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**IMPLEMENTING THE CODES OF CONDUCTS**  
**a real provocation**  
**for the Romanian Garment Industry**  
**Case Study field research in 2 Romanian**  
**work wear producing companies**



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This research was performed within the project “**Advancing Credible Implementation of Codes of Conduct in the Garment Industry**”, financed by the **EUROPEAN COMMISSION, DG Employment, Social Affairs and Equal Opportunities VP/2006/001/1289**

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# 1

## THE ROMANIAN LABOUR LEGISLATION

## **1.1.The 8 core ILO labour standards reflected in the Romanian legislation.**

The Romanian Labour Code is based on the European and international labour legislation laws and standards.

**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.

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 Laws and Regulations**

The **Convention 29/1930** was ratified in Romania 1958 (published in the Official Journal no. 4/18.01.1958).

The **Convention 105/1957** was ratified in Romania in 1998 through the Law 140.

These Conventions were transposed into the Romanian legislation as follows:



## 1. Constitution of Romania<sup>1</sup>

**Art. 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.

(2) All employees have the right to measures of social protection. These concern employees' safety and health, working conditions for women and young people, the setting up of a minimum gross salary per economy, weekends, paid rest leave, work performed under difficult and special conditions, as well as other specific conditions, as stipulated by the law.

(3) The normal duration of a working day is of maximum eight hours, on the average.

(4) On equal work with men, women shall get equal wages.

(5) The right to collective labour bargaining and the binding force of collective agreements shall be guaranteed.

**Art. 42** - (1) Forced labour is prohibited.

(2) Forced labour does not include:

- a) 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;
- b) the work of a sentenced person, carried out under normal conditions, during detention or conditional release;
- c) 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, completed with the Emergency Ordinance 65/2005)<sup>2</sup>

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:

**Art. 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.

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<sup>1</sup> More info in [http://www.cdep.ro/pls/dic/site.page?den=act2\\_2&par1=2##2c2s0a42](http://www.cdep.ro/pls/dic/site.page?den=act2_2&par1=2##2c2s0a42) and [www.dscllex.ro/constitutii/const2003](http://www.dscllex.ro/constitutii/const2003)

<sup>2</sup> <http://www.dscllex.ro/coduri/cm.htm>

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

**Art. 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.

**Art. 39** - (1) The employee's main rights are as follows:

- a) the right to receive wages for the work performed;
- b) the right to a daily and weekly rest;
- c) the right to an annual holiday;
- d) the right to equal chances and treatment;
- e) the right to dignity of labour;
- f) the right to labour safety and health;
- g) the right of access to vocational training;
- h) the right to information and consultation;
- i) the right to take part in the determination and improvement of the work conditions and environment;
- j) the right to protection as far as dismissal is concerned;
- k) the right to collective and individual negotiation;
- l) the right to participate in collective actions;
- m) the right to establish or join a trade union.

(2) The employee's main obligations are as follows:

- a) the obligation to accomplish his/her work load or, as the case may be, to meet his/her duties according to the job description;
- b) the obligation to observe work discipline;
- c) the obligation to observe the provisions of the company's rules and regulations, of the applicable collective labour contract, as well as of the individual labour contract;
- d) the obligation of fidelity to the employer in performing his/her job duties;
- e) the obligation to observe labour safety and health in the company;
- f) the obligation to observe the professional secrecy.

### **3. Collective Bargaining Agreement for Textile and Garment Industry Branch (2006 – 2007)**

The **Articles 20 - 32** of the Collective Bargaining Agreement 2006 – 2007 for Textiles and Garment Industry branch, provide dispositions for concluding and ending the Labour Individual Contract.

# DISCRIMINATION IN EMPLOYMENTS

## Laws and Regulations

The **Convention 100/1951** was ratified in Romania 1957 (published in the Official Journal nr. 4/18.01.1958).

The **Convention 111/1958** was ratified in Romania in 1973 through the Decree 284 (Official Journal 81/06.06.1973).

These Conventions were transposed into the Romanian legislation as follows:

### 1. Constitution of Romania /2003

In a referendum on 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 *acquis* as part of the process for EU accession<sup>3</sup>.

The Romanian Constitution enumerates several provisions prohibiting gender discrimination that may be summarised as follows<sup>4</sup>:

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)** also 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**", and article 48(1) stresses that "The Family is founded on the freely consented marriage of the spouses, their full equality, as well as the right and duty of the parents to ensure the upbringing, education, and instruction of their children".

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<sup>3</sup> <http://europa.eu.int/comm/enlargement/romania/index.htm>

<sup>4</sup> <http://www.ilo.org/public/english/employment/gems/eeo/cover/rommain.htm>

With regard to the status of international treaties in domestic law, **Article 11** 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”.

The guarantees of non-discrimination in the Constitution just mentioned do not entirely cover the requirements of the international norms and recommendations in the field of human rights and equality of opportunities<sup>5</sup>:

- a) the term of non-discrimination appears only in the relation with the role of the country as the indivisible homeland of all citizens, and in the connection of respecting the law; There is not a fundamental stipulation which must establish all the amenability of the state for the full guarantees of human rights and freedoms protection without any discrimination;
- b) the element “age” is not added to all the possible criteria of discrimination;
- c) the definition of discrimination does not include the element of indirect discrimination as it is stipulated in the international treaties and conventions Romania is a party to;
- d) there is not any provisions related to the legal instruments of the state for the elimination of all the discriminations and to condemn the discriminatory acts.(e.g. ordinary law). Such a constitutional amendment may introduce also another provisions referring to gender equality guaranteed by specific laws;
- e) concerning children's rights, the article 29 (6) - the freedom of conscience-the state does not offer guarantees for children's education (in respecting the international specific norms), but only in strong connection with the parents' convictions, who have all the responsibility. In this case the state does not protect children against those convictions, which may affect, in a dangerous way, their human rights development.

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<sup>5</sup> <http://www.seeline-project.net/>

## **2. Labour Code (Law 53/2003, completed with the Emergency Ordinance 65/2005)**

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. 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.

## **3. Equal opportunities for women and men (Law 202/2002, amended and completed with the law 507/2007)<sup>6</sup>**

The most important articles:

**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.

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<sup>6</sup>[http://www.protectiamuncii.ro/legislation/legea\\_202\\_2002.shtml](http://www.protectiamuncii.ro/legislation/legea_202_2002.shtml)

(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 - 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:

- a) to exercise their right to free choice of employment or activity;
- b) employment in any vacant position or workplace and at all professional hierarchical levels;
- c) equal pay for equal work;
- d) professional information and counselling, vocational qualification, specialization and re-qualification programs;
- e) promotion at all professional hierarchical levels;
- f) work conditions respecting the health and safety regulations, according to the legal provisions;
- g) 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.

#### **4. The Collective Bargaining Agreement at national level (for the period 2007 – 2010)**

**Art. 2 - (3)** When employing and setting the individual rights, **the employer shall ensure the equal chances and treatment for men and women**, without any direct or indirect discrimination based on race, nationality, ethnic origin, language, religion, sex, opinion, political adherence, property or social origin or any other criteria, in order not to restrict or eliminate recognizing, using or exercising the rights stipulated by the collective labour agreements.

## **5. 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.

## **6. 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.<sup>7</sup>

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**).

**Art. 27** - Employers have the obligation that within 10 working days since these methodological norms enter into force to inform the employees, in written, with their signature of confirmation.

## **NO EXPLOITATION OF CHILD LABOUR Laws and Regulations**

The **Convention 138/1973** was ratified in Romania 1975 through the Decree 83/1975 (Official Journal 86/2.08.1975).

The **Convention 182/1999** was ratified in Romania in 2000 through the Law 203/2000 (Official Journal 577/17.11.2000).

These Conventions were transposed into the Romanian legislation as follows:

### **1. Constitution of Romania**

#### **Protection of children and young people**

**Art. 49** - (1) Children and young people shall enjoy special protection and assistance in the pursuit of their rights.

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<sup>7</sup> These are methodological norms, and the articles enter into too many details concerning the same information given in the Governmental Emergency Ordinance 96/2003.

- (2) The State shall grant allowances for children and benefits for the care of ill or disabled children. Law shall establish other forms of social protection for children and young people.
- (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)**

**Art. 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.

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

**Art. 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.

## **3. Collective Bargaining Agreement at national level (2007 – 2010)**

**Art. 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.



# **FREEDOM OF ASSOCIATION AND THE RIGHT TO COLLECTIVE BARGAINING**

## **Laws and Regulations**

The **Convention 87/1948** was ratified in Romania in 1958 (published in the Official Journal no. 4/18.01.1958).

The **Convention 98/1949** was ratified in Romania in 1958 through the Decree 352 published in the Official Journal nr. 34/29.08.1958.

The **Convention 135/1971** was ratified in Romania in 1975 through the Decree 83/1975 (Official Journal 86/2.08.1975).

These Conventions were transposed into the Romanian legislation as follows:

### **1. Constitution of Romania**

#### **Art. 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.

#### **Art. 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)**

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

**Art. 39 -** (1) The employee's main rights are as follows:

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

**Art. 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.
- (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.

### **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.
- (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.

#### **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.

#### **5. The Labour Conflicts Resolution Law (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:

(2) 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.

## **PAYMENT OF A LIVING WAGE**

### **Laws and Regulations**

The **Convention 26** was not ratified by Romania.

The **Convention 131/1970** was ratified in Romania 1975 through the Decree 83/1975 (published in the Official Journal 86/2.08.1975).

Romania recognised the **Universal Declaration of Human Rights**.

These Conventions and the principles of the Universal Declaration were transposed into the Romanian legislation as follows:

#### **1. Constitution of Romania**

**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)**

**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.

## **NO EXCESSIVE WORKING HOURS**

### **Laws and Regulations**

The **ILO Convention 1** was ratified in Romania in 1921.

Brief overview of the legislation in force regarding the working hours

#### **1. Romanian Constitution**

**Art. 41** (3) The normal working day is, in average, no more than 8 hours.

#### **2. Labour Code (Law 53/2003, completed with the Emergency Ordinance 65/2005)**

**Art. 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.

**Art. 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.

**Art. 118** - At the employer's request, the employees can perform extra work, provided the provisions of Article 111 are observed.

