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EUROPEAN SOCIAL CHARTER

17th National Report on the implementation of the
European Social Charter

submitted by

THE GOVERNMENT OF THE REPUBLIC OF MOLDOVA

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

Information
on the application of the provisions of art. 2, 4, 5, 6, 21, 22, 26, 28 and 29 of the
European Social Charter (revised) during 2017-2020

The report is based on previous reports of the Government of the Republic of Moldova on the implementation of the accepted articles and paragraphs provided in the European Social Charter (revised). Thematic group 3. Labour rights.

Article 2 paragraph 1
The reasonable working time

a) In addition to the previous report, we bring to your attention the relevant amendments to the legislation of the Republic of Moldova during the reporting period.

- Article 97 of the Labour Code has been redrafted, following the adoption by the Parliament of the Republic of Moldova of the Law No.155 of July 20, 2017 "On amending and supplementing the Labour Code of the Republic of Moldova No. 154/2003":

”Article 97. Partial working time
(part-time work)

(1) The employer may hire employees with partial working time per day or week (part-time), the specific period of partial working time being recorded in the individual employment contract, in accordance with the provisions of art. 49 paragraph (1) letter l).

(2) Partial working time can be established by the agreement between the employer and the employee, at the moment of employment, as well as later on. At the request of the pregnant woman, of the employee who has children up to 10 years old or children with disabilities (including the ones under their guardianship), or of the employee who cares for a sick family member according to the medical certificate, the employer is obliged to establish for them a partial working day or a partial working week.

(3) Partial working time shall be paid in proportion to the time worked or according to the amount of work carried out.

- By Law no.155 of July 20, 2017, the Labour Code was supplemented with art. 97¹:

Article 97¹. Guarantees for employees
with partial working time

(1) It is not permissible to treat part-time employees less favourably than full-time employees performing equivalent work in the same unit if such treatment is based solely on the length of daily or weekly working time and is not objectively justified.

(2) In the context of paragraph (1), part-time work does not imply any limitation of the employee's rights with regard to the calculation of seniority in employment, the length of contribution period (with the exceptions provided for by law), the duration of annual leave or the limitation of other employment rights.

(3) The employer:

(a) will take measures to facilitate access to part-time work at all levels in the unit, including skilled and managerial positions;

(b) will ensure, in accordance with the provisions of Title VIII, that part-time employees have access to vocational training to enhance their job opportunities and job mobility;

(c) will take into account the requests of employees to transfer from full-time to part-time work and vice versa or to increase their working time, if such an opportunity occurs.

(4) In order to facilitate the transfers described in paragraph (3), the employer shall inform the employees of the full-time and part-time vacancies arising in the unit within 5 working days of their occurrence. The information on vacancies shall be made known to employees and their representatives at unit level by means of a public notice placed on a notice board with general access at the premises of the unit (including each of its branches or representative offices) and on its website, as appropriate."

- The Labour Code was complemented with art. 97² following the adoption by the Parliament of the Republic of Moldova of Law no.140 of 14 October, 2021:

”**Article 97²**. The reduced working time

(1) The employer may set up a reduced working time arrangement, with the distribution of working time during the week, at unit level, for at least 25% of the number of employees in the unit:

a) unilaterally, in the event of a state of emergency, siege and war or a state of emergency in public health;

b) with the written consent of the employees concerned, in the event of unfavourable economic circumstances, difficulties in the supply of raw materials or energy, exceptional bad weather, transformation, restructuring or modernization of the undertaking or in other exceptional circumstances, in the manner determined by the Government.

(2) Reduced working time may be set for a period of up to 3 consecutive months, but not more than 5 months per year.

(3) In the case of application of the provisions of paragraph (1) letter b), the employer is bound to request the consultative opinion of the employees' representatives on the establishment of the reduced working time at least 5 working days prior to the submission of the application for granting the aid to the employees with reduced working time.

(4) The working time required in the employee's individual employment contract may be reduced, under the conditions of this article, by no more than 50%, and the employee's work shall be paid in proportion to the time worked.

(5) The employees who, in accordance with the provisions of this article, have been set up for reduced working time shall receive an aid in the manner determined by the Government.

(6) During the period of reduced working time, set under the terms of this article, it is prohibited to hire employees to perform work similar to that performed by employees whose working time has been reduced.

(7) The employer shall determine the reduced working time following the adoption of the decision to grant aid to employees whose working time has been reduced.

(8) The provisions of this article shall not apply to the following categories of employers:

a) institutions financed from the budget;

b) employers whose activity is suspended, who are in the process of insolvency or liquidation;

c) employers who, at the time of submitting the application for the grant of aid for employees with reduced working time, have arrears to the national public budget exceeding the amount set by the Government.

(9) The provisions of this article shall not apply to employees who:

a) work on a cumulative basis in the same unit or in another unit;

b) have not completed at least 6 months of contributions to the public state social security system in the last 24 calendar months prior to the date of registration of the application for the grant of the aid for employees with reduced working time;

c) are employed part-time.

(10) It is not allowed to apply for reduced working time if a strike is being declared at unit level.”

- By Law No. 115 of 9 July 2020, the Labour Code was supplemented with art.100¹:

Article 100¹. Flexible working time

(1) The flexible working time shall be set by the employer in agreement with the employee, at the employee's request, if this possibility is provided for in the collective employment contract, in the unit's internal rules or in another normative act at unit level.

(2) The flexible working time involve a different way of organizing working time from the working arrangements established within the unit.

(3) The flexible working time shall be set up based on agreement between the parties, with the monitoring by the employer of the employee's daily working time.

(4) The conditions of work under the flexible working time shall be laid down in the individual employment contract.

(5) The flexible working time shall apply without prejudice to the provisions of art. 100.

(6) The daily working time may be divided into two periods: a fixed period, during which the employee is at work, and a variable period, during which the employee chooses his arrival and departure times.

