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EUROPEAN SOCIAL CHARTER

3rd National Report on the implementation of the European Social Charter

submitted by

THE GOVERNMENT OF SERBIA

(Articles 2, 4, 5, 6, 21, 22, 26, 28 and 29)

for the period 01/01/2009 – 31/12/2012)

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CYCLE 2014

REPORT ON THE IMPLEMENTATION OF THE ARTICLES 2, 4, 5, 6, 21, 22, 26, 28 and 29 OF THE REVISED EUROPEAN SOCIAL CHARTER

made by the Government of the Republic of Serbia

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

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

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

Appendix to Article 2§6

Parties may provide that this provision shall not apply:

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

Information to be submitted

Article 2§1

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

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

3) Please provide pertinent figures, statistics or factual information, in particular: average working hours in practice for each major professional category; any measures permitting derogations from legislation regarding working time.

Pursuant to Article 50 of the Labour Law (*Official Gazette of the Republic of Serbia*, Nos. 24/05, 61/05, 54/09 and 32/13), full-time work entails working 40 hours per week, unless otherwise provided for under that Law.

A company byelaw may stipulate fewer than 40 working hours per week, but not fewer than 36 hours per week. In that event, the employee in question shall be entitled to any and all employment rights due to full-time workers.

An employee may enter into part-time employment (Article 51).

Article 55 stipulates that each working week consists, as a rule, of five working days. Employers may schedule working hours within each working week. As a rule, each working day consists of eight working hours.

Under Article 52 of the Labour Law, an employee working a job that is particularly difficult, strenuous, or hazardous to health, and recognised as such by legislation or a company byelaw, and which remains particularly hazardous to the health of the employee regardless of the application of appropriate security and health and safety measures and use of personal protective equipment, can have his or her working hours reduced, in proportion to the hazard to the health and capacity of the employee to work, by up to ten hours per week.

Reduced working hours are set after professional analysis and pursuant to the law. An employee working reduced hours is entitled to all employment-related rights that would accrue if he or she was working full hours.

Article 53 stipulates that an employee is required to work longer than full hours in the event of acts of God, unexpected increase in the volume of work, as well as in other cases where unplanned work is required to be completed. Such overtime work may neither exceed eight hours per week, nor four hours per day, for each employee.

Articles 57 to 61 of the Law enable employers to redistribute working hours when required by the nature of the business or organisation of operations, as well as to ensure more efficient use of equipment or working hours, or where required by the deadlines for completing work.

Working hours must be redistributed in such a manner as to ensure that the total working hours of an employee, when averaged out over the course of six months of a calendar year, do not exceed full-time working hours.

Where working hours are redistributed, such working hours may not exceed 60 hours per week. Redistribution of working hours is not considered overtime work.

The use of daily and weekly rest periods by an employee working redistributed working hours may be allowed at other times, on condition that such daily and weekly rest periods complies with statutory requirements as to its duration for a period not exceeding 30 days, as well as on condition that such employee is allowed a consecutive rest period of at least ten working hours between two working days.

Working hours may not be redistributed for jobs to which reduced working hours apply.

An employee whose employment has terminated before the end of the period of redistribution of working hours is entitled to have any overtime hours recognised as full-time working hours and admitted as tenure for the purposes of retirement insurance, or to have such hours recognised as hours worked overtime.

The Labour Inspectorate under the Ministry of Labour, Employment and Social Policy, in collaboration with the Occupational Health and Safety Directorate and the International Co-Operation Directorate, prepared a project entitled **'Improving Occupational Health and Safety in Serbia'**, which focused on the implementation of

EU occupational health and safety standards in Serbia and was funded by the Norwegian Ministry of Foreign Affairs. Amongst its other results, **this project contributed to better application of occupational health and safety laws and byelaws in collaboration with representative employers and employee associations.**

The project's activities were implemented between November 2010 and 31 May 2013. This project involved training in occupational health and safety (with particular emphasis on risk assessment in the workplace and working environment) provided to health and safety officers, selected experts and licensed health and safety officers, and **representatives of social partners in construction, wood processing and the chemicals industry**. The programme also entailed the drafting of a Feasibility Study for establishing a grant scheme to provide practical assistance to employers (ten selected businesses) producing textiles, leather products and footwear in enhancing conditions in the workplace (i.e. improving air conditioning, ventilation, lighting, etc.). Textile workers were also trained in occupational health and safety and the application of OHSAS 18001 and OHSAS 18002 standards. In addition, the programme involved media outreach.

As part of the project the Ministry of Labour, Employment and Social Policy established **co-ordinated co-operation with social partners**, as well as with all institutions acting to reduce the incidence of injury in the workplace and professional disease.

Participation by representative trade unions and employer associations in the project enhanced social dialogue and willingness to improve occupational health and safety in Serbia. The purpose of these efforts was to ensure safe working conditions for employees and so safeguard their health and well-being, as well as for employers to be able to operate more efficiently and face lower costs of handling injuries in the workplace and professional diseases.

All issues of interest to employees, trade unions and employers that are related to improving occupational health and safety were discussed thanks to the active participation of all social partners and other relevant institutions in this project.

To enhance social dialogue, **the Labour Inspectorate held meetings** with trade unions and employers **once each month over the course of 2011 to ensure more efficient protection of the rights of all participants in the labour market, both employees and employers. These meetings were held starting in May 2011 as provided for under the 2011 Social and Economic Agreement entered into between the Government of Serbia, Serbian Employers' Association, Conference of Autonomous Trade Unions of Serbia (CATUS) and the Nezavisnost TUC on 29 April 2011.**

Meetings with social partners were organised by all Labour Inspectorate departments, divisions and groups with the aim of discussing pressing issues related to employment and occupational health and safety and taking specific steps to tackle shadow employment and reduce the incidence of injury in the workplace.

The Labour Inspectorate also actively participated in all conferences, roundtables, workshops and seminars organised by CATUS, Nezavisnost TUC, and the Serbian Employers' Association.

Article 2§2

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

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

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

Article 114 of the Law states that an employee is entitled to salary compensation amounting to his or her average salary over the course of the preceding three months, as provided for by the pertinent company byelaw and his or her employment contract, for the time he or she has been absent from work during public holidays, annual holiday, paid leave, taking part in an armed forces exercise, or answering the summons of a public authority.

Article 2§3

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

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

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

Article 68 of the Labour Law entitles employees to annual holiday pursuant to the Law. An employee entering into employment for the first time or having had his or her employment interrupted for more than 30 working hours becomes entitled to use his or her annual holiday after six months of continuous work.

Any period of time during which the employee was temporarily unable to work within the meaning of social insurance legislation, as well as any absence from work with salary compensation, shall also be deemed continuous work.

An employee may not waive his or her entitlement to their annual holiday, nor may such entitlement be denied him or her.

Under Article 69 of the Labour Law, an employee is entitled to annual holiday pursuant to company byelaws and their employment contract, which however may not be less than 20 working days. The length of such annual holiday shall be determined by augmenting the 20-day statutory minimum based on performance at work, working conditions, experience, educational qualifications, and other criteria established under company byelaws or employment contract.

Article 70 states that a working week is taken to consist of five working days for the purposes of establishing the length of annual leave. Non-working holidays designated by law, absence from work with salary compensation, and temporary inability to work

within the meaning of health insurance legislation are not considered part of an employee's annual holiday. Where an employee becomes temporarily unable to work within the meaning of health insurance legislation while on annual holiday, he or she is entitled to resume his or her holiday when no longer unable to work.

When absent from work while using their annual holiday, an employee is entitled to salary compensation amounting to their average salary over the course of the preceding three months, as provided for under company byelaws and their employment contract (Article 114 of the Law).

The Labour Inspectorate, **an administrative body within the Ministry of Labour, Employment and Social Policy**, is made up of 25 separate Divisions, Departments, and one Labour Inspectorate Group based in administrative districts, one Department for the City of Belgrade, as well as one Division and one Department at the headquarters of the Labour Inspectorate. The **Serbian Labour Inspectorate** employed a total of 261 staff in 2012, of which 250 were labour inspectors, primarily lawyers and engineers of various technical professions.

The Serbian Business Registries Agency currently tracks a total of 333,998 business entities (109,821 companies and 224,177 sole proprietorships), which means that one inspector is required to cover 1,336 business entities.

Between 2009 and 2011, Serbian labour inspectors undertook measures and activities in the areas of employment and occupational health and safety with the primary aim of ensuring the application of provisions of the Labour Law and the Occupational Health and Safety Law, as well as those of other laws, byelaws, and collective agreements, and thereby reduce the number of injuries at work, violations of laws and other regulations governing employment and occupational health and safety, and limit informal employment.

These aims were achieved **through *ex officio* inspection oversight** (scheduled inspection oversight, follow-up visits, and instances of oversight where inspectors acted after learning of injuries at work) and **at the initiative of various parties,** as well as **through preventive action** (provision of any required information directly to employers, employees, and trade union representatives; appearances in the media; roundtables to exchange information from within the remit of the labour inspectorate).

The aim of inspection oversight in the area of occupational health and safety is above all to prevent injury in the workplace and professional disease; the exercise of such oversight is based on the initiation of a number of cross-cutting activities, such as calling employers to account at all stages of work, applying preventive measures with regard to all forms and phases of work, assessment and management of risks in all workplaces, monitoring working conditions, and the like.

This analysis of the situation as regards occupational health and safety from the perspective of inspection oversight for the period 2009 to 2012 is based on operating reports of the Labour Inspectorate's Divisions, Departments, and Group based in the various districts and the City of Belgrade.

Over the course of this four-year period, labour inspectors made a total of 66,147 inspection visits with respect to health and safety issues, covering a total of 1,260,848 employees. This period also saw the issuance of 22,029 orders to remedy deficiencies discovered. A total of 1,872 orders were issued to prohibit work in a workplace due to a

dangerous occurrence that could potentially jeopardise the health and safety of employees; criminal charges were filed against officers responsible in 152 cases for failing to provide appropriate health and safety measures in the workplace. Misdemeanour charges were filed in 4,704 cases.

In addition, the period between 2009 and 2012 saw the filing of criminal charges against responsible parties in 152 cases for failing to provide appropriate health and safety measures in the workplace. Misdemeanour charges were filed in 4,704 cases against legal entities (and their responsible officers), sole proprietors, health and safety officers, and employees.

Throughout the reporting period, labour inspectors made 4,933 inspection visits with regarding work-related injuries reported: 126 involved deaths in the workplace; 70 involved grievous injuries resulting in death; 99 involved cases where multiple persons were reported injured; 3,952 involved grievous injuries; and seven involved minor injuries.

The following table shows numbers of inspection visits made with respect to injuries in the workplace between 2009 and 2012:

Year	Number of instances of inspection oversight in cases of death, grievous injury resulting in death, injury involving multiple persons, grievous injury and minor injury					
	Total	Deaths	Grievous injury resulting in death	Injury involving multiple persons	Grievous injury	Minor injury
2009	1,286	37	18	22	986	223
2010	1,322	35	21	29	1,005	232
2011	1,082	28	18	24	958	54
2012	1,243	26	13	24	1,003	177

A comparative analysis of the number of inspection visits made in 2012 shows that, in relation to 2011, **preventive action by the Labour Inspectorate and enhanced oversight of high-risk industries (construction, manufacturing, agriculture, etc.) reduced the total number of deaths in the workplace by some seven percent** (2012 saw **26** deaths in the workplace, whilst 2011 had seen **28**). In addition, **the number of grievous injuries resulting in death declined by 28** percent in 2012 relative to 2011 (down from **18** such injuries in 2011 to **13** in 2012). At the same time, the number of inspection visits regarding grievous injuries reported increased by **4 percent** as the Labour Inspectorate is now insisting that all employers report injuries that are expected to render an employee unable to work for more than three days.

Additionally, between 2009 and 2012, labour inspectors made 143,385 visits to examine employment issues; these visits found 22,680 people in informal employment, of which 16,932 were admitted to formal employment after inspectors intervened. Labour inspectors also issued 19,067 orders to remedy deficiencies (primarily with regard to entry into employment, payment of salaries, and amendments to employment contracts), 2,675 decisions ordering employers to postpone the enforcement of their decisions to

terminate employees. Misdemeanour charges were filed in 10,445 cases, whilst 91 criminal charges were also filed. Some 20 percent of those killed in the workplace had been in informal employment. Persons engaged by employers without formal employment contracts ('undeclared workers') mainly work occasional and temporary (seasonal) jobs, and begin working without first becoming acquainted with the technology used in the workplace. Further, insufficient attention is paid both to their professional qualifications for working such jobs and to training them to do those jobs safely and without prejudicing their health. Besides, employers very rarely provide undeclared workers with appropriate personal protective equipment. The consequence of all of the above is greater risk of injury among undeclared workers, which is unquestionably borne out by data regarding injury in the workplace.

