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EUROPEAN SOCIAL CHARTER

20th National Report on the implementation of
the European Social Charter

submitted by

THE GOVERNMENT OF BULGARIA

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

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

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CYCLE 2022

20th NATIONAL REPORT

For the period from 1 January 2017 to 30 December 2020, submitted by the Government of the Republic of Bulgaria to the Council of Europe in accordance with Article C and Article D of the European Social Charter (revised) on the implementation of its adopted provisions

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

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Introduction

This Report has been prepared in consultation with and in cooperation with the competent authorities.

In accordance with Art. C of the European Social Charter (revised) the report is coordinated with the representative organizations of employers and of the workers and the employees.

The report contains information on the application of the following provisions of the ESC (revised): Art. 2, para. 2-7; Art. 4, para. 2-5; Art. 5; Art. 6; Art. 21; Art. 22; Art. 26; Art. 28 and Art. 29.

The Bulgarian national currency is the lev and its exchange rate is fixed to the euro at BGN 1.95583 for 1 euro (0.511292 Euro for 1 lev).

The Bulgarian party remains available for any additional questions or clarifications that may arise in the process of reviewing this Report.

1. Regarding Art. 2 The right to just conditions of work

Paragraph 3 - *the Contracting Parties undertake to provide for a minimum of four weeks' annual holiday with pay.*

The legal regime of paid annual leave is regulated in the Labor Code (LC), the Ordinance on working hours, breaks and holidays (OWHBH) and the Ordinance on wage structure and organization. In the reference period - 01.01.2017 - 31.12.2020 an amendment was made to Art. 155, para. 2 of the LC as the required length of service for the use of the right to leave in taking up office for the first time of a worker or an employee has been reduced from 8 to 4 months.

According to the Conclusions of the previous National report, the Committee has considered that the situation in Bulgaria was in line with Article 2, para. 3 of the Charter by requesting information on whether the employee is guaranteed the opportunity to use two weeks of continuous paid annual leave due for the respective year.

The LC stipulates that paid annual leave shall be allowed to the worker and the employee at once or in parts (Article 172 of the LC). According to Art. 22, para. 2 of the OWHBH, the paid annual leave shall be allowed on the basis of a written request of the worker or the employee to the employer. This means that the employee shall determine the time and duration of leave within the legally or contractually determined duration. Art. 173, para. 3 of the LC stipulates that the employee must use his paid annual leave until the end of the calendar year to which it relates. The employer shall be obliged to allow the paid annual leave of the employee until the end of the respective calendar year, unless its use is postponed by the order of Art. 176 of the LC. In this case, the employee shall be provided with the use of not less than half of the paid annual leave due for the calendar year, i.e. at least two weeks. In this case, too, it is up to the worker and the employee to decide whether the leave should be used in parts or continuously.

Paragraph 6 - *the Contracting Parties undertake 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.*

The legal regime of the employment contract is regulated in the LC.

The conclusions in the previous National report, the Committee through action in a confirmation that the current legislation still contains these requirements.

In the reference period no amendments were made to the legislation presented in the previous National report.

Bulgaria confirms that the employment contract shall be concluded in writing (Article 62, paragraph 1 of the LC. The employment contract shall be concluded between the employee and the employer before the start of the work. (Article 61, paragraph 1 of the LC). The employment contract shall contain data on the countries and determine the place of work; the name of the occupation and the nature of the work; . the date of its conclusion and the beginning of its fulfilment; the duration of the employment contract; the size of the basic and extended paid annual leave and of the additional paid annual leaves; equal term of notice for both parties on termination of the employment contract; the basic and the extra remuneration of permanent nature, as well as the periodicity of their payment, as well as duration of the working day or week (Article 66, paragraph 1 of the LC). In addition,

according to Art. 62, para. 6 of the LC, when concluding the employment contract, the employer shall acquaint the worker ot the employee with the labor obligations arising from the position held or the work performed. In case of any change in the employment relationship, the employer shall be obliged as soon as possible or no later than one month after the entry into force of the change to provide the worker ot the employee with the necessary written information containing information about the changes (Article 66, paragraph 5 of the LC).

2. Regarding Art. 4 – The right to a fair remuneration

Paragraph 2 - *the Contracting Parties undertake to recognize the right of workers to an increased rate of remuneration for overtime work, subject to exceptions in particular cases.*

The legal regime of overtime work is regulated in the LC, the Ordinance on the structure and organization of wages and the Ordinance on working hours, breaks and holidays (OWHBH). For those working in the civil service, the regulation is in the Civil Servants Act (CSA).

According to the Conclusions, the Committee considers that the situation in Bulgaria is in line with Article 4, para. 2 of the Charter. However, the Committee asks whether the leave used instead of increased overtime remuneration is also longer. It also asks what rules apply in the public sector in this regard.

The LC establishes imperatively that overtime work performed shall be remunerated with an increase according to Art. 262 of the LC. This means that it is not permissible to provide leave to compensate for overtime instead of paying increased remuneration. Such rest is regulated in addition to the increased remuneration in cases when overtime work is performed on the two days of the weekly rest in daily calculation of the working time. In these cases, the worker ot the employee shall be entitled, besides to an increased payment of this labour, to uninterrupted rest during the next working week, amounting to no less than 24 hours (Article 153, paragraph 4 of the LC). In the cases under Art. 153, para. 4 of the LC, the order for overtime work for each employee must specify the day on which during the next working week will be used uninterrupted rest of not less than 24 hours (Article 15, paragraph 2 of the OWHBH). The special book for reporting overtime work shall indicate: the three names of the employee, the number of the order for overtime work, the day and time of commencement and completion of work and the amount of remuneration paid to the employee for the provisions of him overtime, as well as the day set for rest.

The provision of Art. 139a, para. 1 of the LC stipulates that for some positions, due to the specific nature of the work, the employer may establish open-ended working hours after consultations with the representatives of the trade union organizations and the representatives of the workers and the employees under art. 7, para. 2. The list of the positions, for which open-ended working hours are established, shall be determined by an order of the employer. The workers and the employees on open-ended working hours shall, if necessary, perform their duties even after the expiry of the regular working hours. (Article 139a, paragraph 3 and 4 of the LC). the total duration of the working hours may not breach the uninterrupted inter-day and inter-week rest, established by the LC. The work on regular working hours on working days shall be compensated by additional annual paid leave, and

work on weekends and legal holidays – by an increased remuneration for overtime work (Article 139a, paragraph 7 of the LC). The additional leave for work on open-ended working hours shall not be less than 5 working days (Art. 156, para 1, item 2 of the LC). It should be borne in mind that the additional leave on open-ended working hours is set at a minimum, and a larger amount can be agreed between the parties to the employment relationship or by collective bargaining agreement (Article 156a of the LC).

With regard to civil servants in Art. 50a of the CSA, it has been established that the work performed by the civil servant outside the working hours established for him is overtime - on weekends and holidays, based on a motivated written order of the appointing authority. The relevant provisions of the Labor Code apply to the admissibility, duration, reporting and payment of overtime. If necessary, for the performance of duties outside working hours on working days, the civil servant shall be entitled to additional paid annual leave of up to 12 days. In these cases, a requirement has been established not to disturb the inter-day and inter-weekly rest. The procedure for the performance of duties outside working hours and the manner of specifying the amount of additional leave shall be determined by the appointing authority. (Article 50 of the CSA).

Paragraph 3 - the *Contracting Parties undertake to recognize the right of men and women workers to equal pay for work of equal value.*

The legal regime of the right to equal pay for equal work for men and women is established in the LC, the Protection against Discrimination Act and the Ordinance on wage structure and organization. In the reference period no amendments were made to the legislation presented in the previous National report.

The Committee concludes that the situation in Bulgaria is not in line with Article 4 (3) of the Charter on the grounds that there is a predetermined upper limit on the compensation of staff dismissed as a result of sex discrimination, which may prevent the benefit from compensate for the loss suffered and be sufficiently dissuasive.

At present there is no change in Art. 225, para. 3 of the LC on the right to compensation of the worker or the employee in cases of unlawful dismissal for the period of unemployment, but not more than 6 months. However, attention should be paid to the provision of Art. 344, para. 4 of the LC, which provides for shortened deadlines during which the court must consider the claim of the employee in case of unlawful dismissal - labor disputes (including those related to the recognition of dismissal as unlawful and its cancellation) are considered by the district court in three months from the receipt of the claim and from the district court as a second instance - within one month from the receipt of the appeal. In this regard, we believe that the legislation provides guarantees for the timely consideration of claims filed by workers in order to ensure their adequate protection and in this regard, the compensation for a period of 6 months is adequate. The amount of compensation introduced also encourages the dismissed person to actively seek work and also aims to reduce the possibility of abuse of rights in a possible lawsuit. Thus, in court proceedings for declaring the dismissal unlawful, the employee will be interested in a speedy resolution of the dispute and will have no motive to harass the trial.

We note that the purpose of Art. 225 of the LC is to compensate the worker or the employee for the damage caused by the missed opportunities for remuneration due to their unlawful dismissal. In essence, this is compensation for lost profits. If the employee has suffered damage on other grounds, including discrimination, he has the opportunity to seek

compensation for them under the general civil law and/or through the mechanisms provided for in the Protection against Discrimination Act.

In this regard, the worker and the employee has the right to claim compensation for non-pecuniary damages, which according to the Obligations and Agreements Act (OCA) is not limited in time and amount. The court may award compensation for non-pecuniary damage suffered as a direct and immediate consequence of the tort.

The protection in the exercise of the right to work under the Protection against Discrimination Act is carried out under the procedure of out-of-court proceedings by the Commission for Protection against Discrimination. The Commission for Protection against Discrimination shall establish violations of this or other laws regulating equality of treatment, order prevention and cessation of the violation and restoration of the original situation, impose the envisaged sanctions and apply measures for administrative coercion. Whoever commits discrimination within the meaning of this law shall be punished by a fine of BGN 250 to BGN 2,000, unless subject to a more severe penalty, and property sanctions of up to BGN 2,500 shall be imposed on legal entities. Penalties shall be imposed by a decision of the Protection Commission from discrimination, which can be appealed under the Administrative Procedure Code.

Special attention should be paid to the fact that criminal liability shall also be provided to a person who intentionally impedes another to take a job, or compels him to leave a job because of his nationality, race, religion, social origin, membership in a trade union or another type of organization, political party, organization, movement or coalition with political objective, or because of his or of his next-of-kin political convictions. The punishment shall be deprivation of liberty of up to three years or a fine of up to BGN 5,000. (Article 172, paragraph 1 of the Criminal Code).

In this regard, we believe that deterrence mechanisms are regulated in accordance with national law and practice.

It should be noted that the Commission for Protection against Discrimination does not have the power to award compensation. In the provisions of Art. 71-74 of the Protection against Discrimination Act stipulates that compensation for damages may be sought by any person in the general court order, when his rights under this or other laws governing equality of treatment are violated. The compensation in this case shall not be limited by law.

In addition to the above compensations for lost profits and damages, which are awarded under the Code of Civil Procedure (and in this sense by the same judicial authority), the employee shall beentitled to unemployment benefits under the terms and conditions of the Code for social security.

The Labor Code regulates, in addition to the right to compensation for unlawful dismissal, the right of the worker and the employee to be reinstated.

According to Art. 345, para. 1 of the LC, when the worker and the employee is reinstated by the employer or the court, he may take it if he appears at work within two weeks of receiving the notice of reinstatement, unless this period is not met for valid reasons.

In Art. 172, para. 2 of the Criminal Code provides for criminal liability for an official who fails to carry out an order or a court decision that has entered into force for re-instating at work of a wrongly dismissed worker or employee. The punishment shall be deprivation of liberty for up to three years.

In its conclusions on the latest National report, the Committee recalls that, in accordance with Article 4 (3) of the Charter, domestic law must provide for appropriate and

effective remedies in the event of alleged pay discrimination. Employees who claim to have been discriminated against must be able to bring their case to court. Domestic law must provide for a change in the burden of proof in favor of the claimant in discrimination cases. The Committee asks whether there is a change in the burden of proof in cases of gender discrimination.

According to Art. 8 of the LC in the exercise of labor rights and obligations does not allow direct or indirect discrimination based on ethnicity, origin, sex, sexual orientation, race, skin color, age, political and religious beliefs, membership in trade unions and other public organizations and movements, marital and financial status, the presence of mental or physical disabilities, as well as differences in the term of the contract and the length of working hours. Women and men have the right to equal pay for equal or equal work (Article 243, paragraph 1 of the LC). The determination and calculation of the remuneration of workers and employees is carried out in accordance with the above requirements and in compliance with the rules established by the Ordinance on wage structure and organization (OWSO). It should be borne in mind that the organization of wages in enterprises is regulated in the internal rules on wages (Article 22, paragraph 1 of the OWSO). Discriminatory criteria should not be set when regulating the organization of wages and when determining rules and procedures for determining individual wages.

It is important to note that employment contracts are concluded in writing and their content is explicity defined (Art. 66 of the LC). The employer is obligated to provide the worker or the employee before starting work with a copy of the employment contract signed by both parties and a copy of the certified notice, which the employer is obligated to send to the National Revenue Agency, within three days from the conclusion of the employment contract.

In the event of change in the employment relationship, the law also requires, with the written consent of the parties and in certain cases, the sending of a notification to the National Revenue Agency. The full information of the worker or the employee regarding his/her individual employment relationship and the general rules that apply to all workers or employees in the company allows individuals to assess for themselves wether equal woruing conditions are provided and in case of doubt to bring the question to the employer, the trade union organization of which they are a member, the supervisory authorities or the court.

Therefore, when the worker or the employee considers that there is discrimination in the way of forming the salary, the employer should prove that the internal rules do not set discriminatory criteria, incl. and in terms of ethnicity, gender, sexual orientation, etc. Explicitly in Art. 9 of the Protection against Discrimination Act, it is established that in proceedings for protection against discrimination, after the party claiming to be discriminated against has presented facts on the basis of which it can be assumed that there is discrimination, the respondent must to prove that the principle of equal treatment has not been violated.

It is evident from the above that in these cases there is an inverted burden of proof, in which the employer should substantiate with appropriate evidence the lawful formation of wages.

Paragraph 4 - the *Contracting Parties undertake to recognize the right of all workers to a reasonable period of notice for termination of employment.*

The legal regime of the right to notice is established and regulated in the LC. In the reference period no amendments were made to the legislation presented in the previous National report.

