



DE LEGE FERENDA PROPOSAL FOR THE COMPLETION OF THE LEGAL FRAMEWORK REGARDING THE TEXTILE PRODUCTS, IN THE CONTEXT OF A SOCIAL RESPONSIBLE MANAGEMENT

MUREȘAN (POȚINCU) Laura¹, MĂRĂSCU-KLEIN Vladimir²

¹ Transilvania University of Brasov, Faculty of Economic Sciences and Business Administration, Department of Management and Economic Informatics, 1 Colinei Street, 500084, Brasov, Romania, E-Mail: laurapotincu@yahoo.ro

² Transilvania University of Brasov, Faculty of Technological Engineering and Industrial Management, Department of Engineering and Industrial Management, 5 Mihai Viteazul Street, 500174, Brasov, Romania, E-Mail: klein@unitbv.ro

Corresponding author: Mureșan (Poțincu), Laura, E-mail: laurapotincu@yahoo.ro

Abstract: *In the case of this economic operator, manufacturing or trading textile products, the corporate social responsibility is a social must, and it consists of a set of objectives which must be implemented by the management of the economic operator in all departments. In order to understand the implications of a social responsible management in the textile products domain, it is required to analyse the juridical framework. Interesting is the choice in this area of the production and the marketing of textile products, to only adopt/use one regulation, not a directive or a legislative package consisting in a directive and a regulation. As a result of legal analysis performed, we support the maintenance of the use, as a legal instrument, of the European regulation type normative document, but we suggest the extension of the provisions of the European normative act and its transformation into a particular complex normative act, beyond the scope of the aspects concerning the labelling.*

Key words: *textiles, labeling, social responsible management, consumer's protection.*

1. INTRODUCTION

The economic operators acting from the perspective of the corporate social responsibility (CSR) develop the following essential management aspects differentiating them from the other economic operators:

A) establishing the vision and mission of the economic operator, which considers the optimization of the interests of the respective economic operator (materialized in the profit), as well as the consumer's interests (maximization of the value expected from the respective product or service) and the general interests of the community (by complying with ethical principles and assuming social responsibility);

B) conceiving specific marketing policies and strategies and marketing-mix (which also include strategies related to CSR);

C) adopting tactics specific to the socially responsible management vision;

D) using the management instruments for knowledge and researching the environment in which the economic operator acts;

E) other aspects especially related to strategic management.

The aspects related to social responsibility have been taken over by the Romanian economic operators, from the economic doctrine outside Romania [1], but also from the practice of the foreign economic operators which have opened branch offices or subsidiaries in Romania.



For the sake of a better highlighting of the previously presented theoretical aspects, we shall apply the elements analysed regarding the socially responsible management to the activity of an economic operator manufacturing or trading textile products. In the case of this economic operator, manufacturing or trading textile products, the corporate social responsibility is a social must, and it consists of a set of objectives which must be implemented by the management of the economic operator in all departments, not only the social responsibility department, even if such a department cannot be outlined. As we have previously mentioned, a socially responsible management implies not only respecting the law, but also a series of ethical norms. Thus, a manufacturer or a trader of textile products developing a socially responsible management must comply with the legislation regarding the purchase and use of raw materials, the legislation regarding its operation, the legislation regarding the protection of the employees, the legislation regarding the intellectual property, the fiscal legislation, **the legislation regarding the labeling** and the entire legislative framework required by the development of their managerial activity, only because it is socially responsible, and not for fear of the legal sanctions to which he would otherwise be subject.

2. CUSTOMER PROTECTION THROUGH LABELING THE TEXTILE PRODUCTS, ESSENTIAL ASPECT OF A SOCIALLY RESPONSIBLE MANAGEMENT

In order to understand the implications of a social responsible management in the textile products domain, it is required to have an overview of the social responsibility concept. This way, it would be highlighted how important it is to really and completely integrate the requirements of the social responsibility into the management activity of the economic operators.

For many years, the objectives of the social development have been the philanthropy activities which have however been considered as separate from the objectives of the business activity, not as being fundamental for the latter. To do something correctly and to do the right things have been perceived as different separate purposes. However, this has changed. Several economic operators have learned that innovation and the competitive advantage could have their roots in the implementation of the social ensemble and the natural environment protection in the business strategies as far back as the beginning of their commercial activity. [2]

At present, the social responsibility of the economic operators must be regarded from a complex perspective. We consider [3] that the social responsibility of the economic operators is what the community expects from an economic operator ecologically, economically, legally, ethically and philanthropically. In our opinion, the social responsibility includes all these types of responsibilities: ecological responsibility, economic responsibility, legal responsibility and philanthropic responsibility.

