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# REVISED EUROPEAN SOCIAL CHARTER

7th National Report on the implementation of the European Social Charter (revised)

submitted by

## THE GOVERNMENT OF LITHUANIA

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

Report registered by the Secretariat on 6 November 2009

CYCLE 2010

# SEVENTH REPORT OF THE REPUBLIC OF LITHUANIA

ON ARTICLES WHICH BELONG TO THIRD GROUP "LABOUR RIGHTS"
(2, 4, 5, 6, 21, 22, 26, 28, 29)
OF EUROPEAN SOCIAL CHARTER (REVISED)

**Reference period: 2005.01.01 - 2008.12.31**

Vilnius
2009

**ACRONYMS USED IN THE REPORT:**

CAVL – Code of Administrative Violations of Law of the Republic of Lithuania
CC – Criminal Code of the Republic of Lithuania
CiC − Civil Code of the Republic of Lithuania
CiPC − Civil Procedure Code of the Republic of Lithuania
Health care workers − health care specialists providing health care services as well as employees working together with them who are involved in the provision of direct services to patients or who work under the same conditions as health care specialists
INPP − State Enterprise Ignalina Nuclear Power Plant
LC − Labour Code of the Republic of Lithuania
MMW − Minimum Monthly Wage
MSSL − Ministry of Social Security and Labour of the Republic of Lithuania
SLI − State Labour Inspectorate under the Ministry of Social Security and Labour of the Republic of Lithuania

**Article 2§1**

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

Law No. X-188 of the Republic of Lithuania of 12 May 2005 adopted amendments to the Labour Code of the Republic of Lithuania[1] (hereinafter referred to as the LC), Article 144 Paragraph 5 stipulating that for employees employed in more than one undertaking or in one undertaking but under two or more employment contracts, the working day may not be longer than twelve hours. The deleted words were in brackets "(including breaks to rest and to eat)" and in this way legal preconditions were put in place to extend the duration of the working day at the expense of the break to rest and to eat for those workers who are employed in more than one undertaking or in a single undertaking but under two or more employment contracts (LC Article 158).

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

Monitoring over the level of compliance by employers with the Code, labour legislation, other regulations and collective agreements is carried out, within the remit of prescribed competence, by the State Labour Inspectorate under the Ministry of Social Security and Labour of the Republic of Lithuania (hereinafter referred to as the SLI) and other bodies which are also involved in the prevention of labour offences.

Violation of effective legal regulations is subject to liability under the Code of Administrative Violations of Law of the Republic of Lithuania, approved by the Resolution of the Supreme Council of the Republic of Lithuania on 13 December 1984 (hereinafter referred to as the CAVL), in compliance with established procedure.

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

According to the data presented by the Statistics Department under the Government of the Republic of Lithuania, the table below shows the average number of weekly working hours per employee. No data are available for 2008. Taking into account the presented data and bearing in mind that an employee works five days a week, the maximum average duration of a working day in 2005 was 6.95 hours, in 2006 it was 6.85 hours and in 2007 it was 6.906 hours. Where a working week consists of six days, the average duration of the working days is accordingly shorter.

**Table 2.1.1. The average duration of weekly working hours per employee in 2005-2007**

| The average duration of weekly working hours per employee | 2005 | 2006 | 2007 |
|---|---|---|---|
| Total | 34.75 | 34.25 | 34.53 |
| Public sector | 32.86 | 32.47 | 32.80 |
| Private sector, excluding individual enterprises | 36.06 | 35.39 | 35.55 |
| According to economic activities | | | |
| Agriculture, hunting and forestry | 35.26 | 35.26 | 35.03 |
| Fisheries | 37.19 | 36.27 | 36.17 |
| Mining and quarrying | 36.18 | 35.21 | 35.40 |
| Manufacturing | 35.59 | 35.04 | 35.04 |
| Electricity, gas and water supply | 34.76 | 33.99 | 34.12 |
| Construction | 36.30 | 35.52 | 35.60 |
| Wholesale and retail trade; repair of motor vehicles and motorcycles; repair of personal and household goods | 36.37 | 35.47 | 35.82 |

[1] LC was approved by Law No. IX-926 of 4 June 2002.

| The average duration of weekly working hours per employee | 2005 | 2006 | 2007 |
|---|---|---|---|
| Hotels and restaurants | 36.63 | 36.09 | 36.21 |
| Transport, warehousing and communication | 35.84 | 35.34 | 35.64 |
| Financial intermediation | 36.08 | 35.07 | 35.04 |
| Real estate, renting and other business activities | 36.18 | 35.28 | 35.75 |
| Public administration and defence | 34.47 | 33.76 | 33.79 |
| Education | 30.01 | 30.11 | 30.69 |
| Health care and social work | 33.83 | 33.39 | 33.55 |
| Other community, social and personal service activities | 35.64 | 34.76 | 34.93 |

The derogations referred to in this Question 3 are not possible. Violation of legislation is subject to administrative liability.

During the reference period Lithuanian courts passed judgements in 18 civil cases concerning the duration of working time (2 in 2005, 7 in 2006, 7 in 2007 and 2 in 2008).

***Responses to the questions and conclusions of the European Committee of Social Rights:***

***However, the duration of working time for specific categories of employees in healthcare, care (custody), childcare institutions, specialised communications services and specialised accident containment services etc, as well as for watchmen in premises may be up to 24 hours per day, but shall not exceed 48 hours per week. The Committee recalls that working hours of up to 16 hours on any single day are excessive and therefore not in conformity with Article 2§1 of the Revised Charter.***

Please note that according to the regulations which are currently in force, such a working day (shift) should be followed by an uninterrupted rest which shall not be shorter than the working day (shift).

***The Committee notes that para. 1 of Article 149 of the Labour Code sets limits to average weekly working time at 48 hours and average daily working time at 12 hours over a four months reference period.***

Please note that LC Article 149§1 provides for limits on working time, but not the average: "In a case of summary recording of the working time, the average maximum working time in a week period **must not exceed** 48 hours and 12 hours per working day (shift)".

Bearing in mind the maximum allowable weekly time and the statistics of working time we consider the Lithuanian law and practice to be in line with the provisions of the European Social Charter.

***In its previous conclusion the Committee asked what were the rules on on-call time during which an employee is under the duty to remain at home or close to work so as to be able to work upon request of the employer. The report does not provide information on this matter. Therefore the Committee repeats its question.***

LC Article 155 sets forth that "in extraordinary cases, when it is necessary to ensure proper operation of the enterprise or completion of urgent work, the employer may assign an employee to on-call duty at the enterprise or at home after the working day, on rest days or public holidays not more often than once a month or, with the consent of the employee, not more often than once a week.". The duration of being assigned to on-call duty at the enterprise together with the duration of the working day (shift) (when an employee is assigned to on-call duty after the end of a working day (shift)), may not exceed the duration of a working day (shift) set in LC Article 144, and the duration of being assigned to on-call duty at the enterprise on rest days and public holidays, as well as at home may not exceed 8 hours a day (LC Article 155§2). For the time of being assigned to on-

call duty at the enterprise, when the duration of the working time is exceeded, or for being assigned to on-call duty at home the employee shall, during next month, be given time to rest equal in duration to the time of being assigned to on-call duty at the enterprise or at home counted as working time, or upon the employee's request, such time may be added to employee's annual leave or compensated as overtime work (LC Article 155§3). Persons under 18 years of age may not be assigned to on-call duty. Pregnant women, women who have recently given birth and breast-feeding women, employees raising a child under three years of age, employees alone raising a child under fourteen years of age or a disabled child under eighteen years of age, persons taking care of a disabled person, the disabled, unless restricted by an opinion issued by the Disability and Working Capacity Assessment Agency under the Ministry of Social Security and Labour, may be assigned to on-call duty at the undertaking or at home only upon their consent. (LC Article 155§4).

Pursuant to LC Article 143§1, working time includes hours of working duty at home and at work; the duration of being assigned to on-call duty at the enterprise shall be counted as working time, and the duration of being assigned to on-call duty at home shall be counted as at least half of the working time (LC Article 155§2).

**Article 2§2**

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

Law No. X-1538 of 13 May 2008 supplemented LC Article 162 with another public holiday, the Father's Day, on the first Sunday of June. The law came info effect on 1 January 2009. With the aforementioned supplement included, the currently effective LC provides for 14 public holidays.

***Responses to the questions and conclusions of the European Committee of Social Rights:***

***It nonetheless asks the next report to provide updated information on the rates increased remuneration paid in respect of work done on a public holiday.***

LC prohibits work on public holidays, except for certain cases and in they occur payment is increased for work during a public holiday.

During the period from 1 January 2003 to 31 December 2008, the payment rate for work during a public holiday remained the same (at least double), but the way of calculating the minimum pay was subject to changes:

- from 1 January 2003 to 1 July 2008, a provision was in force that *the rate of remuneration* for doing scheduled work on a public holiday *shall be at least double hourly or daily pay;*
- from 1 July 2008 until 1 August 2008 a provision was in force that *the rate of remuneration* for doing scheduled work on a public holiday *shall be at least double average hourly (daily) pay;*
- from 1 August 2008 to 31 December 2008, the *rate of remuneration* for doing scheduled work on a public holiday was laid down as *at least double work pay specified in LC Article 186§2* (i.e. the work pay shall comprise the basic salary and all additional payments directly paid by the employer in any way for the work performed).

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

It was not mentioned in previous reports that if the employer violates the duty specified in LC Article 194, the legislation regulating labour relations provides both for fines and the duty to pay compensation to the employee for delayed payment of work pay.

LC Article 207§1 specifies that where the wage or any other payments relating to employment relations are paid late due to the employer's fault, the employee shall also be paid late penalties due to him under the law. Law on Calculation of Late Penalties on Late Coverage of Payments related to Employment Relations of the Republic of Lithuania (Law No. I-1214 of 20 February 1996), Article 2§1 lays down the following:

"Where the wage or any other payments (except for allowances provided for in the Law on State Social Insurance of the Republic of Lithuania) relating to employment relations are paid late due to the employer's fault, the employee shall also be paid the late penalties due to him under the law. The amount of late penalties shall constitute 0.06 per cent of the due amount for every late calendar day, starting to calculate them after 7 calendar days when the payments provided for in laws or a collective (or, in the absence of it, in employment) agreement, or at the time specified by the employer, were due and finishing calculation on the date of their payment. The amount of late penalties specified in the law shall be indexed in compliance with the procedure established by the Government or a body authorised by it, with respect to a consumer price index of the previous

calendar year. A collective (or, in the absence of it, employment) agreement may provide for more favourable conditions for employees. “

Noteworthy, LC Article 36§5 stipulates that in special cases established by labour laws, labour rights shall be protected in compliance with the administrative procedure. CAVL Article 41§4 provides for a monetary fine for violations of the procedure of calculation of payment of remuneration established in the LC, a collective or an employment agreement. For violation of the procedure of calculation and payment of work pay, employers or persons authorised by them may be subject to a fine ranging from five hundred to five thousand litas. For the same actions committed by a person punished by an administrative sanction for the aforementioned violations, a fine imposed may range from five thousand to ten thousand litas. A deliberate violation of the procedure of calculation and payment of work pay provided for in the LC, a collective or employment agreement or payment of work pay and other payments related to employment relations which have not been included into accounting documents, shall be subject to a fine from ten thousand to twenty thousand litas imposed on employers or persons authorised by them. The same actions committed by a person punished by an administrative penalty for the violations provided for in Article 41§3 shall be subject to a fine from twenty thousand to fifty thousand litas.

**Court Practice**

The Lithuanian Supreme Court has explained the cases in which LC Article 194 applies. It is a special legal norm regulating payment for work during rest days and holidays. When overtime work and/or night work is performed during public holidays and/or rest days, such work shall be paid for under LC Article 194, whereas LC Article 193 shall not apply (Judgement No. 3K-3-451/2006 of the Lithuanian Supreme Court, Chamber of Civil Case Judges of 6 September 2006 ; Court practice 26, p. 125-131).

A wage shall be remuneration for work performed by an employee under a contract of employment. A wage shall comprise the basic salary and all additional payments directly paid by the employer to the employee for the work performed (LC Article 186§1, 2). In other words, a wage includes both a basic salary and all additional payments, e.g. bonuses, premiums, etc., paid by the employer to the employee, in any way, for the work performed by the employee against the previously established indicators. Pursuant to LC Article 186§2, a conclusion could be made that a wage also includes bonuses that are provided for in employment contracts for the achievement of certain indicators and that having achieved them, the employee gains a subjective right to demand that a bonus should be paid by the employer (Judgement No. 3K-3-451/2006 of the Lithuanian Supreme Court, Chamber of Civil Case Judges of 6 September 2006; Court practice 26, p. 125-131).

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

During the period from 2005 until 2008, the number of violations in organising work and rest time was steadily dropping. In 2005, they accounted for 43 per cent of the total number of labour law violations, in 2006 they got down to 42 per cent, in 2007 they made up 39 per cent and in 2008 their number accounted for 35 per cent of the total number of labour law violations.

**Table 2.2.1. SLI Data about Complaints Examined by it in 2005-2008**

| Issues | 2005 | | 2006 | | 2007 | | 2008 | |
|---|---|---|---|---|---|---|---|---|
| | Examined | Ruled out | Examined | Ruled out | Examined | Ruled out | Examined | Ruled out |
| Concerning violations of daily and weekly rest, overtime and night work, on-call duty, total | 580 | 300 | 466 | 231 | - | - | - | - |
| Other issues of work and rest | 323 | 137 | 376 | 160 | - | - | - | - |
| Concerning payment for work on public holidays, overtime and night work | 529 | 283 | 471 | 249 | 383 | - | 257 | - |
| Concerning work and rest regime | - | - | - | - | 482 | - | 498 | - |
| Concerning work time accounting | - | - | - | - | 425 | - | 395 | - |
| Concerning overtime work | - | - | - | - | 499 | - | 303 | - |
| Concerning on-call duty at night and on-call duty | - | - | - | - | 85 | - | 50 | - |

Courts of the Republic of Lithuania heard few civil cases concerning payment for work during rest days and public holidays: 18 cases in 2005, 6 cases in 2006, 4 cases in 2007 and 2 cases in 2008.

**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.***

Courts of the Republic of Lithuania passed judgements in 2 civil cases relating to leave in 2005, 4 judgements in 2006 and 5 judgements in respectively 2007 and 2008.

***Responses to the questions and conclusions of the European Committee of Social Rights:***

***The Committee recalls that pursuant to Article 177 of the Labour Code, the minimum annual leave may not be replaced by monetary compensation. However it previously noted that if an employee does not wish to go on leave, he shall be paid an allowance in lieu. The report clarifies that this is only the case where the employed relationship has been terminated.***

***At the request of or with the consent of the employee, the unused portion of annual leave may be postponed and added to the annual leave of the next year of employment. The Committee again asks over what period of time an employee may postpone leave, the Committee understood that an employee may be permitted to postpone leave for three consecutive years. It asks again whether this interpretation is correct and whether there related to the entirely of the annual leave or only a proportion. The Committee considers that under Article 2§3 of the Charter annual holidays exceeding two weeks may be postponed in particular circumstances defined by domestic law, the nature of which should justify the postponement.***

Law No. X-188 of 12 May 2005 amended LC Article 177 which now says that the annual (not minimum) leave cannot be replaced by any monetary compensation paid in lieu.

There is only one exception: a monetary compensation for the unused annual leave shall be paid only upon termination of the employment contract if due to the cessation of contractual relations an employee cannot be provided with an annual leave or he or she does not want it. The amount of compensation shall be established according to the number of working days of unused annual leave that fall within the work period. If a worker were not provided with an annual leave of more than one working year, the compensation shall be paid for all the annual leave unused. Thus leaving the workplace worker receives monetary compensation for the remaining days of unused annual leave, i.e. if he or she worked for ten years, he or she will receive a compensation for the unused annual leave of ten years.

**Article 2§4**

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

Previous reports have not mentioned the secondary legislation of the Republic of Lithuania regulating employment conditions. They include the following:

Description of the Criteria and the Procedure for Determining the Duration of Working Time According to Work Environment Factors approved by Resolution No. 568 of the Government of the Republic of Lithuania of 9 June 2006;

Procedure for Reducing Working Time of Employees Who Perform the Work Which By Its Nature is Related to Higher Mental and Emotional Tension and Conditions of Payment for Work of Employees Who Have Been Established Reduced Working Time, approved by Resolution No. 1195 of the Government of the Republic of Lithuania of 30 September 2003;

Occupational Risk Assessment Regulations approved by Order No. A1-159/V-612 of the Minister of Social Security and Labour and the Minister of Health of 16 October 2003.

**Reduced working hours**

***Responses to the questions and conclusions of the European Committee of Social Rights:***

***As regards the elimination of risks the Committee refers to its conclusions under Article 3. The Committee sought information as to precisely what sectors benefited from reduced working hours. he Committee understands from the report that all workers working in occupations listed as hazardous benefit from reduced working hours. In addition new regulations provides that teachers, nurses, health care specialists and certain other categories shall also benefit from a reduction in their working hours. It asks for confirmation of this.***

The situation is slightly different. Workers who perform the work included in the List of Hazardous Works, approved by Resolution No. 1386 of the Government of the Republic of Lithuania of 3 September 2002, shall be additionally trained to perform their work safely at the employer's expense, but their working hours would not be reduced.

Working time is reduced in the following two cases:

- due to the hazardous factors of work environment, exceeding the acceptable limits (chemical, biological, physical, manual, ergonomic and psychosocial) allowed by occupational safety and health legislation. The limits are established according to the factors and criteria of work environment approved by Order No. V-196 of the Minister of Health of the Republic of Lithuania of 6 April 2004. Reduced, up to thirty-six hours per week, working time shall be established for persons who work in the environment where the concentration of hazardous acceptable limits exceeds the limits set in the legal acts on safety and health at work and it is technically, organisationally or otherwise impossible to reduce these concentrations in the work environment to acceptable, non-health-hazardous levels. When hazardous work environment factors can be reduced, the employer is obliged to do so. In such a case, the working time for employees shall be reduced on a temporary basis until the concentration of hazardous work environment levels is reduced to acceptable limits;
- due to the work which by nature is related to higher mental and emotional tension: As mentioned before, the Procedure for Reducing Work Time of Employees Who Perform the Work Which By its Nature is Related to Higher Mental and Emotional Tension was approved by Resolution No. 1195 of the Government of the Republic of Lithuania of 30 September 2003. Please find below the amendments introduced to the procedure during the reference period.

Paragraph 2 of the aforementioned procedure, effective **from 1 January 2005 until 30 January 2005,** stipulates that a reduced working week shall be established for the following pedagogical employees:

- teachers, working in general education, vocational, higher education, non-formal education establishments, colleges, specialised child care and parenting homes shall work up to 36 hours per week;
- tutors working in pre-school establishments shall have a working week of up to 36 hours; tutors working in general education schools (except for special and boarding schools), and child care homes shall have a working week of up to 30 hours; teachers working in special schools (groups), special pre-school education establishments (groups), boarding schools, special child care and parenting homes, social care establishments (groups) for children with special needs and baby homes shall have a working week of up to 24 hours;
- teachers working in pre-school education establishments shall have a working week of up to 36 hours;
- special pedagogues working in pre-school establishments and teachers working in children social care establishments with children who have special needs shall have a working week of up to 24 hours and teachers working in general education schools and those working in social care establishments with children who have special needs shall have a working week of up to 20 hours;
- lecturers working in high and higher education establishments shall have a working week of up to 36 hours;
- concertmasters and accompanists working in schools, art training specialists working in pre-school establishments and child care homes shall have a working week of up to 24 hours;
- social pedagogues working in schools shall have a working week of up to 36 hours.

Provisions effective **from 30 January 2005 to 16 December 2005** laid down that a working week of up to 36 hours shall be established for the following pedagogical employees:

- teachers, working in general education, vocational, higher education, non-formal education establishments, colleges, specialised child care and parenting homes;
- tutors working in pre-school establishments, general education schools, child care homes, special child care and parenting homes, child care establishments (groups) for children with special needs and baby homes;
- pre-school education pedagogues working in schools;
- speech therapists, special pedagogues, tiflopedagogues and surdopedagogues working in pre-school education establishments, general education schools and child social care bodies;
- lecturers working in high and higher education establishments;
- concertmasters and accompanists working in schools, art training specialists working in pre-school establishments and child care homes;
- social pedagogues working in schools.

Paragraph 2 of the Procedure was amended and these amendments **came into effect on 16 December 2005.** They provided for an exception when the aforementioned employees are allowed to have a working week exceeding 36 hours. Order No. 2668 of the Minister of Education and Science of the Republic of Lithuania of 29 December 2005, *Concerning Exceptional Cases when a Working Week May Exceed 36 Hours,* specifies that a working week may exceed 36 hours, but not more than 40 hours, and work shall not be considered overtime in cases of substitution of employees, on a temporary basis, due to their illness, leave, in-service training, business trips of other cases established in the Order.

It has been specified that a working week of 36 hours shall be established for pharmacists when their job descriptions include one or several of the below listed activities: control (examination) of the quality of medications and medical substances; production of medications and medical substances; packaging of medications and medical substances; acceptance and/or sorting of

medications according to orders; issuing (selling) or medications and medical substances in pharmacies.

Health care specialists providing health care services together with the employees working with them who are involved in providing direct services to patients or who are working under the same conditions with them (hereinafter referred to as health care workers) have been established a working week of up to 39 hours.

Paragraph 7 of the aforementioned procedure lays down that a working week of up to 36 hours shall be established for health care specialists who:

- provide health care services in health care institutions, inpatient social care or training establishments to patients suffering from psychic diseases, persons with impaired development, suffering from heavy brain and/or spinal cord injuries (traumas, strokes, tumours, cerebral palsy, etc.) ;
- provide health care services in health care institutions and in-patient social care or training establishments to patients suffering from tuberculosis, sexually transmitted or other contagious diseases ;
- provide anaesthesiology and resuscitation, intensive therapy or emergency medical services;
- carry out the work related to blood or blood derivatives, organs or organ secretions, bacterial, virus products other hazardous substances, their production, research, packaging, use or neutralisation;
- carry out work related to poisonous chemical substances, operate in hotbeds of contagious diseases or chemical infection, carry out preventive disinfection, disinsection and deratisation;
- carry out work in the premises of dirt, sulphur or sulphuretted hydrogen baths.

A working week of 33 hours has been established, in line with Paragraph 8 of the Procedure, for health care specialists who:

- provide health care services to persons kept in bodies accountable to the Prisons Department under the Ministry of Justice who have been subjected to a custodial sentence (detention) and convicts serving a penalty of arrest, fixed-term or life imprisonment;
- carry out the work exposed to sources of electromagnetic waves, monitoring systems or ultrasound diagnostic equipment.

A working week of 33 hours has been established for doctors who, under their job descriptions, provide services to patients in policlinics, out-patient departments and medical stations (Paragraph $8^1$ of the Procedure).

Pursuant to Paragraph 9 of the Procedure, a working week of 30 hours has been established for health care specialists who carry out the work related to:

- radioactive substances or sources of ionising radiation and laser equipment of the second class of radiation powers;
- dissection of dead bodies and examination of dead body samples or examination of patients' body tissues.

Noteworthy, both the provisions of the aforementioned procedure and the provisions on reduced working time and hazardous works are applied to all types of activities, including economic activities, and all types of enterprises, institutions and organisations.

**Additional leave**

LC Article 168 lays down that additional annual leave shall be granted (before 2005, it stated "may be granted") to the employees for the conditions of work which are not in conformity with the normal work conditions, for a long uninterrupted employment at the same work place and for a special character of work.

As mentioned in the Fourth Report of the Republic of Lithuania on implementation of the European Social Charter (Revised), the duration of additional annual leave, the conditions and the procedure of granting thereof is regulated by the procedure established by Resolution No. 497 of the Government of the Republic of Lithuania of 22 April 2003. Additional annual leave is added to minimum annual leave and may be provided separately or together, as agreed by the parties. If the parties fail to agree, the leave is granted together. The employees entitled to extended annual leave and annual additional leave, shall be granted, upon their choice, either only extended annual leave or, in compliance with the procedure established in Paragraph 3 of the Procedure, the additional annual leave added to the annual minimum leave. A contract of employment, a collective agreement or internal work regulations may define a longer additional annual leave or additional annual leave of the types other than those specified in the procedure.

