

## **The Fair Wear Foundation**

### **Background Study of the working conditions in the garment sector in Ukraine**

*December 2007*

Fair Wear Foundation  
P.O. Box 69265  
1060 CH Amsterdam  
The Netherlands  
Tel: +31 - (0)20 - 408 42 55  
Fax: +31 - (0)20 - 408 42 54  
e-mail: [info@fairwear.nl](mailto:info@fairwear.nl)

## CONTENTS

1. Introduction.....	4
1.1. Working methods .....	4
1.2. Sources .....	5
2. The garment industry in Ukraine .....	6
2.1. Areas where garments are produced .....	6
2.2. Statistical data on garment production .....	8
2.3. Raw material.....	10
2.4. Description of types of garment production .....	10
2.5. Description of the supply chain/production network.....	11
3. Description of the industrial relations and labour conditions in the Ukrainian garment industry .....	14
3.1. General background .....	14
3.2. Unions activities .....	15
3.3. Employers .....	16
3.4. Other .....	16
4. The labour standards.....	17
4.1. Employment is freely chosen .....	20
4.1.1 Laws and Regulations.....	20
4.1.2 Compliance situation.....	20
4.1.3 Guidance for auditors .....	20
4.2. Discrimination in employment.....	21
4.2.1 Laws and Regulations.....	21
4.2.2 Compliance situation.....	22
4.2.3 Guidance for auditors .....	22
4.3. No Exploitation of Child Labour.....	23
4.3.1 Laws and Regulations.....	23
4.3.2 Compliance situation.....	24
4.3.3 Guidance for auditors .....	24
4.4. Freedom of Association and the Right to Collective Bargaining.....	25
4.4.1 Laws and Regulations.....	25
4.4.2 Compliance situation.....	30
4.4.3 Guidance for auditors .....	30
4.5. Payment of a Living Wage .....	31
4.5.1 Laws and Regulations.....	31
4.5.2 Compliance situation.....	34
4.5.3 Guidance for auditors .....	36
4.6. No Excessive Working Hours .....	37
4.6.1 Laws and Regulations.....	37
4.6.2 Compliance situation.....	42
4.6.3 Guidance for auditors .....	42

4.7. Health and Safety .....	43
4.7.1 Laws and Regulations.....	43
4.7.2 Compliance situation.....	43
4.7.3 Guidance for auditors .....	44
4.8. Legally Binding Employment Relationship .....	45
4.8.1 Laws and Regulations.....	45
4.8.2 Compliance situation.....	52
4.8.3 Guidance for auditors .....	52
Documentation. ....	53
5. Partner Network.....	54
6. Auditing .....	61
6.1. Auditing practices.....	61
6.2. FWF audit teams.....	61
7. Appendices.....	62
7.1. Audit report on equal remuneration in Ukraine(translated).....	62
7.2. Official list of difficult, harmful and dangerous .....	63
7.3. List of employers` federations which signed the General Agreement.....	64
7.4. Trade journals and useful web sites .....	65

## 1. Introduction

Fair Wear Foundation verifies that companies that are "member of the Fair Wear Foundation" monitor and if necessary improve the labour conditions at the garment factories where they source garments from.<sup>1</sup>

To be able to verify the implementation of the Code of Labour Practices, Fair Wear Foundation operates in various countries where garments are being produced. In these countries, a network of partner organisations is set up. For a more detailed description of FWF's method of working, one is referred to the FWF policy document "Principles and Policies", May 2002, which is posted on the FWF web site, [www.fairwear.nl](http://www.fairwear.nl).

Whenever FWF starts to operate in countries where garments are being produced for FWF (prospective) member companies, the first step is the make a background study for members of FWF.

For the background study of the working conditions in the garment sector in Ukraine a number of representatives of various interest groups and potential FWF partners have been approached. From this it has become clear that a structure for safeguarding employee rights and labour conditions is in place in Ukraine. At the same time the relevant institutions and organisations have in general been reluctant to cooperate in this study. Argumentations range from a lack of time, fear of providing facts to simple silence. This causes some blind spots in this study. It is important to note however that the reluctance to provide information should by no means be interpreted as a way of covering up one situation or the other. It appears to be more related to unfamiliarity, red tape and in some cases disinterest, for a topic that only recently has become an item that should be paid attention to in a formal, structural way as a result of Ukraine ambitions to become a member of the WTO and its desire for closer ties with the European Union.

This study has four different parts, serving four different purposes:

- 1 A description of the status of the textile industry in Ukraine, including the most recently made available statistics.
- 2 An overview of current legislation relevant to ILO conventions.
- 3 An overview of current legislation on H&S laws and regulations.
- 4 An inventory of potential FWF partners is presented, with for each an assessment of their perceived readiness to co-operate in the relevant fields.

### 1.1. Working methods

This report is based on desk research and interviews with local organisations, and has the character of a rapid appraisal, not an in-depth research. General sources were used when available. Also the most recent national statistics concerning the garments industry in Ukraine are used, with some assessment on the reliability of these given the relatively large role the informal economy plays in the Ukrainian economy in general. The information received during the audit training held in July 2007 and during the first audits in September and December 2007 is included.

---

<sup>1</sup> For a more detailed description of FWF's method of working, one is referred to the FWF policy document "Principles and Policies", which is posted on the FWF web site, [www.fairwear.nl](http://www.fairwear.nl), under Documents & Downloads.

## **1.2. Sources**

The most important organisations among those that are likely to become members of FWF's Partner Network, such as trade unions and labour related NGO's, were visited and interviewed. Also information from the state statistics committee is used as well as publicly available information from various sources.

*This study is a working document. Parts of the Background study related to practical examples and contact information can be updated at any time.*

*The study was written by AJK Trade & Investment Consultancy (Kiev). Olga Bondar (FWF) was responsible for the editing.*

## 2. The garment industry in Ukraine

The Ukrainian textile industry has made a slow recovery after its near collapse after Ukraine became independent in 1991. The main problem influencing its rate of growth is the extent to which it can satisfy the qualitative and quantitative demands of its local and foreign clients. Added to this the import tariffs applicable to textile imports are reduced since 3 years. On the other hand the increase in production cost in neighboring, newly EU, countries makes Ukraine an attractive country for various kind of production, including textile, because of the country's low wage level. Whereas very large orders are still easier completed in the Far East, Ukraine seems to be developing in a direction where it can position itself as a good location for the outsourcing of production of smaller quantities and more complex items that require a relative high amount of manual labor. It can be expected that more Western companies will outsource their textile production to Ukraine in the near future and that especially Western Ukraine will benefit most from this. In recent years some Western textile firms have already started relocating production facilities to Ukraine from neighbouring East European countries.

In spite of the attractiveness of Ukraine for foreign clients, the Ukrainian textile industry as a whole has shown decreasing figures for 2006. The production in ready-made garments went down by 5,8%. The decrease can be explained for a large part by the bankruptcy of large companies like "Rivnelon" (Rivne city), "Lonoteks" (Zhitomir city) and the "Cotton industrial complex of Herson" (Herson city).

Summarized the main problems of Ukraine's textile industry are the following:

- Cumbersome export/import procedures.
- The legislation related to temporary import of raw materials (high taxation rate and bureaucracy).
- Lowered import tariffs on textile products and illegal imports.
- Low purchasing power of Ukrainian population.
- Relatively high cost of raw materials.
- Inaccessibility of long-term credit.
- Decreasing availability of local raw materials and increasing dependence on imported raw materials.
- Low wages and a drastically decreasing availability of young textile workers.

In order to improve the situation the government has initiated a program for the development of the textile industry until 2011. The main goals of this program are as follows:

- To create a long-term market model for the development of the Ukrainian textile industry in accordance with all WTO (World Trade Organization) demands and standards.
- To improve the forms and methods of state management in the textile industry.
- To create favorable conditions for the development of the internal market and for exports.
- To develop the scientific and technical aspects of the textile industry.
- To facilitate the introduction of new equipment and technology.

### 2.1. Areas where garments are produced

Based on production figures for the textile industry it is clear that a number of regions play a significantly more important role than others. The production figures for the most prominent regions are listed below.

Table 1 Volume of output of textile enterprises per region for 2006

Region	Produced for 2006 in UAH 5 UAH=1\$	Price (without VAT and excise), thous.hrn.
AR Crimea	3709.63	2033.5
Vinnitsa	935.64	1059.76
Volin	1089.17	7742.9
Dnipropetrovsk	5128.79	14034.23
Donetsk	25133.73	64072.95
Zhitomir	51101.71	66517.02
Zakarpatskiy	8738.23	16617.8
Zaporizkiy	691.48	19211.33
Ivano-Frankovsk	8334.92	16419.82
Kirovograd	490.83	901
Kyiv	5821.32	31777.53
Lougansk	2057.43	8625.8
Lviv	13677.47	42639.05
Sevastopol city	15.85	794.1
Kyiv city	3174.55	32032.05
Mikolaiv	1363.05	2679.75
Odessa	5418.02	5449.41
Poltava	717.9	3307.29
Rivno	1294.79	4753.77
Sumi	1433.76	10183.98
Ternopil	22665.09	25393.8
Kharkiv	8589.12	35517.67
Kherson	1330.02	2683.7
Khmelnitsk	1096.57	260.47
Cherkasi	9149.68	17884.1
Chernivtsi	538.21	374.93
Chernigiv	11144.57	102239.7

\* This is statistic data on volume of output (production volume) per region taking into consideration only production mentioned in Table 2. Source: Ukrainian State Statistics Committee

From this table it is clear that the Western Ukraine and Kiev region are the most important regions for the production of textile. The main reason for high production in the Western Ukraine is the wages. Compared to the rest of Ukraine wages are 30% below the Ukrainian average and nearly 50% lower compared to some eastern regions (see also table 9). Secondly, the proximity to Ukraine's western border plays an important role. Many West-European companies have their production outsourced in these regions. Transport cost and transit time to Western Europe are relatively low.

There are different reasons for the importance of Kiev region. Firstly, there is a large consumer base in this area. Secondly, Kiev lies relatively central for distribution across Ukraine. Thirdly, some foreign clients prefer to disregard the advantages of Western Ukraine and choose for outsourcing in the Kiev region because of easy access through the national airport. The Eastern Ukraine is less popular, however some clients choose these regions for the fact that import and export can be done through sea ports at the Black Sea and Sea of Azov.

## 2.2. Statistical data on garment production

The data available is based for a large part on statistics supplied by the Ministry of Statistics. Given the imperfectness of the data collection system in Ukraine, and a significant grey economy, the figures are to be seen as an indication of the direction in which the industry is moving, rather than a 100% accurate representation of the current situation.

The output dynamics of the Ukrainian textile industry are shown below.

Table 2 Dynamics of production volumes of the Ukrainian textile and garment industries

Code	Name of goods	Produced for			
		2003	2004	2005	2006
17.10.20.400	Flax, t	8071.02	13113.3	11295.56	10716.6
17.10.45.530	Woolen threads, kg	0	25098	9857	0
17.20.10.400	Flax cloth, thous.m2	34.9	3649.5	467.4	437.7
17.20.20	Woolen cloth, thous.m2	34427.95	45072.7	52988.54	42719.2
17.20.31	Synthetic cloth, thous.m2	27139.6	33532.34	41830.4	42081.3
17.71.10	Tights, stockings, knee-highs, socks and other leg wear garment, thous. Pairs	43255.12	51354.47	55525.58	53824.9
17.72.10	Sweaters, pullovers, jumpers, vests and similar garments, including thin sweaters, knitted, thous. pieces	6324.03	5008.64	4964.4	4752.33
18.22.24.400	Trousers, overalls, breeches and shorts (except bathing), for men and boys, thous. pieces	6503.6	8222.55	7369.8	6921.31
18.22.31.100	Coats, raincoats, anoraks, jackets and similar wears for women and girls, thous. Pieces	3277	3636.95	3345.66	2673.87
18.22.34.700	Dresses and sun-dresses for women and girls, thous. Pieces	1167.44	1216.22	1262.55	905.38
18.23.11	Shirts and shirt-sleeved shirts, knitted, for men and boys, thous. Pieces	241.6	112.3	391.63	403.94
18.23.13	Blouses, shirts and shirt-sleeved shirts, knitted, for women and girls, thous. pieces	2256.4	1423.18	3179.19	4343
18.30.12.010	Coats, short coats and fur coats, pieces	11228	10356	14505	11185
18.30.12.050	Jackets and vests made of fur, pieces	2572	2160	1496	3119

Source: Ukrainian State Statistics Committee

According to the Ukrainian State Statistics Committee the structure of the Ukrainian garments export is as follows:

Germany	50%
USA	14%
France	9%
Other countries	27%

A division by type of product is shown in table 3.  
Table 3 Export of Ukrainian textile production (2006)

Code	Name of goods	Quantity	Unit.	Price, thous.\$
	<b>Raw materials</b>			
5200000000	Woolen sewing threads and woolen cloth:	915216.2	kg	3893.33
5203000000	Wool	95817	kg	278.13
5301000000	Flex fiber:	9384618	kg	6848.94
5309000000	Flex cloth:	58467	kg	352.32
5400000000	Synthetic yarn (except sewing) not for retail sale, including artificial and synthetic monothreads with titer (linear density) less than 67 decimates and synthetic cloth, produced from commodity materials 5404, 5405:	10944068	kg	32919.59
5510000000	Synthetic cloth	382236	kg	3238.48
	<b>Ready made articles</b>			
6105000000	Shirts and shirt-sleeved shirts, knitted, for men and boys:	3038	kg	40.89
6106000000	Blouses, shirts and shirt-sleeved shirts, knitted, for women and girls:	854147.5	kg	11254.61
6110000000	Sweaters, pullovers, jumpers, vests and similar garments, including thin sweaters, knitted:	1584353	kg	26047.73
6115000000	Tights, stockings, knee-highs, socks and other leg wear garment:	453253.6	kg	5010.81
6202000000	Coats, raincoats, anoraks, jackets and similar wears for women and girls, except 6204 wears:	2614905	kg	64395.06
6203000000	Trousers, overalls, breeches and shorts (except bathing), for men and boys:	3310066	kg	62245.06
6204000000	Woman tailored costumes, jackets, dresses, skirts, culottes, trousers, breeches, shorts (except bathing):	6455281	kg	177909.3
4303000000	Fur clothes and garments to fur clothes and other fluff-fur garments:	13401.5	kg	1966.67

Source: Ukrainian State Statistics Committee

The Internal market is under great pressure of legal and illegal imported and local shadow production. The problems of the internal market, where legal domestic commodity production is replaced by foreign and shadow production, have a negative influence on the textile industry's development.

The Ukrainian textile industry is in a troubled state. The financial and economic circumstances of a great number of companies are rather poor. In addition in many companies the equipment is 70-90% written off.

### 2.3. Raw material

In the past Ukraine was one of the main producers of fabrics in the Soviet Union, with factories counting up to 10.000 workers. Due to transition to market economy and opening of borders for import, the most of the factories went bankrupt and were closed.

The production volume of fabrics is now days low in Ukraine. In spite of efforts by the government and new investments by private enterprises the quality and quantity of locally produced fabrics stays problematic. In most cases, the Ukrainian companies are not able to deliver the type and quality of fabrics that are demanded by foreign clients. As a result, garment factories in Ukraine are working mainly with imported fabrics, thus making it very difficult for Ukrainian fabric producers to find a market for their products, in its turn making it difficult for them to generate funds for investment.

An example of successful local fabric production is the “Demitek” Joint-Stock Company (Cotton spinning mill, Poltava). The yarn they produce is sold mostly on the domestic market, and exported to various neighboring countries.

### 2.4. Description of types of garment production

The main types of garments that are produced in Ukraine are shown below (see also table 2).

Table 4: Production volumes of the main types of garments in Ukraine in 2006

Code	Name of goods	Produced for 2006	Price (without VAT and excise), thous.hrn. 5 UAH=1\$
17.10.20.400	Flax, t	10716.6	21411.88
17.10.45.530	Woolen threads, kg	0	0
17.20.10.400	Flax cloth, thous.m2	437.7	2713.1
17.20.20	Woolen cloth, thous.m2	42719.2	72577.1
17.20.31	Synthetic cloth, thous.m2	42081.3	50580
17.71.10	Tights, stockings, knee-highs, socks and other leg wear garment, thous. pairs	53824.9	138677.72
17.72.10	Sweaters, pullovers, jumpers, vests and similar garments, including thin sweaters, knitted, thous. Pieces	4752.33	19729.46
18.22.24.400	Trousers, overalls, breeches and shorts (except bathing), for men and boys, thous. pieces	6921.31	7085.55
18.22.31.100	Coats, raincoats, anoraks, jackets and similar wears for women and girls, thous. pieces	2673.87	58054.63
18.22.34.700	Dresses and sun-dresses for women and girls, thous. pieces	905.38	4352.43
18.23.11	Shirts and shirt-sleeved shirts, knitted, for men and boys, thous. pieces	403.94	167.1

18.23.13	Blouses, shirts and shirt-sleeved shirts, knitted, for women and girls, thous. pieces	4343	2838.19
18.30.12.010	Coats, short coats and fur coats, pieces	11185	32791
18.30.12.050	Jackets and vests made of fur, pieces	3119	576

Source: Ukrainian State Statistics Committee

Ukrainian garment producers can be divided in roughly two categories. First one are privatized former state companies operating often at less than full capacity. These companies will often employ 1000 employees or more. They are specialized in more straightforward production of large volumes. The second category is newly found enterprises with up to 200 employees. The smaller companies specialize in more difficult types of production and offer production of small series. Their business attitude is often more adjusted and focused than at the companies belonging to the first category, although there are exceptions in both categories. Next to it there are small garment ateliers with up to 10 workers.

