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EUROPEAN SOCIAL CHARTER

13th National Report on the implementation of the European Social Charter

submitted by

THE GOVERNMENT OF ALBANIA

Article 2, 4, 5, 6, 21, 22, 26, 28 and 29

for the period 01/01/2017 - 31/12/2020

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11 February 2022

CYCLE 2022

Appendix

Questions on Group 3 provisions (Conclusions 2022)

Labour rights

This questionnaire covers Thematic Group 3 - Labour rights, comprising Articles 2 (right to just conditions of work), 4 (right to fair remuneration), 5 (right to organize), 6 (right to bargain collectively), 21 (right of workers to be informed and consulted), 22 (right of workers to take part in the determination and improvement of working conditions and working environment), 26 (right to dignity at work), 28 (right of workers' representatives to protection in the undertaking and facilities to be accorded to them) and 29 (right to information and consultation in collective redundancy procedures).

However, the Committee will pursue the targeted and strategic approach adopted in 2019 and continued in 2020 (Conclusions 2020 and 2021 respectively). It is therefore not asking that national reports address all accepted provisions in the Group. Certain provisions are excluded, except:

- when connected to other provisions which are the subject of specific questions
- when the previous conclusion was one of non-conformity
- When the previous conclusion was one of deferral due to lack of information
- When the previous conclusion was one of conformity pending receipt of specific information.

Moreover, given the magnitude, implications and expected longer-term consequences of the COVID-19 pandemic, the Committee will pay particular attention to pandemic-related issues. In this connection, it is relevant to note that the reference period for Conclusions 2022 is 1 January 2017 to 30 December 2020. The Committee draws attention to relevant parts of its Statement on COVID-19 and social rights adopted on 24 March 2021.

Given the date of transmission of this questionnaire, the Committee requests that state reports be submitted by **31 December 2021** (and not the usual deadline of 31 October).

RESC Part I – 2. All workers have the right to just conditions of work.

Article 2 of the Charter guarantees the right of all workers to just working conditions, including reasonable daily and weekly working hours (Article 2§1), annual holiday with pay (Article 2§3) and weekly rest periods (Article 2§5).

The Committee refers to its long-standing jurisprudence on what constitutes reasonable working hours and recalls that the defined outer limits must not be exceeded except in situations of force majeure. In this respect, it also recalls that overtime work must be paid at an increased rate of remuneration pursuant to Article 4§2 of the Charter.

New forms of work organization such as teleworking and work from home practices often lead to de facto longer working hours, inter alia due to a blurring of the boundaries between work and personal life. Consideration must therefore be given to ensuring that home-based workers can disconnect from the work environment.

The Committee has been alerted to grievances repeatedly expressed in some sectors of economic activity about working hours (upwards of 80 hours per week for example in the health sector / hospital work). Allegedly, the pandemic and the demands placed on healthcare as a result of the COVID-19 crisis exacerbated this for many workers.

There is also a higher risk of abuse of working hours in the catering industry, sub-contracted non-unionized hospitality industry work, domestic and care work.

As regards the platform or gig economy, workers may be confronted with long working hours and inadequate rest periods in order to make a decent living, or they may have to accept unreasonable numbers of gigs in order not to lose the "privilege" of getting more or "better" work from the platform.

Precarious and low-paid workers, including in the gig economy and those on zero-hour contracts, are particularly vulnerable to the impacts of the COVID-19 crisis and States Parties must ensure that these categories of workers enjoy all the labour rights set out in the Charter. This includes not only those pertaining to safe and healthy working conditions, reasonable working hours and fair remuneration (see below), but also rights relating to notice periods, protection against deduction from wages, dismissal protection, trade union membership, information and consultation at the workplace (notably Articles 4, 5, 21, 22 and 24 of the Charter).

Article 2 – The right to just conditions of work

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

1. to provide for reasonable daily and weekly working hours, the working week to be progressively reduced to the extent that the increase of productivity and other relevant factors permit;

a) *Please provide updated information on the legal framework to ensure reasonable working hours (weekly, daily, rest periods, ...) and exceptions (including legal basis and justification). Please provide detailed information on enforcement measures and monitoring arrangements, in particular as regards the activities of labour inspectorates (statistics on inspections and their prevalence by sector of economic activity, sanctions imposed, etc.).*

Answer:

Law no. 7961, dated 12.7.1995 of the Labour Code of the Republic of Albania (as amended by the Laws no. 8085, dated 13.3.1996; no. 9125, dated 29.7.2003; no. 10 053, dated 29.12.2008; no. 136 / 2015, dated 5.12.2015) (Updated) chapter IX, provides the duration of work and leave.

Labour Code - Article 78 Duration of Work and Daily Breaks provides as follows

1. The normal daily working time is not more than 8 hours. It is determined by a decision of the Council of Ministers in the collective or individual contract of employment within the limits of the maximum weekly working time.

2. For employees under 18 years of age, the daily working time is no more than 6 hours a day.

3. Daily break is at least 11 hours without interruption within the day or in case of need for two consecutive days.

During 2020, the State Inspectorate of Labour and Social Insurance found that this provision was violated in 15 cases, during the inspections executed in the concerned period in unusual times due to the pandemic. In each case, the inspection groups gave concrete tasks for implementation and an administrative measure was imposed to only one case because it was found that violation of this provision was repeated.

Article 79 Breaks provides:

1. The starting and ending of working hours are determined in the internal regulation, within the limits provided by law and by virtue of the Decision of Council of Ministers.

2. The time and duration of daily breaks shall be set out in the collective employment contract or in the individual contract, within the limits provided by the Decision of Council of Ministers.

Regarding the implementation of Article 79 "Breaks", the State Inspectorate of Labour and Social Services found during the inspections that this provision was not implemented in 30 cases, and such a provision was imposed for implementation in all these cases identified in incompliance.

Article 83 Maximum Weekly Duration of Work

The normal duration of the working week is no more than 40 hours. It is determined by a decision of the Council of Ministers in the collective or individual labour contract.

The inspections found that the normal duration of the working week, i.e. not more than 40 hours, was found unimplemented in 32 cases, and such a provision was imposed for implementation in all these cases identified in incompliance, and administrative measures were imposed to 6 of these cases.

Article 84 of the Labour Code - Difficult Jobs

The Council of Ministers sets a reduced weekly duration for jobs that are difficult or which are harmful to health.

Article 85 Weekly Breaks:

1. Weekly break is not less than 36 hours, of which 24 hours without interruption.
2. Weekly break includes Sunday.
3. Weekly break is not payable.
4. Exceptions are regulated by the decision of the Council of Ministers or collective agreement.

Regarding the aforementioned article Weekly Break, the inspections found that this provision was found unimplemented in 12 cases and such a provision was imposed for implementation in all these cases identified in incompliance.

Article 86 Official Holidays:

1. As a rule, work on official holidays is prohibited.
2. The employee has the right to be paid on official holidays. When the official holiday is on weekly breaks, the holiday is postponed to Monday.
3. Exceptions to working on official holidays shall be determined by the decision of the Council of Ministers or in the collective agreement.

Article 87 Work on Sundays or on Official Holidays of the Labour Code. The inspections found that this provision was not implemented in 232 cases, and such a provision was imposed for implementation in all these cases identified in incompliance, and administrative measures were imposed to 26 of these cases

Article: 92 of the Labour Code, Annual Leave Duration. The inspections found that this provision was not implemented in 153 cases, and such a provision was imposed for implementation in all these cases identified in incompliance, and administrative measures were imposed to 16 of these cases

Article 54 provides:

1/1. When the employee works more than 6 hours per day without interruption, it should be provided a break, free of charge, not less than 20 minutes, which should be given after three hours and no later than after 6 hours of continuous work. If the employee works more than 9 continuous hours per day, another break is given to him/her, not less than 20 minutes. The duration and time of granting such break must be determined by the individual contract or the collective employment contract.

1/2.If the performance of the work requires a standing and bent stay for a long time, short and paid breaks must be provided, not less than 20 minutes every 4 hours of continuous work. For pregnant women a break is anticipated every 3 hours, not less than 30 minutes.

The following table shows the data of the employees who were found during the inspections as being at work on public holidays, duration of work performed 40 hours and 48 hours per week and employees paid with annual leave under 28 days, for the years 2020-2021.

Total private + state inspection							
	Inspections carried out on weekends and public holidays	Number of employees working over 40 hours per week	Number of female employees working over 40 hours per week	Number of employees working over 48 hours per week	Number of female employees working over 48 hours per week	Number of total paid employees with annual leave less than 28 calendar days	Number of total female employees paid with an annual leave less than 28 calendar days
Year 2020	11	11032	5600	938	351	3798	2338
Year 2021 January-August	0	11071	7191	1147	203	1577	520

Total data on measures taken by the Labour Inspectorate during 2021

	Total Inspections January-August 2021 (Private + State)					
Type of activity	Total Inspections (Private + State)	Urgent measures Suspension of Employment Relations	Suspension for Safety at Work	Warning	Penalty	Amount (.000)
Agriculture, Forestry, Fishing	169	1	0	1	1	600
Mining, Quarry	41	4	0	15	5	2200
Manufacturing Enterprise	633	40	3	97	20	3090
Electricity, Gas, Water	42	3	1	14	5	3610
Commerce, HBR	1192	181	3	130	4	730
Construction	494	34	21	49	10	1900
Telecommunication	80	3	0	8	3	590
Finance, Services	25	4	1	0	3	820
Other activities	417	21	3	45	8	800
Total	3093	291	32	359	59	14340

Type of activity	Total Inspections (Private + State 0	Total employees controlled	Employees without a Contract	Informal	Insured during the process
Agriculture, Forestry, Fishing	169	652	2	2	2
Mining, quarry	41	3,450	11	11	9
Manufacturing enterprise	633	33,606	123	106	104
Electricity, gas, water	42	1,530	33	2	2
Commerce, HBR	1,192	13,123	472	335	319
Construction	494	7,839	104	94	86
Telecommunication	80	8,251	17	8	8
Finance, Services	25	2,276	7	8	8
Other activities	417	21,532	199	33	32
Total	**3,093**	**92,259**	**968**	**599**	**570**

b) *The Committee would welcome specific information on proactive action taken by the authorities (whether national, regional, local and sectoral, including national human rights institutions and equality bodies, as well as labour inspectorate activity, and on the outcomes of cases brought before the courts) to ensure the respect of reasonable working hours; please provide information on findings (e.g. results of labour inspection activities or determination of complaints by domestic tribunals and courts) and remedial action taken in respect of specific sectors of activity, such as the health sector, the catering industry, the hospitality industry, agriculture, domestic and care work.*

Answer:

The verification carried out in the management system of court cases of Tirana Judicial District Court, regarding civil court cases with subject matter "Employment Lawsuit" for the period 01.01.2021 - 10.11.2021, found as follows:

- **383** new lawsuits were filed with Tirana Judicial District Court, with subject matter “Employment Lawsuit".

- In addition, 444 decisions were announced during the period, with subject matter "Employment Lawsuit", and **652** cases with the same subject matter are under trial.

- In **2** cases, the State Inspectorate of Labour and Social Services, entered in the trial as a third party, specifically in one case with subject matter "Employment Lawsuit" and in one case with subject matter "Damage Compensation”.

The Commissioner for Protection from Discrimination submits as follows:

Equality and protection from discrimination are principles enshrined in Albanian domestic legislation on human rights. There is a broad legal framework for the recognition and guarantee

of equality and non-discrimination, which includes the Constitution of the Republic of Albania, international acts ratified by the Republic of Albania, as well as laws and bylaws in force.

In order to implement and respect the principle of equality and non-discrimination, in 2010, Albania adopted Law no. 10 221, dated 04.02.2010 "On protection against discrimination" in accordance with four EU Directives in this field. This law aims at ensuring the right of every person to equality before the law and equal protection of the law, equal prospects and opportunities to exercise rights, to enjoy freedoms and to participate in public life and to ensure effective protection against discrimination and any form of conduct that promotes discrimination.

