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EUROPEAN SOCIAL CHARTER

19th National Report on the implementation of
the European Social Charter

submitted by

THE GOVERNMENT OF LITHUANIA

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

LIETUVOS RESPUBLIKOS SOCIALINĖS APSAUGOS IR DARBO MINISTERIJA

Biudžetinė įstaiga, A.Vivulskio g. 11, LT-03162 Vilnius, tel. (8 5) 266 8176, (8 5) 266 8169, faks. (8 5) 266 4209,
el. p. post@socmin.lt, https://socmin.lrv.lt. Duomenys kaupiami ir saugomi Juridinių asmenų registre, kodas 1886 03515

Lietuvos Respublikos nuolatinei atstovybei prie Europos Tarybos	2021-12- Į 2021-06-09	Nr. (26.1-) SD Nr. (77.1.5.8) S77-112

Kopija
Lietuvos Respublikos užsienio reikalų ministerijai

DĖL EUROPOS SOCIALINĖS CHARTIJOS ĮGYVENDINIMO ATASKAITOS

Lietuvos Respublikos socialinės apsaugos ir darbo ministerija, atsakydama į Jūsų persiųstą Europos Tarybos Socialinių teisių komiteto (toliau – Komitetas) vykdomojo sekretoriaus Jan Malinowski laišką, iki numatyto termino parengė ataskaitą apie Europos socialinės chartijos įgyvendinimą Lietuvoje pagal pridėtą klausimyną.

Maloniai prašom perduoti ataskaitą Komitetui.

PRIDEDAMA. Ataskaita, 55 lapai.

Viceministras Audrius Bitinas

Jūratė Baublienė, tel. +370 659 24812, el.p. jurate.baubliene@socmin.lt

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.).*

The Government's response

Documents in the legal framework to ensure reasonable working hours and exceptions in Lithuania include the Labour Code of 1 July 2017 (further referred to as the Code) and the Description of Short-term Working Standards and Payment Procedures approved by Order No 534 of the Government of the Republic of Lithuania of 28 June 2017 (further referred to as the Description).

Article 112 of the Code defines ***standard working hours****. The employee and the employer must agree on the standard working time in the employment contract. An employee's standard working hours shall be 40 hours per week (8 hours daily) unless labour law provisions establish shorter standard working hours for the employee or the parties agree on part-time work.*

The Government of the Republic of Lithuania approved the Description establishing ***shortened standard working*** *hours and a corresponding payment procedure for persons whose work entails greater mental and emotional strain as well as the list of these jobs, professions and positions, and shorter standard working hours for employees who work in a work environment*

where, following a risk assessment, health hazards have been established which exceed the values/amounts permitted by safety and health at work legislation and the amount of which cannot be reduced in the work environment to safe levels through technical or other means. The working time shall not exceed 36 hours per week for teachers, educators, speech therapists, social pedagogues, psychologists, etc. The working time shall not exceed 37 hours per week for pharmacists. A working week of no more than 36 hours per week shall be established for employees working in a work environment in which the values of chemical factors (including carcinogens and mutagens), physical work environment factors or ergonomic work environment factors exceed the occupational safety and health regulations.

On the eve of holidays, the length of the workday shall be shortened by one hour, except for employees subject to shortened standard working hours.

Article 114 of the Code stipulates that the working-time arrangements may not violate the following ***maximum working time requirements****:*
1) the average working time, including overtime but excluding work done according to an agreement on additional work, may not exceed 48 hours over each period of seven days;
2) working time, including overtime and work done according to an agreement on additional work, may not exceed 12 hours, excluding lunch breaks, per workday/shift and 60 hours over each period of seven days;
3) the specifics of working-time arrangements for night workers (Article 117 of this Code) and employees who are pregnant, who recently gave birth, or who are breast feeding and persons under the age of 18, as established in the Republic of Lithuania Law on Safety and Health at Work, must be adhered to;
4) no more than six days can be worked over seven consecutive days.

Article 115 of the Code establishes working-time arrangements using annualization.
Annualised hours shall be introduced where necessary, having carried out the information and consultation procedure with the work council and taking the opinion of the employer-level trade union into account. Where annualisation has been established, work is carried out at the time specified in the work/shift schedules in accordance with maximum working time requirements.
Work/shift schedules shall be communicated to employees at least seven days before they come into effect. They may only be changed in cases beyond the employer's control, upon notifying the employee two of the employee's working days in advance. Work/shift schedules shall be approved by the administration, having agreed on the procedures for the coordination of work/shift schedules with the work council or in the absence thereof – the employer-level trade union, or according to the procedure established in the collective agreement.
Work/shift schedules must be drawn up in such a way that they do not violate the maximum working time of 52 hours per each seven-day period, without applying this rule to work done according to an agreement on additional work or to on-call time. The employer must ensure the smooth change of employee shifts. An individual raising a child under the age of three shall have the right to choose a shift within two working days of them being posted, and an individual raising a child under the age of seven – whenever possible.
The employer must draw up work/shift schedules in such a way that the employee's working time is distributed over the reference period as uniformly as possible. It is prohibited to assign an employee to work two shifts in a row.
If, at the end of the reference period, an employee has not worked the total standard working hours for the entire reference period due to the working-time arrangements created for him or her, the employee shall be paid half of the remuneration due for the remaining standard working hours.
If, at the end of the reference period, an employee has worked more hours than the total standard working hours for the entire reference period, he or she shall be paid for the hours in excess of the standard working hours the same as for overtime or, at the request of the employee, the excess working time can be multiplied by 1.5 and added to the employee's annual leave.
When working annualised hours, remuneration is paid for the actual time worked, except for

the cases established in paragraphs 5 and 6 of this Article. The employer shall have the right to pay a fixed remuneration during each month of the reference period, regardless of the standard working hours actually worked, and then make a final settlement for work during the reference period by paying for the work according to factual data during the last month of the reference period.

Article 117 of the Code establishes that the ***working time of a night*** *worker may not exceed an average of eight hours per workday/shift during a reference period of three months if it is not agreed otherwise in collective agreements higher than employer-level. The working time per workday/shift of night workers, with the exception of the workers referred to in Article 118 of the Code whose work involves special hazards or heavy physical and mental strain (Article 112(4) of the Code), may not exceed eight working hours in any period of 24 hours during which they perform night work.*

Article 119 of the Code refers to ***overtime****. The employer may only instruct an employee to perform overtime work with the employee's consent, except for cases when:*
1) unplanned work critical to society must be performed or action must be taken to prevent calamities, dangers, accidents or natural disasters or to eliminate the consequences thereof that require prompt eradication;
2) it is necessary to complete a job or eliminate a failure due to which a large number of employees would have to cease work or materials, products or equipment would be damaged;
3) this is stipulated in the collective agreement.
No more than eight hours of overtime can be worked over a period of seven consecutive calendar days unless the employee gives written consent to work up to 12 hours of overtime per week. In such cases, the maximum average working time of 48 hours per week calculated over the reference period cannot be infringed upon. The maximum amount of overtime per year is 180 hours. Higher maximum overtime limits may be agreed upon in the collective agreement. The maximum working time and minimum rest period requirements may not be infringed upon while working overtime.

If the provisions of the Code do not establish otherwise, working-time arrangements may not violate the following ***minimum rest period*** *requirements:*
1) during a workday/shift, the employee must be given physiological breaks according to the employee's needs, and special breaks when working under outdoor conditions (outside or in unheated premises) or occupational risk conditions, or when performing work that demands heavy physical or mental strain;
2) after no more than five hours of work, employees must be given a lunch break in order to rest and eat. This break may not be shorter than 30 minutes or longer than two hours, unless the parties agree on split shift working-time arrangements. During the lunch break, the employee may leave the workplace;
3) the length of daily uninterrupted rest between workdays/shifts may not be shorter than 11 consecutive hours, and an employee must be given at least 35 hours of uninterrupted rest over a period of seven consecutive days. If the length of an employee's workday/shift is more than 12 hours but no more than 24 hours, the length of uninterrupted rest between workdays/shifts may not be less than 24 hours;
4) if on-call duty lasts for 24 hours, the rest period shall last at least 24 hours.
The length of breaks as well as when they begin and end and other conditions shall be established by labour law provisions and workday/shift schedules. Employees performing work that, due to production conditions, does not allow for breaks to rest and eat must be given the opportunity to eat during working time.

Information on enforcement measures and monitoring arrangements, in particular as regards the activities of labour inspectorates

As illustrated in the table bellow, the State Labour Inspectorate of the Republic of Lithuania (the SLI) pays special attention to the riskiest economic sectors such as construction,

wholesale and retail trade, manufacturing, agriculture, forestry and fisheries, road freight transport, etc. activities. The SLI is improving the effectiveness of inspections by applying an integrated approach, carrying out more and more inspections in cooperation with other institutions (State Tax Inspectorates, County Chief Police Commissariats, Financial Crime Investigation and Employment Services).

Sector	*No of inspections and activities in 2020*	*No of inspections and activities in 2019*
Construction sector	*3224*	*4789*
Wholesale and retail trade sector	*989*	*1785*
Manufacturing	*952*	*1137*
Transport sector	*989*	*1785*
Agriculture, forestry and fishing	*578*	*601*
Accommodation and food services	*516*	*547*
Public administration	*731*	*569*
Other	*1479*	*1330*
Total:	*9458*	*12543*

The State Labour Inspectorate of the Republic of Lithuania (the SLI) data

The number of inspections and inspection activities in sectors of economic activity may vary from year to year due to the implementation of various preventive measures and prevention plans. The statistics include not only the inspection of an economic entity, but also inspection activities, i.e., counselling seminars, counselling events for young people, counselling in companies at the request of employers, testing of knowledge of occupational safety and health, etc.
In 2020, the SLI imposed 591 fines of ruling (total EUR 658129) and in 2019, 412 fines (total EUR 282422). In 2020, together with the courts, the number of administrative instructions and fines were EUR 1 190 992 (in 2019, 947 451 EUR).

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.*

The Government's response

From 1 November 2021, increased administrative fines imposed on employers for violations of labour laws. The minimum fine for violations of working time accounting has been doubled to EUR 300.
Article 100 of the Code of Administrative Offenses of the Republic of Lithuania stipulates that failure to record the working time of employees, except for those working in a fixed working day (shift) and the number of working days per week, in the timesheet, as well as the working time of employees (overtime, public holidays, non-marking of the rest day (if it is not determined according to the schedule), night, due to additional work) in the timesheet or entry of known incorrect data on the working hours of persons working in enterprises, institutions, organizations in

the timesheet imposes a fine on employers or other liable persons from EUR 300 to EUR 1450. A repeated administrative offense imposes a fine of EUR 1400 to EUR 3000.

The SLI analyses complaints related to the violation of working and rest time regime. In 2017, the SLI received 749 complaints and notices of public interest (further referred to as complaints) about working time and 121 complaints about rest time (in total, 4166 complaints). The indicators of working time include complaints about reduced working hours, working in the work environment where the levels of factors harmful to health exceed the permitted values (quantities) established in the legislation on occupational safety and health; working time regime; working time accounting; total working time accounting; overtime work; working hours on the eve of public holidays; working hours at night; on-call time and other matters relating to working time. The indicators for rest time include breaks; daily rest; uninterrupted weekly rest; public holidays; yearly holidays; annual extended leave; special leave; unpaid leave and other rest time issues. The requirements for elimination of violations were listed (R1) as follows: 328 due to the violations of work time requirements, and 83 due to the violations of rest time requirements.
In 2017, the SLI carried out inspection activities together with other supervisory authorities (for example, 286 inspection activities on work and rest time as well as illegal work, counselling and education activities in territorial departments of the Employment Service under the Ministry of Social Security and Labour of the Republic of Lithuania (hereinafter – Employment Service) were performed together with the Employment Service; 4 inspection activities on work and rest time, illegal work, accidents at work were performed together with the Lithuanian Transport Safety Administration).

In 2018, the SLI carried out 461 inspection activities together with the Employment Service related to work and rest time as well as illegal work, counselling and education activities in territorial departments of the Employment Service, 31 inspection activity related to work and rest time, illegal work, accidents at work together with the Lithuanian Transport Safety Administration. In 2018, the SLI received 889 individual inquiries about work time and 1971 individual inquiry about rest time. In addition, the SLI received 637 complaints about work time and 133 complaints about rest time (in total, 4414 complaints). In 2018, 243 requirements to rectify infringements (R1) (to eliminate violations) were filled due to identified violations of working hours and 120 requirements to rectify infringements (to eliminate violations) were filled due to identified violations of rest time.

In 2019, the SLI provided information to 726 individual inquiries concerning work time and 1684 individual inquiries concerning rest time. In 2019, the SLI received 540 complaints related to possible violations of work time and 151 complaints related to rest time (in total, 4164). By sectors, 26 complaints were received about possible violations of work time and 3 complaints regarding possible violations of rest time in the field of agriculture, forestry and fishery; 52 complaints about work time and 11 complaints about rest time were received in the field of accommodation and catering services; 20 complaints about work time and 12 complaints about rest time were received in the health care and social work sector.
The SLI issued 221 requirement for elimination of violations (R1) regarding work time and 99 requirements for elimination of violations (R1) (9 requirements for elimination of violations regarding work time and 4 requirements for elimination of violations regarding rest time were issued in the of field agriculture, forestry and fishery; 33 requirements for elimination of violations regarding work time and 12 requirements for elimination of violations regarding rest time were issued in the

field of accommodation and catering services; 3 requirements for elimination of violations regarding work time and 1 requirement for elimination of violations regarding rest time were issued in the health care and social work sector).

In 2020, the SLI carried out 414 inspection activities together with the Employment Service concerning work and rest time as well as illegal work, counselling and education activities in territorial departments of the Employment Service, 30 inspection activities concerning work and rest time, illegal work, accidents at work together with the Lithuanian Transport Safety Administration. In 2020, the SLI provided information to 704 individual inquiries about work time and 1757 individual inquiries about rest time. In 2020, the SLI received 448 complaints about possible violations of working hours and 139 complaints related to possible violations of rest time (in total, 4234). 8 complaints about possible violations of work time and 2 complaints regarding possible violations of rest time in the field of agriculture, forestry and fishery were received; 60 complaints about work time and 9 complaints about rest time in the field of accommodation and catering services were received; 44 complaints about work time and 13 complaints about rest time were received in the health care and social work sector). In 2020, the SLI issued 233 requests to eliminate violations (R1) related to work time and 93 requests to eliminate violations (R1) related to rest time (13 requirements for elimination of violations about work time and 5 requirements for elimination of violations about rest time were issued in the of field agriculture, forestry and fishery; 37 requirements for elimination of violations about work time and 13 requirements for elimination of violations about rest time were issued in the field of accommodation and catering services; 22 requirements for elimination of violations about work time and 9 requirement for elimination of violations about rest time were issued in the health care and social work sector).

