04/02/2010 RAP/RCha/UKR/II(2009)

REVISED EUROPEAN SOCIAL CHARTER

2nd National Report on the implementation of
the European Social Charter (revised)

submitted by

THE GOVERNMENT OF UKRAINE

(Articles 2, 4, 5, 6, 21, 22, 26, 28 and 29
for the period 01/01/2005 – 31/12/2008)

Report registered by the Secretariat on 6 October 2009

CYCLE 2010

REVISED EUROPEAN SOCIAL CHARTER

2nd National Report on the implementation of the European Social Charter (revised)

submitted by

THE GOVERNMENT OF UKRAINE
(Articles 2, 4, 5, 6, 21, 22, 26, 28, 29
for the period 01.01.2005- 01.01.2008)

REVISED EUROPEAN SOCIAL CHARTER

2nd National Report on the implementation of the European Social Charter (revised)

for the reference period

2005- 2008

Articles 2, 4, 5, 6, 21, 22, 26, 28, 29

In accordance with Article C of the Revised European Social Charter and article 23 of the European Social Charter, copies of this report have been communicated to the Federation of Trade Unions of Ukraine, the Confederation of Free Trade Unions of Ukraine, the All-Ukrainian Union of Workers Solidarity and the Federation of Employers of Ukraine

All Ukrainian legal acts are available on the Internet at: www.rada.gov.ua.

TABLE OF CONTENTS **Page**

Article 2 – All workers have the right to just conditions of work

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake:

1. to provide for reasonable daily and weekly working hours, the working week to be progressively reduced to the extent that the increase of productivity and other relevant factors permit;
2. to provide for public holidays with pay;
3. to provide for a minimum of four weeks' annual holiday with pay;
4. to eliminate risks in inherently dangerous or unhealthy occupations, and where it has not yet been possible to eliminate or reduce sufficiently these risks, to provide for either a reduction of working hours or additional paid holidays for workers engaged in such occupations;
5. to ensure a weekly rest period which shall, as far as possible, coincide with the day recognised by tradition or custom in the country or region concerned as a day of rest;
6. to ensure that workers are informed in written form, as soon as possible, and in any event not later than two months after the date of commencing their employment, of the essential aspects of the contract or employment relationship;
7. to ensure that workers performing night work benefit from measures which take account of the special nature of the work.

Appendix to Article 2§6

Parties may provide that this provision shall not apply:

a. to workers having a contract or employment relationship with a total duration not exceeding one month and/or with a working week not exceeding eight hours;
b. where the contract or employment relationship is of a casual and/or specific nature, provided, in these cases, that its non-application is justified by objective considerations.

Information to be submitted

Article 2§1

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or factual information, in particular: average working hours in practice for each major professional category;

any measures permitting derogations from legislation regarding working time.

The legal framework

- Labour Code of Ukraine No. 322-VIII of 10.12.1971;
- Economic Code of Ukraine No. 435-IV of 16.01.2003;
- International Covenant on Economic, Social and Cultural Rights (ratified on 12.11.1973);
- ILO Convention No.47 on Reduction of Hours of Work to Forty a Week, 1956 (ratified on 10.08.1956).

The Labour Code of Ukraine specifies that workers' normal working hours may not exceed 40 hours per week.

Enterprises and organisations may establish a shorter weekly standard of working hours when concluding a collective agreement.

Reduced working hours are established for (Article 51 of the Code):

1) employees from 16 to 18 years of age – 36 hours per week; persons from 15 to 16 years of age (pupils from 14 to 15 years of age working during their vacation) – 24 hours per week;

Working hours of pupils working during their school year in non-study time may not exceed half of maximum working hours specified in the first subparagraph of this paragraph for persons of respective age;

2) workers engaged in work with harmful conditions – no more than 36 hours per week.

The list of productions, shops, occupations and positions with harmful conditions, work in which entitles a person to have reduced working hours is established according to the procedure specified by legislation.

Besides, legislation establishes reduced working hours for certain worker categories (teachers, doctors, etc.).

Reduced working hours may be established at enterprises and organisations at the expense of their own funds for women having children under fourteen or a disabled child.

A five-day working week with two day-offs is established for workers. Duration of daily work (shift) for a five-day working week is specified by internal work order rules or by shift schedules approved by the owner or by a body authorised thereby subject to agreement with an elected body of a primary trade union organisation (trade union representative) of the enterprise, institution or organisation, and the established duration of a working week must be observed.

At the enterprises, institutions and organisations where introduction of a five-day working week is not reasonable because of the production character and conditions of work, a six-day working week with one day-off is established. If the six-day working week is established, duration of daily work may not exceed 7

hours for a 40-hours weekly standard, 6 hours for a 36-hours weekly standard, and 4 hours for a 25-hours weekly standard.

A five-day or six-day working week is established by the owner or by a body authorised thereby, jointly with an elected body of a primary trade union organisation (trade union representative), considering work specificity, the work collective's opinion, and by agreement with the local council of people's deputies.

On the eve of public holidays and non-working days, work duration of workers, except those specified in Article 51 of the Code, is reduced by one hour both under a five-day and six-day working week.

On the eve of day-offs, duration of work under a six-day working week may not exceed 5 hours.

For night work, an established duration of work (shift) is reduced by one hour. This rule does not apply to workers for whom reduced working hours are already provided (Article 51 of the Code).

Duration of night work is equalled with daytime work in cases when it is necessary because of production conditions, in particular at continuous production as well as in shift works under a six-day working week with one day-off.

Time from 10 p.m. to 6 a.m. is considered as night time.

By agreement between a worker and the owner or a body authorised thereby, a part-time working day or week may be established either at hiring or later. At the request of a pregnant woman, a woman having a child under 14 or a disabled child, including a child under her care, or a woman caring for a sick family member according to a medical report, the owner or a body authorised thereby must establish a part-time working day or week to such a woman.

Labour remuneration in such cases is provided in proportion to hours worked or depending on output.

Employment on part-time work conditions does not entail any restriction in the scope of workers' labour rights.

In works with special conditions and special nature of labour, a working day may be divided into parts, according to the procedure and in cases specified by legislation, provided that total working hours do not exceed an established duration of daily work.

At continuously working productions, institutions and organisations as well as at certain productions, shops, sections, divisions and in some types of work where production (working) conditions do not allow observance of the daily or weekly working hours established for the given worker category, it is allowed to introduce summarised recording of working time by agreement with an elected body of a primary trade union organisation (trade union representative) of the enterprise, institution or organisation so that working hours over the recording period do not exceed normal working hours.

Overtime work is generally not allowed.

The owner or a body authorised thereby may use overtime work only in the following exceptional cases:

1) carrying out work necessary to secure the country's defence as well as to prevent a public or natural disaster or industrial accident or eliminate their consequences urgently;

2) carrying out necessary public work to eliminate accidental or unexpected circumstances that disturb proper functioning of water supply, gas supply, heating, lighting, sewerage, transport, or communications facilities;

3) there being a need to complete a commenced work that could not be completed during normal working hours because of unforeseen circumstances or due to an accidental delay for technical reasons, if termination of the work can result in damage or loss of property or can cause a threat to human life or health, as well as the need to carry out an emergency repair of machines, machine-tools, structures or other equipment if their failure causes stoppage of work for a considerable number of working persons;

4) there being a need to carry out handling operations in order to prevent or eliminate rolling stock detention or accumulation of freights at points of departure and designation;

5) for continuation of work when a relief worker fails to report for work if the work allows no break; in such cases the employer or a body authorised thereby must take urgent measures to replace the relief worker with some other worker.

It shall be prohibited to engage in overtime work:

1) pregnant women and women having children under three;

2) persons under 18 years of age;

3) workers studying in comprehensive and vocational schools on the on-the-job basis on the days of study.

Legislation may provide for other worker categories prohibited to be engaged in overtime work.

Women having children from 3 to 14 years of age or a disabled child may only be engaged in overtime work given their consent.

Disabled persons may be engaged in overtime work only given their consent and provided that this is not in conflict with medical recommendations.

Overtime work may be carried out only if permitted by an elected body of a primary trade union organisation (trade union representative) of the enterprise, institution or organisation.

For each worker, overtime work must not exceed four hours during two successive days and 120 hours per year.

The owner or a body authorised thereby must record overtime work done by each worker.

The State Department for Supervision over Compliance with Labour Legislation under the Ministry of Labour and Social Policy of Ukraine (Derzhnahlyadpratsi) exercises control over compliance with labour legislation (except for occupational safety matters) by means of conducting inspections at economic entities of all forms of ownership.

	Number of violations (entities) revealed by year			
	2008	**2007**	**2006**	**2005**
Labour Code of Ukraine, Article 50 "Working hours standard"	841	969	995	731
Labour Code of Ukraine, Article 54 "Night working hours"	99	39	24	30

Article 2§2

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

The legal framework

- Labour Code of Ukraine No. 322-VIII of 10.12.1971;
- International Covenant on Economic, Social and Cultural Rights (ratified on 12.11.1973).

The Labour Code of Ukraine (Article 73) establishes the following public holidays:

- 1 January – New Year;
- 7 January – Christmas;
- 8 March – International Women's Day;
- 1 and 2 May – International Day of Workers' Solidarity;
- 9 May – Victory Day;
- 28 June – Day of the Constitution of Ukraine;
- 24 August – Independence Day of Ukraine.

No work is also performed on religious holidays:

- 7 January - Christmas;
- one day (Sunday) - Easter;
- one day (Sunday) – Whitsunday.

On a submission from religious communes of other (non-Orthodox) confessions registered in Ukraine, management of enterprises, institutions or organisations grant persons practicing respective religions up to three days of rest during a year to celebrate their great holidays, with working those days off.

On public holidays it is allowed to perform works stoppage of which is impossible due to production and technological conditions (continuously working enterprises, institutions, organisations), and works caused by the need to provide services to the population.

It is allowed to engage workers in work on such days in the following exceptional cases:

1) to prevent or eliminate consequences of a natural disaster, epidemics, epizootics, or industrial accidents, and to liquidate their consequences urgently;

2) to prevent accidents that threaten or may threaten human life or normal living conditions, or to prevent property loss or damage;

3) to perform urgent, unforeseen works immediate performance of which determines further normal operation of the entire enterprise, institution or organisation or of individual units thereof;

4) to carry out urgent handling operations in order to prevent or eliminate rolling stock detention or accumulation of freights at points of departure and designation.

Work on holidays and non-working day is paid for at double the rate:

1) piece-rate employees – at double piece rates;

2) employees whose work is paid on the hourly or daily rate basis – in the amount of a double hourly or daily rate;

3) workers receiving a monthly salary – in the amount of a single hourly or daily rate above the salary if work on a holiday or non-working day was carried out within the limit of a monthly working hours standard, or in the amount of a double hourly or daily rate if the work was carried out over and above the monthly standard.

Labour remuneration in the specified amount is provided for the hours actually worked on a holiday or non-working day.

At the request of a worker who worked on a holiday or non-working day, he may be granted another day of rest.

Derzhnahlyadpratsi exercises control over compliance with labour legislation (except for occupational safety matters) by means of conducting inspections at economic entities of all forms of ownership.

	Number of violations (entities) revealed by year			
	2008	**2007**	**2006**	**2005**
Labour Code of Ukraine, Article 107 "Payment for work on holidays and non-working days"	2938	2757	2718	2146

Article 2§4

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

The legal framework

- Constitution of Ukraine, No. 254k/96-VR of 28.06.1996;
- Labour Code of Ukraine, No. 322-VIII of 10.12.1971;
- Law of Ukraine on Labour Protection, No. 2694-XII of 14.10.1992;
- Law of Ukraine on Vacations, No. 504/96-VR of 15.11.1996;
- Law of Ukraine on Mandatory State Social Insurance for Occupational Accidents and Diseases leading to a Loss of Working Capacity, No. 1105-XIV of 23.09.1999;
- Law of Ukraine on Ensuring Sanitary and Epidemic Wellbeing of the Population, No. 4004-XII of 24.02.1994;
- Law of Ukraine on Collective Agreements, No. 3356-XII of 1.07.1993;
- Law of Ukraine on the State Program for Adaptation of Ukrainian Legislation to the Legislation of the European Union, No. 1629-IV of 18.03.2004;
- International Covenant on Economic, Social and Cultural Rights (ratified on 12.11.1973);
- Resolution of the Cabinet of Ministers of Ukraine *On the procedure of workplace assessment with respect to working conditions,* No. 442 of 1.08.1992;
- Order of the State Committee of Ukraine on Supervision of Labour Safety *On the approval of the Model Regulations on the procedure of training and knowledge testing on occupational safety,* No. 15 of 26.01.2005, registered with the Ministry of Justice under No. 231/10511 on 15.02.2005;
- Order of the State Committee of Ukraine on Supervision of Labour Safety *On the approval of the Model Regulations on the occupational safety*

service, No. 255 of 15.11.2004, registered with the Ministry of Justice under No. 1526/10125 of 1.12.2004;

- Order of the State Committee of Ukraine on Supervision of Labour Safety *On the approval of a form of the Unified State System of indicators for recording of working conditions and occupational safety,* No. 27 of 31.01.1994;
- Order of the State Committee of Ukraine for Industrial Safety, Labour Protection and Mountain Supervision *On the introduction of Recommendations on the design of an occupational safety management system at production,* No. 33 of 22.02.2008.

Risk elimination or reduction, and organisation of a system of industrial hazard prevention at the enterprise level by minimising risk emergence in the production environment

Prevention of industrial hazard pursuant to the Law of Ukraine on Labour Protection assumes that all partners – executive authorities, employers and workers – are involved in the industrial hazard prevention process within clearly defined bounds of responsibilities according to a specified structure.

Pursuant to Article 13, Law of Ukraine on Labour Protection, an employer is required to create, at the workplace in each structural unit, working conditions according to regulatory legal acts as well as ensure compliance with statutory requirements on workers' rights in the field of occupational safety.

Working conditions at the workplace, safety of manufacturing processes, machines, mechanisms, equipment and other means of production, conditions of collective and individual protective gear used by a worker as well as sanitary conditions and conveniences must meet statutory requirements.

An employer is directly responsible for a breach of the above-said requirements.

According to Article 33, Law of Ukraine on Labour Protection, a specially empowered central executive authority for labour and social policy secures expert examination of working conditions involving sanitary and epidemiological surveillance services of the specially empowered central executive authority for health care.

The main goal of assessment consists of the regulation of relations between the owner or a body authorised thereby and workers in the area of exercise of rights to safe and healthy working conditions, to preferential pension provision, and to benefits and compensations for work in unfavourable conditions.

The assessment is conducted by an assessment commission. The commission's membership and powers are specified in an enterprise/organisation order within the terms provided for in a collective agreement, but no less than once every five years.

Responsibility for timely and proper assessment is placed on an enterprise/organisation head.

Unscheduled assessment is conducted in case of radical change in working conditions and labour character, upon the initiative of the owner or a body authorised thereby, the trade union committee, the working collective or its elected body, bodies of the State Expertise of Working Conditions involving institutions of sanitary and epidemiological services of the Ministry of Health of Ukraine.

