



EUROPEAN SOCIAL CHARTER (REVISED)

1st report on the implementation of the European Social Charter
(revised)

submitted by

THE GOVERNMENT OF ALBANIA

(Articles 1, 5, 6, 7, 19, 20)

2005

**FIRST REPORT OF THE GOVERNMENT OF ALBANIA
ON THE IMPLEMENTATION
OF THE EUROPEAN SOCIAL CHARTER
(articles: 1;5; 6; 7; 19;20.)**

Article 1. The right to work.

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

1. To accept as one of their primary aims and responsibilities the achievement and maintenance of as high and stable a level of employment as possible, with a view to the attainment of full employment;
2. To protect effectively the right of the worker, with the view to the earning of his living in a job freely accepted by him/her;
3. To establish and maintain employment services free of charge, for all the workers;
4. To provide and promote the proper and suitable orientation vocational training and occupational rehabilitation.

LEGISLATION

I. Constitution of the Republic of Albania

Article 49

1. Everybody has the right to earn his living by carrying out a legal job, freely chosen and accepted by him/her. He/she is free to choose occupation, place of work and the own system of qualification and vocational training.
2. The workers (employees) have the right of social protection to their work.

II. International Conventions

According to ILO (International Labor Organization), the Conventions ratified by Albania are:

- Convention Nr. 181 “Private Employment Agencies” ratified by Law Nr. 8350, dated 20/05/1998 on the adherence of the Republic of Albania, to the International Labor Organization Convention Nr. 181, “Private (Fee-Charging) Employment Agencies”.
- By Decision of the Council of Ministers (DCM) Nr. 710, dated 29/10/2004, it has been approved in principle the ILO Convention Nr. 168, “Employment Promotion and Protection against Unemployment”

Primary Legislation (Main Laws)

Law Nr. 7995, dated 20/09/1995 on “Employment Promotion”, whose intention fully complies both with the article 49 of the Constitution of the Republic of Albania, and Article 1 of the Social Charter; Article 4, par (topic) 2 of this Law envisages:

- a) To provide a job for all those who are seeking one.
- b) Such a job should be as much productive as possible
- c) To feel free when choosing the job and to have full possible opportunities for every employed people to get qualification and use his abilities and skills in a job suitable for him or her.

Law Nr. 8872, dated 29/03/2002 “on Education and Vocational Training in the Republic of Albania”, which, supports the development of a common system of Education and Vocational Training, sets the basic principles, structure organization and administration of Education and Vocational Training, and guaranties the right, sanctioned in the Constitution of the Republic of Albania, on life long Education and Vocational Training. It also guaranties the right to get elementary occupation education and get the necessary professional knowledge for employment, by creating equal opportunities to all.

Secondary legislation

Council of the Minister’s Decision (DCM) Nr. 42 dated 17/01/1998 on “Approval of the National Employment Service Statute”, revised by the DCM Nr. 263 date 25/05/2000 and DCM Nr. 17, dated 10/01/2003.

DCM Nr. 69, dated 11/02/1999 “Employment promotion program for the unemployed jobseekers”, revised by DCM nr. 132 dated 14/4/2002 and the Instruction Nr. 370/2 dated 10/05/1999.

Council of the Minister’s Decision (DCM) Nr. 70, dated 11/02/1999 “On registration the unemployed jobseekers” and the Instruction Nr. 369/1 dated 30/03/1999.

Council of the Minister’s Decision (DCM) Nr. 71, dated 11/02/1999 “On the way of licensing and functioning of the fee-charge employment agencies” and the Instruction Nr. 368/1 dated 30/03/1999.

Council of the Minister’s Decision (DCM) Nr. 73, dated 11/02/1999, “Employment promotion program, by supporting the institutional development” and the Instruction 895 dated 12/04/2000.

Council of the Minister’s Decision (DCM) Nr. 632, dated 18/09/2003, “Employment promotion program for the unemployed female jobseekers”.

Council of the Minister’s Decision (DCM) Nr. 708, dated 16/10/2003, “On the way of licensing and functioning of the fee-charge employment agencies”.

Instruction Nr 612, dated 29/03/2004 on “Implementing the DCM Nr. 708, dated 16/10/2003, On the way of licensing and functioning of the fee-charge employment agencies”; DCM Nr. 631 dated 18/09/2003 “Increase of the level of the unemployment benefits”.

Instruction Nr 78, dated 14/01/2004, “on the priorities of the Employment promotion program for the year 2004”

Instruction Nr 75, dated 14/01/2004, “on the implementation of the DCM Nr. 69, dated 11/02/1999, Employment promotion program for the unemployed jobseekers”.

Instruction Nr 73, dated 14/01/2004, on the implementation of Council of the Minister’s Decision (DCM) Nr. 73, dated 11/02/1999, “Employment promotion program, through training at work”

Instruction Nr 74, dated 14/01/2004, on the implementation of Council of the Minister’s Decision (DCM) Nr. 74, dated 11/02/1999, “on the Employment promotion program, by supporting the institutional development”

Instruction Nr 76, dated 14/01/2004, on the implementation of the Council of the Minister’s Decision (DCM) Nr. 632, dated 18/09/2003, “Employment promotion program for the unemployed female jobseekers”.

The common instruction of Ministry of Labour and Social Affairs and the Ministry of Finance, Nr. 1 dated 20/04/1999, “on the financial procedures, to be followed in order to implement the Employment promotion program”.

Council of the Minister’s Decision (DCM), Nr. 543, dated 31/10/2002, “On the accrediting of the education and vocational training institutions”.

Council of the Minister’s Decision (DCM), Nr. 616, dated 4/12//2002, “On identifying the particular groups that, benefit from the system of education and vocational training”.

Council of the Minister’s Decision (DCM), Nr. 196, dated 20/03/2003, “on the standards of the curricula of education and vocational training”

Council of the Minister’s Decision (DCM), Nr. 675, dated 25/09/2003, “On defining the procedures for establishing re-organizing and closing down the institutions of the public vocational training, under the dependency of the Ministry of Labour and Social Affairs”

Instruction Nr. 2222 dated 31/10/2002, “On counselling and orientation in the vocational training ”

Instruction Nr. 17 dated 1/09/2003 “on the composition, Organizing and functioning of the Accrediting Commission of Education and Vocational Training”.

The common instruction of the Ministry of Labour and Social affairs (MoLSA) and Ministry of Education and Science (MES), Nr. 16, dated 28/12/2002, “On the way of organizing and functioning of the National Council of education and Vocational Training”.

Instruction Nr. 6 dated 14/04/2003, “On the registration of educational and Vocational Training Institutions” under discussion between the two ministries, MoLSA and MES.

Instruction of MoLSA Nr 867/1, dated 30/12/2002, “On the procedures of being registered in the public vocational training centres”

Instruction of MoLSA Nr 867/2, dated 30/12/2002, “On the basic requirement for training and qualification of the trainer of the public vocational training centers”

Instruction of MoLSA Nr 867/3, dated 30/12/2002, on the “criterion and rules of the exams and tests for the final evaluation of the vocational training”

Instruction of MoLSA Nr 867/4, dated 30/12/2002, “on the content, form and procedures of issuing certificates of vocational training”

Instruction of MoLSA Nr 437, dated 03/03/03, “On the procedures for licensing the subjects that, carry out activities in the field of vocational training”

Order Nr. 394, dated 23/02/2004, “On the tariffs and fees of the system of vocational training”.

Question A paragraph 1

- Please indicate the policies attended by your government in attempting to reach a full employment. Supply with details of the measures and programs with a view to achieve as high a level of employment as possible.
- Please indicate the trend in total employment policy expenditures over the past five years including the relative shares of “active” (job creation, training etc.) and “passive” measures, (financial compensation).
- Please indicate the active policy measures taken, in order to favor access to employment of groups most exposed to, or affected by unemployment, (example: women, young, older workers, the long term unemployed, the disabled, immigrants and/or ethnic minorities). Please give indications of beneficiaries from these measures and information, if possible on their impact on employment.

Labour Market Active Policies.

In a huge degree, the problems of employment are as a result of the fact that employment in Albania is considered much more as a derivative of the macro economic policies than a central problem for the whole economic and social policies. This is changing slowly but steadily and the Strategy for the Social and Economic Development (NSSSED) in Albania is an important step towards the social and economic integration policies. With the view to support NSSSED, it has been designed and produced the Strategy on Employment and Vocational Training, aiming to define the framework of implementing the ALPM. This strategy is designed in close cooperation with the Ministry of Economy, Bank of Albania and the interested parties. The strategy is mainly focused on four important areas: Labour market services; vocational training, development of entrepreneurship and financing of employment. The participation of the Ministry of economy in this strategy shows the interest and engagement of different partners in employment. Both strategies are a wonderful undertaking of the Albanian government, and express the fact that employment is a fundamental issue in our attempts to fight and reduce poverty.

The active policies of the labour market include:

- a. Mediation for employment
- b. Programs of job creation
- c. Professional counselling
- d. Remedy and vocational training programs.

The state budget finances these programs:

1. Employment promotion programs.

Employment promotion programs are presented for the first time in the year 1999, and since then they started to be implemented. The aim of these programs is to promote employment and vocational training for the unemployed job seekers. The main objective of these programs is: (i) to create of the new vacancies; (ii) to provide vocational training to the unemployed jobseekers; (iii) to provide assistance to the enterprises in order to increase their activity and to make a better selection of the labour force; (iv) a straightforward promotion for getting employment to those who have been trained; (v) reduction of the informal labour market.

Employment promotion programs are four and concretely are divided as following:

Employment promotion programs for unemployed job seekers.

Implementation of this program has started in 1999. According to this program the employers who temporarily employ people or testify them for a period of 3-6 months, already registered in the employment office, may benefit financing of the monthly payment of those employed up to 100%(minister's instruction has reduced it to 70%) of the minimum wage in national level. They can also be given the expenditures for the social compulsory contribution for these workers.

Also the employers who employ, on bases of a regular contract, with a deadline of at least 1 year, unemployed jobseekers from the lists of the employment office, may profit both a monthly

payment/financing, equal to the minimum wage as well as the expenditures for the compulsory insurances for a period of 5 months.

In the case, when, the people who are employed do not have the necessary vocational training adaptable to the working place he has been selected, then, the employers may receive an increased percentage (10-20%) of financing for each people employed.

Employment promotion programs for unemployed job seekers through vocational training.

Implementation of this program has started in 1999. Practically its goal is realised through the monthly financial support of the employers, who carry out these programs for such a people, provided that, they maintain a part of them at work based on a contract for at least a minimum extension of one year. The state financially supports the employer with the wages and the compulsory social insurance for a period of nine months, during which the vocational training course through work is attended. At the end of the course the employer is obliged to maintain at 40% of the trainees. In order to promote the increase of the number of the employed by the employer, the state covers the expenditures of the monthly payment, equal to the minimum wage and the compulsory social insurance for a period of three months.

Employment promotion programs through vocational training.

Implementation of this program has started in 1999. This project is realised in the framework of the employment promotion policies and its main goal is to provide institutional training to the unemployed jobseekers and to the registered jobseekers in the employment offices.

According to this program the employment office will identify people who will participate in the vocational training courses and will make them available to those subjects who:

- (i) Guarantee employment to them in a defined percentage (20%)
- (ii) Or argue, based on studies and observations of the labour market, that the training they offer brings about positive effects. Even in case they do not get immediate employment right after the termination of the course, yet we have raised the skills and professional training of these people, and as consequence we have increased their opportunities to find a job later.

People, who refuse to participate in these training courses, are withdrawn their names from the unemployed jobseekers list. This makes it possible to identify the real unemployed jobseekers from the false ones, and reduces the expenditures of the economic assistance programs, disability payments, etc.

Employment promotion programs for female unemployed job seekers

Implementation of this program has started in 1999. It's goal is to get employment to the female workers with a time duration from 1-3 years. This program supports the employers by paying a part of the compulsory social contributions. Certain categories like: the victims of trafficking, Roma women, over 35 females, disabled females who have found it difficult to be integrated in the labour market etc. are considered and supported with cash payments equal to less than the minimum wage. So, during the first year of the working contract for these categories they are

paid 75 % of the compulsory social insurances and 4 wages. During the second year they are supported with 85 % of the compulsory social insurance and 6 wages. During the third year of the contract for these contingencies they are supported the total 100% of their compulsory social insurance (contribution) plus 8 wages.

Passive policies of labour market

1. Unemployment benefit program

Unemployment allowance program represents one of the first programs applied in employment offices. This program is part of the labor market policies and secures the income support for the unemployed people at the moment they are registered. The main objectives of this program are:

- i) compensate the incomes of the unemployed, ii) provide active support to unemployment allowance beneficiaries so that they are prepared to get back to work.

Every insured person shall be entitled to an unemployment benefit, provided

- a) contributions are paid to the unemployment insurance branch for at least 12 months,
- b) he is certified by the competent office
 - as being unemployed,
 - willing to undergo training and retraining, and
 - has no other benefits by the present Social Insurance Act, except the partial disability pension.

The following table provides figures relating the funds and number of the people treated as of 1998:

Item	1998	1999	2000	2001	2002	2003	2004
Number of persons treated	25066	23596	21262	20131	13838	13500	13100
% of beneficiaries to unemployed registered	10.6	9.8	9.8	11.1	8.0	8.2	11.9
% of beneficiaries to total number of labor force	17.6	16.9	15.3	15	12.7	12.5	8.34
Fund used in billion/ leke	1,866	1,664	1,378	1,635	1,282	1,017	1.21
% of funds to GDP	0,43	0,34	0,26	0,28	0,19	0,14	
Average unemployment benefit	5200	5400	5800	6000	6300	6500	6600
% of average unemployment benefit to average national wage	43.3	40.9	39.7	37.4	33.7	31.6	31.6

In the course of 2003, unemployment scheme has treated 13 500 unemployed job seekers, or 8% of the unemployed job seekers registered to Labour Offices with an average monthly wage of 6 500 leke or 65% of the national minimum wage.

The 1 (one) year coverage with an unemployment allowance has come as a result of the reduction of work places after privatisation and restructuring, expiration of contracts or production capacity constriction. Thus, unemployed job seekers are interested to secure employment or receive some training. The unemployment income support program does not prevent them from starting a new job, due to the fact that the flat monthly unemployment allowance of 3 960 leks is not sufficient for them. But it occurs time and again that they refuse employment because of the low wages offered (national minimum wage) or long distance between their home and work place. During income support period, training is needed for these unemployed job seekers, in order to qualify them to respond to the labour market needs.

Expenditures on labour market policies

Item	1999	2000	2001	2002	2003	2004
Funds used for programs on employment promotion (in million lek)	300	550	400	310	150	200
Funds for vocational training (in million leke)	30	31	38	64	64.8	
Funds for unemployment benefits (in billion leke)	1.664	1.378	1.635	1.282	1.017	1.21
Percentage of funds for promotion and vocational training to GDP	0.067	0.105	0.074	0.056	0.028	

Changes in the labour market

In 1995, based on the main Constitutional Provisions of the time, a package of laws and by-laws on labor relations and employment was drafted and approved, by respecting in this way the international conventions ratified so far by our country.

In 1995, Act No.7995 "On employment promotion" was approved which aims at following overall active policies to sustain full time, productive and freely chosen employment. According to the law, government employment policies comprise active measures for employment promotion as well as provision of income support. By the same law, labour offices are established nationwide to honour the right of all the citizens to have gaining employment, receive counselling and vocational training for relevant employment and obtain income support. The Act "On employment promotion" has been amended twice under Act no. 8444, date 21.01.1999, and Act no. 8862, date 07.03.2002. The change made in 1999 consisted in including employment promotion programs in the law, hence opening the way to approbation of such programs by Ministers Council (February 1999). Implementation of the programs commenced in June 1999. The second change was in connection with the activity of National Employment Service.

Actually, this Act is under an amending process, in conformity with Convention no.168 of the ILO "**Employment promotion and protection against unemployment**" as well as the European Social Chart revised. These changes comprise:

1. Improvement of definitions and inclusion of employment services concept as a base concept of labor market implemented by labor offices as well as of the counselling and orientation concepts regarding professions as part of such services;
2. Drawing up of new programs, for instance, the one relating professional praxes for the youngsters who have already finished university studies. This program will be approved by Ministers Council by the end of 2004 and implemented in 2005. It maintains one of the first steps undertaken by the Ministry to support freshly graduated young people;
3. Management of vocational training funds for the promotion of vocational courses by labor offices.

Notwithstanding the periodical changes made to develop the law on employment promotion, the Ministry is of the opinion that the compilation of a new law to fit with the changes incurred by the labor market in the last decade as well as with its development trends is indispensable.

In 2002, Act no.8872 "On Vocational Education and Training in Albania Republic" was approved (dated 29.03.2002). This Act aims supporting the joint vocational education and training system in Albania Republic, which can respond to the social, economic and technological transformations as well as to the labor market needs. Apart from that, it creates the opportunity to optimally exploit financial, human and infrastructure resources. This Act guarantees the right explicitly specified under the Constitution of Albania Republic for life-long vocational education and training and acquiring necessary vocational knowledge for employment, enabling equal opportunities for everybody. In implementation of this law, a series of by-laws are adopted, which adjust the activity of the entire vocational training. The National Board (Committee) of Vocational Education and Training was established under this Act.

Albanian Government has been considering vocational training with particular interest and concern, and for that reason is backing the whole process for system's consolidation and expansion. Hence, a significant move of the government is also the adoption of by-laws with regard to the restructuring of public vocational training centres, a program to be implemented in the second half of 2004. Such process will embrace: (i) replenishment of capacities of vocational training courses for authentic professions in the labour market (in public vocational training centres (public OTC) with unemployed job seekers from the labor offices lists; (ii) establishment of steering committees of public OTC; (iii) increase of the number of public vocational training centres and enhancement of the capacities of the existing ones; and (iv) development of curricula.

One of the priorities of Ministry of Labour and Social Affairs in the labour market area was development of short-term and mid-term strategies on employment and vocational training approved by Ministers' Council in January 2003. The focal point of this strategy is to explicitly define the current labour market situation and its tendencies in the short and mid run, and then determine the points for the government to interfere in this market via improved active policies of Government. On the basis of such strategy, a prognosis on employment for the five coming years 2003 - 2008 has been made. A detailed description of the strategy for employment and vocational training is provided under item 3.3

With regard to the above-mentioned programs, for the first time in 2004 the Ministry set its priorities, and priority number one was decided to be implementation of those programs securing and enabling long-term employment, employment for female unemployed job-seekers, employment for particular categories, applicants from small and mid enterprises. Actually, implementation of employment promotion programs in 2004 brought about the result that out of the total number of employed persons, 2050 were females.

The program on employment promotion of female unemployed job seekers (Ministers' Council Decision No.632, date 18.09.2003) has aimed supporting employers who give employment to female unemployed job seekers for various time periods as well as those employers who employ female job seekers over the age of 35, females from gypsy communities, handicapped females, mother girls, and divorced females with social problems (special groups). Besides payment of social insurance contributions, the programs cover a part of the wage to reach the minimum wage level.

Under Minister's Order No.394, date 23.02.2004 "On the taxes and tariffs for the vocational training system", it is provided that registration for unemployed job seekers registered with labour offices, who want to attend vocational training courses offered by public vocational centres, are free of charge for the following groups:

- ⇒ Gypsy community;
- ⇒ Trafficked girls and women;
- ⇒ Ex-prisoners;
- ⇒ Orphans.

From the application of the vocational training courses with reduced fees (Order no.394), 334 job seekers have benefited. On the other hand, 55 unemployed job seekers have followed the courses free of charge.

Question B, paragraph 1

- ⇒ Indicate employment tendencies throughout all the economic sectors. In these terms, indicate, if possible, activities dimension, employment rate and employment flow by district, gender, age, status (self-employed), sort of employment (full or part time – permanent or temporary), and by sectors of activity.
- ⇒ Provide the tendencies graphically and percentages of unemployment nationwide, including the ratio of total unemployment to labour forces. Give data on unemployment by district, gender, age and unemployment duration period.

Employment

Changes in employment in different economic sectors

The challenges in respect of employment public service seem to be plenty and sharp. This is connected with the fact that the problem of employment has become even sharper due to the following reasons:

- (i) Labor market is always under a changing process and the needs of the market change every day;
- (ii) Development of regions has reached differentiated dimensions, and so far it is requiring differentiating measures;
- (iii) Labor market is asking for vocational training, especially associated with authentic or original trades or professions and needs big investing;
- (iv) There are still people who prefer receiving economic assistance or unemployment benefit to looking for a job. This is because of the existence of informal labour market;
- (v) Active employment policies are extremely limited, and it makes necessary to establish the National Employment Fund as the only solution which would create the opportunity to develop active employment policies.

State sector

This sector represents a considerable part of labor market (46% of total employment).

Budgetary sector is represented by:

- public administration (37%);
- education system (28%);
- health service (20%);
- social and collective services (6%)

Non-budgetary sector is represented by:

- power and water supplies (33%);
- transport and communication (22%);
- processing industry (12%);
- extracting industry (9%) etc.

Private sector

In this sector, there are rising tendencies. Physical persons seem to be more involved in trade, business and maintenance (48%), services (19%), hotelry and restaurants (10%) etc. Juridical entities are commonly focused on

- processing industry, mainly textile and clothing industry (40%);
- building area (25%);
- trade and business (18%) etc.

As far as foreign companies operating in our country are concerned, relevant employment makes up 10% of employment in juridical entities.

Employment by demographic division

Both unemployment and employment seem to present different pictures not only in the different regions of the country, but also within the same region. Different districts have different economic development.

Northern zone

This zone is presented quite problematic with respect to unemployment and employment. The regions it comprises belong to the category with lower economic development. As far as employment is concerned, the biggest weight is maintained by the state sector or 70% of the total employment figure. In the biggest part of this zone, private sector is still very weak. Small business is mostly prevailing, but in the majority of cases people are self-employed, and not employing others. In Shkodra and Lezha districts, the situation seems to be different. Compared to the end of 2003, there is a small increase in the number of people employed in the private sector. Such increase is the result of the enterprises operating in **confection** area, processing leather and shoes and partly wood processing.

In the smaller districts of these regions, besides trade and services, there are modest tendencies towards the processing industry development, especially medical plant processing industry

(Malesi e Madhe and Laç) and leather and shoe processing industry (Laç). Although most of the regions in the Northern zone lie in the border zone, and thus having remarkable opportunities to develop tourism, joint trade with the business of the neighbouring countries etc., such opportunities have never been exploited. This happens due to lack of infrastructure (roads, electricity etc.).

Central zone

The central zone is the most developed countrywide, but development is not ==.

In the smaller districts, such as Librazhd, Peqin, Gramsh and Kuçove, state sector is dominating, whereas private sector is orientated towards services and trade, where employment is identified as self-employment or household business. In the constructing area, undertakings are almost developing with the state as a partner.

