COUNCIL OF EUROPE CONSEIL DE L'EUROPE

EUROPEAN SOCIAL CHARTER (REVISED)

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

submitted by

THE GOVERNMENT OF ALBANIA

(Articles 1, 2, 3, 4, 21, 22, 24, 26, 28 and 29)

2006

ALBANIA

II REPORT OF THE EUROPEAN SOCIAL CHARTER (REVISED)

Article 1 Paragraph 4

Answer

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

To provide or promote appropriate vocational guidance, training and rehabilitation.

Law no.8872, dated 29.03.2002 "On Education and Vocational Training in the Republic of Albania", Article 15 and in the Directive no. 2222, dated 31.10.2002 "On Counselling and Guidance in Vocational Training", on its application, foresees: "Counselling and Guidance in vocational training is offered to the citizens in order to provide them with support, comprehensive guidance on vocational training and career, overall individual counselling, mediation with centres of vocational training and promotion of the necessary vocational training in special cases". National Employment Service, by means of employment services, provides counselling and vocational guidance for all the persons in need.

In order to achieve this mission, the Offices of Employment and Public Centres of Vocational Training cooperate with workers' organizations and employers' organizations, universities and professional secondary schools, INSTAT etc..

Vocational Training Program

The present system of Vocational Training operates via 9 public centres and a broad network of private centres and NGO-s. There are short term courses, which last from 6 weeks to 4 months. The number of persons trained for the year 2003 is approximately 8097 trainees and for the year 2004 the number is approximately 8500. These centres have been aiming at increasing the number of people trained in vocational courses (not in additional courses like foreign languages, computer), thus offering them more employment opportunities. This figure is increasing every year. The enrolments in the public centres are provided through coordination between the Offices of Employment and the Vocational Training Centres themselves. Special courses like tailoring, styling and cosmetics, building construction etc, have enabled nearly 100% self employment for the people trained. Yet, the rate of employment for people trained in other courses is lower. Donors' investments through CARDS Project 2002 "On the support to vocational education and training reform" include a value of 1.5 million Euros. Meanwhile, the projects sponsored by the Swiss Government (Swiss contact) and German Government (PARSH) have contributed in strengthening the vocational education and training (VET), the creation and strengthening of the institutional capacities, technical assistance, means and equipments, as well as in giving solutions to problems concerning VET, like development of curricula, training of trainers etc.

The state budget offered a fund consisting of 64.7 thousand lek for the year 2003 to be used for vocational training purposes and for the year 2004 the figure was 79 thousand lek.

Courses of vocational training in public centres are mostly attended by employed people, mainly women and youngsters reaching the age of 24 and who have already accomplished secondary education. Only 30.39 % of the people who have attended the courses in public Centres of Vocational Training were registered as unemployed. This figure varies according to the kind of course and districts. Most unemployed people attend courses that offer a useful skill. Hence, the attendance of jobless people was as follows: 100% in plumbing, 70% in welding, and 66% in tailoring. If we analyse the attendance in the public vocational courses according to gender, it is witnessed that the number of women is considerable, reaching up to 58,8 %. There is a high attendance of women not only noticed in vocations which are considered traditionally female, like: tailoring, secretary, styling and cosmetics, but also in foreign language courses. If we analyze the age factor, the prevalent attending group is up to 24 years of age. This age group comprises 60% of the general number of attendants in all kinds of courses. As expected, nearly 61% of the attendants in vocational training courses have already completed the secondary level of general or professional education. Whereas, people attending vocational courses such as, auto repair services, welding, shoemaking, have only completed primary education. Meanwhile, there is a nsiderable number of attendants with higher education not only in computer and language courses, but also in secretary and tailoring.

Some NGO-s offer vocational training for social groups in difficulty, like: street children, girls from poor areas of the country, etc. Hence, nearly 800 street children and girls from poor areas have attended vocational training courses like hairdressing, cooking, tailoring, foreign languages and computer.

Deterioration in vocational education and training (VET) has been particularly dramatic in Albania. On the other hand, as handled before, there are poor conditions in labour market. Those who have completed higher education, face difficulty in finding a job in formal market. Moreover, the democratic system of the social dialogue is new, in its very first steps of development. Social partners have started to contribute to the development of VET, more concretely they are offering assistance in the National Council of Vocational Education and Training.

The state of Vocational Training in Albania is not satisfactory. After transition, many schools for vocational and educational training lost their prestige and were gradually closed down. There have remained only 38 professional schools, out of which 25 are 3-year professional schools and 13 others are 5 year technical schools. The participation rate in secondary education has fallen by 18%. Professional secondary education starts at the age of 15, following compulsory eight year primary education. In most cases, the curricula are outdated, they were compiled in central levels, and do not meet the evaluation requirements of the labour market. There does not exist a national program on qualification. Futhermore, there is a serious lack of proper training for school teachers and lack of modern teaching methods. The Ministry of Education and Science in cooperation with the Ministry of Labour and Social Affairs are working on the

application of the recent approved laws on the reform of educational and vocational training system.

Ministry of Labour licenses new private centres (the present number is 150 and is still increasing as a result of the quality of their service), whereas there are other centres founded by NGO. The Vocational and Training system in Albania is characterised by the presence of a great number of new projects directed by different donors. In the year 2001, the new EU CARDS program provided a fund of 37,5 Euro.

CARDS 2002 project, which started its application in March 2004, as well as other donors mentioned above, help to provide support for the reform in the field of vocational training. They address issues like the need to adopt curricula, the lack of continuous training for trainers, and the lack of national qualification standards.

A survey on the needs of the labour market for vocational training has been developed in regional and national level by the National Employment Service and Regional Employment Offices. Work groups have been established to support development of curricula, training of trainers, directors of public Centres of Vocational Training as well as training of the national Agency staff on Educational and Vocational Training.

Training in Public Vocational Centres

Development of human resources in a level that will meet the requirements of labour market is a necessary step towards the overall development of the country. Acquisition of foreign investments, apart from the guaranteed security, asks for a high professional level of workers. Labour market continuously requires new professions in compliance with new trends of its development. Hence, the vocational training of human resources comprises a necessity and an obligation for the state in the field of new vacancies.

For this reason, more attention is being paid to vocational training by the state as well as by the private sector. The increasing need of the labour market for qualified people and new professions in compliance with new economic developments have made the increase in number and quality of trainings, indispensable. A real indicator is the attention paid by the state to reconstruct and make operational the new public centres of vocational training within this year, in Fier and Elbasan districts.

9 Vocational Training Centres are operating: VTC No.1 and VTC No.2 in Tirana, VTC in Shkodra, VTC in Elbasan, VTC in Korca, VTC in Durres, VTC in Vlora, VTC in Fier and VTC in Tepelena.

In the end of 2005 these 9 Public Centres report 7574 people enrolled, 7004 of whom have received a certificate.

Out of these:
3157 unemployed,
1253 enrolled in the Office of Employment,
4388 women,

3192 (greatest number) have completed secondary education,
4762 young people under 25.
764 employed after completing a vocational training course

From the analysis carried out on vocation basis, it results:
3326 were trained in foreign languages (English, Italian and German),
1735 trained in computer,
552 trained in tailoring,
249 trained in secretary,
313 trained in repairing electrical appliances
194 trained in plumbing
And the rest has been trained in other vocations (welders, electricians, furniture makers, solar panel and duralumin specialists)

It must be emphasized that the number of trained jobseekers in comparison with the general number of trained persons is still in low levels.

This comes as a consequence of some factors, like:
Centres of Vocational Training do not offer all kinds of courses needed in the present labour market. For this reason more attention is being paid to the development of new curricula for the specialities needed in the labour market. For the year 2005, in cooperation with Swiss contact, curricula have been compiled for hotel receptionist, tile layer, bricklayer, plasterer and hotel service and curricula have been reviewed in relation with hair dressing - aesthetics and tailoring. Also, in cooperation with CARDS project, curricula have been compiled for training woodworkers, builders, welders and auto-mechanics.

There is no information concerning trained people who have been self employed (not through the mediation of the Offices of Employment)

The public centres are not spread in all cities, especially not in those with high unemployment rate. To tackle this issue, the national strategy for vocational training has provided for an extension in the network of centres, but because of insufficient funds, this has not been fully implemented.