As mentioned in the Fourth Report, on 18 July 2003 the Government of the Republic of Lithuania passed resolution No. 941, *On Approval of the List of Certain Categories of Employees Entitled to an Annual Extended Leave and the Duration of Such Leave.* Pursuant to the resolution, during the period **from 1 January 2005 to 31 December 2008:**

*Persons entitled to annual leave of 56 calendar days included the following:*

- pedagogical employees of pre-school education establishments, general education schools, vocational training establishments, high schools, higher education schools, non-formal education establishments, psychological agencies, pedagogical and psychological agencies, child care establishments, impaired development baby homes. From 9 March 2008 such entitlement has been taken away from the following high school pedagogical workers;
- academic staff of academic and educational establishments (chief academic workers, senior academic workers, academic workers and junior academic workers).

*Persons entitled to annual leave of 42 calendar days included the following*:

- creative workers of theatre and concert organisations;
- health care workers working in primary level in-patient personal health care establishments or units, out-patient departments, rural medical stations, health care services operating in bodies accountable to the Prisons Department, penitentiary institutions (if employed under labour contracts), health care workers providing emergency medical services (according to their job descriptions), health care workers working in pathology, forensics and other units (if their work is directly related to dissection of dead bodies and examination of samples taken from dead bodies), laboratories with pathogenic or bacterial agents of third or fourth group or sources of ionising radiation, family doctors (general practitioners), district therapists, district paediatricians and nurses working together with them;
- employees of the state enterprise Ignalina Nuclear Power Plant whose are exposed to greater nervous, emotional and mental tension and professional risk which depends on specific conditions of work. A list of these categories of employees and the duration of annual leave is approved in compliance with the procedure established in a collective agreement;
- drivers working in emergency medical stations or units;
- health care workers working in psychiatric health care institutions, impaired development baby homes, educational establishments and social care institutions, psychologists working in psychiatric health care institutions, impaired development baby homes, educational establishments and social care institutions (with an exception of child care bodies), employees

performing social work in in-patient social care institutions, psychiatric health care bodies and impaired development baby homes.

*Persons entitled to annual leave of 35 calendar days included the following:*

- health care specialists providing health care services, employees working together with them who provide direct services to patients or work under the same conditions in enterprises, institutions and organisations, who have not been mentioned before;
- pharmacy specialists whose job descriptions include one or several of the activities listed below: control (examination) of the quality of medications and medical substances; production of medications and medical substances; packaging of medications and medical substances; acceptance and/or sorting of medications according to orders; issuing (selling) or medications and medical substances in pharmacies;
- employees performing social work in custodial and penitentiary institutions, educational establishments and out-patient social care institutions for mentally or intellectually impaired persons, temporary residence houses for persons at social risk;
- seafarers working in ships included in the register of ship vessels of the Republic of Lithuania;
- employees working under employment contracts in fishing vessels involved in business and other (specialised) fishing;
- employees of bodies accountable to the State Food and Veterinary Service, including the State Inspectorate of Veterinary Products, National Veterinary Laboratory, district and regional state food and veterinary services who perform the work that is directly related to pathological substances of animals, carry out bacteriological, virusological, serological, haematological, pathological anatomic, parasitological, mycological, chemical, toxic, biochemical, radiological and molecular examinations;
- employees working in bodies accountable to the Ministry of the Environment who take samples and perform chemical, ecotoxicological, hydrobiological and radiological examinations and measurements. The employees became entitled to this right on 11 November 2005.

*Persons entitled to annual leave of 58 calendar days included the following:*

- instructor pilots, chief navigators, instructor navigators, flying instructor engineers if the overall time of their flights is at least 210 hours per year;
- aircraft captains, pilots, navigators, flying engineers, flying operators, aircraft crew if the overall time of their flights is at least 350 hours per year;
- test pilots if the overall number of their flights is at least 120 hours per year.

*Persons entitled to annual leave of 48 calendar days included the following:*

- employees of the state enterprise "Oro navigacija":
- flight managers, senior flight managers if they provide air navigation services of at least 500 hours per year;
- flight instructor managers, heads of flight management centre shifts if they provide air navigation services of at least 150 hours per year.

Noteworthy, leave for flying staff is calculated by adding days of leave to 28 days of annual leave in proportion to the hours that they have flown or provided navigation services during the year and if the specified number of hours is covered the employees are entitled to the aforementioned annual leave.

A list of positions ascribed to the category of health care specialists was approved by Order No. V-363 of the Minister of Health of the Republic of Lithuania of 4 May 2006, *Concerning Approval of a Model List of Positions According to Which Budgetary and Organisational Employees are Ascribed to the Category of Health Care Specialists.*

A list of positions ascribed to pedagogical work was approved by Order No. ĮSAK-1407 of the Minister of Education and Science of 9 October 2003, *Concerning Approval of a List of Positions which are Considered Pedagogical Work.*

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

LC Article 36§5 stipulates that in cases specifically established by labour laws, labour rights shall be protected in compliance with an administrative procedure. Employers or persons authorised thereby who violate labour legislation, labour safety and hygiene at work shall be subjected to a monetary fine from five hundred to five thousand litas provided for in CAVL Article 41. Administrative liability shall also be incurred by officials who may be imposed a monetary fine from three hundred to three thousand litas as well as other employees who may be sanctioned by a fine ranging from twenty to one hundred litas.

Admittedly, on 15 June 2006, CAVL Article 41 was supplemented with a provision that an authority (official) who imposes an administrative sanction for violations provided for in Articles 41, 41(3), 41(4) and 41(5) shall, without prejudice to the requirements of the personal data protection law as well as the law on protection of state, official, commercial, professional and other secrets and in compliance with the restrictions and prohibitions provided for in other legislations, publish, in the media, the information about the imposition of sanctions.

***Responses to the questions and conclusions of the European Committee of Social Rights:***

***The Committee previously asked that the next report contain detailed information on the implementation of measures taken to eliminate risks in dangerous or unhealthy occupations. It also wishes to receive inormation on the activities of the labour inspection in supervising compliance with the rules on reduced working hours, additional paid holidays or other relevant measures reducing the length of exposure to risks. It repeats its request for this information.***

Pursuant to the Law on State Labour Inspectorate of the Republic of Lithuania Article 6 Point 1 part 1 (Law No. IX-1768 of 14 October 2003), the SLI shall, within its line of competence, inspect employers' compliance with the legislation, regulations and collective agreements on employee safety and health as well as labour relations, instruct employers and issue requirements to them (during one year, the share of inspected registered enterprises accounts for 6-7 per cent).

Labour inspectors check whether employers in enterprises, institutions and organisations identify threats and perform risk examinations and assessments; investigate accidents at work, analyse and provide proposals concerning removal of reasons for accidents and improvement of the situation of occupational safety and health in the country; perform, together with health care specialists, circumstances and reasons of occupational diseases; examine statements and complaints on the issues falling within the remit of the SLI; take part in examining the expertise of persons representing employers, persons authorised by employers and specialists from occupational safety and health services.

The SLI take part during the processes of accepting enterprises, their operational units and individual work stations for use; carry out the function of a manager of the Register of Potentially Hazardous Equipment; accept requests put forward by enterprises to allocate funds for implementation of prevention measures of accidents at work and occupational diseases.

If during the inspection labour inspectors detect violations of legislation or regulations on occupation safety and health, they draw up relevant documents (claims, minutes, decrees, etc.) in a format established by the chief state labour inspector. The claim (except for the claim to suspend

the work immediately) specifying the violations and deadlines for their removal shall, within five working days following the detection of violation or the end of investigation, be delivered to an employer's representative or a person authorised by an employer against the latter's signature or sent by post (registered mail). If necessary, the established deadline may be extended by up to five working days upon the decision taken by the head of the division or the service. Under well-grounded circumstances, a deputy director of the state labour inspector may, in the areas supervised by him, extend the deadline of submission of the claim by another 7 working days. Representatives of enterprise employees are made familiar with the inspection findings and developed documents, if requested by them.

When there is no possibility at the time of inspection to obtain oral or written explanations from persons representing employers or persons authorised thereby concerning violation of labour legislation, occupational safety and health laws and regulations and failure to follow instructions, labour inspectors invite a person representing the employer or authorised thereby to an administration office or a territorial unit of the SLI.

In the event of a lethal accident or a severe injury of employees, when the enterprise does not take appropriate measures to reduce the number of occupational diseases and systematically violates the regulations of occupational safety and health and labour relations, a person representing the employer or authorised thereby may be invited to the SLI administration office or territorial unit to examine the issues related to the prevention of accidents at work, occupational diseases, violation of regulations on occupational safety and health at work and labour relations.

The requirements or instructions given by the labour inspector to a person representing the employer or authorised by him are mandatory (Law on State Labour Inspectorate of the Republic of Lithuania, Article 11§6). A person representing the employer or authorised thereby informs the labour inspector about compliance with the requirements within the deadline and at the address specified in the claim. Persons who fail to comply with the requirements of labour inspectors are held liable in accordance with the procedure established by the CAVL.

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

**Table 2.4.1. SLI Data About Complaints Examined by it in 2005-2008**

| Issues | 2005 | | 2006 | | 2007 | | 2008 | |
|---|---|---|---|---|---|---|---|---|
| | Examined | Ruled out | Examined | Ruled out | Examined | Ruled out | Examined | Ruled out |
| Concerning setting up of work places | - | - | - | - | 179 | - | 164 | - |
| Concerning working tools | - | - | - | - | 31 | - | 42 | - |
| Concerning hazardous working conditions | 60 | 18 | 100 | 36 | 31 | - | 83 | - |
| Concerning investigation of occupational diseases | 1 | 0 | 7 | 0 | 21 | - | 6 | - |
| Concerning investigation of accidents at work | 129 | 64 | 123 | 60 | 104 | - | 129 | - |
| Concerning | 7 | 0 | 13 | 9 | - | - | - | - |

| Issues | 2005 | | 2006 | | 2007 | | 2008 | |
|---|---|---|---|---|---|---|---|---|
| | Examined | Ruled out | Examined | Ruled out | Examined | Ruled out | Examined | Ruled out |
| hazardous working conditions | | | | | | | | |
| Concerning other occupational safety and health issues | 322 | 94 | 429 | 159 | - | - | - | - |
| Concerning annual and special-purpose leave | 156 | 44 | 142 | 56 | 131 | | 139 | |
| Concerning other issues of leave | 56 | 27 | 48 | 21 | 18 | | 27 | |
| Concerning work time accounting | 133 | 45 | 116 | 52 | 425 | | 395 | |

The SLI does not specify in its reports the number of violations identified with respect to shortened rest time, additional or extended leave. In its reports, the SLI writes that the number of detected violations of organisation of work and rest time was 4,289 in 2005, 3,875 in 2006, 4,064 in 2007 and 4,005 in 2008.

In 2005 and 2006, courts of the Republic of Lithuania pronounced judgements in 1 civil case per year concerning remuneration for work under shortened working time. In 2007 and 2008 there were no cases of such kind.

***Responses to the questions and conclusions of the European Committee of Social Rights:***

***The safety and health of employees working with radioactive substances and other sources of ionising rdiation is be regulated by the Act on Radiation Protection and other legal acts on safety and health at work. The Committee again asks more information on what rules apply in this regard.***

As it was mentioned in the Fourth Report on the Republic of Lithuania concerning the implementation of the European Social Charter (Revised), the Law on Radiation Protection of the Republic of Lithuania (No. VIII-1019 of 12 January 1999) provides for legal basis of radioactive protection allowing to safeguard people and the environment from the harmful effects of ionizing radiation:

**"Article 10. Responsibilities of a Licensed Legal Person or an Enterprise without the Status of a Legal Person**

A legal person or an enterprise without the status of a legal person licensed to conduct practices specified in Paragraph 1 of Article 8 of this Law and conducting activities[2], specified in the licence must:

[2] **Article 8.** Licensing and Authorisation of Practices, Prohibited Practices

1. It shall be prohibited to produce, operate, market, store, assemble, maintain, repair, recycle, and transport sources of ionising radiation and handle (collect, sort, treat, keep, recycle, transport, store and decontaminate) radioactive waste without a licence issued by the Radiation Protection Centre in cases other than those set forth in paragraph 2 of this Article.

2. The license specified in paragraph 1 of this Article shall not be required:

1) for the conduct of practices involving sources of ionising radiation at clearance levels;

2) for transportation and storage of generators of ionising radiation.

1) ensure registration of the sources of ionising radiation, their proper technical condition, safety and safe operation and duly notify, in accordance with the procedure stipulated by legal acts, the State Register of Sources of Ionising Radiation and Exposure of Workers about the sources in possession;

2) minimise the exposure of workers as much as possible;

3) if the sites where practices are conducted are visited by members of the population or workers of other enterprises, institutions or organisations are temporarily working there, ensure radiation protection of the said persons in accordance with the requirements of this Law and other legal acts relating to radiation protection;

4) in order to achieve compliance with the requirements of this Law and other legal acts relating to radioactive protection and supervision of their enforcement, apPoint qualified competent persons or establish units of radiation protection;

5) ensure that workers are of relevant qualifications;

6) carry out exposure monitoring of workers and their workplaces in accordance with the procedure established by the Radiation Protection Centre;

7) in the manner prescribed by legal acts, register workers and submit the data to the State Register of Sources of Ionising Radiation and Exposure of Workers;

8) on its own initiative or at the request of the executive bodies of state administration, control institutions, and local government, discontinue practices which do not comply with the requirements of radiation protection;

9) in accordance with the procedure established by the laws and other legal acts of the Republic of Lithuania, deliver for disposal sources of ionising radiation that are unsuitable for use or are no longer in use;

10) in accordance with the procedure established by the Government or an institution designated by it, conduct monitoring of the impact on the environment;

11) upon request, make available to the Radiation Protection Centre objective information about the conditions in which practices are conducted, products with sources of ionising radiation manufactured, imported into the Republic of Lithuania, marketed, and exported from it;

12) take preventive measures against radiological accidents, in a timely and detailed manner inform the population and the executive bodies of state administration, control institutions and local government of the Republic of Lithuania about the risks associated with the practises; in the event of a radiological accident, take actions and measures for the containment of causes hazardous to human health and the environment and elimination of the consequences; in accordance with the procedure set forth in this Law and other laws, compensate for the damage to human health and the environment resulting from breach of the regulations of radiation protection committed by a licensed legal person or an enterprise without the status of a legal person;

13) in accordance with the procedure prescribed by legal acts, label the sources of ionising radiation and their containers, and duly provide information to the consumers about protection against ionising radiation;

14) in accordance with the manner prescribed by this Law and other legal acts, those authorised to market or transfer for use sources of ionising radiation ascertain that a legal person or an enterprise without the status of a legal person to whom those sources of ionising radiation are being sold or transferred, are in possession of a license to use them;

15) perform other duties set forth in other laws and legal acts.

**Article 11. Verification of Compliance with Radiation Protection Requirements**

1. The sources of ionising radiation, radiation protection equipment, other devices and substances that may cause additional exposure of the population, also products having sources of ionising radiation may be sold or used subject to the verification of compliance with radiation protection requirements.

2. Compliance of sources of ionising radiation, radiation protection equipment and other devices and substances likely to cause additional exposure of the population also of products containing sources of ionising radiation with the radiation protection requirements shall be

controlled by the Radiation Protection Centre in accordance with the procedure established by the Ministry of Health. Where the sources of ionising radiation, radiation protection equipment and other devices, substances and products containing sources of ionising radiation may have additional effects on the environment, verification of compliance shall be carried out by the Radiation Protection Centre together with the Environmental Protection Agency.

**Article 12. Responsibilities of Workers**

Workers must use adequate protective equipment, undertake all measures to protect themselves and other persons or the environment from the harmful effects of ionising radiation."

**Article 13. Restrictions for Adolescents, Pregnant and Nursing Women to be Engaged in Work Involving Sources of Ionising Radiation**

1. Work involving sources of ionising radiation may be performed by people who are over 18 years of age.

2. Persons in the age group of 16 to 18 may perform work with sources of ionising radiation only for the purposes of professional training and not exceeding the limits of exposure established by the Ministry of Health.

3. The employer must provide a pregnant female worker with such work so as to ensure that the exposure of the foetus is not above the exposure levels as required for the population in accordance with the procedure set forth in the Law on Labour Protection and the Law on the Employment Contract.

4. The employer must provide a nursing female worker with such work so as to avert the risk of radioactive contamination of the organism in accordance with the procedure set forth the Law on Labour Protection and the Law on the Employment Contract.

**Article 14. Health Examination of Workers**

1. Workers are subject to a pre-employment medical examination and periodic reviews of health. Persons may be employed for work involving ionising radiation only subject to a review of health in accordance with the procedure determined by the Ministry of Health and a conclusion of a medical commission stating that according to the condition of their health they are fit for that kind of work.

2. When a worker has been found to have symptoms of a disease related to the effects of ionising radiation or it has been established or there are grounds to suspect that the dose limits have been exceeded, before the causes and circumstances of the disease or increased exposure are established and the Radiation Protection Centre gives a permission for the worker to continue his work, the employer must provide the worker with alternative work different from a practice involving sources of ionising radiation in accordance with the procedure set forth in the Law on the Employment Contract and the Law on Labour Protection.

3. It shall be forbidden to be engaged in work with sources of ionising radiation for those persons who for health reasons cannot be engaged in such work.

**Article 15. Compulsory Training of Workers and Officials**

1. In the Republic of Lithuania the persons who must undergo training in radioactive protection shall include the following:

1) workers of enterprises, institutions and organisations, engaged in work involving sources of ionising radiation;

2) officials of state and local authorities working in the field of emergency management.

2. Employers must organise at their own expense training of the workers specified in Paragraph 1 of this Article, and the executive bodies of state administration, control and local government institutions must conduct training for officials. The frequency and procedure of training and assessment of knowledge of the workers listed in item 1, Paragraph 1 of this Article shall be determined by the Ministry of Health, and of the officers listed in Point 2, Paragraph 1 of this Article by the Department of Civil Safety under the Ministry of National Defence.

3. Employers must provide workers with information relating to radiation protection prior to conclusion of the contract of employment, when transferring them to another work involving sources of ionising radiation, when changing work (production) processes, technologies, working conditions involving sources of ionising radiation also when standards, norms, regulations and instructions are being revised.

4. Employers are prohibited from apPointing workers to be engaged in work involving sources of ionising radiation if they have not completed a compulsory training course or have not been briefed on radioactive protection.

**Article 16. Notification of Foreign Countries**

The extent and procedure of notification of foreign countries about radioactive protection in the Republic of Lithuania shall be established by international agreements and other legal acts."

Below is the list of rules expanding on the provisions of the Law on Radiation Protection and other health and safety at work legislation:

Rules for the Use of Personal Protective Equipment while Working with Radiation Sources, approved by Order No. 19 of the Director of the Radiation Safety Centre of 16 June 2003;

Danger Categories of Ionising Radiation Sources and Assignment Rules Thereof approved by Order No. 46 of the Director of the Radiation Safety Centre of 11 October 2004;

Regulations on Handling Illegal Ionising Radiation Sources and Contaminated Facilities approved by Resolution No. 280 of the Government of the Republic of Lithuania of 16 March 2005;

Rules of Physical Safety against Ionising Radiation Sources approved by Order No. V-687 of the Minister of Health of the Republic of Lithuania of 7 September 2005;

Control Regulations of High Sealed Ionising Radiation Sources and Orphan Ionising Radiation Sources approved by Order No. V-1020 of the Minister of Health of the Republic of Lithuania of 23 December 2005.

Finally, there is a procedure of the control with the compliance of radiation safety requirements approved by Order No. 146 of the Minister of Health of the Republic of Lithuania of 31 March 1999.

**Article 2§5**

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

Law No. I-188 of 12 May 2005 supplemented LC Article 149§1 with a provision stating that in continuously working enterprises, establishments and organisations, also in individual workshops and sections, in jobs where the working day (shift) is organised in sessions and in some jobs where, due to technological processes it is impossible to observe the duration of a working day or working week set for a specific category of workers, having regard to the opinion of representatives of the employees (Article 19 of the Code) or in other cases established in collective agreement summary recording of working time may be introduced, however, the duration of work during the reporting period must not exceed the number of working hours set for a particular category of employees. "In the case of summary recording of the working time, the average maximum working time in a week period may not exceed 48 hours and 12 hours per working day (shift)". The duration of a reporting period may not exceed four months.

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

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

The response to this question is given under Article 2§4 question 2 herein.

**Article 2§6**

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

Law No. X-188 of 12 May 2005 amended LC Article 99§4 which now stipulates that when concluding an employment contract, the employer must make familiar the person employed, against the latter's signature, about the conditions of his or her potential work, the collective agreement, work regulations, other acts regulating his or her work which apply at the workplace.

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

An employer or a person authorised thereby who fails to conclude an employment contract shall be subject to administrative liability pursuant to CAVL Article 41§3 and shall be punished by a monetary penalty, for every illegally employed person, ranging from three thousand to ten thousand litas. For a repeat offence, a monetary fine for every illegal worker shall range from ten thousand to twenty thousand litas. Pursuant to LC Article 98, illegal work shall mean work performed without the conclusion of an employment contract although the characteristics of an employment contract specified in Article 93 of this Code are present; or performed by foreign citizens and stateless persons failing to comply with the procedure of their employment established by regulatory acts. Employers or persons authorised thereby who allow illegal work performed shall be held liable in compliance with the procedure established by law.

**Court Practice**

The Lithuanian Supreme Court has passed several judgements related to the procedure of amending work pay.

LC Article 120§3 provides for changing of conditions of remuneration for work agreed in the contract. Pursuant to these provisions, the conditions of work remuneration agreed in the contract may be changed by the employer only upon receiving a written consent of the employee. Such consent is not required when the legislation, Government resolutions or a collective agreement makes changes to the overall remuneration for employees working in a certain economic branch, division or belonging to a certain category. In this case, the conditions of work remuneration were changed for education employees (pre-school education pedagogues) due to the change of work organization. However, in such cases the remuneration for work agreed in the employment contract could not have been reduced without the employee's written consent (Judgement No. 3K-3-265/2005 of the Lithuanian Supreme Court Chamber of Civil Case Judges of 13 May 2005).

LC Article 120 provides for a change of the mandatory conditions of the employment contract, remuneration for work and other terms and conditions of the contract. Paragraph 3 of this Article regulates the change of the remuneration conditions agreed in the employment contract. Provisions of a collective agreement make changes to the work pay of employees in the entire enterprise or those who belong to a certain category of workers. A collective agreement grants the right to an employer to change the conditions of remuneration for work agreed in an individual employment contract without a written consent of employees. An employee's written consent is required when as a results of changes introduced to remuneration conditions, a work pay which was agreed in the employment contract that had been concluded before the amendment of a collective agreement is reduced. A dispute arising between individual employees concerning a reduction of work pay is an individual employment dispute to be heard in compliance with the procedure of LC Chapter 3 Section 19 (Judgement No. 3K-3-317/2005 of the Lithuanian Supreme Court Chamber of Civil Case Judges of 30 May 2005).

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

***Responses to the questions and conclusions of the European Committee of Social Rights:***

***The Committee asks the next report to provide information on the activities of the Labour Inspectorate in monitoring this requirement.***

As mentioned before, the SLI checks compliance of employers with the legislation, regulations and collective agreements providing for occupational safety and health and labour relations and issue requirements and instructions to the employers.

**Table 2.6.1. SLI Data about Statements Examined by it in 2005-2008**

| Issues | 2005 | | 2006 | | 2007 | | 2008 | |
|---|---|---|---|---|---|---|---|---|
| | Examined | Ruled out | Examined | Ruled out | Examined | Ruled out | Examined | Ruled out |
| Concerning changes made to the employment contract conditions | 191 | 92 | 171 | 104 | - | - | - | - |
| Concerning termination of employment contract | 557 | 237 | 481 | 250 | 426 | - | 852 | - |
| Concerning other issues of employment contract | 338 | 147 | 373 | 168 | | - | | - |
| Concerning illegal work | 736 | 536 | 828 | 570 | 1096 | - | 1014 | - |
| Concerning employment | | | | | 430 | - | 451 | - |
| Concerning the content and conclusion of an employment contract | | | | | 228 | - | 302 | - |
| Concerning implementation of the employment contract | | | | | 232 | - | 366 | - |

**Article 2§7**

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

Law No. I-1712 of 15 July 2008 amended LC Article 193 which now lays down that for overtime and night work remuneration shall constitute at least one and half of the rate of remuneration provided for in LC Article 186§2.

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

Monitoring over the level of compliance by employers with the Code, labour legislation, other regulations and collective agreements is carried out, within the remit of prescribed competence, by the State Labour Inspectorate and other bodies and employee representatives which are also involved in the prevention of labour offences.

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

The Statistics Department under the Government of the Republic of Lithuania does not collect such information.