Most equipment used at Ukrainian facilities is from foreign origin. Brands that are widely used are Durkopp Adler, Juki, Veit, Kannegiesser, Brother, Strobel, Rimoldi, Goffman, Mayer Pfaff and Indupres. Most of this equipment was still bought under state contracts during the Soviet Union and is up to 20 years old. An estimated 65% of the equipment operating today belongs to this category. The remaining 35% is recently imported equipment either used or new. A major problem with the equipment in general appears to be maintenance of both new and old machinery. Either due to a lack of spare parts or a lack of knowledge.

## 2.5. Description of the supply chain/production network

The Ukrainian garment industry is characterized by decentralization and a large informal part. There are no state-owned garment factories anymore in Ukraine. A lot of companies were closed and others operate under unfavorable conditions. But there are certain companies that do manage to flourish. In many cases, family and ethnic ties with high-ranked chairmen are reasons for their success. In Ukraine such informal ties existed and, for sure, will exist for a long period of time.

A great deal of textile industry enterprises went bankrupt during the last 10-15 years. Others were more successful. These companies invested in modern equipment and marketing strategies. And what is more important, they invested in brand development. One example is the Voronin company, one of the leaders of Ukrainian textile industry. Other successful companies include Teksterno and Tekstil-kontakt.

For this moment there is neither the material nor the financial basis for the overall development of the Ukrainian garment industry. In the first half of 2007 a decline in overall production of 0, 6 % was observed. The favorable location of Ukraine bordering different countries of the EU, relative low production costs, visa free travel and cheap labor create a basis for development, but only in isolated cases the potential is realized. Examples include JSC "Ukraine" which sells goods to Germany, Czech Republic, Slovenia, Hungary, Poland and the "Cherkassi Silk Complex" which sells silk to the USA, Czech Republic and Denmark. In this way Ukraine slowly becomes a link in the global garment industry.

The most production for the foreign customers is CMT-organized. For the local market there are brands which produce their own collections, sometimes also exporting their collections to the neighboring countries.

Marketing and branding activities become more and more important to local producers.

A good example is the Volodarka factory in Vinnitsa region. Volodarka factory is one of Eastern Europe's leading men's tailoring companies. It not only manufactures for both the domestic and export (75%) markets, but it is also developing a retail network in the main cities of eastern and central Ukraine. `Volodarka` is the name of the town where the factory is situated. It employs almost 2,000 people and produces around 2,000 men's jackets per day and 1500 trousers per day. Volodarka produces garments for well-known European men's clothing brands like Hugo Boss. Here, the customer provides the patterns, fabrics and trims. Volodarka grades the patterns and submits these for approval before cutting. A continuous investment programme has resulted in Volodarka becoming one of the leading clothing companies within Ukraine today.

One more example of a progressive Ukrainian garments manufacturer is the Voronin concern, also having its own factories, store chain and specific marketing approach through its own well known brand. Their factories are equipped with modern equipment. Their distribution in Ukraine is done through a company owned nation wide sales network.

Some companies subcontract production to Germany, France, Belgium, Poland, Hungary, Czech and CIS countries. It concerns here the parts that require more technically advanced machinery.

Investments in privatised companies come from local investors that are producing for the local as well as export markets. As the Ukrainian economy starts to gain momentum, investors are beginning to find the garment industry interesting for their investments. (However this can also have a down-side: profit making garment factories sometimes become a target of criminal attacks to extract money from the owners or to impose takeover of the factory.)

Foreign investments in textile industry in Ukraine are growing, see table 5.

Table 5 Direct foreign investments in Ukraine's textile industry 2006

Region	Total non-resident capital in Ukraine for the end of the period, thous.\$
AR Crimea	1577.34
Vinnitsa	401.29
Volin	245.34
Dnipropetrovsk	2912.17
Donetsk	2250.7
Zhitomir	3962.63
Zakarpatskiy	21822.54
Zaporizkiy	9.45
Ivano-Frankivsk	18688.91
Kirovograd	407.07
Kyiv	4812.42
Lugansk	600.9
Lviv	26090.24
City Kyiv	3206.87
Mykolaiv	57.16

Odessa	2266.54
Poltava	246.15
Rovno	227.94
Ternopol	5008.57
Kharkiv	2500.33
Kherson	53.07
Khmelnitsk	4107.23
Cherkassi	696.56
Chernovtsi	2885.42
Chernigiv	170.38

Source: Ukrainian State Statistics Committee

The prospects for the further development of the Ukrainian garment sector for export is in general positive. Through the experience gained working for foreign clients the quality of local production has increased significantly. Quotas on Ukrainian garment exports have been lifted in April 2004. It enables foreign companies interested in outsourcing their production in Ukraine to better plan their operations. At the same time, as the abolishment of the EU quota's went hand in hand with a better access of EU garments into Ukraine, local producers are stimulated to pay more attention to the quality of their products which in the end can result in them becoming more attractive still as a potential outsourcing partners. Currently however, on the local market they are still struggling to cope with the reality of free trade.

An interesting initiative aimed at modernizations of Ukraine's garments industry is The Guild of Ukrainian Clothes Manufacturers whose primary goals are the representation of the interests of export oriented Ukrainian textile and garments companies and the organization of seminars for its Ukrainian members about organization of production, design and major fashion trends, marketing, cost management and modern technologies.

### 3. Description of the industrial relations and labour conditions in the Ukrainian garment industry

Employment conditions in Ukraine are governed by the Labour Code, which dates back to the time when Ukraine was still part of the Soviet Union. It contains many articles aimed at protection of employees. Although employers can enter into individual contracts with employees, the terms of these contracts have to comply with the Ukrainian Labour Code. The Code itself is enforced. When problems arise, they are usually directly sent to court, instead of approaching other relevant institutions.

Currently a new Labour Code is being developed in cooperation between the government, employers' federations, labour unions and international experts. In several fields significant strides forward are expected. The signing of a detailed contract, instead of simple decree, with each individual employee should become compulsory. The exceptions are health and safety issues where an old style approach with outdated norms and standards will probably stay. The main reason for the latter is said to be that the relevant organs are in this way protecting their own bread-wining – they have a dubious reputation of excessive inspecting and fining.

In general the relationship between employers and employees in Ukraine is relatively stable with the majority of employees being a member of a trade union and a large part of the companies being part of one of the few employers' federations. Only recently a movement has started for the formation of a separate national light industry employers' federation, to which also textile enterprises are likely to subscribe. On a local level small light industry employers' federations are said to exist, but exact data on them could not be provided by any of the sources for this study.

Labour conflicts are growing in number each year. Reasons for labour conflicts can be the following:

- Non payment of salary
- Violation of bargaining agreement
- Problem with pension provisions
- Violation of rules concerning the keeping of the employees "work books".
- Bad labour conditions
- Overtime work and work on weekends

In case disputes between worker and employer can not be set peacefully, the cases are fought out in Court.

#### 3.1. General background

The workforce for the Ukrainian garment industry is usually recruited locally/regionally. No examples of migrant or child labour could be given by our sources, they are basically said not to be an issue in Ukraine.

Ukraine has vocational schools for different industries, including the garment industry. Each of the 24 regions of Ukraine has its own vocational school. However most of the employees simply come from various backgrounds through the Centre of Employment. Nowadays due to low wages there is a growing problem to find employees for the garment industry.

The level of unionisation in the garment industry is said to be 90%. The most important federation is The Federation of Trade Unions of Ukraine (see detailed description in chapter 5). 'Yellow'/employer-driven trade unions are said to be absent. Employees are free to join a trade union of their choice if they wish (Constitution of Ukraine Article 7 "On trade unions,

their rights and guarantees of activity). Trade unions do confirm this. The employers are even said to favour employees to join because they prefer to sign collective bargaining agreements through the unions.

Table 6 Overall demand and supply of labour force in Ukraine in 2007 (at the end of reference period) Ukrainian State Statistics Committee

	Non-working individuals who turned to the State Service of Employment, thousands persons	Demand on labour force, thousands persons	Supply of non-working population per 1 vacant work place, vacancy, persons
January	823,2	177,7	5
February	838,2	174,4	5
March	803,1	194,6	4
April	757,4	200,7	4
May	707,7	212,4	3

Ukrainian State Statistics Committee

Unemployment rate differs from region to region. The highest unemployment rates are in Western and Southern regions. The situation is much better in Northern and Eastern regions (the industrial regions); and also in the capital Kyiv.

Table 7 Registered overall unemployed in 2007, by sex and place of residence (at the end of reference period, thousands persons)

	January	February	March	April	May
<b>Total</b>	<b>790,2</b>	<b>812,8</b>	<b>781,6</b>	<b>733,8</b>	<b>690,3</b>
females	468,8	479,3	468,7	445,8	419,5
Males	321,4	333,5	312,9	288,0	270,8
urban population	362,3	372,1	363,2	350,8	336,6
Rural population	427,9	440,7	418,4	383,0	353,7

Ukrainian State Statistics Committee

### 3.2. Unions activities

Trade unions are well-established in the labour market in Ukraine. There is a specific law which gives them certain benefits. In accordance with Law of Ukraine "On Trade Unions, their Rights and Activity Guaranties" (Article 43) trade unions are allocated buildings, premises for their activity, (Article 44) and they receive money from enterprises and organisations for performing their work. The largest trade union in Ukraine, the Federation of Trade Unions of Ukraine, has more than ten million members. The Labour Code recognises collective bargaining agreements (CBA), and employers have to accept establishment of a CBA on request of employees. In practise a collective bargaining agreement is signed in most cases. After a CBA is signed it is binding for all employees, also for those that are not a member of a trade union. Monitoring the employer's compliance with the CBA is done by the trade union. For example the trade union has always to give its approval before allowing overtime work. This in accordance with the Law of Ukraine "On Trade Unions, their Rights and Activity Guaranties". Also its approval is required in case of dismissal.

Collective Bargaining Agreements are formed on factory level in Ukraine. In accordance with Law of Ukraine "On Trade Unions, their Rights and Activity Guaranties" (Article 20 "Trade

Unions' rights on negotiating and concluding Collective Bargaining Agreements") CBA's are negotiated jointly by employers, representatives from the Association of Employers, executive power authorities and trade union representatives. There is no legislation on renewing CBAs. Collective Bargaining Agreements are renewed when the validity period of previous one comes to an end (Labour Code (Article 17)).

Trade unions meet with company management on issues like collective bargaining agreements, wage arrears and general employment issues. Trade unions also have the right to initiate changes in the board of directors of a company. Most problems currently arise with wage arrears, followed by unjustified employee dismissals. Health and safety issues are not high on the agenda of the unions. Complaints can be considered by the regional or central committees of the trade unions, but are most often dealt with in court, with union representatives where possible acting in the interest of the employee(s). Union meetings are held both in and outside the workshops. But mainly it takes place during the brakes or after-work time. Union actions are organised, but not often. The union fee is collected by the company accountant. Unions target unregistered workers in nearly the same way as union members.

In general women in the Ukrainian textile industry are said to have little problems with stigmatisation and intimidation by employers. The largest problem is the wage level and the actual payment of wages. Some problems arise occasionally related to pregnancy issues. Cultural barriers that impede women from organising in order to demand better working conditions are absent. In contrary, in many cases Ukrainian women are the more vocal part of the nation. The main result of the activity of trade unions is that collective bargaining agreements are signed almost in all companies, with the exception of small companies/workshops. As a result employees can be relatively confident about keeping their work place. In determining their strategies unions often try to base themselves on international labour standards that are adopted by Ukraine. However in practice specific knowledge and understanding of these standards, and the ILO conventions that go with it, is minimal. Activities of other groups, beside unions, that defend the interest of workers are minimal largely due to the fact the majority of employees are member of a union.

### **3.3. Employers**

Many garment employers are members of a business or employers' association. Only recently separate light industry employers' associations have started to emerge, with a national federation of them being in the process of being registered. The main task of these associations is providing counterweight to the unions and defending the interest of the members when new legislation is being developed or a new CBA is being negotiated. Also initiatives to improve working facilities, increase income and social policy are jointly developed.

For the communication with the employees each company has a separate personnel department.

### **3.4. Other**

Little information about tripartite bodies specifically for the textile sector has come forward during this study, but in general they do exist in Ukraine. For example the minimum wage levels were jointly established by representatives from the government, unions and employers' federations. In the settling of labour disputes the government does hardly offer any structural option. The place of settlement, as mentioned earlier, is usually the court. Only in specific situations the government might take initiatives, especially when the issues become politically sensitive.

## 4. The labour standards

The government of Ukraine prepares annual reports on observation of rules of the ILO Conventions ratified by Ukraine. Such reports are sent to All-Ukrainian associations of employers' organizations and if necessary, may be obtained at the Ministry of Labour and Social Policies of Ukraine.

In this section, each of the Labour Standards that are part of the FWF Code of Labour Practices, are highlighted. An overview is presented below.

Table 8 Labour Standards that are part of the FWF Code of Labour Practices

Paragraph	ILO convention		Ratified by Ukraine (year)
4.1	<i>ILO Convention 29</i>	"There shall be no use of forced, including bonded or prison, labour"	10.08.1956
4.1	<i>ILO Convention 105</i>	<i>"No one has the right to use forced labour as a measure to discriminate against citizens on the basis of race, nationality, religion or social background, including caste."</i>	14.12.2000
4.2	<i>ILO Convention 100</i>	<i>"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"</i>	10.08.1956
4.2	<i>ILO Convention 111</i>	"Discrimination in Respect of Employment and Occupation"	04.08.1961
4.3	<i>ILO Convention 138</i>	"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."	03.05.1979

4.3	<i>ILO Convention 182</i>	<i>"Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. Considering the need to adopt new instruments for the prohibition and elimination of the worst forms of child labour, as the main priority for national and international action, including international cooperation and assistance, to complement the Convention and the Recommendation concerning Minimum Age for Admission to Employment."</i>	05.10.2000
4.4	<i>ILO Convention 87</i>	<i>"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".</i>	14.09.1956
4.5	<i>ILO Conventions 26</i>	<i>"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."</i>	Not ratified
4.5	<i>ILO Conventions 131, the Universal Declaration of Human Rights, art 23(3) and art 25(1)</i>	<i>"Minimum wage fixing Convention Minimum wage can not be lower than a predetermined level."</i>	Not ratified
4.6	<i>ILO Convention 1</i>	<i>"Hours of work shall comply with applicable laws and industry standards. In any event, workers shall not on a regular</i>	Not ratified

*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."*

- |     |                           |  |              |
|-----|---------------------------|--|--------------|
| 4.7 | <i>ILO Convention 155</i> | <i>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). "Physical abuse, threats of physical abuse, unusual punishments or discipline, sexual and other harassment, and intimidation by the employer are strictly prohibited."</i> | Not ratified |
| 4.8 | -                         | <i>"Working relationships shall be legally binding, and all obligations to employees under labour or social security laws and regulations shall be respected."</i>   |              |

## 4.1. Employment is freely chosen

### 4.1.1 Laws and Regulations

**Forced Labour Convention No. 29 (Ratified by Ukraine on 10.08.1956)**

**Abolition of Forced Labour Convention No. 105 (Ratified by Ukraine on 14.12.2000)**

Pursuant to the current legislation rules, the rules of the above-specified Conventions are used in the Constitution of Ukraine (Article 43). It clearly states that it is forbidden to exploit forced labor. No specific legislation exists in Ukraine concerning the recruitment of personnel. A company is free to choose the method it prefers. Interesting examples are those where factories have an agreement with polytechnic institutes and by this agreement enjoy the preference of hiring students from this institute after their graduation.

When a person is employed by a company their “work book” is handed over to the company. The “Work Book” is the basic document for an employee confirming his working activity. The ‘Work books’ are based on the Ukrainian Government resolution dated 27.04.1993 №301 “On employers’ work books”. The ‘Work book’ contains the following information about the employee:

- name and last name
- date of birth
- job description
- information about dismissal
- Information about the transfer to another permanent job

For the legislative rules related to execution and cancellation of an employment contract please see 4.8 – Legally Binding Employment Relationship.

### 4.1.2 Compliance situation

The use of bonded labour is not an issue in Ukraine.

However the harsh economic circumstances in Ukraine may leave workers with little choice of work opportunities. Migrant labour is almost non-existent in the Ukrainian textile industry today. This might change though as the textile industry is starting to suffer from a quite serious personnel deficit in the last years.

There are occasionally some loans to the workers made available by the employer, but no misuse in terms of bonded labour has been detected.

Compliance with the ILO convention 29 is checked by The State Department on Supervision of Labour Legislation Observance.

### 4.1.3 Guidance for auditors

Compliance by FWF auditors can be checked by:

- the decree issued when a person is hired (a “Prikaz”) - a simple document stating that a certain person is hired for a certain position for a certain time. The wage to be paid might not be indicated.
- the necessary registration stamp in the employees passport, showing his place of residence in Ukraine
- work permit, its validity
- individual tax codes for each employee
- records at the local immigration office (OVIR)
- personal records, to be held for each employee
- labour union files

## 4.2. Discrimination in employment

### 4.2.1 Laws and Regulations

**Equal Remuneration Convention No. 100 (Ratified by Ukraine on 10.08.1956).  
Discrimination in Employment and Occupation Convention No. 111 (Ratified by  
Ukraine on 04.08.1961).**

Pursuant to the current legislation rules, the rules of the above-specified Conventions are used in the national laws, in particular:

The legislative rules related to equal labour opportunities and regular remuneration:

**The Constitution of Ukraine stipulates that** the equal rights of women and men are ensured as follows: equal labour opportunities and equal labour remuneration; creation of the conditions enabling women to combine their work and maternity; legal protection, material and moral support of maternity and childhood, including paid leaves and other benefits to pregnant women and mothers. The use of female and child labour for performance of work being harmful for their health is prohibited.

The Labour Code stipulates that the equal labour opportunities be provided to all citizens of Ukraine irrespective of origin, social or economic status, ethnicity or nationality, sex, language, political or religious commitment, type and nature of vocation, place of residence and other circumstances.

