

**INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS (ICFTU)**

**INTERNATIONALLY-RECOGNISED CORE LABOUR  
STANDARDS IN ROMANIA**

**REPORT FOR THE WTO GENERAL COUNCIL REVIEW OF  
THE TRADE POLICIES OF ROMANIA**

**(Geneva, 28 and 30 November 2005)**

**EXECUTIVE SUMMARY**

**Romania has ratified all eight ILO core labour standards. In some areas Romania's law and practice require improvements in order to comply with the commitments Romania accepted at Singapore, Geneva and Doha in the WTO Ministerial Declarations over 1996-2001, and in the ILO Declaration on Fundamental Principles and Rights at Work.**

**Romania has ratified both the ILO's core conventions on trade union rights and its legislation in this area generally complies with internationally-recognised core labour standards, although some problems persist particularly with regard to the right to strike.**

**Discrimination persists in Romania despite its ratification of both the internationally-recognised core labour standards in this area. This is evident with respect both to women and to the ethnic minority of Roma.**

**Romania has ratified the ILO core conventions on child labour. However, though child labour is not a normal part of most commercial activities, an excessively high number of Romanian children are economically active.**

**Romania has ratified both the main ILO Conventions prohibiting forced labour. These are enforced effectively – except with regards to trafficking of women, which seems to be a growing problem in the country.**

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## **INTERNATIONALLY-RECOGNISED CORE LABOUR STANDARDS IN ROMANIA**

### **Introduction**

This report on the respect of internationally recognised core labour standards in Romania is one of the series the ICFTU is producing in accordance with the Ministerial Declaration adopted at the first Ministerial Conference of the World Trade Organisation (WTO) (Singapore, 9-13 December 1996) in which Ministers stated: "We renew our commitment to the observance of internationally recognised core labour standards." The fourth Ministerial Conference (Doha, 9-14 November 2001) reaffirmed this commitment. These standards were further upheld in the International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work adopted by the 174 member countries of the ILO at the International Labour Conference in June 1998.

The ICFTU has two affiliates in Romania, the CNSLR-Fratia with a membership of 1,200,000 workers and the National Trade Union Bloc (BNS) with a membership of 350,000.

Romania's economy is still in transition. It resembles most of its Central European neighbours: agriculture accounts for 13% of GDP (2003); industry for 37% of GDP; construction for 6.1% and services for 44.1% of GDP. Total exports amounted to EURO 18,935 million in 2004, of which manufacturing accounted for EURO 12,905 million. Total imports amounted to EURO 24,258 million in 2004. Romania's major export destinations are the EU (with 72.9 % in 2004), Turkey, the US and Bulgaria. Its imports mainly come from the EU (with 64.9 % in 2004), Russia, Turkey and China.

Romania has signed an Association Agreement with the European Union (EU). In December 1999, it opened EU accession negotiations. It is expected to become a member of the EU in 2007 or 2008. Romania is an associate member of the European Free Trade Association (EFTA) and of the Central European Free Trade Association (CEFTA).

## **I. Freedom of Association and the Right to Collective Bargaining**

Romania ratified ILO Convention No. 87 (1948), the Freedom of Association and Protection of the Right to Organise Convention in 1957 and ILO Convention No. 98 (1949), the Right to Organise and Collective Bargaining Convention, in 1958.

The 2003 Trade Union Law recognises the right of workers to establish and join the trade union of their choice. This right applies to all workers except high-level government and civil service staff, public prosecutors and judges, as well as military, intelligence and police personnel. No worker may be forced to withdraw from or join a union.

The law requires a minimum of 15 members to form a union. They have to belong to the same branch of activity, but not the same enterprise. There are still restrictions on the choice of union officials, as the new law, just as the old one, stipulates that to be elected to trade union office a person must be a Romanian citizen.

The right to strike is recognised by law. However, employees in sanitary services, pharmacies, schools, communications, radio and television, transport and the supply of essential services (gas, electricity and so on) must provide a minimum service of one third of normal activity in the event of a strike.

The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has emphasised that restrictions on the right to strike can only be justified in the case of 'services the interruption of which would endanger the life, personal safety or health of the whole or part the population'. The CEACR has also criticised the fact that the management of a production unit may demand the suspension of a strike, for a maximum period of 30 days, if it endangers the life or health of individuals, and that the management of a production unit may submit a dispute to an arbitration commission where a strike has lasted for 20 days without agreement being reached and if continuing it would affect life or health. In its critique it asks for transparent criteria relating to 'the life or health of individuals' and emphasises that it should not be up to the management of the production units to evaluate whether the continuation of a strike affects humanitarian interests.

Strikes may be held only if all means of possible conciliation have failed. The employer must be given 48 hours' warning. Strikes can only be held to defend the economic interests of the workers and must not be used for political reasons. The same people who are prohibited from joining and forming trade unions may not strike.

The 1999 Act on the settlement of disputes allows the management of a production unit to submit a dispute to arbitration unilaterally. The arbitration committee may take irrevocable decisions, bringing a dispute to an end. In 2005 the CEACR criticised this practice, recalling that according to the convention, restrictions on the right to strike by the imposition of compulsory arbitration can only be justified in respect of workers working in essential services and public servants engaged in the administration of the State. Thus, the practice is incompatible with the Convention.