In case of violations of work time and rest time requirements, the SLI may impose administrative sanctions pursuant to the Article 96 of the Code of Administrative Offences of the Republic of Lithuania (violation of labour law, occupational safety and health requirements). The total number of protocols of administrative offences adopted due to the violations of labour law (including work time and rest time violations) as well as violation of occupational safety and health requirements was 550 in 2019, and 606 in 2020. In 2019, 24 decisions and in 2020, 39 decisions imposing a fine were issued.

Violations of work and rest organization in 2020 accounted for 40% of irregularities detected during the SLI inspections, and compared to 2019, decreased by 5 percentage points. Since 2018, the SLI paid a lot of attention and resources to control various forms of undeclared work. The purpose of the inspections was to determine whether employers in the riskiest sectors of economic activity (transport, trade, catering and other services) properly record working time, overtime and night work, work on rest days. It was also important to determine if there was compliance with the requirements of the working and rest time regime and the proper execution of employment contracts. At the same time, it was monitored whether the employee is paid for the work and the taxes are paid.

A detailed report on the trends of the implementation of the Lithuanian law regulating labour relations during the period 2016-2020 is available on the website of the SLI (in Lithuanian only):
file:///C:/Users/JurateBa/Downloads/DSS_tendencijos_2016_2020.pdf

When initiating individual disputes over the law, the employees applied to the Labour Disputes Commissions. To ensure the effective and transparent resolution

of labour disputes, a labour dispute commission consists both of the representatives of employer organisations and trade unions. They are appointed in rotation from a list approved by the Chief State Labour Inspector of the Republic of Lithuania.

Labour Disputes Commission

Year	*2017*	*2018*	*2019*	*2020*
Disputes (work and rest time)	*16*	*60*	*59*	*122*
Total disputes	*6675*	*6712*	*7579*	*7044*

Source: the SLI

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 Government's response

Article 118 of the Code describes the specifics of working-time arrangements while on call. When an employee performs his or her job function by being on call (active on-call duty), the length of the workday/shift may not exceed 24 hours and may also not exceed the employee's standard working hours over a maximum reference period of three months. When an employee is required to be present at a place specified by the employer and ready to perform his or her functions as necessary (passive on-call duty), the length of the workday/shift may be up to 24 hours but may not exceed the employee's standard working hours over a maximum reference period of two months. In this case, the employee must be given the opportunity to rest and eat at the workplace. Both for active and passive on-call duty, conditions must be created for the employee to rest and eat. The working-time arrangements and record-keeping for these employees shall be subject to the rules of annualisation.

The time spent by an employee outside of the workplace but prepared to perform certain actions or go to the workplace if the need arises during normal rest hours (passive on-call duty at home) shall not be considered working time except for the time actually taken for action. This type of on-call duty may not last longer than a continuous one-week period over four weeks. Passive on-call duty at home must be agreed upon in the employment contract and the employee must be paid an allowance of at least 20 per cent of his or her average monthly remuneration for each week on call outside of the workplace. Actions actually taken shall be paid for as actual time worked, but not in excess of 60 hours per week. A person may not be assigned to passive on-call duty at home on a day that he or she has already worked continuously for at least 11 consecutive hours. Persons under the age of 18 may not be assigned to passive on-call duty or passive on-call duty at home. Passive on-call duty or passive on-call duty at home may only be assigned to employees who are pregnant, who recently gave birth, or who are breast feeding, employees who are raising a child under the age of 14 or a disabled child under the age of 18, persons caring for a disabled person, and disabled persons who are not prohibited from such duty by conclusion of the Disability and Working Capacity Assessment Service under the Ministry of Social Security and Labour with the consent thereof.

In Lithuania, legislation does not allow zero-hours contracts.

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).*

The Government's response

According to the SLI data, the comparison of the pandemic period (2020) to the pre-pandemic period (2019) showed an increased number of in overall complaints and notifications of public interest (hereinafter referred to as complaints). In 2019, the SLI handled 4 097 complaints, and during the pandemic in 2020, 4187 complaints. However, the violations of working time decreased. In 2019, of total complaints examined, 540 were about breaches of working time, of which 113 were about overtime work. In 2020, out of total examined complaints, there were 448 complaints about violations of working hours, of which 69 were about overtime work. Due to the Covid-19 pandemic and quarantine in the country, from March to June 2020, the activities of most companies were restricted or completely suspended. For this reason, the SLI did not carry out scheduled inspections of economic entities, only unscheduled inspections were carried out on the basis of reports received, complaints, information published or otherwise disclosed in the media or obtained or clarified in other ways.

No amendments to the Code provisions were made regarding maximum working time and minimum rest period during the COVID-19 pandemic. Thus, all sectors including 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) are obliged to follow general provisions of the governing maximum working time and minimum rest period.

*Only amendments to the Code related to **downtime** were adopted by the Parliament.*

Key requirements for announcement of downtime due to emergency situation and quarantine were laid down in Article 47 (1)(2) of the Code:

The employer cannot provide the employee with the work agreed in the employment contract due to objective reasons not due to the employee's fault and the employee does not agree to work another job offered to him or her;

The Government of the Republic of Lithuania declares an emergency situation and / or quarantine and the employer may not provide the employee with the work stipulated in the employment contract, because due to the peculiarities of work organization it is not possible to work remotely;

When the employer declares downtime lasting up to one working day, the employee is paid his / her average salary and the employer has the right to require the employee to be at the workplace;

When the employer declares downtime for a period longer than one working day, but not longer than for three working days, the employee may not be required to arrive at the workplace every day for more than one hour;

During the period of downtime, he/she shall be paid his/her average salary; during the other period of downtime during which the worker is not required to be at work, he/she shall be paid 2/3 of his average salary;

When the employer declares downtime for an indefinite period or for a period longer than three working days, the employee is not obliged to come to the workplace, but must be ready to come to the workplace on the next working day after the notification of the employer;

For the period of downtime of up to three working days, he/she shall be paid in accordance with

the procedure established in the Code, and for the next period of downtime he/she shall be left with 40 percent of his average salary;
In the calendar month, in which the employee was declared downtime, the salary received by the employee for that month may not be less than the minimum monthly salary approved by the Government of the Republic of Lithuania, when his or her employment contract stipulates the full working time rate;
The employer may declare the employee to be partially downtime when the number of working days per week (for at least two working days) or the number of working hours per day (for at least three working hours) is reduced for a certain period of time. During periods of partial downtime, when the employee is not required to be at work, he/she shall be paid in accordance with the procedure established in the Code;
In case the downtime is announced, the employer is imposed to notify the State Labour Inspectorate no later than in 1 business day.

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.*

The Government's response

The Parliament of the Republic of Lithuania adopted the amendments of Articles 47 and 49 of the Labour Code of Lithuania, allowing to regulate the labour relationships more versatile in case of the extreme situation on the state level.

Under the amendments of the Labour Code of Lithuania an employer may declare the downtime for the employee or for a group of employees when the Government of Lithuania declares extreme situation or quarantine on the state level and hereupon the employer is unable to provide the employee with the work agreed upon in the employment contract.

When the downtime is declared due to extreme situation or quarantine:

1) the employee cannot be required to come to the workplace;

2) during the idle time the employee shall be paid a salary not lower than minimal monthly salary approved by the Government of the Republic of Lithuania, when the employer and the employee agreed on full-time job. The employer's expense related to the paid salary during the idle time may be reimbursed by the state pursuant to the provisions of the Law on Employment of the Republic of Lithuania;

3) the employer may declare the partial idle time when it reduces the number of working days per week (reduce by 2 working days or more) or working hours per working day (reduce by 3 working hours or more) for the specific period. In such case the employee receives the salary for the labour time, whereas for the idle time the employee is paid proportionally as per Item 2 above.
The amendments of the Labour Code of Lithuania also stipulate that once the Government of Lithuania announces extreme situation or quarantine, the employer must propose to the employee to work remotely from home if the state of health of the employee is dangerous for the health safety of other employees. If the employee does not agree to work remotely or does not provide the employer with the response to the employer's proposal, the employer shall suspend the employee by prohibiting his working and not paying him the salary.

To ensure that the employment contracts were not terminated during the downtime due to declared quarantine, the Parliament of the Republic of Lithuania amended the Law on Employment of Lithuania and established that the employers preserving the jobs during the downtime shall be paid with subsidies to compensate the paid salaries.

The amount of subsidy shall be calculated accordingly to the salary of an employee. The amount of subsidy shall be 60 or 90 per cent. The subsidy of 90 per cent shall be paid to those employers whose activities are restricted by the Government of the Republic of Lithuania due to quarantine. However, the amount of the subsidy shall not be higher than the minimal monthly salary approved by the Government of the Republic of Lithuania.

During the extreme situation or the quarantine, the subsidy for the salary shall be paid for no longer than 3 months. The employers who are subject to subsidy shall have to preserve the jobs at least for 3 months as from the date when all subsidy payments are paid.

In Lithuania, the average number of teleworking increased from 13 percent in 2017 up to 40 percent 2020. Remote work shall be assigned at the request of the employee or by agreement of the parties. An employee's refusal to work remotely may not serve as a legitimate reason to terminate an employment contract or change the terms of employment. If the employer cannot prove that it would cause excessive costs due to production necessity or the specifics of work organisation, the employer must satisfy an employee's request to work at least one-fifth of standard working hours remotely when said is requested by an employee who is pregnant, who recently gave birth, or who is breast feeding, an employee who is raising a child under the age of three, or an employee who is a single parent raising a child under the age of 14 or a disabled child under the age of 18. In assigning remote work, the requirements for the workplace (if such exist), the work equipment provided to use for the job, the procedure for its provision, and the rules for using work equipment shall be established in writing; the workplace division, department, or responsible person whom the employee must report to regarding the work performed in the procedure established by the employer shall also be established. If, while working remotely, the employee incurs additional expenses related to the job or the purchase, installation or use of work equipment, said must be reimbursed. The amount of compensation and the conditions for its payment shall be established by agreement of the parties to the employment contract. In the case of remote work, the hours worked by the employee shall be calculated in accordance with the procedure established by the employer. The employee shall allocate working time at his or her own discretion, without violating the maximum working time and minimum rest period requirements. Remote work shall not lead to restrictions in calculating the length of employment, promoting to a higher position, or improving qualification, and shall not limit or encumber the employee's other labour rights. The procedure established by the employer for the implementation of remote work cannot infringe upon protection of the employee's personal data or right to private life. The employer must create conditions for employees working remotely to receive information from the employer and to communicate and cooperate with employee representatives and other employees working at the employer's workplace. The employer must regularly, at least once per calendar year, upon the request of the work council, inform the work council, or in the absence thereof – the employer-level trade union, about the remote work situation at the enterprise, institution or organisation, indicating the number of employees working in this manner and the positions held thereby, as well as the average remuneration by occupational group

and gender where there are more than two employees in the occupational group (Article 52, the Code).

Working-time arrangements are the distribution of standard working hours over the workday/shift, week, month, or other reference period that may not exceed three consecutive months. If labour law provisions or the employment contract do not establish otherwise, the working-time arrangements for one or several employees (group of employees), or for all the employees at the workplace shall be established by the employer, by selecting one of the following types of working-time arrangements:
1) fixed duration of workdays/shifts and number of working days per week;
2) annualised hours, when the standard working hours for the entire reference period are fulfilled during the reference period;
3) a flexible work schedule where an employee is required to be present at the workplace for certain hours of the workday/shift, but can work the other hours of the workday/shift before or after the required hours;
4) split shift working-time arrangements, when work is done on the same day/shift with a break to rest and eat that is longer than the established maximum length of breaks to rest and eat;
5) individualised working-time arrangements.
Unless established otherwise, it shall be considered that the standard working hours are fulfilled within a one-week reference period, working five days per week with an equal number of hours per workday each week.
The working-time arrangements for employees at state and municipal enterprises, institutions and organisations shall be established by the Government of the Republic of Lithuania in accordance with the provisions of the Code (Article 113, the Code).
Where a flexible work schedule is in place (for all or just a few days of the working week), the beginning and/or end of the workday/shift shall be set by the employee according to the rules set out in the Code.
The employer shall establish the fixed hours of the workday/shift during which the employee must work at the workplace. This working time may only be changed upon notifying the employee at least two of the employee's working days in advance. The unfixed hours of the workday/shift are worked at the discretion of the employee, before and/or after the fixed hours of the workday/shift.
With the employer's consent, any unfixed hours of the workday/shift that were not worked may be transferred to another working day, as long as the maximum working time and minimum rest period requirements are not infringed upon (Article 116, the Code).
The employer must take measures to help the employee to fulfil his or her family obligations. In the cases established in the Code, employee requests related to the fulfilment of family obligations must be considered and given a motivated written response to by the employer. An employee's behaviour and actions at work should be evaluated by the employer to implement the principle of work practically and comprehensively–family harmony (Article 28, the Code).

When the Code or other labour law provisions do not grant an employee the right to demand that the terms of employment be changed, the employee is entitled to ask the employer to change the terms of employment. Refusal to satisfy an employee's written request to change the indispensable employment contract terms or supplementary employment contract terms agreed upon by the parties to the employment contract must be substantiated and presented in writing within five working days of the employee's request being submitted. If an employer refuses to satisfy an employee's request to change the terms of employment, the employee may repeatedly apply for the change of these terms no sooner than one month from

the employee's request to change the terms of employment being submitted. If the employer agrees with the employee's request or if the employer presents another proposal and the employee agrees, the terms of employment shall be considered changed once corresponding changes have been made to the employment contract (Article 42, the Code).

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.*

The Government's response

The Governmental Resolution No 587 on the Approval of the List of Activities, where Twenty-Four Hours of Work Period may be Applied, and the Peculiarities of Work and Rest Time in Economic Activities of 14 of May 2003 was still in force during the reference period. It means that the law was applicable to some categories of employees who could work 24 hours per day. However, this Governmental Resolution was abolished on 1 July 2017 when the new Labour Code of the Republic of Lithuania (hereinafter – the Labour Code) entered into force. Since 1 July 2017, there is no list of categories of employees who may work 24 hours per working day.

The new Labour Code establishes special working time arrangements for on-call work.
Where the employee performs his work duty by being on call (active on-call duty), the length of the working day/shift may not exceed twenty-four hours and the employee's working time norm during the maximum accounting period of three months.
Where the employee is obliged to be at the place specified by the employer, ready to perform his function as necessary (passive on-call duty), length of the working day/shift may be up to twenty-four hours but may not exceed the employee's working time norm during the maximum accounting period of two months. In such a case, the employee shall be afforded the opportunity to rest and to eat at his workplace.
The employee who performs either active or passive on-call duty shall be provided with appropriate conditions for eating and having a rest. Summary working time recording rules shall apply to such employees' working time arrangements and working time recording.
The employee's being out of the place of his employment but ready to take certain actions or to present himself to the place of employment if necessary, during his normal rest period (passive on-call duty at home) shall not be deemed to be working time except for the time when specific action has been actually taken. Such being on-call shall not last longer than one week during uninterruptedly during a period of four weeks. Such passive on-call work shall be stipulated in the employment contract and the employee shall be paid an allowance in the amount of at least twenty percent of the average monthly salary for each week of on-call duty at a place other than the place of employment. Actions actually taken shall be paid as for the working time actually worked but for no more than sixty hours per week. A person may not be appointed to perform a passive on-call duty at home on a day on which he has already worked at least eleven hours in succession without interruption.
Persons under eighteen years of age shall not be appointed to perform a passive on-call duty and a passive on-call duty at home. Pregnant employees, employees who have recently given birth, breast-feeding employees, an employee raising a child under fourteen years of age or a disabled child under eighteen years of age, a person caring for a disabled person, or a disabled person for whom passive on-call duty and passive on-call duty at home have not been prohibited by a conclusion issued by the Disability and Ability-for-Work Assessment Service under the Ministry of Social Security and Labour may only be appointed to perform the passive on-call duty and the passive on-call duty at home subject to their consent (Article 114 of the Code).

