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EUROPEAN SOCIAL CHARTER

14th National Report on the implementation of the European Social Charter

submitted by

THE GOVERNMENT OF THE REPUBLIC OF MOLDOVA

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

for the period 01/01/2013 - 31/12/2016

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CYCLE 2018

REPUBLIC OF MOLDOVA

14th REPORT

of the Government of the Republic of Moldova

on the application of the provisions of the European Social Charter (Revised)

for the period January 01, 2013 - December 31, 2016

(Articles 2, 4 (§ 3-5), 5, 6, 21, 26, 28 and 29)

2018

Contents

PRELIMINARY REMARKS

The 14th Report is based on previous reports of the Government of the Republic of Moldova on the implementation of accepted articles and paragraphs provided for in the European Social Charter (Revised). Thematic group 3. Labour rights.

ARTICLE 2. The right to just conditions of work

PARAGRAPH 1. Reasonable working time

General rules on the length of working time are covered by the Constitution of the Republic of Moldova and the Labour Code, the relevant provisions of which are reproduced below.

***The Constitution of the Republic of Moldova* – Art.43:**

(3) The duration of the working week does not exceed 40 hours."

***Labour Code* – Art. 95:**

(2) The normal working hours of the employees in the enterprise may not exceed 40 hours per week.

The same provisions regarding the duration of the working week are also covered by Art. 1 of the ***Collective agreement (national level) no. 2 of 9 July, 2004 "Working time and rest time".***

***Labour Code* – Art. 96:**

(1) For separate categories of employees, depending on age, state of health, working conditions and other circumstances, in conformity with the current legislation and the individual labour agreement, the reduced duration of working hours shall be established.

(2) The reduced week duration of working hours makes:

a) 24 hours - for employees between the age of fifteen to sixteen years;

b) 35 hours - for employees between the age of sixteen to eighteen years;

c)35 hours - for the employees performing work in harmful conditions, according to the list authorized by the Government.

(3) For separate categories of employees, whose work implies increased intellectual and psycho-emotional efforts, the duration of working hours shall be established by the Government and may not exceed 35 hours per week.

(4) For I and II degree disabled persons (if they do not benefit from greater facilities) a reduced working time of 30 hours per week shall be established, without diminishing the salary rights and other rights stipulated by the legislation in force;

***Labour Code* – Art. 97:**

(1) The employer may hire employees by partialworking day or partial working week (part-time), the specific duration of part-time being recorded in the individual labour agreement, in accordance with the provisions of Art.49(1), letter l).

(2) Part-time work may also be established after the conclusion of the individual labour agreement, with the agreement of both parties. Upon the request of a pregnant woman, an employee, who has children under the age of 10 or children with disabilities (including under his/her tutelage), or the employee who is taking care of a sick member of the family in conformity with the medical certificate, the employer is obliged to establish for him/her employer is obliged to establish for them partial work day or week.

(3) Labour remuneration in the cases of part-time employment shall be made proportionally to the time worked or depending on the volume of performed work."

***Labour Code* – Art. 98:**

(1) Distribution of the working time within the week is, as a rule,uniform and consists of 8 hours per day, for 5 days, with 2 rest days.

(2) Within enterprises, where given the specifics of work, the introduction of the 5 - day working week is unreasonable, it is admitted as an exception that the working week and / or the internal regulation of the working week of 6 days with a rest day..

(3) Distribution of working hours can be made within the limits of a compressed working week, consisting of four or four and a half days, provided that the duration of the week working hours will not exceed the maximum legal length stipulated in Art.95(2). The employer introducing the compressed working week has the obligation to observe the special provisions concerning the daily working time of women and young people.

(4) Type of working week, work regime – duration of the work program (shift), time of beginning and end of the work, breaks, alternation of working and non-working days – are established by the internal rules of the enterprise, collective and/or individual labour agreements.

Labour Code – Art. 100:

(1) The normal daily working time is 8 hours.

(2) For employees under the age of 16 years, the daily working time may not exceed 5 hours.

(3) For employees aged 16 to 18 and for the employees working in harmful working conditions, the daily working time cannot exceed 7 hours.

(4) In the case of disabled persons, the daily working time shall be established according to the medical certificate, within the limits of the normal daily workingtime.

(5) The maximum daily working time cannot exceed 10 hours within the limits of normal working time of 40 hours per week.

(6) For certain types of activities, entities or professions, a collective agreement, may provide for a daily working time of 12 hours, followed by a rest period of at least 24 hours[1].

(7) The employer may establish, with the written approval of the employee, individual working schedules with a flexible regime of working hours, if such a possibility is provided by the internal regulations of the enterprise or the collective labour agreement.

(8) In works where the special character of the work so requires, the working day may be segmented in the manner prescribed by law provided that the total length of the working time is not longer than the normal daily working time.

(9) Duration of the working day can be also divided into two segments: a fixed period, within which the employee is in the workplace and a variable (mobile) period, within which the employee chooses the hours of arrival and departure, while respecting the normal daily working time.

Labour Code – Art. 102:

(1) Duration of the working day (shift) on the eve of a non-working holiday shall be reduced by at least one hour for all employees, except for those who have been determined according to the Art.96, the reduced duration of the working time or, according to Art.97 - part-time working day.

(2) In the event that the working day on the eve of a non-working holiday is transferred to another day, the same reduced duration of the working day will be maintained.

(3) The specific reduced duration of the working day on the eve of the non-working holiday stipulated in paragraph (1) shall be established by the collective labour agreement, by the internal regulations of the enterprise or by the employer's order (provision, decision, disposition) issued with prior consultation of employees' representatives."

Labour Code – Art. 107:

(1) Within the working day the employee must be given a minimum of a 30 minutes' meal break.