In some other districts, for instance, Kavaja, Pogradeci, Kruja and Lushnja, the private sector occupies a larger portion.

In Durres, employment in the private sector takes up 60% of the total employment. The most developed branches are: trade (33.5%) – the majority are self-employed; processing industry (33%); and construction (10%). It is noticed that the biggest employment in the processing industry derives from the foreign and joint firms and companies which carry out their economic activity in this district. By being a sea-shore city, during the summer period there is an increase of employment in tourism, trade, hotelry and fishing.

In Elbasani district, private sector makes up 53% of total employment. The most developed branches in this sector are construction, processing industry (metalurgical, foodstuff, clothes and textile industries) and trade. This sector is presented as a relatively consolidated one.

In Korca district as well, the processing industry seems to prevail all around the place. With reference only to textile and clothes industry, it is to be stressed that its employment takes up 40% against the total number of employees. In this **cross-border** district, the largest weight in the development of such industry is carried by the foreign investors, and it mainly produces products destined for the foreign markets (the cheap labor force is employed).

Southern zone

Development of this zone is more **conspicuous** in the districts at regional level rather than in the districts at local level. Regarding the latter, their development is almost the same with the localities on the other zones. State sector is generally predominant everywhere, whilst private sector is mainly turned to trade, services, construction, and less to the processing industry.

In the districts at regional level, employment rate is somewhat higher, especially in Fier and Vlore. In Fier district, state sector comprises 67% of total employment. As for the private sector it could be pointed out that it is continuously developing, and 38% of the total in the direction of trade, 15% belongs to processing industry and 13% to construction.

Vlora is a sea-shore city included in the southern zone. In Vlora, there are operating 2883 entities, out of which 93 pertain to the state (or 3% of the total), while the rest or 2791 are physical and juridical entities (or 97% of the total).

The state sector is employing 9020 employees (or 56% of the total) and is represented by the budgetary sectors such as education (39%), health service (32%), public administration (17%), while in the non-budgetary sector, the largest portion is composed by the people working in the sea port and salt extracting and processing industry, about 30%.

In the private sector there are 7006 people working (or 44% of the total), and the biggest part comprises trade (22%), processing industry (27%), shoes industry and construction (12%).

In Gjirokastra district, the main economic activities of the private sector are processing industry, trade and to a certain extent construction.

Tirana district

In Tirana district, employment in the state sector takes up 31% of the total employment and is represented by education, health service, power sector etc. This sector is experiencing an ongoing substantial decline in the number of labor forces.

In the private sector, the predominant activities for employment are the following:

- Wholesale and retail trade, which take up approximately 28%;
- Processing industry at 23% being mainly food-stuff, textile and clothing, leather and shoes industry;
- Construction represents about 19%.

Some characteristics of the district's employment are described below:

1. Seasonal employment makes up about 26.4% of the employed; it is a high indicator;
2. Educational level of the employed is low. Over 30% of them have eight-year or elementary education;
3. Processing industry, though expanding each passing year, is still moving ahead slowly. Under such conditions, it is important to further emphasize and embrace the idea that without production, there is no development, and consequently no new work places.
4. If referring to the table on age grouping of the employed by economic sectors, the conclusion is that in the sector of economy, around 30% of the employed have reached 45-60 years of age. In processing and production, construction, services and trade, this age group takes up 30% of total employment, while in administration, education and health service, it exceeds 38%.

Number of active enterprises in Albania by year of establishment and their economic activity

	Agriculture	Industry	Construction	Transport	Trade	Services	Not defined	Total
<i>Prior to 1990</i>	9	71	29	37	146	58	1	351
1991	14	179	21	88	1257	417	2	1978
1992	83	546	92	515	2909	1027	2	5174
1993	331	929	294	1503	4543	1423	2	9025
1994	448	1462	500	2828	8618	2853	13	16722
1995	181	789	362	1265	4318	1228	1	8144
1996	105	855	318	973	3565	1550	1	7367
1997	31	382	105	254	1487	646		2905
1998	39	461	184	736	2527	840		4787
1999	267	472	212	442	3278	1761		6432
2000								7382
2001								6496
<i>Active enterpri*</i>	735	6,073	2,011	9,494	31,947	11,599		61,859

Source: INSTAT

As concerns the number of the persons employed in active enterprises, classified as well by sectors of activity for the period 1995-2001, the data are provided in the following table

Employment and active economic enterprises in Albania

By activity in years	1995	1996	1997	1998	1999	2000	2001
Total	359957	331282	336836	316635	296804		190286
Industry	94893	85265	88197	84208	82255		75865
Construction	21286	21503	15228	11012	11266		15691
Services	162891	139759	159213	166953	142439		23867
Transport	29926	26966	26867	33155	32211		24339
Trade	50961	57789	47331	21307	28633		45844

The changes in the structure of economy, favouring the development of small and middle enterprises, are accompanied by the change of labor market needs for specialists with various professional background and education. Thus, it is necessary to prepare the people to work and face new challenges in the small and middle enterprises sector, which will secure adequate offers of knowledge and capacities to be compatible with the reformed economic structure.

Employed people by regions

*Age structure of the working population by age and living location
Census of the years 1989 and 2001*

Gender/location	Internal structure:		15-19 years/60-64 years	
	15-39 years/40-64 years			
Males	1998	2001	1998	2001
Tirana city	1.8	1.2	2	1.9
Other cities	2.1	1.2	3.4	2.2
Countryside	2.4	1.7	5.4	2.9
City	2.3	1.5	4.3	2.5
Females				
Tirana city	1.8	1.3	1.9	1.9
Other cities	2.3	1.4	3	2.4
Countryside	2.4	1.8	4.4	3.2
City	2.3	1.6	3.7	2.7
Total				
Tirana city	1.8	1.3	2	1.9
Other cities	2.2	1.3	3.2	2.3
Countryside	2.4	1.8	4.8	3
City	2.3	1.5	4	2.6

Employed people by gender

Employment by gender and educational level; (percentage of working age population from 15 to 64 years)

	Gender		Education			Total
	Males	Females	Unfinished high education	High education	Unfinished university education	
Full time employment	44.6	22.8	27.7	41.9	52.6	33.1
Total of the employed in %	69.6	51.0	54.5	73.3	75.1	61.5
Part-time employment	19.5	2.0	23.1	15.3	17.5	20.8
Total of employed in %	30.4	49.0	45.5	26.7	24.9	38.5
Total of employment	64.1	44.8	50.9	57.1	70.1	53.9

Employed people in 2003 took up 51% of the working population. During that year, the number of employed people was 926 000, of which 579 000 were males and 347 000 were females.

The analysis on employment development in years indicates that in the period 1993-2003 employment among females has been remarkably lower compared to males. But, while the difference female-male is lower than in 1994, it starts to increase after 1995 as a result of the increase of the number of people employed in the non-agricultural private sector, where the males compose the majority.

Such difference is still present and remaining at the same quotas. So, the employment level among males in the total number of employed people is 62.6% for the year 2003. Females take up solely 39.1% of the employed people. The differences between employment rates of females and males are more visible in the non-agricultural private sector, where the number of employed females makes up only 25%. Their participation in the state sector is higher, and it goes to 44% of the employed females. In the agricultural private sector, employment level is almost the same.

Employed people by age

Employment by age groups is indicated in the following:

- age group of 16 to 25 years ---- 14% of total employment
- age group of 25 to 35 years ---- 21% of total employment
- age group of 35 to 45 years ---- 32% of total employment
- age group over 45 years ---- 33% of the total employment

Employed people by type of employment (full or partial; contracted or agreed; temporary)

Age group	Full-time employed people			Part-time employed people			Total		
	Males	Females	Total	Males	Females	Total	Males	Females	Total
15-24	26.4	22.8	49.2	21.5	29.3	50.8	47.9	52.1	100.0
24-44	40.9	25.3	66.3	12.6	21.2	33.7	53.5	46.5	100.0
45-54	46.2	24.5	70.7	14.2	15.1	29.3	60.4	39.6	100.0
55-64	44.9	12.4	57.2	25.2	17.6	42.8	70.0	30.0	100.0
64+	28.9	3.8	32.7	46.7	20.6	67.3	75.6	24.4	100.0

Unemployment

Labor forces, employment and unemployment rates

Item	2002	2003	2004
Total of labor forces (in thousand)	1094	1075	1075
A. Total of employed people (in thousand)	921	927	384
i) State sector	187	182	172
ii) Non-agricultural private sector	208	211	212
iii) Agricultural private sector	526	534	
B. Unemployment (in thousand)			

i) Total of unemployed people	172.3	163	157
C. Unemployment rate (in %)	15.8	15.2	14.6

The employment rate in 1998 was 16.6%, in 1999 increased to 17.1%, in 2000 15.5%, in 2001 16.4%, in 2002 15.8%, in 2003 15.2% and in 2004 14.6%.

The statistical data on unemployment rate are expressed by the number of unemployed registered, because in Albania there is no research work on the labor force yet. As accepted so far, this is a big deficiency in respect of the Albanian statistics. It is often forwarded the argument that the registering of the unemployed people number in Albania is not an adequate measurer regarding the real unemployment level and does not mirror the real pressure of the labour market. Some of these reasons are connected with the large-scaled informal economy, increase of immigration, high rate of hidden unemployment in agriculture and the large number of unemployed people unable to get registered.

The social and economic transformations in the early 90-ies led to a substantial increase of unemployment rate. Unemployment rate at the end of 1992 was 26%, i.e. three times higher compared to the previous year. Unemployment rate decreased considerably, about 12% in 1996. However, such a decrease was not further explained with any increase of the legal employment. In the years after 1997, the unemployment crisis started to extend again. In 2002, unemployment rate was 16%. In Albania, unemployment rate is much higher among females. That probably reflects the difficulties encountered by women and girls under the new conditions of the labor market. On the other hand, a large number of females are engaged in agriculture and are working in the informal economic sectors.

In Albania, long-term unemployment as well as unemployment rate among young people are relatively high. Unemployment among young people is due to the fast increase of population over last decades and also the fact that because of large settlements and lack of new opportunities in the public sector, many from the young people are not able to find work.

As far as the long-term unemployment is concerned, in the Western economies, that is often accompanied with big subsidies for indefinite periods of time. However, this is not the case in Albania, where unemployment benefit amount is low, and over last years that kind of benefit has been constantly getting to the maximum limit of one year. As provided on the following table, the percentage of those entitled to unemployment benefit has reduced drastically, thus for instance in 2002, it was only 6.5%, which means that with the expiration of the deadline for unemployment benefit, registration as unemployed is considered no more an issue, provided there are no other reasons to register, for example with social assistance scheme, social or health insurance which are covered by the government, active labour market policies etc. Consequently, a large number of unemployed people could not have registered as unemployed.

On the other hand, it should be pointed out that in the group of the long term employed persons can be included also temporary emigrants (just like in other countries of transition) as well as many of the registered unemployed being able to find a job on the condition that their incomes do not exceed certain levels.

If we consider the scale of unemployment in relation to the level of education, as shown in the table, it is to be noticed that unemployment goes down according to the level of

education. People having high education have better possibilities to find a job. Out of the total number of the registered unemployed during the year 2002, only 1.6% were of high education.

The Structure of Unemployment Groups

Out of the total number of the registered unemployed jobseekers:

- 76 % profit economic aid
- 8 % profit from the scheme of the unemployment benefit
- 67 % of the total are long-term jobseekers

The age structure

-young ages 16-23 years old comprise 25 % of the total

-the group age 25-35 years old comprise 25 %

-the group age 35-45 years old comprise 28 % ,and

-the group age over 45 years old comprise 22 % of the total

As far as professions are concerned it is worth mentioning that 53 % of the unemployed jobseekers are registered as workers.

Unemployment according to the geographic extension

Northern Area

The Prefectures of Kukesi, Shkodra and Lezha are included in this area. The population of this area comprises only 23 % of the population of the whole Republic; unemployment is at the level of 25.8 %, which is 12 % higher as compared to other areas of the country.

The age structure of the unemployed people is relatively old, 40 % of the total unemployed are over 40 years old. Another figure witnessing the difficult situation of the labour market in this area is the group of the unemployed benefitting economic aid, consisting in 78 % of the unemployed.

Central Area

It is the most densely populated area. 35 % of the total population of the country live within this area. It comprises the regions of Durrresi, Korça and Elbasan.

The average unemployment niveau in this region is 13.4 %, which is under the country average. Even in this area are present the problems of the qualification of the unemployed jobseekers as well as that of the reduced employment possibilities for the advanced ages. 54 % of

the unemployed jobseekers have 8th grade education. Concerning the age structure 53 % of the total belong to the old age over 40.

Southern Area

This area consists of the prefectures of Gjirokastra, Vlora, Berati and Fieri. 25% of the total population of the Country is living in this area. The unemployment rate is 13.6 % which is lower than the country average. The unemployment structure of the area is as following: unemployed jobseekers benefitting unemployment pay make up 11 %, mainly people remaining unemployed due to the reforms in different sectors of the economy.

Concerning the education structure of the unemployed, 58 % of the unemployed have got 8th grade education. This group of the unemployed job seekers is not preferred by the employers, but only in small cases for temporary employment.

Concerning the age of the unemployed people the majority of them belong to the advanced age of over 40 years old consisting of 61 % of the unemployed. This is the most interested category of people applying for job, but most of them lack the proper profession, and education in relation to the new demands of the labour market.

Concerning the sex 46 % of the unemployed job seekers are females. Employment possibilities for this group of people exist in confections and services but age is an obstacle to this category.

The level of unemployment in the Skrapari District is the highest in this area making up 26.2 %. Here is distinguished the group of the unemployed jobseekers getting unemployment benefit. They belong to the ex-workers of the military plant using to produce military weapons.

In Fieri District the level of unemployment is relatively low, only 12.8 %. Fieri has got high economic potentials. There are plenty of possibilities to find a job. But, in Fieri also there are present the questions of age structure (31.4 % are over 45 years old) and education structures (50.5 % have only 8th grade education). All these create difficulties for the employment of unemployed job seekers. Young ages comprise only 12 % of the registered unemployed job seekers asking to adjust themselves to the labour market.

86 % of the unemployed jobseekers in the District of Vlora profit from the scheme of the economic aid. This group has a low education level and no profession. They encounter great difficulties in finding jobs. They belong to the majority of long-term jobseekers. Out of the totally unemployed 70 % are over 45 years old

District of Tirana

In recent years Tirana has developed as a metropolis by daily extending its business and service activities, its population growing with every passing day. As an administrative centre it is composed of 13 municipal units and 16 communes. The Tirana Employment Office is composed of seven employment agencies in accordance with the administrative division of the district, aiming to offer services to the clients.

There were 17.537 registered unemployed job seekers at the end of 2004 in this office, out of which 84 % receive economic aid and 13 % unemployment benefit. The majority of the unemployed jobseekers is composed of the age groups 25-34 years old and 35-45 years old. They occupy almost 57.1 % of the total number of unemployed jobseekers. Old age group over 45 years old comprises 26.6 % of the total number of the unemployed.

As far as the level of education is concerned it must be pointed out that it is very low. The majority of unemployed jobseekers is composed of people having only 8th grade education (almost 64.5 %)

Total number of unemployed registered (TUR) by gender, civil status and education level over 1993-2002

	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
TUR	301289	261850	171001	158155	193526	235037	239794	215085	180513	172385	163030	157008
Males	160288	140913	91425	88025	108962	127066	129723	113166	95093	91059	85905	67334
Females	141001	120937	79576	70130	84564	107971	110071	101919	85420	81326	77125	74893
Of TUR												
15-19 years	44820	42661	20701	17859	23565	32227	30932	26737	12868	13410	12853	11434
21-34 years	147190	119272	78069	71923	88961	104879	109268	97724	84802	78353	73396	66473
Over 35 years	109279	99917	72231	68373	81000	97931	99594	90624	82843	80622	77025	79101
Of TUR												
Total of unemployed and of unemployed beneficiaries	106783	50776	46132	37654	30937	24625	22486	21894	14322	11184	138164	133753
Total of longterm unemployed	194506	211074	124353	120252	162589	209327	216302	192724	165656	160466		103563
In %, TUR												
Total of unemployed and unemployed beneficiaries	35.4	19.4	27.0	23.8	16.0	10.5	9.4	10.2	7.9	6.5	9	11.9
Total of longterm unemployed	64.6	80.6	72.7	76.0	84.0	89.0	90.2	89.6	91.8	93.1	91	66
Of TUR												
With 8 th year education	156892	126884	82717	78069	94664	111997	114834	104604	89309	87297	86910	84066

With high education	136685	127771	84584	76957	93702	117086	117973	104615	87097	82267	83541	70219
With university education	7712	7195	3700	3129	5160	5954	6987	5866	4107	2821	2579	2723

Main Trends

There were 163 thousand registered unemployed people at the end of 2003, out of which 11 thousand used to get unemployment benefits. The level of unemployment during the period 1993-2003 was higher for females as compared to the males. The level of unemployment at the end of 2003 was 15 %. This figure was higher for females, 18.2 % of female labour power as compared to 12.9 % of male labour power. The figure was higher for young ages. The majority of the unemployed, 92.6 % of them were long term unemployed (longer than 12 months)

There were 157 thousand registered unemployed people at the end of 2004, out of which 13 thousand got unemployment benefits. The level of unemployment was 14.6 %. 66 % were long term unemployed people. A decrease is noticed in comparison to the year 2003 (0.6%)

As far as the difference between employment rates for woman and man is concerned it must be pointed out that the difference is higher in urban areas as compared to rural ones.

In the following table are shown some detailed information and figures concerning the projects of promoting employment which had been put in practice during 2004

The Program Based on Council of Ministers Decisions	Number of Projects	No. Of employees/ Trained
(73) Employment promotion program through work training (experience).	56	1548
(69/1) Employment promotion program for unemployed job-searchers (6-months occupation)	69	1400
(69/2) Employment promotion program for unemployed job-searchers (1-year occupation).	1	19
(632) Employment promotion program about unemployed women job-searchers	3	120
(74/1) Employment promotion program through supporting vocational training.	10	226
Total	139	3385

The main priorities of this program, during 2004, were:

Employment promotion program of unemployed women (VKM 632) who were job-searchers was fundamental and the most important priority to all employment promotion programs. The objective of making this program high-priority was the ensuring of a long-term employment, which is the leading philosophy of these programs.

The employment of unemployed job-searchers from different social groups, which have difficulties in being part of the labor market, was also a main goal. This program guarantees a 1, 2, or 3 years occupation for unemployed job-hunting women.

These programs have been implemented in three cities and more specifically in Shkoder (shoe production), in Lezha (fisheries) and in Durrës (sewing), and the result was 120 employed persons in the lot.

Implementation areas of this employment promoting programs during 2004 were:

- Light Industry and food. About 168 unemployed job-searchers have been employed in this industry.
- Confections – sewing and shoes making. About 584 unemployed job-searchers have been employed in this field.
- Wood refining, aluminum works, electrical installations and plumbing. About 584 unemployed job-searchers have been employed in these sectors.
- About 780 unemployed job-searchers have been employed in other areas.

These projects were designed especially for unemployed job-searchers from specific groups, and detailed information about their employment in these projects is given the subsequent table:

Specific Groups	Number of employed persons under promoting programs	Percentage % over the unemployed total number
Job-searchers 16 – 25 years old	639	25.9
Long time unemployed	587	23.8
Women job-searcher above 35 years old	383	15.6
Job- searchers over 50 years old	383	15.5
Job-searchers from families which live under poverty limits	217	8.8
Unemployed job-searchers who main incomes springs from the supporting schemes (economical financial aid or (unemployment payment treatment).	201	8
Youngsters under 18 years old	128	5.2

Mothers with many children	100	4
Roma people	86	3.5
Head of families	54	2.2
Divorced women with social problems	18	0.7
Disabled job-searchers	7	0.3

66 % of the total number of unemployed job-searcher is long term

At the end of 2004 there were about 157 thousand registered unemployed persons; 13 thousand of them were under unemployment payment treatment.

Analyzing the unemployed groups and dividing them according the gender and education level, it is seen that the percentage of unemployed persons with elementary education is respectively 46.4% and 43.3%.

The same occurrence is seen in the group of unemployed women where those with elementary and high school education occupy the greatest part. Furthermore, this incentive was higher in young ages and the difference between men and women was always present in different age groups.

This incentive is shown higher in women and young age groups.

REGISTERED UNEMPLOYED JOB-SEARCHERS DATA AND UNEMPLOYMENT LEVEL

North Area

East Area

West Area

Cities	punekerk te pupune	niveli i nanunesise i e %
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rrethet	punekerk te pupune	niveli i nanunesise i e %
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Cities	punekerk te pupune	niveli i nanunesise i e %
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SHKODER	17097	27.5
M.MADHE	2418	21.4
PUKE	4733	32.2
KUKES	5131	28.3
HAS	2922	44.0

DIBER	3489	15.9
BULQIZE	2490	16.8
KORÇE	5752	11.1
DEVOLL	682	6.3
POGRADEC	2727	14.3

LAÇ	6909	36.7
DURRES	5660	11.8
KRUJE	3006	14.8
TIRANE	17537	7.5
KAVAJE	5258	19.8

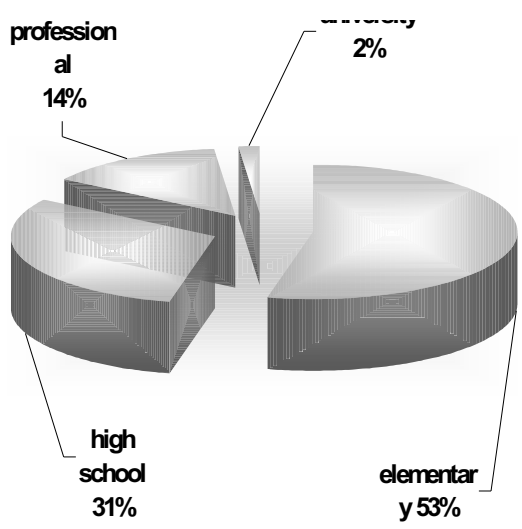
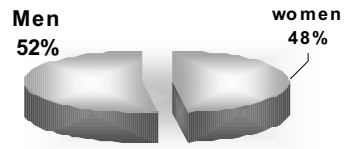
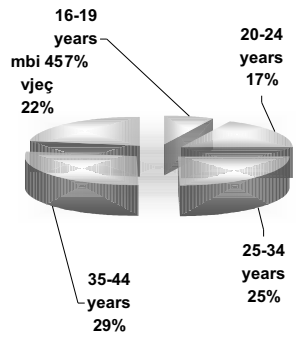
TROPOJE	3833	31.4	ELBASAN	12095	15.2	FIER	8778	12.9
MAT	3661	18.6	GRAMSH	2580	18.0	LUSHNJE	5603	9.8
MIRDITE	3545	23.9	LIBRAZHD	1004	4.0	BERAT	6090	12.3
LEZHE	3062	11.4				KUÇOVE	2069	18.0
						PEQIN	1353	10.1

TOTAL	46402	26.5	TOTAL	30819	12.7	TOTAL	62263	15.4
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Taking in consideration the age structure and education level, the percentage will be as shown below:

- Young ages 16-25 years old occupy 24% of the total,
- Age groups between 25-35 years occupy 25% of the total
- Age groups between 35-45 years occupy 29% of the total
- Over 45 years occupy 22% of the total.