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

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

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

**Art. 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.

(2) 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**.

**Art. 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.

### **3. The Collective Bargaining Agreement at National Level (for the period 2007 – 2010)**

**Art. 10** (3) Through negotiations at unit's level, in order to harmonize the working program with the production requirements, the working week may vary between 36 until 44 hours, under the conditions of respecting a monthly average of 40 hours per week, and of announcing one week in advance the established program.

(5) Function of the unit's or the activity specific, the working time may be unequally distributed, under the condition of respecting the normal working time length of 40 hours per week.

(6) In case the normal length of the working time is fixed according the stipulations of para.5, the length of the daily working time may not exceed 10 hours.

**Art. 14** (1) The working hours performed at the employer's request over the normal established working time are considered extra hours.

(2) The employees may be asked to perform extra working hours **only upon their agreement**.

**Art. 15** (1) The extra working hours have to be compensated by paid free hours within the next 30 days after their performance.

(2) Under these conditions the employee benefits of the wage corresponding to the performed extra working hours.

**Art. 18** – The normal length of the working time does not comprise the time spent with the putting-on and the taking-of the protection equipment by the beginning and the end of the working program.

## **HEALTH AND SAFETY**

### **Laws and Regulations**

The **ILO Convention 155** was not ratified in Romania. Only the **ILO Conventions 174 and 176**, related to accidents at work, health and safety in industrial environment were ratified.

#### **1. Constitution of Romania**

**Art. 34** - (1) The right to the protection of health is guaranteed.

(2) The State shall be bound to take measures to ensure public hygiene and health.

(3) The organization of the medical care and social security system in case of sickness, accidents, maternity and recovery, the control over the exercise of medical professions and paramedical activities, as well as other measures to protect physical and mental health of a person shall be established according to the law.

#### **2. Labour Code (Law 53/2003, completed with the Emergency Ordinance 65/2005)**

**Art. 39** – (1) The employee's main rights are as follows:

b) the right to a daily and weekly rest;

f) the right to labour safety and health;

- (2) The employee's main obligations are as follows:
- b) the obligation to observe work discipline;
  - e) the obligation to observe labour safety and health in the company;

**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:
- a) avoiding risks;
  - b) assessing risks which cannot be avoided;
  - c) source control of risks;
  - d) 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;
  - e) taking into consideration the technical progress;
  - f) replacing dangerous items with safe or less dangerous ones;
  - g) planning the prevention;
  - h) adopting collective safety measures with priority as against the individual safety measures;
  - i) informing the employees about the adequate instructions.

**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.

### **3. Health and safety at work Law 319/June 23rd, 2006 for the modification and completion of Law no. 90/1996 regarding labour protection**

**Art. 5.** - (1) Ministry of Labour, Social Solidarity and Family issues general legal provisions and other regulations of general interest in the field of security and health at work, coordinates the elaboration of provisions regarding specific activities, participates at the elaboration and approval of standards and elaborates and approves the regulations important in the area or under the competency of other institutions, according to law."

**Art. 6.** - (1) Ministry of Health issues specific legal provisions regarding health at work, participates at the elaboration and approval of regulations and approves the regulations elaborated by other institutions, in the field of employees' health at the working place."

**Art. 7** - "(2) Provisions regarding labour protection will be stipulated in individual labour agreements and in contracts for professional training, and parties' responsibility will be established herein."

(3) The individual protection kit will be compulsorily given for free to employees and other categories of personnel, who perform activities within legal entities or individual persons settled in article 2, according to the provisions comprised in the field legislation."

**Art. 13.** - (1) In the sense of the present law, individual protection kit means any equipment worn or held by a worker in order to protect him/her against one or more risks which could endanger their security and health at the working place, as well as any supplement and accessory projected in order to fulfil this objective. "

# LEGALLY BINDING EMPLOYMENT RELATIONSHIP

## Laws and Regulations

### 1. Constitution of Romania

**Art. 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.

(2) All employees have the right to measures of social protection. These concern employees' safety and health, working conditions for women and young people, the setting up of a minimum gross salary per economy, weekends, paid rest leave, work performed under difficult and special conditions, as well as other specific conditions, as stipulated by the law.

(3) The normal duration of a working day is of maximum eight hours, on the average.

(4) On equal work with men, women shall get equal wages.

(5) The right to collective labour bargaining and the binding force of collective agreements shall be guaranteed.

### 2. Labour code (Law 53/2003, completed with the Emergency Ordinance 65/2005)

**Art. 10** - An individual labour contract is a contract based on which a natural entity, called employee, undertakes to perform work for and under the authority of an employer, who is a natural or legal entity, in return for a remuneration, called wages.

**Art. 11** - The clauses of the individual labour contract cannot contain contrary provisions or rights below the minimum level set up by laws or collective labour contracts.

**Art. 12** - (1) An individual labour contract shall be concluded for an indefinite term.

(2) As an exception, an individual labour contract can also be concluded for a definite term, under the conditions expressly stipulated by the law.

**Art. 16** - (1) An individual labour contract shall be concluded based on the parties' consent, in written form, in Romanian. The employer has the obligation to conclude the individual labour contract in written form.

(2) If the individual labour contract has not been concluded in written form, the presumption is that it has been concluded for an indefinite term, and the parties can give proof of contract provisions and work performed through any other elements of proof.

(3) The work performed based on an individual labour contract gives the employee length of service.

**Art. 17** - (1) Prior to the conclusion or amendment of an individual labour contract, the employer must inform the person applying for employment or the employee, as the case may be, about the general clauses he intends to include in the contract or to amend.

(2) The information stipulated under paragraph (1) shall comprise, as the case may be, the following elements at least:

- a) the identity of the parties;
- b) the work place or, in the absence of a stable work place, the possibility that the employee may work in various places;
- c) the employer's head office /or, as the case may be, residence;
- d) the duties of the job;
- e) the typical risks of the job;
- f) the date from which the contract is to take effect;
- g) in the event of a labour contract for a definite term or a temporary labour contract, the duration thereof;
- h) the duration of the annual leave the employee is entitled to;
- i) the conditions under which the contracting parties can give notice and the duration thereof;
- j) the basic wages, other elements of the earned income, as well as the periodicity of the payment of wages the employee is entitled to;
- k) the normal work period expressed in hours per day and hours per week;
- l) the mention of the collective labour contract regulating the work conditions for the employee;
- m) the length of the trial period.

(3) The elements in the information stipulated under paragraph (2) shall also be found in the contents of the individual labour contract.

(4) Any change in any of the elements stipulated under paragraph (2) during the performance of the individual labour contract shall require the conclusion of a rider to the contract, within 15 days from the employee being notified in writing, except for circumstances when such a change is made possible by the law or the applicable collective labour contract.

(5) As regards the information provided to the employee, prior to the conclusion of the individual labour contract, the parties can enter into a confidentiality agreement.

## 1.2. Some information on implementation of different instruments aimed to improve employees' situation (conduct codes, OECD guide, social audits, SA 8000, RSC etc.) and their impact in real life.

### **Teba Industries conquers Romanian market**

*This group includes around 30 commercial societies in our country (out of which 23 work in the textiles industry), with more than 6,000 employees, forming together one of the strongest consortiums from the textiles industry. - Amelia TURP-BALAZS*

The Teba Industries group is in fact a Cross Venture investment in Romania, a private company owned by the Colombo Group from Swiss.

One of the problems encountered by this group was the lack of sufficient qualified personnel, given the customers' high quality requirements which led to careful selection of personnel. "Yet, we over passed this problem, due to the university and pre-university education systems in textile area existing in Romania, which allowed us to recruit young specialists. Additionally, this year we managed to implement the **SA 8000 Standard– Social Responsibility**, so that the societies' boards are able to promote the essential values for a modern organisation, mirrored by the respect towards employees, meeting the customers' requirements, the respect for environment and for the local community", confessed Mme Tomos.

Presently, with its vertical structure, Teba Industries is one of the few firm-groups producing and trading a wide range of textile confections, cotton and wool garments, synthetic textures.

Removing quotas for the Asian countries is not perceived as a threat for the company, due to the wide range of services offer, as well as to the fact that it delivers the finished product – from the model's project phase to the product's packing and delivery. "We must have in mind that certain customers require their producers to be ISO 9001 and SA 8000 certified, our company being already certified for these standards ", says Mme Tomos.

The Teba Group intends in the future to consolidate its experts' team, to re-train its personnel and, in the short term, to inaugurate a waving mill to produce cotton textures.

In the last years, a special attention was allowed to the implementation of quality standards. Thus, majority of the garment companies producing for EU brands put their efforts in implementing ISO 9000 standard. The SA 8000 standard, is poorly known in the business community, only recently employers accepted that they have to pay attention to social aspect of their activity. Consequently, the mentioned on the left side is the only company we know which have implemented this standard.

## OECD in Romania

### **The Romanian Centre for Information and Documentation (CRID) in the domain of the Organisation Cooperation and Economic Development - OCDE<sup>8</sup>**

The centre was set up by Government decision within the Institute for National Economy of the Romanian Academy, being provided with an OCDE information and documentation point, which works within the Ministry for Foreign Affairs.

Setting up of CRID-Romania-OCDE within the Romanian Academy is an important step in closing the national economic research to OCDE preoccupation, given this institution is considered the world's most important body in economic and social research.

The Bucharest centre is provided with important facilities for scientific cooperation between Romanian researchers and other interested bodies (academies, universities, governmental, parliamentary etc.) on one side, and OCDE experts, such as: a depositary library which includes the latest OECD reports and synthesis (which are presented further up to date); online access to OECD data bases, specialised expertise and assistance from the domain institutions of the Romanian Academy, documentation and factual bases - retrospectives of other international bodies and so on.

The centre is permanently represented at decision level within the National Contact Point Romania-OECD and within the LEED working group (Local Economic and Employment Development).