In 2020, Law no. 10 221/2010 "*On Protection from Discrimination*" was subject to significant amendments, and was approved the Law no. 124, dated 15.10.2020 "*On some additions and amendments to Law no. 10221, dated 04.02.2010 "On Protection from Discrimination*", which entered into force on 18 November 2020. Some of the most important changes are related to the addition of new forms of discrimination (Article 3 of the law in force), such as: *cross-sectoral discrimination, multiple discrimination, structural discrimination, hate speech, incitement or aiding discrimination, the stated purpose of discrimination, sexual harassment and segregation*. It is also defined in a special provision that will constitute a *serious form of discrimination*, any discriminatory behaviour that is motivated by more than one cause, when committed more than once, when it has lasted for a long period of time, or when it has brought particularly harmful consequences for the victim constitutes a serious form of discrimination. **In addition, it has been defined that public authorities have the obligation to promote equality and prevent discrimination in the exercise of their functions**, has been added that the Commissioner for the Protection against Discrimination has the competence to file lawsuits in Court, in defense of the principle of equality and non-discrimination, for issues related to collective interests, and in terms of procedural innovations during the administrative investigation, in the issues reviewed by the Commissioner for the Protection from Discrimination, we emphasise: **shifting the burden of proof,** joining the cases addressed to the same subject and with the same object, dismissal of the case when the complainant submits a request-lawsuit for discrimination in court, obtaining the specialized opinion from experts in the field when the cases require special knowledge, etc..

To guarantee effective protection against discrimination, the Law "*On Protection from Discrimination*" provides for the establishment of the institution of the Commissioner for Protection from Discrimination as a public and independent institution in the exercise of its duty which "*assures the effective protection from discrimination and from every form of conduct that incites discrimination* "(Article 21). The competencies and aspects of the functioning of this institution are governed by this law.

The Commissioner for Protection from Discrimination (CPD) exercises its functions in implementation of national and international legal mechanisms for the protection of fundamental human rights and freedoms ratified by the Republic of Albania.

Among the main competencies that the law recognizes the CPD is the review of discrimination issues, in the framework of complaints from persons, groups of persons or organizations with legitimate interests or conducting mainly / on initiative (ex-officio) administrative investigations, after receiving credible information for violation of this law.

Law no. 10 221, dated 04.02.2010 "On protection against discrimination" (LPD), as amended, provides protection in 3 (three) main areas: employment, education and goods and services[1], for an inexhaustible list of protected causes, such as: race, ethnicity, colour, language, citizenship, political, religious or philosophical beliefs, economic, educational or social status, gender, gender identity, sexual orientation, sex characteristics, living with HIV / AIDS, pregnancy, parental responsibility, parental responsibility, age, family or marital status, civil status, place of residence, health status, genetic predisposition, appearance, disability, belonging to a particular group, or for any other reason.

Article 12 of Law "On protection from discrimination" as amended, provides for: *"1.Discrimination against a person in relation with his right to employment is prohibited. Discrimination includes any differentiation, limitation or exclusion on the basis of the grounds referred to in Article 1 of this law which, among other things, is related to:* ***a) announcement of vacancies; b) recruitment and selection of employees; c) treatment of employees in the work place, including their treatment during the establishing or changing of working conditions, compensation, benefits and the work environment, treatment related to professional training or during the disciplinary process or related to dismissal or termination of the employment contract; ç) membership in unions and the possibility of benefiting from the facilities that such membership secures…"***

Article 15 provides: "1. Any employee has the right to complain to the employer, to the Commissioner for Protection from Discrimination or a court, if he or she believes to have suffered discrimination. This provision does not limit the right to complain to special institutions, set up in various sectors of employment. 2. During the period of examination of the complaint, the employee has the right to continue work according to the conditions of the contract…."

<u>In view of the above, in exercising the competencies provided by law, find below some statistics and data related to complaints and lawsuits, that the Commissioner for Protection from Discrimination has followed during the period concerned:</u>

I. Complaint:

During the first 6 months of 2021, the complaints handled with allegations of discrimination in the field of employment are complaints filed against public institutions, as well as against private entities. The object of the complaints handled in this area consists mainly of problems arising in employment relations, such as access to employment and termination of employment relations.

There are in total 94 complaints in the field of employment, which were handled during the first 6 months of 2021, of which 34 complaints / cases ex-officio were registered during 2020 and 60 complaints / cases ex-officio registered in 2021.

Of all the complaints handled, 73 complaints / cases ex-officio are against public entities and 21 complaints are against private entities.

Out of 73 complaints handled against public entities, 10 cases were directed against central government institutions and 63 cases against local government institutions. Complaints filed in

[1] For more detailed information on appeals and court decisions on discrimination issues related to the field of employment you can visit the Link: https://www.kmd.al/wp-content/uploads/2021/09/Raporti-KMD -6-monthly-2021-Final.pdf

the field of employment are generally addressed to public administration institutions, as a result of termination of employment. Complaints that have been handled in the field of employment have had as alleged cause of discrimination: political beliefs, health status, educational status, belonging to a particular group, disability, etc.

In the field of employment, during the first 6 months of 2021, the CPD issued in total **49 decisions**, of which, 28 decisions on cases registered in 2020 and 21 decisions on cases registered during the first 6 months of 2021. A number of 35 decisions were issued against public entities and 14 decisions against private entities. These decisions found discrimination **in 13 cases**, of which **in 12 cases** against public entities and **1 case** against private entities. In the decisions where discrimination was ascertained and in most of them, the Commissioner has requested from the relevant subjects remedy the discriminatory situations, as well to return the discriminated individual to work.

The Commissioner has stated that non-discrimination was found in **14** cases. It stated that in **12** cases the complaint shall not be accepted, in **3** cases the review procedures of the case shall be terminated because the effectiveness and purpose was achieved, for which the investigative procedure had started, in **2** cases the procedures shall be terminated because the complaining subjects withdrew the complaint made to the Commissioner, in **3** cases it decided to dismiss the cases, because the complaining subjects addressed the judicial bodies with a complaint of discrimination and in **2** cases the Commissioner decided to dismiss the cases, because the information was not provided sufficiently to come up with a final decision.

II. Lawsuits:

Law no. 10 221/2010 "*On Protection from Discrimination*", as amended, places the Commissioner in a broad relationship with the court, providing sufficient powers regarding the participation of the institution in court proceedings. Decisions given by the Commissioner are subject to appeal in court. Furthermore, the Law provides for the obligation of the court to notify the Commissioner of the filing of any lawsuit for discrimination (Article 36, point 3) and has the right to ask the Commissioner, at each stage of the proceedings, to submit an opinion in writing, the results of his investigation, if an investigation has been made, or any other information relevant to the case (Article 36, point 4 and Article 32, point 1 / gj).

During the period January - November 2021, the CPD was summoned and was a party to **100 (one hundred)** lawsuits[2], compared to 101 (one hundred and one) lawsuits registered throughout 2020 and 86 (eighty-six) lawsuits in 2019. The increasing trend of the number of lawsuits over the years shows that the implementation of Law no. 10 221/2010 "On protection from discrimination" has increased and now this law has become an important legal tool for the protection of human rights.

Of these 100 (one hundred) lawsuits, **62 (sixty-two)** cases are from the field of employment, and the alleged causes of discrimination are mainly: political opinion, complaint to the

[2] This includes trials related to requests for the issuance of an execution order, despite the fact that they are initiated in court by the CPD, and are not trials on the merits of the case, as well as court proceedings in the Constitutional Court.

Commissioner or to superior bodies within the institution, educational status, pregnancy, health condition, etc.

Regarding court decisions, during the period January - November 2021, there are **99 (ninety-nine)** decisions communicated by the competent Courts, of which **73 (seventy three)** cases are for court cases related to allegations of discrimination in the field of employment. Out of these 73 cases related to the field of employment, in **36 (thirty six)** of them the Commissioner for Protection from Discrimination was summoned as an respondent and the object of trial was to oppose the decision of the Commissioner (decision of non-acceptance, decision of non-discrimination or discrimination decision). In **19 (nineteen) cases** the decision of the Commissioner was upheld by the court, in **7 (seven)** cases was decided to accept the lawsuit, abrogating as unfair the decision of the Commissioner and in **10 (ten)** cases the trials did not etamine the case in the merits.

Specific information on actions taken by authorities (whether national, regional, local and sectoral, including national human rights institutions and equality bodies, as well as the work of the Labour inspectorate, and on the outcome of cases brought before the courts.

During the first 6 months of 2021, the office of the Commissioner for Protection from Discrimination, reviewed 21 more complaints of organizations of legitimate interest and trade unions (8 complaints registered in 2020 and 13 complaints registered in 2021) in addition to individual complaints.

These complaints have generally come from organizations that protect the interests of State Police employees, Miners, the Roma / Egyptian community, people with disabilities, etc.

In cases registered 84% 12% 4%. The table according to complaints handled in 2021 Individuals (152) Organizations (21) Group of persons (7) 26.5% 49.5% 10.5% 10% 3.5%

Division by subjects for the issues addressed during 2021. Women (53) Men (99) NGOs (21) Ex-officio (20) Group of persons (7) 82% 13% 5%

The table according to complaints carried by 2020 - Individuals (49) Organizations (8) Group of persons (3) Commissioner for Protection from Discrimination January - June 2021 8 2020 and treated during 2021, 5 complainants were supported by various NGOs to file a complaint at the CPD, while in 2021, in 9 cases the complainants were assisted by civil society organizations to file a complaint.

Furthermore, in some cases the information provided by civil society organizations, trade unions and the media has served as clues or information for the Commissioner to launch cases ex officio. During this year, there has been an awareness of various unions, which have addressed the Commissioner the problems related to the groups of employees they represent.

Law no. 10 221/2010 "On Protection from Discrimination", as amended, in its Article 1, governs the implementation and observance of the principle of equality in relation to race, ethnicity, colour, language, citizenship, political, religious or philosophical beliefs, economic, educational or social status, gender, gender identity, sexual orientation, sex characteristics, living with HIV / AIDS, pregnancy, parental affiliation, parental responsibility, age, family or marital status, civil status, place of residence, health status, genetic predisposition, external, disability appearance, belonging to a particular group, or for any other reason.

Based on the Law on Protection from Discrimination, an open list of causes is provided, including cases for "any other cause", taking into account the causes related to the quality or individual characteristics of persons or a particular group of persons.

Protection against discrimination in the field of goods and services. The number of cases registered in the field of goods and services for 2021, was 68, while the number of complaints handled in this area, including 31 complaints registered in 2020, was 99 complaints, of which, 78 complaints are directed against public entities and 21 complaints are directed against private entities. Out of 78 complaints handled against public entities, in 26 cases they were directed against central government institutions and in 52 cases against local government institutions. The complaints filed in this area are mainly related to the non-provision of necessary services by local government units to different individuals, belonging to different communities or vulnerable groups. A good part of the complaints are also addressed to the central administration institutions, where the object of the complaints consists in not offering or guaranteeing a series of services such as health service and treatment with the necessary medications, as well as not providing free public transport, etc. The main reasons for which complaints were filed in the field of services were: race, economic status and disability.

Protection against discrimination in the field of employment.

Complaints handled with allegations of discrimination in the field of employment are complaints filed against public institutions, as well as against private entities. The object of the complaints handled in this area consists mainly of problems arising in employment relations, such as access to employment and termination of employment relations. There are in total 94 complaints in the field of employment, which were handled during the first 6 months of 2021, of which 34 complaints / cases ex-officio are registered during 2020 and 60 complaints / cases ex-officio registered in 2021. Of all the complaints handled, 73 complaints / cases ex-officio are directed against public entities and 21 complaints are directed against private entities. Out of 73 complaints handled against public entities, 10 cases were directed against central government institutions and 63 cases were directed against local government institutions. Complaints filed in the field of employment are generally addressed to public administration institutions, as a result of the termination of 79% 21% Public (78) Private (21) Graph 11. Issues in the field of goods and services, during 2021. 78 % 22% Public (73) Private (21) Graph 12. Issues in the field of employment, during 2021. Commissioner for Protection from Discrimination January - June 2021 12 Labour relations. Complaints that have been handled in the field of employment have had as alleged cause of discrimination: political beliefs, health status, educational status, belonging to a particular group, disability, etc.

Decisions by areas in which complaints are filed

In the field of goods and services, the CPD has issued a total of 57 decisions, of which, 24 decisions on cases registered in 2020 and 33 decisions on cases registered during the first 6 months of 2021. Out of 57 decisions, 47 decisions were issued against public entities and 10 decisions were issued against private entities. In these decisions, discrimination was found in 9 cases, among which 6 decisions against public entities and 3 decisions against private entities. The CPD also issued 15 non-discrimination decisions, 19 decisions not to accept the complaint, 8 decisions to terminate the proceedings of the case, after achieving the effectiveness and purpose for which the investigation procedure had begun, 5 decisions to terminate the proceedings because the complaining subjects have withdrawn from the appeal made to the Commissioner, 1

decision to terminate the proceedings due to the inability to provide the information necessary to come up with a final decision. Also, 1 fine was imposed because the subject against whom the complaint was filed did not make available to the Commissioner the required information.