Article 114 of the New Labour Code sets up maximum working time requirements. According to this Article, the working time arrangement shall meet the following maximum working time

requirements:
1) an average working time, including overtime, but excluding the work under the arrangement for extra work, during each period of seven days shall not exceed forty-eight hours.
2) the working time including overtime and work under an agreement on additional working time may not exceed twelve hours (excluding lunch break) and sixty hours in each seven-day period;
3) the special working time arrangements set in the Republic of Lithuania Law on Safety and Health at Work for night workers, pregnant women, new mothers, breast-feeding women and persons under eighteen years of age;
4) the employee may not work more than six days during a period of seven consecutive days.

According to the Article 122 of the New Labour Code, working time arrangement shall not violate the following minimum rest period requirements:
- the length of a daily uninterrupted rest period between working days/shifts shall be no shorter than eleven hours in succession, and the employee shall be provided with at least thirty-five hour period of uninterrupted rest during any period of seven consecutive days. Where the length of the employee's working day/shift exceeds twelve hours but is no longer than twenty-four hours, the length of the uninterrupted rest period between working days/shifts shall be at least twenty-four hours;
- where on-call work lasts for twenty-four hours, the rest period shall be at least twenty-four hours.

The Government would like to draw the attention of the Governmental Committee of the European Social Charter to the fact that the previous report provided explanations about the Government's intention to set a shorter limit for on-call time. The Ministry of Social Security and Labour drafted a law on the amendment of respective articles of the Labour Code on 10 June 2013 and submitted it for harmonization to the institutions and organisations that participate in the activities of the Tripartite Council of the Republic of Lithuania as well as to other stakeholders. The draft law offered to establish that the duration of on-call time at the premises of certain categories' employees (health care, guardianship (curatorship), children-rearing/education, energy, specialized communication services and specialized emergency services as well as other services operating at a continuous on-call mode) and of persons on duty/watchers would be <u>up to sixteen hours a day</u> instead of twenty-four hours a day. Regrettably, organisations representing both the employers and the employees disagreed with this proposal.

2. to provide for public holidays with pay;

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

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

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

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

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

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

The Government's response

There were no special arrangements related to the pandemic or changes to work arrangements following the pandemic.

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

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.*

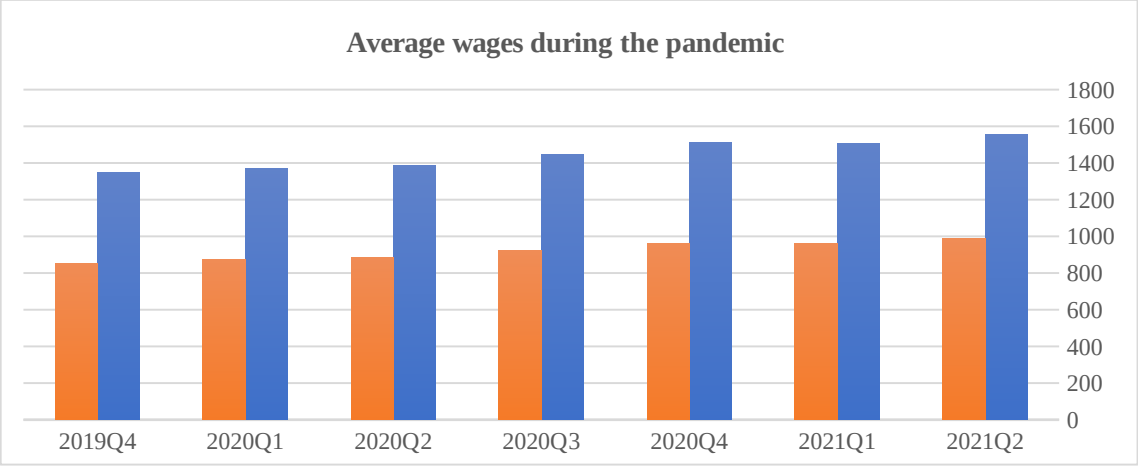
The Government's response

According to the Article 141 of the Labour Code, the monthly wage of an employee may not be less than the minimum wage. Minimum wage (minimum hourly wage or minimum monthly wage) - the minimum allowable wage for unskilled work for an employee for one hour or the full rate of working time per calendar month, respectively. Unskilled work is defined as work for which there are no special requirements for qualification skills or professional abilities. The minimum hourly wage and the minimum monthly wage shall be approved by the Government of the Republic of Lithuania upon receipt of a recommendation of the Tripartite Council of the Republic of Lithuania and taking into account the development indicators and tendencies of the national economy. The Tripartite Council of the Republic of Lithuania shall submit its conclusion to the Government of the Republic of Lithuania by June 15 of each year or by another date requested by the Government of the Republic of Lithuania. Collective agreements may set higher minimum wages and minimum monthly wages than those laid down in paragraph 3.
Information on gross and net minimum wages and the number (or proportion) of workers concerned by minimum or below minimum wage:

	2017	*2018*	*2019*	*2020*	*2021*
Minimum wage (gross)	*380 Eur*	*400 Eur*	*555 Eur*	*607 Eur*	*730 Eur*
Minimum wage (net)	*335 Eur*	*361 Eur*	*395 Eur*	*437/447 Eur*	*533 Eur*
Proportion of workers concerned by minimum or below minimum wage in	*13,6 %*	*10,9 %*	*10,4 %*	*9,9 %*	*NA*

national economy with individual enterprises (full time +part time)					

On 21 September 2017, the meeting of the Tripartite council decided that in order to depoliticize the setting of a minimum wage, to offer that the ratio of the minimum pay and the average pay should not be lower than 45 per cent or higher than 50 per cent, and that it should correspond to a quarter of the ratio of the EU states with the highest ratio between the average pay and the minimum hourly rate, determined by the EU Statistics Council, based on the data of the last three years.
On 13 October 2021, the Government of the Republic of Lithuania, taking into account the recommendation of the Tripartite Council of the Republic of Lithuania, approved the minimum monthly wage for 2022 amounting to 730 EUR (increased by 13,7 percent as compared with the previous MMW) and the minimum hourly rate amounting to 4,47 EUR. The decision was made after evaluation of the economic situation in the country, the financial possibilities of the State budget and municipal budgets and employers, in particular, small employers, to pay higher minimum monthly wage. It would be one of the most significant minimum wage increases in a decade.
The increase in the minimum monthly wage will affect approximately 127 thousand employees including around 17 thousand employees of budgetary institutions.
According to the current regulations in Lithuania, it is not possible to pay a lower wage than the minimum wage, and the minimum wage can only be paid for unskilled work. The possibilities of deductions from wages are regulated by the Labour Code and the Civil Code.



The pandemic has hardly slowed wage growth in the country. During the first quarantine in 2020, the wage growth slowed probably mainly due to subsidies in the amount of the minimum monthly wage paid. However, from July 2020, wages have started to rise sharply again, with growth rates similar to those observed over the past three years. For example, in 2020 in the fourth quarter, the average wage was 12.2 percent higher than 2019 during the relevant period.
The public sector has made a significant contribution to such a rapid rise in wages where salaries grew by 15.2% i.e., noticeably faster than nationwide. This was largely related to the allowances paid to health care workers for their work during the pandemic, but also in activities not directly related to the pandemic. In education and public administration salaries increased significantly (19.1 and 10.9%, respectively). In the private sector, wages also grew rapidly (annual change of 10.6%). This is the fastest rise since 2016.
The rapid rise in wages was observed because of a relatively small impact of the pandemic on a large part of the economy. For example, at the beginning of the

pandemic, the share of companies facing insufficient demand increased, but later it started to decline and is now back to pre-pandemic levels in all major sectors of the economy except construction. Trends in labour shortages in economic activities varied. The shortage of workers in manufacturing and construction was quite similar to that before the pandemic, but it was significantly reduced in trade and services during the pandemic, until around 2015-2016 level.
Despite the difficulties of quarantine, employers cannot force employees to take paid annual or unpaid leave without their consent. An employer may insist that an employee take paid annual leave only if he has accrued it for more than a year.
The request for leave is made by the employee according to his or her needs, and the employer decides, depending on the order in which the leave is granted, whether he or she can currently comply with the request.
If the employer requires the employee to take leave, the employee may apply to the State Labour Inspectorate with the Labour Disputes Commission.
According to the Labour Code, paid annual leave must be granted at least once a year. At least one part of the annual leave may not be less than 10 working days if working five days a week, or 12 working days if working six days a week.
Duration of paid annual leave per year:
20 working days if working five days a week,
24 working days if working six days a week,
25 working days for single parents under the age of 14 or a disabled child under the age of 18, with a disability or minors and working five days a week,
30 working days for workers raising a child under 14 or a disabled child under 18 alone, disabled or underage and working six days a week.
The government has also approved a list of some workers who are entitled to extended leave.
Holiday leave is paid during paid leave. Leave shall be paid no later than the last working day before the start of annual leave unless the employee wishes to receive it with pay. Their amount depends on the length of the leave and the three months before the average salary they receive.
No less than the minimum wage was paid during the idle time. The Labour Code stipulates that an employer may impose idle time on an employee or a group of employees if they are unable to provide the employee with the work specified in the employment contract after the declaration of an emergency or quarantine.
The minimum monthly salary in Lithuania amounted to 607 euros “on paper” or 437 euros “in hand” in 2020.
An employer may declare partial downtime by reducing the number of working days per week (by at least two working days) or the number of working hours per day (by at least three working hours) for a certain period.
For the time worked, the employee receives the salary stipulated in the employment contract, and for the time of downtime as for downtime.
The government has pledged to help employers who declare downtime for employees and thus keep jobs. This means that the costs incurred by the employers were reimbursed by the Employment Service through a grant.
Amounts of state subsidies:
60 percent. from the employee's calculated salary, but not more than 607 euros gross.
90 percent. from the employee's calculated salary, but not more than 607 euros gross (in those sectors where the Government has restrictions during the emergency or quarantine).
The subsidy is paid until the end of the emergency or quarantine, and the employer undertakes to keep the person in employment for another 3 months after the subsidy is paid.

a) 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.).

The Government's response

For workers in atypical jobs in the gig or platform economy there are two recruitment options: by contract or by agreement. In the case of concluding an employment contract, the general provisions of the Labour Code shall apply, in the case of an agreement, the provisions of the Civil Code shall apply. In Lithuania, the legislation does not allow zero-hours contracts.

The State Labour Inspectorate investigated complaints related to renumeration in 2019-2021

	2019 Q II	2020 Q I	2020 Q II	2021 Q I
Received complaints regarding wages	312	342	264	222

The State Labour Inspectorate has established violations regarding wages:

	2019 Q II	2020 Q I	2020 Q II	2021 Q I
Fixed complaints regarding wages	178	173	176	125

As in previous periods, the requirements for the elimination of violations (R1) of labour law in the first half of 2021 was mainly concerned with wages and salaries, including wage benefits, guarantees and compensations (establishment of the remuneration system, organization of remuneration, etc.), working time (working time regime, accounting of working time, total accounting of working time, etc.), employment and employment contract (content and conclusion of the employment contract, downtime), rest time (breaks, uninterrupted weekly rest, public holidays, annual leave, etc.).

Number of protocols recorded

	2019 II Q	*2020 I Q*	*2020 II Q*	*2021 I Q*
Code of Administrative Offenses of the Republic of Lithuania (Article 99 Part 1) Violations of the procedure for calculation and payment of wages	*62*	*50*	*55*	*46*
Code of Administrative Offenses of the Republic of Lithuania (Article 99 Part 2). Repeated administrative misconduct (Article 99 Part 1)	*1*	*1*	*2*	*1*
Code of Administrative Offenses of the Republic of Lithuania (Article 99 Part 3) Intentional	*1*	*-*	*1*	*-*

irregularities in the calculation and payment of wages or payment of wages not included in the accounting documents				
Code of Administrative Offenses of the Republic of Lithuania (Article 100 Part 1) Breaches of working time accounting	*65*	*63*	*78*	*33*
Code of Administrative Offenses of the Republic of Lithuania (Article 100 Part 2) Violations of the accounting of working time of already convicted employers	*1*	*1*	*-*	*1*

Source: the SLI

As one of the measures to prevent irregularities related to the payment of wages shall be the amendment to the Labour Code, which will enter into force on 1 January 2022, which imposes an obligation on the employer to pay wages to an employee only by transfer to a bank account specified by the employee. The payment of wages in cash shall be prohibited, thus contributing to the reduction of abuses in this area and the protection of workers' rights.

Changes have been introduced to reduce shadows and protect workers' rights. The Labour Inspectorate has received complaints when employees sign that they have received a higher amount than they are actually paid. Cash settlement in this case is very defensive for the employees and it is difficult for the employer to remain in debt. This procedure essentially eliminates this type of dispute.
In 2017 the Law on Remuneration of Employees of State and Municipal Institutions was adopted, the purpose of which is to provide equal opportunities for employees of equal education, working in the budget sector under employment contracts, to receive an equal payment. The basic size of the salary for the upcoming fiscal year is defined in a collective agreement.

The SLI regularly conducts education in the field of remuneration through various means (seminars, lectures, recommendations, dissemination of information on the Internet, etc.). In Q1 2021, compered to Q1 2020, the number wage claims submitted and examined by the Labour Dispute Commission decreased significantly. By providing subsidies to compensate for wages for downtime, employers have been able to reduce their financial burden at least in part and to pay their employees more often on time and / or in full.

b) *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.*

The Government's response

According to the Article 141 of the Labour Code, the monthly wage of an employee may not be less than the minimum wage established in accordance with the procedure established by this Article. Minimum wage (minimum hourly wage or minimum monthly wage) - the minimum allowable wage for unskilled work for an employee for one hour or the full rate of working time per calendar month, respectively. Unskilled work is defined as work for which there are no special requirements for qualification skills or professional abilities. The minimum hourly wage and the minimum monthly wage shall be approved by the Government of the Republic of Lithuania upon receipt of a recommendation of the Tripartite Council of the Republic of Lithuania and considering the development indicators and tendencies of the national economy. The Tripartite Council of the Republic of Lithuania shall submit its conclusion to the Government of the Republic of Lithuania by June 15 of each year or by another date requested by the Government of the Republic of Lithuania. Collective agreements may set higher minimum wages and minimum monthly wages than those laid down in Paragraph 3.

