

Romania

FWF Country Study





Table of contents

Summary	3
1. How to read this FWF country study	4
2. General country information	6
2.1.Economic indicators	6
2.2.Social, political & governance indicators	6
2.3.Income and poverty	6
2.4.General human rights situation	6
3. Stakeholders.....	7
4. Garment industry	13
5. Industrial relations	16
6. Implementation of the FWF code of labour Practices	22
6.1.Employment is freely chosen	22
6.2.No discrimination	22
6.3.No child Labour	23
6.4.Freedom of association and the right to collective bargaining	24
6.5.Payment of a living wage	26
6.6.No excessive working hours.....	28
6.7.Occupational health & safety.....	29
6.8.Legally binding employment relationship	30
Appendix 1. Indicators.....	30
Appendix 2. Legal situation regarding the FWF Code of Labour Practices	34
Appendix 3 Tasks of Labour Inspection	90
Appendix 4. The social pact for the Romanian, textile, garment, leather and shoes industry, 14 th of April 2010	91

Summary

Romania joined the European Union (EU) in 2007. The country has an important textile, clothing and leather industry, which peaked in 2004. At that point, the sector made up 34% of all exports and counted for 5,5% of the GDP. After 2004 the importance of the industry has decreased. The Romanian economy suffered the impacts of the global economic crises. The share of Romania's export made up by textile, clothing and leather products dropped to 10,5%. However, 80% of production is still exported, mainly for destinations within the EU.

To confront this situation there is a lot of changes in the sector. Where formerly the Lohn system¹ was prevalent, nowadays companies are moving towards more integrated (vertical) production and own brands. Some specialise in innovative materials.

As a member of the EU, Romanian labour legislation has been brought in line with EU laws and standards. All ILO conventions referred to in FWF's Code of Labour Practices, except for conventions 26 and 155, are ratified.

Romania has a multilayered system for fixing minimum wages. At national level a minimum wage is determined by the government. Next to that, a minimum wage is negotiated collectively that is valid for all sectors. On top of that, there are collective negotiations per industry, and per company.

In 2010 the minimum wage for the garment sector is 600 lei and negotiations for a sector minimum wage were in progress. Unions and other stakeholders argue that 600 is far from a living wage.

Unionisation rate is high; some estimate it to be at 50%. In the garment sector the estimate is 25%. Due to the countries communist past, unions are struggling with a negative image, but the infrastructure for union activities exists. Where there are no unions active, elected worker representatives may defend workers rights and participate in setting up company rules.

Major issues of concern regarding social compliance are: wages, working times, trade union representation and to some extent occupational health issues.

FWF has been carrying out factory audits in Romania since 2006. The outcomes of these audits show some general areas of concern, mostly related to occupational health and safety, wages, overtime and worker representation. Some re-occurring findings were: not adequate emergency exits, missing fire alarm system, no consultation and grievance mechanism in place, lacking accident or overtime registers and issues related to the wages that are often considered to be below a living wage.

¹ The Lohn system is when the buyer supplies all the necessary materials to the producer, who only provides the labour and the workplace. Also sometimes referred to as CMT production (cut, make, trim).

1. How to read this FWF country study

This country study should provide a clear and concise picture of labour law, labour conditions and industrial relations within the textile/garment industry. By dividing the information in several parts, the reader can choose what level of detail they wish to read. For finding specific laws or compliance with certain parts of the FWF Code of Labour Practices, the country study can be used as a reference sources.

For a general overview of the situation in Macedonia, the summary above is the starting point, followed by chapter 2 (General country information). More information on the country's garment industry can be found in chapter 4 (Garment industry), while chapter 5 (Industrial relations) will give an overview of the way the local systems work. The rest of the country study can be used as a reference to find specific information. Below you can find a short description of the content of each chapter.

The **summary** gives a general picture of the level of development, the outlook for the industry in the country and the major challenges when it comes to implementing the FWF Code of Labour Practices.

Chapter 2, General country information describes the economic, social, political & governance as well as the general human rights situation using international indicators and comparing with other garment producing countries. Appendix 1 lists and explains these indicators more closely.

Chapter 3, Stakeholders, briefly presents the main stakeholders active in the garment/textile industry. The focus is on stakeholders who have actual impact on labour conditions or play an active role in monitoring the situation for workers in the industry. This chapter serves as a reference point for those who want to engage with or consult a local stakeholder to find further information or help regarding their activities in the country.

Chapter 4, Garment industry, gives an overview of the situation for the garment industry in the country, areas of production, products and outlook for the industry.

Chapter 5, Industrial relations, gives a description of the trade union situation in the country, both in general and for the garment industry specifically. This chapter gives important information essential for understanding the how well challenges regarding working conditions could be and actually are handled through social dialogue in the country.

In Chapter 6, Implementation of the FWF Code of Labour Practices, the implementation of every part of the FWF Code of Labour Practices is assessed through official statistics on compliance (where available), laws and regulations, as well as different stakeholders' views on implementation. Text in *italics* is quotes from relevant laws.

For more detail on the *Implementation of the FWF Code of Labour Practices*, see Appendix 2 for details on local laws relevant for the FWF Code of Labour. This appendix goes into quite specific detail regarding the different aspects of code compliance and can be useful when facing specific issues in a factory or as a support when auditing.



Fair Wear Foundation

Sources used in the country study

The study was prepared by gathering information about national laws and local stakeholders' views on labour issues in the garment industry in Romania.

This information has been gathered by Ioana MĂNĂILĂ and Mariana PETCU from "AUR", National Association of Human Resources Specialists. The information was obtained by desk research for statistics and laws, and by interviewing stakeholders. Interviews were especially important when data was hard to find and in order to get the analysis and opinion of local stakeholders.

The following stakeholders, representing public authorities, employers, trade unions and NGOs, were consulted in writing this country study.

I. Government/public authorities

Ministry of Economy, Trade and Environment, Christina Leucuta
www.minind.ro

Ministry of Economy, Trade and Environment, Vasile Mirciu
www.minind.ro

Labour inspectorate Bucharest
www.itmbucuresti.ro

Economic and Social Council, Nicolae Badea
www.ces.ro

Romanian Agency for Foreign Investment, Iustina Lutan
www.arisinvest.ro

Research Institute for the Quality of Life, Adina Mihailescu
Adina.mihailescu@yahoo.com

II. Employers

Fepaius, Federation of textiles, clothing and leather, Maria Grappini
fepaius@ugir-1903.ro

Fepaius, Aurentiu Popescu
fepaius@ugir-1903.ro

III. Trade unions

Trade union federation of Textile and Garment, CONFTEX, Gheorghe Grecu
fsconfdex@yahoo.com

Trade union federation CRAIMODEX, Ilie Rosu
Rosu54@yahoo.com

SC IASITEX, Daniela Banari
office@iasitex.ro

Trade union confederation CSDR, Cluj, Stanca Constantinescu
Stanca.constaninescu@yahoo.com

IV. Labour related NGOs

Friedrich Ebert Foundation, Victoria Stoiciu
www.fes.ro

2. General country information

Romania is a republic in Eastern Europe at the Black Sea, with borders to Bulgaria, Serbia, Hungary, Ukraine and Moldova. It has 22.215.421 (2009) inhabitants. Romania joined the European Union on 1 January 2007. Domestic consumption and investment have fuelled strong GDP growth in recent years, but have led to a large budget deficit. Romania's macroeconomic gains have only recently contributed to the growth of a middle class and to address Romania's widespread poverty. Romania's GDP growth contracted markedly in the last quarter of 2008 as the country began to feel the effects of a global downturn as GDP fell more than 7% in 2009 and unemployment nearly doubled. Romania hopes to adopt the euro by 2014. Textiles and footwear are an important element in the industrial sector next to electric machinery and equipment, light machinery and auto assembly, mining, timber, construction materials, metallurgy, chemicals, food processing and petroleum refining.

2.1. Economic indicators

Romania's level of development, as measured by the UN human development index (HDI) groups it with the other Central and Eastern European countries. It is ranked lower than Bulgaria, but it above Macedonia and Ukraine. Other economic measures such as the GDP per capita show that Romania belongs to the lowest group within Europe, but within Central and Eastern Europe it is one of the more successful countries. Compared to the four priority countries of FWF (Bangladesh, China, India and Turkey), Romania is doing better than all of them. Romania is ranked 64 on the HDI, compared to Bangladesh 148, China 99 and India 134.

2.2. Social, political & governance indicators

A prerequisite for sustainable good labour conditions is a stable and conducive social and political environment. Several indicators for Romania show that effective law enforcement and good governance is not strong enough to rely on by itself. When looking at control of corruption and government effectiveness Romania is ranked half way between Germany and Bangladesh, together with countries like China and India.

2.3. Income and poverty

Romania, being part of the EU, only has a small number of people living below the UN poverty level of 2\$ a day. However, almost a third is living below the national poverty line. With this figure Romania places itself among the poorer countries in Europe. It's performing worse than for example Bulgaria and similar as Turkey and India.

2.4. General human rights situation

According to Amnesty International there were reports of ill-treatment, excessive use of force and the unlawful use of firearms by law enforcement officials in Romania. Furthermore discrimination against Roma and lesbian, gay, bisexual and transgender (LGBT) people persisted. The discrimination of Roma people refers to discrimination both by public officials and in society. This remained, according to Amnesty International widespread and entrenched. The authorities failed to take adequate measures to combat discrimination and stop violence against Roma. Roma continued to be denied equal access to education, housing, health care and employment.

Source: Amnesty International Report 2009

3. Stakeholders

In this section a number of stakeholders active in the garment/textile industry are briefly presented. The focus is on stakeholders who are actively part of forming the labour conditions or monitoring the situation for workers in the industry.

Governmental institutions

Among the most relevant government institutions we can mention the following:

Ministry of Economy, trade, environment

The Ministry of Economy, trade and environment deals with foreign trade and strategies for the stimulation of the economy.

www.minind.ro

Ministry of Labour, social solidarity and family

The Ministry of Labour, social solidarity and family deals with employment policies and social security.

www.mmssf.ro

Labour Inspection

The Labour Inspection is the specialized body of the public central administration under the coordination of the Ministry of Labour, Family and Social Protection, which controls the implementation of the general and special regulations and stipulation in the domain of labour relationships, as well as, of health and safety at work.

The Labour inspectorate does not have sufficient personnel to fully cover all sectors and regions. In 2007 there were 42 territorial (regional) inspectorates and one central labour inspectorate in Bucharest with a total of 3 725 staff members, from who only 1 852 labour inspectors (Labour Inspectorates National Report 2007). The number of labour inspectors have decreased for many years now and in 2010, the numbers were drastically reduced. Despite these constraints, in interviews with workers they report frequent and regular inspections.

www.inspectmun.ro

Social and Economic Council

At national level, the dialogue between trade unions, employers associations and the government takes part mostly within the Social and Economic Council. This includes discussion on proposals for laws and norms concerning the development of the national economy, privatisation, labour relations, wages policy and labour health and safety etc. Its mission is facilitated by Consulting Commissions for Social Dialogue at Ministries level.

Apart from the labour inspection and the Social and Economic Council there are several other institutions and bodies with specific roles to prevent labour law breaches in specific areas. These are:

- The National Commission in the field of equality between women and men (CONES) reviews periodic reports submitted by county committees regarding equality between women and men (these county committees are referred to as COJES) and decides on measures to improve equality where needed.
- The National Agency for the Labour Force Occupation develops measures for reducing the unemployment and offers services for professional training.
- The Pensions and other Social Insurances National House ensures that the measures regarding equal treatment of women and men in management and



Fair Wear Foundation

management of public pension system and other social insurance rights are implemented.

- The National Council for Professional Training of Adults is an autonomous administrative authority ensuring equal opportunities for men and women in adult education.
- The National Commission for the Promotion of Labour Force Occupation ensures equal treatment of women and men in measures to boost employment, and social protection of the unemployed.
- The National Agency for Family Protection ensures equal opportunity and treatment between women and men in measures combating domestic violence.
- The National Institute for Scientific Research in Labour and Welfare and The National Institute for Occupational Safety Research and Development "Alexandru Darabont" (Bucharest) are responsible for promoting and ensuring equality between men and women in their specific fields of activity and make available data and information they hold, required to develop strategies and policy. These institutions are under the coordination of the Ministry of Labour, Social Solidarity and Family.²

www.ces.ro

The Romanian agency for foreign investment (CRPCIS)

CRPCIS, under the coordination of the Ministry of Economy, Trade and Business Environment, is responsible for promoting trade on international, regional and national level as well as attracting foreign investment and the promotion of the Romanian business environment.

www.arisinvest.ro

The Research institute for the quality of life

The Research institute for the quality of life provides amongst others calculations on the daily minimum of subsistence (the so called daily basket).

www.iccv.ro/

Tripartite institutions in Romania

The following tripartite institutions ensures the participation of government, employers and trade unions in discussions and negotiations on matters of common interest:

- JCC CES-EU - ESC-Romania
- Social dialogue committees in the ministries
- National Agency for Employment
- Employment Agencies County Labour Force
- Advisory Councils of the County Agencies for Employment
- National Pension and other social insurance rights
- National Health Insurance
- National Council for Adult Training
- National Agency for Foreign Investments
- Commissions for Social Dialogue in the Prefectures

² http://www.gov.ro/nota-de-fundamentare-hg-nr-37-15-01-2010__11a107880.html



Fair Wear Foundation

- National Commission for the Promotion of Employment.

Employers' organizations

Employer's associations active on national level in Romania:

- CONPIROM
- National Council of Private Small and Medium Enterprises
- National Council of Employers in Romania
- National Confederation of Romanian Employers
- Confederation of employers UGIR 1903
- General Union of Industrialists of Romania
- Romanian National Employers
- National Union of Romanian Employers.

The Federation of textiles, clothing and leather (FEPAIUS)

FEPAIUS is the only organization recognized in Romania that represents the business community and operators of textile, knitwear, garments, leather and footwear. The Federation was founded in 1992 and has over 500 member companies (8 000 companies are registered in the sector).³ It cooperates with other professional associations, unions, federations and confederations in order to capitalize and promote local products, protection and exploitation of indigenous natural resources, development of specific markets and federation members' interests. Furthermore FEPAIUS participates in the dialogue between unions and employees' representatives. It promotes members' interests in international economic cooperation and foreign investment capital of the textile industry.

The role of employers' associations in Romania is:

- Negotiation, conclusion and implementation of collective labour contract
- Participation in social dialogue structures for information and mutual consultation with social partners and others to identify solutions to issues raised
- Participation in the tripartite structure, with responsibilities in social policy making

Government: as part of executive power in the state, is the public authority exercise the general public administration and secure the internal and external policy of the country.

Trade Unions

There are around two million trade unionists in Romania, however exact figures are not available. The most representative trade union confederations in Romania are:

- B.N.S. - National Union Bloc; www.bns.ro
- C.N.S.C.A. - National Union Confederation Cartel Alfa; www.cartel-alfa.ro
- C.S.D.R. - Confederation of Democratic Trade Unions of Romania;

³ Declaration of M. Aurentiu POPESCU, president of FEPAIUS at the seminar from 14 April 2010 at the hotel RADISON within the ILO program "Increasing the competitiveness in the textile, garment and leather industry by promoting the Decent Work concept"



Fair Wear Foundation

- C.S.N. Meridian - Meridian National Trade Union Confederation.
- C.N.S.L.R. - National Confederation of Trade Unions of Romania.
- BNS, Cartel Alfa, CSDR and CNSLR are affiliated to ITUC. CNSLR, the largest of these five confederations, has about 800,000 members. The two next largest are BNS which has 375,000 members and CNS Cartel Alfa which has 400,000 members according to a recent European Foundation report. Cartel Alfa itself claims to have one million members. Both federations were founded in the early nineties while the two other confederations, CSDR and CSN were set up slightly later. These five confederations are all classed as representative at national level, giving them the right to negotiate national collective bargaining agreements. All five confederations are members of Romania's tripartite economic and social council, the CES. This means that they have members in at least half of Romania's administrative districts and in at least a quarter of its industrial sectors. In addition a nationally representative confederation must represent at least 5% of all employed workers (see section on collective bargaining for more details).

The CSDR, BNS and Cartel Alfa have the following affiliated federations in the garment sector:

- CONFTEX, trade union Federation of Textile and Garment
- CRAIMODEX, trade union federation in the garment industry affiliated to BNS in Romania and ITGLWF internationally.
- UNICONF, trade union federation in the garment and knitwear industry affiliated to Cartel Alfa in Romania and ITGLWF and ETUF-TCL internationally.

Other National Federations are SINTEXTIL, PELCONTEX (affiliated to ETUF-TCL) and PIELARUL (affiliated to ETUF-TCL) for the leather and shoe industry. SC IASITEX is a local factory union linked to Cartel Alfa.

Labour NGOs

The majority of the below listed NGOs do not have recent data on labour relations in general, and on the garment industry in particular, since most of them have not been doing any labour related projects recently.

Women's Association of Romania (W.A.R.)

The Women's Association of Romania, established in 1990, is a non-governmental, non-profit and non-political organisation. W.A.R. has around 10.000 in 20 local branches throughout Romania. W.A.R. is one of the initiators of the Coalition for Peace Culture and Non-violence in Romania (1999).

www.afr.ro

Business Women Associations' Coalition (CAFA)

The Business Women Associations' Coalition (CAFA) is an informal organisation initiated in January 2004, supported by the International Centre for Private Enterprise. The aim of this coalition is to promote and support the women's entrepreneurship, the business women's interests, as well as to increase women's representation within the political and decision making structures in Romania.

The member associations has 1006 members (female managers, company owners and women of different professions). 74% of CAFA affiliated associations' members are female managers or company owners.

www.cafa.ro



Fair Wear Foundation

The Association for Women's Promotion of Romania

The Association for Women's Promotion of Romania is a non-governmental organisation with its main office in Timisoara, and two offices in Drobeta Turnu Severin and Arad. The association provides free services of legal assistance in court, social assistance, educational and training programs, lobby and advocacy for a new law for combating domestic violence.

www.apfr.dnttm.ro

The Society for Feminist Analyses (Bucharest)

The Society for Feminist Analyses (Bucharest) is an independent non-governmental organisation, whose basic objectives are: awareness and improvement of the Romanian women's condition; promotion of researches on Romanian women's social position; including studies on women and feminism at university programs.

The association collects and disseminates information regarding the situation for women in Romania and abroad; organises courses and trainings on feminism and gender issues, publishes a periodic magazine on feminist studies; translates and publishes classic texts and women anthologies.

www.anasaf.ro

The Women's Association against Violence (Bucharest)

The Women's Association against Violence's mission is to promote women's and children's rights, to reduce their vulnerability against abuse and to strengthen their capacity by information, awareness and rights. The organization provides services of: legal, psychological and psychosocial counselling for abused women and children, housing for women victims of violence, educational and prevention programs; specific training for professionals working with victims of abuse or physical/ sexual violence; information and legal support for victims and researches in the area of violence.

www.artemis.com.ro

Association for the organisational development - SAH ROM (ADO SAH ROM)

The Association for Organisational Development - SAH ROM (ADO SAH ROM) is an independent organisation, founded as non-governmental non-profit juridical entity in 2000. ADO SAH ROM's objective is to contribute to the strengthening of the civil society. ADO SAH ROM was the initiator of the Network REPER and is the founding member of the Federation of Development NGOs in Romania (FOND) and of the Antipoverty Federation – Social Inclusion RENASIS.

www.adosahrom.ro

Network REPER

REPER is a network of providers of services for disadvantaged persons, employees and employers. The objectives of REPER are to contribute to the reduction of the unemployment rate in the areas where the members of REPER are active, to implement measures to reduce unemployment, to stimulate the creation of SMEs, to contribute to the improvement of the work force qualification in the areas where the members are active, to promote social dialogue, improve the living conditions of disadvantaged people and strengthen labour organisations.

www.reper.ro



Fair Wear Foundation

Org. "AUR" – Association of Human Resources Specialists

The main objectives of "AUR" – A.N.S.R.U. are:

- defining, elaborating and implementing the professional standards within the human resources area.
- Providing professional assistance in the human resources area - consultancy and coaching, training sessions, seminars, workshops, professional counselling etc.
- Implementing national and international projects promoting human rights and labour rights, as well as equal opportunity legislation.
- Active involvement in the promotion and implementation of the Romanian development policy for the achievement of the Millennium Development Goals.
- Publication of professional materials on human rights, CSR, ILO Standards etc.
- Creating partnerships and networks at national and international level.

Since 2004 "AUR" – A.N.S.R.U. is member of the National Steering Committee of the ILO Program *"Increasing the competitiveness in the Romanian textile and clothing industry by promotion the Decent Work concept"*.

www.resurseumane-aur.ro

Opportunity Associates Romania

The Opportunity Associates - Romania (OAR) is a fully registered Romanian non-profit, non-governmental, private voluntary organization dedicated to training and consulting. All trainers, board members and staff are Romanian. Its mission is to strengthen democratic processes by supporting the development and sustainability of the non-profit, government and private sectors. Its goals are:

- To strengthen the Romanian training capacity through a long term, locally designed and based training of trainers program;
- To establish a network of Romanian professional trainers involved in solving critical public problems;
- To promote a new generation of leaders and encourage them to view training as a potential career path;
- To develop partnerships between the non-governmental, private, and public sectors.

Opportunity Associates Romania (OAR) is an NGO, well known in Romania as the promoter of experience based learning. OAR has cooperated with AUR on projects on social compliance. Representatives of OAR are certified by Levi Strauss as auditors.

Friedrich Ebert Foundation

Friedrich Ebert Foundation (FES) is the oldest political foundation in Germany. Its objective is to promote the fundamental values of social democracy. FES actively promotes the policy of liberty, solidarity and social justice all over the world. In Romania, FES is present since 1994. The scope of the foundation in Romania is to promote democracy and the legal state, as well as the development of an active civil society in order to contribute, by social justice, to the transformation of society. FES supports the European ideals and the regional and global cooperation.

www.fes.ro

4. Garment industry

Organization of the garment industry in Romania

Romania's boom in the apparel sector reached its peak in 2004. Over 7200 companies then employed 450 000 workers, which is 20.4% of the employed labour force. Since then apparel firms have struggled to keep their contracts. Since the phase-out of the multi fibre agreement (MFA) in 2005 buyers have shifted orders away from Europe towards Asia. Especially high-volume, low-quality production has been moved to Asia.