***Responses to the questions and conclusions of the European Committee of Social Rights:***

***However the Committee asks whether there are any circumstances besides health grounds that the employer is obliged to consider and explore possibilities of transfer to daytime work.***

Bearing in mind that LC Article 154 stipulates that "the disabled, unless restricted by an opinion issued by the Disability and Working Capacity Assessment Agency under the Ministry of Social Security and Labour, pregnant women, women who have recently given birth, breast-feeding women, employees raising a child under three years of age, employees alone raising a child under fourteen years of age or a disable child under eighteen years of age may be assigned to night work only upon their consent", it could be concluded that under the circumstances mentioned in the Article or other family circumstances, the employer must transfer the employee to a day shift upon his or her request. Therefore, we could state that the transfer of an employee to daytime work is not limited to health grounds alone.

Furthermore, under LC Article 147§5, wherever possible, employees raising children under fourteen years of age shall have the prior right to choose a shift.

**Article 4§1**

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

In Lithuania, a Council has been established on the basis of tripartite partnership to implement and improve the legal system of remuneration for work. The Council consists of representatives of trade unions, employers' organisations and the Government.

When the Tripartite Council decided to increase the minimum monthly wage (hereinafter referred to as the MMW), the proposal was submitted to the Government of the Republic of Lithuania. In 2005-2007, the Government of the Republic of Lithuania adopted the following decisions concerning the increase of minimum monthly wage for persons working under employment contracts:

From 1 July 2005 (Resolution No. 361 of the Government of the Republic of Lithuania of 4 April 2005), the MMW was increased to LTL 550 and the minimum hourly pay was increased to LTL 3.28 (the increase accounted for 10 per cent and 11 per cent accordingly).

From 1 July 2006 (Resolution No. 298 of the Government of the Republic of Lithuania of 27 March 2006), the MMW was increased to LTL 600 and the minimum hourly pay was increased to LTL 3.65 (the increase accounted for 9.1 per cent and 11.3 per cent accordingly).

From 1 July 2007 (Resolution No. 543 of the Government of the Republic of Lithuania of 6 June 2007), the MMW was increased to LTL 700 and minimum hourly pay was increased to LTL 4.19 (the increase accounted for 16.7 per cent and 14.8 per cent accordingly).

From 1 January 2008 (Resolution No. 1368 of the Government of the Republic of Lithuania of 17 December 2007), the MMW was increased to LTL 800 and minimum hourly pay was increased to LTL 4.85 (the increase accounted for 14.3 per cent and 15.8 per cent accordingly).

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

Implementation Measure No. 558 of the Government Programme of the Republic of Lithuania of 2008-2012 (Resolution No. 189 of the Government of the Republic of Lithuania of 25 February 2009) provides for the plans to submit proposals to the Government of the Republic of Lithuania concerning an increase of MMW and minimum hourly pay, by taking into account the financial capacities of the domestic economy, state and municipal budgets and proposals put forward by employees and employers.

***3. Please provide pertinent figures on national net average wage[3] (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.***

[3] 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.

***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.***

During 2005-2008, the average gross work pay had a tendency to grow fast in the country. In 2005, gross work pay in domestic economy (including individual enterprises) made up LTL 1,276.2 and, as compared to the previous years, it went up by 11 per cent.. During 2008, it was LTL 2,151.7 and went up by 19.4 per cent. During the period of three years (2005-2008), gross work pay went up by 68.6 per cent. That is linked to the growth of the country's economy. The augmentation of the work pay during the reference period was also caused by an increase of minimum and basic monthly wage and higher work pay introduced for employees of budgetary institutions and organisations.

In the domestic economy, including individual enterprises, net work pay in 2005 made up LTL 916.7 and, as compared to 2004, increased by 9.7 per cent. In 2008, it was LTL 1,650.9 and during one year went up by 22.1 per cent. During the period of three years (2005-2008), gross work pay went up by 80.1 per cent. A faster rate of net work pay growth as compared to the increase of gross work pay was determined by an increase of the basic amount of non-taxable income (from 1 January 2007 it went up by 10.3 per cent and accounted for LTL 320) and a reduction of the rate of income tax.

During 2005-2008, the actual work pay did not change evenly. In the domestic economy, during 2005, as compared to the previous year, it went up by 6.8 per cent, in 2006 it grew by 14.9 per cent, in 2007, it increase by 17 per cent and in 2008 it augmented by 10.1 per cent. A faster growth of the actual work pay was determined by the growth of net work pay caused by an increase of the basic non-taxable income rate and a slower, as compared to net work pay, augmentation of consumer prices.

As mentioned before, during the period of 2005-2008, the MMW was increased at fast rate. From 1 July 2005 it amounted to LTL 550 (before that date it was LTL 500). From 1 July 2006 MMW was LTL 600, from 1 July 2007 it was increased to LTL 700 and from early 2008 it became LTL. During the period of 2005-2008, the MMW increased by 60 per cent.

**Table 4.1.1. Net MMW Compared to the Average Net Monthly Earnings, in Per cent**

| Type of economic activity | Year | MMW[1] as compared with the average gross monthly earnings, % | Net MMW[2] as compared with the average net monthly earnings, % |
|---|---|---|---|
| **Total** | **2005** | **41.1** | **47.6** |
| | **2006** | **38.4** | **43.6** |
| | **2007** | **36.1** | **40.3** |
| | **2008** | **37.2** | **40.2** |

A higher percentage of net MMW against the average monthly net work pay compared to the percentage of MMW against the average monthly gross work pay was determined by an increase of the basic non-taxable income and reduction of income tax.

In establishing the MMW, a principle is followed that the MMW should be adequate amount to satisfy the minimum consumption needs. In 2005, value of the minimum consumption basket (absolute poverty threshold) amounted to LTL 215.21 per person. At-risk-of-poverty threshold, which is calculated as 60 per cent of median equivalised income, was LTL 355 Lt, per one member of a four-member family it was LTL 169. During the same year, the average annual MMW was LTL 525. The MMW offered an opportunity to satisfy minimum consumption needs both of a working and a dependent person. During the period from 2005-2007, the amount of MMW ensured a level of satisfaction of minimum needs for a working person and his or her dependents:

**Table 4.1.2. Absolute and Relative Poverty Threshold, Amount of MMW, LTL**

| Indices | 2005 | 2006 | 2007 |
|---|---|---|---|
| Absolute poverty risk threshold per person, LTL | 215 | 238 | 283 |
| Absolute poverty threshold for a four-member family, LTL | 452 | 500 | 593 |
| Absolute poverty threshold per one member of a four-member family | 113 | 125 | 148 |
| At-risk-of-poverty threshold calculated as 60 per cent of median equivalised income per single person, LTL | 355 | 437 | 566 |
| At-risk-of-poverty threshold calculated as 60 per cent of median equivalised income per 4-person family, LTL | 746 | 918 | 1188 |
| At-risk-of-poverty threshold calculated as 60 per cent of median equivalised income per one member of a four-person family, LTL | 187 | 230 | 297 |
| gross MMW, LTL | 525 | 575 | 650 |
| net MMW, LTL | 441 | 482 | 550 |

In certain areas of economic activities major changes of MMW are seen as compared to the average gross work pay. In hotels and restaurants the MMW, as compared to the average gross work pay accounted for 71.7 per cent in 2005, 64.4 per cent in 2008. In financial intermediation enterprises it made up 19 per cent.

In October 2005, on the scale of domestic economy (excluding individual enterprises) MMW and less[4] was received by 17.3 per cent of hired employees, 14.6 per cent in 2006, 12.4 per cent in 2007 and 13.2 per cent in 2008.

Full-time employees receiving MMW on the scale of domestic economy accounted for 10.3 per cent of all full-timers in October 2005, 8.5 per cent in 2006, 7 per cent in 2007 and 7.2 per cent in 2008. The majority of them worked in hotels and restaurants (25.6 per cent in 2005, 20.4 per cent in 2006, 17.7 per cent in 2007, and 21.7 per cent in 2008).

**Table 4.1.3. Average monthly earnings of hired employees and indices in the whole economy in 2005-2008**

| Type of economic activity | Year | Average monthly earnings, LTL | | Indices of average monthly earnings previous year = 100 | | | MMW[1] as compared with the average gross monthly earnings, % | Net MMW[2] as compared with the average net monthly earnings, % |
|---|---|---|---|---|---|---|---|---|
| | | gross | net2 | gross | net | real | | |
| Total | 2005 | 1276.2 | 916.7 | 111.0 | 109.7 | 106.8 | 41.1 | 47.6 |
| | 2006 | 1495.7 | 1092.9 | 117.2 | 119.2 | 114.9 | 38.4 | 43.6 |
| | 2007 | 1802.4 | 1351.9 | 120.5 | 123.7 | 117.0 | 36.1 | 40.3 |
| | 2008 | 2151.7 | 1650.9 | 119.4 | 122.1 | 110.1 | 37.2 | 40.2 |
| A Agriculture, hunting and forestry | 2005 | 972.7 | 722.3 | 109.6 | 108.2 | 105.4 | 54.0 | 60.3 |
| | 2006 | 1138.9 | 853.8 | 117.1 | 118.2 | 114.0 | 50.5 | 55.8 |
| | 2007 | 1411.2 | 1078.0 | 123.9 | 126.3 | 119.5 | 46.1 | 50.6 |
| | 2008 | 1721.7 | 1337.0 | 122.0 | 124.0 | 111.8 | 46.5 | 49.7 |
| B Fishing | 2005 | 1045.7 | 769.7 | 105.7 | 105.0 | 102.2 | 50.2 | 56.7 |
| | 2006 | 1255.7 | 932.6 | 120.1 | 121.2 | 116.9 | 45.8 | 51.1 |
| | 2007 | 1549.6 | 1175.4 | 123.4 | 126.0 | 119.2 | 41.9 | 46.4 |
| | 2008 | 1826.6 | 1414.1 | 117.9 | 120.3 | 108.5 | 43.8 | 47.0 |
| C Mining and quarrying | 2005 | 1731.6 | 1207.6 | 107.0 | 106.4 | 103.6 | 30.3 | 36.1 |
| | 2006 | 1989.4 | 1423.2 | 114.9 | 117.9 | 113.7 | 28.9 | 33.4 |

[4] Less than MMW was received by part-time workers with regard either to a working day or a working week.

| Type of economic activity | Year | Average monthly earnings, LTL | | Indices of average monthly earnings previous year = 100 | | | MMW[1] as compared with the average gross monthly earnings, % | Net MMW[2] as compared with the average net monthly earnings, % |
|---|---|---|---|---|---|---|---|---|
| | | gross | net2 | gross | net | real | | |
| | 2007 | 2379.5 | 1755.4 | 119.6 | 123.3 | 116.7 | 27.3 | 31.0 |
| | 2008 | 2851.8 | 2161.5 | 119.8 | 123.1 | 111.0 | 28.1 | 30.7 |
| D Manufacturing | 2005 | 1184.3 | 858.0 | 109.1 | 108.0 | 105.2 | 44.3 | 50.8 |
| | 2006 | 1387.4 | 1020.4 | 117.1 | 118.9 | 114.7 | 41.4 | 46.7 |
| | 2007 | 1726.7 | 1299.0 | 124.5 | 127.3 | 120.4 | 37.6 | 42.0 |
| | 2008 | 2028.3 | 1560.9 | 117.5 | 120.2 | 108.4 | 39.4 | 42.6 |
| E Electricity, gas and water supply | 2005 | 1861.9 | 1291.6 | 110.1 | 109.2 | 106.3 | 28.2 | 33.8 |
| | 2006 | 2067.4 | 1476.1 | 111.0 | 114.3 | 110.2 | 27.8 | 32.3 |
| | 2007 | 2354.6 | 1738.5 | 113.9 | 117.8 | 111.4 | 27.6 | 31.4 |
| | 2008 | 2714.7 | 2062.0 | 115.3 | 118.6 | 106.9 | 29.5 | 32.2 |
| F Construction | 2005 | 1288.7 | 924.7 | 119.8 | 117.3 | 114.2 | 40.7 | 47.1 |
| | 2006 | 1665.2 | 1206.5 | 129.2 | 130.5 | 125.8 | 34.5 | 39.5 |
| | 2007 | 2145.7 | 1592.2 | 128.9 | 132.0 | 124.9 | 30.3 | 34.2 |
| | 2008 | 2414.7 | 1842.9 | 112.5 | 115.7 | 104.3 | 33.1 | 36.0 |
| G Wholesale and retail trade; repair of motor vehicles, motorcycles and personal and household goods | 2005 | 1110.5 | 810.7 | 110.4 | 109.0 | 106.1 | 47.3 | 53.8 |
| | 2006 | 1332.2 | 983.5 | 120.0 | 121.3 | 117.0 | 43.2 | 48.4 |
| | 2007 | 1645.8 | 1242.3 | 123.5 | 126.3 | 119.5 | 39.5 | 43.9 |
| | 2008 | 1917.4 | 1480.0 | 116.5 | 119.1 | 107.4 | 41.7 | 44.9 |
| H Hotels and restaurants | 2005 | 732.2 | 567.7 | 111.6 | 109.2 | 106.3 | 71.7 | 76.6 |
| | 2006 | 828.2 | 644.9 | 113.1 | 113.6 | 109.5 | 69.4 | 73.7 |
| | 2007 | 1033.8 | 813.1 | 124.8 | 126.1 | 119.3 | 62.9 | 67.0 |
| | 2008 | 1243.1 | 987.0 | 120.2 | 121.4 | 109.5 | 64.4 | 67.2 |
| I Transport, storage and communication | 2005 | 1317.9 | 943.4 | 105.5 | 104.9 | 102.1 | 39.8 | 46.2 |
| | 2006 | 1465.8 | 1072.9 | 111.2 | 113.7 | 109.6 | 39.2 | 44.4 |
| | 2007 | 1753.5 | 1317.6 | 119.6 | 122.8 | 116.2 | 37.1 | 41.4 |
| | 2008 | 2054.7 | 1580.1 | 117.2 | 119.9 | 108.1 | 38.9 | 42.0 |
| J Financial intermediation | 2005 | 2764.7 | 1869.7 | 108.0 | 107.6 | 104.8 | 19.0 | 23.3 |
| | 2006 | 3122.3 | 2183.1 | 112.9 | 116.8 | 112.6 | 18.4 | 21.8 |
| | 2007 | 3637.5 | 2636.8 | 116.5 | 120.8 | 114.3 | 17.9 | 20.7 |
| | 2008 | 4120.0 | 3088.1 | 113.3 | 117.1 | 105.6 | 19.4 | 21.5 |
| K Real estate, renting and business activities | 2005 | 1450.3 | 1027.9 | 115.4 | 113.6 | 110.6 | 36.2 | 42.4 |
| | 2006 | 1642.6 | 1191.2 | 113.3 | 115.9 | 111.8 | 35.0 | 40.0 |
| | 2007 | 1914.2 | 1430.0 | 116.5 | 120.0 | 113.5 | 34.0 | 38.1 |
| | 2008 | 2382.4 | 1819.1 | 124.5 | 127.2 | 114.7 | 33.6 | 36.5 |
| L Public administration and defence; compulsory social security | 2005 | 2024.1 | 1395.4 | 108.4 | 107.8 | 105.0 | 25.9 | 31.2 |
| | 2006 | 2312.9 | 1640.5 | 114.3 | 117.6 | 113.4 | 24.9 | 29.0 |
| | 2007 | 2491.3 | 1834.2 | 107.7 | 111.8 | 105.8 | 26.1 | 29.7 |
| | 2008 | 3069.3 | 2320.8 | 123.2 | 126.5 | 114.1 | 26.1 | 28.6 |
| M Education | 2005 | 1145.4 | 832.8 | 112.6 | 110.9 | 108.0 | 45.8 | 52.3 |
| | 2006 | 1295.6 | 958.8 | 113.1 | 115.1 | 111.0 | 44.4 | 49.6 |
| | 2007 | 1535.5 | 1165.0 | 118.5 | 121.5 | 114.9 | 42.3 | 46.8 |
| | 2008 | 1954.8 | 1507.1 | 127.3 | 129.4 | 116.7 | 40.9 | 44.1 |
| N Health and social work | 2005 | 1154.6 | 838.9 | 119.4 | 116.7 | 113.6 | 45.5 | 52.0 |
| | 2006 | 1471.0 | 1076.5 | 127.4 | 128.3 | 123.7 | 39.1 | 44.2 |
| | 2007 | 1758.8 | 1321.4 | 119.6 | 122.7 | 116.1 | 37.0 | 41.3 |
| | 2008 | 2134.5 | 1638.4 | 121.4 | 124.0 | 111.8 | 37.5 | 40.5 |
| O Other community, social and personal service | 2005 | 1113.4 | 812.2 | 106.8 | 105.9 | 103.1 | 47.2 | 53.6 |
| | 2006 | 1276.9 | 946.1 | 114.7 | 116.5 | 112.3 | 45.0 | 50.3 |

| Type of economic activity | Year | Average monthly earnings, LTL | | Indices of average monthly earnings previous year = 100 | | | MMW[1] as compared with the average gross monthly earnings, % | Net MMW[2] as compared with the average net monthly earnings, % |
|---|---|---|---|---|---|---|---|---|
| | | gross | net2 | gross | net | real | | |
| activities | 2007 | 1501.0 | 1140.7 | 117.6 | 120.6 | 114.1 | 43.3 | 47.8 |
| | 2008 | 1801.7 | 1395.3 | 120.0 | 122.3 | 110.3 | 44.4 | 47.6 |

[1]MMW was LTL 525 in 2005, LTL 575 in 2006, LTL 650 in 2007, LTL 800 in 2008 .
[2] The average net monthly earnings and net MMW are calculated by taking into account the principal and additional amount of non-taxable income.

## Table 4.1.4. The number of employees[1] receiving MMW and less in October 2005-2008, per cent

| Type of economic activity | Year | Domestic economy | | Public sector | | Private sector | |
|---|---|---|---|---|---|---|---|
| | | total | full-time employees | total | full-time employees | total | full-time employees |
| Total | 2005 | 17.3 | 10.3 | 11.1 | 5.2 | 21.5 | 13.9 |
| | 2006 | 14.6 | 8.5 | 10.9 | 5.0 | 16.9 | 10.7 |
| | 2007 | 12.4 | 7.0 | 10.3 | 5.2 | 13.7 | 8.0 |
| | 2008 | 13.2 | 7.2 | 10.0 | 4.9 | 15.1 | 8.6 |
| A Agriculture, hunting and forestry | 2005 | 26.0 | 16.5 | 7.1 | 3.1 | 31.8 | 21.1 |
| | 2006 | 16.6 | 9.6 | 7.4 | 3.4 | 19.3 | 11.5 |
| | 2007 | 17.6 | 11.5 | 8.5 | (3.5) | 20.0 | 13.7 |
| | 2008 | 14.5 | 8.5 | 7.6 | 2.5 | 16.4 | 10.1 |
| B Fishing | 2005 | 29.9 | 18.0 | □ | □ | 34.7 | 21.5 |
| | 2006 | 18.6 | 9.5 | □ | □ | 21.2 | 11.1 |
| | 2007 | 20.0 | 10.8 | □ | □ | 23.0 | 12.8 |
| | 2008 | 22.4 | 10.6 | □ | □ | 25.1 | 11.4 |
| C Mining and quarrying | 2005 | 5.4 | 3.2 | - | - | 5.4 | 3.2 |
| | 2006 | (5.6) | (3.4) | - | - | (5.6) | (3.4) |
| | 2007 | 4.3 | 2.2 | - | - | 4.3 | 2.2 |
| | 2008 | (4.1) | 1.9 | - | - | (4.1) | 1.9 |
| D Manufacturing | 2005 | 17.5 | 12.0 | 2.3 | 1.1 | 17.7 | 12.2 |
| | 2006 | 12.7 | 9.1 | 1.7 | 0.9 | 12.9 | 9.2 |
| | 2007 | 10.0 | 6.8 | 1.9 | (0.6) | 10.1 | 6.9 |
| | 2008 | 12.5 | 8.7 | 2.5 | (1.3) | 12.6 | 8.8 |
| E Electricity, gas and water supply | | | 1.1 | | 1.1 | | 1.1 |
| | 2005 | 2.1 | | 2.1 | | 2.1 | |
| | 2006 | 2.1 | 1.0 | 1.8 | 0.8 | (3.0) | (1.5) |
| | 2007 | 1.9 | 1.1 | 1.5 | 0.8 | (2.9) | (1.7) |
| | 2008 | 2.3 | (1.1) | 1.9 | 1.2 | (3.2) | / |
| F Construction | 2005 | 14.3 | 10.4 | 5.5 | 4.2 | 14.5 | (10.6) |
| | 2006 | 8.6 | 5.9 | 4.8 | 3.8 | 8.7 | 6.0 |
| | 2007 | 8.5 | 5.8 | 2.5 | 1.7 | 8.6 | 5.9 |
| | 2008 | 9.4 | 4.8 | 4.5 | 3.2 | 9.5 | 4.8 |
| G Wholesale and retail trade; repair of motor vehicles, motorcycles and personal and household goods | 2005 | 23.9 | 16.3 | 17.1 | (3.6) | 24.0 | 16.4 |
| | 2006 | 19.8 | 13.0 | (10.8) | / | 19.8 | 13.0 |
| | 2007 | 13.9 | 8.4 | 18.2 | (3.9) | 13.9 | 8.4 |
| | 2008 | 14.5 | 8.5 | (24.0) | / | 14.5 | 8.5 |
| H Hotels and restaurants | 2005 | 38.6 | 25.6 | 14.8 | 9.3 | 39.1 | 26.0 |
| | 2006 | 32.3 | 20.4 | 11.1 | 5.0 | 32.8 | 20.8 |
| | 2007 | 27.0 | 17.7 | 10.8 | 4.9 | 27.2 | 18.0 |
| | 2008 | 32.2 | 21.7 | 10.1 | 6.9 | 32.5 | 22.0 |
| I Transport, storage and communications | | | 7.7 | | 1.1 | | 12.1 |
| | 2005 | 18.0 | | 9.7 | | 23.6 | |

| Type of economic activity | Year | Domestic economy | | Public sector | | Private sector | |
|---|---|---|---|---|---|---|---|
| | | total | full-time employees | total | full-time employees | total | full-time employees |
| | 2006 | 16.3 | 7.6 | 9.2 | 1.1 | 20.6 | 11.4 |
| | 2007 | 11.5 | 5.6 | 7.2 | 1.2 | 13.8 | 7.7 |
| | 2008 | 12.0 | 6.0 | 5.4 | 0.9 | 15.2 | 8.4 |
| J Financial intermediation | 2005 | 11.6 | 3.9 | □ | □ | 12.3 | 4.0 |
| | 2006 | 9.0 | (3.4) | □ | □ | 9.5 | (3.6) |
| | 2007 | 6.7 | 2.0 | □ | □ | 7.0 | 2.1 |
| | 2008 | 7.6 | 2.7 | □ | □ | 8.0 | 2.8 |
| K Real estate, renting and business activities | 2005 | 22.9 | 13.3 | 9.7 | 4.8 | 28.0 | 17.0 |
| | 2006 | 19.5 | (11.0) | 8.6 | (3.4) | 23.5 | (14.0) |
| | 2007 | 18.4 | 8.1 | 8.4 | 3.6 | 21.6 | 9.6 |
| | 2008 | 18.9 | 8.2 | 7.2 | 2.6 | 21.9 | 9.8 |
| L Public administration and defence; compulsory social security | 2005 | 2.1 | (0.5) | 2.0 | (0.5) | 94.7 | 42.9 |
| | | | (0.7) | | (0.7) | | 32.6 |
| | 2006 | (2.7) | | (2.5) | | 80.8 | |
| | 2007 | 2.3 | 0.8 | 2.2 | 0.8 | 70.6 | 21.3 |
| | 2008 | 2.4 | 0.9 | 2.2 | 0.8 | 68.8 | 32.5 |
| M Education | 2005 | 17.3 | 9.1 | 17.1 | 9.0 | 29.6 | (17.9) |
| | 2006 | 18.8 | 9.6 | 18.7 | 9.5 | (23.9) | (15.0) |
| | 2007 | 17.8 | 10.1 | 17.6 | 10.1 | 24.6 | (9.0) |
| | 2008 | 17.8 | 9.8 | 17.6 | 9.8 | 27.0 | 8.4 |
| N Health and social work | 2005 | 11.4 | 5.5 | 10.6 | 5.0 | 23.7 | 12.2 |
| | 2006 | 9.0 | 4.0 | 7.7 | 3.5 | 24.6 | (11.2) |
| | 2007 | 7.9 | 3.6 | 6.9 | 3.2 | 18.8 | (7.8) |
| | 2008 | 8.1 | 3.3 | 6.4 | 2.8 | 23.6 | 8.4 |
| O Other community, social and personal service activities | 2005 | 24.3 | 13.3 | 18.5 | 10.4 | 34.3 | (19.1) |
| | 2006 | 22.9 | 12.8 | 17.5 | 10.3 | 32.0 | (17.5) |
| | 2007 | 24.1 | 11.8 | 17.4 | 9.4 | 35.4 | 16.5 |
| | 2008 | 21.0 | 10.4 | 16.6 | 8.8 | 27.7 | 13.2 |

[1] Individual enterprises are excluded.
Explanation of symbols
□ Confidential data
/ Data are not presented since the error of statistical estimate exceeds the accepted allowable value
( ) Incomplete or insufficiently verified data

The number of civil cases related to work pay and other benefits which were heard by the courts of the Republic of Lithuania include the following: 1,170 cases in 2005, 779 cases in 2006, 1,145 cases in 2007 and 1,280 in 2008 (the total number during the reference period is 4,374).