Since July 2019, employers are obliged to indicate the size and (or) size interval of the offered basic (tariff) wage in their job advertisement. These changes should bring more transparency for employees, looking for a job.

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.*

The Government's response

Lithuania has more than halved the standard of living gap with the EU average over the past two decades. One of the main indicators of the standard of living is the gross domestic product (GDP) per capita according to the purchasing power standard, i.e., considering price differences between countries. In Lithuania in 1995 it reached 33%. According to the latest data, it already exceeds 80% EU average.

However, to achieve the EU average of economic prosperity, our country will have to overcome difficult challenges, according to the analysis performed by the economists of Bank Lithuania.

The minimum wage in Lithuania is set by the Tripartite Council, which has agreed to link the level of the minimum monthly wage to specific economic indicators: changes in average monthly earnings, changes in productivity, changes in the average annual consumer price index, GDP growth, average annual unemployment rates and other changes. It must also correspond to a quarter of the average ratio between the countries of the European Union with the highest average and the minimum wage, which is determined on the basis of statistics published for the last three years.

The Lithuanian Labour Code allows paying the minimum wage only for unskilled labour.

The income of the lowest paid workers would increase in line with the Government's program to reduce income inequality.

According to EUROSTAT data, the average annual rate of change in gross monthly minimum wages between July 2011 and July 2021 was second highest in Lithuania (+10.7 %) among the EU member states.

According to EUROSTAT data for 2018, minimum wages represented over 60 % of the median gross earnings in only four Member States: France (66 %), Portugal (64 %), Slovenia (62 %) and Romania (61 %). The minimum wages ranged between 50 % and 60 % of the median gross earnings in eleven Member States, including Lithuania (50 %).

https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Minimum_wage_statistics#Minimum_wages_expressed_in_purchasing_power_standards

According to Statistics Lithuania data, in 2020, the at-risk-of-poverty threshold was EUR 430 per month for a person living alone, EUR 904 – for a family composed of two adults and two children aged under 14.

https://osp.stat.gov.lt/lietuvos-gyventoju-pajamos-ir-gyvenimo-salygos-2021/skurdo-rizika/skurdo-rizikos-lygis

The income of the Lithuanian population has been growing very fast in recent years, and in 2020 probably the fastest among all EU countries and much faster than prices.

	2017	***2018***	***2019***	***2020***	***2021***
Average wage (gross), whole economy including individual enterprises	***840,4***	***924,1***	***1296,4***	***1428,6***	***1557,8 (predictable)***
Average wage (net)	***650,68***	***720,01***	***822,08***	***913,08***	***989,5***
Minimum wage (gross)	*380 Eur*	*400 Eur*	*555 Eur*	*607 Eur*	*730 Eur*
Minimum wage (net)	*335 Eur*	*361 Eur*	*395 Eur*	*437/447 Eur*	*533 Eur*
Minimum wage (net)/Average(net)	*51,5 %*	*50 %*	*48%*	*49 %*	*53,9 %*

Average disposable income per month		*Urban and rural areas*
		Income in cash
2020	*per household, EUR*	*1305*
	per capita EUR	*599*
2019	*per household, EUR*	*1151*
	per capita EUR	*531*

2018	*per household, EUR*	*1052*
	per capita EUR	*482*
2017	*per household, EUR*	*952*
	per capita EUR	*436*
2016	*per household, EUR*	*889*
	per capita EUR	*403*

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 Government's response

According to the Article 118 of the Labour Code, when an employee performs his or her job function by being on call (active on-call duty), the length of the workday/shift may not exceed 24 hours and may also not exceed the employee's standard working hours over a maximum reference period of three months. When an employee is required to be present at a place specified by the employer and ready to perform his or her functions as necessary (passive on-call duty), the length of the workday/shift may be up to 24 hours but may not exceed the employee's standard working hours over a maximum reference period of two months. In this case, the employee must be given the opportunity to rest and eat at the workplace. Both for active and passive on-call duty, conditions must be created for the employee to rest and eat. The working-time arrangements and record-keeping for these employees shall be subject to the rules of annualisation. The time spent by an employee outside of the workplace but prepared to perform certain actions or go to the workplace if the need arises during normal rest hours (passive on-call duty at home) shall not be considered working time except for the time actually taken for action. This type of on-call duty may not last longer than a continuous one-week period over four weeks. Passive on-call duty at home must be agreed upon in the employment contract and the employee must be paid an allowance of at least 20 per cent of his or her average monthly remuneration for each week on call outside of the workplace. Actions actually taken shall be paid for as actual time worked, but not more than 60 hours per week. A person may not be assigned to passive on-call duty at home on a day that he or she has already worked continuously for at least 11 consecutive hours.
Persons under the age of 18 may not be assigned to passive on-call duty or passive on-call duty at home. Passive on-call duty or passive on-call duty at home may only be assigned to employees who are pregnant, who recently gave birth, or who are breast feeding, employees who are raising a child under the age of 14 or a disabled child under the age of 18, persons caring for a disabled person, and disabled persons who are not prohibited from such duty by conclusion of the Disability and Working Capacity Assessment Service under the Ministry of Social Security and Labour with the consent thereof.

In Lithuania, legislation does not allow zero-hour contracts.

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).

The Government's response

The right to a fair remuneration as regards overtime is established in the Labour Code. It was agreed that additional changes in legal acts are not necessary in Lithuania, as the Labour Code regulates overtime with sufficient flexibility and is more beneficial for employees. Employees distribute their working time at their own discretion by working remotely, unless otherwise agreed between the parties. They have every right to log out of both emails and do not pick up the phone after business hours.

According to Article 119 of the Labour Code, an employee may be instructed to work overtime only with his or her consent or when the need arises (to prevent accidents, rectify a fault, etc.). Overtime work can also be provided for in a collective agreement. Overtime work must be done with the knowledge of the employer. Therefore, if an employee works longer than the working time regime, overtime will be calculated and paid accordingly if the employer was aware of the overtime work i.e., there was his/her instruction or agreement with the employee to work overtime. The employer may request this consent each time an employee is assigned to work overtime, or immediately agree with the employee to describe the conditions under which the employee will work overtime. Such a pre-arranged agreement shall clearly describe the situations in which the employee will work overtime.
Overtime work shall be remunerated at least one and a half times the employee's salary. Overtime work on a day off which is not determined according to the work (shift) schedule, or overtime work at night shall be paid at least twice the employee's salary, and overtime work on a public holiday shall be paid at least two and a half times the employee's salary.

According to Spinter Research (2019), 24.5 percent of population in Lithuania work overtime. It is not a mass phenomenon and a massive exploitation. 30.6 percent or respondents answered that the employer always or mostly always pays for extra working time, and slightly more than half of the respondents chose the option that they are paid sometimes (50.5%). 16.7 percent of workers are not remunerated for overtime. According to Spinter Research (2020), during quarantine in Lithuania, 40 percent employees worked remotely. 23 percent of those who worked faced disregard for working hours, i.e., disturbance by the employer during lunch or after business hours.

Employees have the right to request to work remote; however, their refusal to work remotely if asked to by their employer cannot be used as a legitimate reason to end an employment contract or change working conditions. When such a request is issued by certain employees (an exact list of such employees is provided below), employers can reject the employee's request only if they can prove such arrangement would lead to excessive costs. In case of pregnant employees, those breastfeeding, parents with children up to the age of 3, single parents raising a child under the age of 14 (18 if the child has a disability), or a request by the health care institution to allow the employee to work from home, the employer must agree to the employee's request to work remotely for at least 20% of their total working time.

Working from home can be either agreed on between the employer and the employee or requested by the employee. Upon agreement, the remote work and home office arrangements must be established in writing and address the following clauses:
Workplace requirements (if any);
Establishing what equipment will be provided by the employer and the rules for the use of the equipment;
The amount of reimbursement the employee is entitled to if they use personal equipment to perform work;
A department or a particular person to whom the remotely working employee should report to;
The preliminary period of the remote work (if any);
Working hours in which the employee should be reachable by phone or email;
Establishing the way for employees to communicate and co-operate with other employees and receive information from the employer;
Rules on overtime and its requirements, such as overtime approval;
Other specific clauses, depending on a position, business, industry.

Employers must (1) provide the equipment necessary for work and (2) cover any installation costs. If employees incur any additional costs in connection with work when working from home, the employer must reimburse them. The amount of compensation and the terms of reimbursement are determined as agreed between the parties on the employment contract.
Teleworkers may distribute their working time at their own discretion, without violating the maximum working hours and the minimum rest time requirements.
Employees working from home have the same rights as those working in the employer's office. There should be no restrictions on calculating length of service, promotion, training, or any other rights established in the Labour Code. Most importantly, the implementation of telework should not violate the protection of employees' personal data and their right to privacy.

In 2020, all healthcare workers combatting the coronavirus received bonus payments amounting to 15 percent of their salaries under the decree signed by the Minister of Health of the Republic of Lithuania. Bonus payments were available throughout the quarantine period.
The Government issued a ruling No 449 on the Approval of the Description of the Procedure for increasing the Renumeration of Employees of Health Care Institutions during the Quarantine of 29 April 2020 which approved a pay rise of 60–100 percent for healthcare workers, including residents, who work in coronavirus hotspots during the quarantine.

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.*

The Government's response

The regulation on overtime has not been changed during the pandemic and after it.

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.

The Government's response

Article 144 of the Labour Code regulates payment for work on days off and holidays and overtime work, and compensation for employees whose work is of a mobile nature or involves trips or travelling. For work on a day off that was not required by the work/shift schedule, at least double the employee's remuneration must be paid. For work on a holiday, at least double the employee's remuneration must be paid. For work at night, an amount of at least 1.5 times the employee's remuneration must be paid. For overtime work, an amount of at least 1.5 times the employee's remuneration must be paid. For overtime work on a day off that was not required by the work/shift schedule, or for overtime work at night, at least double the employee's remuneration must be paid, and for overtime work on a holiday – an amount of at least 2.5 times the employee's remuneration must be paid. At the employee's request, working time on days off, holidays or during overtime, multiplied by the corresponding rate established in paragraphs 1–4 of this Article, may be added to annual leave time. Work performed on days off and holidays, at night or during overtime by a single-person management body of a juridical person shall be recorded but shall not be paid for unless the parties agree otherwise in the employment contract. Work performed on days off and holidays, at night or during overtime by the managerial employees of a juridical person (Article 101(3) and Article 101(4) of this Code) shall be recorded and shall be paid for the same as for work done according to the usual working-time arrangements unless the parties agree otherwise in the employment contract. The number of such managerial employees of a juridical person in an enterprise, institution or organisation may not account for more than 20 per cent of the employer's average number of employees. The list of these employees shall be established by labour law provisions. For work when there are deviations from normal working conditions as well as when an employee's workload is increased, an augmented remuneration as specified in Article 139(4) of this Code shall be paid compared to that under normal working conditions. The specific payment rates shall be established in collective agreements and employment contracts. Employees whose work is of a mobile nature or involves trips or travelling shall be compensated for extra expenses related thereto for the actual time worked in this nature. The amount of this compensation may not exceed 50 per cent of the basic (rate) remuneration and shall be paid in the case when the employee is not paid secondment expenses.

Article 11 of the Law on Remuneration of Employees of State and Municipal Institutions of the Republic of Lithuania and Remuneration of Commission Members provides for specific amounts of remuneration for overtime work of employees of budgetary institutions (including managerial employees). For the work on a day off, which is not determined according to the work (shift) schedule, the employee is paid twice the salary on the holiday day. Night work and overtime work are paid at the rate of one and a half of an employee's salary. Overtime work on a day off, which is not determined according to the work (shift) schedule, or overtime work at night shall be paid twice the employee's salary, and overtime work on a public holiday shall be paid at the rate of two and a half times the employee's salary. At the request of the staff member, working time on public holidays or overtime, multiplied by the appropriate amount, may be added to the annual leave.

Pursuant to Paragraph 2 of Article 28 of the Law on Civil Service of the Republic of Lithuania, civil servants shall be paid for work on days off and public holidays in accordance with the procedure established in Paragraphs 1, 2, 3, 4 and 5 of Article

144 of the Labour Code. Senior civil servants are also not covered by the exception for non-payment of overtime provided for in Article 144 (6) of the Labor Code.

A civil servant may be remunerated for participating in projects implemented by him or another body, as well as in activities carried out under cooperation agreements concluded by the institution with bodies established under international or European Union law (hereinafter referred to as cooperation agreements), which have specific and measurable objectives compatible with the mission and objectives of the agency, for which an implementation deadline and a separate budget have been set. Participation in European Union, international organizations, foreign countries, Lithuania or co-financed aid and / or Lithuanian development cooperation projects or activities under cooperation agreements from the European Union, international organizations, foreign countries shall be paid in accordance with the conditions and fees established in the projects or cooperation agreements. Where conditions and fees are not set, the fees for participation in project activities or activities under cooperation agreements shall be set by the head of the institution, but not more than twice the official salary of a particular civil servant. For the time during which a civil servant participates in projects or activities under paid co-operation agreements, the salary shall not be paid to the civil servant from the state or municipal budget.

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.*

The Government's response

According to the Department of Statistics, the gender pay gap has narrowed in almost every economic activity during the pandemic.

		Gender pay gap *| per cent*			
		2017	*2018*	*2019*	*2020*
B_TO_S	*Industry, construction and services*	*14,3*	*13,2*	*12,4*	*12,1*
B_TO_S_NOT_O	*Industry, construction and services (except public administration, defence, compulsory social security)*	*15,2*	*14*	*13,3*	*13*
B	*Mining and quarrying*	*7,2*	*6,9*	*3,4*	*3,6*
C	*Manufacturing*	*24,1*	*24,6*	*24,6*	*24,1*
D	*Electricity, gas,*	*10,6*	*9,2*	*9,1*	*8,8*

	steam and air conditioning supply				
E	*Water supply; sewerage, waste management and remediation activities*	*14,9*	*12,1*	*11,6*	*10,9*
F	*Construction*	*1,5*	*-1,5*	*-2,9*	*-1,8*
G	*Wholesale and retail trade; repair of motor vehicles and motorcycle*	*23,3*	*23,9*	*23*	*23,5*
H	*Transportation and storage*	*-10,1*	*-12,6*	*-10,7*	*-3,5*
I	*Accommodation and food service activities*	*13,3*	*16,7*	*13,9*	*13,7*
J	*Information and communication*	*29,8*	*29,9*	*30,2*	*28,8*
K	*Financial and insurance activities*	*34,2*	*32,1*	*36,3*	*33,8*
L	*Real estate activities*	*12,9*	*13,9*	*14,3*	*12*
M	*Professional, scientific and technical activities*	*19,4*	*21,5*	*17,2*	*15,9*
N	*Administrative and support service activities*	*10,6*	*9,1*	*14,7*	*10,8*
O	*Public administration and defence; compulsory social security*	*5,2*	*5,1*	*4,2*	*4,6*
P	*Education*	*0,5*	*1,4*	*2,6*	*2,5*
Q	*Human health and social work activities*	*26,7*	*25,2*	*26,8*	*27,1*
R	*Arts,*	*12,2*	*14,4*	*12,1*	*10,9*

	entertainment and recreation				
S	*Other service activities*	*9*	*7,8*	*14,8*	*12,5*

No more redundancies were observed during the pandemic compared to 2019, the number of redundancies decreased.