Workplace assessment includes:

identifying factors and reasons behind emergence of unfavourable working conditions;

conducting a sanitary and hygienic study of production environment factors, difficulty and intensity of a working process at a workplace;

providing a comprehensive assessment of production environment factors and character of labour for compliance of their characteristics with occupational safety standards, also with construction and sanitary rules and regulations;

identifying a degree of harmfulness and danger of labour and its character as per a hygienic classification;

justifying classification of a workplace as having harmful (especially harmful) and arduous (especially arduous) working conditions;

identifying (confirming) the workers' right to preferential pension provision for work in unfavourable conditions;

compiling a list of workplaces, productions, occupations and positions entitled to preferential pension provision for workers;

analysing implementation of technical and organisational measures aimed to streamline the level of occupational safety and health and character of labour.

According to law, all workers are subject to general mandatory state social insurance against industrial accidents and occupational diseases.

The employer must transfer any worker that requires being provided with an easier job due to health conditions as per a medical report to such a job, given the worker's consent, by the date specified in the medical report, and, if necessary, grant him a half-time working day and organise the worker's training to acquire another profession in accordance with legislation.

At hiring and in the process of working, workers must undergo, at the employer's expense, briefings and trainings on occupational safety, on provision of first medical aid to victims of industrial accidents, and on rules of conduct in case of a production accident.

An employer secures functioning of an occupational safety management system, namely:

- creates appropriate services and appoint officials that ensure addressing specific issues of occupational safety, approves instructions on their duties, rights and responsibility for performance of functions vested therein, and supervises observance of the said instructions (Order of the State Committee of Ukraine on Supervision of Labour Safety *On the approval of the Model Regulations on the occupational safety service,* No. 255 of 15.11.2004, registered with the Ministry of Justice under No. 1526/10125 of 1.12.2004);

- develops a draft collective agreement with the participation of the parties, and, following its approval by a general meeting (conference) of the work collective and signature by authorised representatives of the parties, implements comprehensive activities to achieve the fixed standards and improve the existing level of occupational safety.

A collective agreement is concluded between the owner or a body authorised thereby, on the one side, and one or more trade union or other bodies authorised by the work collective to represent it, or, there being no such body, the representatives of workers elected and authorised by the work collective, on the other side.

A collective agreement or accord is concluded in accordance with the Law of Ukraine on Collective agreements, pursuant to obligations undertaken by the parties in order to promote the regulation of labour relations and socioeconomic interests of workers and owners.

In accordance with Article 20 of the Law of Ukraine on Labour Protection, a collective agreement or accord must provide for securing social guarantees in occupational safety to workers at a level no lower than that specified by law; their duties; and comprehensive activities to achieve fixed standards of occupational safety and health and production environment, improve the existing level of occupational safety, prevent occupational traumatism, occupational diseases, accidents and fires. The parties must identify volume and sources of funding of specified activities.

To implement a comprehensive action plan for achieving the fixed standards and improving the existing level of occupational safety, the parties specify ways to minimise risk emergence in production environment.

Provisions of a collective agreement apply to all enterprises workers irrespective of their being trade union members, and are binding both on the owner or a body authorised thereby and on the enterprise workers.

To secure efficient functioning of the occupational safety management system, the employer also:

- secures taking necessary preventive measure according to changing circumstances;
- implements advanced technologies and achievements of science and engineering, means of production mechanisation and automation, ergonomic requirements, positive experience of occupational safety, etc.;
- ensures proper maintenance of buildings and facilities, production equipment and machinery as well as monitoring of their technical conditions;
- ensures elimination of reasons resulting in accidents or occupational diseases, and secures taking preventive measures specified by commission based on investigation of the reasons;
- organises occupational safety audit, laboratory studies of working conditions, examination of technical conditions of production equipment and machinery, workplace assessment for compliance with regulatory legal acts on occupational safety, according to the procedure and time limits specified by laws, and takes measures based on their results to eliminate any production factor unsafe and harmful for health;

- develops and approves regulations, instructions, and other occupational safety acts that are in force within the enterprise and prescribe the rules of work and conduct of workers in the enterprise territory, in production premises, on construction sites, and at workplaces in accordance with regulatory legal acts on occupational safety, and provides regulatory legal acts and enterprise acts on occupational safety to workers free of charge;

- supervises observance by workers of manufacturing processes, handling rules for machines, mechanisms, equipment and other production facilities, use of collective and individual protective gear, and performance of works pursuant to occupational safety requirements;

- organises advocacy of safe working methods and cooperation with workers in the field of occupational safety;

- takes urgent measures to assist victims, and engages, as necessary, professional emergency rescue teams in case of accidents and injuries at the enterprise.

According to this article, at works with harmful and hazardous working conditions as well as at works connected with contamination or unfavourable meteorological conditions, workers are given special clothes, special footwear, and other individual protective gear as well as detergents and disinfectants free of charge as per specified rates. Any worker engaged in one-time work related to elimination of consequences of accidents, natural disasters, etc., not provided for by a collective agreement, must be provided with the above-mentioned means.

Employers produce an annual report on working conditions and occupational safety according to the form of the Unified State System of indicators for recording of working conditions and occupational safety, approved by the Order of the State Committee of Ukraine on Supervision of Labour Safety No. 27 of 31.01.1994.

Indicators of the unified state system are used to examine working conditions and occupational safety, and to elaborate comprehensive measures for achieving the fixed standards and improving the existing level of occupational safety.

The Law of Ukraine on Labour Protection provides guarantees of workers' rights to occupational safety:

- when entering into an employment agreement with an employer;
- when working;
- to benefits and compensations for arduous and harmful working conditions;
- to special clothes, other individual protective gear, detergents and disinfectants;
- to reparation of damages in case of any injury of a worker's health or a worker's death;
- occupational safety for women;
- occupational safety for minors;
- occupational safety for disabled persons.

However, the law also established a worker's duties as to compliance with requirements of the regulatory legal acts on occupational safety, those being integral part of the occupational safety management system at enterprises.

A worker has the duty to:

- care for his/her personal safety and health as well as for safety and health of people around him/her in the process of doing any work and being in the enterprise territory;
- know and observe requirements of regulatory legal acts on occupational safety, and handling rules for machines, mechanisms, equipment and other production facilities; use collective and individual protective gear;
- undergo preliminary and periodic medical examinations according to the procedure specified by law.

A worker is directly liable for breach of the above-mentioned requirements.

In order to provide methodological assistance to employers in the establishment of such a system, the State Committee of Ukraine for Industrial Safety, Labour Protection and Mountain Supervision (hereinafter referred to as Derzhhirpromnahlyad) developed the Recommendations on the design of an occupational safety management system at production (approved by the Order No. 33 of 22.02.2008) that contain a procedure of occupational safety management system at enterprises (hereinafter referred to as OSMS), a model structure of the regulations and indicative contents of its sections (main principles of policy on occupational safety, functions of the occupational safety management system, objectives and ways to achieve them).

OSMS is organised in a way to manage occupational risks of production activities efficiently to prevent possible consequences.

Regulations on OSMS as well as job descriptions and occupational safety instructions for occupations and work types must specify general and concrete rights and duties of each worker as well as his powers in the field of occupational safety.

Responses to residual risks

When using an integral system of preventive activities on occupational safety at each enterprise and workplace, aimed to avert accidents, injuries and occupational diseases, there are some partly remaining risks that are peculiar to works with hazardous and harmful working conditions and that are so far impossible to remove or reduce sufficiently.

If it is impossible to completely eliminate hazardous and health-harmful working conditions, an employer is required to inform a respective body of state supervision over occupational safety to that effect. The employer may approach that body with a petition to establish a necessary time limit for implementation of activities required to bring working conditions at a specific production or workplace in line with regulatory requirements.

In cases where it is impossible to eliminate risks peculiar to works with hazardous or harmful working conditions or to reduce such risks sufficiently, the

action plan provided for by a collective agreement (accord, employment agreement) must also include the employer's guarantees for workers engaged in such works as to provision of compensations and benefits as well as those not specified in laws (changes in production and labour organisation, part-time working, extra leaves with pay, necessary collective and individual protective gear, sanitary conditions and consumer services, medical treatment and prevention, labour rate setting and labour remuneration, establishment of a form, system and amounts of wage and other types of labour payments (additional pays, increments, bonuses), etc.

When entering into an employment agreement, the employer must inform the worker against receipt on working conditions and on existence at the worker's workplace of hazardous and harmful production factors not yet eliminated, possible consequences of their impact for health, and on the worker's right to benefits and compensations for working under such conditions in accordance with legislation and pursuant to a collective agreement.

Throughout the validity period of the employment agreement concluded with the worker, the employer must inform the worker in written, no later than 2 months in advance, on any change in production conditions and amounts of benefits including those granted to the worker additionally.

The workers' right to benefits and compensations for arduous and harmful working conditions is specified by part 1, Article 7 of the Law of Ukraine on Labour Protection.

Workers engaged in works with arduous and harmful working conditions are provided, free of charge, with healthful and dietary meals, milk or equivalent foodstuffs, carbonated salt water; they have the right to paid breaks for sanitary and health-improvement needs, reduced working time, additional leave with pay, preferential pension, higher labour remuneration, and other benefits and compensations granted according to the procedure specified by laws.

If work is of an itinerant nature, the worker is paid a monetary compensation to purchase healthful and dietary meals, milk or equivalent foodstuffs on the terms provided for in the collective agreement.

A worker has the right to rescind his/her employment agreement of his/her own accord if the employer fails to observe legislation on occupational safety or fails to comply with requirements of the collective agreement on these matters. In such a case the worker is paid a severance pay in the amount provided by the collective agreement but no less than the worker's three-month earnings.

An employer may additionally establish under a collective agreement (accord, employment agreement), at his own expense, benefits and compensations to a worker not provided for in laws.

A worker is entitled to refuse to do an assigned job if a production situation has emerged being hazardous for his/her life or health or for any people around him/her or for production/natural environment.

A worker may not be offered any job that is contraindicated to him/her according to a medical report due to the state of health.

For any downtime period because of reasons that emerged not through the worker's fault, the worker's workplace and average earnings are retained to him/her.

Persons are allowed to do any work of heightened hazard and work requiring professional selection only provided they have an opinion of psychophysiological expert examination.

Persons engaged in works with heightened hazard or where professional selection is required, must undergo special training and knowledge testing for relevant regulatory legal acts on occupational safety every year at the employer's expense.

An annual additional leave for working in harmful and arduous conditions, up to 35 calendar days long, is granted to workers engaged in works connected with adverse impact of harmful production factors upon health, according to the list of the list of productions, shops, occupations and positions approved by the Cabinet of Ministers of Ukraine.

An exact duration of the leave is established by a collective agreement or employment agreement depending on results of workplace assessment for working conditions and on the period of the worker's engagement in such conditions.

Measures aimed to improve occupational safety and production environment, and to prevent accidents and injuries by minimising risk emergence in production environment

An employer's compliance with regulatory legal acts on occupational safety is secured by means of supervision (control) over observance of legislative requirements in the field of occupational safety.

According to reports on the Derzhhirpromnahlayd's supervisory activities as per form 1-ND, supervisory activity indicators are as follows:

	2005	**2006**	**2007**	**2008**
Average number of workers	16831316	16593294	16774574	15925504
Number of supervised enterprises	595882	768286	744364	780780
Number of detected breaches of regulatory acts on occupational safety	2435841	2466966	2450446	2118681
Number of suspensions of works and facilities	241252	252776	257820	178463
Number of fines imposed on workers	81795	93470	105504	103515

Currently in Ukraine, engaged in industrial activities are more than 780 thousand enterprises, institutions and organisations where over 16 million persons

are employed. The staff number of the Derzhhirpromnahlyad's officials is 2,950 persons of whom 2147 are engaged in state supervision over the above-mentioned entities.

Analysis of traumatism and accident rates at Ukrainian enterprises over 2005-2008, carried out by Derzhhirpromnahlyad, suggests that a tendency of permanent and steady decrease in the occupational traumatism rate, including lethal cases, can be seen. For example, the Derzhhirpromnahlyad's data shows that occupational traumatism in Ukraine has decreased 3.5 times since 1996 and lethal occupational traumatism has decreased more than 1.5 times. Since 2005, gross domestic product having grown by 35%, total occupational traumatism has decreased by more than 22% and lethal occupational traumatism has decreased by almost 8%.

The decreasing trend in the occupational traumatism rate is implemented by joint efforts of the Government, Derzhhirpromnahlyad, central and local executive authorities, trade unions, and employers to take timely and effective measures based on analysis of traumatism and reasons of industrial accidents. This is what the Derzhhirpromnahlyad's efforts are always focused on.

For example, having analysed the status of industrial safety in 2007, when the number of industrial casualties in the state grew by 9.7% (1,181 persons were lethally injured in 2007, including 106 in coal mining, at O.F. Zasyadko Mine leased enterprise), Derzhhirpromnahlyad, pursuant to the Cabinet of Ministers' Programme of Activities "Ukrainian Breakthrough: for People, not for Politicians", set priorities of its activities for 2008, which were then approved by the Cabinet of Ministers (Executive Order No. 423-r of 5 March 2008 *On the approval of activity priorities for central executive authorities for 2008*).

Top priorities are as follows:

identifying basic principles of state supervision and expert activities in the field of industrial safety;

securing effectiveness of state supervision in the field of industrial and - occupational safety and handling of explosives as well as mining supervision;

increasing the level of occupational safety at coal-mining and mine-building enterprises;

improving prevention of accidents, occupational diseases and industrial casualties, and decreasing the risk of their emergence;

implementing economic management levers in the field of occupational safety, and encouraging economic entities to provide safe working conditions;

improving the state management mechanism in the field of occupational and industrial safety.

Pursuant to the indicated priorities and according to the tasks assigned to Derzhhirpromnahlyad, a number of organisational and practical activities of state supervision over industrial safety, occupational safety and mining supervision were implemented in 2008, namely:

197,590 operational, 2,088 comprehensive, and 59 targeted inspections were carried out at supervised enterprises in various industries, institutions and

organisations for their compliance with requirements of legislative and regulatory legal acts on industrial and occupational safety;

operation of facilities and performance of works was suspended in 178,463 cases;

103,515 employees, including 25,585 managers, were held administratively liable. The sum of fines imposed totaled 8,641 thousand hryvnias;

materials concerning 3,366 persons were sent to prosecutor's offices;

inspections were conducted in two central executive authorities, departments and divisions of the executive board of the Fund for Social Insurance against Industrial Accidents and Occupational Diseases of Ukraine. To respond and take measures for elimination of the faults revealed during the inspections, information on outcomes of the inspections were sent to concerned bodies as well as to the Cabinet of Ministers of Ukraine.

Due to the measures taken by Derzhhirpromnahlyad in 2008, general industrial traumatism in Ukraine was reduced by 11% as compared to the previous year, or by 1,988 cases (16,206 persons were injured in 2008; 18,194 persons were injured in 2007). The rate of lethal traumatism decreased by almost 15% against the previous year, or by 176 cases (1,005 persons were lethally injured at Ukrainian enterprises in 2008; 1,181 persons were lethally injured in 2007).

The number of persons injured during production accidents including those lethally injured decreased by 29% and 42%, respectively.

The number of lethal industrial accidents decreased at enterprises of the following sectors: coal mining – by 94 (174 against 268), agro-industrial complex – by 47 (141 against 188), social and cultural activities and trade – by 31 (119 against 150), metallurgy – by 18 (30 against 48), communications – by 6 (12 against 18), oil and gas producing industry – by 3 (7 against 10), housing and municipal services – by 3 (34 against 37), inspection of boilers and lifting facilities – by 2 (26 against 28), construction – by 1 (155 against 156), textile and light industries – by 1 (4 against 5).