***Responses to the questions and conclusions of the European Committee of Social Rights:***

***The Committee also takes into consideration any additional benefits, if applicable, paid to a single worker earning the minimum wage, such as, for example, tax alleviation measures, housing allowance, educational benefits etc. The value of the net minimum wage is calculated taking these benefits into account.***

An employee receiving MMW may receive compensation on either heating or cold and hot water expenses, depending on the amount of expenditure spent on utilities.

An employee raising a child (children) receives a child benefit which is paid irrespective of the amount of income received. Taking into account family income per family member, a social benefit can be paid and social support can be provided for pupils (free meals at school and assistance for acquisition of school supplies).

**Article 4§2**

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

LC Article 151 provides for the following exception cases of permitted overtime work:

"1) when the work to be performed is necessary for national defence and for preventing accidents or dangers;

2) when the work to be performed is necessary for the public, containment of accident, natural disasters;

3) when it is necessary to finish the work which could not have been finished during the working time under the present technical production conditions because of an unforeseen or accidental obstacle, if an interruption of work may result in deterioration of production materials or breakdown of work equipment;

4) when the work to be performed is related to repair and renovation of mechanisms and equipment, if the majority of workers should interrupt their work due to the breakdown of the said mechanisms and equipment;

5) when the work is performed in the place of another shift worker who has failed to arrive at the workstation, if working process may be impeded because of this; in such cases the administration must replace the worker who is working the second consecutive shift by another worker not later than in the middle of the shift);

6) for the performance of the work to be performed is related to loading and unloading and other related transportation work, when it is necessary to vacate warehouses of transport enterprises, as well as for the performance of the work related to loading and unloading of means of transportation in order to avoid the accumulation of freight in dispatch and designation Points and idle vehicle time."

As of 28 May 2005 (Version of 12 May 2005 of Law X-188), LC Article 151§7 stipulates that overtime work shall be permitted when this is provided for in a collective agreement.

LC Article 193 (which came into effect on 13 May 2008) lays down that remuneration for overtime and night work shall be at least one and a half of the average hourly pay (working day pay) established for the employee.

Taking into account the proposals put forward by employers and employees and with the consent given by the Tripartite Council of the Republic of Lithuania, the Seimas adopted Law Amending Articles 193 and 194 of the Labour Code (Law No. X-1712 of 15 July 2008). The amendments to LC Article 193 came into effect on 1 August 2008 which set forth that the pay for overtime and night work should be at least one and a half of the work pay established for the employee in LC Article 186§2. A wage shall comprise the basic salary and all additional payments directly paid, in any way, by the employer to the employee for the work performed by him or her (LC Article 186§2).

***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.***

Lithuanian courts have passed judgments in civil cases concerning the pay for overtime and night work as follows: 9 judgments in 2005, 10 in 2006, 12 in 2007 and 9 in 2008.

***Responses to the questions and conclusions of the European Committee of Social Rights:***

***In its previous conclusion the Committee asked about details of the rules applicable to certain categories of workers in areas such as health care, social welfare, child care institutions, certain civil servants and administrative officials, for whom the working hours performed outside the standard duration of work are not classified as overtime work and therefore are not reimbursed at an increased rate. The Committee notes from the report that specific features of working time and rest periods in these sectors are established by the Government. However, the report does not provide any further details about rules applicable to these categories of workers. The Committee recalls that within the meaning of Article 4§2 of the Revised Charter exceptions to the right to increased remuneration for overtime hours may be authorised in certain specific cases, mostly for state employees and management executives. However, certain limits must apply, particularly on the number of hours of overtime not paid at a higher rate. In this context, the Committee reiterates its request for more information regarding the specific rules on working time, overtime and rest periods as established by the Government for these workers.***

The information about working and rest time is provided in response the questions raised under Article 2 Paragraph 4.

## Article 4§3[5]

Lithuania has ratified Article 20 of the European Social Charter (Revised) and therefore there is no need to answer the questions about the implementation of Article 4§3.

[5] States party that have accepted Article 1 of the 1988 Additional Protocol to the European Social Charter do not have to reply to questions on Article 4§3, but must take account of these questions in their answers on Article 1 of the 1988 Additional Protocol.

**Article 4§4**

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

Law No. X-188 of 12 May 2005 amended LC Article 130(1) which stipulates that an employer shall be entitled to terminate an employment contract by giving the employee, against the signature thereof, a two months' advance notice. Article 130(7) lays down that the period of notice shall be extended to cover the period of the employee's sickness or leave or the period starting from the institution of proceedings until the coming into effect of the court decision when the refusal to give a preliminary agreement to dismiss the employee from work is contested according to the procedure established by law.

***Responses to the questions and conclusions of the European Committee of Social Rights:***

***The Committee notes from the Lithuanian report that there have been no changes to the situation, which it has previously considered to be in conformity with the Revised Charter. It asks confirmation that the severance pay of Article 140 of the Labour Code is really paid in addition to the period of notice mentioned in Article 130.***

An employee given a notice of termination of an employment contract under LC Article 130 shall be paid a severance pay referred to in LC Article 140.

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

**Article 4§5**

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

LC Article 224 provides for the grounds for wage deductions. Wage deductions may be made only in cases established by law. Deductions from the wages of the employers to cover their debt to the enterprise, establishment or organisation where they are employed may be made by an order of the administration:

1) to pay back an advance paid by including it in the wage; to return the amounts paid in excess owing to the computation errors; to cover an advance which had been paid for the purposes of posting or relocation and which was not spent within the set period and not duly paid back, also an advance payment for services; to compensate for the damage caused by the employer to his enterprise through his fault. In theses cases, the administration shall have the right to order making deductions within one month, at the latest, from the date of expiry of the deadline for paying back the advance or the debt, of payment of the amount, the overpayment owing to the computation errors, or when the damage caused by the employee was disclosed, where the amount owed by the employee is not in excess of his one average monthly wage;

2) when dismissing an employee from work before the end of the working year for which he was given his annual leave, to recover from him for the days of leave during which he had not worked. A deduction for those days shall not be made where the employee is dismissed from work without fault. It shall not be permitted to recover the wage overpaid and computed by applying the wrong law, with the exception of cases of the computation errors.

LC Article 225 provides for limitation on wage deductions. The total amount of deductions from the wage not exceeding the minimum monthly wage established by the Government may not be in excess of 20 per cent, and when recovering periodic payments for compensation for damages caused by mutilation or other health impairment, also for deprivation of life of a bread winner and damages caused by a criminal act, it shall not be in excess of 50 per cent of the wage payable to the employee.

When making deductions from the wage, which is not in excess of the minimum monthly wage under several writs of execution, 50 per cent of the wage payable to the employee shall be reserved for him.

Unless the court sets a smaller amount of deductions, 70 per cent of the share of the paid wage which exceeds the minimum monthly wage established by the Government shall be deducted.

LC Article 226 provides for the cases when deductions are not allowed. It shall be prohibited to make deductions from the severance pay, compensations and other allowances from which, under law, no recovery is to be made.

Thus it is not possible to recover the amounts which belong to the debtor as the following:

- compensation payments made to workers for the amortisation of their tools and other compensations which are paid in cases of violation of ordinary working conditions;
- amounts which are paid to a worker going on a business trip, transferred or employed to another position or sent to work in another location;
- state social insurance maternity (paternity) allowances;
- state allowances to children raising families;
- social allowances;
- funeral allowances;

- other special-purpose social benefits and compensations paid from the state and municipal budgets to low-income families (persons) when such families (persons) do not have sufficient means for living due to objective reasons.

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

**Article 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.***

***Responses to the questions and conclusions of the European Committee of Social Rights:***

***Formation of trade unions and employers' associations***
***In its last conclusion (Conclusion 2004, p. 340), the Committee considered the conditions governing the registration of non-profit making organisations. It found that the requirement of thirty members to form a trade union was excessive and undermined the freedom to organise. Since the situation did not change during the reference period the Committee considers that it is still incompatible with the Revised Charter. According to the report, planned measures to develop the social partnership were approved by the tripartite board of Lithuania on 25 January 2005. One of these measures is an amendment to the trade union legislation taking the Charter into account. The Committee wishes to be informed of developments.***

With regard to the conclusions made by the European Committee of Social Rights, draft amendments were introduced to the Law on Trade Unions of the Republic of Lithuania and the Civil Code of the Republic of Lithuania (hereinafter referred to as the CiC), approved by Law No. VIII-1864 of 18 July 2000, which are planned to be adopted in December 2009.

The proposal is to reduce the minimum number of founders to up to twenty or to have them make up at least 1/10 of all employees and that 1/10 of all employees should comprise at least three employees.

***Right to join or not to join a trade unijon***
***Section 21 of the Trade Union Act prohibits employers from dismissing members of trade unions without the prior agreement of the committee of the union to which they belong in cases specified by law, collective or other agreement. The Committee asks what the words "in cases specified by law, collective or other agreement" entails in practice. It also asks if such cases exist. In reply, the report refers to the safeguards attached to the right to organise. It says that trade unijon membership is not compulsory in Lithuania and that cases of compulsory membership are unknown.***

There is a misunderstanding. Although the title of Article 21 of the Law on Trade Unions of the Republic of Lithuania (No. I-2018 of 21 November 1991) is "Employment Rights Guarantees for Trade Union Members", it lays down additional guarantees not for all members of trade unions but only to those who have been elected to the governing bodies of trade unions. We think that these additional guarantees are necessary for a normal operation of trade unions and it does not provide any advantages to ordinary trade union members vis-à-vis the employees who are not trade union members. In this way, the right of choice by the employee either to join or not to join a trade union is expressed.

**"Article 21. Employment Rights' Guarantees for Trade Union Members**

An employer cannot dismiss an employee who is a member of the elected body of the trade union operating in the enterprise under the Law on Employment Contract, Article 29 Paragraph 1 Point 2, following his or her own will without obtaining a prior consent of the trade union's body elected in the enterprise.

When the employees specified in Paragraph 1 of this Article are subject to a disciplinary sanction, except for a sanction of dismissal from work, a prior consent of the elected body of the trade union shall be also required.

Trade union members, dismissed from work due to their election to the positions in trade union organisations shall, upon the termination of their elected position, be returned to their prior work (position) or, if it is not available, to equivalent work (position) in the same or another, upon the employee's consent, enterprise, institution or organisation.

An employee of an enterprise, institution or organisation who has been elected to an elected body of a trade union in such an enterprise, institution or organisation and who has terminated his or her employment relations due to this shall be made equivalent to an employee of that enterprise, institution or organisation and shall be protected by the social guarantees throughout the period of holding his or her elected position.

The other guarantees provided to the employees elected to the elected bodies of trade unions may be laid down in collective and other agreements."

***Under Article 129 of the Labour Code, employees may not be dismissed for union membership or participation in union activities.***

All trade union members are protected from dismissal from work solely on the grounds of their membership in a trade union or participation in trade union activities beyond the working time (or, with the consent of an employer, during working time) (LC Article 129 Paragraph 3 Point 1). **With that in mind, the employer may not dismiss a worker due to his or her membership in a trade union. There should be another legitimate reason/ ground (other than a trade union membership) to dismiss an employee from work. The same legitimate reason/ ground also applies to an employee who does not belong to a trade union.**

***Section 43§3 of the Internal Service Act establishes safeguards for members by banning penalties or victimisation for trade union membership or representative activities within unions.***

The Statute of the Internal Service of the Republic of Lithuania, approved by Law No. IX-1538 of 29 April 2003, Article 43 Paragraph 3 lays down the limits for trade union activities in a body which belongs to the interior system: trade union activities may be suspended or terminated in compliance with the procedure established by law if they are pursued in violation of the laws or if they impede the implementation of the functions relating to the protection of human rights and ensuring public safety. This Paragraph does not provide for any guarantees to trade union members.

***Personal scope***

***The Committee previously noted (Conclusions 2004, p. 340) that under Section 1 of the Trade Union Act, only citizens and foreign nationals permanently resident in Lithuania were entitled to join trade unions. The report states that the Act dates from 1991 and does not reflect present day realities. In particular, account must be taken of Article 13 of the 2002 Labour Code and the Legal Status of Foreigners Act of 2004. These authorise the following groups to join trade unions and take part in their activities:***

***– foreign nationals and stateless persons with permanent residence status in Lithuania;***

***– foreign nationals who are not permanent residents but have a work permit;***

***– nationals of European Union member countries with a Lithuanian residence permit.***

***Foreigners lawfully and permanently residing or working in Lithuania may also hold office within trade unions,and take part in the activities of works councils at company and enterprise level. The Committee asks whether these laws have amended Section 1 of the 1991 Trade Union Act.***

On 3 November 2003, the Seimas adopted the Law Amending Law on Trade Unions (Law No. IX-1803 of 3 November 2003) which amended Article 1 of the law, which now lays down the following:

**"Article 1. Right to Join Trade Unions**

Persons who are lawfully employed under an employment contract or on other grounds provided for in laws of the Republic of Lithuania, shall have the right to freely join trade unions and take part in their activities.

The special features of the application of the law in the national defence, police, state security and other organisations may be established in the laws regulating the operation of such organisations.

An employer or a representative authorised thereby may not be a member of trade unions operating in his or her enterprise, institution and organisation."

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

**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.***

With a view to having clearer procedures on the provision of information and consultation, LC Article 47 was supplemented by Law No. X-1534 of 13 May 2008 which came into effect on 1 July 2008. Provision of information means provision of information (data) to the employees' representatives to make them familiar with the core of the matter. Consultation means an exchange of views and establishment and development of a dialogue between the employees' representatives and the employer. An employer shall be obliged to inform the employees' representatives, on a regular basis, at least once per year, about the current future activities of the enterprise (its structural unit), the economic situation, the status of labour relations, and shall consult them (LC Article 47§2). Prior to making a decision on group dismissal, an employer shall be obliged to inform or consult the employees' representatives about it. Provision of information should include the reasons for planned dismissals, the overall number of dismissed employees according to their categories, the period during which employment contracts will be terminated, the selection criteria of dismissed employees, the conditions of termination of employment conditions and other important information. The purpose of consultations should be to avoid group redundancies or to reduce the number of dismissals or to mitigate the consequences of dismissals (LC Article 47§3). Prior to taking a decision concerning the reorganisation of the enterprise or another decision which might have a significant impact on the organisation of work in an enterprise or the legal status of employees, the employer must inform the employees' representatives and consult them concerning the reasons of taking such a decision as well as the legal, economic and social consequences to employees and concerning the measures prescribed to avoid possible consequences or mitigate them (LC Article 47§4).

The aforementioned provisions of the LC are mostly dealing with the procedure of providing of information and consultations as well as the procedures applied on the level of the enterprise, entity or organisation both in the private and public sector. The other cases, conditions and procedure for the provision of information and consultation shall be established by laws, collective bargaining agreements and agreements between the employer and the employees' representatives. In the event of provision of information, the employer must timely provide free of charge information in writing to the employees and their representatives and shall be responsible for the accuracy of such information. Having presented a written pledge not to disclose the commercial (industrial) or professional secret, the employees or their representatives shall have the right to access the information that is treated as a commercial (industrial) or professional secret which is necessary for them to perform their duties. Irrespective of where the employees and their representatives are located and regardless of the termination of the labour relations or expiry of the authorisation to represent they shall be prohibited from using the information considered as a commercial (industrial) or professional secret that has come to their knowledge for any other purpose or they shall be prohibited from disclosing it to third persons. The granting of access to state, official secrets and the responsibility for disclosure or illegal use thereof shall be regulated by special laws (LC Article 47§6).

Consultations concerning the information (data) provided by the employer and the opinions expressed by the employee representatives shall be carried out on a timely basis by offering an opportunity for employee representatives to meet competent decision-making representatives of the employer and obtain well-grounded responses. The purpose of consultations shall be to reach a solution which would be satisfactory to both parties. The results of consultations shall be recorded in the minutes (LC Article 47§7).

The employer may refuse to provide information deemed as a commercial (industrial) or professional secret or consult the employees' representatives, where such information, due to its character, would or could be very detrimental to the undertaking or its activities due to objective criteria. If an employee or the employees' representative disagrees with the decision of the employer, he or she may, within one month, lodge an appeal to court. After the court establishes that the refusal to furnish information or consult is unjustified, the employer which made the refusal shall be obliged to provide such information within a reasonable period of time or start consultations (LC Article 47§8).

The special features of the procedure on the provision of information and consulting in the enterprises and groups of enterprises of the European Community scope, European companies and European co-operative companies shall be laid down in special laws (LC Article 47§9).

LC Article 47§10 stipulates that when there are no representatives of employees in an enterprise, the employer must inform the employees in advance directly or during a general meeting in cases provided for in Paragraphs 3 and 4 or this Article about the date, reasons, legal, economic and social consequences of adopted decisions and the measures envisaged with respect to employees.'

Noteworthy, provision of information and consultation on the national scale takes place in a tripartite council of the Republic of Lithuania, as well as regional tripartite councils and commissions.

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

All the Lithuanian regions are implementing the measures of the Programme on Strengthening the Social Dialogue in 2007-2011 (approved by Resolution No. 729 of the Government of the Republic of Lithuania of 11 July 2007). To implement these measures, state budgetary funds are allocated. For example, in 2008, LTL 1.62 million was used for the purpose. The measures of Strengthening the Social Dialogue in 2007-2011 adopted by the Tripartite Council of the Republic of Lithuania included the following: a radio broadcast *Tripartite Agreement* and a publication of information and methodological material and other measures. All of these measures, including legal ones, contribute to development of a social dialogue in Lithuania and its regions.

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

Bearing in mind that the aforementioned consultations and provision of information under the LC must be carried out regularly, rather than on special occasions, no special statistics on the matter is collected. However, the 2007 Annual Report of the State Labour Inspectorate states that "a growing number of issues related to collective relations <...> in 2007 shows that parties to employment relations pay a more emphasis on the importance of social partnership and they understand that collective relations help to solve their disputes." (www.vdi.lt).

***Responses to the questions and conclusions of the European Committee of Social Rights:***

***As regards joint consultation at the enterprise level, the Committee notes from another source that in October 2004, following repeated debates among the social partners within the Tripartite Council, a new law introducing works councils was adopted. The new law stipulates that a works council may be established when there is no trade union in an enterprise and no decision has been made at an employees' meeting to transfer the right to represent the employees to the***

***relevant sectoral trade union. The Committee asks the next report to provide information on this legislation.***

On 26 October 2004, the Seimas adopted Law No. IX-2005 on Works Councils of the Republic of Lithuania. This law lays down the status of works councils, the procedure for their establishment, their activities and grounds for the cessation thereof, rights and duties of works councils and their members, as well as guarantees to members of works councils. The works council is defined as an employee representative body protecting professional, employment, economic and social rights of employees and representing their interests (Article 2§2).

Article 3 of the Law, similarly to the LC, lays down that a works council shall be set up in cases where an undertaking has no functioning trade union and where a staff meeting has not transferred the function of employee representation and protection to the trade union of the respective sector of economic activity. Only one works council may be set up in an undertaking, irrespective of whether it has any branches, representative offices and other structural divisions. A works council shall be set up in an undertaking where the number of employees is at least 20. In a case of an undertaking employing less than 20 employees, the functions of the works council shall be implemented by an employee representative elected at a staff meeting. A staff meeting shall be valid if attended by at least half of the employees of the undertaking. An employee representative shall be subject to all provisions of this Law and other laws, regulatory enactments and collective agreements establishing the rights, duties and guarantees of the works council and its members.

All employees who have reached the age of 16 and have worked in the undertaking for a period of at least six months, except for employees working under temporary employment contracts, may be elected members of the works council. Employees who have worked in the undertaking for a period of less than six months may be elected members of the works council only where all employees have been employed in the undertaking for a period of less than six months. The employer and persons representing him according to the law, authorisations or founding documents may not be elected members of the works council.

Taking into account the number of employees in an enterprise, a works council shall have a minimum of three and a maximum of 15 members:

- where an undertaking employs from 20 to 50 employees – 3 works council members;
- where an undertaking employs from 51 to 100 employees – 5 works council members;
- where an undertaking employs from 101 to 200 employees – 7 works council members;
- where an undertaking employs from 201 to 300 employees – 9 works council members;
- where an undertaking employs from 301 to 500 employees – 11 works council members;
- where an undertaking employs from 501 to 700 employees – 13 works council members;
- where an undertaking employees over 701 employees – 15 works council members.

A works council shall be established for a term of three years, which shall begin with the commencement of the powers of the works council.

Pursuant to Article 5 of the Law, the number of employees of an undertaking shall be determined by including employees of all branches, representative offices and structural divisions of the undertaking. This number of employees shall exclude the following:

- employees who are on parental leave until the child reaches three years of age;
- employees fulfilling active national defence service;
- employees employed under temporary employment contracts;
- the employer and persons representing him.

Elections to the works council shall be organised and conducted by the works council election committee, which shall be set up by a written order of the employer and composed of the number of members required for the works council to be elected. Employees who have signed the proposal to set up a works council and who have the longest period of service in that undertaking shall be elected members of the election committee. The employer must communicate the composition of the election committee to the entire body of employees by posting this information on information boards in the undertaking and its branches, representative offices and structural divisions and, where possible, through other media used in the undertaking (local radio, internet, etc.). The election committee must convene for the first meeting and start organising the election to the works council not later than within seven days from its setting-up. At the first meeting, the election committee shall elect its chairman and secretary from among its members. The secretary shall be responsible for managing documents and taking minutes during the meetings of the election committee.

Employees apPointed to the election committee may not be dismissed on the employer's initiative without any fault on their part during the term of office of the election committee. For the time spent organising and conducting elections to the works council, they shall be paid the average wage. The term of office of the election committee shall expire on the date when the works council convenes for the first meeting.

Pursuant to Article 8 of the Law, candidates to members of the works council may be put up by all employees of an undertaking having the right to vote at the elections to the works council. Each employee may nominate one candidate by applying in writing to the election committee and presenting the written consent of the nominee to be elected to the works council. The list of candidates must be drawn up not later than 14 days prior to the election to the works council.

All employees working in that undertaking shall be eligible to participate in elections to the works council and have the voting right, except for the persons referred to in Paragraph 3 of Article 5 of this Law. Elections to the works council shall be held in the undertaking during working hours. The employer must allow employees to participate in the elections and pay their average wage for this time.

The elections shall be deemed valid if more than one fourth of the employees of the undertaking having the voting right have turned out in the elections. In a case when the elections to the works council are declared not to have been held due to an insufficient turnout of employees in the elections to the works council, run-off elections must be held within the next seven days. The elections shall be deemed valid if more than one fourth of the employees of the undertaking having the voting right have turned out in the elections. Those candidates who have received the majority of votes shall be considered as elected members of the works council. In a case when several candidates receive an equal number of votes, the candidate having longer period of service in that undertaking shall be considered elected.

Meetings of the works council shall be held at least once a month, unless the collective agreement provides otherwise, on the initiative of the chairman of the works council or, when he is temporarily unable to carry out these duties, on the initiative of the deputy chairman. Pursuant to Article 13 of said law, meetings of the works council shall take place during working hours, unless the collective agreement provides otherwise. When deciding on the time and duration of a meeting, the complexity of issues to be considered, as well as the conditions of production and work organisation, technological and other conditions at the undertaking must be taken into account. The employer must be notified of the venue and time of a forthcoming meeting of the works council not later than three working days in advance, and the members of the works council – not later than two working days in advance, except for the cases when they all agree to the earlier date of such meeting. A meeting of the works council shall be valid if attended by at least two thirds of the members of the

works council. Decisions of the works council shall be taken by the majority of votes of the members of the works council attending the meeting. In the event of a tie vote, the chairman shall have the casting vote.

The employer or persons representing him shall have the right to attend meetings of the works council at the invitation of the works council. The attendance of a meeting of the works council by employees invited by the works council during their working hours must be agreed with the employer.

Issues relating to the organisation of the activities of the works council not covered by this Law shall be regulated by the rules of procedure of the works council. The rules of procedure shall be adopted by the works council by the majority of votes of all its members for the duration of its term of office.