In the field of employment,

CPD has issued a total of 49 decisions, of which, 28 decisions on registered cases in 2020 and 21 decisions on registered cases during the first 6 months of 2021. 35 decisions were issued against public entities and 14 decisions against private entities. In these decisions, discrimination was found in 13 cases, of which 12 cases against public entities and 1 case against private entities. In the decisions where discrimination has been ascertained and in most of them, the Commissioner has requested from the relevant subjects, the regulation of discriminatory situations, as well as the return to work of the discriminated individual. The Commissioner has expressed non-discrimination in 14 cases, in 12 cases has expressed for not accepting the complaint, in 3 cases has expressed for termination of the review procedures of the case, after achieving the effectiveness and purpose, for which the investigative procedure had started, in 2 cases for termination of the procedures because the complaining subjects withdrew from the complaint made to the Commissioner, in 3 cases the Commissioner expressed a decision to dismiss the cases, because the complaining subjects addressed the judicial bodies with a complaint of discrimination and in 2 cases the Commissioner has expressed a decision to dismiss the cases, because it was not possible to provide sufficient information to come up with a final decision.

As the result, it is observed: Awareness of society in recognizing the law on protection against discrimination, increased number of complaints, continuous cooperation with free legal clinics for vulnerable groups, organizations that the CPD has concluded cooperation agreements and the interaction of regional offices with other equality bodies such as e.g. the People's Advocate.

The State Labour and Social Services Inspectorate submits the following complaints:

	Inspections by complaints											
Type of Activity	**Inspection by appeal**	**Employee**	**Without contract**	**Informal**	**Provided during the inspection process**	**With minimum salary**	**Under 18 years old**	**Suspension/M**	**Suspension/S**	**Warning**	**Finr**	**Value (.000)**
Agriculture, Forestry, Fishing	1	2	0	0	0	0	0	0	0	0	0	0
Mining, Quarry	3	115	0	0	0	1	0	0	0	1	0	0
Manufacturing Enterprise	104	10486	52	62	62	3469	10	12	0	26	5	360
Electricity, Gas, Water	6	405	0	0	0	51	0	0	0	3	1	300
HBR Trade	83	1700	26	23	23	479	0	13	0	16	1	300
Construction	42	1435	40	36	28	475	0	9	1	8	2	450
Telecommunication	23	6214	9	2	2	549	0	1	0	4	1	60
Finance, Service	6	805	3	3	3	170	0	1	1	0	1	600
Other activities	131	12614	175	17	16	1586	0	10	1	21	2	210
Total	**399**	**33776**	**308**	**143**	**134**	**6780**	**10**	**46**	**3**	**79**	**13**	**2280**

c) *Please provide information on law and practice as regards on-call time and service (including as regards zero-hours contracts), and how are inactive on-call periods treated in terms of work and rest time as well as remuneration.*

Answer

An entity has addressed to the State Labour and Social Services Inspectorate the need for legal interpretation to develop on-call employment relationships. This case was answered in order to respect the current standards provided in the Labour Code for effective working time.

d) *Please provide information on the impact of the COVID-19 crisis on the right to just conditions of work and on general measures taken to mitigate adverse impact. As regards more specifically working time during the pandemic, please provide information on the enjoyment of the right to reasonable working time in the following sectors: health care and social work (nurses, doctors and other health workers, workers in residential care facilities and social workers, as well as support workers, such as laundry and cleaning staff); law enforcement, defence and other essential public services; education; transport (including long-haul, public transport and delivery services).*

Answer:

Due to the worldwide pandemic, the year 2020 was characterized by many unexpected events and developments in employment relations and working conditions dictated by this situation, which changed over the time, depending on the developments created by covid-19. The State Inspectorate of Labour and Social Services, in accordance with the situation, worked towards raising the awareness of employers and employees about anti-covid measures. This year also marks the highest number of complaints or requests for information, and each case has been followed, handled, resolved and addressed in a timely manner.

During 2020, as an unusual year, the State Inspectorate of Labour and Social Services worked in several directions. Inspections through the e-inspection platform were carried out, verifications were made to identify whether the anti-covid measures were implemented, through the application in Google forms, as well as through consultations with working groups, and other institutions of citizens regarding the implementation of anti-covid measures.

With a staff of 95 inspectors were carried out field inspections, consultations and verifications in 24612 economic entities where: 5993 entities were inspected through e-inspection (planning, complaints, accidents, requests) 18616 entities were verified and advised for anti covid measures through Google forms. 31100 citizens were advised and sensitized to respect the measures. These data show a commitment of the inspection staff, where with an average of 259 inspections performed per inspector per year, this figure is 1.8 times higher than the average inspections that can be performed by inspection bodies in normal conditions, from 13 inspections in months (given by the inspections of 2019), in 23.5 inspections per month performed by an inspector (during 2020). The year 2020 is characterized by monitoring and verification of more cases than the period of a year ago of denunciations, accidents, requests, clarifications, presented especially after the announcement of the pandemic.

The organization of work in this difficult period has been realized through:

a. Official address, or reporting forms developed on the institution's website;

b. Contact numbers of the institution published on the website;

c. E-mails and denunciations received from the co-government office, according to the contacts of the responsible persons defined previously.

d. Organizing cooperation with other institutions as part of ready "task-force" groups according to 12 regions.

Within this organization, during this period the follows have received the service of Labour inspection: 177 entities more than a year ago, due to denunciation of violations of Labour legislation. There are a total of 777 inspections with online inspection procedure by Labour inspectors, due to denunciations.

During this period, the State Inspectorate of Labour and Social Services, by treating both employers and employees equally, also focused on identifying the problems created by the COVID-19 pandemic, in the implementation of Labour legislation.

On March 24, 2020, the Republic of Albania declared a state of natural disaster due to the COVID-19 pandemic. This situation was declared by DCM no. 243, dated 24.03.2020.

As a result, a number of problems arose in the relationship between the employer and the employee from the point of view of the reports of the inclusion of these issues in the Labour Code. The concept of telework is a Concept addressed in the Labour Code of the Republic of Albania. It was implemented during the pandemic, because due to the global Covid-19 pandemic different sectors were forced to exercise their work at home, through rights and obligations located between the parties with the concept of telework / online work.

Due to the conditions of implementation of this type of contract, it is difficult to monitor it by the State Inspectorate of Labour and Social Services (SILSS). During 2020 and 2021, the controls exercised by the Labour Inspectorate found that the percentage of employees who have exercised work at home is 2%.

“For the coordination of inspections for the implementation of security protocols within the Anti Covid-19 task force", the entire inspection body of the State Inspectorate of Labour and Social Services, have conducted consultations and verifications of the implementation of security measures and protocols, on the protection of protective barriers, in order to protect the health of the population.

There were 41 working groups of the SILSS with 78 inspectors who have advised, in cooperation with the State Inspectorate of Labour and AKU, organized and distributed in municipal units and geographical areas by regions, a large number of citizens on respecting anti-corruption measures.

During the period concerned, a number of 18,616 activities were advised and verified whether applied the following measures:

No.	**Business Category (Type of activity)**	**18616**
1	Transport - Taxi	0.1%
2	Call Center	0.2%

3	Façon service	1.1%
4	Banks / Financial Institutions	1.0%
5	Retail sale of new clothes in stores	5.2%
6	Service units at the counters	4.2%
7	Indoor markets / supermarkets / food	17.9%
8	Hair treatment / aesthetics / body treatment	3.3%
9	Activities in public markets	1.4%
10	Businesses that do not fall in the above categories with up to 25 employees	16.5%
11	Businesses that do not fall in the above categories with 26-50 employees	0.4%
12	Businesses that do not fall in the above categories with over 50 employees	0.4%
13	Dental Clinics	1.6%
14	Construction Activities	2.1%
15	Bar-Cafe-Restaurant	33.1%
16	Schools, kindergarten and nursery	1.4%
17	Commercial centers	0.01%

e) *The Committee would welcome additional general information on measures put in place in response to the COVID-19 pandemic intended to facilitate the enjoyment of the right to reasonable working time (e.g. flexible working hours, teleworking, other measures for working parents when schools and nurseries are closed, etc.). Please include information on the legal instruments used to establish them and the duration of such measures.*

Answer:

During the period concerned, the Council of Ministers issued the decision of Council of Ministers no. 208, dated 10.3.2020 "On setting the dates 10 to 23 March 2020 paid leave for employees who have minor children in custody ":

1. The dates from 10 to 23 March were set as paid leave to one of the custodial parents of the children who go or not to kindergarten, preschool and basic education, who are civil

servants and other employees of public administration, central and local level, as well as in other state institutions.

2. The civil servants and employees mentioned in point 1 of this decision, during this period, are charged to perform any functional task assigned to them by the direct superior or the head of the institution, which can be fulfilled in the conditions of being at home, through telephone communication or of other means of electronic communication.
3. Parents who are health personnel are excluded from the application of point 1 of this decision.
4. Due to the closure of kindergartens and educational institutions, in order to take measures to prevent the spread of infection from COVID-19, all private employers are advised to find opportunities to treat their employees on paid leave, according to point 1, of this decision.

Regarding the public transport, respecting the Instructions and the decisions of the Council of Ministers in force, it was an activity that had interruption periods during the global Covid-19 pandemic. The circulation of means of transport was allowed only in the time zones allowed for circulation, in respect of protective measures and preventing the risk of spreading the infection. The medical service was the increased attention of businesses during this period, in addition to the decisions of the Council of Ministers and legal provisions in force. Order 266, dated 21.04.2020 of Covid-19 provides "On determining the business category according to the level of risk and approving hygienic and sanitary protocols and social distancing to prevent the spread of Covid-19". Employees with clinical signs should immediately notify the employer and the company doctor who then report to the relevant LGU. The company doctor took care of every business to maintain a distance of 2 meters, observance of hygienic-sanitary protocols, health control of employees.

In the framework of the measures taken to prevent the spread of COVID-19 in the workplace, based on Order no. 266 dated 21.04.2020 of the Minister of Health and Social Welfare, the Instruction of the Institute of Public Health and the protocols determined the latter, according to the definition in the red protocol, all entities that are included in this protocol must declare to the State Inspectorate of Health and the State Inspectorate of Labour and Social Services the generalities and the license of the person responsible for health at work (company doctor), where so far, **384 entities** have declared these data since the issuance of this Order at our Institution**.**

2. to provide for public holidays with pay;

3. to provide for a minimum of four weeks' annual holiday with pay;

4. to eliminate risks in inherently dangerous or unhealthy occupations, and where it has not yet been possible to eliminate or reduce sufficiently these risks, to provide for either a reduction of working hours or additional paid holidays for workers engaged in such occupations;

5. to ensure a weekly rest period which shall, as far as possible, coincide with the day recognised by tradition or custom in the country or region concerned as a day of rest;

6. to ensure that workers are informed in written form, as soon as possible, and in any event not later than two months after the date of commencing their employment, of the essential aspects of the contract or employment relationship;

7. to ensure that workers performing night work benefit from measures which take account of the special nature of the work.

a) *No information is requested on these provisions, except insofar as they concern special arrangements related to the pandemic or changes to work arrangements following the pandemic: public holidays (Article 2§2), annual holiday (2§3), reduced working time in inherently dangerous or unhealthy occupations, in particular health assessments, including mental health impact (2§4), weekly rest period (2§5), written information or worktime arrangements (2§6), measures relating to night work and in particular health assessments, including mental health impact (2§7).*

Answer:

Article 81 of the Labour Code additions to salary, provides as follows:

1. Every working hour from 19:00 to 22:00 gives the right to an additional amount to salary of not less than 20 percent.
2. Every working hour between intervals 22:00 and 06:00 gives the right to an additional amount to salary of not less than 50 per cent.

The following table:

Data for years 2020-2021	**No. 2021**	**%**	**No. 2020**	**%**
Finding, for the work performed overtime	113	0.1%	167	2.7%
Number of employees found working overtime	4773	5.2%	2880	1.7%

Number of employees who are not paid for the hours worked beyond the normal working time	1457	1.6%	353	0.2%
Number of employees who are not paid for the hours worked in shifts	1741	1.9%	368	0.2%
Number of employees who are not paid for the hours worked on weekends or holidays	1353	1.5%	316	0.1%

RESC Part I – 4. All workers have the right to a fair remuneration sufficient for a decent standard of living for themselves and their families.

