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## **EUROPEAN SOCIAL CHARTER**

11<sup>th</sup> National Report on the implementation of  
the European Social Charter

submitted by

**THE GOVERNMENT OF ALBANIA**

Article 1, 20, 24 and 25

for the period 01/01/2015 - 31/12/2018

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**CYCLE 2020**

**Report**

**EUROPEAN SOCIAL CHARTER (REVISED)**

**Thematic group “Employment, Training and Equal Opportunities”**

**Articles 1, 20, 24. 25.**

Compiled by the Albanian Government

## Article 1 - Right to work

### Paragraph 1 - Policy of full employment

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

#### Article 1.1

to accept as one of their primary aims and responsibilities the achievement and maintenance of as high and stable a level of employment as possible, with a view to the attainment of full employment;

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Labor market data suggest that Albania's economic growth over the last four years (2014 - 2018) has translated into significant improvements in the labor market. Job creation recovered from a sharp decline in 2013 and economic growth and employment began to move in parallel. Although the employment rate for people aged 15-64 in Albania increased from about 50 per cent at the end of 2013 to 59.5 per cent in 2018, marking one of the highest ratios among the Western Balkan countries. The employment rate has improved significantly, especially for women (from 40 percent in 2013 to 52.4 percent in 2018). However, gender inequality remains problematic, with men's employment rate being about 14 percent higher than that of women, potentially a reflection of cultural norms regarding family structure and limited alternatives to child and elderly care.

Growth in employment, in parallel, has been accompanied by an increase in labor force participation, which reached 68.3 percent in 2018. Women's participation increased by nearly 10 percent over four years, from 50 percent in 2013 to 59.7 percent in 2018.

The youth participation rate (15-29) is lower than for the rest of the population (50.1 percent, with gender gap above 16 percent). The youth unemployment rate in 2018 has fallen to 23.1 percent, the lowest level since 2012. Registered unemployment has also experienced a very significant decline, from 149,148 in 2015 to 74,686 in 2018.

Labor market performance reflects in part the structure of the Albanian economy - where agriculture continues to dominate with 37.4 percent of total employment, while production and services remain below potential. Albania's agricultural sector serves to absorb the labor force, especially in low-productivity and low-wage jobs. It is precisely this element that explains the relatively high employment rate in Albania (especially in low-skilled jobs), coupled with low wages and the prevalence of informal, part-time and self-employment agreements. The development of higher productivity economic activity along the value chain (be it in the agro-processing sector, or even wider, in the manufacturing and services sectors) would create opportunities to provide better quality employment.

Recent labor market dynamics are closely linked to continued economic recovery - yet the growth of higher and better paid value-added subsectors is still limited. Employment growth has been driven mainly by the growth of sectors such as textiles, tourism and commerce, health and administrative services.

While unemployment has fallen sharply, reaching 12.3 percent in 2018 (and further down to 11.5 percent in the first half of 2019), it remains high, especially compared to EU countries.

Albania has made significant progress, with 22% of adults aged 30-34 having completed a tertiary education (ie university) in 2015, an increase of over 10 pp since 2010. However, for due to specific economic and employment structures in the country and low job demand, many higher education graduates cannot find jobs that match their qualifications. This results in relatively higher levels of unemployment among higher education graduates, especially women. This suggests serious skill disparities (ie underutilization). Some people with better skills try to find work abroad.

Enrollments in VET programs in secondary positions increased from 17% in 2014 to 20.6% in 2018. The number of VET students is small compared to other countries. VET has been the least attractive option at upper secondary level compared to academic education, but this image has changed in recent years. Reforms are ongoing, but further system-wide efforts are needed to supplement improvements in donor-supported pilot institutions. The number of young people aged 15-24 who are not even in employment, education and training (NEET) remains high (28.6% in 2018, compared to the EU average of 10.6%).

#### **Labour market situation, referring to the Labour Force Survey, in percent (INSTAT)**

	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>Q.2/2019</b>
Labour force participation	64,2	66,2	66,8	68,3	69,8
Women	55,1	58,3	57,7	59,7	61,9
Men	73,4	74,1	75,8	76,9	77,8
Total working age population (aged 15-64)	52,9	55,9	57,4	59,3	61,4
The employment rate for women	45,5	49,7	50,3	52,4	54,6
The employment rate of men	60,5	61,9	64,3	66,7	68,4
The youth employment rate (age 15-29)	29,8	32,4	33,8	38,5	41,9
Total Unemployment rate	17,5	15,6	14,1	12,8	11,5
Unemployment rate form women	17,4	14,6	12,8	12,3	11,4
Unemployment rate form men	17,5	16,4	15,1	13,2	11,6
Youth unemployment rate (age 15-29)	33,2	28,9	25,9	23,1	20,9
Women	34,7	27,8	24,0	23,1	20,8
Men	32,3	29,7	27,0	23,1	21,0

#### **Administrative data from the National Employment Service until July 2019**

	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>August/2019</b>
The total of unemployed job seekers	145,147	93,889	83,497	64,781	69,573
Women Unemployed job seekers		49,735	44,220	34,172	36,548
Unemployed job seekers, beneficiaries of economic aid and unemployment benefits	65,458	45,738	41,251	22345	24,401
Unemployed job seekers from economic aid	60,078	42,029	41,751	19,944	21,818

Unemployed job seekers from Unemployment benefit scheme	5,380	3,709	1,959	2,401	2,583
Long term unemployed job seekers	68,885 (47,5%)	54,323 (58%)	42,594 (51%)	32,473(50%)	33,210 (48%)
Female	33,721 (49%)	28,007 (52%)	21,622 (51%)	17,850 (55%)	17,920 (54%)
Male	35,164 (51%)	26,316 (48%)	20,972(49%)	14,623(45%)	15,290 (46%)
Unemployed job seekers from special groups	13470	7,600	7,162	6,557	7,108
Youth unemployment job seekers, age 15-29	41,515	19,174	15,767	12,258 (19%)	14,784
No. of job seekers employed through intermediation services	1,222	25,170	23,136	32,846	21,080
Unemployed job seekers involved in employment promotion programs	5,805	5,211	5,264	4,808	-
Job vacancies advertised in employment offices	2,373	38,511	40,013	61,391	36,450
Unemployed job seekers, who attend free professional courses at public centers	13,887	12,710	9,461	8,470	14,846

The National Strategy on Employment and Skills 2019-2022 is inspired by the overall objective of 'Europe 2020' to achieve rapid, sustainable and inclusive growth. The vision of the National Strategy for Employment and Skills was to have a competitive economy and an inclusive society by 2022: “Higher skills and better jobs for all women and men”

The overall goal of the Strategy is to promote quality jobs and skills opportunities for all Albanian women and men throughout the life cycle. This goal will be achieved through coherent and co-ordinated political activities that respond simultaneously to the demand and supply of work, as well as to the elimination of gaps in social inclusion. The National Employment and Skills Strategy focuses on the following four strategic priorities:

- A. Promoting decent job opportunities through productive labor market policies;
- B. Providing quality vocational education and training for young people and adults;
- C. Promoting social inclusion and territorial cohesion;
- D. Strengthening labor market governance and qualification systems.

Increasing participation of women in the labor market and reducing the gender gap is one of the objectives<sup>1</sup> of the National Strategy on Gender Equality 2016-2020, the successful fulfillment of which requires mainstreaming of gender perspective in the implementation of measures envisaged as part of the National Employment and Skills Strategy 2019-2022 (continuation of the strategy 2014-2020). The National Employment and Skills Strategy 2019-2022, has as its general goal, to encourage quality jobs and opportunities for acquiring skills to all Albanian women and men throughout their life cycle. Attention is paid to taking concrete measures for the inclusion of certain groups such as persons with disabilities, Roma women, youth, etc. National Employment Service (NES), Regional / Local Employment Offices, Public

<sup>1</sup> Objective 1.1, National Strategy on Gender Equality 2016-2020

<sup>2</sup>Approved by DCM No. 818, dated 26.11.2014

Vocational Training Centers and the Inspectorate of Labor and Social Services, comprise the chain of executive institutions<sup>3</sup> of active labor market policies, which include employment services, programs for new jobs openings, mediation for employment, orientation and counseling for work and occupation, as well as vocational training programs.