Training in Private Vocational Centres
Apart from 9 Public Centres for Vocational Training throughout the country, there are also many private centres operating in this field.
The most well known are:

In Tirana District: “Don Bosko” Centre, “Maria Mazzarello” Centre, “Hurry Fultz”, “Shkolla për Jetën” Sauk, and “Ferilasses”, etc;

In Durres District, “UNIVERS D” Association, Qendra Komunitare (Community Center), “GIOAD” Centre, “Mjeshtri Plus” Centre, CELIPS, etc;

In Elbasan District, “Një ëndërr më shumë” (One more dream) Centre, “Qendra Këshillimore e Grave të Dhunuara” (Counselling centre for violated Women), Kryqi i Kuq (Red Cross);
In Fier District, “NAO Profesion”, “Ben Hamude”, “MURIALDO”, “Horizont”, “Ili Centre”, Kryqi i Kuq (Red Cross);
In Korca District, “Darkas”, “Komiteti Bota Islame” (Islamic World Committee);
In Gjirokastra District “Këshilli Rinor” (Youth Council) and “Vakëf” Centre, “Bilal Golemi” Association, Z. Lorenc Lazo, etc;
In Shkodra District, “Daut Boriçi”, “Don Bosko”, “QAFS” and “Inkus”;
In Pogradec District, Foundation EDU-PRO, KILLO, NEHEMIA, ERA shpk (ltd), etc;
In Lushnja District, “New Face”, “Asa”, Swiss Contact”, BLERIMI, etc;
In Lezha District, “Motrat e Gjakut të Krishtit” (Sisters of the Blood of Jesus), etc;
In Vlora District, ALPHA Centre, London School, “The Future”;
In Saranda District, Qendra Rinore (Youth Centre), “Lidia” Foundation, “Santa Marcelina” Centre.

During the year 2005, nearly 6863 people were trained in the licensed private centres. Out of these:
5422 are women,
4727 unemployed,
3495 up to 21 years of age,
2605 21 – 31 years of age
780 over 35 years of age.

Based on the kind of courses attended, the trainees can be classified as follows:
1701 in tailoring;
1851 in computer;
1235 in styling and cosmetics;
854 in foreign languages (English, Italian and German);
336 in plumbing and electricity;
150 in cooking, and pastry cooking and,
the rest trained in other vocation.

Although not in similar proportion with public training, the courses of private centres are distinguished in foreign languages, computer and hairdressing. Courses in tailoring and hairdressing have had good results, and compared to the same period last year, there is an increase in the number of trainees for plumbers and electricians.

During the year 2005, the cooperation among the above mentioned subjects is outstanding, which has made possible the exchange of experience and progress in the quality level of the courses. This fact is indicated by the participation in the well-known fairs in the tradition of the International Centre of Culture “Life-long learning”.

It is noticed that the needs for training are one sided, taking into account only the individual requests of the persons interested, and not of the undertakings which need qualified labour force in the several fields. In this framework, the existing licensed

private and public centres of vocational training should provide more capacities in order to meet the needs. Private Centres have a wider geographical coverage in comparison with the public ones. However, the low capacities that they offer, are insufficient to meet the need for training.

The needs for training are presented in two directions:
The need to gain professional skills (in compliance with the job carried out); the need to gain other skills (additional qualification for the current job position).

All the labour force presents a need for professional skills. Meanwhile, it is the directors of the undertakings who need to gain additional qualifications.

There is a need for courses in the building field, because it is obvious that the specialists are outdated. Only in Tirana 3% of the people are employed in the building sector. There are no short term courses for professions like, bricklayer, carpenter, plasterer, tile layer, iron bender, etc.

There is a need for specialists in manufacturing industry (which covers 5% of employment in Tirana) based on the fact that it is currently under development.
There is a need for courses in tourist operating, especially near the coastal and tourist areas where the necessity for an increase in the service quality is indispensable.

There is a need for contemporary vocational training for solar panel specialists, air conditioning specialists for houses and cars, art designers etc.

Of concern in training field continues to be the people coming from schools. There is a great number of students coming from 9 year schools or secondary education who need a profession in order to facilitate their integration into the labour market. It would be of great help for this category of people, if the state would financially support special programmes, in order for them to gain a vocation and be prepared to enter into the labour market.

The increase of the autonomy of Vocational Training Centres and in particular offering support to them by means of investments and funds, have been treated, for the enhancement of their cooperation with Regional Employment Offices and their possibility to open new courses according to the labour market requests.

The last, but not the least, the great contribution offered and still being offered by the foreign donors in the support of Vocational Training System in our country needs to be mentioned.

At present, one of the priorities of the government is the vocational training and this is also more concretely expressed in the support that our country receives from EU in the framework of CARDS program. The Project “Support to Vocational Education and Training reform” has just ended, in the framework of CARDS 2002 program. In April 2006, the second phase of the reform in the VET system will commence. It is financed by

CARDS 2003 and in cooperation with Ministry of Education and Science, a National Agency for VET is being founded. This will also be supported by a twin project financed by CARDS 2004.

Other important donors who offer help in the system of Vocational Training in order to solve the numerous problems concerning equipments, curricula development, training of trainers, compilation of standards etc, are PARSH financed by the German Government and Swiss contact financed by the Swiss government, etc.

Article 2 Paragraph 1

Answer

Legislation
1. Constitution of the Republic of Albania
Article 49
Employees have the right to social protection of work.

2. Labour Code of the Republic of Albania.

3. Law "On State Labour Inspectorate".

4. Decision of the Council of Ministers No.511, dated 24.10.2002 "On working hours and holidays in Public Institutions".

Question A

Answer
Pursuant to Article 83 of the Labour Code, the reasonable weekly working hours should not exceed 40 hours, as set out by a decision of the Council of Ministers, either on the basis of a collective or individual contract. In the public administration as stipulated in the above-mentioned Decision of Council of Ministers no. 511, a working week is 40 hours and a working day is not more than 8 hours. In all other sectors, on the basis of either a collective or individual contract, the working week should be 40 hours. The working day is determined to be eight hours for five days a week, according to the specifications of the undertaking or sector. In the health service a working day is 6.6 hours, 6 days a week.

According to Article 85 of the Labour Code, the week rest should not shorter than 36 hours, whereas pursuant to Article 78 of this Code the day rest should not be shorter than 11 hours. According to Article 79 of the Labour Code, the time to start and finish the working day is determined by the inner regulation, and the time to start and finish the day rest is determined by the collective or individual work contract, which is to be not shorter than 11 hours.

Question B.

Answer
The collective contract respects all the provisions of the Labour Code concerning the regular working time, which is 40 hours a week and 8 hours a day, in application of article 88 (mentioned in the answer of question A); and as it is set out in Article 91, with the view to make for the additional working hours, the employer compensates the employee with an additional 25% of the normal payment, or with a day rest equal to a day rest plus 25% of the normal working day. This is to protect the employees from the employers' possible abuse by making them work more and rest less in a day. This insures protection of the physical and mental capacities and the recuperation of the employee.

Question C

Answer
The reasonable working week is 40 hours and the reasonable working day is 8 hours both in public and private sector.

Question D

Answer
The law does not provide for reduced working hours as a result of the increase of productivity. The collective contract may well foresee a reduction on working hours on the agreement of the employer and employee dependant on the productivity, but in practice, such a thing has not yet been foreseen by any collective contract.

Question E

Answer
According to Article 97 of the Labour Code
1) The Council of Ministers stipulates special rules in favour of physical and legal persons to the amount their special situation makes it indispensable:

a. for undertakings that provide the supply of bread and other means which are easily damaged;
b. for hotels, restaurants, coffee bars, cultural institutions, as well as undertakings which supply hotels, restaurants, coffee bars and institutions in case of special occasions;
c. for undertakings that fulfil the needs of tourism;
d. for undertakings of agriculture, gardening, forestry and pasturage;
e. for undertakings of auto, rail, sea and air transport, undertakings that supply vehicles with fuel, maintain or repair them;
f. for the press and media;
g. for educational and cultural institutions, clinics, hospitals, medical cabinets and pharmacies;
h. for building yards, mines and quarries which, because of their geographical situation, climate or special technical conditions, ask for a special regulation of working hours;

i. for undertakings which demand a regular or periodical night work, work on Sundays or on official holidays;
for technical reasons, in particular when the working process can not be interrupted in order to safeguard against damage that this interruption can bring about to the employee, the environment or because of the technology used for production;
for economical reasons, especially in cases when the interruption or the restart of the working process demands great investment expenses and depreciation expenses;
j. for persons, whose presence is necessary, as well as for those who frequently travel for job reasons.

2) The special provisions which infringe the right of the employees for annual holiday with pay, as stipulated in this Code, are invalid.

Question F

Answer
These rules are applicable to all employees.

Article 2 Paragraph 2

Question A

Answer
The collective agreement provides only for the paid holidays as set out by law.

Question B

Answer
According to the Labour Code and the collective agreements, the employee, during the official holidays, profits remuneration equal to the wage of the daily work.
According to Article 86 of the Labour Code
As a rule, it is prohibited to work on public holidays.