Fair remuneration is a key Charter right (Article 4§1 of the Charter). This provision guarantees the right to a remuneration such as to ensure a decent standard of living. It applies to all workers, regardless of the sector or employment regime.

The requirement that workers be remunerated fairly and sufficiently for a decent standard of living for themselves and their families applies equally to atypical jobs and to emerging arrangements such as the gig or platform economy, and the work relations stemming from zero hours contracts. It goes without saying that circumventing through any means fair remuneration requirements is unacceptable. Areas of concern also include —but are not limited to— agriculture and food-processing sectors, hospitality industry, domestic work and care work.

In some cases, prevailing wages or contractual arrangements lead to a significant number of so-called working poor, including persons working two or more jobs or full-time workers living in substandard conditions. It should be underlined that the concept of "decent standard of living" goes beyond merely material basic necessities such as food, clothing and housing, and includes resources necessary to participate in cultural, educational and social activities.

"Remuneration" relates to the compensation — either monetary or in kind — paid by an employer to a worker for time worked or work done. It covers, where applicable, special bonuses and gratuities. On the other hand, social transfers (e.g. social security allowances or benefits) are taken into account only when they have a direct link to the wage.

To be considered fair, net minimum wages should not fall below 60% of average wage in the labour market; 50% if explained and duly justified as to how it amounts to fair remuneration sufficient for a decent standard of living for the workers concerned and their families. The Committee will only be satisfied that lower wages are fair on the basis of compelling or convincing evidence provided to it.

States Parties must devote necessary efforts to reach and respect this minimum requirement and to regularly adjust minimum rates of pay, including during the COVID-19 crisis. The Committee also considers that the right to fair remuneration includes the right to an increased pay for workers most exposed to COVID-19-related risks. More generally, income losses during

lockdowns or additional costs incurred by teleworking and work from home practices due to COVID-19 should be adequately compensated.

Article 4 – The right to a fair remuneration

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

1. to recognise the right of workers to a remuneration such as will give them and their families a decent standard of living;

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

a) *Please provide information on gross and net minimum wages and their evolution over the reference period, including about exceptions and detailed statistics about the number (or proportion) of workers concerned by minimum or below minimum wage. Please provide specific information about furlough schemes during the pandemic, including as regards rates of pay and duration. Provide statistics both on those covered by these arrangements and also on categories of workers who were not included.*

Answer:

From the period January 2021, the basic minimum monthly wage applied nationwide for employees, mandatory to be applied by any legal or natural, local or foreign person amounts 30,000 ALL (Decision of Council of Ministers (DCM) no. 1025, dated 16.12.2020).

Article 111 Minimum Salary provides as follows:

1. The salary may not be lower than the minimum salary set by the DCM.
2. The minimum salary shall be set on the basis of:

a) the economic factors, the demands of the economic development and the decrease of unemployment, the increase of production;

b) the needs of the employees and their families, taking into consideration the general level of living of the employees in the country, the income benefited from social insurance and the living standards of different social groups.

3. The Council of Ministers may set e lower salary than the minimum salary at national level for the cases of learning the profession in the system of education and professional training in a double form.

	Total number of employees paid with minimum salary	Number of female employees paid with the minimum salary

2020	39249	21832
2021	27708	14156

b) *The Committee also requests information on measures taken to ensure fair remuneration (above the 60% threshold, or 50% with the proposed explanations or justification) sufficient for a decent standard of living, for workers in atypical jobs, those employed in the gig or platform economy, and workers with zero hours contracts. Please also provide information on fair remuneration requirements and enforcement activities (e.g. by labour inspectorates or other relevant bodies) as well as on their outcomes (legal action, sanctions imposed) as regards circumvention of minimum wage requirements (e.g. through schemes such as sub-contracting, service contracts, including cross-border service contracts, platform-managed work arrangements, resorting to false self-employment, with special reference to areas where workers are at risk of or vulnerable to exploitation, for example agricultural seasonal workers, hospitality industry, domestic work and care work, temporary work, etc.).*

Answer:

Find below the table with the data on employees, resulted from the inspections of the State Inspectorate of Labour and Social Services

	Total Inspections (Private + State) Year 2021			
Type of activity	Total Inspections (Private + State)	Employee	Employees with minimum salary	Females with minimum salary
Agriculture, Forestry, Fishing	169	652	341	133
Mine, Quarry	41	3450	277	27
Production Enterprise	633	33606	12585	9147
Electricity, Gas, Water	42	1530	73	17
HBR Trade	1192	13123	6813	2933
Construction	494	7839	3678	295
Telecommunication	80	8251	771	234
Finance, Service	25	2276	223	113

Other activities	417	21532	2947	1257
Total	**3093**	**92259**	**27708**	**14156**

c) *Please also provide information on the nature of the measures taken to ensure that this right is effectively upheld as regards the categories of workers referred to in the previous paragraph (b) or in other areas of activity where workers are at risk of or vulnerable to exploitation, making in particular reference to regulatory action and to promotion of unionisation, collective bargaining or other means appropriate to national conditions.*

Answer:

There is a positive development in the creation and functioning of new unions. During this period the State Inspectorate of Labour and Social Services has had communications and meetings with SKOT, a new union operating in the Call Center sector. They have not yet signed collective agreements at the sector level, but are becoming representatives in some entities of this sector.

2. to recognise the right of workers to an increased rate of remuneration for overtime work, subject to exceptions in particular cases;

Answer:

Article 89 Obligation to Work Additional Hours:

If circumstances require the performance of additional working hours, the employer may ask the employee to carry out additional working hours for as long as possible and necessary and taking into account the personal and family conditions of the employee.

Article 90 - Maximum Number of Additional Hours provides as follows:

1. The maximum duration of the additional hours shall be determined in the collective employment contract or individua employment contract. The employer may require the performance of additional working hours, but not more than 200 hours a year.
2. No weekly additional hours may be required when the employee has completed 48 working hours per week. In special cases, for up to 4 months, work may be carried out for more than 48 hours per week, but the average weekly working time for this period should not exceed 48 hours.
3. The Council of Ministers shall establish special rules for carrying out additional hours for work that is particularly difficult or harmful to health.

   3/1. It is forbidden to perform additional hours of work by pregnant women and after childbirth, until the child reaches the age of 1. 3/2. It is forbidden to carry out additional hours for persons with disabilities for objectively justified reasons related to their degree of disability and the nature of work for which additional hours are required.

4. Upon the authorization of the Labour Inspectorate, the maximum duration of additional hours may be exceeded in cases of force majeure or urgent work for the benefit of the population.

Inspections carried out for authorization of additional hours	Total Inspections	Subjects that were authorized for additional hours
Year 2020	9	4
Year 2021	10	6

Article 91 of the Labour Code - Compensation, provides as follows:

1. The employer for the additional hours of work that have not been compensated with a leave shall pay to the employee the normal wage and an addition of not less than 25 per cent of it, unless otherwise provided in the collective contract.
2. The employer may, in agreement with the employee, shall compensate the additional hours of work with a break at least 25 per cent greater, which corresponds to the duration of additional hours and is given within two months of the day of work, except of the cases when otherwise provided in the collective contract.
3. Additional hours of work performed during the weekly or official holidays are compensated with leave or salary at least 50 percent greater than the additional hours worked or the normal salary, unless otherwise provided in the collective contract. Such compensation also includes the compensation stated in the preceding paragraphs.

a) *Please provide up to date information on the rules applied to on-call service, zero-hour contracts, including on whether inactive periods of on-call duty are considered as time worked or as a period of rest and how these periods are remunerated.*

Answer:

We have no evidence or complaints regarding on-call employment relationships.

b) *Please explain the impact of the COVID-19 crisis on the right to a fair remuneration as regards overtime and provide information on measures taken to protect and fulfil this right. Please include specific information on the enjoyment of the right to a fair remuneration/compensation for overtime for medical staff during the pandemic and explain how the matter of overtime and working hours was addressed in respect of teleworking (regulation, monitoring, remuneration, increased compensation).*

Answer:

According to the DCM no. 254, dated 27.3.2020 "On determining the procedures, documentation and the measure of obtaining financial assistance for employees in business entities with annual income up to 14 million ALL, economic assistance and payment of income from unemployment

during the period of natural disaster, declared as a consequence of COVID-19"and DCM No. 305, dated 16.4.2020 "On determining the procedures, documentation and the measure of obtaining financial assistance for its current employees and laid-off employees as a result of COVID - 19", the Albanian government organized financial assistance packages according to the DCMs in force, in aid of businesses and employees.

c) *The Committee would welcome information on any other measures put in place intended to have effects after the pandemic which affect overtime regulation and its remuneration/compensation. Provide information on their intended duration and the time frame for them to be lifted.*

d) *If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please Answer to the questions raised.*

3. to recognise the right of men and women workers to equal pay for work of equal value;

a) *Please provide information on the impact of COVID-19 and the pandemic on the right of men and women workers to equal pay for work of equal value, with particular reference and data related to the extent and modalities of application of furlough schemes to women workers.*

Answer:

Article 115 Equality in Remuneration (Amended by law no. 136/2015, dated 5.12.2015)

1. The employer pays the employee equally for the same work or work of an equal value, without discriminating for any of the grounds mentioned in paragraph 2, Article 9 of this Code.

2. Direct or indirect discrimination is banned according to article 9 of this Code, regarding all the aspects and the conditions of rewarding for the same work or the work of an equal value. Equal salary, without discrimination, is the salary, which:
   a) is calculated based on the same measurement unit, for the same normed work;
   b) is the same for the same work position for the work measured by time.

3. According to this Article, the salary refers to the normal base or minimum salary or to the salary and any other payment, benefited by the employee directly or indirectly, awarded by the employer, for the work done.

4. Equal work or work of equal value is based on all the respective criteria, especially on the nature of the work, its quality and quantity, work conditions, professional background and seniority at work, the physical and intellectual attempts, experience and responsibilities. The changes in the salary, which are based on objective criteria, stipulated in this paragraph, shall not be considered discrimination in the salary.

5. The discrimination in the salary is eliminated when the employer provides to the discriminated employee, a salary which includes all the priorities enjoyed by the other employees in a comparable situation.

4. to recognise the right of all workers to a reasonable period of notice for termination of employment;

a) Please provide information on the right of all workers to a reasonable period of notice for termination of employment (legal framework and practice), including any specific arrangements made in response to the COVID-19 crisis and the pandemic.

Answer:

During the Covid-19 pandemic crisis, the inspections carried out by the State Inspectorate of Labour and Social Services identified these problems:

- Organizational problems in the employment relationship between employers and employees such as: the possibility of distance to the workplace, the possibility of transportation, financial opportunities, working hours, etc.
- Non-payment of salary for months worked after returning to work or non-payment of salary during stay at work according to working hours performed with the claim that they were paid from the financial packages.
- Non-compliance with the right to compensation for the annual leave not taken when the employment is terminated.
- Financial difficulties, difficulty in paying the rent.
- Non-payment of social and health insurance for the period declared to the tax authorities.
- Difficulties in carrying out work processes, non-use of individual equipment for protection from COVID-19.
- Flexibility and change of employees in the employment of entities, due to the closure of entities while some entities have hired new employees.
- Lack of information to employees on salary such as timely salary, commissions or monthly salary.
- Problems in transporting employees from work to home has led to difficulties in terminating the employment relations.
- Termination of employment without respecting the relevant notices, has created problems in completing and submitting employment booklets by employers.
- Disputes created between employers and employees for salary treatment or consideration of financial assistance provided by the Government, replacement of this salary for the period March-June (quarantine).
- Declaration in the tax system not the real salary set in the agreement between the parties.

The Labour Code provides the notice deadlines for the termination of the employment contract, as follows:

1. After the probation period, to terminate the contract of undefined duration, the parties shall respect a notice deadline of two weeks, when the employment relation has lasted up to six months, of one month, for the duration of over six months up to two years, of two months for

the duration of more than two years up to five years and three months for the duration of more than five years.

2. The deadline notice to terminate the contract shall be extended up to the end of the week or the end of the month. The same rule shall be applied, when the notification deadline is suspended during the period of disability to work, pregnancy or leave given by the employer.