- **Article 102** of the Labour Code, which regulates working time on the eve of non-working holidays, has been supplemented by paragraph (4) following the adoption of Law No. 115 of July 9, 2020:

"(4) At the units with continuous flow and some works with uninterrupted work time, which do not allow to reduce the length of the working day (shift) on the eve of the non-working holiday, the working hour/hours that cannot be reduced shall be considered as overtime work."

- **Article 104** of the Labour Code, which regulates overtime work, has been supplemented by paragraph (8) following the adoption of Law No. 115 of July 9, 2020:

"(8) It shall be permissible for the collective employment contract or the individual employment contract to provide for the possibility of compensating overtime work with time off, with the written agreement of the parties. In this case, the time off shall be granted within 30 days of the overtime work being carried out."

- The paragraphs (2) and (4) of **article 107**, which regulate the lunch break and the daily rest, have been set out in a new wording following the adoption of Law no.115 of July 9, 2020:

"(2) The duration of the lunch break and the time when it is granted shall be laid down in the internal regulations of the unit, in the collective employment contract or in the individual employment contract. Lunch breaks, with the exceptions laid down in the internal rules of the unit, in the collective employment contract or in the individual employment contract, shall not be included in working time."

"(4) The duration of the daily rest period between the end of working time on one day and the beginning of working time on the next day may not be less than 11 consecutive hours."

Regarding the confirmation of compliance with the normal duration of working time in 2017-2020, the State Labour Inspectorate has detected situations of violation of legal provisions in units applying shift work, night work, in the transport sector, in city halls, educational institutions, kindergartens, agricultural sector.

Between 2017 – 2020, in the units of the agricultural sector by labour inspectors have been carried out 1366 inspections. As a result of the inspections it was found that during harvesting periods the daily and weekly working hours were not observed. According to the specifics of activity in these units for employees directly involved in agricultural works, the overall record of working time was applied (art.99 of the Labour Code), but the internal acts did not regulate this, which may have as a legal consequence - the finding of overtime work.

In the units of the public sector, 2088 inspections were carried out, including in the public administration - 653 inspections, in the field of education - 886 inspections. Thus, in city halls, kindergartens, gymnasiums, lyceums 2 guard units are planned (guarding 15 hours Monday-Tuesday, 24 hours Saturday, Sunday), not observing the daily working time as well as the weekly working time. The same goes for the operators in the boiler room, during the cold season they worked 24 hours.

In the units in the field of trade during the same period, there were carried out 2058 inspections. At 21 economic agents, in order to simplify the procedure of material liability, at the request of the sellers, the employers set the following work schedule: one week (7 working days) working day of 12 - 14 hours, followed by one week rest. In these cases, the employers did not lay down any rules on working time records in their internal rules.

During this period, measures were taken to examine 682 complaints received from citizens. For non-compliance by employers with the normal working time, the labour inspectors issued 63 official minutes of violation, which were submitted to the court for examination.

Employed population by economic activities and working week duration for the years 2017-2020, according to data provided by the National Bureau of Statistics.

	Measure unit – <i>thousands of persons</i>		
	2017	2019	2020
	Total per country	Total per country	Total per country
Agriculture, hunting economy, fish farming			
Length of working week - total	364,6	182,8	175,9
0-20 hours	23,1	15,5	13,5
21-30 hours	129,9	42,6	34,9
31-39 hours	74,5	30,0	31,9
40 hours	45,1	40,6	40,0
41 hours and more	92,0	54,1	55,5
Industry			
Length of working week - total	141,2	128,0	121,4
0-20 hours	4,3	5,3	13,3
21-30 hours	3,1	3,3	4,2
31-39 hours	13,1	8,6	5,9
40 hours	94,5	90,5	83,6
41 hours and more	26,1	20,3	14,4
Construction			
Length of working week - total	51,4	61,4	60,4
0-20 hours	2,7	2,6	6,5
21-30 hours	4,4	3,4	4,0
31-39 hours	5,2	5,4	5,3
40 hours	17,4	25,5	24,5
41 hours and more	21,6	24,5	20,1
Wholesale and retail sale, Hotels and restaurants			
Length of working week - total	200,4	163,8	148,4
0-20 hours	6,3	8,4	18,6
21-30 hours	8,5	9,0	8,0
31-39 hours	23,9	16,4	12,2
40 hours	73,1	70,0	67,1
41 hours and more	88,7	59,9	42,5
Transport and communication			
Length of working week - total	68,7	59,9	61,5
0-20 hours	2,7	4,5	8,5

21-30 hours	1,6	2,9	3,9
31-39 hours	6,2	4,1	2,9
40 hours	35,0	32,1	33,9
41 hours and more	23,3	16,2	12,3
Public administration, education, health and social assistance			
Length of working week - total	224,0	197,5	193,1
0-20 hours	26,6	21,6	30,5
21-30 hours	20,3	11,7	10,6
31-39 hours	38,5	51,6	46,8
40 hours	101,4	82,6	75,9
41 hours and more	37,3	29,9	29,3
Other activities			
Length of working week - total	89,9	78,9	73,5
0-20 hours	3,9	10,4	12,7
21-30 hours	5,6	7,9	6,6
31-39 hours	11,2	6,1	4,8
40 hours	51,4	40,6	39,2
41 hours and more	17,8	14,0	10,3

* *Note:* information for 2018 has not been collected.

b) Actions taken by the authorities to ensure the observance of normal working time:

During the inspection visits, seminars, meetings conducted by the State Labour Inspectorate, economic agents are informed about the legal particularities concerning working period and resting time.

Therefore, during the reporting period, labour inspectors contributed to the successful conduct of 135 awareness-raising meetings held at the city hall level with the participation of economic agents, including from the agricultural and trade sectors (over 7000 participants). The labour inspectors informed employers about the provisions of the labour legislation on working time and rest time, the most frequent offences detected as well as best practices.

During awareness-raising and training activities held jointly with the local public administration, the Federation of Trade Unions in Education and Science (about 50 meetings (more than 600 participants), the heads of educational institutions approached situations related to how to establish the working time of guards and operators, taking into account the number of planned units/financial resources available.

c) The national legislation does not regulate "on-call "work or" zero hours" contract work.

d) The impact of the Covid-19 on the right to fair working conditions and, in particular, the length of working time during the pandemic:

During 2020, to a large extent, the operating regime of economic units, i.e., also the working regime of employees, was restricted and limited. In full working mode the units did not operate, with the exception of public sanitary-medical institutions.