The official opening of CRID took place on 24<sup>th</sup> of May, 2005 at the Romanian Academy House, in the presence of the **Deputy of OCDE Secretary General - Mr Herwig Schlögl, the Romanian Academy President - Mr Eugen Simion, the Ministry of Foreign Affairs State sub-Secretary - Mr Claudiu Doltu**, and also of other official representatives of Romanian institutes and foreign embassies, international and national experts in economic and social policies.

### **The Romanian Agency for Foreign Investment<sup>9</sup>**

A National Contact Point (PNC Romania) was set up within the Romanian Agency for Foreign Investment.

**Role** - The National Contact Point (PNC Romania) is responsible for encouraging the respect of OECD Guide for Multinational Enterprises in national context and for ensuring its dissemination among the business

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<sup>8</sup> [www.crid.ro](http://www.crid.ro)

<sup>9</sup> [www.aris.ro](http://www.aris.ro)

community and other interested bodies. PNCR was set up and is ruled by the Government Decision HG nr 420 from 12<sup>th</sup> of May, 2005.

The National Contact Point (PNC) gathers the information related to the national experience on promoting the OECD guidelines, discusses the problems raised by the business community concerning the OECD Guide for Multinational Enterprises and assists in its solving. When specific business conduct difficulties related to implementation of the guidelines occurred, PNCR holds responsibility for finding solutions. Every individual or legal person may apply PNC for any matter related to guidelines.

OECD Guide for Multinational Enterprises is a set of voluntary conduct rules for Multinational Enterprises – the only comprehensive and multilaterally accepted code, which the Governments, by signing the OECD Declaration, engaged to promote.

**Attributions** - The National Contact Point (PNC) has the following attributions:

- To answer the questions related to OECD Guide for Multinational Enterprises application;
- To analyse matters related to the guidelines included in the OECD Guide for Multinational Enterprises and to involve in addressing the problems occurred in this regard;
- To disseminate information concerning the experience of OECD Declaration signatory countries in its application;
- To elaborate an annual report designated to the OECD Committee for Investment and Multinational Enterprises.

### **National Contact Point Composition**

- Ministry of External Affairs
- State Ministry for coordinating the activities in business environment and SME – Direction for Business Environment (DMA)
- Ministry of Public Finances
- Ministry of Justice
- Ministry of European Integration
- Ministry of Education and Research
- Ministry of Labour, Social Solidarity and Equal Opportunities
- Ministry of Economy and Commerce
- Ministry of Transporting, Construction and Tourism
- Ministry of Environment and Water Holding
- Romanian Agency for Foreign Investment
- National Agency for Small and Medium Enterprises and for Cooperation

- Romanian Academy – the National Institute for Economic Research
- Alliance of Employers' Confederations from Romania
- The Chamber for Commerce and Industry of Romania and of Bucharest
- The State Minister for coordinating the activities in business environment and SME, together with the responsible person for Romania-OECD relationship (appointed by the Minister of Foreign Affairs) are in charge with coordination of the National Contact Point.
- The executive functions are ensured by persons appointed by the State Minister for coordinating the activities in business environment and SME and by the President of the Romanian Agency for Foreign Investment
- The technical secretariat is ensured by representatives appointed by the Ministry of Foreign Affairs and the Romanian Agency for Foreign Investment.

### **Addressing the problems regarding the application of OECD Guide in specific situations**

The National Contact Point (PNC Romania) will contribute to resolve the problems occurred in OECD Guide application in special situations. PNCR will provide a discussions forum and will assist the business community, employers' organisations and other interested parties to analyse the respective element in an efficient manner, in due time and accordingly to the legislation in force. The National Contact Point (PNC Romania) assistance involves:

- Initial evaluation in order to decide any necessary supplementary analysis of the respective case and to reply the parties that raised it.
- In case detailed analysis needed, PNCR will offer its support to the parts involved.

In this respect, PNCR will consult the parties and, if necessary:

- a Will request recommendations from the competent authorities and/or from the representatives of the business community, employers' organisations, other NGOs, as well as from the experts in the field.
- b Will consult the National Contact Point from the other country, or from the involved countries.
- c Will request details from behalf of CIME, if doubts exist regarding interpretation of OECD Guide for Multinational Enterprises in special situations.
- d Will support, with the involved parties' agreement, reaching the consensus, by conciliation or mediation, in order to resolve the situation.

## Do you want to input added value to your business?

Adopt the Social Corporate Responsibility practices!

Involve in the project “**CAESAR: CSR Relays in Chambers of Commerce**”, initiated and coordinated by Eurochambres!

**The Social Corporate Responsibility (CSR) is:**

- **a part of the Lisbon Strategy** which envisages transformation of the European economy until 2010, in the world's most competitive economy, based on knowledge;
- **a practice increasingly adopted by the business environment, especially by SMEs**, as an viable model for business development, by involving business in the life of communities where they work.

**The firms' activities and initiatives in CSR area** include social and environment protection elements, such as:

- support for calamities' victims
- education and social integration for disabled children
- information concerning environment protection
- developing cultural activities
- awards and scholarships for students
- improving the business environment by training young persons in business ethics, etc.

An important part of the CAESAR project aims to **identify and highlight the SMEs interested and active in CSR field, as well as the ones willing to initiate such activities.**

**BENEFITS FOR THE COMPANIES INVOLVED IN THE PROJECT:**

**Turning their own potential in good use**

- developing and efficient implementing of CSR practices;
- perceiving CSR as a competitiveness improving tool on long term;
- developing performance areas, increasing their efforts in CSR field;
- easy access to CSR tools (awareness campaign elements, best practices etc.);
- improving the communication process with the society, customers and community. Most of the time these interested stakeholders are not aware of the SMEs' actions and behaviour in CSR field.

**Promoting at national and international level, by:**

- inserting of activity description and responsible persons within the European study, within the brochures presenting CSR activities or within diverse articles concerning the project, issued by the written media
- participating in different events and conferences organized under CAESAR aegis

In order to **allow the public to know the activities and initiatives of your company in the CSR field**, we provide you with an [questionnaire \(click here\)](#), which must be filled in and sent us by fax or e-mail.

For **more information**, visit the [Euro chambres site \(click here\)](#), or address CCIR, [www.ccir.ro](http://www.ccir.ro) project partner.

When involved parties do not reach an accord, PNCR will issue a declaration and will decide the necessary recommendations for OECD Guide implementation.

In order to ease finding a solution, PNCR will adopt necessary measures to protect the business and to ensure confidentiality. At the end of procedures, in case the involved parties still do not reach the accord,



they are free to discuss the existing situation. Still, the information and opinions issued by a third party during the activities will remain confidential, not to be revealed without the agreement of the respective party.

After consulting the involved parties, PNCR will public the procedures' result, unless the confidentiality prevails an efficient implementation of OECD Guide.

### **Social Corporate Responsibility and Romanian companies**

At present, more and more employers became aware about the social dimension of their business. If SCR was perceived few years ago mostly like philanthropy activities, especially after the EU adhesion this mentality started to change little by little. It is to mention that we've participated to very interesting debates within a national programme named "The SCR debates in Romania" and we have to notice the new orientation of the business community in this respect.

But, like one of the participant to these debates said "in Romania we do not have, jet, a real SCR culture... It is not sufficient to create a brand or good quality products for the exterior ... We are at the very beginning and we are not aware about the importance that we have to allow to our employees, to their needs and expectations ..."<sup>10</sup>

"Sustainable development of a company supposes standards and responsibilities along the whole supplying chains.." <sup>11</sup>.

As you may see, formally everybody accepted that CSR comprises the attitude towards the employees, their working conditions, but in practice we are far from that.

In that concerns the garment companies, this concept is almost unknown and it is difficult to speck about CSR tacking into account the purchasing practises of the MTCs.

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<sup>10</sup> supplement "PLUS 22" of the newspaper DILEMA, 28<sup>th</sup> of August, 2007

<sup>11</sup> Ibidem,





# 2

**WHERE IS  
THE  
ROMANIAN  
GARMENT  
INDUSTRY  
HEADING?**

## 2.1. The garment industry and the National Strategy for Export (SNE) 2005-2008<sup>12</sup>

The Government Decision No.1172 from 25<sup>th</sup> of September, 2005 establishes the **Romanian Industrial Policy for 2005-2008**. The policy is focused on **competitiveness improving**, taking in consideration strengthening and encouraging the horizontal factors: human capital, research, innovation, entrepreneurship, respecting the environment regulations, elements of the durable development with an important role in designing the industrial policies at European Union level.

The assistance at sector level is an important issue, being considered one of the most sensitive elements in the European Union. In this respect, re-evaluation of the assistance at sector level in **Industrial Policies, Free Movement of Goods și Competition** fields will be a priority for the Ministry of Economy and Commerce.

Regarding the industrial infrastructure (capacities, qualified personnel, tradition, market), it is considered that the industrial sub-sector of confections and garments will further increase and strengthen, based on creation and Romanian brand.

Concerning the existence of high quality natural resources to be exploited at competitive costs, it is estimated that the industries related to advanced processing of raw materials will increase (natural thread and fibre – flax, hemp, wool – clothes).

### ***Pleading for a National Export Strategy (SNE): key problems and possible answers***

The necessity for a national viable and coherent strategy led to organization in May 2004 of a seminar aimed to offer solutions for an efficient coordination of the national export efforts. The Commission for Strategy, Competitiveness, Marketing and Branding, together with the Romanian Council for Exports and the Ministry of Economy and Commerce were the main actors of this event. The workshop was also attended by the International Trade Centre under the UNCTAD/WTO (ITC) and by the Chamber for Commerce and Industry.

The conclusions of the meeting were presented within the final document, " Pleading for a National Export Strategy: key problems and possible answers" and addressed the potential benefits from a strategic approach at export level. The document also forecasted a sustained economic growing, mostly due to the wide opening of the economy.