Strikes are illegal if a collective agreement is in existence, even if the dispute concerns an emerging problem not covered by the existing agreement and the

employer refuses to negotiate the new problem with the union. Strikes can be declared illegal on the grounds of procedural irregularities. If a strike is declared illegal the trade union leader can legally be fired, even if the strike is ended immediately after being declared illegal.

Collective bargaining is a recognised right under a 1996 law. Collective agreements must be renewed every year. The state may not interfere in the collective bargaining process. No sector is excluded by law from collective bargaining. However, collective agreements can only be negotiated in workplaces where there is a minimum of 21 employees. Public employees may bargain for everything except salaries, which are set by the government.

Anti-union discrimination is prohibited by law. The protection of trade union leaders is strengthened by the new trade union law. Throughout the duration of the mandate and two years after its completion, the working contract of the trade union leader cannot be terminated for unjustified reasons, unless the elected leadership of the trade union agrees.

In response to a request from the trade unions to establish specialised bodies to deal with labour disputes, the government drafted a bill to this effect, and promised that the new labour courts would be established by the end of 2004. However, there were no fundamental changes to the law by the end of the year and no Labour Courts had been created. Labour disputes continued to be dealt with by specialised panels in the normal court system. The labour law specialists representing employers and trade union organisations on these panels can only give an opinion, their view is not binding on the court.

In practice as well as in law, trade union rights are not always respected. The right to form trade unions, first of all, is not always practicable. Some employers try to block the creation of trade unions within the companies. Others create controlled 'unions', to counteract the activities of independent trade unions. In some cases, employers seek to destroy independent trade unions, which is punishable by law but difficult to prove. It is reported that the most anti-union employers – usually foreign companies – make employment conditional upon the worker agreeing not to create or join a union. Secondly, it is very difficult to strike at the enterprise level and at branch level it is even more difficult. Trade union leaders who organise a strike often face reprisals. Thirdly, many employers do not respect the right to collective bargaining and do not conclude collective agreements with the trade unions. Fifth and finally, the limited number of judicial panels dealing, at district level, with industrial disputes, and the fact that the labour law specialists can only issue opinions, not binding decisions, has impaired the resolution of labour disputes and the enforcement of trade union rights. Employers have rarely been punished by the courts for their anti union behaviour.

### ***Conclusions***

*The legislation on trade union rights in Romania generally complies with internationally-recognised core labour standards, although problems persist particularly with regard to the right to strike.*

## **II. Discrimination and Equal Remuneration**

Romania ratified ILO Convention No. 100 (1951), Equal Remuneration, in 1957 and ILO Convention No. 111 (1958), Discrimination (Employment and Occupation) in 1973.

The Constitution forbids discrimination based on race, nationality, ethnic origin, language, religion, sex, opinion and political allegiance, wealth or social background. However, in practice these provisions are not enforced effectively, and women, Roma and other minorities are subject to various forms of discrimination.

The law prohibits any act of gender discrimination, including sexual harassment. Despite the laws as well as women's equal levels of education, women have a higher rate of unemployment than men and occupy few influential positions in the private sector, where they earn lower wages. Few resources are made available to deal with economic discrimination against women.

The CEACR has called for measures to ensure that women are protected against discrimination in "work of equal value" as well as when they perform equal work, "to reduce the still considerable wage gaps between men and women".

According to the Government, only 27 percent of the Roma population has steady jobs and only half of those jobs can be considered skilled. In 2003 the CEACR noted that it remains concerned about the still very high percentage of Roma falling into the category of 'economically inactive'. In particular, it noted that within the Roma population, the percentage of economically inactive persons between 25 and 49 years of age is twice as high as the percentage of such persons in respect to the entire population. With respect to the distribution of Roma workers in the various occupational groups and economic activities, it once again noted the absence of Roma in better paid or higher level jobs and their concentration in certain fields of activity, such as agricultural work, construction or the fishing industry.

The Government is aware of the problems and adopted, at the turn of the Millennium, a 'Strategy for improving the conditions of Roma' for the period 2001-10 with a medium-term plan of action covering the years from 2001 to 2004. Real progress, however, still remains to be seen.

There are continuous reports of discrimination on the labour market against people with disabilities. In July 2004, the Romanian Parliament passed a law to amend the existing legislation on special protection and employment of persons with disabilities. This new law increased benefits for blind persons and for persons with serious disabilities.

### **Conclusions**

*Discrimination against women and ethnic minorities persists in Romania, although different measures within the last 10 years have been seeking to address this problem. Overall, the situation – especially for the Roma population – has not been improved significantly.*

### **III. Child Labour**

Romania ratified ILO Convention No. 138 (1973), the Minimum Age Convention, in 1975, and ILO Convention No. 182 (1999) Worst Forms of Child Labour Convention, in 2000.

The minimum age for paid employment is 16 years, with an exemption related to employment at the age of 15 years, with parental agreement. The CEACR has been highly critical of the fact that the 1991 Constitution effectively reduced the minimum age for employment from 16 to 15.