Article 18 of the Law provides for the guarantees of the members of a works council. Members of the works council shall, as a rule, perform their duties during working hours. To this end, members of the works council shall be granted leave of absence for at least 60 working hours per year to attend meetings of the works council and to discharge their duties, unless the collective agreement provides otherwise; they shall be paid the average wage for this time. Where the performance of duties of a member of the works council involves travelling between geographically distant branches, representative offices and structural divisions of the undertaking, the possibility of ensuring transport or giving the member of the works council more time to perform his duties and paying him the average wage may be foreseen by agreement between the works council and the employer or in the collective agreement.

The qualifications of members of the works council required for implementing the functions of employees' representatives must be improved at the expense of the employer. At least three days per year must be allocated for regular in-service training, unless the collective agreement provides otherwise. The specific terms and conditions of in-service training shall be set out in an agreement between the works council and the employer or in the collective agreement.

When dismissing members of the works council from work, the guarantees provided for employees' representatives in the Labour Code shall apply to them. Members of the works council shall also be entitled to other privileges and guarantees provided by laws, other regulatory enactments, as well as collective agreements or agreements between the works council and the employer.

Article 19 of the Law provides for the following rights of the works council:

"1) participate in information and consultation procedures;

2) be consulted on decisions of the employer in the cases specified in laws, collective agreements or agreements between the works council and the employer;

3) conclude a collective agreement of the undertaking with the employer, as well as a collective agreement of a branch, representative office or structural division of the undertaking;

4) authorise a member of the works council to enter the premises of the undertaking, to survey the working conditions of employees during working hours of the undertaking without disturbing the work of employees;

5) receive from the employer and, within the time limits set in regulatory enactments, from state and municipal institutions the information required for performing their functions;

6) put forward proposals to the employer relating to economic, social and work issues, decisions of the employer relevant to employees, as well as the implementation of laws, other regulatory enactments and collective agreements regulating employment relations;

7) apply to the court in relation to the legitimacy of decisions of the employer, as well as failure to implement or improper implementation of laws, other regulatory enactments and collective agreements;

8) apply to the court for the protection of the rights of the works council established in laws, collective agreements or agreements between the works council and the employer;

9) when it is necessary to discuss important economic, social and work issues, convene a general staff meeting (conference), upon agreement with the employer on the venue and time of the meeting (conference);

10) take a decision to call a strike and lead it where an undertaking has no functioning trade union and where a staff meeting has not transferred the function of employee representation and protection to the trade union of the respective sector of economic activity;

11) carry out other actions which are in compliance with laws, other regulatory enactments, as well as actions set out in collective agreements or agreements between the works council and the employer."

The works council may not perform functions recognised by laws as the prerogative of trade unions. The works council shall be independent from the employer. The employer shall be prohibited from influencing decisions of the works council or otherwise interfering in the activities of the works council. The employer shall have the right to apply to the court requesting to terminate the activities of the works council violating this Law or other laws, collective agreements or agreements between the works council and the employer. The employer shall provide premises and allow using the available work equipment for performing the functions of the works council. The specific conditions of material and technical supply to the works council shall be set out in the collective agreement or the agreement between the works council and the employer.

The activities of the works council shall cease:

"1) when the employer which is a legal person ceases to exist;

2) when the employer which is a legal person ceases to exist;

3) upon the death of the employer, in the absence of his legal successor;

4) when less than three members are left in the works council and there is no person in the list referred to in Point 9 of Paragraph 6 of Article 9 of this Law who in accordance with the procedure laid down in this Law has the right to become a member of the works council instead of the member whose membership in the works council has expired;

5) upon the expiration of the term of office of the works council;

6) when the number of employees of the undertaking calculated in accordance with the procedure laid down in Article 5 of this Law increases by 50 per cent or more, and Paragraph 1 of Article 4 of this Law provides for a higher number of members of the works council as compared to the number determined prior to the election of the works council." (Article 25)

If a trade union is established in an undertaking and commences its activities in accordance with the established procedure or a staff meeting of the undertaking transfers the function of employee representation and protection to the trade union of the respective sector of economic activity before the expiration of the term of office of the works council, the works council shall continue its activities. If both a trade union and a works council are functioning in the undertaking, a joint representation of the trade union and the works council shall have the right to conclude a collective agreement of the undertaking and perform other functions of employees' representatives. Where the works council and the trade union fail to reach an agreement on the formation of a joint representation, a decision on representation shall be taken by a staff meeting (conference) (Article 27).

Admittedly, documents of the works council must be kept for three years after the cessation of the activities of the works council.

The works council shall be exempt from the stamp duty when applying to the court in the cases specified in this Law (Article 29). Persons who have violated this Law shall be held liable in accordance with the procedure laid down by laws. Any disputes over the implementation of this Law shall be settled in accordance with the procedure laid down by laws.

**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.***

***Responses to the questions and conclusions of the European Committee of Social Rights:***

***It noted that pursuant to Section 59.3 of the Labour Code, specific features of collective agreements concerning enterprises in the national defence, police and public service sectors are to be established by laws regulating the activities of these services and asked for clarification whether such legislation has been enacted.***

The special features of concluding collective agreements mentioned in LC Article 59§3 are provided for only in the Law on Civil Service of the Republic of Lithuania (Law No. IX-1747 of 7 October 2003). The matters which are not regulated by the Law shall be subject to the provisions of the LC. Other special laws do not regulate these matters.

The Law on Civil Service of the Republic of Lithuania was supplemented by Article $5^1$ which stipulates the special features of concluding collective agreements in the civil service. The said Article lays down that a collective agreement is a written agreement between the employer and the civil servants of a state or municipal institution or agency concerning service (employment) conditions as well as other social and economic conditions. When concluding a collective agreement, the employer shall be represented by the head of a state or municipal institution or agency or a person authorised by him, while the civil servant shall be represented by a civil servants' trade union operating at a state or municipal institution or agency. A collective agreement may include the following conditions: office (working) time and rest time of civil servants; creating safe and healthy working conditions; remuneration for work; a procedure for the implementation of a collective agreement; improvement of professional qualifications; exchange of information and consultations between the parties; other conditions which are not contrary to the valid legal acts and do not make the position of civil servants less favourable. However, a collective agreement may not stipulate additional conditions related to any additional funds from the state and municipal budgets and state monetary funds.

***The report further mentions the Law on the Approval of the Statute on Internal Service No IX-1538 of 29 April 2003 which stipulates that officers may institute trade unions and join them for defending their interests in the legally set order and in line with the provisions of the Statute. The report Points out that the law does not prohibit collective bargaining and the conclusion of collective agreements. The Committee understands that this law also covers police officers. It asks what are the rules governing the procedures for collective negotiations for officers covered by the said law. It Points out that should such information not be provided in the next report, the Committee would not be able to assess the conformity of the situation with the requirements of Article 6§2 of the Revised Charter.***

Yes, the requirements of the internal service of the Republic of Lithuania also apply to police officers. This law does not specify any special requirements for holding collective negotiations with

the officers of the system of the internal service and thus the general provisions of the LC (LC Article 48) shall apply.

Please note that the law lays down limitations on the activities of trade unions operating in the bodies of the internal service. These limitations include the following: Trade unions shall not affect the implementation of the functions performed by the body of the internal service (Article 44§2). Moreover, these trade unions are prohibited from the following:

"1) organise strikes and take part in them;

2) organise pickets or demonstrations which would directly interfere with the activities of an internal service body or performance of an officer's professional duties and take part in them;

3) organise (conduct) meetings for trade union members during working time, use official premises for the activities of trade unions and communication and transportation means without the consent of the head of an internal service body." (Article 45)

***The Committee further noted in its previous conclusion that draft regulations on a collective bargaining machinery were under discussion and supposed to be submitted to the Tripartite Council of the Republic of Lithuania. The report specifies that in the Plan of Measures for the Development of Social Partnership as agreed between the Government, trade unions and employers' organisations for the period 2003 – 2004, the social partners and the Secretariat of the Tripartite Council have been given the task to develop and approve a regulation on collective bargaining taking place on the level of counties and branches, on the procedure of conclusion of collective agreements, their registration, implementation as well as on tripartite cooperation. According to the report, such regulation is currently in the process of being drafted and is going to be submitted to the Tripartite Council for approval in the near future. The Committee asks to be informed on any development in this respect.***

As mentioned before, the Government of the Republic of Lithuania adopted measures of the Programme on Strengthening Social Dialogue in 2007-2011, the implementation of which contributes to promotion of social dialogue in a number of ways.

**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.***

Law No. X-1534 of 13 May 2008 supplemented the LC with a new Article 75[1] "Addressing Collective Labour Disputes Through an Intermediary". The law stipulates that the purpose of addressing a collective labour dispute through an intermediary is to coordinate the interests of both parties and reach an agreement that would be satisfactory to both parties. An intermediary shall be chosen by a joint decision of the parties to a collective labour dispute from the list of intermediaries approved by the Minister of Social Security and Labour within three working days following the date of receiving the employer's notification about the decision on the receipt of demands. If the parties fail to agree on the apPointment of an intermediary, the latter shall be chosen by the secretariat of the Tripartite Council by way of casting lots not later than two days following the statement made by one of the parties to the collective labour dispute. A collective labour dispute through an intermediary shall be solved within ten days following the apPointment (selection) of an intermediary. The parties may agree to extend the deadline. An employer or employers' organisation should provide working conditions for the intermediary. An agreement reached between the parties to the dispute through an intermediary shall be made in writing. It shall be binding for the parties to the dispute and they shall comply with deadlines and the procedure established in the agreement. If representatives of the parties to a collective labour dispute fail to reach an agreement through intermediation, it shall be recorded in the minutes of disagreement. The agreement or the minutes of disagreement shall be signed by the representatives of the parties to the dispute and the intermediary. A list of intermediaries shall include natural persons of irreproachable reputation, having special knowledge in solving collective labour disputes. The procedure of drawing up a list of intermediaries, selection of intermediaries, intermediation and payment for intermediation services shall be established by the Government.

Collective labour disputes in the Republic of Lithuania are heard by: a conciliation commission, a labour arbitration or a third party court, or, upon the demand put forward by one of the parties to a labour dispute, an intermediary. (LC Article 71).

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

The Government of the Republic of Lithuania has developed an intermediation procedure which is being considered together with social partners. The plan is to use the procedure in pursuance of LC Article 75[1].

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

At present we are unable to provide the requested data due to the reasons explained before.

***Responses to the questions and conclusions of the European Committee of Social Rights:***

***The Committee asked for clarification as to whether there is a distinction between the arbitration bodies competent for Labour Arbitration procedures and the third-party courts dealing with Arbitrage procedures. The report specifies that arbitration bodies within the scope of Labour Arbitration and third party courts for Arbitrage prodedures are alternative bodies and that the***

***Conciliation Commission or the parties to the collective dispute decide which body to refer to for the resolution of the dispute. The Committee asks the next report to specify under which circumstances the Conciliation Commission decides on the recourse to arbitration and under which circumstances the parties take such decision.***

The hearing of a dispute in a conciliation commission is the necessary stage of hearing a collective dispute, except the cases when one of the parties to the collective dispute demands that a collective dispute shall be settled through an intermediary.

Thus the parties may choose at the mandatory stage of hearing disputes whether the dispute should be settled in a conciliation commission or through an intermediary. The decisions at this stage are taken by mutual agreement and if it is reached the decision is mandatory to follow.

Therefore if an agreement concerning a labour dispute is not reached, the parties may go on strike or in a conciliation commission they may agree to refer the dispute for hearing by the labour arbitration or a third party court (LC Article 74). Please note that this decision of a conciliation commission is also taken by agreement of the parties and is binding.

If the parties fail to reach an agreement through an intermediary, they may go on strike.

***The Committee understands from the information provided in the report that in principle the Conciliation Commission refers a dispute to Labour Arbitration and that recourse to Arbitrage may be made only in the event the parties have agreed in writing to do so and have determined within the scope of the agreement the meaning and the subject of the collective dispute as well as the judges responsible for settling the dispute. The Committee wishes the next report to confirm that this understanding reflects the situation in law and in practice. It also asks whether the relevant bodies within the scope of Labour Arbitration and Arbitrage have different competences.***

Both bodies are addressed by the parties in writing because that should be included in the minutes of the conciliation commission. A judge of the **labour arbitration** is apPointed by the chair of the district court under which the labour arbitration is formed. Labour arbitration judges are not apPointed by the parties. The subject matter of the dispute should be always clear and defined.

The competences of judges of the labour arbitration or a third party court do not differ in practice. However, their apPointment procedures are different. A judge of the labour arbitration is apPointed by the chair of the district court and judges (one or several each) of a third party court are apPointed by the parties to a collective dispute.

Please note that the **labour arbitration** is set up under the district court which covers the territory in which the legal office of an enterprise or an entity which received the demands of the collective dispute is located. The composition of the labour arbitration, the procedure of hearing disputes and execution of adopted decisions are laid down in the regulations of the labour arbitration approved by the Government of the Republic of Lithuania.

**Judges of a third party** are apPointed by the parties of a collective dispute, one or several judges each, which shall be specified in a written agreement. The procedure to hearing of disputes and execution of adopted decisions are provided for in the regulations of a third party court adopted by the Government of the Republic of Lithuania.

***The situation not being entirely clear, the Committee asks for confirmation that any decisions of the Conciliation Commission within the scope of a collective dispute are binding upon the parties only with their joint consent and that in particular recourse to arbitration may be made only with the joint consent of both parties to the dispute. The Committee recalls in this context that any***

***form of compulsory recourse to arbitration is a violation of Article 6§3 of the Revised Charter, whether domestic law allows one of the parties to defer the dispute to arbitration without the consent of the other party or allows the Government or any other authority to defer the dispute to arbitration without the consent of one party or both, unless such deferral is limited to cases prescribed by Article G of the Revised Charter. The Committee Points out that should the requested information not be provided in the next report, it would be unable to assess whether the situation is in conformity with Article 6§3 of the Revised Charter.***

If the conciliation commission fails to reach an agreement on all or part of the demands, the commission may refer them for hearing to the labour arbitration, a third party court or wind up the conciliation procedure by drawing up the minutes on disagreement. Bearing in mind that pursuant to LC Article 72, the conciliation commission is formed from the equal number of authorised representatives of entities who made the demands and those to whom the demands were submitted, the decision of a conciliation commission concerning the transfer of the dispute for hearing by the labour arbitration, a third party court or winding the conciliation procedure up by drawing up the minutes on disagreement is also a collegial decision and reflects on the majority will of the parties' representatives. An unsatisfied party does not agree with the adoption of a joint decision and may go on strike.

**LC Article 295 reads as follows:**

"2. The following disputes shall be heard directly in courts without applying to the Labour Disputes Commission:

3) disputes between the representatives of trade unions or other employees and the employer about the non-performance of the duties and obligations established in laws or in the contract;

4) disputes on the basis of claims filed by the trade unions if the employer fails to timely consider or meet the demands of the trade union to revoke the employer's decisions which violated the labour, economic and social rights of the trade union members established by law."

***The Committee finally asks whether the aforementioned rules on conciliation and arbitration procedures also apply in the public sector.***

Those rules also apply in the public sector.

**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.***

Law No. X-1534 of 13 May 2008 (which came into effect on 1 July 2008) provided for a new definition of a strike: "A strike means a temporary cessation of work by the employees or a group of employees of one or several enterprises when a collective dispute has not been settled or a decision adopted by the Conciliation Commission, Labour Arbitration or a Third Party Court, which is acceptable to the employees, is not executed or is execute improperly, or a collective dispute has not been settled with the help of an intermediary or when an agreement reached by way of intermediation is not performed."

The same law introduced amendments to LC Article 77 which now provide for significantly fewer requirements for the declaration of a strike. The right to adopt a decision to declare a strike in an enterprise or a structural division thereof shall be vested in the trade union in compliance with the procedure laid down in its statutes. If an enterprise does not have a functioning trade union, and if an assembly of employees has not delegated the functions of employees representation and advocacy to a trade union of a relevant branch of economic activity, the right to adopt the decision to declare a strike in the enterprise or its structural unit shall be vested in the works council. "A strike shall be declared if a corresponding decision is approved by secret ballot, as follows:

1) more than half of the employees of the enterprise voting in favour of declaring a strike in the enterprise;

2) more than half of the employees of the structural division of the enterprise voting in favour of declaring a strike in the structural division of the enterprise." (LC Article 77§1).

The employer must be given an at least seven days' written notice of the beginning of the intended strike by communicating to him the decision adopted according to the procedure laid down in this Article. When a strike is declared, the demands put forward may include only those which were not satisfied during the conciliation or intermediation procedure.

A strike may be preceded by a warning strike.

It may also up to two hours. A warning strike shall be declared by a written decision taken the management body authorised by a trade union referred to in Paragraph 1 of the present Article or by a written decision of a works council without an individual approval of employees. The employer must be given an at least seven days' written notice of the warning strike. When a decision is taken to hold a strike (including a warning strike) in railway and public transport, civil aviation, medical, water, power, heat and gas supply, sewage and waste disposal enterprises, the employer must be given a written, at least fourteen days' advance notice.

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

During the reference period, the legal regulation was subject to major amendments. The Government of the Republic of Lithuania adopted measures of the Programme on Strengthening Social Dialogue in 2007-2011, the implementation of which contributes to promotion of social dialogue in a number of ways.

***3. Please provide pertinent figures, statistics or any other relevant information, in particular: statistics on strikes and lockouts as well as information on the nature and duration of***

***Parliament, Government or court interventions prohibiting or terminating strikes and what is the basis and reasons for such restrictions.***

The table below shows the data submitted by the Statistics Department under the Government of the Republic of Lithuania for the period from 2005 to the 1st quarter of 2008. No strikes were registered in 2006.

**Table 6.4.1. Strikes and Warning Strikes in 2005-2008**

| **Strikes and warning strikes** | **2005** | **2007** | **2008** |
|---|---|---|---|
| Total | 1 | 161 | 111 |
| Education | 0 | 161 | 111 |
| Other community, social and personal service activities | 1 | 0 | 0 |
| **Strikes** | **2005** | **2007** | **2008** |
| Total | 1 | 65 | 97 |
| Education | 0 | 65 | 97 |
| Other community, social and personal service activities | 1 | 0 | 0 |
| **Warning strikes** | **2005** | **2007** | **2008** |
| Education | 0 | 96 | 14 |

Lithuanian courts have passed judgments in civil cases concerning the pay for overtime and night time as follows: 0 judgments in 2005, 10 in 2006, 12 in 2007 and 9 in 2008.

***Responses to the questions and conclusions of the European Committee of Social Rights:***

***Section 77.1 of the Labour Code grants trade unions the right to call strikes. Such decisions must be taken by a two-thirds majority of an undertaking's employees or, in the case of a "subdivision of an undertaking", twothirds of that subdivision's employees and half of the employees of the undertaking. The Committee asks the next report to specify the meaning and scope of the term "subdivision of an undertaking" and what are the applicable rules in this respect. The Committee considered that these rules constitute an undue restriction on the trade unions' right to take collective action (see also Conclusions 2002, Romania, p. 135). Since there is no indication in the report that the situation has changed, the Committee reiterates its finding of nonconformity with Article 6§4 of the Revised Charter in this respect.***

As mentioned before, the law which came into effect on 1 July 2008 introduced softer requirements for the organisation of strikes.

***In reply to the Committee's question, the report states that strikes may also be called at branch, territorial and national level. The Committee asks what are the conditions for calling a strike at these levels.***

With this respect, the LC does not have any special provisions. Such strikes may be organised in compliance with the procedure established by the statutes of trade unions and by way of analogy of organising strikes provided for in the LC.

***Restrictions on the right to take collective action***
***As regards the internal affairs, national defence and state security sectors, the Committee considered that a strike ban could serve a legitimate purpose since work stoppages in these sectors could pose threats to public order and national security. However, simply prohibiting all employees in the internal affairs, national defence and state security sectors from striking, without any distinction as to function, cannot be considered proportionate, and therefore necessary in a democratic society. In order to be able to assess the situation, the Committee asked whether the strike ban extends to all employees in these sectors or only essential staff,namely staff directly assigned to internal affairs, national defence and state security.***

As mentioned before, an amendment to the LC, which came into effect on 1 July 2008, made adjustments to, inter alia, LC Article 78§1 which now states that a prohibition to declare a strike applies only to **employees of the emergency medical services.** The demands put forward by the employees of the said services shall be settled by the Government, which shall consult the parties to the collective labour dispute.

**LC Article 78. Restrictions on Strikes:**

"1. It shall be prohibited to declare a strike by employees of the emergency medical services. The demands put forward by the employees of the said services shall be settled by the Government, which shall consult the parties to the collective labour dispute.

2. Strikes shall be prohibited in natural disaster areas as well as in the area where state of martial law or state of emergency has been declared in accordance with the procedure established by law until the liquidation of the consequences of natural disaster or lifting of the state of martial law or state of emergency.

3. It shall be prohibited to declare a strike during the term of validity of the collective agreement if the agreement is complied with."

**Article 21**

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

The response to the question regarding Article 6 of the Charter provides information about the specified provisions of Article 47 of the LC as well as the provisions from the Law on Work Councils. Workers exercise the right to information and consultation through their representatives (trade unions or work councils) or directly.

The following regulatory acts were adopted in the Republic of Lithuania during the reporting period with regard to the enforcement of the right of workers to be informed and consulted within the undertaking:

Law on the Involvement of Employees in a European Company (Law No. X-200 as of 12 May 2005);

Law on the Involvement of Employees in the European Cooperative Societies (Law No. X-935 as of 5 December 2006);

Law on the Involvement of Employees in a Company after Cross-Border Mergers of Limited Liability Companies (Law No. X-1607 as of 17 June 2008);

Trilateral Cooperation Agreement No. 137 between the Government of the Republic of Lithuania, Trade Unions and Employers' Organisations as of 14 June 2005;

Declaration on Mutual Recognition of Employers and Workers' Representatives in Social Partnership adopted by Minutes of the Meeting of the Tripartite Council No. 108 on 16 October 2007;

SLI Regulations adopted by Order No. A1-316 of the Minister of Social Security and Labour of the Republic of Lithuania as of 12 May 2009;

Procedure of Inspectors' Activities in Promoting the Development of Social Dialogue in the Companies of the Republic adopted by Order No. 1-149 of the Chief State Labour Inspector of the Republic of Lithuania as of 13 July 2006.

Points 6 and 7 of Article 22§1 of the LC are relevant to this issue. Point 7 of Article 22§1 of the LC stipulates that workers' representatives shall have the right to be informed (orally or, at the request of the worker's representative, in writing) by employers about their socio-economic situation and envisaged changes that may affect the situation of workers. It should be noted that from 28 May 2005 until 1 July 2008 the aforementioned Points were amended by Law No. X-188 as of 12 May 2005 as follows:

"6) to protect the rights of workers when concluding and performing contracts for purchase-sale of the undertaking and in the cases of assignment of the business or part thereof, concentrating market structures and reorganising or transforming undertakings;

7) to be informed (orally or, at the request of the worker's representative, in writing) by employers about their socio-economic situation and envisaged changes that may affect the situation of workers."

Law No. X-1534 as of 13 May 2008 amended the aforementioned Points as of 1 July 2008 as follows:

"6) to protect the rights and interests of workers when making decisions by employers concerning collective redundancies, reorganisation of the undertaking, institution or organisation, as well as other decisions that may basically affect the legal situation of workers;

7) to be informed by and consult with employers about the current and envisaged activity of the undertaking (structural unit), the economic situation as well as labour relations, and before making decisions that may basically affect work organisation in the undertaking and the legal situation of workers."

The above analysis of the provisions indicates that the rights of workers' representatives to be informed have been expanded and specified. Workers' representatives have the right to be informed and consulted by employers concerning not only the current and envisaged activity of the undertaking, but also the structural units of the undertaking. Thus, the employer is prevented from unilateral decisions concerning the structural changes of the undertaking or any other decisions that may basically affect the legal situation of workers.

Article 47 **"Information and Consultation"** of the LC was amended twice in the period from 1 January 2005 to 31 December 2008 (Law No. X-188 as of 12 May 2005 and Law No. X-1534 as of 13 May 2008). The amendments established the concepts of "information and consultation", the obligation of the employer "to regularly, at least once a year, inform workers' representatives about the current and envisaged activity of the undertaking (structural unit), the economic situation as well as labour relations, and consult them", as well as the obligation to consult before making the decision concerning collective redundancies. The definitions of the aforementioned concepts are as follows:

"1. Workers' representatives shall be entitled to information and consultation. **Information** shall mean communication of information (data) to workers' representatives in order to acquaint them with the subject matter. **Consultation** shall mean exchange of opinions and establishing and developing a dialogue between the workers' representatives and the employer."