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<sup>12</sup> Sources: The Industrial Policy of Romania 2002-2004 , The Industrial Policy of Romania 2005-2008, The National Strategy for Export

The proposed cultural change of the strategies planning and implementation approach was essential for the further development of the national strategy. It was also underlined the necessity for changing the behaviour and perception of interested parties, especially in the private sector. In order to really be efficient, SNE most actively involve both the public and private sectors, with a highlight on involving in strategy design of all stakeholders interested in export or activities with impact on the export competitiveness. The pleading recommended creation of competitive advantages in the exporting sectors or in sectors with high potential.

### ***International Context***

The international commercial context is permanently changing, leading to a higher mobility of production factors, rapid dislocation, breaking-up and increasing specialization of activities within the value-chains of the products and services. Thus, competitiveness becomes essential for sustainable development and a coherent approach is fundamental for trade development.

The competitive advantages do not come from protectionism, quotas or preferential access to the market. On contrary, they led to stagnation, low entrepreneurial level and low motivation of the private sector for efficiency, quality, innovation and products development.

### ***Branding of products and sectors***

The SNE shows the necessity for brand building at micro level, where it will be possible to achieve through awareness campaigns, and at mezzo level, where associations' involvement is needed in order to create a sector or region image.

The priorities at the micro level are branding services targeting the individual companies and promotion of Romanian brands by careful selection of the companies to attend the international promoting events.

### ***SNE Perspective***

In the SNE, the garment sector role is clearly defined to be essential, due to its contribution in job creating process and, from this point of view, it is important to support and strengthen this key-employment sector. Another notable aspect is strengthening and promoting of women involvement in economy, mainly through this sector, with a highlight on encouraging and developing the women's entrepreneurial skills, for their efficient participation in business and especially in export activities.

From the sector perspective of SNE, the economic concentrations for export, especially export clusters, are presently in development and there are opportunities in this regard in the textile and garment industry.

Most of export sectors and majority of local authorities are aware of the strategic importance of the direct foreign investment oriented towards export. Regarding the **textiles sector**, the strategy aims specific programmes to attract such type of investment, especially upstream. This would ensure the local raw materials supply and would extend the national value-chain.

Despite the interdependency of the industrial sectors, **SNE decides the priority of textiles and garment sectors**, due to its large offer capacity, its existing tradition and competencies, as well as its potential to develop new design competencies and products with increased added value.

The Romanian export, regardless the sector, suffers of low efficiency, low retained value or low added value within the sector value-chains. There exist too few synergies between the different value-chains and a too low capacity to create new value-chains. The garment sector is framed in the category where the national composition of the value-chain could be extended by integrating several links, upstream or downstream.

## 2.2. The Romanian garment industry after 2005

The textile, clothing and footwear (TCF) industry, also known as “light industry”, is one of the most important sectors of Romanian industry. During 2002-2003 the “light industry” contributed with 5.5% to GDP, with 10% to national industrial production, with 35% to Romanian exports and with 19% to Romanian imports. In the same period, more than 8900 enterprises were operating in this sector, out of which 2168 (24.3%) in textiles, 5043 (56.3%) in the clothing sector and 1731 (19.4%) in leather-footwear sector.<sup>13</sup>

The Romanian light industry (textile, garment, leather, footwear) occupied an important place among the top garment suppliers for EU, with an export approximately amount of 5,600 million Euros in 2004.

In 2005 the light industry’s weight within the Romanian economy was:

- approx. 5.5% out of the GDP;
- approx. 9.9 % out of the Romanian industrial production;
- approx. 29.6% out of the Romanian exports;
- approx. 15% out of the Romanian imports;
- more than 7,200 producing companies
- approx. 20.4% from the total work force employed in the industrial field

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<sup>13</sup> Cătălin, GHINĂRARU, Ph.D “*Improving competitiveness in TCF (textile, clothing, footwear) sectors by promoting decent work*”, International Labour Organisation

- 97% of the industrial production and 98% of the exportation are performed in private owned companies
- more than 450,000 employees worked in the light industry

### ***The main constraints at national level after 2005***

Romania faces different weak points of the political and economic environment, which limit the aggressive competitiveness and lead to decreasing the general development. The Romania's general strategy based until now on low costs and intensive work in its competition with other countries.

Signs of the decline were visible back in 2005 for this industry with a 90% proportion of lohn production. The statistics mirror the diminishing trend for the industrial production and exports. Thus, in 2005 the amount of the industrial production in textile-leather sector was 11,434 million RON, less with 14.5% comparing with 2004. The physical production for all product categories diminished in 2005 comparing with 2004. Thus, the textures industrial production decreased with approximately 29%, garments with about 18%, footgear-trousers and socks with approximately 11%, textiles-confections with 16%, and footwear 15%. The export of the whole branch maintained constant at 5.66 billion euro in 2005, comparing with 5.62 billion euro in 2004.

In the following two or three years about 30% out of the textiles-leather producers on the market will disappear. And the specialists claim this is an optimistic assessment. "Presently there exist over 9,000 firms activating in the sector. We shall be lucky to have remained 60-70% out of these firms", Laurentiu Popescu, executive president of the Employers' Federation of Light Industry (FEPAIUS) declared.

The major constraints relate both to specific international developments as well as to domestic evolutions. The major challenges at international level are:

1. Full liberalization of the garment industry worldwide - clothing trade since January 2005, with consequent increasing of the competitiveness of the Asian products within the European and American markets;
2. Conditionality for selling of the light industry products in the EU great market chains (such as Cora, C&A, Zara, Harrod's, Kaufhoff etc.) on implementing the quality, environmental, social and occupational safety standards, as well as on fulfilling the decent work criteria within the companies producing the goods;
3. Removal of certain processing activities in lohn system from EU (the main selling area of Romania), to markets with cheaper workforce (Ukraine, Russia, Vietnam, China, India, Indonesia etc.);

4. Increasing competition on the European market, due to new actors appeared (China, Taiwan, Turkey)
5. Lack of a positive image for Romania as a country exporting national brand products
6. Lack of a specialized network able to offer information for exporters
7. Insufficient collaboration between the public and the private sectors in the field of international fairs and exhibitions.
8. Bureaucracy at central administration level and at custom level.

***The major national challenges are:***

- a. The geographical proximity to the EU labour markets (i.e. migration for employment) and the structure of agricultural production outlets, which are “shielding” the labour market against the effects of an otherwise obvious over-supply. This will lead to a further erosion of the current competitive advantage, which is mostly connected with low labour costs;
- b. Increase of the minimum wage (if further successive increases will exceed the inflation) will generate a reduced attraction of the light industry for active processing activities;
- c. High turnover of the workforce due to low wages and improper work conditions;
- d. Another challenge is generated by the utilities’ costs evolution. „During the last 2-3 years, the water supply prices increased three times, the gas price almost doubled and the electric power price is continuously increasing. The Romanian State and the regulation authorities lost the control of the prices, whose increasing is not justified “,Popescu considers.

**First victims of quotas’ removal**

The company Akrom Akal Textile Romania, one of the first ten firms on national market ceased its production activity and is to be sold.

Joseph Seroussi, a Sudan businessman known as the “King of textiles” announced recently in a interview for Business Standard that he sold one of his five factories because of the lack of workers and increasing the production costs. At the beginning of the year, Maria Grapini, President of FEPAIUS estimated that EU accession will bankrupt up to 40% of the small and medium firms in the industry in just the first year. Even the great player are exposed or are already victims of the peril.

“Presently the firm does not exist any more, we already delivered the machinery”, sources within Akrom Akal declared for Business Standard. According to them, the assets owned by the former company are for sale.

The quoted sources did not reveal the buyer. The company, owned according to our latest information by Turkish AK-AL Textile Industry from Turkey entered the Romanian market in 1999, as acrylic threads producer, as well as wool and cotton combined mixtures.



- e. From the perspective of markets evolution, the most important factor remains **liberalization of the textiles China exports**. The decision entered in force on 1<sup>st</sup> of January 2005 and fully disturbed the American and European markets. The World Trade Organisation experts estimated for the following 2-3 years the development of the Chinese textiles and clothing production to 20-50% out of the entire world production. Even presently the Romanian producers do not sense effects of this liberalization, in the long term consequents will be definitely felt. We must mention that this liberalization's effects did not strongly affect the Romanian producers because most of the lohn firms here have long-term stabile customers, which preferred to continue working with known partners.

With other words, most of the sector units export most of their production, given the internal market is dominated by Chinese products. "We were not affected by Chinese production liberalization because our clients preferred us, given the quality products we are able to offer", the Euroconf general manager Maria Priveghiu told us. For more than six years, Romania is the number one garment exporter on EU market. 85% out of the total Romanian textiles exports are absorbed by the European Union market.