Changes of the number of dismissed employees		*TOTAL All NACE branches*
		compare to corresponding period of previous year
Changes of the number of dismissed employees | per cent	*2021M10*	*108,3*
	2021M09	*108,8*
	2021M08	*114,7*
	2021M07	*110,3*
	2021M06	*104,9*
	2021M05	*117,9*
	2021M04	*106,7*
	2021M03	*77,6*
	2021M02	*76,7*
	2021M01	*68,5*
	2020M12	*84,7*
	2020M11	*90*
	2020M10	*86,9*
	2020M09	*93,8*
	2020M08	*89,6*
	2020M07	*85,8*
	2020M06	*94,1*
	2020M05	*74,9*
	2020M04	*77,6*
	2020M03	*112,1*
	2020M02	*102,9*
	2020M01	*104,1*

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.*

The Government's response

In Lithuanian civil law damage is defined as the amount of the loss or damage of property sustained by a person and the expenses incurred (direct damages) as well as the incomes of which he has been deprived, i.e., the incomes he would have received if unlawful actions had not been committed (Article 6.249 (1) of the Civil Code of Republic of Lithuania (hereinafter referred to as the Code)).

The damages incurred must be compensated in full, except in cases when limited liability is established by laws or a contract. The court, having considered the nature of liability, the financial status of the parties and their interrelation, may reduce the amount of repairable damages if awarding full compensation would lead to unacceptable and grave consequences. However, the reduction may not exceed the amount for which the debtor has or ought to have covered his civil liability by compulsory insurance (Article 6.251 of the Code).

As stated in Article 6.250 of the Code, non-pecuniary damage shall be deemed to be a person's suffering, emotional experiences, inconveniences, mental shock, emotional depression, humiliation, deterioration of reputation, diminution of possibilities to associate with others, etc., evaluated by a court in terms of money. The court in assessing the amount of non-pecuniary damage shall take into consideration the consequences of such damage sustained, the gravity of the fault of the person by whom the damage is caused, his financial status, the amount of pecuniary damage sustained by the aggrieved person, also any other circumstances of importance for the case, likewise to the criteria of good faith, justice and reasonableness.

For example, in case-law the compensation for non-material damage is applied when damage is caused to values which do not have a pecuniary expression, but are protected by civil law by pecuniary means. In the context of such compensation, the principle of full restitutio in integrum cannot, objectively, be applied in its entirety, since it is not possible to quantify the non-material damage precisely in monetary terms. The law establishes a financial satisfaction aimed at compensating the victim as fairly as possible for spiritual, physical pain, etc. (ruling of the Supreme Court of Lithuania of 8 July 2021 in civil case No. e3K-3-286-943/2021, Order of 20 September 2016 in civil case No 3K-3-402-421/2016, Order of 29 December 2016 in civil case No 3K-3-540-916/2016).”

The Civil Code of the Republic of Lithuania does not define upper limit on the amount that may be awarded for compensation of pecuniary and non-pecuniary damage concerning discrimination on grounds of sex. To assess the damage is left to the court. Employees in the private sector have to turn to the ordinary civil courts in order to bring a sex-based pay discrimination claim. Public servants, on the other hand, must apply to the administrative courts.

In Lithuania, the infringement of the equal pay principle is subject to administrative sanctions, administrative fines in particular. According to Article 8 of the Code of Administrative Offenses of the Republic of Lithuania, violation of the equal rights of women and men established in the Law on Equal Opportunities for Women and Men of the Republic of Lithuania may result in a fine of 40 to 560 euros for managers, employers or other responsible persons. The repeated administrative offense shall be punishable by a fine of between 560 and 1200 hundred euros

In Lithuania, the principle of non discrimination is laid down in the Constitution. The constitutional guarantee of just working conditions applies for all employees which, combined with the constitutional non-discrimination principle, would certainly guarantee equal pay for men and women for equal work or work of equal value. The provisions of the new Lithuanian Labour Code of 2017 make a significant move in the direction of more transparency in wage systems by introducing several obligations for employers to make available wage-related information to the employees, the works council and the trade unions. These principles shall apply to statutory regulations or collective agreements as well as under other circumstances.

The Labour Code stipulates that the system of remuneration must be established in a collective agreement (in practice, equal opportunities including equal pay are laid down in such agreements). In the absence of a collective agreement to this effect, in workplaces with an average number of employees of twenty or more, pay systems must be approved by the employer and made available to all employees. The remuneration system shall specify:
the categories of staff by post and by qualification and each of their forms of remuneration,
wage levels (minimum and maximum),
the grounds and procedure for granting additional payment (supplements and bonuses),
wage indexation procedure.

Employers are required to design their pay system in such a way as to avoid any discrimination on the grounds of sex and other grounds: equal pay for equal work or work of equal value.
When approving the remuneration system, it is advisable to follow the "Methodology for the Evaluation of Jobs and Positions" (2004). This reduces the risk of indirect discrimination when an employee or group of employees is disadvantaged in terms of pay because of their gender, nationality, age or other identity.

Gender pay gap narrows in Lithuania but remains significant. It is partly due to female-dominated professions, like education and social care, being generally worse-paid than fields dominated by men. Pay disparities exist within professions, too. The biggest gender gap is in IT, engineering, and medicine.

Gender pay gap | per cent
Industry, construction, and services (except public administration, defence, compulsory social security)

2014	2015	2016	2017	2018	2019	2020
13,3	14,2	14,4	15,2	14	13,3	13

In Lithuania, the new Labour Code (2017) has increased the labour inspectorate's competences regarding pay discrimination. Before 2017, the Lithuanian labour inspectorate was very reluctant to use its own competences in cases of possible discrimination. As the new Labour Code expressly prohibits discrimination on various grounds, the labour inspectorate is now obliged to consider a violation of equality rights as a violation of labour rights and should act accordingly. However, the
Lithuanian labour inspectorate does not have the competence to impose fines but can only initiate
the procedure of administrative offences.

The State Labour Inspectorate carried out targeted inspections in the area of ensuring gender equality and equal opportunities at the workplace. A checklist on ensuring gender equality in the labour relations area has been prepared and approved by Order of the Chief State Labour Inspector of the Republic of Lithuania. According to the State Labour Inspectorate 's information system for continuous monitoring of working conditions (DSS IS) data, in 2016 inspectors carried out 54 inspections, in 2017 – 69 inspections, in 2018 – over 60 inspections, in 2019 – 177 inspections.

Over the period of 2016-2017 there were no violations, whereas in 2018, there were 7 cases when the employer did not fulfil the obligation, provided in the Article 26 (6) of the Labour Code, to adopt and publish, in the ways that are accustomed at the workplace, the measures for implementation of the principles for the supervision of the implementation and enforcement of the equal opportunities policies, and 1 case when the employer did not take measures to ensure that at the workplace, the employee does not experience harassment or sexual harassment and no instructions are given to discriminate, and also that the employee is not subject to persecution and is protected from hostile treatment or adverse consequences if he or she files a complaint concerning discrimination or is involved in a case concerning discrimination. To eliminate the infringements, inspectors issued mandatory orders and provided recommendations; the implementation was controlled by the inspectors. In 2019, there were 4 cases when the employer did not fulfil the obligation, provided in the Article 26 (6) of the Labour Code to adopt and publish, in the ways that are accustomed at the workplace, the measures for implementation of the principles for the supervision of the implementation and enforcement of the equal opportunities policies, and 1 case when the employer did not pay the same remuneration for the same work or work of the same value. To eliminate the infringements, inspectors issued mandatory orders and provided recommendations. The implementation of these recommendations was also controlled by the inspectors.

The State Labour Inspectorate also plays a significant role in the promoting and raising awareness as regards the provisions of the Labour Code on gender equality and equal opportunities through consultations, awareness-raising campaigns, targeted seminars for employees, employers, and social partners. In 2019, the State Labour Inspectorate issued the Recommendation to use a new equality planning tool: https://lygybe.lt/lt/darbo-inspekcija-imonems-rekomenduos-nauja-lygybes-priemone.

To determine the causes of gender, pay gap in financial and insurance institutions, in February 2020, the State Labour Inspectorate carried out targeted inspections. Work councils which are mandatory when the employer's average number of employees is 20 or more are not fully involved in the adoption and review of both equal opportunities policies (paragraph 6 of Article 26 of the Labour Code) and remuneration systems (paragraph 3 of Article 140 of the Labour Code). Few employers did not adopt the remuneration systems which were in line with requirements set in Article 140 of the Labour Code. Not all inspected employers applied equal selection criteria and conditions when hiring employees as well as use equal work evaluation criteria. After the inspections inspectors issued recommendations. The implementation of these recommendations was also controlled by the inspectors.

In the second quarter of 2021, the State Labour Inspectorate also carried out targeted inspections. 13 violations of labour law norms were identified: 2 violations due to non-compliance with the general provisions of the Labour Code of the Republic of Lithuania; 8 - regarding the establishment of the remuneration system and 1 - regarding employment, non-compliance with the requirements of the content of the

employment contract. due to non-compliance with the requirements of the content of the employment contract. In view of this, recommendations and orders were issued to 9 companies to eliminate the identified violations.

Measures to close the gender pay gap have been and are being implemented:
Amendments to the Law on State Social Insurance came into force on 1 April 2021, which allow the Social Security Fund to publish gender-differentiated earnings of enterprises;
Amendment to Article 134 (3) of the Labour Code on non-transferable parental leave. Each parent (adoptive parents, guardians) taking parental leave until the child reaches the age of 2 years shall, in the first instance, be entitled to a two-month non-transferable part of the parental leave. Each of the parents (adoptive parents, guardians) may take part of the non-transferable two-month parental leave at once or in instalments alternately with the other parent (adoptive parents, guardians). Both parents (adoptive parents, guardians) cannot take part of the non-transferable two-month parental leave at the same time;
The Labour Code provides that:
In the job advertisement, the employer must indicate the amount and / or range of the amount of the proposed basic (tariff) wage (hourly wage or monthly salary, or a fixed part of the official salary), except in cases provided by law;
An employer with an average number of employees of more than 20 must provide employees' representatives with at least an annual update on the depersonalised data on average earnings by occupational group and sex of employees other than managers, if there are more than two employees in an occupational group;
The system of remuneration at the workplace or in the employer's company, institution or organization is established by a collective agreement. In the absence of a collective agreement to provide for this, in workplaces with an average number of employees of twenty or more, pay systems must be approved by the employer and made available to all employees. Before approving or changing the remuneration system, information and consultation procedures must be completed in accordance with the procedure established by the Code. The remuneration system shall specify the categories of employees according to positions and qualifications and the forms and amounts of remuneration (minimum and maximum) for each of them, the bases and procedure for granting additional remuneration (bonuses and allowances), and the procedure for indexation of remuneration;
The remuneration system must be designed in such a way as to avoid any discrimination on grounds of sex or other grounds. Men and women are paid equal pay for equal work or work of equal value. The same work means the performance of a work activity which, according to objective criteria, is the same or similar to another work activity to such an extent that both employees can be exchanged at no higher cost to the employer. Equivalent work means that, according to objective criteria, it is no less qualified and no less important for the employer in the pursuit of its business objectives than other comparable work;
There is a possibility to apply to the Labour Disputes Commission if the employee believes that the employer has violated his/her rights;
In discrimination cases, the employer must prove that there was no discrimination; protection is provided for workers who defend their violated rights;
There are administrative penalties for breaches of equal opportunities and employment law.

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.*

The Government's response

When an employee is dismissed at the initiative of the employer through no fault of the employee, he or she must be notified in writing: if the employment relationship has lasted more than one year – 1 month in advance if the employment relationship has lasted less than a year – two weeks in advance. If the employee has less than five years left until the retirement age, then the notice periods are longer – such an employee must be notified 2 months in advance if he has worked for more than a year, or 1 month in advance if he has worked for less than a year.
If the employee has a disability, raises a child under the age of 14 or a disabled child under the age of 18, or if he or she has less than two years left until retirement, then 3 months notice must be given to those employees who have worked for more than a year and before 1.5 months if working for less than a year.

Article 64 of the Labour Code defines the notice of termination of an employment contract. If this Code or other laws establish the duty of the employer to give an employee notice of termination of an employment contract, this notice must be given in writing. The notice of termination of an employment contract must indicate the reason for termination of the employment contract and the legal provision in which the basis for the termination of the employment contract is specified, as well as the date of termination of the employment relationship. The notice of termination of the employment contract must be given to the employee forthwith. If the employee contests the lawfulness of the dismissal, the employer shall bear the burden of proof of service of the notice. If, at the end of the term of the notice given, the employee is temporarily incapable of work or is on granted leave, the end of the term of notice shall be postponed until the end of the temporary incapacity for work or leave. With the consent of the employee, the employer has the right, at any time before the end of the notice period, to take a decision to terminate the employment contract by moving the day of termination of the employment relationship to the last day of the notice period and not allowing the employee to work during the notice period but paying the employee the remuneration due for the entire notice period. During the notice period, the employee, at the request thereof, must be given at least 10 per cent of the former standard working hours to look for a new job, during which the employee shall retain his or her remuneration. If the parties agree on more than 10 per cent of the former standard working hours, payment for this part of the working time shall be decided by mutual agreement. An agreement concluded on the termination of an employment contract or a party's agreement with a proposal to terminate an employment contract expressed in writing shall terminate the employment contract in accordance with the terms specified therein, and the employer must formalise termination of the employment contract no later than on the last working day.

In response to the COVID-19 crisis and the pandemic the regulation on the right of all workers to a reasonable period of notice for termination of employment has not been changed. Although a state of emergency and quarantine was declared in the state, in order to reduce the number of employees, employers were obliged to comply with the requirements of the Labour Code, namely, to give a notice of dismissal and to pay the severance pay due to the employee.

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.*

The Government's response

There were no changes in the legislation.

Article 60 of the Labour Code defines termination of an employment contract without the will of the parties to the employment contract.
1. An employment contract must be terminated without notice:
1) upon entry into force of a verdict or judgement of the court by which an employee is sentenced to a punishment that makes it impossible for him or her to work;
2) when an employee, in the procedure established by laws, is deprived of special rights to perform a certain job or to hold a certain position;
3) when one of the parents of an employee under the age of 16, or the child's statutory representative, or the child's health care provider, or, during the school year, the school where the child is enrolled, demands that the employment contract be terminated;
4) when an employee, according to the conclusions of a healthcare institution, is no longer able to hold this position or perform this work, and does not agree to be transferred to another vacant position or job at that workplace that accommodates his or her health condition, or when such a position or job is not available at that workplace;
5) upon returning an employee to work whose place was filled by the employee being dismissed;
6) by order of a competent official from an institution carrying out control of illegal work if a case of illegal work by a foreign national is established;

7) when the employment contract is in conflict with laws and the contradictions cannot be eliminated, and the employee does not agree to be or cannot be transferred to another vacant position at that workplace.
An employer who has received a document verifying a reason specified in paragraph 1 of this Article or has otherwise learned thereof must terminate the employment contract within five working days of receiving the document or finding out about the reason. In the case established in point 5 of paragraph 1 of this Article, if a decision is not taken within the specified time, the reason for termination of the employment contract shall be deemed to have expired. In the cases established in points 4, 5 and 7 of paragraph 1 of this Article, the employee shall be paid severance pay in the amount of his or her average remuneration for one month or, for employment relationships of less than one year, severance pay in the amount of half of one average remuneration.