The employee enjoys the right to get paid on public holidays. When the public holiday falls on the weekend, it is observed on the following Monday.
Exceptional cases of working on public holidays are stipulated by a decision of Council of Ministers or in the collective contracts.

The collective working contract foresees that the employer may ask the worker to work on public holidays in cases when this is necessary and the worker approves. Some collective working contracts foresee remuneration equal to the daily work pay plus an additional 25% of the daily work pay. Some other collective contracts foresee a compensation greater than 25%. In other collective agreements it is determined that the worker will get a daily work payment for working on a holiday, but he will be compensated with a day off during the week.

Question C

Answer
These rules are applicable to all workers.

Article 2 Paragraph 3

Question A

Answer
According to Article 92 of the Labour Code, the length of the annual holiday with pay is stipulated in the collective or individual work contract to be not less than four weeks in a year. When the worker has not completed a full working year, the length of the annual holiday with pay is stipulated in proportion with the length of his working time. The periods of temporary incapacity at work are considered as working time periods.

Question B

Answer
The length of annual holiday is not affected or conditioned by the temporary incapacity at work.
According to article 93 of the Labour Code, in case of illness certified by a medical prescription, the worker can ask to postpone the annual holiday.

Question C

Answer
According to article 11 paragraph 4, as a rule, the worker can not disclaim his right for an annual holiday with pay. Notwithstanding, the worker can disclaim his right for an annual holiday with pay in case of getting a favourable remuneration, provided that this is determined by a written agreement, in the presence of the work inspector.

Question D

Answer
Legislation and the collective agreement apply in practice.

Question E

Answer
All workers are subject to the provision of the Labour Code, as far as the annual holidays with pay are concerned.

Article 2 Paragraph 4

Question A

Answer

The Labour Code as well as the DCM No. 692, dated 13.12.2001 "On the Special Measures concerning safety and hygiene at work" stipulate to eliminate and reduce the dangerous and unhealthy occupations. There is no legal provision concerning the reduction of working hours or additional holidays with pay. Some agreements concerning dangerous and unhealthy occupations, stipulate the compensation of workers with supplementary food or with a certain sum of money.

Question B

Answer

Difficult and dangerous jobs, stipulated in DCM No.207, dated 09.05.2002 are as follows:

a) Jobs in mines, underground, and other underground works performed by:

miner, reinforcer, primer and their assistants;
technical director (technical – engineering staff);
shipment and transport worker;
worker of the airing service and electro mechanical worker;
rescue and inspecting team, in mines, and the staff in the rescue and inspecting department in mines, Tirana.

b) Jobs in the civil aviation performed by:

commander of aviation,
pilot,
navigator,
mechanic,
radio tefegraph operator,
radio telephone operator.

c) Jobs in the factories of upgrading the minerals of cooper, chromium, coal, jobs in foundries and in the plants of upgrading the coastal sand and in the factories of quartzes, including:

jobs in foundries;
jobs in smithery;
jobs in boilers and in vessels under pressure;
welding with electric arch and the job of the operators in welding automatons;
welding with oxyacetylene.

ç) Jobs performed by:

divers;
welders, electrical welders in tankers, derricks and cisterns;
workers that deal with inner cleaning of the tankers;
workers who use aerosol and radioactive solution;
workers who use radioactive rays and work in radioactive environments;
engine drivers and assistant engine drivers.

d) Jobs in the fields of education and culture, such as:

ballet dancer and dancer of a professional dancing group (ensemble);
- acrobat and circus gymnast;
opera soloist;
musician of the wind instrument, orchestras and bands.

dh) Jobs in the field of medicine:
with ionised radiation (cobalt therapy, imagery, classical radiology, scanner, magnetic resonance);
in microbe labs;
in infectious service, in surgery and anaesthesia service, in surgery rooms with gases.

e) Jobs in copper industry.

e) Jobs in the chemical and manufacturing industry, such as:
production of batteries;
leather and fur processing;
paper factories.

f) Jobs in metallurgical industry, fuel oil and in the production of its by-products, like:
ferrous metallurgy;
rolling plants;
pig-iron plants;
the departments of blast furnace;
the production of synthetic, Styrofoam and polyethylene substances, etc.

g) Jobs in the electrical industry:
5 meters above land level;
in operative services, in high voltage substations of 110 kilowatt;
in the service of equipments that release monochromatic rays (laser rays), electro-magnetic rays, with high, very high, low and very low frequency;
in the services with electrical cranes, with pillar cranes;
in operative services in electrical and distribution branches.

h) Jobs in production of bricks and tiles and other ceramic goods, like:
in cement production;
in glass and electric bulb production;
in leather industry;
in the industry of wood, paper, and plane tiles.

i) Jobs in the industry of tobacco fermentation and in the industry of cigar production.

j) Jobs in the construction performed by:
workers in asphalt and in the production of asphalt;
workers in concrete preparation;
workers building industrial chimneys;
workers who hooks up high tension pole;
drillers;
excavator operators;
miners in a stone quarry;
steam rollers;
miners in clay carriers;
worker in polygraphy.

j) Jobs in military undertakings concerning:

disassembling ammunition;
taking the explosive out of the disassembled missiles;
- extracting the powder out of the cartridge shells of the disassembled missiles;
- transport of ammunition, powder and explosives;
- manipulation of vessels under pressure;
- bullet firing grounds and shootings;
production of dry batteries (preparation of electrolyte and agglomerate mixture);
production lines in tunnels;
galvanic processes;
production of fireworks;
production of rubber (preparation of the dough);
welding with tin;
the process of sand cleaning and detail shining;
production of percussion cap;
manufacturing lines and production of powder and explosives;
production and manipulation of fulminates, initials, powder, explosives,

DCM No. 205 dated 02.05.2002 provides a list of difficult and dangerous jobs which involve exposal to physical, biological and chemical agents for minors under 18 years of age, as follows:

1.Jobs in producing, processing and using of detonators, inflammable gases, toxic substances, cancerous substances etc.
2. Jobs which involve exposal to:
ionised rays, which contain a higher dosage than allowed;
noise above 85 Db in permanent jobs, as well as noise above 140 Db in temporary jobs;
very high or low temperatures, for a period of time,
white radiant heat; difficult atmospheric conditions for performing urgent jobs.

3. jobs which involve an irregular posture or keeping certain body parts in a required position for a long period of time;
4. jobs that require the use of substances which release free dioxide of pyrite or other compound salts of pyrite and amiantus;
5. jobs in production, colour processing with carbonic composition;
6. jobs that require the use of benzol solvents;
7. jobs involving waste burning and burial in the ground;
8. jobs in adhesive production, as well as in warehouses where leathers are curried;
9. jobs in drubbing, scarifying and spinning cotton or wool;
10. jobs in printing houses ;
11. jobs in producing or processing glass (cutting, refinement) etc;
12. permanent jobs in painting with pistol, as well as in painting metallic parts;
13. jobs in plants and laboratories which produce and process:
acids;
salts of chlorine;
aniline and colouring substance with aniline and nitrogen;

phosphorus;
chemical fertilizers.

14. jobs in whitening and dissolution of paper;
15. jobs in metallurgical industry;
16. jobs in grinding factories (in departments where there is high dust release);
17. jobs in factories and laboratories where the following are produced and processed:
Detonators, fireworks, radiant gases, firing substances or in places where there is an explosion risk as a result of dust release.
18. jobs in basement;
19. welding, or cutting with oxygen or electricity, only under the application of vocational training programs;
20. jobs where moving machines are used;
21. jobs where hoisting cranes are used;
22. jobs where hydraulic cuts are used;
23. jobs with cutting edges machinery, which are put into motion through mechanical force, in particular:
operations with arched saw blade, ribbon saw blade, machineries of wood refinement;
operations with scissors in cutting machineries;
operations in roller operated machineries with a high risk of damaging different parts of the body.
24. in operations with pressure vessels;
25. operations in cleaning, mending and searching of defects of machineries and moving tools;
26. operations that involve pressing buttons to transmit movements and stop the work of the machineries;
27. operations for maintenance of machineries, electrical equipments and buildings;
28. operations for safety observance, interaction and cooperation with other operators which perform another job;
29. underground works;
30. operations where construction machineries are used;
31. operations for demolishing buildings;
32. operations for pillars and walls that are build in water, and pillars demolition;
33. operations for the use of high voltage electrical equipments, operations in objects with a voltage higher than 50 volts;
34. underwater operations, which are performed with deep sea diving or breathing equipment;
35. operations for loading or unloading ships, with the exception of little boats 12 meters long and 4 meters wide;
36. operations in places where the risk of falling from the altitude of 3 meters is present, in spite of the use of safety rope or other measures taken;
Passage is forbidden unless the work site is surrounded.
37. operations, where there is a risk of being harmed by the fall of materials in the construction site;
38. operations with drilling machinery;
39. operations with pistols for fastening and unfastening of screws and bolts;
40. operations for cutting wooden materials with electric machineries;

41. operations in railway intersections and where the worker takes part in coach connection;
42. operations for cleaning and painting with pistols using pressure over 2.5 atmosphere;
43. operations for pumping up tyres for buses, autos and airplanes using pressure over 3 atmosphere;
44. operations such as accompanying the transport of monetary funds to banks or bank agencies or visa versa;
45. operations for research on cancer or infectious diseases;
46. operations in places where there is a lack of oxygen or there exists dangerous atmospheric environment (poisoning substances or explosives).