Any decrease of labour remuneration depending on origin, social or economic status, ethnicity or nationality, sex, language, political or religious commitment, membership in a trade union or other union of citizens, type and nature of vocation, and place of residence shall be prohibited.

**The Constitution of Ukraine stipulates that** citizens have equal constitutional rights and are treated by the laws on equal grounds.

The equal rights of men and women are ensured by special measures of female labour and health protection, and by establishment of special **pension benefits**:

Religious norms:

**The Constitution of Ukraine stipulates that** citizens of Ukraine have equal constitutional rights and freedoms and are treated by the laws on equal grounds.

Pursuant to the Constitution, any direct or indirect restrictions of rights, or any direct or indirect advantages in signing, alteration, and termination of an employment contract depending on **religious beliefs** is precluded.

Upon suggestion of religious communities of other (non-orthodox) confessions registered in Ukraine, the management of enterprises, establishments, and organizations shall grant to the persons exercising the respective religions up to three days of rest in a year for celebration of their great holidays with the possibility to work such days out.

The legislative rules related to maternity leave:

**Pursuant to the Law of Ukraine** "On Leaves", maternity leave and a leave for caring a child until the age of three fall within the social leaves.

Based on a medical report, women are eligible for receiving a paid leave of absence due to pregnancy and childbirth:

- 1) 70 calendar days before childbirth;
- 2) 56 calendar days after childbirth (70 calendar days in case of twins and labour complications) counting from the day of giving birth.

The persons who adopt a newly born child from a maternity home are given a leave of absence for 56 calendar days from the date of adoption (70 calendar days in case of adoption of twins and more children). In case of adoption of a child (children) by two parents, the said leave of absence may be given to one of parents at their discretion.

Upon expiration of the maternity leave, a woman, if desires, is given a leave for caring a child until the age of three. The leave allowance during this period is paid every month and currently amounts to 140 UAH.

At the expense of own funds, an enterprise may give a longer partially paid leave and a non-paid leave for child caring.

Such leave may be also used by a child's father, grandmother, grandfather, and other relatives who actually take care of the child, or by the person who adopted a child or was appointed a trustee.

At desire of the persons being in such leave of absence for child caring, they may work on the part-time terms or at home. At that, they retain the right to social benefits in the period of leave for child caring.

#### **4.2.2 Compliance situation**

Discrimination issues are known to arise in general in Ukraine when people from the southern former soviet republics are involved. Specific information on this regarding the textile sector was not given by any of the sources for this study, but as migrant labour is almost non-existent today in the Ukrainian textile sector discrimination issues of this kind are not very likely to occur.

The pregnancy related discrimination issues are known to arise in the textile sector. Government legislation is in place though to protect women from this. Compliance is checked by the State Department on Supervision of Labour Legislation Observance. An example of an "audit report" prepared by this organ on the situation of equal remuneration in Ukraine is given in the appendices (4.1) of this report.

#### **4.2.3 Guidance for auditors**

The occurrence of discrimination issues can be verified by FWF auditors by checking:

- The necessary registration stamp in the employees passport, showing his place of residence in Ukraine
- work permit, their validity
- Individual tax codes for each employee
- records at the local immigration office(OVIR)
- general records, to be held for each employee
- maternity leave records
- records of compulsory social payments to women on pregnancy leave
- approval records of the labour union for employees that were dismissed. In many cases the approval of the labour union is necessary in order to legally dismiss an employee.

## 4.3. No Exploitation of Child Labour

### 4.3.1 Laws and Regulations

**Minimum Age Convention No. 138 (Ratified by Ukraine on 03.05.1979)**

**Worst Forms of Child Labour Convention No. 182 (The Convention was ratified by Ukraine by the Law No. 2022-III dated 05.10.2000).**

The legislative rules related to obligatory attending school:

**The Constitution of Ukraine stipulates that** citizens of Ukraine have equal constitutional rights and freedoms and are treated on equal grounds in receiving education and training. Children have equal rights irrespective of origin, and irrespective of their being born in marriage or out of wedlock.

Any violence in respect of a child and child exploitation is prosecuted by the laws.

Everybody has the right to education.

A full general secondary education is obligatory. In accordance with the Constitution of Ukraine there is no age limitation attached to this.

The state guarantees accessible and free pre-school, full general secondary, vocational, and higher education at state and municipal educational establishments; development of pre-school, full general secondary, vocational, higher, and post-graduate education, various forms of education; provision of state grants and benefits to pupils and students.

The citizens have the right to acquire a higher education at the state and municipal educational establishments on competitive terms.

Pursuant to the laws, the citizens belonging to national minorities are guaranteed the right to study in their mother language or to studying their mother language in the state and municipal educational establishments, or through the national cultural societies.

**The Code of Ukraine on administrative delicts stipulates** liability of the parents, or the persons acting for parents, for their avoidance of fulfillment of their obligations, stipulated by the laws, related to provision of the necessary conditions for life, education and upbringing the children under age.

The legislative rules related to the forms of certification of a child's age:

**Family code of Ukraine:**

Registration of childbirth shall be certified by a Certificate of birth with its pattern approved by the Cabinet of Ministers of Ukraine.

**The Labour Code** stipulates that the persons under age have the right to legal labour relations. The persons under age shall be treated in legal labor relations as adults, and in the sphere of labour protection, working hours, leaves and in some other labour conditions shall enjoy the benefits stipulated by the laws of Ukraine.

The persons under sixteen shall not be employed.

As an exception as with the consent of one of the parents, the persons who reached fifteen years may be employed.

For preparing youth to productive labour, the pupils of general education schools, vocational schools, and secondary technical educational establishments may be employed for fulfillment of easy work that is not dangerous for their health and does not interfere with their studies, in the time free from studies – at attaining the age of fourteen and with the consent of one of parents or the person acting for parents.

Each enterprise, establishment, and organization shall have the list the employees under eighteen with specification of the dates of their birth.

The persons under eighteen shall not be employed for difficult jobs and for harmful and dangerous jobs, as well as for underground work.

The persons under eighteen shall not be engaged for lifting and transfer of the objects with the weight exceeding the established norms.

The list of difficult, harmful and dangerous jobs, as well as the limit norms for lifting and transfer of objects by the persons under eighteen shall be approved by the Ministry of Health of Ukraine and agreed with the State Committee of Ukraine for Labour Protection Supervision. Full list of harmful and dangerous jobs can be found in Appendices 7.2.

All persons under eighteen shall be employed only following medical examination and further, before reaching 21, shall be annually subject to obligatory medical examination.

The employees under eighteen shall not be engaged in work at nights, in overtime work and in work of days off.

The performance standards shall be set for the employees under eighteen proceeding from the performance standards for adult worker, pro rata to the working hours established for the persons under eighteen.

The reduced performance standards may be set for the young workers employed by a company, enterprise, or organization after their leaving the general educational schools, vocational establishments, courses, as well as for those who passed industrial training, in the cases, at the rates, and within the periods stipulated by the laws. Such performance standards shall be approved by the owner or by his/its authorized body and agreed with the trade union.

#### **4.3.2 Compliance situation**

A research on child labour is being done in Ukraine by the ILO. The content however is not being made public.

During the first audits in Western Ukraine there were some persons under 18 employed, and some cases of violation of the law in the region existed. It concerned not proper registration of young employees. The law is very strict and clear about the child labour, and the compliance should be checked carefully. Children have the right to work but only under special conditions. It is forbidden to engage children in difficult and dangerous activities. Only children who have reached 15 years are allowed to work and only with their parent's assent. The allowed working day for them is two times shorter than for adults.

Checking compliance in this area is the responsibility of The State Department on Supervision of Labour Legislation Observance.

#### **4.3.3 Guidance for auditors**

The occurrence of child labour issues can be verified by FWF auditors by checking:

- individual tax codes for each employee
- pay slips
- general records, to be held for each employee
- passport copies
- labour union files

## 4.4. Freedom of Association and the Right to Collective Bargaining

### 4.4.1 Laws and Regulations

**Freedom of Associations and Protection of the Right to Organize Convention No. 87 (Ratified by Ukraine on 14.09.1956).**

**Right to Organize and Collective Bargaining Convention No. 98 (Ratified by Ukraine on 14.09.1956).**

The legislative rules related to the right of employees to join trade unions:

**The Constitution of Ukraine stipulates that** citizens of Ukraine have the right to freedom of associations into political parties and non-government organizations for exercising and protection of their rights and freedoms, as well as for satisfaction of their political, economic, social, cultural, and other interests, except for the restrictions established by the law in the interests of national security and public order, health protection of population, or for protection of the rights and freedoms of other people.

The citizens have the right to belong to trade unions for the protection of their labour, social-and-economic rights and interests. The trade unions are non-government organizations uniting the citizens with common interests because of their professional activity. The trade unions are formed without a previous consent based on a free choice of their members. All trade unions have equal rights. Any restrictions related to membership in trade unions are established exclusively by this Constitution and laws of Ukraine.

Nobody may be forced to join any association of citizens, or restricted in one's rights to belong, or not to belong, to political parties or non-government organizations.

All unions of citizens are equally treated by the laws.

The activity of associations of citizens may be prohibited only judicially.

**The Labour Code stipulates** that employees may unite into trade unions.

**Pursuant to the Law of Ukraine “On Trade Unions, their Rights and Activity Guaranties”**

The trade unions are formed for representation and protection of labor, social-and-economic rights and interests of trade union members.

The activity of trade unions is based on the principles of legality and publicity. The information related to their statutory and policy documents is accessible to all.

In case employees are not being a represented by a Trade Union they can also be represented by labor collectives' councils, trade associations and conferences or other authorities that function in frame of labor collectives. These forms of workers' representation have the same bargaining power as a trade Union has.

The citizens of Ukraine are entitled to form trade unions based on their self-determination and without permit, join and withdraw from trade unions on the terms and in conformity with the procedure established by their statutes, and to participate in trade union activity.

Foreign citizens and stateless persons may not form trade unions, but may join trade unions provided it is stipulated by their rules.

The members of trade unions may include persons who work at an enterprise, establishment, or organization irrespective of its property pattern and business, for a natural person who uses hired labour, self-employed persons, as well as the persons studying at the educational establishments.

The citizens of Ukraine are free to join any trade union. An application of a citizen (employee) submitted to the primary organization of a trade union shall be the grounds for joining such trade union. In formation of a trade union, its foundation meeting admits the members to it.

Nobody may be compelled to join or not to join a trade union.

The statute (regulations) of a trade union may stipulate membership in a trade union of the persons engaged in creative activity, farm workers, natural persons – market participants, as well as the students of vocational and higher educational establishments, and persons who quitted their service or work due to retirement or are temporary unemployed.

The statutes (regulations) of trade unions may stipulate restriction on a double membership in a trade union.

The employers may not be members of the elective body in a trade union of any level.

All trade unions are treated equally by the laws and have equal rights of representation and protection of rights and interests of trade union members.

The trade unions and their associations act independently of government authorities, local self-government bodies, employers, other non-government organizations, political parties, neither report to, nor are liable to control by the same.

The trade unions arrange their activity independently, hold meetings, conferences, congresses, and sessions of their formed bodies, as well as put other measures into effect if not inconsistent with the laws.

According to the lawyers from the Federation of Employers of Ukraine there is no specific law in Ukraine concerning the rights of trade unions leaders and their activities.

The government authorities, local self-government bodies, their officials, employers, and their associations may not interfere in the statutory activity of trade unions, their organizations, and associations.

The state guarantees the right of citizens to unite in trade unions and observation of the trade union's rights and interests.

The state recognizes the trade unions as plenipotentiaries of employees in the protection of their labor, social-and-economic rights and interests, and cooperates with trade unions in their realization, assists trade unions in establishment of business partnership relations with the employees and their associations.

The state assists in training of trade unions' personnel, and jointly with trade unions provides for raising the level of their knowledge related to legal, economic and social protection of employees.

#### Legal Norms Enabling Legal Recognition of Trade Unions for Collective Bargaining Agreement (Term & Conditions and Restrictions)

**In pursuance of the Labour Code** a Collective Bargaining Agreement is entered into by and between the owner or a duly authorized (by the owner) body (person), on the one part, and the Primary Trade Union Organization, acting by virtue of their respective Articles of Association, or, in case of their unavailability, by the representatives arbitrarily elected by the General Meeting of Employees or their authorized bodies, on the other part. The rights of such a General Meeting of employees are similar to those of a Trade Union.

Where there are several Primary Trade Union Organizations within a company, institution or organization, they shall form on the proportional representation basis (*pro rata* the number of each Primary Trade Union Organization's members) the Joint Representation Body for the purpose of signing of a Collective Bargaining Agreement. In such a case, each Primary Trade Union Organization shall clearly define their contractual duties and obligations under a Collective Bargaining Agreement and their liability for any non-compliance therewith. Any Primary Trade Union Organization refusing to participate in the Joint Representation Body shall have no right to represent the employee's interests for the purpose of signing of a Collective Bargaining Agreement.

Trade Unions and associations thereof shall undertake a multi-union bargaining, negotiate and sign Collective Bargaining Agreements, as well as General Agreements, Branch Contracts, Regional Contracts, and Inter-Branch Agreements on behalf of the employees in conformity with the terms and conditions set forth in the currently effective applicable Laws.

The employers and associations thereof, as well as the Executive Authorities and Local Authorities shall take part in the collective bargaining pertaining to negotiation and signing of Collective Bargaining Agreements and Collective Bargaining Contracts.

The number of representatives of Trade Unions and associations thereof delegated to take part in the collective bargaining, and negotiating and signing of agreements on behalf of the employees at the national, branch or regional level shall be defined *pro rata* the number of their Trade Union members.

Any persons representing the employers may not participate in the negotiating and signing of agreements and Collective Bargaining Agreements on behalf of the employees.

Trade Unions and associations thereof shall supervise the compliance with the terms and conditions of Collective Bargaining Contracts and Collective Bargaining Agreements. Where the employers and associations thereof, as well as the Executive Authorities and Local Authorities are in breach of the terms and conditions of any Collective Bargaining Contract or Collective Bargaining Agreement, Trade Union and associations thereof may send them the Breach Remedy Request, which request shall be considered within a week. If the employers and associations thereof, as well as the Executive Authorities and Local Authorities refuse to remove and remedy any such breach, or if the parties fail to arrive at consent within the relevant time limit, Trade Unions may apply to the local Court claiming against any unlawful acts or omissions of the officials.

#### In conformity with the Ukrainian Law of Collective Bargaining Contracts and Agreements:

A Collective Bargaining Agreement is entered into by and between the owner or a duly authorized (by the owner) body, on the one part, and one or several Trade Union or other collective representation bodies, or, where there are no such bodies, by the employees' representatives elected and authorized by the staff.

#### Legal Norms Regulating Collective Bargaining Agreements:

##### **Labour Code**

A Collective Bargaining Agreement shall be negotiated and signed in conformity with the currently effective applicable Laws, and parties' contractual duties and obligations aimed at governing of the industrial, employment, social and economic relationships and coordination of interests of the employee, owners and their authorized bodies.

A Collective Bargaining Agreement shall be negotiated and signed in companies, institutions, and organizations of any and all ownership patterns and business form engaging employees and having the rights of a legal entity.

A Collective Bargaining Agreement may be negotiated and signed with the Organization Units and Departments of a company, institution, and organization within the scope of the powers and authorities of any such Organization Units and Departments.

The body text and contents of a Collective Bargaining Agreement shall be defined by the parties within the scope of their respective powers and authorities.

A Collective Bargaining Agreement shall contain mutual parties' duties and obligations relating to the governing of the industrial, employment, social and economic relationships, in particular:

- any changes in the organization of production and employment;
- ensuring of an effective employment;
- wage rate fixing and payment, fixing of the type, system, and amount of salary and other emoluments (additional payments, allowances, bonuses, etc.);
- defining of guarantees, indemnities, and benefits;
- personnel participation in the formation, distribution and utilization of the profit of a company, institution, organization (if provided for under the Articles of Association);
- work schedule, work hours and holidays;
- work environment and safety;
- ensuring of housing, recreational, medical, and health improvement services to the employees;

- guaranteed activities of Trade Union or other representation organizations of the employee;
- defining of the governing regulations of Labour Remuneration Funds and fixing of inter-qualification correlations in the labour remuneration structure.

A Collective Bargaining Agreement may include warranties, representations and social benefits in addition to those provided for under the currently effective applicable Laws and conventions.

A Collective Bargaining Agreement is subject to the registration (with a mandatory notification thereof) with the Local Executive Authorities.

The terms and conditions of the Collective Bargaining Agreement registration shall be defined by the Cabinet of Ministers of Ukraine.

The terms and conditions of a Collective Bargaining Agreement shall apply to any and all employees of a company, institution or organization irrespective of their membership in a Trade Union, and shall be binding upon both the owner or owner's authorized body, and the employees of a company, institution, or organization.

The compliance with a Collective Bargaining Agreement shall be supervised directly by the parties thereto, in conformity with the terms and conditions set forth in any such Collective Bargaining Agreement.

In conformity with the Ukrainian Law of Collective Bargaining Contracts and Agreements:

A Collective Bargaining Agreement may be negotiated and signed at the branch level and shall be bilateral.

The terms and conditions of Collective Bargaining Contracts and Collective Bargaining Agreements negotiated and signed in conformity with the currently effective applicable Laws shall be binding upon the companies involved and parties signing Collective Bargaining Contracts and Collective Bargaining Agreements.

Any terms and conditions of Collective Bargaining Contracts and Collective Bargaining Agreements, which terms and conditions deteriorate the employees' benefits and conditions as compared to those provided for under the currently effective applicable Laws shall be deemed to be null and void and may not be included to any contracts or agreements.