3. When one of the parties terminates the contract without respecting the deadline notice, then the termination shall be considered as a termination of contract with immediate effect.

4. During the notification period, when the work contract is terminated by the employer, the employee benefits at least 20 hours of payable leave per week to look for a new job. The duration of the leave and the procedures for receiving and using it shall be stipulated in the collective or individual work contract.

5. to permit deductions from wages only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreements or arbitration awards.

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

RESC Part I

5. All workers and employers have the right to freedom of association in national or international organisations for the protection of their economic and social interests.

6. All workers and employers have the right to bargain collectively.

21. Workers have the right to be informed and to be consulted within the undertaking.

22. Workers have the right to take part in the determination and improvement of the working conditions and working environment in the undertaking.

The right to organise, the right to collective bargaining and social dialogue guaranteed notably by Articles 5 and 6 of the Charter have taken on new dimensions and new importance in the COVID-19 crisis. Trade unions and employers' organisations should be consulted at all levels on employment-related measures to fight and contain COVID-19 here and now and to recover from the economically disruptive effects of the pandemic in the longer term. Agreements to this effect, whether tripartite or bipartite, should be concluded where appropriate.

The importance of dialogue and participation (good democratic governance) in the postCOVID-19 reconstruction process cannot be overestimated. Given that trade unions and workers organisations are sine qua non participants in this process, it is incumbent on States Parties to promote, enable and facilitate such dialogue and participation.

This is called for at all levels, including the industry/sectoral level and the company level. New health and safety requirements, new forms of work organisation (teleworking, work-sharing, etc.) and workforce reallocation, all impose obligations with regard to consultation and information of workers' representatives in terms of Articles 21 and 22 of the Charter.

Under Article 6§4 of the Charter the right of workers in essential services to take collective action may be subjected to limited restrictions in order to ensure the continued operation of such services, for example during a public health emergency. However, any such restrictions must satisfy the conditions laid down by Article G of the Charter

In this respect, the ECSR notes that Article 6§4 of the Charter entails a right of workers to take collective action (e.g. work stoppage) for occupational health and safety reasons. This means, for example, that strikes in response to a lack of adequate personal protective equipment or lack of adequate distancing, disinfection and cleaning protocols at the workplace would fall within the scope of the Charter's guarantee.

Article 5 – The right to organise

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

a) *Please provide data on trade union membership prevalence across the country and across sectors of activity, as well as information on public or private sector activities in which workers are excluded from forming organisations for the protection of their economic and social interests or from joining such organisations. Also provide information on recent legal developments in these respects and measures taken to promote unionisation and membership (with specific reference to areas of activity with low level of unionisation, such as knowledge workers, agricultural and seasonal workers, domestic workers, catering industry and workers employed through service outsourcing, including cross border service contracts).*

Answer:

The data on Inspections carried out by the State Inspectorate for Labour and Social Sciences transpire as follows:

	Number of subjects	% against the total
Existence of trade unions / collective agreements January-August	23	0.7%

2021		

Also provide information on measures taken or considered to proactively promote or ensure social dialogue, with participation of trade unions and workers organisations, in order to take stock of the COVID-19 crisis and pandemic and their fallout, and with a view to preserving or, as the case may be, restoring the rights protected under the Charter after the crisis is over.

Answer:

Pursuant to DCM no. 54, dated 29.1.2020 “On some additions to the decision no. 1039, dated 4.12.2013, of the Council of Ministers "On the functioning of the National Labour Council and on the appointment of Representatives of the Council of Ministers in this Council", as amended, the National Labour Council was convened in February 2021. Participants in this meeting were members of the council, chaired by the Minister of Finance and Economy, representatives of the Government, Employees 'Organizations, and Employers’ Organizations. This council took some important decisions, summarized as follows. This council ended its mandate in March 2021.

Currently the Draft Decision "On the functioning of the National Labour Council and on the appointment of Representatives of the Council of Ministers in this Council" was sent by the Ministry of Finance and Economy to the Council of Ministers for the approval of new members.

The Ministry of Finance and Economy has taken the initiative to ratify ILO Convention 190 "On the Elimination of Violence and Harassment in the World of Work", in cooperation with the Confederation of Trade Unions of Albania (CTUA) and the Union of Independent Trade Unions of Albania (BSPSH). Ratification of this Convention aims at positioning our country in the group of countries that contribute to the fight against this disturbing and threatening phenomenon for dignity, health and safety at work and in guaranteeing a safe working environment. Ratification of this convention is in line with the program of the Albanian government, clearly expressed in all the instruments found in the Albanian legal and institutional framework.

In addition, a considerable number of international conventions that are important in the context of the analysis of ILO Convention 190, have already been ratified and this makes it even easier to approach this convention.

The Ministry of Finance and Economy in coordination with the Ministry of Europe and Foreign Affairs and the Ministry of Justice has drafted the draft-decision on the proposal of the draft-law "On the Ratification of Convention 190 "Convention on Violence and Harassment" and Recommendation 206 "Recommendation on Violence and Harassment". This draft decision incorporates the following points:

I. THE PURPOSE OF THE DRAFT ACT AND THE OBJECTIVES INTENDED TO BE ACHIEVED

The drafting of this law was dictated by the initiative for ratification of ILO Convention 190 "Convention on Violence and Harassment", to join the countries that have ratified this convention. The 108th session of the Annual Conference of the International Labour

Organization (ILO), in the 100th anniversary of the founding of this organization, on June 21, 2019, adopted Convention 190, which focuses on the elimination of violence and gender-based harassment in the workplace. These are the first documents approved by the ILO in its second century.

These are the objectives that are intended to be achieved with the ratification of this convention:

- Strengthening and supplementing the existing legal framework. Creating space in the application of the principles of this convention, by improving the national legislation, alignment with the International Labour Standards of ILO, that of the EU and other developed countries in the world, in this field.
- Promoting the interaction of employers' and employees' organizations and responsible state structures in the fight against this phenomenon. Furthermore, institutions / authorities will properly fulfil their obligations to protect the victim, including vulnerable categories, for a healthy and friendly work environment.
- Raising awareness, vocational training and effective protection of victims of violence and harassment in the world of work by affecting safety, health and effectiveness at work.

II. EVALUATION OF THE DRAFT ACT IN RELATION TO THE POLITICAL PROGRAM OF THE COUNCIL OF MINISTERS, THE ANALYTICAL PROGRAM OF ACTS AND OTHER POLITICAL DOCUMENTS

A considerable number of international conventions that are important in the context of the analysis of ILO Convention 190 have already been ratified and this makes it even easier to approach this convention. While Albania aspires to join the European Union, achieving standards of equality and non-discrimination is a condition for further integration in this organization. It is the duty of a country like Albania to harmonize its legislation with that of the EU.

Ratification of this convention is in line with the general program of the Albanian government, clearly expressed in all the instruments found in the Albanian legal and institutional framework.

The draft law is in line with the program of the Albanian Government, clearly expressed in all instruments found in the Albanian legal and institutional framework.

This process has its advantages and our country has made considerable progress, so far. Many laws are in line with EU standards (such as: Labour Code, Law on Gender Equality, Law on Protection against Discrimination, Law on Safety and Health at Work, etc.).

III. ARGUMENTATION OF THE DRAFT ACT REGARDING THE ADVANTAGES, PROBLEMS, EXPECTED EFFECTS

Considering that violence and harassment pose a serious threat to safety and health at work and given that violence and harassment are phenomena encountered and a concern in Labour relations, the ratification of this convention aims at the involvement and contribution of the Republic of Albania, represented by the Albanian government, in the fight against violence and harassment in the world of work to a new level and increase the capacity of all preventive, inspection, monitoring and punitive structures to combat this disturbing phenomenon and take the necessary legislative measures.

This Convention addresses the phenomenon of violence and harassment at work, which pose a threat to public safety and health and institutional, social, economic and legal framework improvement in this area are among the expected effects resulting from the ratification of this convention.

The proposal of this draft law is an increased contribution not only in relation to the International Labour Organization but also to the obligation of Albania as a candidate country for EU membership, to intensify the fight against discrimination and gender-based violence in the field of Labour relations, as phenomena that pose a threat to dignity, safety and public health.

Convention No. 190 is open for ratification by ILO member status, which will enter into force 12 months after the two member states have ratified it, given the high level of support for its adoption.

IV. ASSESSMENT OF LAWFULNESS, CONSTITUTIONALITY AND HARMONIZATION WITH THE DOMESTIC AND INTERNATIONAL LEGISLATION IN FORCE

The proposed draft law is in accordance with the Constitution of the Republic of Albania. This Convention seems to find a satisfactory level of compliance with the regulations and standards of the legislation in force.

International instruments have brought a gradual and continuous effect, both in legal improvements and in practical implementation, i.e. de jure and de facto improvements. Ratification of ILO Convention 190 C is necessary because it will increase the highest response in addressing the phenomenon of violence and harassment in the world of work and at the same time the level of approximation of domestic legislation with ILO and those of EU countries in relation to violence, harassment and gender-based discrimination in the field of Labour relations and employment.

With the ratification of this convention, states have room in the implementation of its principles by the relevant structures, which monitor, inspect the fulfilment of obligations in reducing and eliminating violence and harassment in the world of work and ensure proper awareness and protection of victims and the respective employers' and employees' organizations and policy-making structures in this regard.

It can be said that in terms of the importance of the institutional response, the ratification of this Convention can bring positive results, which can be compared with those of the CEDAW Convention and the Council of Europe Convention known as the Istanbul Convention. The work environment has a great resemblance to the family environment and therefore the same attention should be paid.

V. ASSESSMENT OF THE DEGREE OF ALIGNMENT WITH THE ACQUIS COMMUNAUTAIRE (FOR NORMATIVE ACTS)

The proposed draft law does not transpose the requirements of any directive.

VI. EXPLANATORY SUMMARY OF THE CONTENT OF THE DRAFT ACT

For the first time, an international agreement clearly articulates the right of everyone to a world free of violence and harassment, identifying behaviours that may constitute human rights violations or abuses.

The Convention provides protection for all the persons who work, regardless of employment status, including interns, volunteers, applicants and employers. It applies to the public and private sectors, the formal and informal economy, urban and rural areas. Some groups of workers in certain sectors are accepted to be particularly vulnerable to violence and harassment, mainly in health, transport, education, domestic work, night work, work in isolated areas.

Country-specific sectors will be identified through tripartite consultations at the country level. The recommendation also sets out practical measures, including victim leave, flexible work arrangements and awareness raising.

VII. INSTITUTIONS AND BODIES IN CHARGE OF IMPLEMENTING THE ACT

The Ministry of Finance and Economy, the Ministry of Health and Social Protection and other institutions engaged in the fight against violence and harassment in the world of work are responsible for the implementation of this convention, including employers' and employees' organizations.

VIII. PERSONS AND INSTITUTIONS THAT HAVE CONTRIBUTED TO DRAFTING THE DRAFT ACT

The submitted draft decision was drafted by the Ministry of Finance and Economy. The text of the instrument of Convention 190 "Convention on Violence and Harassment", of the International Labour Organization, has been translated from English into Albanian, by a translator licensed and certified by the Ministry of Justice.

Convention no. ILO 190 "On the Elimination of Violence and Harassment in the World of Work" was approved in principle by the representatives of Employers and Trade Unions at the meeting of June 12, 2020 of the National Labour Council (NLC) and subsequently was approved in principle the analysis of the Albanian legislation on violence and harassment at work, against compliance with ILO Convention 190 at the NLC meeting of 16 October 2020.

The International Labour Conference, session 108, in June 2019, in Geneva, voted for the adoption of Convention 190 on the elimination of violence and harassment in the world of work. Mr. Ilir Nezaj voted "In favour" for convention 190, as a representative of the Albanian Government in the International Labour Conference (session 108).

The draft decision was sent for approval to the Council of Ministers and the latter returned the act for completion, through the e-acts system, as it finds that the Ministry of Europe and Foreign Affairs and the Ministry of Justice had expressed different opinions.

The draft decision to the Council of Ministers was coordinated at the request of the PM with the above ministries, in which the Ministry of Europe and Foreign Affairs clarified that in the conditions where the approval in principle is a legal procedure, which precedes the already

exhausted voting / signing, it suggested to continue with the preparation of the draft law on ratification of the convention 190.

Furthermore, the Ministry of Justice agreed, suggesting to use Article 10 (approval in principle) of law no. 43/2016 "On international agreements in the Republic of Albania'' as a legal basis for its approval.