- f. **We are running out of workforce:** To all these reasons one more could be added, as more serious as we refer to a strong trump Romania possessed in lohn production development. We are talking about the cheap and skilled workforce for which we used to be praised by our external partners. But, this workforce becomes less every day, many of them leaving abroad or towards better paid sectors. "Our production is affected by diminishing of workforce. Last year we lost about 200 employees out of a 900 total number. We were obliged to reduce production with circa 25%, despite the fact we have 7 or 8-year customers. They still request our products and is hard for them to find other producers. We are in the situation to renounce the clients ourselves", Maria Priveghiu declared. Within the textiles industry the average net salary is 600 RON. The statistics fully reflect the workforce emigration from this industry. In 2004 the number of employees from textiles-leather industry was 448.2 thousand persons, but in 2005 the number decreased to 415 thousand persons. In this year's first half the number fall down to 414 thousand persons.
- g. The specialists in the area consider that the labour market will suffer important changes after EU accession. The main reason integration in the Community market will increase the salary level and thus workforce costs will increase. This argument explains the forecasts regarding a drastic reducing of the number of textiles-leather companies;

- h. Appreciation of the national currency rate, with direct effect on the export products competitiveness;
- i. Uncertain perspectives for development of the agricultural based raw materials (subvention of small agriculture terrains, lack of flax and hemp foundries);
- j. Low or no preoccupation for technological modernization in the factories;
- k. Necessity for implementation of the European quality, environmental, social, decent work and occupational safety standards in order to sell products on the EU and American markets.
- l. Adoption by Romania of the EU Custom Code and of all the EU free trade agreements since 2007, after the EU accession.
- m. The appreciation of the national currency (Leu) is not in the favor of the exporters. The evolution continues to have the same trend this year also. In the first six months, the industrial production amount had a 4,863.4 million RON, which means 92.6% out of the 2005 value. During this period the textiles production reduced to 762 million RON (compared to 883.9 million RON in the similar period of 2005), the clothing production to 3,065.9 million RON (3,319.1 million RON in 2005), whilst the leather - footwear production maintained a stabile quota – 1,044.5 million RON (1,043.4 million RON in 2005). The physical production decreased in the first half of 2006 compared to the similar period of 2005 with almost 16% (textures), with 8% (footgear-trousers and socks) and around 7% (textile and substitutes confections). The physical production registered a little progress in knitted garments sector (3.4%) and footwear sector (4.7%). During the first half of 2006 the export maintained constant comparing to 2005, with a 2.8 billion euros total, while the import increased with 4,3% (2.23 billion euro).
- n. the current competitive advantage is low cost labour combined with the effect of a, at least till now, constantly depreciating currency. As a result companies will have to shift their strategic focus and try to move further on the value-added chain, while distancing themselves from low-level competitive advantages and moving gradually towards high-level ones. This will imply more investment in human resources and more attention to competitive motivation and salary policies, instead of a peg to the minimum salary as practised nowadays;
- o. creation of national brands as a way of becoming less dependent on the external orders. This objective implies market researches to identify market niches and customer necessities, highly specialized products, more research and development efforts, consultancy from TCF experts etc. The TCF sector as a SMEs' one is very fragmented,

so networks for identifying suppliers, potential beneficiaries and retailers and for making use of e-commerce facilities could be built.

- p. implementation of quality and environment standard;
- q. implementation of social standards and development of an “ethic of care”, as part of investment in human resources;
- r. more attention to the domestic market, which will be more attractive in the years to come;
- s. a more efficient bipartite dialog, more advocacy and lobby for elaboration of specific programmes\_and strategies.<sup>14</sup>
- t. The garment industry should become the priority of the textile sector in Romania.

Even if quota removal and the EU accession seem to have a short and mid-term neutral impact on the Romanian “light industry”, sector and enterprise strategies must become more focused on long-term issues. Excessive focus on immediate survival type issues does not bode well for long-term development. This applies both to enterprises as well as to unions.

Long terms visions require a re-assessment of existing tools, often insufficiently used (e.g. information and information technologies, research, training programmes for employees and for managers, consulting services, etc)

Even some of the Romanian producers – in general large firms, financially strong – consider the Lohn system to support for still many years the national garment industry, it is increasingly clear that the future of this branch will need re-orientation to internal market and launching own-brand production. Re-gaining the domestic market, covered presently by imports in an 85% proportion may create a contra weight to the external market regress, employers’ representatives consider.

Another aspect is related to the own-brand production. The own-brand products export must increase versus Lohn. Although progress has been registered in this respect, still it is not significant. *“Unfortunately producing and selling under own-brand – for export or for domestic market - is not a trend still. For a long time companies would have changed orientation towards own-brand production, because it takes time to gain the market”*, Laurentiu Popescu declared. The employers’ representative also added that branding is a general issue in Romania. Meanwhile, the producers should try to regain the control over the markets they used to present on 15 years ago.

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<sup>14</sup> Cătălin, GHINĂRARU, Ph.D “Improving competitiveness in TCF (textile, clothing, footwear) sectors by promoting decent work”, International Labour Organisation

*"In order to be able to produce under its own brand, it is needed a healthy primarily sector which to ensure the raw materials for clothing and footwear producers. Due to the high level of necessary investment in the sector (10-20 million for a weaving mill), the State should be more involved in its sustainability", the sector employers' organisations consider.*<sup>15</sup>

### **2.3. Particularities created by the new European context: migrant workers (briefly about the Chinese employed women)**

In that concerns the migrants workers in Romania, the first "big event" was linked to the Chinese workers in the garment company from Bacau. Here below you may find the most important moments in order to have an idea about what happened, the reasons of employing foreign workers and the impact of this situation.

**Most of us wondered why the employer did not pay better the Bacău tailor-women instead of paying foreign workers with three-time higher salaries.**<sup>16</sup>

*"While a Romanian worker is paid with 390 Ron (approx. 110 Euro), a foreigner receives 1,200 Ron (approx. 370 Euro). Worse is the fact that the foreign employees pay 1% unemployment contribution and also the social insurances, though they won't have any benefit for the period worked in Romania, given there is no agreement between Romania and China in this respect", Angela Boga, deputy-president of the County Council of Bacau said. "The **Wear Company** manager accused the Romanian legislative to provide discriminatory payment modalities" Boga explained.*

Even the managers of **Wear Company** thought that developing their business by using foreign workforce is a "politically correct" idea, the calculation on paper did not match the one on site. Besides, they have to pay for covering the expenses of the legal applications aimed to legalize the Chinese workers' labour rights in Romania. The society's manager justified his starting contract decision and explained that the Chinese women do not raise as many problems as the Bacau ones. *"They don't have house holding or family obligations; don't get pregnant and so on", the manager said. This was supposed to "round" the firm's profit.*

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<sup>15</sup> The "Prezent" journal, No. 39 Thu, 26<sup>th</sup> of October, 2006

<sup>16</sup> <http://www.evenimentulzilei.ro/article.php?artid=288964>

## **The contracts are sound**

280 China woman workers, employed by Wear Company, refuse to start working any more, despite their sound labour contracts, which provide the monthly salary - over 1,200 lei (approx. 370 Euro).

The Bacau prefecture took also the initiative against the incident. *"We contacted the Territorial Labour Inspectorate (ITM) and the Bacau Foreigners Office and request explanations, in order to solution this conflict"*, the sub-prefect Neculai Olaru declared. An ITM Bacau inspector team came to "Wear" and discussed the factory's chiefs; they also controlled firm's documents. *"From our point of view, checking the documents allowed us to find the contract's provisions were fully respected. The workers were paid for December, even the payroll was not signed. But the bank documents proved the money entered the workers' cards. The amount of the salary was 1,077 lei, but starting with 1<sup>st</sup> of January 2007 the salary would have been increased 1,270 lei. The conflict started in China and is related to the money that the workers should pay there. It is not in our competency to resolve this matter"*, Harlambie Irimescu - ITM Bacau Chief-Inspector said.

### **The Asians will occupy the Romanian textiles market in 2007**

Clothes and footwear of all kind and for all taste and especially at low prices – this is the Asian clothing offer for the domestic market. Most of the time, the merchandise is smuggled, its quality is doubtful; it is acquired per kilo and sold without any control. The main cause of this "invasion" is the liberalization of the Chinese textiles export after 1<sup>st</sup> of January 2005.

As a paradox, the Romanian producers fear more these kitsch-products than the quality European Community goods. And all these happen in a moment when the Romanian products are competitive on the EC market and the branch holds 35% out of the Romanian exports. *"We fear the sub-evaluated merchandise. For example, in 2003 more than 15 million shirts were imported at an average price of 30 de cents per piece. In such conditions, not even the raw material was covered"* Mihai Pasculescu, prime-vice-president of the Employers' Federation from the Light Industry (FEPAIUS) confessed.

As a matter of fact, the Chinese textiles are cheap because the raw material is half-priced in comparison with the materials bought by the Romanian producers. *"The whole market is broken by these goods, which entered the country without any quantitative or price restrictions"*, Petre Ralea, general manager of a garment factory in Piatra Neamt said. Presently, the lohn system works in the light industry at high quotas, holding around 70%. *"Anyway, the lohn system has no more chances, because it is a short term solution, regardless the existence or lack of the Asian competition. We adopted lohn because of poverty"*, Mihai Pasculescu explains. The future announces hard times for the Romanian textiles companies; out of the existing 9,000 firms almost 6,000 will disappear from the light industry landscape until the end of the year, the prime-vice-president of FEPAIUS thinks.

Nevertheless, the light industry representatives still hope they may have a chance to recover the internal market, out of which they control not more than 15%. The situation will be regulated only after 2007, when the European quality standards will be enforced.

*Source: Journal „Prezent”, Ioana DAVID, 11<sup>th</sup> of April 2005*

## **ITM and DMSSF do not intervene and pass the responsibilities to each other**

The competent authorities ignored the conflict occurred within the Wear Company society between the workers and the employer. The Territorial Labour Inspectorate of Bacau (ITM) have communicated us that the problem is under the responsibility of the Labour Direction. But (DMSSF) the Labour Direction of Labour, Social Solidarity and Family claims that ITM is the authority with competency in solving this “*de jure conflict*”. “*I can tell you that right now (n.r. – yesterday by noon) our inspector is there and checks the situation together with a Police team specialized for such cases*”.

Regarding the ITM responsibility in this conflict, Barbu claims „*from our point of view, the average salary is respected. We can not interfere and apply sanctions unless the contractual provisions regarding the salary are broken*”. Until now, ITM Bacau did not register any situation in which a Chinese worker to be paid under the amount of 10 million former lei. “*As far as we know, this is not an organized labour conflict, but a spontaneous one. As a result, we cannot intervene. **The problem is the lack of a trade union. At the Labour Direction there is no registered complaint regarding any violation of the collective labour contract***”, (director of DMSSF Bacau) Gheorghe Apostu said.

### **Romania, no more workers in textile and construction sectors**

The number of the foreign workers coming to find a job in Romania will increase in the following period, Dumitru Costin - President of the National TU Block (BNS) – says. Two days ago he declared that, according to BNS data, almost 3.4 million Romanians work abroad, which led to a “huge” workforce deficit on the domestic market, especially in the textile and construction sectors.

On the other side, according to the Ministry of Foreign Affairs statistics, at the end of March, the number of Romanians legally working abroad on the EU Member States territories exceeded 1.2 million. Most of them were in Italy – approximately 500,000 - and Spain - approximately 450,000. In Costin’s opinion, mostly employees originated in extra-community states, such as China, Republic of Moldova and Turkey, will cover the workforce deficit on the domestic market.