Any terms and conditions deteriorating the employees' benefits and conditions as compared to those provided for under the currently effective applicable Laws, Collective Bargaining Contracts and Collective Bargaining Agreements, may not be included into any Employment Contracts.

Any intrusion on the part of any Representative or Executive Authorities, as well as business management, political parties, owners or their authorized bodies, which intrusion may restrict the legal rights of the employees and their representatives or preclude exercising of any such rights, shall be prohibited at the time of negotiating and compliance with the terms and conditions of Collective Bargaining Contracts and Collective Bargaining Agreements.

Any negotiating and signing of Collective Bargaining Agreements on behalf of the employees may not be performed by the organizations or bodies formed or funded by the owners, their authorized bodies, or any political parties.

Where the staff interests are represented by a Trade Union body, the interests of the owner or owner's authorized body may not be represented by any members of the elected body of any such Trade Union.

A Collective Bargaining Agreement shall come into full force and effect on the date of its signing by the parties' representatives or on the date specified for this purpose in a Collective Bargaining Contract or Collective Bargaining Agreement.

Upon its expiration, a Collective Bargaining Agreement shall remain valid until the parties enter into a new Collective Bargaining Agreement or revise the current Collective Bargaining

Agreement, unless otherwise provided for under the relevant Collective Bargaining Agreement.

A Collective Bargaining Agreement shall remain valid and effective despite any changes of the members, structure or name of the owner's authorized body, on behalf of which body any such Collective Bargaining Contract or Collective Bargaining Agreement is entered into.

In the event of Company reorganization, a Collective Bargaining Agreement shall remain valid and effective until the expiration of its validity term, or may be revised by parties' consent.

Where the Company's owner is changed, a Collective Bargaining Agreement shall remain valid and effective until the expiration of its validity term, but it shall not exceed one year. During such a period, the parties shall hold the negotiations on signing of a new Collective Bargaining Agreement or altering, revising or amending of the current Collective Bargaining Agreement.

In the event of Company winding-up or liquidation, a Collective Bargaining Agreement shall remain valid and effective during the entire winding-up or liquidation period.

A Collective Bargaining Agreement shall be negotiated and signed on a newly incorporated Company on the initiative of any party thereto within three months upon Company registration, where the registration is required under the currently effective applicable Laws, or upon passing of the Resolution on Company Incorporation, where the registration is not required under the currently effective applicable Laws.

The owner or owner's authorized body shall ensure that the Company's current employees and newcomers are familiarized with the terms and conditions of a Collective Bargaining Agreement.

The parties entering into a Collective Bargaining Agreement shall advise the public via the mass media of any amendments thereto and implementation thereof.

Any persons participating in the collective bargaining as parties' representatives, as well as professionals invited to join the Expert Commission shall be relieved from their major professional duties for the period of bargaining and project preparation, without any prejudice to their average salaries and employment experience. Any and all expenses relating to the participation in the collective bargaining and project preparation shall be indemnified in conformity with the currently effective applicable Labour Laws, Collective Bargaining Contracts and Collective Bargaining Agreements.

The compliance with a Collective Bargaining Agreement shall be supervised directly by the parties thereto or their duly authorized representatives.

In case of any such supervision, the parties shall furnish any required information available to them.

The parties entering into a Collective Bargaining Agreement shall annually report on the compliance with its terms and conditions within the time limits set forth in the relevant Collective Bargaining Agreement.

Having a Collective Bargaining Agreement is not obligatory according to Ukrainian legislation. For a CBA it is not relevant how many people work for accompany. In practice companies which employ a large amount of people usually do have Collective Bargaining Agreements.

The persons acting on behalf of the owners or owner's authorized bodies, as well as Trade Unions or other bodies authorized by the staff, evading the negotiations pertaining to signing, emending or supplementing of a Collective Bargaining Agreement, or purposely violating the time limits, or failing to ensure the activities of the relevant Expert Commission within the fixed time period, shall pay the penalty in the amount up to ten (10) minimum wages before taxes, and shall bear the disciplinary liability until removed from their respective positions.

The persons acting on behalf of the owners or owner's authorized bodies, as well as Trade Unions or other bodies authorized by the staff, through the fault of which persons and bodies any duties and obligations under a Collective Bargaining Agreement are not complied with, shall pay the penalty in the amount up to one hundred (100) minimum wages before taxes, and shall bear the disciplinary liability until removed from their respective positions.

The owners or owner's authorized bodies shall, on the request of Trade Unions or other bodies authorized by the staff, take steps and measures provided for under the currently effective applicable Laws with regard to the chairperson, through the fault of which chairperson any duties and obligations under a Collective Bargaining Agreement are not complied with.

#### **4.4.2 Compliance situation**

The old Soviet system of compulsory trade union in each factory next to the communist party representative is not in place anymore. But people often think about trade unions in old terms as an organisation which most important task is to organise summer school camps for children and 'putevki' (trips to sanatoriums) for its members. But in the new Ukraine trade unions appear less attractive with no clear benefits for the workers, with the result that the trade unions are losing their members. Majority of employers do not promote trade union membership, sometimes even discouraging it.

In the garment industry 90% of the employees is said to be a member of a trade union. There are no governmental policies hindering the organisation of workers into trade unions. In certain ways national legislation facilitates it. Employees are not forced to join trade unions. Ukrainian industry in general, including the textile sector, often works with Collective Bargaining Agreements, but they are not compulsory. Collective Bargaining Agreements are signed on factory level. A CBA is a legal document and after signing it must be followed. Compliance with the Collective Bargaining Agreement is checked by the trade unions and The State Department on Supervision of Labour Legislation Observance. In case disputes arise and when it is impossible to settle them amicably they are settled in Court.

#### **4.4.3 Guidance for auditors**

The occurrence of infringements of the freedom of association and the right to collective bargaining can be verified by FWF auditors by checking:

- Company records on union membership
- The presence and content of a CBA
- Trade union records on a specific company, for example legal cases
- Labour union files

## 4.5. Payment of a Living Wage

### 4.5.1 Laws and Regulations

**Minimum Wages Fixing Convention No. 26 (not ratified)  
Minimum Wages Fixing Convention (with Emphasis on Developing Countries) No. 131  
(not ratified) of the International Labour Organization  
Normative and Legal Acts and Deeds Governing Minimum Wages.**

In pursuance of the Constitution of Ukraine:

Every person has the right to work enabling any such person to earn the living by a freely chosen and accepted employment.

Every person has the right to proper, safe and healthy work environment, and remuneration exceeding or at least equal to the minimum wages defined under the currently effective applicable Laws.

Women and the adolescents may not be engaged in any work endangering their health.

The right to a timely remuneration shall be ensured and protected under the currently effective applicable Laws.

The issue of regular payment of labor remuneration is regulated by the current legislation as follows:

Wages – is a remuneration assessed, as a rule, in the monetary form, which the owner or his/its authorized body pays to an employee for the work fulfilled.

The amount of wages shall depend on job complication, professional and business qualities of an employee, results of his/her work, and on the business activity of an enterprise, establishment, or organization and its value shall not be restricted.

The wages shall be paid to an employee regularly in the working days and within the periods established by a collective agreement, but no less than twice a month at the intervals not exceeding sixteen calendar days.

If the day of payment falls on a day off, holiday, or a non-working day, the wages shall be paid the day before.

The wages to the employees for the whole period of annual leave shall be paid at least three days prior to such leave.

Pursuant to the Law of Ukraine “On Labour Remuneration”, an employee shall be entitled to labour remuneration in conformity with the statutes and collective agreement on the grounds of a signed employment contract.

The wages to employees in the territory of Ukraine shall be paid in the monetary unit legally circulating in the territory of Ukraine. Any payment of wages in the form of bonds or due-bill is not allowed.

The wages shall be paid at the place of work. Any payment of wages in retail stores, saloons and entertainment establishments is not allowed, except for the cases when wages are paid to the employees who work at such establishments.

With the personal written consent of an employee, his/her wages may be paid through banking establishments, by mail orders to the account (address) with a payment for such services at the cost of the owner or his/its authorized body.

The wages to employees shall be paid timely and in due amount irrespective of other payments and their priority.

In pursuance of the Labour Code of Ukraine:

The minimum wages – legally fixed wages for ordinary, non-professional labour, being the lowest payment for employees’ monthly or hourly work standard (scope of work).

The minimum wages shall not include any additional payments, allowances, bonuses, incentives and indemnities.

The amount of the minimum wages shall be fixed and revised in pursuance of the Ukraine Law of Labour Remuneration.

The minimum wages are deemed to be a public social guarantee and shall be mandatory and binding for companies, institutions, and organizations of any and all ownership patterns and business forms, as well as for individuals, all over the territory of Ukraine.

The wages shall be subject to revising (indexation) in conformity with the terms and conditions set forth in the currently effective applicable Laws.

In pursuance of the Ukraine Law of Labour Remuneration:

The source of money for employees's labour remunerations in business companies shall be a part of profit and other money generated in the course of their business activities.

The source of money for employees's labour remunerations in the state budgeted institutions and organizations shall be the funds allocated for this purpose within certain budgets, and a part of profit and other money generated in the course of their business activities and from other sources.

Public associations and unions shall pay off employees's labour remunerations from the funds deposited under their respective By-Laws.

The Government regulates the labour remuneration of the employees in companies of any and all ownership patterns through fixing of the minimum wages and other public norms and guarantees, as well as through defining of the conditions and amounts of labour remunerations of managers employed by public and communal companies, and of the employees of companies, institutions and organizations funded or subsidized from the State Budget, through regulating of the Labour Remuneration Funds for the employees of monopolist companies in conformity with the List approved by the Cabinet of Ministers of Ukraine, and through the employees' income taxation.

The amount of the minimum wages shall be fixed in view of:

- the amount of the Minimum Budget with a gradual convergence of the said showings levels in the course of country's economy stabilization and development;
- the general level of the average wages;
- the labour efficiency, employment level and other economic circumstances.

The minimum wages shall be fixed in the amount exceeding or at least equal to the downscale margin for a person capable of working.

The amount of the minimum wages shall be fixed by the Verkhovna Rada (Parliament) of Ukraine as proposed by the Cabinet of Ministers of Ukraine, as a rule, once per year, in the Ukrainian Law of State Budget, taking into account the offers resulting from the negotiations and offers of Trade Union representatives, owners or their authorized bodies joining for the purpose of the collective bargaining and entering in to a General Agreement.

The amount of the minimum wages may be revised in case of any alterations in or amendments to the Ukrainian Law of State Budget depending on the increase of the consumer goods price index and service prices by the mutual consent of the parties involved in the collective bargaining.

Any changes and alterations of the minimum wages in pursuance of any other Ukrainian Laws and normative and legal acts and deeds shall be deemed to be valid and effective only upon introduction of the relevant amendments to the Ukrainian Law of State Budget for a certain year.

The amount of the minimum wages (salaries), as well as the minimum required guarantees of labour remuneration shall be defined in the General Agreement.

In pursuance of the Ukrainian Law of Public Social Standards and Public Social Guarantees:

The Public Social Guarantees include the legally fixed minimum labour remunerations, citizens' revenues, retirement payments, social allowances, and amounts of other social

payments defined under the currently effective applicable Ukrainian Laws and other normative and legal acts and deeds ensuring the living standard above or at least equal to the minimum of subsistence.

The basic Public Social Guarantees include:

- the minimum wages;
- the minimum superannuation allowance;
- the minimum citizens' revenues before taxes;
- the amounts of the Public Social Allowances (Subsidies) and other social payments.

The basic Public Social Guarantees (including the minimum wages) being the main source of subsistence may not be lower than the subsistence minimum defined under the currently effective applicable Ukrainian Laws.

The Public Social Guarantees shall be mandatory and binding for any and all governmental and public authorities, local authorities, companies, institutions and organizations irrespective of their ownership patterns.

In the course of developing and implementation of the local Social and Economic Programs, the local authorities may provide for any additional social guarantees based on the funds from the local budgets.

A company is obliged to prepare 5 declarations on salary and social payments, they are:

- tax inspectorate declaration, once per 3 months
- social security fund declaration, once per 3 months
- state pension fund declaration, once per month
- employment insurance fund declaration, once per 3 months
- declaration to the social insurance fund regarding accidents at work

There are 2 articles in the Labor Code concerning premiums for employees, namely:

Article 143 "premiums for success in work"

Article 146 "premiums for special labor services"

The Ukrainian Law "On Labor Payment" (Article 2) foresees additional salary for successful work. As premiums and bonuses are regarded additional salaries, they are taxed in the same way as regular salaries.

The normative and legal basis of the General Compulsory Public Social Insurance System comprises:

- the Constitution of Ukraine,
- the Social Security Concept for Ukrainian Citizens (Decree No. 3748-III of the Verkhovna Rada (Parliament) of Ukraine dated December 21, 1993),
- Legal Foundations of General Compulsory Public Social Insurance No. 116/98-BP dated January 14, 1998,
- the Ukrainian Law of General Compulsory Public Retirement Insurance,
- the Ukrainian Law of Retirement Security,
- 25 special Laws containing the peculiarities of the retirement security of employees engaged in different industries and branches,
- Ukrainian Law of General Compulsory Public Social Insurance against Production Accidents and Professional Diseases Resulting in Loss of Capability No. 1105-XIV dated September 23, 1999,
- Ukrainian Law of Insurance Rates of General Compulsory Public Social Insurance against Production Accidents and Professional Diseases Resulting in Loss of Capability No. 2272-III dated February 22, 2001,
- Ukrainian Law of General Compulsory Public Social Insurance against Temporary Incapability and Expenses for Birth or Burial No. 2240-III dated January 18, 2001,

- Ukrainian Law of General Compulsory Public Social Insurance against Unemployment No. 1533-III dated March 02, 2000,
- Ukrainian Law of Public Employment No. 803-XII dated March 01, 1991,
- Ukrainian Law of Charges for Certain Types of General Compulsory Public Social Insurance No. 2213-III dated January 11, 2001,
- any other Laws relating to the social insurance (Laws of Labour, Labour Protection / Occupational Safety, State budget, Income Taxation, Labour remuneration, etc.),
- over 60 enactments – Orders and Decrees of the Cabinet of Ministers of Ukraine, Orders and Decrees of the Central Executive Authorities,
- Decrees of the Central Departments of the relevant Social Insurance Funds regulating their activities and ensuring of the Funds' objectives and targets.

In pursuance of the General Agreement for the year of 2004 and 2005:

All General Agreements were signed in 2004 and its regulations still apply. No information about a new General Agreement to be signed is currently available.

The minimum wage rate for a class 1 employee (including the textile industry) shall be at least equal to one hundred and twenty per cent (120%) of the minimum wages fixed under the currently effective applicable Ukrainian Laws. This is compulsory for all garment factories.

If separate companies are not able to comply with the said norm of the General Agreement in view of the reasonable financial and economic circumstances any other minimum wage rate for a I Class employee may be fixed in a Collective Bargaining Agreement for a period up to six months upon the date of signing of the relevant Collective Bargaining Agreement. The circumstances are defined by a commission of experts which consist of representatives from both sides that signed General Agreement. After a six-month` period salary must again be paid strictly in accordance with the General Agreement, provided any such minimum wage rate is not lower than the minimum wages fixed under the currently effective applicable Ukrainian Laws.

Legal Norms Regulating Labour Remunerations for Newcomers (Students), in pursuance of the Labour Code:

The wages to the employees under eighteen year old employed on the basis of the reduced daily working time shall be paid off in the same amount as the wages of the employees of the relevant category employed on the basis of the full daily working time.

The remunerations to the employees under eighteen year old engaged in business trips and assignments shall be paid off in conformity with the business trip / assignment allowance rates fixed for adult employees plus additional allowance rate for the time of reduction of their daily working hours as compared to the daily hours of adult employees.

The remunerations to the students of secondary schools, vocational schools and specialized secondary schools employed in their spare time shall be paid off *pro rata* the actual working hours (timework) or work results. Companies may fix special allowances in addition to the wages for the employed students.

**4.5.2 Compliance situation**

Employers in the textile industry normally pay at least the minimum wage, those affiliated with one of the large employers' federations might pay above the minimum wage according to a "General Agreement" signed between unions, employers' federations and the government. Compliance is checked first of all by the tax authorities.

A list of employers' federations you can find in Appendix 7.3.

Minimum wages are prescribed in Ukraine's annual budget law. For 2007, the minimum wage was initially set at 400 UAH (approximately 60,- Euro) per month. Subsequently this increased to 420 UAH from 1 April 2007, and will increase to 440 UAH from 1 July 2007 and 460 UAH from 1 October 2007. 460 UAH is gross amount and after paying social charges an employee receives approximately 370 UAH net.

The wage levels in the Ukrainian textile industry are generally lower than the national average, which is around 1200 UAH. It's the case for all regions as shown in table 9.

Table 9 Average monthly wages in the Ukrainian textile industry (May 2007)

Region	Average monthly wages of all workers, in UAH 5 UAH=1\$
AR Crimea	612.16
Vinnitsa	656.52
Volin	691.18
Dnipropetrovsk	653.41
Donetsk	771.42
Zhitomir	709.07
Zakarpatskiy	762.44
Zaporizkiy	781.22
Ivano-Frankovsk	920.81
Kirovograd	609.24
Kyiv	641.02
Lougansk	711.54
Lviv	823.71
Sevastopol city	839.69
Kyiv city	998.20
Mikolaiv	665.99
Odessa	514.50
Poltava	674.28
Rivno	668.49
Sumi	573.23
Ternopil	700.10
Kharkiv	646.02
Kherson	679.69
Khmelnitsk	561.18
Cherkasi	619.02
Chernivtsi	844.70
Chernigiv	796.57

The real wages collected by employees in the textile sector could be higher than shown in the official statistics as employers, in all branches of industry, are known to often try to avoid taxation on the full salary (payments in envelopes). The tax authority at the same time is the authority to check if companies comply with minimum wage requirements. The above figures do not include overtime. The payment can be based on piece work or on working time.