UNEMPOLYMENT

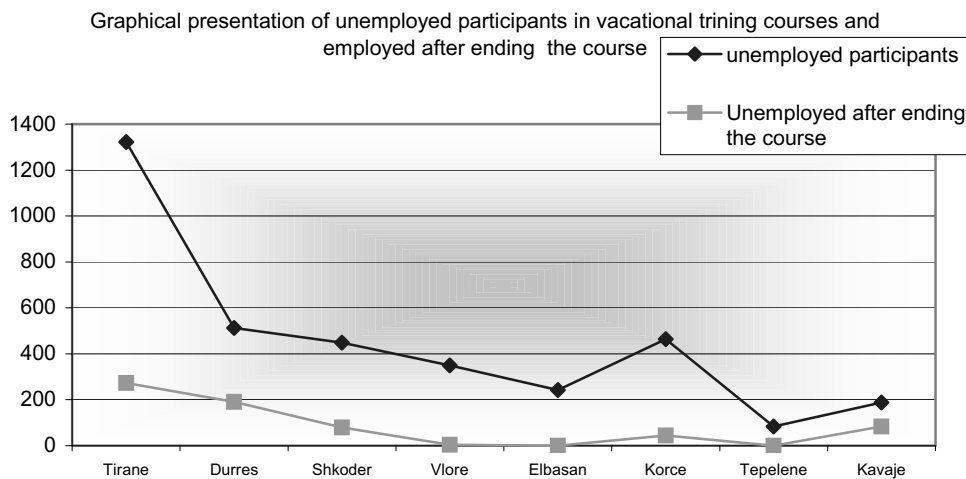


Jobcentres in Albania reveal that age groups over 35 years old form a dominant part in the registers, because this age shows a lot of difficulties in finding an employment. This happens because their professions are not needed in the labor market.

If we analyze this 50% of unemployed job-searchers registered in job centers, it results that they are laborer, 29 % of them are unemployed job-searchers without any profession, and 20% of them are farmers or digger industry workers.

During 2004, in line with the National Employment and Vocational Training Strategy, it has been done a great work in order to assure a geographic extending of these public centers of vocational training.

New public centers are being built in Elbasan, Fier and also it had been put to an end the first phase of building this centers. The German foundation PARSH, which is the main helper and supporter of vocational training, has worked in closed cooperation with Albanian institutions to open other professional centers in different cities like as in Bilisht, Permet, ect.



Referring to Albanian state budget for the year 2004, about 64.7 thousand lek, had been spent for the vocational training projects.

Through 2004, there had been 9114 registered persons in the courses, 8328 of them had been certificated in 659 courses organized in total.

Question C, Paragraph 1

Indicate the trends in the number and the nature of vacant jobs in your Country.

Intermediations

22.337 employments were realized at national level during the year 2004, out of which 8070 were through intermediations.

7492 people were employed through intermediations during the year 2000.

The total number of employments during 2002 was 8562

ARTICLE 1, PARAGRAPH 2

“With a view to ensuring the effective exercise of the right to work, the Contracting Parties undertake to protect effectively the right of the worker to earn his living in an occupation freely entered upon”

(The Appendix to the Charter stipulates that this provision shall not be interpreted as prohibiting or authorising any union security clause or practice)

Elimination of all Forms of Discrimination in Employment

Question A

Please give information concerning measures taken to ensure the elimination of all discrimination in employment which might be based on sex, social or national origin, political opinion, religion or race and to promote effectively equal opportunity in seeking employment and in taking up an occupation.

Please, indicate in relation to these aspects on sanctions and measures to re-establish the right in cases of discrimination in employment.

Answer.

According to The Labour Code, Article 9 “Prohibition against discrimination”

Any kind of discrimination in the field of employment and profession is prohibited.

With discrimination is meant any differentiation, exclusion or preference based on race, colour of skin, sex, age, religion, political beliefs, nationality, social origin, family relations, physical or mental disabilities, threatening the individual right to be equal in terms of employment and treatment. Differentiation, Distinctions, exclusion or preferences required concerning a particular job are not considered to be discriminating. The special protection measures in favour of the employees, which are provided for by this Code or the Decision of the Council of Ministers or collective contracts, are not considered to be discriminating.

Sanctions: The violation of the Article 9 paragraph 1 will be punished with a fine amounting to 50 times of the minimum monthly wage, according to the Article 202 of the Labour Code.

Question C

Please indicate the guarantees, including the sanctions and measures to restore the right, which prevent any discrimination in regard to members of workers' organizations at the time of engagement, promotion or dismissal.

According to the Labour Code, Article 8 "Prohibition Against Compulsory Labour"

All forms of compulsory labour are prohibited

With compulsory or forced labour is meant any job or service imposed on the individual against his/her will threatening him/her through whatever punishment.

Prohibited is the use of compulsory labour as:

A coercive measure or sanction against persons that have or air beliefs running contrary to the ruling political, economic and social order

A method of mobilization or exploitation of labour force for the purpose of economic development

A disciplinary measure at work

A punishment for having participated in a strike

A measure of racial, social, national or religious discrimination

The following are not considered to be compulsory labour

Any job or service imposed on the basis of the Law on the Armed Forces of The Republic of Albania, which, are designed to serve activities of purely military character.

Any job or service imposed on the individual as a punishment determined by the court and during which the person is not put at the service citizens or private juridical persons, except for the cases provided for in paragraph 2 of this Article.

Any job imposed in case of war or because of major forces, natural calamities, especially in case of fire, floods, starvation, earthquakes, epidemics and under all circumstances threatening life as normal living conditions of the entire population or of one part of it.

Question D

Please indicate if it is allowed or tolerated any kind of forced labour

Answer

According to the Labour Code no form of forced labour is authorized or tolerated

Question G

Please indicate labour conditions in jails.

Certain programmes and initiatives have been elaborated with the purpose of the integration in the society of the violators of the law as well as for the preparation of the necessary conditions for their quick integration. The goal is the rehabilitation of the sentenced individuals and their psychological and professional training in order to face their living after the suffering period.

Such programmes consist mainly in teaching certain professions as well as doing different jobs against pay. Great attention has been paid to the recent initiative taken in the framework of the reform in the jailing system which, give possibilities to the sentenced individuals to get income through their work making easier their future integration in the society. This has revived great interest within certain subjects of the business community. As obstacles delaying the progress in this field can be mentioned: lack of the adequate legislation, improper infrastructure of the jails as well as insufficient financial resources for the implementation of such programmes.

Question A and B, Paragraph 3

+Please describe the operation of employment services available in your country, giving data by age, sex and nature of occupation.

+Please describe the organization of the public employment services in your country in terms of local and regional operations.

The Main Operations of the Employments Services

Intermediations at work

The basic activities of the employment services consist in labour intermediations for the unemployed jobseekers, the employed individuals who seek to change their jobs, incapable individuals and for the employers asking to fill their empty places of work.. Such services aim at:

- (i) ensure a high quality public service
- (ii) find best possible job for unemployed jobseekers
- (iii) help employers to find the most appropriate candidates for vacant jobs
- (iv) implement active programmes generating employment

Actually, employment offices render employment services for 163 thousand unemployed jobseekers, i.e. 15 % of the active labour population.

The proportion of the intermediation services in the total amount of employment services of vacant jobs varies from 15-20 %. Intermediation services cover also different services for the whole group of the unemployed benefiting state aid.

The employment services serve as a basic resource of information on labour market. Such information includes detailed data on vacant jobs and labour candidates. These services offer information on training possibilities and serve as one of the main sources for filling of the vacant jobs offered by employers. They serve as an important source of information on labour market developments helping in the elaboration and implementation of labour market policies.

Employment services

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The employment services serve as a basic source of information on labour market. Such information includes detailed data on vacant jobs and labour candidates. These services offer information on training possibilities and serve as one of the main sources for filling of the vacant jobs at the disposal of the employers. They serve as an important source of information on labour market developments helping in the elaboration and implementation of labour market policies.

In addition to the collection, processing and publication of the statistical periodic results, short term analysis are made on the labour market situation, showing detailed data (figures) on employment and unemployment, their causes and impact factors, as well as prognosis on the labour market for a period between three to six months. Such analysis serve as basis to determine interferences, special groups of unemployed people as well as to make an approximate evaluate the tendencies in unemployment.

Advisory services to jobseekers compose one of the most important activities of the employment offices supporting intermediation at work. The main task of the advisory services is to support and increase confidence among jobseekers who are not determined to define the direction of their profession due to incapability or due to other problems making them indecisive about their profession. In such cases, it will help jobseekers to decide the right way for finding a suitable job, meet individual needs for a job as well as advise on profession and qualification.

Public employment services and vocational training are provided by National Employment Service (NES) through its regional and local employment offices and public vocational training centres.

Description of the organization of the employment services

The system of employment services at executive level is performed by NES. Functioning as a central institution it is organized in three levels. At national level stands the General Directorate of NES. At regional level, in prefectures, there are 132 regional employment offices. Regional offices are responsible for the coordination of special questions of the labour market policy within the same region as well as for the processing of the information on employment. Regional offices operate simultaneously also as local employment offices. There are 24 local employment offices as a whole, which are responsible for the implementation of the labour market policies within respective local areas.

Employment offices were set up after the year 1992, marking an important step forward in relation to services on labour market. The Decree on 20.09.1995 of The Law 7995 “On Employment Promotion”, brought about a qualitative jump forward to the institutional development of the employment offices. Dispositions of the said Law define a clear institutional and organizational division between the responsibility of the Ministry of Labour and Social Affairs to build and analyse policies and programmes and responsibilities of National Employment Service for their implementation. National Employment Service has been set up as a central state institution in the year 1998 in accordance with the Decision Nr. 42 of The Council of Ministers “On the Approval of the Statute of NES”. National Employment Service is responsible for the implementation of the labour market policies. The highest decision-making body/authority is the Tripartite Administrative Council composed of representatives of employers, employees and government. The highest executive authority is The General Director, who governs the whole activity of NES. The General Directorate of National Employment Service is divided in five main departments and 15 units. It carries out several tasks such as instruction and preparation of the staff, detailing and control of the duties to be performed by employment offices and vocational training centres. In order to perform its duties all over the country National Employment Service has at its disposal 12 regional employment offices, 24 local employment offices as well as vocational training centres. The employment offices are run by respective directors who manage their activities at close cooperation with the local tripartite councils. The local tripartite council is composed of representatives from employment offices, employers’ organizations and employees’ organizations. The system of public employment offices spreads all over the country in all 36 administrative divisions. The employment offices offer their respective services mainly to the urban population capable of work, as the rural population is considered as self-employed. Anyhow, the rural population is not excluded from employment services of the employment offices in case they need them. Taking into consideration the vast area and the high number of population The Employment Office of Tirana has been organized in six employment agencies according to the administrative division of the district., aiming to bring services closer to the clients.

Level of resources and structuring of the staff of employment services.

The functional structures of the employment offices consist of three sectors and respectively they are:

1. Sector of the employment services
2. Sector of the programs and,
3. Sector of assistance.

Actually, the Employment offices are classified in 3 categories: they contain a staff of three specialists for the small offices up to 19 specialists for larger ones. There is an exception when we speak of the Tirana Regional Office. This office has a staff of 47 specialists. The basic main criteria for categorising the employment offices and defining the number of the personnel working in these offices are: the level of unemployment in the area; the level of the economic development (the number of the employers); the social economic issues of the area, etc. The inner structure of the employment Offices has been adopted to give a solution to such issues as regard to the definition of the roles and responsibilities, and to the relations established in between the activities of the employment services and the active programs of the labour market, vocational training services, labour relations and emigration. National Employment Service (NES) has a total staff of 373 employees, out of which 45 people are employed in the Directorate General of NES, 328 people are employed in the regional and local employment offices, and 106 people are employed in the Vocational Training Centres (VTC). Nearly 82 % of the people employed in the system of the employment offices are specialists, who have graduated the university studies. If we classify the structure according to professions (occupations), then we see that the dominating profession is the economists equal to 50% of them, then comes the engineers with 16 % and the teachers with 15 %; lawyers and social workers make up a smaller part of them.

The bilateral cooperation projects, as well as the cooperation with different international institutions like ILO, CoE and the Employment National Agency of France, etc. have played an important role in the training of the NES (Local, Regional and Central Level) specialists. This cooperation activities, projects seminars workshops etc, have provided them with the basic knowledge, the necessary skills and the contemporary concepts.

Generally speaking, the employment offices carry out their activity services to the clients manually. This is as consequence of the lack of computers and lack of the infrastructure in general. We are in the process of providing the new employment offices with the necessary computer logistics and then gradually build/establish the information system of the employment services. This process is developing and moving forward very slowly due to the lack of funds. The first attempt to establish an information system of the NES employment services was made by the World Bank during 1995-1997. This pilot project was focused in Tirana and Korca employment offices, and its aim was to establish and build a program for the employment services and elaborate the information collected about the labour market. There are some quality improvements achieved so far in the field of the employment services, like: the unification of the method of registration of the unemployed jobseekers, improvement of the statistical system of the indicators, creation of the suitable environment in some of the Regional Employment Offices, (Tirana, Durres, Korca, Elbasan, Fieri, Gjirokastra) for the clients. The unemployed jobseekers and the people of business find it easy to get services provided like the reception, occupation and confidential interviews, etc. All the improvements realised so far create the conditions for the continuity of the steps put forward and the establishment of a computerised system of the employment services.

Main activities of Employment Offices include; Information on labor market, employment services and short-term expectations of labor market.

The article no.7 of the New Integral law on “Employment Promotion” deals with employment services.

This article provides service employment activities that consist of:

- a. Information about job vacancies;
- b. Intermediaries concerning employment;
- c. Counseling and orientation about occupation and profession.

Employment services offered by jobcentres are free of charge.

Accumulation and analyzing of the labor market statistics, makes the main task of jobcentres. Every year this jobcentres make short-term studies concerning labor market, which are very helpful in knowing the actual market situation and than these results can be reflected in employment policies.

From the last study which finished in June 2004 results: (i) analyze of unemployment level, its compounding groups, trends prediction; (ii) employment situation in private and public sectors, prediction of its tendencies (unemployment risk); (iii) analyzes of employment incentives prepared by jobcentres as an important actor in labor market; (iv) the existing level of professional trainings offered by public and private sector. All geographic areas were part of this study, which was based on questionnaires managed from Employment Offices and General Directory of National Employment Service.

For the year 2004, jobcentres recorded nearly 157 thousand unemployed job-searchers or 14.6% of active forces.

Through 2004 in Albania were realized 22337 employments affected by:

- Economic development 9000 employments
- Regional employment offices 13,075 divided as shown below
- Intermediaries 8070 from which 2100 with action plans
- Post training employments 592 from which 282 with intermediaries
- Self employment 1310
- Employments from promotion programs 3385

Employments through jobcentres as regards unemployed job-searchers group’s results in: 684 from unemployment payment, 894 from economical aid and the rest from other.

Hence, unemployed job-searchers number employed from financial supporting scheme results in 1578 persons, equivalent with 19.7% of the employment total figures, with a growth of 7% compared to the last year.

During this year Employment Offices have performed nearly 142000 visits in enterprises, from which 4200 were first time visits. Jobcentres have published almost 14400 new job vacancies, 3860 from this number have been declared from employers, 6900 are taken from visits in

enterprises and 3640 have been published through applications in employment promotion projects.

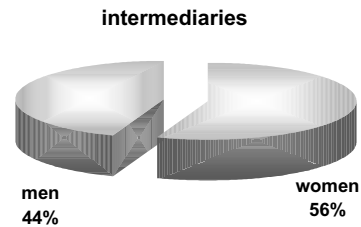
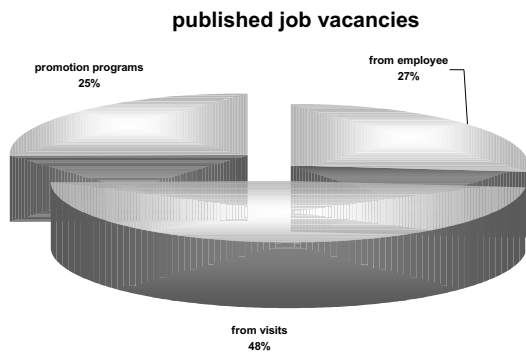
Nearly 46% of published job vacancies, relate to the light industry sector and 17% are in building sector. In this sectors has been realized the biggest number of intermediaries. Declared job vacancies, not taking into consideration those from employment promotion programs have been fulfilled in 71% and others are in process.

Also another part of them has been canceled because of dissatisfaction of employer or employee demands.

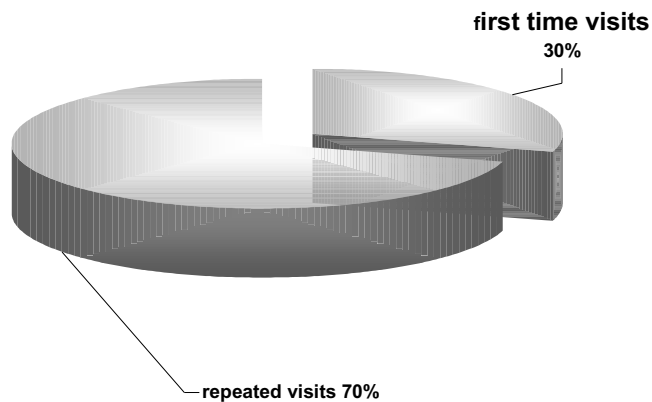
Apparently visits in enterprises were very effective and successful in finding vacancies, which were more appropriate in intermediaries, compared to job vacancies declared from employers themselves

Figures about the activities of employment services

No	Demographic boundaries	Visits in enterprises	Published job vacancies	From employment promotion projects	Intermediaries in total	Women	Action Plans	Post training
1	North areas							
	Diber	3030	611	152	190	74	30	0
	Kukes	1486	332	289	239	86	119	2
	Shkoder	1006	1081	507	328	200	200	75
	Lezhe	3284	1364	283	663	260	271	0
2	Central areas							
	Durres	3966	2856	220	1291	728	219	133
	Korce	1568	1529	268	809	434	131	49
	Elbasan	1190	789	345	453	327	92	0
3	South areas							
	Gjirokastra	1194	362	63	440	112	173	10
	Vlore	4156	1135	176	680	273	242	4
	Berat	2478	674	22	475	284	7	0
	Fier	2572	1046	211	880	240	200	0
4	Tirana	2470	2628	649	1337	1141	416	318
	Total	28400	14407	3385	7785	4159	2100	591



visits in enterprises



The number of unemployed job-searchers for each member of the employment service staff is approximately 1090

Question C, paragraph 3

If both public and private free employment services exist in your country, then describe the steps taken to coordinate such services.

The private activity of work brokerage (mediation) is carried out only by the private (fee charge) employment agencies. These agencies are licensed based on certain criterion defined as such by the DCM Nr. 708 dated 16/10/2003, “On the manner of licensing and functioning of the fee charge (private) employment agencies”.

According to the above mentioned DCM, in the case of providing employment for the Albanian citizens abroad, the private employment agency implements and carries out its activity by taking into consideration all the bilateral agreements in which Albania is a signatory. Agency should provide equal treatment to all the jobseekers. None of the jobseekers is to be discriminated for reasons such as: gender, race, religion, ethnic origin, etc. the agency should notify on the labour and employment conditions. Any agency to which, it has been issued a license should notify twice a year the Ministry of Labour and Social Affairs on its structure and activity. Actually the cooperation in between the public employment services and the private ones is weak.

In order to manage and supervise the activity of private employment agencies, new instructions of the Minister are being compiled. Instruction No. 612 date 29.03.2004 in execution of the council of Ministers decisions No. 708 date 16.10.20003 “functioning and licensing terms of non-public employment agencies”.

Through 2004, two private employment agencies have renewed their license, more specifically “LA SPERANZA” and “AFORSA”. Furthermore, four private employment agencies have been licensed, “PATRIOTI”, “STERKAJ”, “Physical person Robert e Florie Sevaj” and “ERA-4”.

A new increasing trend of employment in a foreign country, is being perceived in the occupation of unemployed job-searchers, through this agencies and more concretely the employment agency “La Speranza” has employed nearly 200 unemployed nurses in Italy. Generally, the negotiating employment level, in private employment agencies is still low.

Question E Paragraph 3

Please indicate and give data on what are the measures that have been taken to promote or provide vocational training and vocational rehabilitation.

Vocational training

Actually, the Vocational Training System operates through 9 public centres and a vast network of private centres and NGO-s. They provide mid term courses varying from 6 weeks to 4 months. The number of the trained people for 2003 is 8097 trainees, and for 2004 this number is 8500 trainees. The tendency of these centres is to increase the number of the trainees in reliable occupations (professions), which is something that really creates the opportunity for employment. These figures have steadily increased year by year. The contingencies of people who are trained by the public training centres are identified in coordination with the Employment Office. All the people who are trained in professions like tailors, cosmetics, construction etc. are 100 employed, while the percentage of those who have had trainings in other areas is less.

The state budget funds spent for vocational training for 2003 is 64.7 thousands leks while for 2004 the fund spent is 79 thousands.

The vocational training courses, provided by the public centres, are usually attended by the employed people, mainly women and youngsters, up to the age of 24 that who have already graduated the secondary education. Only 30.39% of those who have attended the courses have been registered unemployed jobseekers. This figure varies from region to region and also it varies from the kind of nature of the courses offered. The participation of unemployed people to such training sessions, which are focused on reliable professions, is higher. So, the participation of the unemployed in the plumber training courses is 100 %, welders 70 %, tailors 66 %; if we classify this structure according to gender, then 58.8 % are females and the rest are the males. If the division (classification) is made according to the group ages, then, it prevails the group age up to 24. The youngsters of this group age comprise 60 % of the total number of the trainees.

There are some NGO-s who provide vocational training sessions for some social groups in need, like: street children, girls coming from the rural areas etc. this training courses have consisted mainly of hair-making, cookers tailors, foreign languages, computers and nearly 800 participants from these needy groups have attended.

The worsening of the educational and vocational training system (VET) in Albania, has been dramatic. Meanwhile the labour market conditions are very difficult. Those who graduate school, even when they have got a diploma, find it very difficult to get a job in the labour market. Moreover, the system of the social dialogue is very new and it is in the first stages of its development. That's why the engagement of the social partners in the vocational training system is very much neglected.