Presently, almost foreign persons 12,000 work in Romania; during this year, the Romanian government decided 12,000 more work permits to be issued for foreign persons, the BNS leader added. As a result, “the Romanian trade unions must cooperate with the ones where lots of Romanians work, as well as with the ones from the origin countries of those foreigners working in Romania”.

Meanwhile, Dumitru Costin declared that BNS develops, with the Spanish TU confederations support, programs aimed to inform the Romanian employees working there on their rights and liberties. Moreover, BNS is open to such cooperation to Italian TU confederations. On the other side, Costin made clear that BNS is ready to represent the approximately 3,000 Chinese persons legally working in Romania. In this respect, the confederation led by Costin will sign a collaboration protocol with the Chinese TU Federation.

“*Until the end of the year, 2,500 more Chinese workers are expected to enter Romania, as detached workers, in order to work in sectors such as construction, textile, agriculture*” Dumitru Costin - President of the National TU Block (BNS) declared.

Source: newspaper “Atac”, Saturday, 6<sup>th</sup> of October, 2007

# 3

**THE RESULTS  
OF THE FIELD  
RESEARCH  
CARRIED OUT  
BY ORG.  
"AUR" – A.N.S.R.U.  
BASED ON  
INTERVIEWING  
THE EMPLOYEES,  
MANAGERS  
AND OTHER  
STAKEHOLDERS**



### 3.1. The statute of factories producing working and H&S equipment

#### Dreaming to awards

In 1994, **Petre Mogaru**, without any connection to fashion or to business, founded Spartacus Company. "My wife is skilled. I bet on her", the business says. She started with 35 persons and as many sewing machines.

*"It was hard, recognizes **Mogaru**, mostly because everything was new for him and the lohn system was at its beginning. The business flourished and now they have 116 employees, most of them women".*

*"All first 35 persons are still here", Petre Mogaru proudly said. He also said that the minimum salary of employees is 800 lei. This year the firm's turnover exceeded 500.000 de euro, the owner claims.*

Ioana Gheorghita is one of the firm's founders. She worked here from the very first day. *"Is neither hard, but nor easy. When I think where the clothes we produce go, I feel motioned..."*, the woman confesses whilst checking a collar.

#### Nine minute for each cloth

The heaviest "name" among the ones Mogaru's firm works for is **Calvin Klein**. The quantity and quality requirements are "draconic". The work speed is high: to produce a jacket the necessary time is not more than 9 minutes, since the material enters the conveyor till it is finished. In a 8-hour shift it may result a 100-jacket production. Errors are not accepted. In the store, such a Calvin Klein jacket is sold with even several hundred euros.

Besides the extended clothes-stores network, the commercial society of Curtea de Arges has among its customers **NATO, Belgium Police and Spain Police**. For the latest, the society produced dozens of uniforms. The military equipment produced was complete – shirt, trousers, jacket, short jacket, proof-bullet vest, cap and spots-wear composed of training suit, shorts and T-shirt. Nevertheless, the total amount of the contract is confidential.

Since 2000, they entered the military uniforms market and that was the turning point for their business flourishing. The businessman moved his factory in a much bigger location and the number of employees increased to 150, all working permanently.

*"Approximately half of the production is aimed to Romanian army. We produce either classic or NATO uniforms, even the "desert" model, uniforms used right now in Iraq and Afghanistan. We also have orders from the firms ensuring the British army uniforms. We worked also for the Community European Police, at the request of a Belgian partner" the Arges man proudly said. He claims that a NATO uniform, consisting in trousers, jacket, vest, shirt and overalls costs around 700 de lei; it is made of 100% cotton, being resistant to war conditions and allowing a better air circulation along the body. The small textiles firm from Curtea de Arges, Spartacus Company, may claim exporting all over the world.*

And not anyhow, but under the Calvin Klein brand. The company was set up in 1994, both the employers and the employees coming from the former state-owned firm Confarg SA. **26 stores from Rome are provisioned by Curtea de Arges.**

Last week, **Petre Mogaru** was in Rome to sign new contracts. "I visited several stores. 26 of them were trading our products." The Arges society produced blue-jeans for Diesel, winter clothes for Ethic or Mabrun.

The plans for 2007 are high – to associate with an Italian partner and open a store-chain in Italy. Regarding the Romanian market, it is nothing to be said presently, Mogaru thinks.

Better bread is earned also by export, because quality is well paid. For example, in Curtea de Arges the workforce for producing winter clothes is paid from 12 to 20 euros per piece, but in samples' case payment reaches 40 euros. Right now clothes of the next year collection are produced, starting with the samples' sewing.

The businessman said that, till one year ago "everything went fine, each year meant profit", but the situation changed when the Romanian currency strengthened, the exporters being disadvantaged.

<http://www.libertatea.ro/index.php?section=articole&screen=stire&sid=185458>



The overwhelming majority of the companies are privately owned. In 2004 the last state garment company was privatised. Many of them have Romanian capital, some of them are joint-ventures. In majority of cases, the work wear are imported from abroad, but there are also companies, which started to produce in the field.

The contracts of work wear and H&S equipment for public servants have to comply, in general, with the Romanian legislation stipulating the conditions for organising tenders in case of public purchasing contracts.

The legal provisions are stipulated in the Emergency Government Ordinance (EGO) 34/2006, amended by the EGO 94/2007. In these documents it is stipulated that organising public tenders is compulsory in case of the following **contracting authorities**:

- a state bodies
- b public justice bodies
- c public companies (energy, water, transport, mail)

The procedures for public purchasing are the following:

- open tenders
- short list tenders
- competitive dialogue
- negotiation with preable participatory advertisement
- negotiation without preable participatory advertisement
- offers request
- solutions contest.

In addition, the legislation stipulates other possibilities to use special ways to allow contracts of public purchasing, as follows:

- framework agreement
- dynamic purchase system
- electronic purchase

The authorities and institutions involved in the process of putting into practice the public purchasing legislation are the following:

- National Authority for Purchases Regulation and Monitoring
- National Council for Complaints Solution
- Public Purchases Coordination and Verification Unit.

### **Another successful story**

**A firm from Piatra Neamt will annually produce 100,000 uniforms for British Army, through a 7-year contract concluded on the beginning of the year (the amount of the contract is 4 million per year).**

The uniforms exceed the classic line of the product, requiring more handicraft and personalized tailoring.

The collaboration with the British Army started with an uniforms producing order for the British Battalion in the Persian Gulf – operating as Kuwait Sheik's Honour Guard. The order was enough at that time to cover the production seasonal gaps, but afterwards the collaboration turned into a separate business.

This is not the first firm's such contract. Orders from Belgium and Sweden have been satisfied in the past. Since 1997, Carmen and Gabriel Muraru started with its own resources a business by producing ties, underwear and bedclothes.

After two years they applied for bank credits and Phare financing and begun to produce occasion suits, for weddings and cocktail parties. Presently their firm is market leader in the field and started to produce ceremony and business suits – an exclusivist field -, underwear and shirts, ties and accessories.

In 2003, the firm's turnover reached 2 million dollars. The materials are from import. The fabric is subject of complex and expensive finishing operations, aimed to ennoble it and also to offer a precious and elegant look.

The ties are worked out of precious material, such as silk with jacquard texture and lustreless-glossy contrast. The colours are intense. "The Romanian producers do not have a convincing offer, that is why we prefer the external suppliers, which succeed in spectacular combinations of wool with silk, as well as other composition ", Gabriel Muraru said.

"We may consider, without false modesty, that presently the local production is more likely handicraft than professional. Very few Romanian producers have financial resources, access to information and technology in such measure to offer high quality products ".

*Source: newspaper Romania Libera*

### **3.2. The type of contracts (the „lohn” system, sub-contracting, direct overtaking of the client's orders, intermediary system, self-procurement of raw materials by factories, the operation type: equipment production, repairing, cleaning etc.) Case study in 2 factories**

The main information source were the interviewed woman workers, based on the interview guide; discussions on workplaces and work conditions took place individually (one employee at one time). In addition, the site own impression of the monitors who visited the factory was also considered and interviews with the management.

The interview guide pursued the following issues:

- a. Freely accepted work;
- b. No exploitation of child work;
- c. No labour discrimination;
- d. Freedom of association and the right to collective bargaining;
- e. Minimum wage payment;
- f. No excessive supplementary working hours.

- g. Health and safety;
- h. Legal working relations;
- i. Social audits performed in the company and the corrective actions, if any;
- j. Code of Conduct and complaint mechanisms.

The interviews were taken in two factories producing work equipments: one in Bucharest, further named **factory (a)**, and one in Turnu Severin, further named **factory (b)**. The first impression is the situation in these factories is not very different of the general situation of the garment factories.

We shall further present the interviews' conclusions regarding the two factories in parallel.

## **Factory (a)**

The **factory (a)** is a joint-venture company – Romanian and foreign capital.

We succeeded to interview the production manager and obtained the following information:

The factory has two sections: tailoring, which in 2002 counted 800 employees, and presently only 30 employees, and a special rubber section, for producing life boats and military boots soles. In the past, the factory received important orders from the British Army, but presently, the factory almost faces bankruptcy.

Costumers: the factory works mostly for the Romanian Army and Police, as well as for COCKSON AND CLEEG from England. Internally, orders are gained by participation in tendering. Externally, the orders are taken directly from the costumers.

The main production: military camouflage uniforms, mantles, anti-chemical costumes, life-west, and reflection west – all for army and police.

The working schedule: two shifts, between 7 a.m. and 3 p.m., and between 2 p.m. and 10 p.m.

Clients deliver the raw materials. The orders are in lohn system; the factory executes all operations - tailoring, assembling, finishing, and ironing.

### **Information on working conditions**

Five women between 37 and 52 years of age were interviewed. All of them had graduated the high school and benefited of vocational training. According to their declaration, their working experience within the visited factory varied from 5 and 15 years.

Further we shall briefly analyse the situation regarding the core ILO standards respect.