The Romanian authors [4] dealing with the corporate social responsibility field include the social partners from the stakeholders' category. The "stakeholder" term derives from the following terms: stake meaning interest, and holder meaning owner, both English terms. Thus, stakeholders are those categories of persons which have an interest in developing the activity of the respective economic operator.

The social responsibility can also be characterized as being the firm obligation of an economic operator to act beyond the legal obligations or those imposed by economic restrictions, and to pursue long-term objectives to the use of the community. The respective economic operator is considered responsible not only towards their owners (shareholders) but also towards **clients**, providers, employees, governmental organisms, creditors, local communities, public opinion (**stakeholders**).



In this context, a manager of a socially responsible economic operator (including in the textile products field) has several categories of ethical and legal obligations. These obligations are divided into four directions, given four groups interested in the respective commercial activity, i.e.: the shareholders, the employees, **the clients (obligations regard high-quality products/services, guarantee of the use safety, information)**, the community. [5]

The consumer is legally [6] defined as any natural person or group of natural persons constituted in associations, which purchases, acquires, uses or consumes products outside their professional or commercial activity. **The consumer protection** is a concept representing all the dispositions regarding the public or private initiative, meant to continuously provide and improve the observance of the consumers' or users' interests. [7]

3. THE ROMANIAN REGULATORY LEGAL FRAMEWORK, AS ROMANIA IS A MEMBER OF THE EUROPEAN UNION, REGARDING THE TEXTILE PRODUCTS' LABELING

The Civil Code establishes, in art. 5, that in the provisions regulated by this Code, i.e. the private law field – which includes the commercial or business law – the juridical norms included in the European Union law are primarily applied as compared to juridical norms provided by the internal law. This principle cannot in any way be restricted by the quality or status of the parties belonging to the juridical relation in question.

The two, most important and compulsory, category of normative acts used at European Union level and at the level of each member states of EU, are regulations and directives. The regulations are applied to all the persons that are in their applicability area.[8] The regulations create subjective rights in the favour of private persons, citizens of the member states, both individuals/natural, and legal persons. As compared to the regulations, the directives are mandatory only for each member state to which it appeals regarding the result to be obtained. These community normative documents (directives) cannot be invoked in the relations between private persons, but only against a member state to which they are addressed, because they cannot impose obligations to the persons, as the regulations can.[9]

3.1. Legal analysis of Regulation (EU) no. 1.007/2011 of the European Parliament and of the Council from 27th of September 2011 regarding the names of the textile fibers and appropriate labelling and marking of the fiber composition of textile products

As we previously mentioned, the regulations adopted at the level of the European Union are automatically applied to all the citizens of the European Union, both economic operators (legal persons) and consumers (individuals).

Therefore, the Regulation (EU) no. 1.007/2011 of the European Parliament and of the Council from 27th of September 2011 regarding the names of the textile fibers and the appropriate labelling and marking of the fiber composition of textile products is automatically applied to all the economic operators and consumers in all the Member States of the European Union.

Interesting is the choice in this area of the production and the marketing of textile products, to only adopt/use one regulation, not a directive or a legislative package consisting in a directive and a regulation. Practically, in this way, the process of harmonization is excluded, process which would have operated in the case of the adoption of a directive, and therefore - to a very large extent - the intervention of the Member States of the European Union is excluded. A regulation was adopted, and it had an immediate and complete applicability.



ANNALS OF THE UNIVERSITY OF ORADEA FASCICLE OF TEXTILES, LEATHERWORK

In our lege ferenda proposals which will be extended upon in the conclusions and proposals part of the work, we support the maintenance – as a good choice – of the use, as a legal instrument, of the European regulation type normative document.

At point 8, the thesis 2 and 3, in the preamble to the Regulation (EU) no. 1.007/2011, it is specified that the labelling or marking should not be misleading, this helping consumers to make an informed choice. In order to achieve this, it is necessary that this European instrument settles rules which establish the requirement to indicate the presence of non-textile parts of animal origin in the labelling or marking of the textile products containing such parts. Also, the labelling or marking of the fiber composition should be compulsory in order to ensure the availability for all the consumers in the European Union of correct and uniform information.[10]

At point 13 of the preamble to the Regulation (EU) no 1.007/2011, it is specified that the use of the names of the textile fibers or the descriptions for the fiber compositions which carry a special appreciation among consumers should be subject to certain conditions. Furthermore, in order to provide information to the consumer, it is necessary that the names of textile fibers are related to their characteristics.

An interesting issue is the possibility provided at point 23, which states that producers or other persons acting on their behalf, who want to add a name of a new textile fiber in the annexes to the Regulation (EU) no 1.007/2011, to include in the technical file, which should be submitted together with the application, available scientific information about allergic reactions or other adverse effects which the new textile fiber could have on human health, including the results of the tests carried out for this purpose, in accordance with relevant legislation of the Union. The health of consumers is thus addressed as a priority. Also, point 27 of the preamble and Article 25, specify that the European institutions, and in this case, the Commission, should undertake a study to assess whether there is a causal link between allergic reactions and the substances or mixtures of chemicals used in the textile products. On the basis of this study, legislative proposals should be brought and included in this European normative act, in the context of existing legislation of the Union.