	*2017**	*2018*	*2019*	*2020*	*2021*
Termination of employment contract pursuant to Art. 60 of the Labour Code.	*347*	*636*	*605*	*630*	*526*
Percentage of total redundancies	*0,06*	*0,01*	*0,1*	*0,11*	*0,1*
Total redundancies	*606099*	*610315*	*586129*	*548992*	*524261*

**The Labour Code came into force on 1 July 2017*

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 non- conformity, please explain whether and how the problem has been remedied and for deferrals, please reply to the questions raised.

The Government's response

There were no changes in the legislation.

Deductions from wages are regulated by Article 150 of the Labour Code, and their amount is regulated by Article 736 of the Code of Civil Procedure. According to the Labour Code, deductions may only be made from an employee's remuneration in the cases established in this Code or other laws. Deductions may be made in the following cases:
1) to return employer funds transferred to the employee and not used for their intended purpose;
2) to return amounts that were overpaid due to calculation errors;
3) to compensate for damage caused to the employer by the employee due to the fault thereof;
4) to recover holiday pay for leave that was granted in excess of the acquired entitlement to full or partial annual leave upon the employment contract being terminated on the initiative of the employee without a valid reason (Article 55 of this Code) or on the initiative of the employer due to the fault of the employee (Article 58 of this Code).

The employer shall have the right to order that the deduction be made within one month from the day that the employer found out or could have found out about the emergence of grounds for the deduction. The amount of deductions taken from a salary shall by set out in the Code of Civil Procedure of the Republic of Lithuania.

*According to Article 736 of the Code of Civil Procedure of the Republic of Lithuania, **t**he debtor's share of wages and salaries and equivalent benefits not exceeding the minimum monthly wage set by the Government shall be deducted in accordance with the executive documents until the amounts to be recovered are fully recovered:*

The portion of the debtor's wages and the equivalent benefits and allowances not exceeding the minimum monthly wage set by the Government shall be deducted in accordance with the executive documents until the amounts to be recovered are fully recovered:

1) for the recovery of maintenance through periodic payments, compensation for damage caused by mutilation or other damage to health, as well as the loss of a survivor's life, thirty per cent, unless otherwise provided in the writ of execution itself or otherwise provided by law or court;

2) for all other types of recovery, unless otherwise provided in the writ of execution itself or otherwise provided by law or court, - twenty percent;

3) according to several executive documents - thirty percent.

2. Fifty percent shall be deducted from wages and salaries and the benefits and allowances equivalent thereto in excess of the amount of the minimum monthly wage set by the Government, unless otherwise provided by law or court.

3. If the debtor keeps incapacitated family members at his written request, the deductible proportion referred to in Paragraph 2 of this Article may be reduced by ten per cent for each dependent by order of the bailiff, but such reduction may not reduce the proportion prescribed by law or court. Dependents who are deducted from the debtor's salary are not taken into account when reducing the amount of deductions.

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 post-COVID-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).

The Government's response

Data on trade union membership prevalence across the country and across sectors of activity are not available. Statistics Lithuania collects only the total number of trade union memberships, without excluding how many members belong to national, branch, territorial or employer level trade unions. It would also be difficult to distinguish this number, as lower-level unions may belong to higher-level unions and thus membership is duplicated. For instance, in accordance with Article 179 of the Labour Code, employer-level trade unions may belong to branch or territorial trade union organizations. Trade union organizations at branch or territorial level may belong to national trade union organizations.

	2017	*2018*	*2019*	*2020*
No of trade union members (thousand)	*92.1*	*86.6*	*89.6*	*99.3*

According to Article 1 of the Law on Trade Unions of the Republic of Lithuania, the peculiarities of the application of this Law in national defence, police, state security and other organizations may be established in the laws regulating the activities of these organizations. According to Article 36 of the Law on the Organization of the National defence System of the Republic of Lithuania and Military Service, soldiers may participate in the activities of associations and other non-political associations and other non-political activities aimed at fostering moral, national, patriotic, and civic democratic values if participation in such activities does not interfere with the performance of direct military duties. The said article of the law prohibits professional military service soldiers from striking, as well as being members of a trade union. Soldiers of professional military service may not enter into collective agreements. The Statute of the Internal Service contains the main provisions governing the activities of trade unions in internal affairs bodies (including the police), as well as the rights and characteristics of trade union representatives. Articles 61 to 62 of the Statute of the Internal Service provide that officials may, in accordance with the procedure laid down by law and by this Statute, form or join trade unions for the protection of their interests. The head of the statutory body and the deputy heads may not be members of a trade union operating in the statutory body. The Government of the Republic of Lithuania and national trade union organizations in 2020, 2021, and 2022 concluded national collective agreements which were valid for one year and applied to members of those trade union organizations whose renumeration is calculated based on basic salary. These agreements set out the salaries, service (hours), rest periods and other socio-economic conditions of Lithuanian civil servants. The signing of treaties has led to trade union membership.
There were no 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).

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 Government's response

In the Tripartite Council of the Republic of Lithuania, the social partners have been discussing issues related to managing the consequences of Covid-19 in recent years. On 24 November 2020, it was discussed the criteria for support and support measures for the business sectors affected by Covid-19. On 12 January 2021, the issue "Looking at Covid-19 mitigation measures and long-term social policy perspectives" was presented. On 9 March 2021, the recovery and resilience plan and assistance to poultry farms affected by the Covid-19 pandemic were discussed. On May 25 2021, the issue of the employer's continuing obligation to pay severance pay and leave to outgoing workers during the quarantine was discussed. On 8 June 2021, 8 the issue of support measures for job creation was discussed.

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.

The Government's response

The Labour Code of the Republic of Lithuania guarantees the right to collective bargaining. Article 187 of the Labour Code establishes that employers, employers' organizations, trade unions and trade union organizations have the right to initiate,

participate in and conclude collective agreements regarding the conclusion or amendment of collective agreements in accordance with the procedure established by the Code. There were no specific incentives during the pandemic, as the Labour Code guarantees the right to collective bargaining and its provisions have been agreed with the social partners.
On 12 October 2021, there were 328 collective agreements concluded in Lithuania, of these 1 on national level, 4 on territorial level, 12 on sectoral level, and 311 on employer level. There were 104 collective agreements in private sector (1 on sectoral level and 103 on employer level) and 224 agreements in public sector (1 on national level, 4 on territorial level, 11 on sectoral level, and 208 on employer level).
The Government of the Republic of Lithuania and national trade union organizations in 2020, 2021, 2022 concluded national collective agreements which were valid for one year and applied to members of those trade union organizations whose basic salary was calculated. These agreements set out the salaries, service (hours), rest periods and other socio-economic conditions of Lithuanian civil servants.
On 15 November 2021, the Minister of Health of the Republic of Lithuania together with nine trade union organizations representing medics has signed a new collective agreement on the Lithuanian National Health System branch, which ensures social guarantees, stable wage growth and additional guarantees for all trade union members than provided for in the current Labour Code. For the first time in the health care system, all operating unions have come together have signed a single sectoral collective agreement. The contract is valid for union members working in all sectors of the health system, both public and budgetary, as well as in emergency medicine.

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.*

The Government's response

Strike as one of the resolution of collective labour disputes on interests is defined in the Labour Code (Articles 243-254). Prohibitions on declaring strikes apply to

emergency medical service employees and other employees whose right to declare a strike is limited by laws are prohibited from declaring a strike. The demands put forward by these employees shall be settled by bodies for the resolution of collective labour disputes on interests. Strikes shall be prohibited in natural disaster areas and regions where mobilisation or a state of war or emergency has been declared according to the established procedure until the consequences of the natural disaster have been liquidated, demobilisation has been declared, or the state of war or emergency has been lifted. While a collective agreement is valid, it shall be prohibited to declare a strike regarding the requirements or terms of employment regulated in this agreement if said are being adhered to.

There were no specific measures taken during the pandemic related to the right to strike.

In 2017, there was 1 warning strike in Lithuania (duration 0.25 day), 552 people took part in the strike. In 2018, there were 149 actual strikes and 47 warning strikes (duration 7.16 day) in which participated 32 214 people. The strikes took place in the education sector. In 2019, there were 2 warning strikes (duration 0.28 day) in which took part 1 874 people.

https://www.15min.lt/verslas/naujiena/transportas/profsajungos-sostines-viesojo-transporto-darbuotoju-streikas-gales-vykti-tik-kova-667-1608808

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.*

The Government's response

Information on the establishment of a works council

The Labour Code requires employers to take the initiative to set up a works council once they have an average of 20 or more employees, unless more than one third of the workforce are members of an employer-level union or unions operating at the workplace. Below the 20-employee threshold. a single employee trustee can be elected, although the employer is not obliged to initiate this process.

The average number of employees is calculated on the number of employees who are "bound with the employer by valid employment relations" for more than three months. This includes agency staff provided they have worked at the employer for more than three months and is a headcount figure rather than being based on full-time-equivalents. All those working for the employer are included irrespective of whether they are employed at different sites.

The size of the works council increases with the average number of employees (see table).

Number employed	*Number of works council members*

21 to 100	*3*
101 to 300	*5*
301-500	*7*
501-700	*9*
700+	*11*

If, after the election, the workforce increases by at least 20%, and rises above the next threshold in the table, the extra members required are chosen in an additional election.

The works council must elect a chair and secretary at its first meeting, and, as well as chairing the meetings, the chair also represents the works council in its relations with employees, the employer, the employer-level union and other bodies. He or she also drafts the annual report which the works council must publish on its activities. Once approved by the works council, this report must be presented to the employees.

The works council must draw up its own rules of procedure. The legislation does not prescribe the frequency of the meetings it should hold, but it states that the employer and representatives of the employer-level union are entitled to attend the meetings, if invited by the works council.

In contrast to the previous position, the Labour Code that came into effect in 2017 makes a clear distinction between the roles of the employer-level union and the works council. The exception is where more than a third of employees are members of the local union or unions. When union membership passes this threshold, the employer-level union takes over all the functions and rights that would normally be exercised by the works council.

Where this is not the case, the role of the employer-level union is to conduct collective bargaining (see section on collective bargaining) as well as to promote the union. It also defends the interests of its members and represents them in individual cases relating to their employment. The primary role of the works council, on the other hand, is to participate in information and consultation procedures with the employer and influence the employer's decisions on economic, social and labour issues relevant to employees.

The tasks and rights of the single employee representative at employers with fewer than 20 workers – the employee trustee – are the same as those of the works council.

The information provided to the works council should be timely and accurate and the works council should not disclose confidential information. Consultation, defined as the exchange of opinions between the employer and the works council with the aim of finding a mutually acceptable solution, must begin within five working days of the employer receiving a request from the works council, and members of the works council are entitled to meet the employer and make proposals over a period of 15 days. During that period the employer must not act to implement the measure which is subject to consultation.

An employer employing 20 or more people must at the request of the works council

provide it with annual data on average remuneration by occupational group and gender (excluding managerial employees), as well as information on part-time working, remote working, fixed-term contracts and agency work. If there is no works council, this information should be provided to the employer-level union.

An employer employing 20 or more workers must also provide the works council with information on an annual basis on:

- *the employer's status and structure, and potential changes in employment, especially where employment may be at risk, including information about the categories and number of employees, including temporary workers, and past and planned personnel changes;*
- *changes in pay and expected trends in pay;*
- *working time, including information on overtime;*
- *health and safety measures;*
- *current and potential developments of the employer's activities and economic situation, including information based on its financial statements and annual report; and*
- *other matters of particular importance to the economic and social position of the employees.*

The works council may ask for consultation on this information within five working days of receiving it, and that consultation must begin within 15 days of the employer receiving the request and must last for at least five days.

Where is there no works council or employee trustee carrying out the functions of the works council, the employer must inform the employer-level trade union, which can express its view.

There are a number of specific issues where the employer Is required to consult with the works council before taking decisions. These are:

- *works rules, governing general procedures at the employer;*
- *job standards;*
- *the remuneration system, where this is not determined by a collective agreement;*
- *the introduction of new technological processes;*
- *using information and communication technologies for employee monitoring and surveillance;*
- *measures which could violate employees' personal privacy;*
- *policies for the protection of the employee's personal data;*
- *the implementation of the equal opportunities policy; and*
- *measures to reduce stress at work.*

In relation to all these issues timetable is slightly different. The work council must be informed 10 working days before the measures are to be agreed and has three days to require that it should be consulted on them. Consultation should last for at least five days and the employer and works council are able to reach an agreement on the proposals, although there is no requirement that they must do so.

Where is there no works council or employee trustee carrying out the functions of the works council, the employer must inform the employer-level trade union, which can express its view.

The works council also has specific rights to information and consultation in the case of both collective redundancies and business transfer. The works council must also be consulted on selection criteria, even if the number involved is not large enough to be

considered a collective redundancy and on annualised hours' arrangements, where these exist. As in other areas, if there is no works council or employee trustee, the employer must inform the employer-level trade union, which can express its view. Annual leave arrangements can either be settled in a collective agreement or in an agreement with the works council.

The works council has the right to convene a meeting of employees, although the date must be coordinated with the employer. It must also inform employees annually on its activities through an annual report or in some other equivalent way.

The works council can also reach written agreements in areas to promote cooperation between the employer and the works council, although it may not negotiate pay, working time or other issues covered by collective bargaining. It has the right to take a case to a labour dispute commission if it considers that the employer has not complied with the law or agreed arrangements.

The arrangements for choosing trade union representatives depend on the rules of the particular union.

Works councils should be elected by secret ballot at a meeting of all employees. All employees aged over 18 who have been in an employment relationship for at least six months, other than individuals representing the employers, have a right to be nominated. Nominations can be made by individual employees, who can each nominate one candidate, and by employer-level unions, who have the right to nominate at least three candidates.

All workers linked to the employer, including part-time, temporary and agency workers can vote, provided they have at least three months' uninterrupted service are entitled to vote. The candidates with the most votes are elected.

There must be an election. If the number of candidates is not greater than the number of seats, the period for nominations is extended, and, if there are still insufficient candidates, the election is postponed for at least six months. A majority of the employees must participate for the election to be valid, although, if it is subsequently rerun because the first turn-out was too low, the second ballot will be valid if more than 25% of the employees take part. Works' council members are elected for three years.