The **incidence of injury in the workplace in Serbia**, or the index of injury in the workplace resulting in death per 100,000 employees, stood at 1.51, as calculated using the total number of employees and the number of injuries reported to the Labour Inspectorate.

Article 2§4

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

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

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

Under Article 80 of the Labour Law, employees are entitled to safety in the workplace and protection of their life and health while at work. Employees are required to adhere to occupational health and safety regulations so as not to jeopardise their own health and safety or those of other employees and other persons. Employees are required to notify their employers of any possible threats to health and safety in the workplace.

Article 81 of the Labour Law prevents employees from working overtime if doing so could adversely impact their health, in the view of the appropriate healthcare bodies. Employees with health problems duly established by the appropriate healthcare body in accordance with law may not work jobs that could cause their health to deteriorate or result in consequences detrimental to their surroundings.

Jobs that carry increased risk of injury or professional or other disease may be performed only by employees who meet statutory physical and mental health and age-related requirements in addition to any specific requirements set by company byelaws (Article 82 of the Labour Law).

Under Article 52 of the Labour Law, an employee working a job that is particularly difficult, strenuous, or hazardous to health, and recognised as such by legislation or a company byelaw, and which remains particularly hazardous to the health of the employee regardless of the application of appropriate security and health and

safety measures and use of personal protective equipment, can have his or her working hours reduced, in proportion to the hazard to the health and capacity of the employee to work, by up to ten hours per week. Reduced working hours are set after professional analysis and pursuant to the law. An employee working reduced hours is entitled to all employment-related rights that would accrue if he or she was working full hours.

The fundamentals of the occupational health and safety system are laid down in the **Occupational Health and Safety Law** (*Official Gazette of the Republic of Serbia*, No. 101/05), which governs the implementation and improvement of occupational health and safety, and applies to workers and persons visiting workplaces in any other capacity. This law is aimed at preventing injury in the workplace, professional disease, and work-related illness.

Article 13 of the Occupational Health and Safety Law particularly stipulates: 'Employers shall be required to adopt a Risk Assessment Documents, in writing, for all positions within a working environment, as well as to provide for means to eliminate any such risks.

Employers shall be required to amend Risk Assessment Documents to reflect the appearance of any new threats or changes to the level of risk associated with a particular job.

Risk Assessment Documents shall be based on the establishment of possible threats and dangers in the workplace or the working environment that will be used to estimate the risk of injury or damage to the health of each employee.

The manner and procedure of risk assessment in the workplace and work environment shall be prescribed by the minister in charge of labour affairs.'

The following byelaws were adopted to ensure the implementation of the Occupational Health and Safety Law and the application of preventive measures to eliminate or reduce risk and so improve health and safety in the workplace:

- Regulation on preventive measures for safe and healthy work in the workplace (*Official Gazette of the Republic of Serbia*, No. 21/09) (Council Directive 89/654/EEC of 30 November 1989 concerning the minimum safety and health requirements for the workplace);

- Regulation on preventive measures for safe and healthy work when using work equipment (*Official Gazette of the Republic of Serbia*, No. 23/09) (Council Directive 89/655/EEC of 30 November 1989 concerning the minimum safety and health requirements for the use of work equipment by workers at work; Council Directive 95/63/EC of 5 December 1995 amending Directive 89/655/EEC concerning the minimum safety and health requirements for the use of work equipment by workers at work; Directive 2001/45/EC of the European Parliament and of the Council of 27 June 2001 amending Council Directive 89/655/EEC concerning the minimum safety and health requirements for the use of work equipment by workers at work);

- Regulation on preventive measures for safe and healthy work when manually handling loads (*Official Gazette of the Republic of Serbia*, No. 106/09) (Council

Directive 90/269/EEC of 29 May 1990 on the minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back injury to workers);

- Regulation on preventive measures for safe and healthy work when using display screen equipment (*Official Gazette of the Republic of Serbia*, No. 106/09) (Council Directive 90/270/EEC of 29 May 1990 on the minimum safety and health requirements for work with display screen equipment);

- Regulation on preventive measures for safe and healthy work when exposed to asbestos (*Official Gazette of the Republic of Serbia*, No. 106/09) (Council Directive 83/477/EEC of 19 September 1983 on the protection of workers from the risks related to exposure to asbestos at work; Council Directive 91/382/EEC of 25 June 1991 amending Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work; Directive 2003/18/EC of the European Parliament and of the Council of 27 March 2003 amending Council Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work;

- Regulation on preventive measures for safe and healthy work when exposed to chemical materials (*Official Gazette of the Republic of Serbia*, No. 106/09) (Council Directive 98/24/EC of 7 April 1998 on the protection of the health and safety of workers from the risks related to chemical agents at work; Council Directive 91/322/EEC of 29 May 1991 on establishing indicative limit values by implementing Council Directive 80/1107/EEC on the protection of workers from the risks related to exposure to chemical, physical and biological agents at work; Council Directive 2000/39/EC establishing a first list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC on the protection of the health and safety of workers from the risks related to chemical agents at work; Council Directive 2006/15/EC establishing a second list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC and amending Directives 91/322/EEC and 2000/39/EC);

- Law Ratifying Convention No. 187 of the International Labour Organisation on the Promotional Framework for Occupational Safety and Health (*Official Gazette of the Republic of Serbia*, No. 42/09);

- Law Ratifying Convention No. 167 of the International Labour Organisation Concerning Safety and Health in Construction (*Official Gazette of the Republic of Serbia*, No. 42/09);

- Regulation on preventive measures for safe and healthy work when exposed to noise (*Official Gazette of the Republic of Serbia*, No. 96/11) (Directive 2003/10/EC of the European Parliament and of the Council of 6 February 2003 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (noise));

- Regulation on preventive measures for safe and healthy work when exposed to vibration (*Official Gazette of the Republic of Serbia*, No. 93/11) (Directive 2002/44/EC of the European Parliament and of the Council of 25 June 2002 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (vibration));

- Regulation on preventive measures for safe and healthy work when exposed to carcinogens or mutagens (*Official Gazette of the Republic of Serbia*, No. 96/11) (Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work);

- Regulation on heath and safety at temporary or mobile construction sites (*Official Gazette of the Republic of Serbia*, No. 14/09) (Council Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites);

- Regulation on the curriculum, manner and costs of preparing for and sitting the professional examination for project co-ordinators and the professional examination for works co-ordinators (*Official Gazette of the Republic of Serbia*, No. 14/09);

- Regulation on the manner and costs of issuing licences for performing occupational health and safety activities (*Official Gazette of the Republic of Serbia*, Nos. 29/06, 62/07, and 72/06);

- Regulation on the curriculum, manner and costs of preparing for and sitting the professional examination for performing occupational health and safety activities and activities of authorised persons (*Official Gazette of the Republic of Serbia*, Nos. 29/06 and 62/07);

- Regulation on the conditions and costs of issuing licences for performing occupational health and safety activities (*Official Gazette of the Republic of Serbia*, Nos. 29/06, 62/07, and 72/06);

- Regulation on the costs of the procedure of establishing compliance with occupational health and safety requirements (*Official Gazette of the Republic of Serbia*, No. 60/06);

- Regulation on the procedure of establishing compliance with occupational health and safety requirements (*Official Gazette of the Republic of Serbia*, No. 60/06);

- Regulation on the manner and procedure of assessing risk in the workplace and work environment (*Official Gazette of the Republic of Serbia*, Nos. 72/06 and 84/06 – Correction);

- Regulation on the content and manner of issuance of the form of the report on injury in the workplace, professional disease and work-related illness (*Official*

Gazette of the Republic of Serbia, Nos. 94/06 and 108/06 – Correction);

- Regulation on occupational health and safety records (*Official Gazette of the Republic of Serbia*, No. 62/07);

- Regulation on prior and periodic medical examinations for employees in high-risk jobs (*Official Gazette of the Republic of Serbia*, Nos. 120/07 and 93/08);

- Regulation on preventive measures for safe and healthy work when using personal protective equipment in the workplace (*Official Gazette of the Republic of Serbia*, No. 92/08);

- Regulation on preventive measures for safe and healthy work when exposed to risk of explosive atmospheres (*Official Gazette of the Republic of Serbia*, Nos. 101/12 and 12/13), transposing Directive 99/92/EC of the European Parliament and of the Council of 16 December 1999 on the minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmospheres;

- Regulation on preventive measures for safe and healthy work when exposed to electromagnetic fields (*Official Gazette of the Republic of Serbia*, No. 117/12), transposing Directive 2004/40/EC of the European Parliament and of the Council of 29 April 2004 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields);

- Regulation on preventive measures for safe and healthy work when exposed to artificial optical radiation (*Official Gazette of the Republic of Serbia*, Nos. 120/12 and 29/13), transposing Directive 2006/25/EC of the European Parliament and of the Council of 5 April 2006 on the minimum health and safety requirements regarding the exposure of the workers to risks arising from physical agents (artificial optical radiation);

- Regulation on the content of construction site organisation documents (*Official Gazette of the Republic of Serbia*, No. 121/12), and

- Regulation amending the Regulation on preventive measures for safe and healthy work when using work equipment (*Official Gazette of the Republic of Serbia*, No. 123/12).

The Occupational Health and Safety Directorate, an administrative body of the Ministry of Labour, Employment and Social Policy, has been actively soliciting the opinions of both government bodies and representative trade unions, including the Serbian Social and Economic Council, the Confederation of Autonomous Trade Unions of Serbia, the Nezavisnost TUC and the Serbian Employers' Association. In line with the National Policy of the Republic of Serbia and the Action Plan for Implementing the Serbia Occupational Health and Safety Strategy 2009-2012, this information is being used in drafting byelaws to transpose European Union directives into national legislation.

Over the course of the reporting period, the Occupational Health and Safety Directorate organised the following activities:

- Improving Occupational Health and Safety in Serbia Project (funded under a donation of the Government of the Kingdom of Norway);

- Roundtable on 'Steps towards improving occupational health and safety', organised in collaboration with the Independence TUC within the European Cooperation Bridges for Occupational Health and Safety (ECBOHS), implemented in association with the Turkish Employers' Association of Metal Industries (MESS);

- Conference on 'Exercising rights arising from injuries in the workplace in Serbia – Open issues and options', organised by the Dignified Work Technical Support Team and the ILO Office for Eastern Europe;

- Training session within the framework of implementing the Construction Industry Occupational Health and Safety Action Plan, organised by the Serbian Construction and Construction Materials Industry Trade Union and the Nezavisnost Construction, Construction Materials, Timber and Road Construction Industrial Trade Union, with the financial support of the ILO;

- Participation in training sessions offered for health and safety representatives, organised by the Serbian Autonomous Metalworkers' Union and funded by SLA Switzerland as part of the project of 'Supporting Social Dialogue in Serbia';

- The World Day for Safety and Health at Work (28 April) is marked every day in collaboration with social partners;

- The European Week for Safety and Health at Work is marked every year with the participation of the European Agency for Safety and Health at Work;

- The Directorate regularly takes part in events to mark 8 August, Construction Workers' Day, together with social partners, and

- The Directorate takes part in trade fairs to foster an occupational health and safety culture.

Article 2§5

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

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

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

Article 67 of the Labour Law entitles employees to weekly rest periods of at least 24 consecutive hours. As a rule, weekly rest periods are used on Sundays. Employers may designate other days for weekly rest if required by the nature or organisation of the work being performed. If an employee is required to work on the day of their weekly rest

period, the employer is required to provide a rest period of at least 24 consecutive hours over the course of the following week.

Article 2§6

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

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

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

Employment is established through entry into an employment contract between the employer and the employee. Article 32 of the Law stipulates that such contract must be entered into in writing before the employer begins working. Employment contracts must contain the following information: name and registered office address of the employer; name and surname of the employee; residence or domicile of the employee; type and degree of professional qualifications of the employee; type and description of the job the employee is required to undertake; location at which the employee is to work; type of employment (open-ended or short-term); duration of a short-term employment contract; date the employee is to start work; working hours (full-time, part-time, or reduced); base salary and criteria for establishing performance, salary compensation, increased salary and other emoluments due to the employee; deadlines for the payment of salary and other emoluments the employee is entitled to; reference to a current collective agreement or employment regulation; and duration of daily and weekly working hours.
An employment contract may also govern other rights and obligations. The appropriate provisions of laws and company byelaws govern any and all rights and obligations not governed by the employment contract.

Article 2§7

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

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

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

Under Article 108(1)2) of the Labour Law, employees are entitled to increased salary (by at least 26 percent of their base salary) as established by company byelaws and employment contracts for working nights and in shifts, where such work has not incorporated into the base salary.

Article 62 of the Labour Law stipulates that work performed between 10 pm and 6 am on the following day is deemed night work. Where an employee works nights at least three hours per day or one-third of his or her full-time working hours over the course of one week, the employer must ensure that such employee can work during the daytime if a competent health authority advises that such night work may result in the deterioration of the employee's health. Before introducing night work, employers are required to solicit the opinion of the appropriate trade union regarding health and safety measures applicable to employees working nights.