The Ukrainian state statistics committee publishes regular surveys on cost of living indexes, all available in English on [www.ukrstat.gov.ua](http://www.ukrstat.gov.ua).

Overview financial data:

Minimum wage (1 <sup>st</sup> of October 2007)	460 UAH
Subsistence minimum (1 <sup>st</sup> of January 2007)	525 UAH
General Agreement (120% of MW, 1 <sup>st</sup> of July 2007)	528 UAH
Average monthly expenditure per household (2006)	1442,80 UAH

A Special Expert Committee from the Cabinet of Ministers and scientific research institutes are responsible for calculating the subsistence minimum.

On the gross income of an employee the employer has to pay the following social charges:

- 33,2% to the State Pension Fund.
- 1,5% to the Social Security Fund.
- 1,3% to the Employment Insurance Fund.
- 0,66% - 13,6% to the Fund for Social Insurance regarding Accidents at Work.
- 15% - income tax

In addition social security contributions are withheld by the employer from salary payments, and remitted directly to the appropriate authorities:

- 0,5% from salary to the State Pension Fund if salary is less than subsistence minimum or equal to it; 0,5% from amount of subsistence minimum + 2% from difference (salary minus subsistence minimum) if salary is higher than subsistence minimum set for able-bodied individuals.
- 0,5% to the Social Security Fund if salary is less than subsistence minimum or equal to it; 1 % if salary is higher than subsistence minimum set for able-bodied individuals.
- 0,5% to the Employment Insurance Fund. Non-Ukrainian national employees and working pensioners are not required to make contributions. (Only this one!)

**4.5.3 Guidance for auditors**

As mentioned before it is quite common in Ukraine for part of the salary to be paid unofficially. When it occurs the social payment on the employees' wages is of course less than it should be. The workers usually prefer this kind of payment as they get more money avoiding taxes. Because of mutual benefits for employer and employees the unofficial payments are hard to detect during inspections.

Another common problem in the textile sector, as well as in many other sectors, is the delay in the payment of wages, sometimes for several months.

The occurrence of non-compliance issues in wage payment can be verified by FWF auditors by checking:

- copies of the CBA, either through the union or from the employer
- payment records
- records of wage tax payments
- records of social payments by the employer
- overtime records
- labour union files

## 4.6. No Excessive Working Hours

### 4.6.1 Laws and Regulations

#### **Convention No. 1 of Working Hours Limitation in Manufacturing Companies to Eight (8) Hours a Day and Forty-Eight (48) Hours per Week (*not ratified*).**

Normative and legal acts and deeds regulating working hours:

##### In pursuance of the Constitution of Ukraine:

Every working person has the right to rest.

This right is ensured through the granting of weekly rest-days, annual paid vacations, shortened working hours for certain professions and industries, and shortened night working hours.

The maximum daily working hours, as well as the minimum duration of rest and annual paid vacations, rest-days and holidays, including any other terms and conditions of the said right ensuring and exercising shall be set forth in the currently effective applicable Ukrainian Laws.

##### In pursuance of the Labour Code of Ukraine:

The normal working hours of employees may not exceed forty (40) hours per week.

In the course of negotiating and signing of a Collective Bargaining Agreement, companies and organizations may fix the lower norm of working hours as compared to the norm defined in first sentence of this Article.

The reduced working hours shall be applied as follows:

For the employees aged from 16 to 18 years old – thirty-six (36) hours per week, for the employees aged from 15 to 16 years old (students aged from 14 to 15 years old employed during the vacations) – twenty-four (24) hours per week.

The total working hours of the students employed in their spare time during the academic year may not exceed the half maximum working hours set forth in the above paragraph for persons of certain age.

For the employees engaged in a dangerous working environment – up to thirty-six (36) hours per week.

The list of industries, workshops, professions and positions of dangerous working environment, the employment wherein may serve the basis for the reduced working hours, shall be approved in conformity with the terms and conditions set forth in the currently effective applicable Ukrainian Laws.

Any and all employees shall have five working days and two rest-days per week. The daily working hours (daily shift) of a five-day working week shall be fixed in the Internal Labour Regulations or Shift Schedules to be approved by the owner or owner's authorized body upon the coordination with the elected body of the Primary Trade Union Organization (Trade Union Representative) of a company, institution or organization in compliance with the fixed maximum weekly working hours.

In the companies, institutions, and organizations, where there is no expedience in a five-day working week in view of the manufacturing peculiarities and working environment, the working week of six working days and one rest-day shall be applied. In the event of a six-day working week the daily working time may not exceed seven (7) hours, where the weekly hours norm is forty (40) hours; six (6) hours, where the weekly hours norm is thirty-six (36) hours; and four 4 hours where the weekly hours norm is twenty-four (24) hours.

A five-day working week or a six-day working week shall be fixed by the owner or by the owner's authorized body in conjunction with the elected body of the Primary Trade Union Organization (Trade Union Representative) in view of the labour peculiarities, staff opinion and upon the approval of the Local Council of People's Deputies.

The employees' working time on the day immediately preceding any public holiday or official non-business day shall be reduced by one hour both in the event of a five-day working week and of a six-day working week.

In the event of a six-day working week, the employees' working time on the day immediately preceding any rest-day may not exceed five (5) hours.

In the event of a night shift, the fixed working time (shift) shall be reduced by one hour. This provision shall not apply to the employees, whose working hours are reduced in pursuance of other regulations.

The duration of a night shift may be equal to that of a day shift only where so required under the manufacturing circumstances, for instance, in the event of any uninterrupted manufacturing, and in case of shift based work during a six-day working week and one rest-day.

The night hours shall be hours from 22.00 p.m. through 6.00 a.m.

A shortened working day or a shortened working week may be fixed on the basis of the agreement between an employee and the owner or owner's authorized body entered into at the time of employment acceptance or at any time thereafter. A shortened working day or a shortened working week shall be fixed by the owner or owner's authorized body on the request of a pregnant woman, woman having a child aged under fourteen years old or a handicapped child, including any such child in her guardianship, or a woman taking care of a sick family member pursuant to a Medical Report / Certificate.

The labour remuneration in any such cases as mentioned above shall be paid *pro rata* the actual working hours (timework) or work results.

The employment on the basis of a shortened working day or a shortened working week shall not result in any limitation of employees' labour rights.

The starting and closing hour of the daily working time (shift) shall be fixed in the Internal Labour Regulations or Shift Schedules in compliance with the currently effective applicable Laws.

In case of a shift based employment, the employees shall take their respective shifts in a due succession and order defined in the Internal Labour Regulations.

The shifts shall be changed, as a rule, each next working week at the time fixed in the Shift Schedules.

The duration of the rest between the shifts shall be at least equal to the double working time of the preceding shift (including lunch / dinner break).

Any employee may not be assigned for two successive shifts.

In the event of special working environment, conditions and peculiarities, the working day may be divided, on the terms and conditions and in cases provided for under the currently effective applicable Laws, into parts, provided the total working time does not exceed the maximum fixed working hours.

In companies, institutions, and organizations having uninterruptible manufacturing, as well as in separate industries, workshops, units, departments, and in case of certain types of activities, where the daily or weekly working hours norm for the employees of a certain category may not be complied with in view of the working conditions and environment, the summary working hours accounting may be allowed upon the approval of the elected body of the Primary Trade Union Organization (Trade Union Representative) of a company, institution or organization, in order to ensure that the number of the working hours for the accounting period does not exceed the normal number of working hours.

Any overtime work shall not be allowed, as a rule. Any working hours exceeding the fixed maximum working time shall be deemed to be the overtime work.

The owner or owner's authorized body may apply the overtime work only in exceptional cases defined under the currently effective applicable Laws, and set forth in third part of this Article.

The owner or owner's authorized body may apply the overtime only in the following exceptional cases:

1) in the event of any work required for the purpose of the national defence or avoidance of any civil or natural disasters, industrial accidents and prompt removal of any their consequences;

2) in the event of any public necessitated work relating to water supply, natural gas supply, heating, power supply, sewerage, transportation, and communications for the purpose of removal or remedy of any accidental or unexpected circumstances preventing their normal functioning;

3) where there is a necessity to consummate any commenced work, which work may not be completed within the normal working hours in view of any unexpected circumstances or accidental technical delay, if the suspension or stopping of any such work may result in the spoilage or loss of any state or public property, and where there is a necessity in a prompt repairs of any machinery or other equipment, if any fault or breakdown thereof may result in the suspension or stopping of work for many other employees;

4) where there is a necessity in the shipment (loading and unloading) work for the purpose of avoidance or removal of any rolling stock standstill or cargo piling in any places of shipment and destination;

5) for the purpose of work continuation in case of absence of the employee to take the shift, where no break of work is admissible; in any such event, the owner or the owner's authorized body shall forthwith take steps and measures aimed at the replacement of the employee ending a shift by any other employee.

The following persons may not be assigned for the overtime work:

1) pregnant women and women having children under three years old;

2) persons under eighteen years old;

3) students of secondary schools and vocational schools practicing on-job training, during lessons and academic hours.

The currently effective applicable Laws may also define other categories of employees, which employees may not be assigned for the overtime work.

The women having a child aged less than fourteen years old or a handicapped child may be assigned for the overtime work only by and upon their consent.

The handicapped may be assigned for the overtime work only by and upon their consent, and where not inconsistent with the medical recommendations.

The overtime work may be applied only upon the approval of the elected body of the Primary Trade Union Organization (Trade Union Representative) of a company, institution or organization.

The overtime work for each employee shall not exceed four hours during two successive days or one hundred and twenty (120) hours per year.

The owner or the owner's authorized body shall keep the accounting of the overtime work of each employee.

#### Legal Norms Regulating Overtime Payment

In pursuance of the Labor Code (Article 106 "Overtime payment") each extra hour is paid at double rate. Overtime payment by giving compensatory leave is forbidden. These provisions do not apply for piece rate workers, because they earn money only for the items they have produced.

The work on Saturdays, Sundays and national holidays may be compensated by compensatory leave (Article 107).

In pursuance of the Ukrainian Law of Labour Remuneration, the norms of labour remuneration (including any overtime work; work on public holidays and official non-business days; night work; idle time occurring other than from employee's fault; production of goods occurring to be defective other than from employee's fault; work of the employees under eighteen years old in case of the shorted daily working hours, etc.) and the employees' guarantees (annual paid vacations; remuneration for the time spent while discharging any public necessitated duties; for the employees assigned for the qualification improvement, or

for a medical examination; for the employees transferred to the work with lower wages in view of their health condition; for the employees temporarily transferred to other work in view of any production needs or necessity; for pregnant women and women having children under three years old, which women are transferred to any easier work; in the event of different types of the on-job training, retraining or training for other qualifications; for donors, etc.), as well as any guarantees and indemnities to be paid to employees in case of employment necessitated moving to any other locality, business trips, assignments, field work, etc. shall be defined and fixed in the Labour Code of Ukraine and other currently effective applicable Ukrainian Laws.

The rules of law relating to paid leaves:

The Constitution of Ukraine stipulates that everybody who works has the right to rest, the weekend rest inclusive, as well as the right to an annual paid leave, a shortened working day for certain jobs and productions, as well as shortened work at night shifts.

Labour Code stipulates that the employees being in labour relations with the enterprises, establishments, and organizations, irrespective of their property pattern, type and sphere of activity, as well as such that work on the grounds of an employment contract signed with a natural person, are provided with annual (basic and additional) leaves with reservation of their job (position) and salary for such period.

At dismissal, an employee shall be paid monetary compensation for non-used days of annual leave, as well as for non-used days of additional leave in case of the employees having children.

If an employee is transferred to other enterprise, establishment, or organization, at his/her desire, such monetary compensation for non-used days of annual leaves shall be transferred to the account of such other enterprise, establishment, or organization.

If the employee so wishes, he/she may receive a monetary compensation for a part of his/her annual leave and additional leaves. At that, the duration of the annual leave and additional leave shall not be less than 24 calendar days.

No monetary compensation for all kinds of leave is allowed to the persons under eighteen years old.

In case of death of an employee, his/her monetary compensation for the non-used days of annual leaves, as well as additional leaves for the persons having children shall be paid to his/her heirs.

Besides, a non-paid leave shall be obligatorily provided to an employee on his/her request.

For family reasons as well as for other reasons, an employee may be given a non-paid leave for the period stipulated by agreement between the employee and the owner or his/its authorized body, but for no more than 15 calendar days per year.

The Law of Ukraine "On Leaves" stipulates that the procedure of calculation of salaries and wages to employees for the period of their annual leave, additional leaves related with education, research leave, additional leaves for the employees having children, as well as compensations for non-used leaves shall be established by the Cabinet of Ministers of Ukraine.

The employees entitled to social leaves shall be paid public relief on the terms stipulated by the Law of Ukraine "On Public Relief to Families with Children".

In case of dismissal of an employee prior to expiration of the working year, in which such employee had been already given a full leave, the owner or his/its authorized body shall withhold the indebtedness from his/her salary for the days of leave given on account of the non-worked part of working year.

No withholding stipulated by part 1 of this article shall be made if an employee quits for the following reasons:

- 1) army draft or joining the army, or sending for alternative (non-military) service;
- 2) transfer of the employee with his/her consent to other enterprise, or transfer to elective office in the cases stipulated by the laws of Ukraine;

3) refusal of the employee to be transferred for work in other region jointly with the enterprise, establishment, or organization, as well as in case of refusal to keep on working in connection with changes of material conditions of work;

4) changes in the production and labour arrangements, including liquidation, reorganization, bankruptcy, or change-over of the enterprise, establishment, or organization to other production, cutting staff or the number of employees;

5) revealing inadequacy of an employee for the position or the work performed in consequence of insufficient qualification or health condition, which prevent him/her from fulfillment of such work;

6) absence from work in the course of more than four months running in consequence of temporary disability, except for the cases of maternity leave, unless other longer period is established for keeping place of work (position) in case of a certain disease;

7) reinstatement in employment of the employee who had performed the work before;

8) studying;

9) retirement.

No withholding from wages from the non-worked days of leave shall be made in case of death of an employee;

Any expenses connected with leave pay as stipulated by the articles shall be made at the expense of the enterprises' funds allocated for labour remuneration, or at the expense of funds of a natural person employing workers under employment contract.

At the establishments and organizations maintained at the expense of budgetary funds, leave payments shall be made from budget allocations for their maintenance.

Payment for other leaves stipulated by collective agreement and contracts, and employment contract shall be made from the profits retained by a company after payment of taxes and other mandatory payments to budget, or at the expense of funds of a natural person employing workers under employment contract. At the establishments and organizations maintained at the expense of budgetary funds, payment for such leaves shall be made within the limits of budgetary allocations, as well as from other additional sources.

The payment due to pregnancy and childbirth, as well as child caring until a child is three years old shall be funded by the Social security Fund.

A non-paid leave shall be obligatorily provided on employee's request in the following cases:

1) to an unwed mother or a single father (if the mother stays at a medical establishment for a long time as well) with two and more children under 15 years old or a disabled child - up to 14 calendar days annually;

2) to a husband whose wife is on a post-natal leave – up to 14 calendar days;

3) to a mother or to other persons if the child needs a home care – the duration of such leave shall be specified in the medical report; however, it shall be no more than until the child reaches the age of six, and if the child suffers from diabetes of the 1st type (insulin-dependent), - no more than until the child reaches the age of sixteen.

4) to the war veterans, to the persons for special services to the country, and to the persons coming within the Law of Ukraine “On the status of War Veterans and Guaranties of their Social Protection” – up to 14 calendar days annually;

5) to the persons for special labour services to the country – up to 21 calendar days annually;

6) to the retirement pensioners and disabled persons of III group – up to 30 calendar days annually;

7) to disabled persons of the 1st and 2nd group – up to 60 calendar days annually;

8) to the persons that get married – up to 10 calendar days;

9) to employees in case of death of blood relation or relatives by marriage: husband (wife), parents (stepfather, stepmother), child (stepson, stepdaughter), brothers, sisters – up to 7 calendar days without taking account of the time necessary for the trip to the place of funeral and back; other relatives – up to 3 calendar days without taking account of the time necessary for the trip to the place of funeral and back;

10) to employees for nursing sick blood relation or relative by marriage, who according to the medical report needs permanent personal care – the duration of such leave shall be specified in such medical report; however, it shall not exceed 30 calendar days;

11) to employees for sanatory and resort treatment – for the period specified in the medical report;

12) to the employees admitted for entrance exams to higher educational establishments – 15 calendar days without taking account of the time necessary for the trip to the place of location of the educational establishment and back;

13) to the employees admitted for entrance postgraduate exams with giving up work, or without giving up work, as well as to the employees who do their postgraduate studies without giving up work and successfully fulfill their individual plan – the duration necessary for the trip to the educational or scientific establishment and back;

14) to the employees who have more than one jobs - for the period of leave at the main place of work;

15) to the veterans of labour – up to 14 calendar days annually;

16) to the employees who have not used their annual main leave and additional leave, fully or partially, and were paid a monetary compensation for it at their previous place of work – up to 24 calendar days within the first year of work at such enterprise until reaching a six months' uninterrupted work period;

17) to the employees whose children under 18 enter the educational establishments located in other regions – 12 calendar days without taking account of the time necessary for the trip to the place of location of the educational establishment and back; In availability of two and more children of such age, such leave shall be given separately for accompanying each child.

The employees who do their postgraduate studies without giving up work, shall be given one day of non-paid leave per week in their fourth year of studies, if they wish so.

For family reasons as well as for other reasons, an employee may be given a non-paid leave for the period stipulated by agreement between the employee and the owner or his/its authorized body, but for no more than 15 calendar days per year.

