

# Fair Labor Association: Independent External Factory Assessment

Assessment Date :

**21 Sep 2021**



## Factory Information

FLA Affiliates	adidas,Outerstuff LLC
Country	El Salvador
Number of Workers	1903

## 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)	1
Employment Relationship (ER)	4
Freedom Of Association And Collective Bargaining (FOA)	1
Harassment Or Abuse (H/A)	1
Health, Safety And Environment (HSE)	3

## Assessment Information

Assessor	Francisco Chicas
Assessment Date	21 Sep 2021

Assessment Purpose	Factory Assessment (In-Person)
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## ASSESSMENT RESULTS

### Compensation (C)

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	Factory pay workers in-advance termination payouts every three years; such payments are not included as itemized deductions in the final severance calculation when workers are terminated or resign. This means that the final severance calculation is based on the last working year (or fraction of that last year) only, instead of multiplying the total years of service by the last legal minimum wage in force, and then deducting all advance payments of termination payouts previously provided to the workers. This calculation reduces the total amount of termination payouts workers should receive.
Recommendation for Immediate Action	Calculate payment of termination payouts by multiplying all length of service for the last valid legal minimum wage in force, and deduct from the total all in-advance payments of termination payouts provided to the workers in previous years.
Compliance Classifications	Immediate Action Required
Local Law	Labor Code, Art. 58.

### Employment Relationship (ER)

Benchmark ID	ER.1.2
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Benchmark Details	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.
Finding Details	Orientation training and ongoing annual training provided to the workers has not been sufficiently effective to ensure workers gain knowledge on all relevant topics delivered. From interviews, the assessors noted that workers are lacking knowledge on their rights to freedom of association and collective bargaining, some elements of disciplinary procedure such as their rights to appeal process, and to present witnesses during the imposition of disciplinary actions. Some workers were lacking knowledge on what the purpose of the suggestion box is. The assessors reviewed the training material used during orientation training to new workers and also the training material used during the ongoing worker training, and all these topics are included.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
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 the legally required number of workers with disabilities. Currently, the factory employs 39 disabled workers, but as per legal requirements, there should be at least 115 (one worker with disability for every 25 workers). It is worth to note, that on March 23, 2021 the factory submitted letters to the Salvadoran Institute of Integral Rehab, to the Ministry of Labor, and also to eight local authorities of surrounding Municipalities, requesting recommendations of disabled workers they might refer for hiring.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Law on Equal Opportunities for People with Disabilities, Art. 24.
Benchmark ID	ER.17.1
Benchmark Details	Employers shall have a clear and transparent system of worker and management communication that enables workers to consult with and provide input to management. This might include suggestion boxes, worker committees, designated spaces for worker meetings, union representatives, and meetings between management and workers' representatives.
Finding Details	i) New plants that make up the Cutting and Fabric Warehouse have not been provided with suggestion boxes, or an alternative confidential grievance channel available for workers. ii) Suggestion boxes are placed at the entrance to the factory and at the canteen. The suggestion box at the entrance is in sight of other workers and guards, which does not ensure workers can use them confidentially.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
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	1) The factory does not have policies and procedures to manage performance reviews for production workers. 2) The factory does not conduct performance reviews for production-related workers, which are around 2,010 workers.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

### Freedom Of Association And Collective Bargaining (FOA)

Benchmark ID	FOA.1.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning freedom of association and collective bargaining. national laws, rules, and procedures protecting the rights of workers to organize and bargain collectively. Where local laws and FLA standards differ, the employer is expected to follow the highest applicable standard.

