



ROMANIA

country study 2014 - 2015



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INTRODUCTION

The Romanian economy suffered the blow of the 2008 economic crisis, and Romanian garment companies were not immune to the hit. Major changes were made to the Labour Code to counteract the economic downturn, while companies became more specialised as a way to address changing economic circumstances.

Because Romania has been a member of the European Union (EU) since 2007, the country's labour legislation meets all EU laws and labour standards. The country has also ratified all International Labour Organisation (ILO) conventions referred to in Fair Wear Foundation's Code of Labour Practices¹ except for Conventions [26](#) and [155](#).

Major issues of concern are wages; working hours; sick days; trade union representation; and, to some extent, occupational health and safety issues. After the changes in labour legislation, social dialogue and collective bargaining power in the garment industry became less effective. Even though trade unions worked together to gain members during economic downturn, most factories still lack active worker representation. Often, the functioning of worker representatives is affected by low involvement from management.

In recent years, Romania has made significant steps towards reducing macroeconomic imbalances, resulting in increasing macroeconomic and financial stability.² At the international level, textiles production has shifted from Asia to Eastern European countries, including Romania, since the beginning of 2014.³ This shift is based on several factors, but the most significant are the continuing escalation of prices in Asia and the uncertain political situation in Egypt and Syria, which push western buyers to countries like Romania.

FWF will continue to provide updated information on Romania at www.fairwear.org and will update this country study on a periodic basis in the future

Fair Wear Foundation

Fair Wear Foundation (FWF) has been active in Romania since 2006. In 2015, there were around 25 Romanian FWF members sourcing from 40 Romanian factories. FWF began offering factory trainings in 2014. The FWF Workplace Education Programme (WEP) focuses its trainings in Romania on local labour laws and factory grievance mechanisms, with a goal to stimulate effective grievance mechanisms within factories.

1 http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102824

2 http://ec.europa.eu/europe2020/pdf/csr2014/cp2014_romania_en.pdf

3 http://www.la-federation.com/fr/nos_services/etudes_analyses/dossiers/6747-tendances_du_commerce_connecte.html

1. HOW TO READ THIS FAIR WEAR FOUNDATION COUNTRY STUDY

This country study should provide a clear and concise picture of the industry, its labour laws, conditions and industrial relations within the textile/garment industry. The study is prepared by collecting information about national laws and local stakeholders' views on labour issues in the Romanian garment industry.

For a general overview of the situation in Romania, the introduction above is the starting point, followed by Chapter 2, General country information. More information on the country's garment industry can be found in Chapters 3 and 4, Stakeholders and Garment industry overview respectively; Chapter 5 on Industrial relations gives an overview of the way the local systems work. The rest of the country study can be used as a reference to find specific information. You can find a short description of the content of each chapter below:

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

Chapter 2, *General country information*, describes the social, political and governance situation, and provides information on income and poverty and on the general human rights situation using international indicators and comparing with other garment producing countries. Auditors, stakeholders and brands are invited to contribute information.

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

Chapter 4, *Garment industry*, offers an overview of the situation of the garment industry in the country, areas of production, products and outlook for the industry. This chapter provides an updated starting point for further multi-stakeholder initiatives.

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

Chapter 6, *assessment of the FWF Code of Labour Practices*, assesses the implementation of each part of FWF's Code of Labour Practices through official statistics on compliance (where available), laws and regulations, as well as different stakeholders' views on implementation. Text in italics refers to quotes from relevant laws. This chapter goes into detail regarding the different aspects of code compliance and can be useful when facing specific issues in factories or as a support whenever necessary for all those interested.

2. GENERAL COUNTRY INFORMATION

Romania is located in Eastern Europe, bordering the Black Sea. At 7%, its unemployment rate is among the lowest in the EU.

The textile industry holds a significant share in the export economy of Romania, contributing to a positive balance of foreign trade in Romania.⁴ It is concentrated in four main regions: the northwest, northeast, centre and Bucharest. The clothing sub-sector is the largest manufacturing employer in the country, and employs mostly women. In recent years there has been a revival for companies that develop and sell their own designs and brands, to the detriment of production in the *lohn* system, a system of converting raw materials into wholesale products for the garment industry.⁵

According to the annual financial statements published by the Romanian Ministry of Finance, a total of 1 774 companies were operating in the production of textiles in late 2012, virtually the same number as in 2011. Nevertheless, this is still 27% lower than in the period before the 2008 financial crisis; more than 2 400 companies were registered in this sector of activity in late 2008. In addition, only 45% of companies active in the textile industry were able to make a profit at the end of financial year 2012 (4% fewer than the year before), and nearly 1 000 companies registered losses and ended the financial year with zero profit.

The low calibre of companies with activities in textile production is noteworthy: the average turnover of active firms is €831 000. In 2012, more than 85% of these sales accounted for less than €500 000 while only 39 companies exceeded a threshold of annual sales of €5 million. There are no companies exceeding €100 million in sales in the Romanian market.⁶

2.1. Economic indicators

Romania ranks 54th on the Human Development Index of the United Nations Development Programme, and is in the high development category.⁷ The country has a high ranking compared to Fair Wear Foundation's priority country, China, which is ranked 91st.

The gross national income per capita in Romania is 17 433 USD, whereas in China it is 11 477 USD. Romania scores lower on income per capita than Turkey, with 18 391 USD.

2.2. Social, political & governance indicators

Once a communist country, in 2012 Romania ranked number 59 of 167 countries on the Democracy Index. It ranks before China (number 142), Turkey (61), and very close to Poland (44).

4 http://www.insse.ro/cms/files/arhiva_buletine2014/bsci_4.pdf

5 http://www.minind.ro/%5Cstrategie_competitivitate/Strategia_Nationala_de_Competitivitate_Anexa_1.pdf

6 <http://www.manager.ro/articole/economie/aproape-1800-de-firme-activeaza-in-industria-de-textile-din-romania-60489.html>

7 <http://data.worldbank.org/indicator/NV.IND.TOTL.ZS/countries>

2.3. Income and poverty

Compared to Poland and China, Romania has higher income equality; however, a relatively low percentage of the Romanian population (0.4%) lives on a daily income lower than USD1.25.

Yet, in Romania there is a relatively large gap between the legal minimum wage and the estimated living wage. According to the Stitched Up report of the Clean Clothes Campaign, the legal minimum wage is approximately 20% below living wage estimates.⁸

2.4. General human rights situation

The Amnesty International Report 2014/15 regarding human rights in Romania revealed a number of human rights issues.⁹ Specifically, the report highlights the discrimination Roma people face in the country. According to the report, the Roma continue to experience discrimination, forced evictions and other human rights violations. This discrimination has become part of the Romanian legal framework; the parliamentary Commission for the Revision of the Constitution passed an amendment restricting protection against discrimination. In addition, the European Commission expressed concern about the independence of the judicial system.

⁸ <http://www.cleanclothes.org/resources/publications/stitched-up-1>

⁹ <https://www.amnesty.org/en/countries/europe-and-central-asia/romania/report-romania/>

3. STAKEHOLDERS

This section briefly introduces a number of active stakeholders in the garment/textile industry in Romania. The focus is on stakeholders who are actively part of forming the labour conditions or monitoring situations for workers.

GOVERNMENT INSTITUTIONS

Among the most relevant government institutions are:

Ministry for Economy, Trade, Industry and the Business Environment

national institution that deals with strategies to stimulate the Romanian economy:

<http://www.minind.ro>

Ministry of Labour, Family, Social Protection and the Elderly

national institution that deals with employment policies and social security:

<http://www.mmuncii.ro>

Labour Inspectorate

specialised body of the public central administration which controls the implementation of the general and special regulations and stipulation in the domain of labour relationships, as well as of health and safety at work:

<http://www.inspectmun.ro/site/>

National Agency for Employment (ANOFM)

Develops measures for reducing unemployment and offers services for professional training.

<http://www.anofm.ro/>

Research Institute for Quality of Life

Member of the European Consortium for Sociological Research (ECSR):

www.iccv.ro

EMPLOYERS' ORGANISATIONS

National Council of Small and Medium Sized Private Enterprises in Romania (CNIPMMR)

national representative confederation of public utilities that provides uniform representation of the interests of Small and Medium Enterprises and the SME employers' movement, both national and international

<http://www.cnipmmr.ro/>

The National Union of Handicraft and Production Co-operatives (UCECOM)

Founded to assure representation and promotion of the interests of the cooperatives and its associated members, promoting the co-operative principles

<http://www.ucecom.ro/engleza/engleza.htm>

The Federation of Textiles, Clothing and Leather (FEPAIUS)

The only organization recognized in Romania that represents the business community and operators of textile, knitwear, garments, leather and footwear

<http://www.fepaius.ro/>

TRADE UNIONS

National Trade Union Bloc (BNS)

A trade union confederation, nationally representative, which is based on enterprise workers, business associations, public institutions, etc. organized in trade unions affiliated to the NBS.

www.bns.ro

National Trade Union Confederation (Cartel ALFA)

Its fundamental objective is to strengthen the Romanian democratic society as well as to protect and promote the interests of workers and social justice.

www.cartel-alfa.ro

Both BNS and Cartel Alfa are affiliated to the International Trade Union Confederation (ITUC) and to The European Trade Union Confederation (ETUC).