The situation of the vocational training and education in Albania is not very positive. After transition, many schools of vocational training and education lost their prestige and gradually ceased to function. Only 38 professional schools have survived so far, out of which 25 are professional 3-year schools and 13 of them are 5-year technical schools. The number of participants has reduced to 18 % of the total number of pupils of the secondary education system. Their education course starts right after the termination of the elementary education, that is, at the age of 15. The curricula for this education are in the majority of the cases out of time and they do not respond to the requests of the labour market. There is a lack of a national program for the qualification. Moreover there is a serious need for the training of the teachers and there is also of didactic equipments. The last but not the least, there is not enough cooperation between the Ministry of Education and Science and the Ministry of Labour and Social Affairs as related to the implementation of the laws approved recently with regard to the reformation of the Educational and Vocational Training System.

Ministry of Labour and Social Affairs licenses both, the private (fee-charge) centres, (150 all in all and this figure is increasing due to the quality services they provide) as well as the Vocational training centres established and opened by the NGO. A vast number of projects and international donors are present in Albania helping the system of educational and vocational training. As such we can mention the EU CARDS Program that provided a fund of 37.5 Million EURO for the year 2001. CARDS 2002, which started to function (implement) in March 2004, is providing

support on the reformation of the vocational training system. It will address to such issues like the need to produce and develop the respective curricula, continuity to provide training to the trainers, establishment of the new national standards in the field of qualification, etc. The National Employment Service and Regional Employment Service have reviewed the needs for vocational training in the field of the labour market both in national and regional level. The respective working groups have been set up in order to support the development of the curricula, training the trainers, training the runners of the public VET Centres and the staff of the National Education and Vocational Training Agency.

Changes (improvement) in the field of the labour Market.

In 1995, based on the main Constitutional Provisions of that time in Albania, it was prepared and approved a package of legal acts in the field of labour relations and employment having into consideration and respecting all the international conventions ratified by our country.

The law “On the promotion of employment” was approved in 1995 and its goal is to make possible the designation of the general active policies in support of a full and productive employment. According to this law, the state employment policies include both, the active measures on the promotion of employment and the possibility of providing financial assistance support. Based on this law, the employment offices are established in order to make possible and provide all the citizens with a decent work, to provide counselling and vocational qualification for any of such employment and to provide financial support to them. The law “On the promotion of employment” has been amended twice by the following laws; Law Nr. 8444, dated 21/01/1999 and Law Nr. 8862 dated 7/03/2002. The amendment of 1999 was made with regard to the creation of the necessary framework for approval of these promoting employment programs by the Council of Ministers, (February 1999). Their implementation started in June 1999. the second amendment was made with regard to the activity of the National Employment Service.

Actually this law is undergoing some changes, in compliance with the ILO Convention Nr. 168 “Employment Promotion and Protection against Unemployment” and European Social Charter (Revised). These changes consist in:

- Improvement of the definition and the inclusion of the concept of employment services as the basic concept of the labour market, the concept of counselling and orientation on the profession as part of these services.
- Designing and preparation of the new programs like that of the occupational training through practise for the young people who graduate the University studies. This program will start its implementation during 2005.
- Management of the Vocational Educational Training funds by the Employment Offices.

Although, there have been made improvements and amendments time after time to the Law on Promotion of Employment, yet the Ministry of Labour and Social Affairs thinks that drafting of a new law, that will better respond to the new development, is necessary.

The law Nr. 8872 on Education and Vocational Training, approved in 2002, is focussed in the establishment of a common system of education and Vocational Training in the Republic of Albania. It aims to adopt the system to the economic social and technologic changes; to the needs of the labour market and to make a better use of the financial infrastructure and human resources. This law guaranties the right sanctioned in the Constitution of the Republic of Albania on education and vocational training through the whole life and the right to gain professional necessary skills for employment, thus creating equal opportunities for all. A number of sub legal acts have been approved after this law in order to regulate the whole activity of the system of educational and vocational training. This law has provided the legal bases for the establishment of the National Council of Education and Vocational Training, (created so far).

Another important step of the Albanian Government is the approval of sub legal acts on the restructuring process of the public vocational training centres. This process will include: (i) identification of the staff capacities (of public VET centres) for the educational and vocational training courses on the direct (genuine) professions and the identification of the registered unemployed jobseekers; (ii) establishment of the governing bodies of public VET centres; (iii) increase of the number of public VET centres and the improvement of their existing capacities; (iv) improvement of the curricula.

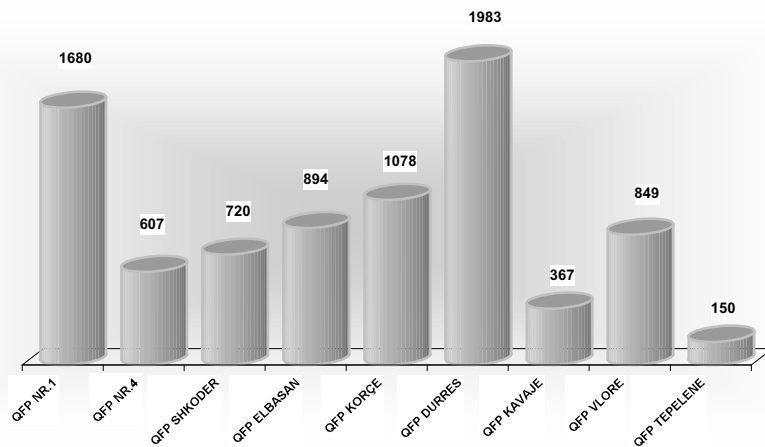
One of the priorities of the Ministry of Labour and Social Affairs in the field of the labour market was the designation of the short and mid term strategy on employment and vocational training, approved by the Council of Ministers in January 2003. This strategy aim to clearly define both the present situation in the field of the labour market and the short and mid term tendencies; thud the respective state structures find it easy to interfere in the labour market by means of new active policies. Based on this strategy we have made the prognosis of employment for the 5 coming years 2003-2008.

VACATIONAL TRAINING IN PUBLIC CENTRES

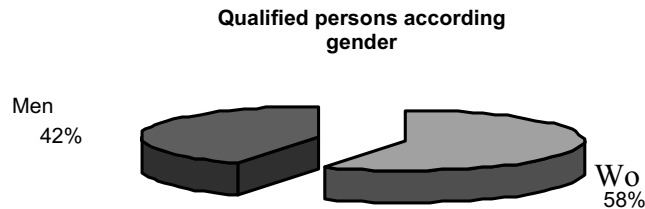
<i>Type course's</i>	<i>VTC 1</i>		<i>VCT 4</i>		<i>Shkoder</i>		<i>Elbasan</i>		<i>Korce</i>		<i>Durres</i>		<i>Vlore</i>		<i>Tepelene</i>		<i>K</i>	
	<i>Courses</i>	<i>Trained</i>	<i>Courses</i>	<i>Trained</i>	<i>Courses</i>	<i>Trained</i>	<i>Courses</i>	<i>Trained</i>	<i>Courses</i>	<i>Trained</i>	<i>Courses</i>	<i>Trained</i>	<i>Courses</i>	<i>Trained</i>	<i>Courses</i>	<i>Trained</i>	<i>Courses</i>	
<i>Cosmetic</i>	7	50	0	0	0	0	0	0	4	40	4	57	0	0	0	0	0	0
<i>Secretary</i>	7	54	0	0	3	28	4	36	5	52	10	73	0	0	0	0	0	0
<i>Computer</i>	45	455	3	30	18	215	21	219	33	370	34	368	18	314	9	93		

Tailoring	7	114	11	110	4	40	7	95	5	54	6	91	4	61	3	35
Vehicle restoring	10	151	0	0	0	0	0	0	0	0	0	0	0	0	0	0
English Language	64	604	0	0	24	324	27	395	35	490	55	1065	34	413	0	0
Italian Language	14	212	0	0	0	0	12	132	0	0	15	267	3	56	0	0
Aluminum processing	0	0	3	36	1	5	0	0	0	0	0	0	0	0	0	0
Hydraulics	0	0	12	179	0	0	0	0	2	20	0	0	0	0	0	0
Electronic Gadget repair	4	40	11	135	4	43	0	0	0	0	1	10	0	0	0	0
Sewing-machine repair	0	0	4	35	2	15	0	0	3	32	3	29	1	5	0	0
Shoe's vamp sew	0	0	0	0	3	50	0	0	0	0	0	0	0	0	0	0
Welding	0	0	2	11	0	0	0	0	0	0	0	0	0	0	0	0
German Language	0	0	0	0	0	0	2	17	0	0	0	0	0	0	0	0
Milk processing	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	22
Solar pannel	0	0	0	0	0	0	0	0	0	0	1	8	0	0	0	0
Electrical	0	0	5	71	0	0	0	0	2	20	1	15	0	0	0	0

TOTAL 158 1680 51 607 59 720 73 894 89 1078 130 1983 60 849 14 150



Analytically, this figures shows that from the total number of qualified persons 3611 of them are unemployed, 1005 of them are registered in Employment Offices as job-searchers, 5243 of them are women and 40% of them have a high school education.



There are about 2086 persons or 25% of the total qualified in specialties. This report is very positive in the Professional Center No.4 in Tirana, with 95%.

About 334 unemployed job-searchers benefited from the Public Vocational Training Centers, with reduced tariffs and 55 unemployed job-searchers benefited trainings free of charge. This was based on the order of the Minister of Labor and Social Affairs No.394; date 23.02.2004 “Tariffs on Vocational Training System”

During 2004, 6300 persons have been trained in 50 courses, in Private Centers for Vocational Training licensed from the Ministry of Labor and Social Affairs. The biggest part of the trained persons (about 50%) is at most 21 years old, and from this 4708 are women. About 55 % of trained persons in private training centers have a high school degree. All through 2004, nearly 102 private centers that offer professional training were licensed.

It does not exist any record relating unemployment / occupation of minorities, aliens, and disabled.

From the economic contests, Employment and Professional Training Strategy, aims to present the actual situation of labor market more explicitly, and to evident its short terms and middle terms changing trends. This presentation is indispensable to determine the points where state intervention in the market, through enhanced government policies, is needed.

The goal of this strategy it was to find out the more adequate provisions required to enhance the improvement of active government policies regarding labor market. In supporting the implementation of directives foreseen in this strategy, the following paragraphs deals with the main problems where more efforts are needed to gain progress.

Employment policies are defined as concrete provisions required to be undertaken to improve the system of government active policies concerning labor market.

Here are shown the main directions where the work should improve in the future, new active programs, which should be implemented in order to endorse the employment, vocational training

and supporting starting businesses and the required enhancement in existing relevant programs in this area.

Article 5 The right to organise.

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

LEGISLATION

I. Constitution of the Republic of Albania

Article 46

1. Everybody has the right to collectively organise in order to protect his lawful interests
2. Registration in the court of such organizations and associations is made in compliance with the procedures foreseen by the law.
3. Organizations and associations whose activity goes contrary to the constitution is prohibited by the law.

Article 50

Employed people have the right to join freely in trade unions for the protection of their labour interest.

II. International Conventions

Albania has ratified the following international conventions:

- ILO Convention Nr. 87, “Freedom of associations and protection of the right to organise”
- ILO Convention Nr. 98, “Right to organise and collective bargaining,”
- ILO Convention Nr. 135, “Workers’ Representatives”
- ILO Convention Nr. 144, “Tripartite Consultation Convention, (International Labour Standards)”
- ILO Convention Nr. 154, “Collective Bargaining”

III. Laws

- Labour Code of the Republic of Albania.
- Law on the status of the Civil Servants

IV. Council of Ministers' Decisions

- Council of Ministers' Decisions Nr. 730 dated 06/11/2003, "on the functioning of the National Council of Labour (NCL) and appointment of the representative of the Council of Ministers to National Council of Labour".

Question A

a) Please indicate whether any, and if so what, categories of workers and employers are prohibited by law from forming organisations, or restricted in doing so.

Please indicate inter alia:

- The existence of legislation or special regulation, applicable to the forming of organizations by civil servants and other persons employed by the public authorities at central and local level;
- To what extent the rights provided for in this article apply to the members of the armed forces and of the police, explaining in particular the nature and functions of any staff associations which may be available to them;
- Whether nationals of the other Contracting Parties lawfully residents or working regularly in the territory of your country may join or be a founding member of a trade union. Please indicate in particular whether they hold position in the administration or management of a trade union;
- The eligibility of the workers, nationals of other Contracting Parties, for election to consultation bodies at the enterprise level such as workers councils.

b) Please indicate any conditions of registration or otherwise, with which employers' and workers' organizations must comply when they are founded, and the provisions with which they must comply in the course of their existence.

c) Please indicate the measures intended to guarantee the exercise of the freedoms to organise and in particular those to protect the workers' organizations from any interference by employers and by the state. Please indicate how such protection from outside interference applies to the employers' organizations.

d) Please indicate, where appropriate, any statutory provisions regarding the affiliations of the employers' and the workers' organisations with national federations of organisations and with international organisations of the same type.

Answer.

The right to organise is guaranteed by the Constitution of Republic of Albania, Article 46, "The right to organise", Article 50 "The freedom of the workers to organise in trade unions" and in the Labour Code, Article 10, "Freedom of the trade unions is protected by law", Chapter XVI, Occupations Organizations, article 176-187, Law Nr. 8549 on the Status of the Civil Servant.

Creation of organisations in the armed forces (Army) and the participation of the senior officials of the public administration, who, bear and exercise decision-making functions, is prohibited by law.

Law on the Status of the Civil Servant allows the workers to participate in such organisations but prohibits the right to go on strike.

The law does not prohibit the nationals of other Contracting Parties lawfully resident or working regularly in the territory of the Republic of Albania to join or become members of the trade unions or hold positions in the administration or management of a trade union.

b) Labour code foresees, in the articles of Chapter XVI, the rules and procedures of forming the professional organizations (trade unions), which are also applied in the case of civil servants organizations in the local and central level. The conditions of registration, according to the labour code, are foreseen in article 177, "the Status"; article 178, "Becoming a legal person (Entity)", Article 179, "Name" and article 180 "Depositing the status".

According to article 177 of the Labour Code we have: (the statute)

The act of the creation and the statute of any occupation organization should be signed by not less than 5 founding members in the case of the employers' organisations and 20 founding members in the case of the workers' organisations. The statute should necessary and compulsory define and include within itself: the name of the organisation, venue of its seat, its goal and purpose, conditions of accepting resignation and exclusion of its members, the rights and the responsibilities of the members, composition and the functions of the governing body, time limits of the mandates and their extensions, in relation to the federation and confederation representation mandate, measures to be taken in the case of distribution of organisation. The membership fees are defined by the highest governing body of the organisation.

According to the article 178, (on gaining the legal person status)

The trade unions organisations, federations and confederations should deliver the act of their creation and the statute in the Tirana Court in order to gain the legal personality. The trade union

organisations gain this legal personality 60 days after they have delivered it to the court except in the case when the court may deny the request.

According to article 179, (the name)

In neither of the cases, the trade union organisation can bear the name of another existing organisation. This is prohibited.

According to article 180 (depositing the statute)

Every trade union organisation should deposit a copy of its statute to the Ministry of Labour and Social Affairs.

According to article 187 (Dissolution; Ceases to exist)

Dissolution of the trade union is foreseen in the statute. Upon the request of the Minister of Labour and Social affairs or any other responsible and legal body, the Court of Tirana may decide to scatter/dissolve the trade union, in case the trade unions' activity is contrary to the law, and when no other measure taken can stop this trade union to do so. Practically this provision has not been implemented so far in Albania.

Measures which guarantee the freedom to organise are foreseen in article 181 "trade unions Freedom", article 182, "protection of the rights of the members in the court", and articles 184,185, 186 "prohibition of interference".

According to article 181 we have:

The Trade Union organization freely organizes the administration and activity; it freely drafts its program. Any Trade Union organization must carry out its activity in compliance with the legislation in force.

The discrimination of the Trade Union representatives is prohibited.

The termination by the employer of the contract of employment of representatives of the organization of the employees without the consent of this organization shall be invalid, except for the cases where the employee violates the law, the collective contract of employment, the individual contract of employment, or if the employer proves that the termination of the contract is absolutely indispensable for the economic activity of the enterprise.

The change of the conditions of the contract of employment of the representatives of the organization of employees may be made only with the consent of the employee and of this organization. The employer may not change the workplace of the representatives of the organization of employees, even if this change is provided for by the contract of employment,

without the consent of the employee and of this organization, except for the cases where the change is absolutely indispensable for the economic activity of the enterprise.

If the representatives of the organization of employees, which act on national scale, during their mandate, work and get paid by these organizations, their contracts of employment with the employer shall be suspended. At the end of the mandate, suspension ceases to exist and the contract of employment shall reenter into force. From this moment on, the parties shall enjoy all the rights and obligations, which stem from the contract of employment.

In the article 182 we cite:

Any organization of employees, which is recognized as a juridical person, may address to the court for the protection of the interests of each of its members, and to make the employer act as defined by law, by collective and individual contracts of employment.

According to Article 183:

The financial sources of the Trade Union organizations consist of membership fees, of donations, and of the income from social, economic or cultural activities.

The incomes obtained by the Trade Union organizations are excluded from taxes for as much as provided by the fiscal law.

According to article 184 on the principles of protection against intervention.

Forbidden will be any act of intervention in the creation, functioning and administration of the professional organizations, on the part of the State bodies.

Forbidden will be any act of intervention in the creation, functioning and administration of the organizations of employees, on the part of employers, or of the organizations of employers.

According to the article 185, on the action of Intervention of the state organs,

The State body does not intervene in the cases that restrict the rights provided by Article 182 of this Code, or that hinder their legal exercising, with the exception of the cases where legitimacy has been violated.

The Trade Union organization may address to the court to prevent any act of intervention or threat to it.

According to the article 186, on the action of Intervention of an employer or employers' organisation.

As actions of intervention on the part of the employer, or of an organization of employers, will be considered the measures that:

- Encourage the creation of the organizations of employees, which are dominated by an employer or an organization of employers, or support organizations of employees with financial means or through other ways, for the purpose of placing these organizations under the control of an employer, or of an organization of employers.

According to the article 176 of the Labour Code:

The organizations of the employees and of the employers have the right to create federations, confederations and join them. The federation is created as a result of the voluntary unification of two or more professional organizations. The confederation is created as a result of the voluntary unification of two or more federations. Any organization, federation or confederation has the right to join international organizations of employees or of employers.

Ministry of Interior; Department of the Public Administration and Ministry of Defence:

Question B

- a) Please describe how the right to join a trade union is protected in the law and in practice and indicate whether any , and if so which, categories of workers are prohibited from joining a trade union or restricted in doing so.
- b) Please indicate whether and how the right of workers not to join a union is protected in law and in practice. Please indicate in particular whether examples exist in practice of an obligation to belong to a trade union, (closed shop clauses, etc) and what are the measures taken in this regard.

Answer:

a) Article 146 of the Labour Code provides protection of the right of the workers to join or not to join the trade unions. Specifically this article says:

The termination of the contract by the employer will be considered of no reasonable causes, when:

It is done for motives that are connected with the employee's being or not a member of Trade Unions created as defined by law, or because of his/her participation in Trade Union activities on the basis of law;

The termination of the contract for unreasonable causes shall be invalid. The employer who has terminated the contract for unreasonable causes is obliged to pay the employee a damage that may amount up to the wage of one year, which is added to the wage he/she must receive during the notice deadline. As concerns the employers of the Public Administration, where there is an irrevocable court decision on returning to the same workplace, the employer is obliged to execute this decision.

The right to join the Trade union is guaranteed by the legislation cited above. There is no category of the workers that is prohibited to exercise the right of joining the trade unions, or limited to do so.

b) There is no evidence in practice of an obligation of the workers to belong to a trade union, contrary to their will and desire, but there are cases of the pressure exercised by the employers disallowing the workers to join the trade unions' organisations.

In this case, as defined by the Labour Code, the employers will be punished with a fine amounting to 50 times of the minimum monthly wage.

National Labour Inspectorate is by law responsible to monitor and implement this legislation and the competent authority to put sanctions and the penalties/fines.

Law Nr. 8549, "Status of the civil Servants".

- a) Civil servants enjoy the right to organize and participate in the trade unions organizations. He may create and be a member of the trade unions and professional organizations. The rules and the procedures of exercising trade union's activity by civil servants, are regulated by law. According to article 20, item d) and dh), the civil servants, either represented by the trade union or its representatives, may [participate in the decision making process.
- b) On the other side the civil servants are prohibited by law to go on strike; (article 20 item f). Failure not to respect this article brings about the dismissal of the civil servant from the work place. This limitation is foreseen in article 51, paragraph 2 of the Constitution of Albania. According to this article, the civil servants are considered a special category of employees. We state that this is in compliance with the international practice in this field.

The law does not prohibit the citizens of the other Contracting Parties, who are legal residents or work legally in the territory of the Republic of Albania, to be members of the trade unions' organizations or maintain positions in the administration or management of a trade union.

Question C

- a) Please furnish a complete description of any representativity criteria, ie. any conditions which trade unions must fulfil, in order to be considered representative?

- b) If such criteria exist, please also give information on the existence and the type of the type of appeal against decisions by the authority or the authorities responsible for determining whether a trade union is representative or not. Please indicate the functions, which, are reserved for the representative unions in respect of negotiations and conclusion of collective agreements, participation in the nomination of the various types of the workers' representatives and participation in the consultation bodies.
- c) Please reply to the questions under a) and b) in respect of representativity of the employers' organisations, except when negotiations at enterprise level are concerned.

Answer

- a) According to article 164 of the Labour Code, it is defined the procedure of recognising the most representative organisation or organisations who negotiate and conclude collective agreements with the employers. Item 2 of this article says:

The organization proving that it has the greatest number of member employees at the enterprise, or branch, shall be considered as the most represented organization. If some organizations of employees are presented together, then the group of the organizations, which has the greatest number of members, shall be considered to be the most represented.

The criteria of appointing the most represented organizations of trade unions and employers' organizations in the National Council of Labour are defined in the article 200 of the Labour Code, "Appointing the most represented organizations of trade unions and employers' organizations in the National Council of Labour" and DCM Nr. 730 dated 6/11/2003, on "The functioning of the National Council of Labour".

Appointment of the members of the trade unions in the National Council of Labour is made according to the following criteria:

- Number of the members certified by personal declarations, membership fees or public noted certification;
- Number of collective agreements concluded and the number of the workers included (covered) in these collective agreements;
- Number of the brunches, occupations and/or territorial organisations;
- Ability to get involved in negotiations of collective agreements and ability to involve in negotiations of solving the disputes through mediation;
- Membership in international organisations:

- b) *According to Article 163 of the Labour Code:*

If the signing of the collective agreement has not been preceded by a proper posting of the request, the employers or the organization of the employers may not object the beginning of a new procedure of having the representation of the organization or of the organizations of employees recognized, aiming at the opening of the negotiations for signing another collective

agreement. The first collective agreement, bound without respecting the obligation of making it public through posting, shall be invalid from the moment of the entering into force of the second agreement, which is bound by respecting the procedures as defined by this Code.

