

Fair Labor Association: Independent External Factory Assessment

Assessment Date :

12 Jul 2021



Factory Information

FLA Affiliates	Esprit Europe Services GmbH
Country	China
Number of Workers	

Understanding this Report

Companies that join the FLA agree to uphold the FLA Workplace Code of Conduct throughout their entire supply chain. The Code of Conduct is based on International Labour Organization (ILO) standards, and defines labor standards that aim to achieve decent and humane working conditions.

FLA Code Element

Number of Violations

Compensation (C)	4
Employment Relationship (ER)	5
Freedom Of Association And Collective Bargaining (FOA)	1
Health, Safety And Environment (HSE)	7
Hours Of Work (HOW)	2

Assessment Information

Assessor	Openview- China Shenzhen
Assessment Date	12 Jul 2021

Assessment Purpose

Factory Assessment (In-Person)

ASSESSMENT RESULTS

Compensation (C)

Benchmark ID	C.12.1
Benchmark Details	All legally mandated deductions for taxes, social insurance, or other purposes shall be deposited each pay period in the legally defined account or transmitted to the legally defined agency. This includes any lawful garnishments for back taxes, etc.
Finding Details	The contribution base of the five types of social insurances is not in line with legal requirement. The factory contributes to pension insurance based on CNY 3,376 (USD 519) per month, medical and maternity insurances based on CNY 3,500 (USD 538) per month, work-related injury and unemployment insurances based on CNY 1,960 (USD 301) per month, which is not in line with the legal requirement of contribution based on worker's average monthly wage of the previous year. 70% of workers' average monthly wages of the previous year were higher than the local minimum contribution base, ranging from CNY 3,600 (USD 554) to CNY 4,500 (USD 692).
Recommendation for Immediate Action	Contribute to social insurance based on worker's average monthly wage of previous year.
Compliance Classifications	Immediate Action Required
Local Law	Social Insurance Law of the PRC, Article 12 and Article 60
Benchmark ID	C.1.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning the payment of compensation to workers.

Finding Details	The factory does not provide social insurance to all eligible workers. There is a total of 99 workers working in the factory, including 25 retired but re-recruited workers and 11 new workers. The factory has provided 7 out of 63 eligible workers (11%) with five types of social insurances, including pension, medical, work-related injury, maternity, and unemployment insurances.
Recommendation for Immediate Action	Provide social insurance to all eligible workers.
Compliance Classifications	Immediate Action Required
Local Law	The China Labor Law, Article 72
Benchmark ID	C.19.1
Benchmark Details	Employers shall make every reasonable effort to ensure workers understand their compensation, including: the calculation of wages, incentives systems, benefits, and bonuses they are entitled to at the workplace and under applicable laws.
Finding Details	The factory has written policies and procedures on maternity leave and lactation leave. However, the factory does not make reasonable efforts to ensure workers understand these benefits. Six out of sixteen interviewed workers do not know how to apply for maternity leave and lactation leave. There have been no pregnant workers or new mothers in the past twelve months.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
Benchmark ID	C.21.1
Benchmark Details	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.

Finding Details	The factory does not contribute to the Housing Provident Fund for any of the 63 eligible workers.
Recommendation for Immediate Action	Provide all eligible workers with the legally required Housing Provident Fund.
Compliance Classifications	Immediate Action Required
Local Law	Regulations on Management of Housing Provident Fund, Article 15

Employment Relationship (ER)

Benchmark ID	ER.2
Benchmark Details	Employers shall ensure that all legally mandated requirements for the protection or management of special categories of workers, including migrant, juvenile, contract/contingent/temporary, probationary workers, home workers, and pregnant or disabled workers, are implemented. Where local laws and FLA standards differ, the employer is expected to follow the highest applicable standard.
Finding Details	The factory has not hired any disabled workers, which is in violation of the legal requirement that states at least 1.5% of the total workforce should be composed of disabled workers. And the factory does not contribute to the Employment Security Fund in lieu of employing disabled workers as allowed under the local law. This practice carries the risk of discrimination based on the FLA Workplace Code and Benchmarks.
Recommendation for Immediate Action	Hire sufficient number of disabled workers as per legal requirement, FLA Workplace Code and Benchmarks.
Compliance Classifications	Immediate Action Required
Local Law	Regulation on the Employment of the Disabled, Articles 8 and 9
Benchmark ID	ER.1.1