Syndex Romania

A member of Syndex. Syndex conducts economic and social surveys for trade unions and employee representatives since 2010 (<http://www.syndex.ro/>). It is very active in the garment sector specifically.

Trade Union Federation UNICONF, **ConfTex** and **Light Industry Workers Federation – CONFPELTEX**, all members affiliated with IndustriALL Europe.

<http://www.industrial-see.ro/etu-see/afilieri.php>

LABOUR NGOS

Comitex

A non-profit non-governmental, private legal person created to develop the human resources and training employees in the textile, clothing, leather and shoe industry:

<http://www.imipqnet.ro/autoritati/comitetul-sectorial-ramura-textile-confectii/>

Romanian Textile Concept

A professional association established in 2011 through the unconditional agreement between 10 manufacturing companies with a long tradition in the garment, knitwear, footwear and leather goods industry from the Bucharest-Ilfov area:

<http://clustero.eu/romanian-textile-concept/>

Friedrich Ebert Foundation (FES)

Its scope in Romania is to promote democracy and the rule of law, as well as the development of an active civil society in order to contribute, by social justice, to the transformation of society. FES supports the European ideals and regional and global cooperation

www.fes.ro

The Foundation for the Development of Civil Society (FDSC)

A nongovernment, independent organization established in 1994 under an initiative of the European Commission as an "organisation for organisations", who believes that the development of the NGO sector is itself an indicator of the status of the community in which citizens live

<http://www.fdsc.ro/>

4. GARMENT INDUSTRY

ORGANISATION OF THE GARMENT INDUSTRY

The garment sector remains an important economic sector for Romania, with the export value of garments ranking fourth after machinery, metal, and vehicles.¹⁰

During Romania's socialist period, the garment sector was well-established and a job-creator for underdeveloped areas. It was also one of the first sectors privatised during the transition period. While most garment factories in traditional industries like wool and silk production closed after the end of the socialist period, the sewing departments survived and many transitioned from state or collectively owned to private enterprises.

The Ministry of Economy is developing its Industrial Policy Document, a re-industrialization strategy for Romania that seeks to revive industries such as hemp, silk and wool, according to the EU directive on re-industrialization.¹¹ As a member of the European Union, increasing productivity is a priority for Romania.¹²

According to the National Competitiveness Strategy document for 2014-2020, the garment industry ranks second among the ten priority sectors, because of its economic importance. The competitive advantage of Romania is related to low wages. There is also a clear vision about the increasing complexity of garment products and on the Romanian potential for innovation and creation. Therefore, industrial policy directions rely on innovative technologies and partnerships, especially in the sub-sectors of textile and leather,¹³ based on expert analysis and recommendations.¹⁴

The international panorama has helped raise the profile of Romania as a textiles producer as of early 2014.¹⁵ The total exports of textiles, clothing and footwear products reached €5 093 million in 2013, confirming that exports from Romania are continuously increasing.¹⁶ The most significant reason is the continuing escalation of prices in Asia as well as the uncertain political situation in Egypt and Syria.

¹⁰ <http://www.cleanclothes.org/resources/publications/stitched-up-1https://www.amnesty.org/en/countries/europe-and-central-asia/romania/report-romania/>

¹¹ http://www.minind.ro/%5C/strategie_competitivitate/Strategia_Nationala_de_Competitivitate_iunie_2014.pdf

¹² <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A7-2013-0464+0+DOC+PDF+V0//EN> , <http://www.iem.ro/fisiere/Sinteze-comunic%C4%83ri/politica-reindustrializare.pdf>

¹³ <http://clustero.eu/the-inov-cluster-ii-project/>; http://www.research.ro/uploads/politici-cd/strategia-cdi-2014-2020/strategia-cdi-2020_-proiect-hg.pdf

¹⁴ http://www.ilo.org/sector/Resources/publications/WCMS_300463/lang--en/index.htm; <http://www.dialogtextil.ro/content/se-poate-imbunatati-productia>; http://www.minind.ro/reindustrializare/pdf/parcuri_industriale_si_clustere.pdf

¹⁵ http://www.la-federation.com/fr/nos_services/etudes_analyses/dossiers/6746-geo-tendances_du_sourcing_pour_2014.html

¹⁶ "România, 14 ani de transformări economice" available at <http://www.bnr.ro/SearchResult.aspx>

MAIN EXPORTS FROM GARMENT INDUSTRY

In 2012 the goods processed under the Lohn system¹⁷ held the largest share in the textile industry.¹⁸ Among the products for export are garments made of knitted or crocheted fabrics, textiles, lingerie, underwear, footwear and accessories.¹⁹

In the leather footwear sector, Romania is among the top exporters in the world for a total value of \$1.304 million USD and 1.1% market share in 2013.²⁰ For the first quarter of 2014, three types of goods accounted for 75.4% of total exports: machinery and transport equipment (43.4%), manufactured products mainly classified by raw material (16.7%), and miscellaneous manufactured articles (15.3%). Compared to these sectors, during the first quarter of 2014, textiles and ready-made clothes and footwear represented 10.6% (at a value of €1.797 million).²¹

MAIN AREAS FOR GARMENT PRODUCTION

The garment industry in Romania is very well established, with companies operating for over 100 years in some cases. Garment production is spread over the whole country, with some concentration in traditional garment production areas such as Timiș, Sibiu, Iași, Mureș and Bucharest. Generally speaking, there is a significant difference between the working conditions and the wages in the companies from the western part of the country (with the exception of some areas like Bucharest) and other cities with a tradition in the garment industry. Especially in the north-eastern section of the country, the level of poverty is higher and unemployment is more common. Consequently, the wages in the garment industry are among the lowest and the working conditions quite precarious, especially in small village workshops.

The objectives established for the garment sector in the National Romanian Strategy for Export 2011-2015²² were to preserve the productive companies and help them adapt, in a market severely affected by the financial crisis. This was made possible by better visibility in international fairs, as well as better marketing and use of national branding. Analysing its first results, the policy in the Romanian Strategy for Export during the period 2014 – 2020²³ then relied on the principle of “smart specialisation by regions”. According to this plan, the textile industry would be concentrated in two regions: Bucharest-Ilfov and the Northeast.

17 In the Lohn system, a manufacturer can import materials exported by the client to be processed and then export them back to the client as finished product. Another form of Lohn system is that of labour import, where the client sends raw material to be processed by a manufacturer in the country where the producer is established, so that the finish product can be imported back by the client, and sold in the country where they were produced.

18 http://economie.hotnews.ro/stiri-finante_banci-13689000-stam-prost-capitolul-comert-international-desi-deficitul-comercial-rezonabil.htm

19 http://www.forbes.ro/romania-cei-mai-multi-expozanti-la-salonul-zoom-by-fatex-de-la-paris_0_6735-12095

20 http://issuu.com/391038/docs/snapshot?utm_source=conversion_success&utm_campaign=Transactional&utm_medium=email

21 http://www.insse.ro/cms/files/arhiva_buletine2014/bsl_5.pdf

http://www.insse.ro/cms/files/arhiva_buletine2014/bsci_4.pdf

22 http://www.minind.ro/PROPUNERI_LEGISLATIVE/2011/mai/SNE_2011_2015.pdf

23 http://cursdeguvernare.ro/wp-content/uploads/2014/06/SNE_2014_2020.pdf

PERCENTAGE EMPLOYED IN GARMENT INDUSTRY

By June 2012, the textile sector employed about 221 000 people (about 5% of the total) compared to 219 500 in May 2011. This meant a decrease of more than 30% from the total number of hires in the sector from the same period in 2008.²⁴ According to the National Institute of Statistics,²⁵ as of 31 December 2013, there were 255 589 employees with an individual employment contract of indefinite duration, including those with a suspended employment contract or relationship service.

SOCIAL COMPOSITION OF THE GARMENT WORKFORCE

According to the Romanian National Institute for Statistics, there were 47 702 men and 207 887 women working in the sub-sectors of the garment industry at the end of 2013.