(2) The exact duration of the break and its timetable are established by the collective labour agreement or the internal regulations of the enterprise. Meal breaks are not included in working time, except for the cases stipulated in the collective labour agreement or internal regulations of the enterprise.

(3) Within enterprises with continuous working hours, the employer is obliged to provide the employee with condition for taking the meal during work time at the workplace.

(4) The daily rest period between the end of the work program one day and the beginning of the work program the day immediately thereafter shall not be less than the double working hours per day."

Labour Code – Art. 109:

(1) Weekly rest is granted for two consecutive days, as a rule on Saturday and Sunday.

[1] "The list of professions for which the daily working time of 12 hours is allowed, followed by a rest period of at least 24 hours" is an integral part of the Collective agreements (national level) no. 2 of 9 July, 2004 "Working time and rest time". Given that we do not have a proper translation, we attach to the present report a copy of the Agreements in Russian language.

(2) If a simultaneous rest for all the staff of the enterprise on Saturday and Sunday, would be prejudicial to public interests or compromise the normal functioning of the enterprise, the weekly restmay be given on other days of the week, established by the collective labour agreement or internal regulations of the enterprise, provided that one of the days off is Sunday.

(3) In the entities where due to the work specific character the weekly rest cannot be granted on Sundays, employees will benefit from two free days during the week and of a salary increase established by the collective or individual labour agreement.

(4) Duration of weekly rest in any case cannot be less than 42 hours, except for cases of six-day working week

Labour Code – Art. 99:

(1) Total records of working time may be introduced in units, provided that the length of working time does not exceed the number of working hours established by this Code. Thus, the registration period should not exceed one year, and daily duration of working hours (shifts) cannot exceed 12 hours.

(2) The modality of applying the total record of working hours shall be established by the regulations of the enterprise and the collective labour agreement, taking into consideration the restrictions established for separate professions by the collective agreements at national and branch levels, and also by the international acts, to which the Republic Moldova is a party.

Labour Code – Art. 104:

(1) *Additional work* is considered to be the work performed over the normal duration of the weekly working time stipulated in the Art.95.

(2) Employer can order, without employee's consent, the carrying out of the additional work:

a) to execute the works needed for defending the country, to prevent a production failure or remove the consequences of a production failure or caused by a natural calamity;

b) to perform work on elimination of unforeseen situations, that might prevent the normal functioning of water and electricity supply services, post services, communication and information services, means of communication and public transport and fuel distribution installations.

(3) Engagement intoadditional work is made by the employer with the written approval of the employee:

a) for the completion of the work which, due to an unforeseen delay in the technical conditions of the production process, could not be carried over to the normal working time, and its interruption may cause deterioration or destruction of the goods of the employer; or of the owner of the municipal or state patrimony;.

b) for the temporary repair and restoration of the devices and installations, if their deficiencies could cause the work to cease for indefinite time and for several persons;

c) to carry out the works required by the occurrence of circumstances that could cause deterioration or destruction of the assets of the unit, including raw materials, materials or products;
d) for the continuation of work in the event of non-attendance of the exchange worker, if the work does not allow the interruption. In such cases, the employer is obliged to take urgent measures to replace the employee concerned
(4) Admission to additional work in cases other than those provided in paragraphs (2) and (3) shall be admitted with the written agreement of the employee and of the employees' representatives.
(5) At the employer's request, employees may work outside work hours within 120 hours in a calendar year. In exceptional cases, this limit, with the agreement of employees' representatives, can be extended up to 240 hours. (6) In cases when the employer requests the performance of aditional work, he is obliged to provide the employees with normal working conditions, including the labour protection and hygiene.

(7) Engagement in aditional work is carried out on the basis of order (decision, disposition) of the employer, which is brought to the notice of employees under signature."

Labour Code – Art. 105:

(1) (1) It is not allowed to attract to additional work the employees under 18 years old, pregnant women, women on postnatal leave and persons whose additional work is contraindicated according to the medical certificate..

(2) Disabled persons of I and II degree, one of the parents (guardian, curator) having children up to 4 years old or disabled children, persons combining child care leave, as stipulated in Art. 126 and Art.127(2) with work, and the employees who are taking care of a sick member of the family on the basis of the medical certificate, can provide additional work only with their written consent. Thus the employer is obliged to inform in writing the specified workers with their right to refuse additional work.

(3) Performance of additional work cannot have the effect ofincreasing the of the daily working time over12 hours."

***Labour Code* – Art. 106:**

The employer is obliged to keep record of the working time, performed by each employee, including additional work, work performed on rest days and on non-working holidays."

***Labour Code* – Art. 157:**

(1) In case of labour remuneration on time unit (hour/day/week), for the first two hours, the additional work (Art.104) shall be remunerated in the amount of at least 1,5 charging salaries (monthly salaries) forest per employee per the time unit and for the following hours - at least the double amount.

(2) In case of a contract labour remuneration ,the additional work shall be extra paid with at least 50 percent from the charging salary of employee of the respective category for the first two hours remunerated on time unit, and for the following hours – at a rate of at least 100 percent from this charging salary.

(3) Compensation of additional work with leisure time is not admitted.

During the reporting period in national legislation no essential changes were made regarding the daily or weekly working time.

For information, we present below the table of population occupied by economic activities and the duration of the working week for 2013-2016 (Table 1).