There is no minimum age for admission to unpaid employment. Such work, according to the government, occurs especially in rural areas and within the family. In 2004 the CEACR criticised the exclusion of such work from the country's Labour Code. Convention No. 138 covers all forms of employment or work, whether or not there exists a contract of employment and whether or not it is remunerated.

In May, the Ministry of Labour, Social Solidarity and Family issued jointly with UNICEF and the ILO a report on child labour which estimated that 3.9 million of the 5.6 million children in the country were 'economically active'. Over 300,000 (approximately 7 percent) were 'child labourers', working without any contractual arrangements in agriculture or low skilled jobs, while 900,000 (19 percent) were working in households, especially in rural areas. Approximately 300,000 (6 percent) were engaged in hard work activities, while 60,000 to 70,000 (more than 1 percent) were involved in the 'worst forms of child labour', including hazardous work, sexual exploitation, forced labour, trafficking and criminal activity. This last category included more than 3,000 'street children' in the country. Child labour, including begging, selling trinkets on the street, or washing windshields, remained widespread in the Roma community.

Enforcement of child labour legislation tends to be lax except for extreme cases. According to the U.S. Department of State, the roles and responsibilities of the agencies that enforce child labour laws remains ill defined, and these laws are often only enforced when a particularly grave case becomes public. In 2004 for example, and despite the prevalence of child labour, there were no reports of anyone being charged or convicted under any of the child labour laws.

The Government has recognised that child labour is a problem and has started to make progress in eliminating the worst forms of child labour. Among other things, the Government, with the support of the ILO, began implementing a comprehensive programme to eliminate child labour. The programme's strategy is to identify vulnerable groups and initiate measures in partnership with government agencies, trade unions, and NGOs.

#### ***Conclusions***

*Overall, there does not appear to be any widespread use of child labour in the formal sector in Romania, but the country does have an excessively high number of economically active children. There is, moreover, a growing problem of street*

*children in the larger cities. The legislation should be improved. Most urgent of all is the need to achieve effective enforcement of legislation.*

#### **IV. Forced Labour**

Romania ratified ILO Convention No. 29 (1930), the Forced Labour Convention in 1957 and ILO Convention No. 105 (1957), the Abolition of Forced Labour Convention in 1998.

Though the law prohibits trafficking in persons, it continues to be a serious problem. The country is an origin and transit point for trafficked women and girls from Moldova, Ukraine, and other parts of the former Soviet Union who are trafficked to Bosnia, Serbia and Montenegro, Macedonia, Turkey, Albania, Greece, Cyprus, Italy, France, Germany, Hungary, the Netherlands, Poland, Spain the United Arab Emirates, Japan, and South Korea for sexual exploitation. Victims of trafficking are primarily women and girls trafficked for sexual exploitation. In 2004 there were also reports of men being trafficked to Greece for agricultural labour. In some instances, the police have been accused of being involved in trafficking.

The country's juridical system punishes trafficking quite hard. The law provides for 3 to 12 years' imprisonment for trafficking in minors between 15 and 18 years of age. There exist several provisions that can increase imprisonment of traffickers with up to 18 years. Moreover, initial consent of a trafficked person does not exempt the trafficker from liability.

Over the last couple of years, the government has increased its efforts against trafficking.

The Constitution and the country's laws prohibit forced labour.

***Final conclusions and recommendations***

1. The government of Romania should amend its law on essential public services to bring it into line with the ILO definition of such essential services as being restricted to those “where there is existence of a clear and imminent threat to the life, personal safety or health of the whole or part of the population”.
2. Romania needs to undertake further improvements to its law on the right to strike in order to live up to the conventions the country has signed.
3. The government should deliver on its promises of setting up labour courts to deal with labour disputes, so that such disputes are no longer dealt with by specialised panels in the normal court system.
4. More active measures are needed to address problems such as discrimination against women in employment, to promote equal opportunities and to achieve equal pay for work of equal value.
5. Continued efforts are needed to address discrimination in employment against minority groups, especially the Roma community, including equal access to vocational training, and to promote improvements in the situation of workers with disabilities.
6. The government should raise the age of employment to 16, in line with the recommendations of the ILO Committee of Experts on the Application of Conventions and Recommendations.
7. The government needs to further address the extraordinary higher number of children whom are economically active, to ensure that these children are not robbed of their childhood and have the adequate possibilities to take advantage of primary and secondary education. It should, moreover, tackle the growing problem of street children by increasing its anti-poverty measures.
8. In line with the commitments accepted by Romania at the Singapore and Doha WTO Ministerial Conferences and its obligations as a member of the ILO, the government of Romania should therefore report to the WTO and the ILO on its actions to implement fully the core labour standards.
9. The WTO should draw to the attention of the authorities of Romania the commitments they undertook to observe core labour standards at the Singapore, Geneva and Doha Ministerial Conferences. The WTO should request the ILO to intensify its work with the government of Romania in these areas and provide a report to the WTO General Council on the occasion of the next trade policy review.



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