Within the units, where the physical presence of the employees was not possible, the remote working procedure was established, with the maintenance of the previously established working time, which is still applied today. In case of impossibility of employees to work remotely, annual paid leave was granted, or, where appropriate, unpaid leave was granted at the written request of the employee.

e) The measures taken by the Republic of Moldova in response to the crisis created by Covid-19:

Pursuant to the provisions of the Commission for Exceptional Situations of the Republic of Moldova No.6 of March 26, 2020, No.14 of April 6, 2020, No.17 of April 13, 2020, No.21 of April 24, 2020, the periods March 30 - April 3, April 7 - April 17, April 21 - April 24, April 27 - April 30 were declared rest days.

These periods have been declared rest days for all units of the budgetary sector except:

- sanitary-medical institutions, public health and ancillary services for public health institutions, rescue services, emergency and social assistance services;
- administrative authorities in the field of national defence, public order, and national security.

For the days declared as rest days, all employees with full employment relationships were entitled to full pay, with the obligation to recover these days in the manner established by the Government.

The procedure for the recovery of days declared as rest days by the Commission for Exceptional Situations of the Republic of Moldova was approved by the Government Decision No 332 of 3 June 2020.

According to paragraph (1) of the above-mentioned Government Decision, the following working days were established for the recovery of the 12 days declared as days off during 2020: June 13, June 27, July 4, July 18, August 1, August 15, September 5, September 19, October 3, October 17, October 31 and November 14 (Saturdays according to the calendar).

For the other 10 days off, the Government has decided that working hours will be recovered, starting from July 1, 2020, by increasing daily working time by one hour from Monday to Friday and reducing the lunch break by 30 minutes (see clause 2 of Government Decision No. 332/2020).

The measures taken in response to the Covid-19 pandemic include the following amendments in the legislation:

- By Law No.69 of May 21, 2020 "On the establishment of measures during the state of emergency in public health and the amendment of some normative acts", art.73 of the Labour Code was supplemented with a new paragraph. The paragraph (2) of this article provides for the possibility of temporary change of the employee's place of work to work at home or remotely in case of impossibility of the employee to work at the place of work set up by the employer and in order to protect the safety and health of the employee during exceptional situations related to the declaration of a state of emergency, siege and war or the declaration of a state of emergency in public health.

- Under Law No. 69 of May 21, 2020, Title X of the Labour Code has been supplemented with Chapter IX1 regulating the remote work. The amendments provide for the possibilities of carrying out remote work, the specific clauses of the individual employment contract, the manner of conclusion, amendment, and execution of the individual employment contract by means of electronic document exchange with the use of qualified advanced electronic signature, as well as the peculiarities of the organization of occupational safety and health.

- By Law no.115 of July 9, 2020 "on the modification of the Labour Code of the Republic of Moldova no.154/2003" the Labour Code was supplemented with art.1001 which enshrines the flexible work time. This provision regulates the possibility of establishing flexible working time

on the basis of an agreement between the employee and the employer, which can be established for the entire working day, as well as the possibility of dividing it into two periods: a fixed period, during which the employee is at work, and a variable period, during which the employee chooses the arrival and departure times.

The amendments to the labour legislation were intended to support employees and employers by retaining qualified staff in the epidemiological circumstances caused by the spread of COVID-19.

In the context of the epidemiological situation in the country and the risk of COVID-19, the Ministry of Health, Labour and Social Protection has published the following recommendations on its website, which were aimed at clarifying the legal situations related to the employment relationship between the employer and the employee, as well as ensuring the social-economic protection, safety and occupational health of employees (in accordance with the provisions of the labour legislation in force):

- examination by the parties of the possibility of working at home (*according to art. 290 of the Labour Code*);
- establishment, with the employee's written consent, of individualized work schedules with flexible working time (see art. 100¹ of the Code);
- establishment, with the agreement of both parties, of part-time work (*according to art. 97 of the Labour Code*), with employees being paid in proportion to the time worked or according to the volume of work performed;
- registration at the unit of the stand-by (*according to art. 80¹ of the Code*), employees being remunerated according to Art. 801 paragraph (2) of the Labour Code. According to the legal provision in question, the remuneration of the time spent on stand-by due to reasons beyond the control of the employer or the employee, with the exception of the period of technical unemployment (art. 80), shall be paid in the amount of at least 2/3 of the basic wage per unit of time established for the employee, but not less than the amount of a minimum wage per unit of time, established by the legislation in force, for each hour of stand-by;
- in the event of temporary impossibility for the unit or an internal subdivision of the unit to continue production activity for objective economic reasons, the employer may announce technical unemployment, with payment of an indemnity which may not be less than 50% of the basic salary (*see art. 80 of the Code*);
- granting to the employee (on the basis of a written request) of annual rest leave (*according to art.112 of the Labour Code*), including unused annual rest leave (*according to art.119 paragraph (3) of the Labour Code*), with payment of the leave allowance according to art.117 of the Code;
- granting to the employees (based on a written request by the employee and with the employer's consent) unpaid leave (*according to art.120 of the Labour Code*).

Article 2 paragraph 7 ***The night work***

- By Law No. 115 of July 9, 2020, **Article 103** of the Labour Code regulating "night work" was supplemented with two new paragraphs (3¹) and (7).

"(3¹) The employees who are to be transferred to permanent night work shall, prior to the transfer, undergo a medical examination at the employer's expense."

"(7) The employees to whom night work is contraindicated according to the medical certificate shall be transferred to day work for which they are qualified, subject to the provisions of art. 74."

¹ According to clause 3 of the Government Decision "on the restructuring of the specialized central public administration" no. 117 of August 12, 2021, the Ministry of Health, Labour and Social Protection was reorganized by dismemberment and created the Ministry of Labour and Social Protection.