Question C

Answer
According to article 94 of the Labour Code, the reduced weekly working hours for dangerous and unhealthy occupations, are determined by a Decision of the Council of Ministers (The relevant DCM has not yet been approved).

The labour Code does not provide for a reduction of working hours or additional holidays with pay concerning dangerous and unhealthy occupations. This can be determined by means of collective contracts. The collective contracts in power foresee to compensate employees that work in dangerous and unhealthy occupations with food, e.g. in the department of oil-fuel.

Question D

Answer
In the department of metallurgy, mining, extraction and processing of oil-fuel, all the workers are subject to a collective contract.
There are problems concerning the collective contract in the department of shoes and leather.

<u>Article 2 Paragraph 5</u>

Question A

Answer
Article 85 of the Labour Code stipulates the week rest to be not less than 36 hours, out of which 24 hours without interruption. The week rest should include Sunday. This is a week rest without pay. Exceptions are regulated by a Decision of the Council of Ministers.

Question B

Answer
The application of the week rest is guaranteed by the State Labour Inspectorate and collective and individual work contracts.

Question C

Answer
All the workers are subject to the abovementioned provisions concerning the week rest.

Article 2 Paragraph 6

Question A

Answer
According to article 21 of the Labour Code, the job Contract is bound orally or in a written form.
In case of an orally bound contract, the employer is obliged to compile, within 30 days, a job contract which has to be signed by the employer and the employee. The job contract must contain, in particular: the identity of the parties, the job position, the general job description, date of commencement of the job, the contract duration when the parties sign a contract for a specified time limit, the length of holidays with pay; the notifying deadline for the annulment of the contract, details of the salary and the day of payment; the reasonable weekly working hours. The work contract should also include the collective contract in power.

Before expressing his free will and signing the contract the employee is informed about the work conditions and employment, in particular about the essential elements of the above-mentioned contract. In case he agrees, the contract is signed.

Question B

Answer
The provisions in the Labour Code that cover the work contract, its form and the essential elements, are applicable to all employers and employees.

Article 2 Paragraph 7

Question A

Answer
Article 80 of the Labour Code defines night work as the work performed between 10 PM and 6 AM. The length of night working hours and the work carried out the previous or

following day, must not be more than eight hours without interruption. There must be an immediate day off proceeding or following night work.

Article 101 of the Labour Code prohibits night work for young people under the age of 18 or people proved handicapped by a medical prescription, as set out by the law on social insurance.

According to article 81 of Labour Code, every working hour performed between 7 PM and 10 PM entitles the employee to the right of an additional payment not less than 20 per cent. Every working hour performed between 10 PM and 6 AM entitles the employee to the right of an additional payment not less than 50 per cent.

Question B

Answer
All workers are subject to the provisions of the Labour Code concerning night work.

Article 3

Question

Answer
The State Labour Inspectorate has a specialized committee consisting of three parties, headed by the General Inspector, who reviews issues of safety and health at work. This commission is member of the National Council of Labour.

The Statue of State Labour Inspectorate entitles an Advisory Council headed by the General Inspector of State Labour Inspectorate to perform its functions. The Advisory Council tackles issues of working conditions, health and safety at work, application of the law concerning working conditions, health in the job environment as well as the cooperation of inspectorate offices etc.

Article 3 paragraph 1

State Labour Inspectorate has signed cooperation agreements with:

The Inspectorate of Vessels under pressure
The Electrical Inspectorate
The Environment Inspectorate
The Inspectorate of Fuel, Gas and by-products
The Forest Police
The Construction Police
The Mining Inspectorate

The Institute of Public Health

In order to prevent hazards inherent in the working environment, the State Labour Inspectorate in cooperation with the above mentioned inspectorates should exercise joint controls based on common programs, as well as in the problems that occur.

Article 3 paragraph 2

Question A.

Answer
Rights and obligations concerning the protection of workers in undertakings are hierarchically regulated by the following sources:

1. Constitution (article 49)
2. Labour Code (articles 39-75)
3. Law no.7986, dated 13.9.1995 "On the State Labour Inspectorate" amended with the law No.8394, dated 2.9.1998 And law no. 8857, dated 7.2.2002.
4. DCM no. 457, dated 22.8.1998 "On the approval of SLI Statute"
5. DCM no. 459, dated 22.7.1998 "On the dangerous chemicals"
6. DCM no. 460, dated 22.7.1998 «On accidents at work»
   D.C.M no 461, dated 22.7.1998 "On records held by the employer on accidents at work and
7. "Occupational disease"
   D.C.M no 462, dated 22.1998 "On the cooperation of the State Labour Inspectorate with the Police of Public
8. Order
9. D.C.M no 419, dated 4.8.2000 "On dangerous objects"
10. D.C.M. no 692, dated 3.12.2001 "On special measures of safety and hygiene at work"
11. D.C.M no. 205, dated 9.5.2002 "On determining easy jobs for minors"
12. D.C.M no. 207, dated 9.5.2002 "On determining difficult and dangerous jobs"
13. D.C.M no. 445, dated 26.6.2003 "On maritime inspection"
    D.C. M. no 742, dated 6.11.2003 "On supplements and changes in DCM no.692, Dated 13.12.2001
14. "On special measures of security and hygiene at work"
    D.C.M no.513, dated 30.7.2004 "On the classification of the activity and on the
15. documents concerning the procedure of giving permission by the job inspector, before the undertaking starts operating".

The job contract for workers performing their job at home is regulated by DCM no. 255, dated 25.03.1996 "On contracts for jobs performed at home". This contract foresees the same level of protection full time employees.

Question B.

Answer
In cooperation with the Public Health Institute joint inspections have been carried out on the basis of an annual Work Program in some problematic sectors such as, confectionary, shoe production, chemical plants, undertakings producing construction materials, undertakings for extracting and processing chrome, undertakings for fuel processing etc. These inspections have reported serious problems, and have recommended taking measures in order to improve safety and health in the working environment.

Article 3 paragraph 3

Question A

Answer
Different undertakings which exercise their activity in the field of construction, production of construction materials, production of confectionary and shoes, production of detergents, printing houses, food industry, undertakings of extracting and processing etc, have been subject of inspection.
Inspections are carried out, throughout the year, in subjects that exercise their economic activity in construction, production enterprises, different services as well as in the sector of construction and production of construction materials.

The following chart shows statistics concerning inspection visits and control actions carried out in the fields of construction and production of construction materials.

Inspection visits	Year 2000	Year 2001	Year 2002	Year 2003	Year 2004	Year 2005
No. of inspected subjects	6288	5462	4891	5733	6445	7262
Employees	12446	10347	5375	6549	7130	7812
No. of subjects in construction activity	880	1400	1800	1500	1600	
Employees	11000	16000	19000	13000	16000	14349

Table of economic subjects classified by type of activity

	Economic activity	2000	2001	2002	2003	2004	2005
	Total	6288	5462	4891	5733	6445	7262
1.	Agriculture, forestry, fishing	127	102	70		109	97
2.	Mines, carriers	57	44	13		14	38
3.	Production undertakings	1630	1634	903		1393	1376
4.	Electricity,	96	45	38		56	66

	Water, gas,						
5.	Retail and wholesale business, HBR,	1398	1760	2118		3052	3019
6.	Construction	878	589	407		518	1118
7.	Transport and communication	214	136	128		105	119
8.	Finance and insurance services	347	370	289		251	324
9.	Other activities	1541	782	925		947	1105

Table of registers of economical subjects in years

Years	Work Inspector	Regions	Registered Subjects	Declared Employees
2000	82	28	15.017	38.015
2001	85	29	26.039	74.511
2002	95	32	32.132	92.257
2003	105	34	40.454	81.071
2004	110	34	42.408	92.965

The following table shows the number of employees registered on the course of inspections and construction operations

YEAR	2000	2001	2002	2003	2004	2005
Employees evidenced during inspections on regular basis	12446	10347	5375	6549	7130	7812
Employees evidenced during control operations	11000	16000	19000	13000	16000	14349

Question B

Answer

Breaches of legal provisions concerning safety and health at work, as laid down in the provisions of Labour Code are punishable by a fine amounting from 30 to 50 times the minimum wage (the minimum wage is determined by D.C.M)

During the year 2005, 302 sanctions were imposed, mainly for the subjects which exercise their activity in construction, production of confectionary and shoes.