### **Legal framework aproved**

2015- revised labour Code law no.136/2015

2017-new VET Law no. 15/2017

2018-Revised Albanian Qualification Framework Law no .23/2018

2019- New employment promotion law no.15/2019

### **Active Labour Market programs in place**

In Albania, the creation of various programs as part of active labor market policies has begun with the aim of reducing unemployment, mentioning in particular the unemployment of young people and groups in need. Moreover, various programs have consistently aimed at reducing informality as well as reducing social and economic costs, including individuals benefiting from other current social support schemes. Active labour market policies constitute a set of interventions aiming at the well-functioning of labour market, increasing the employability of the labour force and the social and professional inclusion of the most disadvantaged groups. Active labour market policies include job placement services, employment promotion programmes, and vocational education and training programmes.

### **Vocational education and training**

Professional training serves both jobseekers and employers, and is realized through theoretical-practical teaching courses. Courses are offered by 10 Vocational training Centers and provides:

- a) free courses for unemployed jobseekers;
- b) paid for the persons who so request;
- c) facilities and logistical means, versus leases, for subjects that provide vocational training.

4. Unemployed jobseekers from special groups who participate in vocational training programs offered by the KPA may benefit from a fee for participation in the course, except for those who benefit during this period from the economic aid or payment scheme unemployment.

5. Principles, modes of action and methods of vocational training, generally applied to vocational training programs for persons with disabilities, apply in the case of persons with disabilities. For this group apply the elements of reasonable adaptation, with regard to special training programs, curricula adapted to the degree and type of disability, trainers / teachers prepared to provide special training for persons with disabilities.

### **Unemployment benefit program**

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<sup>3</sup>Under the subordination of the former Ministry of Social Welfare and Youth, passed in September 2017, under the subordination of the Ministry of Finance and Economy.

Unemployment benefit programs are part of state employment policies that provide income support to the unemployed at the time of their exit, aiming at creating conditions for their return to the labor market. Unemployment Allowance Programs aim to financially support all unemployed jobseekers in case of unemployment due to job cuts, termination of employment contracts, bankruptcy of the enterprise, etc., by slightly easing their efforts towards employment.

### **Inclusion of specific groups in active labor market programs**

The government program has focused on the employment and quality development of the workforce, in line with the vision of the European Employment Strategy 2020, as well as the requirements for Albania's European integration. Vulnerable groups are among the priorities of the Ministry of Finance and Economy to be included in active employment programs, such as employment promotion programs and vocational training programs that are implemented and have different forms of support for target groups: such as youth entering for the first time in the labor market and the newly graduated youth, women and girls head of households, persons with disabilities, unemployed jobseekers from the Roma and Egyptian community, long-term unemployed, and those from income support schemes.

This is also demonstrated by the level of funding available for employment and education and vocational training multiplied in the last five years. With the help of donors and state budget funds raised over 350% in just the last four years, many VET schools have been refurbished and completed with modern equipment, where practicing theoretical knowledge becomes concrete and attractive.

Under the employment promotion law “vulnerable groups” are considered jobseekers, such as: mothers with children, persons over 50, youth under 18, long-term unemployed, persons below the poverty line, victims of trafficking, persons benefiting from the income support programs, unemployed mothers, divorced women with social problems, persons returning from emigration with economic problems, newly graduated, disoriented persons in the labor market, persons serving prison sentences, persons with disabilities; from Roma and Egyptian community, orphans, etc.

From 32,846, which is the total number of employments made by the Employment Offices for 2018, nationwide, broken down by categories, the results are as follows:

- 41% of total employed youth employment aged 15-29;
- 138 are employments of persons with disabilities;
- 1236 are employed by the Roma and Egyptian communities;
- 3958 are employments from the economic aid scheme and those who have left the scheme.

The young people entering the labor market for the first time and the newly graduated youth are among the priorities of the Ministry. Specifically, 3 out of the 8 employment promotion programs implemented since now have different forms of support specifically for young people. Youth employment promotion programs are such that combine job training with

employment, vocational practices, etc. The young people under these programs are those under the age of 30 and the programs support both those with higher education and those without a profession.

One of the priorities of the National Strategy on Employment and Skills is, “Promoting social inclusion and territorial cohesion”, as well as the objective of this priority: “Training and employment of marginalized and disadvantaged women and men, including among others, persons from the Roma and Egyptian communities.

From the analysis of the labor market situation, the situation of Roma and Egyptian minorities at risk of social exclusion is as follows:

The data show that only 1.3% of Roma and 4.8% of Egyptians aged up to 20 have secondary education, while 0.3% and 0.2% from the same group receive higher education.

Roma live in very difficult conditions and are not sufficiently present in the labor market.

In employment promotion policies, Roma constitute the target group that receives free vocational training and has priority in employment promotion programs. Reducing the unemployment rate of Roma and especially Roma women remains a priority, as well as increasing the educational attainment of Roma children, which affects the prevention of social exclusion. From the administrative data the situation of participation of this category in the state employment policies shows that:

- Roma and Egyptians occupy 8% of the unemployed jobseekers nationwide for 2018 or 5505 persons, from the Roma and Egyptian community.
- This category is characterized by low qualification level, with 95% of them having up to 9 years of education.
- Women occupy about 50% of the unemployed jobseekers of Roma and Egyptians registered as unemployed jobseekers in employment offices.

Active employment policies, prioritizing the Roma and Egyptian groups, have significantly increased the employability of this category. Employment offices, through job mediation, managed to employ from this category 470 people in 2016, 880 people in 2017 and 1105 in 2018.

Employment of people with disabilities is one of the priorities of the Ministry of Finance and Economy (PWD). The increase in the number of unemployed jobseekers in employment office registries brought about the need to design a special program that directly employs people with disabilities. This program (DCM 248/2014), which was originally implemented in 2014 in Tirana and Elbasan, as a pilot program and involved 17 PwDs and from 2015 the program was implemented nationwide. During 2017 the number of PwD involved was 94, and in 2018 108 PWD were included in employment promotion programs. The purpose of the PWD program is to make it easier for employers with disabilities to employ people with disabilities by applying various forms of support.

This will help employers, who:



- (i) first receive these persons free of charge in the premises of the undertakings / institutions for a fixed period and thereafter, after being adapted, to maintain such employment;
- (ii) subsidies for equipment or adaptation of the workplace. This support is provided where the enterprise / institution is able to employ people with disabilities but needs to adapt or properly equip the workplace;
- (iii) the payment of job placement fees will help PWDs to learn a suitable profession and then be employed in that profession.

This program facilitates the integration of this category into the labor market, social and economic life of the country. It is worth pointing out that the persons with disabilities included in the program do not lose their allowances that they receive due to their disability.

PwD receive free training in the public training centers. In 2016, 60 PwD, in 2017, 55 PwD and in 2018, 99 PwD were trained in various courses such as tailoring, secretarial, plumbing, cooking etc.

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## Article 1 - Right to work

### Paragraph 2 - Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)

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

#### Paragraph 1.2

to accept as one of their primary aims and responsibilities the achievement and maintenance of as high and stable a level of employment as possible, with a view to the attainment of full employment;

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Law no. 10221/2010 “On Protection from Discrimination” protects all ground of discrimination in Article 1 in all fields of discrimination, also in employment.

As forms of discrimination, the law provides for direct and indirect discrimination, accompanying discrimination, harassment, instruction to discriminate, denial of reasonable accommodation, and victimization (Article 3). On Law no. 10221/2010 “On Protection from Discrimination”, will be proposed some changes which aims to align furthermore the law with European and international law. Also changes will include some technical aspects that have occur during the practice of the Commissioners’ work.

