

To: WRC Affiliate Colleges and Universities
From: Rola Abimourched and Bent Gehrt
Re: Back Pay Secured for Workers Denied Wages at Indonesian Factory Decorating Collegiate Goods for adidas, Columbia Sportswear, Fanatics
Date: May 2, 2022

This case brief discusses the Worker Rights Consortium’s investigation and the remediation of violations of labor law and university codes of conduct related to the nonpayment of wages to workers in 2020 by PT Dong-A Decal (“Dong-A Decal”), a factory in Indonesia that decorates university logo apparel for the university licensees adidas, Columbia Sportswear, and Fanatics.

In May and June 2020, the Dong-A Decal factory unlawfully denied several days’ wages each to 314 workers, depriving these employees of 297,561,905 Indonesian rupiah (IDR) (US\$20,717) that they were required to be paid under Indonesian labor law and, by extension, university codes of conduct. After worker representatives filed a complaint with the local labor authorities and the WRC urged the licensees whose collegiate apparel is decorated at the factory to require the management to correct this violation, Dong-A Decal paid workers all the wages they were owed, thereby, fully resolving the violation.

Factory Unlawfully Failed to Pay Workers While Production Suspended

In September of 2021, the WRC received complaints from unions representing employees at Dong-A Decal concerning the factory’s nonpayment of legally required wages to workers when the factory suspended production, for several days at a time, on three occasions in May and June 2020.

Workers testified to the WRC that on April 30, 2020, factory management at Dong-A Decal announced that the facility’s production would be partially suspended starting on May 4, 2020. According to the company’s announcement, workers would not be paid their wages during the periods when production was suspended, as the company would apply a “no work, no pay” principle. The WRC reviewed a contemporaneous company document describing Dong-A Decal’s intention to halt payment of workers’ wages when the factory’s production was suspended, which confirmed workers’ testimonies.¹

The unions representing the factory’s workers did not consent to the company’s plan to deny employees their wages while production was suspended, pointing out that it violated the company’s collective bargaining agreement (CBA) with its workers. The factory’s CBA

¹ On file with the WRC.

explicitly stipulates that if the factory management suspends workers due to lack of orders, workers are still entitled to receive their full wages.²

Moreover, Indonesian labor law does not permit employers to suspend workers without paying them their regular wages and benefits.³ The only exception to this rule is one established in a regulation that the Indonesian labor authorities adopted in March 2020 to address the Covid-19 pandemic, which applies when an employer has been ordered by the local government to restrict its business activities to prevent or control a Covid-19 outbreak; however, even in such cases, any changes to workers' wage payments need to be agreed to by the workers, themselves.⁴ In this case, however, that exception clearly did not apply, since Dong-A Decal neither had been ordered to restrict its business activities by government authorities, nor had it obtained the workers' consent to change their wage payments.

Nevertheless, in violation of both its CBA with its employees and Indonesian law, Dong-A Decal suspended workers without pay during three separate periods in May and June 2020:

- Between May 4 and May 8, the factory suspended 103 workers without pay;
- Between May 11 to May 15, the factory suspended 106 workers without pay; and
- Between June 15 and to June 19, the factory suspended 99 workers for the entire five-day period and suspended a small number of other workers for a portion of this period, all without any pay.

In total, Dong-A Decal suspended 314 workers without pay for several days during this two-month period, resulting in a total loss of wages to workers of IDR 297,561,905 (US\$20,717). As explained above, Dong-A Decal's suspension of workers without pay violated both Indonesian law and the factory's CBA with its workers and, by extension, violated university codes of conduct as well.⁵

² Dong-A Decal, Collective Bargaining Agreement, clause 22 (3).

³ Manpower Act No. 13 of 2003, Art. 155 (3) ("The entrepreneur may violate the provision under subsection (2) above by suspending the worker/labourer who is still in the process of having his/her employment terminated provided that the entrepreneur continues to pay the worker/labourer's wages and other entitlements that worker/labourer normally receives.").

⁴ Minister of Manpower, circular letter No. M/3/HK.04/III/2020 (March 17, 2020) regarding Worker / Labor Protection and Business Continuity in the Prevention and Countermeasure of Covid-19 ("SE Menaker 3/2020") ("For companies that restrict business activities due to government policies in their respective regions for the prevention and control of COVID-19, so that some or all of their workers / laborers do not come to work, taking into account business continuity, changes in the amount and method of payment of workers / laborers' wages are made in accordance with the agreement between employers and workers / laborers.").

⁵ See, Collegiate Licensing Company, Labor Code Standards, II A. ("Licensees must comply with all applicable legal requirements of the country(ies) of manufacture in conducting business related to or involving the production or sale of Licensed Articles."); B. 1. ("Licensees shall pay employees, as a floor, at least the minimum wage required by local law") and 9. ("Licensees shall recognize and respect the right of employees to ... collective bargaining.").

Factory Delayed Payment of Back Wages Owed to Workers

Unions representing the factory's workers filed complaints with the local labor department concerning Dong-A Decal's unlawful failure to pay workers their full wages in May and June 2020. On March 3, 2021, Dong-A Decal signed an agreement with the unions in which it committed to fully compensate the affected workers.

In this agreement, the factory committed to pay workers their back wages in two installments. The first installment of 30 percent of the back wages that workers were owed, which amounted to IDR 89,268,571 (US\$6,216), was paid on April 5, 2021. However, the agreement did not specify the date for the payment of the second installment, which was made contingent upon improvement of Dong-A Decal's orders from buyers and its overall financial situation.

On October 4, 2021, the WRC wrote to Dong-A Decal noting concern that, six months later, the factory still had not fixed a date for payment of the second installment. However, the company did not respond to this communication.

Full Back Pay for Workers after WRC Intervenes with Licensees

After the factory management failed to respond, on October 28, 2021, the WRC contacted the licensees that had disclosed the factory as among their suppliers and requested that they require Dong-A Decal to pay the affected workers the remaining 70 percent of the wages that had been unlawfully withheld from them in May and June 2020, without further delay. Adidas, Columbia Sportswear, and Fanatics all responded positively and pressed the factory to do this.

Shortly thereafter, Dong-A Decal entered into an agreement with the workers' unions, and on December 30, 2021, the company paid the affected 314 workers their remaining outstanding wages, which totaled IDR 208,293,333 (US\$14,501).

University labor standards and the cooperation of university licensees played a crucial role in ensuring that the Dong-A Decal workers received all the money that the company had, first, unlawfully failed to pay them and, then, delayed compensating them in full. As always, if you have any questions or concerns, please let us know.