Scope of the provisions as interpreted by the ECSR

Paragraph 1: Establishment of reasonable limits on daily and weekly working hours through legislation, regulations, collective agreements or any other binding means; weekly working hours should be progressively reduced to the extent permitted by productivity increases; flexibility measures regarding working time must operate within a precise legal framework and a reasonable reference period for averaging working hours must be provided.

Paragraph 2: The right to public holidays with pay should be guaranteed; work on public holidays should only be allowed in special cases; work performed on a public holiday should be paid at least at double the usual rate.

Paragraph 3: The right to a minimum of four weeks of annual holiday with pay should be guaranteed; annual leave may not be replaced by financial compensation; days lost to illness or injury during annual leave should be allowed to be taken at another time.

Paragraph 4: Application of preventive measures to eliminate the risks in inherently dangerous or unhealthy occupations; where it has not yet been possible to eliminate or sufficiently reduce these risks some form of compensation should be ensured to those workers exposed to such risks, namely reduced working hours or additional paid holidays.

Paragraph 5: The right to a weekly rest period coinciding, as far as possible, with the day traditionally recognised as a day of rest should be guaranteed; weekly rest periods may not be replaced by compensation and cannot be given up.

Paragraph 6: The right of workers to written information upon commencement of their employment should be guaranteed. This information should cover essential aspects of employment relationship.

Paragraph 7: Compensatory measures should be guaranteed for workers performing night work.

For a list of selected other international instruments in the same field, see Appendix.

Article 4 – The right to a fair remuneration

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

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

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

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

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

Information to be submitted

Article 4§1

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

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

3) Please provide pertinent figures on national net average wage[1] (for all sectors of economic activity and after deduction of social security contributions and taxes; this wage may be calculated on an annual, monthly, weekly, daily or hourly basis); national net minimum wage, if applicable, or the net lowest wages actually paid (after deduction of social security contributions and taxes); both net average and minimum net wages should be calculated for the standard case of a single worker; information is also requested on any additional benefits such as tax alleviation measures, or the so-called non-recurrent payments made available specifically to a single worker earning the minimum wage as well as on any other factors ensuring that the minimum wage is sufficient to give the worker a decent standard of living; the proportion of workers receiving the minimum wage or the lowest wage actually paid.
Where the above figures are not ordinarily available from statistics produced by the States party, Governments are invited to provide estimates based on *ad hoc* studies or sample surveys or other recognised methods.

Article 104(1-3) of the Labour Law entitles employees to appropriate salary that is set pursuant to the law, company byelaw and their employment contract.

All employees are guaranteed equal salary for identical work or work of identical value performed for the employer.

Work of identical value is defined as work requiring the same educational level, working ability, responsibility, and amount of physical and intellectual labour.

Under Article 105 of the Labour Law, the salary of an employee is made up of salary for the work done and time spent at work, salary based on the employee's contribution to the success of the employer (such as prizes, bonuses, etc.), as well as any other emoluments due to the employee under company byelaws and their employment contract.

As defined in the Labour Law, salary comprises tax and contributions paid on the salary (this is defined as 'gross salary').

Article 106 of the Labour Law stipulates that salary for work performed and time spent at work is made up of base salary, performance-related portion of the salary, and increased salary.

[1] The concept of wage, for the purpose of this provision, relates to remuneration – either monetary or in kind – paid by an employer to a worker for time worked or work done. Remuneration should cover, where applicable, special bonuses and gratuities. The Committee's calculations are based on net amounts, i.e. after deduction of taxes and social security contributions. The national net average wage is that of a full-time wage earner, if possible calculated across all sectors for the whole economy, but otherwise for a representative sector such as manufacturing industry or for several sectors.

Employees are guaranteed at least the minimum wage as governed by Articles 111 to 113 of the Labour Law. Employees are entitled to the minimum wage for standard performance and full-time working hours, or any working hours deemed to be equal to full-time hours. Where the employer and the employee agree on the minimum wage, the employer is required to pay the wage in the amount set by the Social and Economic Council for the month in which payment is made.

The Serbian Social and Economic Council sets the minimum wage.

The following criteria are taken into account when the minimum wage is set: cost of living; trends of average salary in the Republic of Serbia; basic and social needs of employees and their families; unemployment rate; employment trends in the labour market; and general level of economic development of the Republic of Serbia.

The minimum wage shall be set by the working hour, for a period of no less than six months, and cannot be lower than the minimum wage set for the period preceding the period for which the minimum wage is set. This provision is intended to safeguard social standards and the basic needs of employees and their families.

The decision setting the minimum wage is required to the published in the *Official Gazette of the Republic of Serbia*.

As provided for in Article 110, maximum deadlines are in place for the payment of salaries to employees that guarantee the maintenance of decent living standards of employees and members of their families: salaries must be paid by the deadlines set in company byelaws and employment contracts, at least once per month, with the previous month's salary being paid at the latest by the end of the current month. Salaries are paid in money only, except where the law provides otherwise.

In the real sector, salaries are calculated and paid pursuant to these provisions of the Labour Law (this includes employees in the private sector as well as in public enterprises and agencies). Salaries of employees of government bodies and public services are calculated and paid under the Law on Salaries in Government Bodies and Public Services (*Official Gazette of the Republic of Serbia*, Nos. 34/01, 62/06 – Other Law, 116/08 – Other Law, 116/08 – Other Law, 92/11, and 99/11 – Other Law).

Article 1 of this law governs the calculation of salaries, emoluments, compensations and other earnings of:

1) The President of the Republic; Speaker and Deputy Speaker of the National Assembly; Chair and Deputy Chair of parliamentary group; Chair and Deputy Chair of parliamentary standing committee; member of parliament permanently employed by the National Assembly; cabinet (Government) ministers; judges of the Constitutional Court; other persons elected, appointed and nominated to, and employed by, Ministries, special administrative bodies, courts, public prosecutors' offices, the Public Attorney's Office, misdemeanour bodies, and support services

of the National Assembly, the President of the Republic, Government, and the Constitutional Court;
2) Persons elected and appointed to, as well as employed by, sub-national and local authorities;
3) Staff of public services funded from national, sub-national and local budgets;
4) Staff of public services funded from mandatory social security contributions; and
5) Staff of mandatory social insurance institutions.

Salaries of civil servants and technical support staff are calculated under the Law on Salaries of Civil Servants and Support Staff (*Official Gazette of the Republic of Serbia*, Nos. 62/06, 63/06 – Correction, 115/06, 101/07, and 99/10).

Salaries of staff of government bodies and public services are governed by the Law on Salaries in Government Bodies and Public Services (Official Gazette of the Republic of Serbia, Nos. 34/01, 62/06, 116/08, and 92/11), as well as the Order on coefficients for the calculation and payment of salaries of staff of public services (*Official Gazette of the Republic of Serbia*, Nos. 44/01, 15/02 – Other Regulation, 30/02, 32/02 – Correction, 69/02, 78/02, 61/03, 121/03, 130/03, 67/04, 120/04, 5/05, 26/05, 81/05, 105/05, 109/05, 27/06, 32/06, 58/06, 82/06, 106/06, 10/07, 40/07, 60/07, 91/07, 106/07, 7/08, 9/08, 24/08, 26/08, 31/08, 44/08, 54/08, 108/08, 113/08, 79/09, 25/10, 91/10, 20/11, 65/11, 100/11, 11/12, 124/12 and 8/13).

These coefficients reflect job complexity, responsibility, working conditions, and educational qualifications required to undertake typical jobs in government bodies and public services covered by the Order. The coefficients include additional pay to cover meals while at work and an annual holiday subsidy for staff of government bodies and public services.

The base salary of persons elected, nominated, and appointed to, as well as employed by, these bodies is established by multiplying the coefficient with the salary calculation base and the corrective coefficient.

Where a salary of an employee covered by the Law on Salaries in Government Bodies and Public Services calculated by using the above method is lower than the minimum wage, that employee will receive a salary equivalent to the minimum wage that serves to safeguard the minimum basic needs of such employee and his or her family.

Article 4§2

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

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

3) Please provide pertinent figures, statistics (estimates, if necessary) or any other

relevant information, in particular: methods used to calculate the increased rates of remuneration; impact of flexible working time arrangements on remuneration for overtime hours; special cases when exceptions to the rules on remuneration for overtime work are made.

Article 108(1)3) of the Labour Law states that an employee is entitled to a salary increase of at least 26 percent of their base salary as established by company byelaws and employment contracts for any overtime work.

Company byelaws and employment contract may also stipulate other cases where an employee is entitled to a salary increase.

The base used in the calculation of the increase is the base salary as established pursuant to law, company byelaw and employment contract.

Article 53 of the Labour Law stipulates that the length of overtime work may not exceed eight hours per week or four hours per day per employee.

An employee is required to work longer than full hours in the event of acts of God, unexpected increase in the volume of work, as well as in other cases where unplanned work is required to be completed.

Employers are required to keep records of employee attendance and overtime work. Pursuant to such records, employers are required to remunerate employees at an increased rate as established under company byelaws and employment contracts. Under Article 57 of the Labour Law, employers may redistribute working hours when required by the nature of the business or organisation of operations, as well as to ensure more efficient use of equipment or working hours, or where required by the deadlines for completing work. Working hours must be redistributed in such a manner as to ensure that the total working hours of an employee, when averaged out over the course of six months of a calendar year, do not exceed full-time working hours. Where working hours are redistributed, such working hours may not exceed 60 hours per week.

Redistribution of working hours is not considered overtime work, as stipulated under Article 58 of the Labour Law.

Article 4§3[2]

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

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

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

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

Article 104(2,3) of the Labour Law guarantees equal salary for identical work or work of identical value performed for the employer.

Work of identical value is defined as work requiring the same educational level, working ability, responsibility, and amount of physical and intellectual labour.

In addition, Article 18 of the Law prohibits both direct and indirect discrimination of persons seeking employment and employees with regard to their gender, origin, language, race, skin colour, age, pregnancy, health status or disability, ethnicity, religion, marital status, familial commitments, sexual orientation, political or other beliefs, social background, financial status, membership in political organizations, trade unions or any other personal quality.

Article 19 defines direct discrimination, within the meaning of the Law, as any action based on any of the considerations referred to in Article 18 that puts a person seeking employment or employee in a situation less favourable than that of other persons in identical or similar situations.

Indirect discrimination within the meaning of the Law is deemed to exist where an apparently neutral provision, criterion or practice places, or could place, a person seeking employment or employee at a disadvantage in relation to other such persons with respect to any quality, status, conviction or belief referred to in Article 18. Article 20 prohibits discrimination with respect to 1) employment conditions and selection of candidates for a certain job; 2) working conditions and all rights resulting from employment; 3) education, training and advanced training; 4) promotion at work; and 5) termination of employment.

The Labour Law makes it a misdemeanour for an employer to engage in any discrimination defined by the Law (Art. 273(1)(1)), as well as not to pay the same salary for identical work or work of identical value (Art. 273(1)(4)).

Any and all monetary claims arising from employment become time-barred after three years, as provided for under Article 196 of the Law. Employees may initiate a labour dispute within 90 days of receiving an official enactment or document infringing on their rights, or within 90 days of having learned of such infringement. Where accountability is established, the misdemeanour fine payable by the perpetrator ranges from RSD 800,000 to RSD 1 million.

Article 16 of the Anti-Discrimination Law (*Official Gazette of the Republic of Serbia*, No. 22/09) bans labour discrimination, including unequal remuneration for work of

identical value. Paragraph 2 of this Article stipulates that protection against discrimination is offered to employees; those performing temporary or occasional work, or working under a temporary service agreement or other form of contract; those performing work supplementary to their regular employment; public officers; members of the armed forces; job seekers; students in work placement; those undergoing training without entering into an employment contract; those undergoing professional training and advanced training without entering into an employment contract; and volunteers or any other persons working on any grounds whatsoever.

Article 17 ('Equal remuneration for identical work or work of identical value') of the 2009 Serbian Gender Equality Law (*Official Gazette of the Republic of Serbia*, No. 104/09), stipulates that employees, regardless of their gender, are entitled to equal remuneration for identical work or work of identical value performed with an employer, as provided for under the Labour Law. Article 11 ('Equal opportunity') of the same law, employers are required to ensure all employees enjoy equal opportunities and treatment regardless of gender insofar as the exercise of rights arising from employment are concerned. Employers are required to ensure that the gender structure of participants in each training or education cycle reflects as much as possible the gender structure of employees with that employer or the organisational unit where such training is offered.

