

Table of Contents

Preface by the Editors	3
Acknowledgements	5
Abbreviations	9
1 Introduction	11
2 Labour Rights and Global Production – Framing the Issue.....	15
2.1. The Global Production Network Approach	15
2.2. The Human Rights Framework.....	18
2.3. Human rights – are they any business of business?	20
2.3.1. The human rights responsibilities of TNCs	22
2.3.1.1. The emerging human rights responsibilities of TNCs in global production networks	24
2.3.1.2. The TNC sphere of influence.....	25
2.3.1.3. Due Diligence	28
2.3.2. Corporate Self-Regulation: Corporate Social Responsibility ...	33
2.3.2.1. The CSR policy and practice of H&M	35
2.4. The human rights responsibilities of States	37
3 The Labour Rights Situation and GPN configurations in CEE with a focus on Romania.....	45
3.1. The Apparel Sector in CEE and Romania	45
3.2. The electronics sector in CEE and Romania	47
3.3. Labour rights in Romania	48
3.3.1. The standards of assessment: The ICFTU Basic Code of Labour Practice	48
3.3.2. Romanian labour law including pertinent EC legislation relevant for labour rights in GPN	51
3.3.3. National legislation and implementation concerning the ICFTU code standards	73
3.3.3.1. Forced labour	76
3.3.3.2. Child labour	77
3.3.3.3. Discrimination in employment.....	77
3.3.3.4. Freedom of association and right to collective bargaining ...	80
3.3.3.5. Living wage	85
3.3.3.6. Working hours	87
3.3.3.7. Occupational health and safety measures.....	88
3.3.3.8. Permanent employment relationship	89
3.4. Summary and conclusions concerning labour rights in the apparel and electronics sectors	89
4 The protection of labour rights in global production networks – legal implications for change	93
4.1. Host state and home state responsibility	93
4.1.2. Host state responsibility.....	94

4.1.2.1.	The state duty to protect labour rights against violations of non-state actors.....	94
4.1.2.1.1.	National liability regimes of subcontractors for labour rights violations.....	95
4.1.2.1.1.1.	Chain liability regimes outside the EU: the example of Australia	102
4.1.2.1.2.	Socially responsible public procurement	103
4.1.3.	Responsibility beyond borders? – Home state responsibility	111
4.1.3.1.	Legal justifications for home state responsibility.....	112
4.1.3.2.	Attribution of the human rights violation to the home state	114
4.1.3.3.	The US Alien Tort Claims Act.....	115
4.1.3.4.	The United Kingdom.....	119
4.1.3.3.	Australia	120
4.2.	The EU and Labour Rights in global production networks.....	123
4.2.1.	An Alien Tort Claims Act on the EU level? The Brussels I Regulation	126
4.2.2.	Chain liability on the EU level?	129
4.2.3.	European Framework Agreements.....	130
4.3.	Instruments on the International Level.....	133
4.3.1.	ILO instruments and initiatives	133
4.3.1.1.	ILO Tripartite Declaration on Principles concerning Multinational Enterprises and Social Policy	134
4.3.1.2.	ILO Helpdesk.....	135
4.3.1.3.	“Better Work” Programme	136
4.3.2.	The OECD Guidelines for Multinational Enterprises.....	138
4.3.2.1.	Scope and implementation of the Guidelines	138
4.3.2.2.	The National Contact Points	141
4.3.2.3.	An example of good practice: The NCP of the United Kingdom	144
4.3.2.4.	The 2011 Review of the Guidelines.....	146
4.3.3.	Company Codes of Conduct	146
4.3.3.1.	Labour Rights in Codes of Conduct.....	147
4.3.3.2.	Effectiveness of Codes of Conduct.....	147
4.3.3.3.	Monitoring in the supply chain	149
4.3.3.4.	Codes of Conduct and contractual obligations	150
4.3.4.	International Framework Agreements.....	152
5	Conclusions and Recommendations.....	159
	Bibliography	165
	Annex 1: List of interviews.....	181
	Annex 2: Diagram of relevant instruments to secure labour rights in GPN	183
	Index	187