Article 47 of the LC establishes the right to information and consultation not for "workers" or "workers with regard to the level of social partnership", but for workers' representatives. From now on, this form shall cover not only the rights to information and consultation exercised by workers' representatives, but also other rights concerning participation in the decision-making by the employer (Article 43§2 of the LC).

Moreover, the provisions from the Republic of Lithuania Law on Work Councils regulating the conditions and procedure of presenting information were transposed in Article 47§3-5 of the LC. These amendments contributed to harmonisation of Lithuanian law with Directive 2002/14EC.

It should also be noted that Point 7 of Article 61§2 of the LC ("Contents of Collective Agreement of an Undertaking") lays down the provision that exchange of information and consultations between the parties may be included in the collective agreement of an undertaking.

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

As has already been mentioned, the Government of the Republic of Lithuania has adopted the measures within the framework of the Programme on Strengthening Social Dialogue 2007-2011. Funds have been allocated from the state budget under these measures, thus creating legal preconditions for effective enforcement of the right to information and consultation.

Trilateral Cooperation Agreement No. 137 between the Government of the Republic of Lithuania, Trade Unions and Employers' Organisations was signed on 14 June 2005. The Government of the Republic of Lithuania, trade unions and employers' organisations (hereinafter referred to as the partners) seek to continue and improve trilateral cooperation started on 5 May 1995 and followed-up by the agreement of 11 February 1999 in various labour and social security areas of common interest: "Partners admit that they shall undertake all appropriate measures in order to achieve the goals defined in the European Social Charter (revised). Partners agree on the priorities, one of them being the development of collective labour relations and trilateral partnership." The Government of the Republic of Lithuania, trade unions and employers' organisations have agreed to undertake the following measures:

"3.1. To exchange relevant information, consult with one another concerning the ways of solving these issues acceptable to all parties, to draw up and harmonise draft legal acts keeping to the tripartite principle, and consider the most relevant issues in the Tripartite Council of the Republic of Lithuania.

3.2. To act in compliance with trilateral agreements and decisions. Trilateral agreements shall be binding on the signatories.

3.3. To draw up and implement plans of measures for the development of cooperation and partnership.

3.8. To cooperate, consult and exchange information about Lithuania's representation in international events and organisations based on the tripartite principle.

3.9. To develop consultation and information between employers and workers concerning economic, labour, social and employment issues, to support training and professional development in every possible way, and to disseminate information on European Work Councils."

The Government of the Republic of Lithuania has committed to pass resolutions on relevant economic, employment, labour and social issues only having discussed these in the Tripartite Council of the Republic of Lithuania at the request of the parties.

The Declaration on Mutual Recognition of Employers and Workers' Representatives in Social Partnership was adopted by Minutes of the Meeting of the Tripartite Council No. 108 on 16 October 2007. The parties to this declaration seek to continue and improve the trilateral cooperation agreement signed with the Government on 13 June 2005, and base social partnership on freedom of association, free collective negotiations, and provision of objective information. On the national level, the workers' representatives are delegated to the Tripartite Council of the Republic of Lithuania and other tripartite councils by the Lithuanian Trade Union Confederation, Lithuanian trade union "Solidarumas" and the Lithuanian Labour Federation. Upon mutual consent, these organisations have the right to propose to the Tripartite Council of the Republic of Lithuania and other national tripartite councils other organisations representing workers, which conform to the national identification criteria for trade union organisations, which may become members of the Tripartite Council of the Republic of Lithuania and other national tripartite councils after they are recognised as social partners by employers' organisations specified in Clause 1.1

***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.***

No restrictions have been determined in applying these provisions.

In 2005 and 2006, the courts of the Republic of Lithuania decided three civil cases (each year) concerning the disputes over the rights of workers' representatives; in 2007, no such cases were decided; while in 2008, one case was decided.

In 2006, one decided civil case concerned the disputes over interference of the employer in the matters of workers' organisations, whereas no such cases were registered in 2005, 2007 and 2008.

In 2005, one civil case was decided concerning restrictions of the workers' right of establishment or membership of organisations; in 2006-2008, no such cases were decided.

***Responses to the questions and conclusions of the European Committee of Social Rights:***

***The Committee asks for examples of collective agreements requesting such information and consultation procedure and with respect to which issues, what are the applicable rules in this***

***respect and what is the proportion of workers out of the entire workforce covered by these information and consultation requirements.***

Currently, there is only one effective sectoral collective agreement (Hansa bank, unfortunetely the agreement cannot be enclosed due to the confidentiality clause), i.e. one of the types of a collective agreement which is subject to registration by the Minister of Social Security and Labour upon application. No other collective agreements have been registered to date. Collective agreements of an undertaking are not subject to registration. Having regard to the fact that regulation of the procedure of information and consultation is laid down in the LC, we think that legislative regulation is rather comprehensive, and the concluded collective agreements **must comply with** and may complement current legal regulation.

***Enforcement***
***The Committee asks for further details on how the Labour Inspectorate supervises and enforces observance of the employees' representatives right to information and obligation. It further wishes to receive information on fines imposed on employers during the reference period by the courts or administration for violation of this right.***

The SLI has no data required by the Committee. The table below presents the data on the complaints and requests submitted to the SLI regarding conclusion and performance of collective agreements, as well as cases of established violations.

**Table 21.1.**

| | **2005** | **2006** | **2007** | **2008** |
|---|---|---|---|---|
| **Examined complaints and reports regarding collective labour relations** | 13 | 14 | 57 | 12 |
| **Established violations of concluding and performing a collective agreement** | 39 | 61 | 24 | 7 |

**Article 22**

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

During the reporting period, concerning the legislative provisions pertaining to the right to take part in the determination and improvement of the working conditions and working environment and presented in the Fourth Report of the Republic of Lithuania on the Implementation of the European Social Charter (Revised), amendments were made only to Article 22 of the LC and the first Paragraph of Article 1 of the Law on Trade Unions. Other Articles pertaining to the right to take part in the determination and improvement of the working conditions and working environment have not been amended.

During the reporting period from 1 January 2005 until 31 December 2008, Point 7 of Article 22§1 of the LC, which provides for the right of workers' representatives to be informed by employers about their socio-economic situation and envisaged changes that may affect the situation of workers, was amended twice. The amendment in force as of 28 May 2005 sets forth the right of workers' representatives to be informed (orally or, at the request of the worker's representative, in writing) by employers about their socio-economic situation and envisaged changes that may affect the situation of workers, whereas the amendment in force as of 1 July 2008 stipulates the right of workers' representatives to be informed by and *consult with employers* about the current and envisaged activity of the undertaking (structural unit), the economic situation as well as labour relations, and before making decisions that may basically affect work organisation in the undertaking and the legal situation of workers.

Article 1 of the Law on Trade Unions provides for the right of persons lawfully working under employment contracts or on other basis within the territory of the Republic of Lithuania to freely join trade unions and take part in their activities (before 19 November 2003, the first Paragraph of the Article was put in the following wording: "Citizens of the Republic of Lithuania, as well as other persons permanently residing in Lithuania, who are 14 years of age and over, and who are working under employment contract or on other grounds provided by laws, shall have the right to freely join trade unions and take part in their activities"). Trade unions represent and protect professional, labour, economic and social rights and interests of workers. Article 11 of the said law states that trade unions shall represent their members (or may also be representatives of a collective of workers) when concluding a collective and other agreements with the employer.

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

The SLI carries out the function of the Lithuanian Focal Point of the European Agency for Safety and Health at Work, cooperates and exchanges information with state and municipal institutions and bodies, trade unions, work councils, employers' organisations, and counterpart authorities in other states. The Lithuanian Focal Point of the European Agency for Safety and Health at Work is focused on the organisation and implementation of European information campaigns concerning workers' safety and health in Lithuania.

The **Healthy Workplace Initiative** campaign was oriented to small and medium-sized enterprises that were directly and forcibly communicated the main idea of the campaign: *Safety and health at work is everyone's concern. It's good for you. It's good for business!* This idea is also the focus in the special publications of the Agency (*Good Practice for Enterprises* and *Risk Assessment Essentials*), distribution whereof was organised by the Focal Point of the Agency, in cooperation with European Business Information Centres in Lithuania. The purpose of the campaign, which was

covered in the national, regional and local media of the country, was to draw attention to the Healthy Workplace Initiative. During the campaign, three seminars were organised for the representatives from small and medium-sized enterprises in Vilnius, Kaunas and Klaipėda. Each seminar was attended by approximately 100 participants; information was released online, in the press and disseminated among social partners. A campaign website had also been designed (http://hwi.osha.europa.eu).

Joining the general Healthy Workplace Initiative campaign conducted in European countries was a big step in raising awareness of the problems related to safety and health at work, implanting this knowledge in youth already at school and later when pursuing their working careers.

In 2008, a competition entitled **"How employees are involved in risk assessment of workplaces"** was launched. Hundreds of organisations and enterprises from all over Europe participated in the competition. On the eve of the World Day for Safety and Health at Work, which is marked on 28 April, the European Agency for Safety and Health at Work (hereinafter referred to as the Agency) awarded the winners of this good practice competition. It was the first time in the history of this competition, which is being held for the ninth year already, that a Lithuanian company, "Mars Lietuva", received the award together with eight other European companies. The Lithuanian company UAB "Mars Lietuva" introduced the programme "Involvement of employees in risk assessment of workplaces." The programme offered a method motivating employees of the company to take active part in assessing risk factors in workplaces; the determined risk factors are eliminated, which prevents accidents at work. Over more than two years, this company recorded no accidents at work; during the programme implementation, 130 workplace improvements were carried out, over 2000 cases of non-conformity were eliminated.

The purpose of these traditional awards is to prove the benefit of good practice of health and safety at work by giving real cases to all European employers and employees, experts and practitioners of health and safety at work, and everyone who provides assistance and information in workplaces.

The Procedure for Settling the Disputes between Employers and Employees When Safety Is Not Guaranteed was approved by Order No. 1-292 of the Chief State Labour Inspector of the Republic of Lithuania as of 15 December 2006.

The Procedure of Inspectors' Activities in Promoting the Development of Social Dialogue in the Undertakings of the Republic was approved by Order No. 1-149 of the Chief State Labour Inspector of the Republic of Lithuania as of 13 July 2006.

The SLI urges all employers, employees and their representatives to focus on ensuring safe workplaces and close cooperation in eliminating the existing threats for health and safety at work.

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

The SLI does not have the data required, since no exceptions are provided in legal acts.

In 2005, the courts of the Republic of Lithuania decided 13 civil cases concerning negotiations between the employer (employers) or employers' organisation and the employee's organisation on employment, conditions of employment and the relations between employers and employees as well as their organisations; in 2006, 11 civil cases were decided; in 2007 and 2008, 2 civil cases each year (total number of cases – 28).

In 2005, the courts decided 4 civil cases pertaining to safety and health at work; in 2006 – 3; in 2007 – 4; in 2008 – 3.

***Responses to the questions and conclusions of the European Committee of Social Rights:***

***The Committee asks in this context whether collective agreements themselves contain rules on the participation of employees in the determination and improvement of the working conditions and working environment and what is the proportion of workers out of the total workforce covered by such collective agreements.***

Article 50§4 of the LC stipulates that as a rule, the following shall be specified in a collective agreement concluded on the national, sectoral or territorial level: terms and conditions of safety and health of the employees, other labour, social and economic conditions which are important to the parties, procedure for amending and supplementing the collective agreement, period of validity, control of execution, liability for breach of the agreement, etc.

Pursuant to Article 61 of the LC, the parties to the collective agreement agree on work, professional, social and economic conditions and guarantees which are not regulated by the laws, regulations or national, sectoral or territorial collective agreements or which are not in contravention of the latter and do not worsen the employees' situation. A collective agreement of an undertaking may include provisions on: provision of safe and healthy working conditions, granting of compensatory allowances and other privileges, other work, economic and social conditions and provisions which are of consequence to the parties.

The SLI does not have (collect) information as to whether the collective agreements include provisions on the participation of workers in the determination and improvement of the working conditions and working environment and the percentage of the total number of workers who are subject to such collective agreements.

***It wishes to know whether workers or their representatives have an effective right to take part in the determination of working conditions and working environment in the undertaking outside the scope of collective bargaining.***
***The Committee therefore asks for information whether and in which way the proposals made by employees' representatives have to be taken into consideration by the employer when taking decisions related to health and safety matters.***

Workers or their representatives have the right to take part in the determination of working conditions and working environment outside the scope of collective bargaining in accordance with Article 13 of the Law on Health and Safety at Work "Workers' participation in implementing safety and health measures. Safety and health committees and workers' representatives." Paragraph 1 of this Article stipulates that the employer's representative, a person authorised by the employer must inform workers or consult them on all issues concerning the state of occupational safety and health, the planning of its improvement, organisation, implementation and control of the measures. The employer's representative, heads of subdivisions shall provide conditions for workers, workers' representatives with specific responsibility for the safety and health of workers to take part in discussions concerning safety and health matters. Occupational health and safety committees shall be formed in undertakings and workers' representatives with specific responsibility for the safety and health of workers shall be apPointed for that purpose. In accordance with the General Regulations on Occupational Health and Safety in Undertakings, the undertakings draft the Regulations of the Committees on Occupational Safety and Health in Undertakings. After coordination with workers' representatives, the regulations are approved by the employer's representative.

Article 13§4 of the Law on Health and Safety at Work establishes that, pursuant to the Regulations of the Committees on Occupational Safety and Health in Undertakings, a trade union of an undertaking, and in its absence – other workers' representatives, hold, at the meeting of the workers' collective, elections to the positions of workers' representatives for health and safety at work issues and the members of the workers' committee on health and safety at work matters. Where an undertaking has more than one workers' representative for health and safety at work matters, one of them is elected senior representative, responsible for the coordination of entire health and safety at work activities at the undertaking. There must be at least one workers' representative for health and safety at work matters in each shift.

Article 13§5 of the Law on Health and Safety at Work lays down the following functions for workers' representatives for health and safety at work matters:

"1) represent workers of an undertaking in the committee, participate in all measures to improve safety and health at work in the undertaking or at workstations, carried out by the employee, including the assessment of an occupational risk and implementation of the measures to eliminate and/or decrease such risk;

2) participate in the selection and apPointment by the employer's representative or the person authorised by the employer of workers responsible for first aid, organisation of rescue measures, evacuation in the event of accident, natural disasters or fire (prior to the apPointment of such workers, the employer's representative shall consult the workers' representatives with specific responsibility for the safety and health of workers, upon their apPointment the employer shall communicate to workers' representatives their workstations and responsibilities);

3) participate in providing the workers with necessary and appropriate personal protective equipment and controlling proper use thereof;

4) by order of the workers' representative, participate in investigation of accidents at work, occupational diseases and incidents;

5) upon the instruction of the employer's representative or the head of a subdivision, inform the workers about threat of or exposure to danger and about emergency actions to be taken in order to avert the danger, and helping to transfer the workers to safe locations."

In accordance with Article 13§6 of the Law on Health and Safety at Work, a workers' representative with specific responsibility for the safety and health of workers shall have the right:

"1) to propose and demand that head of the subdivision of an undertaking, the employer's representative should take necessary steps to ensure safety and health of workers at work;

2) to take part in the assessment of an occupational risk and planning preventive measures;

3) to approach the employer's representative, if head of the subdivision fails to take necessary steps to ensure safety and health of workers at work. If the employer's representative fails to take measures to remove or mitigate risk factors, to inform the State Labour Inspectorate;

4) to receive all information on any issues related to safety and health at work from the head of the subdivision, the safety and health service and the safety and health committee in the undertaking."

Pursuant to Article 13§7 of the given law, the employer's representative, the head of a subdivision shall create adequate environment for the workers' representatives with specific responsibility for the safety and health of workers to exercise their functions, and provide them with the necessary information.

Furthermore, Article 19§4 of the Law on Health and Safety at Work provides that when establishing the procedure for internal control of safety and health at work, the employer's representative shall discuss it with the workers, workers' representatives with specific responsibility for the safety and health of workers and the safety and health at work committee and shall inform them about the assignments given to the heads of the subdivisions as to internal control of safety and health at work, and the implementation of measures in the undertaking, subdivisions, and workstations.

***The Committee further notes that the Works Council Act stipulates that in cases provided for in collective agreements or agreements between the works council and the employer, the employer must consult the works council prior to adopting a decision or agree on the future decision with the works council. The Committee asks for examples of collective agreements requesting such joint decision making procedure and with respect to which issues, what are the applicable rules in this respect and what is the proportion of workers out of the entire workforce covered by such rules.***

Unfortunately, such data are not available.

***– Organisation of social and socio-cultural services and facilities***
***The report states that workers' participation relates to all areas referred to in Article 22. The Committee asks for confirmation that where employers establish social and socio-cultural services and facilities, employees may participate in their organisation.***

Yes, we confirm.

***Enforcement***
***The Committee took note of the role of the Labour Inspectorate and of workers' representatives in connection with the enforcement of the workers' right to take part in the determination and improvement of the working conditions and working environment in its previous (ibid.) conclusion on Article 22 of the Revised Charter as well as of the sanctions imposed on employers in the event of a violation of this right. The Committee asks for further details on how the Labour Inspectorate supervises and enforces observance of the employees' representatives right to take part in the determination and improvement of the working conditions and working environment. It further wishes to receive information on fines imposed on employers during the reference period by the courts or administration for violation of this right.***

Pursuant to Article 32 of the LC, control over compliance with the regulatory provisions of this Code, labour laws, other regulatory acts and collective agreements shall be exercised and prevention of violations of the said acts shall be effected, within the limits of the competence established by laws, by the SLI and other institutions. If employers fail to comply with the responsibilities with regard to workers and their representatives as established by mandatory statutory provisions, and there is no collective labour dispute between the parties, the SLI shall, within the limits of its competence, take appropriate measures (require eliminating violations and decide the issue of administrative liability of employers).

In accordance with Article 33 of the LC, non-state supervision over compliance with labour laws, regulations and collective agreements is exercised by trade unions and inspectorates under trade unions as well as other institutions acting in accordance with the laws and regulations. Pursuant to Article 36§4 and §5 of the LC, labour rights shall be protected by trade unions according to the procedure established by the laws regulating their activities; in the cases specially established by labour laws, labour rights shall be protected according to the administrative procedure. In accordance with Article 275 of the LC, a worker may refuse to work if health and safety at work is threatened; refuse to do work for which he has not received safety at work training, no collective protection measures are in place or the worker himself has not been provided with necessary personal protection measures; may demand, in accordance with the procedure established by the law, indemnification for the damage done to health as a result of unsafe working conditions; approach the workers' representative, head of a subdivision, employer, the undertaking's health and safety at work service or health and safety at work committee, the SLI or any other public institution with any question related to health and safety at work.

Article 47 of the Law on Health and Safety at Work establishes that the SLI is responsible for exercising control over compliance with the health and safety at work at undertakings.

Article 41 of the CAVL states that a violation of labour laws or regulations governing occupational safety and hygiene imposes a fine from LTL 500 to 5,000 on employers or their authorised representatives. In case of a violation of occupational safety and hygiene regulations a fine of LTL 300 to 3,000 is imposed on officers and a fine of LTL 20 to 100 on other employees.

Articles 17-20 and 22 of the Law on Trade Unions state that trade unions are entitled to exercise control over the employer's compliance with the provisions of labour and socio-economic laws, collective agreements and other agreements related to the rights and interests of the workers being represented. For this purpose, inspectorates, legal aid services and other bodies may be established under trade unions. Persons authorised by a trade union may, in the course of performance of the established control functions, freely enter the undertaking, institution or organisation by which the represented workers are employed, and familiarise themselves with the documents related to work, as well as socio-economic conditions (Article 17 of the given law). A trade union may demand that the employer revokes any decision that infringes labour, social or economic rights of members of trade unions provided for in the Lithuanian law. The employer must examine the demand within 10 days with the participation of the trade union representatives. In the event that the employer fails to examine the demand in due time or refuses to satisfy the demand, the trade union is entitled to sue (Article 18 of the given law). Trade unions are entitled to propose that legal actions be taken against officials who violate labour laws, fail to ensure safety at work or fulfil the provisions of a collective agreement or other agreements (Article 19). The rights and legitimate interests of trade unions and their members are defended, in accordance with the established procedure, by state and government authorities, courts and other law-enforcement bodies. A state authority, official or any natural or legal person who has inflicted damage upon a trade union by unlawful acts must indemnify for the damage in accordance with the procedure established by laws (Article 20). Trade unions take part in the settlement of individual and collective labour disputes in accordance with the procedure established by laws. Any disputes arising between trade unions and employers over fulfilment of obligations and liabilities established by the laws or agreements are settled in court.

Pursuant to Article 6§1-2, §15 and §20 of the Law on the State Labour Inspectorate, the SLI shall, within the limits of its competence, control if employers act in compliance with the regulatory provisions of laws governing safety and health at work and labour relations, other regulatory acts and collective agreements, and provide employers with requests and instructions; inspect whether safety and health at work services and safety and health at work committees are established in undertakings in accordance with the prescribed procedure and how the internal control of the state of occupational safety and health is organised; investigate applications and complaints within the scope of SLI competence and ensure confidentiality of the applicants; consult workers, workers' representatives, employers' representatives, persons authorised by employers on the matters regarding the requirements for safety and health at work, compliance with labour laws, conclusion of collective agreements, etc.

Point 3 of Article 9§2 of the SLI Law establishes that SLI inspectors must deal with the dispute between the employer and the worker concerning the worker's refusal to work due to the reason of not being guaranteed safety and health at work.

Pursuant to Article 11 of the SLI, when inspecting the employer, SLI inspectors may notify the employer's representative of inspection if they do not consider that such a notification may prejudice fulfilment of obligations. SLI inspectors shall notify workers' representatives of their arrival, if inspection is carried out at their request. The employer must provide appropriate working conditions for SLI inspectors, who are fulfilling their official duties, and specialists invited by them, who are conducting control measurements of working environment or expert examinations

pertaining to accidents at work or occupational diseases. Having conducted inspection and established violations of labour laws and regulatory acts governing safety and health at work, SLI inspectors draw up a set of documents in a prescribed form (a request, a protocol, an act, a resolution, etc.). They are delivered to the employer's representative or a person authorised by the employer against acknowledgement of receipt or by mail. Workers' representatives are familiarised with the findings of inspection and drawn up documents at their request. **Requests and instructions of SLI inspectors shall be binding.** Persons who do not comply with the requests of SLI inspectors shall be held liable at the procedure prescribed by laws. The inspection procedure is laid down in the SLI Regulations approved by the Minister of Social Security and Labour.

Chapter IV of the SLI Regulations (Inspection Procedure) stipulates the right to SLI inspectors, upon presentation of their service card (civil servant's card) and authorisation, to freely and without any prior notification enter any workstation at any time and inspect compliance with labour laws, occupational safety and health laws and other regulatory acts. While carrying their functions, SLI inspectors shall have the right to obtain documents (copies or extracts thereof) and other data necessary for proper fulfilment of their official functions from employers. SLI inspectors shall have the right to take the documents necessary for fulfilment of SLI functions from the employer for a period of time not longer than seven working days, upon drawing up and submitting the act of taking these documents, or make copies or extracts of these documents. If the documents are taken, the SLI inspector must let the employer's representative make copies of the taken documents at his request. The employer's representative shall have the right to demand true copy authentication by the SLI inspector. While performing control and prevention of violations of laws and other regulatory acts governing safety and health at work and labour relations, without prejudice to privacy of a person guaranteed by laws, SLI inspectors shall have the right to take photographs, make audio or video records and conduct control measurements of working environment. While carrying out their official duties, they may invite police officers if need arises.

With regard to the established priorities, work plans of the SLI territorial unit, and enforcement of labour laws (within the areas of their competence), SLI inspectors shall, upon commission by the head of a territorial unit, independently choose the ways, lines of action and methods of inspecting undertakings. SLI inspectors shall keep the records of their activities and analyse the state of occupational safety and health as well as enforcement of labour laws in undertakings within the area of their responsibility. Undertakings shall be rotated among SLI inspectors in accordance with the procedure established by the Chief State Labour Inspector of the Republic of Lithuania. The rotation principle shall not apply if cases concern the specific knowledge of an SLI inspector.

During inspection, the SLI inspector shall notify the employer's representative or a person authorised by the employer of his presence, if such a notification does not prejudice the effectiveness of inspection. When introducing himself to the employer's representative or a person authorised by the employer, the SLI inspector shall present his authorisation and explain the reasons for his arrival as well as discuss the course of inspection. The SLI inspector shall also notify workers' representatives of his arrival if inspection is carried out at their request. Having established violations of regulatory acts governing safety and health at work and labour relations during the inspection, SLI inspectors shall, in accordance with the procedure prescribed by the Chief State labour Inspector, draw up a set of documents in the form established by the Chief State Labour Inspector (a request, a protocol, an act, a resolution, etc.). The request stating violations established and deadlines for eliminating these violations shall be delivered to the employer's representative or a person by the employer against acknowledgement of receipt or by registered mail not later than within five working days as of the date of establishing the violation or the end of investigation. If necessary, the deadline may be specified in accordance with the procedure established by the Chief State Labour Inspector. Workers' representatives are familiarised with the findings of inspection and drawn up documents at their request.