Table 4- sub-sectors in the garment industry

Sub-sector in the garment industry	Total employees	Men	Women
Manufacture of textiles	35 063	9 354	25 709
Manufacture of wearing apparel	154 771	20 885	133 886
Tanning and dressing of leather; manufacture of travel and leather goods, harness and footwear; preparation and dyeing of furs	65 755	17 463	48 292

Using data from 2010, it can be said that most individuals working in the garment sector are between 25 and 54 years old on average. Migrants, mainly from China and Turkey, but also from Moldova, Vietnam and the Philippines, generally find employment opportunities in the garment sector in Romania.

24 Annex 15 of the Study The Impact of Legislative Reforms on Industrial Relations in Romania
<http://www.slre.ro/Up/Files/File/Downloads/Legislatie/informatii/anexe12-15.pdf>

25 <http://www.insse.ro/cms/en>

5. INDUSTRIAL RELATIONS

ORGANISATION OF EMPLOYERS AND TRADE UNIONS IN THE GARMENT SECTOR

According to the report Corporate Social Responsibility for All prepared by the International Organization of Employers,²⁶ most employers are not aware of social responsibility issues. Moreover, since 2012, there is a noticeable reduction in the number of employer organizations. According to Romanian regulation, to be representative, an employer's federation should have at least 22 100 employees with membership within the affiliated companies.

The Law for Social Dialogue was designed to ensure better representation of trade unions and employer organizations, as well as to improve the participation of civil society organizations in dialogue and the procedure for conflict resolution.²⁷ Nevertheless, in the analysis performed by the International Trade Union Confederation in 2014 ITUC Global Rights Index – The world's worst countries for workers,²⁸ Romania gets a rating of 3 out of 5.²⁹ This means there is regular violation of rights; that governments or companies regularly interfere in collective labour rights, or fail to fully guarantee important aspects of these rights. More importantly, according to this document, regular practices, paired with deficiencies in laws make frequent violations possible.

UNION DENSITY IN ROMANIA

Legislative changes related to collective labour relations were introduced in May 2011. New requirements for forming trade unions include minimum membership thresholds, making it very difficult to form trade unions at company level. Moreover, the conditions under which trade unions can cooperate among themselves have been modified: most notably, they may no longer associate on the basis of sharing a branch of activity, but must instead fall within the same sector of activity.

Also, it is no longer possible for more than one trade union to be accredited as representative at a company, even though this has helped strengthen company-level collective bargaining in the past. Under the new regulations (Law no. 62/2011), a trade union should represent at least 15 470 employees.³⁰ Workers are still able to turn to worker representatives even without effective trade unions, but this causes confusion due to seemingly contradictory provisions in both the Social Dialogue Law and the reformed Labour Code. Employees are not encouraged to act because, even when there are unions, they come across as ineffectual.³¹

26 http://www.ioe-emp.org/fileadmin/ioe_documents/publications/Policy%20Areas/csr/EN/_2013-11-05_-_CSR_for_ALL_-_Evaluation_Report_-_final_.pdf

27 http://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-budapest/documents/publication/wcms_219711.pdf

28 http://www.ituc-csi.org/IMG/pdf/survey_ra_2014_eng_v2.pdf

29 http://www.ituc-csi.org/IMG/pdf/survey_ra_2014_eng_v2.pdf

30 http://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-budapest/documents/publication/wcms_219711.pdf

31 <https://www.cleanclothes.org/livingwage/stitched-up-factsheets/stitched-up-romania-factsheet>

COLLECTIVE BARGAINING AGREEMENT COVERAGE IN COUNTRY

The Law for Social Dialogue states that national level CBAs may no longer be concluded. This means that, as of 2011, collective bargaining can only take place at the company level, or for groups of companies, or across a sector of activity as determined by Governmental Decision No. 1260/2011.

CBAs at sector level are recognised as valid if the signatory employer federations have at least 110 500 employees at the affiliated companies. According to law, collective bargaining is compulsory only for companies with more than 20 employees. This legal provision, combined with the new minimum membership thresholds and the abolition of CBAs at the national level, effectively excludes from collective bargaining more than 1.2 million employees working at close to 450 000 companies that employ less than 20 employees.³²

CBA COVERAGE IN THE GARMENT INDUSTRY

Collective agreements only apply to the employees of the companies within the sector that the agreement was expressly stipulated to cover. By law, the duration of collective agreements cannot exceed 24 months.

A successful CBA in the textile and garment industry was signed in 2007. It established the minimum wage per industry (€104 euro/month, an amount 19% higher than the legal minimum wage for 2007), payment of overtime work, and the working conditions. The CBA was initially valid for 3 years, but it finally expired in 2011, after being prolonged by addendum.³³ Since 2012 no CBA has been enforced for the textiles, clothing, leather, and footwear industries.

According to the ILO Study Wages and Working Hours in the Textiles, Clothing, Leather and Footwear Industries (2014),³⁴ collective bargaining in the textiles, clothing, leather, and footwear industries in Romania covers more than 80% of the workforce.³⁵

LOCAL GRIEVANCE MECHANISMS FOR WORKERS

After the law on solving labour disputes (Law No. 168/1999 on the settlement of labour conflicts) was repealed, the number of labour disputes decreased from 121 in 2003 to 116 in 2008 and only 73 in 2010. In 2010, almost 60% of labour disputes dealt with restructuring, collective bargaining and social rights, while most of the remaining 40% dealt with wage

32 http://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-budapest/documents/publication/wcms_219711.pdf

33 <http://www.mmuncii.ro/pub/imagemanager/images/file/Domenii/Dialog%20social/CCM/act%20additional%204%20mass-media.pdf>

34 http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/publication/wcms_300463.pdf

35 This percentage refers to employees hired at factories with 21 or more employees without a unit-level CBA. Since most of such enterprises have signed CBAs at unit level as is required by law, the remaining 20% of the textile and garment workforce works in smaller companies or in other companies where no CBAs were yet concluded at unit level.

claims. This is a change from previous years: in 2008 and 2009, more than 70% of all conflicts had to do with wage claims, while collective bargaining and social rights represented close to 30% of the disputes.³⁶

The new legal conditions for acquiring representativeness have also decreased the power of trade unions to effectively start and carry out collective actions, including strikes. Prior to calling a strike, law requires a warning strike.

STATE ROLE IN INDUSTRIAL RELATIONS

The law that distinguishes conflicts of rights from conflicts of interests – Law No. 168/1999 – has been repealed; only some of the provisions on how to resolve labour disputes in courts were retained. As a result, certain areas of labour jurisdiction remain unregulated or openly contradict Labour Code. The doctrine states that the current conflict of laws should be resolved by new legislative interventions.³⁷

With the aim of relieving the courts of law, Mediation Law no. 192/2006 was amended in 2012. It establishes the obligation to fulfil a prior procedure in resolving labour disputes arising from individual employment contracts. There is now a voluntary and confidential procedure by which a neutral third party acts as mediator, as an alternative way to solve conflicts in an impartial manner, allowing opposing parties to reach solutions together.

³⁶ http://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-budapest/documents/publication/wcms_219711.pdf

³⁷ Ibid

6. IMPLEMENTATION OF THE FWF CODE OF LABOUR PRACTICES

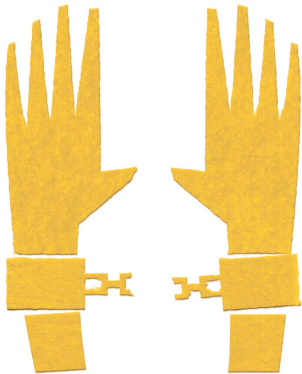
In this chapter the implementation of every part of the Fair Wear Foundation (FWF) Code of Labour Practices is examined by looking at official statistics on compliance (where available), laws and regulations, as well as different stakeholder opinions and analyses on implementation. Each section starts with quoting the FWF Code of Labour Practices. Quotes from relevant laws are in italics.

Payment of a living wage remains an issue for Romania. The current legal minimum wage is too low to provide workers with a living wage. Another area of concern is excessive hours of work. Lack of transparency of overtime hours and dishonest wage records have been observed during FWF audits. Findings show that overtime hours are not always paid according to law.

Freedom of association and the right to collective bargaining are two important labour standards for Romania, especially as the unionisation rate is relatively low. The Labour legislation changes implemented in 2012 weakened social dialogue and the position of trade unions, as now unions can only join forces according to the sectors where they are active, rather than their branch.

FWF audits also show a variety of health and safety issues, mostly related to building and fire safety, caused by overdue building maintenance and shared ownership of factory buildings.