The heavy reliance on the 'Lohn system' (CMT production), according to industry estimates around 75-85% of apparel production in 2004, became problematic as this relatively unsophisticated production model is primarily built upon low labour costs. This system means that the buyer supplies all the necessary materials to the producer, who only provides the labour and the workplace, after which the buyer re-exports the finished merchandise. The National Export Strategy for 2009-2013 is based on the ITC Geneva methodology. It stipulates for the textile and clothing industry the gradual passing from "lohn" system to marketing and design development to increase the opportunities of a complete business under their own brand. The strategy recommends supporting the improvement of management capacity in this sector and creating the necessary competencies for a "complete business" under their own brand and not of the whole textile and clothing sector.

The apparel production in Romania has also been challenged by neighbouring non-EU countries (e.g. the Ukraine, Republic of Moldova, Macedonia, Albania) which offer lower (labour) costs.

Migration to Western Europe led to a labour shortage in particular skills as well as regions. In 2008, around 30 percent of the Romanian textile & clothing companies were confronted with difficulties in having enough staff during at least two months of the year. The turnover rate of personnel was more than 40 percent in small and micro companies. Furthermore, as in other CEE countries, rising production costs, especially utility costs, threatened the thin margins.

"In 2008 the exports decreased with 6.2%, from 5.4 billion Euro in 2007 to 5.1 billion Euro, said AurelieŃu POPESCU, president of FEPAIUS (main Employers' Association in the textile, garment and leather industry). He claims that around 40% of the firms in the apparel sector have disappeared since 2004 (interview with the FEPAIUS president in 2008).

The sectors of the so called "light industry" that survived the financial crisis were shoes (which increased in 2009 with 25%), knitwear products (which increased with 39%) and carpets production (which increased with 35%). Reasons given for this by local stakeholders is the high quality of the products, superior to similar products imported from Asia.

Main exports from garment industry

The main processes that take place in the Romanian garment factories are: cutting, sewing, finishing, control, ironing, packaging, labelling. The production is of cut-make-trim (CMT) type. 82.4 percent of production was exported 17.6 percent was produced for the domestic market in 2008. Eighty-five percent of Romanian exports were destined for the European Union. The main commercial partners in the sector are in Italy, Germany, France, Greece, UK and Turkey. In the textile and clothing industries there are more



Fair Wear Foundation

than 1,000 joint ventures with foreign partners. Firms have increasingly looked for alternatives to the Western European market and have re-discovered the domestic market as well as specific export markets, such as Russia.

In 2008, Romania exported textile materials and clothes for about 3 527 million Euros, representing 10.5% of Romanian exports. In the same period, the imports of textile fabrics and clothes articles were of 3 429 million Euros, representing 6.1% of Romanian imports.⁴

Main areas for garment production

The regional analysis points out a well-balanced distribution of textile and clothing companies, with a slightly higher concentration in the regions of north-west, north-east, Bucharest and the centre. The south and south-west display a lower concentration of TCF companies.⁵

A strategy for saving the garment industry in Romania would be the creation of the so called "clusters". The clusters represent the collaboration between industrial producers, local authorities and research and education institutions. At present, in Romania there are two clusters in the textile and garment producing field, both in the north-eastern region of the country. They are in different stages of development. One of them ASTRICO NE is already operational, while the other one, SOFIAMAN, is in development.⁶

As a response to labour shortage and to reduce labour costs there has been an internal relocation of production to poorer regions in Romania. There is also an increasing reliance on subcontracting across the borders to neighbouring non-EU countries such as the Republic of Moldova or the Ukraine and the use of migrant workers from Asia.

Source: Interviews with local labour inspectors and factory owners

% employed in garment industry

The number of workers in the garment industry was estimated to 450.000 persons on 31 of December 2004. Since then the number has decreased, but the sector remains an important sector for employment. In 2008, the average number of employees in the light industry was of 329 000 persons, from which 270 000 women (82%).

"In 2008 the decline of textile industry in Romania has increased due to the effects of financial crisis and prospects for this year are the same," said the former president of the Employers Association in Textile, Garment and Shoes Industry.⁷

In 2010, the Employers' Associations and the trade union confederations supported the technical regulations on unemployment, which is one of the initiatives of the government to help companies keep their employees. Instead of laying off workers, the employer can pay 75 percent of the employees' wages and the remaining part is paid for by the salary fund. In this way, the company can keep the qualified workforce. Furthermore the

4 http://www.traderom.ro/index.php?page=shop.product_details&flypage=shop.flypage&product_id=38&category_id=9&manufacturer_id=0&option=com_virtuemart&Itemid=1&vmcchk=1

5 Ibidem

6 <http://www.dialogtextil.ro/content/dialog-textil-revista-industriei-de-textile-si-confectii-din-romania-0>

7 <http://www.mediafax.ro/social/circa-60-000-de-angajati-din-industria-textila-ar-putea-fi-disponibilizati-4037220>



Fair Wear Foundation

employer and the employee do not have to pay taxes on the 75 percent of the salary paid.

Social composition of the garment workforce

In the apparel sector female workers represent 80 to 90% of the workforce. Sewing is almost exclusively done by women. Men work either in the ironing or packaging sections or with machines. This is especially the case in textile firms where larger machines are used in the production process.

The social background of the women working in the garment industry could be characterised as follows:

- 10 and 12 years education.
- The net-income for the great majority of the employees in the garment industry in local currency is 600 Lei (approx. 145 Euros).
- Many of them are divorced raising alone 1, 2 and sometimes 3 children
- Very few of the women employed in this sector have a professional training; the great majority receives on-spot “training” when they are hired without any diploma.⁸

Furthermore, especially in 2009, contract migrant workers have increased in importance in the apparel sector in Romania, in particular from China, Vietnam, Bangladesh and the Philippines.

⁸ Field researches performed by AUR – A.N.S.R.U.

5. Industrial relations

General situation on trade union rights

According to the International Trade Union Confederation's Annual Survey of Trade Union Violations in 2010, trade union rights in Romania remain inadequate, although revisions of relevant labour laws have been initiated with ILO assistance. The 2003 Trade Union Law recognises the right of workers to establish and join a trade union. While the law provides for sanctions for obstructing union activities, those sanctions cannot be applied in practice due to loopholes in the Penal Code. Collective bargaining is only possible in workplaces where there are at least 21 employees, and collective disputes can be referred to compulsory arbitration as described in the Labour Disputes Settlement Act.

A lawful strike can only be called in defence of workers' economic interests, and is only possible where all means of conciliation have failed. Compulsory arbitration is also available where a strike lasts more than 20 days. Should a court declare a strike illegal, the trade union has to pay damages and its leaders may be fired. A minimum service of one third of the normal activity must be provided in the event of a strike in a number of sectors.

In recent years some employers have been trying to block the creation of trade unions within companies and have even warned workers against discussing unionisation with outsiders. There have been reports that employers – usually foreign companies – make employment conditional to the worker agreeing not to join a union. If a trade union representative loses his or her job, he or she will hardly ever be allowed back to the company premises to meet with trade union members. Self-employed workers have difficulties organising themselves.

Although anti-union activities are prohibited, the sanctions for restricting trade union activities are rarely, if ever, applied in practice. The procedure for lodging a complaint is too complicated, and the authorities do not prioritise the trade unions' complaints. There are also reports that labour inspectorates do not always respect the confidentiality of the complaints, and that some employers prefer facing penalties to complying with the labour law.

Source: ITUC's Annual Survey of Trade Union Violations 2009 and 2010

Union density in the country and worker representation

The average unionisation rate in Romania is above the European average, but unionisation density is highly sector-specific. According to trade unions' estimates, the unionisation rate was around 25% in the apparel sector in 2008. There are important differences between former state-owned and newly established private as well as between larger and smaller firms. Union representation tends to be high in former state-owned companies which are generally larger firms, and very low in newly established private firms which account for most employment. The dominance of small-scale firms makes union organization more difficult.

Overall trade union membership in Romania has declined since the beginning of the 1990s as the economic role of the state has been cut back and unions' functions have changed. Interviews with trade union leaders indicate that the level of unionisation is now less than 25%. According to one of the trade union leaders interviewed it is extremely difficult, if not impossible, to organise trade unions in the companies created



Fair Wear Foundation

after 1989, due to the bad reputation of trade unions and to the reluctance of the owners/managers.

All the confederations have large numbers of industry federations affiliated to them. CNSLR-Frăția has 38 affiliated industry federations; Cartel Alfa 49; BNS 39; Meridian 25; and CSDR 20. There are also some union federations not affiliated to the five main confederations. The federations themselves bring together a large numbers of small unions, which often only cover a single employer. Unions can be set up by a minimum of 15 people working in the same industry or profession.

In companies with more than 20 employees where no trade union exists, the employees' interests may be represented and defended by representatives elected and authorized for this purpose. The employees' representatives shall be elected in an employees' general meeting, based on the vote by at least half of the employees. The employees' representatives shall not carry out activities which are, according to the law, exclusive to trade unions. The powers of the employee representatives and the length of their term are decided by the general meetings of the employees, subject to law. Duties of a employees representative are to see that the employees' rights are complied with, to participate in the drawing up of the company's rules and regulations, to promote the employees' interests concerning wages, work conditions, working time and rest time, labour stability, as well as any other professional, economic and social interests related to labour relationships and to notify the labour inspectorate about the non-observance of the provisions of the law and the applicable collective labour contract.

In any company of more than 50 employees, the employer is bound by law to set up a health and safety committee.

For multinational companies active on EU level, there is an obligation to form a European works councils in accordance with the applicable EU legislation.

Social dialogue through sector committees

The possibility to create sector committees shows that the social dialogue between the trade unions, the employers' associations and public authorities can be successful. These committees are structures of social dialogue, created at the industrial sectors level by the National Council for Professional Adult Education.

These committees can be created by the agreement of the representatives of the social partners in different industry sectors. In order to create a committee, agreement by at least two organisations, one employers' organisation and one trade union, which are representative for the respective sector, is needed. Ministries, legal authorities, professional associations and other organisations representative for the sector can be also part of these committees.

The main purpose of the sector committees are to:

- participate in the development of the normative framework for training, evaluation and skills certification;
- support the promotion of training and evaluating systems based on specific skills;
- participate in the development and up-dating of the relevant qualifications for the sector;
- recommend specialists in the sector for the performance of the occupational analyses, redefinition of competencies and skills;

- encourage participation in the lifelong learning process and in the professional and technical education.

CBA coverage in Romania

Collective bargaining at national level sets the national minimum wage and conditions which apply across the whole economy. Negotiations also take place in a substantial number of industries and companies. However, only where unions are strong at company level are significant improvements negotiated. Overall the law provides detailed rules for collective bargaining. Legislation provides for negotiations to take place at national, industry and company level, as well as for groups of companies. The national level agreements are the most important in setting minimum terms and conditions. However, some company level agreements provide for significant improvements on the national minimum arrangements.

Two key elements of the legislative framework for collective bargaining are that agreements cover all employees involved, and that lower level negotiators cannot agree terms and conditions that are lower to those agreed at a higher level. The result is that national level agreements, which are normally signed annually, cover all employees – in this sense collective bargaining coverage in Romania is 100% – and provide a minimum which can then be improved on at industry and company level.

These national agreements set detailed terms and conditions. For example, the agreement signed at the end of 2006 for the period 2007 to 2010 does not simply establish a national unskilled minimum rate, it also fixes minimum wage differences, for example, 20% higher for skilled workers and those who have completed secondary school, 50% higher for those who have completed higher education and double the minimum for those with extensive higher education. It also, among other things, sets the supplements for long service, the length of leave granted for bereavement (leave due to death of relative) and compensation for death in service.

Large parts of the economy are also covered by industry agreements. There were 48 industry agreements in force at the end of 2007, covering not just areas in the private sector such as agriculture, chemicals, construction, transport, machine building, the electrical industry, tourism and commerce, but also parts of the public sector such as health, education, social services and local community services. To some degree these industry agreements only restate large parts of the national agreement, but others provide for higher minimum rates.

At company level there is a legal obligation to negotiate, but not to reach an agreement. The employer should initiate the process. This obligation applies where the company has 21 or more employees. Out of the 24,804 companies or other types of organisation falling into this category in 2008, 11,729 had collective agreements. There are also agreements covering groups of employers, such as local transport operators.

Collective agreements, by law, must be in writing and should be registered with the appropriate authorities – district in the case of company agreements, national in the case of industry and national agreements. There can only be one collective agreement for each bargaining group – in other words there cannot be competing agreements at industry level or their separate agreements for different groups of employees in the same company.

In addition there have been joint agreements between the three parties reached outside the formal structures. In July 2008, the unions, employers and government agreed a formula under which the statutory minimum wage would increase from 31% of average wages to 50% between 2008 and 2014 (see below). In January 2009, a series of anti-



crisis measures were agreed by the three parties. Both unions and employers have expressed their dissatisfaction over the way the government has tackled the crisis since then.

The law provides clear criteria on who is entitled to negotiate at different levels. At national level negotiations take place between the employers' associations and nationally representative confederations. At industry level, unions must represent at least 7% of the workforce to be representative, and be able to negotiate at this level, and at company level they must represent at least one third of the employees of the company. However, union bodies that belong to the nationally representative confederations do not have to meet the criteria at lower levels. This means, that union groups affiliated to the representative confederations can negotiate at company level, even if they do not represent one third of the workforce. Where there are no unions, company level negotiations can be undertaken by employee representatives specifically elected for that purpose.

The legal minimum period that a collective agreement can last is 12 months, although longer agreements can be reached and sometimes run for up to four years. If no agreement has been reached, employers at company level have an obligation to begin negotiations a year after the previous attempt to reach an agreement at company level and negotiations should not last longer than 60 days. Negotiations typically take place at the end of one calendar year and the start of the next.

Collective agreements must, by law, cover at least pay, working time, work patterns and working conditions and the legislation also makes specific reference to arrangements providing protection for union representatives and employer payments into a fund intended to support collective bargaining – part of which goes to the unions. However, there is nothing to stop agreements covering a much wider range of topics. For example, as well as the issues listed above, the national agreement signed in December 2006 also covered overtime rates, retirement bonuses, redundancy arrangements, health and safety, and consultation on individual dismissals. A typical industry level agreement will cover pay premium for shift work and night work, supplements for hazardous work and service-related payments. A typical company level agreement will cover pay, working time arrangements, the provisions for union representatives, health and safety, and possibly training.

Local grievance mechanisms for workers

In essence, the nature of legal conflicts can be solved by one or more of the following ways:

- By jurisdictional court
- By means of an arbitrator or an arbitration panel,
- Through a third party mediator or conciliator.

Mainly, the arbitrator provide a solution based on the legal obligations of the parties. The mediator on the other hand facilitates finding a solution acceptable to both parties.

The Romanian Labour Code defines general labour dispute as any disagreement between the social partners in the employment relationships. Law 168/1999 on the settlement of labour disputes divides the collective labour disputes in pre-contractual stage to: conflicts of Pre-negotiation phase (to be settled by conciliation, mediation, arbitration or strike) and conflicts of stage performance of a collective agreement or individual employment (to be solved by court).



Fair Wear Foundation

Resolving conflicts of interest is regulated by the Law 168/1999 on the settlement of labour disputes. This law provides three kind of non-judicial means to solve conflicts of interest: conciliation, mediation or arbitration.

The Government Decision 369/2009 concerning the establishment and functioning of social dialogue commissions in public administration at central and territorial sets out the rules and institutional functions in the field of social dialogue. Therefore, the ministries and other public institutions in the counties and the city of Bucharest will establish social dialogue committees consisting of representatives of central and local government, representatives of national employers' organizations and representatives of organizations national trade union representative. Social dialogue committees operating at the ministries may approve the establishment of social dialogue subcommittees or working groups composed of persons appointed by the plenary committee.

Union density in garment industry

There are five trade union federations in the sector negotiating the CBA in the textile, garment and leather industry:

- CRAIMODEX
- UNICONF
- PELCONTEX
- FSLUTTINCI (trade union federation from textile, knitwear, garment, leather, shoes industries)
- PIELARUL (trade union federation in the leather and shoe industry)

Uniconf and PELTRICONTEX are affiliated to ETUF TCL and ITGLWF on an international level. Pielarul is affiliated to ETUF TCL and CRAIMODEX to ITGLWF. There are other federations, but they are not representative enough to participate to negotiations at national level, for example the textile federation Mara that is affiliated to both ETUF TCL and ITGLWF.

COMITEX – the sector committee in the textile, garment and leather industry

The garment sector is among the first sectors where a sector committee was created which is positive for the sector. The sector committee in the textile and garment sector comprises the following members:

Maria Grapini / Aureliu Popescu / Mihai Pasculescu	FEPAIUS (employers' association in the light industry)
Vasile Mirciu	Ministry of Economy, Trade and Business Environment
Vasile Patrinoiu	Ministry of Economy, Trade and Business Environment
Gheorghe Grecu/Gheorghe Oancea	FSLUTTINCI (trade union federation from textile, knitwear, garment, leather, shoes industries)
Gheorghe Nastase	UNICONF (trade union federation in the garment and knitwear industry)
Ilie Rosu	CRAIMODEX (trade union federation)



Fair Wear Foundation

Gheorghe Grigorescu	SINTEXTIL (national federation of trade union in the textile industry)
Ioan Chelmus	The national trade union federation in the light industry
Eugenia Diaconescu	PELCONTEX (trade union federation)
Doru Lascu	PIELARUL (trade union federation in the leather and shoes industry)

CBA coverage in garment industry

At present, the CBA in the garment industry is in process of re-negotiation. This means that at the start of 2011, there was no valid CBA for the garment industry. For issues regarding, for example, wages, the sector now relies on the nationally negotiated minimum wage.

On 14th of April 2010 The Social Pact for the Romanian Textile, Garment, Leather and Shoes Industry was signed. This social pact consists of measures for combating the negative impact of the crises. Participants were the Romanian Government, the Ministry of Labour, Family and Social Protection, the Ministry of Economy, Trade and Business Environment, Employers' Associations, Employers Association in the Light Industry FEPAIUS and the following trade unions: FSTC CONFTEX, UNICONF, CRAIMODEX, and PIELARUL

The signing parties' committed to stimulate the sector and reinforce social dialogue. In the annex the detailed provisions are included.

6. Implementation of the FWF code of labour Practices

In this chapter the implementation of every part of the FWF Code of Labour Practices is examined by looking at official statistics on compliance (where available), laws and regulations, as well as different stakeholders' opinion and analysis on implementation. Each section starts with quoting the FWF Code of Labour Practices. In the annex relevant law texts are included per code element.

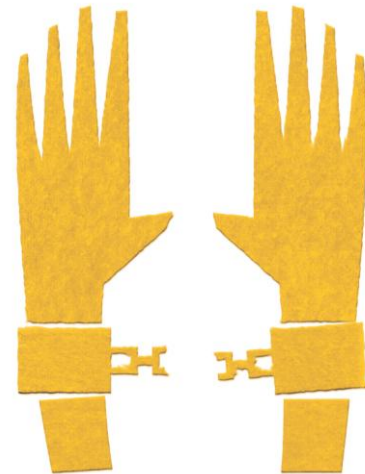
The Romanian Labour regulations are based on European Union and international labour legislation and standards. The regulation is in a continuously process of getting into line with EU regulation. After Romania became an EU member state, some rules were adjusted, especially regarding the EU's competitiveness requirements on quality enhancement of the labour force.

6.1. Employment is freely chosen

"There shall be no use of forced, including bonded or prison, labour" (ILO Conventions 29 and 105).

Laws and regulations

The labour law of Romania corresponds well with the FWF Code of Labour Practices regarding the ban on forced and bonded labour. Romania has ratified both ILO conventions 29 and 105. The constitution and law 53/2003 from the labour code cover this issue and prohibit forced labour. It is stated in the constitution that everyone has a free choice of his/her profession, trade or occupation, as well as work place and that forced labour is prohibited. The Labour code reinforces this.

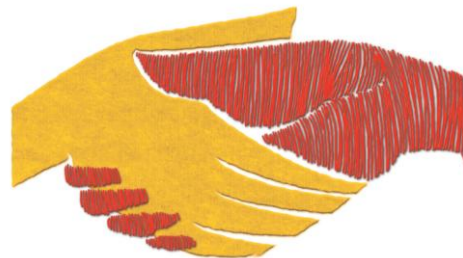


Stakeholders' opinion and analysis

Forced labour appears generally not to be an issue in the two sectors under investigation. However, a few incidences of migrant workers working in conditions resembling forced labour have been reported in the apparel sector.

6.2. No discrimination

"In recruitment, wage policy, admittance to training programs, employee promotion policy, policies of employment termination, retirement, and any other aspect of the employment relationship shall be based on the principle of equal opportunities, regardless of race, colour, sex, religion, political affiliation, union membership, nationality, social origin, deficiencies, or handicaps" (ILO Conventions 100 and 111).



Official statistics on compliance

The gender related development rank of Romania is 52, which is in the middle of the central and eastern European countries, countries such as Poland (39) and Lithuania (42) above, and Ukraine (69) and FYR Maceconia (62) being ranked lower. Compared

to the big garment producing countries among FWF affiliates, Romania is ranked substantially higher, Bangladesh (123), China (75), India (114) and Turkey (70). Looking at the Wage equality for similar work rank of the World Economic Forum, Romania is ranked as one of the best in central and eastern Europe.

Laws and regulations

Romania ratified both ILO conventions 100 and 111. The essence of these conventions is implemented in the constitution of Romania (2003) and the Labour Code law 53/2003. The constitution forbids discrimination based on race, nationality, ethnic origin, language, religion, sex, opinion and political allegiance, wealth or social background. It states also that for equal work, men and women should get equal wages. The Labour Code states that pregnancy tests are forbidden, that maternity cannot be a reason for discrimination. Sexual harassment is considered as sexual discrimination. Furthermore there is a detailed description in the Equal opportunities for women and men act (law 202/2002, republished on March 2007), an act on maternity protection at work (196/2003), an ordinance from the government on preventing discrimination (137/2000) and a governmental decision on maternity protection (537/2004). In the collective bargaining agreement at national level for the period 2007-2010 the importance of equal treatment to all employees is emphasized.

Stakeholders' opinion and analysis

This norm is well implemented in law texts, but in practice, discrimination still persists. Despite gender equality measures and women's equal level of education, women occupy few influential positions in the private sector. Women in general earn lower than average wages. Women are also over represented in the sectors of activity where earnings are generally one third under the national average wage, e.g. in education, health care, social assistance, tourism, and the textile and apparel industry.