Table 1. Population occupied by economic activities and duration of the working week, 2013-2016, thousands of people

Economic activity	**2013**	**2014**	**2015**	**2016**
Agriculture, hunting economy, fish farming				
0-20 hours	24,1	23,3	27,4	30,1
21-30 hours	119,1	126,0	145,9	166,3
31-39 hours	71,9	86,7	82,8	92,0
40 hours	42,6	45,8	39,0	44,7
41 hours and more	80,1	79,3	86,8	77,8
Industry				
0-20 hours	6,4	6,1	6,5	5,6
21-30 hours	4,7	5,9	5,0	4,3
31-39 hours	6,4	8,7	15,2	10,6
40 hours	96,5	94,5	93,2	104,0
41 hours and more	28,4	30,5	28,4	23,6
Constructions				
0-20 hours	3,2	3,0	3,8	3,6
21-30 hours	5,5	4,6	6,2	4,6
31-39 hours	4,8	5,2	7,5	6,8
40 hours	25,7	24,0	19,4	21,2
41 hours and more	25,8	29,6	28,5	24,8
Wholesale and retail, hotels and restaurants				
0-20 hours	12,3	10,7	11,7	11,1
21-30 hours	14,3	10,3	9,8	10,3
31-39 hours	18,5	24,1	23,9	23,1
40 hours	81,7	76,3	65,2	69,6

41 hours and more	84,5	81,4	79,0	85,5
Transport and communications				
0-20 hours	4,6	4,0	7,0	6,3
21-30 hours	3,9	3,4	3,7	4,5
31-39 hours	4,0	5,0	7,1	5,9
40 hours	34,1	29,3	33,7	37,1
41 hours and more	26,6	26,0	24,9	22,4
Public Administration, Education, Health and Social Assistance				
0-20 hours	39,7	38,9	40,6	39,0
21-30 hours	26,6	26,7	25,5	21,3
31-39 hours	30,4	31,7	36,3	32,5
40 hours	103,2	99,7	93,5	96,4
41 hours and more	35,6	34,0	39,8	34,2
Other activities				
0-20 hours	9,2	11,2	12,0	10,8
21-30 hours	7,6	9,4	9,1	8,9
31-39 hours	6,9	8,0	10,6	9,7
40 hours	61,2	61,2	50,3	53,2
41 hours and more	22,3	20,6	24,3	17,7

Source: National Bureau of Statistics

At the request of the Committee, we report that the Republic of Moldova does not have statistical data that would reveal the actual duration of the record period established by the enterprises that apply the global record of working time according to Art. 99 of the Labour Code. At the same time, we inform that the Tripartite Working Group did not make any decisions to modify the reference period for the global record of working time.

PARAGRAPH 2. Public holidays with pay

Paid holidays are provided for by Art.111(1) of the Labour Code:

Labour Code – Art. 111(1):

(1) In the Republic of Moldova, non-working days, with the payment of the average salary (for employees who are remunerated on piecemeal work or per unit of time - hour or day), are:

a) January, 1 - New Year;

b) January, 7 and 8 - Christmas (Orthodox Christmas);

c) March, 8 - International Women's Day;

d) The first and second days of Easter according to the church calendar;

e) The second Monday after Easter (Memorial Day);

f) May, 1 - International Day of Solidarity of Workers;

g) May, 9 - Victory Day (to commemorate the fallen heroes for the independence of the Motherland.);

h) August, 27 - Independence Day;

i) August, 31 – "Limba Noastra" (National Language Day)

i^1) December, 25 – Christmas (Western Christmas);

j) City (town, village) Day, declared and established by the mayoralty of the city, town, village.

According to the aforementioned norm, payment of the average salary for non-working days is only for employees remunerated according to the agreement or per unit of time, i.e for employees whose earnings depend on the amount of work done or the actual hours worked. Taking into account the method of salary payment of the mentioned persons, the non-working holidays during one month have a direct impact on their salary, causing a reduction of the amount.

As for employees whose work is paid *monthly*, the size of their earnings does not vary depending on the number of days worked during the month, so they are not disadvantaged in connection with the non-working holidays.

At the same time, according to Art.158 of the Labour Code, if the employees whose work is remunerated with monthly salary are attracted to work on a non-working day (which is allowed only under certain conditions provided by law), the work on that day is paid to them at least **in the amount of time unit salary or one-day pay *in addition to salary,*** if the work on a day off or non-working day was performed within the limit of the monthly working time norm, and at least **in the double amount of salary per unit of time or one-day pay *in addition to salary***, if the work was done over the monthly norm.

Thus, if the employee paid with monthly salary works on a non-working day, his earnings on that month will in any case exceed his usual salary - if the work on the non-working day was performed within the limits of the monthly working time, his/her regular salary will be supplemented with the remuneration for one extra day, and if the work was done over the monthly norm, the double amount of the salary for a day will be added to his/her regular salary.

Also, according to Art.158(2) of the Labour Code, at the written request of the employee who performed the work on a rest day or a non-working day **instead of the remuneration** due for work on that day, the employer may give him a rest day which will not be paid. This rule applies to all employees - those remunerated on piecemeal work or on the unit of time, and to those who receive monthly salary.

In relation to the situation previously communicated, Art.111 of the Labour Code currently provides for a one more public holiday(as establishedby Law no. 310 of 20 December 2013) with the day of 25 December declared as a non workind day, in the interest of a part of the country's population celebrating Western Christmas.

PARAGRAPH 3. Annual paid leave

The granting of paid annual leave in the Republic of Moldova is regulated by Art.43 of the Constitution and Art.112-122 of the Labour Code, which we reproduce below.

Constitution – Art. 43(2):

(2) All employees shall have the right to social protection of labour. The measures of protection concern labour safety and hygiene, working conditions for women and young people, establishment of a minimum salary per economy, weekly rest and annual ***paid leave***, as well as difficult working conditions and other specific situations."

Labour Code – Art. 112-122

Article 112. Annual leave

(1) Right to paid annual leave shall be guaranteed to all employees.