Years	Amount of Fines			Paid
1999	20 Fines amount	393.645 lek	8 with	47.000 lek
2000-2001	107 Fines amount	11.309.960 lek	37 with	3.524.000 lek
2002-2003	313 Fines amount	33.307.000 lek	78 with	4.637.000 lek
2004	238 Fines amount	20.642.000 lek	22 with	1.080.000 lek
2005	302 Fines amount	23.655.000 lek	70 with	2.360.000 lek

Question C

Answer

The following table shows accidents which have occurred in the course of years:

Year	1999	2000	2001	2002	2003	2004	2005
Number of accidents	72	127	106	90	159	166	93
Number of fatal accidents	2	8	21	4	10	17	9
TOTAL	74	135	127	94	169	183	102

Accidents have mainly occurred in the subjects that deal with production and construction activities. According to a study carried out concerning the accidents at work during the year 2000, a classification of the accidents is made for the districts of Kruje, Berat, Peshkopi, Burrel, Bulqize, Elbasan, Gramsh, Patos, Fier, Lac, Lushnje, Permet, Sarande, Shkoder, Tirane, Vlore, Kavaje, Patos and Devoll. Following there is a list of data resulting from this study:

Classification by working time Year 2000

Time of Work	Accidents in %	Death Accidents in %
Before Work time	0	0
0-2 working hours	10	28
2-4 working hours	15	27
4-6 working hours	15	27
6-8 working hours	40	9
8-10 working hours	20	9

Classification by the days of week Year 2000

Week Days	Accidents in %	Death Accidents in %
Monday	22	30
Tuesday	16	0
Wednesday	9	10

Thursday	21	20
Friday	13	15
Saturday	9	20
Sunday	10	5

Classification by type of activity Year 2000

Type of Activity	Accidents in %	Death Accidents in %
Agriculture, Forestry, Fishing	0	1
Mines, Carriers	19	8
Production Enterprises	10	29
Electricity, gas, water	5	8
Retail & Wholesale Market	0	2
Construction	56	9
Transport, Storage & Communication	5	2
Finance, Services of business and communal insurance	0	22
Other activities	5	19

Classification by working time –Year 2000

Working Hours	Accidents in %	Fatal Accidents in %
Before work time	0 %	0 %
0-2 working hours	10	28
2-4 working hours	15	27
4-6 working hours	15	27
6-8 working hours	40	9
8-10 working hours	20	9

Classification by the days of week – Year 2000

Days of the week	Accidents in %	Fatal accidents in %
Monday	22	30
Tuesday	16	0
Wednesday	9	10
Thursday	21	20
Friday	13	15
Saturday	9	20
Sunday	10	5

Classification by type of activity – Year 2000

Type of activity	Accidents in %	Fatal Accidents in %
Agriculture, forestry, fishing	0	1
Mines, carriers	19	8

Production undertakings	10	29
Electricity, gas, water	5	8
Retail and wholesale Business	0	2
Construction	56	9
Transport, Storage, communication	5	2
Finance, Services of business and communal insurance	0	22
Other activities	5	19

16.6% of the total number of accidents which occurred during the year 2000, were fatal for the employee. It should be underlined that this study covers the total number accidents only for 19 districts during the year 2000, not nationwide.

There exist a Decision No. 742, dated 6.11.2003 "On the presence of a doctor in an undertaking" and a common regulation issued by the Ministry of Labour and the Ministry of Health No. 2, dated 25.06.2004, concerning occupational deceases, which foresee the declaration of all occupational deceases. This regulation has not been fully applied, notwithstanding our insistence in the Ministry of Health and as a result mo information has not yet been received. According to the data gained by the Institute of Social Insurance for the year 2004, it results that 35 employees were affected by occupational deceases in the district of Tirana. 90% of these employees were employed in shoe production undertakings.

Article 3 Paragraph 4

Question A

Answer
In some activities like production of confectionary, shoes, production of fuel and gas, ferrochrome, there exists a part time or full time health service for employees under health treatment. A number of factors have contributed to the malfunctioning of this service: there is a lack of a proper law on safety and health in the working environment; committees of safety and health in the working environment do not perform their function, and the doctors do not always perform their duty in all undertakings. We strongly believe that the approval of the law on safety and health in the working environment will make these services functional. The law on safety and health in the working environment is expected to be approved by the end of the year 2008.

Question B

Answer

No organizations exist concerning the issue of health in the working environment, nonetheless part time or full time doctors are employed in undertakings, because the Order of the Doctor so allows by licensing. Doctor that serve in undertakings are internists (pathologists) and they are not specialized in occupational medicine.

Article 4 Paragraph 1

Question A

Answer
Every year, a minimum wage applicable nationwide and obligatory for all legal and physical persons, both foreign or nationals, is determined. The criteria for determining the minimum wage are:

- the study of «evaluation of the official minimum living standard», which was carried out in the year 2001 and the index of the annual inflation.

- the minimum wage set by article 4 of the European Social Charter which should not be under 60% of the average net national wage.
- the existing level of wages in private and public undertakings and institutions,
-the influence of the minimum wage in the system of wages for employees in the public administration.
- the government program for retirement payment and wages.

Taking into account that permanent additional wages are added to the minimal wage, which in average are over 50%, it results that employees performing easier jobs, the minimum wage is over the minimum wage index.

Payment by working hours is also foreseen, aiming at better protecting the rights of part time workers or those who work overtime.

Under DCM No. 245, dated 27.4.2006, the minimum monthly wage nationwide for the year 2006 was set to be 14000 lek, while the basic minimum wage by working hours 80 lek. Compared to last years' figures the minimum wage has undergone an increase of 18.6%.

Question B

Answer
The legal definition of the minimum wage is given in the Labour Code, approved in July 1995, according to which the minimum wage is set by a decision of the Council of Ministers. This process provides for negotiations with social partners via the functioning of a commission consisting of three parties for the Wages of the National Labour Council. Following the three parties' agreement concerning the minimum wage on a national level, the Minister of Labour makes a proposal to the Council of Ministers.

Question C

Answer
There is no available information concerning this issue.

Question D

Answer
The minimum national wage for the year 2005 was set at 11800 lek /per month. The minimum basic pay for working hours was 68 lek. Permanent additional wages were given based on the basic wage.

Every legal or physical person is subject to this wage. The current minimum wage is approximately 50% of the net average wage.

Paragraph three:
At present, only 5.5% of public administration employees get a minimum wage. Further more this figure is lower in the private non agricultural sector.
Paragraph four:
During the years 2000-2005, the minimum wage was increased more than the average wage, thus bringing it closer to the index of the minimum standard of living. The minimum wage and average wage ratio improved: in the year 2005 it was estimated to be 0.46 compared to 0.79 in the year 1990 and 0.37 in the year 2001.

The minimum wage for the year 2006 was set at 14 000leke/ per month, (or the minimum payment for working hours 80 lek), thus undergoing an increase of 18,6% compared to the year 2005.

Article 4 Paragraph 2

Question A

Answer
Article 83 of the Labour Code, sets the reasonable weekly working hours to be not more than 40 hours. This is determined with a decision of the Council of Ministers either in an individual or collective work contract.

Article 88 of the Labour Code defines as additional hours every working hour completed overtime during a reasonable working day or week. Every working hour is called additional when the part time worker performs it over the normal agreed schedule.

Pursuant to article 89 of the Labour Code, in so far as circumstances require additional working hours, the employer may ask the employee to work overtime, considering the worker's personal and family situation.

Pursuant to article 90 of the Labour Code, the maximum number of additional hours is determined in the individual or collective work contract. Employees who have completed 50 working hours in a week should not be asked to work overtime. The Council of Ministers determines special rules for the performance of additional working hours for difficult and unhealthy jobs. The maximum number of additional working hours, as authorized by the Labour Inspectorate, can be exceeded in cases of force majeure or emergency situations when this benefits humanity.

Pursuant to article 91 of the Labour Code, the employee who has not been compensated for additional hours by rest, should be given by the employer the normal wage and an additional payment not less than 25 per cent of the wage, unless the collective contract otherwise provides.