The Labour Code of the Republic of Albania<sup>4</sup> prohibits any form of discrimination provided on law 10221/2010 “On protection against discrimination” in the exercise of the right to employment and occupation. Article 9/2 defines discrimination as any distinction, exclusion, limitation or preference, based on gender, race, colour, ethnicity, language, gender identity, sexual orientation, political, religious or philosophical beliefs, economic, educational or social standing, pregnancy, parental responsibility, parental responsibility, age, marital or marital status, civil status, place of residence, health status, genetic predisposition, disability, living with HIV / AIDS, joining or belonging to union organizations, belonging to a specific group, or in any other cause, which has as its purpose or consequence the obstruction or impossibility of exercising the right to employment and occupation, in the same manner as others

Reasonable accommodation in the workplace for persons with disabilities or persons with other conditions referred to in paragraph 2 of this Article. Denial of reasonable accommodation constitutes discrimination.

Significant changes in 2015 refer to the application of the grievance procedures set out in the Law on Protection against Discrimination, when a person claims to have been violated by the failure to apply the principle of equal treatment in the exercise of his right to employment and occupation. Also is provided the principle of discharge of the burden of proof.

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<sup>4</sup> Labor Code of the Republic of Albania, Law no. 7961, dated 12.07.1995, as amended in 2015.

In the Labour Code, the principle of equal treatment and non-discrimination is also provided in other provisions such as: Prohibition of the use of forced labour as a measure of racial, social, national or religious discrimination (Article 8, paragraph 2, letter (e)); Equality of remuneration (Article 115); Termination of contract without reasonable grounds (Article 146); Prohibition of discrimination against trade union representatives (Article 181/3) and non-consent by trade union representatives to terminate the contract if the termination of the contract violates the principle of equal treatment (Article 181/4); Prohibition of discrimination on the ground of participation in a strike or not (Article 197/4); Equal treatment (Article 149/2) regarding the termination of fixed-term contracts.

The Commissioner, during an *ex-officio* case, has found that persons that suffer punishments in prison or pre-trial detention and were employed by these institutions were placed in unfavourable positions compared to the category of employees working outside these institutions; denying them the opportunity to benefit the proper value and social security. Commissioner has found discrimination and has order the competent authorities to remedy the situation.

During 2014-2019, the commissioner reviewed 375 complaints of discrimination in the field of employment and issued 114 discrimination cases. Discrimination decisions are mainly due to political beliefs, health status, disability, educational status, family relation, etc. In cases when Commissioner found discrimination order appropriate measures to return the victim of discrimination in the previous workplace.

There have been cases where persons awaiting the decision of the Commissioner (until the decision is final) go to court and demand compensation for dematerialized and non-property. In these cases the Commissioner is called as a third party. Or there are cases where they go directly to court without coming to the Commissioner. Commissioner has taken part in 143 court proceedings as third party, when parties has seek competition for the discrimination.

Commissioner through decisions and recommendation has addressed several times the situation in employment of vulnerable groups on grounds of political belief, gender, disabilities, education status, roma etc., to authorities by ordering to take appropriate measures to regulate the discriminatory situation.

Before the Commissioner is conducted one complains in 2019 on grounds of migrants and refugees. For the other years we don't have any complain in such grounds.

Raising public awareness is one of the core activities of the Commissioner on Protection from Discrimination, foreseen through: Statements of the Commissioner in media for specific topics, publicity Spots, brochure, leaflets, participation in awareness raising activities, publication of special reports etc.

The Commissioner conducts inspections in private and in public sector after receiving a complaint or initiating *ex-office* case. Otherwise there are moments when the Commissioner may decide to monitor a particular area even through inspections.

In the Albanian Constitution, "Social Objectives", Article 59, provides for the right to employment, housing, care health, education, rehabilitation and integration of people with disabilities, improvement of their living conditions, care, assistance for the disabled, with a view to protecting them from social exclusion.

Law Nr. 93, dated 24.07.2014 "On the inclusion and accessibility of persons with disabilities" provides for the right to inclusion, accessibility of persons with disabilities, and legal, institutional obligations in the implementation of inclusion, integration of persons with disabilities in accordance with the principles of the CRPD. Law Nr.93/2014 guarantees the promotion and protection of the rights of persons with disabilities to enable their full participation, effective in all spheres of society, on equal terms with others, enabling autonomy and independent living through providing support. Law outlines the role of public, non-public structures, including state, central, local, in implementing the principles of inclusion and accessibility to reduce, to the extent possible, obstacles for persons with disabilities.

Law Nr. 10221, dated 4.2.2010 "On Protection from Discrimination". "On Protection from Discrimination" regulates the implementation, respecting the principle of equality and non-discrimination in relation to gender, race, color, ethnicity, language, gender identity, sexual orientation, political, religious or philosophical beliefs, or social status, pregnancy, parental responsibility, parental responsibility, age, family or marital status, civil status, place of residence, health status, genetic predisposition, disability, belonging to a particular group or any other cause.

Ministry of Health and Social Protection coordinates and monitors policies for social inclusion across all categories of People with Disabilities in line with the principles of UN Convention on the Rights of Persons with Disabilities.

Under Law Nr.93/2014 was approved DCM no. 1074, dated 23.12.2015, "On measures to remove environmental and infrastructural barriers in the provision of public services" for physical accessibility and accessible information.

In this framework, the Reform of Modernization of Social Assistance and the disability assessment reform aim at applying the bio-psycho-social assessment across the territory. Regarding services, Law no. 93/2014, provides for independent living, providing support in overcoming the barriers towards. MHSP has introduced Law no. 121/2016 "On social services in the Republic of Albania which presets for specialized and integrated services as part of this reform.

Disability Assessment Reform aims at applying a bio-psycho-social assessment and its application across the territory. Community-based services rely on the principles of the social model of disability, accommodation for people with disabilities, buildings and attitudes. The main commitment to the realization of this reform is the adoption by the Council of Ministers Decision no. 1071 dated 23.12.2015 "On the Approval of the Social Protection Strategy 2015-2020".

Ensuring the quality of social services according to social care standards and policies. 2. Improve the budget planning process on the needs for social services for each municipality. 3. Provide financial support to achieve social service standards for vulnerable categories. 3. Avoiding overlapping of competencies between decentralized structures of social care institutions at local level and local self-government structures. 4. Establish appropriate coordination mechanisms between central, regional and local structures.

Pursuant to the measures provided for in this strategy, the Ministry of Health and Social Protection within the territorial reform, the new configuration of the roles and functions of 61 Municipalities and their Administrative Units, has officially informed these municipalities with the basic package of services social care. The social care service package includes services that would be expected of anyone with complex and severe needs, including children with disabilities, regardless of where they live. The package is customized according to individual needs.

The package of social care services in Albania consists of two parts. The first part requires the establishment of needs assessment and referral sectors in each community. The second part requires a mix of different social care services, organized and provided by public and private entities at the central, regional and local level. Implementation of the National Action Plan for Persons with

Disabilities in the Republic of Albania 2016-2020. Ministry of Health and Social Protection has monitored the National Action Plan on Human Rights in cooperation with the line ministries and institutions with targets set for the timeframe. 2016-2020. Interest groups, civil society and social partners have emphasized accessibility a priority articulated by Law no. 93/2014 "On the Inclusion and Accessibility of Persons with Disabilities and Decision no. 1074, dated 23.12.2015 "On the Determination of Measures to Eliminate Communication and Infrastructure Barriers in the Delivery of Public Services for Persons with Disabilities"

Agreement, with the Ministry of Education, Sports and Youth and the MFE, has set targets and obligations for these institutions. MFE presents an accessibility report for the Public Vocational Schools and Addiction Institutions

Law no. 111/2017 "On state-guaranteed legal aid" defines the forms, conditions, procedures and rules for the organization and administration of legal aid guaranteed by the state and PwD are one of the benefitting categories.

Also during 2017 was consulted by all stakeholders and approved by Law no. 37/2017 "Criminal Justice Code for Minors".

Regional Employment Offices offered different services such as job and vocational guidance, vocational training, employment mediation, etc. Employment offices during 2016 were employed by employment mediation services for 33 unemployed jobseekers PAK.

During 2017, there are 112 Vacancies registered as unemployed jobseekers by the Regional Employment Offices, 94 of whom were included in employment promotion programs and others received mediation services and vocational training.