6.1. Employment is freely chosen



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

OFFICIAL STATISTICS ON COMPLIANCE

According to the compilation report prepared for the Human Rights Council’s Universal Periodic Review, Romania continues to be a country involved in human trafficking.³⁸ This is not a concern in the garment industry, although it is present in other economic areas.

LAWS AND REGULATIONS

Romania has ratified ILO Conventions 29 and 105. Forced labour and bonded labour are now prohibited by the Labour Code. This corresponds with FWF’s determination that ‘employment is freely chosen’. Employers are not allowed to take deposits of money from workers or retain ID Cards.

Entering into, executing, suspending and ending individual employment contracts is regulated by the Labour Code – Law no. 53/2003, amended in 2011. According to the Labour Code the individual labour contract are terminated after a specific period or on the date of expiry of the mutually agreed notice.

³⁸ http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO:13100:P13100_COMMENT_ID:3136614:NO

STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

In general, forced labour does not appear to be an issue in the Romanian textile and garment industry. However, to a certain extent, the freedom of employees to work has been silently and increasingly restricted after recent labour legislative modifications. For example, contracts can be terminated without any obligation from the employer if the company dissolves. In this case, the employer is no longer obligated to consulting or informing employees before ending the contract.³⁹

FWF MAIN AUDIT FINDINGS OVER THE LAST THREE YEARS

Most recent FWF audit reports do not find any significant problems related to employment is freely chosen.

6.2. There is no discrimination in employment

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



OFFICIAL STATISTICS ON COMPLIANCE

Romania is ranked between Poland and China in the Global Gender Gap Index, which ranks countries according to gender equality measures. According to the Gender Inequality Index, Romania displays greater inequality than other garments production countries such as China and Poland in three dimensions: terms of reproductive health, empowerment and the labour market.

Table 5- Gender Equality Indicators of China, Romania and Poland

Indicators	China	Romania	Poland
Global Gender Gap Index, 2014 ⁴⁰	87	72	61
Gender Inequality Index (Rank 2013) ⁴¹	37	54	26

³⁹ http://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-budapest/documents/publication/wcms_219711.pdf

⁴⁰ http://www3.weforum.org/docs/GGGR14/GGGR_CompleteReport_2014.pdf

⁴¹ <http://hdr.undp.org/en/content/table-4-gender-inequality-index>

The most discriminated social groups include the following: Roma people, people with physical or mental disabilities, those with HIV/AIDS, the homeless, orphans and drug addicts. In 2011, 33.6% of the Roma population was classified as poor. This is an absolute poverty rate 6.7 times higher than the national average. Roma people represent only 3.3% of the population of Romania, but 21.9% of the poor. Poverty rates are significantly higher among Roma children: approximately 27.3% of Roma children in urban areas live in poverty, compared with 2% of the total Romanian children, and 41.1% compared to 10.6% in rural areas. Only 17% of the Roma attend a vocational school, a high school or higher levels of education.

The 2013 report of the National Council for Combating Discrimination (NCCD) disclosed that the number of claims of discrimination has grown since 2010, from 478 claims to 858 in 2013.⁴² In 2013 Romanian women earned an average 176 lei less than men, making women's average gross monthly earnings a total of 2 070 RON, against men's 2 246 RON, and a net average monthly earning of 1 509 RON, compared to 1 640 RON for men.⁴³ Men had higher net monthly earnings than women in most economic activities, the biggest differences being found in financial intermediation and insurance where the difference almost reached 40%, and manufacturing, where the difference was close to 30%.

LAWS AND REGULATIONS

According to Government Ordinance 137/2000 republished in 2014 Concerning preventing and sanctioning all discrimination forms: without any discrimination, each person who performs work must benefit from good working conditions, social protection, health and safety at work, with respect for their dignity and personal beliefs. Law no. 489 of 2006, amended in 2014 On religious freedom and the general regime of religious cults officially recognises 18 religious groups. Labour legislation does not refer specifically to religious practices during working hours, because according to the Constitution, Romania is a secular state. Legal public holidays for non-Christian employees, include two days for each of the three annual religious feasts.

Romania's maternity leave is established in the Labour Code. Employees cannot be dismissed based on, for example, an employed woman's pregnancy if the employer is aware of that fact prior to issuing the dismissal. It is also not allowed to dismiss an employee during the length of maternity leave; during parental leave; during leave to care for a sick child, or during care for children with disabilities or special needs.

STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

Despite notable actions to disseminate results, further improvements could be made.⁴⁴ For example, current regulation does not specify how the unitary pay system for public sector employees is guaranteed in practice. More importantly, there are no procedures in place for staff to enforce their rights in case of wage discrimination.⁴⁵ Some members of representative

⁴² [http://www.equalitylaw.eu/search?searchword=NCCD&searchphrase=all&areas\[0\]=documents_search&start=22](http://www.equalitylaw.eu/search?searchword=NCCD&searchphrase=all&areas[0]=documents_search&start=22)

⁴³ http://www.insse.ro/cms/files/statistici/comunicate/com_anuale/costul%20fortei%20de%20munca/cfm13r.pdf

⁴⁴ <http://www.decentwork.info/project>

⁴⁵ http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:2699397,102824,Romania,2011

trade union confederations were subject to questionable verification actions performed by the National Integrity Agency (NIA), including a public declaration of wealth and actions taken to ensure integrity and avoid corruption.⁴⁶

Equal opportunity and treatment between men and women should be better enforced by creating clear clauses in CBAs that guarantee equal opportunities through access to education, vocational training and employment, in particular for women in rural areas and from minority groups.

Discrimination amongst the Roma minority is still an issue; progress has to be made to include the Roma in the labour market. And, while not considered a group at risk, migrants, and particularly Chinese migrants, seem to be vulnerable to violations of labour law and discrimination.⁴⁷ The Chinese workforce is statistically the largest group, followed by Turks and Moldovans. A National Block of Trade Unions (BNS) research carried out in 2010 showed that dialogue with Chinese workers was almost impossible because the lack of trust, which led to reluctance to talk to researchers.⁴⁸

FWF MAIN AUDIT FINDINGS OVER THE LAST THREE YEARS

FWF audit reports show there are still issues related to discrimination at work, particularly due to the lack of written policy concerning discrimination. Another significant issue is the registration of employees as unqualified according to their labour contracts, whereas they are able to perform complex operations.

6.3. No exploitation of child labour



"There shall be no use of child labour. The age for admission to employment shall not be less than the age of completion of compulsory schooling and, in any case, not less than 15 years." (ILO Convention 138) "There shall be no forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour. [...] Children [under the age of 18] shall not perform work which, by its nature or the circumstances in which it is carried out, is likely to harm their health, safety or morals." (ILO Convention 182)

⁴⁶ http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3085310:NO
http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3085296:NO
http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3085299:NO

⁴⁷ http://www.fundatia.ro/sites/default/files/BII%202014_final.pdf

⁴⁸ http://www.bns.ro/wps/wcm/connect/cd8ba2e2-05ca-4f97-b9fe-108b4700f0b5/studiu_asupra_imigratiei_din_Romania.pdf?MOD=AJPERES&CACHEID=cd8ba2e2-05ca-4f97-b9fe-108b4700f0b5

OFFICIAL STATISTICS ON COMPLIANCE

The 2014 ILO Report Application of International Labour Standards, for the effective respect of Minimum Age Convention (138), recognises Romania among the governments that implemented various measures to combat illegal employment, including child labour.⁴⁹

During 2012, the campaign targeted 1 370 employers; 21 were sanctioned for employing manpower without any legal form of employment, and 9 of these were sanctioned for employing young people between 15 and 18 years of age without an individual written contract. In all, 1 016 fines were imposed, 462 of them for failure to comply with legal provisions regarding the employment of minors. Thirty-seven cases were brought before the criminal investigation authorities for employing minors in violation of legal provisions in this respect.

During the most recent economic crisis, the school dropout rate went up to 18.4% in 2010 from 16.6% in 2009. In 2012 it fell one percent point to 17.4%, and has followed a slightly downward trend again.⁵⁰

LAWS AND REGULATIONS

Law no. 272/ 2004 For the protection and promotion of children's rights, amended in 2014, establishes that a child has the right to receive an education that enables him or her to develop skills and personality, without any form of discrimination. The child's parents have the right to choose the kind of education they wish to give their child, but are required to enroll the child in school and ensure their regular attendance. Children older than 14 may require court approval to change their school programme.

The working age is set at 16 according to the Labour Code. To check an employee's age, employers must send the labour contract to the local Labour Agency, where the employee is given a personal identification number.