#### **a. Forced labour**

The workers are free to enter or to leave the production area. They are allowed to take days off, if agreed by supervisor; the doctor's certificate is needed in case of sickness or pregnancy. The workers may also resign, according to legal provisions.

No situation of retaining money, goods or documents from the employee as guarantee for money debts. The company pays the taxes and contributions afferent to the real salary of each employee.

The workers do not receive payroll from the accountancy department, and they do not know exactly how is composed their salary. Beside this, no other money amount is granted.

## **b. Discrimination on religion, race, gender or other relevant social criteria**

There is no discrimination within this unit.

Recruiting, promotion and education of the personnel is announced in newspapers and by personal relations. For similar work men and women are equally paid.

No cases of dismissal based on pregnancy criteria among women were registered.

## **c. children labour**

In general there is neither worker under 18 years of age employed, and consequently nor under 15 or 13 years of age. In factory (a), during the summer holiday some young people come to work but only for easy operations (threads cutting).

## **d. the right to organization and collective negotiation**

In the factory (a) there is no a trade union organisation, but they have a collective bargaining agreement, which is mostly formal.

Few years ago a strike took place, but the organizers were fired. The result was enthroneing a fear climate among employers and discouraging future actions for rights demanding.

## **e. wages**

In factory (a) most of the employees are paid according to the number of worked hours/day/month. No bonus is awarded.

**According to the new Collective Bargaining Agreement at National level for the period 2007-2010, the minimum legal wage is of 440 Lei (aprox. 140 Euro).**

The wages vary between **450 and 700 Lei** (approx. between 140 and 210 Euro) / month. Compared to other factories, the salary is average to small. In addition, the workers receive 20 meal tickets.

**“During the last 3 months, the workers did not receive their salaries”,** one of the workers said.

*“For a decent standard of life, we would need at least the equivalent of 350 Euro (1.050 Ron) for a family with 2 children”,* one women said, *“in order to pay all the bills, and have enough money to buy food. And during the winter it is even more difficult with the amount we have to pay for heating”.*

## **f. working hours**

Usually, the employees work 8 hours per day, with a 15-minute meal break, 5 days per week.

In addition, the employees work about 6 – 8 supplementary hours per week, on Saturdays and, sometimes, on Sundays. Usually, the supplementary hours are not paid.

The annual leave has 19 working days, **but it is hard to take it once**. Usually, the employees take it in day-off trenches. The annual leave is also paid.

#### **g. health and safety**

The workers have freely access to medical services when necessary.

Up to now, the company offered medical leave and maternity indemnification according to legal provisions, **but in the last period, this kind of leave is not paid anymore**.

Illumination conditions are considered sufficient. Regarding the temperature, it is considered to be appropriate.

In the factory there is much dust, and moreover, within the section producing lifeboats and boost soles section, noxious atmosphere is present; thus, the employees wear masks.

There is no canteen within the factory; the employees have their meal at the production site.

No case of serious injury was encountered, but pricks or contusions, which the employees consider to be normal, without any serious effects on their health.

The factory is equipped with extinguishers and accessible emergency exits in case of fire.

#### **h. Labour relations**

The workers have concluded individual labour contracts for undetermined period and no situation of “temporary work for longer period” was encountered.

There is no employee without individual labour contract.

#### **i. Social audits performed in the company and the corrective actions, if any;**

Regarding visiting the factory, the workers declared that there were audits in the factory, performed by the foreign client. No corrective actions following these audits.

When the factory used to execute army's clothes, a military representative was present at the production site for checking the products.

#### **j. Code of Conduct and complaint mechanisms**

No respondent knew anything regarding codes of practices, nor was aware of its existing within the firm; they did not recall the manager to inform them of such codes.

Following the interviews, we found out that double accountancy was held: a real one, and another showing a better situation of the company, in order to elaborate tendering dossiers.

## Factory (b)

The **factory (b)** has Romanian capital, being owned by two shareholders.

We were able to interview the production manager and we found the following data:

The factory's turnover is 2 million euro.

It receives direct orders from: AUCHANT, S.P.S. and CAMAIEU from France, and BRUHL from Germany.

The main agents: BRUHL and SPC.

The factory produces for public servants' institutions: for example, it honoured orders from French Police and Gendarmerie, Military High school and City Hall from Paris, The Public Transport State Company Paris/Lyon, the German aviation (costumes, trousers and sack-coats).

The orders are received from the foreign costumer that won the tender. The factory never participated in a tender abroad.

The main goods produced (trousers and sack-coats / skirts), overcoats for men and women.

Clients deliver the raw materials. The orders are in lohn system; the factory executes all operations - tailoring, assembling, finishing, ironing.

The factory's monthly production: 50,000 pieces, compared to the 60,000 pieces / month maximum capacity.

The factory has 800 employees, out of which 90% are women.

### Information on working conditions

Seven women between 25 and 50 years of age were interviewed. Three of them had graduated the high school and benefited of vocational training, and two of them, the younger, received qualification in the factory. According to their declaration, their working experience within the visited factory varied from 5 and 15 years.

Further we shall briefly analyse the situation regarding the core ILO standards respect.

#### a. Forced labour

The workers are free to enter or to leave the production area. They are allowed to take days off, if agreed by supervisor; the doctor's certificate is needed in case of sickness or pregnancy. The workers may also resign, according to legal provisions.

**It is to mention that in the last time, the management installed surveillance cameras in all sections of the factory.**

No situation of retaining money, goods or documents from the employee as guarantee for money debts. The company pays the taxes and contributions afferent to the real salary of each employee.

The payroll received from the accountancy department reflects the wage. Beside this, no other money amount is granted.

#### **b. Discrimination on religion, race, gender or other relevant social criteria**

There is no discrimination within this unit.

Recruiting, promotion and education of the personnel is announced in newspapers and by personal relations. For similar work men and women are equally paid.

**Sexual harassment cases were registered in the past, when electricians, mechanics and foremen harassed the employed women. Presently, there are only forewomen.**

No cases of dismissal based on pregnancy criteria among women were registered.

#### **c. children labour**

In general there are no workers under 18 years of age employed, and consequently nor under 15 or 13 years of age. In factory (a), during the summer holiday some young people come to work but only for easy operations (threads cutting).

#### **d. the right to organise and collective negotiation**

In the factory (b) there is a trade unions organisation, which has an opposite position towards the management regarding the salaries and the payment of extra hours. The trade union counts 600 members.

Among other demands of this organisation the interviewed workers mentioned: meal tickets, holiday bonus and medical treatment leave tickets. The employees have a positive opinion on the TU's activity. *"Without their fight we would not receive the meal tickets and leave tickets, that's for sure"*, one of the women said.

#### **e. wages**

In factory (b) most of the employees are paid according to the established quota. **The quotas are generally high and hard to be achieved.** *"You have to work very hard 8 hours in order to fulfil the quota, and even to perform extra hours. They said that if we work extra hours to fulfil the daily quota we do not receive extra money"* (one of the workers said)

The individual wages vary between **450 and 600 Lei** (approx. between 140 and 180 Euro) / month. Compared to other factories, the salary is very small. In addition, the workers receive 20 meal tickets.

For a decent standard of life, the workers declared a minimum amount of the salary of 500 Euro for a family with 2 children.



#### **f. working hours**

Usually, the employees work 8 hours per day, with a 30-minute meal break, 5 days per week.

In addition, the employees work about 6 – 8 supplementary hours per week, on Saturdays and, sometimes, on Sundays. Usually, the supplementary hours are not paid and it hard to refuse, given the possible wage repercussions.

The annual leave has 24 working days, and it is split in two trenches – half in summer, half in winter. When there are no orders in the factory, the employees are forced to take their leave. The annual leave is also paid.

#### **g. health and safety**

The workers have freely access to medical services when necessary.

The company offers medical leave and maternity indemnification according to legal provisions.

The factory has a medical cabinet, equipped with emergency devices, one bad and medicines, and also a permanent nurse employed. If needed, the employees may visit the cabinet, without any restriction; they also may benefit of paid medical leave.

Illumination conditions are considered sufficient. Regarding the temperature, during the summer time it is very hot and ventilation is obtained through opening the windows, whilst in wintertime there functions a heating system.

**Although the factory has a canteen, it works only in case of costumer visits or external audits.** In addition, the canteen is too small, only 50-60 of the employees can eat at one time. The toilettes are clean and functional (1 toilette for men and 6 for women).

No case of serious injury was encountered, but pricks or contusions, which the employees consider to be normal, without any serious effects on their health.

No toxic substances are utilised in the factory.

The factory is equipped with extinguishers and accessible emergency exits in case of fire.

#### **h. Labour relations**

The workers have concluded individual labour contracts for undetermined period and no situation of “temporary work for longer period” was encountered.

There is no employee without individual labour contract.

**i. Social audits performed in the company and the corrective actions, if any;**

Recently, two audits were executed in the factory:

- One in 2005, executed by a Romanian firm at the request of a French audit firm.
- One in 2007, executed by a foreign firm, for a foreign customer.

Following the audits, corrective measures were applied: a cantina for employees was setup, as well as a drinking water automat, and each production line was equipped with first aid kits.

The Romanian factory covered these audits' costs, even they were requested by a foreign customer.

During the interviews, the management kept to mention that during the last years, the factory's work conditions suffered major improvement, in the respect of having modern hygienic and sanitary conditions (showers and toilettes were installed); also, an automatic tailoring line was acquired.

**j. Code of Conduct and complaint mechanisms**

According to management, the factory has codes of conduct belonging to the external costumers; the codes are displayed in visible places. The supervisors inform the workers on the content of codes' provisions.

The interviews with the employees revealed that they neither were aware about the existence of the codes of conduct in the factory, nor have been informed on its content. Nevertheless they knew about the audits and were aware that the factory's improvements appeared as a result of these audits.

Regarding the complaint mechanisms, the employees declared they have the possibility to address such complaints at the secretariat, but only with the foreman's visa.