In its conclusions on the latest nNational report, the Committee considers that the situation in Bulgaria is not in line with Art. 4 (4) of the Charter, on the grounds that:

1. the application of a 30-day notice period is not adequate in the following cases:

o dismissal with application of the legal notice period, with more than three years of service;

o dismissal in some cases of redundancy (Art. 328, para. 1, items 1-4, 7 and 8 of the Labor Code), with more than five years of service;

o dismissal due to long-term illness or incapacity for work due to health reasons (Art. 325, para. 1, item 9 and Art. 327, para. 1, item 1 of the Labor Code), with more than seven years of service;

o dismissal due to retirement of a worker with seven to ten years of service;

o dismissal in respect of additional jobs after six months of service;

2. no notice period is provided in the following cases:

o termination of employment when the employee is detained for the execution of a sentence; disqualification from the category or academic diploma required by the employment contract; dropping out of the list of a professional association; existing incompatibility of the functions identified under Article 107, para. 1 of the LC; proven conflict of interest within the meaning of the Anti-Corruption and Confiscation of Unlawfully Acquired Property Act;

o in specific circumstances, termination of the probationary period.

In the reference period no amendments were made to the legislation, on the basis of which the conclusions for non-compliance were made.

The Labor Code regulates the hypotheses under which it is possible to terminate the employment contract of the worker/the employee. In certain circumstances, the termination of the employment contract takes place without notice from the employer. In this regard, it is explicitly provided that a notice is not due when: the worker or the employee is detained for the execution of a sentence; the scientific degree shall be revoked from the worker/the employee if the conclusion of the employment contract has taken place in view of the acquired degree; the employee has been deleted from the registers of certain professional organizations; there is an incompatibility for appointment in the state administration and when a conflict of interest is established by an act that has entered into force. In these cases there are objective circumstances that impede the implementation of the employment contract, which are related to the personality of the worker/the employee and the termination of the employment contract is not at the discretion and in accordance with the will of the employer. In this regard, there is no reason to provide notice of termination of the employment contract, as long as the employer has no reason to allow the worker/the employee to perform the work, respectively to pay compensation for non-compliance with the notice.

In view of the above in the last National report, it should be emphasized that a collective bargaining agreement may in some cases of dismissal extend the notice period

for termination of employment (under Article 326, paragraph 2 of the Labor Code), depending on of the length of service of the employee with the same employer, as well as to increase the period of compensation provided for in certain cases of dismissal (Article 222, paragraph 1 of the Labor Code), the Committee requires the next report to provide information where appropriate, supported by examples, on the implementation and possible extension of such agreements or relevant clauses in practice.

Examples of the above are presented in Appendix 2, an integral part of this report.

The Committee also requests information on the periods of notice and/or compensation for non-compliance with applicable notices applicable to grounds for termination of employment other than dismissal (when an election term ends or is revoked; an employment contract is declared invalid; disability or death of the employer who is a natural person, etc.); to seafarers governed by the Merchant Shipping Code of 14 July 1970 (№ 55/1970); and until the termination of the duties of civil servants and employees regulated by the Civil Servants Act of 16 June 1999 (№ 67/1999).

The employment relationship arising from the election shall be terminated upon the expiration of the term for which the person has been elected. If no new election is made at the end of this period, the employment relationship shall continue until it is made. The grounds for termination of the employment contract shall apply accordingly to the termination of an employment relationship arising from an election, with the exception of the disciplinary dismissal. It should be noted that the employment relationship arising from an election may be terminated without notice by the relevant electorate (Articles 337, 338, 339 of the LC). In essence, the employment relationship, which arose on the basis of choice, is fixed-term, and the employee at the time of its establishment is aware of the moment when it should be terminated. Due to the nature of this type of legal relationship, it is not possible to provide notice of termination, as its nature does not imply the possibility of continuing to work after the objectification of the will of the electorate to terminate the relationship.

In the event of the death of the employer, who is a natural person, the employment relationship is terminated without any of the parties having to give notice. This is because the worker/the employee has concluded the employment contract in view of the personality of the employer (Article 325, paragraph 1, item 10 of the LC). In view of the fact that the employment contract in this case is entirely Intuitu personae, the death of one of the parties to the employment relationship creates an objective obstacle to the continuation of the work of the employee, incl. and for a certain period in which to give notice of its termination.

The Labor Code stipulates that the employment contract shall be declared null and void only by a court, in case the employment agreement is null and void due to the appointment of an employee who has not reached the age required under the LC, the nullity shall be declared by the labour inspection. The parties to the employment contract shall not owe notice, as the contract is considered not to have arisen from the moment of its conclusion. It should be noted that in the event that the employment agreement is declared null and void and the employee has acted in good faith when concluding it, the relationship between the parties to the contract prior to the moment of declaration of its nullity shall be

regulated in the same manner as with a valid employment agreement. (Articles 74 and 75 of of the LC).

The notice period for members of the ship's crew (seafarers) under the Merchant Shipping Code (MSC) in the event of termination of an employment contract for an indefinite period is 30 days, unless the parties have agreed a longer period, but not more than three months. The term of the notice for early termination of a fixed-term employment contract is 30 days, but not more than the rest of the term of the contract (Art. 88b, para 6). The MSC refers to the unsettled in it and in the ordinance under Art. 88b, para. 1 of the MSC issues related to labor and directly related relations between crew members and service personnel of a ship flying the Bulgarian flag and the shipowner, to the rules of current Bulgarian labor legislation (Article 88e MSC).

The term for notice under the Civil Servants Act (CSA) in case of unilateral termination by the appointing authority with notice shall be 1 (one) month (Article 106, paragraph 1 of the CSA). The grounds for termination of employment with notice are:

1. upon closure of the administration in which the civil servant has been appointed;
2. in case of reduction of the position;
3. in case of acquired right to a pension for insurance length of service and age;

4 when the employment relationship has arisen after the appointed civil servant has acquired and exercised his right to a pension for insurance length of service and age, including when he has exercised his right to a pension for insurance length of service and age in a reduced amount under Art. 68a of the Social Insurance Code.

When a civil servant is dismissed in the event of the closure of the administration and in the event of dismissal, he shall be entitled to compensation for the time during which he has lost his job, but not for more than two months. An act of the Council of Ministers may provide for compensation for a longer period. If within this term the civil servant has entered another civil service with a lower salary, he shall be entitled to the difference for the same term (Art. 106, para. 2 of the CSA). In cases of termination of pension, the civil servant shall be entitled to compensation in the amount of 50 percent of his monthly basic salary, determined at the time of termination of employment, for each year of service as a civil servant, but not more than 10 monthly basic salaries. If at the time of termination of employment the civil servant has worked in the same administration in the last 10 years, he shall be entitled to receive 6 monthly basic salaries, and when he has worked less than 10 years - 2 monthly basic salaries, when this is -favorable for him. This benefit can only be received once. The compensation is also due in the cases when the employment relationship has been terminated unilaterally by the civil servant or by mutual consent and at the moment of termination the civil servant has acquired the right to a pension for length of service and age. The compensation is not due when the civil servant has received compensation due to the acquisition of the right to a pension on the basis of a special law.

In case of non-observance of the term of notice by the body for appointment of the civil servant, compensation in the amount of the basic salary shall be due for the non-observance of the term of the notice (Art. 106, para 4 of the CSA).

Paragraph 5 - *the Contracting Parties undertake to permit deductions from wages only under conditions and to the extent prescribed by national laws or regulations or fixed by collective bargaining agreements or arbitration awards.*

In connection with the conclusion of the Committee that after all allowed deductions the salaries of the workers with the lowest salaries do not allow them to support themselves and their families, it should be noted that according to Art. 272, para. 2 of the LC, the total amount of the monthly deductions from the remuneration of the employee may not exceed the amount established by the Civil Procedure Code (CPC). Art. 446, para. 1 of the CPC stipulates that if the implementation is aimed at remuneration or any other remuneration for work, as well as on a pension the amount of which is above the minimum wage, only:

1. if the convicted person receives a monthly remuneration in the amount between the minimum wage and twice the amount of the minimum wage - one third part, if he is without children, and one quarter part, if he is with dependent children;

2. if the convicted person receives a monthly remuneration in the amount between twice the amount of the minimum wage and four times the amount of the minimum wage - one second part, if he is without children, and one third part, if he has dependent children;

3. if the convicted person receives a monthly remuneration in the amount of more than four times the amount of the minimum wage - the excess over twice the amount of the minimum wage, if without children, and the excess over twice and half the amount of the minimum wage, if with children, which endures.

The monthly remuneration shall be determined after deducting the taxes and compulsory social security contributions due on it.

Regarding Art. 5 – The right to organize - *the Contracting Parties undertake that national law and its application shall not be such as to impair, nor shall it be so applied as to impair, this freedom to form local, national or international organizations for the protection of their economic and social interests and to join those organizations.*

The legal regime of the right of workers and employees to organize is regulated in the LC, and the protection against discrimination - in the Protection against Discrimination Act.

According to the Conclusions of the previous National report, the Committee considered that the situation in Bulgaria was not in line with Article 5 of the Charter as the first legislation did not provide adequate compensation in proportion to the damage suffered by victims of discriminatory dismissal on the basis of trade union participation. activities and secondly, the right of foreign workers to form or participate in trade unions is subject to prior authorization .

In the reference period in the current legislative framework described in the previous report, no changes were made in relation to these issues, but below are reasons for disagreement with the conclusions made:

At present there is no change in Art. 225, para. 3 of the LC on the right to compensation of the employee in cases of unlawful dismissal for the period of unemployment, but not more than 6 months. Attention should also be paid to the provision of Art. 344, para. 4 of the LC, which provides for shortened deadlines during which the court should consider the employee's claim in case of unlawful dismissal - labor disputes

(including those related to the recognition of dismissal as unlawful and its cancellation) are considered by the district court within three months from the receipt of the claim and from the district court as a second instance - within one month from the receipt of the appeal. In this regard, we find that the legislation provides guarantees for the timely consideration of claims filed by workers in order to ensure their adequate protection and in this regard the compensation for a period of 6 months is adequate. The amount of compensation introduced also encourages the dismissed person to actively seek work and also aims to reduce the possibility of abuse of rights in a possible lawsuit. Thus, in court proceedings for declaring the dismissal unlawful, the employee will be interested in a speedy resolution of the dispute and will have no motive to harass the trial.

We note that the purpose of Art. 225 of the LC is to compensate the worker/the employee for the damage caused by the missed opportunities for remuneration due to his unlawful dismissal. If the worker/the employee has suffered damage on other grounds, including discrimination, he has the opportunity to seek compensation for them under the general civil law and/or through the mechanisms provided for in the Protection against Discrimination Act.

In this regard, the employee has the right to claim compensation for non-pecuniary damages, which according to the Obligations and Agreements Act (OCA) is not limited in time and amount. The court may award compensation for non-pecuniary damage suffered as a direct and immediate consequence of the tort.

The protection in the exercise of the right to work under the Protection against Discrimination Act is carried out under the procedure of out-of-court proceedings by the Commission for Protection against Discrimination. The Commission for Protection against Discrimination establishes violations of this or other laws governing equality of treatment, identifies the perpetrator and the person concerned, orders prevention and cessation of the violation and restoration of the original situation, imposes sanctions and applies measures of administrative coercion. Whoever commits discrimination within the meaning of this law shall be punished by a fine of BGN 250 to BGN 2,000, unless subject to a more severe penalty, and property sanctions of up to BGN 2,500 shall be imposed on legal entities. Penalties shall be imposed by a decision of the Protection Commission from discrimination, which can be appealed to the court under the Administrative Procedure Code. It should be noted that the Commission for Protection against Discrimination does not have the power to award compensation.

The provisions of Art. 71-74 of the Protection against Discrimination Act stipulate that compensation for damages may be sought by any person in the general court order, when his rights under this or other laws governing equality of treatment are violated. The compensation in this case shall not be limited by law.

In addition to the above benefits for lost profits and damages, which are awarded under the Code of Civil Procedure (and in this sense by the same judicial authority), the worker/the employee shallne entitled to unemployment benefits under the terms and conditions of the Code for social security.

The Labor Code regulates, in addition to the right to compensation for unlawful dismissal, the right of the worker/the employee to be reinstated. According to Art. 345, para. 1 of the LC, following the reinstatement of the worker/the employee to his previous position by the employer or a court he may assume the position provided he reports to work

within 2 weeks of receipt of the reinstatement notice, unless this term be exceeded for valid reasons only.

With regard to the right of foreign workers to create and participate in trade unions, it should be noted that according to Art. 4, para. 1 of the LC, the workers and the employees are entitled, with no prior permission, to freely form, by their own choice, trade union organizations to join and leave them on a voluntary basis, showing consideration for their statutes only. This applies to all persons who are in employment, including foreign workers employed in Bulgaria. With an amendment from 2020 of the LC (SG, issue No. 107/2020) Article 10 establishes that this Code shall apply to the employment relationship between an employer and a worker/an employee with a place of work in the Republic Bulgaria, insofar as not provided otherwise in a law or a treaty in force for the Republic of Bulgaria.

In addition Art. 8, para. 3 of the LC explicitly provides that in exercising labour rights and duties no direct or indirect discrimination shall be allowed on grounds of affiliation to trade union and other public organizations and movements. In this regard, foreign workers can exercise their labor rights, including trade union rights, without being subject to direct or indirect discrimination.

In addition, the final report requested information on:

- compensation for discrimination on the grounds of affiliation to trade union or activities in matters other than dismissal

The protection in the exercise of the right to work under the Protection against Discrimination Act is carried out under the procedure of out-of-court proceedings by the Commission for Protection against Discrimination.

In the provisions of Art. 71-74 of the Protection against Discrimination Act stipulates that compensation for damages may be sought by any person in the general court order, when his rights under this or other laws governing equality of treatment are violated. The compensation in this case shall not be limited by law.

- whether legislative measures have been taken or envisaged to ensure adequate protection against acts of interference by employers' organizations with regard to the activities of trade unions , including rapid appeal procedures. The Committee wishes to receive comments from the Government on the said source (Observation (CEACR) - adopted 2011, published 101st ILC session (2012) Right to Organize and Collective Bargaining Convention, 1949 (No. 98) - Bulgaria (Ratification: 1959), according to which national legislation does not contain provisions protecting workers' organizations against acts of interference in the formulation of their statutes, the election of representatives and the adoption of their action programs.