Article 2§5

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, in particular: circumstances under which the postponement of the weekly rest period is provided.

The legal framework

- Constitution of Ukraine, No. 254k/96-VR of 28.06.1996;
- Labour Code of Ukraine No. 322-VIII of 10.12.1971;
- International Covenant on Economic, Social and Cultural Rights (ratified on 12.11.1973).

Workers are granted two day-offs per week for a five-day working week, and one day-off for a six-day working week.

Sunday is a general day-off. Another day-off for a five-day working week, if not specified in legislation, is established in the working schedule of an enterprise, institution, or organisation agreed by the elected body of a primary trade union organisation (trade union representative) of the enterprise, institution, or organisation, and must be generally provided in succession with the general day-off.

If a holiday or non-working day coincides with a day-off, the day-off is carried over to the next day following the holiday or working day.

At the enterprises, institutions, or organisations where work may not be interrupted on the general day-off because of the need to provide service to people (shops, consumer service enterprises, theatres, museums, etc.), day-offs are established by local councils of people's deputies.

At the enterprises, institutions, or organisations where work may not be stopped because of production and technical conditions or because of the need to provide continuous services to people, as well as in handling works connected with operation of transport, day-offs are granted on different weekdays by turns to each group of workers according to a shift timetable approved by the owner or a body authorised thereby by agreement with the elected body of a primary trade union organisation (trade union representative) of the enterprise, institution, or organisation.

Duration of a weekly uninterrupted rest must be at least forty-two hours.

Work on day-offs is prohibited. Engaging some workers to work on these days is allowed only by permission of the elected body of a primary trade union organisation (trade union representatives) of the enterprise, institution, or organisation, and only in exceptional cases that are specified in legislation and in part two of this article.

It is allowed to engage some workers in work on day-offs in the following exceptional cases:

1) to prevent or eliminate consequences of a natural disaster, epidemics, epizootics, or industrial accidents, and to liquidate their consequences urgently;

2) to prevent accidents that threaten or may threaten human life or normal living conditions, or to prevent property loss or damage;

3) to perform urgent, unforeseen works immediate performance of which determines further normal operation of the entire enterprise, institution or organisation or of individual units thereof;

4) to carry out urgent handling operations in order to prevent or eliminate rolling stock detention or accumulation of freights at points of departure and designation.

Engaging workers to work on day-offs must be formalised by a written order (instruction) of the owner or a body authorised thereby.

Work on a day-off may be compensated, given mutual consent of the parties, by provision of another day of rest or in a monetary form at a double rate.

Derzhnahlyadpratsi exercises control over compliance with labour legislation (except for occupational safety matters) by means of conducting inspections at economic entities of all forms of ownership.

	Number of violations (entities) revealed by year			
	2008	**2007**	**2006**	**2005**
Labour Code of Ukraine, Article 67 “Day-offs”	327	200	180	147

Article 2§6

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

The legal framework

- Labour Code of Ukraine No. 322-VIII of 10.12.1971
- Law of Ukraine on Labour Remuneration No. 108/95-VR of 24.03.1995
- Order of the State Statistics Committee of Ukraine No. 489 of 5.12.2008 *On the approval of standard forms of primary accounting records on labour statistics*

According to labour legislation in force, an employment agreement is concluded with a worker at hiring.

An employment agreement is an agreement between the worker and the owner of the enterprise, institution, organisation or a body or natural person authorised thereby, according to which the worker undertakes to perform the work specified in the agreement, subject to an internal code of labour conduct, whereas the owner of the enterprise, institution, organisation or a body or natural person authorised thereby undertakes to pay the worker a wage and provide working conditions necessary to perform the work, envisaged by labour legislation, by a collective agreement, and by the agreement between the parties.

A special form of the employment agreement is a contract in which its validity period, rights, duties and liability of the parties (including financial liability), conditions of material security and labour organisation for the worker, agreement termination conditions including early termination, may be established by agreement between the parties. The scope of the contract is determined by laws of Ukraine.

Conclusion of an employment agreement is formalised by the employer's order or instruction on enlistment of the worker. A written form of the employment agreement is generally not a must.

Pursuant to the order, definition of the parties to labour relations, workplace, occupation or position to which the worker is hired, definition of working conditions, amount of wage, and respective duration of fixed-term labour relations is integral part of the order on the worker's enlistment.

In case of conclusion of a contract, an employment agreement with a natural person, and in other cases envisaged by Ukrainian labour legislation, when a written form of the employment agreement is mandatory, the above-mentioned conditions are also envisaged therein in written.

Prior to commencement of work under a concluded employment agreement, the owner or a body authorised thereby is required to:

1) explain the worker his rights and duties, and inform him against receipt, on working conditions and on existence at the worker's workplace of hazardous and harmful production factors not yet eliminated, possible consequences of their impact for health, and on the worker's right to benefits and compensations for working under such conditions in accordance with legislation and pursuant to a collective agreement;

2) familiarise the worker with internal work order rules and a collective agreement;

3) specify a workplace for the worker, and provide him with means necessary to work;

4) at hiring and periodically in the process of working, secure briefings and trainings on occupational safety, on provision of first medical aid to victims of accidents, and on rules of conduct in case of a production accident.

Article 2§7

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, in particular: the hours to which the term 'night work' applies.

The legal framework

- Labour Code of Ukraine No. 322-VIII of 10.12.1971

Legislation prohibits engaging the following persons in night work:
1) pregnant women and women having children under three;
2) persons under 18;
3) other worker categories provided for by legislation.

Engaging women in night work is not allowed, except those branches of national economy where it is caused by a special need and allowed as a provisional measure.

A list of such branches and work types, specifying longest possible periods of the use of women's work in night time, is to be approved by the Cabinet of Ministers of Ukraine.

The above-mentioned restrictions do not apply to women working at enterprises where only members of one family are employed.

Disabled persons may work in night time only given their consent and provided that such work is not in conflict with medical recommendations.

Night work is paid for at a higher rate established by a general, sectoral (regional) agreements and a collective agreement, but at no less than 20 percent of the tariff rate (salary) for every hour of night work.

General agreements between the Cabinet of Ministers of Ukraine, all-Ukrainian associations of employers' and enterpreneurs' organisations, and all-Ukrainian trade unions and trade associations for 2004-2005 and for 2008-2009 establish the following additional payments and increments: for work in evening time between 6 and 10 p.m. (under a multishift working regime) – 20% of an hourly tariff rate (salary, post salary) for every hour of work during that period of time; night time – 35% of an hourly tariff rate (post salary) for every hour of work during that period of time.

Article 4 – The right to a fair remuneration

With a view to ensuring the effective exercise of the right to a fair remuneration, the Contracting Parties undertake:

1. to recognise the right of workers to a remuneration such as will give them and their families a decent standard of living;
2. to recognise the right of workers to an increased rate of remuneration for overtime work, subject to exceptions in particular cases;
3. to recognise the right of men and women workers to equal pay for work of equal value;
4. to recognise the right of all workers to a reasonable period of notice for termination of employment;
5. to permit deductions from wages only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreements or arbitration awards.

The exercise of this right shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions.

Appendix to Article 4§4
This provision shall be so understood as not to prohibit immediate dismissal for any serious offence.

Appendix to Article 4§5
It is understood that a Contracting Party may give the undertaking required in this paragraph if the great majority of workers are not permitted to suffer deductions from wages either by law or through collective agreements or arbitration awards, the exception being those persons not so covered.]

Information to be submitted

Article 4§2

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics (estimates, if necessary) or any other relevant information, in particular: methods used to calculate the increased rates of remuneration; impact of flexible working time arrangements on

remuneration for overtime hours; special cases when exceptions to the rules on remuneration for overtime work are made.

The legal framework

- Labour Code of Ukraine No. 322-VIII of 10.12.1971

Under an hourly system of labour remuneration, overtime work is paid for at the double hourly rate.

Under a piece-work system of labour remuneration, a premium is paid for overtime work equal to 100% tariff rate of the worker of respective qualification whose labour is remunerated under an hourly system – for all overtime hours worked.

In case of cumulative recording of working time, all the hours worked above the established working time in a recording period are paid for as overtime, according to the procedure provided for by the first and second parts of this article.

Compensation for overtime work by providing a compensatory leave is not allowed.

Article 4§3[1]

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please supply detailed statistics or any other relevant information on pay differentials between men and women not working for the same employer by sector of the economy, and according to level of qualification or any other relevant factor.

Article 4§4

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

[1] States party that have accepted Article 20 of the European Social Charter (revised) do not have to reply to questions on Article 4§3, but must take account of these questions in their answers on Article 20.

The legal framework

- Labour Code of Ukraine No. 322-VIII of 10.12.1971

A worker has the right to terminate the employment agreement concluded for an indefinite term, by notifying the owner or a body authorised thereby in written two days prior thereto. If the worker's application to resign of his own accord is caused by impossibility of continuing to work (moving to another place of residence; transfer of a spouse to work to another locality; enrollment in an educational institution; impossibility of residing in the given locality confirmed by a medical report; pregnancy; caring for child until attainment of 14 years of age or for a disabled child; caring for a sick family member pursuant to a medical report or for a person with group I disability; retirement; enlistment to work through a competition; or other sound reasons), the owner or a body authorised thereby must terminate the employment agreement by the date requested by the worker.

If, after expiry of the dismissal notice period, the worker did not leave work and does not request termination of the employment agreement, the owner or a body authorised thereby has no right to dismiss the work upon the previous application, except when another worker has been invited to that worker's position who may not be denied conclusion of an employment agreement according to laws.

A worker has the right to terminate the employment agreement of his own accord by the date he specifies if the owner or a body authorised thereby does not comply with labour legislation or with conditions of a collective or employment agreement.

Workers must be notified personally on any forthcoming redundancy no later than two months prior thereto.

In case of redundancy because of changes in the organisation of production and labour, a priority right to retention of a job, provided for by legislation, is taken into account.

Simultaneously with a notice on dismissal because of changes in the organisation of production and labour, the owner or a body authorised thereby offers the worker another job at the same enterprise, institution, or organisation. If there is no job according to a respective occupation or profession, as well as if the worker refuses to be transferred to another job at the same enterprise, institution, or organisation, the worker, acting at his own discretion, approaches state employment service for assistance or finds a job by himself.

At the same time, the owner or a body authorised thereby informs the state employment service on the forthcoming dismissal of the worker specifying his occupation, profession, qualification, and amount of labour remuneration.

The state employment service offers the worker a job in the same or other locality according to the worker's occupation, profession and qualification or, if there is no such job, selects another job taking individual wishes and social needs into consideration.

If necessary, the worker may be sent, given his consent, for training in a new profession (occupation) with subsequent provision of a job thereto.

Article 4§5

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

The legal framework

- Labour Code of Ukraine No. 322-VIII of 10.12.1971
- Law of Ukraine on Collective agreements No. 3356-XII of 1.07.1993

At every payment of wage, the owner or a body authorised thereby must inform a worker on the following data referring to the period for which labour remuneration is provided:

a) total amount of wage broken down by payment type;

b) amounts of and grounds for deductions and withdrawals from wage;

c) amount of wage due.

At every payment of wage, total amount of all deductions may not exceed 20% or, in cases specially provided for by Ukrainian legislation, 50% of the wage due to the worker.

When deductions are made from wage pursuant to several enforcement orders, the worker must in any case retain at least 50% of earnings.

This rule does not apply to deductions of wage in case of correctional labour and in case of recovery of alimony for minor children.

In such cases, amount of deductions from wage must not be greater than 70%.

It is not allowed to make any deduction from severance pay, compensatory and other payments upon which, according to laws, no execution may be levied.

A collective agreement or accord is concluded pursuant to existing legislation and obligations assumed by the parties in order to regulate the production, labour and socioeconomic relations and to concert interests of workers, owners or bodies authorised thereby.

Article 5 – The right to organise

With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations, the Contracting Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom. The extent to which the guarantees provided for in this Article shall apply to the police shall be determined by national laws or regulations. The principle governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations.

Information to be submitted

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

.

The legal framework

- Constitution of Ukraine No. 254k/96-VR of 28.06.1996
- Labour Code of Ukraine No. 322-VIII of 10.12.1971
- Law of Ukraine on Citizens' Associaitons No. 2460-XII of 16.06.1992
- Law of Ukraine on Trade Unions, Their Rights and Guarantees of Activity No. 905-IV of 05.06.2003
- Law of Ukraine on Employers' Organisations No. 2436-III of 24.05.2001
- Law of Ukraine on Militia No. 565-XII of 20.12.1990
- Law of Ukraine on Social and Legal Protection of Military Servicemen and Their Family Members No. 2011-XII of 20.12.1991
- Law of Ukraine on the Armed Forces of Ukraine No. 1934-XII of 06.12.1991
- Law of Ukraine on Intelligence Bodies No. 2331-III of 22.03.2001
- Law of Ukraine on the Security Service of Ukraine No. 2229-XII of 25.03.1992
- Law of Ukraine on the State Registration of Legal Persons and Natural Persons - Entrepreneurs No. 755-IV of 15.05.2003

- International Covenant on Economic, Social and Cultural Rights (ratified on 12.11.1973);
- ILO Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise, 1948 (ratified on 14.09.1956)
- Resolution of the Cabinet of Ministers of Ukraine *On the approval of the Regulations on the procedure of legalisation of citizens' associations,* No. 140 of 26.02.1993
- Resolution of the Cabinet of Ministers of Ukraine *On the procedure of collection and amount of a duty for registration of citizens' associations,* No. 143 of 26.02.1993
- Regulation on transfer by the Ministry of Justice and territorial bodies thereof of data on legal persons to state registrars, approved by the Joint Order No. 23/74/5 of 27.02.2007 of the State Committee of Ukraine for Regulatory Policy and Entrepreneurship and the Ministry of Justice of Ukraine

Exercise of the right to form trade unions and associations thereof

Ukrainian citizens have the right to form trade unions, based on free will without any permission, to represent, exercise and protect their labour and socioeconomic rights and interest, join them and leave them on the terms and according to the procedure specified in their statutes, and take part in the work of trade unions.

Persons working at an enterprise, institution or organisation regardless of their form of ownership and type of economic management, persons working for a natural person using wage labour, self-employed persons, and persons studying in an educational institution may be members of trade unions.

Ukrainian citizens are free to choose a trade union they wish to join. A ground to join a trade union consists of an application of the citizen (worker) filed with the trade union's primary organisation. When a trade union is formed, admission thereto is effected by its constituent meeting.

Nobody may be forced to join or not join a trade union. Belonging or not belonging to trade unions does not entail any restrictions of citizens' labour, socioeconomic, political and personal rights and freedoms guaranteed by the Constitution of Ukraine and by other laws of Ukraine. Any restriction of rights or provision of advantages when concluding, amending or terminating an employment agreement because of belonging or not belonging to trade unions or a to a certain trade union, joining or leaving it, is prohibited.

The statute (regulations) of a trade union may provide for trade union membership of persons engaged in creative activities, members of farms, natural persons being entrepreneurial entities, persons studying in vocational or higher educational institutions, and persons who resigned from a job or service because of retirement or who temporarily do not work.

Besides, statutes (regulations) may provide for restriction on dual membership in trade unions.