The ILO CEACR notes in its observations of 2008 that most of the gender discrimination cases relate to discrimination in employment, e.g. refusal to offer employment based on age or pregnancy, retrograding because of pregnancy, dismissal in connection with pregnancy or sexual harassment. In the specific sectors, issues of gender discrimination vary.

An older study the Clean Clothes Campaign and SOMO (1998) found that "in factories where women work in the ironing section the rationale for low wages is that 'the job doesn't require any skills', while in other factories where mostly men work in the ironing section the wages are relatively high because 'ironing is a heavy job'". Similar explanations have been given during interviews conducted with stakeholders for this country study. Discrimination in relation to parental leave is mentioned by stakeholders as an important issue. It could be stated that women in the garment sector experience gender based discrimination and are confronted with a gender pay gap.

6.3. No child Labour

"There shall be no use of child labour. The age for admission to employment shall not be less than the age of completion of compulsory schooling and, in any case, not less than 15 years." (ILO Convention 138) "There shall be no forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour. [...] Children [under the age of 18]



shall not perform work which, by its nature or the circumstances in which it is carried out, is likely to harm their health, safety or morals." (ILO Convention 182)

Official statistics on compliance

The percentage of children 5 to 14 years who work is 1% according to State of the World's Children 2009 (Unicef). This can be compared to FYR Macedonia (6%), Moldova (32%) and Ukraine (7%). This level is also far below most Asian garment producing countries.

Laws and regulations

Both relevant ILO conventions, 138 and 182, have been ratified by Romania. According to the constitution minors under the age of fifteen may not be employed for any paid labour. The Labour Code (law 53/2003) determine that from 16 years you are allowed to work. To work when you are fifteen, you'll need the consent of the legal representatives. Young workers under 18 shall not perform over time or night work. They are allowed to work 6 hours a day, with a maximum of 30 hours a week. The trade union's law (law 54/2003) stipulates that from 16 years on, one may be a member of a trade union.

Stakeholders' opinion and analysis

As of March 2000, Romania is implementing the "International Program for Eliminating Child Labour", financed by the ILO. However, according to ICFTU, in 2005 there were 3.9 million economically active children in Romania, including over 300 000 child labourers in agriculture and low skilled jobs, and 60 000 to 70 000 engaged in the worst forms of child labour. The ILO notes the presence of child labour in household services, agriculture, and a considerable number of street children. Unfortunately there are not more recent data on child labour.

Stanca CONSTANTINESCU, vice-president of Cluj county trade union section of the CNSDR says: "I've participated to a study performed by ILO Romania concerning the child labour and I may say that despite the general opinion that this phenomenon is not very important in our country, there are thousands of children working together with their parents and children being exploited."

Trafficking in children has also been identified as a major problem. However, child labour appears not to be an issue in garment and textile industry.

6.4. Freedom of association and the right to collective bargaining

"The right of all workers to form and join trade unions and bargain collectively shall be recognised." (ILO Conventions 87 and 98) "Workers' representatives shall not be the subject of discrimination and shall have access to all workplaces necessary to carry out their representation functions". (ILO Convention 135 and Recommendation 143)

Laws and regulations

Concerning freedom of association and the right to collective bargaining the Romanian legislation generally complies with the core labour standards. However, too many groups of employees (high-level civil servants, public prosecutors and judges, the military, intelligence service and the police) are excluded from the freedom to form and join a trade union. Problems also exist regarding the right to strike. The three





relevant ILO conventions, 87, 98 and 135 were ratified by Romania. In the national law, the constitution, the labour code (law 53/2003), trade unions law (law 54/2003), collective bargaining agreement (law 130/1996), the labour conflicts resolution law (law 168/1999) deal with freedom of association. It is compulsory to initiate collective negotiations at the company level with the exception of units with less than 21 employees. Employees are to be represented by the representative of trade unions, or elected worker representative.

Stakeholders' opinion and analysis

The unionisation rate in the apparel sector is around 25% but there are important differences between former state-owned and newly established private companies as well as between larger and smaller firms. In state-owned and larger firms, the unionisation rates tend to be higher according to the interviewed trade union members.

The trade union movement in Romania is quite decentralised and fragmented. Collective bargaining at the sector level often covers only the minimum terms and conditions of employment in the respective sector, in particular minimum wages. Therefore, company unions have to negotiate the more detailed employment conditions at the firm level. However, company unions are frequently in a weaker negotiating position as power asymmetries between employees and employers are the largest at the company level.

The right to form trade unions is not always respected. Some employers try to block the creation of trade unions within the companies (and even warn workers against discussing unionisation with outsiders). Others create controlled 'unions', to counteract the activities of independent trade unions. It is reported that the most anti-union employers make employment conditional to the worker agreeing not to create or join a union. It is also very difficult to strike at the enterprise level and at branch level it is even more difficult. Trade union leaders who organise a strike often face reprisals. Many employers also do not respect the right to collective bargaining and do not conclude collective agreements with the trade unions.

The limited number of judicial panels dealing, at district level, with industrial disputes, and the fact that the labour law specialists can only issue opinions, not binding decisions, has impaired the resolution of labour disputes and the enforcement of trade union rights. Employers have rarely been punished by the courts for anti-union behaviour.

The representative of the trade union Federation CONFTEX said: "*There were much more labour conflicts, but they were not officially registered. But, we have to recognise that the social dialogue between trade unions and Employers Associations improved in the last time. The trade union leaders do not claim anymore the employees' rights by force, but rather by civilised dialogue, and the employers started to understand that people are the most important capital.*"⁹

9 Ibidem

6.5. Payment of a living wage

"Wages and benefits paid for a standard working week shall meet at least legal or industry minimum standards and always be sufficient to meet basic needs of workers and their families and to provide some discretionary income" (ILO Conventions 26 and 131, the Universal Declaration of Human Rights, art 23(3) and art 25(1)). "Deductions from wages for disciplinary measures shall not be permitted nor shall any deductions from wages not provided for by national law be permitted. Deductions shall never constitute an amount that will lead the employee to receive less than the minimum wage. Employees shall be adequately and clearly informed about the specifications of their wages including wage rates and pay period."



Laws and regulations

ILO convention 31 is ratified and is incorporated in the national Labour law. The Convention 26 has not been ratified by Romania.

Each employee is entitled to a wage in cash. In the establishment of the wage, any discrimination based on gender, sexual orientation, genetics, age, nationality, race, colour, ethnicity, religion, political option, social origin, handicap, family situation or responsibility, union trade membership or activity is forbidden.

In Romania there is a system where several minimum wage levels exist next to each other. One set by the government, and the other one set in the national collective agreement by the social partners. Furthermore there can be a CBA for the sector as well as for the factory level.

Because collective bargaining cannot set worse terms and conditions than those laid down by law, the minimum rate set by collective bargaining cannot be lower than the legal minimum set by the government. The CBA for the textile and textile production industry for 2007 set 550 lei as gross minimum wage. In January 2009, the government decided that the national minimum legal wage would be 600 Leo for a complete work program of 170 as average media of hours/month. This is equivalent to 3.529 lei/hour. This is the minimum wage valid for the textile and garments sector at the moment, as a new CBA for the sector is still to be negotiated.

The amount of contributions and taxes due by the employees and employers are annually set through the state budget law and social insurance budget law.

According to Law no. 95/2006 on healthcare reform, the employee must pay monthly the quota of 5.5% as contribution for health insurance, respectively the employer dues monthly the quota of 5.2% as contribution for health insurance. These present quotas are calculated by reference to the individual incomes in January 2010. The same law provides that legal or natural persons operating the insured are obliged to calculate and remit to fund a contribution of 7% of salary fund, due for health staff in that unit.

According to the law, the public pensions system and social security needs to take the average wages into consideration. For the year 2010, the average wage used to base the Law of State Social Insurance Budget is 1 836 lei.

All the present quotas are calculated by reference to the individual incomes in January 2010. The tax due for wages is 16%. The social contribution quotas and the value of

other taxes are set on a yearly base, through the Law of State Social Insurance Budget and the State Budget Law.

Stakeholders' opinion and analysis

The poverty line in Romania is 60 Euro per month. Approximately 3 million people live at this level.¹⁰ "4% of the Romanian inhabitants today live under the poverty line. 1 of 10 Romanian citizens hardly resist from one day to another one. They only live from the 200 Lei received as social state financial help" according to one of the interviewed trade union leaders.

The national minimum wage set in the national collective agreement is the basis for the sector and company collective bargaining. Trade unions have continuously criticised that the minimum wage is too low and not in line with the economic and social situation in Romania.

This perception has been confirmed by the European Committee of Social Rights (European Committee of Social Rights 2007: 5). Differences in wages are vast across different sectors. In most sectors there is a sector collective bargaining agreement which set sector minimum wages on the basis of the national minimum wage; company-level collective bargaining agreements may set company minimum wages

In the Romanian apparel sector you could find sweatshop like working conditions in the 1990s, according to a research performed by AUR-ANSRU.¹¹ Gradually, improvements in working conditions were made. These improvements were partly driven by legislative changes and the efforts of labour inspectorates as well as by international consumer campaigns.

In the apparel sector workers often receive the sector minimum wage or a mixture of hourly and piece-rate payment. Given the tight targets, doing overtime is sometimes the only way to meet quotas. In interviews with managers and employees in more than 30 garment companies, short lead times is mentioned as a major cause of overtime. In the interviews the low wages are also connected to the willingness to do overtime.

"The practice to offer bonuses in goods to the employees still persists in the garment and textile industry. Many companies could not offer money bonuses any more in 2009, consequently the management offered goods from the own production to the employees. In my company I offered primes of 300 Lei to each employee", according to the former president of FEPAIUS, Maria GRAPINI.

According to the National Institute of Statistics (INS) the gross average income was 1967 Lei in January 2010. This is 2.8% lower than in the last month, but 7% higher than in January 2009. The net average wage was 1426 Lei. That is 51 Lei lower than in the previous month (-3.5%) and 5.2% higher compared with January 2009. In the last year the prices increased with 5.2%, consequently in the last 12 months the purchasing power remained unchanged.

Incomes and work productivity/employee:

Average monthly wage in 2008 in Lei per employee in different sectors

- Industry	1193
- Processing industry	1051

10 www.insse.ro/cms/files/statistici/comunicate/castiguri/a10/cs01/r10.pdf

11 "Research on the working conditions in the garment industry" performed by AUR – A.N.S.R.U.

- Textile industry 831
- Garment industry 747
- Leather - shoes industry 751¹²

Wage ladder for Romania

Source	Wage measure	Living wage estimate in lei (net)
National institute of statistics	Average paid net salary	1967 lei (gross) 1426 lei (net)
Trade union	Living wage estimate	1200 lei
Research institute for the quality of life	Daily basket with housing, clothes, food and beverages (for a four-member household) Subsistence income Decent income	 1630 lei 1964 lei
Collective bargaining agreement	Minimum wage	600 lei (gross)

6.6. No excessive working hours

"Hours of work shall comply with applicable laws and industry standards. In any event, workers shall not on a regular basis be required to work in excess of 48 hours per week and shall be provided with at least one day off for every 7-day period. Overtime shall be voluntary, shall not exceed 12 hours per week, shall not be demanded on a regular basis and shall always be compensated at a premium rate." (ILO Convention 1)



Laws and regulations

The ILO Convention 1 was ratified in Romania in 1921 and working hours are tightly regulated by Romanian law. The Labour Code regulates duration and work load as well as weekly rest. For full time employees the normal working time is 8 hours per day and 40 hours per week. The legal maxim duration of a working week cannot exceed 48 hours. In practice there are big differences between sectors.

The work performed outside the normal duration of the weekly working time is considered overtime. Overtime work cannot be carried out without the agreement of the

¹² Vasile MIRCIU, director of the General Direction Industrial Policy and Competitiveness within the Ministry of Industry, Trade and Business Environment, presentation "Actual aspects of the Decent Work in the textile, garment and leather industry in Romania"

employee, except the special situations or for urgent activities meant to prevent accidents or dealing with the consequences of an accident.

The activity from 22.00 to 6.00 is considered night work. The employees working at night are benefiting from either a reduced working program or wage benefits.

The employees are entitled to a lunch break and daily rest between two working days which cannot be less than 12 consecutive hours. The weekly rest should be on two consecutive days, usually Saturday and Sunday. The employee has the right to a leave of minimum 21 days as well as unpaid leave for personal emergencies and vocational training. Other leaves can be stipulated in the applicable collective labour contract or through the internal regulation of the company.

Stakeholders' opinion and analysis

Overtime issues are often related to fluctuating orders which are increasingly unpredictable and demanded on a short-term basis. Informal work in the apparel sector does exist and consists of workers employed without contracts, workers with a contract covering the minimum wage but where the additional wage is paid off the books, or workers hired for long testing periods (*according to the interviewed trade unions representatives*).

"Thus, today the main labour rights issues in the apparel sector in Romania concern very low wages and excessive working time. The problem with overtime is that in many cases it is non paid according to the legislation and work intensity. In the apparel sector workers often receive the sector minimum wage and piece-rate or a mixture of hourly and piece-rate payment and minimum quotas are common. Given the tight targets working overtime is sometimes the only way to meet quotas. Overtime issues are also due to fluctuating orders which are increasingly unpredictable and demanded on a short-term basis." According to the trade union representative of CONFTEX said.

6.7. Occupational health & safety

„A safe and hygienic working environment shall be provided, and best occupational health and safety practice shall be promoted, bearing in mind the prevailing knowledge of the industry and of any specific hazards. Appropriate attention shall be paid to occupational hazards specific to this branch of the industry and assure that a safe and hygienic work environment is provided for. Effective regulations shall be implemented to prevent accidents and minimize health risks as much as possible (following ILO Convention 155).

"Physical abuse, threats of physical abuse, unusual punishments or discipline, sexual and other harassment, and intimidation by the employer are strictly prohibited."



Laws and regulations

The ILO Conventions 174 and 176, related to accidents at work, health and safety in industrial environment have been ratified, but not convention 155. The Labour Code and the safety and health at work law, 319/2006, sets the general rules for protecting the physical and mental integrity of the employee. A series of governments decisions detail the implementation.

Stakeholders' opinion and analysis

In terms of occupational health and safety at work, Romania has not ratified the important convention 155 for occupational safety and health. What consequences this has had in practice is hard to evaluate. According to one interviewed labour inspector, "Romania had 5 799 work accidents in 2003, 367 of which were fatal, followed by 5 543 (384 fatal) in 2004 and 4 714 (406 fatal) in 2005, and 4 764 work accidents (353 fatal) in 2006, showing a decrease in work accidents over the years". Latest figures from the National Labour Inspectorate state 4 398 accidents, 344 of which were fatal¹³, showing a decrease in fatal accidents. Labour inspectorates have increased monitoring of health and safety. Inspections mention the following problems: lack of supervision in workplaces prone to occupational accidents, lack of risk assessment, inadequate safety equipment, inappropriate storage of hazardous materials, and failure to comply with legal provisions on shift work and work intensity. In the light industry there were 118 registered accidents in 2008, from which 5 were deadly accidents.¹⁴

6.8. Legally binding employment relationship

"Working relationships shall be legally binding, and all obligations to employees under labour or social security laws and regulations shall be respected."

Laws and regulations

Romanian legislation stipulates that the permanent employment relationship should be the rule, and other forms must be objectively justified. The tendency make employment more flexible has been noted, just as in many other EU member states.



The Labour Code stipulates that the penalties for employing without signing an individual labour contract is of 4000 Lei for each identified person, without exceeding 100 000 Lei in total.

Stakeholders' opinion and analysis

Cases of informal work in the apparel sector consists of workers employed without contracts, workers with a contract covering the minimum wage but where the additional wage is paid off the books, or workers hired for long trial periods. Further, contract migrant workers have increased in importance in the apparel sector in Romania, in particular from China, Vietnam, Bangladesh and the Philippines but still account for a small share of the labour force.

The new legislation gives more room for other forms of employment, but it also stipulates that the permanent employment relationship should be the rule and other forms must be objectively justified. Economic and sector considerations are vital factors for such justifications. The interviewed labour inspectors said that the only mean they have to fight against "informal work" are the penalties. They said that in many cases the employers prefer to pay penalties due to the "complicate procedure stipulated by the Labour Code concerning the termination of individual labour contracts".

13 Inspectorates National Report 2007

14 Vasile MIRCIU, director of the General Direction Industrial Policy and Competitiveness within the Ministry of Industry, Trade and Business Environment, presentation "Actual aspects of the Decent Work in the textile, garment and leather industry in Romania"

Appendix 1. Indicators

Economic indicators

Name of indicator	Romania	How to interpret value / information	Source of indicator / information
Human development index (HDI) rank	64	A composite index of life expectancy at birth, knowledge (adult literacy rate and combined enrolment ratio), and decent standard of living (the adjusted per capita income in PPP US\$). Comparison: Germany 22 China 99	Human development report, 2009
GDP per capita		Comparison: Germany \$ 40 875 China \$ 6 546	IMF estimate, World Economic Outlook Database, 2009
GDP per capita (PPP)	\$ 12369	GDP calculated by purchasing power parity (PPP) to make comparisons between countries more fair. Comparison: Germany \$ 34 401 China \$ 5 383	IMF estimate, World Economic Outlook Database, 2009
GDP rank minus HDI rank	1	A positive figure indicates that resources in a country are effectively used to meet the needs of the population. Comparison: Germany 2 China 10	Human development report, 2009 (data from 2007)
Industry percentage of GDP	25%	Gives indications of industrial development in country. Comparison: China 49 %	World Development Indicators database, 2008
Strength of auditing and reporting standards rank	71	Gives measurement of institutions based on opinion polls amongst business people. Ranking countries from 1 to 134. Comparison: Germany 15 China 72	Global Competitiveness Report (World Economic Forum), 2009
Ethical behaviour of firms rank	97	It gives measurement of institutions based on opinion polls amongst business people ranking. Ranking countries from 1 to 134. Comparison: Germany 14 China 54	Global Competitiveness Report (World Economic Forum), 2009

Social, political & governance indicators

Name of indicator	Romania	How to interpret value/ information	Source of indicator / information
-------------------	---------	-------------------------------------	-----------------------------------

Rule of law	53.6	The quality of contract enforcement, the police, and the courts and likelihood of crime and violence. Percentile rank 0-100. Comparison: Germany 93.3 China 45.0	World Banks governance indicators, 2008
Democracy index, rank	50	The state of democracy in 167 countries focusing on: electoral process and pluralism, civil liberties, functioning of government, political participation and political culture. Comparison: Germany 20 China 136	The Economist, 2009
Control of corruption	57	Measuring the exercise of public power for private gain, including both petty and grand corruption and state capture. Percentile rank 0-100. Comparison: Germany 93.2 China 41.1	World Banks governance indicators, 2009
Control of corruption, rank	71	The annual Corruption Perceptions Index (CPI) ranks 180 countries by their perceived levels of corruption, as determined by expert assessments and opinion surveys. Comparison: Germany 14 China 79	Transparency International, 2009
Government effectiveness	50.2	Measuring the competence of the bureaucracy and the quality of public service delivery. Percentile rank 0-100. Comparison: Germany 93.4 China 63.5	World Banks governance indicators, 2009

Income and poverty

Name of indicator	Romania	How to interpret value/ information	Source of indicator / information
Gini index	31,5	The Gini index is a way to measure Income Equality. A value of 0 represents absolute equality and 100 absolute inequality. According to the global labour survey less income inequality correlates with effective pro-labour institutions. Comparison: China 2.8	Human Development Report, 2009

Population in poverty defined as 2\$ per day (%)	3.4	Comparison: China 36.3%	Human Development Report 2009, 2000 - 2007
Population living below the national poverty line (%)	28.9	Comparison: China 2.8%	Human Development Report 2009 and World Bank Country data 2000 -2006

Discrimination

Name of indicator	Romania	How to interpret value/ information	Source of indicator / information
Gender related development index rank	52	Shows the inequalities between men and women in the following areas: long and healthy life, knowledge, and a decent standard of living. Comparison: Germany 20 China 75	Human Development Report, 2009 (data from 2007)
The Global Gender Gap Index Rankings	70	Assesses countries on how resources are divided and opportunities among their male and female populations, regardless of overall levels of resources and opportunities. Ranking countries from 1 to 130. Comparison: Germany 12 China 60	Global Gender Gap Report 2009 (WEF)
Wage equality for similar work (rank)	51	Ranking countries from 1 to 130. Comparison: Germany 101 China 45	Ibid

Child labour

Name of indicator	Romania	How to interpret value/ information	Source of indicator / information
Child labour	1%	Percentage of children 5 to 14 years who work.	State of the World's Children 2009 (Unicef)

Appendix 2. Legal situation regarding the FWF Code of Labour Practices

Below you'll find parts of texts of law, relevant to the elements of the FWF Code of Labour Practices.

The Romanian Labour Code is based on the European and international labour legislation laws and standards. In a referendum in October 2003, a large majority of Romanian voters accepted a **new Constitution**. The new Constitution is trying to bring Romanian law into line with EU regulations as part of the process for EU accession¹⁵.

Art.292 According to the international obligations assumed by Romania, the labour legislation shall be continuously harmonized with the European Union norms, with the International Labour Office's (ILO) conventions and recommendations, and with the international labour laws. **Article 11** of the Romanian Constitution provides that "The Romanian State pledges to fulfil as such and in good faith its obligations as deriving from the treaties it is a party to", and that "Treaties ratified by Parliament, according to the law, are part of national law". **Article 20** further stipulates that "Constitutional provisions concerning the citizens' rights and liberties shall be interpreted and enforced in conformity with the Universal Declaration of Human Rights, with the covenants and other treaties Romania is a party to", and that "Where inconsistencies exist between the covenants and treaties on fundamental human rights Romania is a party to and internal laws, the international regulations shall take precedence".

As signatory part of the Versailles Treaty, Romania is ILO founding member. Between the world wars, Romania carried out an intense activity; ratifying 17 of 67 Conventions elaborated by ILO and made efforts to adapt its legislation to ILO regulations. After 1938, once the regal dictatorship installed, the Romanian presence at ILO session was gradually reduced till cancelling, but Romania have not leave the organization. The activity was re-launched after 1956, when Romanian representatives were designated in several ILO management structures. After 1975, the relationships with ILO had known some tensions, which led to ratification of no ILO acts, between 1976-1989. Since 1990, the collaboration between ILO and Romania was re-launched, thus increasing the number of normative acts ratified and applied in the national legislation. In this context, beginning with 1992, a National ILO Correspondent Bureau is functioning in Bucharest, fostering the information exchange between ILO and Romanian social partnership, and also facilitating development of technical assistance programs in Romania.