- By Law No.155 of July 20, 2017 on amending and supplementing the Labour Code of the Republic of Moldova No. 154/2003, Directive 92/85/EEC of October 19, 1992 on the introduction of measures to promote improvements in the safety and health at work of pregnant workers who have recently given birth or are breastfeeding, was transposed. Therefore the art. 250 of the Code has been set out in a new wording:

”Article 250. The transfer to another job of certain categories of women

(1) In the event that, as a result of an occupational risk assessment in accordance with the Law on Safety and Health at Work, the work performed by a pregnant woman, a woman who has recently given birth or a woman who is breastfeeding proves to present risks to her safety or health or may have repercussions on her pregnancy or breastfeeding, the employer shall take the necessary measures to exclude the influence of the risk factors on the persons concerned by temporarily changing the working conditions.

(2) If the change in working conditions provided for in paragraph (1) is not possible for objective reasons, a pregnant woman, a woman who has recently given birth or a woman who is breastfeeding shall be given other work so as to avoid exposure to the risk factors identified in the assessment. During the working period at the new job, the pregnant woman, the woman who has recently given birth or the breastfeeding woman shall be maintained at the average wage from the previous place of work.

(3) The provisions of paragraph (1) and (2) will also apply in cases where pregnancy or breastfeeding occurs during work involving risk factors, provided that the employer is duly informed.

(4) The pregnant women, women who have recently given birth and women who are breastfeeding shall be removed from night work and assigned to day work, with maintenance of the average wage from the previous place of work.

(5) Until the question of the granting of other work is settled in accordance with paragraph (2) to (4), or if a change of job is not possible for objective reasons, the pregnant women, women who have recently given birth and women who are breastfeeding shall be exempted from work duties, with maintenance of the average wage for the days they have not worked for this reason.

(6) Without prejudice to the provisions of paragraph (1) to (5), women who have children up to the age of 3 years, if they are unable to fulfil their work obligations, shall be transferred, in the manner provided for in this Code, to another place of work, with maintenance of the average wage from the previous place of work until the children reach the age of 3 years."

Article 4 paragraph 1

The right of employees to sufficient remuneration

a) Government Decision No. 165 of March 9, 2010 sets the guaranteed minimum amount of wage in the real sector, which is amended every year. Thus, for the years 2017-2020, the following amounts of the guaranteed minimum wage in the real sector have been established in the amount of:

- MDL 2380 per month from May 1, 2017 (by Government Decision No. 242 of April 24, 2017);
- MDL 2610 per month from May 1, 2018 (by Government Decision No. 396 of April 25, 2018);
- MDL 2775 per month from May 1, 2019 (by Government Decision No. 232 of April 24, 2019).

The National Bureau of Statistics does not have data on gross minimum wages and the number of persons paid with minimum wage, however, we present below the available information on "*Distribution of the number of employees according to the amount of wage calculated for the month of September for the years 2017-2020*":

Year 2017

	Total employees who	Persons who received a	Persons who received a	Persons who received a	Persons who received

	worked in September full month and full day	wage below MDL 1000.00	wage from MDL 1000.01 to MDL 1500.00	wage from MDL 1500,01 to MDL 2000,00	a wage from MDL 2000.01 to MDL 2500.00
Economic activities - total	419 545	155	12 340	20 214	48 604
A Agriculture, forestry and fishing	25 013	107	317	514	4 646
B Mining industry	1 660	-	-	-	204
C Manufacturing industry	53 139	22	36	98	5 554
D Production and supply of electricity and heat, gas, hot water and air conditioning	8 338	-	-	4	26
E Water supply; sewerage, waste management, remediation activities	5 739	-	33	92	638
F Constructions	15 541	-	2	34	1 506
G Wholesale and retail sale; maintenance and repair of motor vehicles and motorcycles	60 780	4	22	60	9 816
H Transport and storage	21 623	9	32	41	4 073
I Accommodation and food service activities	7 306	2	45	146	1 889
J Information and communication	13 571	-	-	2	351
K Financial and insurance activities	8 794	-	-	13	325
L Real estate activities	6 940	-	122	348	1 285
M Professional, scientific and technical activities	8 844	11	195	348	872
N Administrative and support service activities	8 176	-	44	52	1 507
O Public administration and defence; compulsory social insurances	39 173	-	1 784	2 034	1 319
P Education	77 951	-	8 154	12 233	7 031
Q Health and social assistance	44 591	-	350	2 050	5 411
R Arts, recreation and leisure activities	8 989	-	1 204	2 145	1 648
S Other service activities	3 377	-	-	-	502

Year 2018

	Total employees who worked in September full month and full day	Persons who received a wage below MDL 1500.00	Persons who received a wage from MDL 1500,01 to MDL 2000,00	Persons who received a wage from MDL 2000.01 to MDL 2500.00	Persons who received a wage from MDL 1500.01 to MDL 3000.00
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Economic activities - total	426 240	7 419	18 845	22 298	50 837
A Agriculture, forestry and fishing	25 970	219	307	1 775	5 554
B Mining industry	1 607	-	-	31	243
C Manufacturing industry	58 489	5	48	1 432	7 104
D Production and supply of electricity and heat, gas, hot water and air conditioning	7 575	-	1	35	39
E Water supply; sewerage, waste management, remediation activities	5 625	28	81	325	734
F Constructions	15 856	-	1	206	1 934
G Wholesale and retail sale; maintenance and repair of motor vehicles and motorcycles	63 742	8	29	1 506	11 461
H Transport and storage	21 017	4	9	1 132	3 600
I Accommodation and food service activities	7 748	34	96	213	2 124
J Information and communication	13 487	-	-	118	586
K Financial and insurance activities	8 695	11	2	77	182
L Real estate activities	6 469	96	257	339	1 382
M Professional, scientific and technical activities	8 525	90	179	438	772
N Administrative and support service activities	8 077	35	35	288	1 706
O Public administration and defence; compulsory social insurances	40 056	1 095	2 158	1 229	1 651
P Education	76 561	4 790	12 508	7 212	5 085
Q Health and social assistance	45 347	207	1 393	4 313	5 003
R Arts, recreation and leisure activities	8 760	795	1 741	1 581	1 183
S Other service activities	2 633	2	1	48	493

