵ Though the disciplinary records are maintained on file, workers do not receive written copies that a disciplinary action has been raised against them.²⁶

In the case of workers having received mistreatment for the cause of being on the LGBTIQ+ community there has been no documented investigation and closure, and no disciplinary action for perpetrators.

²² FLA Code of Conduct and Compliance Benchmarks, ND.14.1 Employers shall not impose any discriminatory restrictions on the dress or appearance of workers.

²³ FLA Code of Conduct and Compliance Benchmarks, ER.18.3.3 Workers must sign all written records of disciplinary action against them.

²⁴ FLA Code of Conduct and Compliance Benchmarks, ER.18.3.2 Workers have the right to participate and be heard in any disciplinary procedure against them.

²⁵ FLA Code of Conduct and Compliance Benchmarks, ER.18.4 The disciplinary system shall include a third-party witness during imposition, and an appeal process.

²⁶ FLA Code of Conduct and Compliance Benchmarks, ER.18.3.1 Workers must be informed in writing when a disciplinary procedure has been initiated against them.

Additional concerns

The Factory has developed a number of policies and procedures that serve as a framework of the compliance management system, most of these documents were updated last in 2021, and there is not a review process to make sure these documents and their implementation are updated on an annual basis to stay up to date to most recent changes in requirements and applicable laws.²⁷

Efforts have been made to maintain an annual training plan to ensure workers receive refresher trainings on the Factory's policies and procedures, and newly hired workers receive an induction training that covers such topics; however, workers are not provided with written documentation on the content covered in the induction training.²⁸

Harassment and verbal abuse claims

The Factory has developed a Policy on the prohibition of harassment and abuse, October 2021, Revision 2. This document sets out the Factory legal requirements on ensuring fair and respectful treatment of workers without distinction; training has been rolled out on this topic for all workers and a separate training is provided to supervisors.

Despite these efforts, 50% of interviewed workers report having experienced or observed supervisors yelling at workers and senior supervisors yelling at supervisors. This verbal abuse includes humiliating expressions that are made in front of coworkers, and that includes "you are worthless", "you can't do anything right", among other forms of demeaning and insulting language.²⁹

The verbal abuse and harassment towards workers are also reported in the Psychosocial Risk Study Report, carried out by a third-party expert in May 2022. The Factory has provided training on soft skills for supervisors after the knowledge of this issue. No additional follow up actions were made on this situation, and the mistreatment is reported to continue.

²⁷ FLA Code of Conduct and Compliance Benchmarks, ER.1.3 Employers should implement an annual, review process with input from workers of all policies, procedures and their implementation to ensure they meet legal requirements and the FLA Workplace Code.

²⁸ FLA Code of Conduct and Compliance Benchmarks, ER.3.3 Workers should be provided with written documentation that substantiates all the issues covered in orientation briefings.

²⁹ FLA Code of Conduct and Compliance Benchmarks, H/A.5 Employers shall not use any form of verbal violence, including screaming, yelling, or the use of threatening, demeaning, or insulting language, as a means to maintain labor discipline.

There is no evidence that the management has disciplined the supervisors who engage in this behavior, and there is no evidence of management making the effort to understand in more detail the breadth of the complaints of workers through requesting direct worker feedback or through their worker representatives in this topic.³⁰

Lactation area

The Factory has set a corner in the Human Resources office for breastfeeding mothers to be able to extract breast milk, however this space is not private enough, as it is within the HR office, adjacent to a desk of one of the male employees in the room, the curtain does not provide sufficient privacy, the space is limited and does not allow for more than one chair, there is not a clean surface to manipulate any instruments needed, and there is no available running water to keep the location clean. There is not a register of the use of this space, and it does not seem to be used.³¹

³⁰ FLA Code of Conduct and Compliance Benchmarks, H/A.11 Employers shall have a system to discipline supervisors, managers or workers who engage in any physical, sexual, psychological or verbal violence, harassment or abuse, through measures such as compulsory counseling, warnings, demotions, and terminations or a combination thereof regardless of whether such action was intended as a means to maintain labor discipline with a view to preventing the reoccurrence of violence and harassment, and facilitating their reintegration into work, where appropriate.

³¹ Law for the Promotion, Protection and Support of Breastfeeding, Art. 35, Employers have the obligation to establish a hygienic space, within the workplace, so that mothers can express and store breast milk.

Conclusions

Management Systems

The Factory has developed policies and procedures for the framework of their compliance management system; however, there is not a system in place for these documents and their implementation to be reviewed annually to ensure proper alignment to legal and customer requirements. Though workers are trained at hiring on the content of such policies and procedures, they do not receive written information substantiating this information.