Article 18 of the Labour Law (*Official Gazette of the Republic of Serbia*, Nos. 24/05, 61/05, 54/09 and 32/13) prohibits both direct and indirect discrimination of persons seeking employment and employees with regard to their gender, (…) pregnancy, (…) marital status, familial commitments, sexual orientation, etc., with respect to, as Article 20 puts it, working conditions and all rights resulting from employment, and education, training and advanced training. Provisions of legislation, company byelaws and employment contracts that offer special protection and assistance to certain categories of employees, particularly disabled persons, women on maternity leave and absence from work for childcare and special childcare, as well as provisions that relate to special rights of parents, adoptive parents, guardians and foster parents, are not deemed discrimination (Article 22). Article 104 ('Salary') of the Labour Law guarantees equal salary for identical work or work of identical value performed for the employer. Work of identical value is defined as work requiring the same educational level, working ability, responsibility, and amount of physical and intellectual labour. Any decision of an employer or agreement with an employee that contravene these provisions are deemed null and void, and the employee in question may seek compensation for damages.

In late 2010, the Ministry of Labour, Employment and Social Policy adopted the Regulation on the content and submission of Plans of Measures to Eliminate or Alleviate Unequal Gender Representation and the Annual Report regarding its implementation (*Official Gazette of the Republic of Serbia*, No. 89/10). These plans are required to be provided by all employers with more than 50 staff. The Gender Equality Directorate is responsible for receiving these plans and keeping records of them; by 31 March 2013 (the end date for submissions relating to 2012), 457 such plans were received, about 22.5 percent of all plans envisaged for business entities registered with the Business Registry.

In early 2013, the Labour Inspectorate of the Ministry of Labour, Employment and Social Policy reported data for the period of January to December 2012, stating that inspectors had made 4,264 inspection visits focusing on the implementation of the Gender Equality Law and had issued 72 orders to remedy deficiencies. Employers were ordered to adopt Plans of Measures to Eliminate or Alleviate Unequal Gender Representation, as well as to establish records of the gender structure of their staff. No petitions regarding infringements of the Gender Equality Law were filed with the Labour Inspectorate in 2012. Further, in 2012, labour inspectors issued 79 orders under Article 269 of the Labour Law regarding infringements of anti-discrimination provisions of said law.

The following measures have been taken since 2009:

- In 2009 and 2010, the National Employment Service implemented a self-employment subsidy programme. These subsidies each amounted to RSD 130,000 (in 2009) and RSD 160,000 (in 2010); women accounted for 40 percent of all successful applicants.
- The Association of Business Women in Serbia, the largest national organisation of women entrepreneurs, is active in organising, supporting and promoting women's entrepreneurship. The Association has been organising training events for women entrepreneurs, active business owners, and women seeking to start their own businesses. It has also been offering mentoring programmes; engaging in public advocacy for policymaking related to business development and entrepreneurship, with particular emphasis on the position and role of women; commissioning research; promoting examples of good practice through an annual award intended for the most successful women entrepreneur (under the title *Cvet uspeha za ženu zmaja*); and fostering regional and international co-operation. The Association marked Girls Day on 26 April 2012 for the first time: this event was intended to overcome the division between 'women's' and 'men's' occupations.
- GIZ has been implementing the Professional Orientation in Serbia project, with the support of the Ministry of Education and Sports, also with the aim of overcoming gender occupational stereotypes, fostering entrepreneurship in boys and girls, and promoting the importance of training in ICT.
- A National Network of Female Entrepreneurship Ambassadors was established in Serbia in 2011; this is part of the European Network of Female Entrepreneurship Ambassadors (covering 17 countres), and its aim is to provide more support to women entrepreneurs. the National Agency for Regional Development and the Association of Business Women are in charge of steering the Network.
- In 2011, the Ministry of Economy and Regional Development commissioned two studies with the collaboration of the UN Women Office: the Baseline Study on Women Entrepreneurship in Serbia (carried out by SeConS) and the Gender Impact Analysis of Existing Support Measures for Entrepreneurship in Serbia (carried out by the Foundation for the Advancement of Economics). The two studies were intended to provide comprehensive analysis of the conditions and characteristics of women's entrepreneurship in Serbia and provide recommendations for its improvement.
- The Serbian Development Fund implemented a programme of start-up loans for sole proprietors (amounting to between RSD 500,000 and 1.5 million) and SMEs

(between RSD 500,000 and 5 million); women accounted for 39 percent of all successful applicants.

- The Ministry of Economy and Regional Development, Ministry of Agriculture, Trade, Forestry and Water Management, and the Tourist Organisation of Serbia collaborated with five UN agencies to launch a programme entitled 'Sustainable tourism for rural development', which views women living in villages as having major potentials for the development of rural areas.
- The Serbian Chamber of Commerce established a Women's Entrepreneurship Council to monitor and improve women's entrepreneurship.

Differences in the position of men and women in the labour market and their earnings are reflected in the gender pay gap, which reaches as much as 17 percent, as reported by the Statistical Office of the Republic of Serbia in its Men and Women in Serbia report, published in 2011. A survey of the use of time by men and women carried out by the Statistical Office of the Republic of Serbia between February 2010 and February 2011 showed that women in Serbia worked on average seven hours, while men worked for six hours (this includes both paid and unpaid work). Of this total figure, women spend two-thirds of their time (five hours) doing unpaid work in the home, whilst men spend slightly more than two hours on these jobs. The Statistical Office of the Republic of Serbia published the following overview in 2011:

Average salaries of employees in legal entities by industry and gender, 2010

Industry	Average salary = 100	
	Women	Men
TOTAL	96	103
Agriculture, forestry and fishing	93	102
Mining	94	101
Manufacturing	87	107
Electricity, gas, steam and air conditioning supply	92	102
Water supply, waste management	99	100
Construction	100	100
Wholesale and retail trade; repair of motor vehicles	89	111
Transportation and storage	97	101
Accommodation and food service activities	92	111
Information and communications	96	103
Financial and insurance activities	93	113
Real estate activities	96	102
Professional, scientific and technical activities	102	99
Administrative and support service activities	107	97
Public administration and defence; compulsory social security	98	102
Education	96	109
Human health and social work	95	117
Arts, entertainment and recreation	95	106

Other service activities	124	90

Article 4§4

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

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

Under the Labour Law, the employment of an employee may cease at the initiative of either the employee or the employer. In that event, the Law stipulates a notice period of 15 days after notice is given.

Article 178 of the Labour Law stipulates that employees are entitled to give their employers notice of resignation. This notice must be provided to the employer in writing, and a 15-day notice period applies.

Where an employee resigns due to an infringement of the obligations of the employer as stipulated by law, company byelaw, or employment contract, such employee enjoys any and all employment rights that would apply in the event of an unlawful dismissal.

The Labour Law also provides for employer-initiated termination. Article 179 states that an employer may terminate an employee with cause in relation to his or her working ability or behaviour, and the employer's own needs, as follows:

1) If the employee fails to perform, i.e. does not have the knowledge and abilities needed to perform the job assigned to him or her;
2) If the employee through his or her own fails violates duties established by company byelaws and employment contract;
3) If the employee does not comply with discipline in the workplace as established by company byelaws, i.e. where his or her behaviour makes it impossible for him or her to continue working for the employer;
4) If the employee commits a criminal offence at work or in relation to work;
5) If the employee does not return to work with the employer within 15 days from the expiry of his or her unpaid leave or dormancy of employment within the meaning of the law;
6) If the employee abuses the right to leave due to being temporarily unable to work;
7) If the employee refuses to sign an addendum to his or her employment contract amending the working conditions originally contracted for due to reassignment to another appropriate position, as referred to in Article 171(1)1)-4) of the law;

8) If the employee refuses to sign an addendum to his or her employment contract amending his or her salary originally contracted for, and

9) If due to technological, economic or organizational changes a particular job becomes redundant or volume of work is reduced.

In these cases, the termination becomes effective as of the date the document terminating the employee is presented to such employee, and following due procedure whereby the employee may provide his or her comments in the case within five working days of receiving an initial warning. After this procedure is completed, the employer may terminate the employment contract; the employment of the employee ceases as of the date the document terminating the employee is presented to such employee or as of the date cited in the termination document.

Besides the cases listed in Article 189 of the Labour Law, there are no other limitations regarding the provision of a reasonable deadline for terminating an employee; employment is terminated following due statutory procedure. Article 198 provides for a notice period and compensation payable to an employee in the event of termination.

An employee whose terminated for non-performance or lack of qualifications and skills within the meaning of Article 179(1)1) of the law is entitled and required to remain at work for no less of one month and no longer than three months (this is termed the 'notice period'), depending on the total duration of his or her insurance coverage (i.e. the period over which retirement insurance contributions were paid), as follows:

1) One month if he or she has up to ten years of retirement insurance coverage;

2) Two months if he or she has between ten and 20 years of insurance coverage, and

3) Three months, if he or she has over 20 years of insurance coverage.

The notice period starts a day after the termination decision is served. Where agreed with the appropriate bodies or the employer's human resources staff, the employee may cease working before the expiry of the notice period if salary compensation is paid for that period in the amount set by company byelaws and the employment contract. Where an employee is summoned to an armed forces exercise or becomes temporarily unable to work during the period he or she is required to remain at work, this period shall be suspended at his or her request and shall continue upon his or her resumption of work after the armed forces exercise or temporary inability to work have ceased.

Article 4§5

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

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

An employee's salary is a major element of an employment contract. In the event it changes, the employer is required to offer the employee to sign an addendum to his or her contract for this purpose. This is envisaged under Article 171(1)5) of the Labour Law, but the employer may not offer a contract or an addendum referencing a salary lower than the minimum wage set by the Social and Economic Council or the Government. A contractual minimum wage may not be lower than the minimum wage in force in Serbia over the immediately preceding period.

Scope of the provisions as interpreted by the ECSR

Paragraph 1: Wages must guarantee a decent standard of living to all workers. The net minimum wage must amount to at least 60% of the net national average wage.

Paragraph 2: The right to an increased remuneration rate for overtime work should be guaranteed to workers; where leave is granted to compensate for overtime, it should be longer than the overtime worked.

Paragraph 3: The right to equal pay without discrimination on grounds of sex should be expressly provided for in legislation. Appropriate and effective remedies should be provided in the national legislation in the event of alleged wage discrimination on grounds of sex.

Paragraph 4: The right of all workers to a reasonable period of notice for termination of employment should be guaranteed.

Paragraph 5: The right of all workers to their wage being subject to deductions only in circumstances which are well-defined in a legal instrument (law, regulation, collective agreement or arbitration award) should be guaranteed.

For a list of selected other international instruments in the same field, see Appendix.

Article 5 – The right to organise

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

Information to be submitted

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

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

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

Article 55 of the Serbian Constitution guarantees freedom of political, union and any other form of association, as well as the right to stay out of any association. Associations may be established without prior approval and recorded with a registry kept by a state body, in accordance with the law. Secret and paramilitary associations are prohibited.

Constitutional Court may ban only such associations the activity of which is aimed at the violent overthrow of constitutional order, violation of guaranteed human or minority rights, or incitement of racial, ethnic, or religious hatred.
Judges of the Constitutional Court, judges, public prosecutors, the Ombudsman, and members of the police and armed forces may not be members of political parties.

Article 206 of the Labour Law governs the entitlement of employees to unionise and act without approval, but mandates registration of unions.

In addition, Article 207 of the Law stipulates that an employee becomes a member of a trade union by signing the registration form. Under Article 208, the trade union is required to provide the employer with the trade union's certificate of registration with the trade union registry and the decision on the election of the president and members of trade union bodies eight days following the receipt of such certificate and on the day such trade union bodies are elected.

Within the meaning of Article 6 of the Labour Law, a trade union is defined as an independent, democratic and autonomous organisation of employees who join voluntarily for the purposes of advocacy, representation, promotion and protection of their professional, labour-related, economic, social, cultural and other individual and collective

interests. Article 215 of the Labour Law states that a trade union may be established in accordance with its own byelaws.

Within the meaning of Article 7 of the Law, an association of employers is defined as an independent, democratic and autonomous organisation of employers who join voluntarily for for the purposes of advocacy, promotion and protection of their business interests, as provided for by law.

Article 217 of the Labour Law states that an association of employers may be established by employers that employ no fewer than 5 percent of all employees in a certain industry, group, subgroup or line of business, or in the territory of a particular territorial unit. Trade unions and associations of employers must be registered pursuant to the law and other regulations, as provided for under Article 218 of the Labour Law. The Minister in charge of labour affairs is responsible for establishing exactly how trade unions and employers' associations are registered, according to Article 217(2) of the Labour Law. The pertinent byelaws adopted by the Minister are the Regulation on the registration of trade unions (*Official Gazette of the Republic of Serbia*, Nos. 50/05 and 10/10) and the Regulation on the registration of employers' associations (*Official Gazette of the Republic of Serbia*, No. 29/05). These registries include the level at which the trade union or employers' association is established. In addition, trade union organisations may be registered for the purpose of furthering trade union related freedoms and rights amongst employers at the level of a sub-national or local authority, at the national level, or at the level of an industry, group, subgroup or line of business. This option is also governed under Article 1 of the Regulation on the registration of trade unions.