An individual as young as 15 may enter into a labour contract, provided there is explicit parental or legal guardian consent, and only for activities suited to the physical ability, skills and knowledge of that person. Employment in those cases should not jeopardize the individual's health, personal development and professional training. Government Decision no. 867/2009 prohibiting hazardous work for children prescribes the full list of types of hazardous work for children: activities that expose children to harmful physical, biological or chemical agents; methods or work processes that compromise safety and health; working conditions detrimental to safety, health and morals; or any activity that prevents a child from enjoying education.

STAKEHOLDERS' OPINIONS AND ANALYSIS ON IMPLEMENTATION

The National Strategy for Youth Policy 2014-2020,⁵¹ elaborated by the Ministry of Youth and Sports with the professional support and involvement of relevant NGOs,⁵² published a first

49 http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_235054.pdf

50 http://ec.europa.eu/europe2020/pdf/csr2014/nrp2014_romania_ro.pdf

51 http://www.ies.org.ro/library/files/strategie_22.10.2013_integrat_revom.pdf

52 http://www.fdsc.ro/library/files/indexusaid_romania2013.pdf

strategic document on young people policies after 2001. According to this document, children in Romania face important challenges. For example, many children in secondary school have at least one parent working abroad. Often, if both parents work abroad, they are left in the care of other relatives, or family friends. These children have higher drop-out rates, which hurt their chances later in life. Another problem is the chronic homelessness, which has grown in the past two decades, especially in urban areas. Children and young people are the majority of the population living in homelessness.

FWF MAIN AUDIT FINDINGS OVER THE LAST THREE YEARS

Most recent FWF audit reports do not find any significant problems related to child labour in the garment sector.

6.4. Freedom of association and the right to collective bargaining



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

OFFICIAL STATISTICS ON COMPLIANCE

On March 31, 2014 the Labour Inspection of Romania established that there are 272 060 legal entities with fewer than 21 employees in the country.⁵³ Of those, 11 827 are state-owned and 259 096 private. During the first quarter of 2014 there were 2 724 collective agreements signed, of which 1,681 were in the private sector. Unions have to register at least 15 employees accounting for at least 50% the employees within the same company, this rule makes it difficult for trade unions to actively negotiate on company level.

LAWS AND REGULATIONS

The Law of Social Dialogue no. 62/2011, amended in 2012, sets provisions for both the right to join unions and collective bargaining. At the national level, social dialogue questions are referred to the National Tripartite Council for Social Dialogue, which is supported by the Ministry of Labour. The purpose of this body is to establish the minimum wage; create opportunities to debate and analyse programs and projects promoted by the government; and develop, negotiate and support the implementation of strategies, programmes, methodologies and standards in social dialogue.

At least 15 employees from the same unit or company are required to establish a trade union, and a person may belong to only one trade union at a time under the same employer. At age

⁵³ http://www.mmuncii.ro/j33/images/buletin_statistic/conditii_TI2014.pdf

16. minors may become members of a trade union without requiring prior consent of their legal representatives. Trade unions have the right to use specific means such as negotiations, dispute settlement procedures through conciliation, mediation, and arbitration petition, picket protest, rally and demonstrate or strike, as established by law. Trade unions defend their members' rights in courts or under other state authorities.

Collective agreements can be negotiated at level unit by groups of units and sectors of activity. Belonging to a certain sector of activity depends on the main object of activity recorded in the trade register. Collective bargaining is mandatory only at the company/unit level, unless the company or unit has fewer than 21 employees. The initiative to negotiate collective bargaining agreements belongs either to the employer or employers' organisation and must be made explicit at least 45 calendar days before the expiry of a valid CBA. Collective bargaining discussion may not exceed 60 calendar days, unless all parties agree to it.

STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

A significant analysis on the overall implementation of this standard is a study called The Impact of Legislative Reforms on Industrial Relations in Romania.⁵⁴ According to this document, there are still challenges for industrial relations in the country.

For example, fewer employees are becoming members of trade unions. This, along with a significant decrease in the number of employers' organisations, means that trade unions and business associations are unable to function effectively. Also, since 2012 there is no possibility to negotiate collective agreements at the national level, and the Economic and Social Council only provides a procedural framework for social dialogue.

It is difficult to establish partnerships among sector social partners because it is difficult to obtain representation. This results in few CBAs being concluded at the sector level. Even in cases where these agreements are established, for example in the public sector, they do not contain provisions related to wages. Without applicable collective bargaining in the private sectors, regulatory responsibility for the working conditions depends mainly on the government and administrative authorities. The number of collective agreements concluded at company level decreased by half since these measures were implemented, and the social protection conferred by new contracts is also lower than in previous bargaining agreements.

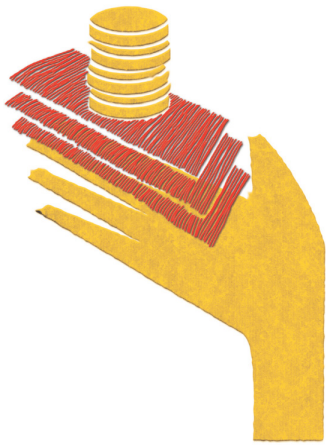
Finally, there is a significant decrease in the number of workers who benefit from CBAs; individual bargaining of labour contracts is no longer common and undeclared work significantly grow in recent years. Over 1.2 million workers, particularly those employed in enterprises of less than 20 employees, are currently excluded from collective bargaining.

FWF MAIN AUDIT FINDINGS OVER THE LAST THREE YEARS

In general, the unionisation rate in recently audited factories is very low. Audit results show that some factories do have a CBA at factory level, but not always an updated version. In many Romanian factories there is a lack of effective worker representation and workers at factory level are often unaware about the content of the CBA.

⁵⁴ http://www.fes.ro/media/publications/wcms_219732.pdf
http://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-budapest/documents/publication/wcms_219711.pdf

6.5. Payment of a living wage



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

OFFICIAL STATISTICS ON COMPLIANCE

On 5 September, 2014 the Romanian National Institute of Statistics issued a press release revealing the average wages in July 2014.⁵⁵ This gross nominal average earning was 2 378 RON, 1.9% higher than in June 2014. The net nominal average earning was 1 719 RON, increased by 32 RON (1.9%) compared to the previous month. The highest values of net nominal average earning were recorded in crude oil and natural gas extraction (4 562 RON), while the lowest were seen in hotels and restaurant work (1 011 RON).⁵⁶ The average income in the textile industry in July 2014 was 1 433 RON.

In Romania, the legal minimum wage is low in relation to an estimated minimum living wage with an estimated gap of 20%. At the national level, wages in the Romanian garment industry are relatively low compared to other sectors of the economy, and are below the nominal average wage (2 378 RON gross, 1 719 RON net).⁵⁷ In 2014 industrial standards on wages in Europe showed that the legal minimum wages in the garment industry were far below the poverty level.⁵⁸ The Stitched Up study of the Clean Clothes Campaign show that the real take home wage per month, without overtime, is often lower than the legal minimum wage. The researchers recommend wage increases for Romania up to at least €710 euro, the estimated minimum living wage in 2013, according to their calculations.

⁵⁵ <http://www.insse.ro/cms/files/statistici/comunicate/castiguri/a14/cs07r14.pdf>

⁵⁶ Complete tables containing the evolution of gross wages (July 2013 - July 2014) and the evolution of net average earnings (July 2013 - July 2014) are available and may be consulted at the same source.

⁵⁷ In Address no. 13734 issued on 26 September, 2014, ANOFM experts had the courtesy to provide in writing data and support for the elaboration of this study.

⁵⁸ http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/meetingdocument/wcms_311155.pdf; <http://www.cleanclothes.org/resources/publications/stitched-up-1>

Table 7- Net average salary income in the garment industry, July 2014

Sub-sectors of the garment industry	Net average salary income in July 2014			
	Gross		Net	
	Lei (RON)	% compared to June 2014	Lei (RON)	% compared to June 2014
Manufacture of textiles	1,979	101.0	1,433	100.9
Manufacture of wearing apparel	1,542	105.5	1,132	105.4
Tanning and dressing of leather; manufacture of travel and leather goods, harness and footwear; preparation and dyeing of furs	1,608	103.1	1,175	103.1

Table 8- Wage benchmarks in the Romanian garment industry

Minimum wage	1 050 lei /month gross	Since 1 July 2015
Living wage estimate	2 668 lei / month net	ICCV ⁵⁹ estimation in January 2011
Best practice wage	2 000 lei / month gross	Monthly wage of a supervisor or a high qualified seamstress with bonuses in a Romanian garment factory
garment factory	Collective Bargaining Agreements (CBAs)	Since 2010 there is no CBA at national level active in Romania

LAWS AND REGULATIONS

The Labour Code stipulates that salary is paid at least once a month, on the date stated in the individual labour contract, CBA or internal rules, as applicable, and payment can be made by transfer to a bank account. Partial payments are only possible if specifically provided for in the individual labour contract or CBA. Salary includes basic salary, allowances, bonuses and other additions. In cases when the employer provides employees with food, lodging or other facilities, the amount of money due for work cannot be less than the gross national minimum wage set by law. No deductions can be implemented except in cases contemplated by law, and under specific conditions. Further, these deductions cannot exceed half a monthly net salary.