#### **4.6.2 Compliance situation**

Overtime is one of the main problems in the garment industry. Due to low wages the overtime work is needed to provide a living, and due to seasonality of work and short lead times the production process is irregular. Also in Ukraine this is one of biggest problems. The law on overtime is often violated. Due to very limited cooperation from the trade union no specific information about the size of the problem could not be obtained.

The payment of overtime is another common area of violation. It is often covered by the payment of piece rate, not taking into account when the production was made: during the regular hours or during overtime. Because overtime is an important source of extra income for workers, the practice is hard to break out of.

Compliance is checked by the tax authorities and The State Department on Supervision of Labour Legislation Observance.

#### **4.6.3 Guidance for auditors**

The compensation for overtime worked can be verified by FWF auditors by checking:

- labour Union files on overtime for a specific factory
- the existence of legal cases on overtime matters, again through the labour unions
- overtime records at the company

## 4.7. Health and Safety

### 4.7.1 Laws and Regulations

#### **Convention of Occupational Safety & Hygiene and Working Environment No. 155 (not ratified).**

Normative acts and deeds of health and safety ensuring, major legal acts and enactments:

- the Constitution of Ukraine,
- the Labour Code of Ukraine
- the Ukrainian Law of Labour Protection / Occupational Safety
- the Ukrainian Law of Sanitary and Epidemiologic Public Safety
- the Ukrainian Law of Fire Safety
- basic Ukrainian Laws and acts on public health protection

There are also over 2,000 legal acts and enactments on public health protection (including Decrees of the Cabinet of Ministers of Ukraine, Orders and Decrees of the Central Executive Authorities of Ukraine, Normative Acts and Enactments of the Ukrainian SSR, Soviet Union, as well as various norms, rules, regulations, standards, etc.).

Every factory has to have a Health and Safety representative (doctor), who is responsible for the sanitary, hygiene and health protection of the employees. In large factories there must be more than one full-time employed Health and Safety representative. Every factory has to have a first aid-post.

In conformity with the currently effective applicable Ukrainian Laws and based on the results of the working place attestation, any and all employees shall be supplied and provided, in case of necessity, with the following:

- potable water
- soda water (in heated workshops)
- soap and other cleansing agents
- protective ointments
- personal protective equipment (including special protective suits and footwear)
- collective protective equipment (ventilation, protection against vibration, noise, etc.)
- hot health improving and prophylactic catering
- milk and bioactive additives
- first aid medicines and medical facilities
- women's lavatory (where there are 10 and more women working in a shift)
- sanitary and utility premises

Any and all norms and provisions set forth in the abovementioned legal acts and enactments shall be binding for all business entities irrespective of the type of production and their ownership patterns.

### 4.7.2 Compliance situation

To comply with all H&S rules as they exist in Ukraine today is objectively speaking impossible. The reason for this is that 80% of the rules date back to the 1960's and are nearly impossible to live by in the new economic reality of today in Ukraine. The State Committee of Health and Safety at Work is charged with checking the compliance. This department is known for its excessive fining. According to the committee itself Ukraine has a bad track record in occupational health and safety issues, compared with western European countries. Judging by its yearly action plan a large part of their attention goes to Ukraine's heavy industry. In this plan the textile sector is not specifically mentioned. The main reasons for Ukraine's apparently bad track record are said to be:

- unsatisfactory occupational and labour safety conditions

- out of date machinery.
- the lack of occupational safety awareness of the workers.

In order to improve the current situation the Committee has set the following goals for itself

- to change the attitude to the occupational safety on a tripartite level
- to select priority industries for state supervision
- the adaptation of Ukrainian legislation to EU legislation( *it seems they are missing out on a chance to do so right now, as they are said to block drastic changes to H&S in the new labour code that is being developed*)
- to increase industrial safety
- to increase the knowledge level of the inspectors

Ukraine has adopted several H&S related conventions from the ILO, but not all. The committee claims that it attaches great importance to the adopting of a.o., ILO conventions № 155 and № 174 (on the prevention of the large scale industrial accidents, the provisions of which were included in the Ukrainian legislation).

The most common violations of Health and Safety legislation in the garment industry are connected with hygiene and safety of employees. In most cases equipment is out of date and does not meet current standards and requirements.

The State Committee of Health and Safety at Work has conducted a research concerning industrial injuries in garment industry. This research shows that within the last 10 years (1997 - 2007) the number of industrial injuries in the garment industry has doubled. The main reasons for industrial injuries were determined to be unsatisfactory safety conditions resulting from out of date machinery and a lack of occupational safety awareness of employees. These are caused by insufficient financial support for health and safety issues and a lack of training of employees and company officials.

#### **4.7.3 Guidance for auditors**

For FWF auditors to check for compliance with all H&S rules as they exist in Ukraine today is a beginning without an end. The best way is to select certain important areas (for example fire safety, industrial safety, occupational hygiene) and to focus on compliance in these areas only.

In accordance with Ukrainian legislation “fire safety” scheduled inspection of industrial buildings must be performed once a year. In pursuance of Article 7 of the Ukrainian Law “On fire safety” fire inspectors should issue a protocol in which procedures and terms for the elimination of detected short comings are addressed.

In pursuance of the Ukrainian Law “On industrial safety” at enterprises with more than 50 employees a special committee concerning industrial safety should be formed. This committee is responsible for the industrial safety, inspection and supervision in a company and should draw up a protocol based on results of their inspections.

In accordance with Article 39 of the Ukrainian Law “On ensuring sanitary and epidemic well-being” the State Epidemiologic Service (SES) performs inspections and draws up a protocol of their findings. There is no time framework for sanitary inspections – they can be performed whenever the SES finds it necessary.

## 4.8. Legally Binding Employment Relationship

### 4.8.1 Laws and Regulations

An Employment Contract is a covenant by and between an employee and the owner of a company, institution or organization, or the owner's authorized body or other individual, under which covenant the employee undertakes to carry out the work and duties defined in the said covenant, and be subject to the Internal Labour Regulations, and the owner of a company, institution, organization or the owner's authorized body or other individual undertakes to pay off the employee's wages and ensure the working environment and conditions necessary for the employee's performance, as provided for under the applicable Labour Laws, Collective Bargaining Agreement or Collective Bargaining Contract signed between the parties.

An employee has the right to implement the employee's abilities of effective and creative work through signing of an Employment Contract with one or several companies, institutions or organizations, unless otherwise provided for under the applicable Labour Laws, Collective Bargaining Agreement or Collective Bargaining Contract signed between the parties.

An Employment Contract may incorporate a special contract, wherein its validity term, rights, duties, obligations and responsibility of the parties (including property accountability), terms and conditions of material support and employee's work organization, as well as the terms and conditions of the special contract termination, including any premature termination, may be defined by agreement between the parties. The scope of the special contract application is determined under the currently effective applicable Ukrainian Laws.

An employee may not be unreasonably refused to be accepted for the employment.

In pursuance of the Constitution of Ukraine, any direct or indirect limitation of rights or giving of any direct or indirect preference at the time of negotiating, signing, amending or termination of an Employment Contract in view of person's origin, social and material status, race, nationality, sex, language, politics, religion, membership in a Trade Union or any other public association, nature of work and interests, or place of residence shall not be allowed.

The requirements regarding the employee's age, education and health condition may be defined under the currently effective applicable Ukrainian Laws.

An Employment Contract may be:

- 1) signed without a time limit, where it is signed for an indefinite period;
- 2) signed for a fixed period, which period is defined by parties' consent;
- 3) signed for a period of certain work.

An Employment Contract for a fixed period shall be signed, where labour relationships may not be established for an indefinite term in view of the work nature, peculiarities, terms and conditions of its performance or employee's interests, as well as in any other cases contemplated by the applicable legal acts and enactments.

An Employment Contract shall be obligatorily signed in writing:

- 1) in the event of any organized recruitment of employees;
- 2) in the event of entering in an Employment Contract concerning the work in the regions and areas of specific natural, geographic and geologic conditions or increased health danger conditions;
- 3) in case of entering in a special contract agreement;
- 4) where an employee insists on entering in an Employment Contract in writing;
- 5) in the event of entering in an Employment Contract with the under-aged;
- 6) in the event of entering in an Employment Contract with an individual;

In the Labor Code there is no list of situations provided in which the concluding of a written contract is *not* obligatory. Analyzing article 24 of the Labor Code one could conclude that an oral employment agreement can be applied in those cases other than the abovementioned.

For the purpose of signing of an Employment Contract, an employee shall present a Passport or any other identifying document, Employment Records Book, and, where required by Law, the document witnessing to the education level (profession, qualification), health condition and other necessary documents.

Signing of an Employment Contract shall be confirmed by the relevant Order or Decree of the owner or owner's authorized body witnessing to the employee's acceptance for the employment.

An Employment Contract shall be deemed to be signed even without any such Order or Decree, but the employee may not be actually engaged in the work until any such Order or Decree is issued.

A person invited to the employment due to the transfer from any company, institution or organization by the agreement between the managers and chairpersons of companies, institutions or organizations may not be denied in signing of an Employment Contract.

An Employment Contract may not be signed with an employee, which employee may not be allowed to perform any offered work in view of the employee's health condition confirmed on the basis of a Medical Report / Certificate.

At the time of signing of an Employment Contract, the parties may agree on the probation period in order to verify the employee's suitability for the work assigned. The probation period reservation shall be included in the Order (Decree) of Employment.

During the probation period, employees shall be subject to the provisions set forth in the Labour Laws.

The following persons are not eligible for the probation period: employees under eighteen years old; young employees immediately upon graduation from vocational schools; young specialists immediately upon graduation from higher educational institutions; persons transferred to the reserve from the military or alternative (non-military) service; handicapped assigned for the employment based on the recommendations of the Medical Expertise. No probation period is required in the event of the transfer to the employment in other locality or other company, institution or organization, and in other cases contemplated by the currently effective applicable Laws.

Unless otherwise defined under the currently effective applicable Ukrainian Laws, the employment probation period may not exceed three (3) months, or, under certain circumstances, upon the approval of the competent elected body of the Primary Trade Union Organization, six (6) months.

The employment probation period for workers may not exceed one (1) month.

If an employee fails to perform the work during the probation period in view of the temporary disability or any other valid excuse, the probation period may be extended for the relevant number of days of employee's absence.

If an employee keeps on working upon the expiration of the probation period, the employee shall be deemed to have passed through the probation successfully, and any further termination of the relevant Employment Contract shall be on the general terms and conditions of termination.

Where, during the probation period, an employee proves to be unsuitable for the employment assigned, the owner or the owner's authorized body may, within any such period, terminate the relevant Employment Contract. Any such termination of the Employment Contract may be claimed and appealed against by the employee in conformity with the terms and conditions governing dismissal labour disputes.

Before starting any work under an Employment Contract signed with an employee, the owner or the owner's authorized body shall:

- 1) explain to an employee his / her right, duties and obligations, and inform his / her (which procedure shall be confirmed by employee's signature) of the work conditions, any dangerous or harmful industrial factors or circumstances at the employee's work place, which industrial factors or circumstances have not been removed yet, and their possible impact upon employee's health, as well as any employee's rights to benefits, allowances and

indemnities for the work under any such circumstances in conformity with the currently effective applicable Laws and Collective Bargaining Agreement;

2) ensure employee's familiarizing and understanding of the Internal Labour Regulations and Collective Bargaining Agreement;

3) allocate the employee's work place and ensure the availability of any and all means and facilities required for employee's work;

4) instruct an employee on the safety requirements, production sanitary and labour hygiene requirements and fire safety requirements.

The owner or the owner's authorized body may not require from an employee to carry out any work, which work is not contemplated by the relevant Employment Contract.

Any transfer to other employment / work within the same company, institution or organization, as well as any transfer to other employment / work into other company, institution or organization or into other locality even together with the company, institution or organization, shall be allowed only by employee's consent, except for cases described in Article 33 of this Code and in any other cases defined under the currently effective applicable Laws.

Any employee's transfer within the same company, institution or organization to any other position, work place, Organization Unit or Department in the same locality, or work assignment involving any other machinery, plant or equipment within the employee's profession, qualification or position defined in the relevant Employment Contract, shall not be deemed to be the transfer to other employment / work and, thus, requires no employee's consent. The owner or the owner's authorized body may not transfer an employee to the work, for which work the employee is not eligible in view of the health condition.

Any changes in production and work structure and organization may result in the changes and alterations in the essential working conditions and environment of an employee keeping on his / her work on the same position, or retaining the same profession or qualification. An employee shall be advised of any changes and alterations in the essential working conditions, including, but not limited to, labour remuneration mechanism and amount, benefits, allowances, work schedule, shortened working time introducing or termination, part time employment, change of category of class and position, title, etc., within two months.

Where the past essential working conditions may not be retained, and an employee does not consent to keep on the employment under any new circumstances.

Any temporary transfer of an employee to other work / employment, which work / employment is not contemplated by the relevant Employment Contract, may be effected only upon the employee's consent.

The owner or the owner's authorized body may transfer an employee, without the employee's consent, to other work / employment, which work / employment is not contemplated by the relevant Employment Contract, for the period not exceeding one (1) month, unless the employee is not eligible for any such work / employment in view of the health condition, and only for the purpose of avoidance or removal of the consequences of any natural disaster, epidemic, epizooty, industrial accidents, and any other circumstances endangering or which may endanger or threaten the human life or normal life conditions, provided the labour remuneration for any such work is at least equal to the average wages gained under the previous employment.

The term 'idle time' or 'standstill' shall be deemed and construed as a work stoppage resulting from the unavailability of certain organizational or technical conditions required for work performance, as well as any insuperable force or other similar circumstances.

In the event of any idle time or standstill, employees may be transferred, by their consent and in view of their professions and qualifications, to any other work / employment within the same company, institution or organization for the entire period of any such idle time or standstill, or to the work / employment in any other company, institution or organization in the same locality and for the period up to one (1) month.

The grounds for termination of an employment contract shall be as follows:

- 1) agreement of the parties;
- 2) expiration of the contract term, except for the cases when the labor relations keep on and neither of the parties requires their termination;
- 3) army draft or joining the army, or sending for alternative (non-military) service;
- 4) termination of an employment contract on the initiative of an employee, on the initiative of the owner or his/its authorized body, or on requirement of the trade union or other body authorized to represent the labor collective;
- 5) transfer of the employee, with his/her consent, to other enterprise, establishment, or organization, or the transfer to elective office;
- 6) refusal of the employee to be transferred for work in other region jointly with the enterprise, establishment, or organization, as well as in case of refusal to keep on working in connection with changes of material conditions of work;
- 7) taking effect by the court decision of confinement of the employee (except for the cases of release from prison and putting on probation) or other sentence, which makes further work impossible;
- 8) the grounds stipulated by the contract.

Any change of subordination of the enterprise, establishment, or organization shall not result in termination of an employment contract.

In case of change of the proprietor of an enterprise, as well as in the case of its reorganization (merger, association, division, separation, or transformation) an employment contract shall remain valid. Termination of an employment contract on the owner's or its/his authorized body initiative may be possible only in case of cutting the staff or the number of employees.

An employment contract shall be also terminated when the employee is sent to a curing-and-labor preventive clinic by resolution of a court.

Besides, an employee shall be entitled to terminate his/her open-end employment contract having notified the owner or its/his authorized body of it in writing two weeks prior to such termination.

If an employee's notice of quitting is caused by impossibility to continue work, the owner, or his/its authorized body, shall terminate the contract within the period requested by the employee.

If an employee, having notified the owner or his/her quitting, keeps on working upon expiration of the notice term and does not require termination of the employment contract, the owner or its/his authorized body shall not be entitled to dismiss such employee under such notice except for the cases when other employee has been invited to occupy such position and pursuant to the laws, such other employee may not be refused to sign an employment contract.

An employee shall be entitled to terminate his/her employment contract on his/her free will if the owner or his/its authorized body does not observe the labor legislation, the terms of collective agreement or employment contract.

A term employment contract shall be subject to early termination on demand of the employee in case of his/her disease or invalidity preventing him/her from fulfillment of the work under the contract, non-observance of the labor legislation, collective agreement or employment contract terms by the owner or its/his authorized body, as well as in other cases.

If after expiration of the employment contract term, the labor relations in fact keep on and neither of the parties requires their termination, the term of such contract shall be deemed prolonged for an indefinite period.

The employment contracts, if prolonged for one or several terms, shall be deemed such that were signed for an indefinite term.

Except for the set forth above, any open-end or term employment contract may be subject to early termination by the owner or its/his authorized body only in the following cases:

1) changes in the production and labor arrangements, including liquidation, reorganization, bankruptcy, or change-over of the enterprise, establishment, or organization to other production, cutting staff or the number of employees;

2) revealing inadequacy of an employee for the position or the work performed in consequence of insufficient qualification or health condition, which prevent him/her from fulfillment of such work, as well as in the cases of cancellation of access permit to the state secret if fulfillment of his/her obligations requires availability of access permit to state secrets.

3) systematic non-fulfillment by an employee, without a valid reason, of his/her obligations stipulated by his/her employment contract or internal regulations if disciplinary or public punishment measures had been already applied to the employee;

4) absence from work (including absence from work in the course of more than three hours within a working day) without valid reasons;

5) absence from work in the course of more than four months running in consequence of temporary disability, except for the cases of maternity leave, unless other longer period is established for keeping place of work (position) in case of a certain disease. The place of work shall be kept for the employees, who lost capacity for work through an injury or professional disease, until recovery of their ability to work or establishment of invalidity;

6) reinstatement in employment of the employee who had performed the work before;

7) appearance at work drunk, narcotized, or intoxicated;

8) theft at the place of work (including petty theft) of the owner's property established by an effective decision of a court, or by regulation of the body authorized to apply administrative or public punishment measures.

Any dismissal on the grounds specified in items 1, 2, and 6 is allowed if transfer of the employee is impossible.