Their suggestions were taken into account and reflected.

IX. THE REPORT ON THE EVALUATION OF BUDGET REVENUE AND EXPENDITURE

The Convention does not provide for specific budget expenditures. The legislation meets the minimum requirements of the convention, which enables us to continue the procedure by programming the improvement of the legislation on an ongoing basis whenever changes are made to the legislation and available structures are trained. The Law on Safety and Health at Work, Labour Code, Law on Protection from Discrimination, Law on Gender Equality, collective agreements, etc., policies and regulations need to be partially updated in some aspects of this convention.

Ratification of this convention will bring the possibility of discriminatory practices and discriminatory provisions being reduced and repealed more quickly and the authorities will have an interest in taking positive experiences from other countries as an inspiring example. Ratification of this Convention will bring about the effective implementation of legal provisions by promoting awareness-raising and educational programs and cooperation with the social partners on the cause of ensuring a non-violent environment and non-harassment in Labour relations.

The implementation of this convention is not conditioned by the immediate issuance of laws, because it is not a new legal field and no new structures are required. However, procedural clarifications and clear definition of tasks are needed.

Currently the draft-decision on the proposal of the draft law "On the Ratification of Convention 190" Convention on Violence and Harassment" and Recommendation 206 "Recommendation on Violence and Harassment" has been sent to the Council of Ministers for approval.

Article 6 – The right to bargain collectively

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

1. to promote joint consultation between workers and employers;

2. to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements;

Please provide information on specific measures taken during the pandemic to ensure the respect of the right to bargain collectively. Please make specific reference to the situation and arrangements in the sectors of activity hit worst by the crisis whether as a result of the impossibility to continue their activity or the need for a broad shift to distance or telework, or as a result of their frontline nature, such as health care, law enforcement, transport, food sector, essential retail and other essential services.

Answer:

Pursuant to order no. 233, dated 25.09.2020, the Labour Group was set up in order to improve the procedures for mediation and conciliation of collective Labour disputes. This group, in cooperation with International Labour Organization (ILO) experts and national experts, drafted the guideline "On the organization and functioning of structures for mediation and conciliation of Labour conflicts, as well as relevant procedures". In the framework of this project, several meetings and seminars were held, with the participation of the Labour Relations and Social Dialogue Sector in the Ministry of Finance and Economy, the Organization of Employees and Employers. In consultation with the Legal Directorate of the Ministry of Finance and Economy, the Minister of Finance and Economy approves **Instruction no. 13 date 12.05.2021** "On the organization and functioning of structures for mediation and conciliation of collective Labour conflicts, as well as the relevant procedures"

Pursuant to Article 102, point 4, of the Constitution, Article 188 / a, Article 189, Article 192 and Article 193 of Law no. 7961, dated 12.07.1995 "Labour Code of the Republic of Albania", as amended, I

INSTRUCT:

Understanding mediation and reconciliation

1) Mediation is the first stage of alternative out-of-court settlement of a collective Labour dispute, through a third, impartial person (mediator), who assists and facilitates the parties to reach an acceptable resolution of the conflict that does not conflict with the law.

2) Reconciliation is the second phase of alternative out-of-court settlement of a collective Labour dispute that follows in case the conflict is not resolved in the mediation phase. Reconciliation is carried out by state conciliation offices, which act collegially to assist in resolving the conflict by recommending a mutually acceptable solution.

3) Mediation and conciliation for the resolution of collective Labour disputes are activities that are exercised under the care and direction of the ministry responsible for Labour.

Principles of the mediation and conciliation process

4) Mediation and conciliation are based on the principle of:
   a. equality of parties in the process;
   b. respect for data confidentiality;

c. impartiality in behaviour and attitudes;
d. transparency of the procedure;
e. the freedom of the volition of the parties in reaching an agreement.

Types of conflicts that can be resolved through mediation and conciliation

5) Mediators and conciliation offices at all levels deal with collective Labour disputes when the parties freely seek the resolution of disputes through mediation or conciliation.

6) Mediators and conciliation offices deal with collective conflicts related to:

a) negotiations for concluding a collective agreement;
b) renewal or amendment of the collective contract;
c) implementation of the collective employment contract;
d) conflicts related to the right to organize and to form a trade union;
e) cases of opposition to the representation of the trade union organization / s in the view of collective bargaining, according to Article 164 (3) of the Labour Code.

7) Mediation and conciliation are mandatory before the right to strike is exercised.

8) Mediators and conciliation offices may also deal with conflicts between two or more trade union organizations and between two or more employers' organizations.

9) Mediators and conciliation offices may also be involved in resolving conflicts between a group of employees and the employer, when assessing that the public interest in resolving the conflict should be protected, when: the group is potential to extend the conflict to the entire mass of employees of a company / enterprise / sector; or when the consequences of group conflict may escalate in such a way as to jeopardize work across the sector; or when cases of violation of the principle of protection against discrimination are identified; or due to the special circumstances of vulnerable employees, as well as other similar cases.

Establishment of structures for the mediation process:

10) The mediation process is conducted by the mediators of the State Mediation Network.

11) The State Mediation Network is established at the ministry responsible for the work and consists of:
a) Mediators at the central level, in the ministry responsible for labour, and
b) Mediators at regional level, at the Regional Directorates of the National Agency for Employment and Skills.

12) Intermediaries at the central level are the employees responsible for Labour relations in the Sector of Labour Relations and Social Dialogue in the Directorate of Employment Policies and Vocational Training.

13) Intermediaries at the regional level are the employees responsible for Labour relations in the Regional Directorates of the National Agency for Employment and Skills.

14) The process of appointing mediators at all levels is realized within two weeks from the entry into force of this sub-legal act. The Directorate of Active and Passive Labour Market Programs of the National Agency for Employment and Skills sends to the Directorate of Employment and Vocational Training Policies in the ministry responsible for the work, the names and data of intermediaries in each district, as well as any changes.

Competencies and responsibilities

15) The conflict is resolved through mediation at the central or county level, when a request is submitted to the ministry responsible for the work by at least one of the interested parties.

16) Intermediaries at the central level are responsible for resolving the disputes that have occurred at the central level, or in enterprises and / or enterprise systems:
   a) with a large number of employees;
   b) extending to two or more circuits;
   c) of special economic importance.

17) Mediators at the county level are responsible for resolving any conflict that has occurred within the territory of the administrative unit where they exercise their functions.

Establishment of structures for the reconciliation process

18) The National Reconciliation Office is set up at the ministry responsible for the work.

19) The National Reconciliation Office consists of 5 members, the chairman and 2 members, representatives of the most represented trade union organizations and 2 members, representatives of the most represented employers' organizations. The Director of the Directorate of Employment and Vocational Training Policies in the ministry responsible for labour is appointed the Head of the National Reconciliation Office.

20) Reconciliation Offices at the regional level are set up at the Regional Directorates of the National Agency for Employment and Skills.

21) Reconciliation Offices at the county level consist of five members, the chairman and 2 members, representatives of the most represented trade union organizations and 2 members, representatives of the most represented employers' organizations. The Head of the Reconciliation Office in each region is appointed the Director of the respective Regional Directorate of the National Agency for Employment and Skills.

22) The process of appointing members of conciliation offices by the most represented trade union organizations and the most represented employers' organizations is carried out within two weeks from the entry into force of this sub-legal act. The Directorate of Active and Passive Labour Market Programs of the National Agency for Employment and Skills sends the Directorate of Employment and Vocational Training Policies the names and data of the members of the conciliation offices for each district, as well as any changes to them.

Competencies and responsibilities

23) The National Reconciliation Office is responsible for resolving any collective dispute that has not been resolved by mediators at the central level, which has arisen at the central level, or in enterprises and / or enterprise systems:
   a) with a large number of employees;
   b) extending to two or more regions;
   c) of special economic importance.

24) The county conciliation office is responsible for resolving any dispute that arises within the county, where it is located, that has not been resolved by the mediator at the county level.

Criteria for appointing mediators and members of conciliation offices

25) Employees who are appointed as mediators for collective Labour disputes at the county level must have higher university education and work experience of not less than 3 years.

26) The members of the conciliation offices appointed by the most represented trade union organizations and the most represented employers' organizations must be specialists with work experience of not less than 3 years. The Head of the Reconciliation Office must have higher university education and work experience of not less than 3 years.

27) Representatives of trade unions and employers in the conciliation offices from the moment of their appointment as conciliators, respect the principle of impartiality in dealing with the parties to the conflict. When the organization from which they came is involved in the conflict, their participation in the meetings and meetings of the Reconciliation Office with the parties is in the capacity of observer and without the right to vote.

28) Mediators and Heads of Reconciliation Offices exercise their function by defining this in a dedicated way in the job description.

29) Mediators and members of the Conciliation Offices must have completed at least two (2) training days in the field of mediation / conciliation at the time of their appointment, or complete them within two (2) months from the moment of appointment.

Training of mediators and members of conciliation offices.

30) In order to increase the skills and the level of professionalism, the Directorate of Employment and Vocational Training Policies in the ministry responsible for labour, prepares, follows and implements the program of mandatory continuous training of intermediaries and conciliators. Each mediator and conciliator is required to complete at least six (6) training days per year. Other specialists can also participate in the trainings, expressing their interest in acquiring knowledge and skills in these procedures, in order to have a waiting list of trained specialists to perform mediation tasks in case of need.

The duties of the mediator and conciliator

31) The mediator / conciliator exercises his duty with impartiality, honesty and professionalism, respecting the legal rules and those of professional ethics for resolving collective Labour disputes.

32) The mediator / conciliator does not impose a solution on the parties to the conflict and does not make a decision on how to resolve their conflict.

33) The mediator / conciliator maintains the confidentiality of the data, unless the party, whose data are made public or processed in accordance with the legislation on personal data protection, has given its approval in writing.

34) The mediator / conciliator shall keep the professional secret and may not be obliged to testify about facts and circumstances, of which he / she becomes aware during the exercise of the activity of mediation or conciliation, except when he / she has the legal obligation to refer the facts to the state proceeding authorities.

35) The mediator / conciliator supports the activity in the Practical Guide for Resolving Collective Labour Disputes, as well as the Code of Ethics approved by Order of the Minister responsible for work.

Conflict of interest

36) The mediator / conciliator ensures that there is no conflict of interest between him and the parties in a mediation / conciliation procedure. When there are doubts about independence and impartiality, the mediator / conciliator renounces mediation or conciliation procedures.

37) It is considered that there is a conflict of interest when:
   a) there is a state of conflict between the public duty and the private interests of the mediator / conciliator that affect, may affect, or seem to affect, the unfair performance of his public duties and responsibilities, in accordance with the provisions of the relevant legislation for the prevention of conflict of interest in the exercise of public functions;
   b) the mediator / conciliator has an interest directly related to the organization or entity from which he was selected, in the case for which mediation or conciliation is sought, the mediator / conciliator is the director or representative of one of the parties;
   c) in all other cases provided by the legislation in force for conflict of interest.

38) Before each mediation / conciliation procedure, the mediator and the member of the Conciliation Office declare the state of conflict of interest according to the legislation in force.

39) In case the parties to the conflict point out the presence of a conflict of interest and the relevant mediator has not stated such a thing, the case is reviewed by the Director of the Directorate of Employment and Vocational Training Policies, who decides on the conflict of interest of intermediaries. The same situation created for the member of the Conciliation Office will be decided by the relevant Reconciliation Office in a special meeting on the conflict of interest of its member.

40) The mediator / conciliator, starting from the time of the initiation and during the mediation or conciliation procedure, must declare without delay to the parties any circumstance that may constitute a violation or that creates doubts in its impartiality and independence.

41) When the mediator is in a situation of conflict of interest, the Director of Employment Policy and Vocational Training sets in motion the mediator in the nearest employment office, to carry out the mediation.

Mediation / conciliation procedure

42) Mediation and conciliation are phases of the same procedure, which is reflected and monitored gradually in the system of Registration and Management of Collective Labour Conflicts (RMCLC), administered by the Directorate of Employment and Vocational Training Policies in the ministry responsible for Labour. This procedure starts with the submission of the request of the interested party for mediation, and with the failure of the mediation, it continuously derives from the mediation in accordance.

Commencement of Mediation

Communication with the parties to initiate mediation

43) The request for mediation is addressed to the Directorate of Employment and Vocational Training Policies in the ministry responsible for labour, in electronic form or by mail, according to the model defined in Annex 1 of this Instruction. If the request is not complete, the applicant is notified of its completion within three (3) days.