(2) The right to the annual leave may not be subject of any assignment, renunciation or limitation. Any agreement that totally or partially waives this right is null.

(3) Any employee working under an individual employment contract shall benefit from the right to annual leave.

Article 113. The duration of the annual leave

(1) All employees shall be granted a paid annual leaveof a minimum of 28 calendar days, with exception of non-working days.

(2) For employees from certain branches of the national economy (education, health protection, public service etc), by organic law, another period of annual leave (calculated in calendar days) can be established.

Article 114. Calculation of length of service which entitles to the right to annual leave

(1) The length of service which entitles to the right to the annual leave includes:

a) the time when the employee worked effectively;

b) the time when the employee didn't actually work, but his workplace (position) and the complete or partial average salary were mantained;

c) time of forced absence from work – in case of unlawful dismissal from work or unlawful transfer to another work and further reinstatement to the workplace;

d) the time when the employee did not actually work but maintained his job and received various payments from the state social insurance budget, except for part-time paid leave for child care up to the age of 3;

e) other periods of time stipulated in the collective agreements, the collective or individual labour agreement, the internal regulations of the enterprise.

(2) Unless collective agreements, collective or individual labour agreements do not stipulate otherwise, then in the length of service entitling to the right to annual leave, are not included:

a) time of absence of the employee from work without a valid excuse;

b) period of childcare leave for a child under the age of four;

c) period of unpaid leave for more than 14 calendar days;

d) the period of suspension of the individual labour agreement with the exception of cases referred to in Art.76 letter a)-d) and Art.77 letter b).

Article 115. Method of granting annual leave

(1) Paid leave for the first year of work is given to the employee after six months of his continuous work within the enterprise.

(2) Paid leave for the first year of workbefore the expiration of six months of work at the enterprise, is given under the written application, to the following categories of workers:

a) to women - before or immediately after the maternity leave;

b) to employees under the age of 18;

c) to other employees, according to the legislation in force.

(2^1) Paid leave for the first year of work may also be granted before the expiration of six months of work within the enterprise.

(3) Employees transferred from one enterprise to another, the annual paid leave can be given before the expiration of six months of work after the transfer.

(4) Annual leave for the following years of work can be given to employees, on the basis of a written application, at any time of the year according to the established schedule.

(5) Annual paid leave can be granted in its full legth or under the written application of the employee, it can be divided in periods, one of which should last at least 14 calendar days.

(6) The annual paid leave is granted to the employee on the basis of the order (provision, decision, disposition) issued by the employer.

Article 116. Annual leave schedule

(1) The schedule of annual paid leave on the following year is made by the employer, as agreed with the representatives of employees, not less than two weeks before the end of each calendar year.

(2) When scheduling the annual leaves, both the employee's wish and the need to provide good functioning of the enterprise, shall be taken into consideration.

(3) Employees whose spouses are on maternity leave shall be entitled to, on the basis of a written request, an annual leave simultaneously with the leave of their wives.

(4) Employees under the age of eighteen, parents having two or more children under the age of sixteen or having a disabled child, and single parents, having a child under the age of sixteen, annual paid leave are granted in summertime or upon their written application at any other time of the year.

(5) The schedule of leaves is ,andatory both for the employer andfor the employees. The employee should be informed (notified), in written, about the time of the beginning of leave not less than two weeks prior to its beginning.

Article 117. Leave allowance

(1) For the period of annual paid leave, the employee shall be entitled to a leave allowance, which may not be less than the average monthly salary for that period.

(2) The method for the calculation of leave allowance is established by the Government.

(3) The leave allowance is paid by the employer to the employee not less than three calendar days prior to the beginning of leave.

(4) In case of death of the employee the leave allowance due to him, including the unused leaves, is paid in full amount to the spouse, to the adult children or to the parents of the dead person, in case of their absence - to other successors according to the legislation in force.

Article 118. Annual leave granting. Exceptional cases of postponement

(1) The leave shall be granted annually in accordance with the scheduling procedure provided by Art.116. The employer is obliged to take all necessary measures, in order for the employees to use their leaves every calendar year.

(2) Annual paid leave can be postponed or prolonged in cases, when the employee is on sick leave, while executing state duties or in other cases stipulated by the law.

(3) In exceptional cases, when granting the annual leave during the current working year can influence negatively the good functioning of the enterprise, ***a part of the leave***, with the consent of the employee and employees' representatives, may be postponed for the next working year. ***In such cases, in the current working year, the employee will be granted at least 14 calendar days from the annual leave account, the remaining part being granted until the end of the following year.***

(4) The non-granting of the annual leave during 2 consecutive years, as well as non-granting of the annual leave to employees under 18 years and employees who have the right to an additional leave related to work in harmful conditions, is prohibited.

(5) Replacement of the unused annual leave by monetary compesation is not admitted, except for the cases of termination of the individual labour agreement of the employee who has not used the leave.

(6) Duration of the medical leaves, maternity and study leaves shall not be included in the duration of the annual leave. In case of total or partial coincidence of the leave with one of the mentioned leaves, on the basis of the employee's written request, the annual leave shall be extended with the number of days indicated in the document, issued in the established manner, as regards the granting of the proper leave, within the same calendar year.

Article 119. Compensation of unused annual leaves

(1) In case of suspension (Art.76 letter e) and m), Art. 77 letter d) and e) and Art.78 letter a) and d)) or ceasing of the individual labour agreement, employee shall have the right for compensation of all the unused annual leaves.

(2) On the basis of a written request, the employee may use the annual leave for one year of work, with further suspension or ceasing of the individual labour agreement, receiving the compensation for the rest of the unused leave.