Benchmark Details	Employers shall have in place written policies and practices and maintain proper and accurate records governing all aspects of employment from recruitment, hiring and probation, including written terms and conditions of employment, job descriptions, administration of compensation, and working hours for all positions, through to retrenchment and termination processes.
Finding Details	The factory does not have policies or procedures for managing Retrenchment.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
Benchmark ID	ER.7.1
Benchmark Details	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.
Finding Details	The factory does not conduct performance reviews for any workers, and workers' promotion is based on supervisors' judgment.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
Benchmark ID	ER.19.1

Benchmark Details	Employers shall maintain on file all documentation needed to demonstrate compliance with the FLA Workplace Code and required laws.
Finding Details	The factory doesn't maintain all documentation in relation to grievance processes. The factory only maintains the records of opening suggestion box and no grievance cases have been reported through the suggestion boxes in the past 12 months. The factory does not keep records of the verbal grievances communicated to supervisors.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
Benchmark ID	ER.1.3
Benchmark Details	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.
Finding Details	The worker integration component is missing across all Employment Functions. This indicates that the factory has not established procedures to request or receive workers' input and feedback regarding the creation, implementation, and updating of its policies and procedures. Workers are neither systematically integrated nor consulted in decision-making processes.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil

Freedom Of Association And Collective Bargaining (FOA)

Benchmark ID	FOA.10
Benchmark Details	Employers shall refrain from any acts of interference with the formation or operation of workers' organizations, including acts which are designed to establish or promote the domination, financing or control of workers' organizations by employers.
Finding Details	<p>FLA Comment: The Chinese constitution guarantees Freedom of Association; however, the Trade Union Act prevents the establishment of trade unions independent of the sole official trade union – the All-China Federation of Trade Unions (ACFTU). According to the International Labor Organization (ILO), many provisions of the Trade Union Act are contrary to the fundamental principles of freedom of association, including the non-recognition of the right to strike. As a consequence, all factories in China fall short of the ILO standards on the right to organize and bargain collectively. Recently, however, the government has introduced new regulations that could improve the functioning of the labor relations' mechanisms. The Amended Trade Union Act of October 2001 stipulates that union committees have to be democratically elected at members' assemblies and trade unions must be accountable to their members. The trade union has the responsibility to consult with management on key issues of importance to their members and to sign collective agreements. It also grants the trade union an enhanced role in dispute resolution. In December 2003, the Collective Contracts Decree introduced the obligation for representative trade unions and employers to negotiate collective agreements, in contrast to the previous system of non-negotiated administrative agreements.</p>
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil

Health, Safety And Environment (HSE)

Benchmark ID	HSE.5.1.2
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Benchmark Details	All applicable, legally required or recommended elements of safe evacuation shall be complied with, including all the following elements: installation and maintenance of fire alarms;
Finding Details	The fire alarms in production and dormitory buildings are not centralized and without backup battery power.
Recommendation for Immediate Action	Install a centralized fire alarm system with backup battery in production and dormitory buildings.
Compliance Classifications	Immediate Action Required
Local Law	The Code of Design on Building Fire Protection and Prevention (GB50016-2014), Article 10.1.6
Benchmark ID	HSE.5.1.4
Benchmark Details	All applicable, legally required or recommended elements of safe evacuation shall be complied with, including all the following: ensuring aisles/exits are not blocked and that workers are not blocked within their workstations
Finding Details	1. The factory places the materials against the wall in the raw material warehouse. 2. The factory places plastic bags, which are flammable materials, in one of two stairwells in the 2-story production building.
Recommendation for Immediate Action	1. Place the materials with at least 0.5 meters of clearance from the wall in the warehouse. 2. Remove the flammable materials from the stairwell and keep it unblocked at all times.
Compliance Classifications	Immediate Action Required
Local Law	The Rules on Administration of Fire Safety in Warehouses, Article 39; The Code of Design on Building Fire Protection and Prevention (GB50016-2014), Article 6.4.1
Benchmark ID	HSE.14.1