The Labor Code stipulates that trade unions and employers' organizations have the right within the law to draft and adopt their own statutes and rules of procedure, to freely elect their own bodies and representatives, to organize their own management, and to adopt programs. for its activity. Trade unions and employers' organizations are free to define their functions and carry them out in accordance with their statutes and the law (Article 33 of the LC).

In Art. 49, para. 1 of the LC explicitly regulates the acquisition of quality of legal entities of trade unions and employers' organizations. This guarantees their individualization, independence and security in the participation of these organizations in the civil turnover. It provides an opportunity for organizations to have independent rights

and obligations, including participating in litigation. In 2018, changes were made to Art. 49 of the LC, as it is provided that trade unions and employers' organizations are entered in a special register at the district courts at their seat. The amendments made to Art. 49, para. 1 of the LC (promulgated in SG, issue № 59 of 2018) create a unified legal system regarding the registration of these organizations. This helps to take into account the specifics and social significance of their activities, creating security between the parties involved in tripartite cooperation and in the process of collective bargaining.

Art. 49, para. 2 of the LC provides for a simplified procedure for acquiring the quality of a legal entity by divisions of trade unions and employers' organizations. This is done in accordance with the statutes of the respective organization, thus ensuring the right of trade unions and employers' organizations within the law to draft and adopt their own statutes and rules of operation, to freely elect their bodies and representatives, to organize their management, as well as to adopt programs for their activities.

- the criteria for representativeness and their application in practice.

Accordig to Art. 35 of the LC, a representative organization that meets the following requirements is recognized as a representative organization of workers and employees at national level:

1. having at least 50 thousand members;

2. having organizations of the workers and the employees in more than a quarter of the activities defined by code up to the second character of the Classification of Economic Activities, approved by the National Statistical Institute, with members not less than 5 per cent of the workers and the employees in each economic activity or at least 50 organizations with not less than 5 members in each economic activity;

3. having local bodies in more than a quarter of the municipalities in the country and a national governing body;

4. having the quality of a legal entity, acquired by the order of Art. 49, para. 1 at least three years before the submission of the application for recognition of representativeness. (Article 34 of the LC).

An organization that meets the following requirements is recognized as a representative organization of employers at national level:

1. havingat least:

(a) 1,500 members and a total of at least 50,000 employees in all members of the employers' organization, or

(b) 100 000 employees on a contract basis, in all members of the employers' organization;

2. having employers' organizations in more than one quarter of the activities defined by code up to the second sign of the Classification of Economic Activities, approved by the National Statistical Institute, with not less than 5 per cent of the persons insured under employment contract in each economic activity or 10 members in each economic activity;

3. having local bodies in more than a quarter of the municipalities in the country and a national governing body;

4. having the quality of a legal entity, acquired by the order of Art. 49, para. 1 at least three years before the submission of the application for recognition of representativeness;

The organizations of employees and employers are recognized at their request as representative by the Council of Ministers for a period of 4 years. The last procedure for recognizing employees' and employers' organizations as representative at national level was conducted in 2020, with 2 (two) trade unions and 5 (five) employers' organizations being recognized as nationally representative at national level. The Chairman of the National Council for Tripartite Cooperation announces in the State Gazette the beginning of a procedure for recognition of representativeness 6 months before the expiration of the 4-year term from the previous procedure. Organizations of employees and employers who wish to be recognized as representative shall submit their requests within four months from the date of publication of the notice. In establishing the existence of the criteria for representativeness, the following principles shall be observed: equality in the assessment of the criteria for representativeness and the existence of a social mandate; transparency of the procedure for establishing the existence of the criteria for representativeness under Art. 34 and 35 of the LC; ensuring the veracity of primary information; mutual control in establishing the existence of the criteria for representativeness.

The Council of Ministers shall issue a decision within two months from the receipt of a regularly made request by an interested organization. All divisions of an organization recognized as representative at national level are also recognized as representative. The refusal of the Council of Ministers to recognize an organization of employees or employers as representative shall be motivated and communicated to the interested organization within 7 days of its adoption. The interested organization may appeal the refusal before the respective administrative court under the Administrative Procedure Code (Article 36 of the LC).

4. Regarding Article 6 – The right to bargain collectively

Paragraph 1 - *the Contracting Parties undertake to promote joint consultation between workers and employers;*

According to the Conclusions of the previous National report, the Committee has considered that the situation in Bulgaria was not in line with Article 6 § 1 of the Charter, as it had not been established that there were joint advisory bodies in the civil service. The Committee urges the government to keep abreast of any developments in public service reform.

The legal regime for concluding collective bargaining agreements in the state administration is established and regulated in the Civil Servants Act (CSA).

In 2016, an amendment was made to the CSA (SG, issue № 57 of 2016) and a new provision was created regulating the cooperation with trade unions. According to Art. 46a, the structure, scope and forms of cooperation are regulated by the CSA with an agreement between the trade unions of civil servants and the Council of Ministers. The procedure for concluding the agreement and the criteria for trade unions are determined by an ordinance of the Council of Ministers. All drafts of normative acts related to official legal relations are coordinated with the trade unions of civil servants.

An example of successful consultations between employees and employers in the public sector are collective bargaining agreements in the fields of education, healthcare, defense, etc.

Appendices № 2, 3 and 4 to this report provide examples of collective bargaining agreements.

Paragraph 2 - *the Contracting Parties undertake to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organizations and workers' organizations, with a view to the regulation of terms and conditions of employment by means of collective bargaining agreements.*

The legal regime of the mechanism for voluntary negotiations between employers or employers' organizations and workers' organizations with the conclusion of collective bargaining agreements is regulated in the LC.

According to the Conclusions of the previous National report, the Committee considered that the situation in Bulgaria was not in line with Article 6 § 2 of the Charter, as the Machinery for Voluntary Negotiations was not sufficiently promoted.

The latest amendments to the LC (SG, issue № 107 of 2020) improve the regulations regarding social dialogue and collective bargaining. Explicitly regulate (Article 2a of the LC) the obligation of the state to promote social dialogue and bilateral cooperation between the social partners and the goals to which efforts in this area should be directed. In addition to Art. 3c, para. 1 of the LC, the range of issues on which the opinion of the National Council for Tripartite Cooperation may be requested has been expanded.

With the amendments to the LC of December 2020, changes were made in the field of collective bargaining, which aim to renew the interest in it, respectively to increase and encourage the creation and membership of trade unions. With an amendment to Art. 57 of the LC regulates the possibility of including a clause in the collective employment contract regarding the accession contribution of the workers and the employees who are not members of the trade union organization, party to it. The inclusion of such a clause must not be contrary to or circumvent the law or prejudice good morals, in order to guarantee equal rights for trade union members and employees who wish to benefit from more favorable arrangements without join the union that signed the contract. This will stimulate the conclusion of collective bargaining agreements by facilitating the negotiation process and the implementation of agreed commitments.

It regulates the possibility through collective bargaining agreements at branch and branch level to establish a reference period for calculating the weekly working time longer than 4 months, but not more than 12 months, as well as the possibility to agree in a collective employment contract maximum duration of overtime work up to 300 hours per year. These opportunities aim to increase the interest of employers in concluding collective bargaining agreements, respectively to encourage the creation and membership of trade unions.

The procedure for extending the concluded branch or branch collective bargaining agreements has been improved (Article 51b of the LC). The extension takes place at the general request of the parties to the collective bargaining agreement concluded at sectoral or branch level, addressed to the Minister of Labor and Social Policy, without the need for the collective bargaining agreement itself to be concluded between all representative organizations of employees and employers in the industry or branch. In order to ensure mutual respect for the interests and consensus in taking these actions, the Minister of Labor and Social Policy will be obliged to seek the opinion of all representative organizations of employees and employers at national level. The regulation of a clear dissemination procedure aims to guarantee the rights of stakeholders. The change in the procedure will

help implement the dissemination mechanism, which aims to increase the coverage of collective bargaining, to provide more favorable working conditions for more employees, and to ensure a fairer competitive environment between employers.

In its conclusions, the Committee raises the following issues:

- whether the social partners have been consulted or engaged before the sectoral collective bargaining agreement is extended.

The latest amendments to the LC (SG, issue № 107 of 2020) improve the legislation regarding the procedure for extending the concluded collective bargaining agreements in industries and branches (Article 51b of the Labor Code). The extension takes place at the general request of the parties to the collective bargaining agreement concluded at sectoral or branch level, addressed to the Minister of Labor and Social Policy, without the need for the collective bargaining agreement itself to be concluded between all representative organizations of employees and employees. employers in the industry or branch. In order to ensure mutual respect for the interests and consensus in taking these actions, the Minister of Labor and Social Policy will be obliged to seek the opinion of all representative organizations of employees and employers at national level. The regulation of a clear dissemination procedure aims to guarantee the rights of stakeholders. Due to the fact that the extended collective bargaining agreement or its individual clauses have effect on employees working in enterprises covered by the industry or branch, it is envisaged that the extension will be carried out by order of the Minister of Labor and Social Policy published in the unofficial section of the State Gazette (Art. 51b, para. 6 of the LC). The extended collective employment contract or its individual clauses will be published on the website of the Executive Agency “General Labour Inspectorate” within three days after the Minister's order for its extension has been published (Article 51b, paragraph 7 of the LC). The change in the procedure will help implement the dissemination mechanism, which aims to increase the coverage of collective bargaining, to provide more favorable working conditions for more employees, and to ensure a fairer competitive environment between employers.

- whether there are new developments regarding the legal regulation of collective bargaining agreements in public administration

In 2016, an amendment was made to the Civil Servants Act (SG, issue № 57 of 2016) and a new provision was created regulating the cooperation with trade unions. According to Art. 46a of this Act , the structure, scope and forms of cooperation are regulated by the CSA with an agreement between the trade unions of civil servants and the Council of Ministers. The procedure for concluding the agreement and the criteria for trade unions are determined by an ordinance of the Council of Ministers. All drafts of normative acts related to official legal relations are coordinated with the trade unions of civil servants.

An example of successful consultations between employees and employers in the public sector are Collective bargaining agreements in the fields of education, healthcare, defense, etc.

Appendices № 2, 3 and 4 to this report provide examples of collective bargaining agreements.

Paragraph 3 - *the Contracting Parties undertake to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitration for the settlement of labour disputes.*

The procedures for conciliation and voluntary arbitration for resolving labor disputes are regulated in the Collective Labour Dispute Resolution Act (CLDRA).

The Committee concludes that the situation in Bulgaria is not in line with Article 6 § 3 of the Charter on the grounds that there is no conciliation or arbitration procedure in the civil service.

In 2016, an amendment was made to the Civil Servants Act (SG, issue №57 of 2016) by creating a new provision regulating the right of civil servants to strike, with the exception of senior civil servants, senior officials who hold positions Secretary General, Secretary of the Municipality, Director General of the Directorate General, Director of the Directorate and Head of the Inspectorate). The right to strike is exercised under the terms and conditions of the Collective Labour Dispute Resolution Act and therefore the provisions governing the settlement of the collective labor dispute through negotiations, mediation and/or voluntary arbitration by trade unions and employers' organizations and/or by National Institute for Conciliation and Arbitration (NICA).

Paragraph 4 - *the Contracting Parties recognize 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 bargaining agreements previously entered into.*

The Committee concludes that the situation in Bulgaria is not in line with Article 6 § 4 of the Charter for the following reasons:

- Civilian personnel of the Ministry of Defense have been denied the right to strike.

According to Art. 16, item 6 of the Collective Labour Dispute Resolution Act, in the system of the Ministry of Defense, the Ministry of Interior , the judiciary, the prosecutor's office and the investigative bodies, the State Intelligence Agency and the National Security Service are not allowed to strike.

- the restriction of the right to strike in the railway sector under section 51 of the Railway Transport Act does not meet the conditions set out in Article G.

In the railway sector the right to strike is regulated, in compliance with the provisions of Art. 51 of the Railway Transport Act prerequisite - workers and their employers-carriers to provide satisfactory transport services to the population *not less than 50 percent of the volume of traffic before the strike* . Under the provisions of Chapter III, Article 14, paragraph 1, item 2 of CLDRA, workers and employers are required to reach *a written agreement* to ensure conditions for implementation during the strike activities satisfactory transport services to the population in accordance with the provision of Article 51 of the Railway Transport Act (RTA). The written agreement should be concluded at least 3 days before the beginning of the strike (Art. 14, para 2 CLDRA). In the event that the parties do not reach an agreement, each of them may request from the National Institute for Conciliation and Arbitration (NICA) that the dispute be resolved by a sole arbitrator or an arbitration commission. Within 3 working days of receiving the request, the director of the institute shall appoint a sole arbitrator or an arbitration commission composed of arbitrators included

in the list under Article 4a, paragraph 7, item 5 of CLDRA. Within 7 days of its determination, the arbitral tribunal shall consider and resolve the dispute to ensure the minimum necessary activities during the strike.

Therefore, the right to strike in the railway sector is guaranteed, while providing legal guarantees for the satisfactory transport services of the population during the strike.

In the period 2009 - 2019 the right to strike was exercised by employees of the National Railway Infrastructure Company, Holding BDZ EAD and its subsidiaries BDZ-Passenger Services EOOD and BDZ Cargo EOOD. In 2011, when taking strike action, the parties referred the issue of application of Art. 51 of the RTA regarding the provision of satisfactory transport services to the population to the NICA. With four decisions (for BDZ-Passenger Services EOOD and BDZ Cargo EOOD dated 07.02.2011, for the National Railway Infrastructure Company dated 14.02.2011 and for BDZ Holding EAD dated 16.02.2011). NICA has ruled on eligibility and approved a schedule for effective strike action to provide transport services. As can be seen from the strike conducted by employees of these companies and from the issued decisions, Art. 51 of the RTA does not constitute an obstacle, does not limit the constitutionally guaranteed right to strike and does not constitute a discriminatory regime.

In this regard, it should be noted the need for Art. 51 of the RTA, because when undertaking effective strike actions the rights of the passengers, using railway transport under preferential conditions, granted to them by the state through the Public Service Contract in connection with the fulfillment of its obligation according to Art. 53 and Art. 54 of the RTA. All citizens, including people with disabilities and people with reduced mobility due to disability, age or any other factor, should be able to travel by rail, regardless of the interests of trade unions.