There must be documentation about payment of wages, for example a signed payroll. By law, employers must store this information for 50 years.⁶⁰ The employee register must state the gross monthly base salary and bonuses earned, according to the individual labour contracts.

⁵⁹ <http://www.iccv.ro/>

⁶⁰ In the collective bargaining agreements concluded at the national level it was provisioned that employers must keep records in stating activities under the labour contracts and the payment rights those employees received. Therefore the cash register was considered clear evidence of the net wages paid to employees.

According to the 2013 Law on apprenticeship at work no. 279/2005, apprenticeship contracts must respect all general rules contained in the Labour Code for fixed-term period contracts, and apprentices must receive payment according to time worked.⁶¹

STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

The stakeholders consulted stressed that in the Romanian garment industry salaries are relatively low compared to other industries. Wages are also lower than average wages in other European countries. In most cases, employees receive the minimum legal wage or a modest additional amount, and sometimes meal tickets. Employers often keep wages at the minimum legal wage levels.

The stakeholders consulted mentioned that they try to organise trainings for young persons in the garment industry, but few express interest. Young people say they don't want to work in the garment industry because of the low wages, particularly compared to the difficulty of the work.

Poverty is still an issue for concern in Romania.⁶² The Romanian middle class is almost inexistent.⁶³ More worryingly, the 2013 study Living and working in Europe, evaluated Romania as a country where its citizens experience great difficulty to make ends meet.⁶⁴ Reports from 2011 reveal that 29% of the population suffered severe material deprivation, or severe lack of resources, a percentage 3 times higher than the EU27 (8.1%).⁶⁵ Romania is among the countries with the highest at-risk-of-poverty rates in the EU with 41.7%.⁶⁶ In 2013 the average income no longer managed to cover a family's basic needs, and the real wage was equivalent to wages in 2008.⁶⁷ This is explained by recent price increases in food and utilities. Because of this, overtime is a common practice, as it helps earn some more money to cover basic needs.⁶⁸

In October 2013 the National Confederation of Labour Unions Cartel Alfa demanded to raise the minimum wage from €177 to €266 by 2016. Later, the Confederation asked for €222 until 2014.⁶⁹ Representatives of small and medium enterprises argued that applying half yearly increases of 75 RON in 2015 in order to reach 1 200 RON in 2016 was not only questionable, but also

61 Government Decision no. 855/2013 for Approving the methodological norms for applying Law no. 279/2005 regarding apprenticeship in the workplace specifies the mandatory contract format and that the basic monthly salary established in the apprenticeship contract has to be at least equal to the gross minimum wage in the country.

62 Since 1984 the EU experts on poverty appreciated that "Poor are those individuals, families and groups whose resources (material, cultural and social) are so low that they exclude from a minimum acceptable standard of living in states in which they live." (Eurostat, 1984). However, this is still a subjective measure.

63 <http://www.cnipmmr.ro/CNIPMMR-Despre-Noi/STRATEGIE-CNIPMMR-2012-2016.pdf>

64 <http://adapt.it/englishbulletin/wp/?p=544>

65 http://www.fonduri-ue.ro/res/filepicker_users/cd25a597fd-62/2014-2020/Dezbateri%20parteneriale/Rezultatele%20analizei%20documentare/03.06.2013/7.Social%20inclusion_23%20mai.pdf

66 <http://www.fonduri-ue.ro/posdru/images/doc2013/mmfpvpincluziunesociala.pdf>

67 <http://www.revistacalitateavietii.ro/2013/CV-4-2013/02.pdf>; <http://www.revistacalitateavietii.ro/2014/CV-1-2014/03.pdf>

68 http://ec.europa.eu/europe2020/pdf/csr2014/nrp2014_romania_ro.pdf

69 <https://www.cleanclothes.org/livingwage/stitched-up-factsheets/stitched-up-romania-factsheet>

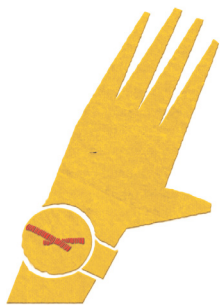
illegal.⁷⁰ They cited an absence of transparent impact assessments of the economic environment.⁷¹ As result, no CBA standards concerning wages were available by November 2014.

The Research Institute for Quality of Life published the 2014 report Comparative analysis of the purchasing power of revenue in Romania and other European countries.⁷² The report states that the minimum basket of goods for a decent living cost 1 310 RON in 2010 and 1 409 RON in 2013. This amounts to €301 in 2010 and in 2013, €316.

FWF MAIN AUDIT FINDINGS OVER THE LAST THREE YEARS

FWF audit reports show that there are still issues related to the transparency of wage records. Factory management is not open about wage records. Also, wages are generally below the living wage estimates of local stakeholders. Finally, workers performing complex operations are also paid minimum wages.

6.6. No excessive working hours



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

OFFICIAL STATISTICS ON COMPLIANCE

According to the study conducted by the Institute for Research of the European Union, in 2012, the average working hours in EU countries was 39.6 hours per week, while in Romania it reached 41.2 hours per week.⁷³ On weekdays, the population aged 15 and over works an average of 3.5 hours. Full-time employees work 7.75 hours, and men work an average 38 minutes longer than women. During weekends, business owners work an average 2.25 hours, while employees work 1.25 hours.

70 For 2014, the Government Decision for establishing the minimum gross salary as guaranteed payment at national level stipulate that as of 1 January 2014, the gross minimum wage as guaranteed payment was set to 850 lei per month, for a full work time of 168 hours per month, average. This amounts to 5.059 lei per hour; as of 1 July 2014, the gross minimum wage as guaranteed payment was set at 900 lei per month, or 5.357 lei/hour.

71 <http://www.agerpres.ro/economie/2014/10/22/nicolescu-cnipmmr-cresterea-salariului-minim-in-absenta-testului-imm-urilor-reprezinta-o-ilegalitate-17-47-55>

72 <http://www.revistacalitateavietii.ro/2014/CV-1-2014/03.pdf>

73 <http://www.ziare.com/articole/romani-ore-munca-saptamana>

LAWS AND REGULATIONS

In the Romanian Labour Code, working time is defined as a period when the employee performs work, as established in the labour contract, CBA or legislation. For full-time employees, the normal working time is 8 hours per day, and 40 hours per week. For people up to 18 years, working time is 6 hours per day, and 30 hours per week, without exception. Generally employees work 8 hours a day, 5 days a week. However, depending on the sector, the distribution of the 40 hours over the work week may be different.

Working time, including overtime should not exceed 48 hours per week. In some cases, working time may be extended beyond 48 hours per week, when the average working hours calculated over a reference period of four calendar months do not exceed 48 hours per week. Employers are legally obliged to provide 2 days off for every 48 hours of work. There must also be a minimum leisure time of 12 hours, or at least 8 hours for the employees working in shifts. For certain activities or professions, there can be negotiated reference periods longer than 4 months.⁷⁴

Overtime must be compensated with days of paid leave in the 60 days after the overtime was incurred. If compensation is possible, the employer must pay the wages according to the overtime. If the employer cannot grant paid compensatory leave it is obliged to pay an additional amount. This may be negotiated in the CBA, or the individual labour contract, and cannot be lower than 75% of the base salary.⁷⁵

Overtime must be negotiated and clearly provisioned by CBAs or, if not applicable, by the internal regulations about night work, workloads, rest periods, lunch breaks and daily and weekly rests, public holidays, annual leave and other leave for employees, or vocational training. The employer is required to keep records of hours worked by each employee and, whenever requested, to present these records to the labour inspectors for verification. The form of evidence for keeping track of performed labour hours depends on the employer. The Labour Inspectorate is the national authority with the mandate to oversee labour relations.

STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

Recent research points out how illegal overtime practices occur in in the Romanian garment industry.⁷⁶ For example, often, payslips only include standard working hours, since overtime

74 The unevenly working time is functional and effective only if expressly stated within the individual labour contract. An individualized working schedule is legal only in compliance with the negotiated conditions and regulated by collective bargaining agreements.