Employment is freely chosen

1. CONSTITUTION OF ROMANIA¹⁶

ARTICLE 41

(1) The right to work shall not be restricted. Everyone has a free choice of his/her profession, trade or occupation, as well as work place.

ARTICLE 42

(1) Forced labour is prohibited.

¹⁵ <http://europa.eu.int/comm/enlargement/romania/index.htm>

¹⁶ More info in http://www.cdep.ro/pls/dic/site.page?den=act2_2&par1=2#t2c2s0a42 and www.dsclcx.ro/constitutii/const2003



Fair Wear Foundation

(2) Forced labour does not include:

- activities of doing the military service, as well as activities performed in lieu thereof, according to the law, due to religious or conscience-related reasons;
- the work of a sentenced person, carried out under normal conditions, during detention or conditional release;
- any services required to deal with a calamity or any other danger, as well as those which are part of normal civil obligations as established by law.

2. LABOUR CODE (Law 53/2003)¹⁷

Freedom of choosing the profession and the right to perform the freely chosen profession are stipulated in the Articles 3 and 4 of the Labour Code, as follows:

ARTICLE 3 –

(1) The freedom to work is guaranteed by the Constitution. The right to work shall not be restricted.

(2) All persons shall be free to choose their work place and profession, trade, or activity to carry out.

(3) No one can be obliged to work or not to work in a certain work place or profession, whatever these might be.

(4) Any labour contract concluded in violation of the provisions of paragraphs (1) - (3) shall be null de jure.

ARTICLE 4 –

(1) Forced labour shall be prohibited.

(2) The term forced labour designates any work or service imposed on a person under threat or for which the person in question has not given his/her free consent.

¹⁷ <http://www.dscllex.ro/coduri/cm.htm>

No discrimination

1. CONSTITUTION OF ROMANIA

The Romanian Constitution enumerates several provisions prohibiting gender discrimination that can be summarised as follows¹⁸:

Under Article 1(3), "Romania is a democratic and social State governed by the rule of law, in which human dignity, the citizens' rights and freedoms, the free development of human personality, justice, and political pluralism represent supreme values and shall be guaranteed".

Article 4(2) provides that "Romania is the common and indivisible homeland of all its citizens, without any discrimination on account of race, nationality, ethnic origin, language, religion, sex, opinion, political adherence, property, or social origin".

Article 16(1) further stipulates that "Citizens are equal before the law and public authorities, without any privilege or discrimination" and article 16(3) provides that "Public service and dignities, being civil or military, can be held, under the terms established by the law, by Romanian citizens, who currently reside on the Romanian territory. The Romanian State grants equal opportunities for men and women to hold these dignities and services".

Discrimination is also dealt with in more specific terms. Article 41 (1) - (4) states that, "On equal work with men, women shall get equal wages".

2. LABOUR CODE¹⁹ (law no. 53/2003)

The main articles from the Labour Code related to the discrimination are the following:

ART. 5

(1) Within the framework of work relations, the principle of the equality of treatment for all employees and employers shall apply.

(2) Any direct or indirect discrimination against an employee, based on criteria such as sex, sexual orientation, genetic characteristics, age, national origin, race, colour, ethnic origin, religion, political options, social origin, disability, family conditions or responsibilities, union membership or activity, shall be prohibited.

(3) A direct discrimination shall be represented by actions and facts of exclusion, differentiation, restriction, or preference, based on one or several of the criteria stipulated under paragraph (2), the purpose or effect of which is the failure to grant, the restriction or rejection of the recognition, use, or exercise of the rights stipulated in the labour legislation.

(4) An indirect discrimination shall be represented by actions and facts apparently based on other criteria than those stipulated under paragraph (2), but which cause the effects of a direct discrimination to take place.

ART. 6

(1) Any employee who performs a work shall benefit from adequate work conditions for the activity carried out, social security, labour safety and health, as well as the observance of his/her dignity and conscience, without any discrimination.

18 <http://www.ilo.org/public/english/employment/gems/eeo/cover/rommain.htm>

19 <http://www.dscllex.ro/coduri/cm.htm>



Fair Wear Foundation

(2) All employees who perform a work shall have recognised their right to equal payment for equal work, their right to collective negotiations, their right to personal data protection, as well as their right to protection from unlawful dismissals.

ART. 27 (5) - It is forbidden to ask pregnancy tests for hiring.

ART. 59 - It shall be prohibited to dismiss employees:

a) based on criteria such as gender, sexual orientation, genetic characteristics, age, national origin, race, colour, ethnic origin, religion, political option, social origin, disability, family status or responsibility, trade union membership or activity;

b) for the exercise, under the terms of the law, of their right to strike and trade union rights.

ART. 125 - (2) Pregnant women, women after childbirth, or nursing women shall not be obliged to perform **night work**.

ART. 154 - (1) The wages are the equivalent of the work performed by the employee based on the individual labour contract.

(2) For the work performed based on the individual labour contract, each employee shall be entitled to wages expressed in money.

(3) When establishing and granting the wages, any discrimination is prohibited for criteria such as gender, sexual orientation, genetic characteristics, age, national origin, race, colour of skin, ethnic origin, religion, political options, social origin, disability, family situation or responsibility, trade union membership or activity.

3. EQUAL OPPORTUNITIES FOR WOMEN AND MEN (Law 202/2002)²⁰

ART. 1 - (1) The present law regulates the measures for promoting equal opportunities between men and women, in order to eliminate direct and indirect gender discrimination from all areas of the Romanian public life.

(2) Under the present law, the terms equal opportunities between men and women means to take in consideration the different capacities, needs and aspirations of persons, man gender or, respectively woman gender, and their equal treatment.

ART. 4 - The below terms and expressions, according to this law are defined as follows:

a) A direct discrimination shall be represented by the unequal treatment of a person in his/ her disadvantage, based on gender criteria or pregnancy, childbirth, maternity or granting parental leave;

b) An indirect discrimination shall be represented by applying provisions, criteria or practices apparently neutral, which, by its effects, affect persons of a certain gender, excepting the cases when it may be objectively justified, not related to gender;

c) The sexual harassment shall be represented by any forms of behaviour related to the person's sex affecting by purpose their dignity, when this behaviour is rejected and represents the cause for decisions to affect that person;

d) Under the present law, the terms **stimulating measures** mean those special measures temporary adopted in order to accelerate achievement of equality of opportunity or treatment between men and women, which are not considered discrimination action;

²⁰http://www.protectiamuncii.ro/legislation/legea_202_2002.shtml



Fair Wear Foundation

e) Under the present law, the terms **equal work** means remunerated activity, which, compared on the basis of equal indicators and measure units with other activity, reflects similar or equal knowledge and vocational skills, and similar or equal quantity of intellectual and/or physical effort.

ART. 6 (1) The equality of opportunity and treatment for men and women workers shall be represented by the equal access to:

- to exercise their right to free choice of employment or activity;
- employment in any vacant position or workplace and at all professional hierarchical levels;
- equal pay for equal work;
- professional information and counselling, vocational qualification, specialization and re-qualification programs;
- promotion at all professional hierarchical levels;;
- work conditions respecting the health and safety regulations, according to the legal provisions;
- benefits, other than salaries and social protection measures.

Art. 7

(1) The employers are obliged to ensure the equality of opportunity and treatment for men and women workers, regarding their labour relations of any kind, including setting measures within the internal regulations for organization and functioning to forbidden discrimination.

(2) the employers are obliged to systematically inform the employers, including by displaying in visible places, on their rights regarding the equality of opportunity and treatment for men and women workers.

Art. 8

(1) Discrimination is forbidden by utilizing practices meant to disadvantage persons of certain gender related to their labour relations, regarding:

- call, organization of contest or test and selection of candidates for vacant positions within private or public sector;
- termination, suspension, modification and/or ceasing the legal labour or service contract;
- establishing or adjusting the position's attributions;
- setting the amount of salary;
- indemnifications, other than salaries and measures of social security and insurance;
- vocational information and counselling, qualification, specialization and re-qualification programs;
- assessment of individual professional performances;
- promotion;
- disciplinary measures application;
- the right to join a union and the access to its facilities;
- any other conditions for work performing, according to existing legal provisions.

Fair Wear Foundation

(2) Work places excepted of line (1) lit. a) are the ones in which, due to its specific conditions, provided by legal norms, the gender specifications are determined.

Art. 9

(1) The **maternity** cannot be a discrimination reason for employment.

(2) Requesting pregnancy test for employment is forbidden.

(3) Excepted of line (1) are the work places which are forbidden for pregnant and/or breastfeeding women, due to the work specific and conditions.

Art. 10

(1) **Sexual harassment** at the work place or any other place where activity is carried out is considered **sexual discrimination**.

(2) It is considered sexual discrimination any kind of sexual harassment which is intended to:

- to create at work place an intimidation, hostility or discouragement environment for the affected person;
- to negatively influence the state of the affected person regarding the professional promotion, the salary or any other wages or access to vocational and specializing training, if the person refused the treatment related to sexual aspects.

Art. 11 In order to prevent and eliminate any behaviour considered as **sexual harassment** according to art.4 lit. c) and art. 10, the employer has the following obligations:

- to prevent by internal regulation of the unit which must provide disciplinary sanction, according to the legal conditions, for the employees which harm the personal dignity of other employees, by committing discrimination acts provided by art.4 lit. a)-c) and art.10;
- to ensure information of all employees regarding prohibition of sexual harassment at workplace, including by advertising the internal regulation's provisions regarding this matter on visible places;
- to immediately apply once intimation produced the disciplinary sanctions against any sexual harassment manifestation at workplace, established according to lit. a).

Art. 12 - It is considered discrimination and it is forbidden any unilateral adjustment by the employer of the relations or work conditions, including dismissal of a person who submitted a claim or a intimation in the conditions provided by art. 33 line (2), to the competent legal instances, with a view to application of the present law's provisions and after the court sentence remained definitive, being excepted the reasonable cases and not related to the cause.

Art. 13. - For prevention of labour gender discrimination, during negotiation of the collective labour agreement at national level, as well as at unit level, the parties will introduce clauses aimed to prohibit discrimination acts and, respectively, clauses regarding the solving the claims addressed by person prejudiced by such acts.

Art. 14 - (1) It is forbidden any form of discrimination based on gender criteria, regarding the equal access of men and women to vocational training and continuously education at all levels.



Fair Wear Foundation

Art. 16 - It is forbidden any form of discrimination based on gender criteria, regarding the equal access of men and women to medical care, health promotion and prophylactic programs at all levels.

Art. 19 - The publicity, which prejudices based on sexual criteria, the **respect for human dignity**, or proves to be harmful for the image and honour of a person in public and/or private life, is forbidden.

Art. 33

(1) The employees have the right to formulate intimation, complaint or claim in case of sexual discrimination, and submit it to or against the employer if this is directly involved, and to request the support of the trade union organization or the workers representatives in the company, in order to resolve the situation.

(2) When the intimation, complaint or claim is not resolved at unit's level by mediation, the employee who proves a violation of her rights regarding labour matter on the basis of the present law, has the right to press a charge to a competent legal instance, to its section or panel specialized in labour disputes and conflicts or in social security whose territorial jurisdiction covers the employer or the committer or, if necessary, to the administrative contentious instance, within one year from the date the act was committed.

(3) By submitting the complaint in the conditions provided by line (2) **the employee who considers to be discriminated on sexual basis has the right to claim material and/or moral satisfaction**, as well as / or elimination of the consequences of the discriminatory acts from the committing person.

Art. 34 - (1) The person who proves any violation of her rights in the respect of the present law, in other matters than labour relations, has the right to press charges to the competent legal instance, according to common justice law.

Art. 38

(1) Complaints of persons considered to be gender discriminated submitted to competent instances are free of judicial taxes.

(2) Trade unions and NGOs watching human rights protection are entitled to legally represent in justice the discriminated persons, at their request.

(3) Trade unions and NGOs which are entitled to legally represent in justice the discriminated persons act for free if the discrimination victim has not the necessary means.

4. Government Ordinance 137/ 2000 concerning preventing and sanction all discrimination forms²¹

According to legal provisions (GO 137/2000 concerning preventing and sanction all discrimination forms, approved by Law 48/2002 and GO 77/2003 concerning modification and completion of GO 137/2000, approved by Law 27/2004), the term *discrimination* names "any distinction, exclusion, restriction or preference based on race, national origin, ethnic origin, language, religion, social origin, political options, gender, sexual orientation, age, handicap, chronic non-contagious disease, HIV infection or disadvantaged category membership, which has the purpose or effect restriction or rejection of the recognition, use, or exercise in equal conditions of the human rights and freedoms, or of the rights stipulated by legislation in political, economic, social or cultural area, or in any other area of public life."

²¹ http://ms.politiaromana.ro/prevenire/drepturile_omului/drepturile_om.html



They are considered discriminatory the provisions, criteria or practices which are apparently neutral, which disadvantage certain persons, excepting the case when these provisions, criteria or practices are objectively justified by a legitimate purpose, and the means to achieve the purpose are adequate and necessary.

Any active or passive behaviour which, through its effects, unjustifiably favours or disfavours, or subjects a person, group of persons or community to unfair treatment or degradation face to other person, group of persons or community, must get contravene responsibility, if not under incidence of penal law.

Under the present law, the terms disadvantaged category comprises the persons, which either are in unequal position face to majority of the citizens, due to identity distinction, or face a rejection and marginality behaviour. Discrimination acts/facts are penalized according to legal provisions.

6. Maternity protection at work (Governmental Emergency Ordinance no. 96/2003)

This ordinance regulates the measures for the social protection of pregnant women and mothers, as well as of nursing women. It stipulates the right to maternity leave (before and after child delivery), maternity risk leave, to childcare leave, the conditions under which a childcare leave is allowed (both, the obligations of employers and of the pregnant woman) the duration of these leaves, as well as the medical assistance.

Art.2. – In the sense of the present emergency ordinance, the below terms and expressions are defined as follows:

- maternity protection means the health and/or safety protection of the pregnant employees and/or mothers employees at their work place;
- the work place is limited space that functions to the specifics of the performed work, and comprises the material means necessary for one or several workers to perform an operation, product or an activity according to his/their qualification and abilities, under appropriate technical, organisational and work safety conditions, having as result a profit based on work or service agreement with an employer;
- the pregnant employee is the women who announces in written the employer her physiological situation of pregnancy and attach a document delivered by the family physician or by another specialist physician attesting this situation;
- the employee who recently gave birth is the woman who returns to her job after performing the leave and requires in written to the employer the respect of the safety measures stipulated by the law and attaches a document delivered by the family physician, but no later than 6 months after the date when she gave birth,
- the leave for prenatal consultation represents a number of free hours paid by the employer to the employee, during the normal working programme, allowed for prenatal medical consultations and examinations based on the recommendations of the family physician or the specialist physician;
- the compulsory postnatal leave is the leave of 42 days which has to be taken by the employee mother after getting birth, within the births leave for pregnancy and childbed periods with a total length of 126 days allowed to the employees according to the legislation;
- the leave of maternal risk is the leave allowed to the employees stipulated from c) to e) for them and/or their foetus and child health and safety protection.

Women have to consult the medicine doctor and to inform their employer in writing within 10 days from the medical consultation about their pregnancy. (Art. 3).



Fair Wear Foundation

Art. 4 and 9 - Regulate the employers' obligation to prevent the exposure of pregnant or nursing women to safety and health risks. Also, it stipulates that it is forbidden to force pregnant women to perform dangerous activities.

Art. 10 and 11 - Stipulates the right of the pregnant women to maternity risk indemnity, paid from the state social insurance budget.

Art. 16 – Stipulates that after delivery women have to take at least 42 days leave for the protection of their health and of the child's health.

Art. 17

(1) A breast-feeding mother on a full-time contract has the right to two breaks of one hour each to breast-feed her baby during working hours or to shorter working time, upon request, until the child is one year old.

“(2) Upon mother's request, these breaks may be replace with reducing with 2 hours the normal daily working program.

(3) The breaks and the reduced two hours for breast-feeding are to be comprised in the normal working program and do not decrease the wage income and have to be supported completely from the employer's wages fund.

(4) In case the employer insure special rooms within the company for breast-feeding, these rooms have to comply with the sanitary norms into force.”

Art. 21

(1) It is forbidden for the employers to terminate the labour contract in the following cases:

- in case of a female employee in the situation stipulated in art.2 c) to e), from reasons directly linked with her situation;
- in case of a female employee in maternity risk leave;
- in case of a female employee in maternity leave;
- in case of a female employee in child care leave until the age of 2 years old, or until the age of three years age in case of a disabled child;
- in case of a female employee in leave for tacking care of her ill child until the age of 7 years old, or in case of a disabled child, until the age of 18 years old.

(2) The interdiction stipulated at paragraph (1) letter b) can be extended only once, with no more than 6 months after the employee comes back in the company.

(3) The stipulations of paragraph (1) will not be applied in case of termination of the labour relationships due to juridical reorganising or of bankruptcy of the employer according to legal stipulations.

7. Governmental Decision no. 537/2004 – Methodological methods related to the maternity protection at work

These norms regulate how the measures for the maternity protection at work have to be put into practice.²² One of the main stipulations of this ordinance refers to the employers' obligation to inform in writing and under signature the employees about the norms for maternity protection at work (Art. 27).

²² These are methodological norms, and the articles enter into too many details concerning the same information given in the Governmental Emergency Ordinance 96/2003.



Fair Wear Foundation

THE COLLECTIVE BARGAINING AGREEMENT AT NATIONAL LEVEL (for the period 2007 – 2010)

Article 2

(3) employment and the establishment of individual rights, employers will respect the laws in force on the principle of equal treatment to all employees without discrimination based on sex, sexual orientation, genetic characteristics, age, ethnic affiliation, race, colour, religion, political option, social origin, disability, family situation or responsibility, trade union membership or activity.

(4) The principle of equal pay for equal work involves, for the same work or work to which equal value is attributed, the elimination, of all aspects and conditions of remuneration, to any discrimination on grounds of sex.

Article 33

(1) The parties will ensure a regime of special protection of women's work and youth aged up to 18 years, at least in the specific rights covered by labour law and contract.

(2) Pregnant employees, from the month of pregnancy and nursing won't be assigned to night work, will not be called in overtime, will not be sent in motion and will not be deployed unless her agreement.

(3) At the request of the Committee for health and safety at work, the employer is required to assess the risks involved in work of employees announces she is pregnant and breastfeeding and the employee to inform them.

(4) Other specific duties or other amounts covered by labour law rights may be determined by collective bargaining agreements at other levels.

Child labour

1. CONSTITUTION OF ROMANIA²³

Protection of children and young people

ARTICLE 49

- (1) Children and young people shall enjoy special protection and assistance in the pursuit of their rights.
- (2) The State shall grant allowances for children and benefits for the care of ill or disabled children. Other forms of social protection for children and young people shall be established by law.
- (3) The exploitation of minors, their employment in activities that might be harmful to their health, or morals, or might endanger their life and normal development are prohibited.
- (4) Minors under the age of fifteen may not be employed for any paid labour.
- (5) The public authorities are bound to contribute to secure the conditions for the free participation of young people in the political, social, economic, cultural and sporting life of the country.

2. LABOUR CODE (Law 53/2003, completed with the Emergency Ordinance 65/2005)²⁴

ARTICLE 13

- (1) A natural entity shall be allowed to work after having turned 16 years of age.
- (2) A legal entity can also conclude a labour contract, as an employee, **after turning 15 years** of age, based on **his/her parents' or legal representatives' consent**, for activities in accordance with his/her physical development, aptitudes and knowledge, unless this places under risk his/her health, development, and vocational training.
- (3) Employment of persons under the age of 15 is prohibited.
- (4) Employment of persons placed under court interdiction is prohibited.
- (5) Employment in difficult, harmful, or dangerous work places shall only take place after the person has turned 18 years of age; such work places shall be established in a Government decision.

ARTICLE 121 - Young people under 18 years of age shall not perform extra work.

ARTICLE 109 - (2) As far as young people are involved who are not 18 years of age yet, the length of the working time shall be of 6 hours per day and 30 hours per week.

ARTICLE 125 - (1) Young people who have not turned 18 years of age shall not perform night work.

3. COLLECTIVE BARGAINING AGREEMENT AT NATIONAL LEVEL (2005 – 2006)

ARTICLE 33 - (1) The parties shall ensure a special protection system for employed women and young persons less than 18 years of age, at least regarding the specific labour rights regulated by labour legislation and the provisions of this contract.

4. LAW No. 54 of 24 January 2003 ON TRADE UNIONS

²³ <http://www.cdep.ro/pls/dic/site>

²⁴ <http://www.dscllex.ro/coduri/cm.htm>



Fair Wear Foundation

ARTICLE 3 - The employees under age, after turning 16 years old, may be members of a trade union organisation, without being necessary the preliminary consent of their legal representatives.

Freedom of Association and collective bargaining

1. CONSTITUTION OF ROMANIA²⁵

ARTICLE 40 - Right of association

(1) Citizens may freely associate into political parties, trade unions, employers' associations, and other forms of association.

(2) The political parties or organizations, which, by their aims or activity, militate against political pluralism, the principles of a State governed by the rule of law, or against the sovereignty, integrity or independence of Romania shall be unconstitutional.

(3) Judges of the Constitutional Court, the advocates of the people, magistrates, active members of the Armed Forces, policemen and other categories of civil servants, established by an organic law, shall not join political parties.

(4) Secret associations are prohibited.

ARTICLE 43 – The rights to strike

(1) The employees have the right to strike to defence their professional, economic and social rights.

(2) The conditions and limits to exercise this right, as well as the necessary guarantees to insure the essential services for the society, shall be stipulated by the law.

2. LABOUR CODE (Law 53/2003, completed with the Emergency Ordinance 65/2005)²⁶

ARTICLE 7 - Employees and employers can associate freely for the defence of their rights and the promotion of their vocational, economic, and social interests.

ARTICLE 39 - (1) The employee's main rights are as follows:

- the right to collective and individual negotiation;
- the right to participate in collective actions;
- the right to establish or join a trade union.

ARTICLE 59 - It shall be prohibited to dismiss employees:

b) for the exercise, under the terms of the law, of their right to strike and trade union rights.

ART. 217

(1) The trade unions are independent legal entities, without a patrimony purpose, established for the purpose of defending and promoting the collective and individual rights, as well as the professional, economic, social, cultural, and sporting interests of their members.

(2) A special law shall regulate the terms and the procedure for trade unions acquiring legal status.