Retrenchment

A retrenchment process was implemented in January 2023, through the implementation of this workforce reduction, the following areas of improvement in Factory practices were identified:

- The worker representatives were not consulted before a final decision is made
- There is not a systematic and clearly documented process to evaluate worker performance and select them for a retrenchment procedure; taking into consideration legally protected groups.
- Once the decision of terminating the contracts was made, a termination plan was not developed and the Factory did not open communication channels for workers to ask questions and provide feedback.
- Issues with recordkeeping were noted in the termination roster/list, as the Factory maintains more than one source of information; voluntary resignations marked as terminations without just cause. No issues were noted around calculation and payment of severance
- Written procedures do not include details on severance payment calculation
- Severance payment receipt, required for workers to sign in acceptance of payment, includes language where workers release the Factory of their right to demand any labor right violation.
- There is not a confidential grievance channel available for retrenched workers to raise problems around legally owed payment during retrenchment.

Freedom Of Association And Collective Bargaining

Dismissal of union officials

The Factory terminated three workers in January 2023 who were under union official protection; two have been reinstated to their job positions. The third one has not. None of them have received retroactive payment for the time since termination.

Another set of two union officials were terminated in 2021 and despite having a favorable court ruling, the Factory has refused to reinstate them and has chosen to appeal the court decision.

This points to a lack of willingness of the factory to timely evaluate and dialogue with trade unions and affected parties and suggests anti-union activity and practices.

Industrial relations

Joint meetings trade unions-employer were conducted during 2022, the last one was not conducted and not rescheduled. Only three out of the six trade unions present at the Factory are summoned to the meetings, and they are not recognized by the management.

The Factory has not established a structure for constructive dialogue and dispute resolution process with the trade unions present at the factory. Obstacles for union officials to request absence can be perceived as an obstacle and measure for union officials to perform their union related activities. Moreover, union officials have not been provided with facilities necessary for the proper exercise of their functions.³²

Workers have been provided training on the Factory policy and procedure of freedom of association and collective bargaining, this training has been ineffective, as workers have misconceptions and ignorance on what is a union, its rights and duties and how this affects them.

Compensation Of Medical Leave

The Factory has not consistently paid the first three days of medical leaves issued by the Salvadorean Social Security Institute. In most cases it is paid, but instances were observed where no payment was issued.

Discrimination

Discriminatory practices have affected workers on the LGBTIQ+ community by being subject to verbal derogatory terms about their physical appearance and demeanor. No corrective measures have been implemented to stop and prevent this behavior.

³² FLA Code of Conduct and Compliance Benchmarks, FOA.15 Worker representatives shall have the facilities necessary for the proper exercise of their functions, including access to workplaces and office space where required by law.

Grievance Mechanisms

The grievance system – suggestion box - in place does not ensure confidentiality at the cutting facility, moreover this system has not proven to be an effective way to receive workers complaints, there is not a functioning system to collect workers feedback and participation.

There are no records to prove the Factory is investigating and getting to a closure on complaints raised by workers, grievances are not tracked to closure.

Disciplinary System

Disciplinary actions carried out at the Factory are not provided in writing for workers when a process has been initiated against them, there is not a third-party witness chosen by the worker and no appeal process. Leading to workers not trusting the fairness of the disciplinary system and by consequence refusing to sign the disciplinary records.

Verbal Abuse

Verbal abuse has been identified via a third-party assessment and reported by worker interviews in this investigation, though training on proper treatment and respect to workers has been provided to supervisors, there has been no disciplinary actions or follow up measures to ensure this practice does not continue.

Lactation Area

The Facility has implemented a lactation area; however, it does not meet privacy and sanitary requirement.

Recommendations

Recommendations for factory

Management Systems

- Implement an annual, review process with input from workers of all policies, procedures and their implementation to ensure they meet legal requirements and the FLA Workplace Code.
- Consider adding to the management team a compliance specialist/professional to further support and implement initiatives that align the company practices with applicable laws and international standards on social compliance.
- Complement the content on the retrenchment policy/procedure to include:
 - Consultation with worker representatives prior to final decision is made.
 - Guidelines to develop a plan on retrenchment aimed at mitigating negative impacts on workers and their communities.
 - Acknowledge legally protected groups
 - Form to communicate such plan to workers and its representatives and allow for communication channels for workers to ask questions and provide feedback.
 - Describe calculation process for the payment of severance, depending on the type of termination of contract.
 - List which records are created to document proper implementation of retrenchment/termination procedures by Factory.
 - Change language on severance payment and other templates where workers sign a release of rights in order to access severance payment.
- Complement the content on the grievance policy/procedure to include:
 - Characteristics and availability of the grievance channels.
 - Describe the investigation process and the team/committee to oversee this process.
 - Develop a template to track grievances and their status
 - Describe the grievance channels available for workers to report concerns or issues related with termination and severance payments.