75 There are no legal specific provisions for overtime payment applicable in case of piece rate workers, but only clear general rules about the working time and the cumulative conditions under which overtime may be legally performed and paid.

76 <https://www.cleanclothes.org/livingwage/stitched-up-factsheets/stitched-up-romania-factsheet>

Overtime is not paid at the legally prescribed rate; it is paid as a continuation of the normal piece rate with a cash coupon of 2.10 Euro for Saturdays. Moreover, refusal of overtime can create tensions with management or supervisors. The authors of the study recommend buyers to analyse and adapt their price structure in order to make sure that the actual price they pay to the supplier allows for these wage hikes; to immediately cease wage theft practices such as not paying overtime according to the law; stealing leave days and overtime to make up the minimum wage; to replace the quota-system with payment per hour, as legally prescribed.

is organised unofficially. Excessive hours of work do impact workers' health, well-being and workplace safety. Non-implementation of the rules can cause unforeseen costs for companies: accidents, injuries, absenteeism, lower productivity, high worker force turnover, or lower product quality, among others.⁷⁷

Working hour registers present gaps and give little information related to effective working hours, distribution of weekly hours of work and overtime payment.⁷⁸ Usually, statistics refer to data officially provided by companies to the Labour Inspectorate, but they are not always accurate. There is unfair interpretation of certain legal provisions related to working time,⁷⁹ overtime and/or payment of overtime, or cumulated jobs for the same worker.⁸⁰

Employees are often unaware of their rights. According to BNS union findings over 18% of Romanians perform overtime on a voluntary basis.⁸¹ Only 1% of employees can establish their own schedule and 8% can change it, if needed. These figures were collected at the same time when over 30% of top managers declared that employees have a flexible schedule.

FWF MAIN AUDIT FINDINGS OVER THE LAST THREE YEARS

FWF audit reports show that factories are not transparent regarding overtime hours. These hours are not always registered in the official books. Also, overtime hours are not paid according to local laws.

77 http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/publication/wcms_300463.pdf
http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/meetingdocument/wcms_311155.pdf

78 http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_235054.pdf

79 There is no condition that the total amount of hours worked under various labour contracts executed at the same time should not exceed the stipulated maximum duration of working time. Working time is not defined as the sum of the periods of time worked under all contracts, but as time worked under each separate contract.

80 http://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-budapest/documents/publication/wcms_219711.pdf

81 <http://www.clujtoday.ro/2010/11/30/studiu-bns-aproape-jumgtate-dintre-angajayuii.html>

6.7. Safe and healthy working conditions



"A safe and hygienic working environment shall be provided, and best occupational health and safety practice shall be promoted, bearing in mind the prevailing knowledge of the industry and of any specific hazards. Appropriate attention shall be paid to occupational hazards specific to this branch of the industry and assure that a safe and hygienic work environment is provided for. Effective regulations shall be implemented to prevent accidents and minimize health risks as much as possible (following ILO Convention 155). "Physical abuse, threats of physical abuse, unusual punishments or discipline, sexual and other harassment, and intimidation by the employer are strictly prohibited."

OFFICIAL STATISTICS ON COMPLIANCE

In 2013, both the number of controlled companies and the number of verification missions by the national labour inspectorate decreased compared to 2012.⁸² In the controlled companies there were 2 504,635 employees. In total OHS controls were performed at 70 683 companies, a decrease of 1.82% from 2012.

According to the Labour Inspectorate's latest reports, the frequency index (number of accidents per 1 000 workers) of individual accidents recorded for the garment industry was 1.31% in the first three months of 2014.⁸³

LAWS AND REGULATIONS

The Law for occupational safety and health provides the general framework for improving worker safety and health. The law sets the general principles concerning the prevention of occupational risks, the protection of the health and the safety of workers, the elimination of risk and accident factors, as well as the information, consultation, balanced participation and training of workers and their representatives. The government decision regarding surveillance of workers' health establishes the minimum requirements for surveillance of workers' health from risks to occupational disease, for prevention of illness caused both by harmful chemical, physical, physico-chemical and biological agents at workplaces and the overloading of various organs or systems of the human body during work. There are other laws that seek to ensure safety from fire, and against endangerment from security issues, such as robbery.

The European Survey of Enterprises on New and Emerging Risks – Managing safety and health at work indicates that a lack of time, awareness, staff, money, expertise, sensitivity, technical support or guidance – are all major challenges in dealing with Occupational Safety and Health (OSH). Often, those most affected are employees working in micro and small businesses.

⁸² http://www.inspectmun.ro/site/RAPORT%20ANUAL/Raport_2013/RaportIM_2013.pdf

⁸³ http://www.mmuncii.ro/j33/images/buletin_statistic/conditii_TI2014.pdf

STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

Regarding psychosocial risks including work-related stress, violence or threat of violence, and bullying or harassment, Romanian employees show high levels of concern for all three risk types.⁸⁴ Managers indicate time pressure as the most important cause of psychosocial risks, followed by job insecurity, poor cooperation between colleagues and poor communication between management and employees.

Business owners and managers comply with OHS measures mostly because of economic or performance related reasons, requirements from clients and, finally, pressure from the labour inspectorates. The available national approaches confirm that the core issue of concern is insufficient knowledge, awareness and responsibility from business owners, managers and staff.⁸⁵ Common European issues such as an aging population and social dialogue on safe and healthy working conditions are not subjects of interest in most companies.

FWF MAIN AUDIT FINDINGS OVER THE LAST THREE YEARS

FWF audit reports show that the main health and safety issues in Romanian garment factories audited are related to building and fire safety.

WORKER COMPLAINTS RELATED TO 'SAFE AND HEALTHY WORKING CONDITIONS'

FWF's complaints procedure serves as a safety net. When a complaint is filed, FWF informs the member(s) sourcing from the factory in question and investigates the complaint. All the complaints are published on the FWF website.

On 19 September 2014, FWF received a complaint related to the labour standard 'Safe and healthy working conditions' from a worker at a factory supplying a FWF member. The complainants, currently employed by the factory, claimed that workers were physically prevented from leaving the factory during working time. In case of emergency, exit routes were insufficient. The two staircases open for workers were quite far away from certain working places. FWF required the FWF member to help the factory set a clear path to all factory exit doors, which also need to be open during production. FWF highly recommended the FWF member to promote the Workplace Education Program (WEP) implementation at the factory, to stimulate dialogue between factory management and workers.⁸⁶

84 https://osha.europa.eu/en/publications/reports/esener1_osh_management

85 <http://ucssmr.ro/servicii/>, <http://www.arssm.ro/Despre%20noi%20-%20ARSSM.html>, <http://www.apssmt.ro/>, Guidelines for training in safety and health at work, available at <http://www.ucecom.ro/romana/btc.htm> at section "2. Ghiduri", https://osha.europa.eu/ro/practical-solutions/ro-good-practice_2009.pdf

86 See more in the complaints section of the FWF website

6.8. Legally-binding employment relationship



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

OFFICIAL STATISTICS ON COMPLIANCE

Since work without legally binding relations means unregistered activities, the occurrence of this phenomenon can only be estimated.⁸⁷ According to a recent study, there has been an increase in the informal economy in Romania, from 21% of the GDP in 2001 to approx. 31.5 % in 2011. The same study estimates that only 20% of workers in the informal economy in Romania can become formal. In 2010 it was estimated that 2.9 million Romanians, 31.5% of the population, were occupied in the informal economy. By 2011, this number had already grown to 35%.

LAWS AND REGULATIONS

In Romania, each person is guaranteed the right to freely choose their profession and workplace and the right to unemployment insurance. According to the Labour Code, individual contracts may not contain provisions contrary to, or below the minimum set by legislation or by collective agreements.⁸⁸ The Labour Code also stipulates the legally binding conditions for temporary employment by an agent. Agents are required to keep records of temporary employment contracts in the general register of employees. Employers must communicate vacancies to the county employment agencies. According to law, an exception to a written contract can be made for activities carried out occasionally by day workers. Nevertheless, they day workers must be included in the registry for day labourers.⁸⁹

There is an extensive pension and social security system which covers retirement age pensions, early and partial early retirement, disability, and survivorship pensions. The employer must declare, calculate, withhold and pay the social security contributions and individual contributions for unemployment insurance due by their employees.⁹⁰ Social security contribution rates are differentiated according to working conditions. The share of individual social insurance contributions also includes the contribution rate related to the private pension funds. Social

⁸⁷ <http://ascr.ro/dialog-social/wp-content/uploads/2013/06/Analiza-mmft-final.pdf>

⁸⁸ Moreover, Government Decision no. 600/2007 for the protection of young people at work stipulates the specific legal conditions for employing children and youth, which apply to any person under the age of 18 who performs work due to an individual labour contract concluded within the legal conditions in force. In terms of specificity, Law on apprenticeship at work no. 279/2005 refers to focus on training and instructing at work.