Year 2019

	Total employees who worked in September full month and full day	Persons who received a wage below MDL 1500.00	Persons who received a wage from MDL 1500,01 to MDL 2000,00	Persons who received a wage from MDL 2000.01 to MDL 2500.00	Persons who received a wage from MDL 1500.01 to MDL 3000.00
Economic activities - total	442 285	87	3 067	16 252	43 357
A Agriculture, forestry and fishing	25 527	62	197	1 008	4 119
B Mining industry	1 584	-	-	22	145
C Manufacturing industry	61 948	3	26	701	4 747

D Production and supply of electricity and heat, gas, hot water and air conditioning	7 535	-	-	6	17
E Water supply; sewerage, waste management, remediation activities	5 914	3	18	156	698
F Constructions	17 820	-	-	131	1 264
G Wholesale and retail sale; maintenance and repair of motor vehicles and motorcycles	71 956	-	2	765	9 534
H Transport and storage	23 044	3	-	117	2 033
I Accommodation and food service activities	9 283	-	12	176	1 282
J Information and communication	15 194	-	-	60	415
K Financial and insurance activities	9 045	-	-	40	243
L Real estate activities	6 841	-	43	408	955
M Professional, scientific and technical activities	8 168	16	31	199	621
N Administrative and support service activities	8 324	-	15	68	1 825
O Public administration and defence; compulsory social insurances	38 367	-	447	1 627	1 682
P Education	75 897	-	1 886	7 713	8 731
Q Health and social assistance	44 524	-	115	2 137	3 684
R Arts, recreation and leisure activities	8 820	-	274	869	1 079
S Other service activities	2 495	-	-	47	283

Year 2020

	Total employees who worked in September full month and full day	Persons who received a wage below MDL 1500.00	Persons who received a wage from MDL 1500,01 to MDL 2000,00	Persons who received a wage from MDL 2000.01 to MDL 2500.00	Persons who received a wage from MDL 1500.01 to MDL 3000.00
Economic activities - total	426 964	1	1 064	8 682	30 985
A Agriculture, forestry and fishing	24 276	-	74	251	3 457
B Mining industry	1 431	-	-	-	98
C Manufacturing industry	56 330	-	-	10	3 266
D Production and supply of electricity and heat, gas, hot water and air conditioning	7 866	-	-	-	14
E Water supply; sewerage, waste management, remediation activities	5 547	-	7	72	512

F Constructions	18 507	-	-	-	1 160
G Wholesale and retail sale; maintenance and repair of motor vehicles and motorcycles	70 121	-	-	4	5 773
H Transport and storage	20 123	-	3	4	1 428
I Accommodation and food service activities	5 565	-	4	34	922
J Information and communication	16 485	-	-	-	340
K Financial and insurance activities	9 424	-	-	-	133
L Real estate activities	6 806	-	10	117	917
M Professional, scientific and technical activities	7 288	-	36	58	427
N Administrative and support service activities	7 490	-	5	58	1 174
O Public administration and defence; compulsory social insurances	39 796	-	153	1 170	1 666
P Education	73 673	-	607	5 735	7 075
Q Health and social assistance	44 630	-	81	507	1 571
R Arts, recreation and leisure activities	8 493	-	84	655	778
S Other service activities	3 112	1	-	6	276

Note:

The data include economic and social units with 4 or more employees and all budgetary institutions, regardless of the number of employees.

Only employees who worked in September full month and full day are included.

The information is presented without the data for the districts on the left side of the Dniester and Bender municipality

Concerning the statistics on the cases of stagnation and technical unemployment that occurred as a result of the Covid-19 pandemic, we would like to inform you that during the controls carried out by the State Labour Inspectorate between June 2020 and December 2020 at 60 public institutions, it was found that stagnation was imposed (according to art.80¹ of the Labour Code). Labour inspectors upon request provided consultations on legal particularities according to art. 80¹ of the Labour Code.

In the real sector, out of 69 units subject to inspection, 68 employers granted, based on applications submitted by employees, annual leave and unpaid leave during the period of suspension of work as a result of state restrictions. One economic agent (field of transport activity) for a period of about 1.5 months applied - art.801 - standstill with payment of allowance. About 7000 thousand employees were informed and monitored for compliance of legal provisions.

b) Concerning the statistics on fair remuneration claims, we would like to inform you that in the period 2017-2020 the State Labour Inspectorate has examined 4746 complaints related to the way in which wages and other wage payments are determined and paid: non-payment of wages in due time, non-payment of wages that were negotiated verbally and not in writing, deductions from wages upon termination of contract as material liability, non-payment of wages according to the length of time worked. It was not possible to intervene in cases where the units were in the process

of insolvency or operations on settlement accounts suspended by the State Tax Service or pursuant to an enforceable title.

For the establishment and payment by the employer of a wage below the minimum guaranteed state level, non-payment of additions, bonuses, indemnity payments and intentional violation of the deadlines for payment of wages, benefits and other payments of a permanent nature, under art. 55 paragraph (1) letter f), art. 55 paragraph (3) letters b), c), d), art. 57 paragraph (1) and paragraph (2) of the Contravention Code, by the labour inspectors, 127 official minutes on the contravention were issued. More than 4000 persons were restored to their rights.

Article 4 paragraph 2

The right of employees to an increased wage rate for overtime

a) The national legislation does not regulate "on-call" work or "zero hours" contract work.

b) By the Law No. 2 of March 4, 2021 for the amendment of some normative acts, the Labour Code was supplemented with art.139¹:

„**Article 139¹**. Remuneration of work carried out under conditions of increased risk to health

(1) For work performed under conditions of increased risk to health during a state of emergency, siege or war or during a state of emergency in public health, employees may receive increased compensation for work performed under conditions of increased risk to health.