- civil servants are allowed to perform only symbolic actions and are prohibited from striking (section 47 of the Civil Servants Act)

According to the *amendment of Art. 47 of the Civil Servants Act (CSA) - SG, issue №57 of 2016,* civil servants have the right to strike, under the conditions and by the order of CLDRA. An exception exists by virtue of Article 5, paragraph 2 of the LSA, only for senior officials holding the positions of Secretary General, Secretary of the Municipality, Director General of the General Directorate, Director of the Directorate and Head of the Inspectorate, who are senior civil servants. Therefore, there has been progress in the legal regulation of the right to strike of civil servants, as legal changes have been adopted in the Civil Servants Act, related to their right to effective strike. Until the amendment of the LSA in 2016, only the symbolic strike was allowed for civil servants, by wearing and placing appropriate signs and symbols, protest posters, ribbons, etc., without suspending the performance of the civil service;

According to Article 11, paragraph 3 of CLDRA, workers or their representatives are obliged to notify in writing the employer or his representative at least 7 days before the strike, as well as to indicate its duration and the body that will lead the strike. Usually the duration of the strike is until the strike demands are met, and there is no explicit term in the law for its duration.

- the requirement to notify the employer or his representatives of the duration of the strikes before the strike does not meet the conditions laid down in Article G of the Charter.

The CLDRA regulates the rights and obligations of employees and the employer during a strike. It should be noted that CLDRA regulates a comprehensive set of measures aimed at minimizing the possibility of acute conflicts between employees and the employer, in order to avoid possible negative consequences for each of these countries. Therefore, in CLDRA priority is given to voluntary methods for resolving collective labor disputes - conciliation and arbitration. That is why the obligation of the workers or their representative to notify in writing the employer or his representative at least 7 days before the start of the strike, to indicate its duration and the body that will lead the strike. This provides an opportunity for the employer to take appropriate action to settle the dispute voluntarily. In this way the employer is given the opportunity for the period before the strike to plan the activities of the enterprise in a way that does not endanger the life and health of the population (in risky productions) or does not lead to complete closure of the enterprise. the interest of striking workers, who should keep their jobs after the strike ends.

5. Regarding Art. 21 – The right to information and consultation - *the Contracting 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.*

The legal regime governing the right to information and consultation is contained in the LC and the Law on Information and Consultation with Employees of Multinational enterprises, groups of enterprises and European companies.

In the reference period no amendments were made to the legislation presented in the previous National report.

The Committee concludes that the situation in Bulgaria is in line with Article 21 of the Charter.

6. Regarding Art. 22 - The right to take part in the determination and improvement of the working conditions and working environment **-** *the Contracting 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 organization and working environment; b) to the protection of occupational health and safety within the undertaking; c) to the organization of social and socio-cultural services and facilities within the undertaking;; d) to the supervision of the observance of regulations on these matters.*

The legal regime governing the right of employees to participate in determining and improving working conditions and the working environment is contained in the LC, the

Occupational Health and Safety Act and the Ordinance on working hours, breaks and holidays.

In the reference period no amendments were made to the legislation presented in the previous National report.

The Committee concludes that the situation in Bulgaria is not in line with Article 22 of the Charter on the basis that the previous report contains information mainly on the participation of the workers and the workers and the workers and the employees in the protection of occupational health and safety, but not information is provided on ensuring the right of the workers and the workers and the employees to participate directly in the definition and improvement of working conditions, the organization of work and the working environment.

According to Art. 50, para. 1 of the LC, the collective employment contract shall regulate issues of the labour and social security relations of the workers and the employees which are not regulated by mandatory provisions of the law. The collective employment contract shall not contain clauses which are more unfavorable to the workers and the workers and the employees than the provisions of the law, or by a team employment contract by which the employer shall be bounded. Therefore, the workers and the employees through trade unions can negotiate working conditions with the employer that are more favorable than the minimum required by labor law.

In addition to collective bargaining, labor law provides a number of mechanisms for the direct participation of the workers and the employees in resolving issues related to working conditions and work organization. The right of employees to directly participate in determining and improving working conditions, work organization and the working environment is guaranteed through the powers of trade unions and the powers of employees' representatives in the company.

In Art. 7, para. 1 and 2 of the LC, it has been established that the workers and the employees shall participate through representatives, elected by the general meeting of the workers and the employees, in the discussion of, and resolving on enterprise management issues only when provided by law. The workers and the employees can elect at a general meeting their representatives who will represent their common interests on the issues of the working and insurance relations before their employer and before the state bodies. The representatives shall be elected by a majority of more than two thirds of the members of the general meeting.

The organization of the work process in the enterprise according to the specific nature of its activities shall be regulated by internal labor regulations, issued by the employer (Art. 181, para 1 of the Labor Code). According to Art. 4a of the Ordinance on working hours, breaks and vacations, the Internal Labour Regulations shall determine the beginning and end of the working day, the procedure for alternating shifts, breaks during work, the procedure for reporting working hours, the time of mandatory attendance at the enterprise, when variable working hours are agreed, the time for feeding the workers and the employees in the productions with continuous work process and in the enterprises in which they work continuously, as well as other issues related to the distribution of working hours and the organization of work in the enterprise . The Internal Labour Regulations regulate the conditions and the procedure for entering and the manner of reporting the working hours. It is important to keep in mind that Art. 181, para. 2 of the LC establishes as a mandatory condition for the validity of the internal regulations the conduct of preliminary consultations

with the representatives of the trade unions in the enterprise and with the representatives of the workers and the employees under Art. 7, para. 2 of the LC.

The Labor Code provides in Art. 37, that the bodies of the trade unions in the enterprise have the right to participate in the preparation of the drafts of all internal regulations and ordinances, which refer to the labor relations, for which the employer obligatorily invites them. The internal acts of the employer are of great practical importance for the full settlement of the rights and obligations of the workers and the employees in the enterprise. Failure to comply with Art. 37 of the LC leads to sanctions for the employer - in this sense examples from case law are: Decision № 3536 from 13.03.2013 under administrative case № 14729/2012, VI division of the Supreme Administrative Court, Decision № 6112 from 14.06.2007 under administrative case № 11301/2006, V division of the Supreme Administrative Court.

In a number of provisions of the LC related to the organization of labor such as extension of working hours of workers for production reasons on certain days (Article 136a of the LC), introduction of part-time work (Article 138a of the LC), establishment of working hours with variable limits (139, para. 2 of the LC), establishing for some positions open-ended working hours due to the special nature of work (Art. 139a of the LC) shall be an obligation for the employer to conduct preliminary consultations with trade union representatives organizations and with the representatives of the workers and the employees under Art. 7, para. 2 of the LC.

In connection with the obligations of employers to inform and consult employees in enterprises, including temporary employment enterprises, with 50 or more employees, as well as in organizationally and economically separate divisions of enterprises with 20 or more employees, the general meeting of the workers and the employees shall elect from among its members representatives of the workers and the employees for the implementation of the information and consultation under Art. 130c of the LC (in case of change of the activity, the economic condition and the organization of the labor of the enterprise) and 130d (determination of terms for informing and consulting with an agreement) of the LC. The General Assembly of the workers and the employees may provide the functions of representatives of the workers and the employees for the information and consultation of representatives appointed by the management of the trade unions or the representatives of the workers and the employees under Art. 7, para. 2 of the LC (Article 7a of the LC).

In addition to the above, the representatives of the workers and the employees shall be entitled:

1. to be informed by the employer in a way, allowing them to evaluate the possible influence of the measures, provided for by the competent bodies;
2. to require from the employer to provide them with the necessary information, in case this has not been done within the fixed terms;
3. to participate in procedures of consulting with the employer and to express their opinion on the measures, provided for by the competent bodies, which shall be considered when taking a decision;
4. to require meetings with the employer in the cases when it is necessary to inform him/her of the questions, raised by the workers and the employees;
5. to access to all working places at the enterprise or the unit;
6. to participate in training related to the fulfillment of their functions

The workers and the employees' representatives shall be obliged to inform the workers and the employees of the information received and of the results from the consultations and meetings (Art. 7c, para 1 and 2) of the Labor Code.

The employer shall also be obliged to provide the trade unions and the the representatives of the workers and the employees under Art. 7 and 7a of the LC in the enterprise the information required by law, including on possible significant changes in the organization of labor, incl. when introducing home and remote work, etc., as well as to consult with them. The trade unions and the representatives of the workers and the employees under Art. 7 and 7a of the Labor Code are obliged to acquaint the workers and the employees with the information received from the employer, as well as to take into account their opinion during the consultations. Employees have the right to timely, reliable and comprehensible information about the economic and financial condition of the employer, which is important for their labor rights and obligations.

With a collective employment contract or with an agreement the employer and the representatives of the workers and the employees under Art. 7a of the LC may agree on other practical measures for informing and consulting the workers and the employees in addition to those specified in the law. In case of refusal to provide information and in case of a dispute over its validity, the parties may seek assistance in resolving the dispute through mediation and/or voluntary arbitration from the National Institute for Conciliation and Arbitration. In case the employer does not provide information within the deadlines set by law or by agreement between the employer and the workers and the employees 'representatives, the workers and the employees' representatives have the right to request it in writing, and in case of refusal to provide it - to notify the Executive Agency"General Labor Inspectorate" for non-compliance with labor legislation. (Art. 130, Art. 130c, para. 1, item 4, para. 2 and para. 6, Art. 130d, para. 4 of the LC).

The Committee also calls for examples of collective bargaining agreements to be included in the organization of social and socio-cultural services and conditions in the enterprise.

The Labor Code establishes that social and cultural services shall be financed by the employer and by other sources (Article 292 of the LC). The employer can independently or jointly with other bodies and organizations, provide to the workers and the employees:

1. organized meals in accordance with rational norms and the specific conditions of work;

2. commercial and public services by building and maintaining commercial shops and service centers;

3. transportation from residences to the enterprise and back;

4. facilities for short and long-term rest, physical culture, sports and tourism;

5. facilities for cultural activities, clubs, libraries etc.; 6. assistance to young and to newly appointed employees; 7. meeting of other social and cultural needs.

According to Art. 293 of the LC, the manner of allocation of the funds for social and cultural services shall be decided by the general meeting of employees. The funds for social and cultural services shall not be diverted and used for other purposes.

The social funds and the forms of social services shall be used also by the employee's families upon decision of the general meeting (meeting of proxies) and in conformity with the collective bargaining agreement. (Article 299 of the LC).

Upon the decision of the general meeting of the workers and the employees the social funds and the forms of social services shall be used also by pensioners having worked with the same employer. (Article 300 of the LC).

In its conclusions, the Committee also asks whether the the representatives of the workers and the employees can challenge any violation of workers' right to participate in defining and improving working conditions and the working environment before the competent courts or administrative bodies (eg the Labor Inspectorate), what are the competent courts or administrative authorities in this regard, what is the procedure and what remedies are available.

The Labor Code provides opportunities for submitting signals for violations of labor legislation (Article 404, paragraph 3 and Article 406 of the LC) to the competent control institution – Executive Agency "General Labour Inspectorate". It is important to note that reports of violations of labor law can be submitted by any employee, as well as by trade unions. Art. 406, para. 1 of the LC explicitly stipulates that trade union organizations shall have the power to notify controlling bodies about violations of labour law, and to demand enforcement of administrative sanctions against the offenders. In order to ensure the effectiveness of the control activity, it is regulated that the controlling bodies shall be obliged to inform the trade union organizations within one month of the measures undertaken.

In connection with the obligations of employers to inform and consult employees in enterprises, the LC established that in case of none-fulfilment of the employer's obligation to provide information before holding consultation in case of mass dismissals (Art. 130a, para 5 of the LC), as well as in case of change of employer and failure to hold consultations in this case emplyees have the right to report to the Executive Agency "General Labour Inspectorate" for non-compliance with labor legislation.

The Executive Agency "General Labour Inspectorate" has the authority to apply coercive administrative measures to eliminate violations, including the obligations of social services for employees and the obligations of information and consultation, as well as to eliminate shortcomings in ensuring healthy and safe working conditions. The Executive Agency "General Labour Inspectorate" also has the power to impose administrative sanctions (fines and property sanctions). When the control bodies establish violations of the law, which contain data on a committed crime or other offenses, they are obliged to notify the bodies of the prosecutor's office.

As mentioned above, in cases of refusal of the employer to provide information and in case of a dispute over its validity, the workers and the employees' representatives may seek assistance in resolving the dispute through mediation and/or voluntary arbitration from the National Institute for Conciliation and Arbitration .

The parties to the labor dispute may file a lawsuit in court. The LC defines that labour disputes shall also be considered the disputes between the the representatives of the workers and the employees, elected by the procedure of art. 7, para. 2 and art. 7a of the LC,

and the employer in case of offence of their rights. (Art. 357, para 2 of the LC). According to Art. 360, para. 1 of the LC, labor disputes shall be considered by the court. They shall be reviewed pursuant to the rules of the Civil Procedure Code. CPC establishes in Art. 114 on claims in labor cases deviation from the general local jurisdiction, providing that the workers and the employees may file a claim against the employer at the place where they normally work.

Appendix № 3 to this report provides examples of collective bargaining agreements.

7. Regarding Art. 26 – The right to dignity at work

Paragraph 1 - *The Contracting Parties undertake in consultation with employers' and workers' organizations, 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.*

The legal regime for the prevention of sexual harassment in the workplace is regulated in the Protection against Discrimination Act (PADA). The LC contains general provisions for protection against direct or indirect discrimination on grounds of nationality, origin, sex, sexual orientation and others (Article 8, paragraph 3 of the LC) and introducing an obligation for the employer to protect the dignity of the employee during performance of the work under the employment contract (Art. 127, para. 2 of the LC).

During the reference period no amendments were made to the legislation presented in the previous National report.

The Committee concludes that the situation in Bulgaria is in line with Article 26, para. 1 of the Charter by requesting information:

- how the fulfillment of the obligation arising from Article 18 of the PADA is monitored, and what measures have been taken by the employers to fulfill their obligation under this provision.

The Commission for Protection against Discrimination (CPD) is an independent specialized state body for the prevention of discrimination, protection against discrimination and ensuring equality of opportunity.

The Commission examines complaints and signals for protection against discrimination and issues decisions establishing violations of the PADA or other Acts regulating equal treatment, the perpetrator of the violation and the aggrieved person and shall provide for decree prevention and termination of the violation and restoration of the original situation; it shall impose the sanctions envisaged and implement administrative enforcement measures; it shall issue mandatory directions for compliance with the PADA or other Acts regulating equal treatment or when it considers the complaint/signal unfounded it leaves them without respect (Art. 47, item 1 - item 4, Art. 65 and Art. 76 of the PADA).