⁸⁹ Volunteering is based on a contract concluded in writing in Romanian between the volunteer and the host organization, which must be recorded in the register of volunteers and kept by the host organization in accordance with their internal regulations.

⁹⁰ About the payment of contribution rates, see also and Title IX ^ 2 - Compulsory social contributions - Law no. 571/2003 regarding the Fiscal Code.

assistance benefits are seen as a form of supplementing or replacing income for individuals/family earned from work, to ensure a minimal standard of living as well as a form of support in order to promote social inclusion.⁹¹

STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

Undeclared work is generated and fostered, among other things, by bureaucracy, excessive and high levels of fees, taxes and social contributions payable by both employee and employers.⁹² In practice, labour relations are masked by concluding types of contracts other than labour contracts, which do not accurately reflect the real situation and have different legal effects. Another serious concern is that in many cases, employees are not even aware of the consequences.⁹³ Although positive effects were seen after strengthening the sanctioning measures and enlargement of the role and functions of the labour inspectors,⁹⁴ the stakeholders conclude that the situation is often a vicious cycle and in order to break it, complex measures are required for all causal factors.

Working conditions in the textile and garment industries and some industry practices can be particularly challenging, especially for female workers.⁹⁵ Practices like informal and home-based work, low wages, the lack of equal pay for work of equal value, long and unpredictable working hours, weak collective bargaining opportunities, and safety concerns, make it difficult to combine family responsibilities with work. They also make workers vulnerable to exploitation inside and outside their workplaces. Field research confirms why Romania is no exception to industry trends that limit the ability of individuals to find legally binding work.⁹⁶

FWF MAIN AUDIT FINDINGS OVER THE LAST THREE YEARS

FWF audit reports show that the activities stipulated in the job do not always comply with the complex work performed by employees.

91 According to Law no. 416/2001 for granting guaranteed minimum income established as of the January 2014, that is 141.5 RON for one person; 255 RON for 2; 357 RON for families of 3; 442 RON for families of 4; 527 RON for families of 5; and an additional 36.5 RON for each person after the 5th – all calculations were done by the authors of this study by multiplying the legal fractions with the reference social indicator in force in 2014.

92 http://www.hr-club.ro/portalarclub/bibliotecavirtuala/Raport_Legislatie-final-CC.pdf

93 About 75% of workers in the informal sector declare they have individual labour contracts for undetermined period, but could not present any evidence in this regard. Regarding wages, only 12.4% knew that the last paid sum according to the official registers and payrolls is less than the real salary.

94 http://www.fes.ro/media/publications/wcms_219732.pdf

95 http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/publication/wcms_300463.pdf

96 See <https://www.cleanclothes.org/livingwage/stitched-up-factsheets/stitched-up-romania-factsheet>, http://www.inspectmun.ro/site/RELATII%20DE%20MUNCA/Controale_2014/IAN_SEP%202014.pdf and http://adevarul.ro/locale/vaslui/foto-video-greva-fabrica-incaltaminte-husana-suntem-incuiati-tratati-sclavi-1_543f98a40d133766a8fbd9e/index.html

SOURCES USED IN THIS COUNTRY STUDY

This information was gathered by Alexandra-Elena Stângaciu (Legal adviser) and Titina Rusu (Specialist in social communication and public relations). The study was prepared through gathering information about national laws and local stakeholders' views on labour issues in the garment industry in Romania. In addition to this, FWF has gathered information from international recognized sources on the economic, social, political and human rights situation in the country.

Nevertheless, during 2011 - 2014, when FWF social verification audits were in process, many local stakeholders opened up and facilitated the social dialogue and improving the working conditions in their area of activity. Therefore, this study summarises the significant technical support from the consulted local stakeholders.

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

I. GOVERNMENT/PUBLIC AUTHORITIES

Ministry of Economy - national institution that deals with strategies for the stimulation of the economy:

<http://www.minind.ro/>

Ministry of Labour, Family and Social Protection for the Elderly - national institution that deals with employment policies and social security:

<http://www.mmuncii.ro>

Labour Inspection - specialized body of the public central administration which controls the implementation of the general and special regulations and stipulation in the domain of labour relationships, as well as health and safety at work:

<http://www.inspectmun.ro/site/>

The National Agency for Employment (ANOFM) - develops measures for reducing unemployment and offers services for professional training.

<http://www.anofm.ro/>

The Research Institute for the Quality of Life - member of the European Consortium for Sociological Research (ECSR):

www.iccv.ro

The National Institute of Statistics (NIS) - specialized central public body for official statistics:

<http://www.insse.ro/cms/en>

The National Research & Development Institute for Textiles and Leather - develops Research, Development and Innovative applicative activities for the textile, clothing, leather and footwear industries

<http://www.certex.ro/en/>

II. EMPLOYERS

National Council of Private Small and Medium Enterprises in Romania (CNIPMMR) – national representative confederation of public utility that provides uniform representation of the interests of Small and Medium Enterprises and the SME employers' movement, both national and international

<http://www.cnipmmr.ro/>

The National Union of Handicraft and Production Co-operatives – UCECOM was founded to assure the representation and promotion of the interests of the co-operators and associated members, as well as to sustain and promote the co-operative principles

<http://www.ucecom.ro/engleza/engleza.htm>

The Federation of Textiles, Clothing and Leather (FEPAIUS) is the only organization recognized in Romania that represents the business community and operators of textile, knitwear, garments, leather and footwear

<http://www.fepaius.ro/>

III. TRADE UNIONS

National Union Block – BNS – is a trade union confederation, nationally representative, which is based on enterprise workers, business associations, public institutions, etc. organized in trade unions affiliated to the NBS

www.bns.ro

National Trade Union Confederation "Cartel ALFA" – has as fundamental objective to strengthen the Romanian democratic society, to protect and promote the interests of workers and social justice

www.cartel-alfa.ro

Trade Union Federation UNICONF – <http://www.industrial-see.ro/etu-see/afilieri.php>

ConfTex Union – <http://www.industrial-see.ro/etu-see/afilieri.php>

Light Industry Workers Federation – CONFPELTEX

<http://www.industrial-see.ro/etu-see/afilieri.php>

Syndex Romania – a branch of Syndex since 2010, conducts economic and social surveys for trade unions and employee representatives

<http://www.syndex.ro/>

IV. LABOUR RELATED NGOS

Comitex is a non-profit non-governmental, private legal person created in order to develop the human resources and training employees in Textile-Clothing-Leather-Shoes industry:

<http://www.imipqnet.ro/autoritati/comitetul-sectorial-ramura-textile-confectii/>.

Romanian Cluster Association – created for adapting the economic policy into a “Four clover” model: companies; universities and research institutes; local and regional public authorities; consulting firms specialized in the technological transfer and innovation field, technological transfer centres:

<http://clustero.eu/romanian-cluster-association/>

The “Romanian Textile Concept” is a professional association established in 2011 through the unconditional agreement between 10 companies, manufacturing companies having long tradition in the garment, knitwear, footwear and leather goods industry from the Bucharest-Ilfov area:

<http://clustero.eu/romanian-textile-concept/>

Friedrich Ebert Foundation (FES) – its scope in Romania is to promote democracy and the legal state, as well as the development of an active civil society in order to contribute, by social justice, to the transformation of society. FES supports the European ideals and the regional and global cooperation

www.fes.ro

The Foundation for the Development of Civil Society (FDSC) is a nongovernmental, independent organization established in 1994 under an initiative of the European Commission as an “organization for organizations”, who believes that the development of the NGO sector is itself an indicator of the status of the community in which citizens live

<http://www.fdsc.ro/>

V. INTERNATIONAL STAKEHOLDERS

International Labour Organization (ILO) – its main aims are to promote rights at work, encourage decent employment opportunities, enhance social protection and strengthen dialogue on work-related issues

<http://www.ilo.org/global/lang--en/index.htm>

IndustriALL Global Union represents 50 million workers in 140 countries in the mining, energy and manufacturing sectors and is a force in global solidarity, taking up the fight for better working conditions and trade union rights around the world. IGU challenges the power of multinational companies and negotiates with them on a global level; it fights for another model of globalization and a new economic and social model that puts people first, based on democracy and social justice.

<http://www.industrialunion.org/about-us>