Members of employer-level trade union management bodies and work councils as well as the employee trustee may not be dismissed and their contract terms may not be worsened without the consent of the head of the local labour inspectorate. This protection, which continues for six months after leaving office, extends to the same number of members of employer-level trade union management bodies as there are or would be members of the works council, taking into account the number of employees.

Members of employer-level trade union management bodies and work councils as well as the employee trustee have the right to up to 60 hours paid time off a year undertake their duties. As with protection against dismissal, the number of members of the employer-level trade union benefiting from time off is linked to the number of employees in the same proportion as members of the works council.

The employer must free of charge, allot a room and allow the use of work equipment for performance of the functions of the employee trustee, the members of the work

council and the members of the management bodies of employer-level unions. Other support can be agreed through collective agreements or agreements with the works council.

Members of employer-level trade union management bodies and work councils as well as the employee trustee have the right to at least five working days per year for training, of which two must be paid, although this can be increased by agreement. Part of the overall 60-hourstime off a year may also be used for training. As with time off the number of the employer-level union who can benefit from this is same as the number of works council members who benefit or could benefit.

This may be provided by the trade union structure in the case of trade union workplace organisations.

There are no arrangements for works councils at group level, but the fact that a works council may only be set up at company level means that it may bring together employees from several workplaces.

The right of members of the police to strike

According to Article 36 of the Law on the Organization of the National Defence System of the Republic of Lithuania and Military Service, soldiers may participate in the activities of non-political associations as well as other non-political activities aimed at fostering moral, national, patriotic and civic democratic values if participation in such activities does not interfere with the direct exercise of military duties. The said article of the law prohibits soldiers of professional military service from striking, as well as being members of a trade union. Soldiers of professional military service may not enter into a collective agreement since, in accordance with the provisions of Article 51 of the Law on Civil Service of the Republic of Lithuania, only a trade union may be a party to a collective agreement representing the interests of an employee in the public service. The possibility to establish an exception due to the presence of soldiers of professional military service as members of a trade union is also established in the Law on Trade Unions of the Republic of Lithuania providing that the peculiarities of the application of this Law in national defence, police, state security and other organizations may be established in the laws regulating the activities of these organizations.

The Statute of the Internal Service contains the main provisions governing the activities of trade unions in internal affairs bodies (including the police), as well as the rights and characteristics of trade union representatives. Articles 61 to 62 of the Statute of the Internal Service provide that officials may, in accordance with the procedure laid down by law and by this Statute, form or join trade unions for the protection of their interests. The head of the statutory body and the deputy heads may not be members of a trade union operating in the statutory body. The conditions for the activities of a trade union in a statutory body shall be established in the agreement of the trade union with the head of the statutory body.

The activities of trade unions in a statutory body may be suspended or terminated in accordance with the procedure established by law if it contradicts laws and other legal acts or hinders the implementation of the functions of the statutory body in order to ensure human rights and public security.

Trade unions operating in statutory bodies are prohibited from: 1) organizing and participating in strikes; 2) organizing pickets or rallies that would directly interfere with

the activities of the statutory institution or to perform the official duties of an official, as well as to participating in them.

Officials who are the members of trade unions may not be subject to administrative penalties for their membership in trade unions, for their representation of trade union members of statutory bodies or for their activities in trade unions. The imposition of service penalties on officials of trade union members, except for the service penalty - dismissal from the internal service, also requires the prior consent of the trade union's elective body.

Trade union members who have been dismissed from internal service at their own request in relation to the election to a trade union organization, at the end of their term of office shall, at their request, be reinstated in the equivalent positions in their pre-election office or, in the absence of such positions, in other (lower) positions in the same or another statutory body within the written consent. These persons shall be returned to the internal service in accordance with the procedure established by the Minister.

Officials who are representatives of trade unions have the right to participate in solving the professional, economic and social issues of officials, as well as in the organizational activities of trade unions. Up to 120 hours of service (working) time per year are allocated for this and a salary is paid for this time. For officials who are representatives of trade unions, the collective agreement of the branch may specify another number of service (working) hours per year allocated for the activities of trade unions.

The Statute of the Internal Service regulates the conclusion of collective agreements. The collective agreement of the statutory body may be concluded by the head of the statutory body or a person authorized by him and the trade unions representing the officials in the statutory body. This agreement lays down the service (working) and rest periods and other socio-economic conditions for officials of the statutory body. The collective agreement of a statutory institution may not establish additional conditions related to additional funds from the state and municipal budgets and state monetary funds.

A branch collective agreement may also be concluded between trade union organizations (association, federation, centre and others) representing officials serving in one area of public administration and the Government or an institution authorized by it. It lays down the remuneration, length of service (hours) and rest periods and other socio-economic conditions for all officials in that area of public administration. The branch collective agreement may provide for the possibility to organize (chair) meetings of trade union members during working hours, to use office premises, communication and vehicles for trade union activities.

Officials are also subject to a national collective agreement concluded by trade union organizations (unions, federations, centres and others) representing civil servants and the Government, which sets out the salaries, service (hours), rest periods and other socio-economic conditions of Lithuanian civil servants.

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.*

The Labour Code ensures that employees are informed and consulted in accordance with Section 3 of the Labour Code "Information and Consultation". No specific measures were taken during the pandemic with regard to the right to information and consultation. There is no information available on the particular situation in the sectors of activity hit worst by the crisis.

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.*

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.*

The Government's response

During the reference period (1 July 2017 – 31 December 2021) the provisions of the Labour Code relating to sexual and moral harassment have not been introduced.

We see gender equality as a horizontal principle in our national policy. Achieving gender equality and empowerment of all women and girls not only in law but also in practice requires comprehensive approach involving national institutions, municipalities and non-governmental organisations. Our new Strategic management law includes gender equality as a horizontal principle and National progress plan indicates that every political goal and every law should be based on the principle of equal opportunities. So national institutions have to include gender equality as a horizontal principle during the whole processes of strategic planning.

Due to the change of the Government, the new composition of the Commission on Equal Opportunities for Women and Men will be adopted and starts its work in the nearest future. The Commission aims to discuss the strategic questions of the gender equality

The Ministry of Social Security and Labour prepared (and The Government approved) a few Development Plans that will serve as a basis for concrete action plans designed to ensure gender equality in Lithuania. The measures in such Plans will tackle such issues as unequal distribution of care responsibilities and unpaid work in family, man's involvement in family's life, still prevailing gender-based stereotypes in all spheres of life, gender-based segregation in employment and education, gender pay gap (since the 1'st of April the amendments of our Labour Code came into force. It is related to gender pay gap transparency as the employer is obliged to provide for the state social security institution and publish average pay by gender. Aiming to bring more transparency to the gender pay gap, this year we have amended our national legislation, authorizing social security institution "Sodra" to publish average wage by gender. We found this measure to be quite effective, as many employers have already started to analyse the reasons behind the gender pay gap in their companies on their own initiative. And again, many of them admitted that one the main reasons of the gender pay gap is lack of women representation in senior management positions. However, I believe that it is only the first necessary step towards achieving more gender equality in this area.).

Every year we have some so called "soft" gender equality measures, that includes studies, information campaigns and training. For the nearest future we indicated some areas that needs more attention. In particular:

- *Segregation in education and profession, as we see it as one of the main reasons of gender pay gap. It is also very related to changing stereotypes from the early age.*
- *Reconciliation of family and work responsibilities*
- *Sharing of household and childcare activities (encouraging fathers to be more*

involved into the childcare activities)

- *Gender balance in decision making (it includes encouraging women's participation in politics as well as gender balance in higher positions of private and public sector)*

Lithuania is not applying any gender budgeting policy measures yet and we are trying to start discussions concerning the possibility to apply this policy into planning of our national budget and in local level as well. As a first step we ordered the study aiming to analyse the possibilities to integrate gender budgeting in Lithuania in national and municipal level. This study will be finished by the end of this year.

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.*

The Government's response

Women and girls are often among the mostly affected groups of society in all challenging situations. The Covid-19 pandemic was not an exception. Mainly women were on the frontlines in the fight against the pandemic in the hospitals, care institutions, as well as. providing an education for children remotely.

The COVID-19 pandemic has significantly slowed efforts in the fight against inequalities between women and men. Even though due to lockdown measures, some men became more involved in household work and care for the children, the burden of household tasks was mainly taken up by women.

During the pandemic more women started working from home due to COVID-19 and compared to men many more became professionally inactive. However, these issues are being tackled through active measures that this Government has introduce to help women to stay in the labour market, ensure adequate benefits for those who were unable to work and to provide sufficient care services.

To encourage companies to carry out psychosocial occupational risk assessments and to promote the prevention of psychological violence at work in 2020 in the State Labour Inspectorate (SLI) has prepared and published on the SLI website and on social networks the recommendations for employees and employers on the prevention of psychological violence in the work environment and the improvement of psychosocial working conditions. To promote the prevention of psychological violence at work, the SLI has also amended the General Control Questionnaire of the Undertaking Inspection and the Control Questionnaire the issues of identification of psychological violence in the work environment. Training was also provided to strengthen the capacity of SLI inspectors to identify occupational risk factors in the workplace, including psychological violence in the workplace, and to assess the effectiveness of risk reduction or mitigation measures.

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.*

The Government's response

Any limits are not prescribed by laws, but the assessment has to be done by a labour dispute

resolution body, i.e., either labour dispute commission or court.
Article 151 of the Labour Code states that each party to an employment contract must compensate the other party for material damage as well as non-material damage caused thereto by a violation of job duties due to the fault of the former. Articles 152–157 regulates establishment of the compensation amount for material damage, limitation of compensation payable for material damage by an employee, cases when the employee is required to compensate for damage in full, compensation for damage and civil liability insurance, the procedure for the recovery of damages, compensation for damage upon reorganisation of the employer or the cessation thereof.
Non-pecuniary (non-material) damage is regulated by the Civil Code. Paragraph 1 of Art. 6.250 defines that non-pecuniary damage shall be deemed to be a person's suffering, emotional experiences, inconveniences, mental shock, emotional depression, humiliation, deterioration of reputation, diminution of possibilities to associate with others, etc., evaluated by a court in terms of money.
According to Paragraph 2 of the same Article, the court in assessing the amount of non-pecuniary damage shall take into consideration the consequences of such damage sustained, the gravity of the fault of the person by whom the damage is caused, his financial status, the amount of pecuniary damage sustained by the aggrieved person, also any other circumstances of importance for the case, likewise to the criteria of good faith, justice and reasonableness. Labour dispute commissions are also bound by these provisions.

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.*

The Government's response

Employers' obligation to prevent sexual harassment in practice

Employers in both the private and public sectors have a duty to implement the principles of gender equality and non-discrimination in all areas of employment. First of all, it means the duty not to discriminate. It also means ensuring that no employee is instructed to discriminate, harass or sexually harass. Employers with more than 50 employees must take additional steps to adopt and publish the company's, institution's or organization's equal opportunities policy and its implementing measures, as well as information on how this policy will be monitored. The Office of the Equal Opportunities Ombudsman prepared recommendations with this regard which are available online in Lithuanian:
file:///C:/Users/JurateBa/Downloads/Lygiu_galimybiu_vadovas_2020%20(1).pdf

The Office of the Equal Opportunities Ombudsman offers Gender Equality Ruler Questionnaires, a tool for public and private sector organizations to assess the state of gender equality in their workplace. The ruler also makes it possible to compare the situation of gender equality in different institutions. It can also be used as a periodic change monitoring tool. The gender ruler is recommended for institutions with 50 or more employees: https://lygybe.lt/lt/lyciu-lygybes-liniuote/781

The role of social partners

The social partners are more and more involved in the adoption and implementation of such measures. For instance, the Minister of Social Security and Labour, authorized by the Government, and four trade union organizations signed the National Collective

Agreement for 2022. This agreement undertakes, among other obligations, to pay special attention to information about psychological violence, harassment or discrimination suffered by an employee. The trade union has the right to propose to the employer to form a commission to investigate possible cases of psychological violence, harassment or discrimination no later than within 7 working days from the date of formation of the commission.

The Office of the Equal Opportunities Ombudsman is also already working with the social partners in this area. A dedicated website for employers has been developed: https://www.lygybesplanai.lt/istekliai-darbdaviams

Information on the implementation of the Interinstitutional Action Plan for Promotion of Non-discrimination 2017-2019

The report on the implementation of the Interinstitutional Action Plan for Promotion of Non-discrimination 2017-2019 is available online (in Lithuania): file:///C:/Users/JurateBa/Downloads/2019%20m_%20Nediskriminavimo%20veiksm%C5%B3%20plano%20igyvendinimo%20ataskaita.pdf

The most of the measures in the action plan were of educational and informational nature, aimed at awareness raising. The implemented measures contributed to the improvement of legislation, education and information society on the legal opportunities' issues, conducting antidiscrimination research and reports, and strengthening inter-institutional cooperation.

The activity of the Ombudsperson in respect of sexual harassment and what follow-up is given to complaints of sexual harassment that are found to be established

Regretfully, the Ombudsperson Office did not respond to the written Ministry's inquiry therefore the information is not available.

In 2018, the Labour Disputes Commission heard one case in which the plaintiff challenged the lawfulness of the dismissal and the dismissal was for sexual harassment (Article 58 § 3 (4) of the Labour Code "sexual harassment at work or in the workplace"). The Labour Disputes Commission ruled if the employer had rightly classified the plaintiff's misconduct, which manifested itself in sexual harassment of other employees, as a serious misconduct and had applied for dismissal. The applicant 's application for a declaration that the dismissal was unlawful was therefore rejected by the Labour Disputes Commission. Following the transfer of the case to the court, the claim of the plaintiff (employee) was also dismissed.
In another application received by the Labour Disputes Commission, the applicant referred, inter alia, to circumstances concerning the manager's inappropriate conduct, which showed signs of sexual harassment. The claim of the plaintiff was not precisely formulated, her rights were clarified and the information was forwarded to the State Labour Inspectorate regarding the performance of the inspection.

Information on cases concerning dismissals arising in the context of sexual harassment complaints and their outcome

Article 151 of the Labour Code states that each party to an employment contract must compensate the other party for material damage as well as non-material damage caused thereto by a violation of job duties due to the fault of the former. Articles 152–157 regulates establishment of the compensation amount for material damage,

limitation of compensation payable for material damage by an employee, cases when the employee is required to compensate for damage in full, compensation for damage and civil liability insurance, the procedure for the recovery of damages, compensation for damage upon reorganisation of the employer or the cessation thereof.
Non-pecuniary (non-material) damage is regulated by the Civil Code. Para. 1 of Art. 6.250 defines that non-pecuniary damage shall be deemed to be a person's suffering, emotional experiences, inconveniences, mental shock, emotional depression, humiliation, deterioration of reputation, diminution of possibilities to associate with others, etc., evaluated by a court in terms of money.
According to para. 2 of the same Art. the court in assessing the amount of non-pecuniary damage shall take into consideration the consequences of such damage sustained, the gravity of the fault of the person by whom the damage is caused, his financial status, the amount of pecuniary damage sustained by the aggrieved person, also any other circumstances of importance for the case, likewise to the criteria of good faith, justice and reasonableness. Labour dispute commissions are also bound by these provisions.

