



FAIR LABOR
ASSOCIATION®

INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: Esprit Europe GmbH
COUNTRY: China
ASSESSMENT DATE: 09/14/20
ASSESSOR: Openview
PRODUCTS: Apparel
NUMBER OF WORKERS: 671

Summary of Code Violations

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.

While it is important to note when violations of the FLA Workplace Code of Conduct occur, the purpose of these assessments is not simply to test compliance against a particular benchmark, but rather to develop an understanding of where and how improvements can be made to achieve sustainable compliance. Code of Conduct violations can be found throughout the course of an assessment of the employment and management functions, and are addressed in companies' action plans.

FLA Code Element	Number of Violations
Compensation	1
Hours of Work	2
Employment Relationship	2
Health, Safety, and Environment	5
Nondiscrimination	1

Findings and Action Plans

FINDING NO.1

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. There are 663 workers including 105 retired but re-recruited workers in the factory. The factory provides pension, unemployment, medical, work-related injury and maternity insurance to all 558 (100%) eligible workers. However, the factory contributes to the five types of social insurance based on CNY 3,368 (USD 498) per month, which is not in line with the legal requirement of contribution based on worker's average monthly wage of the previous year. 80% of workers' average monthly wages of the previous year were higher than CNY 3,368 (USD 498). [C.10.1]
2. The factory does not contribute to the Housing Provident Fund for any eligible workers. [ER.22.1]

Local Law or Code Requirement

Social Insurance Law of the PRC, Article 12 and Article 60; Regulations on Management of Housing Provident Fund, Article 15. FLA Workplace Code (Employment Relationship Benchmark ER.22; Compensation Benchmark C.10)

Recommendations for Immediate Action

1. Contribute to social insurance based on worker's average monthly wage of the previous year.
2. Provide all workers with the legally required Housing Provident Fund.

FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. Overtime hours exceed the legal limit of 36 hours per month. Time records for the period from September 2019 to September 2020 and worker interviews indicate that the monthly overtime hours for about 70% of workers exceeded 36 in all reviewed months except January and February 2020, with a maximum of 59 overtime hours in December 2019. [HOW.1.1, HOW.8]
2. The factory sets the 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. [ER.24]

Local Law or Code Requirement

The China Labor Law, Article 41. FLA Workplace Code (Employment Relationship Benchmark ER.24; Hours of Work Benchmark HOW.1 and HOW.8)

Recommendations for Immediate Action

1. Ensure overtime hours do not exceed the legal limit of 36 hours per month.
 2. Set the production plan based on regular working hours. Adjust production targets so that workers do not need to work overtime to meet them.
- Ensure that overtime is not included as a general practice into the factory's production planning. FLA affiliate Company's Sourcing and Social Compliance teams should:
- 1) Implement FLA Principles of Fair Labor and Responsible Sourcing and
 - 2) Accordingly coordinate on the topics mentioned below to help the factory address its excessive hours issue:
 - a. How to provide better order forecasts to the factories;
 - b. Possible workshops/consultancy for the factory on how to improve productivity/quality;
 - c. Clear guidelines on how to extend shipment deadlines in case of contingencies;
 - d. Steps that factory management must follow if overtime is inevitable (steps for how to communicate with the brand's Sourcing and Social Compliance teams);
 - e. Clear guidelines on the calculation and setting of reasonable production targets that will not demand work beyond regular working hours or during breaks;
 - f. Clear guidelines on how and when the factory can use subcontractors and/or temporary workers to avoid excessive overtime.

FINDING NO.3

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

1. 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. [FOA.2, FOA.10]

Local Law or Code Requirement

FLA Workplace Code (Freedom of Association Benchmarks FOA.2 and FOA.10)

FINDING NO.4

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. There are four 5-story buildings (#2-1, #2-2, #2-3 and #2-4) with connecting bridges in Production Building #2. The factory installs 12 fire extinguishers on each floor of the Production Building #2-1 and #2-2, which is not in line with the legal requirement of at least 18 fire extinguishers on each floor. [HSE.6.1]
2. The fire alarm on the 1st floor of the Canteen Building #3 does not work during the on-site test. [HSE.5.3, HSE.25.1]
3. The manual-start function of one out of two water pumps for the sprinkler system located in the control room of fire pool does not work during the on-site test. [HSE.6.1]
4. The factory has not installed pulley guards on the two tape machines in the linking department on the 3rd floor of the Production Building #2-1. [HSE.14.1]
5. The factory keeps food sample for only 24 hours, which is not in line with the legal requirement of at least 48 hours. [HSE.22.1]

Local Law or Code Requirement

The Code for Design of Extinguisher Distribution in Buildings (GB50140-2005), Article 7.3.1; The China Fire Prevention Law, Article 16 (2); Code of Design of Manufacturing Equipment Safety and Hygiene, Article 6.1.6; The Food Safety Operation Specifications for Catering Service, Article 7.9.2. FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.5, HSE.14, HSE.22 and HSE.25)

Recommendations for Immediate Action

1. Install sufficient fire extinguishers on each floor of Production Building #2-1 and #2-2 as per legal requirement.
2. Repair the fire alarm in the Canteen Building #3 and conduct routine maintenance to ensure functionality.
3. Repair the manual-start function of the water pump for the sprinkler system and conduct routine maintenance to ensure functionality.
4. Install pulley guards on both tape machines.
5. Keep food sample for at least 48 hours as per legal requirement.