(2) The compensation for work under conditions of increased risk to health shall be up to 100 percent of basic wage per unit of time (hour or day), depending on the employee's workload and level of professional training, for each hour or day of work performed under conditions of increased risk to health.

(3) The categories of employees engaged in work under conditions of increased risk to health during a state of emergency, siege or war or during a state of emergency in public health shall be set by the Commission for Exceptional Situations of the Republic of Moldova or, as the case may be, by the Extraordinary National Commission for Public Health."

Concerning the non-payment of overtime due to the impact of the Covid-19 pandemic, in 2020 by the State Labour Inspectorate have been taken measures on the examination of 64 complaints on the non-payment of overtime and 46 minutes of administrative offence have been concluded and submitted to the court for examination.

Article 4 paragraph 3

The right of male and female employees to equal wage for work of equal value

In the national legislation of the Republic of Moldova, the right of employees to equal pay for equal work or work of equal value between men and women is regulated by art. 10 paragraph (2) letter g) and art. 128 paragraph (2) of the Labour Code. There were no amendments to these provisions during the reporting period.

Article 4 paragraph 4

The right of all employees to a reasonable period of notice in case of termination of employment

a) The right of employees to a period of notice in case of termination of employment is regulated by art.184 of the Labour Code:

”**Article 184**. Guarantees in case of termination of the individual employment contract

(1) The employer is bound to give advance notice to the employee, by order (provision, decision, ruling), under signature, of his/her intention to terminate the individual employment contract concluded for an indefinite or definite period, within the following time limits:

a) 2 months in advance - in case of dismissal in connection with the liquidation of the unit or the termination of the activity of the natural person employer, reduction in the number or states of personnel at the unit (art.86 paragraph (1) letters b) and c));

b) one month in advance - in case of dismissal in connection with the finding that the employee does not correspond to the position held or work performed due to insufficient qualification confirmed by the decision of the certification committee (art. 86 paragraph (1) letter (e));

c) 14 calendar days in advance - in case of dismissal due to the employee's retirement on grounds of old-age pensioner status (art. 86 paragraph (1) letter y1) and art. 301 paragraph (1) letter c)).

(2) During the periods provided in paragraph (1), the employee shall be granted at least one working day per week, with maintenance of the average wage, to look for another job.

(3) Upon termination of the individual employment contract as a result of the employee's breach of his/her employment obligations (art. 86 paragraph (1) letters (g) - (k), (m), (o) - (r)), the advance notice is not compulsory."

Article 5 ***The right to organization***

The application of art. 5 of the Charter is ensured on the territory of the Republic of Moldova by a broad normative framework, which includes the Constitution, the Labour Code No. 154 of March 28, 2003, the Trade Union Law No. 1129 of July 7, 2000, the Law of Employer's Association No. 976 of May 11, 2000 and a set of normative acts subordinated to the law.

a) The right of employees to freedom of association in trade unions, including the establishment and adherence to a trade union organization for the protection of their rights to work, their freedoms and their legitimate interests, is concurrently enshrined in art. 42 of the Constitution, art. 5 and 9 of the Labour Code, as well as in art. 7 of the Trade Unions Law no. 1129 of July 7, 2000.

According to art. 7 of the Law on Trade Unions, the right to join a trade union is applied to citizens of the Republic of Moldova living in the country or abroad, as well as to foreign citizens and stateless persons legally residing in the country. Persons who are not employed or who have lost their job, as well as those who are legally engaged in an individual activity, may be organized in a trade union or register, at their own discretion, in a trade union according to their statute, or they can remain a trade union member of the enterprise, institution, organization they worked for.

Membership or non-membership of trade unions does not entail any restriction of employees' rights guaranteed by law. Moreover, art. 8 of the Labour Code expressly prohibits any direct or indirect discrimination of the employee on criteria unrelated to his/her professional qualities, including membership and trade union activity. In accordance with art. 8 of the Law on Trade Unions, the trade union is voluntarily founded, based on common interests (profession, branch, etc.) and operates in enterprises, institutions and organizations, irrespective of the legal form of organization and type of ownership, departmental or branch affiliation.

Concerning trade union membership by country and field of activity, we inform you that we do not have such statistics.

Article 6 ***The right to collective negotiation***

Indicators relating to the number of collective employment contracts

**and additional agreements submitted by economic agents to territorial
labour inspectorates during 2017 – 2020**

Distribution by activity of collective employment contracts registered at the State Labour Inspectorate	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>
Agriculture, forestry, fisheries	6	18	7	7
Mining industry	1	1	2	0
Manufacturing industry	30	22	21	10
Electricity, heat, gas and hot water	11	20	3	1
Water distribution, sanitation	6	4	3	7
Construction	4	1	1	1
Wholesale and retail sale	15	7	2	6
Transport and storage	4	6	7	6
Hotels and restaurants	6	2	0	0
Information and communication	0	2	0	0
Financial and insurance brokerages	1	1	2	3
Professional, scientific and technical activities	0	1	0	0
Administrative service activities	7	0	0	0
Public administration, compulsory social security	54	78	68	120
Education	330	300	244	324
Health and social work	26	129	32	22
Cultural and recreational activities	13	10	19	18
Other service activities	39	28	41	18

Article 6 paragraph 4
The right to collective proceedings

By Government Decision no. 389 of April 25, 2018, the "Nomenclature of units, sectors and services whose employees may not participate to the strike" (approved by Government Decision no. 656 of June 11, 2004) was published in a new wording:

Ref. No.	Names of units, sectors and services	Position name/position status
1.	Central public administration (ministries, other central administrative authorities)	Civil servants with senior management functions Civil servants with management functions
2.	Parliament's Secretariat	Civil servants with senior management functions Civil servants with management functions
3.	State Chancellery	Civil servants with senior management functions Civil servants with management functions
4.	Apparatus of the President of the Republic of Moldova	Civil servants with senior management functions Civil servants with management functions
5.	Sanitary-medical institutions	The on-call staff of sanitary-medical and pharmaceutical institutions, regardless of their type of ownership and legal form of organization, and of the National Agency for Public Health
6.	Telecommunications system units	Employees involved in operative services for maintenance and management of electronic communications services and infrastructure
7.	Power supply units	All employees
8.	Units providing water and sanitation services	All employees