(3) For the period of validity of the individual labour contract, the unused leave may be added to the annual leave or can be used, separately (integrally or fractionally, according to the Art.115(5)), by employee in the period established with the written agreement of the parties.

Article 121. Additional annual leave

(1) Employees working in harmful conditions, persons with severe visual impairments and young people under 18 years shall benefit from an additional paid annual leave with the duration of at least 4 calendar days.

(2) For employees working in harmful conditions, the concrete duration of the additional paid annual leave is established by the collective labour agreement, on the basis of the respective nomenclature approved by the Government.

(3) Employees from certain branches of the national economy (industry, transports, constructions etc.) shall be entitled to additional paid annual leaves for length of service in the enterprise and for the work on shifts, according to legislation in force.

(4) Parents with 2 or more children under 14 years (or a disabled child under 16 years) shall be entitled to an additional annual leave of duration at least 4 calendar days on the basis of a written request.

(5) The collective agreements, collective or individual labour agreements can also stipulate some other categories of employees who are entitled to additional paid annual leaves, as well as other durations of the leaves (more days), other than that provided in the paragraph (1), (3) and (4).

(6) Additional annual leave is linked to the basic annual leave.

Article 122. Recall from leave

(1) The worker can be recalled from his annual leave by the order (decision, disposition) of the employer only with the written approval of the employee and only in unforeseen working

situations, demanding his presence at the enterprise. In this case the employee is not obliged to return the grant for the unused days of leave.

(2) The payment of the worker recalled from annual leave, is made in accordance with the general practice.

(3) In the event of recall, the employee shall use the rest of the days of the rest leave after the respective situation has ceased or at another date set by the parties' agreement within the same calendar year. If the rest of the days of rest leave were not used for any reason within the same calendar year, the employee is entitled to use them during the following calendar year. (4) The employee's use of the remaining part of the annual leave is made on the basis of the order (the order, the decision, the decision) of the employer. (5) The employee's refusal to use his remaining part of annual leave is null (Article 9(11) and Article 121(2)).”

For certain branches of the national economy, the activity of which is governed by special laws, the actual duration of annual leaves is determined by the respective laws. In this context, we mention the Law No. 158-XVI of July 4, 2008 on the public function and status of civil servant, the Law on Customs Service no. 1150-XIV of July 20, 2000, the Prosecution Law no. 3 of February 25, 2016, the Law on the status of the military no. 162-XVI of July 22, 2005 which provide for a longer period of annual leave.

Prolonged leave is granted also to the deputies (according to the Law no. 39-XIII of April 7, 1994 on the Status of Members of Parliament), to the employees of the President of the Republic of Moldova (according to the Law of February 20, 1997 No. 1111-XIII “About ensuring the activity of the President of the Republic of Moldova”).

As a rule, special laws also establish an additional leave system, the duration of which varies according to the length of service of each employee. For example, civil servants are granted basic annual leave of 35 calendar days, and if the length of service in the public service exceeds 5, 10 or 15 years, paid annual leave increases respectively by 3, 5 or 7 calendar days.

The teaching and scientific staff also benefit from longer leaves, based on Art. 299 of the Labour Code (from 30 to 62 calendar days, depending on the level of the educational institution or the scientific degree held).

Collective agreements and collective labour agreements at enterprise level establish further additional leave (for example, for increased psychoemotional effort), as well as longer leaves in relation to those specified by law.

In addition, the legislation in force establishes the right to additional leave (according to special lists) for persons working in harmful working conditions (see the information for the next paragraph).

At the request of the Committee, we communicate that by Law no. 157 of July 20, 2017 was amended the norm stipulated by Art. 118 par. (3) of the Labour Code, which provided for the postponement, in exceptional cases, of the annual leave for the following year. As a result of the ammendments, only a part of the annual leave may be postponed for the following year, with the written consent of the employee and with the written agreement of the employees' representatives. At least 14 calendar days of annual leave are to be used in the current year.

PARAGRAPH 4. Elimination of risks and provision of facilities for employees working under adverse conditions

Facilities for employees working in harmful conditions. According to the provisions of the Labour Code (Art.96(2) and Art.100(3)), employees working in harmful working conditions benefit from a reduced working day (not more than 7 hours) and working week (no more than 35 hours).

Also, according to Art.121 of the Labour Code, employees working in harmful conditions are entitled to an additional paid annual leave of at least 4 calendar days. The actual duration of the leave for each position or profession involving harmful production factors is established on the basis of the Government Decision no. 573 of August 1, 1994 on the granting of additional annual leave.

According to the provisions of the above Decision, the duration of additional annual leave for harmful working conditions is determined by halving the duration of the leave provided for

each function or profession in the *List of production units, sections, professions and functions with harmful working conditions, gives the right to additional leave and reduced working day*, except when this leads to a reduction of the total length of the annual leave provided for by the legislation until the adoption of the respective Decision.

On the basis of the above list, the units approve, through collective labor agreements, their own lists, listing the sections, professions or functions with harmful working conditions present at the unit, as well as the appropriate duration of holidays, calculated according to the provisions of Decision 573. In the enterprises where the collective labour agreement is not concluded, the lists in question may be approved by the joint decision of the administration and the trade union committee.

This list is also used for determining the categories of employees who have a reduced working time according to art. 96 par. (2) lit. c) of the Labor Code, with the exception of the medical-sanitary personnel, to whom the Government Decision no. 1223 of November 9, 2004 on the approval of the Nomenclature of Occupations and Functions with Harmful Work Conditions, the activity of which entitles to paid additional annual paid leave and the reduced working day of the medical staff.".

During the reporting period, the statutory rules on additional leave and reduced working day for employees working in harmful conditions did not undergo any essential changes.