- Develop a systematized performance review process, ensure objectivity, relevance and fairness in its application.
- Complement the content on the permit procedure to include:
 - Steps for union officials to request an absence permit.
- Complement the content of the freedom of association and collective bargaining policy/procedure to include:
 - The process to identify and recognize trade unions and their union officials.
 - The process to engage and allow communication and feedback with union officials.
 - Dispute resolution process.
 - “*Mesas de diálogo*” frequency and guidelines for implementation.
 - Include language on the commitment to align with non-interference, neutrality, non-favoring one trade union other another
 - Commitment to refrain from and not tolerate any acts of discrimination, intimidation and anti-union activities
- Review and update documents where clothing and appearance restrictions are not solely based on health and safety requirements.
- Provide worker training on the following topics:
 - Freedom of association and collective bargaining; to be provided by an independent expert
 - Nondiscrimination and inclusion
 - Disciplinary system and appeal process
- Ensure the head of human resources and her team, who engage with workers at the HR office, are trained on:
 - Freedom of association and collective bargaining; to be provided an external provider with subject matter expertise
 - Nondiscrimination and inclusion
 - Conflict resolution
- Provide supervisor training to improve their people management skills, including the topics on:

- Freedom of association and collective bargaining; to be provided an external provider with subject matter expertise
 - Nondiscrimination and inclusion
 - Conflict resolution
 - Worker respectful treatment
 - Disciplinary system
- Develop an internal communications procedure, that describes:
 - Ways in which the Factory communicates policies and procedures
 - Written information is provided on induction training topics
 - Inform workers in writing that a process has been initiated against them
 - Which are the types and frequency of communication to workers: publication in workplace, meetings, trainings, presentations, pamphlet, loudspeaker, etc.
 - Ways in which for the Factory to proactively request worker feedback (through anonymous surveys, union official meetings, confidential grievance channels, open door policy, focus groups, committee meetings, etc.) and how it acts on such feedback to proactively address issues on the workplace.

Retrenchment

- Reinstate the remaining union official terminated in January 2023 and retroactively pay owed wages since January 6, 2023 and up to the date of reinstatement, to the three workers.
- Though the Factory claims that one of the union officials voluntarily quit on January 6th, it is reported via worker interview that she signed the resignation letter in an environment of intimidation and coercion, and it was not her will or wish to end the labor relationship; for this reason, the recommendation is to reinstate her as well as the other two union officials. The document review process confirmed that the three workers were under the legal protections for union officials at the time of dismissal.
- With regards to the two union officials terminated in 2021 in similar situation, it is recommended to reinstate them and pay owed wages in alignment with the court rulings issued in October and December 2022 respectively. This recommendation is issued based on the similarity of circumstances of these terminations with the terminations occurred in January 2023, and to the fact that it was verified that such workers were entitled to legal protection at the time of their dismissal.

- If a retrenchment process has to be implemented in the future, ensure it is carried out in alignment with internal procedures and that proper records are maintained to prove a fair system was used to select workers, and terminations are properly classified, supported and paid. All in accordance with FLA's CoC and Benchmarks governing retrenchment.

Freedom of Association and Collective Bargaining

- Identify and recognize all trade unions present to proactively engage with them.
- Establish an annual plan for "*mesas de diálogos*". Begin such meetings as soon as possible with the involvement of an independent ombudsperson to facilitate the first three meetings.
- Properly document trade unions information request and the factory responses in each instance.
- Refrain from terminating union officials, without due legal process.

Compensation of Medical Leave

- Implement a consistent payment process for the first three-day medical leave issued by the Salvadorean Social Security Institute
- Retroactively pay medical leaves that were not paid since March 2022

Grievance Mechanisms, Nondiscrimination, Verbal Abuse, Disciplinary System

- Ensure there are effective confidential channels accessible for all workers.
- Investigate and track grievances to closure
- Create a procedure to properly investigate the complaints, this can include the creation of a committee if deemed necessary.
- Develop an accountability system on the grievance mechanism
- Communicate conclusion/closure of investigations to workers and their representatives
- Discipline supervisors responsible for worker mistreatment
- Implement the appeal process and the inclusion of the third-party witness in the implementation of disciplinary actions. Request worker signatures on written warnings, provide copy.

Lactation Area

- Improve the privacy and sanitation conditions of the breast milk extraction area.

Recommendations for trade unions

1. Maintain the commitment to a respectful relationship with parties involved in the administration and management of the Factory.
2. Continue with the training/professionalization of their union officials so they have the tools and skills to continue performing their roles.
3. Foster trust and transparency in the communication with the Factory representatives. Where possible, document in writing the information requests and grievances made to the Factory management, request stamp of receipt, seal, signature of who is receiving such information and date of reception.

Recommendations for customers - brands

1. Collaborate among the different customers/brands present in the Factory to work on compliance initiatives that support the improvement of workplace conditions at the Factory and impacts worker wellbeing.
2. Provide technical assistance through the corrective action implementation process to the Factory wherever necessary.
3. Verify, monitor and validate progress on the implementation of corrective and preventative action plans and its effectiveness in the Factory.