In order to achieve their statutory objectives, trade unions and organisations thereof (if their statutes so specify) have the right to form associations (councils, federations, confederations, etc.) on a voluntary basis according to the sectoral, territorial or other structure as well as to join and freely leave associations.

No formation of international trade unions is provided for, but the right of trade unions to international contacts is recognised. Trade unions and associations thereof, according to their statutory goals and objectives, have the right to join international trade union organisations and other international organisations and associations, which represent workers' interests, and take part in their activities, cooperate with trade unions of other countries, and carry out other activities not in conflict with Ukrainian laws.

All trade unions are equal before the law and have equal rights concerning representation and protection of rights and interests of the trade union members.

The state recognises trade unions as plenipotentiary representatives of workers and as protectors of their labour rights, socioeconomic rights and interests, cooperates with trade unions in their implementation, and assists trade unions in establishment of business-style partner relations with employers and associations thereof.

Trade unions and associations thereof are independent in their activities of public authorities and local governments, employers, other community organisations, and political parties; they are not answerable thereto or controlled thereby.

Trade unions are self-reliant in organising their activities and holding their meetings, conferences, congresses, meetings of bodies they establish, and other events not in conflict with laws.

Any interference of public authorities, local governments, officials thereof, employers and associations thereof in the statutory activities of trade unions, organisations and associations thereof is prohibited.

Specific features of the application of the Law of Ukraine on Trade Unions, Their Rights and Guarantees of Activity in the Armed Forces of Ukraine (for military servicemen), bodies of internal affairs, Security Service of Ukraine, and Foreign Intelligence Service of Ukraine are established by relevant laws (Article 3 of the Law).

The Law of Ukraine on the Armed Forces of Ukraine states (in Article 17) that military servicemen suspend their membership in trade unions for the period of their military service.

Trade unions of the workers who signed an employment agreement with the Armed Forces of Ukraine operate in accordance with the Law of Ukraine on Trade Unions, Their Rights and Guarantees of Activity.

Organisation of strikes by workers of the Armed Forces of Ukraine and participation therein is now allowed.

According to the Laws of Ukraine on the Security Service of Ukraine and on the Intelligence Bodies, membership and participation of employees of Ukrainian

intelligence bodies in the activities of citizens' associations having political objectives is now allowed; membership of employees of the Security Service of Ukraine in such associations is suspended for the period of service or work pursuant to an employment agreement.

Trade union membership of workers who signed an employment agreement with Ukrainian intelligence bodies or the Security Service of Ukraine is allowed as an exception.

A scope of application of the guarantees provided for by Article 5 of the European Social Charter (revised) to militia is specified by the Law of Ukraine on Militia.

For example, militia workers have the right to form trade unions. They may not be members of political parties, movements, and other public associations having a political objective.

Persons raising difficulties to the exercise of the citizens' right to unite into trade unions as well as officials and other persons guilty of any breach of legislation on trade unions, who prevent legitimate activities of trade unions or associations thereof by their acts or omission to act, are held disciplinarily, administratively or criminally liable according to Ukrainian laws.

Forced dissolution, termination or prohibition of activities of trade unions and associations thereof by a decision of any other body is not allowed.

Any activity of trade unions or associations thereof that violates the Constitution of Ukraine and Ukrainian laws may only be prohibited by a local court's decision whereas such activity of trade unions having the all-Ukrainian or republican status and trade union associations having a respective status may only be prohibited by a ruling of the Supreme Court of Ukraine.

A decision on forced dissolution of a trade union association does not entail dissolution of trade unions being members of that association. Forced dissolution of a trade union or a trade union association entails annulment of its registration certificate, exclusion from the Register of Citizens' Associations of Ukraine, and loss of a legal person's rights, with a mandatory notice to that effect in mass media.

Article 13 of the Law of Ukraine on Trade Unions, Their Rights and Guarantees of Activity specifies that the state secures the realisation of the citizens' right to unite into trade unions and compliance with trade unions' rights and interests.

The state promotes training of trade union staff, and ensures, in cooperation with trade unions, improvement of the staff's level of knowledge on legal, economic and social protection of workers.

Exercise of the rights to form employers' organisations and associations of employers' organisations

Employers have the right to unite freely into employers' organisations to exercise and protect their rights and satisfy social, economic and other legitimate interests based on free will without any preliminary permission, the right to join such organisations on the terms and according to the procedure specified by their

statues, the right to participate in employers' organisations, and the right to leave the organisations on the terms and according to the procedure specified by legislation and their statutes.

To achieve their statutory objectives, employers' organisations have the right to form on a voluntary basis or join associations of employers' organisations and leave them freely.

Nobody may be forced to join any employers' organisation or association thereof or restricted in rights for belonging or not belonging to it. Every member of an employers' organisation, and an employers' organisation being a member of an association of employers' organisations has the right to leave the organisation or association at any time on the terms and according to the procedure specified by its statute.

Employers' organisations and associations thereof have the right to carry out international activities. International activities of employers' organisations and associations thereof are carried out, according to their statutes, by means of foundation of or accession to international employers' organisations and associations thereof, direct international contacts and relations, conclusion of appropriate agreements as well as in other forms not in conflict with Ukrainian laws and standards and principles of international law.

The state secures observance of rights and legitimate interests of employers' organisations and associations thereof, and recognises employers' organisations and associations thereof as plenipotentiary representatives of their members' interests within the bounds of powers enshrined by their statutes.

Employers' organisations and associations thereof are independent in their activities of public authorities, trade unions, associations thereof, other organisations of wage workers, political parties and other citizens' associations; they are not answerable thereto or controlled thereby, except for cases provided for by laws.

Any interference of public authorities, political parties and other citizens' associations in the statutory activities of employers' organisations and associations thereof is prohibited, except for cases provided for by laws.

Temporary prohibition or dissolution of employers' organisations or associations thereof according to the administrative procedure is not allowed.

Any persons guilty of breaking the legislation on employers' organisations and associations thereof shall be held liable in accordance with law.

Organisation of the registration procedure for trade unions and employers' organisations

Justice agencies are currently responsible for legalisation of trade unions and for registration of employers' organisations.

Legalisation of all-Ukrainian trade unions and associations thereof is effected by the Ministry of Justice of Ukraine whereas legalisation of other trade unions and associations thereof is effected, respectively, by the Chief Department of Justice of the Ministry of Justice in the Autonomous Republic of Crimea, chief departments

of justice in oblasts, cities of Kyiv and Sevastopol, city, district, city-district, and oblast city departments of justice.

The same bodies effect registration of employers' organisations.

The procedure of legalisation of trade unions and associations thereof is specified in Article 16 of the Law of Ukraine on Trade Unions, Their Rights and Guarantees of Activity, according to which trade unions and associations thereof are legalised by means of notification for compliance with their declared status.

A trade union or a trade union association acquire a legal person rights upon approval of its statute (regulations). A legal person status is also granted to organisations of a trade union that operate on the basis of its statute.

Trade unions are a special public organisation category that acquires the legal person status upon approval of the statute (regulations) rather than upon legalisation (registration).

That is, trade unions have the right to enter into civil law relations with other legal persons already upon approval of their statutes.

The status, compliance with which is confirmed by the Ministry of Justice of Ukraine and its territorial bodies, is required to trade union for representation and protection of rights and interests of trade union members at a corresponding level of agreement-based regulation of labour and socioeconomic relations.

Based on documents submitted by a trade union or a trade union association, a legalising authority confirms, within one-month time, the declared status according to attributes specified in Article 11 of the above-mentioned Law of Ukraine, includes the trade union or the trade union association on the register of citizens' associations, and issues the trade union or the trade union association a legalisation certificate indicating its respective status.

Trade union are exempted from payment of a registration fee (due to the Resolution of the Cabinet of Ministers of Ukraine *On the procedure of collection and amount of a duty for registration of citizens' associations,* No. 143 of 26.02.1993).

It should be noted that the legalising authority may not deny legalisation to trade unions and associations thereof.

As the practice of application of the Law of Ukraine on Trade Unions, Their Rights and Guarantees of Activity shows, the legalising authority is restricted in conducting legal examination of documents submitted for legalisation of trade unions.

It is only if the documents submitted by a trade union or a trade union association fail to comply with the declared status that the legalising authority suggests that the trade union or the trade union association submit additional documentation required to confirm its status.

Besides, trade unions breaking Article 36 of the Constitution of Ukraine are not subject to legalisation.

Justice agencies generally adhere to requirements of Article 16 of the Law of Ukraine on Trade Unions, Their Rights and Guarantees of Activity and don't make decisions to deny legalisation to trade unions.

However, in some cases departments of justice have to point trade unions to the need of bringing their statutory documents in line with legislative requirements (i.e. providing a full package of documents, bring the application content into conformity with the Resolution of the Cabinet of Ministers of Ukraine *On the approval of the Regulations on the procedure of legalisation of citizens' associations,* No. 140 of 26.02.1993, bringing the statute into conformity with the Law of Ukraine on Trade Unions, Their Rights and Guarantees of Activity).

Employers' organisations and associations thereof, according to Article 13 of the Law of Ukraine on the Employers' Organisations, are subject to mandatory registration according to the procedure established by the Law of Ukraine on Citizens' Associations, and acquire the legal person status upon state registration.

Payment for registration of employers' organisations and associations thereof, depending on their territorial status (as specified in the above-mentioned resolution), amounts to between 2.5 and 10 non-taxable minimum personal income.

Article 16 of the Law of Ukraine on Citizens' Associations envisages that a citizens' association may be denied registration if its name, statutory document, or other documents submitted for registration are in conflict with Ukrainian laws.

A decision on denial of registration must contain grounds of the denial. The decision may be appealed against by judicial means.

Trade unions and employers' organisations receive a certificate on state registration of a legal person after state registration according to the procedure established by the Law of Ukraine on the State Registration of Legal Persons and Natural Person Entrepreneurs.

Data is entered into the Uniform State Register of Enterprises and Organisations of Ukraine according to the 'one-stop shop' principle through a simplified procedure provided for by Regulation on transfer by the Ministry of Justice and territorial bodies thereof of data on legal persons to state registrars, approved by the Joint Order No. 23/74/5 of 27.02.2007 of the State Committee of Ukraine for Regulatory Policy and Entrepreneurship and the Ministry of Justice of Ukraine.

Although the International Labour Organisation's Convention No. 87 provides these organisations with equal rights to form, legislation currently regulates the procedure of legalisation of trade unions and registration of employers' organisations in different ways.

Measures taken to implement the legal framework

In order to secure the right to organise, a number of measures have been taken during the period from 1 January 2005 to 31 December 2008:

- 26 December 2006: a meeting of the board of the Ministry of Labour and Social Policy of Ukraine was held to consider the status of compliance with the provisions of the ILO Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise in Ukraine involving a broad range of participants. Pursuant to results of the meeting, the Ministry of Labour and Social

Policy of Ukraine issued Order No. 6 of 10.01.07 *On the status of compliance with the provisions of the ILO Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise in Ukraine*, which envisaged drafting of joint proposals on improvement of legislative acts; training seminars to learn provisions of the above-mentioned convention; securing training of state labour inspectors to exercise state control over compliance with labour legislation to the extent of the points that guarantee compliance with the provisions of the convention;

- 11 April 2007: hearings were held in the Committee of the Verkhovna Rada of Ukraine for Social Policy and Labour "On the status of observance of the rights of trade unions and employers' organisations in Ukraine according to the ILO Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise. Pursuant to results of the hearings, appropriate recommendations were approved for ministries, central and local executive authorities, the Prosecutor-General's Office, and social partners concerning improvement of the work being conducted to comply with existing legislation and provisions of the ILO Convention No. 87;

- the following draft laws were registered in the Verkhovna Rada of Ukraine: on amending the Law of Ukraine on Trade Unions, Their Rights and Guarantees of Activity (as to securing equality of trade unions) (reg. No. 3119 of 5.09.08), on amending the Law of Ukraine on the Employers' Organisations (reg. No. 2619 of 23.12.08), and on amending some legislative acts of Ukraine to bring their provisions into conformity with the ILO Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise (concerning observance of the rights of trade unions and employers' organisations) (reg. No. 1431 of 4.09.08).

These draft laws are currently being worked on in the Committee of the Verkhovna Rada of Ukraine for Social Policy and Labour.

The Ministry of Justice of Ukraine conducted legal examination of the draft Law of Ukraine on Amending the Law of Ukraine on the Employers' Organisations. The draft aims to eliminate drawbacks of the existing Law of Ukraine and to secure further realisation of the employers' right to the freedom of association. In particular, the draft substantially changes the procedure of legalisation of employers' organisations and associations thereof, and states that it is impossible for legalisation authorities to deny legalisation to an employers' organisation or to an association of employers' organisations.

The Ministry of Justice of Ukraine also continues to review legislation on problematic issues of the creation and operation of trade unions to bring it into conformity with the ILO Convention No. 87 (in pursuance of item 1.14 of the minutes of the meeting between Prime Minister of Ukraine Y.Tymoshenko and representatives of trade unions of the agricultural sector and certain industries, dated 5.06.2008).

On 28 October 2008, the Ministry of Justice of Ukraine had consultations with trade unions on implementation of protocol instructions pursuant to the Prime Minister's meetings with representatives of all-Ukrainian trade unions and trade union associations.

Proceeding from results of the consultations held, it was concluded that there now exists a problem of burdensome reporting of trade unions, particularly tax reporting, statistical reporting, and reporting to funds of mandatory state social insurance.

After processing of the proposals provided by trade unions and trade associations, the Ministry of Justice of Ukraine sent proposals to relevant public authorities on possible ways of addressing the above-mentioned problems on a standard-setting basis

Statistical information

As of 1 January 2009, the Ministry of Justice of Ukraine has legalised 122 all-Ukrainian trade unions and 15 all-Ukrainian associations for compliance with the declared status as per the Law of Ukraine on Trade Unions, Their Rights and Guarantees of Activity, and has registered 18 all-Ukrainian associations of employers' organisations.

Including:

	2005	**2006**	**2007**	**2008**	**Total as of 1 Jan 2009**
Legalised for compliance with the declared status:					
all-Ukrainian trade unions	4	4	11	9	122
all-Ukrainian trade union associations	1	1	0	1	15
Registered:					
all-Ukrainian associations of employers' organisations	2	2	6	3	18

As of 1 January 2009, territorial justice agencies have legalised 977 local trade unions and 59 local trade union associations for compliance with the declared status, and registered 539 local employers' organisations and local associations of employers' organisations.

Including:

	2005	**2006**	**2007**	**2008**	**Total as of 1 Jan 2009**
Legalised for compliance with the declared status:					
local trade unions	74	123	93	88	997
local trade union associations	1	1	4	2	59
Registered:					
employers' organisations and associations thereof	62	94	37	57	539

Article 6 – The right of workers to bargain collectively

With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake

1. to promote joint consultation between workers and employers;
2. to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements;
3. to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitration for the settlement of labour disputes;

and recognise

4. the right of workers and employers to collective action in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into.

Appendix to Article 6§4
It is understood that each Party may, insofar as it is concerned, regulate the exercise of the right to strike by law, provided that any further restriction that this might place on the right can be justified under the terms of Article G.