Further to this, the registry of employers' organisations must also contain the level at which the association is established, as governed by Article 4 of the Regulation on the registration of trade unions. These associations may also be established at the level of a sub-national or local authority, at the national level, or at the level of an industry, group, subgroup or line of business. The registry also contains data on the possible membership of an employers' association in a higher-level confederation of employers' associations.

Trade unions and employers' associations may govern the manner and conditions of joining together to establish confederations, defined as territorial or industry-level organisations.

Pursuant to Article 238 of the Labour Law, any trade union or employers' association becomes a legal entity as of the date of registration, in accordance with the law or other regulation. Further, Article 239 of the Labour Law states that a trade union or employers' association recognised as representative within the meaning of the law is entitled to: 1) collective bargaining and entering into collective agreements at its respective level; 2) participate in collective labour disputes; 3) participate in tripartite and multipartite bodies at its respective level; and 4) exercise other rights as provided for by law.

The ban on unionising for police officers and members of the armed forces is governed by a different piece of legislation.

Scope of the provision as interpreted by the ECSR

Trade unions and employers' associations must be free to organise without prior authorisation, and initial formalities such as declaration and registration must be simple and easy to apply. These organisations must be independent where anything to do with their organisation or functioning is concerned. They must be free to form federations and join similar international organisations.

Workers must be free not only to join but also not to join a trade union. Domestic law must guarantee the right of workers to join a trade union and include effective punishments and remedies where this right is not respected. The same rules apply to employers' freedom to organise.

Trade unions and employers' organisations must have broad autonomy where anything to do with their internal structure or functioning is concerned. They are entitled to perform their activities effectively and devise a work programme. Any excessive interference by a State constitutes a violation of Article 5.

Domestic law may restrict participation in various consultation and collective bargaining procedures only to representative trade unions.

Article 5 applies to the public and private sectors. States party are entitled to restrict or withdraw the right of the armed forces to organise. Restrictions may be placed on the right of the police to organise, but they may not be deprived of all their trade union prerogatives.

For a list of selected other international instruments in the same field, see Appendix.

Article 6 – The right of workers to bargain collectively

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

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

and recognise

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

collective agreements previously entered into.

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

Information to be submitted

Article 6§1

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

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

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

The Labour Law requires employers to consult with employee representatives in the event economic and social rights of employees, both individual and collective, are being decided upon. Under Article 13 of the Labour Law, employees are entitled, either directly or via their representatives, to associate; participate in collective bargaining; take part in the amicable resolution of collective and individual labour disputes; and be consulted, receive information and express their positions on important labour issues. An employee or an employee representative may not be held accountable or placed at a disadvantage due to his or her activities referred to in Paragraph 1 of this Article if he or she complies with the law and the collective agreement.

Article 274(1)1) of the Labour Law stipulates that an employer commits a misdemeanour if it calls to account an employee representative who complies with the law and the pertinent collective agreement if such employee is acting to ensure the rights conferred under Article 13 of the Labour Law.

The entitlement of employee representatives to be consulted by the employer is particularly envisaged in Chapter XI (‘Redundancy’) of the Labour Law (Articles 153 to 160). When making employees redundant, employers are required to acquaint employee representatives with their plans before formally adopting redundancy programmes. Employers are also required to provide their redundancy programmes to representative trade unions for comments within eight days from the date such programmes are drafted. Trade unions must comment within 15 days of receiving the proposed programme, while employers are required to consider trade unions’ opinions and notify trade unions of their responses within eight days.

In addition, Article 180 of the Labour Law mandates consultations with trade unions where notice of impending termination is served on an employee who is a member of a trade union. the trade union in question is required to provide its opinion on the notice of termination within five days of receiving it.

Under the Labour Law, it is a misdemeanour for an employer to terminate an employee in contravention of that law (Arts. 179-181, 187, and 188), to fail to adhere to the procedures prescribed for terminating employees, or to fail to consult, either in due time or at all, with the trade union of which the employee in question is member.

Consultations with employee representatives also take place through the forum of the Social and Economic Council and local social and economic councils. These bodies are established for the purpose of facilitating and fostering social dialogue regarding issues of importance for the exercise of social and economic freedoms and human rights, as well as those relating to the financial, social, and economic position of employees and employers and their living and working conditions; fostering the development of a culture of negotiation; fostering amicable resolution of collective labour disputes; fostering the development of democracy; and publishing magazines, brochures, and other publications from within their remits, as governed under Article 3 of the Law on the Social and Economic Council (*Official Gazette of the Republic of Serbia*, No. 125/04).

In addition, Article 9 of the same law envisages that the Social and Economic Council is to consider the issues of developing and improving collective bargaining; impact of economic policy and measures for its implementation on social development and stability; employment policy; wage and price policy; competitiveness and productivity; privatisation and other issues of structural adjustment; protection of the living and working environment; training and professional education; healthcare and social protection; demographic trends; and other considerations as provided for under enactments made by the Social and Economic Council. The Social and Economic Council adopts formal positions regarding the above issues and notifies the Government of them. The consensus of all members of the Social and Economic Council is required for a position to be adopted.

Article 10 of this law envisages that the Social and Economic Council discusses draft laws and other regulations of importance for the economic and social position of employees and employers, and adopts opinions regarding these. Such opinions are provided to the appropriate line ministries that were active in drafting the law or other regulation. The ministries are required to notify the Social and Economic Council of its comments within 30 days of receiving the opinions. Where a ministry does not accept an opinion of the Council, the Council may bypass the ministry and approach the Government directly.

The most important form of employee consultation is, without a doubt, the collective bargaining procedure, which involves negotiating and entering into collective agreements at all levels established by the Labour law.

Article 6§2

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

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

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

The following is a description of the general legal framework applicable to the public and the private sector with respect to employee entitlements to collective bargaining.

The Labour Law governs the various types of collective agreements and parties to collective bargaining (Articles 241 to 248 of the Labour Law). Under Article 244, a general collective agreement may be entered into by a national-level representative employers' association and representative trade union.

The reporting period saw the General Collective Agreement lapse (on 14 May 2011). This Agreement had been extended to cover all employers in both the private and the public sectors.

On the other hand, a special collective agreement for a certain industry, group, subgroup or line of business can be entered into by a representative employers' association and a representative trade union for that industry, group, subgroup or line of business. Special collective agreements for sub-national or local authorities may be entered into by a representative employers' association and a representative trade union for the respective sub-national or local unit.

Article 246 of the Labour Law stipulates that special collective agreements for public enterprises and public services can be entered into between the establishing authorities, or other bodies duly authorised by the establishing authorities, and the representative trade unions. Special collective agreements for freelance (self-employed) artists can be entered into between representative employers' associations and representative trade unions. Special collective agreement for athletes, coaches and sports experts can be entered into between their representative sports associations and representative trade unions.

For public enterprises and public services, company-level collective agreements can be entered into between the establishing authorities, or other bodies duly authorised by the establishing authorities, the representative trade unions, and the employers. The managing directors of these enterprises and services are required to sign these collective agreements on behalf of the employer, as provided for under Article 247 of the Labour Law.

The provision of information and mandatory consultations are integral parts of public-sector collective bargaining. The following collective agreements are currently in effect:

1. Special collective agreement for employees of primary and secondary schools and student accommodation facilities (*Official Gazette of the Republic of Serbia* Nos. 12/09, 67/11 and 1/12); renewed on 15 December 2011;

2. Special collective agreement for higher education (*Official Gazette of the Republic of Serbia*, Nos. 12/09 and 9/12); renewed on 20 January 2012;

3. Special collective agreement for government bodies (*Official Gazette of the Republic of Serbia* Nos. 95/08 and 86/11); renewed;

4. Special collective agreement for employees of local and sub-national authorities – Addendum (*Official Gazette of the Republic of Serbia*, Nos. 23/98, 95/08, 11/09 and 15/2012); renewed;

5. Special collective agreement for employees of university student support services (*Official Gazette of the Republic of Serbia*, Nos. 14/2007 and 7/2010); in force until 13 February 2013;

6. Special collective agreement for employees of cultural institutions established by the Republic of Serbia, entered into on 27 November 2009 (*Official Gazette of the Republic of Serbia*, No. 97 of 27 November 2009; extended pursuant to Decision No. 110-001397/02 of 28 December 2009; renewed on 30 November 2012);

7. Special collective agreement for social services in the Republic of Serbia (*Official Gazette of the Republic of Serbia*, Nos. 22/02 and 110/06; extended pursuant to Decision No. 110-00-1044/2006-02 of 14 November 2006);

8. Special collective agreement for healthcare institutions established by the Republic of Serbia (*Official Gazette of the Republic of Serbia*, Nos. 36/10 and 42/10; extended pursuant to Decision No. 110-00-581/2010-02 of 7 June 2010), and

9. Special collective agreement for police officers, entered into on 28 February 2011 (*Official Gazette of the Republic of Serbia*, No. 18/11).

In addition, the following special collective agreements have been entered into in the real sector:

1. Special collective agreement for the agriculture, food processing, tobacco, and water management industries in Serbia, entered into on 9 February 2011 (*Official Gazette of the Republic of Serbia*, Nos. 11/11, 14/11 and 50/11; extended pursuant to Decision No. 110-00-121/2011-02 of 23 February 2010);

2. Special collective agreement for the chemicals and non-ferrous metals industry (*Official Gazette of the Republic of Serbia*, Nos. 103/11 and 14/2011; extended pursuant to Decision No. 110-00-1239/2011-02 of 6 February 2012), and

3. Special collective agreement for the engagement of performing artists in catering establishments, entered into on 25 April 2012 (*Official Gazette of the Republic of Serbia*, Nos. 66/2012 and 94/2012).

Article 6§3

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

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

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

I ARBITRATION

The Labour Law envisages the option for some disputes to be resolved through arbitration in the event that consent over a collective agreement is not reached within 45 days of negotiations beginning, as well as in the event an employee is terminated, in which case the employee must notify the employer of whether the employee wishes to resolve the matter through arbitration.

Arbitration in the event of entering into collective agreements and arbitration to resolve outstanding disputes

Article 254(2) of the Labour Law envisages that parties to collective agreement may resort to arbitration where consent for a collective agreement has not been reached after 45 days from the start date of the collective bargaining process. Article 255 of the Labour Law states that the composition and rules of procedure of the arbitration panel, as well as the effects of the arbitrage decision, are to be agreed upon by the parties to the collective agreement. Yet, where the parties agree to undergo arbitration and nominate one or more arbitrators, the deadline for the final decision to be made cannot exceed 15 days from the date the arbitration panel is assembled. The arbitration decision becomes part of the collective agreement and is binding on all parties to it.

Arbitration in the event of disputed issues in the implementation of the collective agreement is governed by Article 256 of the Labour Law, which envisages that parties to the agreement may resolve disputed issues related to the implementation of the collective agreement through an arbitration panel established by the parties to the contract. This panel may be established within 15 days of the date the dispute arises. The arbitration panel's decision regarding the disputed issue is binding on the parties. The composition and operation of the arbitration panel are established under the collective agreement.

II RECONCILIATION

Further, the Law on the Amicable Resolution of Labour Disputes (*Official Gazette of the Republic of Serbia*, Nos. 125/04 and 104/09) governs the procedure of amicable resolution of collective and individual labour disputes, the selection, rights, and obligations of conciliators and arbitrators, and other issues of importance for the amicable resolution of labour disputes. The procedure of settling labour disputes amicably is initiated and pursued as provided for under this piece of legislation unless the same dispute has been adjudicated with reference to labour legislation.

III JUDICIAL PROTECTION

Article 265(4) of the Labour Law states that parties to a collective agreement may seek redress for infringement of rights conferred on them by the collective agreement. The Labour Law also entitles employees to redress before an appropriate court in the event their rights are infringed upon by any decision of an employer: an employee or a duly authorised representative of a union whose member the employee is, may bring a dispute before an appropriate court within 90 days of the offending decision being served on the employee, or within the same period from the employee learning about the infringement of his or her right.

IV INSPECTION OVERSIGHT

As provided for by Article 268 of the Labour Law, the Labour Inspectorate is tasked with oversight of the application of the Labour Law, other labour regulations, byelaws and employment contracts that govern the rights, obligations, and responsibilities of employees. Collective agreements, considered byelaws under Article 8 of the Labour Law, may not restrict the rights of employees or impose terms and conditions of employment that are less favourable to employees than those laid down by law or other byelaw, nor may they be based on misleading information provided by employers regarding the rights, obligations and responsibilities of employees. Such collective agreements are considered null and void. Special collective agreements may not restrict the rights of employees or impose terms and conditions of employment that are less favourable to employees than those laid down by the general collective agreement binding on employers who are members of employer associations that entered into those special collective agreements. Company-level collective agreements may not may not restrict the rights of employees or impose terms and conditions of employment that are

less favourable to employees than those laid down by the general or special collective agreement binding on the employer.