PARAGRAPH 5. Weekly rest period

In addition to the paid leave, the weekly rest is guaranteed by Art. 43(2) of the Constitution, which was cited in the comments for the paragraph 3.

Specific rules on weekly rest are covered by Art. 98, 109, 110 and 158 of the Labour Code, which stipulates:

Labour Code – Art. 98(1) and (2):

(1) The distribution of the working hours within a week is usually uniform and consist of 8 hours per day, for5 days, with 2 rest days.

(2) At enterprises, where in view the of specificity of work introduction of the 5-day working week is irrational, as exception is admitted, by collective labour agreement and/or internal regulation, the 6-day working week with 1 rest day."

Labour Code – Art. 109:

(1) Weekly rest shall be granted for 2 consecutive days, usually on Saturday and Sunday.

(2) If a simultaneous rest for all the staff of the enterprise on Saturdays and Sundays would be prejudicial to the public interest or will compromise the normal functioning of the enterprise, the weekly rest can also be granted in other days, established by the collective labour contract or by the internal regulations of the enterprise, provided that one of the rest days shall be the Sunday.

(3) At enterprises, where due to the work specific character the weekly rest cannot be granted on Sunday, employees will benefit from 2 free days during the week and a salary increase established by the collective or individual labour agreement.

(4) Duration of the continuous weekly rest, in any case, cannot be less than 42 hours, except for cases of six-day working week."

Labour Code – Art. 110:

Article 110. Work during the rest days

(1) It is prohibited to work during the rest day.

(2) By derogation from the provisions of the paragraph (1), the demand from employees that they work during the rest days shall be admitted in the manner and cases stipulated in the Art. 104(2) and (3).

(3) It is prohibited to demand from employees under 18 years and pregnant women that they work during the rest days.

(4) Persons with severe and accentuated disabilities, one of the parents (guardian, curator) who have children under 4 years or children with disabilities, persons, combining child care leave, stipulated by Art. 126 and Art. 127(2), with work, and the employees who are taking care of sick member of the family on the basis of the medical certificate, can work on rest days only with their

written approval. Thus the employer is obliged to inform in writing the specified employees about their right to refuse to work on rest days.

Labour Code – Art. 158:

(1) On condition that the average salary will be paid according to Art.111(1)[2], the performed work during the rest days and non-working days shall be paid to:

a) employees who work piecemeal – at least in double amount of the piecemeal tariff;

b) employees whose work is remunerated on the basis of salary rates per hour or day – at least the double amount of the salary per hour or day;

c) employees whose work is remunerated with a monthly salary –in the amount at least one salary per hour or one day remuneration in addition to the salary amount, if the work during the rest day or non-working day has been performed within the limits of the monthly norm of the working time, and at least in double amount of the salary per hour or one day remuneration in addition to the salary amount, if the work has been performed over the monthly norm.

(2) At the written request of the employee who performed the work during the rest day or non-working day, he can be granted another free day."

During the reporting period, the legal rules on the legal weekly rest did not undergo substantial changes.

PARAGRAPH 6. Information on the employment contract

Art. 58 of the Labour Code provides for the obligation to conclude the individual labour agreement **only in written form**, which means that the employee is familiar with the terms of the contract at the moment of its signing. However, the Code establishes an additional information procedure - according to Art. 48, prior to the conclusion of the individual labour agreement, the employer has the obligation to inform the person requesting the employment on the conditions of activity he/she will perform in the position he/she will hold.

In a series of enterprises (including all public service structures) employees are provided with job descriptions, which are brought to the employees' attention at the start of their activity and therefore constitute a tool to inform the job holder about his/her duties and the tasks they have to accomplish in the occupied position.

Below we reproduce the relevant rules of the Labour Code in relation to employees' right to information on working conditions.

Labour Code:

Article 48. Information on working conditions

(1) Prior to hiring or transferring to a new position, the employer is obliged to inform the person to be employed or transferred about the working conditions for the proposed function, providing the information stipulated in Art.49 (1), as well as the information regarding the periods of notice to be observed by the employer and the employee in case of termination of the activity. The information in question will be the subject of a draft individual employment agreement or an official letter, both signed by the employer.

(2) Upon hiring, the employee will additionally be provided with the collective agreements applicable to him, the collective labour agreement, the internal regulations of the enterprise, as well as the information on the safety and health requirements for his work.

(3) If the employee is about to work abroad, the employer has the obligation to provide him with all the information provided in Art.49 (1) in due time and, in addition, information regarding:

a) duration of work aboard;

b) the currency in which the work will be remunerated, and the method of payment;

c) compensation and benefits in cash and / or in kind related to departure abroad;

d) specific insurance conditions;

e) accommodation conditions;

f) round-trip travel arrangements.

[2]Art. 111(1) is covered by the comments for Art. 2(2).

(4) The employment of foreign nationals in the Republic of Moldova shall also take into account the provisions of the labor migration legislation, as well as the relevant provisions of the international treaties to which the Republic of Moldova is a party..

Article 49. Content of the individual labour agreement

(1) The contents of the individual labour agreement shall be determined by the parties' agreement, taking into account the provisions of the legislation in force, and shall include:

a) employer's name and surname;

b) employer's identification data;

c) duration of the contract;

d) date from which the contract is to take effect;

d^1) specialty, profession, qualification, function;

e) work obligations;

f) risks related to the function;

f^1) the name of the work to be performed (in the case of the individual labour agreement for the duration of a certain work - Art.312-316);

g) employee's rights and obligations;

h) employer's rights and obligations;

i) conditions of labour remuneration, including work salary or salary rate, supplements, awards and material allowances (if they are part of the enterprise's wage system) and the periodicity of payment;

j) compensations and allowances, comprising the remuneration for work done in difficult, harmful and/or dangerous conditions;

k) workplace; If the workplace is not fixed, it is stated that the employee may have different workplaces,with indication of the legal address of the enterprise or, where applicable, the domicile of the employer;

l) working and rest regime, including the duration of the working day and working week of the employee;

m) probation period, as appropriate;

n) duration of the annual leave and conditions of its granting;

p) social insurance conditions;

r) medical insurance conditions.

s) specific clauses (Article 51), as necessary.