44) The responsible mediator is set in motion to resolve the conflict by the Director of Employment and Vocational Training Policies based on the request for mediation. Upon the receipt of the request for mediation, the responsible person registers the request and opens the case to the RMCLC by appointing and notifying the mediator, who is charged with the case.

45) The mediator appointed to carry out the mediation sends the invitation for a meeting to the other party / parties involved in the conflict. If the invitation is not answered within three (3) working days, this will be considered as non-acceptance of the invitation to resolve the conflict through mediation and the mediation procedure does not start at all. In this case, the mediator prepares a summary of the actions performed by him in the form of a report and forwards it to the Directorate of Employment and Vocational Training Policies and the relevant Reconciliation Office.

46) When the mediation procedure is mandatory, the mediator notifies the parties involved in the conflict and initiates the mediation procedure.

47) After the mediator receives the information on the type of conflict and the characteristics of the parties, the mediator studies the legal basis and verifies his competence for resolving the conflict.

Initiation and development of the mediation procedure

48) At the beginning of the mediation procedure, the mediator is obliged to inform the parties about the goals and principles of the procedure, the role of the mediator and the parties in the process, as well as the advantages of mediation.

49) After the mediator is introduced with the circumstances and data of the dispute submitted by the requesting party, he presents to the other party the essential issues arising from these circumstances.

50) The mediator may meet or communicate with the parties, in joint or separate meetings with each of them, after obtaining their consent on the manner of communication and meetings. In the last joint meeting with the parties, the mediator keeps the minutes of the meeting according to the model defined in Annex 2 of this Instruction.

51) The mediator requests the parties to deposit the documentation and claims related to the collective Labour conflict in the first joint meeting and makes them available to the parties mutually.

52) The mediator creates a separate file for each issue and administers:
   a) all the documents submitted by the parties in the mediation process;
   b) minutes of joint meetings;
   c) the agreement signed by the parties, if one is reached;
   d) report on the mediation process.

53) After the procedure has been completed, the responsible mediator sends the file to the Directorate of Employment and Vocational Training Policies and is archived according to the deadlines and rules provided by the legislation for the preservation of archival documents.

54) The mediator and the parties draft the plan of meetings (separate or joint) in order to carry out the procedure within 10 days.

55) In case the mediator finds that there is a possibility to resolve the conflict by agreement, but the 10 day deadline is insufficient for this purpose, he has the right to propose to the parties a deadline extension of not more than another 10 days. The deadline can be postponed only if both parties give their consent.

56) If before the expiry of the 10-day deadline, the parties declare that they refuse to resolve the conflict through mediation, the mediator considers the mediation procedure closed and failed and informs or makes the parties aware to address the conciliation office.

Completion of the mediation procedure

57) The mediation procedure terminates:
   a) on the day when the dispute settlement agreement is signed;

b) on the day the statement of the mediator in writing is signed, or when it is signed the statement of at least one of the parties wherein has been stated the attempts for further mediation are not justified.

58) In the end of the 10-day mediation deadline, or the additional deadline set, the mediator prepares the report on the mediation procedure according to the model set out in Annex 4 of this Instruction.

59) If the mediation has been successful and the parties have signed an agreement in implementation of bilateral commitments, the mediator sends the mediation report, as well as a copy of the agreement reached, to the Directorate of Employment and Vocational Training Policies in the ministry responsible for labour.

60) In case the mediation has failed, the mediator sends the mediation report to the Directorate of Employment and Vocational Training Policies, as well as to the relevant Reconciliation Office to proceed with the conciliation procedure.

61) The Directorate of Employment and Vocational Training Policies, informs the Minister about the completion of mediation and the result achieved.

Commencement of the conciliation procedure

62) When the mediation process has failed, upon becoming aware of the mediation report, the Chairman of the relevant Conciliation Office immediately sets in motion the Conciliation Office and initiates the conciliation procedure.

63) The Reconciliation Office shall be set in motion as soon as the report prepared by the mediator is submitted to the RMCLC, according to the model provided in Annex 4 of this Instruction. The conciliation office can also be set in motion by receiving the request of the party / s directly by mail after mediation, as well as by receiving the report of the mediator directly by mail.

64) The Office of Reconciliation invites the parties to participate in the process of resolving the conflict amicably.

65) Reconciliation begins only in cases where both parties involved in the collective conflict respond positively to the invitation of the Reconciliation Office.

66) In case the conciliation procedure is mandatory, the Conciliation Office informs the parties and initiates the conciliation procedure. The parties have the obligation to appear at the hearing and to participate in the debates.

Conducting the conciliation procedure

67) The Reconciliation Office holds meetings with the parties in joint or separate sessions. In the last joint meeting with the parties, the Reconciliation Office keeps the minutes of the meeting according to the model defined in Annex 2 of this Instruction.

68) The Conciliation Office informs the parties about the aims and principles of the procedure, the role of the Conciliation Office and the parties in the process and the advantages of conciliation.

69) The Reconciliation Office drafts together with the parties the schedule of meetings to carry out the procedure within the legal deadline.

70) In case the Reconciliation Office finds that there is a possibility to resolve the conflict by agreement, but the 10 day deadline is insufficient for this purpose, it has the right to propose to the parties a deadline extension of not more than 10 days. The term can be extended only if both parties give their consent.

71) The Reconciliation Office has the right to recommend and propose acceptable solutions to the conflict, according to the rules set out in the Decision of the Council of Ministers no. 436, dated 17.5.2017 "On the conciliation procedure and the remuneration of the members of the state conciliation offices."

72) In the end of the conciliation procedure, the Reconciliation Office sends to the Directorate of Employment and Vocational Training Policies the conciliation report, together with the conciliation agreement, in case the conciliation has been successful, according to the model set out in Annex 5 of of this Instruction.

73) For the analysis and administration of the conflict file, the head of the conciliation office at the Regional Employment Directorate in each region is assisted by the specialist in charge of Labour relations and the head of the National Reconciliation Office is assisted by the specialist in charge of Labour relations in the responsible ministry for labour.

74) After the completion of the conciliation procedure, the file is forwarded by the relevant Reconciliation Office at the Directorate of Employment and Vocational Training Policies and is archived according to the deadlines and rules provided by the legislation for the preservation of archival documents.

Mediation / Conciliation Agreement

75) When the parties agree to resolve the conflict between them through mediation or conciliation, they sign the relevant agreement, which is binding to be implemented by the parties.

76) The dispute settlement agreement shall specify:
a) the parties;
b) description of the conflict;
c) the obligations and conditions that the parties impose on each other and the manner of their fulfillment;
d) deadlines for fulfilling the obligations arising from the agreement, and
e) signature of the parties and, as the case may be, of the mediator / members of the Conciliation Office.

77) The mediation / conciliation agreement is drafted in writing according to the model defined in Annex 3 of this Instruction, in three copies, one for each party and one copy deposited with the mediator / conciliation office, which has the obligation to administer each agreement and documentation related to them.

78) Mediation / conciliation agreement in case of disputes related to the implementation, amendment or interpretation of the collective agreement has the value of the Annex to this contract, while in case of disputes related to negotiations for the conclusion of the collective agreement or its renewal, the agreement signed by the parties takes the force of the collective contract, binding to be implemented by these parties.

Monitoring the process and fulfilment of the obligations of the Mediation and Conciliation Agreement

79) The monitoring of the implementation of the mediation or conciliation agreement is done by the State Inspectorate of Labour and Social Services.

80) Monitoring of the mediation and conciliation process is performed by the Directorate of Employment Policies and Vocational Training in the ministry responsible for labour.

Collective Conflict Registration and Management System (RMCLC)

81) The Ministry responsible for labour has a system for registration and management of collective Labour conflicts.

82) The system is administered and managed by the Directorate of Employment and Vocational Training Policies. Administration and updating of system data is done by the employee responsible for system data in the Sector of Social Dialogue and Labour Relations.

83) The system is used by authorized users in the Directorate of Employment and Vocational Training Policies (Social Dialogue and Labour Relations Sector), as well as employees of the Regional Directorates of the National Agency for Employment and Skills, who act as mediators / conciliators for collective labour conflicts.

84) The system contains:
   a) registers of active and closed cases in the mediation and conciliation procedure;
   b) working documents for each issue;
   c) register of intermediaries and conciliation / reconciliation offices;
   d) information on work processes;
   e) search functions;
   f) statistical reports.

85) Upon receiving the request for mediation, the responsible person in the Sector of Social Dialogue and Labour Relations opens in the system the issue of mediation of the collective conflict and appoints the mediator responsible for handling the issue.

86) The mediator reflects in the system the relevant data and documentation.

87) At the end of the mediation term / process, the mediator uploads the mediation report to the system and closes the mediation issue. In case the mediation has been successful, the report and the conflict resolution agreement are uploaded in the system through mediation in scanned PDF format.

88) In case the mediation has failed, the person authorized for the relevant Reconciliation Office (employee responsible for Labour relations who assists the Reconciliation Office for file administration) and the employee responsible in the Directorate of Employment and Vocational Training Policies are notified through the RMCLC system. Upon receipt of the notification of the mediation report, the person authorized for the relevant Conciliation Office notifies the Chairman of the relevant conciliation office and opens the issue of conciliation.

89) The person authorized for the relevant Reconciliation Office reflects in the system the relevant data and documentation.

90) At the end of the conciliation term / process, the person authorized for the relevant Reconciliation Office uploads the conciliation report in the system and closes the case. In case the reconciliation has been successful, together with the report, the conflict resolution agreement with the conciliation in scanned PDF format is uploaded to the system.

91) Order no. 181, dated 06.2018 "On the establishment and mobilization of State Reconciliation Offices", Instruction no. 20, dated 21.06.2018 "On the organization and functioning of the State Mediation Network" and Order no. 180, dated 06.2018 "On the establishment of the State Mediation Network" are repealed.

92) The Directorate of Employment and Vocational Training, the National Agency for Employment and Skills, the State Inspectorate of Labour and Social Services, the State Mediation Network and the State Reconciliation Offices are in charge of the implementation of this Instruction.

This instruction enters into force immediately.

3. to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitration for the settlement of labour disputes;

and recognise:

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

a) *Please provide information on specific measures taken during the pandemic to ensure the right to strike (Article 6§4). As regards minimum or essential services, please provide information on any measures introduced in connection with the COVID-19 crisis or during the pandemic to restrict the right of workers and employers to take industrial action.*

Answer:

Force majeure, not being a clearly defined element in civil law, nor in the Labour Code, presented complications in the moment of difficulty of interpretation, sometimes in favour of the employer and sometimes of the employee. Article 8/3, point c) of the Labour Code provides that it is not called forced Labour: "…any jobs required in case of war or because of major forces, natural disasters, especially in case of fire, floods, starvation, earthquake, epidemics or all circumstances threatening life or normal living conditions of the entire population or of one part of it. … "

In this context it is easily understood that during a state of natural disaster it is permissible to continue the employment relationship and that the employee cannot claim against the employer a violation of rights. However, no other details are given. Thus, it remains unclear in which industries or sectors it will be mandatory to continue the employment relationship and for which categories of employees, as well as to what extent the appearance at work may be required in such cases. At the same time, the "force majeure" in the Labour Code in the context of Labour relations remains undefined. Moreover, the term is quoted again in Article 129 of the Labour Code, related to payments.

Article 21 – The right to information and consultation

With a view to ensuring the effective exercise of the right of workers to be informed and consulted within the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice:

a. to be informed regularly or at the appropriate time and in a comprehensible way about the economic and financial situation of the undertaking employing them, on the understanding that the disclosure of certain information which could be prejudicial to the undertaking may be refused or subject to confidentiality; and

b. to be consulted in good time on proposed decisions which could substantially affect the interests of workers, particularly on those decisions which could have an important impact on the employment situation in the undertaking.

a) *Please provide information on specific measures taken during the pandemic to ensure the respect of the right to information and consultation. Please make specific reference to the situation and arrangements in the sectors of activity hit worst by the crisis whether as a result of the impossibility to continue their activity or the need for a broad shift to*

distance or telework, or as a result of their frontline nature, such as health care, law enforcement, transport, food sector, essential retail and other essential services.

Answer:

Transportation insurance is provided by the companies themselves, taking over by the employers to pay the employees when the businesses are closed.