Finding Details	<p>At the time of the assessment, there were three trade unions (known as seccionales sindicales in Spanish) with presence at the factory; two of them had already presented a joint request to the factory to initiate a dialogue table (request dated, May 7, 2021). The third trade union had just informed factory management about their legal formation one week prior to the onsite assessment. Factory management commented they are open to hear and receive the unions' specific complaints any time union leaders want to raise them, but they have refrained from initiating a formal dialogue table with the unions, as management question whether the unions are "representing" an important number of workers within the factory. However, this position goes against international labor standards, specifically, the International Labor Organization (ILO)'s Convention N° 135 and the related ILO's Recommendation N° 143, which consider "worker representatives" to the trade union representatives designated by unions, regardless of the amount of union affiliates the organizations have, or the percentage of representation the unions might have in a given facility. As a result, the management is not consulting with the union leaders, and has not given them the chance to establish a formal and ongoing dialogue process. ILO's Conventions ratified by El Salvador are part of the Salvadoran legal system, as established by the Article 144 of the Salvadoran Constitution. ILO's Convention N° 135 was ratified by El Salvador on September 06, 2006.</p>
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Constitution, Art. 144; ILO's Convention N° 135, Workers' Representatives, 1971, Articles 2 and 3; ILO's Recommendation N° 143, Workers' Representatives, Articles 2(a) and 13.

## Harassment Or Abuse (H/A)

Benchmark ID	H/A.2
Benchmark Details	Employers shall not use monetary fines and penalties as a means to maintain labor discipline, including for poor performance or for violating company rules, regulations, and policies.



Finding Details	Rest day payments are completely deducted in cases of late arrival, or in cases where workers do not show up without just cause. These deductions constitute disproportional monetary penalties, as the amount deducted does not correspond to the specific time the workers were off; instead, the total payment of rest day is deducted.
Recommendation for Immediate Action	Stop the practice of implementing deductions of the total payment of rest days when workers do not show up to work, or when they show up late without a just cause.
Compliance Classifications	Immediate Action Required
Local Law	

## Health, Safety And Environment (HSE)

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	During the observation tour the assessor noted some aisles partially blocked by boxes used to temporarily store the pieces that are being sewed.
Recommendation for Immediate Action	Ensure that aisles at sewing production lines are unobstructed at all times.
Compliance Classifications	Immediate Action Required
Local Law	
Benchmark ID	HSE.13

Benchmark Details	All necessary ventilation, plumbing, electrical, noise and lighting services shall be installed and maintained to conform to applicable laws and to prevent or minimize hazardous conditions to workers in the facility.
Finding Details	i) Heat assessment conducted by an external third party expert in July 2021 indicated that the thermal conditions at the Exporting Warehouse exceed the legal limits required to provide workers with adequate thermal comfort conditions. Temperature levels found range between 31.1 and 31.7 degrees Celsius at four sample points, when the local law limits a maximum of 29 degrees Celsius for this work area. At the time of the assessment the factory was installing a new air conditioning system for this and other work areas. ii) Heat assessment conducted by an external third party expert in Aug 2021 indicated that the thermal conditions at the Cutting Plant exceed the legal limits required to provide workers with adequate thermal comfort conditions. Humidity levels found range between 70.1 and 73.4 at two sample points, when the local law requires a limit of 70 for this work area. At the time of the assessment, the factory did not have plans for improving temperature in this Building. iii) During the observation tour, the assessors found that the ventilation system at the development area of Screen-Printing was not working.
Recommendation for Immediate Action	Provide workers at all work areas with adequate thermal comfort conditions, following legal requirements, and ensure that existing ventilation systems are working at all times.
Compliance Classifications	Immediate Action Required
Local Law	Regulations to the General Law on Occupational Risks Prevention at Workplace (Decree N° 89), Articles 142, 147 section 1), and 148 section 1.
Benchmark ID	HSE.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning health, safety, and the environment.

Finding Details	i) The factory did not provide the legally required training to Health & Safety Committee members on how to properly identify occupational risks, as legally required; this committee was formed in May 2018. At the time of the assessment, the factory was in the process of forming a new H&S Committee, whose new members had already been selected following legal requirements. ii) No union leader has been invited to participate in the H&S Committee, as legally required.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	General Law on Occupational Risks Prevention at Workplace, Article 15; Regulations on Risk Prevention Management (Decree N° 86), Article 10; General Law on Occupational Risks Prevention at Workplace, Article 16 third section; Regulations on Risk Prevention Management (Decree N° 86), Article 15.