Information to be submitted

Article 6§1

1) Please describe the general legal framework applicable to the private as well as the public sector. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

The legal framework

- Constitution of Ukraine, No. 254k/96-VR of 28.06.1996;
- Labour Code of Ukraine No. 322-VIII of 10.12.1971;
- Law of Ukraine on Collective agreements No. 3356-XII of 1.07.1993;
- Law of Ukraine on Employers' Organisations No. 2436-III of 24.05.2001;

- Law of Ukraine on Trade Unions, Their Rights and Guarantees of Activity No. 905-IV of 05.06.2003;
- International Covenant on Economic, Social and Cultural Rights (ratified on 12.11.1973);
- ILO Convention No 87 on Freedom of Association of the Right to Organise, 1948 (ratified on 14.09.1956);
- ILO Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, 1949 (ratified on 14.09.1956);
- ILO Convention No. 154 concerning the Promotion of Collective Bargaining, 1981 (ratified on 16.05.1994);
- Decree of the President of Ukraine No. 1871 of 29.12.2005 *On the development of social dialogue in Ukraine.*

In order to secure efficient exercise of the right to enter into collective agreements, the Parties undertake to promote joint consultation between workers and employers.

The said provisions are reflected in the Decree of the President of Ukraine No. 1871 of 29.12.2005 *On the development of social dialogue in Ukraine* (hereinafter referred to as the Decree) and in Article 10, first part of Article 11, Law of Ukraine on Collective Agreements.

For example, in support of the proposal of the Cabinet of Ministers of Ukraine, all-Ukrainian trade unions and associations thereof, and all-Ukrainian associations of employers' organisations, the National Tripartite Social and Economic Council has been established under the President of Ukraine as a consultative and advisory body (Article 1(1) of the Decree).

Paragraph 4 of the Regulations on the National Tripartite Social and Economic Council (hereinafter referred to as the Regulations) approved by the Decree provides for principal tasks of the National Tripartite Social and Economic Council (hereinafter referred to as the National Council).

Pursuant to that paragraph of the Regulations, principal tasks of the National Council are as follows:

- promote concerting of the stands taken by the parties to social dialogue on the ways of further development of socioeconomic and labour relations, and concluding agreements on regulation of such relations;

- develop proposals on the shaping and implementation of state socioeconomic policy and submit them to the President of Ukraine.

Besides, Article 10 of the Law on Collective Agreements (hereinafter referred to as the Law) states that conclusion of a collective agreement is preceded by collective bargaining.

No less than three months prior to expiration of a collective agreement, or within the term specified by that document, any of the parties informs other parties in written on commencement of bargaining.

The other party must commence bargaining within seven days.

The procedure of bargaining on developing, concluding or amending a collective agreement is specified by the parties and formalised in a relevant protocol.

To conduct bargaining and prepare draft texts of a collective agreement, a working commission is established that includes representatives of the parties. Membership of the commission is identified by the parties.

The parties may suspend bargaining to hold consultations or examinations and to obtain necessary data for elaboration of relevant decisions and search for compromises.

The parties to collective bargaining must provide participants of bargaining with all necessary information on the content of a collective agreement. The participants of bargaining have no right to disclose any data being state or commercial secret, and sign appropriate undertakings to that effect.

The working commission drafts a collective agreement considering proposals received from workers, work collectives, sectors, regions, and public organisations, and makes a decision that is legalised with a relevant protocol.

In according to the first part of Article 11 of the Law, the parties use conciliatory procedures to settle discrepancies during collective bargaining.

In April 2008, a new General Agreement was concluded between the Cabinet of Ministers of Ukraine, all-Ukrainian associations of employers' and enterpreneurs' organisations, and all-Ukrainian trade unions and trade union associations for 2008-2009 (hereinafter referred to as the General Agreement).

To secure implementation of the existing General Agreement by executive authorities, the Cabinet of Ministers of Ukraine issued the Executive Order No. 1250 of 17.09.08 *On the approval of an action plan to implement provisions of the General Agreement between the Cabinet of Ministers of Ukraine, all-Ukrainian associations of employers' and enterpreneurs' organisations, and all-Ukrainian trade unions and trade union associations for 2008-2009.*

The Government of Ukraine takes measures to promote, in sectoral and national scopes, efficient consultation and cooperation between public authorities and employers' and workers' organisations as well as between these organisations, without any discrimination against and between these organisations. As a result, 85 sectoral and 27 regional agreements have been concluded and operating in Ukraine. The number of concluded collective agreements has substantially increased during the period between 2005 and 2008. According to the State Statistics Committee of Ukraine, 82.7 thousand collective agreements were concluded and registered as of 31 December 2005. As of 31 December 2008, more than 95.6 thousand collective agreements covering 83.4% workers were registered and in operation.

	Number of concluded and registered collective agreements	Number of workers covered by collective agreements	
		thousand persons	in % of record number of staff workers
Total	**95656**	**9429,3**	**83,4**
Agriculture, hunting			
and related services	6812	523,7	86,8
Forestry and related			
services	558	75,9	99,5
Fishing, fish breeding	156	8,3	86,9
Industry	9685	2868,8	92,9
Construction	4035	346,4	78,3
Trade; repair of cars,			
domestic appliances and items			
of personal consumption	7988	483,9	51,7
Hotels and restaurants	1213	57,0	61,4
Transport and communication activities	3436	893,3	90,9
land transport activities	1515	277,7	89,3
water transport activities	37	12,9	97,9
air transport activities	43	8,3	66,5
additional transport services			
and auxiliary operations	1307	374,2	95,1
post and communication activities	534	220,2	87,3
Financial activities	1472	201,0	58,2
Real-estate operations,			
leasing, engineering, and			
services to entrepreneurs	6741	500,6	80,2
incl. R&D	1078	141,3	94,0
Public administration	15268	486,2	73,7
Education	24794	1510,3	87,7
Health care and provision			
of social assistance	7350	1191,1	89,6
Provision of communal and			
invidual services, activities	6148	282,8	70,8

in culture and sports			
incl. Activities in culture and			
sports, recreation and entertainment	4510	203,6	67,7

Article 6§2

1) Please describe the general legal framework applicable to the private as well as the public sector. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, in particular on collective agreements concluded in the private and public sector at national and regional or sectoral level, as appropriate.

The legal framework

- Labour Code of Ukraine No. 322-VIII of 10.12.1971;
- Law of Ukraine on Collective Agreements No. 3356-XII of 1.07.1993;
- Law of Ukraine on Employers' Organisations No. 2436-III of 24.05.2001.

To secure efficient exercise of the right to conclude collective agreements, the Parties undertake to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements.

The above-mentioned provisions found their place in Articles 1, 4, 10, 11 and 14 of the Law of Ukraine on Collective Agreements (hereinafter referred to as the Law).

According to Article 1 of the Law, a collective agreement is concluded on the basis of legislation in force and undertakings assumed by the parties with a view to the regulation of production, labour and socioeconomic relations and concerting of interests of workers, owners and bodies authorised thereby.

According to Article 4, the right to conduct negotiations and conclude collective agreements on behalf of employees is granted to trade unions and trade union associations represented by their elected bodies or to other representative organisations of working people endued with proper powers by work collectives.

If there are several trade unions or associations thereof or other bodies authorised by work collectives to represent the latter at an enterprise, state,

sectoral, or territorial level, they must form a joint representative body to conduct negotiations and conclude a collective agreement.

If no consensus is reached in a joint representative body, an agreement is deemed as concluded if signed by representatives of trade unions or associations thereof or other bodies authorised by work collectives to represent them, which include more than a half of employees of the state, sector, or territory.

If no consensus is reached concerning a collective agreement in a joint representative body, a general meeting (conference) of the work collective adopts the most acceptable draft collective agreement and mandates the trade union or other body authorised by the work collective, which developed the draft, to use the draft as a basis for negotiations and conclude the collective agreement approved by the general meeting (conference) on behalf of the work collective with the owner or a body authorised thereby.

Article 10 of the Law stipulates that conclusion of a collective agreement is preceded by collective bargaining.

No less than three months prior to expiration of a collective agreement, or within the term specified by that document, any of the parties informs other parties in written on commencement of bargaining.

The other party must commence bargaining within seven days.

The procedure of bargaining on developing, concluding or amending a collective agreement is specified by the parties and formalised in a relevant protocol.

To conduct bargaining and prepare draft texts of a collective agreement, a working commission is established that includes representatives of the parties. Membership of the commission is identified by the parties.

The parties may suspend bargaining to hold consultations or examinations and to obtain necessary data for elaboration of relevant decisions and search for compromises.

The parties to collective bargaining must provide participants of bargaining with all necessary information on the content of a collective agreement. The participants of bargaining have no right to disclose any data being state or commercial secret, and sign appropriate undertakings to that effect.

The working commission drafts a collective agreement considering proposals received from workers, work collectives, sectors, regions, and public organisations, and makes a decision that is legalised with a relevant protocol.

Article 11 of the Law provides for settlement of differences that arise during collective bargaining. The parties use conciliatory procedures to that end.

If, during the negotiations, the parties failed to reach agreement for reasons beyond their control, a statement of disagreement is drawn up that includes finally formulated proposals of the parties on the measures required to eliminate the above-said reasons as well as on terms of renewal of the negotiations.

Within three days from drawing-up of the statement of disagreement, the parties conduct consultations, form a conciliatory commission from among their membership, and in case of failure to reach agreement approach a mediator selected by the parties.

The conciliatory commission or mediator considers the statement of disagreement and makes recommendations on the substance of the dispute within seven days.

If no agreement is reached between the parties as to making a recommendation, it is allowed to organise and carry out a strike according to the procedure not in conflict with Ukrainian laws.

To support their demands during the negotiations concerning development, conclusion or amendment of a collective agreement, trade unions or other bodies authorised by workers may hold meetings, rallies, picketing, and demonstrations in due procedure.

It should be noted that Article 14 of the Law regulates matters related to amending and supplementing a collective agreement.

According to that Article, a collective agreement may be amended or supplemented during its validity period only by mutual consent of the parties according to the procedure specified in the collective agreement.

According to Article 6 of the Law of Ukraine on Collective Agreements, any interference, able to restrict legitimate rights of workers and representatives thereof or prohibit their exercise, on the part of representative and executive authorities, economic management bodies, political parties, owners or bodies authorised thereby in the conclusion and implementation of collective agreements is prohibited.

Bargaining and conclusion of collective agreements on behalf of workers by organisations or bodies founded or financed by owners or bodies authorised thereby or political parties is not allowed.

If the work collective's interests are represented by a trade union body, the interests of the owner or a body authorised thereby may not be represented by persons being members of the elected body of that trade union.

At the same time, paragraph 12 of the Final Provisions of the General Agreement between the Cabinet of Ministers of Ukraine, all-Ukrainian associations of employers' and enterpreneurs' organisations, and all-Ukrainian trade unions and trade union associations for 2008-2009 states that the Parties agreed to promote conclusion of agreements on sectoral and regional levels and collective agreements at enterprises, institutions and organisations of all forms of ownership covered by the Parties' scope of competence, as well as to bring their provisions into conformity with the General Agreement. The same arrangement was present in the previous General Agreement as well.

As at present, 85 sectoral and 27 regional agreements have been concluded and operating in Ukraine, including respectively 19 and 27 agreements concluded with the participation of employers' organisaitons. The number of concluded collective agreements has substantially increased during the period between 2005 and 2008. According to the State Statistics Committee of Ukraine, as of 31 December 2008, more than 95.6 thousand collective agreements covering 83.4% workers have been registered and operating (see charts).

Year	Number of collective agreements concluded and registered in Ukraine	Number of workers covered by collective agreements in Ukraine (thousand persons)	Number of workers covered by collective agreements in Ukraine in % of record number of staff workers
2005	82676	9457.0	82.1
2006	90825	9575.0	82.7
2007	94485	9596.1	82.4
2008	95656	9429.3	83.4

Article 6§3

1) Please describe the general legal framework as regards conciliation and arbitration procedures in the private as well as the public sector, including where relevant decisions by courts and other judicial bodies, if possible. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, in particular on the nature and duration of Parliament, Government or court interventions in collective bargaining and conflict resolution by means of, *inter alia*, compulsory arbitration.

The legal framework

- Law of Ukraine on Collective Agreements No. 3356-XII of 1.07.1993;
- Law of Ukraine on the Procedure of Settlement of Collective Disputes (Conflicts) No. 137/98-VR of 03.03.1998;
- Law of Ukraine on Militia No. 565-XII of 20.12.1990;
- Law of Ukraine on Social and Legal Protection of Military Servicemen and Their Family Members No. 2011-XII of 20.12.1991.

To settle disagreements arising in collective bargaining, the parties thereto may use conciliatory procedures according to Law of Ukraine on Collective Agreements and the Law of Ukraine on the Procedure of Settlement of Collective Disputes (Conflicts).

The Law of Ukraine on the Procedure of Settlement of Collective Disputes

(Conflicts) (hereinafter referred to as the Law) specifies legal and organisational principles of the operation of a system of measures intended to settle collective labour disputes (conflicts) and aims to secure interaction between the parties to industrial relations in the process of settlement of collective labour disputes (conflicts) arising between them.

Article 2 of the Law defines the notion of a collective labour dispute (conflict).

In particular, according to Article 2 of the Law, a collective labour dispute (conflict) means any disagreement that arose between the parties to industrial relations concerning:

a) establishing new or changing any existing socioeconomic conditions of labour and production life;

b) concluding or amending a collective agreement;

c) implementing a collective agreement or some provisions thereof;

d) failing to comply with requirements of labour legislation.

Article 8 of the Law specifies the body assigned to elaborate a solution able to satisfy the parties to the collective labour dispute (conflict).

According to that Article, a conciliatory commission is a body assigned to elaborate a solution able to satisfy the parties to the collective labour dispute (conflict), and consisting of representatives of the parties.

The conciliatory commission is established upon the initiative of one of the parties within the following terms: 3 days on the enterprise level, 5 days on the sectoral or territorial level, 10 days on the national level from the moment when a collective labour dispute (conflict) arose; the commission includes equal numbers of representatives of the parties.

The procedure of determination of representatives to the reconciliatory commission is specified by each of the parties to a collective labour dispute (conflict) by itself.

Members of the conciliatory commission are granted off-duty time for the period of negotiations and preparation of the commission's decision.

If necessary, the conciliatory commission:

engages an independent mediator in its memberships;

consults the parties to a collective labour dispute (conflict), central and local executive authorities, local governments, and other bodies concerned.

Organisational and logistical support for the commission's work is provided by agreement between the parties or, if the parties fail to agree, in equal proportions.

Article 9 of the Law specifies a procedure of settlement of a collective labour dispute (conflict) by the conciliatory commission.

According to that article, the parties to a collective labour dispute (conflict) are required to provide the conciliatory commission with information necessary to conduct negotiations.

Members of the conciliatory commission have no right to disclose any data being a state secret or other secret protected by law.

Collective labour disputes (conflicts) are considered by an industrial conciliatory commission within 5 days from the establishment of the commission, by sectoral and territorial conciliatory commissions – within 10 days, and by a national-level conciliatory commission – within 15 days.

The conciliatory commission's decision is formalised with a protocol, is binding on the parties, and is implemented according to the procedure and within the terms specified therein.

The conciliatory commission stops its work after having made a decision concerning settlement of a collective labour dispute (conflict).

Article 10 of the Law specifies who is an independent mediator.

According to that article, an independent mediator is a person, identified through joint choice by the parties, who assists in establishing interaction between the parties and conductions negotiations, and takes part in elaboration of a mutually acceptable decision by the conciliatory commission.