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

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

a. to the determination and the improvement of the working conditions, work organisation and working environment;

b. to the protection of health and safety within the undertaking;

c. to the organisation of social and socio-cultural services and facilities within the undertaking;

d. to the supervision of the observance of regulations on these matters.

a) *Please provide information on specific measures taken during the pandemic to ensure the respect of the right to take part in the determination and improvement of the working conditions and working environment. Please make specific reference to the situation and arrangements in the sectors of activity hit worst by the crisis whether as a result of the impossibility to continue their activity or the need for a broad shift to distance or telework, or as a result of their frontline nature, such as health care, law enforcement, transport, food sector, essential retail and other essential services.*

Answer:

Pursuant to the Prime Minister's Order no. 153, dated 25.11.2019 “On taking the measures and governing the legal provisions for the application of services only online from the date 1.1.2020 ”and the Order of the Minister of Finance and Economy no. 415, dated 12.12.2019 “On taking the measures to review the relevant legal and sub-legal framework, in order to issue the document on-line and perform applications only on-line, from 1.1.2020” was implemented the application for services in implementation of law 29/2019 on-line.

The Employees' Organization has undertaken a project related to the Empowerment of Women against Covid-19 in the Façon Sector. BiznesAlbania (BA) with the technical support of the

International Labour Organization (ILO) and in partnership with the European Bank for Reconstruction and Development (EBRD) has conducted a survey of several companies to assess the impact of the COVID-19 pandemic on their operations in Albania. A number of 278 enterprises responded to the survey during the period 14-30 April 2020. The survey was conducted based on the ILO Instrument for the Survey of Related Enterprises with the situation caused by COVID-19 for Employers' and Business Membership Organizations. The survey was distributed to member companies of BiznesAlbania.

The data are presented in two dimensions: by overall impact and by sector. The sector analysis includes eight sectors, namely the food and beverage sector, hospitality, retail / sales, construction, textile, leather and clothing products, agriculture / livestock / fisheries, information and communication, transport and transport equipment. Sectors were selected based on the strategic importance of the sector, crisis sensitivity and representativeness in the surveyed sample.

Following the issuance of recommendations, BiznesAlbania has cooperated with the relevant Government Structures to help businesses, realized by the Government through the provision of sovereign guarantee and war salary.

This study is a very good model of how the Government should help businesses in need and a good opportunity for cooperation between them. It incorporates the following 2 objectives:

The first objective is to provide direct financial assistance to 450 women who have always been employed in the façon sector but their employment has been terminated due to the pandemic.

The second objective is to provide technical and financial assistance to selected economies in the façon sector, to implement safeguards and ensure occupational health.

RESC Part I – 26. All workers have the right to dignity at work.

Increased awareness over the last years in respect of harassment and sexual abuse in the framework of work or employment relations provides an opportunity for states to step up action, both in terms of awareness and prevention as well as in terms of repression. As part of the remedial action, there is also a renewed opportunity to encourage the development of a gender dimension in the undertakings governance structures, and that there is a gender perspective in collective bargaining and agreements.

States Parties are required to protect workers respectively from sexual and moral harassment, by taking appropriate preventive and remedial measures. In particular, employers must be liable for harassment involving their employees or occurring on premises under their responsibility, even when third persons are involved. Victims of harassment must be able to seek reparation before an independent body and, under civil law, a shift in the burden of proof should apply. Effective judicial remedies must furthermore allow for adequate reparation for pecuniary and non-pecuniary damage and, where appropriate, reinstatement of the victims in their post, including when they resigned because of the harassment.

During the pandemic, Article 26 of the Charter which guarantees the right of all workers to protection of their dignity at work is also of the utmost importance. Indications are that the COVID-19 situation has led to increased tensions and inappropriate reactions also at the workplace and that in particular healthcare workers and other frontline workers have more often experienced attacks and harassment. The employer must ensure that all workers are protected against all forms of harassment. It must be possible to hold employers liable when harassment occurs in relation to work, or on premises under their responsibility, even when it involves a third person not employed by them, such as visitors, clients, etc.

Article 26 – The right to dignity at work

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

1. to promote awareness, information and prevention of sexual harassment in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct;

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

a) *Please provide information on the regulatory framework and any recent changes in order to combat harassment and sexual abuse in the framework of work or employment relations. The Committee would welcome information on awareness raising and prevention campaigns as well as on action to ensure that the right to dignity at work is fully respected in practice.*

Answer:

With the amendments of the Labour Code in 2015, Article 32 provides the protection of the employee's personality. This article provides:

1. The employer is liable to respect and protect the personality of the employee in work relations, as well as:
   a) take all the necessary measures to guarantee the safety and protection of the mental and physical health of the employees;
   b) take all the necessary measures to stop the moral harassment committed by him and other employees, and shall display the provisions on moral and sexual harassment and the relevant sanctions;
   c) prevents any attitude that violates the dignity of the employee.

2. The employer is prohibited from taking any action that constitutes a sexual harassment for the employees and does not allow such actions to be carried out by other employees. Sexual harassment is any unwanted form of behavior expressed in words or physical and symbolic actions of a sexual nature, which is intended or results in the violation of personal dignity, in particular when it creates a threatening, hostile, humiliating

environment, contemptuous or offensive, carried out by the employer against an employee, a jobseeker for work or between employees.

3. The employer is prohibited from harassing the employee with actions aimed at or resulting in the degradation of working conditions, to such a degree that it may lead to the violation of the rights and dignity of the person, to the impairment of his or her physical or mental health or to the detriment of his/her professional future.
4. Any person who identifies or receives information from an employee who may have been subject to the prejudice of his/her rights under this Article, and in particular of his or her physical and mental health or personal liberty, which may not be justified with the job description or the achievement of specified objectives, must immediately alert the employer or the relevant structures when the person to whom the infringement is addressed is the employee himself/herself.
5. The employer who complains that he/she has been harassed in one of the ways provided in this provision shall present facts proving his harassment and then the person to whom the complaint is addressed shall prove that his/her actions did not aim to harass, and to indicate the objective elements that are not related to harassment or disturbance.
6. An employee complaining that he or she has been harassed in one of the ways provided in this provision or the person signalling such harassment shall not be penalized for this reason, dismissed from work, discriminated, or become victims of sexual harassment and disturbances.

b) *Please provide information on specific measures taken during the pandemic to protect the right to dignity in the workplace and notably as regards sexual, and moral harassment. The Committee would welcome specific information about categories of workers in a situation of enhanced risk, such as night workers, home and domestic workers, store workers, medical staff, and other frontline workers.*

c) *Please explain whether any limits apply to the compensation that might be awarded to the victim of sexual and moral (or psychological) harassment for moral and material damages.*

Answer:

Regarding the handling of denunciations of cases of sexual harassment at work, it presents difficulties, both to be denounced by employees and to be verified. Point 5 of Article 32 of Law no.7961, dated 12.07.1995 "Labour Code of the Republic of Albania" (amended), stipulates that the employee who complains of being harassed must present facts proving the harassment. While these facts are verbal and difficult to document. Even the few denunciations that have been filed have not been able to prove whether there was sexually or morally harassment. Furthermore, the Labour Legislation does not stipulate any legal regulation for compensation, even in cases when it can be proven that we are dealing with sexual or moral harassment of employees.

RESC Part I – 28. Workers' representatives in undertakings have the right to protection against acts prejudicial to them and should be afforded appropriate facilities to carry out their functions.

Article 28 protects workers' representatives in undertakings from dismissal or other prejudicial acts and requires that they are afforded appropriate facilities to carry out their functions. All forms of employee representation, not exclusively trade unions, should benefit from the rights guaranteed by this Article. In order to ensure that such protection is effective, the Charter requires that it extends for a reasonable period (according to the case-law of the Committee, for at least 6 months) after the expiry of the representative's mandate.

Article 28 – The right of workers' representatives to protection in the undertaking and facilities to be accorded to them

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

a. they enjoy effective protection against acts prejudicial to them, including dismissal, based on their status or activities as workers' representatives within the undertaking;

b. they are afforded such facilities as may be appropriate in order to enable them to carry out their functions promptly and efficiently, account being taken of the industrial relations system of the country and the needs, size and capabilities of the undertaking concerned.

a) *With the objective of keeping this reporting exercise focussed, the Committee asks for no specific information in respect of Article 28. Nonetheless, it would welcome information about the situation in practice concerning this right during the pandemic and about measures taken to ensure that the COVID-19 crisis was not used as an excuse to abuse or circumvent the right of workers' representatives to protection, especially protection against dismissal.*

Answer:

Article 148 Collective Dismissal from work provides as follows:

1. The collective dismissal from work shall be considered to be the termination of Labour relations by the employer for reasons that have not to do with the employees, when the number of dismissals from work within 90 days is at least 10 for the enterprises employing up to 100 employees; 15 for the enterprises employing over 100 up to 200 employees; 20 for the enterprises employing over 200 employees.
2. When the employer plans to execute collective dismissals from work, he/she is obliged to inform in writing the employees organization recognized as the representative of the employees. In absence of this, the employer informs his/her employee through advertisements put on the workplace, which can be easily seen. The notice shall contain especially the reasons of dismissal from work, the number of the employees to be dismissed, the number of the employees normally employed, as well as the time during which it is planned to execute these dismissals. The employer submits to the Ministry of Labour and Social Affairs a copy of this notice.
3. The employer makes consultations with the employees organization, recognized as the representative of the employees, for the purpose of reaching an agreement. In absence of this, the employer gives the opportunity to the employees to participate in the

consultations. They are made in order to take measures to avoid or reduce the collective dismissals from work and to soften their consequences. The consultations are made within 30 days, starting on the day of notice as defined by point 2 of this Article, except for the case where the employer accepts a longer duration.

4. The employer informs in writing the respective ministry concerning the completion of the consultations and sends a copy of this notice to the concerned party. If the parties have failed to agree, the respective ministry helps them to reach an agreement within 30 days, starting from the day of notice as defined by this point, except for the case where the employer accepts a longer duration. The Ministry of Labour and Social Affairs can by no means stop the collective dismissals from work.
5. The employer notifies the employees that shall be dismissed, respecting the notification time limits, stipulated in article 143 of this Code, after the expiration of the period determined in paragraph 3 of article, when there is an agreement between the parties and when the respective ministry intervenes, after the expiration of the period stipulated in paragraph 4 of this Article.
6. The employer failing to respect the procedure of the collective dismissals from work as defined by points 1, 2, 3, and 4 of this Article, is obliged to pay the employee a damage, which equals up to six months of salary, and is added to the salary during the notice deadline, or to the damage compensation, which is received in the case where this deadline fails to be respected as defined by Article 143.
7. The employer shall give priority to the reemployment of the employees dismissed from work for reasons that are not related with the employees, if he/she employs employees of comparable qualification.

RESC Part I – 29. All workers have the right to be informed and consulted in collective redundancy procedures.

Under Article 29 the States Parties undertake to establish an information and consultation procedure which should precede the process of collective redundancies. The obligation to inform and consult is not just an obligation to inform unilaterally, but implies that a process (of consultation) be set in motion, meaning that there is sufficient dialogue between the employer and the worker's representatives on ways of avoiding redundancies or limiting their number and mitigating their effects through support measures.

In cases of collective dismissals due to a reduction or change in the company's activities caused by the COVID-19 crisis, due respect must be given to the right that workers' representatives are informed and consulted in good time before the redundancies and that the purpose of such consultations is respected in redundancy procedures, namely that the workers are made aware of reasons and scale of planned redundancies, as well as that the position of the workers is taken into account when their employer is planning collective redundancies, in particular as regards the scope, mode and manner of such redundancies and the extent to which their consequences can be avoided, limited and/or mitigated. The COVID-19 crisis cannot be an excuse for not respecting the important role of social dialogue in finding solutions to the problems caused by the pandemic that also affect the workers. Simple notification of redundancies to workers or their representatives is not sufficient.

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

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

a) *With the objective of keeping this reporting exercise focussed, the Committee asks for no specific information in respect of Article 29. Nonetheless, it requests information about the situation in practice as regards the right to information and consultation in collective redundancy procedures during the pandemic, and about any changes introduced in law modifying or reducing its scope during the COVID-19 crisis.*

Response:

During the Covid-19 pandemic, businesses did not comply with the legal provisions of collective dismissal, but often in agreement between the parties made a partial suspension in the National Business Center, applying for social support for employees or transferring the workforce to businesses that had continuity of work, solvency, supply of goods, etc.