**3.3. Proposals aimed to improve the existing situation: collaboration with all social actors (trade unions, employers' organisations, ministries etc.), intensifying the independent social audits and presenting positive examples to the public, implementation of social standards etc.**

Despite its important weight within the economy, the added value in the sector is generally low. The main causes are utilising of large quantities of imported raw materials and low payment of the workforce. Most of the companies work in lohn system or CTM (cut, trim and make) system. The Romanian companies provide only the workforce and

machinery, whilst the clients deliver raw materials, design, brand (or label) and marketing.

EU gets approximately two thirds out of the Romanian export in the sector. The garment industry will face serious problems both upstream (spinning threads supplying) and downstream (design, branding). The main features reflected per each sub-sector by the existing value-chains are:

- the biggest added values are in the links not included in the national chain – raw materials supplier, marketing / publicity / branding / whole sale trader / distributor;
- the smallest influences are in the internal links: raw materials / finished products depositing, finishing, packing;
- the most important influence in the chain's structure is given by the external link – marketing / publicity / branding;
- the sector needs support services in areas such as quality, transit, raw materials storage, specialized skills (designers), information on the market (identifying and connecting to new distribution chains).

Implementation of the quality, environmental, social, occupational safety and ecological label standards, by supporting 50% of the large enterprises financing and 65% of the SMEs by the Ministry of Economy and Commerce, under the Programme "*Increasing the products' competitiveness*", according to the Government Decisions no. 357/2004 and 2184/2004, in order to increase the sell volume on the West-European markets.

- Development and improvement of the instruments aimed to support the enterprises by adjusting the Government Decision no. 2184/2004, in order to increase the allocated budgetary funds, as well as to include new provisions, such as:
  - Creation of design centres in the clothing and footwear area;
  - Elaboration of indigenous collections;
  - Protection of marks, models and industrial design;
  - Training and specialization of the personnel working in this area;
  - Support of the projects for subcontracting between large and small enterprises, in order to increase the products' added value and the integral export;
- Promotion of specific research-development themes in the field, in order to obtain products with increased added value, and evaluation of the light industry's competitiveness;
- Improved industrial management, through access to the research results;

## **The textile industry faces bankruptcy**

Heads of the companies in the sector declare there is a high risk for almost half of the companies to shut down this year. Meanwhile, they threaten with protest street action in case authorities do not take proper measures.

Out of the almost 8,900 textile firms, only 300 are large companies and have chances to resist on the market. According to Maria Grapini, President of FEPAIUS, 85% of the textiles firms work in lohn system and most of them are in danger to bankrupt.

If only the lohn disappeared, employers' leaders warn, the number of unemployed persons would increase with approximately 300,000. Thus, the only solution for lohn firms is to create and impose their own brands on the internal market; nevertheless, few companies will be able to survive and Romania will be suffocated by cheap and low quality merchandise.

"It is very hard to impose new brands on the internal market. The costs are very high and it takes at least 5 or 6 years to build a safe brand" Maria Grapini, declared.

According to this official, the domestic textile producers hold only 15% of the Romanian market. "The rest means import and second hand merchandise", Grapini appreciated. One of the domestic producers' demands is to enforce non-tariff measures (import licences, quality standards, compliance certificates etc.) for Asian imported merchandise.

"Romania became the garbage can of Europe. A pair of gloves, made of leather only on its label is sold with 7,000 lei, and six sock pairs from import, 35,000 lei. We do not fear the external competition, but the smuggled goods. All Community States protect their internal production by non-tariff measures for import", Grapini affirmed.

The textiles industry representatives consider Romania to be the only country out of the first 10 important exporters not having a primarily industry. The only silk weaving mill - the Lugoj one - was shut down. In the meantime, the number of synthetic wool, viscose and synthetic threads spinning mills drastically reduced.

Thus, even some of the garment firms were saved by own-brand creation, the raw material (wool, cotton and synthetic fibres) couldn't be ensured otherwise than importing it at high costs.

## **What do the textiles producers want**

The discontent of the textiles industry representatives envisages not only the central bank's decision to liberalize the currency rate and the capital account. They also reclaim the increasing prices of the utilities, especially electric power's, and maintaining high the foreign currency loan interest rates by Eximbank. "We shall demand removal of this aberrant differential formula (the power's price is calculated differently, varying with the hour intervals - rush hours) which increased our costs per megawatt more than in Germany, and adjusting the interest rate for loans in euro. Besides, we demand hardening the custom controls and adopting non-tariff measures", Maria Grapini declared yesterday.

In his turn, Gheorghe Nastase, head of the Uniconf Federation, said that "if our demands are ignored, we shall start protest street action".

Though on the textiles market the number of orders and contracts is decreasing, there still remained firms working in profit and with even grater orders than last year.

- Accreditation for the National Institute for Research and Development – Textiles and Leather, as a certification body ECOTEX by the Association of the Laboratories (Swiss), with the support of the Ministry of Economy and Commerce – the External Affairs Department;

- Improving the instruments aimed to promote the export:
  - Opening representing offices and deposits such as “consignation” type on the markets with high export potential;
  - Easing the necessary proceeding for participation in international fairs;
- Strengthening the Custom control, in order to stop entering and selling of products, at unfair prices, and consequently to avoid the unfair competition;
- Controls more rigorous assured by authorities, in tight cooperation with the employers organizations, in order to eradicate the unofficial labour;
- Adoption of measures of tariffs protection, similar to the EU ones, regarding the quality standards, following the common activities carried out by the light industry employers and the large super-markets chains employers;
- Increasing the employer organizations’ role in negotiation of utilities and services tariffs, in the context of market liberalization, following the European model;
- Gradually decrease the workforce contributions paid by employers;
- Inventory of the available room within the state owned commercial societies, as well as the ones in process of liquidation or reorganization, in order to offer it to SMEs for rent and/or sell;
- Analysing the opportunities for setting up clusters (competitive agglomerations) in light industry area, mainly in regions with exceeding workforce, together with the County Councils and Regional Development Agencies, professional and employers associations;
- Construction of regional incinerators for the un-recyclable textiles and leather waste, under public – private partnership;
- A better insurance of the indigenous raw materials base, through subventions for farmers in their agricultural activities, in order to equip the commercial societies which process the seasonal raw materials (flax, hemp, wool) with specific technology;
- Priority for promotion of the private internal and/or external investment aimed to produce ecological flax and hemp foundries, as well as tenneries;
- Development of the SMEs in this field by increasing the co financing expenses aimed to equip and modernise the production processes within the programmes managed by ANIMMC

Another way to improve the working conditions could be the promotion of real social audit (independent) and of social dialogue

mechanisms within the garment companies. Here below you may find our concrete proposals we've made within the project **“Going Beyond Social Auditing: Towards a comprehensive and participatory monitoring structure by enabling in-house dialogue between management and workers”** in which we are associate. The project's partners are the following: **ETUF:TCL, the Balkan Institute for Labour and Social Policy, Fondation des Droits de l'Homme au Travail (FDHT), IRENE**

1. In order to implement a real social dialogue at garment company's level, it is very important to involve both the employers (owners, management), and the employees (the workers and their representatives). Without the employers' involvement and commitment, no real and sustainable structure can be set up on long term. Both parties must realize that they have a **COMMON** final goal (producing and trading of products in order to obtain profit) and that they are not **ENTIRELY OPPOSITE SIDES**.
2. Similar to other initiatives whose implementation had an important influence on the success and recognition of a trade companies and/or of a brand on the international market (environment standards, quality standards etc), the social dialogue mechanisms have to be perceived as an **investment** and **not** as *a supplementary task*.
3. The experience of Org. „AUR” – A.N.S.R.U. shows the utility of harmonizing all social dialogue and social audit initiatives; the reason is that many Romanian companies working with multiple customers, claimed that respecting the particular requirements of each customer makes the production process difficult and limits the company's capacity to work with multiple customers (each new client has other requirements) etc.
4. Another important aspect in all the initiatives aiming to implement mechanisms able to monitor and verify the respect of the legislation, the employees' rights, the work conditions, and implicitly the real social dialogue at company's level, is related to the selection of the appropriate persons to promote these initiatives, to provide consultancy and elaborate reports on the real encountered on site situation. Here are several very important criteria these persons should meet:
  - a. The ability to establish relations both with the employers and with the employees in order to gain the trust of both sides, whilst keeping an as objective and neutral position as possible.
  - b. Ensuring confidentiality regarding all the collected data from both sides.
  - c. Focusing on the problem, not on the person.

- d. Communication skills for exposing the recommendations/ critics etc. in a constructive / assertive manner.
  - e. Knowledge of inter-human psychology.
  - f. Good knowledge of labour legislation, at national and international level.
5. Before the implementation of any initiative to create mechanisms of social dialogue, it is very important to know the reality of the country/zone where the company is located, the commercial traditions, the local, national and international relations etc. For this reason, consulting as many stakeholders as possible (local and central public authorities, territorial labour inspection, trade unions, NGOs active in the field, other social actors) is a «compulsory» stage.
  6. For a real social dialogue, **training both the employers and the employees on the trends and realities of the national and international economy** is needed.
  7. **Concerted, sustainable actions** are needed, not only isolated ones. The lack of continuity and perspective led and will inevitably further lead to de-motivation, non-involvement, lack of interest and superficiality („we do this now in order to satisfy a «momentary caprice», afterwards, we mind our business on”).
  8. Similar to any change, planning must be elaborated for medium and long terms, considering small steps and using as a starting point the real local needs, and not the «strategies elaborated out of the local context or based on other areas experiences ».
  9. The main objectives of any such initiative regarding implementation of social dialogue should be as follows:
    - a. Acknowledging both the employees and the employers on how important is the existence of organization and representation of the employees (this is even profitable on long term, avoiding the labour conflicts, gaining of superior market positions, new customers etc.)
    - b. Establishing of such structures able to function without any intervention from outside of the commercial society.
    - c. Understanding the benefits of a real social dialogue: it may be also a PR or a marketing element, but the most important aspect is inducing of such working environment meant to encourage the employees' motivation, increasing the products' quality, which may which may attract new customers.

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