According to Article 11 of the Law, a labour arbitration court is a body consisting of specialists, experts, and other persons engaged by the parties and making a decision on the substance of a collective labour dispute (conflict).

A labour arbitration court is established upon the initiative of one of the parties or an independent mediator within three days if:

a conciliatory commission failed to make an agreed decision on settlement of a collective labour dispute (conflict) on the matters provided for by paragraphs a) and b), Article 2 of that law;

a collective labour dispute (conflict) arose on the matters provided for by paragraphs c) and d) of that law.

Quantitative and personal composition of a labour arbitration court is determined by agreement between the parties. A chairperson of a labour arbitration court is elected from among members thereof.

A labour arbitration court may also include people's deputies of Ukraine, representatives of public authorities and local governments, and other persons.

Organisational and logistical support for the labour arbitration court's work is provided by agreement between the parties or, if the parties fail to agree, in equal proportions.

Article 12 of the Law specifies a procedure of settlement of a collective labour dispute (conflict) by a labour arbitration court.

According to that article, a collective labour dispute (conflict) is considered by a labour arbitration court with mandatory participation of representatives of the parties and, if required, representatives of other bodies and organisations concerned.

A labour arbitration court must make its decision within ten days from the day of its establishment. This term may be extended to 20 days by a decision of a majority of the labour arbitration court's members.

The labour arbitration court's decision is made by a majority of votes of its members, formalised in a protocol, and signed by all members of the arbitration court.

The labour arbitration court members have no right to disclose any data being a state secret or other secret protected by law.

The labour arbitration court's decision on settlement of a collective labour dispute (conflict) is binding if the parties agreed to that effect in advance.

It should be noted that Article 15 of the Law stipulates that, in order to promote improvement of labour relations, prevent emergence of collective labour disputes (conflicts), predict them and assist in their timely settlement as well as to provide mediation for settlement of such disputes (conflicts), the President of Ukraine establishes the National Service of Mediation and Conciliation.

The National Service of Mediation and Conciliation consists of highly qualified specialists and experts on settlement of collective labour disputes (conflicts) and has its divisions in the Autonomous Republic of Crimea and oblasts.

Decisions made by the National Service of Mediation and Conciliation are advisory and must be considered by the parties to a collective labour dispute (conflict) and by relevant central or local executive authorities and local governments.

The National Service of Mediation and Conciliation is financed from the funds of the State Budget of Ukraine.

The Regulations on the National Service of Mediation and Conciliation are approved by the President of Ukraine.

The scope of competence of the National Service of Mediation and Conciliation includes:

registration of claims laid by workers and of collective labour disputes (conflicts);

analysis of claims, identification and generalisation of reasons of collective labour disputes (conflicts), preparation of proposals for elimination of the reasons;

training of mediators and arbiters specialised in settlement of collective labour disputes (conflicts);

formation of the lists of arbiters and mediators;

verification, if required, of powers of representatives of the parties to a collective labour dispute (conflict);

mediation in settlement of a collective labour dispute (conflict);

involvement of people's deputies of Ukraine, representatives of public authorities and local governments to participate in conciliation procedures.

Article 16 of the law regulates interaction between the National Service of Mediation and Conciliation and the parties to a collective labour dispute (conflict).

According to that article, the National Service of Mediation and Conciliation suggests, at the request of the parties to a collective labour dispute (conflict), candidatures of independent mediators and labour arbitration members, coordinates work of a labour arbitration court, and sends its specialists and experts to take part in the work of conciliation bodies.

Representatives of the National Service of Mediation and Conciliation may take part in settlement of a collective labour dispute (conflict) in all its stages.

After implementation of a conciliation procedure provided for by this Law, the parties to a collective labour dispute (conflict) have the right to apply for assistance in settlement of the dispute (conflict) to the National Service of Mediation and Conciliation that considers all the materials and sends its recommendations to the parties in a ten-day term.

If claims laid by employees or a trade union contain some issues addressing which belongs, according to legislation, to competence of central or local executive authorities or local governments, the National Service of Mediation and Conciliation sends its recommendations together with relevant materials to heads of those bodies who must consider them within seven days and inform the parties to a collective labour dispute (conflict) and the National Service of Mediation and Conciliation on the decisions made thereby.

Article 6§4

1) Please describe the general legal framework as regards collective action in the private as well as the public sector, including where relevant decisions by courts and other judicial bodies, if possible. Please also indicate any restrictions on the right to strike. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, in particular: statistics on strikes and lockouts as well as information on the nature and duration of Parliament, Government or court interventions prohibiting or terminating strikes and what is the basis and reasons for such restrictions.

The legal framework

- Law of Ukraine on the Procedure of Settlement of Collective Disputes (Conflicts) No. 137/98-VR of 03.03.1998;
- Law of Ukraine on Collective Agreements No. 3356-XII of 1.07.1993;
- Law of Ukraine on Militia No. 565-XII of 20.12.1990;
- Law of Ukraine on Social and Legal Protection of Military Servicemen and Their Family Members No. 2011-XII of 20.12.1991;
- Law of Ukraine on the Legal Regime of Martial Law No. 1647-III of 06.04.2000;
- Law of Ukraine on the Legal Regime of the State Emergency No. 1550-III of 16.03.2000;
- Law of Ukraine on Civil Service No. 3723-XII of 16.12.1993;

- Law of Ukraine on Service in Local Governments No. 2493-III of 7.06.2001;
- Law of Ukraine on the Armed Forces of Ukraine No. 1934-XII of 6.12.1991;
- Law of Ukraine on the Alternative (Non-Military) Service No. 1975-XII of 12.12.1991;
- Law of Ukraine on the Emergency and Rescue Services No. 1281-XIV of 14.12.1999;
- Law of Ukraine on Fire Safety No. 3745-XII of 17.12.1993;
- Law of Ukraine on Electric Power Engineering No. 575/97-VR of 16.10.1997;
- Law of Ukraine on the Use of Nuclear Energy and Radiation Safety No. 39/95-VR of 08.02.1995;
- Law of Ukraine on Transport No. 232/94-VR of 10.11.1994;
- Mining Law of Ukraine No. 1127-XIV of 06.10.1999.

According to Article 27 of the Law of Ukraine on Trade Unions, Their Rights and Guarantees of Activity, trade unions and associations thereof have the right to organise and stage strikes, meetings, rallies, marches and demonstrations to protect workers' labour and socioeconomic rights and interests according to law.

Besides, according to Article 44 of the Constitution of Ukraine, workers have the right to strike to protect their economic and social interests.

These provisions also found their place in Articles 13, 15, 16, 17 and 21 of the Law of Ukraine on the Procedure of Settlement of Collective Disputes (hereinafter referred to as the Law).

A procedure of exercising the right to strike is established by the law considering the need to ensure national security, public health, and other people's rights and freedoms.

Nobody may be forced to take or not take part in a strike.

A strike may be prohibited only on the grounds of law.

Article 13 of the Law specifies rights and obligations of the parties to a collective labour dispute (conflict).

For example, according to that article of the Law, none of the parties to a collective labour dispute (conflict) may evade taking part in a conciliation procedure.

The parties to a collective labour dispute (conflict), a conciliatory commission, and a labour arbitration court must use all opportunities not prohibited by law to settle the collective labour dispute (conflict).

If the conciliatory bodies failed to settle disagreements between the parties, reasons of the disagreements are communicated to each of the parties to a collective labour dispute (conflict). In that case, employees or a body authorised thereby or a trade union has the right to use all means allowed by law to have their claims satisfied.

It should be noted that Article 15 of the Law specifies that, in order to promote improvement of labour relations and to prevent emergence of collective labour disputes (conflicts),

It should be noted that Article 15 of the Law stipulates that, in order to promote improvement of labour relations, prevent emergence of collective labour disputes (conflicts), predict them and assist in their timely settlement as well as to provide mediation for settlement of such disputes (conflicts), the President of Ukraine establishes the National Service of Mediation and Conciliation.

The National Service of Mediation and Conciliation consists of highly qualified specialists and experts on settlement of collective labour disputes (conflicts) and has its divisions in the Autonomous Republic of Crimea and oblasts.

Decisions made by the National Service of Mediation and Conciliation are advisory and must be considered by the parties to a collective labour dispute (conflict) and by relevant central or local executive authorities and local governments.

The National Service of Mediation and Conciliation is financed from the funds of the State Budget of Ukraine.

The Regulations on the National Service of Mediation and Conciliation are approved by the President of Ukraine.

The scope of competence of the National Service of Mediation and Conciliation includes:

registration of claims laid by workers and of collective labour disputes (conflicts);

analysis of claims, identification and generalisation of reasons of collective labour disputes (conflicts), preparation of proposals for elimination of the reasons;

training of mediators and arbiters specialised in settlement of collective labour disputes (conflicts);

formation of the lists of arbiters and mediators;

verification, if required, of powers of representatives of the parties to a collective labour dispute (conflict);

mediation in settlement of a collective labour dispute (conflict);

involvement of people's deputies of Ukraine, representatives of public authorities and local governments to participate in conciliation procedures.

One of the National Service's key tasks has been and remains to be implementation of all measures necessary to prevent strikes based on a forecast of pre-strike situations in specific work collectives, industries, and regions.

Article 16 of the law regulates interaction between the National Service of Mediation and Conciliation and the parties to a collective labour dispute (conflict).

According to that article, the National Service of Mediation and Conciliation suggests, at the request of the parties to a collective labour dispute (conflict), candidatures of independent mediators and labour arbitration members, coordinates work of a labour arbitration court, and sends its specialists and experts to take part in the work of conciliation bodies.

Representatives of the National Service of Mediation and Conciliation may take part in settlement of a collective labour dispute (conflict) in all its stages.

After implementation of a conciliation procedure provided for by this Law, the parties to a collective labour dispute (conflict) have the right to apply for assistance in settlement of the dispute (conflict) to the National Service of Mediation and Conciliation that considers all the materials and sends its recommendations to the parties in a ten-day term.

If claims laid by employees or a trade union contain some issues addressing which belongs, according to legislation, to competence of central or local executive authorities or local governments, the National Service of Mediation and Conciliation sends its recommendations together with relevant materials to heads of those bodies who must consider them within seven days and inform the parties to a collective labour dispute (conflict) and the National Service of Mediation and Conciliation on the decisions made thereby.

It should be noted that Article 17 of the Law provides a definition of strike.

According to that Article of the Law, a strike is a temporary collective voluntary termination of work by workers (absence from work, failure to perform their employment duties) of an enterprise, institution, organisation (structural unit) in order to settle a collective labour dispute (conflict).

A strike is used as a measure of last resort (when all other opportunities are exhausted) to settle a collective labour dispute (conflict) because of the refusal of the owner or a body (representative) authorised thereby to satisfy claims of employees or a body authorised thereby, a trade union, a trade union association, or a body authorised thereby.

It should be noted that Article 21 regulates matters on conclusion of an agreement on settlement of a collective labour dispute (conflict) and supervision over its implementation.

According to that Article of the law, during a strike the parties to a collective labour dispute (conflict) must continue to search for ways to settle the dispute by using all available opportunities.

An agreement on settlement of a collective labour dispute (conflict) is signed by the head or other plenipotentiary representative of the body leading the strike and the owner or a body (representative) authorised thereby.

Supervision over compliance with conditions of the agreement is exercised by the parties to the collective labour dispute (conflict) or by bodies (persons) authorised thereby.

At the same time, Laws of Ukraine on the Legal Regime of Martial Law, on the Legal Regime of the State Emergency, on Civil Service, on Service in Local Governments, on Militia, on the Armed Forces of Ukraine, on Social and Legal Protection of Military Servicemen and Their Family Members, on the Alternative (Non-Military) Service, on the Emergency and Rescue Services, on Fire Safety, on Electric Power Engineering, on the Use of Nuclear Energy and Radiation Safety, on Transport, and the Mining Law of Ukraine establish a restriction on the right to strike.

For example, staging strikes under martial law is prohibited. A decree by the President of Ukraine on imposing a state of emergency in the interests of national security and public order to prevent disturbances or crimes, to protect public health, or to protect other people's rights and freedoms, may prohibit strikes for the period of state of emergency.

Strikes at electric power engineering enterprises are prohibited in cases when they can result in disturbance of sustainability of Ukraine's united energy system or of heating supply in autumn and winter.

Termination of work (a strike) at transport enterprises may take place if an enterprise management fails to meet terms and conditions of tariff agreements except cases related to transportation of passengers, servicing of continuously working productions, and when a strike endangers human life or health.

Strikes and hunger strikes in underground workings are prohibited.

Personnel of nuclear installations and facilities designed to handle radioactive waste has no right to strike.

Civil servants have no right to take part in strikes or commit other acts hindering normal functioning of a state body. Officials of local self-governance may not be organisers and direct participants of strikes and other acts that prevent public authorities, authorities of the Autonomous Republic of Crimea, or local governments from exercising their powers provided for by law. Militia staff, military servicemen, workers of the Armed Forces of Ukraine, professional emergency and rescue services, rank and file and commander staff, workers and employees of the state fire protection service are barred from organising or taking part in a strike. A citizen sent to alternative service has no right to take part in strikes.

In July 2006, the National Service of Mediation and Conciliation registered a collective labour dispute between the Federation of Trade Unions of Ukraine and the Cabinet of Ministers of Ukraine.

The claims laid by the Federation of Trade Unions of Ukraine concerned, in particular: termination of resolutions of the previous Cabinet of Ministers of Ukraine and cancellation of regulatory legal acts of some central executive authorities related to increase of prices and tariffs of energy carriers and services; compliance with the social dialogue procedures according to the General Agreement between the Cabinet of Ministers of Ukraine, all-Ukrainian associations of employers' and enterpreneurs' organisations, and all-Ukrainian trade unions and trade union associations for 2004-2005; revision of certain provisions of the Law of Ukraine on the State Budget of Ukraine for 2006.

Pursuant to the Government's instructions, members of the conciliatory commission representing the Cabinet of Ministers secured representation of the Government's interests during conciliation procedures as per the requirements in Articles 8 and 9 of the Law of Ukraine on the Procedure of Settlement of Collective Disputes (Conflicts).

Beginning from 4 August 2006, the conciliatory commission had 7 meetings to consider the collective labour dispute between the Federation of Trade Unions of Ukraine and the Cabinet of Ministers of Ukraine. As to results of the

conciliatory commission's work, only 8 of 11 claims were considered, and a mutually acceptable decision was found for one claim only – to secure the social dialogue procedure according to paragraph 4.11 of the above-mentioned General Agreement (claim 3). On other issues, the commission recorded disagreements in the approaches followed by the governmental and trade union parties to settlement of the above-mentioned collective labour dispute.

In October 2006, the Labour Arbitraion Court on consideration of the collective labour dispute between the Federation of Trade Unions of Ukraine and the Cabinet of Ministers of Ukraine made appropriate decisions on the substance of the dispute. Besides, the conciliation and negotiation procedures resulted in signing by the Minister of Labour and Social Policy of Ukraine on 25 October 2006 of the Agreement on joint actions to settle the collective labour dispute between the Federation of Trade Unions of Ukraine and the Cabinet of Ministers of Ukraine.

To secure compliance with the decisions made by the Labour Arbitration Court and provisions of the Agreement on joint actions to settle the collective labour dispute, the Cabinet of Ministers of Ukraine instructed central and local executive authorities to secure compliance of the decisions made by the Labour Arbitration court and provisions of the said Agreement (instruction No. 40637/6/1-06 of 23.11.06).