²⁵ <http://www.cdep.ro/pls/dic/site>

²⁶ <http://www.dscllex.ro/coduri/cm.htm>



Fair Wear Foundation

(3) The trade unions shall have the right to regulate, in their own statutes, their manner of organisation, association and administration, provided the statutes are adopted by means of a democratic procedure, according to the law.

ART. 218 - The trade unions shall participate by means of their own representatives, according to the law, in negotiations and the conclusion of collective labour contracts, in talks or agreements with the public authorities and the employers' organisations, as well as in the structures typical of the social dialogue.

ART. 219 - The trade unions can become associated freely, according to the law, in federations, confederations, or territorial unions.

ART. 220 - The exercise of the trade union right by the employees shall be recognised at the level of all employers, observing the rights and freedoms guaranteed in the Constitution and in compliance with the provisions of the present code and of the special laws.

ART. 221

(1) Any intervention by the public authorities liable to limit the trade union rights or to prevent their lawful exercise shall be prohibited.

(2) Also, all interference by the employers or employers' organisations, either directly or by means of their representatives or members, in the establishment of trade unions or in the exercise of their rights shall be prohibited.

ART. - 222 At the request of their members, the trade unions can represent them in conflicts of rights.

ART. 223

(1) The representatives elected in the management bodies of the trade unions shall be protected by the law against all forms of conditioning, constraint or limitation of the exercise of their functions.

(2) For the duration of their office, as well as for 2 years after its termination, the representatives elected in the trade union management bodies cannot be dismissed for reasons not connected with the employee's person, for being professionally unfit, or for reasons related to the term of office received from the employees in the company.

(3) Other steps for protecting the persons elected in trade union management bodies shall be provided in special laws and in the applicable collective labour contract.

Employees' representatives

ART. 224

(1) With employers where more than 20 employees exist and if none of them is a trade union member, their interests can be promoted and defended by their representatives, specially elected and authorised for this purpose.

(2) The employees' representatives shall be elected in the employees' general meeting, based on the vote by at least half of the total number of employees.

(3) The employees' representatives shall not carry out activities, which are, according to the law, exclusive to trade unions.

ART. 225

(1) As employees' representatives there can be elected the employees who have turned 21 years of age and have worked with the employer for at least one year without interruptions.



Fair Wear Foundation

(2) The condition of the length of service stipulated under paragraph (1) is not required to the election of the employees' representatives in newly established companies.

(3) The number of elected employees' representatives shall be mutually agreed upon with the employer, in relation to the number of his employees.

(4) The length of the term of office of the employees' representatives shall not exceed 2 years.

ART. 226 - The employees' representatives shall have the following main duties:

a) to see that the employees' rights are complied with, in accordance with the legislation in force, the applicable collective labour contract, the individual labour contracts, and the company's rules and regulations;

b) to participate in the drawing up of the company's rules and regulations;

c) to promote the employees' interests concerning wages, work conditions, working time and rest time, labour stability, as well as any other professional, economic and social interests related to labour relationships;

d) to notify the labour inspectorate about the non-observance of the provisions of the law and the applicable collective labour contract.

ART. 227 - The duties of the employees' representative, the way these are met, as well as the length and limits of their term of office shall be established during the employees' general meetings, according to the law.

ART. 228 - The time devoted to the employees representatives in view of carrying out the term of office they received shall be 20 hours per month and shall be deemed as actual working time, being paid accordingly.

ART. 229 - During the exercise of their term of office, the employees' representatives shall not be dismissed for reasons not connected with the employee's person, for being professionally unfit, or for reasons related to the carrying out of the term of office they received from the employees.

3. TRADE UNIONS' LAW (Law no. 54/2003)

ART. 1

(1) The trade unions, hereinafter called trade union organisations, are set up for the purpose of defending the rights provided in the national legislation, in the international covenants, treaties and conventions Romania is a party to, as well as in the collective labour contracts, and for the purpose of promoting their professional, economic, social, cultural and sports interests.

(2) The trade unions are independent from the public authorities, political parties and employers' organisations.

ART. 2

(1) The persons employed and the public servants shall have the right to set up trade union organisations and to join them. The persons exercising independently, according to the law, a trade or profession, the co-operating members, farmers, as well as the persons who are training shall have the right, without a constraint or a preliminary licensing, to join a trade union organisation.

(2) For the setting up of trade union organisation a number of at least 15 persons from the same branch or profession shall be required, even if they carry on their activity at distinct employers.



Fair Wear Foundation

(3) No person may be constrained to be or not to be a part of, to withdraw or not to withdraw from a trade union organisation.

(4) A person may only belong to one trade union organisation at the same time.

ART. 3 - The employees under age, after turning 16 years old, may be members of a trade union organisation, without being necessary the preliminary consent of their legal representatives.

ART. 9 - In the management bodies there may be elected members of the trade union organisation having full capacity of exercise and who do not serve the complementary sentence of prohibiting the right to fill a position or exercise a profession similar to the one used by the person convicted for committing the offence.

ART. 10

(1) During the term of office and within 2 years from the end of the term of office, the representatives elected in the management bodies of the trade union organisations may not have their individual labour contract changed or cancelled for reasons which can not be imputed to them, which the law leaves to the employer's judgments, unless there is the written agreement of the elected collective management body of the trade union organisation.

(2) The changing and/or the cancellation of the individual labour contracts, both of the representatives elected in the management bodies of the trade union organisations and of their members, from the initiative of the employer, for reasons concerning the trade union activity shall be forbidden.

4. COLLECTIVE BARGAINING AGREEMENT (Law 130/1996)

ART. 3

(1) It is compulsory to initiate collective negotiations at the unit level, with the exception of units with less than 21 employees.

(5) The employer has to initiate the negotiations.

(6) In case the employer does not initiate negotiations, the trade union organisation or the employees' representatives may initiate the organisation of negotiations upon request, within 15 days after formulating the request.

ART. 17

(1) At the collective bargaining at national, branch and unit's level participate only the trade union organizations complying with all the following conditions:

a) at national level:

- have legal statute of trade union confederation;
- have organization and patrimony independency;
- have their own trade union structures in at least half of the total number of counties, comprising the town of Bucharest;
- have their own representative trade union federations from at least 25% of the branches in their field of activity;
- the component trade union organizations count, in total, a number of embers equal at least with 5% of the total real number of employees in the national economy;

b) at branch level:



Fair Wear Foundation

- have legal statute of trade union federation;
- have organization and patrimony independency;
- the component trade union organizations count, in total, a number of members equal at least with 7% of the total real number of employees in the respective branch of activity;

c) at unit/company level:

- have legal statute of trade union organisation;
- the total number of the organization represents at least one third from the total number of employees in the respective unit/company.

(2) The compliance of the trade union organizations with the conditions of representation may be checked, upon their request, by the legal bodies as follows:

- a) at national and branch level, by the Court of the town Bucharest;
- b) at unit/company level, by the court acting in the territory where the respective unit/company has the head-quarter.

(3) The decision is only submitted to recourse.

ART. 18

(1) Trade union organizations that are representative at national level are also representative at branch level and at the level of groups of units where they have their own federations. The federations that comply with the conditions stipulated in art.17 line (1) b) are representatives, too.

(2) Accordingly, the trade union organizations, which are representatives at branch level, are also representatives at the level of groups of units where they have trade unions organisations.

(3) The trade unions organizations at company's level are representatives if they comply with the conditions stipulated at art. 17 line (1) lit. c), as well as if they are affiliated to a representative trade union organisation.

ART. 20 – The collective bargaining agreement may be concluded in units without trade union organisation or where the trade unions do not comply the conditions of representation stipulated in article 18 paragraph (2). In this case, the employees elect their representatives by secret vote. At least half plus one from the total number of the employees have to participate for the election of the employees' representatives. The employees' representatives shall be nominated based on the number of obtained votes.

5. THE LABOUR CONFLICTS RESOLUTION (Law no. 168/1999)

ART. 10

(1) In the conflicts of interest at the level of unit the employees shall be represented by the representative trade unions, according to the law.

(2) At the level of units where there are not set up representative trade unions within the meaning of paragraph (1), and the employees elected the persons who represent them in the negotiations, the same persons shall represent them also in case of conflicts of interests, to the extent to which they fulfil the conditions provided in Article 20 (2) from the Law no. 168/1999:

(3) It may be elected as delegate of the representative trade unions or, as the case may be, of the employees any person fulfilling the following conditions:

- a) he turned 21;
- b) he is an employee of the unit or he represents the trade union federation or confederation where the trade union organising the conflict of interests is affiliated;

ART. 11

(1) In case of conflicts of interests at the level of group of units, of branch or at national level, the employees shall be represented by the representative trade union organisations participating in the collective negotiations.

(2) The conflicts of interests at the level of group of units, of branch or at national level may occur after their preliminary registration at the units forming the respective structures, according to the law. The negotiation, mediation and arbitration of these conflicts of interests shall be carried out between the trade union organisations and the employers' organisations representative at the level of group of units, of branch or at national level, as the case may be.

ART. 40 - The strike means the collective and voluntary cessation of work in a unit and it may be declared for the period of carrying on the conflicts of interests, with the exceptions provided by the law.

ART. 46

(1) The strikes shall be organised by the representative trade unions or, as the case may be, by the representatives of the employees, which shall also establish its duration, with the observance of the provisions of Articles 43 - 45.

(2) The representative trade unions or, as the case may be, by the elected representatives of the employees shall represent the strikers, for the entire duration of the strike, in the relations with the unit, including before the courts, in cases when the suspension or cessation of the strike is requested.

ART. 50 - (1) The participation in the strike is free. No one may be constrained to participate in the strike or to refuse to participate in it.

THE LABOUR CONFLICTS RESOLUTION LAW (Law no. 168/1999)

Article 12

Conflicts of interest may be triggered in the following situations:

- establishment refuses to start negotiating a collective employment contract, provided that a contract has no collective bargaining or collective labour contract previously terminated;
- the unit does not support claims made by employees;
- unreasonably refuse unit signed collective labour agreement, although negotiations have been completed;
- the unit is not fulfilling its obligations under the law to begin mandatory annual negotiations on wages, duration of working time, working hours and working conditions.
- In case of divergence the mandatory annual negotiations on wages, duration of working time, working hours and working conditions.

Article 13

(1) During the validity of a collective labour contract employees may trigger conflicts of interest.



Fair Wear Foundation

(2) are exceptions to the rule laid down in para. (1) the circumstances under art. 12 points. d) and e).

Article 63.

Do not have the right to strike: prosecutors, judges, staff of the Ministry of Defence and the institutions and structures of subordination or coordination of its staff of foreign armed forces stationed on Romanian territory, military personnel and civil servants with special status within the Ministry of Interior and Administrative Reform and of institutions and structures of subordination or coordination of its military personnel of the Romanian Intelligence Service, the Foreign Intelligence Service, the Special Telecommunications Service and other staff who, by organic law, are prohibited from exercising that right.

Living wage

1. CONSTITUTION OF ROMANIA²⁷

ART. 47 - Living standard

(1) The State shall be bound to take measures of economic development and social protection, of a nature to ensure a decent living standard for its citizens.

(2) Citizens have the right to pensions, paid maternity leave, medical care in public health centres, unemployment benefits, and other forms of public or private social securities, as stipulated by the law. Citizens have the right to social assistance, according to the law.

2. LABOUR CODE (Law 53/2003, completed with the Emergency Ordinance 65/2005)²⁸

ART. 154

(1) The wages are the equivalent of the work performed by the employee based on the individual labour contract.

(2) For the work performed based on the individual labour contract, each employee shall be entitled to wages expressed in money.

(3) When establishing and granting the wages, any discrimination is prohibited for criteria such as gender, sexual orientation, genetic characteristics, age, national origin, race, colour of skin, ethnic origin, religion, political options, social origin, disability, family situation or responsibility, trade union membership or activity.

ART. 155 - The wages shall comprise the basic wages, allowances, benefits, as well as other additional payments.

ART. 156 - The employers shall pay the wages before any other cash obligations.

ART. 157

(1) The wages are established by means of individual and/or collective negotiations between the employer and the employees or their representatives.

(2) The wage plan for the personnel of the public authorities and institutions financed entirely or mostly by the state budget, the budget of social state insurance, the local

²⁷ <http://www.cdep.ro/pls/dic/site>

²⁸ <http://www.dscllex.ro/coduri/cm.htm>



Fair Wear Foundation

budgets, and the budgets of the special funds, shall be set by the law, after consultation with the representative trade unions.

ART. 158

(1) The wages are confidential, and the employer shall have the obligation to take necessary steps to keep confidentiality.

(2) With a view to promoting the employees' interests and defending their rights, the confidentiality of wages shall not be opposed to trade unions or, as the case may be, to the employees' representatives, in strict connection with their interests and in their direct relation with the employer.

ART. 159

(1) The gross national minimum basic wages guaranteed to be paid, according to the normal work schedule, shall be established by Government decision after consultation with the trade unions and employers' organisations. If the normal work schedule is, according to the law, less than 8 hours per day, the hourly gross minimum basic wages shall be calculated by relating the gross national minimum basic wages to the monthly average number of hours according to the lawful work schedule approved.

(2) An employer shall not negotiate or establish basic wages by means of the individual labour contract below the national hourly gross minimum basic wages.

(3) The employer shall be obliged to guarantee the payment of monthly gross wages at least equal to the gross national minimum basic wages. These provisions shall also apply if the employee is present for work, according to the schedule, but he/she cannot carry out his/her activity due to reasons not imputable to him/her, except for strikes.

(4) The employer shall inform the employees about the gross national minimum basic wage at national level guaranteed to be paid.

ART. 160 - For employees to whom the employer, in compliance with the collective or individual labour contract, provides food, housing or other facilities, the amount of money due for the work performed shall not be lower than the gross national minimum wages stipulated by the law.

ART. 161

(1) The wages shall be paid in cash at least once a month, on the date stipulated in the individual labour contract, in the applicable collective labour contract, or in the company's rules and regulations, as the case may be.

(2) The payment of the wages can be made by transfer to a bank account, if such a modality is stipulated in the applicable collective labour contract.

(3) The payment in kind of part of the wages, according to the terms stipulated under Article 160, shall only be possible if expressly stipulated in the applicable collective labour contract or the individual labour contract.

(4) The unjustified delay in the payment of the wages or the failure to pay it can cause the employer to be obliged to pay damages to cover the loss caused to the employee.

ART. 162 (1) The wages shall be paid directly to the incumbent or his/her representative.

ART. 163 - (1) The payment of the wages shall be proved by the employee signing the payroll, as well as by any other documentary evidence proving the payment has been made to the entitled employee.

ART. 164



Fair Wear Foundation

(1) No amount shall be withheld from the wages, except for the cases and under the circumstances stipulated by the law.

(4) The cumulated amounts withheld from the wages per month shall not exceed half of the net wages

ART. 166 - (1) The right to take action as regards the wage rights, as well as regards the damages resulting from the failure to comply, entirely or partially, with the obligations concerning wage payment, shall be prescribed within 3 years from the date on which such rights were due.

For 2010 social insurance contribution quotas were set as follows:

1) Social insurance contribution quotas are set as follows:

- For normal working conditions 31, 3% - payable 10, 5% by the employee and 20, 8% by the employers;
- For extraordinary working conditions 36, 3% - payable 10, 5% by the employee and 25, 8% by the employers;
- For special working conditions 41, 3% - payable 10, 5% by the employee and 30, 8% by the employers;
- For the employee, within the social insurance contribution quota is also included the 2, 5% quota to contribute the pension Funds administrated by private means according to Law no. 411/2004 regarding the private pension Funds, republished in 2007, uploaded.

2) Other quotas for social contributions:

- contribution due by employer to the unemployment insurance budget: 0, 5%;
- contribution due by individual employee to the unemployment insurance budget: 0, 5%;
- contribution due to the unemployment insurance budget by the persons assured through insurance contract: 1%;
- contribution due by employer to the Guarantee Fund for payment of outstanding claims: 0, 25%, according to the Law no. 200/2006, uploaded.

5. The Law No 19 / 2000, updated, on the public pensions system and social security

Art. 41

(1) The retirement age pension is granted to ensured persons who cumulatively achieved the conditions regarding the pension standard age and the minimum stage of fee-contribution of public system.

(2) The standard retirement age is 60 years for women and 65 years for men. Achieving the standard retirement age shall be realized within 13 years from enforcing the present law (respectively December 2014), by gradually increasing the retirement, starting with 57 years for woman and 62 years for men, according to annex No 3.

(3) The minimum fee contribution stage both for men and women is 15 years. Increasing of this stage from 10 to 15 years will be gradually carried out until December 2014.

(4) The complete fee contribution stage is 30 years for women and 35 years for men. Achieving the complete fee contribution stage shall be realized until December 2014 starting with 25 years for women and 30 years for men.



Fair Wear Foundation

(5) The beneficiary of the insurance who met the present law's requirements and benefit of the retirement age pension, excepting the partial anticipated pension, may continue work performing if agreed by the employer.

Important:

the illness leave is paid only for working days;

- duration of the indemnification for temporary invalidity period is of maximum 180 days per year, except the very serious diseases;
- in case of getting illness during annual leave, this is interrupted and the insured person benefits of the medical leave, the rest of the annual leave being re-scheduled;
- the indemnification for temporary invalidity is 75 % of the average monthly income afferent to the last 6 months previously to getting ill, except the very serious diseases. (art.100-108).

6. COLLECTIVE BARGAINING AGREEMENT AT NATIONAL LEVEL (2007 - 2010)

Article 39

forms of work organization and pay that may be applied are:

- directing or after time;
- the Agreement;
- based on fees or percentage shares of revenues derived;
- other specific unit.
- work organization and wages in line can take place in the following forms:
 - direct agreement;
 - progressively Agreement;
 - Agreement indirectly;
 - The direct or indirect gradually be applied individually or collectively.
- forms of work organization and pay below applies to each activity is regulated by collective labour agreement in the business or, where appropriate institution.

Article 40

(1) The following minimal hierarchical coefficients are established for the following categories of employees:

- workers:
 - unskilled = 1;
 - skilled = 1,2;

B) Administrative personnel employed in positions for which training is provided:

1. high school graduation= 1, 2,
2. post-secondary graduation = 1, 25;

C) Specialized personnel employed in positions for which training is provided:

1. foremen school = 1, 3,
2. provisional university = 1, 5;



Fair Wear Foundation

D) Staff employed in positions for which long term university graduation is provided = 2.

Wage coefficients of paragraph 1 apply to minimum wages negotiated by organization.

The salaries of staff employed under par. 1 will be determined taking into account the relevant occupational standards that occupation.

As of January 1, 2009, gross minimum salary in the country guaranteed payment is set at 600 lei per month, for a full working 170 hours per month on average in 2009, representing 3.529 lei / hour, according to the Government Decision no. 1051/2008 to establish the minimum gross salary per country guaranteed payment

Article 41

Contracting Parties agree that the coming period to work towards inclusion of increases in basic salary to represent remuneration for work performed and conditions of work, so that the basic salary to have a majority share in earnings.

bonuses are granted only to jobs where they are not included in basic salary.

minimum increases to be granted under this agreement are:

- special working conditions, heavy, dangerous or embarrassing, 10% of basic salary;
- adverse conditions of employment, 10% of the minimum wage negotiated in the business;
- overtime for hours worked on public holidays and public holidays were not properly compensated hours of paid shall be granted an increase of 100% of basic salary;
- for length of service, less than 5% for 3 years old and up 25% at 20 years old, the basic salary;
- for night work, 25% of basic salary;
- to exercise and other functions can be given a bonus of up to 50% of basic salary of the replace, cases applying this provision and the amount to be determined through negotiations collective agreements at branch level groups of businesses or establishments.
- increases under par. 3, lit. a) and b) not included in basic salary and are granted after normalization of working conditions in accordance with Art. 25 of this contract.

The collective labour agreement at branch level, groups of units and units can be negotiated and other types of bonuses (gain of isolation, increase the use of foreign languages, unless it is contained in job duties, etc.).

Article 42

(1) Additions to basic pay are:

- a) addition of the Agreement;
- b) prizes awarded in the prize pool, calculated at a rate less than 1.5% of salary fund made monthly and cumulative;
- c) other benefits agreed to the units and institutions.

(2) Other income is:



Fair Wear Foundation

- a) share of the profit is distributed to employees, which is up to 10% for companies and up to 5% for independent public companies;
- b) meal tickets, gift vouchers, childcare vouchers and other similar instruments granted under the laws and understanding of the parties.

(3) The conditions of differentiation, reduction or cancellation of participation to fund the incentive of profit or the prize pool, and the period for which employees are granted share profit, which may be more than one year shall be determined by contract collective work in the business and, where appropriate institution.

Article 43

(1) The employer shall provide the necessary conditions to achieve by each employee tasks lie within their daily work.

(2) If the employer cannot provide during the working day, some or all of the conditions necessary to achieve the tasks of service, he is obliged to pay employees' basic salary for the time that the work was discontinued.

(3) In exceptional cases where for technical reasons or for reasons other work has been interrupted, employees will receive 75% of basic salary alone had provided the cessation of work not to be at fault if their all this While remaining in the unit. The negotiations on the establishment or institution will determine how to achieve specific provision to remain in the unit, present inside the unit pending the resumption of work or at home, where they can be called for unity.

(4) In cases referred to in para. 3, employees benefit and other rights provided by law for such situations.

(5) If the need for objective reduction or interruption of business, for more than 15 days per year, with compulsory resumption of its unity, in agreement with trade unions, may grant unpaid leave.

Article 44

Payment of wages is made periodically to the data to be set through collective labour contract at the unit or institution.

PUBLIC PENSION SYSTEM and SOCIAL SECURITY (No 19 / 2000, updated)

Article 41

(1) old-age pension is insured which, cumulatively, on retirement, the conditions on the retirement age and the minimum contribution in the public system.

(2) the standard retirement age is 60 years for women and 65 men. Achieving the standard retirement age will be completed within 13 years after the entry into force of this Law, by increasing retirement ages, starting from 57 years for women and from 62 years for men, according phased in over provided in Annex. 3.

(3) the minimum contribution for both women and men is 15 years. Increasing the minimum contribution of 10 years to 15 years will be achieved within 13 years after the entry into force of this law, as phased in over listed in Annex. 3.

(4) complete contribution period is 30 years for women and 35 for men. Achieving complete contribution will be implemented within 13 years after the entry into force of this Law, its growth, starting from 25 years for women and 30 for men, according phased in over listed in Annex. 3.



Fair Wear Foundation

(5) The insured who meet the requirements of this law to obtain a retirement pension, excluding pension early and partial early pension may continue their work only with the consent of the employer.