Providing professional training and independent living skills for people with disabilities there is provided free training for 55 people with disabilities in public vocational training centers in different professions, They attend vocational education and training courses, which are intended to be accessible to all categories of people with disabilities.

Ministry of Health, Social Protection aims to ensure that persons with disabilities have equal access to healthcare, including the prevention and provision of healthcare without discrimination. Measures have been taken by the MHSP for persons with disabilities as follows: Determining diagnoses that cause disabilities for adults and children. - Evaluation by the bio-psycho-social format. Evaluation Reform has undergone deregulation, facilitation of procedures, pursuant to DCM 813 dated 29.12.2017 "On some amendments to DCM 618 dated 07.09.2006" On the determination of criteria, documentation and measure of benefit payment for persons with disabilities ",

Law No.121 / 2016 on "On Social Services in the Republic of Albania "and Law no. 18/2017 "On the Rights and Protection of the Child" have set the legal ground toward "Social reintegration" and combined payments and services aimed at the economic empowerment of economic aid recipients through employment.

Inclusive education is guaranteed through: equipment with didactic material base suitable for the inclusion of disabled children in ordinary classes; respect for standards that overcome barriers to the integration of disabled children in kindergarten and school; Inter-institutional cohesion for the implementation of an inclusive quality system of disabled children. Implementation of legislation in the field of education. Ensuring an inclusive system in pre-school institutions and Professional Development Programs on Inclusive Education for Teachers in the Framework for Inclusion in the Educational System.

Regarding mental health care and persons with intellectual disability, the community approach of mental health service is specifically stated in Law No.44/2012 "On Mental Health". The vision for the future continues to be inspired by the philosophy of protection of the rights of persons with mental disabilities and special needs on mental health and the fight against exclusion and social discrimination through the establishment of an integrated network of mental health services for treatment, rehabilitation and social reintegration.

The establishment of this network of Integrated Services of Mental Health is based on the fulfillment of the two main strategic objectives, namely the Decentralization of Mental Health Services, through the extension and enrichment of the existing network with services closer to the community and Deinstitutionalization, the reduction of the number of psychiatric beds through development and strengthening of the community mental health services (Action Plan for the Development of Mental Health Services 2013-2020).

In this framework 9 (nine) Community Mental Health Centers (community ambulatory services) and 13 (thirteen) Supported Homes (community residential services), were established. Supported Homes are functional units of mental health services, aiming the provision of residential services to individuals in a similar environment as family, where the main purpose is the care and rehabilitation of individuals with mental disorder. The beneficiaries of these type of services are also persons with intellectual disabilities and currently these services accommodate about 130 people with long term mental health disorders.

The adoption of the Law No.15 / 2018 "On Employment Promotion", which in accordance with the EU directives on access to employment services of foreign nationals creates a possibility for foreigners who stay on a regular basis for employment in the Republic of Albania. Article 4 of Law 15/2018 stipulates that: "1. Each jobseeker and employer registered in the regional / local structure benefits from the services provided by this structure. 2. All foreign nationals and stateless persons who enter and stay legally in the territory of the Republic of Albania for employment purposes in the regional / local structure are entitled to receive the services provided in the regional / local structure. the legislation in force for foreigners. 3. Foreigners who have benefited from refugee status as well as asylum seekers in the Republic of Albania in accordance with the legislation in force for asylum have the right to benefit from these services. 4. Employment services provide the possibility for foreigners to be provided with work permits, pursuant to the legislation in force for foreigners. "

According to the Law 108/2013 "On Foreigners", as amended, foreign workers may work in the Republic of Albania (Republic of Albania) only if they are provided with a work permit or a work registration certificate, unless otherwise provided by this Law ( Article 71).

Law 108/2013 sets out the typologies of work permits and the rules that a foreign worker working in the Republic of Albania should apply (Article 71 - Article 105). The law also specifies cases of cancellation, invalidity, refusal, or renewal of a work permit (Article 77 and Article 80).

The Law on Foreigners creates the possibility for a foreign worker to complain to the Minister in charge of employment and labor migration in case of refusal to issue a work permit or registration certificate (Article 81).

Article 104 of Law 108/2013, as amended, stipulates that for violations of the provisions referring to work permits and employment of foreigners in the Republic of Albania, the sanctions set forth in the legislation on labor inspection apply.

According to the Labor Code of the Republic of Albania, persons whose employment is regulated by a separate law are exempt from the provisions of the Labor Code (CC), but for matters not regulated by special legislation and related to labor relations, the CC applies (art. 4).

Foreign workers working in the Republic of Albania enjoy all rights in relation to their employment as well as Albanian nationals working in the country (prohibition of forced labor, prohibition of discrimination, freedom of association and collective bargaining). Regarding the

number of foreign workers entering the Republic of Albania, it is part of the foreigners' legislation and policies on the immigration of the Republic of Albania, as well as subject to preferential quotas and principles.

The Law No.59 / 2018 "On the ratification of the implementation agreement between the Republic of Albania, represented by the Ministry of Finance and Economy and the German Agency for International Cooperation (GIZ)", was approved thanks to the support of the project "Migration Advisory in Albania" (Decree No. 10893, dated 10.10.2018).

In addition, several sub-legal acts were adopted to regulate the employment of Albanian and foreign nationals through private employment agencies via recruitment and mediation process; these also served to implement the ILO International Convention No. 181 "On Private Employment Agencies" and the European Council Directive for temporary employment agencies. The following were adopted:

- DCM no. 101, dated 23.2.2018 "On the Establishment and Management of Private Employment Agencies"
- DCM no. 286, dated 21.5.2018 "On Certain Rules for Temporary workers employed by Temporary Employment Agencies".

Also, in order to decentralize services provided to foreign nationals, the following were adopted:

- DCM no. 384, dated 27.6.2018 "On the determination of the criteria, the documentation and the procedure for issuing a certificate of registration at work "
- Order of the Minister of Finance and Economy, no. 70 dt. 23.02.2018 "On the declaration of employment of citizens of the European Union, the Schengen area, citizens of the United States of America and citizens of the Republic of Kosovo and citizens of the Republic of Serbia of Albanian ethnicity".



## Article 1 - Right to work

### Paragraph 3 - Free placement services

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

#### Paragraph 1.3

to establish or maintain free employment services for all workers;

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With a view to ensuring the effective exercise of the right to work, in Albania are established free employment services for all Albanian and foreign nationals and stateless persons who enter and stay legally in the territory of the Republic of Albania for employment purposes in the regional / local structure are entitled to receive the services provided in the regional / local structure. Foreigners who have benefited from refugee status as well as asylum seekers in the Republic of Albania in accordance with the legislation in force for asylum have the right to benefit from these services. Employment services provide the possibility for foreigners to be provided with work permits, pursuant to the legislation in force for foreigners. In 2019 new employment promotion law no.15/2019 has been approved by the Parliament and the new Agency for Employment and Skills (former National Employment Service (NES)) was established. According the law public employment services in Albania provided by the employment offices include a three-tiered service delivery model:

- a. Information services to jobseekers, employers and others;
- b. Job matching and mediation;
- c. Job Counseling and guidance.

The public employment services are free of charge for employers and jobseekers. The law 15/2019 stipulates that the albanian state is obliged take all necessary measures to establish the necessary physical infrastructure, human and material resources for providing, in employment offices, specialized services for special groups seeking assistance for their involvement in the labor market.

38 employment offices were reorganised in the period 2015- 2018 and operates with the new service model supported by EU projects. The performance of employment policies in the labor market is closely linked to staff performance of the National Employment Service system as well as good management of its annual budget. 329 staff of the office staff and management staff are trained in providing quality services. Active labour market policies show some improvement during 2018, in the efficiency of job mediation and employment programs. The employment services system has been reformatted and the profile of unemployed jobseekers is being processed.