In agreement with the employee, the employer may compensate the additional working hours with a rest that is at least 25 per cent longer and which corresponds to the additional working hours. This is to be given within 2 months from the day of performing the job, unless otherwise provided in the collective contract.

Working hours performed during the weekly rest or official holidays are compensated by a rest or a payment that is 50% more than the additional hours performed or the normal payment, unless otherwise provided in the collective contract. This compensation covers the compensations included in the abovementioned paragraphs.

Question B

Answer
There are no exceptions.

<u>Article 4 paragraph 3</u>

Question A

Answer
Let's first clarify that the answer to this question relates only with the civil service and some other subordinate institutions. Law no. 8549, dated 11/11/1999, "On the Status of the Civil Servant", defines the structure of the salary of the civil servant, with the following components:

- 1. The basic salary which has three subcomponents:

a- group salary (based on the education level required by the position. This means that the designated value for it, is the same for the same level of education);
b.- seniority supplement;
c- training supplement

2- Supplement for the position to reflect its relative value and special circumstances.

3- Supplement for the working conditions of the job to reflect special working conditions.

According to this legal definition the Decision no. 711, dated 27/12/2001 of the Council of Ministers was approved. The decision makes this payment scheme applicable to all civil servants in institutions of central administration (the law refers to all the civil servants of the Prime Minister's Office and of the relevant Ministries) as well as to civil servants of the President's office, People's Assembly and the Central Commission of Elections. Regulation no.1 dated 13/06/2000 of the Council of Ministers which specifies general description of the job position in the civil status is used as a basis for categorizing the job positions.

The DCM no. 711, dated 27/12/2001 has followed the same logic in applying this scheme in some other subordinate institutions as well as for university graduates in health and infirmary service. At the same time, the system of payment as well as civil status service have been applied since 1999 for teachers of primary and secondary educational system and for custom's employees.

In the period of the years 2004 - 2005, a working group was set up, with the order of the Prime Minister, to prepare a document on the payment system review in the institutions of the public administration. The core of this document is the proposal for a general categorization of job positions in public administration, taking into account the civil service system, thus respecting the principal of equal pay for work of equal value. The proposals of this material will be put into use (for a certain number of institutions) in July 2006.

Article 115 of the Labour Code defines the right for an equal remuneration for men and women. It is explicitly provided: "The employer equally pays men and women that perform equal jobs. The differences in payments are not considered discriminating when they are based on objective criteria regardless of sex, job quality or quantity, professional qualification and seniority at work". No cases of infringement of this right have been recorded.

The chart below provides data on the progress of the minimum payment during the years

Period	Minimum wage	Progress in %
August 1992	675	1
January 1993	840	24
June 1993	925	10

December 1993	2400	159
October 1994	2620	9
May 1995	3300	25.9
October 1995	3700	12
April 1996	4400	18.9
Year1997	4400	0
Mars 1998	5800	31.8
April 1999	6380	10
July 2000	7018	10
June 2001	7580	8
June 2002	9400	24
August 2003	10060	7
June 2004	10800	7.4
May 2005	11800	9.2

Question B

Answer
All laws, by-laws, collective contracts or legal mechanisms that allocate the payment, provide for the right of men and women workers to equal pay for work of equal value.

Question C

Answer
Based on the law no. 8540, dated 11/11/1999, "The statute of the civil servant", in cases of reconstruction of institutions, civil servants whose positions are declared redundant or under restructure, are registered in a waiting list for a one year period. During this time period they enjoy the rights of the civil servant, including the right to the monthly wage. Also, in case there is consistency between the job description of the vacancies and personal data of these servants, they are immediately appointed to these positions.

Article 4 Paragraph 4

Question A

Answer
According to article 143 of the Labour Code, after the probationary period, in order to terminate a contract with an undetermined time limit, parties should respect a period of notice of one month during the first year of work, two months between two to five years of work and of three months for more than five years of work. This time limits may change through negotiations reached by a written contract or a collective contract. When the employee has been working for six months, the period of notice should not be less than two weeks. The period of notice should not be less than one month when the employee has been working for more than six months. The period of notice for

termination of the contract can be extended, on a case by case basis, till the end of the week or till the end of the month. The same rule is applied when the person is incapable of work, is pregnant or is on leave given by the employer. When one of the parties terminates the contract without respecting prior notification, the termination of the contract is treated as a contract with an immediate effect.

According to article 150/2 of the Labour Code, the period of notice, within the probationary time, is 5 days. If the contract is not nullified during the probationary period, the latter is considered as part of the contract with a determined time limit.

According to article 151 of the Labour Code when the parties have successively signed contracts with a determined time limit, for not less than three years, the non renewal of the last contract by the employer is deemed as a termination of the contract without a determined time limit. In case the contract is signed for more than 3 years to 5 years, it can be terminated by the employer after 3 years. In this case the period of notice is two months and it can be extended till the end of the second month. When the contract is signed for more than 5 years, it can be extended by the employer after 5 years. In this case the period of notice is three months and it can be extended till the end of the third month.

According to article 15 of the Labour Code, the worker that performs his job at home, enjoys the same rights as the other employees.

The Labour Code does not set out period of notice for temporary or part time jobs. The employee is informed on the length of working time and on the termination of employment once he is acquainted with the contract and agrees to sign it.

According to the Labour Code, article 153, a contract can be terminated without respecting the period of notice, in cases of grounded reasons to do so.
All grave consequences which do not allow, according to the principle of confidence, asking the person who terminated the contract to continue the job relationship, are considered grounded reasons.

It is up to the court to decide on the existence of grounded reasons for an immediate termination of the contract. Grounded reasons are considered those cases when the employee gravely breaches the contractual obligations, as well as cases when the employee repeatedly breaches the contractual obligations with a slight guilt, in spite of written warning by the employer.

Question B

Answer
The worker has the right to address the court in relation with the lawfulness of the period of notice concerning the termination of employment.

According to article 172 of the Labour Code, the court is competent for the settlement of every individual or collective agreement concerning application of contract.

Article 4 paragraph 5

Question A

Answer
There is no available information concerning this issue.

Question B

Answer
There is no information, in relation with the category of employees, against whom the above mentioned measures are applied, as well as the relations of employees who are not covered by this category.

Article 21

Question A

Answer
According to the article 165 of the Labour Code, the employer is obliged, within two weeks from the day of negotiation request announcement, to see and to discuss with the representatives of the workers' organization on binding a collective work agreement.

The provisions of the Labour Code do not provide for any special obligation on the part of the employer to inform the employees, but in the practice of collective negotiations for mutual rights and obligation, job and employments conditions, the labour unions require information on the economic and financial situation of the employer. The employer provides the employee with this information. Also, representatives of the labour unions negotiate with the employer on the information subject to confidentiality, for the danger its disclosure presents to the financial and economic interests of the undertaking against its competitor.

Articles of collective contracts oblige employers to inform the representatives of workers' organizations concerning the economic and financial situation of the undertaking.

Question B

Answer B
Some collective work contracts set out the obligation of the employer to inform in a written form on the general financial situation of the undertaking, e.g. the collective contract with KESH (Albanian Electric Cooperation) and the System of Education. On the other hand, the collective contract of Albetrol sh.a oblige the employer to inform in a written form every three months.

Also, collective work contracts stipulate that the parties should negotiate on restructuring job positions, opening new job vacancies, reducing the work force, and on the development plan of the undertaking as well as its progress.

Question C
Answer
The information that is confidential for the employer and can not be disclosed is not stipulated, but in the practice of collective negotiations, representatives of the employers' and workers' organizations agree on the information that the employer should give to the employee, aiming at reaching a mutual understanding to bind a collective agreement.

Question D

Answer
85% of the employees are covered by the collective contracts in the public sector.

Question E

Answer
There is no restriction concerning the obligation to inform and consult, notwithstanding the number of employees in an undertaking.

Question F

Answer
Law does not provide for restrictions concerning religious undertakings.

Question G

Answer
The State Labour Inspectorate provides for the observance of the above mentioned requirements concerning the collective work contract. Also, the Court is competent to settle disputes concerning non application of contracts. According to article 170 and article 172 of the Labour Code, in case the employer breaches the obligation of the contract concerning the right to inform, the court decides on the obligation of the employer and on the amount of the fine, if the collective contract does not provide for it.

Article 22

Question

Answer
This right is foreseen in Article 21 of the Law on "State Labour Inspectorate", but in practice employees are not organised and represented in sections of the undertaking which should deal with problems of health and safety at work. The Albanian legislation does not provide for setting up a Committee on Safety and Health at work in undertakings with more than 50 employees. These committees enable employees to exercise their right to determine and improve working conditions and the working environment. At present, the workers' representation is obvious in the compilation and signing of collective work contracts, negotiations and mediation.