According to Article 163 of the Labour Code there has been defined the cases of objecting the representation of the organization or organisations of employers. If the representation of the organization or organizations of the employees who have demanded the beginning of the negotiations is objected, any concerned organization of employees should submit to the employer or the organization of the employers, at its own expenses, the evidence of representation. This evidence is presented in the form of a notary certificate by virtue of which the notary public certifies the number of the members of the organization of the employees on the basis of the membership fees paid during the last two years, or of the personal statements of the member employees.

If the employer, the organization of the employers, or the organizations of the employees, object the notary certificate, then they should submit a complaint at the District Reconciliation Office (if the negotiations on the collective contract do not extend beyond the borders of a district), or at the National Reconciliation Office (if the negotiations on the collective contract extend beyond the borders of more than one district). This complaint must be submitted within weeks, starting from the day of the announcement of the results in compliance with the notary certificate. The Reconciliation Office examines all the available evidence and decides on the representation of the organization, or of the organizations of the employees, and announces it within two weeks, starting from the day of its involvement in the issue. When the employer, or the organization of the employers, rejects the decision of the Reconciliation Office, they have the right to seek the organization of a secret ballot within two weeks, starting from the day of the announcement of the decision.

The representation of the organization, or of the organizations of the employees, cannot be objected for a period of two years, starting from the date of the announcement of the decision by the Reconciliation Office, which has been accepted by the parties, or of the result by the voting commission.

- c) Appointment of the employers' organisations in the National Council of Labour is made according to the following criteria:
- Number of the affiliated enterprises;
 - Number of the employees employed in the affiliated (member) enterprises;
 - Number of the branches, occupations and/or territorial organisations;
 - Ability to get involved in negotiations of collective agreements and ability to involve in negotiations of solving the disputes through mediation;
 - Membership in international organisations:

Question D

Please indicate under what circumstances and on which conditions trade union representatives have access to the workplace. Please indicate also whether trade unions are entitled to hold meetings on the premises of the enterprise?

Answer:

According to article 181 of the labour code on “The Trade Union Liberties” we have:

The employer must create all the necessary conditions and facilities for the elected representatives of the organizations of employees to normally exercise their functions, which are defined in the collective contract of employment. To serve this purpose, the employer must:
Allow them to enter into work environments; allow the distribution of notices, of brochures, of publications, and of other documents, which belong to the organization of employees; give them the required time to participate in the activities of these organizations inside and outside the country; allow them to enter into work environments and create facilities for them to collect the membership fees of the organization, as well as to hold meetings.

Question E

Please give information on the measures to ensure protection against reprisals on the grounds of the trade unions’ activities.

Answer:

Article 202 of the Labour code foresees sanctions, which consist of a fine amounting from 30 to 50 times of the minimum monthly wage. They are executable by the National Inspectorate of Labour. This happens when it is approved that the employer discriminates the representatives of the trade unions and, when, during the strike, the employer replaces the strikers with other people.

Article 6

The right to bargain collectively:

“With the view to ensure the effective exercise of the right to bargain collectively, the Parties undertake”

- To promote joint consultation between the workers and the employers;
- To promote where necessary and appropriate, machinery for voluntary negotiations between the employers and the employers’ organisations and the workers’ organisations, with a view to the regulation of the terms and conditions of employment by means of the collective agreements;
- To promote the establishment and the use of the appropriate machinery for conciliation and voluntary arbitration for the settlement of the labour disputes;
- The right of the workers and the employers to collective actions in cases of the conflict of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into.

LEGISLATION

I. Constitution of the Republic of Albania

Article 46

1. Everybody has the right to collectively organise for any legal purpose;

Article 47

1. The right to peacefully organise and without weapons and the participation to this meetings is guaranteed

2. Peaceful meeting in the places and the public areas is made according to the procedures foreseen in the law.

Article 48

1. Anyone, himself or together with other people may sent requests, complaints or notifications to the public bodies, which are obliged to reply in due course and according to the conditions defined by the law.

Article 49

1. In respect to Labour, the employees have and enjoy the right to social protection.

Article 51

1. The right of the employees to go on strike as regard to the labour relations, is guaranteed.

2. Limitations are set by the law for special categories of workers, in order they provide the necessary services to the society.

II. International Conventions

ILO Convention Nr 87 “Freedom of the associations and protection of the rights to organise”

ILO Convention Nr 98 “The right to organise and collective Bargaining”

ILO Convention Nr 135 “Representatives of the Workers”

ILO Convention Nr 144 “Tripartite Consultations”

III. Laws

- Code of the Civil Procedures
- Labour Code
- Civil Servants Status

IV. Decisions of the Council of Ministers – DCM

DCM Nr. 313, dated 30/04/1996 “Reconciliation Offices and Arbitration”
DCM Nr. 314, dated 30/04/1996 “appointing the representation in the negotiation units”

ARTICLE 6
Paragraph 1

“With the view to ensure the effective exercise of the right to bargain collectively, the Parties undertake”:
- To promote joint consultation between the workers and the employers;

Question

Please indicate the legislative or other steps taken to encourage the joint consultation between the workers and employers in your country. In what way do the public authorities encourage or participate to such consultation?

Please give particulars on the bodies responsible for such consultation, at the national, regional and local levels as the case may be, and on the procedures entailed, together with the information on the issues covered (financial issues, social issues, working conditions, etc.) and on the sectors of economy to which the procedures apply?

Answer

1. The legislative steps taken to encourage the joint consultation.

The legislative steps to encourage the joint consultation between the workers and employers are guaranteed by the Constitution of the Republic of Albania, article 47, “Freedoms of peaceful gatherings”, Article 51 “The rights of the employees (workers) to strike”, Labour Code, Chapter XV, “Collective Bargaining (Contracts) of Labour”, Articles 159-175; Chapter XVII, “Collective Conflicts”, articles 188-198; Decree nr. 7458, dated 22/01/1991, approved by law Nr. 7494 dated 02/07/1991 “On the right to strike” as well as the Council of the Minister’s Decision nr. 313 dated 30/04/1996 “On appointing the representatives of the negotiation Unit”; Labour Code defines the legal bases of entering into power and implementation of the Collective Contracts.

Collective contract is a volunteer agreement, which, regulates the labour relations between the employers and the employees (workers), Labour Code Chapter XV. Collective contract regulates also other issues with regard to the labour relations. According to article 159, item 3 of the labour Code, “The collective contract that contain provisions that are less favourable for the employees than those of the laws and sub-legal acts in force, with the exception of the cases expressly defined by law, are considered as unacceptable. In the case of a conflict between the rules of the different collective contracts, that apply to the workers, and where, any provision of the individual contract of employment, is less favourable for the employee than the provision of the collective contract, than this contract is

invalid, and the most favourable rule for the worker should be applied, article 174, item 1 of the Labour Code.

According to article 159 of the Labour Code the collective contract of employment includes:

The collective contract contains the provisions governing the conditions of employment, the entering into contracts, the content and concluding of individual contracts of employment, the vocational training as well as the relations between the contracting parties. The collective contract may contain provisions that place the employers and the employees in compulsory relations established by the parties through a collective agreement towards the juridical persons. The collective contract may not contain provisions that are less favourable for the employees than those of the laws and sub-legal acts in force, with the exception of the cases expressly defined by law.

According to article 160 of the Labour Code, the collective contract of employment is concluded by one or more employers or organizations of employers, on one side, and one or two Trade Unions, on the other side.

According to article 161 of the Labour Code, The collective contract is entered into (concluded) on 2 levels:

- On enterprise level and,
- On branch level in accordance with the agreement between the contracting parties.

The collective agreement leaves into force or improves all the basic elements of the individual employment contract, respectively as following:

- Wage conditions
- Minimum wages
- Employment (labour) conditions
- Employment environment
- Time of work and the time of rest
- Days of official feasts
- Employment during the rest days and the official feasts
- Additional hours of work
- Particular protection for children and women
- Night work
- Health and safety conditions at work
- Conditions of vocational training and re-training
- Social insurance
- Conditions for providing unemployment benefits
- Duties and responsibilities of the employers and workers
- Prohibition of the competition after the termination of employment
- Protection of personality
- Transfer of the labour relations
- Transfer of the enterprise
- Conclusion of the labour/employment relations
- Dissolution of the contract without reasonable causes
- Collective dismissal from work

- Remuneration on seniority /length of service

According to article 164, of the Labour Code,

Every employer who is a signatory of the employment contract, or a member of a contracting organisation is bound to the collective contract. This contract is applicable for all the workers of the employer, member or not of the contracting trade union organisation. By order of the Minister of Labour and Social Affairs the effectiveness of the employment collective contract may extend on all the employers of the brunch, when these employers have employed nearly half of the workers of the brunch. The procedures are regulated by means of Council of the Ministers Decision.

According to article 166,

The collective contract will be valid only if in a written form. All the parties must sign it. When a party is an organization, the representatives of the latter are assigned in compliance with the statute.

The collective contract may be terminated or changed only in writing.

The collective contract will be valid only if it is made in the form of a written decision given by the Reconciliation Office, which the parties have assigned through an agreement.

With the purpose to improve the administrative capacity and economic implementation through the encouragement of cooperation with the social partners at the enterprise or brunch level, and in order to strengthen the institutions of social dialogue, the Ministry of Labour and Social Affairs has designed and implemented some projects in this field.

- Relevant rules and by laws of Labor Code are dealt in answers of Article 6 of the Social Chart questionnaire. Moreover:
- Trade Union Representation conditions were dealt by the answer B, article 5, of Social Chart Report.
- Trade Union Terms of establishment were dealt by answer of question A, article 5 of Social Chart Report.

2. Participation of authorities in the Joint Consultations.

2.1 Social dialogue at central level

Current situation of the social dialogue.

With the initiative of Ministry of Labour and based on the proposal of social partners, there were made some important amendments to the labour code during 2003. The changes in the article 200, as related to the composition, fields of consultation and the rules of functioning of the National Council of Labour (NCL), aimed at:

- Improving the social dialogue and the effective increase of the functioning of National Council of Labour - NCL
- Widening the fields of consultation on the issues and programs of the social and economic development.

- Restructuring of the tri-partite specialised commissions of National Council of Labour – NCL.

National Council of Labour reviews issues of common interest for the employers and the workers organisations with the aim to achieve acceptable solutions for both parties. The consultations are made especially concerning the preparation and implementation of the labour legislation, the amendments to this Code and the content of the sub-legal acts, the policies and national organizations dealing with employment, vocational training and qualification, protection of the employees, hygiene and technical safety, production, well-being, programs of economic and social development, as well as with the application of the norms of the International Labour Organization, etc.

This Council will be made up of the most represented organizations of employers and employees, as defined by the Council of Ministers, every three years. The National Council of Labour may create specialized commissions, temporary working groups to provide advice and study special issues of common interest.

The National Council of Labour has its own independent budget, which is set upon the Decision of the Council of Ministers.

The functioning rules of the National Council of Labour are regulated by the Decision of the Council of Ministers and included in its regulation.

The structure responsible for the management between the government and the social partners is the Directorate of the Labour Relations in the Ministry of Labour and Social Affairs.

The structure responsible for the preparation and organizations of the meetings of NCL is the Secretariat which, functions close to the NCL

Activity of the National Council of Labour:

Starting from 1996 and up to now, the NCL has held approximately 2-3 meeting per year. Tripartite conferences, with the participation of members of NCL, trade unions, employers, and ILO experts, have been held during the period 2003-2004.

Also bilateral meetings between the government and the trade unions concerning the requests of the latter on the poverty line, pensions, increase of the wages, differentiated minimum wage for the difficult occupations, measures for reducing the consequences of the increase of electricity price, etc.

As result of the cooperation between the Government and the Social Partners, during these last years, it has been concluded and signed some agreements, like:

- The agreements of 2002 between the Government and Trade Union Confederation of Albania and Independent Trade unions of Albania on:
 - Promotion and development of the institutional social dialogue
 - Improvement of the functioning of the National Council of Labour.
 - Normalisation of the energetic situation.
 - Improvement of the Labour Code
 - Compensation of the damages caused to the building of Trade Unions during the flow of Kosova refugees, etc.

- Memorandum of Understanding between the Government and Trade Union Confederation (KSSH) of Albania and Independent Trade unions of Albania (BSPSH), during 2003, on:
 - Improvement of the cooperation between the Council of Ministers and the Trade Unions.
 - Holding the tri-partite yearly conference of Labour.
 - Approval of the draft-law “On some amendments and changes of the Labour Code”.
 - Approval of the DCM draft of the changes of the labour code, regard to the improvements on the functioning of the NCL, state reconciliation offices and the procedures of voting in the negotiation unit.
 - Increase of the real wage and separation from the indexing due to the effect of inflation.
 - Increase of the minimum wage at country level and the differentiated increase of the wages in the public sector, mainly education and health sectors.
 - Balancing of the pensions of before 1993 with those after 1993 and the minimisation of the differences between the rural (agriculture) pensions and those retired in other brunches of economy.
 - Improvement of the energetic situation in the country.
 - Cooperation with the trade unions on the privatisation of the state enterprises, mainly in the strategic sectors.

- Meeting of the Prime Minister with the Trade Union Confederation (KSSH) of Albania and Independent Trade unions of Albania (BSPSH), where it was expressed the engagement of the government on:
 - Strengthening of the relations, cooperation and partnership with the trade unions
 - Measures taken by the government to reduce the negative impact of the reforms.
 - Reform in the field of social insurances.
 - Guarantying of a normal functioning of the trade unions in their working environment.

- During the year 2004 attempts have been made to sign (conclude) a Pact of Social Understanding between the Government and the Social partners on:
 - Improving the cooperation between the Government, Trade Unions and Employers Organisations.
 - Adoption (Compliance) of the labour legislation with the international standards.
 - Improvement of the living conditions
 - Improvement of the labour and employment conditions
 - Reforms in the economical field.

- During the relatively short period of time of the functioning of the NCL (7 years) there do clearly appear the steps undertaken to create a proper environment of dialogue, consensus and concern in order to solve out the present and the future issues of the market economy in Albania. There are attempts to improve the organisational and the functional structure of the National Council of Labour. Also, useful treatment and proper recommendation have been forwarded in respect to the functioning of NCL. As such we may mention:

Firstly: recommendation and improvement of the juridical system, in compliance with the requests of the international conventions.

So we can list the recommendation of the NCL to review and improve the Labour Code; amendments of the laws nr. 7703 “On the social insurances” and 8097 “On the supplementary pensions”; decree on the strike; ratification of the ILO Conventions, like, Promotion of the collective bargaining machinery to solve the disputes, health and safety in the working environment, prevention of the work accidents, elimination of the worst forms of the child labour, maternity protection, employment promotion and the protection of unemployment, social insurance, migration, etc.

Secondly: recommendation on the improvement of the living conditions. As such we may list the recommendations of NCL on the official poverty line, indexing of assistance and wages, strategy for the development of the labour market, reduction of the informal market, etc.

Thirdly: attempts to improve the organisational and the functional structure of the National Council of Labour and the creation of its independent budget.

Fourth: achievements in improving the living conditions. It has been achieved so far the increase of the minimum wage, indexing of the wages and pensions, increase of the disability payments, compensation of the increased price of electricity for the needy people, balancing of the pensions of before 1993 with those after 1993 and the minimisation of the differences between the rural (agriculture) pensions and those retired in other branches of economy.

Fifth: creation of the focal points of social dialogue. There have been appointed the representatives of each Ministry, to maintain relations with the trade unions. This is done based on an order of the Prime Minister. This fact has improved a lot the cooperation between Government and the trade union on issues of common interest.

Joint consultations at regional level are held among three party regional councils established according to the Law No. 7995 “ Labor Promotion” amended by Law No. 8444 and Law No.8662. **Article 19** “ Consultative bodies” provides the terms of reference:

1. Labor offices inquire advice by consultative bodies on:
 - a. Continuity of programs and projects
 - b. Examination of labor conditions and possibilities to increase active labor policies.
2. Each labor office appoints the Three Party Consultative Council to examine the projects of:
 - a. Employers aiming at creation and maintenance of social jobs (long - term projects, longer than one year).
 - b. Employers to create qualifying jobs for those who recently finished the high school and have a university degree. (mid - term projects from 6 months to a year)
 - c. Local power institutions on community development, including general fruitful jobs (short – term projects, not longer than 6 months).

2.2 Social dialogue at regional level.

The public authority of the social dialogue at the regional level is the Tri-partite Council in the Employment Offices. The reconciliation office is created in every region. The reconciliation office is created based on the order of the Minister of Labour and Social Affairs. The National Reconciliation Office is established in Tirana. The reconciliation office is composed of the chairman and 2 members from the most represented workers' organisations and 2 members from the most represented employers' organisations. The chairman and the members are paid on monthly bases as defined by the Decision of the Council of Ministers.

The procedure of reconciliation is free of charge.

ARTICLE 6

Paragraph 2

“With the view to ensure the effective exercise of the right to bargain collectively, the Parties undertake”: To promote where necessary and appropriate, machinery for voluntary negotiations between the employers and the employers' organisations and the workers' organisations, with a view to the regulation of the terms and conditions of employment by means of the collective agreements.

Question A

Please give a description of the existing collective bargaining machinery and its results in both the private and the public sector, (indications on the number of negotiations and agreements concluded and other indicators and evaluation criteria).

Answer:

According to article 163 of the Labour Code: The request for beginning the negotiations on binding the collective contract,

Any representative organization of employees, which is created in compliance with law, may ask from any employer or organization of employers to start the negotiations on binding the collective contract on enterprise, enterprises, and branch or industry level in favor of one or several occupational categories. Many organizations of employees may exercise this right jointly.

The request for beginning the negotiations on binding the collective contract is made in writing. It is accompanied with the copy of the statute of the organization or of the organizations of the requesting employees, as well as with the necessary indices that prove their representation in the enterprise, enterprises, or in the given branch.

The employer who has been asked to begin the negotiations must make the request public by posting it on an exposed place at his/her enterprise within two weeks. If the request is made on a branch level, it should be posted on all the enterprises or branches. The organization or the organizations of the employees, which demand the beginning of negotiations, must see to it that the posting gets done properly.

If the representation of the organization or of organizations of the employees who have demanded the beginning of the negotiations is not objected, it should be acted as defined by Article 165. In this case the representation of the organization or of the organizations of the employees may not be objected for a period of two years.

If the signing of the collective agreement has not been preceded by a proper posting of the request, the employers or the organization of the employers may not object the beginning of a new procedure of having the representation of the organization or of the organizations of employees recognized, aiming at the opening of the negotiations for signing another collective agreement. The first collective agreement, bound without respecting the obligation of making it public through posting, shall be invalid from the moment of the entering into force of the second agreement, which is bound by respecting the procedures as defined by this Code.

According to Article 165 of the labour code, we quote:

When the representation of the organization, or of the organizations of the employees, has not been objected, or when it has been definitely recognized, the employer or the organization of the employers must receive the party demanding the negotiations within two weeks, starting from the date of the expiring of the posting deadline, or in the cases of the objection of the representation, starting from the date of its final announcement.

If the negotiations fail to end within 30 days, starting from the date of the expiring of the posting deadline, or in the case of the objection of representation, starting from the date of its final announcement, none of the parties may use the right to strike, without prior involvement of the mediator, of the Reconciliation Office, as well as if the parties agree, the Court of Arbitration, in accordance with the procedures provided for in Chapter XVII of this Code.

According to Article 166 of the labour code, cited in paragraph 6 of the questionnaire of the social charter, we may mention the conditions of the validity of the collective contract, as following:

The collective contract will be valid only if in a written form. All the parties must sign it. When a party is an organization, the representatives of the latter are assigned in compliance with the statute.

The collective contract may be terminated or changed only in writing.

The collective contract will be valid only if it is made in the form of a written decision given by the Reconciliation Office, which the parties have assigned through an agreement.

According to Article 167 of the labour code,

The employer must deposit the original copy of the collective contract at the Ministry of Labor within 5 days, starting from the date of the conclusion of this contract between the parties.

The deposition of the contract, provided by Paragraph above, will not condition the validity of the contract.

According to Article 168 of the labour code,

In the cases of the changing or renewal of the collective contract, the provisions 164, 165 of this Code will be applicable through analogy.

According to Article 169 of the labour code,

Each of the contracting parties implements the contract; when the party is an organization, it will see to it that its members implement the contract.

Each of the parties must not use any conflicting means against the other party about the issues regulated by the contract. The imposition of work peace is absolute only when the parties have expressly agreed to that.

The imposition of work peace, as defined by Paragraph above of this provision, will be executed by any Trade Union or contracting organization within the territorial and occupational scope of implementation of the collective contract, and by any person bound on the latter.

Collective agreements concluded in the public and the private sector during the referred period:

In the public sector:

Branch-Profession	Employer	Trade union	Coverage scale
Education	Ministry of Education and Science.	Trade union federation of Education and science of Albania.	92 %
	Ministry of Local Power and Decentralization.	Independent Trade Union of Education, Albania.	
Health	Ministry of Health	Trade union federation of Health, Albania.	95 %
Agriculture	Ministry of Agriculture	- Trade Union Federation of Agriculture, - Independent Trade Union of Agriculture Workers, - National Trade Union of Agriculture and Food.	13 %
Geology	Albanian Geological Service	Trade Union Federation of Industry Workers	100 %
Telecommunication	Albanian Post	Independent Federation of Post & Telecom Workers	100 %
Public services	Ministry of Territory Adjustment and Tourism	Independent Trade Union of Wood-Construction & Public Services.	34 %
Petrol	- Albpetrol - Armo	Trade Union Federation of Petrol	95 %

Defense	Ministry of Defense	Trade Union Federation of the Civil Workers, Public Order and Intelligent Service (SHISH).	100 %
Transport	Railways Directorate General, Albania.	Railway Transport Workers Trade Union	100 %
Transport	Directorate General of Air Transport	Trade Union of Air Transport Workers.	100 %
Energetic	KESH Corporate	Trade Union Federation of the Industry Workers of Albania.	100 %

In the private sector; Company and enterprise level:

Sector	Employer	Trade union	Coverage scale
Mines	Darfo-Al, Burrel	Trade Union Federation of the Industry Workers of Albania	100 %
	Darfo-Al, Bulqize	Independent Trade Union of Miners.	
	Darfo-Al, Elbasan	Trade Union Federation of the Industry Workers of Albania.	
	Bitumen Mine, Selenice.	Independent Trade Union of Miners.	
Metallurgy	Kurum	Trade Union Federation of Chemistry & Metallurgy Albania.	100 %
Sea Transport	Sea Yard,(Kurum) Durres	Independent Trade Union Federation of transport, Albania.	20 %
Textile & Wearing	Number of Contracts at Enterprise Level	Twelve	35 %
Production of Row Material – Sector of Construction	Number of Contracts at Enterprise Level	Seven	14 %
Agriculture –			0 %

Private Sector			
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Question B

Please indicate whether and how the law encourages or obliges employers or their organisations to bargain with the workers’ organisations collectively, and whether and how it encourages or obliges workers’ organisations to bargain with employers or their organisations. Please also indicate how the question of union recognition is dealt with.

