



## El Salvador Sew Summary Report, May 26, 2024

FLA Member Companies are expected to comply with all relevant and applicable laws and regulations of the country in which workers are employed. When differences arise between the local law and FLA's Compliance Benchmarks, FLA Member Companies are expected to apply the highest standard. This standard is set out explicitly in the Preamble to FLA's Workplace Code of Conduct and Compliance Benchmarks as well as in Benchmarks C.1.1 and C.1.2. For some FLA members, this commitment has been tested when implementing a retrenchment or closure of a facility, where the calculation and payment of workers' severance must be conducted in compliance with FLA standards as well as the national legal requirements; at times FLA's standards are higher than the local law.

FLA has received an increasing number of complaints from El Salvador, filed by unions concerning the incorrect calculation and payment of workers' severance payments after the termination. These complaints relate mainly to cases of mass retrenchment and factory closures. The incorrect calculation occurs because it has become a frequent business practice in the country's apparel industry to pay workers' severance in advance, typically on an annual basis. When the employer pays workers' severance in advance, all FLA members must ensure employers *"upon termination, severance shall be based upon the worker's current salary and seniority as calculated from the initial date of hire. (Benchmark ER.15.4) and "when provide advance termination payouts [...], these amounts may be subtracted from the final severance payment but must be included as itemized deductions in the final severance calculation. (Benchmark ER.15.4.1).*

This investigation and report concern the *Confecciones El Pedregal* facility in El Salvador (El Salvador Sew), a HanesBrands Inc. (hereinafter, HBI) owned facility. The primary issue in this investigation was the difference between FLA's Workplace Compliance Benchmarks and Salvadorean legal requirements in the calculation and payment of workers' severance following the retrenchment of over 700 El Salvador Sew workers in mid-November 2023. Simultaneously, HBI announced the plans for the gradual closure of this facility.

The complaint was filed by the *Federación Sindical de Asociaciones y Sindicatos Independientes de El Salvador* (Federation of Independent Associations and Unions of El Salvador, hereinafter "FEASIES" or the "Complainant"). The FLA gave HBI an opportunity to address the allegations prior to the initiation of the TPC investigation. HBI engaged directly with the Complainant, but they were unable to reach a resolution after three months of discussion. The FLA initiated the TPC investigation on March 4, 2024. FLA commissioned an independent investigator, Ena Nuñez O'Brien (the Investigator), to investigate the allegations in the FEASIES complaint.

The scope of the investigation included the allegation of the incorrect calculation and payment of severance for those workers terminated in mid-November by the Factory in noncompliance with FLA Workplace Compliance Benchmark ER 15.4.1. The investigation also evaluated the entire retrenchment process of over 700 workers and the status of the planned Factory closure.

The on-site visit took place on March 14, 15 and 18, 2024. The Investigator planned to review a representative sample, if not all, of the 700 terminated workers' personnel files, and analyze the termination process, including: (1) gathering records of all in-advance severance payment granted to each worker, (2) the final severance payment received once the employment relationship effectively ended due to the announced factory closure, and (3) the records on how those terminations were documented and managed by El Salvador Sew. The Investigator encountered some limitations on



getting access to relevant information, including the ability to interview active workers at the Facility premises.

Despite not having access to all the required documentation, the Investigator conducted a thorough investigation, collecting evidence from a variety of other resources including off-site interviews with workers terminated in mid-November and current workers at the time the investigation took place, and an interview with a governmental representative of El Salvador Ministry of Labor.

The Investigator only had access to 39 personnel files out of the over 700 workers terminated in mid-November, but this evidence was enough to corroborate that the calculation of workers' severance payouts was not in compliance with FLA Workplace Compliance Benchmark ER. 15.4.1.

The corroborated noncompliance was not limited only to the severance payments. The Investigator found HBI violated other local legal regulations and failed to comply with FLA Workplace Benchmarks governing Terminations, Compensation and Non-Discrimination. One of those findings is the incorrect withholding of income taxes for pregnant workers and workers with postpartum maternity protection. Other findings were admitted by HBI even before the initiation of the investigation, such as the lack of prior consultation with workers' representatives due to HBI's characterization of the union branches (union sectionals) versus a "representative" factory union. The full list of findings is listed in the conclusion section. The Investigator included as annexes several pieces of evidence collected through the investigative process, but not all of them are included in the public investigation report for confidentiality reasons.

The recommended remedy for the workers terminated as part of the November mass layoff is: "All terminated workers be paid the balance in their favor that results from the deduction of the prepaid advances of severance from the total indemnity for dismissal based on the initial hiring date. HBI must undertake all logistics and costs associated with this process". HBI has stated to FLA, its commitment to comply with the highest standard, in this case, FLA's Workplace Benchmarks and had not ever contravened El Salvador's legal framework.

All of the above is set out in greater detail in the Investigator's report, including the list of over nineteen (19) recommendations to be implemented by HBI.

FLA welcomes the constructive engagement with its member company HanesBrands Inc. and the leadership of its Director of Corporate Social Responsibility, Frank Vasquez throughout this investigation process and continuing through the review of the Investigator's findings, conclusions, and recommendations. HBI has reaffirmed its commitment to remediate the noncompliance corroborated through the TPC investigation and ensure the implementation of the reports' recommendations.

For HBI, the remediation phase of the TPC will be especially challenging in terms of the time frame, as after postponing multiple times the final closure of the El Salvador Sew facility, the company has announced to the workforce that it anticipates that the Factory will close by September 2024.