Paragraph 2 - *the Contracting Parties undertake 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.*

The legal regime for the prevention of harassment at the workplace is established and regulated in the Protection against Discrimination Act (PADA). The LC contains general provisions for protection against direct or indirect discrimination on grounds of nationality, origin, sex, sexual orientation (Article 8, paragraph 3 of the LC) and introducing an obligation for the employer to protect the dignity of the employee during performance of the work under the employment contract (Art. 127, para. 2 of the LC).

During the reference period no amendments were made to the legislation presented in the previous National report.

8. Regarding Art. 28 - The right of workers' representatives to protection in the undertaking and facilities to be accorded to them - *the Contracting 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.*

The legal regime for protection of workers' and employees' representatives in case of dismissal and for creating appropriate conditions for their activity is regulated in the LC.

During the reference period no amendments were made to the legislation presented in the previous National report.

The Committee concludes that the situation in Bulgaria is not in line with Article 28 of the Charter on the grounds that the legislation does not provide adequate protection in the event of unlawful dismissal on grounds of trade union membership or activity (compensation is up to 6 months' wage in case of dismissal).

At present there is no change in Art. 225, para. 3 of the LC on the right to compensation of the employee in cases of unlawful dismissal for the period of unemployment, but not more than 6 months. Attention should also be paid to the provision of Art. 344, para. 4 of the LC, which provides for shortened deadlines during which the court should consider the employee's claim in case of unlawful dismissal - labor disputes (including those related to the recognition of dismissal as unlawful and its cancellation) shall be considered by the district court within three months following the receipt of the claim and by the regional court as a second instance - within one month following the receipt of the appeal. In this regard, we find that the legislation provides guarantees for the timely consideration of claims filed by workers in order to ensure their adequate protection and in this regard the compensation for a period of 6 months is adequate. The amount of compensation introduced also encourages the dismissed person to actively seek work and also aims to reduce the possibility of abuse of rights in a possible lawsuit. Thus, in court proceedings for declaring the dismissal unlawful, the employee will be interested in a speedy resolution of the dispute and will have no motive to harass the trial.

The purpose of Art. 225 of the LC is to compensate the worker/the employee for the damage caused by the missed opportunities for remuneration due to his unlawful dismissal. In essence, this is compensation for lost profits. If the worker/the employee has suffered damage on other grounds, including discrimination (on the basis of membership in trade unions and other public organizations and movements), he has the opportunity to seek

compensation for them under general civil law and/or through the mechanisms provided by law for protection against discrimination.

In this regard, the employee has the right to claim compensation for non-pecuniary damages, which according to the Obligations and Agreements Act (OAA) is not limited in time and amount. The court may award compensation for non-pecuniary damage suffered as a direct and immediate consequence of the tort.

The protection in the exercise of the right to work under the Protection against Discrimination Act is carried out under the procedure of out-of-court proceedings by the Commission for Protection against Discrimination. The Commission for Protection against Discrimination establishes violations of this or other laws governing equality of treatment, the perpetrator and the person concerned, decides to prevent and stop the violation and restore the original situation, imposes sanctions and applies measures of administrative coercion. Whoever commits discrimination within the meaning of this law shall be punished by a fine of BGN 250 to BGN 2,000, unless subject to a more severe penalty, and property sanctions of up to BGN 2,500 shall be imposed on legal entities. Penalties shall be imposed by a decision of the Protection Commission from discrimination, which can be appealed under the Administrative Procedure Code. It should be noted that the Commission for Protection against Discrimination does not have the power to award compensation.

In the provisions of Art. 71-74 of the Protection against Discrimination Act stipulates that compensation for damages may be sought by any person in the general court order, when his rights under this or other laws governing equality of treatment are violated. The compensation in this case shall not be limited by law.

In addition to the above benefits for lost profits and damages, which are awarded under the Code of Civil Procedure, the employee shall be entitled to unemployment benefits under the terms and conditions of the Code for social security.

The Labor Code regulates, in addition to the right to compensation for unlawful dismissal, the right of the employee to be reinstated.

According to Art. 345, para. 1 of the LC, following the reinstatement of the employee to his previous position by the employer or a court he may assume the position provided he reports to work within 2 weeks of receipt of the reinstatement notice, unless this term be exceeded for valid reasons only.

Art. 172, para. 2 of the Criminal Code provides for criminal liability for an official who fails to carry out an order or a court decision that has entered into force for re-instating at work of a wrongly dismissed worker or employee. The punishment shall be deprivation of liberty for up to three years.

The Committee calls for information on how the rights of the representatives of the workers and the employees other than trade union representatives, such as healthcare and safety workers, are effectively protected in the event of unlawful dismissal.

Bulgarian legislation provides for adequate protection in the event of unlawful dismissal. According to Art. 333, para. 1, items 5, 5a and 6 of the LC, the workers and the employees who have been elected as representatives of the workers and the employees under Art. 7, para. 2 and Art. 7a of the LC, for the time while they have such quality, as well as the workers and the employees who are elected as representatives of the workers for occupational health and safety, for the period during which he has that capacity, as well as the workers and the employees who are members of a specialized authority for negotiations,

European workers' council or of representation body in European trade or cooperative company, have protection in the event of dismissal on the grounds of closure of part of the undertaking or redundancy, reduction of staff, of the job, lack of qualities of the employee for effective performance of the work, change of the requirements for performance of the position, if the employee does not meet them (Art. 328, para 1, points 2, 3, 5, 11 of the LC) and in case of disciplinary dismissal (Art. 330, para. 2, item 6 of the LC). In these cases, the employer may dismiss them only with the prior permission of the labor inspectorate on a case-by-case basis. In cases where for dismissal a prior consent of the labour inspection or a trade union body is required, and no such consent has been asked for or given before the dismissal, the court shall cancel the order of dismissal as unlawful on these grounds only, without considering the merits of the labour dispute (Art. 344, para. 3 of the LC).

The Committee also requests that in the next report Bulgaria provides information on the conditions provided to facilitate the work of the the representatives of the workers and the employees, including trade unions (including leave, material benefits, access to all premises in the enterprise, including access to the board, the right to inform employees about the activities of the trade union organization in the enterprise and national unions, permission for regular collection of membership fees, etc.).

- *use of premises and other material conditions*

The Labor Code establishes a general obligation to provide assistance in carrying out the activities of trade unions and representatives of employees. Art. 46 of the Labor Code stipulates that state agencies, local self-government bodies and employers shall provide conditions for, and cooperate with, trade union organizations to further their activities. The former shall make available to the latter, for gratuitous use, real estate and chattel, buildings, premises, and other facilities required for the performance of their functions. The employer shall be obliged to cooperate with the representatives of the workers and the employees on fulfilment of their functions and to create conditions for implementation of their activity. It is important to emphasize that the Bulgarian legislation allows the the representatives of the workers and the employees to establish the order of their work (Article 7c, paragraph 3 of the LC).

- *right of access* :

In addition to the above, the LC regulates that the workers and the employees shall be entitled to access to all working places at the enterprise or the unit, as well as to require meetings with the employer in the cases when it is necessary to inform him/her of the questions, raised by the workers and the employees; (Art. 7c, para 1, items 4 and 5 of the LC).

Trade union organizations shall have the power to notify controlling bodies about violations of labour law, and to demand enforcement of administrative sanctions against the offenders. In fulfilment of their functions under para 1 the representatives of the trade union organizations shall have the right to visit, at any time, the enterprises and the other places where the job is fulfilled, as well as premises used by the workers and the employees (Art. 406, para. 1 and 2 of the LC).

- *right to leave*

For the performance of trade union activities, the unpaid members of national, sectional, and regional leaderships of trade union organizations, as well as the unpaid chairmen of the trade union leaderships in the enterprises shall be entitled to a paid leave of duration specified by the collective contracts, but not shorter than 25 hours for one calendar year.The time of the leave used shall be determined by the respective trade unionist, for which he promptly notifies the employer (Article 159, paragraphs 1, 3 of the LC). Examples of collectively agreed larger amounts of leave are presented in the appendices.

The employer shall also dismiss the employee for participation in sessions of a specialized authority for negotiations, European workers` council or representation body in European trade or cooperative company. For the period of the leave, remuneration shall be paid in the amount of the paid annual leave (Art. 157, para. 1, item 5a of the Labor Code).

The worker or the employee who is a member of a representative body of a European trade or cooperative company shall be entitled to a training leave necessary for the performance of his functions. The amount of the leave and the remuneration due during its use shall be agreed in a collective employment contract or by agreement between the parties to the employment relationship (Article 161, paragraph 4 of the LC).

- *others*

The representatives of the workers and the employees shall be entitled to participate in training related to the fulfillment of their functions (Article 7c, paragraph 1, item 6 of the LC).

By a collective bargaining agreement or an individual agreement with the employer may be settled that, where necessary with respect to their obligations, the representatives of the workers and the employees can use reduced duration of the working hours, additional leave and others. (Art. 7c, paragraph 4) of the LC).

With the latest amendments to the Labor Code (SG, issue № 107 of 2020), Art. 57, para. 3 of the LC established the possibility for negotiating in a collective employment contract at the enterprise level a cash contribution for the workers and the employees who joined this collective employment contract and employees who are not trade union members.

Appendix № 4 to this report provides examples of collective bargaining agreements for the creation of conditions for trade union activity and the provision of assistance to trade unions.

9. Regarding Art. 29 - The right to information and consultation in collective redundancy procedures - *the Contracting 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.*

The legal regulations are contained in the LC and the Employment Promotion Act (EPA).

The Committee concludes that the situation in Bulgaria is in line with Article 29 of the Charter. The Committee wishes to receive information on whether the Bulgarian legislation is in accordance with the standards set out in Art. 29 of the Charter. The Committee is also interested in what preventive measures are being taken to ensure that

redundancies do not occur before the employer has fulfilled its obligation to notify the workers and the employees' representatives.

During the reference period no amendments were made to the legislation presented in the previous National report.

The right to information and consultations in case of mass discharge is established in Art. 130a of the LC. According to this provision, where the employer intends to undertake mass discharge, he shall be obliged to start consultations with the representatives of the trade union organizations and of the workers and the employees under art. Art. 7, para. 2 in due time, but not later than 45 days before that and to make efforts to achieve an agreement with them in order to avoid or restrict the mass discharge and to ease the consequences of them. The order and the way for conducting the consultations shall be determined by the employer, the representatives of the trade union organizations and representatives of the workers and the employees under art. 7, para. 2 of the LC.

Before the beginning of the consultations under para. 1, the employer shall be obliged to present written information to the representatives of the trade union organizations and to the representatives of the workers and the employees under Art. 7, para. 2 of the LC, regarding:

1. the reasons for the discharge provided for;
2. the number of the workers and the employees to be discharged and the basic economic activities, groups of professions and positions to which they are referred;
3. the number of the workers and the employees, employed in the basic economic activities, groups of professions and positions in the enterprise;
4. the particular indices for application of the criteria for the choice under art. 329 of the LC the workers and the employees to be discharged;
5. the period during which the discharge shall take place;
6. the indemnities due, related to the discharge.

In support of the workers in case of mass discharge, teams are created, in which representatives of the employer, the organizations of the workers and the employees in the enterprise, the division of the Employment Agency and the municipality participate. The teams offer intermediary services, measures and programs for training and employment in advance (Article 25 of the EPA).

In case of non-fulfillment of the obligation of the employer to provide the above information, the representatives of the trade unions and the representatives of the workers and the employees under Art. 7, para. 2 of the LC have the right to report to the Executive Agency "General Labor Inspectorate" for non-compliance with labor legislation.

Appendix № 1

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 organise), 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 organisation 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-unionised 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.).*

According to Art. 136, para. 1 of the Labour Code (LC) the work week shall be 5-day with a normal duration of the weekly working time up to 40 hours. The normal duration of the working hours during the day shall be up to 8 hours (Article 136, paragraph 3 of the Labour Code). The normal duration of the weekly working hours at night for a 5-day work week is up to 35 hours. The normal duration of the night working hours for a 5-day work week shall be 7 hours (Article 140, paragraph 1 of the Labour Code). The normal duration of the working hours under the preceding paragraph shall not be extended, except in the cases and in by an order stipulated by the Labour Code (Article 136, paragraph 3 of the Labour Code).

Every employer has the exclusive right to determine the organization of working time in the enterprise, using the various forms of organization, allocation and accounting of working time. This exclusive right, given by law, should be exercised in compliance with the requirements related to the rights of employees to holidays during the working day, breaks in alternating shifts, daily and weekly breaks, provision of meals, provision of physiological regimes of work and rest, etc.

The legislation provides for the establishment of reduced working hours for employees who perform work under specific conditions (Article 137, paragraph 1, item 1 of the Labour Code) and for employees under 18 years of age (Article 137, paragraph 1), item 2 of the LC). The parties to the employment contract may negotiate work for a part of the statutory working hours (part-time work). In this case they shall specify the duration and allocation of the working hours according to Art. 138, para. 1 of the LC.

In enterprises where the labour organization allows this, working hours with variable limits can be established. The time during which the employee must be at work in the enterprise, as well as the manner of its reporting, are determined by the employer. Outside the time of the obligatory presence, the employee determines the beginning of his/her working hours. In these cases, outside the time of the obligatory presence, the employee may work the unworked daily working hours on the next or on other days of the same work week. The manner of accounting for working time is regulated by the regulations for the internal labour order of the enterprise.

The practice derived from the activities of the Executive Agency "General Labour Inspectorate" /EA GLIA/, shows that in large enterprises of all economic activities

employment relationships arise and are carried out in accordance with regulatory requirements. Violations of the norms regulating the observance of the established working hours are more often found in micro-, small and medium-sized enterprises and especially in those where inspections are carried out for the first time. Among the reasons for violations in micro, small and medium-sized enterprises in 2020 are the difficulties and challenges posed by the COVID-19 pandemic: shrinking business, especially in some sectors whose sites were closed by order of the Minister of Health; reducing the number of employees; lack of expertise of the staff in the field of human resources, etc.

The number of inspections performed for compliance with labour legislation in the period from 2017 to the present is as follows: 45,645 for 2017; 43 958 for 2018; 40,216 for 2019; 37 145 for 2020. The control bodies of the Labour Inspectorate carry out integrated control over the observance of the labour legislation. The integrated inspection includes control over the observance of the requirements for technical safety, occupational hygiene and health, working conditions and employment relationships, incl. observance of the established working hours for all employees.

The total number of violations of the norms regulating the requirements for working hours are: 10,178. for 2017; 11 942 for 2018; 10 498 for 2019 and 7974 for 2020. In order to prevent the established violations and to eliminate the harmful consequences of them, the control bodies of the Executive Agency "General Labour Inspectorate" have applied coercive administrative measures with respective deadlines for implementation.