Answer:

Labour Code of the Republic of Albania gives the right to the trade Union to require from the employer to begin the negotiations on binding the collective contract. Some trade unions may exercise this right jointly. The employer, after defining the most represented trade union or group of trade unions, is obliged to sit and negotiate the collective contract. Conclusion of the collective agreement is a free will and consensus between the parties.

Question C

Please indicate to what extent, under what conditions, according to which procedures and for which type of subject matter the state can intervene in the process of free collective bargaining. Please indicate where state intervention occurred during the reference period.

Answer:

The state participates in the negotiations upon the request of the employers and the workers, or the concerned party in order to assist and mediate the parties in conflict as regard to the legal procedures, explanation of the legal references, to object representation, etc. in case the negotiation fail to conclude the contract, the trade union can not exercise the right to strike, without undergoing the procedure of reconciliation and mediation.

**ARTICLE 6
Paragraph 3.**

*“With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake:
To promote the establishment and use of appropriate machinery for conciliation and voluntary arbitration for the settlement of the labour disputes”*

Question A

Please describe such machinery as exists by virtue of law, collective agreements or

practice for the settlement of disputes by:

- a) Conciliation
- b) Arbitration or court procedure
- c) Other methods of dispute resolution.

Answer:

Machinery for the resolution of the disputes is foreseen in Chapter XVII of the Labour Code, “Mediation; Reconciliation; arbitration” practically as following:

- a) *According to article 192 of the Labour Code*, “The mediator is engaged in cases of any collective conflict, upon the request of any concerned party, addressed to the Minister of labor and Social Affairs, or to the State Labor Inspectorate.”

When engaged in dealing with a collective conflict, the mediator must intervene without delay to help the parties to find a solution through good understanding.

The mediation procedure is obligatory and shall last up to 10 days.

According to article 193 of the Labour Code, the Reconciliation State Office

If the mediator fails, the Minister of Labor and Social Affairs or the administrative body authorized by him shall put into motion the Reconciliation Office.

The Office may summon any concerned party. The parties have the obligation to be present at the examination session and participate in the debates, presenting the data that the Office requests.

Upon the motivated request of one of the parties, only the Chairman receives the data related to the documents presented by this party. Afterwards, he makes them known to the members of the Reconciliation Office to the extent that he deems to be reasonable.

The Reconciliation Office tries to help the parties to reconcile.

The Reconciliation Office presents a reconciliation proposal to the parties, which it can decide to make public.

The parties may get help by any person assigned by them.

The reconciliation procedure is obligatory and lasts up to twenty days.

Other procedural regulations are defined by the Chairman of the Reconciliation Office.

- b) *According to article 194 of the Labour Code*, Court of Arbitration,

If the reconciliation fails, both parties together may address to the Court of Arbitration. The parties, through agreement and freely, shall choose one or three arbiters. To help and advise the parties, the Ministry of Labor and Social Affairs offers them a list of arbiters.

The decision of the Court of Arbitration is an executive title, on the basis of the rules governing arbitration, which are provided for in the Code of Civil Procedure.

The arbiters shall be paid by the parties.

Arbitration must end within 3 weeks, starting from the date of putting into motion the Court of Arbitration.

c) *According to article 195 of the Labour Code*, Special regimes provided through a collective contract,

The parties bound by a collective contract may assign a mediator, a Reconciliation Office or a Court of Arbitration, to settle the disputes between them.

In this case, the mediator and the State Reconciliation Office provided for by this Code shall not be responsible to resolve a conflict. Excluded shall be the cases where the mediator and the Reconciliation Office, as defined by the agreement, are unable to be put into motion in due time.

According to article 196 of the Labour Code, In the services of vital importance, as defined by this Code, the conflicts shall be resolved in an obligatory way and definitely, following the procedure of mediation and reconciliation, by a Court of Arbitration consisting of arbiters chosen by the parties. If the parties fail to agree, the arbiters are assigned by the Minister of Labor and Social Affairs, within five days, starting from the date of the request of one of the parties.

Article 188 of the Labor Code provides the following definition:

- By collective conflict is meant any conflict between some employees, one or several organizations of employees, on one hand, and one or several employers, or one or several organizations of employers, on the other hand.
- None of the parties involved in the conflict can choose arbitration (court) without the consent of the other party.

At the request of the interested party, the other party involved in the conflict is obliged to be subject of conflict solution through mediation and reconciliation.

The procedure of mediation and reconciliation is obligatory for both parties, prior to beginning of the strike.

- Neither the Government, nor any other institution can send to arbitration the solution of a conflict involving two parties.

According to Article 196 of Labor Code, Arbitration of vital important services, conflicts are resolved obligatory and complete following the mediation or reconciliation procedures, by an arbitration court consisting in 3 judges appointed by the parties. In case the parties do not agree on the judges, the Minister of Labor appoints them and Social Affairs, within 5 days starting from the information presented by one of the parties.

Question B

In so far as certain machinery may be compulsory, please describe:

- The sanctions imposed by law or by collective agreements used for its enforcement;
- Their significance in practice.

Answer:

According to the labour code, the exercise of the right to strike by the trade union, without respecting the compulsory procedures of mediation and reconciliation as well as the compulsory arbitration in services of vital importance, is unlawful.

When the strike is unlawful, the employer may terminate the employment relations with the strikers. He/she enjoys the right to terminate the contract of employment with the workers that will not restart to work within three days, this being of immediate effect, and demand from them to pay him/her for the damage they have caused. In this case, the provisions governing the procedures of dismissal from work shall not be applicable.

The demand for paying the damages may also be addressed against the Trade Union, which is organizing the strike.

When the strike is accompanied with unlawful actions, the parties shall address the case to the court, which determines the responsibilities of the parties, the actions that they must carry out, and it also determines the damage caused and the obligation of the party to pay it.

If the circumstances permit, the Court may decide on resuming the work.

Also, according to article 193 of the labour code, The parties have the obligation to be present at the examination session, and participate in the debates, presenting the data that the Office requests. Failure to fulfil this obligation by any of the parties, puts a fine on them equal to 30 times the minimum wage.

Question C

Please describe the procedures provided, whether by law, staff regulation or practice, for settling disputes between public sector employees and the administration, and show whether existing procedures are open to them.

Answer:

The procedures and the machinery foreseen in the labour code and cited above are used for the employees of the public sector institutions, Ministries excluded. Employees of the high state administration (including the Ministries, Central institutions and local authorities) are subject to the procedures and machinery as foreseen in the Law Nr. 8549 “Status of the Civil Servants”, and the sub-legal acts produced to implement it. According to this law the Civil Service Commission, appointed/nominated by the Parliament, is the highest authority that reviews and decides for the solution of the disputes. The decision of this Commission can not be appealed. Appeal court definitely decides on the issue.

Question B

In so far as certain machinery may be compulsory, please describe:

- The sanctions imposed by law or by collective agreements used for its enforcement;
- Their significance in practice.

Answer:

According to the labour code, the exercise of the right to strike by the trade union, without respecting the compulsory procedures of mediation and reconciliation as well as the compulsory arbitration in services of vital importance, is unlawful.

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Question C

Please describe the procedures provided, whether by law, staff regulation or practice, for settling disputes between public sector employees and the administration, and show whether existing procedures are open to them.

The relations between the institutions of the public administration and the employees on the solution of the disagreements with regard to the rights of the employees are regulated by a special legislation of law 8549 “Status of the Civil Servants” and the respective sub-legal acts produced. This modern legal framework has defined the procedures to be followed in case of reviewing the complaints of the civil servants. It has also defined the respective institutions responsible to solve these complaints. So, the Civil Service Commission, as an independent administrative body, reviews and takes decisions regard to the complaints of the civil servants. Also the law has foreseen certain procedures that guarantee the right of the employees to be assisted during the reviewing process. Practically, these procedures have resulted very effective. Decisions have been taken in a very short period of time as compared to the court.

ARTICLE 6

Paragraph 4

“With a view to ensuring the effective exercise of the right to bargain collectively, the Parties recognise: the right of the workers and employers to collective actions in cases of conflict of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into.”

The appendix of the revised charter stipulates that it is understood that each contracting party may, in so far as it is concerned, regulate exercise of the right to strike by law, provided that any further restriction that this might place on the right, can be justified under terms of article G of the revised Charter.

Answer:

Article 51 of the Constitution of Albania guarantees to the employees the right to strike, as regard to the labour relations. Limitations may be imposed by law, on special categories of the employees, in order to provide the society with the most necessary services.

Question A

Please explain the meaning of collective action in your country specifying what forms of action are recognised (strikes, lockout, other forms), what are the permitted objectives of collective action and how the right to collective action is guaranteed.

Answer:

Employees organised in trade unions may exercise the right to strike for the solution of their economic and social demands, in compliance with the rules defined by the Labour Code. Only the trade unions have the right to organise and declare the strike. According to the article 47 of the constitution of Albania, “Liberties of the peaceful gathering” we quote: the liberty of the peaceful gathering, without weapons and the participation in them is guaranteed. These gatherings are hold in public places according to the define procedures foreseen in the law.

According to article 197 of the Labour Code

- Participation in the strike is voluntary. No one may be forced to participate in a strike against his/her own will.
- Any action that includes compelling, threatening or discrimination of the workers because of their participation or not in a strike shall be prohibited.
- While the strike is taking place, the parties must make efforts, through negotiations, to reach a common understanding and sign the relevant agreement.
- The use of force to interrupt the lawful strike of the workers is prohibited.
- The organizations of employees may undertake actions through peaceful means in order to persuade the workers to participate in strike, without violating the right to work of the workers that do not participate in strike.
- The employer, during the time that the strike is taking place, shall be forbidden to replace at work the strikers with other persons, who, in the time of the announcement of the strike, have not been his/her employees; likewise, he/she shall be forbidden to employ new employees after this date.

Question B

Please indicate who is entitled to take collective actions (individual, groups/coalitions of

workers, trade unions, employers or employers' organisations, etc)

Answer:

According to article 197/1 of the Labour Code, only the Trade Unions shall enjoy the right to organize and announce the strike.

Article 6 paragraph 4

- More information on “ job peace” article 169 of Labor Code
- Information on the right to strike on the part of civil servants
- More information on minimum services. Who defines sectors considered as of “vital importance”. How many workers are obliged to work? Is the decision of the judge final? What happens in practice (how many cases were solved by the judges?). The content of the Decision of the judges.

Answer

- Article 169 of Labor Code defines:
 - a. Each of the contracting parties implements the contract; when the party is an organization, it will see to it that its members implement the contract.
 - b. Each of the parties must not use any conflicting means against the other party about the issues regulated by the contract. The imposition of work peace is absolute only when the parties have expressly agreed to that.
 - c. The imposition of work peace, as defined by Paragraph (2) of this provision, will be executed by any Trade Union or contracting organization within the territorial and occupational scope of implementation of the collective contract, and by any person bound on the latter.

The same as according to Article 170 of Labor Code “ Settlement of Disputes, following definitions are made:

1. When one party violates the collective contract, the other party will address to the court or Court of Arbitration, of which the creation is provided by the contract. None of the parties must settle the disputes through self-judgment by any party.
2. When the contract is violated, the court or the Court of Arbitration will decide on imposing the party that has been found guilty to pay the damages caused to the other party.
3. When any member of the contracting party has committed the violation, the court will decide on imposing him/her to pay the damages that the other party or any of its threatened members has suffered.
4. In addition to the damage compensation as defined by the above point, the court will decide on the amount of fine that the party, which has been found guilty, must pay to the benefit of the harmed party, in the cases where this amount has not been set by the collective contract.

- Civil servants do not enjoy the right to strike.
- Minimum services

According to Article 197/6 of the Labor Code“ Minimum services”:

1. The strike cannot be exercised if there is a failure in providing minimum services.

2 Minimum services may be required in the sectors of services concerning the fulfillment of the basic needs of the population in order to guarantee the fulfillment of its basic needs.

3 To provide minimum services, the Trade Unions, while the strike is taking place, must assign and ensure the workers necessary for guarding and maintaining the machinery and equipment.

4 The workers mentioned in point 3 are assigned through an agreement between the employer and the respective Trade Union or Trade Unions of the employees. When the parties fail to come to a mutual understanding about the number and duties of the respective workers necessary for providing minimum services, the dispute shall be settled definitely and in an obligatory way by an arbiter assigned by the Minister of Labor and Social Affairs, or the administrative body assigned by him, in consultation with the concerned parties. The arbiter must decide within 24 hours, starting from the moment of his/her appointment.

- Sectors of “vital importance” are defined by Labor Code article 196, like provided in answer 6 of the Social Chart Report.
- Number of employees obliged to work is determined through negotiations between representatives of the employers and employees.
- The decision of the judge constitutes an executive title and can be only appealed to the Court of Appeal at the request of the interested part.
- Information available indicates no case dealt through arbitration.

Question C

If the right to collective actions is restricted, please state the content of these restrictions, and whether they are related to the purposes pursued or the methods employed by those taking actions, or both, and by which authority they may be imposed.

Please also state any procedural requirement pertaining to collective action (eg. Notice rules, cooling-off period, conciliation/arbitration, ballot requirements, quorums, etc.).

Answer:

The compulsory procedure of reconciliation and mediation of the parties extends 30 days. After termination of this procedure the trade union enjoys the right increase its activity and go on strike.

According to article 197/5 of the Labour Code and as cited above regard to the services of vital importance and as consequence, the strike can not be done, as it risks the life, security and health of the other part of population. In this case, the conflicts shall be resolved in an obligatory way and definitely, following the procedure of mediation and reconciliation.

The following are considered to be services of vital importance:

- a) indispensable medical and hospital services;
- b) water supply services;
- c) electricity supply services;
- d) air traffic control services;
- e) services of protection from fire;
- f) services at prisons.

Also according to article 197/4 of the Labour Code, the strike cannot not be exercised, or if it has begun, it can be suspended, in special cases for as long as this situation continues to prevail.

The following shall be considered as special cases:

- a) Natural catastrophes.
- b) State of war.
- d) Extraordinary situation.
- e) The cases where the freedom of elections is put at stake.

Question D

Please indicate whether any existing restriction to the right to collective actions “are prescribed by law and are necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of the public interest, national security, public health or morals” (article G of the revised Charter).

Answer:

According to the labour code, article 197/6 “Minimum Services”, it is stated:

The strike cannot be exercised if there is a failure in providing minimum services.

Minimum services may be required in the sectors of services concerning the fulfillment of the basic needs of the population in order to guarantee the fulfillment of its basic needs.

To provide minimum services, the Trade Unions, while the strike is taking place, must assign and ensure the workers necessary for guarding and maintaining the machinery and equipment.

The workers mentioned in point 3 are assigned through an agreement between the employer and the respective Trade Union or Trade Unions of the employees. When the parties fail to come to a mutual understanding about the number and duties of the respective workers necessary for providing minimum services, the dispute shall be settled definitely and in an obligatory way by an arbiter assigned by the Minister of Labor and Social Affairs, or the administrative body

assigned by him, in consultation with the concerned parties. The arbiter must decide within 24 hours, starting from the moment of his/her appointment.

Question E

Please state the effect of the strikes and lockouts on the continuation of the employment contract and any other consequences, eg. Deduction from wages, liability etj.

Answer:

According to the labour code, article 197/8 “Effects of the lawful strike” it is stated:

While the strike is taking place, the obligations and rights resulting from the employment contract, including the right to salary and obedience imposition at work, shall be suspended.

The provisions of point 1 shall not affect the rights defined by law concerning social care, accidents at work, and occupational diseases.

The suspension period shall not affect seniority and its related effects.

Dismissal from work due to participation in a lawful strike shall be invalid. This provision shall be inapplicable when the employee, during the strike, commits an act, which runs contrary to law.

According to the labour code, article 197/9 “Effects of the lawful strike” it is stated:

When the strike is unlawful, the employer may terminate the employment relations with the strikers. He/she enjoys the right to terminate the contract of employment with the workers that will not restart to work within three days, this being of immediate effect, and demand from them to pay him/her for the damage they have caused. In this case, the provisions governing the procedures of dismissal from work shall not be applicable.

The demand for paying the damages may also be addressed against the Trade Union, which is organizing the strike.

When the strike is accompanied with unlawful actions, the parties shall address the case to the court, which determines the responsibilities of the parties, the actions that they must carry out, and it also determines the damage caused and the obligation of the party to pay it.

If the circumstances permit, the Court may decide on resuming the work.

Question F

Please supply available statistics on strikes and lockouts.

Answer:

During the year 2004 there have been waged the following strikes:

- Strike in the field of transports

Trade union bus drivers and employees
Independent trade union of transport employees of Albania
Employees of railway transport trade union of Albania

- Strikes in the field of education

Education trade union federation of Albania
Independent trade union of education, Albania
Trade union of the university education

- Strikes in the field of health

University hospital Centre trade union

- Strike in the field of industry and energetic

Independent trade union of Miners
Petrol Trade union
Trade union Federation of the chemistry and metallurgy workers

ARTICLE 7 The right of children and young persons to protection.
Paragraph 1

*“With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake:
to provide that the minimum age of admission to employment shall be 15 years, subject to exception for children employed in prescribed light work without harm to their health, morals or education”*

Question A

Please indicate whether the minimum age of admission to employment is regulated by legislation. If so, please send the relevant texts.
Please indicate whether the minimum age of admission to employment applies to all categories of work, including the agricultural work, domestic work and work carried out in family enterprises.

Answer:

Article 98 of the Labour Code, on the “Minimum Age” states:

The employment of the juveniles under the age of 16 is prohibited. This prohibition does not apply to the juveniles from 14 to 16 years of age, when they are employed during the holidays from school, provided that this employment doesn't harm their health and growing up.

The juveniles from 14 to 16 years of age may become subject to vocational advice and training in accordance with the rules set by decision of the Council of Ministers.

Question B

Please state whether your country's legislation dealing with the minimum age allows derogations. If so, please state the derogations provided for in general by law or granted by an authority.

Please provide a definition of light work and, if appropriate, the list of such works.

Answer:

Article 99 of the Labour Code, on the "Light work (Easy Jobs)" states:

The juveniles between 16 and 18 years of age may be given easy jobs that do not harm their health and growing up.

The Council of Ministers defines the easy jobs and sets specific rules for the maximum duration and conditions of performing the job.

Question C

Please indicate the measures taken to combat child labour and to implement in practice the relevant legislation and regulations.

Answer:

In order to fight child labour, particularly, the illegal child labour, the State Inspectorate of Labour (SIL) has frequently realised inspections in those field of economy, where the children under 18 are employed, like manufactures, building sector, etc. also SIL's work has been coordinated with the NGO-s operating in this field.

Article 7, Paragraph 2

To provide that the minimum age of admission to employment shall be eighteen years with respect to prescribed occupations regarded as dangerous or unhealthy;

Question A

List the occupations regarded as dangerous and unhealthy. Specify the minimum age of admission to these work places.

Answer

The following is the list of the occupations regarded as unhealthy and dangerous:

1. Those connected with the production, processing and usage of exploding substances, gas, toxic substances, carcinogen substances.
2. Those where employed person is exposed to:
 - Higher ionizing rays than applicable standards;
 - Noises of over 85 decibel in permanent jobs as well as noises of over 140 decibel in momentary work;
 - Extremely high or low temperatures lasting a certain period of time and extremely high heating;
 - Bad atmospheric conditions to carry out urgent duties.
3. Where employed person is obliged to maintain disordered positions or make use of parts of the body for a long period of time in forced positions.
4. Where substances releasing free pyrite dioxide or coropate (common) pyrite and other halite are used.
5. Processing of colours containing carbon.
6. Using solvents of benzole.
7. Burning or burying of remains.
8. Producing glues; working in the depots where leather is curried.
9. Drubbing, scarifying and spinning of wool and cotton.
10. Occupations in the printing houses.
11. Occupations related to production and processing of glass.
12. Regular spray painting and painting of metal parts.
13. In the plants and laboratories, producing and processing acids, chlorine salts, dyers with nitrogen, phosphorus as well as fertilizers.
14. Whitening and thawing of paper.
15. Occupations in the metallurgical industry.
16. In the grinding mills in the workshops with much dust.
17. In the factories, where laboratories produce and process explosives, fireworks, illuminating gas, ignittering stuff or where the risky dust could cause explosion.
18. In basements.
19. Welding, cutting with oxygen and electricity.
20. Occupations where moving machines are used.
21. Occupations where cranes are used.
22. Where hydraulic presses are used.
23. Working with mechanic cutting machineries, especially with cambered saws, tag saws, dubbing machineries; working with scissors, machineries that operate by means of cylinders that might snatch parts of the body.
24. Working with containers under pressure.
25. Cleansing, repairing and detecting defects of machineries and means in motion.
26. Pressing buttons that transmit motion and stop machineries.
27. Maintenance of electric and building machineries.
28. Monitoring work safety, intercommunicating and coordinating control networking with other persons doing some other jobs.
29. Underground work.
30. Using building machineries.
31. Destroying buildings.

32. Building columns and walls in the water or disunite them.
33. Using high voltage fitment.
34. Working in objects where voltage over 50 volt is present.
35. Underwater works, carried out in scubas or keeping respiration apparatus.
36. Loading and unloading ships, except small speed boats, whose length and width are less than 12 m and 4 m width correspondingly.
37. Occupations exposed to the risk of falling from 3 m height even if protected by ropes or any other means. This is not the case if there is a security hoarding for any job place.
38. Any work place where there is the risk of material or object falling, dangerous for the worker.
39. Working with drilling machinery.
40. Using pistols to screw on and unscrew bolts and screws.
41. Cutting timber with metal means and tools.
42. Working in the train route conjunctions; the worker contributes to hooking up railway carriages.
43. Cleaning and spray-painting, (with pistols) with pressure of over 2.5 atmosphere.
44. Pumping up the tyres of the buses, vehicles and airplanes with pressure of over 3 atmosphere.
45. Escorting the transportation of monetary funds to banks or banking agencies and vice versa.
46. Research work in the direction of cancer and contagious diseases.
47. Working in places where oxygen is insufficient or the entire environment or atmosphere is dangerous due to the presence of poisoning or exploding substances.

Article 7 Paragraph 3

Question A

Please point out the limit age for compulsory education according to national legislation.