Benchmark Details	All production machinery, equipment and tools shall be properly guarded and regularly maintained.
Finding Details	The factory has never conducted an inspection for the lightning protection system in production and dormitory buildings.
Recommendation for Immediate Action	Conduct annual inspections for the lightning protection system and maintain the inspection reports.
Compliance Classifications	Immediate Action Required
Local Law	
Benchmark ID	HSE.6.1
Benchmark Details	All safety and medical equipment (e.g. fire fighting equipment, first aid kits) shall be available in sufficient numbers throughout the workplace, maintained and stocked as prescribed, and easily accessible to workers.
Finding Details	The factory has never contracted a qualified service provider to conduct a comprehensive inspection of the firefighting equipment.
Recommendation for Immediate Action	Contract a qualified service provider to conduct comprehensive inspections for the firefighting equipment at least once a year.
Compliance Classifications	Immediate Action Required
Local Law	China Fire Prevention Law, Article 16
Benchmark ID	HSE.4.1
Benchmark Details	Employers shall at all times be in possession of all legally required and valid permits and certificates related to health, safety, and environmental issues, such as: Purchase and storage of chemicals; Fire safety inspections; Machinery inspections; Waste disposal; Environmental licenses/permits; Sanitation permits, including those required for canteens; and Vehicle inspection and driver permits for all employer provided transportation.

Finding Details	1. The factory has never conducted any kind of assessment on occupational disease hazards since it was founded on December 31, 2011. 2. The factory has never conducted a safety inspection for 3 out of 3 safety valves or calibration for 3 out of 3 pressure meters.
Recommendation for Immediate Action	1. Conduct an assessment of the current condition of occupational disease hazards and obtain valid reports. 2. Conduct safety inspection for safety valves and calibration for pressure meters.
Compliance Classifications	Immediate Action Required
Local Law	The Measures for Supervision and Administration of the "Three Simultaneities" for Occupational Disease Protection facilities at Construction Projects, Article 4; The Special Appliance Quality Safety Monitoring Regulation, Article 28
Benchmark ID	HSE.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning health, safety, and the environment.
Finding Details	The factory has never completed a written analysis report on safety production conditions since it was founded on December 31, 2011.
Recommendation for Immediate Action	Prepare written analysis report on safety production conditions as per legal requirements.
Compliance Classifications	Immediate Action Required
Local Law	The Measures for Supervision and Administration of the "Three Simultaneities" for Safety facilities at Construction Projects, Article 9
Benchmark ID	HSE.17.1
Benchmark Details	Workstations, including seating and standing arrangements and reach required to obtain tools, shall be designed and set-up in such a manner as to minimize bodily strains.

Finding Details	The factory does not take proactive steps to reduce repetitive motion stress or injuries, e.g., providing adjustable workstations or chairs, and anti-fatigue floor mats.
Recommendation for Immediate Action	Take proactive steps to reduce repetitive motion stress or injuries by providing adjustable workstations or chairs and anti-fatigue floor mats.
Compliance Classifications	Immediate Action Required
Local Law	Nil

Hours Of Work (HOW)

Benchmark ID	HOW.1.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning hours of work, public holidays and leave.
Finding Details	Overtime hours exceed the legal requirement of thirty-six hours per month. Time records from June 2020 to June 2021 indicate that 80% of workers worked 50 to 64 overtime hours per month in all reviewed months, except February 2021. Workers worked a maximum of 64 overtime hours in June, August, November, December 2020, and January, March, June 2021.
Recommendation for Immediate Action	Monitor and control overtime hours to achieve full compliance with legal requirement.
Compliance Classifications	Immediate Action Required
Local Law	Labor Law of PRC, Article 41
Benchmark ID	HOW.20

Benchmark Details	Employers shall have in place practices that conduct regular analysis of hours of work in their workplaces and procedures that demonstrate a commitment to progressively reducing excessive hours of work.
Finding Details	The factory sets a production plan based on 58 hours per week (two overtime hours per day on five workdays and eight overtime hours on Saturday). Factory management sets production targets and the production system at a level that workers need to work 18 overtime hours per week.
Recommendation for Immediate Action	Set production plan based on regular working hours. Adjust production targets so that workers do not need to work overtime to meet them.
Compliance Classifications	Immediate Action Required
Local Law	Nil