Most often, employers have gaps in the planning, allocation and accounting of working time in its summary calculation. In some cases, they do not inform workers in advance of their work schedule for the month or of an overtime order issued. Most of the enterprises in economic activities "Restaurants", "Retail" and "Food" work in the conditions of the introduced summary calculation of working hours. It is with them that the largest number of violations related to working hours and breaks were found. When concluding an employment contract for additional work, a common violation is that the working hours under both agreements exceed the total maximum working hours.

In case of more severe forms of non-compliance with the normative requirements, the control bodies have drawn up acts for establishing administrative violations. The number of acts drawn up to establish administrative violations of compliance with working hours are: 204 or 2017; 224 for 2018; 200 for 2019 and 109 for 2020. On the basis of the drawn up acts penal decrees were issued, by which the violators were sanctioned for the established violations with imposed property sanctions.

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.

With regard to the results of the examination of appeals against acts of control bodies, it should be noted that based on the analysis of data on administrative penal activity and trends in case law, the following conclusion is necessary: the employers for established violations related to non-observance of the established working hours of the employees, which are disputed in court, have been confirmed by the courts.

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.*

The Bulgarian labour legislation does not regulate on-call employment contracts and zero-hour employment contracts.

According to Art. 1, para. 2 of the Labour Code, the employment relationships in the provision of labour force are regulated only as employment relationships. The conclusion of civil contracts is inadmissible when they are used to substantially disguise the supply of labour. In such cases, Executive Agency "General Labour Inspectorate" declares the existence of an employment relationship (Art. 405a of thr Labor Code).

According to Art. 114 of the Labour Code, the employment contract may also be concluded for a job during definite days of the month, which is agreed by the parties to the employment relationships. This time is recognized as seniority.

Art. 139, para. 5 of the Labour Code stipulates that for some categories of workers and employees, due to the special nature of their work, an obligation may be established to be on duty or to stand by at the disposal of the employer during specified hours of the day. According to the provision of Art. 3, para. 1 - 4 of Ordinance № 2 of 1994 on the procedure for establishing an obligation to be on duty or to be at the employer's disposal, when the special nature of the work requires, the collective or individual employment contract may stipulate an obligation for the employee to be at the employer's disposal outside the territory of the enterprise, ready to perform his / her job function if necessary.

The time during which the worker or the employee is at disposal is not included and is not reported as working time. Only the actual work performed during the time at disposal (in case of need for the job function) is reported and paid as overtime. The time at disposal outside the territory of the enterprise is determined by a monthly schedule approved by the employer (Article 4 of Ordinance № 2).

An order is issued by the employer for the time at the enterprise's disposal. It is communicated to the employees at least 24 hours in advance (Article 15, paragraph 1 of the Ordinance on working hours, breaks and vacations). In this way, the employee is informed in advance that he/she is at disposal and may have to work if necessary.

The provision of Art. 5, para. 1 of Ordinance № 2 provides that the maximum duration of the obligation to be on duty may not exceed: a total of 100 hours per calendar month; for one day on working days - 12 hours; on weekends - 48 hours. In para. 2 of Art. 5 of Ordinance № 2 it has been established that an employee cannot be assigned to be at disposal: on two consecutive working days; on more than two weekends in a calendar month. These restrictions may not be applied in cases of medical care (Article 5, paragraph 3 of Ordinance № 2).

For the time during which the worker or the employee is at the disposal of the employer and is outside the territory of the enterprise in a place agreed between them, additional wages are paid for each hour or for part of it in the amount of not less than 0.10 BGN (Article 10 of the Ordinance on the structure and organization of wages).

Ordinance № 2 does not provide for restrictions on the duration of hours of work actually performed during the time at disposal, but the employer should comply with the requirements of Art. 3, para. 5 of Ordinance № 2, according to which when performing overtime work under Art. 3, para. 4 of Ordinance № 2, the employee is provided with the minimum amount of uninterrupted inter-day and weekly rest.

Art. 8 of the Act on the Measures and Actions During the State of Emergency Declared with the Decision of the National Assembly of 13 March 2020, and for overcoming the consequences (Title supplemented, SG, issue No. 44/2020), in force by 14.05.2020), introduces temporary exemptions from the restrictions for overtime work. According to Art. 8 the introduced restrictions for overtime work and its duration do not apply to the worker or the employees of part-time work who provide or support the provision of medical care, respectively to the civil servants who by job description or order of a manager support the provision of medical care. help. The police bodies and the bodies for fire safety and protection of the population shall perform extraordinary work over the restrictions under Art. 187, para. 7 of the Ministry of Interior Act after explicit written consent of the civil servant. Lack of consent is not a ground for disciplinary action.

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).*

With regard to the COVID-19 pandemic, it inevitably had a negative impact on almost all businesses and posed complex challenges to employers in many areas. This necessitated serious changes in the organization of the labour process.

Due to the complicated epidemic situation, due to the rapidly spreading coronavirus COVID-19, a state of emergency was declared by a decision of the National Assembly on 13.03.2020 and the Government took urgent anti-epidemic measures. By order of the Minister of Health, visits to entertainment and gaming halls, discos, bars, restaurants, fast food restaurants, drinking establishments, coffee shops and large shopping centers were suspended. All kinds of mass events, including sports, cultural, entertainment and scientific events, have been suspended. This, in turn, had an adverse effect on a number of sectors and economic activities - hotels and restaurants, manufacturing, construction, activities in the field of culture, sports and entertainment, retail, passenger transport and others.

The specific nature of the factor (viral pandemic) influencing the development of the economy and the labour market has hampered the process of planning measures aimed at mitigating the consequences in the socio-economic field. The viral pandemic has reduced the positive effect of seasonal factors on the economic activity of companies in some sectors. The unpredictable nature of the pandemic has made it difficult for employers in a number of economic sectors to plan their investments and development, which in turn has hampered job creation. The measures taken by the Government in response to the COVID-19 pandemic were established at the legal level with amendments to the Labour Code and the adoption of the Act on the Measures and Actions During the State of Emergency Declared with the Decision of the National Assembly of 13 March 2020, and for overcoming the consequences.

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.*

In order to limit the spread of COVID-19 and avoid the crowding of many workers in one place, many employers have taken advantage of the opportunity to work from home or remotely when the nature of the work allows it to be done outside the employer's premises. According to the new Art. 120b, para. 1 of the Labour Code, the employers may, in case of a declared state of emergency or a state of emergency epidemic situation, assign the employee to perform temporary homework and/or remote work without his consent. In the enterprise or in its unit the employer may establish for the whole period of declared state of emergency or declared state of emergency epidemic situation, or for part of this period part-time for employees working full time (Art. 138a, para. 2 of the LC). A state of emergency has been declared by a decision of the National Assembly of March 13, 2020. Subsequently, an emergency epidemic situation was declared on May 14, 2020 - a new legal form, rearranging the legal regulation of the state of emergency. Since then, the term of the emergency epidemic situation has been extended by decisions of the

Council of Ministers, at present the term of the emergency epidemic situation has been extended until 31.03.2022.

Recommendations addressed to employers for the introduction of a specific labour organization in connection with the protection of workers from infection with the COVID-19 virus are published on the website of the Executive Agency "General Labour Inspectorate". It is recommended that employers introduce flexible working hours by allocating the start and end of shifts in a way that allows fewer employees to work at the same time. Employers have been instructed to provide for different periods for the use of meals in order to use the rest facilities by a smaller number of employees and to ensure sufficient distance between them. Another piece of advice for employers is to organize the working day into two or three parts, as well as to combine variable working hours with remote and / or home work. Thus, on the one hand, the simultaneous presence of all workers in the work premises will be avoided, and on the other hand, the daily connection with the employer will not be interrupted in order to perform the work effectively. It is noted that the change in working hours should be reflected in the Rules of Procedure.

f) *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 reply to the questions raised.*

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) *<u>No information is requested on these provisions</u>, 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).

b) *However, if the previous conclusion concerning provisions in Article 2, paragraphs 2 through to 7, 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 reply to the questions raised.*

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.*

Data on monthly minimum wage and minimum hourly rate

Period	Monthly minimum wage	Hourly rate	Regulatory basis
01.01.2021 -	**650.00**	**3.92**	**CMD № 331 / 26.11.2020**
01.01.2020 - 31.12.2020	**610.00**	**3.66**	**CMD № 350 / 19.12.2019**
01/01/2019 - 31/12/2019	**560.00**	**3.37**	**CMD № 320 / 20.12.2018**
01/01/2018 - 31/12/2018	**510.00**	**3.07**	**CMD № 316 / 20.12.2017**
01/01/2017 - 31/12/2017	**460.00**	**2.78**	**CMD № 141 / 13.07.2017**

According to data from the quarterly survey of employees, hours worked, wage and other labour costs, employees of a minimum basic wage for the third quarter of 2021 were 503 011 persons.

Regarding the "pandemic leave schemes", it should be noted that according to the new provision of Art. 173a, para. 1 of the Labour Code, when due to a declared state of emergency or declared emergency epidemic situation by order of the employer or by order of a state body the work of the enterprise, part of the enterprise or individual employees is terminated, the employer has the right to grant paid annual leave. the employee without his consent, including an employee who has not acquired the required length of service. In this regard, it should be borne in mind that unpaid leave under Art. 160 of the Labour Code is allowed by the employer only at the written request of the employee. This means that the worker or the employee can use unpaid leave only after he/she has requested to use it (has submitted an application) and his/her employer has authorized its use. The employer may not grant unilaterally unpaid leave, nor oblige the employee to use it.

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.).*

In order to preserve the jobs and incomes of employees in companies from the most affected sectors following the crisis, on March 30, 2020 the Council of Ministers adopted Decree № 55 laying down the terms and conditions for payment of compensation to employers in order to maintain the employment of employees in the state of emergency, declared by a decision of the National Assembly of 13 March 2020 or declared by decision № 325 of the Council of Ministers of 14 May 2020 emergency epidemic situation on the territory of the Republic of Bulgaria (Council of Ministers Decree № 55).

The Council of Ministers Decree № 55 regulated a temporary measure to maintain the employment of workers who have stopped or worked part-time due to the measures to combat the COVID-19 pandemic. It is envisaged that in case of introduction of part-time work, compensations will be paid in proportion to the unworked time, but for not more than 4 hours a day. The aim is to guarantee the income of workers and for them to receive the full amount of their remuneration during a period during which they cannot work due to termination of work or part-time work. The main characteristics of the measure are: preservation of the status of an employee; preservation of remuneration; solidarity – state/employer - reimbursement of part of the costs for wages and insurance and support for decent employers. The duration of the measures has been

extended even after the lifting of the declared state of emergency for the period of the declared state of emergency.

The implementation of the Decree shows that in a very short time the Ministry of Labour and Social Policy has developed and implemented an effective and efficient mechanism for maintaining employment in a new type of crisis, which did not allow significant increase in unemployment and support employers in full. or partial cessation of their activities, part-time work and reduction of income. The Executive Agency "General Labour Inspectorate" carried out the assigned specialized control under the Council of Ministers Decree № 55 and notified the bodies of the National Social Security Institute about the established circumstances within the control activity regarding their signals. The social partners supported the process of drafting the Decree with opinions, comments and remarks.

In order to provide support to enterprises and self-employed persons whose economic activity is most affected, in July 2020 the implementation of the procedure "Short-term employment support in response to the COVID-19 pandemic" was launched. The operation is implemented through the financial support of the HRD OP, as the criteria and conditions are defined in the Conditions for application and in Decision № 429 of 26.06.2020 of the Council of Ministers, amended and supplemented by Decision № 982 of 31.12.2020 of the Council of Ministers. advice. Under the measure, compensation in the amount of BGN 290 per month is paid, including the due insurances at the expense of the employer for each employee or self-insured person working in the field of hotel and restaurant business, transport and tourism. At the beginning of 2021, the budget of the measure has been increased from BGN 40 million to BGN 80 million. Based on the applications submitted by employers, the support provided is expected to reach at least 40,000 people, and their jobs will be preserved . The aid provided in the amount of BGN 290 in the form of payment of compensation to employees to avoid redundancies, as well as the measure, better known as the "60/40" Measure, introduced by the Council of Ministers Decree № 55 from 2020 to receive compensation for maintaining the employment of employees are complementary under certain conditions.

Regarding the requested data for established violations of the requirements for remuneration of labour, it should be noted that the total number of established violations of the norms regulating the requirements for remuneration of labour are: 22 012 for 2017; 21 356 for 2018; 21 569 for 2019 and 18,551 for 2020. In order to prevent the identified violations and to eliminate the harmful consequences of them, the control bodies of the Executive Agency"General Labour Inspectorate" have applied coercive administrative measures with appropriate deadlines for implementation. Employers in the economic activities "Retail", "Restaurants" and "Building construction" most often do not pay or delay the payment of wages to workers.

In case of more severe forms of non-compliance with the normative requirements, the control bodies have drawn up acts for establishing administrative violations. The number of acts drawn up to establish administrative violations of wages are as follows: 1670 for 2017; 1180 for 2018; 1162 for 2019 and 847 for 2020. On the basis of the drawn

up acts penal decrees were issued, by which the violators were sanctioned for the established violations with imposed property sanctions.

Regarding the so-called "Self-employed persons" employed in the "gig or platform economy of zero-hour contracts" who work at their own expense, it should be noted that they are not subject to the requirements of labour law, as they do not have the quality of workers or employees. They lack the basic elements of the employment relationships, and most often their activities are regulated by other laws.

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.*

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 reply to the questions raised.*

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

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.*

The Bulgarian labor legislation does not regulate on-call service and zdero-hour contracts.

The time during which the employee is at disposal is not included and is not reported as working time. Only the actual work performed during the time at disposal (in case of need for the job function) is reported and paid as overtime. The time at disposal outside the territory of the enterprise is determined by a monthly schedule approved by the employer (Article 4 of Ordinance № 2).

An order is issued by the employer for the time at the the enterprise's disposal. It is communicated to the employees at least 24 hours in advance (Article 15, paragraph 1 of the Ordinance on working hours, breaks and vacations). In this way, the employee is informed in advance that he/she is at disposal and may have to work if necessary.

For the time during which the employee is at the disposal of the employer and is outside the territory of the enterprise in a place agreed between them, additional wages are paid for each hour or for part of it in the amount of not less than 0.10 BGN (Article 10 of the Ordinance on the structure and organization of wages).