Answer

Based on the Law No.7952 dated 26.01.1995 “Pre university education system“ amended by the Law No. Nr 8387, dated 30.07.1998, “Additions and changes to the Law No. 7952 dated 26.01.1995, “Pre university education system”, Article 8 states that “ All children of age 6 in the Republic of Albania are registered in the schools of compulsory education, continuing not less than 8 years. The student is obliged to follow compulsory education until the age of 16 year’s old.”

Question B

Please indicate maximal official duration of each job performed by children at the age of compulsory education prior to or after the classes and during week – ends.

Answer

According the Albanian legislation in power, children belonging to compulsory education can not be involved in any kind of job activities prior to/after classes or even during the week – end.

We clarify that occurrence of job involvement of children belonging to compulsory education, is manifested mainly in two categories:

1. Street children including:
 - Beggars, who do not attend school institutions
 - Peddlers, who attend school and sell after classes, during week – ends and summer vacations.
2. Children of rural areas, with cases of school abandonment observed, or part – time attendance like:
 - Children caring after live stock
 - Girls caring after younger brothers or sisters and helping mothers in house - work.

Children’s school abandonment, part of compulsory education, especially during the last decade (1992 – 2002), constitutes a state issue and found its consideration in the permanent engagement of the local and national education institutions and be treated through improving short – term measures, as well as long – term actions materialized in fundamental documents of education services development like Pre university education development 2004-2015, applying to G7 with the project “Education for all“, Education System Decentralization Platform, etc. Cooperation within institutions like Ministry of Labor and Social Affairs with the Ministry of Public Order, as well as other institutions in charge of economic and social development, represents another important measure taken by Ministry of Education and Science, having a direct impact to diminish this multidimensional occurrence.

To support improvement and protection of children’s rights, Ministry of Education and Science has accomplished a series of cooperation projects with domestic and especially foreign non - profit institutions, interested in this field. We have to point out here the cooperation with UNDAF and ILO in the frame of Millennium goal Objectives, with the above mention issue as a priority.

Article 54 of the Constitution of Albania Republic provides that children (including those under and over 14 years of age) have the right of particular protection by the State. The same article provides the right of any child to be protected against violation, maltreatment, exploitation and usage for work, especially of those children who are under the minimum working age, which work would cause damage to their health and moral or impose a risk to their lives or normal development.

Article 98 of labor Code foresees:

Employment of children under the age of 16 is prohibited. An exception shall be the case when children from 14-16 years of age are employed during summer holidays. In such cases, they are allowed to do easy jobs which do not have any bad affect to their health and formation. That means that the law covers all the sectors of economy and makes no distinction at all.

Ministers’ Council Decision No. 384, date 20.05.1996 “On employed children” provides that children from 14- 16 years of age are allowed to work only during holidays period, but subject to easy jobs and the condition that labor inspectorate must have issued an authorization for the employer.

In addition, this decision provides that for any period of 7 days, children under the age of 18 years benefit a minimum week holiday of 2 days without any interruption; the week holiday includes Sunday. At least, 6 times per year, the employer can execute this week holiday in 2

insuccessive days. If work duration exceeds 4 hours and a half, children under 18 years of age shall be entitled to a holiday of at least 30 uninterrupted minutes.

The Act No.7986, date 13.09.1995 “On the State Labor Inspectorate”, amended under the Act No.8394, date 02.09.1998, as well as the Act No.8857, date 7.02.2002, secures the execution of the labor legislation by employers and persons employed by them, providing all the competences of the Inspectorate and its right to impose sanctions in case of violation of provisions of Labor Code and other acts produced for its implementation.

Under Article 3 is provided the right of the Inspectorate to inspect employment of children and women, of family members. Ministers’ Council Decision No. 205, date 20.05.1996 “On working children foresees that employment of children at the age of under 18 years, aiming their participation in cultural, artistic, sport and publicistic activities is subject to a previous authorization issued by Labor Inspectorate.

Children’s labor in general and illegal work in particular is included in the national strategies compiled, for instance:

- Strategy on children;
- National Strategy on Economic and Social Development and Progress Report annually compiled;
- Strategy on Social Services (2005-2010);
- Strategy on Employment and Vocational Training;
- National Strategy on the Combat against Trafficking of Humans.

As an important target group that deserves particular attention.

Also, this is one of the most significant target groups under the Program for the Elimination of Children’s Labor being implemented by the Ministry of Labor and Social Affairs supported by ILO/IPEC.

Article 7 Paragraph 4 Questions A, B, C, D, E

There is no data on these issues.

Article 7 Paragraph 5

Questions A and B

Answers

Paragraph 5 of article 7 of the European Social Charter foresees a fair wage for all the young workers and apprentices, i.e. it requires from the states to provide the same wages to young workers and adults (18 years old or over that age).

According to the Albanian legislation and namely based on the Act no. 7961, date 12..07.95, the wage can never be lower than the minimum wage determined under Ministers’ Council Decision.

Under Ministers' Council Decision no. 405, date 25.06.2004, the national minimum base wage was determined, and it is obligatory for every physical and juridical entity, being national or foreign, equal to 10 800 lekë/month.

The Labor Code of Albania Republic, article 111, item 3, provides that the Ministers' Council can determine a lower minimum wage in order to promote and facilitate the accession of the young people in the labor market. But so far, there is no any law produced by the Council of Ministers to determine it.

The national minimum wage must be applied for the young workers as well. So, there is no difference between the minimum wage of the young workers and adults. Behind it is the fact that the national minimum wage is still low.

The Ministers' Council has regularly increased the minimum wage on year basis, an increase being higher than inflation rate. Thus, in 2004, while the average annual inflation rate was 2.2%, the minimum wage was increased by 7.3%. Also, in 2005 the minimum wage is anticipated to increase by over 10%.

Article 7 Paragraph 7

To provide that employed persons of under eighteen years of age shall be entitled to not less than four weeks' annual holiday with pay;

Question a

Indicate the minimum annual holiday with pay for employed persons of under eighteen years of age.

Answer

The minimum annual holiday for wards is 4 calendar weeks.

Question b

Clarify how this law is dispensed in your country.

Answer

The law is not observed by all the employers. That's why the State Labor Inspectorate has set sanctions, and one is payment of an amount which, goes up to 50 times the minimum wage determined under Ministers' Council decision.

Question c

Which are the measures taken for all the categories of workers of under eighteen years of age? If no practice, provide a foreseen move and categories related.

Answer

The Government of Albania is paying special attention to this category of employed persons and through the State Labor Inspectorate is insisting on observance of the legislation protecting persons of under 18 years of age.

Question d

Explain, if possible, why some employed persons of under 18 years of age are not covered under this law and also the measures taken for adjustment.

Answer

Because of the transition to the new system there occurred an irregular movement of the population, which mostly concentrated in the largest cities of the country. Such movement brought about high rates of unemployment. Under these conditions, a part of children and young persons under 18 years of age are working in informal economy in order to earn a living and secure a minimum living standard.

The changes made in the Labor Code according to the Act No. 9125, date 29.07.2003 “On some amendments and changes made to the Act No. 7961, date 12.07.1995 “The Labor Code of Albania Republic” touched the chapter on the protection of children at work, prohibiting them from carrying out difficult or dangerous, thus complying with the Convention No. 182.

Ministers’ Council Decision No 205, date 9.5.2002 “On some amendments and changes in MCD No. 384, date 20.5.1996.”On the protection of children at work” provides the list of hard or dangerous jobs, damagingly exposed to physical, biological and chemical agents for the children under 18.

The Act No. 8872, date 29.03.2002 “On Occupational Education and Training in Albania Republic” as well as the Ministers’ Council Decision No.616, date 04.12.2002 “On the Determination of the other particular groups benefiting under the above-mentioned Act”, play an important role due to the fact that they also include the category of children, trafficked unemployed girls etc.

There are no specifications on the measures for their security or supervision in practice. Ministers’ Council has not produced any Decision to determine a list of easy jobs.

Question e

Provide all the measures taken to appropriately apply this legislation.

Answer

The State Labor Inspectorate is precisely applying the legislation on labor which also provides for the protection at work of children and young persons.

Article 7 Paragraph 8

To provide that persons of under 18 years of age shall not be employed in night work with the exception of certain occupations provided for by national laws or regulations;

Question A

Hours of night work

Question b

List all sorts of night work

Question c

Maximum night work duration for persons under 18 years of age

Question D

Indicate the hours of night work in any kind of situation

Question e

Which are the measures applied for all the categories of employed persons under 18 years of age?

Answer

Albanian legislation and positively article 101 of Labor Code excludes night working for employed persons under 18 years of age.

Article 7

Paragraph 9

To provide that persons under 18 years of age employed in occupations prescribed by national laws or regulations shall be subject to regular medical control;

Question

- a. Indicate the occupations regarding which regular medical control is compulsory for persons under 18 years of age.
- b. Provide the frequency of medical examinations
- c. Provide measures taken in respect of implementation of laws.

Answer

Article 103 of Labor Code foresees that persons under 18 years of age shall be employed only if certified that they are able to work after medical examinations.

There is no any by-law yet to provide for special rules on medical control practices for persons under 18 years of age.

Actually, even for such a category of employed persons, medical control is done according to Ministers' Council decision No.594, date 22.12.1997 "On the register kept by employers in

respect of the persons employed by him", which provides a preliminary regular medical control every 6 months.

Persons under 18 year's old are provided with the same service like adult migrant workers.

Article 7 Paragraph 10

To ensure special protection against physical and moral dangers to which children and young persons are exposed, and particularly against those resulting directly or indirectly from their work.

Question

- a. Describe occupations that are considered both directly and indirectly dangerous for the health and moral of the young persons.
- b. Describe measures taken for the protection of the young persons who are truly exposed to physical and moral dangers from their work..
Particularly, describe measures taken (lay off, change of work place or occupational training) in the case that a physical disorder is identified among young persons in the course of work process.
- c. Provide measures taken.
- d. Project of children's labor

Answer

Transition to the market economy brought to light new phenomena, and children's work is among the features of this time. The general situation left the children unprotected, particularly in relation with employers. They became objects of manipulation and exploitation, while control and legal have still deficiencies.

The tendencies seem to be towards the worst forms of children's work; children working in the streets, agriculture and trafficked children.

Children's work is a complex phenomenon and an appropriate addressing to it would need efforts and multi-sectorial intervention.

After a prompt survey carried out in three largest cities, Tirana, Shkodra and Vlora (2001-2002) during which 298 working children were interviewed, the conclusion drawn was that factors leading to children's work are:

1. Economic and social factors
 - 1.1. Poverty; ¼ of the Albanian families are living under the official poverty line; about 70% of the working children families are living in difficult living conditions.
 - 1.2. Unemployment as contributor to poverty.
 - 1.3. Migration; around 47% of the children who are working come from families that have moved from rural areas and settled in urban areas.
 - 1.4. Labor market; the profile of employers includes such activities as: trade, services, transport and manufacture (factories or workshops manufacturing shoes, clothes, wood processing, construction).
2. Educational factors

- 2.1 Drop-out of school; this is more obvious in rural areas, especially among girls.
- 2.2 Insufficient special organizations for children.
- 2.3 Awareness and collaboration with social partners.

Some characteristics of children’s employment

No.	Characteristics of employment	Approximate data
1.	Gender of working children	80% are boys
2.	Working children of 15 –17 years of age	20 - 30%
3.	Working children of 8 – 10 years of age	1.3 – 1.5%
4.	Children employed in legal activities	40 – 50%
5.	Children engaged in unlicensed activities	20 – 25%
6.	Work contracts are generally verbal	80 – 90%
7.	Working hours of children, 5 – 10 hours/day (average)	7 hours/day; 6 days/week

If the identifying, monitoring, drawing from work, referring and rehabilitating process of this category of children is not made a focal point and addressed, then the bad and severe kinds of work done by the children will continue to be present.

Legal framework regarding suspension of exploitation of children and young persons

Albania has adopted the legislation protecting children and hinders and sets limits to employment of children according to the ILO standards.

In the Albanian Constitution, which is on the base of the whole Albanian legislation, in the chapter on economic, social and cultural freedom and rights, are included general provisions concerning the right to work, the right of employed persons to organization as well as the right to striking (articles 49, 50, 51, 52).

Article 54 provides:

“The right of children and young persons to special protection by the State. Here is included also the right of children to protection against violation, maltreatment, exploitation and usage for work, particularly concerning the children under the minimum working age determined, which might damage the health and moral or be a danger to the normal life and development of children”.

In Article 59, in social objectives, are provided the goals of the Government with regard to employment, education and training of children, care for children and disabled persons.

In addition, Albanian Government has ratified the ILO Conventions No.138 “Minimum age”, No.182 “Worse forms of children’s labor. After ratification of the Conventions, steps have been made towards conforming the national legislation with the standards provided by the Conventions. Such efforts are reflected as well in the recent amendments made to the Labor Code (29.07.2003).

Labor Code recently adjusted reconfirms that the working age for children starts at 16. It also provides for a special protection of working children, emphasizing the fact that children under

the age of 16 - 18 years shall not be employed in places that could damage their health, safety and moral. Other laws and by-laws regulate particular aspects of the problems relating children's labor. In the Labor Code, under chapter X which provides for special protection of children, based on Convention no.138 "On minimum age" and Convention no.182 "On the worse forms of children's labor of the ILO is foreseen:

- In the Ministry of Labor and Social Affairs Children's Labor Unit was set up, which represents the national unit to organize and coordinate issues connected with children's labor based on Advisory Team dealing with issues of legislation, education and health service. The unit operates well as a Secretariat to the National Steering Committee;

Strengthening national capacities

- Increasing the capacity of the Ministry of Labor and Social Affairs concerning issues of the combat against children's labor in Albania. In this point, it is to be appreciated the establishment of an institutional frame on implementation of the national program "On elimination of children's labor";
- Drafting of national policies is under way, including also short-term, mid-term and long-term strategies; their implementation is quite important and necessary for the fight against children's labor through commitment of the National Steering Committee to the elimination of children's labor on inter-institutional basis. By being a policy-making forum, the Steering Committee will contribute to integrating children's labor issue into national macro-economic social policies. National Report and Strategic Plan on national policies relating children's labor issue in Albania, which is under way, will precisely serve to promote this process.
- Increasing the capacity of labor inspectors and of other actors involved in the problem of children's labor such as representatives from educational institutions, public order institutions as well as of NGO-s operating in this area on central and local level to effectively address and monitor children's labor problem from a multi-sectorial point of view;
- Children's labor and its inspection have already become significant integral parts of the programs of State Labor Inspectorate; inspectors themselves have been getting more and more conscious of their new responsibility and viewing their role on a broader viewpoint, also as advisors to children and their employers. The training they have undergone in this area has been quite efficient and effective.
- In close collaboration with State Labor Inspectorate, controlling practices have been undertaken countrywide in order to evidence the state of employment among children and take real measures even penal charges and penalties for employers that do not observe the law on this very issue.
- Another important measure is to make additional efforts to raise overall awareness via awareness activities and materials published on that purpose.

In the Ministry of Labor and Social Affairs some projects are in the process of implementation in the frame of the National Program "On elimination of children's labor in Albania". This program will contribute to the elimination of children's labor in Albania by initially preventing the phenomenon, protecting the working children, withdrawing and rehabilitating them, ensuring counseling service, occupational training, coordination among institutions, other structures and civil society addressing this issue as well as increasing overall awareness and commitment of all the actors in the area.

I. Project: “Increasing capacities of the Ministry of Labor and Social Affairs in the combat against children’s labor in Albania”

Objectives are the following:

- Establishment of an institutional frame for the implementation of the national program on “Elimination of children’s labor in Albania”;
- Increasing of capacities and training of labor inspectors so that children’s labor issue is effectively addressed and monitored;
- Raising overall awareness in respect of children’s labor phenomenon, which helps to progressively prevent and monitor it;
- Revising of legal framework on children’s labor to make it compatible to international standards related.

The project has concluded and its impact is quite positive and obvious. The necessary capacities to continue with the program and intensify the fight against children’s labor, especially against its worse forms, have been established.

II. Project: “Increasing of capacities of labor inspectors to combat worse forms of children’s labor”

The implementation of such project will result in the completion of the training for labor inspectors and representatives of the institutions dealing with children’s labor problem. They will be provided further knowledge and necessary capacities to identify, monitor and address children’s labor issues. The project will also meet the need to cover with trained inspectors all the districts of the country under the assistance of a foreign expert.

By prioritizing the increase of labor inspectors’ capacities aiming to secure a regular and all round reaction against the worse forms of children’s labor both in formal and informal sectors and to respond to the regional conditions, this Project is addressed to such needs and will contribute in promoting overall awareness.

Children’s Labor Unit is engaged in monitoring and evaluating the impact of training on labor inspectors and other participants, how they are making use of gained skills in their inspections and evaluation work.

III. Project "Reviewing national legislation on children's labor to make it compatible with international standards"

The study as well as recommendations will contribute to improvement of legal institutional framework on children's labor. They will ameliorate their legal protection and secure a thorough analysis of current situation.

Such a study is the first step towards harmonization of national legislation on children's labor with respective international regulations.

IV. Project "National Report and Strategic Plan on National Policies relating the issue of children's labor in Albania"

This project aims to establish a national document concerning the national policies on children's labor and current situation as well as recommendations and an action plan to facilitate the implementation process of these policies through involvement of a wider group of active actors and institutions to address children's labor issues on central and local levels.

With the realization of this project, necessary information will be collected and a National Report and strategy on the fight against children's labor and its worse forms will be developed.

Implementation of these projects has positively affected the integration of children's labor issues into national policies, the analysis on Albanian legislation on children's labor as well as on training of labor inspectors and other partners involved in this process on central and local levels.

From some surveys carried out in the frame of training labor inspectors and other partners in terms of children's labor, the result is as follows:

Sector: Children working in the streets - about 70 children of the age-group 7 - 17 years were interviewed:

- Only 6% of them were attending school regularly; 53% had never been to school; 33% had only some years of school.
- 51% of them were working in very bad climate conditions; 39% were working in difficult conditions, such as extreme temperatures (rain, snow), polluted environment or extremely noisy.
- 24% were working more than 8 hours a day; 20% were working 6-8 hours a day.
- In 20% of the cases, it was noticed a real presence of heavy weights.
- 29% of them declared the presence of constant violation against them; 30% declared just the presence of violation.
- 28% were receiving social assistance (their families), while 65% were receiving no assistance at all.

Shoe production sector

74 children at the age 14 - 18 were interviewed

- 35% were attending school regularly; 65% had some school years; 5% had never been to school. Related to social protection: about 76% were working in moisture environment.
- In 2% of the cases dangerous substances were present; in 80% of the cases the presence of dangerous products or substances was modified.
- In 10% of the cases, the presence of dangerous machineries and equipment was identified; 90% of the interviewed children hadn't any kind of social protection.
- In 80% of the cases, polluted environment was present.
- 2% were working 30-39 hours/a week; 98% were working 40-50 hours//week.
- 25% of the interviewed had a very tiresome (hard) job; 50% had a tiring job.

Clothes production sector

70 children of 15-18 years of age were interviewed (all were girls)

- About 60% of the interviewed children had attended school for some years; 35% were attending school; 5% had never been to school.
- Children declared to have a hard job.
- In 51% of the cases, the working environment was inadequate (difficult); in 78% of the cases the working environment was polluted.
- 2% were working 30-39 hours/week; 98% were working 40-50 hours/week.
- In 78% of the cases, there was moisture environment; in 13% of the cases moisture was quite considerable.
- In 70% of the cases, cleanness and safety in the working environment was not in conformity with the required standards.

Services sector

70 children of the 7-17 years of age were interviewed (all were boys)

- 80% of the interviewed children were attending school regularly; 6% were attending school irregularly; 7% had never been to school; 7% had some years of school.
- 61% were working in the streets, in a very polluted and noisy environment.
- 7.2% of them were working less than 30 hours/week; 21% were working 30-39 hours/week; 7% were working more than 50 hours/week.
- 88% of the interviewed children declared the presence of violation; 91% of the children confirmed fear because of theft and robbery.
- In 23% of the cases, children lifted heavy objects.
- In 93% of the cases, children had to work in a standing position or had to walk, and this was so tiring for them.

All the interviewed children

- mainly belonged to families that had arrived from rural areas;
- their families' bad economic situation, parents' unemployment forced them to work.
- their working environment was not safe and they were exposed to danger.

MIGRATION

Article 19

The right of the migrant workers and their families to protection and assistance

“With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake”:

- 1- To maintain or to satisfy themselves that there are maintained adequate and free services to assist such workers, particularly in obtaining accurate information, and

- to take all the appropriate steps, so far as national laws and regulation permit, against misleading propaganda relating to emigration and immigration;
- 2- To adopt appropriate measures within their own jurisdiction to facilitate the departure, journey and reception of such workers and their families, and to provide within their own jurisdiction, appropriate services for help, medical attention and good hygienic conditions during their journey;
 - 3- To promote cooperation, as appropriate, between social services public and private, in emigration and immigration countries;
 - 4- To secure for such workers lawfully within their territories, in so far as such matters are regulated by law or regulations or are subject to the control of administrative authorities, treatment not less favourable than that of their own nationals in respect of the following matters:
 - a) Remuneration and other employment and working conditions;
 - b) Membership of trade unions and enjoyment of the benefits of the collective bargaining;
 - c) Accommodation
 - 5- To secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals with regard to employment taxes, dues or contributions payable in respect of employed persons;
 - 6- To facilitate as far as possible the reunion of the family of a foreign worker permitted to establish himself in the territory;
 - 7- To secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals in respect of legal proceedings relating to matters referred to in this article;
 - 8- To secure that such workers lawfully residing within their territories are not expelled unless they endanger national security or offend against public interest or morality;
 - 9- To permit within legal limits, the transfer of such part of earnings and savings of such workers as they may desire;
 - 10- To extend the protection and assistance provided for in this article to self-employed migrants in so far as such measures apply;
 - 11- To promote and facilitate, the teaching of national language of the receiving state or, if there are several, one of these languages, to the migrant workers and members of their families;
 - 12- To promote and facilitate, the teaching of migrant worker's mother tongue to the children of the migrant worker:

Further, it is provided the legislation in this field:

National Legislation and the International Convention:

Constitution of the Republic of Albania
International Treaties and Conventions

Primary legislation

- Law on the emigration of the Albanian citizens for employment purposes, Nr. 9034, dated 20/03/2003
- Law on foreigners Nr. 8492, dated 27/05/1999
- Labour Code
- Law on pensioners
- Law on Social Services

Secondary legislation

- DCM on the “Work Permission for the foreign citizens”, dated 20/05/2000
- Instruction nr. 786, dated 9/04/2001
- Instruction of the Minister of Public Order regard to the entrance and acceptance of the foreign citizens in the Republic of Albania.