In accordance with the letter g, paragraph 1 of Article 3, the term "labelling" is legally defined as representing the attaching of the required information, on the textile product, by the application of a label.

Article 14, 15 and 16 establish the following:

- ☐ the textile products shall be labelled or marked in such a way as to indicate their fiber composition whenever they are made available on the market;
- ☐ labelling and marking of textile products are durable, easily legible, visible and accessible and, in the case of a label, this is securely attached;
- ☐ the manufacturer ensures the provision of the label or marking and also the accuracy of the information contained in it, in the case of placing a textile product on the market. If the manufacturer is not established in the European Union, the importer shall ensure the supply of the label or marking and the accuracy of the information contained in it;
- ☐ from the moment in which a textile product is made available on the market, the descriptions of the composition of the textile fiber are indicated in the catalogs and commercial leaflets on packaging, on labels and on markings, in such a way as to be clearly legible and visible with ease and evenly printed, from the point of view of the characters, style and the size of the characters; information clearly visible to the consumer before purchase, including the case in which the product is purchased by electronic means;
- ☐ labelling or marking are available in the official language or languages of the Member State of the European Union within the territory of which the textile products shall be made available to the consumer, except for the case in which the Member State stipulates otherwise.



3.2. Legal analysis of the Romanian Government Decision No. 699/2012 regarding the establishment of certain measures for the implementation of the (EU) Regulation no. 1.007/2011 of the European Parliament and of the Council from 27th of September 2011, on the names of the textile fibers and the appropriate labelling and marking of the fiber composition of textile products

The Government Decision No. 699/2012 lays down the legal framework and institutional framework required for the direct implementation of the Regulation (EU) no. 1.007/2011 of the European Parliament and of the Council, by a brief supplement to the European provisions.

Therefore, by Articles 2, 3 and 5, the Ministry of Economy, Trade and Business Environment shall be designated as the competent national authority for coordinating the implementation of the provisions of the Regulation, together with the National Authority for Consumer Protection as competent authority responsible for monitoring the market of textile products intended for consumers (individuals) and identification of minor offenses and the application of sanctions.[11] Also through the Article 4, the values of the fines imposed, in Romania, a European Union Member, for failure to comply with the provisions of Regulation (EU) No. 1.007/2011.

It should be noted that the normative document adopted in Romania does not establish other aspects which might provide a higher degree of protection for the consumers, in respect of labelling the textile products manufactured or placed on the Romanian market, although the European normative act allows it.

4. CONCLUSIONS AND PROPOSALS DE LEGE FERENDA

Also, the Regulation adopted at the European Union level specifies, at the points 19, 20 and 21 of the preamble and in Article 24, the fact that its provisions are supplemented by the normative acts existing in the European Union - and at in the Member States, we'd like to add - governing:

- misleading commercial practices which involve the provision of false information which might determine consumers to make decisions which they wouldn't otherwise make;
- the need for the existence of transparent and consistent commercial rules, including with regard to the indication of origin, imposed by the legal institution responsible for the consumer protection;
- possibility that consumers are permitted access to full knowledge of the origin of the products that they buy in order to be protected from fraudulent, inaccurate or misleading statements with regard to the indications of origin;
- prohibition of counterfeiting, which poses the problem of both the infringement of intellectual property rights as well as the increased need of protecting and informing the consumers.

We, therefore, think that all these normative acts to which reference is made for the completion of the Regulation (EU) no. 1.007/2011 of the European Parliament and of the Council should, de lege ferenda, represent legal rules, components of the Regulation, applied exclusively to the field of production or marketing of textile products. Furthermore, as the Regulation stipulates, the evolution of electronic commerce and the future challenges of the market of textile products will have to be taken into account in the process of harmonization or standardization of other aspects concerning the labelling of textile products, also, not only of those provided for in this European normative act.

Another aspect that should be brought into use, by supplementing Regulation (EU) no. 1.007/2011, concerns the identification of the new labelling requirements which must be implemented at Union level, in order to facilitate the free circulation of textile products within the internal market and to ensure a high level of protection for consumers, throughout the territory of the Union. *In this way, in our opinion, the extension of the provisions of the European normative act*



and its transformation into a particular complex normative act, beyond the scope of the aspects concerning the labelling (or of the current mode of legal regulation of the labelling institution) and over the entire set of legal rules governing the production or marketing of textile products, represents the current necessity. This would enable the economic operators' access to fast and comprehensive information over the legal frame of production or marketing of textile products at European Union level, including Romania.

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