Any limits are not prescribed by laws, but the assessment has to be done by a labour dispute resolution body, i.e., either labour dispute commission or court.
It should be stressed that according to para. 1 of Art. 217 of the Labour Code while resolving labour disputes on rights, a labour dispute resolution body shall have the right:
1) to obligate the other party to restore the rights violated due to non-fulfilment or improper fulfilment of labour law provisions or mutual agreements.
2) to order compensation of material or non-material damage and, in the cases established by labour law provisions or agreements, to impose fines or late fees.
3) to terminate or change the legal relations.
4) to require that other actions established in laws or labour law provisions be taken.
It means that compensation of material and non-material damage applies not only in cases of dismissal.

Article 30 (1) of the Labour Code imposes an obligation on the employer to create a work environment in which the employee or a group of employees does not suffer hostile, unethical, degrading, aggressive, abusive, insulting, physical or psychological intimidation or intimidation, degrading treatment or displacement of workers or a group of workers. Paragraph 2 of this article obliges the employer to take all necessary measures to ensure the prevention of psychological violence in the work environment and to provide assistance to persons who have experienced psychological violence in the work environment.
In this way, the employer is required to: 1) create a safe environment for employees with managers, with each other and with third parties; 2) take preventive measures (inform about intolerance of psychological violence, educate, carry out conflict prevention); 3) to protect and assist victims in the event of psychological violence. In all cases, the employee has the right to apply to the employees' representatives, the State Labour Inspectorate, the Labour Disputes Commission, the court and the prosecutor's office.

It is important to emphasize that according to Article 31 (3) of the Labour Code, an employee may not be prosecuted or subjected to measures detrimental to his or her interests if he or she notifies the state or municipal institution of violations of labour or other legal norms or addresses labour disputes, i.e., a Labour Dispute Commission or court for the protection of violated rights or interests.

Article 58 (1) of the Labour Code establishes the right of an employer to terminate an

employment contract without notice and not to pay severance pay if the employee commits a breach of his or her obligations under employment law or the employment contract as a result of his or her fault or inaction. According to paragraph 2 (4) of this Article, grounds for termination of employment may include harassment based on sex or sexual harassment, discriminatory acts or violation of the honor and dignity of other employees or third parties at work or in the workplace.

Information on whether there are any examples of claims for reinstatement of employees who have been pressured to resign for reasons related to sexual harassment

According to the State Labour Inspectorate data, in 2019, the Labour Disputes Committees (hereinafter referred to as the LDC) examined only 1 application concerning psychological violence at work, which was resolved by concluding a peace agreement. In 2020, it was examined 34 requests, of which 16 were rejected, 9 ended in peace agreements, for 3 the hearing was refused because the plaintiff waived all claims before the hearing, 3 were refuse to examine in the absence of the competence of the LDC, 2 cases were closed because the plaintiff waived all claims during the hearing and 1 was dismissed due to missed deadline for applying to the LDC. From 1 January 2021 to 1 October 2021, 25 applications were received (24 were examined), out of which 11 were rejected, 5 ended in peace agreements; for 5 it was proposed to satisfy the request, for 2 cases the hearing was refused on the grounds that the plaintiff waived all claims before the hearing, and 1 case was dismissed in the absence of the LDC competence.

In this category of labour disputes, the defendants (employers) were mostly from the personal health care and social work sectors, as well as from the wholesale and retail trade and vehicle repair sectors. For example, in 2020 out of 34 cases, in 8 cases the enterprises belonged to the sector of economic activity of personal health care and social work, 8 belonged to the sector of wholesale and retail trade and repair of motor vehicles, 4 were from the sector of professional, scientific and technical activities, and 3 from the sector of education.

Violation of Article 30 of the Labour Code may result in administrative liability under Article 96 of the Code of Administrative Offenses. In 2020, the State Labour Inspectorate received 12 complaints regarding psychological violence at work, of which 4 were upheld. From 1 January 2021 to 1 October 2021, the State Labour Inspectorate received 51 complaints on the issue "Ensuring the Prevention of Psychological Violence in the Work Environment", of which 19 were upheld. The State Labour Inspectorate issued 4 requests for elimination of violations.

The State Labour Inspectorate has developed Methodological Guidelines for Employers for the prevention of psychological violence in the work environment and the improvement of psychosocial working conditions. The recommendations shall be followed by employers in order to improve psychosocial conditions in the workplace and to prevent psychological violence in the work environment. The recommendations aim to address both violence by co-workers / managers and violence by third parties against the person at work. They are available online: https://www.vdi.lt/AtmUploads/Smurtas.pdf

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.*

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.*

The Government's response

Protection against dismissal and deterioration of working conditions due to employee representation activities

To ensure a balance between the interests of the employer and the employees and their representatives, the Labour Code establishes restrictions on termination of employment contract and deterioration of employment contract conditions without the consent of the head of the territorial division of the State Labor Inspectorate. It is aimed to ensure that persons exercising employee representation do not suffer discrimination or other negative consequences due to employee representation and / or membership in an employer-level trade union. The restrictions apply for the period for which the persons representing the employees are elected and for 6 months after the end of the term of office.

It is restricted the right of the employer (i) to terminate the employment contract at

the initiative of the employer (on the basis of Article 57 of the Labour Code at the initiative of the employer without the fault of the employee and on the basis of Article 58 of the Labour Code on the initiative of the employer through the fault of the employee); (ii) terminate the employment contract at the will of the employer in accordance with Article 59 of the Labour Code; (iii) worsen the minimum terms of the employment contract with the persons implementing the employee representation in comparison with the previous minimum terms of the employment contract and / or in comparison with the minimum terms of the employment contract of other employees in the same category.

The Labour Code additionally enshrines guarantees for the protection of employees elected to the management bodies of employees' representatives at the level of the employer by establishing criteria for the selection of employees dismissed at the employer's initiative through no fault of the employee. In cases where the employee's job function becomes redundant for the employer due to changes in work organization or other reasons related to the employer's activities and the redundant job is performed by several employees and only a part of them is dismissed.

Other, additional guarantees for those implementing employee representation may be laid down in labour law or in agreements between the parties to the social partnership.

The guarantees apply to the number of members of the management bodies of each trade union operating at the level of the employer, which is the number of members of the works council determined in accordance with the requirements of the Labour Code, taking into account the average number of employees.

The prohibition to terminate the employment contract with the person implementing the employee representation or to change the minimum conditions of his / her employment contract is not absolute, and the head of the territorial division of the State Labour Inspectorate gives the consent if the employer provides information that the termination of the employment contract or change of the necessary employment conditions is not related to (i) the employee representation activities, (ii) the employer does not discriminate against him/her on the basis of employee representation activities or trade union membership.

The person exercising employee representation and the employees' representative shall have the right to submit an opinion on the application submitted by the employer.

Also, Article 21 of the Law on Trade Unions of the Republic of Lithuania stipulates that an employer may not dismiss an employee elected to a representative and / or management body of a trade union operating in an enterprise, institution or organization during the period for which they have been elected without the employee's representative and / or management body prior consent.

Protection granted to workers' representatives

With the entry into force of the new Labor Code, the protection of employees' representatives has been extended beyond their term of office. Article 168 of the Code sets out the guarantees and protection from discrimination for persons carrying out employee representation at the employer level.

The members of employer-level trade union management bodies and work councils as well as the employee trustee (hereinafter 'persons carrying out employee

representation') shall normally carry out their duties during working hours. For this purpose, persons carrying out employee representation shall be released from work for at least 60 working hours per year for the performance of their duties. For this time, the employees shall be left their average remuneration.

The employer shall create conditions for the training and education of employees who are persons carrying out employee representation. They must be granted at least five working days per year for this at a time coordinated with the employer. For this time, employees shall be left their average remuneration for at least two working days unless labour law provisions and social partner agreements establish otherwise. The period established in paragraph 1 of this Article for the performance of representation functions may also be used for training and education.

For the period to which they are elected and six months after the end of their term, persons carrying out employee representation may not be dismissed on the initiative of the employer or at the will of the employer, and their indispensable employment contract terms may not be made worse than their previous indispensable employment contract terms or than the indispensable employment contract terms of other employees of the same category, without the consent of the head of the territorial office of the State Labour Inspectorate responsible for the territory where the employer's workplace is located, as authorised by the Chief State Labour Inspector of the Republic of Lithuania. The head of the territorial office of the State Labour Inspectorate must examine and reply to an employer's substantiated request to give consent to terminate an employment contract or change indispensable employment contract terms within 20 working days of receipt of the request. Employees or representatives thereof are entitled to submit their opinion on their own initiative or upon the request of the head of the territorial office of the State Labour Inspectorate. The head of the territorial office of the State Labour Inspectorate shall give consent to terminate an employment contract or change indispensable employment contract terms if the employer presents data confirming that the termination of the employment contract or the amendments to the indispensable employment contract terms are not related to the employee representation activities being carried out by the employee and that the employee is not being discriminated against due to his or her employee representation activities or trade union membership. Upon receiving an employer's substantiated request, the head of the territorial office of the State Labour Inspectorate shall inform the body representing the employee and the employee concerned thereof, and shall set a term of at least five working days for the employee representatives and the employee concerned to submit their opinion. The decision of the head of the territorial office of the State Labour Inspectorate may be appealed in the procedure established by the Republic of Lithuania Law on Administrative Proceedings. The employment contract with a persons carrying out employee representation may not be terminated until the labour dispute is settled. Within ten working days of the entry into force of the Labour Code, employer-level trade unions shall provide the employer with written lists of the management body members to whom the guarantees of this paragraph apply, while newly established trade unions shall do so within ten days of their date of establishment.

The employer may appeal the decision of the head of the territorial office of the State Labour Inspectorate to refuse to give consent to terminate an employment contract within 30 days, in the procedure established by the Republic of Lithuania Law on Administrative Proceedings. The entry into force of a judgement of the court on the decision of the head of the territorial office of the State Labour Inspectorate to refuse to give consent to terminate an employment contract shall give the employer the right to initiate, within one month, the employment contract termination process in

accordance with the procedure established by this Code. The entry into force of a judgement of the court on the decision of the head of the territorial office of the State Labour Inspectorate to refuse to give consent shall not automatically establish the legality of the termination of the employment contract.

The guarantees established in paragraphs 1, 2 and 3 of this Article shall be applicable to the same number of management body members of each employer-level trade union that there would be/are work council members as established by Article 170(1) of this Code, taking the employer's average number of employees into account.

Other guarantees may be established by labour law provisions or agreements between the parties to the social partnership. An employee's membership in a trade union or participation in the activities of a trade union or in bodies of employee representation may not be considered a violation of the employee's job duties.

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.

The Government's response

Companies acting within the country are obliged to notify the Employment Service of any changes in the organization of work, structural changes, or the bankruptcy, which would result in collective redundancies. Upon receiving of a notification from the business enterprise about the planned dismissal of a group of employees, the Employment Service shall take preventive measures to mitigate the consequences of the dismissal of the group of employees by providing services to employees who have been given notice of dismissal. The Customer Service department of the Employment Service, in coordination with the representatives of the company that submitted the notice on dismissal of the group employees, organizes the meetings aiming to provide the general information and consultations in the premises of the company or the Employment Service. During the meeting the vacant job positions in the region are announced as well as information and consultation regarding employment or retraining opportunities, participation in other employment measures, consulting on job search, CV, preparation for an interview with the employer are provided. If necessary, these services are provided remotely. In case of the planned collective redundancy, a program of preventive measures shall be concluded to mitigate the consequences of the redundancies, which includes an effective assistance to the redundant workers and the efforts to reintegrate the dismissed employees into the labour market and provide opportunities to participate in employment support measures. These customers are provided with employment mediation services, active labour market policy measures as well as with the services of a career counsellor or a case manager.

The Labour Code provides for the rules of collective redundancies cases (Article 63). More specific regulations are provided in by-laws (The Description of the Procedure of Reporting on Collective Redundancies, approved by the Ministry of Social Security and Labour; the Methodology on Provision of Preventative Measures in Cases of Collective Redundancy, approved by the Director of the Lithuanian Employment Service). During the pandemic, any changes in the legislation regulating collective redundancies were introduced that could influence on the scope of the quality of the procedures.

a) *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 raise*

DETALŪS METADUOMENYS	
Dokumento sudarytojas (-ai)	Socialinės apsaugos ir darbo ministerija 188603515, A. Vivulskio g. 11, 03610 Vilnius
Dokumento pavadinimas (antraštė)	DĖL EUROPOS SOCIALINĖS CHARTIJOS ĮGYVENDINIMO ATASKAITOS
Dokumento registracijos data ir numeris	2021-12-31 Nr. (28.3E-4)SD-6337
Dokumento gavimo data ir dokumento gavimo registracijos numeris	–
Dokumento specifikacijos identifikavimo žymuo	ADOC-V1.0
Parašo paskirtis	Pasirašymas
Parašą sukūrusio asmens vardas, pavardė ir pareigos	Audrius Bitinas, Viceministras, Vadovybė
Sertifikatas išduotas	AUDRIUS BITINAS LT
Parašo sukūrimo data ir laikas	2021-12-31 12:47:55 (GMT+02:00)
Parašo formatas	XAdES-X-L
Laiko žymoje nurodytas laikas	2021-12-31 12:48:09 (GMT+02:00)
Informacija apie sertifikavimo paslaugų teikėją	EID-SK 2016, AS Sertifitseerimiskeskus EE
Sertifikato galiojimo laikas	2021-07-08 13:30:11 – 2026-07-07 23:59:59
Informacija apie būdus, naudotus metaduomenų vientisumui užtikrinti	"Registravimas" paskirties metaduomenų vientisumas užtikrintas naudojant "RCSC IssuingCA, VI Registru centras - i.k. 124110246 LT" išduotą sertifikatą "Dokumentų valdymo sistema Avilys, LR socialinės apsaugos ir darbo ministerija, į.k. 188603515 LT", sertifikatas galioja nuo 2019-09-25 15:15:31 iki 2022-09-24 15:15:31
Pagrindinio dokumento priedų skaičius	1
Pagrindinio dokumento pridedamų dokumentų skaičius	–
Pridedamo dokumento sudarytojas (-ai)	–
Pridedamo dokumento pavadinimas (antraštė)	–
Pridedamo dokumento registracijos data ir numeris	–
Programinės įrangos, kuria naudojantis sudarytas elektroninis dokumentas, pavadinimas	Dokumentų valdymo sistema Avilys, versija 3.5.48
Informacija apie elektroninio dokumento ir elektroninio (-ių) parašo (-ų) tikrinimą (tikrinimo data)	Atitinka specifikacijos keliamus reikalavimus. Visi dokumente esantys elektroniniai parašai galioja (2022-05-31 17:00:05)
Paieškos nuoroda	–
Papildomi metaduomenys	Nuorašą suformavo 2022-05-31 17:00:05 Dokumentų valdymo sistema Avilys