Question A

Answer
The right to collective negotiations is guaranteed by Article 165 of the Labour Code, which obliges employers to negotiate with representatives of workers' organization in order to sign a collective work contract. The collective work contracts foresee employer's obligation to inform the worker.

The representatives of the workers' organization are appointed by these organizations in accordance with their statute.

The right of the workers to be informed and consulted is foreseen in the Labour Code, in the law on the State Labour Inspectorate" and on a Decision of the Council of Ministers.

Question B

Answer
Employees or their representatives do not, in fact, exercise their right to take part in determining and improving working conditions or the working environment. Their participation is more active in the phases of compilation and signing of the collective contracts (in undertakings which involve work contract binding). Inasmuch as the system of managing the safety and health at work in undertakings does not function, there exist no structures to tackle these problems where the employees should take part.

The representatives of the workers' organization participate in the negotiations on the abovementioned fields.

Question C

Answer
All employees are subject to collective work contracts.

Question D

Answer
The Labour legislation does not foresee any restrictions concerning the number of employees who are not bound by obligations laid in article 22, but in reality, in small undertaking they are not informed.

There is no restriction, in spite of the number of workers in an undertaking.

Question E

Answer
The law provides for no restriction concerning the religious undertakings.
There are no religious undertakings.

Question F

Answer
The Labour legislation entitles employees to the right to negotiate, to strike and to present a lawsuit to the district court where the undertaking exercises its activity. The observance of the above mentioned requests foreseen in the collective work contract is guaranteed by the State Labour Inspectorate. Also, the court is competent to resolve disputes concerning the non application of the collective contracts. According to Article 170 and Article 172 of the Labour Code, in case the employer breaches the obligations stipulated in the contract concerning the above mentioned requests, the courts decides on obligations of the employer for their observance, amount of the fine, if this is not foreseen in the collective contract.

Article 24

Legislation
1.Constitution of the Albanian Republic
Article 49
Employees have the right to social protection of work.
2.Civil Procedural Code
3.Labour Code of the Republic of Albania.
4.Law "On the State Labour Inspectorate".

Question A

Answer
Article 141 of the Labour Code sets out that: The contract with an undetermined time limit terminates when one party nullifies it and the period of notice has already expired.

Article 149 of the Labour Code sets out that: The contract with a determined time limit terminates as foreseen, without prior settlement.
Article 153 of the Labour Code sets out that: A contract is immediately terminated for grounded in cases when:

1.The employer or the employee, at any time, may immediately terminate the contract for grounded reasons.
All grave consequences which do not allow, according to the principle of confidentiality, asking the person who terminated the contract to continue the job relationship, are considered grounded reasons.

The court decides if there exist grounded reasons for the immediate termination of the contract. Grounded reasons are considered all cases when the employee breaches the contractual obligations with a slight fault, repeatedly, in spite of written warning by the side of the employer.

Article 144 of the Labour Code sets out the procedure of terminating a work contract by the employer:

1.After the probationary period, when the employer deems to terminate the contract, he should inform the employee, in a written form, at least 72 hours before meeting and talking to him.
2.During the talk the employer should present the reasons for his decision to the employee and give him the possibility to express himself.
3. The termination is notified in a written form, within a deadline of 48 hours to one week following the meeting.
Article 21/1 of the Labour Code, stipulates that the job contract may be amended only with the agreement of the parties. Every amendment of the written contract to the detriment of the employee should be made in a written form.

According to Article 202/2 of the Labour Code, the one sided amendment of the work contract, by the employer, is punishable with a fine amounting to thirty times the monthly minimum wage.
According to the law “On the State Labour Inspectorate”, the latter is charged to provide for implementation of the work legislation and to intervene for the reinstate the right.
Article 172 of the Labour Code stipulates that the court is the competent body to resolve individual work contract disputes. The worker has the right to address to court in case of one sided amendment of the contract by the employer.
In case the employer terminates the contract for the above mentioned reasons, pursuant to Article 146/ of the Labour Code:
1.The termination of the contract is considered ungrounded when:
a. the employee has contentions which derive form the job contract;
2.The termination of the contract on ungrounded reasons is invalid. The employer which has terminated the contract on ungrounded reasons, is obliged to compensate the employee with one year payment, which is added to the wage he should get during the period of notice. As far as the employees of the public administration are concerned,

when the court has taken a final decision to return the employee to the previous position, the employer is bound by this decision.

According to Article 172 of the Labour Code, the Court is competent to resolve every individual or collective disputes concerning the application of the collective work contract.
Article 146/2 of the Labour Code stipulates that:

If the contract is terminated on ungrounded reasons, the employers has the right to submit a lawsuit against the employer, within 180 days from the day the period of notice expires. In case when the ungrounded reason is disclosed after the period of notice has expired, the employee submit the lawsuit in court within 30 days of the reason disclosure.

When employees are under civil service, the legislation provides for cases of dismissal and the procedure to be followed. Cases of job dismissals are provided for in a Decision of Council of Ministers (DCM no. 306 dated 2000 "on the Discipline in the civil service"). Also, there are other laws, like Law no. 9131 dated 08.09.2003 « On the ethics of public administration » which stipulate reasons for taking disciplinary measures and eventual dismissals from the civil status.

The procedure of dismissal from the civil status foresees the right of the civil servant to be informed on the initiation of the procedure and on the evidence the administration possesses. The employee also enjoys the right to present his objections and evidence concerning the breaches attributed to him, in a meeting with his immediate superior. Only after this meeting, the employee's immediate superior can issue the act of dismissal from the civil status.

Question B

Answer

According to Article 172 of the Labour Code, the court is competent to resolve every individual or collective disputes in relation with the application of the collective contract.
Article 146/2 of the Labour Code stipulates that:
If the contract is terminated on ungrounded reasons, the employee has the right to submit a lawsuit in the court against the employer, within 180 days from the day of termination of the period of notice. In case when the ungrounded reason is disclosed after the period of notice has expired, the worker is entitled to submit a lawsuit within 30 days form the day this reason is disclosed.
The civil servant has the right to submit a complaint in the Commission of the Civil Service (an institution independent from the executive, which performs the function of an administrative body with jurisdictional competencies) against the decision of dismissal within 30 days from the day he is acquainted with the decision. If not satisfied with the decision of the Commission, the civil servant may address the Court. The burden of proof falls on the administration, which has to prove the alleged infringement.

Question C

Answer
According to Article 155/3 of the Labour Code, in case of unjustified immediate termination of the work contract by the employer, the court, after estimating all circumstances, decides on the employer's obligation to compensate the employee with not more than one year payment.

According to Article 145 of the Labour Code, the employee is entitled to remuneration on seniority, in cases when the contract is terminated by the employer and the length of the working period is not less than three years.

This is applicable in all levels of undertakings in spite of size.
The Court executes a decision of remuneration which is not less than 12 months payment.

If the decision of dismissal of the civil servant is deemed ungrounded, the Commission of the Civil Service or the court should decide on returning the person to the previously held position and on paying the person from the day of the illegal dismissal to the day the court decision is executed.

Question D

Answer
No employee is excluded from this protection measure.

Article 26 Paragraph 1

Legislation
Constitution,
Article 18

1. all are equal before the law.
2. No one may be discriminated against for reasons such as sex, race, religion, ethnicity, language, political, religious or philosophical beliefs, economic condition, education, social status or ancestry.
3. No one may be discriminated against for reasons mentioned in paragraph 2, if reasonable and objective legal ground do not exist.
The Convention of ILO-s.

No.98 . The right to organise and bargain collectively.
No.154 Collective negotiations.
The Civil Code and the Code of Civil Procedure.
The Labour Code.

Question A.

Answer.
Article 32 of Labour Code defines as sexual harassment every kind of behaviour that obviously harms the physiological condition of the employee on grounds of sex.

Question B

Answer
No information is possessed on any activities held in this field.

There is information concerning training schemes or publications on which the employers rely in order to fight sexual harassment at work.

Question C

Answer

Article no.32 of Labour Code and Article no. 202/2 of Labour Code provide for a fine amounting to thirty times the monthly minimum wage, in case such infringements occur. The accuser should present evidence to trial.

According to the article 32/3 of Labour Code, the employer is responsible to take measures in order to prohibit sexual harassment at work, otherwise he will be fined according to article nr.202/2 abovementioned.

Question D

Answer

The Labour Code does not provide for return at work in such cases, but according to the Labour Code he profits a damage up to two years salary, pursuant to article 146 and article 155, as well as a remuneration on seniority provided for in Article 145, which is added to the salary he should get during the period of notice or till the termination of the contract.