The SLI inspector encourages mutual cooperation of social partners through conclusion and performance of a collective agreement. Having accomplished the inspection, the inspector may discuss the findings in a meeting of workers of an undertaking or a subdivision, a joint meeting together with the health and safety at work committee of an undertaking or workers' representatives, etc.

The requests and instructions of the SLI inspector shall be binding upon the employer's representative or a person authorised by the employer. The employer's representative or a person authorised by the employer shall inform about execution of the said in writing at the time and address indicated in the request. SLI inspectors shall control execution of the requests and conduct repeated inspections, and the control results shall be entered into the inspection sub-system operated by the SLI. SLI territorial units shall inform the SLI administration about the repeatedly inspected undertakings in accordance with the procedure established by the Chief State Labour Inspector.

SLI inspectors are entitled to obtain written or oral explanations from employers' representatives, persons authorised by employers, workers and other persons present in the inspected workstation concerning violations of labour laws, laws on safety and health at work and other regulatory acts governing safety and health at work and labour relations, or concerning non-observance of SLI instructions (if this information cannot be obtained on-site, the employer's representative or the person authorised by the employer is invited to come to a territorial unit or the administration of the SLI).

The SLI inspector must, in accordance with the procedure established by the Chief State Labour Inspector, set the obligation to the employer's representative or the person authorised by the employer to immediately suspend works, by submitting such a request against acknowledgement of receipt, in the event that workers have not been trained and/or instructed of safety at work; in the event of a breakdown of work equipment or in case of emergency posing threat to the safety and health of workers; technical state inspection of equipment has not been performed or their constant maintenance has not been carried out at the procedure and terms established by regulatory acts governing maintenance of equipment; work is performed in violation of the established technical regulations, without the necessary collective protective equipment; if work is performed without the necessary collective protective equipment or if workers were not provided with the necessary collective and/or personal protective equipment; if work and personal protective equipment do not meet the requirements set forth in occupational safety and health and other regulatory acts and in other cases; when the working environment is harmful and/or dangerous to health or life, having evaluated the state of occupational safety and health and established a threat to safety and health of workers. If the employer's representative or a person authorised by the employer refuses to comply with the request of the SLI inspector, the latter shall have the right to apply to police for assistance in order to enforce the request to suspend works and to evacuate workers from dangerous workstations or areas or in order to forbid the use of work and personal protective equipment. After the violations, due to which works have been suspended or the use of work and personal protective equipment has been forbidden, are eliminated, the SLI inspector issues a written consent to resume works and use equipment.

If the employer does not comply with the request of the SLI inspector, the inspectorate shall have the right to draw up a protocol of administrative offences pursuant to Article 412 of the CAVL (Creating obstacles for the officers of the state labour inspectorate to perform their functions or non-compliance with their requirements) and to communicate the protocol together with all related information to the court that decides the issue of administrative liability of the employer.

During the reporting period, the SLI has not imposed any fines on employers for violation of the right of workers or their representatives to take part in the determination of working conditions and working environment.

**Article 26§1**

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

**The responses concern both Paragraph 1 and Paragraph 2 of Article 26, as they are closely interrelated:**

In response to the question of Paragraph 1 (sexual harassment) and Paragraph 2 (harassment) of Article 26 regarding a victim of sexual harassment or harassment in accordance with the Republic of Lithuania Law on Equal Opportunities for Women and Men (No. VIII-947 as of 1 December 1998), **sexual harassment** is defined as unwanted, offensive, verbal, written or physical conduct of a sexual nature with a person. **Harassment** is defined as unwanted conduct related to the sex of a person that occurs with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, humiliating or offensive environment.

***Response to the conclusions and questions of the European Committee of Social Rights:***

***In its last conclusion (Conclusions 2005, pp. 389-393), the Committee asked whether employers could be held liable towards persons working for them who were not their employees (sub-contractors, selfemployed persons, etc.) and had suffered sexual harassment on their business premises or from employees under their responsibility.***

The concept of sexual harassment and harassment as defined in the law does not cover the areas where these types of harassment are prohibited and does not define a victim of sexual harassment or harassment. Since the scope of the Republic of Lithuania Law on Equal Opportunities for Women and Men covers labour relations, relations in civil service and the areas of education, studies, science, and provision of goods and services as well as the social security system, sexual harassment and harassment may be identified only within the scope of this law. Relations outside the scope of the Republic of Lithuania Law on Equal Opportunities for Women and Men are not governed by the law.

Article $5^{(1)}$ of the Republic of Lithuania Law on Equal Opportunities for Women and Men stipulates that when implementing equal rights for women and men, a seller or producer of goods or a service provider must apply equal conditions of payment or guarantees for the same products, goods and services of equal value to all consumers regardless of their sex, and in providing consumers with information about products, goods and services or advertising them, ensure that it would not express humiliation, scorn or restriction of the rights or would not extend privileges on the grounds of a person's sex and would not form public attitudes that one sex is superior to another.

***In answer to the Committee, the report states that following amendments to the Equal Opportunities Act in 2004, the burden of proof now lies with employers or institutions concerned by complaints of sexual harassment. The Committee asks whether this applies under the Labour Code and the Code of Civil Procedure.***

Regarding the question, whether the burden of proof lying with the person concerned by complaints applies under the LC and the Code of Civil Procedure of the Republic of Lithuania (hereinafter referred to as the CiPC) approved by Law No. IX-743 as of 28 February 2002, the response is the following. Article 4 of the Republic of Lithuania Law on Equal Treatment (Law No. IX-1826 as of 18 November 2003) lays down that courts or other competent bodies examining natural persons' complaints, applications, requests, reports or claims of discrimination, when the applicant indicates the circumstances supporting the assumption of the presence of direct or indirect discrimination, presume the presence of the fact of direct or indirect discrimination, harassment or an instruction to

discriminate. Hence, the burden of proof lies with the person or institution against whom the complaint was filed, and who must prove that the principle of equal rights has not been violated. When the fact of discrimination is proved under civil proceedings, Paragraph 4 of Article 182 of the CiPC sets forth that the person is exempt from the burden of proof concerning the circumstances presumed under the law. Therefore, pursuant to Article 178 of the CiPC, which lays down that the parties shall have to prove the circumstances on which their claims or counterclaims are substantiated, with the exception of circumstances that do not have to be proved in accordance with the procedure established in the CiPC, in such cases the burden of proof lies with the person against whom the complaint was filed.

***In reply to the Committee, the report states that following amendments to the Equal pportunities Act in 2004, all victims of sexual harassment are now entitled to seek compensation, under the Civil Code, for pecuniary and non-pecuniary damage suffered. However, it gives no indication of the scale of the damages that might be awarded. The Committee therefore repeats its question (Conclusions 2005, pp. 389-393).***

In response to the question on awarding pecuniary and non-pecuniary damages and compensation sought by the person under the Civil Code, it should be noted that the scale is not established or limited in accordance with the laws of the Republic of Lithuania. The amounts of pecuniary or non-pecuniary damages are decided by the court in each specific case.

It's worth reminding that Lithuanian legislation provides for different types of legal liability (administrative, disciplinary, and criminal) for sexual harassment and harassment on the grounds of sex.

***The Committee previously asked what forms of sexual harassment would qualify as administrative offences under Lithuanian law. In the absence of a reply, it repeats its question.***

**Administrative liability** for violations of equal rights. Article 41-6 of the CAVL provides for administrative liability for violation of equal rights of women and men as stipulated in the Republic of Lithuania Law on Equal Opportunities for Women and Men. This offence imposes a fine of LTL 100 to 2,000 on officers, employers or their authorised representatives. Paragraph 2 of this Article lays down that if the same acts are committed by the person who has been imposed an administrative penalty for the violations specified in Paragraph 1 herein, a fine of LTL 2,000 to 4,000 shall be imposed on officers, employers or their authorised representatives. With regard to the fact that a violation of equal rights of women and men includes sexual harassment as a violation of law, the aforementioned Article of the CAVL provides for liability for sexual harassment and harassment. However, this type of liability could be formally enforced after the relevant amendments to the Republic of Lithuania Law on Equal Opportunities for Women and Men are adopted.

***In answer to the Committee, the report says that the labour disputes commissions referred to previously may also examine sexual harassment cases. At an employee's request, an authority that has heard a complaint of sexual harassment may refer the matter to a commission or, in its absence, the relevant employer. In the latter case, the employer must form such a commission. In the absence of replies to previous questions (Conclusions 2005, pp. 389-393), the Committee again asks whether the commissions are bound by rules of procedure.***

**Disciplinary responsibility** for violations of equal rights of women and men. Article 235 of the LC provides that violation of equal rights of women and men or sexual harassment of colleagues, subordinates or customers shall be considered a gross breach of work duties. In such a case, the employer shall be entitled to terminate an employment contract on his initiative without giving an employee prior notice thereof, if the breach was committed at least once. Therefore, a violation of

gender equality, which covers harassment on the grounds of sex and sexual harassment, shall be considered a gross breach of work duties, which may cause unwanted effects, infringe the rules of procedure, influence work quality and the employees' work relations. Therefore, such a violation shall be intolerable and may be imposed a severe sanction, i.e. dismissal.

A labour dispute on sexual harassment or a violation of equal rights of women and men may be decided in the Labour Disputes Commission (at the victim's request). In such cases, general procedures apply, like in the investigation of any individual labour dispute in the Labour Disputes Commission according to Articles 287-294 and Article 296 of the LC (no special procedures are envisaged for these cases).

However, practically, the Labour Disputes Commission does not decide disputes on sexual harassment. Article 12 of the Republic of Lithuania Law on Equal Opportunities sets forth that any person who thinks that his/her equal opportunities have been violated is entitled to address the Equal Opportunities Ombudsman. Applying to the Equal Opportunities Ombudsman does not preclude defence of the rights in court.

***It also asks what sanctions commissions can impose on employers and whether they can award victims adequate compensation. Finally, it asks whether cases may brought before the labour courts concerning actual decisions of these commissions or simply their implementation and whether these bodies can themselves rule on complaints of sexual harassment.***

The LC does not establish the limits of decisions and sanctions imposed by the Labour Disputes Commission (the decisions are passed upon mutual consent), with the exception of Article 298 of the LC, pursuant to which the employee shall be awarded the amounts of work pay and other amounts related to employment relations due to him for not longer than three-year period (the same applies if the case is decided in court).

If the parties fail to reach an agreement or the person is dissatisfied with the decision made by the commission, or the commission decision is not executed, or in other cases prescribed by law (e.g. dismissal of a person), the dispute shall be referred to court (Article 295 of the LC).

Article 294 of the LC governs execution of the decision of the Labour Disputes Commission:

"1. The respondent is bound to execute the decision of the Labour Disputes Commission within ten days from the day of receipt of the decision, unless another date of execution is set in the decision.

2. In case of failure by the respondent to execute the decision of the Labour Disputes Commission within the time limit set in Paragraph 1 of this Article, the employee shall apply to the court with a written request for the enforcement of the decision according to the procedure established for the execution of court judgment.

3. A decision of the Labour Disputes Commission shall not be executed if it is appealed against to court according to the procedure established in Article 293§1 of this Code."

Article 299 of the LC sets forth execution without delay of decisions and rulings.

"1. The Labour Disputes Commission or the court shall order execution without delay of the following decisions or rulings:

1) on the award of work pay – the parts of decisions not exceeding an average monthly wage;

2) on the reinstatement of the unlawfully dismissed, transferred or suspended employee into his previous job.

2. The court may, on the claimant's application or on its own initiative, allow execution without delay of a decision or a part thereof:

1) on the formulation of dismissal;

2) on the award of payments in compensation for damage caused by reason of an accident at work, other damage to health or contraction of an occupational disease;

3) in other cases, if the execution of the decision becomes not feasible or difficult due to special circumstances."

Effects of failure to execute decisions in a labour case are stipulated in Article 300 of the LC: "In case of failure by the employer to execute a decision or ruling of the court or the Labour Disputes Commission or failure to execute the decision to change the formulation of dismissal, the court shall make a ruling to recover for the employee's benefit the work pay for the entire period from the day of making the decision (ruling) until the day of its execution."

***It also asked whether the liability of employers towards workers also applied in cases of sexual harassment suffered by persons not working for them (such as selfemployed entrepreneurs, self-employed workers, visitors, customers, etc.). In the absence of information in the current report, it repeats the question. The Committee notes that under the Criminal Code, employers can only be held liable for acts of sexual harassment committed in the workplace in the case of persons subordinate to them. This is not in compliance with Article 26§1 of the Revised Charter (ibid.). The Committee asks for confirmation of this in the next report and reserves its position.***

**Criminal liability** applies only in cases of sexual harassment. It should be noted that in accordance with Article 152 of the Criminal Code of the Republic of Lithuania (hereinafter referred to as the CC), approved by Law No. VIII-1968 as of 26 September 2000, the offender shall be held criminally liable for sexual harassment only in cases where official or any other dependence between the offender and the victim has been established. Therefore, these elements of criminal acts should not be interpreted narrowly and related only to official (subordinate) dependence. It should be noted that these circumstances are indicated in the aforementioned Article as alternative; therefore, the prohibition on sexual harassment covers not only direct relations between an employer and an employee (official dependence), but also persons working under authorship agreements, self-employed persons, customers, visitors and guests (other types of dependence).

Paragraph 1 of Article 152 of the CC defines sexual harassment as vulgar or comparable actions, offers or hints seeking sexual contact or satisfaction committed by the person against another person dependent upon him/her by office or otherwise. Pursuant to this Article, a person shall be held liable if he harasses another person by vulgar or comparable actions or by making offers or hints (the Dictionary of Modern Lithuanian defines "vulgar" as coarse, rude or downgraded to perversion; vulgarised) in seeking sexual contact or satisfaction, and the victim is subordinate to the offender (in office or otherwise). The conduct may be expressed in the form of verbal, non-verbal or physical conduct. Actions are treated as sexual harassment both in case where sexual contact or satisfaction is sought in any form and where the very fact of harassment gives pleasure to the offender. Pursuant to the established criminal procedure, the proceedings concerning sexual harassment shall be initiated only in the presence of the victim's complaint or the statement of his legal representative (applying directly to court with a complaint on sexual harassment).

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

In its activity report 2008, the Office of Equal Opportunities Ombudsman submitted to the Seimas of the Republic of Lithuania the following proposals on the improvement of the Republic of Lithuania Law on Equal Opportunities for Women and Men, which suggested defining sexual harassment and harassment as a violation of the equal rights of women and men:

- Sexual harassment and harassment or an instruction to discriminate are only specified in the definitions section of the law. However, when examining cases of discrimination on the grounds of sex and making a judicial decision concerning the presence or absence of discriminatory actions,

Articles governing violations of the equal rights of women and men should be observed. Therefore, seeking to pass a lawful, objective and reasoned decision on the evaluation of actions of sexual harassment, harassment or an instruction to discriminate, these forms of discrimination must be considered violating human rights and stipulated in chapters governing the enforcement of the equal rights of women and men and violation of these rights in the Republic of Lithuania;

- Pursuant to the provisions of the Law on Equal Opportunities for Women and Men, the employer must take measures so that workers do not experience harassment, sexual harassment and that no instructions to discriminate are given. The complaints received show that a worker may be harassed or sexually harassed by both the employer and another worker. Therefore, the aforementioned laws must provide for a violation of equal opportunities as covering harassment, sexual harassment or an instruction to discriminate by both the employer and the worker;
- The complaints received from students and school pupils concern harassment or sexual harassment in educational establishments, when the victim is harassed by a teacher, a lecturer or a fellow student/pupil. Therefore, sexual harassment as well as harassment both at work and education, science or study institution must be prohibited in the Republic of Lithuania Law on Equal Treatment and the Republic of Lithuania Law on Equal Opportunities for Women and Men.

***Response to the conclusions and questions of the European Committee of Social Rights:***

***The Committee again asks how far the social partners are consulted on measures to promote knowledge and awareness of, and prevent sexual harassment in the workplace. It asks whether any other measures are planned to improve the situation.***

One of the objectives of the National Programme of Equal Opportunities for Women and Men 2005-2009, approved by Resolution No. 1042 of the Government of the Republic of Lithuania as of 26 September 2005, is to promote social partnership and develop a social dialogue, thus ensuring gender equality in the labour market. This objective was implemented through a measure carried out from 2007 to 2009, under which three round-table discussions per year were organised in counties. The discussions covered the topic of the role of social partners in implementing equal opportunities for women and men in the labour market. Different aspects of ensuring equal opportunities for women and men, including harassment on the grounds of sex, sexual harassment and an instruction to directly or indirectly discriminate a person on the grounds of sex, were analysed. The measure was administrated by a non-governmental organisation Kaunas Women's Employment Information Centre. (This measure has been further developed in the draft National Programme of Equal Opportunities for Women and Men 2010-2014, which was scheduled for approval in September 2009.)

***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.***

However, the practical implementation of the Republic of Lithuania Law on Equal Opportunities for Women and Men and imposing effective measures on offenders indicates that actually legal responsibility for sexual harassment and harassment is hardly formally realised, thus the law should be improved.

It should be noted that Article 5§4 from the chapter of the Law on Equal Opportunities for Women and Men, governing implementation of the equal rights of women and men, established only the employer's obligation to take measures so that workers do not experience sexual harassment or harassment. Pursuant to the Republic of Lithuania Law on Equal Opportunities for Women and Men, a seller of goods, a service provider, a head of an educational or science institution or a person involved in other types of relations is not imposed any obligation to take any actions against sexual harassment or harassment, hence such a person is not formally held responsible for this violation.

It should also be noted that although the scope of application of this law covers labour relations, relations in civil service and the areas of education, studies, science, as well as provision of goods and services, the chapters governing violations of equal rights of women and men do not stipulate sexual harassment or harassment as a violation in these areas.

Due to these reasons, when examining complaints on sexual harassment in the Office of Equal Opportunities Ombudsman, sexual harassment is identified as the cause of aggravated working conditions for the worker. No complaints on sexual harassment concerning the provision of goods and services have been received. The Office of Equal Opportunities Ombudsman has received no complaints concerning harassment on the grounds of sex at all.

In 2005, the Office of Equal Opportunities Ombudsman received 3 complaints on sexual harassment; in 2006 – 2 complaints; in 2007 – 1 complaint; in 2008 – 2 complaints; and in 2009 (before 1 August) – 1 complaint.

The Office of Equal Opportunities Ombudsman receives calls or e-mails from women and men who ask for consultations or advice on how to protect themselves from the offender's attacks, how to collect evidence, etc.

**Article 26§2**

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

With a view to ensuring better protection of human rights and improving the legislative framework regulating equal opportunities, Law No. X-1602 Amending the Law on Equal Treatment of the Republic of Lithuania was adopted on 17 June 2008. The new version of the law includes provisions of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

The new version of the Law on Equal Treatment defines harassment as unwanted conduct, whereby on the grounds of sex, race, nationality, language, origin, social status, religion, convictions or beliefs, age, sexual orientation, disability, ethnic group, a person seeks to offend or offends human dignity and attempts to create or creates an intimidating, hostile, humiliating or abusive environment.

It also lays down the concrete prohibition of discrimination applied with respect to the membership or participation in the organisation of workers, employers and other associations whose members are of certain age, sexual orientation, social status, disability, race or ethnic group, religion, convictions or beliefs.

With regard to the provisions of Article 29 of the Constitution of the Republic of Lithuania, the law stipulates the prohibition of discrimination against persons on the grounds of their social status and religion.

With a view to ensuring provision of compensation for the violation of equal opportunities in accordance with the law, the person who has suffered from discrimination on the grounds of age, sexual orientation, social status, disability, race or ethnic origin, religion, convictions or beliefs has the right to claim pecuniary and non-pecuniary damage from guilty persons in compliance with the procedure established by law.

An effective protection of the rights of a discriminated person is ensured to the organisations of workers and employers or other legal entities, which received a written consent of the person, granting them the right to represent the discriminated individual in judicial or administrative proceedings.

In addition, the law provides for the shift of the burden of proof to the defendant in discrimination cases. When examining natural persons' or legal entities' complaints, applications, requests, reports or claims of discrimination on the grounds of age, sexual orientation, social status, disability, race or ethnic group, religion, convictions or beliefs in courts or other competent bodies, the defendant has to prove that the principle of equal treatment has not been violated.

Several provisions of the law were supplemented or amended in compliance with the aforementioned directives of the European Union, practice of the Equal Opportunities Ombudsman while monitoring the implementation of the Law on Equal Treatment, and legal concepts used in the Law on Education.

***Response to the conclusions and questions of the European Committee of Social Rights:***

***The Committee therefore asks for detailed information on legislation, regulations and case law aimed at securing these two objectives, whether or not the conduct in question constitutes discrimination.***
***The Committee notes the information in the Lithuanian report and refers to its last conclusion (Conclusions 2005, pp. 393-395).***
***The Committee noted that cases of property, psychological or physical harassment of employees were regulated by the administrative, criminal, civil labour codes. It asked what types of conduct were covered by the term "property harassment". In the absence of a reply, it repeats its question.***
***The Committee previously asked who could bring proceedings before labour disputes commissions and in what circumstances. It also asked what penalties the commissions could timpose on employers, whether cases could be brought before the labour courts concerning actual decisions of these commissions or simply their implementation and whether these bodies could themselves rule on complaints of harassment. In the absence of any reply, the Committee reiterates its question.***

**Labour law** does not provide liability for harassment; these violations are subject to administrative, civil and criminal liability. Therefore, such cases are not brought against the Labour Disputes Commission. A worker may defend violated human rights in courts according to the civil, criminal or administrative proceedings.

Article 12 of the Republic of Lithuania Law on Equal Treatment sets forth that any person who thinks that his equal opportunities have been violated is entitled to address the Equal Opportunities Ombudsman (not obligatory). Applying to the Equal Opportunities Ombudsman does not preclude the defence of rights in court.

***It also asks what remedies are available to employees in criminal law.***

It should be noted that the CC provides for criminal remedies which defend values protected by laws such as person's honour and dignity. Criminal liability for spreading false information about another person that could arouse contempt for this person or humiliate him or undermine trust in him is provided in Article 154§1 of the CC (Libel). Article 154§2 of the CC also stipulates qualified elements constituting the criminal act when a person libels a person accusing him of commission of a serious or grave crime, or spreads false information in the media or in a publication.

According to Article 155§1 of the CC, criminal liability is set forth for humiliating a person in an abusive manner (Insult). The Article also provides for privileged elements constituting a criminal act when a person insults another person in a manner other than publicly, which is considered a misdemeanour.

A person shall be held liable for the acts provided for in Articles 154 and 155 of the CC only subject to a complaint filed by the victim or a statement by his authorised representative or at the prosecutor's request.

The Fourth Report of the Republic of Lithuania on the Implementation of the European Social Charter (Revised) provides an inaccurate response concerning harassment of property. Extortion of property is subject to criminal (not administrative) liability (Article 181 of the CC):

"1. A person who, without a lawful ground openly or secretly for own benefit or for the benefit of other persons demands property from another person, asks to grant a property right or to release from a property obligation or to carry out other property-related actions or to refrain from such actions by threatening to use physical violence against the victim or another person, to damage

or destroy his property, to publish a compromising or other information whose disclosure is undesired or through the use of other mental coercion

shall be punished by arrest or by imprisonment for a term of up to six years.

2. A person who, when extorting property, uses physical violence, deprives a person of his liberty, destroys or damages his property or otherwise incurs major property damage thereto

shall be punished by imprisonment for a term of up to eight years.

3. A person who extorts a property of a high value or the valuables of a considerable scientific, historical or cultural significance or extorts property by participating in an organised group

shall be punished by imprisonment for a term of three up to ten years."

Article 174 of the CAVL provides for an **administrative liability** for petty hooliganism:

"Petty hooliganism, i.e. the use of taboo words or gestures in a public place, or insulting nagging at people or any other similar actions, disturbing public peace and order,

shall be punished by a fine of LTL 100 to 300 or an administrative arrest for a term of up to thirty days."

***The Committee asks what forms of harassment may constitute violations of dignity and honour. It also asks what remedies are available to employees in criminal law.***

Article 2.24 of the CiC governs protection of honour and dignity (**civil liability**):

"1. A person shall have the right to demand refutation in judicial proceedings of the publicised data, which abase his honour and dignity and which are erroneous as well as redress of the pecuniary and non-pecuniary damage incurred by the public announcement of the said data. After person's death this right shall pass on to his spouse, parents and children if the public announcement of erroneous data about the deceased person abases their honour and dignity as well. The data, which was made public, shall be presumed to be erroneous as long as the person who publicised them proves the opposite.