9.	Air traffic management service	Employees of air traffic management services
10.	Ministry of Internal Affairs	Civil servants with special status within the subdivisions of the ministry, administrative authorities and subordinate institutions.
11.	Courts	Judges
12.	Information and Security Service	Information and security officers
13.	National Anti-Corruption Centre	Civil servants with special status
14.	Armed Forces	Militaries and all employees
15.	Customs Service	Civil servants with special status
16.	National Penitentiary Administration	Civil servants with special status
17.	General Prosecutor's Office, territorial prosecutors' offices and specialized prosecutors' offices	Prosecutors
18.	State Protection and Guard Service	Protection officers (persons with public-dignity functions and civil servants with special status)

During the crisis caused by the Covid-19 pandemic, the legal rules on the right to participate in strikes remained unchanged.

Article 21

The right to information and consultation

On June 2, 2017, the Parliament of the Republic of Moldova adopted the Law No. 155 on amending and supplementing the Labour Code. By this law, the Directive 2002/14/EC of March 11, 2002 establishing a general framework for informing and consulting employees in the European Community and Directive 2001/23/EC of March 12, 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses were transposed. Following the adoption of the above-mentioned Law, the Labour Code was supplemented with the following articles:

”**Article 42¹**. Information and consultation of employees

(1) In order to ensure the right of the employees to manage the unit, stipulated in art. 42, the employer is bound to inform and consult them with reference to the relevant subjects in relation to their activity at the unit.

(2) The information obligation shall concern:

a) the recent evolution and probable evolution of the activities and economic situation of the unit;

b) the situation, structure and likely evolution of employment within the unit, as well as any expected measures of anticipation, especially when there is a threat to the workplaces;

c) decisions that may lead to significant changes in work organization or contractual relations, including those related to the mass reduction of workplaces or the change of the owner of the unit;

d) the safety and health at work, as well as any measures liable to affect its insurance, including the planning and introduction of new technologies, the choice of work and protection equipment, the training of employees on safety and health at work, etc.

(3) The information shall be provided by submitting, in written form, to the employees' representatives the relevant, complete and reliable data regarding the subjects listed in paragraph (2), in due time, which would allow the employees' representatives to prepare, if necessary, the consultation

(4) Information shall take place whenever it is necessary due to the circumstances, as well as periodically, at the intervals stipulated in the collective employment contract. Periodic information on the subjects mentioned in paragraph (2) may not take place more than once a year, not later than in the first semester of the year following the management year.

(5) If certain measures are envisaged with respect to employees, the information shall be provided at least 30 calendar days before the implementation of the appropriate measures. In the event of liquidation of the unit or a reduction in the number or staff positions, employees shall be informed of this at least 30 calendar days before the commencement of the procedures provided for in art. 43. For mass reduction of workplaces, shall apply the information and consultation conditions provided by art. 88 paragraph (1) letter i).

(6) If there are no trade unions or elected representatives in the unit, the information mentioned in paragraph (2) shall be brought to the notice of employees by means of a public notice placed on a general access point at the headquarters of the establishment (including each of the subsidiaries or representations of the unit) as well as, where appropriate, through the web site or e-mail messages.

(7) Consultation takes place:

a) in meetings with representatives of the employer at a level relevant to the subject discussed;

(b) on the basis of the information submitted in accordance with paragraph (3) and the opinion which the employees' representatives are entitled to formulate in this context;

(c) with a view to reaching a consensus on the matters falling within the employer's competence referred to in paragraph (2) letters (b) to (d).

In the process of consultation, the employees' representatives are entitled to meet the employer and to obtain a reasoned response to any opinion they may formulate. Where certain measures are planned in respect of employees, consultation shall be carried out in such a way as to give employees' representatives the opportunity to negotiate and reach a consensus with the employer before the planned measures are implemented.

(8) If the unit has an occupational safety and health committee set up in accordance with the provisions of the Law on Occupational Safety and Health, the information and consultation on the matters referred to in paragraph (2) letter d) shall be carried out within its framework.

(9) The employees' representatives, as well as any experts assisting them, shall not be authorized to disclose to employees or third parties information which, in the legitimate interest of the unit, has been provided to them on a confidential basis following the signing of an undertaking in written form. This restriction shall apply wherever such representatives or third parties may be, even after the expiry of their mandate. In turn, the employees will not disclose confidential information received in the same way from the employer. Non-compliance with confidentiality entails an obligation on the part of the guilty parties to remedy the damage caused.

(10) By way of derogation from paragraphs (1) to (8), the employer is not bound to communicate information or undertake consultation, if such action would have the effect of disclosing a State or trade secret. The employer's refusal to provide information or to undertake consultations on the matters referred to in paragraph (2) may be challenged in court.

(11) While informing and consulting the employees in connection with the reorganization of the unit, the change of the type of ownership or the change of the owner of the unit, the particularities provided for in art. 197¹ shall be taken into account.

(12) Collective agreements and/or collective employment contracts may set out any information and consultation procedures, which shall not diminish the rights of employees in relation to the provisions of this Code."

"Article 197¹. The guarantees in case of reorganization of the unit, change of type of ownership or its owner

(1) In case of reorganization of the unit, change of type of ownership or its owner, the transferee assumes all rights and obligations existing at the date of the event, arising from the individual employment contracts and the collective labour agreements in force.

(2) The reorganization of the unit, the change of type of ownership or its owner does not in itself constitute grounds for termination of the individual employment contract (with the exceptions provided in art. 86 paragraph (1) letter (f)). At the same time, the dismissal of employees may occur in such cases as a result of the reduction of the number or personnel of the unit.