According to the National Service of Mediation and Conciliation, the following number of strikes and collective terminations of work was recorded in Ukraine during 2006-2008:

Year	**Strikes and collective terminations of work**
2006	32
2007	24
2008	13

Article 21 – The right of workers to be informed and consulted within the undertaking

With a view to ensuring the effective exercise of the right of workers to be informed and consulted within the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice:

a. to be informed regularly or at the appropriate time and in a comprehensible way about the economic and financial situation of the undertaking employing them, on the understanding that the disclosure of certain information which could be prejudicial to the undertaking may be refused or subject to confidentiality; and
b. to be consulted in good time on proposed decisions which could substantially affect the interests of workers, particularly on those decisions which could have an important impact on the employment situation in the undertaking.

Appendix to Articles 21 and 22

1. For the purpose of the application of these articles, the term "workers' representatives" means persons who are recognised as such under national legislation or practice.
2. The terms "national legislation and practice" embrace as the case may be, in addition to laws and regulations, collective agreements, other agreements between employers and workers' representatives, customs as well as relevant case law.
3. For the purpose of the application of these articles, the term "undertaking" is understood as referring to a set of tangible and intangible components, with or without legal personality, formed to produce goods or provide services for financial gain and with power to determine its own market policy.
4. It is understood that religious communities and their institutions may be excluded from the application of these articles, even if these institutions are "undertakings" within the meaning of paragraph 3. Establishments pursuing activities which are inspired by certain ideals or guided by certain moral concepts, ideals and concepts which are protected by national legislation, may be excluded from the application of these articles to such an extent as is necessary to protect the orientation of the undertaking.
5. It is understood that where in a state the rights set out in these articles are exercised in the various establishments of the undertaking, the Party concerned is to be considered as fulfilling the obligations deriving from these provisions.
6. The Parties may exclude from the field of application of these articles, those undertakings employing less than a certain number of workers, to be determined by national legislation or practice.

Information to be submitted

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, in particular on the percentage of workers out of the total workforce which are not covered by the provisions granting a right to information and consultation either by legislation, collective agreements or other measures.

The legal framework

- Constitution of Ukraine, No. 254k/96-VR of 28.06.1996;
- Law of Ukraine on the Procedure of Settlement of Collective Disputes (Conflicts) No. 137/98-VR of 03.03.1998;
- Law of Ukraine on Collective Agreements No. 3356-XII of 1.07.1993;
- Labour Code of Ukraine No. 322-VIII of 10.12.1971;
- Law of Ukraine on Information No. 2657-XII of 02.10.1992;
- Law of Ukraine on the Employment of the Population No. 803-XII of 01.03.1991;
- Law of Ukraine on the Occupational Safety, No. 2694-XII of 14.10.1992;
- Law of Ukraine on Mandatory State Social Insurance against an Accident at Work and Occupational Health that Caused Loss of Working Capacity, No. 1105-XIV of 23.09.1999;
- Order of the State Committee of Ukraine for Occupational Safety Supervision *On the approval of the Model Regulations on the occupational safety service,* No. 255 of 15.11.2004, registered with the Ministry of Justice under No. 1526/10125 of 1.12.2004;
- Order of the State Committee of Ukraine for Occupational Safety Supervision *On the introduction of Recommendations on the design of an occupational safety management system at production,* No. 33 of 22.02.2008.

All Ukrainian citizens, legal persons, and public authorities have the right to be informed, which assumes a possibility of freely obtaining, using, disseminating and keeping any data they need to exercise their rights, freedoms, and legitimate interests, and to perform their tasks and functions.

Exercising the right to be informed by individuals, legal persons and the state must not infringe civil, political, economic, social, spiritual, ecological and

other rights, freedoms and legitimate interests of other individuals as well as rights and interests of legal persons.

Trade unions and associations thereof have the right to obtain, free of charge, information from employers or associations thereof, public authorities, and local governments on any matter relating to labour and socioeconomic rights and legitimate interests of their members as well as information on results of economic activity of enterprises, institutions or organisations. The said information must be provided no later than within five days.

The owner of a body authorised thereby is required to provide, within a one-week time at the requests of trade unions or associations thereof, information on working conditions and labour remuneration, on socioeconomic development of an enterprise, institution or organisation, and on implementation of collective agreements.

In case of any delay in payment of wages, the owner and a body authorised thereby is required, at the request of elected trade union bodies, to provide a written permission for obtaining information from banks on availability of funds on the accounts an enterprise, institution or organisation, or obtain such information from banks and provide it to the trade union body. If the owner or a body authorised thereby refuses to provide such information or a permission to obtain information, its acts or omission to act may be appealed against to a court.

Liquidation, reorganisation of enterprises, change in the form of ownership, or partial stoppage of production, which entail reduction in the number of workers or staff or worsen working conditions, may only be implemented after timely provision of information on that matter to trade unions, including information on reasons for subsequent dismissals, on the number and categories of workers that may be affected, and on dismissal deadlines. No later than three months from the decision-making date, the owner or a body authorised thereby holds consultation with trade union concerning measures to prevent or minimise dismissals or mitigate adverse effects of any dismissal.

Trade unions have the right to submit proposals to relevant bodies on postponement of measures related to staff redundancy, on temporary suspension of such measures, or on their cancellation.

In accordance with part three, Article 9 of the Law of Ukraine on Information, every citizen is secured free access to any information relating to him/her personally, except for cases provided for by Ukrainian laws.

Besides, in pursuance of paragraph 2 of the Executive Order of the Cabinet of Ministers of Ukraine No. 990-r of 23 July 2008 *On the approval of a concept of the draft Law of Ukraine on Access to Information,* the Ministry of Justice of Ukraine developed a draft Law of Ukraine on Access to Information and submitted it in due procedure to the Cabinet of Ministers of Ukraine for consideration.

The draft law aims to improve legal regulation of access to information, and to secure strict adherence to Article 34 of the Constitution of Ukraine concerning freedom of information during security classification of documents that were illegally closed for public access.

On 15 April 2008, a General Agreement between the Cabinet of Ministers of Ukraine, all-Ukrainian associations of employers' and enterpreneurs' organisations, and all-Ukrainian trade unions and trade union associations for 2008-2009 was signed (hereinafter referred to as the General Agreement).

According to its provisions, the Owners Party undertook to:

- include trade union representatives, according to the procedure established by law, into commissions on privatisation, restructuring, reorganisation, and liquidation of economic entities, as well as commissions on transfer of the state property entities into municipal ownership;

- provide conditions for participation of representatives of trade union organisations of relevant levels in the work of supervisory boards of economic partnerships in an advisory capacity;

- at state enterprises and other economic entities, where the state has more than 50% shares (equity interests, units) in the statute fund, and at its subsidiary enterprises – involve representatives of a primary trade union organisation or, if there's no such organisation, representatives freely elected by workers and authorised to represent workers' interests in relations with employers, in development of financial plans in the section concerning socioeconomic development of such enterprises; in drafting of proposals for the board and/or supervisory council of economic partnerships concerning distribution of a profit remaining at the disposal of such enterprises for socioeconomic development according to the procedure specified by laws and a collective agreement;

- provide, free of charge at the request of trade union organisations or associations thereof, information on meeting the obligations, undertaken by economic entities, under agreements of sale and purchase of privatisation objects, particularly as to securing employment, labour remuneration, and other aspects of industrial relations;

- determine, when concluding sectoral and regional agreements, criteria of mass redundancy of workers and a procedure of consultations with trade unions concerning mitigation of consequences of such redundancy.

Besides, according to provisions of the General Agreement, the Cabinet of Ministers of Ukraine undertakes to:

- inform the Trade Unions Party and the all-Ukrainian associations of employers' and workers' organisations being subjects of the General Agreement, on the quarterly basis about results of monitoring of new job creation and release of workers because of implementation of restructuring plans;

- secure taking measures to restore solvency of state enterprises and joint-stock companies in which the state has 50% of more in statute funds.

The Cabinet of Ministers also undertakes to involve representatives of a primary trade union organisation or, if there's no such organisation, representatives freely elected by workers and authorised to represent workers' interests in relations with employers, in endorsement of rehabilitation plans for unprofitable enterprises according to legislation; and to submit information on this matter, proceeding from results of each half-year, to the Trade Unions Party and the all-Ukrainian

associations of employers' and workers' organisations being subjects of the General Agreement.

According to Article 13 of the Law of Ukraine on the Occupational Safety, an employer organises advocacy of safe working methods and cooperation with workers in the field of occupational safety.

To that end, the employer secures functioning of an occupational safety management system and an occupational safety service at the enterprise, and implements measures to provide all workers in all economic sectors and at each enterprise with access to information on occupational safety matters.

Article 5 of the Law of Ukraine on the Occupational Safety states that, when entering into an employment agreement, an employer must inform the worker against receipt on working conditions and on existence at the worker's workplace of hazardous and harmful production factors not yet eliminated, possible consequences of their impact for health, and on the worker's right to benefits and compensations for working under such conditions in accordance with legislation and pursuant to a collective agreement.

In 2008, Order of the State Statistics Committee of Ukraine No. 489 of 5.12.2008 *On the approval of standard forms of primary accounting records on labour statistics* instructed that such a note must be entered into an order (executive order) on hiring a worker according to a standard form of primary accounting.

Article 22 – The right to take part in the determination and improvement of the working conditions and working environment

With a view to ensuring the effective exercise of the right of workers to take part in the determination and improvement of the working conditions and working environment in the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice, to contribute:

a. to the determination and the improvement of the working conditions, work organisation and working environment;
b. to the protection of health and safety within the undertaking;
c. to the organisation of social and socio-cultural services and facilities within the undertaking;
d. to the supervision of the observance of regulations on these matters.

Appendix to Articles 21 and 22

1. For the purpose of the application of these articles, the term "workers' representatives" means persons who are recognised as such under national legislation or practice.
2. The terms "national legislation and practice" embrace as the case may be, in addition to laws and regulations, collective agreements, other agreements between employers and workers' representatives, customs as well as relevant case law.
3. For the purpose of the application of these articles, the term "undertaking" is understood as referring to a set of tangible and intangible components, with or without legal personality, formed to produce goods or provide services for financial gain and with power to determine its own market policy.
4. It is understood that religious communities and their institutions may be excluded from the application of these articles, even if these institutions are "undertakings" within the meaning of paragraph 3. Establishments pursuing activities which are inspired by certain ideals or guided by certain moral concepts, ideals and concepts which are protected by national legislation, may be excluded from the application of these articles to such an extent as is necessary to protect the orientation of the undertaking.
5. It is understood that where in a state the rights set out in these articles are exercised in the various establishments of the undertaking, the Party concerned is to be considered as fulfilling the obligations deriving from these provisions.
6. The Parties may exclude from the field of application of these articles, those undertakings employing less than a certain number of workers, to be determined by national legislation or practice.

Appendix to Article 22

1. This provision affects neither the powers and obligations of states as regards the adoption of health and safety regulations for workplaces, nor the powers and responsibilities of the bodies in charge of monitoring their application.
2. The terms "social and socio-cultural services and facilities" are understood as referring to the social and/or cultural facilities for workers provided by some undertakings such as welfare assistance, sports fields, rooms for nursing mothers, libraries, children's holiday camps, etc.

Information to be submitted

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information on employees who are not covered by Article 22, the proportion of the workforce who is excluded and the thresholds below which employers are exempt from these obligations.

The legal framework

- Law of Ukraine on Collective Agreements No. 3356-XII of 1.07.1993
- Labour Code of Ukraine No. 322-VIII of 10.12.1971
- Law of Ukraine on Trade Unions, Their Rights and Guarantees of Activity No. 905-IV of 05.06.2003
- Law of Ukraine on the Occupational Safety, No. 2694-XII of 14.10.1992
- Law of Ukraine on Mandatory State Social Insurance against an Accident at Work and Occupational Health that Caused Loss of Working Capacity, No. 1105-XIV of 23.09.1999
- Order of the State Committee of Ukraine for Occupational Safety Supervision *On the approval of the Model Regulations on the procedure of training and knowledge testing on occupational safety,* No. 15 of 26.01.2005, registered with the Ministry of Justice under No. 231/10511 on 15.02.2005
- Order of the State Committee of Ukraine for Occupational Safety Supervision *On the approval of the Model Regulations on the occupational safety service,* No. 255 of 15.11.2004, registered with the Ministry of Justice under No. 1526/10125 of 1.12.2004
- Order of the State Committee of Ukraine for Occupational Safety Supervision *On the introduction of Recommendations on the design of an occupational safety management system at production,* No. 33 of 22.02.2008

- Order of the State Committee of Ukraine for Occupational Safety Supervision *On the approval of the Regulations on the procedure of state supervision organisation*
- Order of the State Committee of Ukraine for Occupational Safety Supervision *On the approval of the Model Regulations on the enterprise commission for occupational safety,* No. 55 of 21.03.2007, registered with the Ministry of Justice under No. 311/13578 of 4.04.2007

Work collectives through representatives elected thereby, and trade unions in the person of their elected bodies and representatives, supervise observance by all workers of regulatory acts on occupational safety at enterprises, institutions and organisations.

The owner or a body authorised thereby develops, with trade unions involved, and implements comprehensive measures on occupational safety according to the Law of Ukraine on the Occupational Safety. An action plan on occupational safety is included in a collective agreement.

Article 6 of the said Law regulates matters relating to workers' rights to occupational safety during work.

Working conditions at the workplace, safety of manufacturing processes, machines, mechanisms, equipment and other means of production, conditions of collective and individual protective gear used by a worker as well as sanitary conditions and conveniences must meet statutory requirements.

A worker is entitled to refuse to do an assigned job if a production situation has emerged being hazardous for his/her life or health or for any people around him/her or for production/natural environment. The worker is required to inform his/her supervisor or employer thereabout. The fact of existence of such a situation is confirmed, if necessary, by occupational safety specialists of the enterprise involving a representative of the trade union to which the worker is a member or a person on occupational safety authorised by workers (if no trade union was established at the enterprise) as well as an insurance expert on occupational safety.

For any downtime period because of reasons that emerged not through the worker's fault, the worker's average earnings are retained thereto.

A worker has the right to rescind his/her employment agreement of his/her own accord if the employer fails to observe legislation on occupational safety or fails to comply with requirements of the collective agreement on these matters. In such a case the worker is paid a severance pay in the amount provided by the collective agreement but no less than the worker's three-month earnings.

The employer must transfer any worker that requires being provided with an easier job due to health conditions as per a medical report to such a job, given the worker's consent, by the date specified in the medical report, and, if necessary, grant him a half-time working day and organise the worker's training to acquire another profession in accordance with legislation.

For any period of termination of operation of an enterprise, shop, section, certain production or equipment by a body of state supervision over occupational

safety or by an occupational safety service, the worker's workplace and average earnings are retained thereto.

Besides, according to part one, Article 15 of the above-mentioned law, at an enterprise having 50 or more staff, the employer establishes an occupational safety service as per the model regulations approved by a specially empowered central executive authority on occupational safety supervision.

Trade unions exercise public supervision over observance of occupational safety legislation, over creation of safe and non-harmful working conditions and proper sanitary conditions, and over provision of workers with special clothes, special footwear, and other individual and collective protective gear. If there is any threat to workers' life or health, trade unions have the right to require the employer to stop work immediately at workplaces, in production sections, shops and other structural units, or at the enterprise as a whole for a period necessary to eliminate the threat to workers' life or health.