(2) Individual labour agreement can also include other provisions which shall not contravene with the legislation in force;

(3) It is prohibited to establish for employee, under the individual labour agreement, conditions bellow the level of those stipulated by the normative acts in force, collective agreements and collective labour agreement.

Article 58. Form and start of the individual labour agreement

(1) The individual labour agreement is concluded in written form. The individual employment contract concluded before the date of entry into force of this Code may be made in written form only with the agreement of the parties. The employer's proposal for the completion of the individual work contract in written form is notified to the employee, under his signature, by the order (the order, the decision,) of the employer. Employer's proposal for the completion of the individual labour agreement in written form is notified to the employer by filing and registering his written request. Reasonable refusal of one of the parties to complete the individual labour agreement in written form shall be communicated to the other party by written answer within 5 working days.

(2) Individual labour agreement shall start to be effective from the day of signing, unless the agreement provides otherwise.

(3) Where the individual employment contract has not been finalized in writing, it shall be deemed to have been concluded for an indefinite period and shall take effect from the day on which the employee was admitted to work by the employer or by a third- another person in charge of the unit, empowered to hire staff. If the employee proves the admission to work, the individual work contract in written form must be completed by the employer subsequently. (4) In case of

employment without observing the appropriate written form, the employer is also obliged, on the basis of the inspection report of the labour inspectorate, complete the individual labour agreement according to the provisions of the present Code.

Article 68. Amendment of the individual labour agreement

(1) The individual labour agreement can be amended only on the basis of an additional agreement signed by the parties, which is enclosed to the contract and is an integral part of it.

(2) Amendment of the individual labour agreement shall be considered any amendment or completion referring to at least one of the clauses stipulated under Article 49(1).

At the request of the Committee, we announce that on April 1, 2016, was adopted Law no. 52 on amending and supplementing the Labour Code, which transposed, inter alia, the Directive no. 91/533 / EEC of October 14, 1991 concerning the obligation of the employer to inform employees of the conditions applicable to the contract or employment relationship. In accordance with the Directive, the Labour Code currently provides for an employer's obligation to additionally present to the employee, before employment, the information on periods of notice to be observed by the employer and the employee in case of termination of employment.

PARAGRAPH7. Night work

Articles 103, 159 and 250 of the Labour Code, reproduced below, governs night work:

Labour Code – Art. 103:

Article 103. Night work

(1) Night work is the work performed between 22.00 and 6.00.

(2) Duration of the night work (shift) shall be reduced by one hour.

(3) Duration of the night work (shift) shall not be reduced for employees for whom the reduced duration of the working time is established, as well as for employees employed specially for the night work, unless the collective labour agreement stipulates otherwise.

(4) Any employer, who within a period of 6 months, performs at least 120 night working hours shall be subject to a medical investigation on the employer's account.

(5) It is not admitted to employ for the night work the employees under 18 years, pregnant women, women on postnatal leave, women with children under 3 years, as well as persons to whom the night work is contraindicated according to medical certificate.

(6) Disabled persons of I and II degrees, one of the parents (guardian, curator) of children up to 4 years old or disabled children, persons, combining holidays on child care, stipulated in Art. 126 and Art.127(2), with work, and the employees who are taking care of a sick member of the family on the basis of the medical certificate, can work overtime only with their written approval. Thus, the employer is obliged to acquaint in writing the specified workers with their right to refuse night work."

Labour Code – Art. 159:

For the work performed during the night program, an addition of at least half of the salary rate per hour fixed for employee is set.

Labour Code – Art. 250(4) and (5):

(4) Pregnant women, women who have recently given birth and nursing mothers will be excluded from night work by giving them working days while maintaining the average wage from the previous workplace.

(5) Until the issue regarding the granting of another work according to par. (2) - (4), or if change of employment is not possible for objective reasons, pregnant women, women who have recently given birth and nursing mothers will be exempted from fulfilling their employment obligations, while maintaining the average wage for the days they did not work because of the reasons listed above.

The provisions of paragraphs (4) and (5) of Art.250 of the Labour Code were introduced by Law no. 155 of June 2, 2017 in the context of the transposition of Directive 92/85/EEC of October 19, 1992 on the introduction of measures to encourage improvements in the safety and

health at work of pregnant women workers and workers who have recently given birth or nursing mothers.

ARTICLE 4. The right to a fair remuneration

Legislative developments

In addition to the reports submitted previously during the period 2013-2016, the following legislative and normative acts were approved and adopted thus ensuring the application of the provisions of Article 4 of the revised European Social Charter:

- Law no.253 of 17 November 2016 on amendment and completion of Wage Law No. 847-XV of 14 February 2002;
- Law no.205 of 20 November 2015 on amendment and completion of Labour Code of the Republic of Moldova no.154-XV of 28 March 2003;
- Law no.264 of 01 November 2013 on amendment of Art.186 of Labour Code of the Republic of Moldova;
- Law no.268 of 29 November 2012 on amendment and completion of Law no.158-XVI of 4 July 2008 on Public Function and Statute of Civil Servant;
- Government Decisions no.287 of 30 April 2013, no.299 of 23 April 2014, no.219 of 29 April 2015, no.488 of 20 April 2016 and no.242 of 26 April 2017 on amendment of point 1 of Government Decision no.165 of 9 March 2010 minimum guaranteed salary in the real sector;
- Government Decision no.550 of 09 July 2014 on setting the national minimum salary;
- Government Decision no. 463 of 16 June 2014; and no. 294 of 11 May 2017 by which the Government Decision no. 743 of 11 June 2002 on the remuneration of employees in enterprises with financial autonomy was amended and completed.