Where collective agreements apply to all employers pursuant to decisions extending their coverage, the Labour Inspectorate may in the course of either scheduled inspection oversight verify how the rights, obligations and responsibilities of employers are governed under collective agreements binding for the respective employers.

Under Article 257, the Minister of Labour may extend the coverage of a collective agreement or some provisions thereof to employers who are not members of the employers' association that is party to such agreement.

The Minister may do so in the event of there being justified public interest, and particularly: 1) to ensure the implementation of economic and social policy in the Republic of Serbia in order to provide for uniform working conditions that represent the minimum employment-related rights of employees; 2) to reduce differences in salary within a certain industry, group, subgroup or line of business that substantially affect the social and economic position of employees resulting in unfair competition, provided that the collective agreement in question is binding on employers employing no less that 30 percent of all employees in that industry , group, subgroup or line of business.

The Minister may extend a collective agreement at the request of a party to the collective agreement in question and upon receiving the opinion of the Social and Economic Council. The decision to extend a collective agreement is to be published in the *Official Gazette of the Republic of Serbia*.

In the course of performing inspection oversight, labour inspectors are authorised to order employers to remedy any infringements of laws, byelaws, or employment contracts by a certain deadline. Employers are required to notify the Labour Inspectorate of their compliance with such orders at the latest 15 days after the expiry of the deadline to remedy the infringement.

The Labour Department is not in possession of statistical data relating to the number of individual and collective labour disputes in progress before the National Agency for Amicable Resolution of Labour Disputes, nor of information relating to the number of instances of inspection oversight and labour disputes brought before courts (initiated, resolved, or on-going over the course of the reporting period).

Article 6§4

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

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

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

Legislative framework

Article 61 of the Serbian Constitution governs the right of employees to strike in accordance with law and collective agreement. The right to collective action may be circumscribed only by law in accordance with the nature or type of activity.

The Law on Strike (*Official Gazette of the Federal Republic of Yugoslavia*, No. 29/96 of 26 June 1996) stipulates that a strike is a stoppage of work organised by employees in defence of their employment-related professional and economic interests. Employees are free to decide whether or not to take part in a strike.

A strike may be organised at a company or any other legal entity, or any portion thereof, or with an individual engaging in a business or any other activity or providing any service ('employer'), or across an industry or sector or activity, or in the form of a general strike. Industrial action can also take the form of a warning strike that may last up to one hour. Employees are free to decide whether or not to take part in a strike.

The decision to strike is a formal enactment that sets out the requests of employees; time the action is to begin; place where participants are to gather if the strike involves employee gatherings; and that appoints a committee to represent the interests of employees and steer the strike on their behalf. A strike ceases at such time as the parties to the dispute reach agreement, or as the trade union or the majority of employees decide to end the strike. Participants in a strike must adopt a new decision to strike for each new strike.

The Law on Strike limits the right to strike in sectors enumerated under Article 9. These are activities of public interest or those where any stoppage of work could jeopardise the lives or health of the population or cause extensive damage. A strike by employees in these activities is allowed only where particular requirements set forth in the Law are met.

Within the meaning of this Law, activities of public interest are power generation and distribution; water management; transportation; media (radio and television); postal and

telecommunications services; public utilities; production of staple foodstuffs; healthcare and veterinary services; education; social childcare; and social security.

Also considered activities of public interest are those activities that have a particular bearing upon national defence and security as established by a public body in accordance with law, as well as activities necessary for the fulfilment of international obligations.

Within the meaning of this Law, the chemicals industry, manufacture of steel, and ferrous and non-ferrous metallurgy are deemed to be activities where any stoppage of work could jeopardise the lives or health of the population or cause extensive damage.

Employees working in activities of public interest or activities where any stoppage of work could jeopardise the lives or health of the population or cause extensive damage may strike only if adhering to a minimum standard of performance that ensures the safety of people and property or ensures the provision of indispensable service to the public, other businesses, or legal entities and individuals performing other activities or offering other services (Article 9 of the Law on Strike).

Minimum standards of performance must be provided in the sectors of power generation and distribution; water management; transportation; media (radio and television); postal and telecommunications services; public utilities; production of staple foodstuffs; healthcare and veterinary services; education; social childcare; and social security. Also considered activities of public interest are national defence and security, as well as activities necessary for the fulfilment of international obligations, etc.

Under Article 10(1) of the Law on Strike, minimum standards of performance for public services are set by their establishing authority, while for other employers these standards are set by the managing director. The criteria taken into account in setting these standards are the nature of the activity; threats to the lives and health of people; and other circumstances of importance for meeting the needs of the population, businesses, and other entities (season of the year; tourist season; academic year; etc.), whilst the establishing authority or managing director must also consult the trade union and consider its opinions, objections, and proposals. The manner in which minimum standards of performance are met is established by a company byelaw that must comply with the collective agreement.

The strike committee and representatives of bodies made aware of an impending strike are required to endeavour to resolve the dispute at hand amicably.

The Law on the Amicable Resolution of Labour Disputes (*Official Gazette of the Republic of Serbia*, Nos. 125/04 and 104/09) governs the resolution of collective disputes arising in relation with a strike.

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

With a view to ensuring the effective exercise of the right of workers to be informed and consulted within the undertaking, the Parties undertake to adopt or encourage measures

enabling workers or their representatives, in accordance with national legislation and practice:

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

Appendix to Articles 21 and 22

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

Information to be submitted

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

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

3) Please provide pertinent figures, statistics or any other relevant information, in particular on the percentage of workers out of the total workforce which are not covered

by the provisions granting a right to information and consultation either by legislation, collective agreements or other measures.

The right to be informed is governed under Article 239 of the Labour Law, which states that a trade union must be informed by the employer of economic, occupational and social issues relevant for the position of employees or trade union members.

Further, Article 13 of the Labour Law stipulates that employees are entitled, either directly or via their representatives, to associate; participate in collective bargaining; take part in the amicable resolution of collective and individual labour disputes; and be consulted, receive information and express their positions on important labour issues.

An employee or an employee representative may not be held accountable or placed at a disadvantage due to his or her activities referred to in Paragraph 1 of this Article if he or she complies with the law and the collective agreement.

The exercise of the right to be informed is linked to multiple areas of importance for the operation of trade unions. A representative trade union with an employer, or officers of a representative trade union in an industry, group, subgroup or line of business, or a territorial unit, are thus entitled, under Article 239 of the Labour Law, to obtain any and all relevant information related to collective bargaining with an employer or in an industry, group, subgroup or line of business.

Further, officers of representative trade unions are entitled to take part in the resolution of collective labour disputes, and, as such, are able to obtain any and all relevant information related to the subject of such dispute, options for its resolution, possible solutions, as well as any other information of importance for employee representatives.

In addition, the right to be informed is a major right of officers of representative trade unions entitled to participate in tripartite and multipartite bodies at the appropriate levels.

1. The exercise of the right enjoyed by trade union officers to participate in tripartite bodies is particularly important with respect to:

1.1 Participation in the Social and Economic Council, as governed under the Law on the Social and Economic Council (*Official Gazette of the Republic of Serbia*, No. 125/04), as well as in the Council's standing working bodies,

i. Standing Working Body for Economic Issues;
ii. Standing Working Body for Collective Bargaining and Amicable Resolution of Labour Disputes, and
iii. Standing Working Body for Occupational Health and Safety;

1.2 Participation in the Council for Occupational Health and Safety, established pursuant to the Occupational Health and Safety Law (*Official Gazette of the Republic of Serbia*, No. 101/05) and the Law on the Government (*Official Gazette of the Republic of Serbia*,

Nos. 55/05 and 71/05 – Correction). The Council is a standing working body of the Government of Serbia and has continuously been in operation since its inception in 2007. Officers of representative trade unions have been actively taking part in the deliberations of the Council and have thus exercised their right to be informed and safeguarded the rights of their trade unions and the employees they represent;

1.3 Participation in the working group charged with harmonising and negotiating the minimum wage in accordance with Article 112 of the Labour Law where preliminary consultations are held between officers of representative trade unions, the Standing Working Body for Legislation of the representative employers' association, and the Government, in preparation for discussion of any proposals by the Social and Economic Council.

1.4 Participation in *ad hoc* drafting groups tasked with amending current legislation or drafting new laws, byelaws, strategies, and action plans that are significant for the economic, occupational and social issues relevant for the position of employees. Officers of representative trade unions have thus taken part in the work of drafting groups established by the Minister of Labour to amend the Law on the Amicable Resolution of Labour Disputes (*Official Gazette of the Republic of Serbia*, Nos. 125/04 and 104/09); Volunteering Law (*Official Gazette of the Republic of Serbia*, No. 36/09); Law Prohibiting Bullying in the Workplace (*Official Gazette of the Republic of Serbia*, No. 36/09); Employment and Unemployment Insurance Law (*Official Gazette of the Republic of Serbia*, No. 36/09); as well as in the work of the drafting groups for the National Employment Action Plan 2009-2012; National Employment Strategy 2010-2020; Action Plan for Implementing Youth Employment Policy 2009-2011; Law on Strike; and other laws and byelaws.

Right to be informed and consulted with respect to particular features of the Labour Law

A) Information when adopting redundancy programmes

The Labour Law requires employers to notify employee representatives where some employees are to be made redundant, and particularly where a redundancy programme is to be adopted. In the course of this procedure, and before a redundancy programme is to be adopted, the employer in question is required, under Article 154 of the Labour Law, to involve officers of the representative trade union in the formulation of measures designed to ensure the redundant employees are able to find new employment. The representative trade union is required to comment on a proposed redundancy programme within 15 days of receiving such proposal, as provided for under Article 156(1) of the Labour Law.

Article 156(3) of the Law requires the employer to take into consideration any proposals made by the National Employment Service and the opinions of the trade unions, and to provide feedback to these organisations within eight days.

B) Consultation when terminating an employee

The Labour Law also stipulates that, when serving an employee with a pre-termination warning (Articles 180 and 181), the employer is required to provide a copy of such warning to the trade union of which the employee in question is member. The trade union must comment on the warning within five days of receiving its copy.

Articles 44 and 47 of the Occupational Health and Safety Law (*Official Gazette of the Republic of Serbia*, No. 101/05) require employers to ensure that employees are able to select their occupational health and safety representatives and to inform such employees of occupational health and safety issues.

Article 44 of this Law states:

'Employees shall be entitled to select one or multiple occupational health and safety representatives ('employee representatives').

The Occupational Health and Safety Board ('the Board') shall be made up of at least three employee representatives.

An employer employing in excess of 50 employees shall be required to appoint at least one representative of its own to the Board, so that the employee representatives outnumber the employer's representatives by at least one.

The selection and operation of employee representatives and the Board, the number of employee representatives, and their relations with the trade union shall be governed by the collective agreement.'

Article 47 of the Occupational Health and Safety Law states:

'The employer shall be required to inform employee representatives or the Board with:

1) Findings and proposals of, and measures undertaken by, the Labour Inspectorate;
2) Reports of injuries in the workplace, professional diseases, and work-related illnesses, as well as of occupational health and safety measures undertaken, and
3) Measures undertaken to prevent direct threats to life and health.'

All occupational health and safety byelaws require employers to provide any and all occupational health and safety information to employee occupational health and safety representatives; such information must particularly be provided of measures undertaken to ensure safe and healthy working conditions.

Article 70(1)11) of the Occupational Health and Safety Law (*Official Gazette of the Republic of Serbia*, No. 101/05) stipulates penalties for employers who fail to allow employees to select their occupational health and safety representatives.

Scope of the provision as interpreted by the ECSR

Right of employees in private or public undertakings and/or their representatives to be informed on all matters relevant to their working environment and to be consulted in good time with respect to proposed decisions that could substantially affect the employees' interests.

Workers must have legal remedies when these rights are not respected. There must also be sanctions for employers which fail to fulfil their obligations under this Article.

For a list of selected other international instruments in the same field, see Appendix.

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

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

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

Appendix to Articles 21 and 22

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

5. It is understood that where in a state the rights set out in these articles are exercised in the various establishments of the undertaking, the Party concerned is to be considered as fulfilling the obligations deriving from these provisions.
6. The Parties may exclude from the field of application of these articles, those undertakings employing less than a certain number of workers, to be determined by national legislation or practice.

Articles 45, 46, and 48 of the Occupational Health and Safety Law (*Official Gazette of the Republic of Serbia*, No. 101/05) govern the entitlement of employee representatives to be informed and take part in the deliberation of any and all issues related to occupational health and safety.

Article 45 of the Occupational Health and Safety Law states:

'Employers shall be required to allow employee representatives or the Board:

1) Access to any and all company enactments relating to occupational health and safety;
2) Participation in the deliberation of any and all issues related to the putting into place of occupational health and safety measures.