### **Active Labour Market programs**

In Albania, the creation of various programs as part of active labor market policies has begun with the aim of reducing unemployment, mentioning in particular the unemployment of young people and groups in need. Moreover, various programs have consistently aimed at reducing informality as well as reducing social and economic costs, including individuals benefiting from other current social support schemes. Active labour market policies constitute a set of interventions aiming at the well-functioning of labour market, increasing the employability of the labour force and the social and professional inclusion of the most disadvantaged groups. Active labour market policies include job placement services, employment promotion programmes, and vocational education and training programmes.

### **Information services to jobseekers, employers and others**

The employment office provides and provides information on labor supply and demand for both jobseekers and employers. The service includes information on:

- a) the national and local labor market;
- b) employment services and programs for jobseekers' employers;
- c) employment opportunities;
- ç) educational and qualifying offers of the institutions of vocational education and training;
- d) career and vocational orientation;
- dh) the right to benefit from support programs, income and application procedures;
- e) labor legislation.

Information is provided in forms and formats that are accessible and understandable to unemployed jobseekers with disabilities.

### **Job matching and mediation**

Employment mediation and job matching aim at finding a suitable job site for the jobseeker whose formation, skills and qualities comply with the requirements stated by the employer for this job, as well as mediations on the active market programs of work. Mediation for employment and job matching includes counseling services for employers in order to hire the most appropriate candidates, according to their requirements, and in a timely manner, as well as mediations for active market programs work. In the case of an unemployed jobseeker with disabilities, the mediation process is accompanied by a detailed assessment of the jobseekers and the country and the work processes available in the open labor market. Cases when, in the framework of specific agreements or work permits of Albanian jobseekers abroad is facilitated, can also be considered as job matching and mediation.

### **Job counseling and guidance**

Counseling and career orientation, employment and occupation is provided by employment offices through special advisory services for jobseekers and students in relation to their choice and formation in an appropriate profession, with individual qualities and orientation in the labor market. The Specialized Counseling Service area at the public employment offices provides in depth counseling services on an individual basis to those clients who may be seen as at a disadvantage or having barriers in accessing employment opportunities and their profile indicates that a more intense level of intervention is required.

## **Employment promotion programmes**

Public employment policies support jobseekers as well as employers to create more stable jobs that, through special employment promotion programs, employ unemployed jobseekers. Employment promotion programs include the engagement of unemployed jobseekers in various employment, public affairs, self-employment, vocational training or training programs, on which subsidies are supported, at a certain percentage, of the costs for:

- compulsory health and social insurance;
- wages;
- vocational training;
- formation through work;
- self-employment;
- support for new businesses and business incubators;
- provision of a workplace and reasonable accommodation;
- implementation of vocational training programs in the double VET form;
- employment of graduates / certified persons in vocational education and training;
- professional practices;
- Youth Guarantee Program;
- social reintegration programs;

Promoting employment is one of the active programs which through the provision of temporary or long-term employment affects the demand for work, directly reflecting the reduction of unemployment. Through this program Employment Offices really intervene to promote and support the creation of new jobs by collaborating with employers and through their subsidies. These programs are in the context of government policies focused on active measures to reduce unemployment and are:

## **Vocational education and training**

Professional training serves both jobseekers and employers, and is realized through theoretical-practical teaching courses. Courses are offered by 10 Vocational training Centers and provides:

- a) free courses for unemployed jobseekers;
- b) paid for the persons who so request;
- c) facilities and logistical means, versus leases, for subjects that provide vocational training.

4. Unemployed jobseekers from special groups who participate in vocational training programs may benefit from a participation payment, except for those who benefit during this period from the economic aid or payment scheme unemployment.

5. Principles, modes of action and methods of vocational training, generally applied to vocational training programs for persons with disabilities, apply in the case of persons with disabilities. For this group apply the elements of reasonable adaptation, with regard to special training programs, curricula adapted to the degree and type of disability, trainers / teachers prepared to provide special training for persons with disabilities.

With the approval of the new law 15/2019 “On employment promotion” the national employment service is reorganized as the National Agency for Employment and Skills (NAES), with an added staff in the general directory from 36 to 90 employees. Within the Agency a structure is established for planning, monitoring and measuring the performance of the NAES system.

While the employment was as one of the 5 priorities of the Government for 2018 The National Employment Service also undertook important initiatives in the context of improving the quality of service delivery, unifying the work processes, establishing a performance card for implementing units for each Employment Office.

Specifically was adopted an Annex of Functional and Organizational Regulations, No. 42 dated 23.11.2018 "On the definition of criteria, procedures, monitoring and measuring the performance of the National Employment Service". This By-Law / Annex was aimed at defining the procedures and how to measure the annual performance of the NES, in the context of meeting the objectives and priorities set by the National Employment and Skills Strategy, and the Action Plan for its implementation, which aims to analyze and evaluate the current state of performance of these structures and the challenges that need to be addressed in the process of improving service delivery to citizens.

An integral part of this Annex was the performance card which contained quantitative indicators such as:

- the number of interns and participants in incentive programs.
- Employment of special groups such as: pu.pa registered within the first 6 months of registration, with disabilities, Roma / Egyptian, young people aged 16-29, women with financial aid, former economic aid, and postemployment attending vocational training courses.
- Number of registered pu.pa in vocational training courses
- Number of vacancies advertised
- Promotion of PA services to clients
- And Qualitative Indicator: Sustainable employment over 30 days

A performance rating is also set for each group according to the weights. The employment indicator comprises 45% of points, vocational training 20%, vacancies 25%, and promotion of services 10% of points. The scores of each category are further broken down for each subcategory. At the NES level at the end of 2018, it results that the objectives mentioned above have been achieved.

Table

Employment offices objectives	2019 objective	Target	Results	Achievements	Performance in points
Measurement of the performance	25,000	25,000	34,669	100%	40
1.1 job mediation	18,084	18,084	20,930	100%	14
1.2 employment promotion programs	2,700	2,700	3,457	100%	14
1.3 other	4,280	4,280	9,881	100%	5

Employment of the unemployed jobseekers/total				100%	9
Employed within 6 months of the registration	5,930	5,930	21,407		3
PwD	130	130	68		2
Roma/Egyptian	952	952	1,000		3
Women	12,029	12,029	15,176		2
Young (16-29)	7,911	7,911	13,388		2
From economic aid scheme	4,654	4,654	2,253		3
three months after coming out from economic scheme	2,684	2,684	2,006		4
Employed after training	4,001	4,001	1,320		2
2. Vocational education	10,001	10,001	8,770	88%	14
2.1 unemployed jobseekers attending vocational training	10,001	10,001	8,770		12
unemployed jobseekers attending vocational training coming out economic scheme	2,799	2,799	648		1
0					
3. vacancies	40,039	45,039	61,391	100%	23
Vacancies	40,039	40,039	61,391		18
Employment promotion programs	5,000	5,000	3,970		6
4. Promovim te sherbimeve te zyrave te punes ndaj klienteve				100%	9
Young (16-29)	1,700	1,700	17,212		1
Pu.Pa me arsim te mesem profesional dhe te larte	750	750	20,669		1
PwD	64	64	194		1
Pu.PA nga ISH NE	20,000	20,000	15,137		4
Employers with over 5 employee	1,000	1,000	1,528		3
5. qualitative indicators				100%	-
working (30 dite+)		60%	60%		-
totali					86

Private employment agencies are licensed under Law no. 10081, dated 23.02.2009 "On licenses, authorizations and permits in the Republic of Albania", DCM no. 538, dated 26.05.2009 "On licenses and permits that are handled through the National Business Center (NBC) and some other common subordinate rules" the category "Mediation in the labor market" with code X.2.A.

Private Employment Agencies provide:

- (i) services that evaluate applications and applications for employment within and outside the country;
- (ii) job search service;
- (iii) employment services for workers to become available for a third party, a natural or legal person. All these services are performed by charging the client only with the payment of the necessary expenses for completing his administrative file.

The State Inspectorate of Labor and Social Services performs periodic inspections to determine the compliance of the agency's activity with the relevant legislation.

Two decisions of the Council of Ministers were adopted, pursuant to Law no. 7961, dated 12.7.1995, "Labor Code of the Republic of Albania", as amended.