(6) Where policyholders have applied for retirement, their employers cannot provide termination of employment, service or membership cooperative, as appropriate, to retirement, only after receiving the decision granting the application for retirement.

COLLECTIVE BARGAINING AGREEMENT AT THE LEVEL OF THE TEXTILE AND TEXTILE PRODUCTS INDUSTRY (2007 – 2010) - 408/2007 on the branch of the textile industry and textile products for the years 2007-2010

This collective labour agreement in the branch of the textile industry and textile products is to promote fair labour relations, capable of ensuring their employees' welfare, the elimination of collective labour conflicts or prevent them.

Provisions of the collective labour agreement only nationally, complementary to this contract are requirements at branch level.

CONTRACTING PARTIES

Under art. 10 para. 1, Art. 13 para. 1 and 2, and art. 14 para. a) and b) of Law no. 130/1996 republished ending this collective labour agreement for the textile industry and textile industry, between employees and employers.

EMPLOYEES are represented in accordance with Art. 41 para. 2 of Law no. 54/2003 and art. 14 points. b of Law no. 130/1996 republished by representative trade unions federations, according to art. 17 points. b of Law no. 130/1996 republished, contained in Annex. 1.

EMPLOYERS are represented by organizations and FEPAIUS Employers Federation incorporated under the law.

Article 10

(1) This collective labour agreement is valid in the period 2007-2010.

(2) If neither party alleging the contract with 30 days before the period for which it was concluded, its validity is extended until a new contract but not less than 12 months.

Article 76

To determine rights arising under individual employment contract, employees of companies are classified according to content business and job requirements as:

A) Workers:

1. unqualified;
2. qualified.

B) Functions of management and execution:

Execution roles:

With secondary education or post-high for administrative activities (typewriter, computer operators, officials, etc.)

With higher education the engineer and the like;

With higher education.

Roles for management of functional departments of production, research, design and the like (head office, office, department, laboratory etc.).



Fair Wear Foundation

Roles for management of the company (managing director, commercial, economic, technical, etc.).

Article 77

(1) The gross minimum guaranteed wage on textile industry, textile and clothing apparel is set at 550 lei for a full working 170 hours on average per month, or 3.235 euro / hour, according to the Addendum 485/2008.

(11) Companies that cannot provide the level required in para. 1, accept a lower level, up to 540 lei, for a period of 3-6 months. After the maximum period allowed, Joint Commission will consider objectively whether to grant the level negotiated by industry and decide. This amendment has been made by the Addendum 485/2008.

(2) Future salary increases will be awarded taking into account the economic, financial and investment needs and development of the company concerned through negotiation.

(3) Wages are negotiated on different activities, depending on their complexity and importance. In a business, salaries may vary depending on the contribution and competence of that employee.

Article 78

(1) The following factors determine minimal hierarchy for the following categories of employees:

a) workers:

1. unqualified = 1;
2. qualified = 1.2.

b) administrative staff employed in positions that provided training for employment is:

1. high-school = 1.2;
2. post-high school = 1.25.

c) professional staff employed on functions which provided training for employment is:

1. foremen school = 1.3;
2. University on short term degree = 1.5.

d) staff employed in positions that provided training for employment is the higher education = 2.

(2) Wage coefficients of paragraph 1 apply to the minimum basic salary negotiated by unit.

(3) Salary scale for the activities referred to in art. 76 are negotiated in society, respecting factors to para. 1 as minimal.

Article 79

(1) Contracting Parties agree that the coming period to work towards inclusion of increases in basic salary to represent remuneration for work performed and conditions of work, so that the basic salary to have a majority share in earnings.

(2) Minimum bonuses for special conditions of employment calculated on basic salaries of employees are:

- a) special working conditions, heavy, dangerous or embarrassing, 10% of basic salary;



Fair Wear Foundation

b) adverse conditions of employment, 10% of the minimum wage negotiated in the business.

(3) can be given bonuses for:

- Exercise and other functions can be given a bonus of up to 50% of basic salary of the replace, cases applying this provision and the amount to be determined through negotiations collective agreements at branch level, groups unit or units;
- Night work - 25%;
- Overtime work performed over the normal working days - more than 100%;
- Provided hours on Saturdays, Sundays and public holidays - 100%;
- Length of service (calculated at total length of service) of 5% from 3 years old up to 25%, vary the tranche seniority settled by collective labour agreement from the company;
- Loyalty bonus by each company individually;
- Increase the use of foreign languages if it is not contained in the duty station.
- For other conditions of work under this contract, the bonuses will be provided in collective agreements at company level.

Article 80

(1) Additions to basic pay are:

- a) addition of the Agreement;
- b) prizes awarded in the prize pool, calculated at a rate less than 1.5% of salary fund made monthly and cumulative;
- c) other benefits, agreed to the establishments and institutions.

(2) Other income is:

- a) share of the profit is distributed to employees, which is up to 10% for companies and up to 5% for independent public companies;
- b) meal tickets, gift vouchers, childcare vouchers and other similar instruments granted under the laws and understanding of the parties.

(3) The conditions of differentiation, reduction or cancellation of participation to fund the incentive of profit or the prize pool, and the period for which employees are granted share profit, which may be more than one year shall be determined by contract collective work in the business and, where appropriate institution.

Article 81

(1) According to the forms of work organization may apply to the following types of pay:

- The Agreement;
- The overhead or by time;
- Based on fees or percentage shares of revenues derived;
- Based on indicators;

Other forms.

(2) Work organization and pay agreement take place in the following forms:

- Direct agreement;



Fair Wear Foundation

- Agreement progressive

Other forms.

(3) The direct or indirect gradually be applied individually or collectively.

(4) The form of work organization and pay that would apply to each activity and each job is determined by the collective work for companies.

MEAL TICKETS (Law no. 142/1998 of 13 July 1998)

These vouchers represent the amount of money that can be used by the employee to pay for dinner or purchase food, the amount exempt from income tax in the form of salary, and deductible when calculating income tax payable by the employer, to an indexed limit semester. Companies that have outstanding debts to the state budget cannot provide meal vouchers for employees.

Meal tickets can receive the following categories of employees:

- employees within companies,
- employees in the budgetary,
- employees of autonomous public companies,
- employees of cooperative units,
- employees on the basis of individual employment other legal or natural persons.

Cost-benefit is borne entirely by the employer, and shall be paid for state budget provisions or, where appropriate, of local budgets for the budgetary units, and within approved budgets of revenues and expenses, by law, for other employers.

Meal ticket is only valid if has enrolled under which the serial number of the issuer and if the unit include at least the following:

- a) the name and address of the issuer;
- b) nominal value of the ticket table;
- c) data for the period of validity;
- d) ban to be used for the purchase of cigarettes or alcohol products;
- e) space for registration name and surname of the employee who is authorized to use the ticket table;
- f) for added space and its application to the seal plate mass was used.

Meal tickets are distributed monthly, the employer distributes employee a mass number of tickets corresponding to the number of days in the month for distribution is made. The employee may use, monthly, a number of coupons for dining at most equal to the number of days that is currently working in the unit. Legal limit is 28-31 tickets per month.

For the first half of 2010, from March, the nominal value of a meal indexed ticket remains 8.72 lei, according to Order 135/2010.

GIFT AND NURSERY TICKETS (Law no. 193/2006)

Article 1

Companies, autonomous companies and domestic companies, institutions in the budgetary sector, cooperative units, other legal persons and natural persons employing staff on individual employment contract value tickets can use tokens as gifts and tokens childcare.



Fair Wear Foundation

Article 2

(1) Gift vouchers can be used for marketing campaigns, market research, promote new and existing markets, the protocol for the costs of advertising and publicity, and social spending.

(2) Employees who qualify receive gift vouchers and childcare vouchers.

Article 3

(1) childcare vouchers are granted to employees of the establishments referred to in Art. 1.

(2) The amount paid parental individual by the age of 3 years as tokens of nursery shall ensure the full costs to the employer.

Article 4

(1) Childcare vouchers are granted upon request, of one of the parents' or, optionally, guardian, whom the children were entrusted to the growth and education or in foster care, or family based on military service.

(2) Childcare vouchers shall be paid for state budget provisions or, where appropriate, local budgets, the budget and business units, according to this law, for other employers within the budget of revenues and expenses approved.

(3) Childcare vouchers are granted to parent employees who don't receive parental compensation to age up to 2 years, or up to 3 years for children with disabilities.

(4) The ticket is payable in addition to childcare allowance for children paid under State Law no. 61/1993 on state allowance for children, republished, and the incentive to be granted to resume work in accordance with Government Emergency Ordinance no. 148/2005 on family support for child growth, as amended.

Article 5

(1) gift vouchers and childcare vouchers are issued by specialized business units in the field covered by this law, called the issuing unit.

(2) issuing units operating under par. (1) only on the operating authorization granted by the Ministry of Finance. Operating authorization is granted according to criteria established by the Finance Ministry in order to ensure competitive development services provided by this law.

(3) Units issued gift vouchers and childcare vouchers are required to take measures to ensure their safe movement.

Article 6

Each ticket gift or childcare ticket is valid only if it was entered under which the serial number of the issuing unit and if at least the following:

- the name and address of the issuer;
- the nominal value of the ticket;
- data for the period of validity;
- space for inclusion of name and surname of the employee who is entitled to use the ticket for childcare;
- space designed for the entry date and the application of the seal that was used ticket.



Fair Wear Foundation

Article 7

(1) The nominal value of nursery ticket, the entry into force of this Law shall be in an amount of 370 lei for one month for each child at the nursery, according to Order 62/2010.

(2) The monthly amount in the form of childcare vouchers, under par. (1), are indexed every six months with inflation index notified by the National Institute of Statistics.

(3) value of the gift ticket and a ticket for childcare is 10 lei (RON) or a multiple of 10 but not more than 50 lei (RON).

Article 9

Employer childcare vouchers distributed to employees every month.

Article 10

(1) childcare vouchers can be used only to pay taxes on nursery where the child is enrolled employee.

(2) childcare vouchers can be used in relation to nurseries that issuing units have contracted the service.

(3) prohibits the granting of rest of money in gift ticket / ticket childcare.

Article 11

(1) The employer together with trade unions legally established or where a union is formed, with representatives of the employees agreed to ticket issuing unit nursery which will contract with appropriate services and tickets gift for social spending.

(2) issuing units are required to send employers list corresponding units of the network used, in which employees can use the gift vouchers and childcare vouchers. In establishing these units will be considered service quality.

(3) Settlement of gift tickets / tokens childcare between stores, nurseries or other educational units, organized under the laws, and issuing units of gift tickets / tokens nursery is only through banking facilities. The same settlement will also apply to the relationship between the employer and the issuing unit.

(4) The amounts corresponding to the face value of tickets and gift tokens nursery must be conducted in specific bank accounts, to guarantee immediate availability.

No excessive working hours

LABOUR CODE (Law 53/2003)

Article 39

(1) The employee's main rights are as follows:

b) the right to a daily and weekly rest;

c) the right to an annual holiday;

Article 109

(1) For full-time employees, the normal length of the working time shall be of 8 hours per day and 40 hours per week.

(2) As far as young people are involved who are not 18 years of age yet, the length of the working time shall be of 6 hours per day and 30 hours per week.



Fair Wear Foundation

Article 110

(1) The distribution of the working time throughout the week shall, as a rule, be uniform, with 8 hours per day for 5 days, and with two days of rest.

(2) Depending on the typical features of the company or of the work performed, one can also choose an unequal distribution of the working time, provided the normal length of the working time of 40 hours per week is observed.

Article 111

(1) The maximum legal length of the working time shall not exceed 48 hours per week, including overtime work.

(2) When work is done in shifts, the length of the working time can be extended to over 8 hours per day and over 48 hours per week, provided the average number of working hours, as calculated for a maximum period of 3 weeks, does not exceed 8 hours per day or 48 hours per week.

(3) The provisions of paragraphs (1) and (2) shall not apply to young people who have not turned 18 years of age yet.

Article 140

(1) The minimum length of the annual holiday is of 20 working days.

(2) The actual length of the annual holiday is established in the applicable collective labour contract, is stipulated in the individual labour contract, and is granted in proportion to the activity performed in a calendar year.

(3) The legal holiday on which no work is performed, as well as the paid days off established in the applicable collective labour contract shall not be included in the length of the annual holiday.

Extra work

Article 117

(1) The work performed outside the normal length of the working week, as stipulated under Article 109, shall be considered extra work.

(2) The extra work cannot be performed without the employee's consent, except for a case of absolute necessity or urgent works meant to prevent accidents or remove the consequences of an accident.

Article 118

At the employer's request, the employees can perform extra work, provided the provisions of Article 111 are observed.

Performance of extra work above the limit set according to the provisions of paragraph (1) is prohibited.

Article 119 – (1) The extra work shall be compensated for with time off paid in the next 30 days after the work has been performed.

Under these terms, an employee shall benefit from the adequate wages for the hours performed beyond the normal work schedule.

Notwithstanding the provisions of Art. 119 of Law no. 53/2003 - Labour Code, with amendments and additions, as of November 12, 2009, until December 31, 2010, additional work is compensated by the hours of paid that will be given until December



Fair Wear Foundation

31, 2010 for work performed outside the normal duration of weekly working time in 2009, and until March 31, 2011, for additional work performed in 2010.

Article 120 – (1) If the compensation with paid time off is not possible within the time limit stipulated under Article 119 (1) during the next month, the extra work shall be paid to the employee by adding a supplementary wage corresponding to the duration of the work performed.

The **supplementary wage** for extra work, granted under the terms stipulated by paragraph (1), shall be established by negotiation, within the collective labour contract or, as the case may be, the individual labour contract, and **shall not be lower than 75% of the basic wages**.

Article 121 - Young people under 18 years of age shall not perform extra work.

Night work

Art 122

(1) Work performed between the hours 22,00-6,00 is considered night work.

(1') night worker is, where appropriate:

- employee performing night work at least 3 hours during his daily work;
- employee performing night work by at least 30% of his time working month.

(2) The normal duration of working time for employees of night, shall not exceed an average of 8 hours per day, calculated for a reference period not exceeding 3 months calendar, observing the legal provisions concerning the weekly rest period.

(2') The normal duration of working hours for night workers whose work is conducted under special conditions or special work, established under the laws, not exceed 8 hours during any period of 24 hours, providing work night.

(3) An employer who, frequently, using night work is required to inform about it the Labour Inspectorate.

Art 123

Employees who made at least 3 hours of night work benefit either reduced working hours by one hour to the normal daily work, without this basic result in lower wages, or additional pay of at least 15 % of basic salary per hour of night-work.

Employees enjoy the right:

- a) work program reduced to one hour during normal working hours, for days that made at least 3 hours of night work, without this leading to lower basic salary;
- b) or additional pay of at least 15% of basic salary per hour of night-work.

Article 124

(1) Employees to perform night work in conditions of art. 122 para. (11) are subject to a free health assessment before starting work and periodically thereafter.

(2) Conditions of the medical examination and its frequency are determined by regulations approved by joint order of the Minister of Labour and Social Solidarity and the Minister of Health and Family.

(3) Employees performing night work and health problems recognized as being related to it will be switched to day work for which they are suited.

The workload



Fair Wear Foundation

Art.126 A workload expresses the amount of work needed for operations or works being performed by an adequately skilled person, who works at a normal pace, under the conditions of determined operating and work processes. The workload comprises the production time, the time for interruptions caused by the evolution of the operating process, and the time for lawful breaks during the work schedule.

Art. 127 The work load is expressed, depending on the characteristics of the operating process or other activities, as rates of time, rates of production, rates of personnel, sphere of attributions or other forms corresponding to the features of each activity.

Art. 128 Work loading shall apply to all employee categories.

Art 129

(1) labour standards are established by employers under the legislation in force or, where no legislation exists, labour standards are established by employers or union agreement, where appropriate, representatives of employees.

(11) In case of disagreement on labour standards, the parties will resort to arbitration by a third party chosen by agreement.

Art 129¹

Rest period means any period of not worked time.

Art 130

(1) Where the daily working time exceeds 6 hours, employees are entitled to a lunch break and other breaks, as laid down by the applicable collective labour agreement or the internal regulations.

(2) Young people aged up to 18 years enjoy a lunch break of at least 30 minutes when their daily working time is more than 4 ½ hours.

(3) breaks, unless otherwise specified in the applicable collective labour agreement and the internal rules, are not included in the normal daily working time.

Art 131

(1) employees have the right between two days of work in a rest that cannot be less than 12 consecutive hours.

(2) The exception in the case of shift work, the rest cannot be more than 8 hours between shifts.

Art 131¹

(1) Work shift is any way of organizing work program, whereby employees succeed each other in the same job of work, according to a particular program, including rotary program, and may be continuous or discontinuous type, involving the employee need for an activity in time scales in relation to a daily or weekly, set by the individual employment contract.

(2) Employee shift means any employee whose work is part of working in shifts.

Art. 132

(1) The weekly rest is granted over two consecutive days, usually on Saturday and Sunday.

(2) If the rest on Saturday and Sunday would be detrimental to the public interest or the normal evolution of the activity, the weekly rest can also be granted on other days laid down in the applicable collective labour contract or the company's rules and regulations.



Fair Wear Foundation

(3) For the purpose of paragraph (2), the employees shall benefit from a wage benefit laid down in the collective labour contract or, as the case may be, the individual labour contract.

(4) Under exceptional circumstances, the days of weekly rest shall be granted on a cumulative basis, after a period of continuous activity which shall not exceed 15 calendar days, with the authorisation of the territorial factory inspectorate and the consent of the trade union or, as the case may be, the employees representatives.

(5) The employees whose weekly rest is granted under the terms of paragraph (4) shall be entitled to the double of the compensations due according to Article 120 (2).

Art.134

(1) The legal holidays on which no work is performed shall be:

- the 1st and 2nd of January;
- the first and second Easter days;
- the 1st of May;
- the first and second Whitsuntide days – enforced from 2009 by Law no. 202/2008 to modify paragraph (1), Article 134 of the Labour Code;
- the day to commemorate the Assumption of Mother Lord – enforced from 2009 by Law no. 202/2008 to modify paragraph (1), Article 134 of the Labour Code;
- the 1st of December;
- the first and second Christmas days;
- two days for each of the two annual religious holidays, declared as such by the legal religions other than Christian, for persons belonging to such religions.

(2) The days off shall be granted by the employer.

Important: By Government Decision, adequate work schedules shall be set for the health and catering institutions, and also for the workplaces where the activity cannot be interrupted due to its specifics (art. 134 and 135).

The employees of these units will accordingly benefit of free time within the following 30 days (art. 135 align.(1)).

When it is not possible to allow days off, due to justified reasons, the employees are additionally paid for the activity during holidays with minimum 100% of their basic salary.

Art. 138 Through the applicable collective labour contract there can also be established other days off.

THE COLLECTIVE BARGAINING AGREEMENT AT NATIONAL LEVEL FOR THE PERIOD 2007 - 2010

Article 10

(1) The normal duration of working time is 8 hours per day or 40 hours per week.

(2) work performed outside the normal duration of weekly working time laid down in para. 1, is considered overtime work.

(3) The unit-level negotiations to agree with the requirements of production schedule, it can be a weekly program of 36 to 44 hours, provided that the monthly average is 40 hours per week and the program set to be announced a week before.



Fair Wear Foundation

(4) for young people aged up to 18 years, Working time is 6 hours per day and 30 hours per week.

(5) Depending on the specific unit or their work, they may choose and to an unequal distribution of working time, subject to the normal duration of working time of 40 hours per week.

(6) Where the normal working time is established under the provisions of par. 5, during daily working time may not exceed 10 hours.

(7) On jobs where, due to the specific activity, it is not possible to employment in the normal daily working time can be established forms of organization of working time, as appropriate, in turn, shift continues turns, program divided ; jobs to which these forms of organization and concrete ways to organize and record their work are established by collective labour agreement at branch level, groups of businesses or establishments.

(8) The maximum legal working time may not exceed 48 hours per week, including overtime. By exception, Working time may be extended beyond 8 hours per day and over 48 hours per week, including overtime, provided that the average working hours, calculated over a reference period of three months, not exceed 48 hours per week.

(9) for industries and sectors recorded in the Annex. 6 can be negotiated at the industry level, reference periods exceeding three months but not exceeding 12 months.

(10) At the joint request of any party or of the collective labour negotiator at branch level, Joint Commission established in the Collective Labour Contract nationally will meet the urgent and will rule on the application for extension reference period provided by art. 111 of the Labour Code, the branches or sectors not covered by Annex. 6 and which have submitted applications.

(11) When work is carried out in exchanges, Working time may be extended beyond 8 hours per day and over 48 hours per week, provided that the average working hours, calculated over a maximum period of 3 weeks, not exceed 8 hours per day or 48 hours per week.

Article 11

(1) For some activities, jobs and staff, under the collective agreements of the unit during work can be part corresponding to part-time.

(2) Upon request, employees engaged in part-time work can be assigned to work as normal if there are vacancies and if they meet employment requirements of these posts.

Article 12

(1) Employees working in jobs with special conditions from the reduction in the normal life of working time than 8 hours a day, as provided by law, and may be asked to perform overtime, unless justified express provisions of regulations specific to that business or fortuitous circumstances arising.

(2) Reduce the normal duration of work and categories of personnel covered by this program are established by collective labour agreement at branch level, groups of units and establishments.

Article 13

(1) The times of start and end of the program will be determined by internal rules.

(2) In all cases where it proves possible, the employers and unions will hold negotiations to secure flexible work schedules and methods of attachment.

(3) Flexible scheduling does not affect rights under the collective labour agreement.



Fair Wear Foundation

Article 14

- (1) Spare hours shall be provided, on the employer's request, over the normal working unit that should be established in overtime.
- (2) Employees may be called upon to perform extra hours only with their consent.
- (3) To prevent or remove the effects of natural disasters, of accidents or other force majeure, employees are required to perform overtime work required by the employer.

Article 15

- (1) Overtime hours are compensated by free paid within 30 days after it.
- (2) In these circumstances, employees receive the appropriate salary for hours over normal hours of work performed.