Employers shall be required to inform employee representatives or the Board of any and all information related to occupational health and safety.'

Article 46 of the Occupational Health and Safety Law states:

'Employee representatives or the Board shall be entitled to:

1) Make suggestions to the employer regarding any and all issues related to occupational health and safety;
2) Require the employer to undertake appropriate measures to eliminate or mitigate risks to employee health and safety;
3) Require oversight by the Labour Inspectorate in the event they believe that the employer has failed to put into place the appropriate occupational health and safety measures.

Employee representatives or members of the Board shall be entitled to attend inspection visits.'

Article 48 of the Occupational Health and Safety Law states:

'The employer and employee representatives, or the Board and the trade union, shall be required to collaborate with respect to occupational health and safety issues, as provided for by this law and other regulations.'

Article 26 – The right to dignity at work

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

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

Appendix to Article 26
It is understood that this article does not require that legislation be enacted by the Parties.
It is understood that paragraph 2 does not cover sexual harassment.

Information to be submitted

Article 26§1

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

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

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

Article 21 of the Labour Law bans harassment and sexual harassment. The Law defines sexual harassment as any verbal, non-verbal, or physical action with a sexual or gender connotation and aimed at or representing a violation of the dignity of a job seeker or employee that causes fear or engenders a hostile, abusive, or offensive environment. In the event of sexual harassment, the job seeker or employee affected may seek compensation before an appropriate court, as provided for by law.

Article 16(1)(2,3) of the Law requires employers to provide appropriate working conditions for employees and make sure that work is organised in such a manner as to ensure that the safety, lives, and health of employees are protected, as provided for by law and other regulations. Employers must also inform employees of working conditions, how work is organised, and their rights and obligations stemming from labour and health and safety regulations.

Anti-mobbing legislation, described in greater detail in the appropriate section above, applies in cases of sexual harassment.

Article 18 ('Harassment, sexual harassment, and sexual blackmail') of the Gender Equality Law stipulates that harassment, sexual harassment, and sexual blackmail in the workplace or related to work that is perpetrated by an employee against another employee is a violation of discipline in the workplace that constitutes grounds for termination, punitive dismissal, or suspension. An employee who is the victim of harassment, sexual harassment, or sexual blackmail should report any circumstances indicating such behaviour to the employer in writing and should request effective protection. Article 10(1)7),8) of the same Law defines sexual harassment as any unwanted sexual action of a verbal, non-verbal, or physical nature based on gender and aimed at or representing a violation of personal dignity that causes fear or engenders a hostile, abusive, or offensive environment. Sexual blackmail is defined as any behaviour on the part of a superior officer who attempts to blackmail another person into providing sexual favours by threatening to damage his or her reputation in the event that such person refuses such favours to the blackmailer or a person associated with the blackmailer.

Article 21 of the Labour Law bans sexual discrimination and stipulates a fine for the employer as a legal entity ranging from RSD 800,000 to one million for violation of this provision (Article 273(1)(1)). In addition, the employer will be fined between RSD 10,000 and RSD 100,000 for a misdemeanour in violation of Article 54(1)(7) of the Gender Equality Law where the employer fails to protect a person from harassment, sexual harassment, or sexual blackmail. Article 23 of the Labour Law entitles a job seeker or employee to seek compensation before an appropriate court.

Under the Gender Equality Law, no court action brought by an employee for gender-based discrimination, harassment, sexual harassment, or sexual blackmail may constitute justified grounds for termination or rescission of any other type of employment contract, nor may such action constitute justified grounds for declaring an employee redundant within the meaning of labour legislation (Article 20, 'Termination of employment or engagement').

The Criminal Code (Official Gazette of the Republic of Serbia, Nos. 85/05, 88/05 – Correction, 107/05 – Correction, 72/09, 111/09, and 121/12) states that 'whosoever, by abuse of position, induces a person in a subordinate or dependant position to sexual intercourse or an equal act, shall be punished with a term of imprisonment of between three months and five years' (Article 181).

The Ministry of Labour and Social Policy has adopted the Code of Conduct for Employers and Employees Regarding the Prevention of and Protection from Bullying in the Workplace (*Official Gazette of the Republic of Serbia*, No. 62/10). This document describes six groups of behaviours that constitute abuse in the workplace, with sexual harassment cited as one. Sexual harassment is defined as any verbal, non-verbal, or physical action based on gender and aimed at or representing a violation of the dignity of a job seeker or employee that causes fear or engenders a hostile, abusive, or offensive environment. Behaviours that can be deemed sexual harassment are: 1) degrading and inappropriate comments and actions of a sexual nature; 2) attempted or actual indecent

and unwanted physical contact; 3) inducement to accept behaviour of a sexual nature through the promise of reward, threat, or blackmail. Article 17 of the Code stipulates that protection from abuse is exercised through: 1) mediation, within the framework of the employer; 2) establishment of accountability of an employee charged with abuse, within the framework of the employer; and 3) before an appropriate court.

The 2009 National Strategy to Improve the Position of Women and Gender Equality (*Official Gazette of the Republic of Serbia*, No. 15/09) and the Action Plan for the Strategy, adopted in 2010 (*Official Gazette of the Republic of Serbia*, No. 67/10) envisage the systematic collection of data on harassment, sexual harassment, and discrimination, to assist in the development by the Labour Inspectorate of measures to prevent such behaviour. The deadline for the completion of this activity is late 2015.

A 2012 study of the discrimination against women in the Serbian labour market performed on a sample of 706 women by the Serbian Victimology Society covered cases of 'sexual violence against women in the workplace'. The study found that these cases are the second most common form of discrimination against women in the workplace (at 22.1 percent), coming immediately after discrimination regarding working conditions (present in 43 percent of all cases). The findings of the study show that divorced women are the most vulnerable (43.9 percent), followed by unmarried (25.6 percent) and widowed women (22.2 percent). Most perpetrators (18 percent) are managers and superior officers. According to the Victimology Society, the structure of these cases is as follows:

Form of sexual harassment or assault	Number	Percentage
Comments of a sexual nature	105	79.5
Unwanted physical contact	20	15.2
Sexual blackmail	11	8.3
Exposure to pornographic content	4	3.1
Rape	3	2.8

The Serbian Ombudsman's regular Annual Report for 2012 does not explicitly mention sexual harassment in the workplace in the section dealing with the total number and type of complaints filed for initiating procedures from within the Ombudsman's remit under the Law on the Ombudsman (*Official Gazette of the Republic of Serbia*, Nos. 79/05 and 54/07). The Report only states that the Ombudsman had adopted three official positions regarding gender equality issues intended for institutions and government services at all levels (this constitutes 0.93 percent of all recommendations issued in 2012). A total of 55 instances of rights being violated related to gender equality, which accounted for 0.91 percent of all complaints received by the Ombudsman.

In its 2012 Report, the Gender Equality Commissioner also did not mention cases of sexual harassment. The Commissioner, however, did state that she had received 42 complaints regarding gender-based discrimination and three complaints due to gender-identity-based discrimination, which together account for 11 percent of all complaints filed with the Commissioner in 2012. Most complaints (20) related to discrimination regarding employment and hiring practices. Unlike the Ombudsman, the Commissioner

also brought court action against three entities (the Belgrade Football Association, a Belgrade-based bank, and a chain of pizza restaurants).

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

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

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

The Law Prohibiting Bullying in the Workplace (*Official Gazette of the Republic of Serbia*, No. 36/2010) bans bullying (mobbing) in the workplace and in relation with work; institutes measures to prevent bullying and improve interpersonal relations in the workplace; governs the procedure of protecting persons exposed to bullying in the workplace and in relation with work; prescribes misdemeanour penalties for infractions; and governs oversight of implementation.

The Law applies to all employers as defined in the Labour Law (i.e. any legal entity and individual employing or engaging one or multiple persons); the Law on Civil Servants (under which the head of each government body exercises the rights and duties of employer on behalf of the Republic of Serbia); and the Law on Employment with Public Administration Bodies (where sub-national and local authorities are employers). Not only those with a formal employment contract are considered employees; this definition extends to cover persons in other forms of employment as governed by legislation governing labour, rights and obligations of civil servants and support staff, and rights and obligations of employees of sub-national and local authorities.

This Law also applies to cases of sexual harassment as provided for under labour legislation.

Under the Law, employers are required to make sure that work is organised in such a manner as to minimise the incidence of bullying in the workplace or in relation with work, as well as to provide appropriate working conditions for employees in which they will not be exposed to bullying at work from the employer, officers of the employer, or other employees.

The Law defines the concepts of bullying and perpetrator of bullying. Within the meaning of the Law, any active or passive behaviour repeatedly directed against an employee or group of employees and aimed at or representing a violation of the dignity, reputation, personal or professional integrity, health, or position of such employee that causes fear or engenders a hostile, abusive, or offensive environment, or leads to the isolation of such employee or induces such employee to rescind his or her employment contract or resign his or her employment. The Law also deems participation, incitement,

or inducement of others to bullying as bullying. Any individual employer, or an authorised officer of an employer that is a legal entity, or an employee or group of employees, who engage in bullying is deemed a perpetrator of bullying.

The Law bans any form of bullying in the workplace or in relation with work.

Article 7 of the Law requires employers to notify employees in writing of the ban on bullying in the workplace and the rights, obligations and responsibilities of both the employee and the employer in relation with said ban, as provided for under the Law. Further, the employer is required to train employees and their representatives to recognise the causes, forms, and consequences of bullying, with the aim of recognising and preventing such behaviour. The employer may offer education or training an employee or multiple employees in mediation as a form of resolution of disputes connected with bullying.

This Law governs the initiation of procedures to protect from bullying within the employer's framework, mediation, as well as the establishment of accountability of the perpetrator of bullying where the mediation procedure fails. The aim of these provisions is primarily to ensure the amicable settlement of any disputes between parties through mediation within the employer's framework.

Where mediation fails, and there are grounds to suspect that an employee who perpetrates bullying or an employee abusing the right to protection from bullying are responsible for a violation of discipline in the workplace professional duty, the employer is required to initiate the procedure of establishing accountability for such violation of discipline in the workplace or professional duty. This procedure is pursued in compliance with legislation governing employee accountability for violation of discipline in the workplace or professional duty (Articles 180 and 181 of the Labour Law), violation of duty (Articles 112 to 114 of the Law on Civil Servants), or violation of professional obligations and duties (Articles 62 and 63 of the Law on Employment with Public Administration Bodies). If this procedure discovers an employee is accountable for bullying in the workplace, the employer has at its disposal not only measures prescribed in the laws referred to above, but also multiple measures provided for under this Law: reprimand; suspension without pay for a period of between four and 30 working days; and permanent reassignment to another physical location.

Where an employee who believes himself or herself exposed to bullying is in immediate danger of injury to his or her health, of death (according to the findings of a doctor of industrial medicine), or where such employee may suffer irreparable damage (according to a reasoned proposal made in writing by the mediator), the employer is required to undertake measures to prevent bullying by transferring the alleged perpetrator of bullying to another physical location or suspending them (as provided for under legislation governing suspension) until such time as the procedure ensuring protection from bullying within the employer's framework is complete.

The Law also entitles an employee who believes himself or herself exposed to bullying to refuse to work until such time as the procedure for establishing accountability within the employer's framework is complete in the event that the employer has not undertaken measures to prevent bullying, provided that such employee is in immediate danger of injury to his or her health or of death (according to the findings of a doctor of industrial medicine). Such employee is entitled to salary compensation for the duration of the period he or she refuses to work, and is also required to return to work in the event that the employer does undertake measures to prevent bullying until such time as the procedure ensuring protection from bullying within the employer's framework is complete.

The initiation of procedure ensuring protection from bullying and participation in such procedure may not constitute justified grounds for discriminating against or terminating an employee, nor may such action constitute justified grounds for declaring an employee redundant, etc. This protection is also enjoyed by whistle-blower employees who have reason to believe they will be bullied by the employer.

In addition to internal protection from bullying in the workplace and in connection with work within the employer's framework, employees are also entitled to judicial protection, which they may exercise by bringing a labour dispute before court. Any employee who deems himself or herself bullied in the workplace by an individual employer (sole proprietor) or by an authorised officer of an employer who is a legal entity (e.g. managing director) may bring such a dispute before court even without previously having undergone the mediation procedure within the employer's framework. In this case a dispute can be brought until the procedure for protection from mobbing with an employer becomes time-barred. Such dispute may be brought by an employee dissatisfied with protection from bullying within the employer's framework (where the mediation procedure fails; where the employer has not initiated the procedure to establish the accountability of a person accused of bullying, or has imposed an inadequate measure against him or her, etc.). The deadline for initiating such procedure is 15 days from such time as the employee believing to have been bullied is given notification or served a formal decision. The lawsuit may call for mobbing to be prevented and for compensation to be paid for tangible and intangible damage. This labour dispute will also entail ascertaining whether bullying behaviour is present, where the burden of proof is on the employer in the event that the employee (plaintiff) establishes reasonable grounds to believe that mobbing has been perpetrated.