(3) In case of reorganization of the unit, change of the type of ownership or its owner, the employees' right to information and consultation shall be observed. At least 30 calendar days prior to the change of the type of ownership or the owner of the unit or the start of the reorganization procedure, the acting employer shall inform in writing the representatives of its employees regarding:

a) the proposed date or date of the change of type of ownership, the owner of the unit or the beginning of the reorganization procedure;

b) the reasons for the reorganization, change of type of ownership or the owner of the unit;

c) the legal, economic and social consequences of the reorganization, change of the type of ownership or the owner of the unit for the employees;

d) the envisaged measures regarding the employees.

(4) The transferee is obliged to provide the representatives of his employees with the information mentioned in paragraph (3) letters (a) to d) at least 30 calendar days before the reorganization of the unit, the change of the type of ownership or the owner of the property to actually take place.

(5) If there are no unions or elected representatives in the unit, the information mentioned in paragraph (3) shall be made known to employees through a public notice placed on a general access point at the headquarters of the unit (including each of the subsidiaries or representatives of the units) as well as, where appropriate, through the web site or e-mail messages.

(6) If the transferor and/or the transferee intends to take certain measures regarding their employees, they shall be consulted with the representatives of the employees in accordance with the provisions of art. 42¹.

(7) If, in the process of reorganization of the unit, change the type of ownership or its owner, reductions of the staff or the number of personnel are envisaged, shall apply additional the provisions of art. 88.”

Article 22

The right to take part in the establishment and improvement of working conditions and the working environment

According to the information provided by the occupational safety control authorities, the following occupational safety and health activities were carried out during 2020:

- there were carried out 815 inspections, of which 728 planned and 87 unannounced at units with a workforce of 29540 staff units, of which 11172 women, 388 disabled persons and 25 minors;

- as a result of the inspections, 7 463 infringements were found and recorded in the inspection minutes;

- 306 information was received from the employers, concerning the remedy of violations;

- there were examined 69 complaints received from citizens, 201 referrals from various authorities and measures were taken to reinstate the rights of citizens;

- 20 days were used for court hearings;

- 165 days were used for business trips, meetings and seminars;

- in accordance with art. 55/3 of the Contravention Code, there were concluded 151 minutes of contravention. The fines were imposed in the amount of MDL 1706700.

At the same time, during the reporting period, actions were taken to prevent violations of the legislation in the field of occupational safety and health. In this regard were:

- carried out 242 actions to raise awareness of employees and employers (seminars, meetings, round tables, workshops, consultations) on compliance with the regulations in the field of occupational safety and health, including through working visits to units;
- granted interviews and published 12 information materials on occupational safety.

Article 26

The right to dignity at the workplace

Both in the reporting period 2017-2020 and during the Covid-19 pandemic, the legal rules on combating sexual harassment and abuse at work or in employment relationships remained unchanged.

Article 28

The right of workers' representatives to protection in the company and the facilities granted to them

Both during the reporting period 2017-2020 and the crisis caused by the Covid-19 pandemic, the rules regulating the right of workers' representatives to protection at the company have not been changed. At the Committee's request, we inform you that the Republic of Moldova does not have statistical data on the application in practice of the right of workers' representatives to protection at company.

Article 29

The right to information and consultation within the collective dismissal procedures

On May 24, 2018, the Parliament of the Republic of Moldova adopted Law No. 85 on amending and supplementing the Labour Code No. 154/2003. Following the adoption of the above-mentioned Law, the Labour Code was supplemented with art. 185¹:

”**Article 185¹**. The guarantees in case of collective dismissals

(1) The collective dismissals are dismissals made by the employer for one or more reasons not attributable to the employee, if, within a period of 30 days, the number of dismissals is::

- a) at least 10 in units having between 20 and 99 employees;
- b) at least 10% of the number of employees in units having between 100 and 299 employees;
- c) at least 30 in units having 300 or more employees.

(2) In determining the actual number of employees collectively dismissed in accordance with paragraph (1), shall also be taken into account those employees whose individual employment contracts have been terminated at the initiative of the employer for one or more reasons not attributable to the employee (provided for in art. 86 paragraph (1) letter (z)), provided that there are at least 5 dismissals.

(3) In the case where measures involving collective dismissals are planned at the unit, at least three months' notice (including the notice period provided for in paragraph (7). the employer is bound to notify the employees' representatives in the unit and the employment agency and to enter into consultations with the employees' representatives with a view to reaching an agreement.

(4) In order to enable the employees' representatives to make constructive proposals, at least 5 working days before the consultations begin, the employer is bound to provide them, in writing, with all available useful information on:

- a) the reasons for the planned dismissals;
- b) the number and categories of employees to be dismissed;
- c) the number and categories of employees hired within the unit;
- d) the period during which the dismissals will take place;
- e) the criteria for selecting the employees to be dismissed, provided by the law, the collective agreements or collective employment agreements;

f) the method of calculating any allowances pay, provided for in the collective employment contract or in the normative acts at unit level, except for those provided by the legislation in force.

(5) The consultations shall last until the conclusion of an agreement, but in any case not more than 30 calendar days from the moment of informing the employees' representatives about the planned collective dismissals.

(6) If no agreement is reached and the unilateral decision of the employer is to continue the collective dismissal process, this decision shall be communicated by notification to the employees' representatives and the employment agency. The notification of the employment agency shall contain at least the elements provided in paragraph (4) letter a) to e), as well as any useful information regarding the planned dismissals and consultations with the employees' representatives. The notification obligation applies to each planned dismissal with the collective dismissals.

(7) The advance notice, under signature, of the employees regarding the collective dismissals is made 2 months before the dismissal, observing the dismissal procedures established in art. 88.

(8). The Employment Agency shall use the period preceding the dismissal to seek solutions to the problems raised by them and to provide, together with the employer and the employees' representatives, assistance in the hiring of the employees which are to be dismissed, presenting them with employment and requalification opportunities."

A relevant change with respect to art. 29 of the Charter was the completion of the Labour Code with art. 42¹ (see information provided for article 21), which regulating the right of employees to information and consultation, including in the event of a mass reduction of workplaces.

At the request of the Committee, we inform that the Republic of Moldova does not have statistical data on the practical application of the right of workers' representatives to protection at the company.