“With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake”:

To maintain or to satisfy themselves that there are maintained adequate and free services to assist such workers, particularly in obtaining accurate information, and to take all the appropriate steps, so far as national laws and regulation permit, against misleading propaganda relating to emigration and immigration;

Question A

Please indicate how the free services to assist the migrant workers are organised and operated?

Free services to the migrant workers are offered in the framework of other services offered by the competent administrative units. Legal assistance is a good example to illustrate this case. The Sector of Migration and Labour Relations has been established near the National Employment Service in the both levels, central and regional. The staff of these sectors can provide the migrants with services free of charge, regard to the legislation of the receiving countries, consultation on the labour contract, provides knowledge on the tradition and culture of the employment country, on the institutions, where they can ask for help, training centres, etc.

Question B

Please indicate whether national laws and regulations provide for actions to combat misleading propaganda relating to emigration and immigrating, and mention any measure that has been judged suitable to take.

The term “misleading propaganda” although means some actions carried out, yet it is not defined even in the ILO Convention Nr. 97. Albanian legislation and the actual provisions have not foreseen any particular or special measure to combat misleading propaganda regard to the emigration and immigrating process.

According to the Law on the Emigration of the Albanian citizens for employment purposes, Nr. 9034, dated 20/03/2003, article 9 on the Forged/false information says:

- Albanian State prohibits any forged/false information spread by any individual person or legal entity, any unlawful information made for profitable purposes in the field of emigration.
- Exercise of such activities is punished according to the provisions of the Penal Code.

Question C

Please indicate whether information is available for the migrant workers in their own language.

Directorate of Migration in the Ministry of Labour and Social Affairs has prepared and regularly prepares information addressed to the migrant candidates, who already do have a confirmation to migrate. The information is provided by the Sector of Migration and Labour Relations of NES, through the local and regional employment offices. It contains the legal framework regard to the migration issues; possible ways of the legal migration, the risks of the illegal migration, the consequences of the illegal migration, consultancy regard to the contracts, rights before and after migration in the receiving country, etc.

The information is not available for the migrant workers in their own language. This is because of the limited resources of Albania to provide all the materials in different languages. But all the necessary information is prepared and it is available in the English language. This can be found in the Internet side of the Ministry of Labour and Social Affairs and other line Ministries. This is available in all the Albanian embassies abroad.

ARTICLE 19

Paragraph 2

“With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake”:

To adopt appropriate measures within their own jurisdiction to facilitate the departure, journey and reception of such workers and their families, and to provide within their own jurisdiction, appropriate services for help, medical attention and good hygienic conditions during their journey;

Question A

Please give details of measures to facilitate, the departure, travel and reception of the migrant workers and of administrative formalities on departure and arrival.

We try to provide the potential emigrants with the most appropriate information, in order he can get a good decision in respect to his emigration. So we provide them with a fair information on the life and employment conditions in the receiving country.

The migration Department has prepared the necessary documentation in the form of a guide for the different fields of interest for the migrants. This guide contains information with respect to the migrant rights to the inclusion in the social protection system, work conditions, social insurance, membership in trade unions, etc. also we have made the necessary attempts to organise short term courses before departure on the work contract, recognition of the reality of the area where he is going to settle, tradition of the receiving country, work and the living conditions, housing etc.

The Minister of Labour and Social Affairs has adopted an Instruction for a central register at the Ministry of Labour and Social Affairs and registers at the regional and local level. Emigrants can register at the Regional or Local Employment Office at three different stages of their journey: when they wish to migrate for employment purposes, when they have finalized the procedures for departure, and when they return. That registry does not yet function in practice due to the fact that the instruction has been adopted very recently (on 16 July 2004), but it represents a first step to gather relevant information.

Regarding the foreign migrants in Albania, The migration department has prepared the necessary documentation in the form of a brochure and it will soon be available in the internet site. This framework legislation is in the English language and it refers to the law on the Foreigners, sub-legal acts, the procedures of issuing the work permission to the workers and the self-employed. Of course this is only the beginning, because it needs to be updated with further information concerning the rights of the migrant workers and other issues of interest, like the living and working conditions, training institutions, social protection, education, housing, transfer of the savings and remittances in their country of origin, etc.

The foreigners, aiming to get employed in the Republic of Albania as self-employed, should be issued a temporarily stay permission according to the respective articles of the law on the foreigners. It is the Ministry of Labour and social affairs and the National Employment Service that should issue such permission. Their validity is one year and the request to get one is presented to the Albanian diplomatic and consular services, Ministry of Labour and the regional and local employment offices. These permissions may be renewed upon request. The holder is permitted to travel abroad during the period of validity and return back to Albania. Regarding the removal, the foreigners may move freely, provided that they formerly declare this action to the respective competent Albanian authorities, thus deregistering their temporary permission.

Question B

Please indicate how the medical health and services referred to in this paragraph are organized and function.

Answer

People who travel and those migrating in compliance with the relevant legislation, follow proper procedures introduced by relevant migrating offices and are required to present relevant documentation, including the one concerning health conditions.

With regards to labor immigrants in Albania, as well as travelers, in compliance with the Law No. 7761, dated 19.10.1993 "Prevention and fight against catching disease", article 11 and other by laws are implemented by structures of Public Health (Sanitary State Inspectorate). It organizes the sanitary – ant epidemic services along road, sea and air border check – points. This meets the international regulations like International Sanitary Regulation. Thus, if travelers or emigrants come from risky disease countries of the Convention, they enter the quarantine first, are checked and then allowed to enter our country.

ARTICLE 19

Paragraph 3

“With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake”:

To promote cooperation, as appropriate, between social services public and private, in emigration and immigration countries;

Question

Please describe the measures taken to ensure collaboration between the services mentioned of immigration and emigration countries, distinguishing between the social services of the countries of origin or destination of the migrant workers which are Contracting Parties.

Answer:

Republic of Albania cooperates with the International Social Service and the National Albanian Social Service cooperates with its counterparts in different countries. Also the international cooperation is realised through the diplomatic and consular channels of the Republic of Albania and the Ministry of Foreign Affairs.

ARTICLE 19

Paragraph 4

“With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake”:

To secure for such workers lawfully within their territories, in so far as such matters are regulated by law or regulations or are subject to the control of administrative authorities, treatment not less favourable than that of their own nationals in respect of the following matters:

- a) Remuneration and other employment and working conditions;
- b) Membership of trade unions and enjoyment of the benefits of the collective bargaining;
- c) Accommodation (housing)

Question A

Please indicate how the laws regulations and administrative measures enacted in your country ensure in practice that migrant workers receive no less favourable treatment than your own nationals with regard to the advantages mentioned in this paragraph?

Answer:

The Albanian labour and employment legislation includes special provisions that enable the creation of the labour relations (work permission for the foreigners), while the foreigners employed in the territory of the Republic of Albania enjoy equal rights and equal treatment regard to the rights and responsibilities arising from the labour relations.

Employment for the foreigners starts with the signature of a work contract, which is in conformity with the Albanian labour legislation in power.

As such the employers should provide the workers with the necessary working conditions foreseen by the law. Also the working time, breaks, week ends, night work, minimum wage, paid leave, health and occupational safety conditions should be elements that are included in the contract and should serve to provide equal treatment of the foreign workers.

Question B

Please indicate in particular how discrimination is avoided between foreigners and nationals in access to housing?

Answer:

The foreigners enjoy equal treatment as the Albanian national with regard to housing. The housing market provides equal opportunities to them.

Within the legal framework for housing there is not found any specific reference that might create the premises for a differentiated treatment between foreigners and nationals regarding access to housing. Based also on the continuous communication with local governments on the housing issues of their communities, it has never been raised a similar problem.

ARTICLE 19

Paragraph 5

“With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake”:

To secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals with regard to employment taxes, dues or contributions payable in respect of employed persons;

Question

Please describe how the requirements of this paragraph are observed in your country?

The Albanian labour and employment legislation includes special provisions that enable the creation of the labour relations (work permission for the foreigners), while the foreigners employed in the territory of the Republic of Albania enjoy equal rights and equal treatment regard to the rights and responsibilities arising from the labour relations.

Employment for the foreigners starts with the signature of a work contract, which is in conformity with the Albanian labour legislation in power.

As such the employers should provide the workers with the necessary working conditions foreseen by the law. Also the working time, breaks, week ends, night work, minimum wage, paid leave, health and occupational safety conditions should be elements that are included in the contract and should serve to provide equal treatment of the foreign workers.

ARTICLE 19

Paragraph 6

“With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake”:

To facilitate as far as possible the reunion of the family of a foreign worker permitted to establish himself in the territory;

The Appendix of the revised social charter stipulates that for the purpose of applying this provision, the term “family of a foreign worker” is understood to mean at least the workers spouse and unmarried children, as long as the latter are considered to be minors by the receiving state and are dependent on the migrant worker.

ARTICLE 19

Paragraph 7

“With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake”:

To secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals in respect of legal proceedings relating to matters referred to in this article;

Question

Please indicate whether the forms of legal assistance available to indigent nationals (exemption from costs or their payment or part payment from public funds) are also available to the migrant workers and their families?

Answer:

Legal assistance is provided without discrimination to all the persons that are considered to be migrant workers and their families. But the legal consultancy is necessary in such a case. This consultancy is available regard to:

Compiling, verifying and confirming of the documentation on the legal relations facts and declarations;

Legal counselling and representation in and out of the court;

Legal counselling and representation in the level I and II of the court procedures;

Legal counselling and representation regard to the extraordinary court indemnity.

Legal counselling in the international courts

Exclusion of paying the court fees.

As concerns legislation on the treatment of foreigners and juridical assistance to be provided for them free of charge, the situation is that there are no special laws and by-laws on emigrant workers, but with respect to the Albanian legislation, they are subject to equal treatment as Albanian citizens are. This means that they have the right to get any treatment foreseen for Albanian citizens, who do not have sufficient income to cover the costs of court practices. Their rights are provided under article 16 of the Constitution of Albania Republic, which is cited below:

“The fundamental rights and freedom as well as the obligations provided for the Albanian citizens under the Constitution are worth the same for the foreigners and stateless persons in the

territory of Albania Republic, excluding the cases when the Constitution binds the exercising of certain rights and freedom specially with the Albanian citizenship.”

ARTICLE 19

Paragraph 8

“With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake”:

To secure that such workers lawfully residing within their territories are not expelled unless they endanger national security or offend against public interest or morality;

ARTICLE 19

Paragraph 9

“With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake”:

To permit within legal limits, the transfer of such part of earnings and savings of such workers as they may desire;

Question

Please the limits within which the migrant workers may transfer their earnings and savings?

Any transfer is made in accordance with the rules of the bank system.

Capital in and outlet is referred to by the Regulation of the Bank of Albania under “ Foreign currency activity”.

Capital inlet in Albania is absolutely free.

"6.1. There is no limitation for capital transfer from outside within the territory of the Republic of Albania from those resident or not. "

There is no longer any limitation for capital transfer outside the country but this is accomplished through bank transactions presenting a justifying documentation.

In the case presented by this paragraph we got the individual in center. The regulation provides that:

" 6.3. Licensed subjects accomplish capital transfer from within the country outside the Republic of Albania, to the accounts of their clients once they fill the documentation defined as follows, as well as complimentary documentation that subjects may consider as necessary:

6.3.1. Physical and juridical persons.....

6. 3.2. Individuals

- a) A Demand explaining reasons to move the capital, total sum to be transferred outside Albania and address.
- b) A Declaration on capital source to be transferred.

ARTICLE 19

Paragraph 10

“With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake”:

To extend the protection and assistance provided for in this article to self-employed migrants in so far as much measures apply;

Question

Please indicate the extend to which the relevant provisions of paragraphs 1-9 of article 19 apply to the self employed migrant workers?

Please specify in particular whether the protective measures and the assistance provided for by these provisions, are applied on the same conditions as for employees and whether they guaranty equal treatment with nationals exercising the same occupation?

The foreigners who, legally reside and work in the territory of the Republic of Albania, despite their status in the labour market, either as employers or self-employed, have and enjoy the same rights and duties respectively as nationals exercising the same occupation.

ARTICLE 19

Paragraph 11

“With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake”:

To promote and facilitate, the teaching of national language of the receiving state or, if there are several, one of these languages, to the migrant workers and members of their families;

Question

Please indicate the measures taken to promote and facilitate the teaching of the national language or languages of the receiving state to the migrant worker and his/her family, in particular?

- a) the number and nature of the principal institutions especially in terms of capacity, staffing, funding and accessibility.
- b) The number of persons undergoing such teaching

Article 19 paragraph 11

For children of families migrating to Albania, learning the Albanian language as the language of the host country, does not present a problem actually, because there are no resident emigrants in Albania, despite a number of Kosovars remaining from the Kosova Drama of 1999. To them, Albanian language is mother tongue and constitutes at the same time the host country language.

With regards to accompanying questions of article 39, paragraph 11, these children are welcomed to attend every Albanian education institution, and all emigrant children can follow their studies with no exemption.

With regards to the issue of Albanian children learning their mother tongue abroad, the Ministry of Education and Science has compiled with the Ministry of Foreign Affairs the platform named: “ Complimentary Albanian language program for Albanian children abroad” This platform mainly consists in measures to be taken by the Ministry of Education and Science to prepare texts of the Albanian language for Albanian children who have migrated with their families or were born abroad.

This process was institutionalized in the frame of Action Plan for National Migration Strategy. The Ministry of Education and Science and other Albanian Institutions are included in the matrix and have their responsibilities defined in this document.

ARTICLE 19

Paragraph 12

“With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake”:

To promote and facilitate, the teaching of migrant worker’s mother tongue to the children of the migrant worker:

Question

Please indicate the measures taken to promote and facilitate the teaching of the migrant workers' mother tongue to their children, in particular?

- a) the number and nature of the principal institutions especially in terms of capacity, staffing, funding and accessibility.
- b) The number of persons undergoing such teaching

For children of families migrating to Albania, learning the Albanian language as the language of the host country, does not present a problem actually, because there are no resident emigrants in Albania, despite a number of Kosovars remaining from the Kosova Drama of 1999. To them, Albanian language is mother tongue and constitutes at the same time the host country language.

With regards to accompanying questions of article 39, paragraph 11, these children are welcomed to attend every Albanian education institution, and all emigrant children can follow their studies with no exemption.

Education of minority children

An approximate and complimentary vision to this issue might be considered the training of minority children.

The government of the Republic of Albania has shown special and continued attention to the issue of national minorities education. The Constitution of the Republic of Albania, the Law on "Fundamental Human Freedoms and Rights", La No. No.7952, dated 21.06.65 "Pre university education", amended by Law No.Nr.8387, dated 30.07.1998 "Additions and amendments to Law No. Nr.7952, dated 21.06.65. "Pre university education system" as well as a series of Council of Minister's Decisions and Instructions by Ministry of Education and Science enacted to implement the Albanian legislation, clearly express the Albanian government's support and engagement to meet international standards related to minority rights.

- *Greek and Macedonian minority*

Presently the ratio student – teacher in ethnic Greek minority schools is 6/1, in ethnic Macedonian minority schools this ratio is 12/1, while in national level it is 18,3/1, thus making the cost of education approximately 3 times and 60% higher than the education cost of Albanian students.

In the town of Gjirokastra, the high school for pedagogy includes the branch: teacher of Greek Minority, despite the extremely low number of students following it. Following the Order of Minister of Education No.12 Prot, dated 13.08.1996, towns of Saranda, Delvina and Gjirokastra, with Albanian language as the mother tongue, there are also classes for Greek minority children to learn lessons in their mother tongue. During the last years, the Ministry of Education and Science introduced at the examinations for Diploma of the 8 year school education, the Greek Language and Literature. Recent education plans and programs create space for minority children to study their history, culture and tradition.

In 1993, “Greek Language” branch was introduced at the “Eqerem Çabej“ University in Gjirokastra. This was followed by a new branch named “Greek Language” at Foreign Languages Faculty at Tirana University.

- *Education of cultural minorities (roma)*

The Government through its Ministry of Education and Science expressed special consideration and attention for their education, creating optimal studying and working conditions, introducing special programs to support and involve roma children who abandoned classes, training of teachers working with them, supporting this community, promoting “Bajram Curri“ school in Tirana as a model for education of human rights, as well as “Nike Dardani“ through its center of European Citizenship. The project “ A second chance”, offers free education to adults, who previously abandoned school because of various reasons, ensuring thus the right of education even to these categories not educated in the proper time.

ARTICLE 20.

The right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex.

“With the view to ensuring the effective exercise of the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex, the parties undertake to recognise that right and to take appropriate measures to ensure and promote its application in the following fields:

- a. *Access to employment, protection against dismissal and occupational re-integration;*
- b. *Vocational guidance, training, retraining and rehabilitation;*
- c. *Terms of employment and working conditions, including remuneration;*
- d. *Career development, including promotion”.*

LEGISLATION

I. Constitution of the Republic of Albania.

Article 18

1. All the citizens are equal before the law;
2. None can be discriminated unlawfully on the grounds of gender, race, religion, ethnics, language, political, religious or philosophical views, economic, educational and social situation or the parental relevancy;
3. None can be discriminated unlawfully for the reasons mentioned in paragraph 2, if there is no reasonable or justified incentive.

Article 49

1. Everyone has the right to earn his living by a legitimate work freely chosen or accepted by him or her.
2. The employees have the right of social protection with respect to labour.

II. International Conventions

- ILO Convention Nr. 100. “Equal Remuneration”
- It under process of ratification the ILO Convention Nr. 122 “Employment Policy”

III. Laws.

- Labour Code of the Republic of Albania
- Status of the civil Servants

Question A

Please state how the right contained in this provision have been protected in this legislation. This information should be specified according to the areas listed in paragraph 1 of Article 20.

Answer:

The Labour Code of the Republic of Albania, Article 9 “Prohibition of discrimination” states that discrimination at work on the grounds of sex is prohibited.

Question B

Please indicate whether legislation provides a right for a worker to take legal actions before a court or other competent authority in order to ensure the effective implementation and exercise of his rights under this provision. The information shall cover the four areas specified in the provision.

Answer:

Article 9 of the Labour Code states that any kind of discrimination in the field of employment or profession is prohibited.

With discrimination is meant any differentiation, exclusion or preference based on race, color of skin, sex, age, religion, political beliefs, nationality, social origin, family relation, physical or mental disability, threatening the individual right to be equal in terms of employment and treatment. Differentiation, exclusion or preferences required concerning a particular job are not considered to be discriminating. The special protection measures in favor of the employees,

which are provided for by this Code or the Decision of the Council of Ministers or collective contracts, are not considered to be discriminating.

With employment and occupation are meant vocational orientation and education, giving of work and exercising of different professions as well as employment conditions related to the distribution of labor, job performance, remuneration, social aid, discipline or termination of the employment contract.

Article 115 of the Labour Code on “Equality between sexes in terms of reward” states that, “The employer gives the same salary to both women and men who carry out jobs of equal value”

Labour Code of the Republic of Albania, Chapter X, foresees special protection for the pregnant women, young mothers.

Pregnant women are forbidden to work during the 35 days that precede the expected date of giving birth to the baby and 42 days after giving birth to the baby. The first period becomes 60 days, when the woman is expected to give birth to more than one child.

Pregnant or breast-feeding women may not be employed to carry out difficult or hazardous jobs, which jeopardize the health of mother and child. The Council of Ministers shall define the difficult or hazardous jobs, which jeopardize the health of mother and child as well as special rules for the working conditions concerning pregnant or breast-feeding women.

The law on the Status of the Civil Servants defines equality in career between women and men.

Question C

Please indicate if the provisional within the collective agreements and the employment contracts that contravene the principles of nondiscrimination, may be declared null and void and according to which procedure.

Answer:

In the chapter IV “Priority of standards of the rights” has been defined the hierarchy of legal standards as further below:

- Constitution
- International ratified Convents
- Labour Code and its sub-legal acts
- Collective Labour Contracts
- Personal Labour Contracts
- Internal regulation
- Local professional Customs

According to this article every provisional that runs over another provisional of a higher level is considered not valid, however only the provisional that improves the worker’s position are considered valid. The worker cannot give up from its own rights which rise from the imperative provisional of this Code or labour collective contracts.

The agreement concluded within the presence of a labour inspector or in the form predicted in the labour collective contract, will be considered as valid. The aim of such agreements is, excluding by law a dispute, by giving mutual tolerance accepted with a free will by both sides.

The structures of the Ministry of Labour and Social Affairs in the phase of application of the labour collective contracts, before registering and administrating such a labour collective contract, appraises the provisional of labour collective contract according to the provisional of Labour Code and other legal and sub-legal acts.

In the case that the provisional of labour collective contracts has been observed that stands in opposition with the legal provisional, the structures of this Ministry recommends for both sides, reviewing these provisional and after a reflection from both sides, than the registration and administration of the collective contract should be done. In addition to that during the inspection performed by the State Labour Inspectorate, in case of an opposition of provisional of labour collective contracts with the legal provisional the State Labour Inspectorate notifies the contractual sides and orders the employer to apply the legal provisional.

Question D

Please describe which safeguards legislation provides against gender discrimination and against retaliatory measures undertaken by the employer. Please state how it provides for the rectification of the situation (reinstatement in cases of dismissal, financial compensation, etc.) Please indicate also whether there are other sanctions against an employer who is guilty of such discrimination.

Answer:

In case there is an offence of the provisions of paragraph 9 of the Labour Code, then the employer is charged with a fine of 30 times of the minimum of the monthly wage. Also the article 146 and 147 state that: The termination of the contract by the employer will be considered of no reasonable causes, when it is done for motives of gender.

Question E

Please describe who has the burden of proof in cases of the alleged gender discrimination in your country and whether this issue is regulated in legislation or case law. If the latter is the case, please enclose some decisions based on this case law

Answer:

Article 144 of the Labour Code states that, it's up to the employer to prove that the procedure provided for by this article regard to the termination of the contract and discrimination has been respected. It is the court, which, decides for the compensation of the employee as result of the illegal termination of the contract.

In the cases where the employer terminates the contract, when the woman is working while being pregnant, or back at work after the child delivery, according to Article 30 of this Code, the employer is responsible to certify that the dismissal reason was not either pregnancy or child delivery.

Question F

Please describe the specific measures to prevent discrimination against women in matters of employment and occupations, particularly in cases of pregnancy, confinement and during the post-natal period.

Answer:

This is treated above.

Question G

Please indicate whether there are occupations, (if so which ones) that are reserved exclusively for one or other sex, specifying whether this is due to the nature of the activity or the conditions in which it is carried out.

Answer:

Pregnant women or those with breast feeding babies can not be employed in difficult or hazardous jobs that damage the life of mother or breast feeding baby. This issue is defined by Decision of the Council of Ministers.

Question H

Please indicate whether measures of positive actions in favour of one gender aimed at removing de facto inequalities are allowed under the legislation and if so, whether such measures were taken during the reference period.

Answer:

As cited above, the Labour Code provides special protection for women and children.