DCM No. 101, dated 23 February 2018 "On the Organization and Functioning of Private Employment Agencies" and

DCM No.286, dated 21.5.2018 "On certain rules for temporary employees hired by the Agencies temporary employment "

The private agencies, every six months, notifies the ministry responsible for employment issues for its structure and activity.

Article 1 - Right to work

Paragraph 4 - Vocational guidance, training and rehabilitation

The article is in conformity as per the latest conclusion.

## Article 20 - Right to equal opportunities and equal treatment in employment and occupation without sex discrimination

The legal framework for the advancement of gender equality in relation to the role of women in employment and paid work has been subject to changes over the last five years.

The Law no. 93/2014 "On the inclusion and accessibility of persons with disabilities" stipulates fundamental rights related to inclusion and accessibility of persons with disabilities in order to guarantee their equal opportunities and conditions with others. Among the basic principles of this law is also gender equality ensuring that women with disabilities have equal opportunities like men with disabilities to benefit from the rights guaranteed by this law. In terms of institutional aspect, the law provides for the establishment of the National Council on Disability Issues as an advisory body established by order of the Prime Minister, composed of 17 members appointed by the Prime Minister, giving due regard to the inclusion of different categories of disability, age and gender representation. Based on this law, it was adopted the Decision of Council of Ministers no. 708, dated 26.08.2015 "On types, frequency and method of reporting statistical data on disability by the state responsible structures at central and local level," that requires gender-based disaggregation of indicators for issues of persons with disabilities.

Law no. 136/2015 "On some additions and amendments to Law no. 7961, dated 12.07.1995 "Labor Code of the Republic of Albania" obliges employers to take measures to prevent sexual harassment and concerns of sexual nature as well as avoiding the penalization of the victim due to reporting incidents of violence in the workplace. Even though the responsibility of the employers in preventing violence against women at work was already specified in the law "On gender equality in society" of 2008, there is no evidence for contribution of this law to encouraging victims and employers to stand up and take measures against this violence. This means that amendments made recently to the Labor Code regarding sexual harassment were necessary. In addition to the above, legislative amendments to the Labor Code, entailed improvements in terms of protection issues of pregnant women from discrimination and protection of motherhood. The law has reflected proposals made by social partners, and aims approximation with the legislation of EU *acquis communautaire*, on occupational safety and health, prohibition of discrimination and special protection of women. Some of the provisions proposed are in line with the recommendations of the Council of Europe's Committee of Experts on Social Law, Albania's national reports on the implementation of the European Social Charter, as revised, and ILO Committee of Experts on the Application of Conventions and Recommendations. Concretely, Article 9 of the Labor Code explicitly stipulates that the term "discrimination" means any differences, exclusions, restrictions or preferences based on pregnancy, family situation or marital status. Moreover, the employer is obliged to ensure reasonable adaptation of the workplace for persons under conditions of discrimination. In cases of claimed violation of non-discrimination principle, the Labor Code refers to the appeal procedures laid down in the special law on protection from discrimination. In all cases of the appeal procedures, the employer has the burden of proof to provide evidence that the principle of equal treatment at work, has not been violated.

Significant steps have also been taken towards lobbying and trilateral agreement, Government - employers - employees, in support of the new ILO Convention on "Ending Violence and



Harassment in the World of Work" adopted in the 108th International Labor Conference due to be held on the 100th ILO anniversary in June 2019.

The State Labor and Social Services Inspectorate, which operates under Law no. 9634 dated 30.10.2006 "On Labor Inspection" and Law no. 10433. dated 16.06.2011 "On Inspection in the Republic of Albania" is the competent institution which provides for the protection of the employees' rights under the Labor Code and by-laws issued pursuant there to. The law expressly confers upon the inspectorate the powers to ensure protection of pregnant women, minors, etc. Pursuant to Law no. 9634, dated 30.10.2006 "On Labor Inspection", the State Labor Inspectorate is obliged to ensure the implementation of legal provisions on labor conditions and protection of employees in the exercise of their profession, duration of work, wages, insurance, hygiene and well-being, employment of children, minors and women, as well as other closely related issues, to the extent that labor inspectors are assigned to ensure the implementation of these provisions. The law obliges also the Inspectorate to particularly ensure respect of the employment rights of minors, pregnant women and breastfeeding mothers.

In line with the legal framework and policies described above, positive results have been noted over these five years. Thus, in terms of employment and vocational training, in implementation of the National Employment and Skills Strategy 2014-2020 and its Action Plan, the reform on employment services was achieved. This reform consisted of opening new employment offices based on the new model of employment services, on improvement of the information system of employment services, as well as the realization of its interaction with other governmental platform systems, including gender equality and diversity criteria as an integral part of all monitoring and evaluation processes and procedures, etc. The staff of labor offices has been trained on gender equality issues<sup>5</sup>.

All indicators of monitoring services and programmes offered by the National Employment Service include indicators of gender equality, reflected in the statistical programme revised at each year-end, and reflected in all periodic reports. Even indicators in the information system on the labor market, which realizes the creation of a state database for the Employment Service System while ensuring interoperability with other state databases, contain sex-disaggregated data. Results from the implementation of active labor market policies, account for annual improvement. So, only for 2017<sup>6</sup>: From Employment Offices, an average of 90,000 unemployed jobseekers were received, offering employment, information, interviewing and counseling services to them. By the end of 2017, from all employment offices, 23,136 persons result to have been mediated for work, namely out of them: 50.5% are women and girls; 7,982 are young people aged up to 29 years. Out of vulnerable/facing challenges groups, result: 2,250 persons employed under the economic assistance scheme; 632 persons employed under the unemployment scheme; 112 unemployed jobseekers with special needs; 880 employed jobseekers from Roma and Egyptian communities.

Under the National Employment Service, 7 employment promotion programmes have been implemented: (1) The employment promotion programme for specific groups; (2) The work-based training programme; (3) The employment promotion programme for young graduates (bachelor or master) aged up to 30 years; (4) The employment promotion programme for single

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<sup>5</sup>Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH to the account of German Federal Government.

<sup>6</sup>More detailed data regarding the entire period of reporting about employment, are presented in Appendix III of this report.

mothers with dependent children and child-mothers; (5) The employment promotion of persons with disabilities; (6) Internships of up to six months to newly graduates; (7) The employment promotion programme for orphans. From implementation of these programmes, a total of 5,264 unemployed jobseekers have been employed. Disaggregated according to categories of special groups, outcomes are: 62% are women and girls; 51% are youth aged up to 29 years; 598 newly graduates have attended internships; 94 persons with disabilities mainly aged up to 40 years and with secondary education; 396 unemployed jobseekers under the income support schemes or 8% of total participants; 2,477 or 47% of total participants are long-term unemployed jobseekers; 110 unemployed jobseekers from Roma and Egyptian communities; 96 returned migrants; 3 victims of human trafficking and 6 unemployed orphan jobseekers.<sup>7</sup>

During 2017, based on data from the Directorate General of Taxation, the Gender Wage Gap (GWG) amounts to 10.5% as opposed to 6.3% of a year ago. In this year, the economic sector with the highest gender wage gap, is the manufacturing sector with GWG at a value of 22.7%. Meanwhile the economic sector where GWG reaches the lowest value of 3.3%, is the trade, transport, hotel service, business and administrative services sector. Viewed as per the main occupational groups, the gender wage gap reaches the highest value for craftsmen as well as machinery and equipment installation workers, with 28.4%. GWG reaches the lowest value for armed forces personnel, in which case gender wage differences are practically zero.<sup>8</sup>

Meanwhile, with regard to sexual harassment at the workplace, a survey conducted by the People's Advocate in 2017, highlights that, despite legislative improvements to Labor Code in 2015, further steps are still needed. Punitive legislation for this phenomenon is not complete and needs improvement. The Criminal Code does not penalize moral harassment, while sexual harassment is generally punished, is related to the element of violence and is not regarded as related to the work relationships. On the other hand, a matter of concern is the fact that the courts' jurisprudence by far in this regard is almost entirely lacking. Cases of sexual harassment are very limited, while those of moral harassment are more closely related to claiming compensation for moral or non-pecuniary damage. Factors influencing in this regard are related to educational background and social conscience, position of women in society, lack of knowledge and awareness about this phenomenon, lack of trust in institutions, the need to improve the Code of Ethics in Institutions, lack of training for employers and managers of institutions, etc.<sup>9</sup>

In April 2019, at a meeting with representatives of the Alliance of Women Members of the Parliament, the Minister of Health and Social Protection highlighted the importance of taking over commitments aimed at assessing a situation of discrimination at work for women diagnosed with breast cancer. This reaction came as a result of this concern raised by an organization<sup>10</sup> focused in this regard, and based on preliminary assessments conducted by them that evidenced potential problems faced by this group of women in employment.