A lawsuit brought against an employer for bullying in the workplace or in relation to work may not be used to contest the legality of any individual enactment by the employer that was used to establish the employment-related rights, obligations, or responsibilities of an employee, since employees can contest such enactments in court proceedings launched under specific laws that govern judicial protection; this provision is in place to avoid parallel court proceedings.

Court cases relating to protection from bullying are handled under fast-track procedure.

Under Article 30 of the Law, an employee believing himself or herself exposed to bullying may bring a case before the appropriate court to:

1) Seek the establishment of the fact he or she had been bullied;
2) Seek the prohibition of behaviour that constitutes bullying, the prohibition of continuing bullying, or the prohibition of repeated bullying;
3) Perform actions to remedy the consequences of bullying;
4) Seek compensation of tangible and intangible damage, as provided for by law; and
5) Seek the ruling(s) adopted regarding lawsuits referred to in 1) to 4) above to be made public.

Pursuant to Article 28 of the Law Prohibiting Bullying in the Workplace, the Minister of Labour has adopted the Code of Conduct for Employers and Employees Regarding the Prevention of and Protection from Bullying in the Workplace (*Official Gazette of the Republic of Serbia*, No. 62/10). The Code governs the conduct of employers, employees, and other persons performing work in respect to prevention of and protection from bullying in the workplace and sexual harassment. The Code details types of behaviour that should be avoided, including: inappropriate communication; causing friction with co-workers; injuring the personal reputation of an employee; injuring the professional integrity and performance of an employee; injuring the health of an employee; and behaviour that could be construed as sexual harassment. The existence of bullying must be established in each particular case. The Code also describes behaviour not deemed bullying, as well as the concept of abusing the right to protection from bullying. Under the Code, to ensure that employees are able to avail themselves of protection from bulling, the employer must make available information regarding persons that employees can approach for advice and support ('support persons'); persons authorised to initiate procedures for protection from bullying (union representative, occupational health and safety representative); persons within the employer's organisation that requests for protection from bullying can be filed with; and lists of mediators maintained by employers. Where an employer employs trained mediators, the employer may make information thereon available to employees.

To ensure that bullying is prevented and recognised, an employer may designate a support person to whom employees believing themselves exposed to bullying can approach for advice and support. The employer may ask for the trade union's opinion regarding the designation of such support person. The support person should hear the employee out, provide advice, direction, information, and support aimed at resolving any outstanding disputes.

Scope of the provisions as interpreted by the ECSR

Paragraph 1: This concerns forms of behaviour deemed to constitute sexual harassment in the work place or in relation to work. Existing measures must ensure effective protection for workers against sexual harassment. It also concerns the liability of employers and/or their employees. There should be effective remedies for victims and reparation for pecuniary and non-pecuniary harm suffered, including appropriate

compensation. The burden of proof should be adjusted and steps should be taken to increase awareness of and prevent sexual harassment.

Paragraph 2: This concerns forms of behaviour deemed to constitute psychological harassment in the work place or in relation to work. Existing measures must ensure effective protection for workers against psychological harassment. It also concerns legal protection against psychological harassment and the liability of employers and/or their employees. There should be effective remedies for victims and reparation for pecuniary and non-pecuniary harm suffered, including appropriate compensation. The burden of proof should be adjusted and steps should be taken to increase awareness of and prevent psychological harassment.

For a list of selected other international instruments in the same field, see Appendix.

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

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

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

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

Information to be submitted

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

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

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

Trade union representatives enjoy protection under Article 188 of the Labour Law.

‘(1) An employer shall not terminate any of the following employee representatives, or place any such representatives at a disadvantage, during their term of office and one year following the expiry of such term, provided that such employee representatives comply with the law, any byelaws, and employment contracts:

1) Member of Employees’ Council or employee representative on the employer’s Managing Board and Supervisory Board;
2) President of a trade union established within an undertaking;
3) Appointed or elected trade union representative.

(2) Where any of the employee representatives referred to in Paragraph (1) of this Article fail to comply with the law, byelaws, and employment contracts, the employer may terminate such representative.

(3) The number of trade union representatives enjoying protection in terms of Paragraph (1)3) of this Article shall be established in the collective agreement, or an agreement entered into between the trade union and the employer, depending on the number of members of the trade union with such employer.

(4) The employer may, with the approval of the Ministry, terminate an employee representative in referred to in Paragraph (1) of this Article where such representative refuses a position offered under Article 171(1)4) of this Law.’

Further, Article 13 of the Labour Law stipulates that employees are entitled, either directly or via their representatives, to associate; participate in collective bargaining; take part in the amicable resolution of collective and individual labour disputes; and be consulted, receive information and express their positions on important labour issues.

An employee or an employee representative may not be held accountable or placed in a less favourable position due to his or her activities referred to in Paragraph 1 of this Article if he or she complies with the law and the collective agreement.

Articles 210-214 of the Labour Law require employers to provide trade unions with technical conditions and office space as well as access to any data and information necessary for pursuing trade union activity.

Technical and office space requirements are to be set in the collective agreement or agreement entered into between the trade union and the employer.

Article 211 stipulates that authorised trade union representatives are entitled to paid leave of absence for their trade union activities, pursuant to the collective agreement or agreement entered into between the trade union and the employer, in proportion to the number of trade union members.

Where no collective agreement or agreement referred to in Paragraph (1) of this Article

has been entered into, authorised trade union representatives are entitled to:

1) 40 paid working hours per month where the trade union has no fewer than 200 members and one hour per month for each additional 100 members;
2) Fewer paid working hours, in proportion, where the trade union has fewer than 200 members.

The collective agreement or agreement referred to in Paragraph (1) of this Article may stipulate that an authorised trade union representative be completely relieved of his or her duties under his or her employment contract.

Where no collective agreement or agreement referred to in Paragraph 1 of this Article has been entered into, the head of the trade union division and member of a trade union body are entitled to 50 percent of paid hours referred to in Paragraph (2) of this Article.

Article 212 stipulates that a trade union representative authorised for collective bargaining or appointed to a collective bargaining team is entitled to paid leave during the bargaining process, whilst Article 213 of the Labour Law states that a trade union representative authorised to represent an employee involved in a labour dispute with the employer before an arbitrator or court is be entitled to paid leave for the duration of such representation. A trade union representative absent from work pursuant to Articles 211-213 of this Law is entitled to salary compensation amounting to at least his or her base salary, pursuant to company byelaws and his or her employment contract. The salary compensation referred to in Paragraph (1) of this Article is payable by the employer.

Scope of the provision as interpreted by the ECSR

This provision guarantees the right of workers' representatives to protection in the undertaking and to certain facilities. It complements Article 5, which recognises a similar right in respect of trade union representatives.

The term "workers' representatives" means persons who are recognised as such under national legislation or practice.

Protection should cover the prohibition of dismissal on the ground of being a workers' representative and the protection against detriment in employment other than dismissal.

The facilities to be provided may include for example paid time off to represent workers, financial contributions to the workers' council, the use of premises and materials for the operation of the workers' council, etc.

For a list of selected other international instruments in the same field, see Appendix

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

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

Appendix to Articles 28 and 29

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

Information to be submitted

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

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

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

Under Article 13 of the Labour Law, employees are entitled, either directly or via their representatives, to associate; participate in collective bargaining; take part in the amicable resolution of collective and individual labour disputes; and be consulted, receive information and express their positions on important labour issues.

An employee or an employee representative may not be held accountable or placed at a disadvantage due to his or her activities referred to in Paragraph 1 of this Article if he or she complies with the law and the collective agreement.

Further, Article 16(1)5) requires employers to consult trade unions in situations defined by law; where no trade unions exist, employers must consult representatives designated by employees.

Particularly important areas in which the employer must consult and notify employee representatives are the adoption of redundancy programmes and termination of employees who are trade union members, as provided for under Articles 180 and 181 of the Law. The Law also envisages specific protection for employee representatives and trade union officers from termination due to the exercise of their rights to be informed and consulted, and to voice their views regarding important labour issues.

1) The Labour Law envisages consultation and information of employees in the event a redundancy plan is adopted

Article 154 of the Labour Law requires the employer to collaborate with the representative trade union and the National Employment Service in the formulation of measures designed to ensure the redundant employees are able to find new employment before the employer adopts a redundancy programme. In addition, the employer is required to provide the representative trade union and the National Employment Service with a proposed redundancy programme at the latest eight days after drafting such programme for these bodies to be able to comment on it. Article 156(3) of the Labour Law requires the employer to take into consideration any proposals made by the National Employment Service and the opinions of the trade unions, and to provide feedback to these organisations within eight days.

2) The Labour Law envisages consultation and information of employees where an employee is served with a pre-termination warning

The Labour Law stipulates that, before terminating an employee in the cases referred to in Article 179(1)1)-6), the employer must serve such employee with a written warning detailing the existence of grounds for termination and to provide a period of at least five working days for such employee to comment on the allegations contained in this pre-termination warning. Article 181 requires the employer to provide this warning to the trade union of which the employee is member so that the trade union can also comment.

The trade union must comment on the warning within five days of receiving its copy.

3) Protection of trade union representatives in the exercise of their union office and protection from discrimination for exercising such office

The Labour Law envisages special protection from termination. An employee representative may not be called to account or placed at a disadvantage for any activities referred to in Article 13(1) of the Labour Law as long as he or she complies with law and the collective agreement.

In addition, Article 188 of the Labour Law prohibits employees from terminating any of the following employee representatives, or discriminating against any such representatives, during their term of office and one year following the expiry of such term, provided that such employee representatives comply with the law, any byelaws, and employment contracts:

1) Member of Employees' Council or employee representative on the employer's Managing Board and Supervisory Board;
2) President of a trade union established within an undertaking;
3) Appointed or elected trade union representative.

(2) Where any of the employee representatives referred to in Paragraph (1) of this Article fail to comply with the law, byelaws, and employment contracts, the employer may terminate such representative.

(3) The number of trade union representatives enjoying protection in terms of Paragraph (1)3) of this Article shall be established in the collective agreement, or an agreement entered into between the trade union and the employer, depending on the number of members of the trade union with such employer.

(4) The employer may, with the approval of the Ministry, terminate an employee representative in referred to in Paragraph (1) of this Article where such representative refuses a position offered under Article 171(1)4) of this Law.'

APPENDIX TO ARTICLE 4§3 ITEM 3)

The Statistical Office of the Republic of Serbia has published information regarding the overall average salary in the Republic of Serbia, as well as information regarding average salaries in various industries.

According to the latest information published by the Statistical Office, the average salary paid in Serbia in July 2013 amounted to RSD 60,896. Relative to June 2013, this is a decrease of 0.8 percent in nominal terms and an increase of 0.1 percent in real terms.

The average salary less tax and contributions paid in Serbia in July 2013 amounted to RSD 44,182. This is a decrease of 0.5 percent in nominal terms and an increase of 0.4 percent in real terms relative to the average salary less tax and contribution paid in June 2013.

Relative to July 2012, the average salary paid in Serbia in July 2013 rose by 6.4 percent in nominal terms, and fell by 2 percent in real terms.

The average salary less tax and contributions paid in Serbia in July 2013 was higher by 7.3 percent in nominal terms, and lower by 1.2 percent in real terms, than that paid in July 2012.

According to the Statistical Office, the highest average salary in July was recorded in the tobacco industry (RSD 165,949 gross, or RSD 119,065 less tax and contributions).

In July 2013, the lowest salary was paid in film, television and music production (RSD 27,106 gross, or RSD 20,017 less tax and contributions).

Article 111 of the Labour Law (*Official Gazette of the Republic of Serbia*, Nos. 24/05 and 61/05) stipulates that employees are entitled to minimum wage for standard performance and full-time working hours, or working hours deemed equal to full-time hours.

Every six months, the Social and Economic Council sets the amount of the minimum wage less tax and contributions (net) per working hour. In 2013, the minimum wage per hour amounts to RSD 115, or, on average, RSD 20,010 at the monthly level.

The minimum wage stands at about 45 percent of the reported average salary less tax and contributions.

Given the current middle euro/dinar exchange rate of the National Bank of Serbia, the average net salary amounts to EUR 386, while the minimum wage stands at EUR 175.

Scope of the provision as interpreted by the ECSR

Workers' representatives have the right to be informed and consulted in good time by employers planning to make collective redundancies. The collective redundancies referred to are redundancies affecting several workers within a period of time set by law and decided for reasons which have nothing to do with individual workers, but correspond to a reduction or change in the firm's activity.

Consultation procedures must take place in good time, before the redundancies. The purpose of the consultation procedure, which must cover at least the "ways and means" of avoiding collective redundancies or limiting their occurrence and support measures.

Consultation rights must be accompanied by guarantees that they can be exercised in practice

For a list of selected other international instruments in the same field, see Appendix.