Ordinance № 2 does not provide for restrictions on the duration of hours of work actually performed during the time at disposal, but the employer should comply with the requirements of Art. 3, para. 5 of Ordinance № 2, according to which when performing overtime work under Art. 3, para. 4 of Ordinance № 2, the employee is provided with the minimum amount of uninterrupted inter-day and weekly rest.

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).*

With regard to the payment of overtime by medical staff, it should be noted that with the increase in the number of patients infected with COVID-19, a large proportion of healthcare workers work overtime to provide medical care to patients. To ensure fair remuneration, the Government provided funds for payments for work on the first line to combat the pandemic in the amount of BGN 1,000 for all medical institutions for hospital care and general practitioners.

In connection with the regulation of the issue related to overtime work at remote work and home work, it should be noted that according to Art. 107e, para. 3 of the Labour Code for the workers and employees performing home-based work, it is not possible to establish a non-standard working day and overtime work. The individual employment contract for remote work may explicitly exclude the possibility of overtime work (Article 107l, paragraph 2, item 1 of the Labour Code).

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 reply 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.*

An amendment was made to the Labour Code regarding the use of leave case of declared state of emergency or declared emergency epidemic situation. The amendment concerns the procedure for using paid and unpaid leave, but does not change the amount of remuneration during paid leave, which is determined by the Labour Code.

According to Art. 173a, para. 1 of the Labour Code (New, SG No. 28/2020, effective 13.03.2020, supplemented, SG , issue No. 44/2020, effective 14.05.2020), when due to declared state of emergency or declared epidemic emergency by order of the employer or by order of a state body is terminated the work of the enterprise, part of the enterprise or individual employees, the employer has the right to provide paid annual leave to the employee without his consent, including of an employee who has not acquired 8 months of work experience. In addition, in para. 2 of Art. 173a of the Labour Code stipulates an obligation for the employer to allow the use of paid annual leave or unpaid leave in case of a declared state of emergency or declared emergency epidemic situation at the request of:

1. a pregnant worker or employee, as well as a worker or employee in an advanced stage of in-vitro treatment;

2. mother or adoptive mother of a child up to 12 years of age or of a child with a disability regardless of his/her age;

3. an employee who is a single father or adoptive parent of a child up to 12 years of age or of a child with a disability regardless of his/her age;

4. an employee who has not reached 18 years of age;

5. an employee with permanently reduced working capacity of 50 and over 50 per cent;

6. an employee with the right to protection in case of dismissal under Art. 333, para. 1, items 2 and 3.

The time during which leave is used under Art. 173a, para. 1 and 2 of the Labour Code, is recognized as work experience.

b) *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 reply to the questions raised.*

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.*

With regard to the information requested by the Committee on changes in legislation and practice during the pandemic with regard to the period of notice on termination of employment, it should be noted that no changes in legislation have been made which have

affected collective bargaining agreements under industries and industries concluded during the pandemic.

b) *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 reply to the questions raised.*

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.

No information requested, except where there was a conclusion of non-conformity or a deferral in the previous conclusion for your country. For conclusions of nonconformity, please explain whether and how the problem has been remedied and for deferrals, please reply to the questions raised.

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).*

All workers and employees have the right to establish organizations to protect their interests in the field of labor and social security and to join such organizations, including

employees of the Ministry of Interior /MoI/ (police and fire safety and public protection authorities) and the military.

A certain "exception" is introduced in Art. 242, para. 2 of the Ministry of Interior Act, according to which civil servants in the Ministry of Interior may be members of trade unions only of employees of the Ministry of Interior. They cannot accept in their organizations persons who are not employees of the Ministry of Interior. The trade unions in the Ministry of Interior carry out their activities without interfering in the management of the structures and in the management of the system.

In peacetime, servicemen may associate to carry out activities of mutual interest. These activities are carried out outside office hours and may not impair combat readiness, training, discipline, morale of personnel and violate the established order and unity in the Ministry of Defense, in structures under the direct authority of the Minister of Defense and the Bulgarian Army (Article 186, paragraph 1 of the Law on Defense and the Armed Forces). Soldiers are not entitled to strike or union action.

- legislative changes to encourage the creation and membership of trade unions:

The latest amendments to the Labour Code (SG, issue № 107 of 2020) improve the regulations regarding social dialogue and collective bargaining. The obligation of the state to promote social dialogue and bilateral cooperation between the social partners and the goals to which efforts in this area should be directed are explicitly regulated (Article 2a of the Labour Code). In addition to Art. 3c, para. 1 of the LC, the range of issues on which the opinion of the National Council for Tripartite Cooperation may be requested has been expanded.

With the amendments to the Labour Code of December 2020, changes were made in the field of collective bargaining, which aim to renew the interest in it, respectively to increase and encourage the creation and membership of trade unions. With an amendment to Art. 57 of the Labour Code regulates the possibility of including a clause in the collective bargaining agreement regarding the accession contribution of workers and employees who are not members of the trade union organization, party to it. The inclusion of such a clause must not be contrary to or circumvent the law or prejudice good morals, in order to guarantee equal rights for trade union members and employees who wish to benefit from more favorable arrangements without join the union that signed the agreement. This will stimulate the conclusion of collective bargaining agreements by facilitating the negotiation process and the implementation of agreed commitments.

It regulates the possibility through collective bargaining agreements at branch and branch level to establish a reference period for calculating the weekly working time longer than 4 months, but not more than 12 months, as well as the possibility to agree in a collective employment contract maximum duration of overtime work up to 300 hours per year. These opportunities aim to increase the interest of employers in concluding collective bargaining agreements, respectively to encourage the creation and membership of trade unions.

The procedure for extending the concluded sectoral or branch collective bargaining agreements has been improved (Article 51b of the Labour Code). The extension takes place at the general request of the parties to the collective agreement concluded at sectoral

or branch level, addressed to the Minister of Labour and Social Policy, without the need for the collective agreement itself to be concluded between all representative organizations of employees and employees. employers in the industry or branch. In order to ensure mutual respect for the interests and consensus in taking these actions, the Minister of Labour and Social Policy will be obliged to seek the opinion of all representative organizations of employees and employers at national level. The regulation of a clear dissemination procedure aims to guarantee the rights of stakeholders. The change in the procedure will help implement the dissemination mechanism, which aims to increase the coverage of collective bargaining, to provide more favorable working conditions for more employees, and to ensure a fairer competitive environment between employers.

b) *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.*

The state regulates labour and directly related insurance relationships, as well as issues of living standards in cooperation and after consultation with the representative organizations of employees and employers. Consultations with national representative organizations take place in the National Council for Tripartite Cooperation (NCTC). All measures taken by the state to help maintain employment and promote economic recovery after the crisis caused by the COVID-19 pandemic have been discussed in advance with the social partners in the NCTC. Cooperation with the social partners has led to changes in some of the measures adopted in order to better meet the needs of employees and employers.

c) *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 reply to the questions raised.*

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;

No information requested. If the previous conclusion concerning the provision 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 reply to the questions raised.

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.

In connection with the above question, it should be noted that no changes have been made in the legislation that would limit this right. Proof of this are the numerous collective bargaining agreements concluded since the beginning of 2020, as well as annexes to them, both at the sectorial/branch and at the municipal and enterprise level. Some of the adopted annexes to the concluded collective bargaining agreements regulate issues arising from the unprecedented situation related to the COVID-19 crisis. An example of this is the annexes to collective bargaining agreements in the field of education.

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

No information requested. If the previous conclusion concerning the provision 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 reply to the questions raised.

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.*

There have been no changes in the legislation restricting the right of workers and employees to strike.

b) *If the previous conclusion concerning the provision 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 reply to the questions raised.*

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.*

Regarding specific measures taken during the pandemic to ensure and quarantine respect for the right to information and consultation, it should be noted that no changes in legislation have been made, i.e. the obligations laid down for employers apply in full.

b) *If the previous conclusion concerning the provision 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 reply to the questions raised.

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.*

Regarding the information requested by the Committee on the measures taken during the COVID-19 pandemic to ensure and ensure respect for the right to participate in the definition and improvement of working conditions, it should be noted that no changes have been made to the legislation. to restrict this right. An exception is the possibility introduced in Art. 138a, para. 2 of the Labour Code (new – SG, issue № 28 from 2020, in force from 13.03.2020, supplemented, SG, issue № 44 from 2020, in force from 14.05.2020) for the employers to establish for the whole period of declared state of emergency or declared epidemic emergency situation or for part of this period part-time work for full-time employees, in which case the employer is not obliged to hold prior consultations with trade union representatives and with the representatives of the workers and employees under Art. 7, para. 2 of the LC. In this regard, it should be noted that the establishment of part-time work under Art. 138a, para. 2 of the Labour Code is a temporary measure that can be taken by the employer only during a declared state of emergency or emergency epidemic situation. It aims to help employers set up a work

organization to reduce the crowds of workers in the workplace, thus reducing the preconditions for the transmission of COVID-19.

b) *If the previous conclusion concerning the provision, 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 reply to the questions raised.*

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.*

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.*

With regard to the information requested by the Committee on the measures taken to protect the right to a sense of personal dignity in the workplace during the crisis caused by the COVID-19 pandemic, it should be noted that no changes in legislation have taken place.

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.*

In the provisions of Art. 71-74 of the Law on Protection against Discrimination stipulates that compensation for damages may be sought by any person in the general court order, when his rights under this or other laws governing equality of treatment are violated. The compensation in this case is not limited by law. In this regard, a person, victim of harassment and sexual harassment has the right to claim compensation for pecuniary and non-pecuniary damages, which according to the Law on Obligations and Agreements (LOC) is not limited in time and amount. The court may award compensation for the damages suffered, which are a direct and immediate consequence of the unlawful damage.

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 reply to the questions raised.*

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.*

With regard to the information requested by the Committee on measures taken to protect the right to a sense of personal dignity in the workplace during the crisis caused by the COVID-19 pandemic, it should be noted that no changes in legislation have taken place.

b) *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 reply to the questions raised.*

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.*

With regard to the information requested by the Committee on the changes in legislation caused by the COVID-19 pandemic related to the right to information and consultation in the event of mass dismissal, it should be noted that no such changes have taken place.

Appendix № 2

Examples to Art. 4, paragraph 4:

COLLECTIVE BARGAINING AGREEMENTS № Д01-197 from 17.08.2020 IN THE SYSTEM OF PRE-SCHOOL AND SCHOOL EDUCATION:

"Art. 29. For the workers and employees in the pre-school and school education, members of the trade unions and the employers' organizations, parties to the agreement, the term of the notice in case of termination of the legal employment relationships under Art. 328, para. 1, items 1 - 3 and item 10 of the LC shall be two months.

Art. 31. (1) Employees, members of trade unions and employers' organizations, parties to the agreement, shall be paid compensation in the following amount:

1. Pursuant to Art. 222, para. 1 of the Labor Code - the gross remuneration for a period of two months;

2. Pursuant to Art. 222, para. 3 of the Labor Code - pedagogical specialists, when during the last 10 years of their work experience have held the position of pedagogical specialist in a state or municipal educational institution on budget support from the system of preschool and school education, shall be paid compensation under Art. 222, para. 3 of the Labor Code - in the amount of 10.5 gross wages;

3. On the grounds of art. 222, para. 3 of the Labor Code - persons from the non-pedagogical staff who have worked for the same employer during the last 10 years of their work experience - 8.5 gross wages;

4. Pedagogical specialists, who fulfill the minimum norm of obligatory teaching work under several employment contracts, upon their termination and acquired right to a pension for periods of social insurance and old age, shall be paid compensation under Art. 222, para. 3 LC under each of the employment contracts proportionally.

(2) Upon termination of the employment relationships due to illness on the grounds of Art. 325, item 9 and Art. 327, item 1 of the Labor Code, the employee shall be entitled to compensation in the amount of his/her gross remuneration for 3 months if he/she has at least 5 years of work experience and has not received compensation on the same grounds in the last five years."

COLLECTIVE BARGAINING AGREEMENTS IN THE HEALTHCARE SECTOR - 2020:

„Art. 17. (1) The notice upon termination of an employment contract on the grounds of Art. 328, para. 1, item 2 and item 3 of the Labor Code shall be 2 months for permanent agreements and 3 months for fixed-term employment agreements, but not more than the remainder of the term under the agreement.

Art. 61. Upon termination of the employment relationships due to illness on the grounds of Art. 325, para. 1, item 9 and Art. 327, para. 1, item 1 of the Labor Code, the employee is entitled to compensation in the amount of his gross remuneration for 3 months, if he has at least 5 years of work experience and during the last five years has not received compensation on the same grounds.

Art. 62. Upon termination of the employment relationships after the employee has acquired the right to a pension for periods of social insurance and old age, regardless of the grounds for termination, he/she is entitled to compensation pursuant to Art. 222, para. 3 of the Labor Code in the amount of gross remuneration for a period of 2 (two) months. If the worker or the employee has worked for the same employer for the last 10 years, the compensation shall be equal to the gross remuneration for a period of 7 (seven) months."

SECTORIAL COLLECTIVE BARGAINING AGREEMENTS IN THE CONSTRUCTION SECTOR from 05.11.2020:

„Art. 32. The worker or the employee, a member of the trade unions, a party to this sectoral collective bargaining agreement, dismissed under the terms of Art. 328, para. 1, items 1, 2 and 3 of the Labor Code shall receive additional compensation in the amount of 75% (seventy-five percent) of the minimum monthly basic remuneration for the respective category of staff for persons with work experience up to 10 (ten) years and 150% (one hundred and fifty percent) of the minimum monthly remuneration for the respective category of staff for persons with work experience over 10 (ten) years. The specific amount shall be agreed with a collective bargaining agreement in the enterprise, as the work experience must be placed in the enterprise in which the employment relationships is terminated.

Art. 33. (1) Upon termination of the employment contract of workers and employees, members of the trade unions, a party to this Sectoral collective bargaining agreement, pursuant to Art. 331 of the Labor Code, the employer shall owe compensation in the amount of not less than five times the amount of the last received monthly gross wage.

(2) The amount of the compensation under the preceding paragraph shall be calculated on the basis of the gross remuneration of the employee received for the last full month of service.

(3) In a collective bargaining agreement of the enterprises higher compensations may be negotiated than those under para. 1.