If there is no trade union at the enterprise, public supervision over observance of occupational safety legislation is exercised by a person authorised by employees.

To secure proportional participation of workers at an enterprise in addressing any issues of safety, occupational health, and production environment according to Article 16 of the Law of Ukraine on the Occupational Safety, a commission on occupational safety may be established by a work collective's decision.

Trade unions have the right to conduct independent expert examination of working conditions as well as production facilities under design, construction or operation, for compliance with regulatory legal acts on occupational safety, take part in investigation of reasons of production accidents and occupational diseases, and provide their opinions thereabout.

To perform these functions, trade unions and associations thereof may create legal assistance services and relevant inspections and commissions, and approve regulations thereon. Authorised representatives of trade unions have the right to make prescriptions to employers, executive authorities and local governments on elimination of breaches of labour legislation, the prescriptions being mandatory for consideration, and to obtain argued replies therefrom within one month.

Trade unions and associations thereof:

- take part in activities of expert, advisory and supervisory councils under bodies and establishments of health care as well as may take part in development of mass physical training, sports, tourism, creation of and support for sport societies and tourist organisations;

- take part in environmental protection and protection of people against adverse environmental impacts, promote activities of public nature-protection organisations, may conduct public expert examinations, and carry out other activities not prohibited by law in this field.

Trade unions and associations thereof have the right to create, at the expense of their own funds, training, cultural and educational, research, socio-analytical establishments as well as legal, statistical, sociological training centres and independent expert examination centres.

To highlight their activities, trade unions and associations thereof have the right to be founders of mass media and carry out publishing activities according to law.

Employers are required to deduct funds to primary trade union organisations for cultural, physical training and health-improvement activities in the amounts provided for in a collective agreement and accords, but no less than 0.3 percent of the labour compensation fund, these sums being included in gross expenditures, and in the budget-funded sector – through allocation of additional budgetary appropriations.

Article 26 – The right to dignity at work

With a view to ensuring the effective exercise of the right of all workers to protection of their dignity at work, the Parties undertake, in consultation with employers' and workers' organisations:

1. to promote awareness, information and prevention of sexual harassment in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct;
2. to promote awareness, information and prevention of recurrent reprehensible or distinctly negative and offensive actions directed against individual workers in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct.

Appendix to Article 26

It is understood that this article does not require that legislation be enacted by the Parties.

It is understood that paragraph 2 does not cover sexual harassment.

Information to be submitted

Article 26§1

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please supply any relevant statistics or other information on awareness-raising activities and programmes and on the number of complaints received by ombudsmen or mediators, where such institutions exist.

Article 26§2

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

1) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

2) Please supply any relevant statistics or other information on awareness-raising activities and programmes and on the number of complaints received by ombudsmen or mediators, where such institutions exist.

The legal framework

- Labour Code of Ukraine No. 322-VIII of 10.12.1971;
- Law of Ukraine on Securing Equal Rights and Opportunities for Women and Men No 2866-IV of 08.09.2005;
- International Covenant on Economic, Social and Cultural Rights (ratified on 12.11.1973);
- European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950 (ratified on 11.09.1997).

According to the Law of Ukraine on Securing Equal Rights and Opportunities for Women and Men, a person believing that he/she became a subject of sexual harassment may file a complaint with the Commissioner of the Verkhovna Rada of Ukraine for Human Rights, a specially empowered central executive authority for equal rights and opportunities for women and men, authorised persons (coordinators) on securing equal rights and opportunities for women and men in executive authorities and local governments, state law-enforcement bodies, or court.

A person has the right to be reimbursed for financial loss and moral damage caused due to discrimination on the grounds of sex or due to sexual harassment. Moral damage is reimbursed irrespective of financial loss subject to reimbursement, and is not related to the amount of the financial loss.

A procedure of reimbursement for financial loss and moral damage caused due to discrimination on the grounds of sex or due to sexual harassment is determined by law.

According to Article 17 of the said Law, an employer must take measures to make impossible any cases of sexual harassment, i.e. harassment of sexual nature expressed orally (threats, intimidation, obnoxious remarks) or physically (touching, slapping) that humiliates or offend persons being in relations of labour, official, financial or other subordination.

The State Department for Supervision over Compliance with Labour Legislation under the Ministry of Labour and Social Policy of Ukraine (Derzhnahlyadpratsi) exercises control over compliance with labour legislation (except for occupational safety matters) by means of conducting inspections at economic entities of all forms of ownership.

No complaint concerning sexual harassment at the workplace has been received by Derzhnahlyadpratsi.

Statistical information on sexual harassment at the workplace based on results of a sampling socio-demographic survey "Basic safety of Ukrainian population" conducted by the State Statistics Committee of Ukraine with support from the International Labour Organisation

Sexual harassment at the workplace*

(in % of persons employed in economic sectors)

	Urban settlements				Rural areas			
	2002	2003	2004	2006	2002	2003	2004	2006
Women								
Have you experienced any sexual harassment at the workplace?								
Yes	1.1	0.8	0.1	0.9	0.6	0.7	-	0.4
No	98.9	97.7	99.0	98.0	99.4	98.8	99.3	97.1
Hard to say	-	1.5	0.9	1.1	-	0.5	0.7	2.5
Have your colleagues experienced any sexual harassment at the workplace?								
Yes	2.4	2.2	2.2	1.5	1.1	2.6	1.1	0.5
No	91.0	92.3	93.7	93.9	93.4	91.6	94.8	94.1
Hard to say	6.6	5.5	4.1	4.6	5.5	5.8	4.1	5.4
Should a policy of protection against sexual harassment be pursued?								
Yes	51.4	50.7	47.0	47.9	47.6	47.9	47.3	45.9
No	20.7	21.3	20.6	20.6	23.6	24.0	20.2	19.6
Hard to say	27.9	28.0	32.4	31.5	28.8	28.1	32.5	34.5
Men								
Have you experienced any sexual harassment at the workplace?								
Yes	0.7	0.1	0.2	1.2	0.5	0.2	-	1.0
No	99.3	97.7	97.1	96.8	99.5	98.0	98.7	96.8
Hard to say	-	2.2	2.7	2.0	-	1.8	1.3	2.2
Have your colleagues experienced any sexual harassment at the workplace?								
Yes	2.1	2.3	2.1	2.2	1.5	2.6	2.4	2.0
No	90.5	92.0	91.4	92.9	93.3	93.3	93.1	93.5
Hard to say	7.4	5.7	6.5	4.9	5.2	4.1	4.5	4.5
Should a policy of protection against sexual harassment be pursued?								
Yes	49.2	44.6	42.8	41.3	44.8	41.5	40.3	41.7
No	24.1	25.9	25.5	23.9	27.3	31.8	24.9	23.7
Hard to say	26.7	29.5	31.7	34.8	27.9	26.7	34.8	34.6

*According to the sampling survey "Basic safety of Ukrainian population"

Article 28 – Right of worker representatives to protection in the undertaking and facilities to be afforded to them

With a view to ensuring the effective exercise of the right of workers' representatives to carry out their functions, the Parties undertake to ensure that in the undertaking:

a. they enjoy effective protection against acts prejudicial to them, including dismissal, based on their status or activities as workers' representatives within the undertaking;
b. they are afforded such facilities as may be appropriate in order to enable them to carry out their functions promptly and efficiently, account being taken of the industrial relations system of the country and the needs, size and capabilities of the undertaking concerned.

Appendix to Article 28
For the purpose of the application of this article, the term "workers' representatives" means persons who are recognised as such under national legislation or practice"

Information to be submitted

1) Please describe the general legal framework, including decisions by courts and other judicial bodies, if possible. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

The legal framework

- Labour Code of Ukraine No. 322-VIII of 10.12.1971;
- Law of Ukraine on Trade Unions, Their Rights and Guarantees of Activity No. 905-IV of 05.06.2003;
- ILO Convention No 135 on Workers Representatives, 1971 (ratified on 03.09.2003).

Article 41 of the Law of Ukraine on Trade Unions, Their Rights and Guarantees of Activity regulates matters related to establishing the guarantees for workers of enterprises, institutions or organisations elected to trade union bodies.

In particular, workers of enterprises, institutions or organisations elected as members of elective trade union bodies are guaranteed opportunities for exercise of their powers.

Amending conditions of an employment agreement or labour remuneration, or holding workers being members of elective trade union bodies liable is allowed only subject to prior consent of the elective body members whereof they are.

Dismissal of members of an elective trade union body of an enterprise, institution or organisation (including structural units), its heads, or a trade union representative (where no elective trade union body is elected), in addition to observance of a general procedure, is allowed subject to prior consent of the elective body members whereof they are as well as of the higher elective body of that trade union (trade union association).

Dismissal upon the employer's initiative of workers who were elected to trade union bodies of an enterprise, institution or organisation is not allowed during one year after expiry of the period for which they were elected, except for cases of: full liquidation of the enterprise, institution or organisation; the worker's revealed failure to correspond to the current position or job due to his/her health of state that hinders continuing that job; or the worker's acts for which legislation provides for a possibility of dismissal from office or service. Such a guarantee is not provided to workers in case of early termination of their powers in such bodies due to improper performance of their duties or of their own accord, except for cases when it is caused by the state of health.

Workers dismissed because of having been elected to elective trade union bodies are provided, after expiration of their term of powers, with their previous job (position) or, given the worker's consent, another equivalent job (position).

Members of elective trade union bodies not discharged from their industrial or official duties, are granted, on the terms specified in a collective agreement, free time with retention of their average wage for taking part in consultations and negotiations, performing other public duties in the work collective's interests, as well as for the period of participation in the work of elective trade union bodies, but at least two hours per week.

For a period of trade union training, the workers elected as members of elective trade union bodies of an enterprise, institution or organisation are granted an additional leave, up to 6 calendar days long, with retention of their average wage at the employer's expense.

For persons elected as members of elective bodies of the trade union organisation operating at an enterprise, institution or organisation, the social benefits and incentives, which are established for other workers at the workplace as per legislation, are retained. Additional benefits may be granted to those workers, if a collective agreement so stipulates, at the enterprise's expense.

Members of elective bodies of trade unions and trade union associations as well as plenipotentiary representatives of these bodies have the right to (Article 40 of the Law of Ukraine on Trade Unions, Their Rights and Guarantees of Activity):

1) visit and inspect, without hindrance, workplaces at an enterprise, institution or organisation where trade union members are working;

2) require and obtain from the employer or other official any relevant documents, data and explanations related to working conditions, performance of collective agreements, adherence to labour legislation, and observance of workers' socioeconomic rights;

3) directly address the employer and officials on trade union matters orally or in written;

4) inspect the work of trade, public catering and healthcare facilities, child care centres, hostels, transport undertakings, consumer services enterprises owned by or servicing the given enterprise, institution or organisation;

5) place their own information in the premises and territory of the enterprise, institution or organisation in places accessible by workers;

6) check settlements on labour remuneration and state social insurance, and examine use of funds for social and cultural activities and housing construction.

The State Department for Supervision over Compliance with Labour Legislation under the Ministry of Labour and Social Policy of Ukraine (Derzhnahlyadpratsi) exercises control over compliance with labour legislation (except for occupational safety matters) by means of conducting inspections at economic entities of all forms of ownership.

When performing inspections, state labour inspectors found some cases when economic entities violated requirements of legislation in force.

	Number of violations (entities) revealed			
	2008	**2007**	**2006**	**2005**
Labour Code of Ukraine, Article 249 "Responsibility of the owner or a body authorised thereby to provide conditions for trade union activities"	41	9	-	-
Labour Code of Ukraine, Article 252 "Guarantees for workers of enterprises, institutions and organisations elected to trade union bodies"	11	12	10	-

Article 29 – The right to information and consultation in collective redundancy procedures

With a view to ensuring the effective exercise of the right of workers to be informed and consulted in situations of collective redundancies, the Parties undertake to ensure that employers shall inform and consult workers' representatives, in good time prior to such collective redundancies, on ways and means of avoiding collective redundancies or limiting their occurrence and mitigating their consequences, for example by recourse to accompanying social measures aimed, in particular, at aid for the redeployment or retraining of the workers concerned.

Appendix to Articles 28 and 29
For the purpose of the application of this article, the term "workers' representatives" means persons who are recognised as such under national legislation or practice.

Information to be submitted

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

The legal framework

- Labour Code of Ukraine No. 322-VIII of 10.12.1971;
- Law of Ukraine on Trade Unions, Their Rights and Guarantees of Activity No. 905-IV of 05.06.2003;
- ILO Convention No 158 on Termination of Employment, 1982 (ratified on 16.05.1994).

In accordance with Article 49-2 of the Labour Code of Ukraine, workers are notified on their forthcoming redundancy personally no later than two months prior thereto.

In case of redundancy because of changes in the organisation of production and labour, a priority right to retention of a job, provided for by legislation, is taken into account.

Simultaneously with a notice on dismissal because of changes in the organisation of production and labour, the owner or a body authorised thereby offers the worker another job at the same enterprise, institution, or organisation. If there is no job according to a respective occupation or profession, as well as if the worker refuses to be transferred to another job at the same enterprise, institution, or

organisation, the worker, acting at his own discretion, approaches state employment service for assistance or finds a job by himself. At the same time, the owner or a body authorised thereby informs the state employment service on the forthcoming dismissal of the worker specifying his occupation, profession, qualification, and amount of labour remuneration.

The state employment service offers the worker a job in the same or other locality according to the worker's occupation, profession and qualification or, if there is no such job, selects another job taking individual wishes and social needs into consideration. If necessary, the worker may be sent, given his consent, for training in a new profession (occupation) with subsequent provision of a job thereto.

According to parts three and four of Article 22 of the Law of Ukraine on Trade Unions, Their Rights and Guarantees of Activity, if an employer plans redundancy of workers for some reasons of economic, technological, structural or similar nature or because of liquidation, reorganisation, or change in the form of ownership of an enterprise, institution or organisation, the employer must provide, in advance but no later than three months prior to planned redundancy, information to primary trade union organisations concerning these measures, including information on reasons of the redundancy, quantity and categories of workers that may be affected, terms of redundancy, and to hold consultation with trade unions concerning measures to prevent or minimise dismissals or mitigate adverse effects of any dismissal.

Trade unions have the right to submit proposals to public authorities, local governments, employers and associations thereof on postponement of terms, temporary suspension or cancellation of measures related to staff redundancy, the proposals being mandatory for consideration.

The State Department for Supervision over Compliance with Labour Legislation under the Ministry of Labour and Social Policy of Ukraine (Derzhnahlyadpratsi) exercises control over compliance with labour legislation (except for occupational safety matters) by means of conducting inspections at economic entities of all forms of ownership.

To prevent groundless dismissals and forced unpaid leaves under a financial and economic crisis, Derzhnahlyadpratsi and its territorial bodies have established strict state supervision over employers' observance of workers' labour rights.

In particular, state employment service bodies send information to Derzhnahlyadpratsi's territorial bodies on planned mass redundancies. To find out compliance with the redundancy notification procedure and the redundancy procedure, inspections of enterprises are conducted.

Besides, to prevent any offenses during staff redundancies, Derzhnahlyadpratsi's territorial bodies carry out preventive work on this subject: seminars with human resource services, explanation of topical issues of labour legislation in mass media, etc.