In addition to the grounds set forth above, the owner or its/his authorized body may terminate an employment contract in the following cases:

1) a single gross violation of his/her functions by the head of an enterprise, establishment, organization of all property patterns (affiliate, representative office, division, or other separated structural unit), his/her deputies, chief accountant of an enterprise, establishment, organization, his/her deputies, as well as by officers of customs bodies, state tax inspections, who were given personal titles, by officials of the state control and auditing service, and of the government price control bodies;

1-1) actions of the head of an enterprise, establishment, organization, which resulted in untimely payment of labor remuneration, or payment of labor remuneration in the amounts lower than the minimum wages established by the law;

2) actions of the employee, who is engaged in direct service of money, goods, or cultural values if such actions give the grounds for suspicion on the part of the owner or his/its authorized body;

3) immoral action on the part of the employee, who performs the education functions, incompatible with further work.

In cutting the staff or the number of employees in connection with changes in labor and production arrangements, the best-qualified and highly-efficient employees shall have priority of being left at work.

All other terms of labor efficiency and qualification being equal, the following employees shall have priority of being left at work:

1) employees having families in availability of two and more dependants;

2) persons if other self-dependent employees are not available in the family;

- 3) persons with uninterrupted work record with a given enterprise, establishment, or organization;
- 4) employees studying at the higher and secondary educational establishment without leaving work;
- 5) participants in military actions, disabled soldiers;
- 6) authors of inventions, utility models, industrial designs, and innovations;
- 7) employees, who were injured or received an occupational disease at the enterprise, establishment, or organization;
- 8) persons from among those who had been deported from Ukraine – within the period of five years since return for residence in Ukraine;
- 9) employees from among former term duty soldiers and the persons who did the alternative (non-military) service – within the period of two years since their release.

The Labor Code stipulates for the cases of dismissal upon obligatory previous consent of the elective body of primary trade-union organization (representative of the trade-union) to which the employee belongs, as well as the cases of an employment contract termination without a previous consent of the elective body (representative of the trade-union) of primary trade-union organization.

A separate article of the Labor Code stipulates that an employment contract with a head may be terminated on requirement of the elective body (trade-union representative) of primary trade-union organization, if he/she fails to observe the legislation on labor, on collective agreements and contracts, and the Law of Ukraine “On Trade-Unions, their Rights and Activity Guaranties”.

The Ukrainian Law “On state social standards and state social guarantees” was adopted in 2000 and aims to guarantee the constitutional right of each citizens on a decent living level.

There are four authorities that execute each of the obligatory social security provisions. These provisions apply to each and every person with which a company has entered into a labor agreement. They are: the State Pension Fund, the Social Security Fund, the Employment Insurance Fund and the Fund of Social Insurance regarding Accidents at Work. The social security fees are to be paid by the employer. In order to check if a company has actually paid the social security fees, auditors have to examine a company’s accounting records.

#### The legislative rules related to retirement and the age of retirement:

Pursuant to the Law of Ukraine “On Pensions”, the citizens of Ukraine are entitled to state pensions by age, disability, survival’s pensions, as well as in other cases stipulated by this Law.

The foreign citizens and stateless persons residing in Ukraine have the right to pension equally with the citizens of Ukraine on the terms stipulated by the laws or treaties.

The provision of pensions to the citizens of Ukraine residing outside its limits is made on the grounds of contracts (treaties) with other states.

Unless other rules, as compared with those contained herein, are stipulated by the contracts (treaties) between Ukraine and other states, the rules established by such treaties shall apply.

The right to labor pension is given to the persons engaged in the socially useful labor, in particular:

a) to the persons who work at the enterprises, establishments, organizations, co-operatives (including under civil contracts) irrespective of their property and business pattern, or to the persons who are members of collective farms and other co-operatives, - subject to payment by enterprises and organizations of insurance premiums to the pension Fund of Ukraine;

b) to the persons engaged in business activity based on the personal property of a natural person and such person’s labor, - subject to payment by enterprises and organizations of insurance premiums to the pension Fund of Ukraine;

c) to the members of creative unions, as well as to other creative workers who do not belong to such unions, - subject to payment of insurance premiums to the pension Fund of Ukraine;

d) to other persons subject to state social insurance;

e) to the workers of militarized units that are not subject to state social insurance, to the officers and soldiers of field-chasseur service of the Ministry of Communication of Ukraine;

f) to the persons that became disabled in connection with fulfillment of the state or public duties, or in connections with the actions of life-saving, protection of state, collective, or individual property, as well as protection of law and order;

g) to the persons that take care of a disabled of I group or a disabled child under 16, as well as of a retired person who is in need of permanent care according to medical report;

h) to the members of families of the persons specified above, and the retired from among such persons - in case of loss of a supporter.

The rights to pension shall be exercised as follows: men – upon attaining the age of 60 with a record of service no less than 25 years; women – upon attaining the age of 55 with a record of service no less than 20 years.

The right to age-pension on preferential terms, irrespective of the place of last work, is given to the following persons: (.....)

g) women engaged in textile production and attending tools and machines - upon attaining the age of 50 with a record of such work no less than 20 years; (.....)

The age-pensions on preferential terms to the employees of other productions, jobs and positions depending on the conditions of their work (but no earlier than upon attaining the age of 55 - for men, and 50 - for women) may be granted based on results of appraisal of their working conditions. Such appraisal shall be made at the expense of the funds of enterprises and organizations intended for labor remuneration transferred to the Pension Fund of Ukraine for payment of pensions upon attainment of the pension age by an employee.

The control over correct use of the lists of employees having the right to pension on preferential terms, and over the quality of appraisal of their working conditions at enterprises and organizations, as well as preparing proposals is entrusted with the bodies of the State Service for Appraisal of Work Places. The regulations on the bodies of the State Service for Appraisal of Work Places are approved by the Cabinet of Ministers of Ukraine.

Special right to pension is stipulated by the current legislation to the following categories of citizens:

- to victims of Chernobyl disaster – in conformity with the procedure stipulated by the Law of Ukraine “On the Status and Social Protection of the Citizens who Suffered from Chernobyl Disaster”;
- to disabled, war veterans, and to the families of lost (dead) servicemen, officers and soldiers of the bodies of internal affairs;
- to the servicemen, officers, and soldiers of the bodies of internal affairs who took part in the military actions as well as to those who became disabled in consequence of a wound, contusion, bad injury when defending the country or in the course of other military service (performance of duties), or in consequence of a disease connected with being at front or performance of international duty, as well as to parents or wives (if not remarried) of the servicemen, officers and soldiers of the bodies of internal affairs, who died (were lost) during the period of military service (performance of duties), or upon release, though in consequence of a wound, contusion, bad injury in consequence of military service (performance of duties), disease connected with staying at the front, liquidation of the consequences of Chernobyl disaster, or

performance of international duty: men - upon attaining the age of 55 with a record of work no less than 25 years, women: upon attaining the age of 50 with a record of work no less than 20 years,

- the women who gave birth to five and more children and brought them up until the age of eight, mothers of disabled children who brought them up until the same age have the right to old-age pension upon attaining the age of 50 with a record of work no less than 15 years, with the period of care of children being included in the work record. At that, the disabled children include disabled children under the age of 16 entitled to social pension;
- if mother is not available, and a disabled child is brought up by father, he will be granted an old-age pension at the age of 55, with 20 years' record of work;
- the persons suffering from hypophysial nanism (dwarfs) and disproportion dwarfs have the right to old-age pension: men - upon attaining the age of 45 with a record of work no less than 20 years; women - upon attaining the age of 40 with a record of work no less than 10 years;
- the disabled of I group due to eyesight – blind and disabled of the I group since childhood have the right to old-age pension: men - upon attaining the age of 50 with a record of work no less than 15 years; women - upon attaining the age of 40 with a record of work no less than 10 years;

The old-age pensions are granted forever irrespective of the health condition.

#### 4.8.2 Compliance situation

There are 3 ways of documenting an employer-employee relation.

In practise the vast majority of employees, no matter which sector, is said to work without a real contract. (This might change when a new labour code will be adopted). When an employee and employer agree on employment a decree, "Prikaz", is signed where it states that a certain person is hired for a certain position, the date of the beginning of work and salary per month, without a description of the specifics of the employment agreement. Employment is commonly terminated by mutual agreement, but in case of disputes the employer needs the consent of the labour union. Social security fees are usually paid, but it happens that part of the salary is paid unofficially, thus reducing the tax burden for the employer. Specific information on the use of illegal workers could not be given by the official sources used for this research.

In addition there are two more employment forms in Ukraine:

-The Employment Agreement. A legal document which confirms the employment of a certain employee by a certain employer stating the rights and responsibilities of both sides. Additionally a "Prikaz" is signed based on the signed employment agreement.

-The Work Contract. A civil agreement for a specific(one time) job to be done, which obliges the executor to perform a certain job in a certain time and hand over the result to the Customer, where the Customer must assess the work and pay for it. A "Prikaz" is not signed in these cases.

Compliance is checked by the tax authorities and The State Department on Supervision of Labour Legislation Observance.

#### 4.8.3 Guidance for auditors

Compliance concerning the legally binding employment relationship can be verified by FWF auditors by checking:

- the hiring "prikaz" for the employees
- payment records for the social security fees
- labour union files

## Documentation.

Below an overview of the most important legally required documents that a company should keep.

<b>General/ financial</b>	
<input checked="" type="checkbox"/>	Proof of registration or factory licenses for operation, employment, etc.
<input type="checkbox"/>	Policy manuals
<input type="checkbox"/>	Information material about Code of Labour Practices and the FWF, used to inform workers and subcontractors.
<input type="checkbox"/>	Flow chart of the production process.
<input checked="" type="checkbox"/>	Map of the factory, specifying type of operations in every room, including if applicable, the distinctions with other companies/legal entities on the premises.
<input checked="" type="checkbox"/>	Production records and order records.
<b>Labour issues</b>	
<input checked="" type="checkbox"/>	List of all workers, including date of appointment, gender, birth date, function
<input checked="" type="checkbox"/>	Working hours records over the last 3 months, and possibly longer, as to be discussed during the inspection, and an "attendance register" (who signs this?).
<input checked="" type="checkbox"/>	OT register.
<input checked="" type="checkbox"/>	Records of all employees / personal files specifying names, birth dates (including proof of age), identity document number, sex, function, wage scale, date of employment.
<input type="checkbox"/>	Permits for young workers
<input checked="" type="checkbox"/>	Leave register, including leave payments. Applications for all kinds of leave.
<input checked="" type="checkbox"/>	Grievance files
<input checked="" type="checkbox"/>	Disciplinary notices
<input type="checkbox"/>	Employee manuals, (certified) standing orders or factory rules
<input type="checkbox"/>	Contracts between management and recruiting agencies
<input type="checkbox"/>	Time cards for all employees.
<input checked="" type="checkbox"/>	Payroll journals, or wage lists showing base wages, incentive or bonus earnings, gratuity, hours, deductions, net pay and gross pay.
<input type="checkbox"/>	All piecework rates and piecework calculations (or other incentive system rates and calculations – base plus, attendance bonuses, quality incentives, etc.).
<input checked="" type="checkbox"/>	Payroll deposit slips, payroll checking account ledgers and deposit receipts for tax and benefit deductions.
<input checked="" type="checkbox"/>	Payroll tax calculations, records and reports.
<input checked="" type="checkbox"/>	Proof of payment of social security fees.
<input checked="" type="checkbox"/>	Official authorization for overtime hours.
<input checked="" type="checkbox"/>	Copies of payslips as handed out to workers.
<input checked="" type="checkbox"/>	Collective bargaining agreement, or any other document specifying the working conditions.
<input checked="" type="checkbox"/>	Hiring decrees all workers.
<input checked="" type="checkbox"/>	Documentation of elections of workers representatives, either provided by management or the factory union.
<input type="checkbox"/>	In cases of 100% union membership: a list of signatures of workers for agreeing to have union dues subtracted from their wages.
<b>Occupational Health and Safety</b>	
<input checked="" type="checkbox"/>	Accidents register.
<input checked="" type="checkbox"/>	Sickness register.
<input checked="" type="checkbox"/>	Fire certificate.
<input type="checkbox"/>	Proof of payment for inspection of fire extinguishers, electric appliances, elevators.
<input checked="" type="checkbox"/>	Maternity leave register.
<input checked="" type="checkbox"/>	List of pregnant workers
<input type="checkbox"/>	Any other legally required registers concerning the labour laws and labour situation:

## 5. Partner Network

For this background study interviews have been held with various institutions and organizations. For the most important ones follows a description of their activities.

### International Labour Organisation (ILO)

The International Labor Organization (ILO) is devoted to advancing opportunities for women and men to obtain decent and productive work in conditions of freedom, equity, security and human dignity. Its main aims are to promote rights at work, encourage decent employment opportunities, enhance social protection and strengthen dialogue in handling work-related issues. In promoting social justice and internationally recognized human and labor rights, the organization continues to pursue its founding mission that labor peace is essential to prosperity. Today, the ILO helps advance the creation of decent jobs and the kinds of economic and working conditions that give working people and business people a stake in lasting peace, prosperity and progress. The ILO formulates international labor standards in the form of Conventions and Recommendations setting minimum standards of basic labor rights: freedom of association, the right to organize, collective bargaining, abolition of forced labor, equality of opportunity and treatment and other standards addressing conditions across the entire spectrum of work-related issues.

The ILO's diverse tasks are grouped under four strategic objectives:

- promote and realize standards and fundamental principles and rights at work
- create greater opportunities for women and men to secure decent employment and income
- enhance the coverage and effectiveness of social protection for all
- strengthen tri-partism and social dialogue

<b>Name of organization</b>	<b>ILO (International Labour Organisation)</b>
<b>Contact person</b>	<b><u>Vasil Kostrytsya</u> Stanislaw Cieniuch Sergiy Savshyk</b>
<b>Address details</b>	<b>Esplanadna Str. 8/10 office 1908• 01023 Kiev Tel. +38 044 284 38 87, 289 85 28 • Fax: +380 44 289 41 41</b>

### The Solidarity Centre

The Solidarity Centre is a non-profit organization that assists workers around the world who are struggling to build democratic and independent trade unions. The centre works with unions and community groups worldwide to achieve equitable, sustainable, democratic development and to help men and women everywhere stand up for their rights and improves their living and working standards.

- The Solidarity Centre and its union partners promote democracy, freedom, and respect for worker rights in global trade, investment, and development policies and in the lending practices of international financial institutions.
- Their programs aim to raise public awareness about the abuse of the world's most vulnerable workers.
- Their programs aim to help the world's workers secure a voice in the developing global economy, and thus in their own future.

The Solidarity Centre provides a wide range of education, training, research, legal support, organizing assistance, and other resources to help build strong and effective trade unions and more just and equitable societies. The Centre's education programs feature training in



basic human and worker rights, union skills, advocacy, occupational safety and health, economic literacy, and civic and voter education. The Solidarity Centre programs are designed for workers, unions, and community organizations in developing societies, particularly those seeking to promote democracy and play an essential role in creating public policies in their countries.

The Solidarity Centre receives funding from both public and private non-profit sources. Funding sources include the U.S. Agency for International Development, the National Endowment for Democracy, the U.S. Department of State, the U.S. Department of Labour, the AFL-CIO, private foundations, and national and international labour organizations.

The American labour movement has supported workers abroad since its founding more than a century ago. Along with other civil society organizations, it has received U.S. government funding to promote the cause of workers and the development of democratic trade unions in countries all over the world. The programs implemented and the partners chosen are determined solely by the Solidarity Centre and the AFL-CIO.

<b>Name of organization</b>	<b>Solidarity Centre</b>
<b>Contact person</b>	<b>Robert Fielding</b>
<b>Address details</b>	<b>27b Saksaganskogo st., apt 40</b> <b>Kiev</b> <b>+380 44 287 5831</b>

#### **The Ukrainian Sociological Institute**

The Ukrainian Sociological Institute realized more than 70 national and regional level projects. These projects were ordered by Ukrainian governmental structures and international organizations, for example UN Organization, USAID, International fund "Revival", Eurasia Fund, UNICEF, IPEC, World Bank, Freedom House, Netherlands embassy, the USA, Canada and others. Centre performs scientific-research projects, publishing activity, realizes marketing researches and organizes different conferences, seminars, presentations.

The strategic target of Centre is creating a national collegiate of experts, conducting monitoring of social development, the creation of an index system for quality assessment of Ukrainian social policy. The Ukrainian Sociological Institute has two regional offices: in Donetsk (Eastern region), and Lviv (Western region).

<b>Name of organization</b>	<b>Ukrainian Sociological Institute</b>
<b>Contact person</b>	<b>Yuri Alekseevich Privalov</b> <b>Gulya Chepurko</b>
<b>Address details</b>	<b>Shovkovychna Str. 12</b> <b>Kiev</b> <b>Tel. +380 44 255 7483 / 255 7541</b>

#### **Women's Prospects (NGO)**

The main goal of this organization is to protect women's rights. Women must have the same rights and freedoms as men. Women's Prospects tries to eliminate discrimination based on gender. The organization deals with specific women's problems but is not specifically active in the garments industry.

<b>Name of organization</b>	<b>Women's Prospects</b>
<b>Contact person</b>	<b>Maryna Saprykina</b>
<b>Address details</b>	<b>+38 050 685 04 31</b> <b><u><a href="http://www.gender.net.ua">www.gender.net.ua</a></u></b>

### **FES (NGO)**

The Friedrich Ebert Fund is a German civil non-profit organization aimed on boosting processes of democratization and development of society. It was founded in Berlin in 1925. The fund works in more than 100 countries all over the world. Financing is provided from federal funds in Germany.