Article 16

- (1) Work in the period between 22 pm and 6, with the possibility of misconduct by an extra hour or less than these limits, night work.
- (2) The normal duration of working time for employees under a night not exceed an average 8 hours per day, calculated on a reference period not exceeding 3 months calendar, observing the legal provisions concerning the weekly rest period.
- (3) For persons whose work program takes place at night during the working time of less than one hour than during the time of work during the day, without any reduction in basic salary and length of service.
- (4) Paragraph 2 does not apply to employees working in jobs with special conditions, where during working time is less than 8 o'clock.
- (5) An employer who, frequently, using night work is required to inform about it the Labour Inspectorate.
- (6) Employees who are to carry at least 3 hours of night work are subject to a free health assessment before starting work and periodically thereafter.
- (7) Conditions of the medical examination and its frequency are determined by regulations approved by joint order of the Minister of Labour, Social Solidarity and Family and the Minister of Health.
- (8) Employees engaged in night work and health problems recognized as being related to it will be switched to day work for which they are suited.
- (9) Young people below the age of 18 years may not perform night work.
- (10) Pregnant women and nursing employees are not required to perform night work.

Article 17

- (1) Employees who waive statutory childcare leave aged up to two years from the reduction in the normal life of working time 2 hours per day, not to be affected basic salary and seniority. At their request may be granted program lagged, with other hours of the start of working hours, whether the work unit allows.
- (2) Women who have dependent children up to 6 years can work with 1 / 2 time, if not benefit from childcare or home without it affected the rights resulting from the quality of employee. Time in which they were placed in these circumstances is considered when calculating length of service, while working with a full-time.
- (3) Employers are required for employees of pregnant dispensation for prenatal consultations within a limit of 16 hours per month without any pay to be affected.



Fair Wear Foundation

(4) Employees shall be required to submit medical certificate on the controls for that invoice.

(5) Procedure for application of the preceding paragraphs shall be determined by collective agreements at unit level.

Article 18

In the normal working time outside time consumed by equipment-undressing at the beginning and end of the program.

THE COLLECTIVE BARGAINING AGREEMENT AT THE TEXTILE AND TEXTILE PRODUCTS BRANCH LEVEL 2007- 2010

Article 33

(1) Working time is the time which the employee uses it for work tasks.

(2) For full-time employees, normal working time is 8 hours a day and 40 hours per week conducted over 5 days working week with 2 days rest.

(3) Depending on the specific unit or their work, they may choose and to an unequal distribution of working time, subject to the normal duration of working time of 40 hours per week.

Article 34

(1) Saturday and Sunday are rest days.

(2) If Company subunits or employment whose activities cannot be interrupted, days of rest may be provided by rotation in other days than Saturday or Sunday, so that each employee to have at least once a month weekly rest period and successively on Saturday or Sunday for more than cumulative.

(3) The cases referred to in para. 2 will be determined by the collective labour agreement for companies and will be highlighted in the individual employment contract.

Article 35

(1) The beginning and end of working hours down in the Rules of Procedure and the collective work for companies.

(2) In special cases for some categories of staff such as: women caring for children under school age, persons who attended an educational institution, grade III disability pensioners employed, or disabled persons with medical recommendations, and otherwise provided in the collective work may approve specific programs work with other hours of the start of the program.

(3) The unequal work can only work if expressly specified in the individual employment contract.

Article 36

(1) Employees receiving a 15-minute break, which is in normal working time.

(2) May be granted a lunch break of more than 15 minutes provided the appropriate extension of the duration of the work day or according to the specific activity.

Article 55

(1) Employees are entitled in each calendar year to a paid holiday of at least 21 days in proportion to the working time worked.



Fair Wear Foundation

(2) differentiation based on seniority will be determined by the collective work in the company.

Article 56

Making the employees annual leave is mandatory for both employees and the administration.

Article 57

(1) Schedule of annual leave is the end of the year for the next year, settled month for each employee.

(2) Programming leave must be made by the employer, in agreement with trade union organization, taking into account the request of the employee.

(3) Date of commencement of annual leave the employee will be notified at least 15 days before departure.

Article 58

Annual leave may be interrupted or rescheduled under the following conditions:

- The period of temporary incapacity for work, according to law;
- Meet during prenatal or postnatal leave;
- During the meeting of military obligations, other than meeting the military training period in time;
- The presence of the employee to work is required by the management company, with the consent of the employee;
- If the employee so requests and interests of the service permit.

Article 59

The employee called holiday is entitled to compensation from the company, which comprises:

- Round-trip transportation payment at the place where they are on leave;
- Payment of allowances for interruption that will agree with the employee called the holiday;
- Damages due to the costs borne by the employee if it is at rest or treatment;
- Time spent in return travel is considered work time and added to paid annual leave.

Article 60

This leave is usually performed in full or split may be given in instalments, if the interests of a service request or at the request of the employee if not affect normal performance in the unit, provided however that at least one of fractions to be at least working 15 days and the other part will be given and taken by the end of the year.

Article 61

Businesses, where possible, will be granted annual leave whole or part of at least 15 days for all employees working in the same period in one of the summer months (July or August).

Article 62



Fair Wear Foundation

When both spouses work in the same unit, have the right to schedule the same period of annual leave.

Article 63

(1) If the employee is treated ticket, he will receive during the holiday which has tickets.

(2) Paragraph. 1 may also apply if the employee is resting by the union ticket, depending on the capabilities of the company.

Article 64

(1) Continuation of the leave must be granted in proportion to time actually worked.

(2) Any agreement which is waived in whole or in part, the right to annual leave is prohibited.

Occupational health and safety

LABOUR CODE (Law 53/2003)

Art. 171

(2) The employer must ensure the employees' safety and health in all work-related aspects.

(3) If an employer turns to outside persons or services, this shall not exonerate him from liability in this domain.

(4) The employees' obligations as regards labour safety and health shall not affect the employer's liability.

(5) The steps concerning labour safety and health shall, by no means, cause financial obligations to the employees.

Art. 173

(1) Within his own responsibilities, an employer shall take all the necessary steps with a view to protect the safety and health of employees, including the activities of occupational risks prevention, to provide information and training, as well as to implement the organisation of labour safety and the necessary means for this.

(2) In adopting and implementing the steps stipulated under paragraph (1), the following general prevention principles shall be taken into consideration:

- avoiding risks;
- assessing risks which cannot be avoided;
- source control of risks;
- adjusting work to each person, especially as regards the design of work places and the choice of work and production equipment and methods, with special emphasis on lessening monotonous work and repetitive work, as well as the reduction of their effects on health;
- taking into consideration the technical progress;
- replacing dangerous items with safe or less dangerous ones;
- planning the prevention;



Fair Wear Foundation

- adopting collective safety measures with priority as against the individual safety measures;
- informing the employees about the adequate instructions.

Art. 174

(1) The employer shall be responsible for the organisation of the labour health and safety activity.

(2) The company's rules and regulations shall stipulate in a mandatory manner rules for labour safety and health.

(3) In drawing up the safety and health measures, the employer shall consult the trade union or, as the case may be, the employees' representatives, as well as the labour safety and health committee.

Art. 175 - The employer shall provide all the employees with **insurances for industrial accidents** and diseases, according to the law.

Art. 176

(1) The employer shall organise the **instruction** of his employees in labour safety and health.

(2) The instruction shall be periodical, using specific means mutually agreed upon by the employer together with the labour safety and health committee and the trade union or, as the case may be, the employees' representatives.

(3) The instruction stipulated under paragraph (2) shall be mandatory in the case of new employees, of those who change the work place or the kind of work, and of those who resume activity after an interruption exceeding 6 months. In all these cases, the instruction shall be carried out before the actual commencement of work.

(4) The instruction shall also be mandatory if amendments to the applicable legislation occur.

Art. 177

(1) Work places shall be organised so as to guarantee employees' safety and health.

(2) The employer shall organise a permanent control of the condition of materials, equipment, and substances used in the work process, with a view to protecting employees' health and safety.

(3) The employer shall be responsible for ensuring the conditions for providing the first aid in the event of industrial accidents, for creating fire prevention conditions, as well as for evacuating the employees under special conditions and in the event of an imminent danger.

Art. 178

(1) To ensure labour safety and health, the institution authorised by the law can order the limitation or prohibition of manufacturing, selling, importing, or using under any title substances and preparations which are hazardous for the employees.

(2) Based on the approval by the factory doctor, the factory inspector can oblige the employer to request the competent bodies to perform, for a charge, tests and examinations of products, substances, or preparations which are deemed hazardous, in order to know their composition and the effects they could have on human body.



Fair Wear Foundation

Art. 179 - (1) At the level of each employer, a labour safety and health committee shall be established for the purpose of making sure the employees are involved in the drawing up and implementation of labour safety decisions.

Art. 180

(1) The employers who are legal entities and have at least 50 employees shall create labour safety and health committees.

(2) If the work conditions are difficult, harmful or dangerous, the factory inspector can request the establishment of such committees even for employers who have less than 50 employees.

(5) In case the setting up of a labour safety and health committee is not necessary, the person in charge of labour safety appointed by the employer shall carry out its typical duties.

Art. 181 The composition, powers and operation of the specific safety and health at work are covered by **government decision**.

COLLECTIVE BARGAINING AGREEMENT AT NATIONAL LEVEL (2007 – 2010)

Article 19

(1) Parties undertake to strive for rigorous application of the system institutionalized by law, in order to continuously improve working conditions.

(2) To achieve the objective in the previous paragraph, the Contracting Parties shall ensure the inclusion in the collective of the measures provided by Law no. 319/2006.

(3) In determining the measures to working conditions, the parties will take into account:

a) the measures included in the collective work is likely to achieve at least ensure working conditions to the minimum required parameters in the rules, if not possible at some point will determine the short or medium term programs for performance to ensure minimal parameters workers compensation benefit payments or otherwise;

b) measures to improve working conditions will be agreed with union representatives, ending special annex to the collective labour agreements.

(4) Unions may organize, share, in the branches, groups of units and establishments, health and safety services at work.

Article 20

(1) Organize of the work by establishing a rational organizational structure, distribution of all employees on the job specifying their duties and responsibilities and exercise control over the fulfilment of service obligations to employees are the sole responsibility of those who employ.

(2) Workloads apply to all categories of employees - workers, technicians, engineers, economists and other professional staff and workers of the administrative work - both for those paid by agreement, and for those paid by directing. Workloads are expressed - to the characteristics of the production process or other activities that regulate - as the rules of time, production rules, personnel rules, and the jurisdiction or in other appropriate forms specific to each work. Workloads are developed by employers, with the consent of the relevant trade unions.

(3) Labour standards approved by the head unit are an annex to the collective labour contract and shall be made available to employees with at least 5 days prior to application.



Fair Wear Foundation

Article 21

(1) Labour Standards activity covers all categories of employees, according to each specific activity, and is based on techniques of labour regulation that takes place as a continuous process in accordance with permanent changes taking place in the organization and level of Technical equipment of work.

(2) In all cases where labour standards does not ensure full employment level, leading to an excessive demand or, where necessary, meet the conditions for which they were developed, the reviews of. This may be required both employer and unions, in case of a dispute regarding the quality of that work will use the technical expertise to be agreed. Opinion technical expertises are required for both parties.

(3) Review of labour standards will not result in a reduced basic salary negotiated.

(4) The costs of settling differences on change work rules will be borne by employers for the first request of the unions.

Article 22

The employer is required to provide permanent technical and organizational conditions envisaged in the development of labour standards, and staff must carry out normal work or, as appropriate, duties arising from his office or position held.

Article 23

Jobs are classified into normal jobs, great jobs and employment conditions with special conditions set out under legal regulations.

Article 24

(1) To provide work in jobs with difficult conditions, dangerous, harmful, painful or the like, employees are entitled, as appropriate, to increases in base salary, reduced duration of working time, food to enhance the body's resistance, free safety equipment, sanitation and hygiene materials, additional holidays, provided for collective agreements at branch level, groups of units, units and institutions; terms of reduction of retirement age are required by law.

(2) Employees belonging to the categories set out in para. 1 will be subject to compulsory medical examination conducted by the occupational physician in the conditions and terms that will be determined by the collective work in the business and institution.

(3) Where one or more particular conditions are found for all employees of a unit, a section, a workshop or a job will be assigned to them by the basic salary the amount of which will be more than the sum of basic salary increases negotiated.

(4) The specific job conditions, where only some employees working in such conditions, they will receive bonuses.

Article 25

(1) If the working conditions normalize, the employees will qualify for restoration work ability two months if they have previously received, the gain for the harm and food protection agency.

(2) The rights referred to in para. 1 benefits and workers who have worked at least six months under par. 1 and changes work for reasons not attributable to, whether the rights of same nature in the new job are lower.

Article 26



Fair Wear Foundation

In all cases where working conditions have worsened, resulting in the reclassification of jobs, employees will enjoy the rights for the new classification from the date of the change in working conditions.

Article 27

(1) The parties agree that any action on health and safety at work is not effective if it is not known, consciously appropriated and applied by employees.

(2) The employer shall provide and pay for, the organizational framework for training, testing and further training of employees on the health and safety at work. The collective agreements at unit level will provide specific measures, periodicity, methodology, obligations and liabilities and their controls, in accordance with Law no. 319/2006, regulations developed by the Ministry of Labour, Social Solidarity and Family and its rules. Time for these activities, including training classes, is included in working time and remunerated.

(3) The employment of an employee or to change jobs or how work will actually be trained and tested on the hazards involved in his new job and the rules on health and safety at work, which is required at work to know and respect.

(4) Where, at work, changes occur that require the application of new rules for health and safety at work, employees will be trained as provided in the preceding paragraph.

Article 28

(1) The amount of the protective equipment shall be borne entirely by the employer.

(2) The amount of the work equipment shall be charged according to the laws and those in collective agreements at other levels.

(3) In all cases, outside of work equipment provided by law, the employer requires some special clothes that work equipment, its value is borne entirely by the employer.

Article 29

The collective agreements in the business or institution will set up the microclimate that would be targeted to each job, to take specific measures to protect labour and control programs to achieve the measures set.

Article 30

(1) To maintain and improve conditions of work, the employer shall take the following measures of workplace ergonomic arrangement:

- a) providing environmental conditions (lighting, microclimate, noise, vibration, temperature, ventilation, humidity);
- b) develop social Annexes Job (locker rooms, bathrooms, toilets, rest rooms);
- c) decrease by gradual elimination of polluting emissions.

(2) Specific measures, within the meaning of para. 1, are established in the collective work of units and institutions.

(3) Employees are required to keep facilities in good condition by the employer, not to deteriorate and spoil or not to remove their components.

Article 31

(1) The employer will hold the job and then once a year, medical examination of employees, in order to determine whether they are suited for the pursuit of jobs that would occupy or occupies it, and to prevent occupational diseases. Medical examination



Fair Wear Foundation

is free and the costs of examination will be covered by law. Specific conditions to be established at the unit, in consultation with unions.

(2) If the special legislation or collective employment contract require medical examinations at shorter periods determined by the particular conditions of employment will apply these provisions.

(3) Employees are required to undergo medical tests in conditions under the provisions of paragraph

1. Refusal to submit to the employee medical examinations is disciplinary.

(4) Medical examination of employees in employment and thereafter once a year is made by specialized health care facilities accredited by the employers and the Ministry of Health.

Article 32

At the request of a party, occupational medicine physicians and labour inspectors will be consulted to change the duration of working time and the granting of additional leave.

Article 33

(1) The parties will ensure a regime of special protection of women's work and youth aged up to 18 years, at least in the specific rights covered by labour law and contract.

(2) Pregnant employees, from the month of their pregnancy and nursing won't be assigned to night work, will not be called in overtime, will not be sent in motion and will not be deployed unless their agreement.

(3) At the request of the Committee for health and safety at work, the employer is required to assess the risks involved in work of employees announces she is pregnant and breastfeeding and the employee to inform them.

(4) Other specific duties or other amounts covered by labour law rights may be determined by collective bargaining agreements at other levels.

Article 34

The employer will not refuse to hire or, if necessary, to maintain the employment of persons with disabilities, where they are able to meet existing service obligations related posts.

Article 35

If medically indicated, the employer will provide employees transition into other jobs and, if necessary, retraining them, depending on the capabilities of each unit, to be agreed with the unions.

Article 36

(1) In order to improve working conditions in each unit at least 50 employees will form a committee of health and safety at work, in accordance with legal provisions.

(2) The health and safety at work is composed of representatives appointed by trade unions representing the unit, on the one hand, and the employer or his appointed representatives in equal number to that of representatives of workers, on the other.

(3) representatives in health and safety committees appointed by the unions representing the work unit, or where there are none, elected by employees, is called delegation of workers employed with specific responsibility for health and safety of workers or workers appointed.



Fair Wear Foundation

(4) Workers delegates referred to in the preceding paragraph shall be elected for a term of 2 years and be extended. They may be withdrawn or replaced in the same condition they were assigned.

(5) If a unit is a union representative, workers delegates in The health and safety at work will be designated by him.

(6) For the affected work activity in health and safety committees at work is considered work time actually rendered and will be provided in the collective work in the business.

(7) Work safety and health committees at work will take place in the framework regulations in force and its regulations.

Article 37

In order to prevent and reduce stress levels at work, the employer together with the signatories of the collective labour agreement will make the necessary efforts to transpose to the establishment of management standards for managing stress at work as:

(1) With respect to work content:

- a) the substantiation rules for employees will have the number of working hours established by law and collective agreements apply;
- b) will seek that level of expertise, skills and abilities of employees to meet job requirements;
- c) employment conditions must be adapted ergonomics, employees;
- d) employees will be informed and consulted and will have all necessary information to enable them to understand who are their responsibilities under the job description.

(2) For the control of work performed:

- a) The employer will encourage the employee to use their capabilities and initiatives in the workplace;
- b) together with trade unions or, where appropriate, with representatives of employees, the employer shall establish a system of incentives for employees to be motivated in achieving the best possible service tasks.

(3) Regarding the management of the workplace through collective bargaining agreements will determine applicable ranges and practical arrangements for informing the employees on the changes occurring or emerging, related to working conditions.

(4) With regard to labour relations, the European health care and safety at work and the Joint Commission, will review information about bad practices at the workplace and will provide corrective action.

THE SAFETY and HEALTH AT WORK (Law No 319/2006)

The general norms regarding work protection, issued through the Order of the Ministry of Work and Social Protection no.508/20.11.2002 and the Order of the Ministry of Health and Family no.933/25.11.2002, include general principles for preventing work accidents and professional diseases, as well as the general directions regarding their implementation. The purpose of these norms is the elimination or the reduction of risk factors, regarding accidents and professional diseases in the labour system, specific for each component of this system (worker – working task – production means – working environment).

There are specific notions to define attributes and responsibilities for the involved institutions within the system, as follows:

- Public health - health of the population in relation to determinants of health: socio-economic, biological, environmental, lifestyle, providing health services, quality and accessibility of health services.
- Health promotion - a process that provides individuals and communities the opportunity to control and improve health in relation to physical, mental and social and contribute to reducing inequalities in health.
- Surveillance - the ongoing systematic collection activities, analysis, interpretation and dissemination of data on the health of the population, and non-communicable diseases, the underlying public health priorities identified and are set up prevention and control measures.
- Health risk assessment - estimating the extent to which exposure to risk factors of the natural environment, living and working and those resulting from lifestyle influence individual and community health of the population.
- Inspection health - exercise enforcement of legal provisions on public health.
- Control of Public Health - exercise control activities on the implementation of legal provisions on public health.
- The precautionary principle - the instrument through which public health authorities decide and act in situations where it is estimated that there is a potential risk to human health, in a scientific argument insufficient.

In the legal framework formerly described, the Law no. 319/2006 of safety and health at work sets the general lines to protect the physical and mental integrity of all kinds of employees. This law is aimed at establishing measures to encourage improvements in the safety and health of workers.

Therefore, Law no. 319/2006 sets out general principles concerning the prevention of occupational risks, occupational health and safety of workers, elimination of risk factors and injury, information, consultation, balanced participation under the law, training of workers and their representatives and the general directions for implementing these principles.

International conventions and bilateral agreements concluded by Romanian legal entities with foreign partners in order to conduct works by Romanian staff in other countries will include clauses on safety and health.

The provisions of this Law shall apply in all sectors, both public and private, both employers and workers and worker representatives. It defines more specific notions than the Law no. 95/2006:

- worker - person employed by an employer, by law, including students, student performance during practical training period, apprentices and other participants in the process of work, except for persons supplying domestic activities;
- the employer - natural or legal person is in employment or service relationship with the worker who is responsible for undertaking and / or establishment;
- other participants in the process of work - person in the organization and / or unit, with the permission of the employer, during the verification of professional skills prior to employment, people who provide community service activities or activities under voluntary and unemployed during the participation in some form of training and who have individual employment contract concluded in writing



- and can prove that the contractual provisions and the services provided by any other evidence;
- representative of workers with specific responsibility for security and health workers - person elected, chosen or designated employees, in accordance with law, to represent them regarding issues of safety and health of workers at work;
 - prevention - all of the provisions or measures taken or provided at all stages of employment, to avoid or reduce occupational risks;
 - event - the accident which led to death or injury of the body, produced during the work or the duties of office, the situation of persons missing or route or traffic accident, in circumstances involving persons engaged, dangerous incident and the case likely occupational disease or work-related;
 - accident at work - the body's violent injury and acute occupational poisoning, which occur during the work or duties of office and causing temporary disability of at least 3 days calendar, disability or death;
 - occupational disease - disease that occurs as a result of exercising a trade or profession, caused by harmful physical agents, chemical or biological characteristics of the workplace, and the overuse of different organs or systems of the body, in the workplace;
 - work equipment - any machine, apparatus, tool or installation used at work;
 - personal protective equipment - any equipment designed to be worn or handled by a worker to protect against one or more hazards likely to endanger its safety and health at work
employment, and any addition or accessory designed to meet this objective;
 - job - the place intended to include workstations located at the company and / or establishment, including any other place in the area of enterprise and / or unit to which the worker has access in the conduct of business;
 - grave and imminent danger of injury - actual situation, the real and present that lacks only the opportunity to trigger an accident at any time;
 - internship - training applicative nature, specific profession or specialty in preparing pupils, students, apprentices and unemployed during retraining;
 - safety and health at work - all institutional activities aimed at ensuring the best conditions in the process to work, defence of life, physical and mental health workers and others involved in the process of work;
 - dangerous incident - identifiable event such as explosion, fire, damage, accident technical major noxious emissions resulting from the failure of an activity or equipment working and / or the inappropriate behaviour of the human factor which affected workers but were also likely to seek and / or has caused or was likely to cause material damage;
 - foreign service - legal or natural persons outside the company / unit, ability to provide protection services and preventive health and safety at work, according to law;
 - easily accident - an event that results in only superficial injuries requiring medical care premiums and trained disability lasting more than 3 days;
 - work-related disease - disease determined by more than one factor, in which some factors are professional in nature.