Article 32 and article 202/2 of Labour Code provide for a fine amounting to thirty times the monthly minimum wage against such infringements.

Also, according to the Code of Civil Procedure, the employee has the right to address to Court, asking for a restitution by the harasser for the moral damage caused.

Article 26 paragraph 2

The Legislation:
The Labour Code.

Question A

Answer

Article 9 of Labour Code prohibits every kind of discrimination on grounds of job admission or profession. With discrimination it is understood every kind of distinction, exclusion**,** or preference on grounds of race, colour, sex, age, religion, political believes, national origin, social origin, family relationship, physical or mental disabilities which affect the right of the individual to be equal at work and treatment. The distinctions, exclusions or preferences required for a certain job are not considered discriminatory. Special protective measures concerning employees, foreseen in this Code on the basis of the Decision of the Council of Ministers or in collective agreements, are not considered discriminatory.

With employment and profession it is understood the guidance and vocational training, employment in different positions, as well as employment conditions related with job allocation, performance, remuneration, social assistance, discipline at work and termination of employment.

According to article 32, the employer is obliged to defend the employee's personality. The employer respects and protects the personality of the employee in job relations. He should prevent every attitude which affects the employee's dignity.

In their collective contracts, the employers and employees should provide for the necessary informative measures to safeguard the dignity of employees as well as for the necessary penalties to be imposed in such cases.

Question B

Answer
According to Article 32 of the Labour Code, the employer is prohibited to perform any actions which constitute sexual harassment against employees and is required not to allow such actions be performed by his other employees. With sexual harassment at work, it is understood every harassment which obviously harms the psychological state of the employee on grounds of sex. Collective work contracts signed by the employer and the employees should provide for necessary measures on the protection of the employees against sexual harassment.

Question C

Answer
There is no information on activities performed in this field.

No information is possessed concerning training schemes or publications, on which the employers rely, in order to fight infringements of the dignity and insulting actions at work.
Article 32 and Article 202/1 of the Labour Code provide for a fine amounting to fifty times the monthly minimum wage, in case such infringements occur.

The accuser should submit the evidence to court.

The Labour Code does not provide for return at work in such cases, but according to the Labour Code he profits a compensation up to two years salary, pursuant to article 146 and article 155, as well as a remuneration on seniority provided for in Article 145, which is added to the salary he should get during the period of notice or till the termination of the contract.

Also, according to the Code of Civil Procedure, the worker has the right to address to court, asking for restitution of the moral damage by the person who infringed his dignity.

The legislation of the civil status indirectly treats cases of discriminations on grounds of sex and other, under the principle of the civil servants' integrity and disciplinary measures taken against "indecent conduct at work towards superiors, colleagues, dependants and public. Disciplinary measures may be taken against persons responsible for these infringements.

Inasmuch as these infringements or behaviours are considered ethical problems in the civil service, training initiatives are undertaken by the Institute of Training of Public Administration on broadening the civil servants' knowledge concerning these aspects.

Thus, several trainings have been carried out on gender equality as well as on ethical matters.

Article 28:

Legislation
Constitution,
Article 50
Employees have the right to unite freely in labour organizations for the defence of their work interests.

Code of Civil Procedure
Convention of ILO
Convention no.135 Representatives of Workers
Labour Code

Question A

Answer
According to Article 50 of the Constitution, employees have the right to unite freely in labour organizations for the protection of their work interests.
According to Article 181/1 of Labour Code, the labour organization freely organizes its activity and administration; it freely compiles its program, which means that the workers' representatives in the undertaking are selected according to the statute of the undertaking labour organization.

Question B

Answer
Article 181 of the Labour Code guarantees the freedom of labour unions to organize in labour organization and to protect interests of the representatives of the organization:
3) Labour union representatives may not be discriminated against.
It is unlawful for an employer to terminate a union representative's employment contract without the consent of the union, unless the employee is in breach of the law or of his or her collective or individual work contract, or the employer can show that the termination of the contract is absolutely essential for the economic well-being of the undertaking.
5) Amendments in the work contract conditions of the unions' representatives may be made only with the consent of the employees of this union. The employer can not change the job position of the unions' representatives, even if such an amendment is foreseen by the job contract, without the consent of the employee and the union, save the cases when this change is absolutely essential for the economic well-being of the undertaking.
6) If representatives of the workers' organizations, operating nationwide, work and get paid by these organization during their mandate, their job contract with their employers is suspended. When their mandate expires, the suspension terminates and their job contract re-enters into power. From this time on, parties enjoy all the rights and obligation which derive from the job contract.

Also, in their collective work contract, the labour unions may provide for protective measures in favour of their representatives and members, for example, a considerable financial compensation.

Question C

Answer
According to Article 146/1 of the Labour Code, the termination of the contract by the side of the employer, for the representatives of the labour union because of their activity in the union, is considered invalid.

According to Article 202/1 of the labour Code, breaches of the article 181 paragraphs 3, 5 and 7 letters "a", "b" and "c", are punishable by a fine amounting to fifty times the monthly minimum wage.

According to Article 182 of the Labour Code, all workers' organizations recognized as legal persons may address to court in defence of each of their members' interests, in order to achieve full application of law provisions and collective or individual job contracts.

When these disputes are settled in court, the accuser bares the burden of proof. Instead, the Labour Code provides that the employer should have the consent of the labour union concerning every measure taken against its representatives. For this reason, the employer should prove to the labour union that the measures taken have nothing to do with the status or the activity of the representative, which would otherwise be used as a powerful tool used by the workers' organization in the court.

Also, in defence of the interest of its representatives, the labour union possesses another powerful instrument; to be gradually organised until the exercise of their right to call a strike.

Question D

Answer
Article 181/7 of the Labour Code requires employers to provide the necessary facilities and conditions to enable the elected union representatives to carry out their duties properly, as defined in the collective work contract, For this reason the employer should:
a) allow the representative to enter work places;
b) allow the distribution of announcements, booklets, publications and other documents of the workers' organization;
c) give them the necessary time to participate in the activity of these organizations within the country's territory and abroad;
ç) allow and facilitate, within the work environment, the collection of the organization quota, as well as the organization of meetings.

Article 29:
Constitution
Article 50
Employees have the right to unite freely in labour unions for the defence of their work interests.

Convention of ILO-s
Convention 135 Workers' Representatives
Convention no. 154 Collective negotiations
Civil Code
Labour Code

Question A

Answer
There are records of cases of collective dismissal from work.

Article 148 of the Labour Code estimates as collective dismissal from work, the termination of employment by the employer, for reasons that do not have to do with the employees, when the number of job dismissals, within 90 days, is at least 10 for undertakings consisting of 100 employees; 15 for undertakings consisting of 100 to 200 employees; 20 for undertakings consisting of 200 to 300 employees and 30 for undertaking consisting of over 300 employees.

Question B

Answer

a. According to the Labour Code, article 148/2, 3, 4 prior to collective dismissals the employer is obliged to inform and consult in accordance with the procedures provided for in this article, which in reality is applicable. As a rule, this requirement is respected.

b. According to article 148/2 when the employer foresees collective dismissals from work, he should notify in writing the workers' organization (the Labour Union). When this is impossible, the employer notifies the employees by an announcement in the work place. The announcement should contain, in particular, the reasons of dismissal, the number of workers that will be dismissed, the normal number of employees, as well as the time foreseen for the dismissal. The employer submits to the Ministry of Labour and Social Affairs a copy of this announcement.

c. According to article 148/3, 4 the employer consults the workers' organization, known as workers' representative with the aim to reach an agreement. When this is imposible, the employer offers counselling to employees. Counselling involves taking measures to avoid or reduce collective dismissals from work and to moderate their consequences. Counselling is offered within 20 days, starting from the day of notice, as provided for in paragraph 2 of this article, save when the employer otherwise agrees. The employer informs in a writing the Ministry of Labour and the interested party. If parties have not reached an agreement, the Ministry of Labour and Social Affairs decides on the termination of counselling. A copy is sent to the Social Affairs, to help reach an agreement, within 20 days, from the day of notice, as foreseen in this paragraph, except when the employer otherwise agrees.

Question C

Answer

According to article 148/6 6), the employer, who does not respect the procedure of collective dismissal from work, as foreseen in paragraphs 1, 2, 3 and 4 of this article, is obliged to give the employee a compensation equal to six months' payment, added to the payment during the period of notice or the compensation in case this is not respected, as foreseen by article 143.

The application of the above mentioned request is guaranteed by the State Labour Inspectorate, but the employee, either individually or collectively, enjoys the right to address to the arbitration court.