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<sup>7</sup>Ministry of Health and Social Protection: "Monitoring Report of the National Strategy on Gender Equality and its Action Plan 2016-2020" for 2017

<sup>8</sup>INSTAT "Men and women in Albania, 2018", p. 64

<sup>9</sup> "Moral and sexual harassment in the Public Administration" prepared by the People's Advocate (2017) by the Albanian Center for Economic Research, with financial support of the Government of the Kingdom of Denmark

<https://www.avokatipopullit.gov.al/media/manager/website/reports/Studimi%20p%C3%ABr%20ngacnimin%20moral%20dhe%20seksual%20n%C3%AB%20administrat%C3%ABn%20publike%20Shqiptare.pdf>

<sup>10</sup>Young Women's Christian Association of Albania (YWCA)

An important role towards improvement of women's role in employment and paid work, is played by civil society organizations<sup>11</sup> specialized in providing services to specific groups of women. Through increased cooperation with relevant state-owned institutions and signed agreements with these institutions, civil society organizations facilitate provision of information, vocational training courses taking place also at the workplace, as well as employment mediation<sup>12</sup>, enabling improved access of women and girls into the labor market, through implementation of legislation and policies in force.

The Project "Promoting employment, self-employment and entrepreneurship through regional cooperation for women and youth" was aimed at establishing bridges of cooperation and exchange of experiences among the best municipalities in the region. Through this project, women (12) and youth (12) participated in a training program during which they developed their skills to write a business plan, to manage a small business and to understand the entrepreneurship in concrete terms. In conclusion of the training program, all participants developed a business plan, which was subject to evaluation by the National Development Agency. The project was also engaged in the awareness-raising campaign among women and youth for potential sources of financing ideas of entrepreneurship and the best practices in the region<sup>13</sup>.

In the 2018 Progress Report on Albania, the European Commission has positively assessed the legislative measures in the employment environment and in the workplace for women, but expresses concerns as regards the proportion of women in the informal labor market, especially in the textile industries and footwear, without proper labor protection and without social protection. Concerns were also expressed about the lack of disaggregated data on the number of women working in the informal economy<sup>14</sup>.

Meanwhile, the index of this year for gender conciliation in central banks shows that Albania has a rating scale of 83%, ranking third in the world after Iceland and Rwanda. The index is compiled by calculating the presence of women in executive positions and it turns out that in the Central Bank of Albania, 57% of mid management positions are held by women, and the institution employs convincingly more women than men. Regarding the banking system as a whole, it is not the same, since less than 20% of the executive positions are held by women<sup>15</sup>.

The Administrative Procedures Act has provided adjustment of the burden of proof in cases of discrimination (Article 82, paragraph 2).

Amendments to the Labour Code of 2015 refer to the pursuit of the grievance procedures set out in law on protection against discrimination when a person alleges that he or she has been violated by the non-application of the principle of equal treatment in the exercise of the right

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<sup>11</sup> Here we can mention the important role of the Organization "Different and Equal" for integration into the labor market of the victims to human trafficking, the role of the Center "Human Rights in Democracy", mainly for mediation into the labor market of victims of domestic violence, Women's Center Light Steps, etc.

<sup>12</sup> An important role here is played also by the Community Development Center "Today for the Future", through its projects it has supported 1,391 beneficiaries in the districts of Shkodra, Lezha and Korça, starting from 2014; 67% of them are integrated and re-integrated into the formal labor market (through employment and self-employment.); 139 women and girls on the Durrës region are supported with formalization of work, especially in the field of services and manufacturing enterprises, where a focus was given to the provision of salaries, especially in cases where informal payments were provided to them below the minimum wage and the coverage of social insurance, making them moving from informalized work and payment under the minimum wage

<sup>13</sup> Information forwarded by OSCE Albania

<sup>14</sup> Progress Report 2018 of the European Commission to Albania, p 79.

<sup>15</sup> [www.scan-tv.com/femrat-ne-krye-te-politikave-monetare-shqiperia-eshite-e-treta-ne-bote-per-barazine-qjinore-ne-banken-qendrore/](http://www.scan-tv.com/femrat-ne-krye-te-politikave-monetare-shqiperia-eshite-e-treta-ne-bote-per-barazine-qjinore-ne-banken-qendrore/)

to employment and profession and in all appeals proceedings in respect of the foregoing, the principle of shifting the burden of proof applies.

The Commissioner during the administrative investigation of a case is based on the Administrative Procedure Act for the shifting of the burden of proof. The complainant provides evidence or indication to prove discrimination and thereafter the burden of proof is shifting to the person to whom the complaint is addressed.

According to the law 10221/2010 “On protection from discrimination”, any person who claims that they have been discriminated against may file a claim with the competent court for damages under the law or, where appropriate, file a complaint with the competent criminal prosecution authorities.

The Law 10221/2010 on article 36 “Procedure before the Court” provides shifting the burden of proof. After the plaintiff submits the evidence on which he bases his claim and on the basis of which the court may presume discriminating behavior, the defendant is obligated to prove that the facts do not constitute discrimination according to this law.

Filing a complaint to the Commissioner is not a condition for filing a lawsuit and does not constitute an obstacle for the injured person to seek a court or prosecution. (Article 34). The court decision shall award damages if the court determines that there is a violation of this law, including a time limit for the indemnification (Article 37/1). Compensation includes, among others, remedying legal violations and their consequences through restitution, appropriate compensation for property and non-pecuniary damage, or through other appropriate measures (Article 38).

From the practice of the Commissioner as a third party in litigation in cases, where the parties seek compensation for the alleged discrimination, two practices are followed by the Courts. One standard is by deciding maximum 12 salaries under Article 146 of the Labor Code and one practice is compensation under the Civil Code and the Unifying Court decision on the issues of compensation of material and non-material damage, in these cases the compensations have no ceiling (it depends from the case the amount of compensations).

## Article 24 - Right to protection in case of dismissal

In the latest changes of the Labor Code of the Republic of Albania as amended by Law No.136 / 2015, the requirements of EU Directives and ILO Conventions and specifically for the protection of employees in cases of dismissal, in Article 146 “Termination of the contract for no reasonable cause”, resolved cases of the employment contract by the employer without reasonable cause.

An employment contract of indefinite duration may be terminated at the express will of the parties, by observing the procedures for termination of the employment contract by the employer, as set forth in Article 144 (including the notification of the reasons why this contract is terminated). But notwithstanding these provisions, notwithstanding the expression of will, the employer has no right to terminate the contract on the grounds / grounds provided for in Article 146 of the Labor Code. If this happens then the employer will be considered to have acted abusively and the employee has the right to claim the invalidity of his act as well as the correction of the consequences resulting from this invalidity.