The relevance of these provisions is that the employees must be effectively involved to act constantly into promoting health and safety at work, to dialogue with employers and put up for adequate measures with that purpose.

For the effectiveness of those regulations, were adopted detailed rules for applying the categories and main areas of activity and impact on security and health, the relevant ones for the present research are as follows:

Detailed provisions for implementing Law no. 319/2006 of safety and health,

- Government Decision no. 1051/2006 concerning the minimum safety and health requirements for manual handling of loads that pose risks to workers, especially the history of back problems,
- Government Decision no. 1048/2006 on the minimum health and safety for use by workers of personal protective equipment at work,
- Government Decision no. 1091/2006 concerning the minimum safety and health work,
- Government Decision no. 1136/2006 concerning the minimum safety and health relating to exposure of workers to risks from electromagnetic fields,
- Government Decision no. 355/2007 on the supervision of health workers.

Perhaps the most relevant aspect of the new perspective of health control is that health surveillance of workers is ensured by the practitioners of occupational medicine. The conclusion is obvious: employers are transferred most of the responsibility to ensure security and health:

- any employer must be in possession of a risk assessment on workers' health,
- health risk assessment must be updated if significant changes have occurred because of that evaluation would be exceeded or when the results of health surveillance require,
- employers in any field of activity, both public and private sector are obliged to observe regulations on the supervision of health workers,
- employers are obliged to provide funds and the conditions that all necessary preventive health services for health surveillance of workers; they are not involved in any way the costs of medical monitoring specific occupational risk prevention.

By law, the employer is obliged to require medical examination. That shall be applied to:

- workers to be employed on individual employment contract or an indefinite period;
- workers who change job/are posted in other jobs or other activities;
- workers who change job or profession.

By the employer's request for recruitment of personnel, working medicine physician to carry out the medical examination, notes down the indentified risk factors in the professional environment, medical records and medical examinations carried out, completes form of fitness with finding employment medical examination: „able”, „able-conditioned”, „temporarily incapacitated” or „unfit” for that work.

Occupational physician has the right to conduct medical examination whenever it considers necessary, depending on the nature of illness or accident for which the absent worker production. Promoting health at work is the active supervision of health workers



in relation to job characteristics and, in particular, the professional risk factors. Needs and aims to raise awareness on health and safety at work among workers, practitioners trained in performing specific area of health promotion at work to achieve the welfare of workers, based on identifying problems.

Occupational health services participating in the development and implementation for information, education and training on health and safety for workers on which the health surveillance through preventive medical examinations. To promote measures for adaptation to work of workers and improve working conditions and environmental, occupational medicine physicians carries advice on occupational health and hygiene of workers and their representatives in the undertaking and the committee on health and safety at work if necessary, and cooperate with bodies of safety and health.

Therefore, within the general framework, the provisions of the Law no. 54/2003 on trade unions seem to become effective in order to achieve its' roles:

The trade unions, hereinafter called trade union organisations, are set up for the purpose of defending the rights provided in the national legislation, in the international covenants, treaties and conventions Romania is a party to, as well as in the collective labour contracts, and for the purpose of promoting their professional, economic, sports, social and cultural interests.

The trade unions are independent from the public authorities, political parties and employers' organisations.

The persons employed and the public servants shall have the right to set up trade union organisations and to join them. The persons exercising independently, according to the law, a trade or profession, the co-operating members, farmers, as well as the persons who are training shall have the right, without a constraint or a preliminary licensing, to join a trade union organisation. For the setting up of trade union organisation a number of at least 15 persons from the same branch or profession shall be required, even if they carry on their activity at distinct employers. No person may be constrained to be or not to be a part of, to withdraw or not to withdraw from a trade union organisation.

In the management bodies there may be elected members of the trade union organisation having full capacity of exercise and who do not serve the complementary sentence of prohibiting the right to fill a position or exercise a profession similar to the one used by the person convicted for committing the offence.

During the term of office and within 2 years from the end of the term of office, the representatives elected in the management bodies of the trade union organisations may not have their individual labour contract changed or cancelled for reasons which cannot be imputed to them, which the law leaves to the employer's judgments, unless there is the written agreement of the elected collective management body of the trade union organisation.

The changing and/or the cancellation of the individual labour contracts, both of the representatives elected in the management bodies of the trade union organisations and of their members, from the initiative of the employer, for reasons concerning the trade union activity shall be forbidden.

The purpose of these norms also is the information, consultation and participation of employees and their representatives in the process of providing security and health at work.

Legally binding employment relationship

LABOUR CODE

Article 34

- (1) Every employer is required to establish a general register of employee records.
- (2) Register the record of employee engagement is completed in order and shall include the identification of all employees, the elements that characterize their employment contracts and all situations that arise throughout the course of labour relations in connection with the execution, amendment, suspension or termination of individual employment contract.
- (3) Register the record of employee engagement is completed in order and shall include the identification of all employees, date of employment, position / occupation as specified Classification of Occupations in Romania or other laws, such as individual employment contract and the date the individual terminated work.
- (4) Register the record of employees is maintained at home, that the employer, to be provided employment inspector or any other authority requesting it, under the law.
- (5) At the request of the employee the employer is obliged to issue a document attesting to their business, length of service, the profession and specialty.
- (6) In case of cessation of employer, employee register record is submitted to the competent public authority, by law, in whose territorial area is headquarters or domicile of the employer, as appropriate.
- (7) The methodology of compiling the register of records of employees, records are being made, and any other items in connection with their preparation are established by Government decision.

Article 40

- (1) An employer shall, in particular the following rights:
 - a) determine the organization and operation of the plant;
 - b) determine the duties for each employee under the law and / or conditions applicable collective labour agreement concluded at national level industry or group of units;
 - c) give instructions binding on the employee, subject to their legality;
 - d) to exercise control over the performance of duties of office;
 - e) disciplinary commission to establish and apply appropriate sanctions, by law, collective labour agreement and the Rules applicable.
- (2) the employer in return, in particular the following responsibilities:
 - a) inform employees of the conditions of employment and on items concerning the conduct of labour relations;
 - b) to provide permanent technical and organizational conditions considered when developing appropriate labour standards and working conditions;
 - c) all rights granted to employees under the law, the applicable collective labour agreement and individual employment contracts;

- d) communicate regularly employed economic and financial situation of the unit, except sensitive or secret information which, by disclosure, is likely to prejudice the work unit. The frequency of communications is established by negotiating collective labour agreement applicable;
- e) consult with the union or, where appropriate, employee representatives on decisions that may substantially affect their rights and interests;
- f) pay all contributions and taxes in its task and to retain and transfer contributions and taxes paid by employees under the law;
- g) to establish the register of records of employees and make the records required by law;
- h) issue, upon request, all documents certifying the status of an employee of the applicant;
- i) ensure the confidentiality of personal data of employees.

Important: In no case the employer has no the right to retain any original document of the employee. All the documents, excepting the Workbook, have to be submitted in copies. The employees do not have to pay any tax for getting a job.

Article 269

- (1) The employer is required under the rules and principles of contractual liability, to compensate the employee when he suffered a material or moral damage to the fault of the employer in the performance of service obligations or in connection with the service.
- (2) If the employer refuses to indemnify the employee, the latter shall be entitled to file a complaint with the competent courts of law.
- (3) An employer who has paid the indemnity shall recover the respective amount from the employee who was to blame for the damage, under the terms of Article 270 and the subsequent ones.

Article 270

- (1) The employees shall be liable, according to the norms and principles of contractual civil liability, for the material damages caused to the employer because of their fault and in relation to their work.
- (2) The employees shall not be liable for damages caused by a case of absolute necessity or other unpredictable causes which could not have been prevented, or damages included in the normal risk of the job.

THE GENERAL REGISTER FOR EMPLOYEES' EVIDENCE

(the Government Decision no. 161/3.02.2006 – has been modified by the Government Decision no. 37/2010 for amending and completing Government Decision no. 161/2006 on establishing and expanding the register to record employee.

Article 1

This decision establishes the methodology for preparation and completion of the register of records of employees, records are being made, and any other items related to it.

Article 2

- (1) Employment of a person is done, according to Law no. 53/2003 - Labour Code, with amendments and additions, but the conclusion of an individual employment contract, under which the individual, as an employee, undertakes to perform work for and under the authority of an employer, person or entity, salary called for remuneration.



Fair Wear Foundation

(2) Every employer is required to set up a general ledger record of employees' the register, and to present labour inspectors at their request.

(3) Employers who have set up branches, agents, representatives or other similar units without legal personality which have delegated powers personnel classification by individual employment contracts may delegate their powers and the establishment register.

(4) are not required to establish diplomatic missions in Romania registry, that embassies, representative offices, consulates general and consular officials.

Article 3

(1) The register shall be in electronic form.

(2) The register shall be filled in order of employment and include:

- a) the particulars of all employees: full name, personal identification number (CNP);
- b) date of employment;
- c) position / occupation as specified Classification Occupations of Romania (COR) or other normative acts;
- d) the type of individual employment contract;
- e) the termination date under the individual employment contract.

(3) The register shall be submitted to the Labour Inspectorate in electronic format using one of the following ways:

- a) by expanding on-line database available on the portal Labour Inspection;
- b) by e-mail based electronic signature;
- c) submission to the Labour Inspectorate headquarters in electronic form, accompanied by a submission signed by the employer address.

(4) Evidence of records, that the data contained therein, submitted by employers to the Labour Inspectorate, takes in a database held in the Labour Inspectorate.

(5) The procedure for transmitting the electronic register is determined by order of the Minister of Labour, Social Solidarity and Family, after adopting the technical solution of the register in electronic form and on that basis.

(21) The employment of each employee referred to in paragraph elements. (2). a)-d) recorded in the register not later than one business day prior to commencement of work by the employee concerned.

(22) Items under par. (2). e) is recorded in the register the date of termination of individual employment contract.

Article 4

(1) Employers are required to forward register in electronic form from the Labour Inspectorate in whose territorial area have their headquarters or domicile, as appropriate, not later than one business day prior to commencement of work by the first employee.

(2) Employers that the entry into force of this decision were within the individual employment contract personnel are required to submit to the Labour Inspectorate in whose jurisdiction they are established or domiciled, where applicable, the register in electronic form within 90 days from the effective date of this decision.



Fair Wear Foundation

(3) The obligation under para. (1) and (2), employers will transmit register of the Labour Inspectorate in whose jurisdiction they are established or domiciled, unless a change of the elements specified in

Art. 3.

(4) The register shall be submitted to the Labour Inspectorate in whose territorial area is established or domiciled employer in cases referred to in para. (3) within 5 days of the date on which changes of the elements specified in Art. 3. (2).

(5) In cases referred to in Art. 3. (21) and (22), the register shall be submitted to the Labour Inspectorate in whose territorial area is established or domiciled employer no later than one business day prior to commencement of work by the employee, that the date of termination of his individual employment contract.

Article 5

Units without legal personality that have established register competence required to transmit the register within the time specified in Art. 4, to the Labour Inspectorate in whose territorial area operates, the performance of obligations under this decision.

Article 6

The register is kept in electronic form at the employer and, where appropriate, at the branch, agency, representation or other similar units without legal personality.

Article 7

(1) The employer is required to draw up a personal file for each employee and the presence of labour inspectors at their request.

(2) The employee's personnel file includes at least: documents needed employment, individual employment contracts, addenda and other documents relating to the modification, suspension and termination of individual employment contracts and other documents certifying the legality and completion in the register .

(3) At the written request of the employee, the employer is obliged to issue certified copy of legal representative or person empowered by the employer under the original personal documents in the file, the page / pages in the electronic register, which contains / contain entries concerning him and / or a document attesting to their business, length of service, the profession and specialty, as is clear from the register of records and personal file.

(4) Electronic register and personal files of each employee shall be kept in conditions which ensure data security and maintain their long and appropriate.

On-the-job apprenticeship contract – the legal provisions had been severely adjusted by the Government Emergency Ordinance 65/2005 by repealing of some Articles as follows:

Article 205

(1) Discipleship at work is organized under the contract of apprenticeship.

(2) The contract of apprenticeship at work is the individual employment contract type individual, under which:

a) corporate or individual employer undertakes, in addition to the payment of wages, provide training to apprentice in a trade that field of activity;

b) the apprentice is required to train in and work in subordination to the employer concerned.



Fair Wear Foundation

(3) The contract of apprenticeship to work on fixed term ends.

Article 207

(1) A person employed under a contract of apprenticeship has the status of apprentice.

(2) apprentice within the provisions applicable to other employees, to the extent that they are not contrary to the specific its status.

Article 213

Organization, conduct and control of apprenticeship activity are regulated by special law.

Seniority determined until December 31, 2010 is evidence of labour record.

After the repeal of Decree no. 92/1976 on his employment record, as amended, established seniority until December 31, 2010 is reconstituted at the request of the person who does not have employment record by the court to resolve labour disputes, based on documents or other evidence showing that the existence of employment. Applications made prior to reconstitution repeal Decree no. 92/1976, as amended, shall be settled according to the provisions of that legislation.

Employers who maintain and complete books will issue holders work in stages, until June 30, 2011, based on individual minutes handover.

COLLECTIVE BARGAINING AGREEMENT FOR TEXTILE AND GARMENT INDUSTRY BRANCH (2007 – 2010)

Article 25

(1) Termination of the individual employment contract may be held as provided by law, by one of the following ways:

- 1.by law;
2. by subsequent agreement of the parties, the date agreed upon by them;
- 3.by subsequent unilateral will of one party, in the cases and the constraints provided by law.

(2) In cases where the unit is obliged under law to give notice to the termination of employment, its duration will be 20 working days, excluding persons laid off under Art. 61 point d), which is on probation, according to art. 73 (2) of the Labour Code.

For companies can negotiate a notice period exceeding 20 days.

(3) The period of notice, employees are entitled to time off at four o'clock on the day of the program unit to look for a job without this affecting the wages and other rights. Hours absent may be provided by overlapping the conditions set by the employer.

(4) Where a person unwind employment contract without being given prior notice under paragraph (2), he is entitled to an allowance equal to one month basic salary, took on the dissolution of employment .

Article 26

(1) An individual employment contract may not be disposed of the initiative to undertake, where by law or collective labour agreement bans were also provided.

(2) Progress in trade unions in the law cannot constitute grounds for termination at the initiative of individual work unit.

Article 27



Fair Wear Foundation

(1) The individual employment termination for reasons not attributable to the employee, employers will give it a compensation of 100% of monthly salary, due to days off duty.

(2) Paragraph. (1) are applicable when termination of employment has occurred for the following reasons:

- a) unit reduces staff by eliminating posts such as that occupied by the person concerned, following the reorganization;
- b) the unit ceases to operate;
- c) the unit is moved to another location and have the opportunity to provide local frameworks necessary;
- d) the unit is moved to another location and framed person does not want to follow;
- e) the person does not meet the professional looking job that was falling from its fault, and not offered a job corresponding shift;
- f) if the position held by the person employed is reinstated at the previously held the position on the decision of the competent bodies.

Article 28

(1) If the unit is placed in a position to make reductions in staff (collective redundancies), following the restriction of activity, re-engineering, automation and robotisation production process, the employer shall perform the following duties:

- Initiate, for the purposes of the Agreement, consultations with the union or, where appropriate, employee representatives, on the ways and means of avoiding collective redundancies or reducing the number of employees affected and mitigating the consequences of the use of social measures aimed in particular support for retraining or retraining of employees made redundant;

- To provide the union has members in the unit or, where appropriate, employee representatives with all relevant information relating to collective redundancies, for formulating proposals from them;

(2) Dismissal procedure shall be in accordance with the Labour Code.

Article 29

(1) The employer must provide written notice to the union or, where appropriate, employee representatives on collective redundancies intention at least 30 calendar days prior to issuing a decision to dismiss.

(2) Notification of intention to dismiss the collective shall include:

- a) total number and categories of workers employed;
- b) reasons for dismissal;
- c) the number and categories of employees to be affected by redundancy;
- d) the criteria considered under the law and / or collective agreements for determining the order of priority for redundancy;
- e) the measures envisaged to limit the number of redundancies;
- f) measures to mitigate the consequences of redundancy and compensation to be granted to employees subject to dismissal under laws and / or applicable collective labour agreement;



Fair Wear Foundation

- g) the date or period in which firing will take place;
- h) the period within which the union or, where appropriate, employee representatives may make proposals to avoid collective dismissal or reduction in the number of employees redundant.

(3) The employer is obliged to notification under par. 2 the Labour Inspectorate and Territorial Employment Agency Employment, at the same time that it notified the union or, where appropriate, employee representatives.

Article 30

(1) trade union or, where appropriate, employee representatives the employer may propose measures to avoid redundancies or reducing the number of employees redundant within 15 calendar days of receipt of notification.

(2) The employer is required to respond in writing and reasoned proposals made, under the provisions of par. (1) within 5 days of their receipt.

(3) At the request of either party, the Labour Inspectorate can issue when postponing the decision to dismiss within 10 calendar days if the issues considered collective dismissal cannot be resolved within the period specified in Art. 29 para. (1).

Article 31

(1) The effective implementation of staff reduction, after reduction of vacancies such as those removed, the measures will affect the order:

- a) individual contracts of employment of employees encompassing two or more functions and those having both the function of wages;
- b) individual contracts of employment of persons who qualify for retirement at the initiative of establishment;
- c) individual contracts of employment of persons who qualify for retirement, at their request.

(2) In taking the measure of sales of individual employment contract for the reduction of posts will be considered following minimum criteria:

- a) whether the measure would affect both spouses working in the same unit, hang the employment contract of the spouse having the lowest income, without thereby be able to loosen the employment contract of a person occupying a position reduction target;
- b) the extent to affect the first persons who have dependent children;

c) the extent to affect only the last thing women who have dependent children, widows or divorced men who have dependent children, unique maintainers of the family and the employees, male or female, who have more than three years later retirement, at their request.

(3) If the dissolution extent individual employment contract would affect an employee who attended some form of qualification or refresher training and completed with an addendum to the contract unit of work that was required to provide a activity in a given period of time, the administration will not be able to claim compensation for the remainder worked it up to end of the period, if the measure dissolution of employment is not attributable.

(4) In the event that two or more persons are employed in the same situation, making available will be in consultation with unions.



Fair Wear Foundation

Article 32

(1) Ordering the employer cannot make new collective redundancies employment of employees redundant jobs over 9 months from the date of their dismissal.

(2) If, during this period, the employer resume cease activities which led to collective redundancies, it is required to send employees who were dismissed with a written notice to that effect and to engage in the same job it previously occupied, without examination or contest or trial period.

1. Employees have a period not exceeding 10 working days from the date the employer under para. 2, to manifest express consent of the job offered.

2. In the event that employees are entitled to be re-hired under par. (2) does not expressly show their consent within the period specified in par. (3) or refuses work offered, the employer can make new employment jobs remain vacant.

Appendix 3 Tasks of Labour Inspection

It executes the following tasks and provides the following services:

- in determining labour relations control:
 - Employment and termination of the individual labour contract of persons carrying on any activity under an individual employment contract or an agreement of civil service;
 - Establishment and enforcement of working hours;
 - Establishing and granting labour rights and other rights arising from work performed;
 - Access without discrimination on the labour of all people, compliance with specific rules on working conditions of young people, women, and of certain categories of disadvantaged persons;
 - Compliance with other provisions contained in labour laws and clauses of collective agreements;
- safety and health at work:
 - Provides technical assistance to legal entities to develop programs to prevent occupational risks and controls their implementation;
 - Perform measurements and determination or request, examine samples of products and materials in units and outside, for clarification of distress;
 - Can stop the activity of a company or of equipment if it finds a state of imminent threat of injury or occupational disease, and refers, as appropriate, criminal prosecution bodies;
 - Provides authorization to operate to employers, legal entities and individuals, in terms of safety at work;
 - Revoke the operating authorization in terms of safety at work, if it finds that by changing the conditions that gave rise to this issue is not respect the legislation in force;
 - Investigates accidents at work under the provisions of the Detailed Rules on communication, research, recording, reporting and recording accidents;
 - Coordinate the work of training and information for employees in safety, health and labour relations and training activities designed to specialists;
 - Supervise the application of laws relating to certification of products, machinery, equipment and protective equipment in terms of safety at work, into their national territory, by labour inspectors or by bodies accredited by the Ministry of Labour and Social Solidarity;
 - Checking that meet legal requirements on occupational health and removing risks of occupational diseases.

Appendix 4. The social pact for the Romanian, textile, garment, leather and shoes industry, 14th of April 2010

The Government:

- Shall promote the tripartite social dialogue and the collective bargaining between employers and employees;
- Shall put into practice, through its specialised institutions, efficient policies oriented towards the development of the labour market and appropriate professional training programs;
- Shall mobilise all the available instruments and shall integrate all the economic growth, employment, solidarity, protection and social inclusion policies;
- Shall avoid any protectionist measures as well as the negatives impact the inflation on the wages and working conditions;
- Shall support the SMEs supporting the labour market and shall promote measures aiming to insure them a favourable development environment, comprising the improvement of the access to national and European funds.

Employers' Associations

- Shall reinforce the social dialogue both with the Government and with the trade unions in order to have an integrate approach of the measures for combating the negative impact of the crisis both at sector and at company level; shall provide examples of social dialogue improvement in order to increase the economic competitiveness;
- Shall pay an important attention to maintaining as many as possible working places, social protection as well as to creating new jobs within sustainable companies;
- Shall have an exchange of good practices with other employers' association from the Romanian industry and from the EU state members;
- Shall respect the stipulations of the Labour Code concerning the procedure for collective dismissals, as well as the signed by Romania international labour conventions;
- Shall engage discussions with the trade unions in order to adopt measures for reducing the production costs aiming to help preserving the existing working places and the level of the wages;
- Shall inform and support the SMEs in the field in elaborating projects for accessing the national and European funds.

Trade unions

- Shall maintain a pertinent and permanent dialogue both with the government and the Employers' Associations concerning employees' the labour conditions and the living level, the wages level, the measures for protection of the working places, health and security at work, social protection, the stipulations of the



Fair Wear Foundation

Labour code, of the Decent Work Agenda and of the ILO Declaration concerning Social Justice and Fair Globalisation;

- Shall negotiate with the Government programs of professional conversion of the dismissed employees, as well as programs for raising awareness among the political decision taking factors on the problems encountered by the employees in the textile and clothing industry;
- Shall propose together with the Employers' Associations concrete measures to the Government in order to decrease the wages costs, to eliminate the payment of the sick leaves by the employers and amendments of the Labour Code in order to insure the flexicurity on the Romanian labour market.