Art. 39. Upon termination of the employment relationships due to illness (Article 325, item 9 and Article 327, item 1 of the Labor Code), the employee shall be entitled to compensation from the employer in the amount of his/her gross wage for a period of 2 (two) months, increased by 50% (fifty percent), when he/she has more than 5 (five) years of work experience and during the last 5 (five) years has not received compensation on the same grounds, according to Art. 222, para. 2 of the LC."

SECTORIAL COLLECTIVE BARGAINING AGREEMENTS IN THE METALLURGY SECTOR from 04.11.2020:

„Art.10. (1) Upon termination of the employment relationships with a worker or an employee on the grounds of Art. 328, para. 1 item 1, 2, 3 and 4 of the Labor Code, who has more than 10 (ten) consecutive, continuous years of work experience in the enterprise and after dismissal has remained unemployed for more than 3 (three) months, the employer shall support him/her with an amount of one minimum wage for the sector, beyond the one provided under Art. 222, para. 1 of the LC. The employer shall pay the amount after presenting the necessary documents certifying the 3 (three) month period of unemployment with the first subsequent wage in the enterprise.

Art. 11.(1) Upon termination of the employment relationships with a worker or an employee on the grounds of Art. 325, para. 1, item 9 of the Labor Code, having over 10 (ten) consecutive, continuous years of work experience in the enterprise, the employer shall support him/her with an amount of one minimum wage for the branch, beyond the provisions of Art. 222, para. 2 of the LC."

SECTORIAL COLLECTIVE BARGAINING AGREEMENTS IN THE WORKING IN THE BREWERY SECTOR from 31.01.2020:

„Art. 32 The employer shall pay compensation upon retirement for periods of social insurance and old age in connection with Art. 222, para. 3 of the Labor Code and for work experience in the same enterprise for a certain number of last years before retirement in the following amounts:

- up to 10 years of work experience - not less than 3 gross wages;
- from 10 to 20 years of work experience - not less than 7 gross wages;
- over 20 years of work experience - not less than 8 gross wages.

Art. 33(1) The employer shall owe compensation to the worker or the employee in case of dismissal under Art. 328, para. 1, items 1-4, 7 and 8 of the Labor Code in the amount of not less than 2 (two) gross wages for the time during which he/she remained unemployed, but not more than 1 month."

SECTORIAL COLLECTIVE BARGAINING AGREEMENTS IN THE ENERGY SECTOR from 29.11.2019:

„Art.36 (1) Workers or employees shall be entitled to compensation under Article 222, paragraph 1 of the Labor Code upon termination of their employment relationships under Article 328, paragraph 1, items 1, 2, 3, 4, 7 and 8 of the Labor Code for the time during which they remained unemployed, under conditions and in the amounts as follows:

1. For the first month in the amount of their gross wage.

2. For workers and employees with work experience over 5 (five) years - their gross remuneration for another month.

3. Those who worked in the respective companies under Appendix No. 1, in addition to the compensation under items 1 and 2, are entitled to compensation in the amount of their gross remuneration for a longer period, as follows:

a/ over 10 years - for another 1 (one) month;

b/ over 15 years - for another 2 (two) months;

c/ over 20 years - for another 3 (three) months.

(2). Upon termination of the employment relationships due to illness (Art. 325, item 9 and Art. 327, para. 1, item 1 of the Labor Code) the worker or the employee shall be entitled to compensation from the employer if he/she has at least 5 (five) years of work experience and during the last 5 (five) years has not received compensation on the same grounds, in the amount according to the work experience in the respective companies under Annex No. 1, as follows:

a/ up to 10 years - 4 (four) gross wages;

b/ up to 15 years - 5 (five) gross wages;

c/ up to 20 years - 6 (six) gross wages;

d/ over 20 years - 7 (seven) gross wages;

Art.37 (1). Upon termination of the employment due to the acquired right to a pension for periods of social insurance and old age, regardless of the reason, the worker or the employee shall be entitled to additional compensation in the amount of his/her gross wage for four months if he/she has worked in the activities specified in Art. 3, para. 1 of this sectorial collective bargaining agreements in the last 10 years.

(2). The compensation provided for in the preceding paragraph shall be paid only if the employee has not received the maximum compensation under Article 222, paragraph 3 of the Labor Code.

(3). With the Collective bargaining agreements higher amounts of compensations under Art. 222, para. 3 of the Labor Code may also be negotiated in the companies."

Appendix № 3

Examples contained in collective bargaining agreements to Art. 22:

COLLECTIVE BARGAINING AGREEMENT IN THE HEALTHCARE SECTOR - 2020:

„Art. 74. (1) Employers annually provide funds for social and cultural services to workers and employees.

(2) The procedure for distribution and use of the funds for Social and cultural services and the periodicity of their reporting is determined by the General Assembly of Workers and Employees, respectively the Assembly of Proxies.

(3) The trade unions have the right to exercise control over the spending of the Social and cultural services fund. For the needs of control, the workers or the employers shall be obliged to annually provide the trade unions with up-to-date and accurate information on the expenditures of the Fund for the previous calendar year. The report shall be submitted to the unions in writing at least 14 days before the General Assembly, respectively the Assembly of Proxies by the order of the previous paragraph.

(4) The report under the preceding paragraph shall be submitted to the General Assembly of Workers and Employees/the Assembly of Proxies before adoption of decisions for spending the funds under the fund for the current calendar year.

Art. 75. Employers shall provide funds for the payment of transport costs during the employment of employees in the healthcare system in the amount of not less than 90% of the value of the subscription cards or tickets for extra-urban transport, where the workers and employees have a place of residence other than the place of work.

Art. 76. At the proposal of the trade unions and in the presence of financial possibilities, the employers shall provide financial support to workers or employees in the following cases:

1. Chronic illnesses;
2. Serious surgery;
3. Death of a child, spouse or parent.
4. Extreme need.

Art. 77. (1) Employers shall provide insurance at their own expense with "Professional liability of doctors and medical staff" insurance.

(2) In the Collective Bargaining Agreements at the municipal level and at enterprise level, the possibilities, the conditions and the order for insurance of the workers or employees with "Life" insurance shall be agreed.

(3) In the Collective Bargaining Agreements at the municipal level and at enterprise level, the possibilities, the conditions and the order for additional pension insurance of the workers and employees in the healthcare system shall be agreed.

(4) In the Collective Bargaining Agreements at the enterprise level, the possibilities, the conditions and the order for monthly provision of food vouchers, except for the cases of providing free food vouchers and/or supplements to it, pursuant to Ordinance № 11 of 21.12.2005 shall be agreed.

Art. 78. (1) The parties to this agreement are obliged by April 30 of each calendar year to agree on the distribution of cards for rehabilitation, prevention and recreation of workers or employees in the health care system in bases provided for management and administration to the Ministry of Health.

(2) The use of holiday bases, property of medical and health establishments and budgetary organizations in the structure of the Ministry of Health, shall be carried out after coordination with the respective trade union organizations at the enterprise level."

SECTORIAL COLLECTIVE BARGAINING AGREEMENT IN THE CONSTRUCTION SECTOR from 05.11.2020:

„Art. 40. (1) The women, members of the trade unions, party to this Sectorial Collective Bargaining Agreement, using additional paid annual leave for raising a child up to 2 years of age, according to Art. 164 of the Labour Code, shall be entitled to cash compensation after the expiration of the term specified in Art. 163, para. 1 of the LC and Art. 50, para. 1 of the Social Insurance Code (SIC) in the amount of the minimum basic wage for the industry, adjusted by a factor of 1.6.

(2) The difference between the determined cash compensation in the previous paragraph and the amount of cash compensation, according to Art. 164, para. 4 of the LC and Art. 53, para. 1 of the SIC is from the Sectorial Collective Bargaining Agreement fund, subject to the availability of funds.

Art. 84. (1) The employer shall provide funds, intended for satisfaction of the needs of social character of the working in the sector.

(2) The specific amount of the funds for the Sectorial Collective Bargaining Agreement shall be agreed with the Collective Bargaining Agreement of the enterprise.

(3) The manner of using the funds for the Sectorial Collective Bargaining Agreement shall be determined in the Collective Bargaining Agreements of the enterprise on the basis of a decision of the General (delegate) Assembly of the team according to Art. 293 of the LC.

Art. 85. The employer shall provide healthcare service under an agreement through healthcare establishments or with individual medical workers."

SECTORIAL COLLECTIVE BARGAINING AGREEMENT IN THE TRANSPORT SECTOR – 10.07.2020:

“Art. 41 Employers shall deduct funds for social and cultural services for the workers or the employees in the amount of not less than 10% of the amount of the funds for wages.

Art. 42 Funds for social and cultural services shall be spent on:

1. Reduction of prices of food or canteen organized meals.
2. Payment of part or all of the value of holiday cards to employees.
3. According to the possibilities of the enterprises for creating conditions for sports such as prevention of stress and health of the workers, increase of their motivation for work and improvement of their quality of life, the employer determines zones for recreation and sports. To this end, the employer plans to improve the existing base and build a new one for various sports such as fitness, aerobics, table tennis, football and others, including ensuring participation in sporting events outside the workplace.

4. Transport services, payment of transport costs of workers and employees, giving priority to group/collective travel in order to facilitate traffic and protect the environment.
5. Creating conditions for facilitated, preferential and/or free access of workers and employees to various cultural, sports and entertainment events.
6. Targeted funding and/or co-financing to ensure the implementation of voluntary initiatives of public benefit workers.
7. Medical prevention and medical care, payment for medicines, etc.
8. Assistance, including specialized assistance, to workers and employees, victims of violence and harassment in the workplace.
9. Cash benefits for long-term illness of workers and employees according to the duration of treatment.
10. One-off financial assistance to the relatives of a deceased employee.
11. Other social, household and cultural needs.
12. Voluntary pension insurance.
Art. 43 (1) The employer provides the workers and employees with free work clothes and uniforms.
(2) The positions, which have the right to work, uniform and special clothing, the type, model, color, materials and terms of wear, shall be determined jointly with the Trade Unions."

Appendix № 4

Examples contained in Collective Bargaining Agreements for creating conditions for trade union activity and providing assistance to trade union organizations, to Art. 28

COLLECTIVE BARGAINING AGREEMENT № Д01-197 from 17.08.2020 IN THE SYSTEM OF PRE-SCHOOL AND SCHOOL EDUCATION:

„Art 52 (1) In accordance with Art. 46 of the Labour Code for trade union activities, the Ministry (of Education and Science) and the employers provide free of charge the necessary material conditions of the trade unions - premises, use of reproduction equipment, computers, internet, materials, etc., necessary for their functions.

(4) For carrying out trade union activity in one calendar year, paid leave shall be used under Art. 159 of the LC in the amount as follows:

1. Chairman and secretary of the organization in an educational institution - 64 hours;
2. Chairman and secretary in municipal management - 104 hours;
3. Chairman and secretary in regional management - 128 hours;
4. Non-staff members of national management, national professional sections and national control and support bodies - 160 hours.

(5) For carrying out tasks of public importance under Art. 161, para. 1 of the Labour Code - participation in events of the TRADE UNIONS, organized by their leaders, trade union members enjoy paid leave of 40 houers per calendar year."

SECTORAL COLLECTIVE BARGAINING AGREEMENT IN THE HEALTHCARE SECTOR - 2020:

„Art. 82. (1) Ministry of Health and Employers, based on Art. 46 of the Labour Code assist the trade unions by providing them with the necessary conditions for carrying out trade union activities.

Art. 83. (1) At the request of the trade unions, the employers shall co-operate and ensure the possibility, the membership fee in the medical and healthcare establishments and in the other organizations of the healthcare system to be collected by payroll and to be transferred monthly to bank accounts, indicated by the respective trade union leaders.

Art. 84. (1) For carrying out the activity of the trade union organizations - parties to the agreeement, within one calendar year shall be paid paid leave for carrying out trade union activity, in the amount as follows:

1. To the sectorial managements - not less than 15 working days.
2. ATothe territorial administrations - not less than 10 working days.
3. To the part-time chairmen of the trade union managements in the medical and healthcare establishments - not less than 8 working days.
4. When participating in Congresses, General Meetings, Conferences, Workshops and others during the event, participants are provided with paid leave.

(2) For carrying out tasks of public importance - participation in events of the trade unions and their national managements, trainings, meetings, rallies, protest actions, etc., the trade union members - participants shall use paid official leave under Art. 161, para. 1 of the Labour Code in the amount of not more than 40 hours per calendar year. Leave is also granted to regular trade union members, in cases where they are duly invited to participate.

(3) The time for using the leave under the previous paragraphs shall be determined by the respective trade unionist, for which he shall promptly notify the employer and present a document certifying participation in the respective event."

SECTORIAL COLLECTIVE BARGAINING AGREEMENT IN THE CONSTRUCTION SECTOR from 05.11.2020:

„Art. 94 The employer shall provide the trade unions, a party to this collective bargaining agreement, with free facilities and premises for use and shall assist in carrying out their activities - providing transport or covering the transport costs of the management of trade union sections and organizations in carrying out trade union activities, participation in training on labour law and insurance issues, holding trade union meetings. The trade union managements shall be provided with the necessary information on the issues of labour and social insurance relations and others, necessary when conducting negotiations for concluding a collective bargaining agreement in the enterprise.

Art. 95. (1) The employer is obliged to second the employee appointed to participate in national meetings, conferences and congresses organized by the unions, party to this OCT, after presenting a written document signed by a representative of the relevant trade union management in the company.

(2) For conducting wokshops and training on labour and social insurance relations and on occupational health and safety, the employer ishall be obliged to second certain persons and pay the relevant costs for participation, upon presentation of a written document from the union, party to this collective bargaining agreement conducting the event.

Art. 96.The employer shall ensure the gratuitous collection of the trade union membership fee on the payroll at the request of any employee or worker to one of the trade unions, party to this agreeement, in accordance with Art. 272 of the Labour Code and on the basis of a decision of the General (delegate) meeting of the trade union section or organization and the same is provided monthly to the trade union section or organization in the enterprise by bank transfer or in a manner determined by the collective bargaining agreement of the enterprise.

Art. 102For organizing and conducting trade union meetings, the employer shall provide at least 12 (twelve) hours for 1 (one) calendar year for the members of the trade unions, party to this sectoral collective bargaining agreement.

Art. 103. The employer may not restrict trade union activities or put pressure on trade union members in the exercise of their rights.

Art. 104. An employee who has acquired the right to a pension for periods of social insurance and old age, who for a certain period of time has been paid by a trade union activist, shall be entitled to the compensations according to Art. 222, para. 3 of the Labour Code in the amount of gross remuneration for a period of 6 months."