Article 146 (1) lists all the causes considered abusive for the termination of the legal employment relationship such as:

- a. Employee claims arising from the contract of employment. In these cases, we have a termination of employment contract, because the employee may have required the employer to enforce a contractual obligation, such as to pay wages (once every two weeks / once a month), respecting the working hours or maximum weekly working hours, taking measures for safety and health at work, etc.
- b. Fulfillment by the employee of a legal obligation. These include cases where an employee cannot perform his / her job because he or she fulfills an obligation stemming from the law and not merely his or her will. Such cases are, for example, when the employee: called by the court to testify, is a member of an administrative board / governing council / administrative council by law, is a member of the voting center commissions / district election commission / counting commission votes etc.;
- c. Violation of the prohibition of discrimination, as defined in the Labor Code and the special law on protection against discrimination. The provision did not explicitly state who the cases were, but intended to be a comprehensive provision as to the grounds on which discrimination is prohibited, referring to the cases set out in Article 9 of the Labor Code, as well as the provisions of Law 10221, dated 14.02.2010 “On protection against discrimination”.
- d. Motives related to the exercise by the employee of a constitutional right, but which does not lead to a breach of the obligations arising from the employment contract. This paragraph includes cases in which the employee exercises the rights provided by the Constitution of Albania, provided that they do not result in breach / non-compliance with contractual obligations, or for which he has an agreement with the employer such as the right to education, the right to practice a religion, the right to organize in a social organization, the right to join a political party, etc.;
- e. Motives that are connected with the employee’s being or not a member of Trade Unions created as defined by law, or because of his/her participation in Trade Union activities on the basis of law;. According to this point we would be in an abusive case if the termination of the

employment contract was made due to membership in a trade union organization or participation in its activities.

gj) Being contrary to the provisions set out in paragraph 3 of Article 144 of this Code, regarding the reasons of termination of the employment contract. In the notification that the employer sends the employee to terminate the employment contract, it also specifies the reason for termination, which may be due to the employee's disability, behavior or operational requirements of the enterprise. In terms of this letter, if the causes / reasons are not, they will be considered abusive.

Termination of the employment contract for abusive reasons is considered invalid, which means that the contract continues to be in force, retaining the mutual rights and obligations for the parties. Upon termination of the employment contract, the employee who is the injured party to this settlement must perform certain actions. However, the way the employee behaves after this solution is complex, due to the loss of trust between the parties.

Thus, the employee cannot claim to work effectively, i.e. to offer his / her job / service, but may require the employer to pay, while on the other hand, if the employee does not perform the job, he / she is not entitled to be pay. Employee who submits to the employer even after issuing the act for termination of the contract to perform the work / service, but the employer refuses to hire, has the right to receive the basic salary from the employer as an obligation under Article 129 of the Labor Code. If after the notice of termination of the contract the employee does not provide the employment service for a long time (several months) it must be admitted that he has terminated the contract himself with concluding actions. After the invalid notice of termination, and according to the principle of good faith, it is presumed that the employee has terminated the contract in a tacit or concluding manner.

Performing the above actions may serve as an argument of the employee, for the considerations he has for the termination of his employment contract, as well as its rejection as a valid solution.

As long as the employee considers this solution invalid, he may claim the right to wage until he has validly resolved it, according to the provisions of the Labor Code. The invalidity of the settlement provides, as a consequence adjustment, of the salaries he would receive for leaving the contract in force.

Paragraph 2 of Article 146 provides for statutory limitation periods to seek redress for resolution for abusive motive, without reference to Article 203 Labor Code. According to him, the employee must file a lawsuit against the employer within 180 days from the day the notice deadline expires. If the notice deadline is not complied with, within 180 days of the date the regular notice deadline should have expired. If the employee discovers the abusive motive after the expiry of the notice deadline, he must file a lawsuit within 30 days of the discovery.

It should be emphasized that it is the employee's burden of proof to prove that the employment contract has been terminated due to abusive motive. "According to Article 146/2 of the Labor Code, it is the employee's right to sue the employer if the contract is terminated without reasonable cause, which means that the employee in plaintiff's position has been relieved of the burden of proof, namely the existence or not of unreasonable reasons for terminating the employment contract.

The legislator, through Article 146/2 of the Labor Code, wanted to give the employee the opportunity to prove before the court the discriminatory elements on the basis of which he /

she may also receive compensation for the termination of the contract without reasonable grounds. ”

With regard to indemnification under paragraph 3 of Article 146, the employer who terminated the contract for unreasonable causes is obliged to pay the employee a damage that may amount up to the wage of one year. The court may award damages for a maximum of one year after considering all the circumstances such as age, social status, dependents, opportunity for a new job, economic status, financial liabilities he may have (credit , payment), his psychological state, the duration of his employment with this employer. The more difficult the employee's situation is, in the above components, the greater the reimbursement must be.

Concerning the provision in paragraph 3 of this Article of the Labor Code for the return to the previous workplace for employees in the public administration, it has been taken into account the interpretation made by the Joint Colleges of the Supreme Court in this regard.

Article 44 of the Constitution of the Republic of Albania expressly states: "Everyone has the right to be rehabilitated and / or compensated in accordance with the law, if he has been harmed by an unlawful act, act or omission by the state authorities".

The Labor Code clearly states what is done when the employment contract is wrongly resolved (Article 146/3 Criminal Code), while the law “On State Police” states: “The material damage caused is indemnified according to the relevant normative acts”. (Article 29/2). The absence of normative acts cannot serve as an argument to refuse the examination of the subject-matter of the trial (article 1/2 CC).

#### Article 147 “Termination of Contract in an Inappropriate Time”

According to Article 147 of the Labor Code, an individual employment contract cannot be terminated if the employee is in one of the following conditions:

- a) is entitled to temporary disability work pay by the employer or social security for a period of up to one year (including periods during which he or she receives pay from the employer or social security under Articles 130 and 131 of the Labor Code, of a general illness, occupational accident, occupational disease, maternity leave, adoption permit), as well as
- b) when the employee is on vacation given by the employer.

In cases of temporary incapacity for work, the employee shall, in accordance with the provisions of Article 130, prove with a medical report issued by the physician his incapacity. Meanwhile, under this section the employer has the right to request a medical re-examination of the employee at another doctor, and if there is a difference between the two examinations, then an assessment is required by a physician designated by the Labor Inspector.

Regarding the annual holidays, point 1 of Article 93 of the Labour Code, stipulated that for setting the date of their commencement there must be the consent of both parties to the legal employment relationship, so there can be no appointment and commencement of them in the unilateral will of the employee.

If the notice under point 3 of Article 144 (ie after the meeting / hearing is completed) is sent for termination of the employment contract when he is in one of the above situations then the

procedure must be stayed until the circumstances are extinguished, that is, until how much the employee returns to work.

Also according to point 2 of article 147, if the notification conveyed to the employee is not made at an inappropriate time, but during the period of notice under point 1 of article 143 he is placed in one of the situations provided for in point 1, the notice period is suspended. and deferred as long as the employee is on temporary disability or on annual leave. So if the notice deadline has been notified to the employee before it falls at an inappropriate time and has not yet expired before the inappropriate time starts, the notice period is suspended during this time up to a maximum of one year and resumes when the inappropriate has expired or, if it lasts more than one year, after the end of the year.

Termination of the employment contract while the employee is in one of the above situations will be considered invalid, so the contract continues to be considered in force, and the parties must respect the contractual obligations.



## Article 25 - Right of workers to protection of their claims in the event of the insolvency of their employer

In the latest changes of the Labor Code of the Republic of Albania as amended by Law No.136 / 2015, the requirements of EU Directives and ILO Conventions have been transposed, in particular, Article 124 “On Insolvency” of the Labor Code reflects in its content the standards of ILO Convention No.173 workers' claims' 1992 and Directive 2018/94 / EC, which aim at protecting employees and guaranteeing employees' pay for work performed. Article 124 states that an employer is insolvent when there is:

1. a condition relating to the employer's asset and intended to repay its creditors,
2. cases when the obligations towards the employees cannot be settled due to the employer's financial situation.

The Labor Code gives priority to all other liabilities that the employer may have in insolvency, the payment of liabilities to employees, even if they are guaranteed by movable or immovable property. Also explicitly set out are the priority obligations payable to the employee, including their claims:

1. for wages, for a period not less than three months before the termination of employment;
2. for paid leave due to him as a result of work performed during the year in which the employment relationship was terminated, as well as during the preceding year not given to him;
3. the severance pay due by the employee upon termination of employment (including payment of notice deadline and seniority remuneration payment).

Employer priority obligations to employees are not suspended by bankruptcy proceedings, which will be carried forward until such settlement.