<b>Name of organization</b>	<b>FES</b>
<b>Contact person</b>	<b>Dr. Stefan Chrobot</b>
<b>Address details</b>	<b>Puschkinska str. 34</b> <b>01004 Kiev, Ukraine</b> <b>Tel: +38 (044)235 1149</b> <b>+38 (044)235 5277</b> <b>Fax: +38 (044)451 4031</b> <b>E-mail: <a href="mailto:mail@fes.kiev.ua">mail@fes.kiev.ua</a></b> <b><a href="http://www.fesukraine.kiev.ua">www.fesukraine.kiev.ua</a></b>

### **The Ukrainian Quality Association**

In 1989 The Ukrainian Quality Association (UQA) was created as the first national non-governmental association in the USSR. They have which initiated a social movement for quality in Ukraine. Nowadays the UQA unites more than 450 enterprises all over Ukraine. The UQA has regional departments, branch committees, unions, clubs and professional quality organizations. The Ukrainian quality leaders club is the most important among UQA social structures. 5 years ago the best Ukrainian enterprises were united and created this club. The UQA has gained international recognition. It operates without State financial support. It is funded by its members and could in some respect also be considered as one of their marketing and public relation tools. The UQA has received USAID funding (2007) in getting an accreditation for SA8000 certifications from Social Accountability International (SAI).

The UQA mission is the forming of the necessary quality policies on government level. Due to UQA initiatives new quality philosophies were introduced in Ukraine. It acts as initiator and creator of principal national documents concerning quality, for example:

- Targets and principles of the Ukrainian national policy in the quality sphere (1992);
- Recommendations concerning regional programs, improvement of product quality and increasing the competitiveness of enterprises (1998)
- The Ukrainian Charter for business quality (1999)
- The Ukrainian national quality concept project (2001)
- The Ukrainian manufacturer Code of honor (2002)
- Complex assessment systems (2003).

The UQA collaborates with governmental and non-governmental organizations in Ukraine and also with a great deal of international organizations.

<b>Name of organization</b>	<b>Ukrainian Quality Association</b>
<b>Contact person</b>	<b>Petro Kalyta</b>
<b>Address details</b>	<b>Nikolsko-Slobotskaya Str. 6</b> <b>Kiev</b> <b>Tel. +380 44 4518818</b> <b>e-mail: <a href="mailto:kalyta@uaq.org.ua">kalyta@uaq.org.ua</a></b> <b><a href="http://www.uaq.org.ua">www.uaq.org.ua</a></b>

### **Quality Centre Prirost**

The certification body «Prirost» was established in 1994 as a department of the Ukrainian Quality Association. The Main activity of «Prirost» is the certification of quality management systems and environmental management systems. «Prirost» auditors have auditor

qualifications of the European Quality Organization (EQO) and have often been on placements in West European countries. «Prirost» is the only certification body in Ukraine that after one audit can give several certificates to a company.



<b>Name of organization</b>	<b>Quality Centre Prirost</b>
<b>Contact person</b>	<b>Oleksandr Beregoenko</b>
<b>Address details</b>	<b>Pr. Akademika Glushkova,40 03680, Kiev Tel.+ 380 44 526 06 05/ 522 24 48 E-mail: <a href="mailto:cb@quality.kiev.ua">cb@quality.kiev.ua</a> <a href="http://www.qmsc.com.ua">www.qmsc.com.ua</a></b>

#### **Federation of Trade Unions of Ukraine**

The Federation of Trade Unions of Ukraine (FPU) is an all-Ukrainian voluntary association of trade unions. It is the largest trade union confederation in Ukraine. It unites over 10 million trade union members. As of September 1, 2006 the Federation of Trade Unions of Ukraine consists of 44 all-Ukrainian trade unions and 26 territorial associations of trade unions.

The aim of the FPU activities is to express and represent interests and protect rights of its member organizations, coordinate their collective actions, promote unity of trade union movement, represent and protect labor and socio-economic rights and interests of trade union members before the state and local authorities, in relations with employers and their organizations and associations and also with other citizens' associations.

The FPU main tasks are protection of labor, socio-economic rights and interests of trade union members; social protection of trade union members and their families; legal protection of trade union members; strengthening of its influence on political life and formation of the civil society; improvement of the social partnership system: trade unions, employers, state; development of cooperation with other trade unions and their associations; equality of rights and opportunities for men and women; strengthening of the FPU as the most representative trade union centre in Ukraine; widening of FPU international relations.

At the international level FPU is affiliated to the International Trade Union Confederation and General Confederation of Trade Unions.

The Federation of Trade Unions of Ukraine is participating in the UN Global Compact.

<b>Name of organization</b>	<b>Federation of Trade Unions of Ukraine</b>
<b>Contact person</b>	<b>Alexander Yurkin</b>
<b>Address details</b>	<b>Grygoriy Osovyy Maidan Nezelezhnosti 2, 01012 Kiev Tel: +38 044 278-87-88, 279-26-44 <a href="http://www.fpsu.org.ua/eng">www.fpsu.org.ua/eng</a></b>

One of the member trade unions of FPU is **Trade Union of Workers of Light and Textile Industries of Ukraine**. It has representatives in each regional centre of Ukraine.

<b>Name of organization</b>	<b>Trade Union of Workers of Light and Textile Industries of Ukraine</b>
<b>Contact person</b>	<b>Olga Yefimenko</b>
<b>Address details</b>	<b>Maidan Nezalezhnosti 2, 01012 Kyiv Phone: +38044 278-24-56 Fax: +38044 279-00-69 e-mail: <a href="mailto:textil@fpsu.org.ua">textil@fpsu.org.ua</a></b>

### **The National Confederation of Trade Union Organizations of Ukraine**

The National Confederation of the Trade-Union Organizations of Ukraine (NKPU) is a national trade union. It was founded November 26, 2004 and claims a membership of 1.5 million. The NKPU was formed as a breakaway union from the Federation of Trade Unions of Ukraine. Particularly all industries are represented and garment industry is not an exception.

**Name of organization**                      **National Confederation of the Trade-Union Organizations of Ukraine (NKPU)**

**Contact person**                              **Petro Petrychenko,**

**Address details**

### **Independent Federation of Trade Unions of Ukraine**

The Independent Federation of Trade Unions of Ukraine (KVPU) is a national trade union. It is affiliated with the International Trade Union Confederation. No specific information about Union members was provided.

**Name of organization**                      **Independent Federation of Trade Unions of Ukraine**

**Contact person**                              **Mihail Volynets**

**Address details**                              **Velika vasilkovskaya Str. 65**  
**03150, Kiev,**  
**Tel.(044) 287-33-38, 287-64-57**  
**Tel/fax (044) 287-72-83**  
**e-mail : info@kvpu.org.ua**  
**www kvpu.org.ua**

### **Federation of Employers of Ukraine**

The Federation of Employers of Ukraine is one of the most powerful All-Ukrainian employers' organizations representing their interests in the economic, social and labour relations and protecting their rights and interests at the national level. It operates under the special Law "On employers' organizations" adopted in 2001. They affiliate 545 regional, local and district employers' organizations. The FEU members unite about 10 million employees who provide the state industry with more than 70% of gross domestic product, working at the enterprises, which are member-organizations of the Federation. The FEU is a member of the International Employers' Organization (IEO) and represents interests of the Ukrainian employers at the International Labor Organization (ILO), and other international organizations.

#### **Goals and Tasks:**

The FEU is working for the development of the economic, social and labor relations in the country, such as establishment of an effective social dialogue at all levels of management. The Federation promotes introduction of up-to-date economic, social and labor norms into the national legislation. It holds examinations of the drafts of the legislative and standard acts in the socio-economic sphere to support national business, it aims to improve the laws on social and labor relations. Also the FEU deals with matters related to the people's employment and production efficiency:

- Stimulating employers to create new work places
- Working out training systems according to labor market demands
- Aiming to increase the remuneration of labor
- Taking part in the management of the social insurance funds along with the government and trade unions
- Promoting the increase of social insurance effectiveness
- Dealing with problems of labor protection

- Aiming to change labor inspection policy from a fiscal one to an advisory one

**Name of organization** Federation of Employers of Ukraine  
**Contact person** Vasil Piddubny  
 Yana Zacrewnaya, Boyko Irina  
 (and their colleagues at the legal department)  
**Address details** M. Kotsyubynskogo str. 1  
 01030 Kiev  
 Tel: +38 044 251-70-67  
 e-mail: poddubny@fru.org.ua

#### **Confederation of Employers of Ukraine**

The Confederation of Employers of Ukraine is a non-profit public organization, which unites all Ukrainian employers' organizations. The main aim of the Confederation is to represent and protect members' interests – employers and their organizations – in economic, social, labour and other affairs. The structure of the Confederation is based on a branch principle with preservation of members' independence, which delegate part of their rights for solving national issues. The Confederation statute forbids any political activity and it can not be headed by any level of Ukrainian parliament deputies, party or trade union leader or State employees. Annual rotation of the Confederation's management is foreseen. No specific information about the represented branches and/or the establishment of a separate textile branch could be provided by the Confederation.

**Name of organization** Confederation of Employers of Ukraine  
**Contact person** Oleksiy Miroshnichenko  
**Address details** Shota Rustaveli 12, app 5, 3<sup>rd</sup> floor, Kiev  
 +380 44 246 65 64

#### **The Guild of Ukrainian Clothes Manufacturers**

The Guild of Ukrainian Clothes Manufacturers was created as an independent non-profit organization in August 2000 with support of the German Transform Program.

The primary goals of the Guild are:

1. To represent the interests of export oriented Ukrainian Textile and Sewing Companies and their partners throughout the country.
2. To organize seminars for its Ukrainian members about organization of production, design and major fashion trends, marketing and cost management,-modern technologies.
3. To help both foreign and Ukrainian enterprises getting into successful cooperation with each other and to assist at negotiations and contracts.
4. To offer business solutions for European companies interested in relocating their production abroad and looking for manufacturing in lower-cost countries such as Ukraine.
5. To provide foreign companies with information about Ukrainian Textile and Sewing Industry and help them to make the first steps in starting their business in Ukraine.

**Name of organization** Guild of clothes producers  
**Contact person** Anatoliy Stepanovich  
 Vostryakov  
**Address details** Grinchenko str., 2/1

03038, Kiev,  
Phone/fax +38044 252-69-51  
[www.ua-fashion.net](http://www.ua-fashion.net)



**The State Department on Supervision of Labour Legislation Observance**

The State Department on Supervision of Labour Legislation Observance is a controlling unit, which supervises whether norms of Labour Legislation are applied.

<b>Name of organization</b>	<b>State Department on Supervision of Labour Legislation Observance</b>
<b>Contact person</b>	<b>Volodymir Los</b>
<b>Address details</b>	<b>Raduzhnaja 9A, nr.3 Kiev +380 44 542 7289</b>

**The State Committee of Health and Safety at Work**

The main aims of the Committee are the following:

- Participation in the development of government policy on labour safety issues
- Supervision on labour safety
- Increasing public awareness in the sphere of the labour safety and occupational health.

<b>Name of organization</b>	<b>The State Committee of Health and Safety at Work</b>
<b>Contact person</b>	<b>Dr. Sergey A. Storchak</b>
<b>Address details</b>	<b>Esplanadna str. 8/10 02023, Kyiv tel.: +380 44 226-20-83 fax: +380 44 220-55-24 dnop@dnop.kiev.ua; tsurik@dnop.kiev.ua</b>

## 6. Auditing

### 6.1. Auditing practices

Social audits regarding labour conditions are a novelty in Ukraine. Only recently initiatives in this direction have been employed by the Ukrainian quality association. The UQA has received USAID funding (2007) in getting an accreditation for SA8000 certifications from Social Accountability International (SAI). Every company seeking certification to SA8000 standards must be audited to assess practice on a wide range of issues. Such as: child labour, health & safety, freedom of association and the right to collective bargaining, discrimination, disciplinary practices, working hours and compensation. Organizations interested in demonstrating that they are honouring SA8000 will have that fact certified by an SAI-accredited auditing firm. For Ukraine the UQA is aiming to be the first. The accreditation process includes documentation review, site audits, and observation of auditors in the field by SAI.

Today, social audits are virtually unknown not only in the textile sector but in Ukrainian industry as a whole.

### 6.2. FWF audit teams

Accountancy specialists for the FWF audit team can be found, among others, at one of the well known and respected business education institutes in Ukraine:

-Kiev national economic University, faculty of Accounting  
Vasil Efimenko, Dean  
Professor, Candidate of Economic Sciences  
Tel.: 38 044 4595019, 4596240  
e-mail: [account@kneu.kiev.ua](mailto:account@kneu.kiev.ua)  
[www.kneu.kiev.ua/en/62.htm](http://www.kneu.kiev.ua/en/62.htm)

-Kyiv Mohyla Business School  
Financial Accounting, Managerial Accounting, Financial Management  
Mykhajlo W. Kolisnyk  
380 44] 490 6635, 238 2444, [067] 230 0105  
[kolisnyk@kmbs.com.ua](mailto:kolisnyk@kmbs.com.ua)  
[www.kmbs.com.ua/en/](http://www.kmbs.com.ua/en/)

Health & safety specialists for the FWF audit team can be found at the "Prirost" quality centre or their parent organization, The Ukrainian Quality Association. A less commercial alternative could be through the State Committee of Health and Safety at Work or through one of the labour unions. In any case specialists in this field are likely to have their roots in one of the bodies regulating this area.

Workers' interviewer for the FWF audit team can best be found at one of the labour unions. It is possible to find people here who have a natural drive for the cause, and thus are motivated. Besides, these people will be familiar with the textile industry practices and will easily talk to employees, while understanding the framework in which to place their responses.

## 7. Appendices

### 7.1. Audit report on equal remuneration in Ukraine(translated)

**“Assessment report on Ukrainian legislation ensuring the applying of the ILO conventions 100&111 on equal remuneration for men and women”**

State Department on Supervision of Labour Legislation Observance

Relevant legislation:

- Constitution of Ukraine approved on 28 June 1996 № 254/96-BP;
- The Ukrainian Law «On remuneration of labour» approved 24 March 1995 № 108/95-BP and amended on 21 February 2006;
- The Ukrainian Labour Code approved by 10 December 1971 (considering the latest amendments and additions);
- Ukrainian Law dated 1 July 1993 № 3356-XII «On collective contracts and agreements»;
- The decree of the Cabinet of Ministers of Ukraine regulation dated 5 April 1994 № 225 «On the registration procedure of sectoral agreements and collective contracts».

Existing Labour legislation in Ukraine guarantees each citizen of Ukraine equal rights concerning labor and its remuneration irrespective of origin, social and material status, race and nation, gender, language, political views, religion, union membership, activity, place of living. Women and men have equal rights.

In accordance with Article 10 of the Ukrainian Law «On remuneration of labour» the minimum wage rate is approved by the Ukraine parliament once per year while approving the State Budget. The average wage level; labour productivity and other economic conditions are taking into account while establishing the minimum wage. Minimum wage – The legally approved wage for simple, non-qualified work.

In accordance with Article 8 of the Ukrainian Law «On remuneration of labour» payment conditions for government employees are determined by the Cabinet of Ministers. Payment conditions for government employees are established irrespective of origin, social and material status, race and nation and gender.

Due to these principles equal remuneration of labour is ensured and it is unnecessary to take governmental action concerning this question.

In view of this there are no special inspections and court examinations, administrative or criminal procedures.

A handwritten signature in black ink, followed by the date '25.09.06' written below it.

## 7.2. Official list of difficult, harmful and dangerous

### **Mining and underground building**

- Underground works
- Open mining works
- Agglomeration and briquetting
- Building materials processing
- Coal and graphite production
- Exploration and topographic works

### **Metal manufacturing**

- Ferrous metallurgy
- Blast-furnace production
- Steelmaking
- Steel rolling production
- Tube production
- By-product-coking industry
- Non-ferrous metallurgy

### **Microbiological production**

- Sugar production
- Fodder protein production
- Ethyl alcohol production
- Furfural production
- Fodder antibiotics, vitamins and amino acids production
- Enzymatic drugs production
- Xylose, xylite, xylitan production
- Solvents production
- Premix production

### **Medicine, medical supplies, bacteriological and biological materials production**

### **7.3. List of employers` federations which signed the General Agreement**

- Federation of Employers of Ukraine,
- Confederation of Employers of Ukraine,
- Ukrainian Union of Industrialists and entrepreneurs,
- Ukrainian agricultural Confederation,
- Ukrainian Association of Enterprises of Ferrous Metallurgy,
- All Ukrainian Union of Employers of Chemical and Petrochemical Industry,
- Ukrainian Organization of Employers of Light Industry,
- All Ukrainian Union of Employers in sphere of telecommunication and information,
- Ukrainian Federation of Health and Safety,
- Ukrainian Organization of Medical and Microbiological Industry,
- Association of Shipbuilders of Ukraine "Ukrsudprom",
- Ukrainian Association of Publishers

#### 7.4. Trade journals and useful web sites

In Ukraine there is currently still only one serious branch magazine for the textile industry called “Lekhka Promislovistj, meaning “Light industry”. The magazine has its own site:

[www.lprom.kiev.ua](http://www.lprom.kiev.ua)

It is printed in 2500 copies and distributed at exhibitions and through subscriptions

##### Useful web sites

[www.legprom.biz](http://www.legprom.biz)

[www.ukrstat.gov.ua/](http://www.ukrstat.gov.ua/)  
<http://ukraine.usaid.gov>  
[www.bank.gov.ua/ENGL](http://www.bank.gov.ua/ENGL)

[www.kievpost.com](http://www.kievpost.com)  
[www.doing-business-in-ukraine.com](http://www.doing-business-in-ukraine.com)

**Branch information on the textile sector in Ukraine**

**State statistics committee**

**USAID in Ukraine**

**National bank of Ukraine(exchange rates etc.)**

**Ukrainian English language newspaper**

**Consultancy services**