2. Where erroneous data were publicised by a mass medium (press, television, radio etc.) the person about whom the data was publicised shall have the right to file a refutation and demand the given mass medium to publish the said refutation free of charge or make it public in some other way. The mass medium shall have to publish the refutation or make it public in some other way in the course of two weeks from its receipt. Mass medium shall have the right to refuse to publish the refutation or make it public only in such cases where the content of the refutation contradicts good morals.

3. The request to redress the pecuniary or non-pecuniary damage shall be investigated by the court irrespective of the fact whether the person who has disseminated such data refuted them or not.

4. Where a mass medium refuses to publish the refutation or make it public in some other way or fails to do it in the term provided in Paragraph 2 of the given Article, the person gains the right to apply to court in accordance with the procedure established in Paragraph 1 of the given Article. The court shall establish the procedure and the term for the refutation of the data, which were erroneous or abased other person's reputation.

5. The mass medium, which publicised erroneous data abasing person's reputation shall have to redress pecuniary and non-pecuniary damage incurred on the person only in those cases, when it knew or had to know that the data were erroneous as well as in those cases when the data were made public by its employees or the data were made public anonymously and the mass medium refuses to name the person who supplied the said data. In all other cases pecuniary and non-pecuniary damage shall be redressed by a person, who has made the data public, and his activities.

6. The person who made a public announcement of erroneous data shall be exempt from civil liability in cases when the publicised data is related to a public person and his state or public

activities and the person who made them public proves that his actions were in good faith and meant to introduce the person and his activities to the public.

7. Where the court judgement, which obliges the refutation of erroneous data abasing person's honour and dignity, is not executed, the court may issue an order to recover a fine from the defendant for each day of default. The amount of the fine shall be determined by the court. It shall be recovered for the benefit of the claimant irrespective of the redress for the inflicted non-pecuniary damage.

8. The provisions of the given Article shall, too, be applied to protect the tarnished professional reputation of a legal entity.

9. The provisions of the given Article shall not be applied to those participants of judicial proceedings who are not held responsible for the speeches delivered at court hearings or data made public in judicial documents."

***It also asks whether employers can be held liable towards persons working for them who are not their employees, such as sub-contractors and self-employed persons, and who have suffered harassment committed on their business premises or by employees answerable to them (Conclusions 2007, Italy, Article 26§1). Finally it asks whether the liability of employers towards workers also applies in cases of harassment suffered by persons not working for them (such as self-employed entrepreneurs, selfemployed workers, visitors, customers, etc.).***

**Labour law** does not provide for a liability for harassment on the grounds other than discrimination or sex. The answer on harassment has been provided in the response to question 1 of Article 26§1.

***Burden of proof***
***Following amendments to the Equal Opportunities Act in 2004, the burden of proof now lies with employers or institutions concerned by complaints of discrimination.***
***The Committee asks whether this applies under the Labour Code and the Code of Civil procedure.***

Article 4 of the Republic of Lithuania Law on Equal Treatment sets forth that courts or other competent bodies examining natural persons' or legal entities' complaints, applications, requests, reports or claims of discrimination on the grounds of sex, race, nationality, language, origin, social status, religion, convictions or beliefs, age, sexual orientation, disability, or ethnic group, when the applicant indicates the circumstances supporting the assumption of the presence of direct or indirect discrimination, presume the presence of the fact of direct or indirect discrimination, harassment or an instruction to discriminate. Then the defendant has to prove that the principle of equal treatment has not been violated.

***Damages***
***The Committee previously asked in connection with disputes between employers and employees in the labour disputes commissions whether the commissions could award victims adequate compensation. In the absence of a reply, it repeats its question.***

Labour Disputes Commissions do not deal with disputes concerning harassment. Article 12 of the Republic of Lithuania Law on Equal Treatment sets forth that any person who thinks that his equal opportunities have been violated is entitled to address the Equal Opportunities Ombudsman. Applying to the Equal Opportunities Ombudsman does not preclude the defence of rights in court.

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

Lithuania has implemented the National Programme for Anti-Discrimination 2006-2008 (hereinafter referred to as the Programme) approved by Resolution No. 907 of the Government of

the Republic of Lithuania as of 19 September 2006. The purpose of the Programme is to reduce the number of cases of discrimination on the grounds of age, sexual orientation, disability, race or ethnic origin, religion or beliefs in all spheres of public life and increase public tolerance.

While implementing the Programme, a publication was prepared and released on the issues related to training and education in anti-discrimination and equal treatment in the labour market. The book examines the main manifestations of discrimination: difference in the sex, sexual orientation, age, ethnic origin and health (disability). Due to a number of reasons, these differences have been the biggest obstacles to the implementation of the principle of equal treatment in getting employed, employment and career-building. The main purpose of the book is the presentation of the main aspects of equal opportunities and non-discrimination which are important to understand these phenomena.

In addition, a scientific research entitled "Analysis of effective labour legislation with regard to non-discrimination" was carried out. The purpose of the research was to carry out the analysis of Lithuanian labour legislation and determine whether these provisions were sufficient to protect the population from discrimination in the labour market.

The findings of the research were the following:

- In Lithuania, the principle of equal treatment is given constitutional protection, i.e. this principle is stipulated in the Constitution and ratified international instruments on human rights;
- Equal rights of employees are ensured by the provisions of the LC regulating employment and dismissal of workers and the prohibition to differentiate the conditions of remuneration for work. In other cases not provided for in the aforementioned legislation the rights should be ensured by means of analogy ensuring the general principle of non-discrimination of the right to labour, specified in detail in the provisions of the Law on Equal Treatment.

Within the framework of the Programme, the MSSL, along with the Office of Equal Opportunities Ombudsman and the Labour Market Training Centre under the MSSL, organised training for labour market agencies, non-governmental organisations and trade unions on various forms of discrimination and equal opportunities to gain a profession and work, wrote presentations and Articles for the mass media, took part in the implementation of the measures under the Year of Equal Opportunities for All initiative.

It should be noted that in 2008, the MSSL delegated the Office of Equal Opportunities Ombudsman to submit an application "Closer Look at Multiple Discrimination" within the framework of the European Commission PROGRESS programme. The project was awarded co-funding from the PROGRESS programme fund. The MSSL also takes part in the implementation and funding of this project. The project has already been launched.

(The rolling National Programme for Anti-Discrimination 2009-2011 has been currently implemented.)

***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.***

Information has been provided in the response to question 3 of Article 26§1.

**Article 28**

***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.***

***Response to the conclusions and questions of the European Committee of Social Rights:***

***Protection of workers' representatives***
***It asks who has the burden of proof in the event of a court procedure regarding a dismissal and whether unlawfully dismissed workers' representatives are entitled to seek reinstatement and to receive compensation.***
***It further notes that pursuant to the Works Council Act which was adopted on 28 October 2004, the works council performs its functions independently of the employer, the latter being prohibited from exerting any influence or otherwise interfering with the activities of the works council. The Committee reiterates its request for information on protection of employee representatives against prejudicial acts short of dismissal.***

Pursuant to Article 12 of the CiPC, "civil proceedings are heard in courts according to the adversarial principle. Each party must prove the circumstances on which it relies in support of their claims or statements of objection, except where it relies on the circumstances that do not need to be proved." However, the CiPC also provides for certain specific features of hearing labour cases which facilitate the burden of proof for workers (workers' representatives). Pursuant to Article 415 of the CiPC, "during preparations for the proceedings the court, taking account of the circumstances of the case, demands that the defendant presents documents on employment and dismissal (transfer, removal from work) of the claimant, any disciplinary penalties imposed, average pay and other documents necessary for the examination of the case, provided that the claimant is not in position to present them."

Article 297§3 of the LC establishes that, in case if a worker (worker's representative) "has been dismissed from work without legal grounds or in violation of the procedure established by laws, the court shall restore the worker to his job and award payment of the average pay for the entire period of forced absence from work from the date of dismissal until the date of execution of the court decision."

**Article 29**

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

Pursuant to the version of Article 47 and 130 of the LC effective before 1 July 2008, the scope and content of consultations concerning the envisaged collective redundancies were not specified in detail: Article 130§4 of the LC (version effective before 1 July 2008) sets forth that where workers are to be dismissed for economic or technological reasons or as a result of restructuring, the employer must hold consultation with the workers' representatives prior to giving notices of dismissal **in order to avoid or mitigate negative consequences of the planned changes**. Article 47§1 of the LC lays down that workers have the right to information and consultation taking account of the level of social partnership. **Information procedures cover information relating to current and future activities of the undertaking and its economic and financial condition; information on the current status and structure of labour relations, as well as potential changes in employment; information about the intended measures to be resorted to in case of potential redundancy;** any other information pertaining to labour relations and activities of the undertaking. Consultation means exchanging opinions and entering into and developing a dialogue between the workers' representatives and the employer (employers' organisation).

Law No. X-1534 as of 13 May 2008 supplemented the Labour Code with Article 130[1], which governs collective redundancies (the version entered into force on 1 July 2008):

"1. Collective redundancy shall mean termination of employment contracts when, due to economic or technological reasons, restructuring or other reasons, not related to a single worker, there are plans, within thirty calendar days, to dismiss:

1) ten or more workers in undertakings employing twenty to ninety-nine workers;

2) not less than ten per cent of workers in undertakings employing one hundred to two hundred and ninety-nine workers;

3) thirty and more workers in undertakings employing three hundred and more workers.

2. Cases when workers are dismissed upon expiry of the employment contract (fixed-term, seasonal, temporary) shall not be considered the cases of collective redundancy.

3. The employer shall inform a territorial labour exchange of the planned collective redundancy in writing at the procedure established by the Government after consultations with workers' representatives and prior to giving notices of termination of employment contracts.

4. The employment contract cannot be terminated in breach of the obligation to inform a territorial labour exchange of the planned collective redundancy or the obligation to consult workers' representatives."

The procedure and form of informing a territorial labour exchange of the planned collective redundancy is regulated by the Procedure for Informing a Territorial Labour Exchange of the Planned Collective Redundancy approved by Resolution No. 1032 of the Government of the Republic of Lithuania as of 14 October 2008.

Pursuant to Item 6 of the Procedure for and Prevention of Collective Redundancies approved by Order No. 61 of the Minister of Social Security and Labour as of 30 May 2000, the employer who plans a redundancy shall inform in writing the trade unions of the undertaking of the reasons, scope, time and duration of planned redundancies as well as the categories of workers to be made redundant.

***Responses to the conclusions and questions of the European Committee of Social Rights:***

***Prior consultation and prior information***
***The Committee previously found that the situation was not in conformity with Article 29 of the Revised Charter on the grounds that the content of the information provided to worker's representatives in the event of collective redundancies was to restrictive in that it did not cover the proposed social measures, criteria for dismissals and the order of dismissals. The current report does not explicitly respond to this, but again provides general information on the information to be given by the employer prior to dismissals and content of consultations. The report states in this respect that the employer must hold consultations with the trade union representatives on how to mitigate the effects of the redundancies or avoid them, and on the manner of the planned redundancies. The Committee therefore asks the next report to provide more precise information on the exact content of the information the employer is obliged to provide prior to collective redundancies.***

The aforementioned law as of May 2008 amended Article 47 of the LC, governing information and consultation, changing Paragraph 3, which sets forth that prior to making a decision on collective redundancy, the employer must inform and consult workers' representatives. Information must include the following:

1. Reasons for planned redundancies;
2. Total number of workers and the number of workers to be made redundant, by their categories;
3. The period, during which employment contracts will be terminated;
4. The selection criteria for workers to be made redundant;
5. The conditions of terminating employment contracts;
6. Other relevant information.

The purpose of consultations is to try to avoid collective redundancies or limit their occurrence and mitigate their consequences.

Following the Internal Procedure for Mitigating the Consequences of Collective Redundancies in a Territorial Labour Exchange approved by the order of the Director of the Lithuanian Labour Exchange as of 4 November 2008, upon receipt of a notification of the planned collective redundancy, a territorial labour exchange shall:

- evaluate the impact of redundancy on the local labour market;
- provide for the opportunities to mitigate the consequences of redundancy through active labour market policy measures (vocational training, supported employment, support for job creation, etc.);
- organise meetings with workers to inform them about the situation of the labour market, and the workers' rights and obligations;
- develop an action plan to mitigate the consequences of redundancy and discuss the plan with the administration of the undertaking, which has notified of a collective redundancy, and members of the Tripartite Commission under the territorial labour exchange.

With a view to mitigating the consequences of redundancy, the employer may use its own initiative:

- to support the activities initiated by the labour exchange, e.g. by allowing workers to participate in mini labour exchanges organised within the territory of the undertaking during their working hours;
- to inform the territorial labour exchange, the municipality and trade unions as early as possible;
- to take account of the wishes of workers to be made redundant and evaluate their qualification so as to ensure that appropriate actions are taken;

- to address similar undertakings and counterparts (in the region) and to inform them about the number and qualification of workers to be made redundant;
- to publish an announcement in a local newspaper about the number and qualification of workers to be made redundant.

Article 36 of the Republic of Lithuania Law on Support for Employment (Law No. X-694 as of 15 June 2006) stipulates that employment support measures and labour market services are financed from the Employment Fund and other state, municipal and European Union funds and sources. The key source for the Employment Fund is the unemployment social insurance funds accumulated by employers when paying state social insurance contributions. Thus, employers fulfil their obligation to workers in the sphere of social insurance; however, they do not actively participate in the organisation of employment support measures and labour market services.

***Sanctions and preventative measures***
***The Committee previously asked if there are any preventive measures in place, where the employerfails in his duty to consult the workers' representatives before making employees redundant, to ensure that this does not happen before the consultation requirement has been fulfilled and what remedies and penalties are available if the employer fails to comply with his obligation to inform the workers' representatives (under Article 6.1 of Order No. 61) and to consult these representatives (under Article 130.4 of the Labour Code).***
***The report again refers to the possibility to postpone the dismissals where the trade union representatives and trade union are not consulted within the required time, the Committee asks who may apply for such a postponement, is the postponement ordered by Labour***

Violation of Article 47§3 of the LC, i.e. when prior to making a decision on a collective redundancy the employer does not inform or consult workers' representatives, shall be considered an administrative offence which, pursuant to Article 41 of the CAVL, imposes a fine of LTL 500 to 5,000 on the employer or a person authorised by him.

Pursuant to Article $130^1$ of the LC, the employment contract cannot be terminated in breach of the obligation to inform a territorial labour exchange of the planned collective redundancy or the obligation to consult workers' representatives. Therefore, violation of Article 47§3 of the LC and breach of the obligation laid down in Article $130^1$ of the LC to inform a territorial labour exchange of the planned collective redundancy could constitute the grounds for a judicial dispute over the legality of dismissal. Article 297§3 of the LC establishes that, in case if a worker has been dismissed from work without legal grounds **or in violation of the procedure established by laws**, the court restores the worker to his job and awards payment of the average pay for the entire period of forced absence from work from the date of dismissal until the date of execution of the court decision.

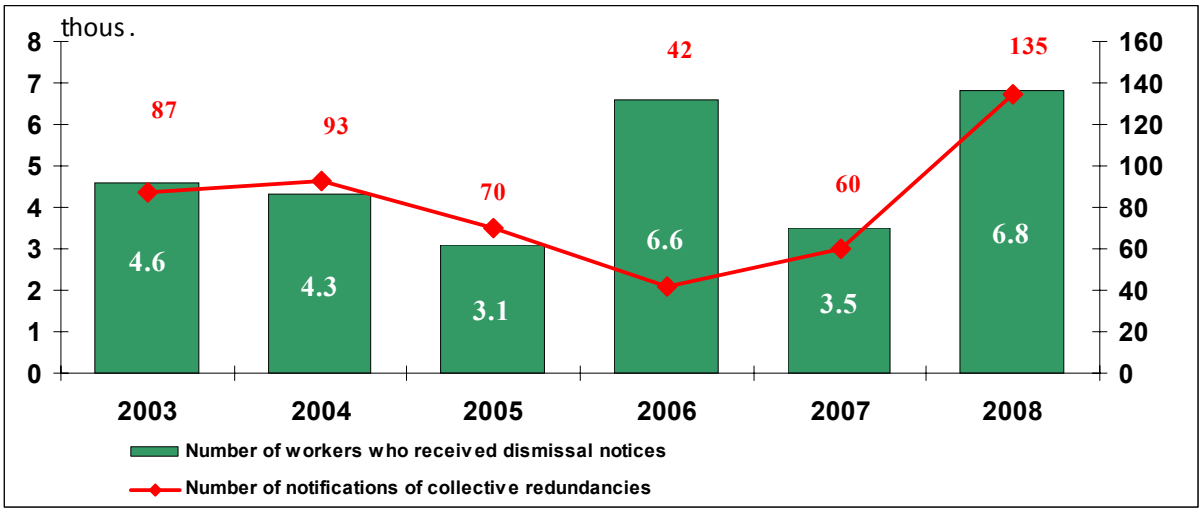
***2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.***

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

According to the data from the Lithuanian Labour Exchange, the number of workers who received notices of dismissal dropped by nearly one-fourth in 2005, as compared to 2004. In 2006, as compared to 2005, the number more than doubled, although the number of received notifications decreased by almost one-third. In 2006, 42 notifications were received – the smallest number of notifications received from undertakings over the last seven years. It is related to large collective redundancies from major production undertakings, including bankrupt AB "Ekranas" in Panevėžys (all 3,667 workers received notices) and its subsidiary AB "Ekmecha" (453 workers received

notices). In 2007, the number of workers who received notices decreased almost twice, although the number of received notifications went up by almost one-third. After the start of the economic and financial crisis in 2008, the number of notifications of collective redundancies and the number of workers who received notices doubled.

**Figure 29.1. Collective redundancies 2003-2008**




In **2005**, 42 preventive action programmes were developed with a view to involving 1,400 workers who had been given dismissal notices into active labour market policy measures, and almost 800 workers were employed in permanent and temporary vacancies registered with the labour exchange. In order to reduce the psychological tension of those who received notices of dismissal and assist them in finding a solution in the current situation, almost 700 persons were provided with the opportunity to take part in work club sessions. Six undertakings had temporary mini labour exchanges, where workers who had been given dismissal notices were provided with individual consultations. All the undertakings that served collective redundancy notices organised information meetings. They provided information about job opportunities, vocational training and retraining, the current situation of the labour market, and identified the motivation of workers made redundant.

In **2006**, like in 2005, the main reason for collective redundancies was bankruptcy proceedings (55 per cent). Other reasons included structural reforms of undertakings and changes in work organisation. With the view of mitigating consequences of redundancies, mini labour exchanges were opened in four undertakings. They provided workers, who had received notices of dismissal, with the information about job opportunities, vocational training and retraining, and the current situation of the labour market. The plan of measures for increasing employment of workers of AB "Ekranas" and solving social problems was implemented.

In **2007**, the main reasons for redundancies included bankruptcy proceedings (60 per cent), structural reforms of undertakings and changes in work organisation. Over a year, 40 preventive action programmes were developed, which envisaged involvement of 1,200 workers who had been given dismissal notices into active labour market policy measures, and employment of 600 persons in vacancies registered with the labour exchange. In order to reduce the psychological tension of those who received notices of dismissal and assist them in finding a solution in the current situation, almost 1,300 persons were provided with the opportunity to take part in counselling groups. The plan of measures for increasing employment of former workers of AB "Ekranas" in Panevėžys was further implemented. 1,007 former workers of the undertaking returned to the labour market, of whom 728 were employed in permanent jobs, 136 in fixed-term jobs and 143 persons started their own businesses. 402 former workers of AB "Ekranas" were involved into active labour market measures.

In implementing the Republic of Lithuania Law on Additional Employment and Social Guarantees for the Employees of the State Enterprise Ignalina Nuclear Power Plant (hereinafter referred to as INPP) (Law No. IX-1541 as of 29 April 2003), 200 workers of INPP who had been given notices of dismissal took part in various measures aimed at drawing up individual plans; 164 dismissed workers were provided with additional social guarantees. The above measures included 99 informative target meetings and 140 individual plans where dismissed workers chose additional guarantees. Monitoring of the labour market in Ignalina district was carried out on a continuous basis. Individual and group counselling was organised for employers and job-seekers and was related to further integration of workers dismissed from INPP into the labour market.

The fundamental structural changes in global trade and highly increased import from Asia mainly affected the textiles and textile Articles industry. Since 2003, the only cotton manufacturer in Lithuania, AB "Alytaus tekstilė", has been making collective redundancies. Rapid decrease in demand of the undertaking's production in the internal EU market determined the loss-making result and gradual decrease in the number of workplaces and workers since 2003, and resulted in bankruptcy in 2007 together with redundancy of all 1,089 workers. Implementation of the plan of measures for mitigating the consequences of the dismissal in AB "Alytaus tekstilė" commenced in 2007; 60 former workers of the undertaking were employed, information and counselling services were provided to 646 persons. The draft application for financial support from the European Globalisation Adjustment Fund was prepared. On 8 May 2008, the MSSL filed an application to the European Commission for financial support from the European Globalisation Adjustment Fund (hereinafter referred to as the EGF). Support was provided. The European Commission approved of the project aimed at mitigating the consequences of bankruptcy of AB "Alytaus tekstilė". It is the first and so far the only project in Lithuania implemented with the funds from the EGF. It is the first practical experience in administrating the EGF funds.

In **2008**, the deepening financial and economic crisis and the consequent decrease in the demand of goods and services affected the entire economy. The main reasons for redundancies included bankruptcies of undertakings (40 per cent) and unfavourable economic conditions (32 per cent). Other reasons included structural reforms of undertakings, reorganisation and liquidation. The key economic sectors which faced mass collective redundancies due to unfavourable economic conditions in 2008 include production of textiles and textile Articles (24 per cent of all workers made redundant over a year) – bankruptcies of strong market players, which had reliable production realisation markets, such as UAB "Lino audiniai" (939 workers made redundant), AB "Drobė" (282 workers made redundant) and manufacturer of yarn and fabrics UAB "Filana" (194 workers made redundant), and the construction sector (12 per cent of all redundancies). The number of bankruptcies in small construction undertakings (employing up to 50 workers) jumped greatly; large undertakings carried out collective redundancies over several times.

Having agreed with employers, territorial labour exchanges developed target preventive action programmes aimed at mitigating the consequences of redundancies in undertakings. In 2008, 82 preventive action programmes were developed, which envisaged involvement of 1,027 workers who had been given dismissal notices into active labour market policy measures, and employment of 1,772 persons in vacancies registered with the labour exchange. In order to reduce the psychological tension of those who received notices of dismissal and assist them in finding a solution in the current situation, 4,000 persons were provided with information, counselling, individual business planning and employment mediation services. All the undertakings that served collective redundancy notices organised information meetings. During the consultations, workers made redundant were provided with the information about job opportunities, vocational training and retraining, the current situation in the labour market, their motivation was identified, and they were assisted in job seeking and prepared for reintegration into the labour market.

In 2008, in implementing the plan of measures for mitigating the consequences of redundancies in AB “Alytaus tekstilė”, 440 former workers were referred to active labour market measures (215 – vocational training, 67 – non-formal education, 89 – subsidised employment, 21 – promotion of acquisition of labour skills, 47 – public works, and 1 workplace established for a person with disability), 147 persons were employed in vacancies, 10 persons worked according to business certificates, 154 persons participated in group counselling sessions, 65 – in vocational and psychological counselling events, 74 – in psychological training programmes.

The plan of measures for increasing employment of former workers of AB “Ekranas” 2007-2009 was further implemented. In 2008, 114 former workers of AB “Ekranas” were employed in permanent jobs, and 14 concluded fixed-term employment contracts. 14 unemployed persons were referred to active labour market measures. On 1 January 2008, the labour exchange registered 92 unemployed workers from this undertaking. On 1 January 2009, the number decreased to 24 former workers of AB “Ekranas”.

In implementing the Law on Additional Employment and Social Guarantees for the Employees of the State Enterprise Ignalina Nuclear Power Plant, 264 workers of INPP who had been given notices of dismissal took part in various measures organised by the Ignalina Labour Exchange and aimed at drawing up individual plans, and 204 dismissed workers were provided with additional social guarantees. The Ignalina Labour Exchange conducted 108 informative target meetings, and developed 149 individual plans, according to which dismissed workers chose additional guarantees. Monitoring of the labour market in Ignalina district was carried out on a continuous basis. Individual and group counselling was organised for employers and job-seekers and was related to further integration of workers dismissed from INPP into the labour market.