PARAGRAPH 3. Right for equal pay for work of equal value

The legislation of the Republic of Moldova guarantees the right to fair remuneration, prohibiting any discrimination based on sex, age, race, ethnicity, religion, political option, social origin, domicile, etc.

In the context of the previous report, by the term "equal pay for work of equal value" as referred to in Article 10(2) letter g) of Labour Code, the term "salary" in Article 128 of the Code, as well as the term "remuneration" in Article 7(2) letter d) of Law no.121 of 25 May 2012 on Ensuring Equality, and in Article 10, Law no.5 of February 9, 2006 on Equal Opportunities for Women and Men, we mention that the legislator covered all the remuneration elements defined in paragraph 3, article 4 of the revised European Social Charter. Failure to comply with this principle is considered as discriminatory action by the employer in both Law no. 5/2006 (article 11), as well as in the Law no. 121 of 25 May 2012 on Ensuring Equality (Article 7 (2) letter d).

Salary is the main source of income to meet the vital needs of employees and their families and an effective form of work stimulation.

The analysis of the structure of wage employment by type of economic activity in 2016 reveals the fact that the employed women predominate in the services sector, such as the medical and social services sector (80.6%), in the field of education (75.7%), in financial activities (68.4%), in the field of accommodation and catering (64.8%) of all employees from this field, and in the agriculture sector the share of women in the total number of employees from this field. In agriculture, the share of women in the total number of employees is 29.7%, in the transport and storage sector - 30.4% and in the construction branch 15.1%.

The share of women and men employed by type of economic activity in relation to the total number of employees in the respective activity is shown in Table 2.

Table 2. Share of women and men employed by type of economic activity, %, 2013-2015

Economic	2013	2014	2015	2016

		wom en	men	total	wom en	men	total	wom en	men	total	wom en	men	total
Total per republic	Numb er of emplo yees	3894 92	3402 00	7296 92	3831 31	3404 18	7235 49	3823 92	3346 97	7170 71	3822 24	3333 02	7155 27
	%	53,4	46,6	100	53,0	47,0	100	53,3	46,7	100	53,4	46,6	100
Agricult ure, forestry and fishing	Numb er of emplo yees	1675 1	3553 3	5228 4	1567 4	3610 6	5178 0	1488 0	3429 5	4917 4	1464 8	3471 6	4936 4
	%	32,0	8,0	00	0,3	9,7	00	0,3	9,7	00	7,7	0,3	00
I ndustry	umber of emplo yees	1950	1842	2379 2	9648	0970	2061 8	0234	1604	2183 7	1872	1534	2340 5
	%	50,0	50,0	100	49,5	50,5	100	49,4	50,6	100	50,1	49,9	100
Construc tions	Numb er of emplo yees	4673	2438 6	2905 9	4672	2334 3	2801 5	4128	2321 4	2734 2	4106	2200 6	2611 2
	%	16,1	83,9	100	16,7	83,3	100	15,1	84,9	100	15,7	84,3	100
Wholesale and retail trade; maintenanc e and repair of motor vehicles and motorcycle s	Numb er of emplo yees	5759 6	5565 4	1132 50	5754 2	5717 7	1147 19	5904 0	5541 9	1144 59	5754 6	5637 5	1139 21
	%	50,9	49,1	100	50,2	49,8	100	51,6	48,4	100	50,5	49,5	100
Accomm odation and catering	Numb er of emplo yees	1068 0	5409	1608 9	1074 4	5445	1618 9	1059 2	5241	1583 2	1048 9	5694	1618 3
	%	66,4	33,6	100	66,4	33,6	100	66,9	33,1	100	64,8	35,2	100
Informat ion and commun ications	Numb er of emplo yees	9194	1087 1	2006 5	9644	1179 5	2143 9	9440	1111 7	2055 7	1018 0	1147 6	2165 6
	%	45,8	54,2	100	45,0	55,0	100	45,9	54,1	100	47,0	53,0	100
Transpor t and storage	Numb er of emplo yees	1415 5	3090 2	4505 7	1418 4	30,8 40	4502 4	1385 1	3174 6	4559 7	1344 7	3077 1	4421 8

	%	31,4	68,6	100	31,5	68,5	100	30,4	69,6	100	30,4	69,9	100
Financial and insurance activities	Number of employees	11890	5531	17421	11287	5740	17027	11383	4989	16372	10619	4902	15522
	%	68,3	31,7	100	66,3	33,7	100	69,5	30,5	100	68,4	31,6	100
Real estate transactions	Number of employees	6493	8523	15016	6388	8001	14389	6079	7974	14053	6269	8274	14543
	%	43,2	56,8	100	44,4	55,6	100	43,2	56,7	100	43,1	56,9	100
Public Administration and Defense; Social Security	Number of employees	24082	30719	54801	23923	31343	55266	24224	31326	55550	24786	30520	55306
	%	43,9	56,1	100	43,3	56,7	100	43,6	56,4	100	44,8	55,2	100
Education	Number of employees	88870	27494	116364	87233	28187	115420	86086	27696	113783	84750	27233	111982
	%	76,4	23,6	100	75,6	24,4	100	75,6	24,4	100	75,7	24,3	100
Health care and social assistance	Number of employees	52527	13097	65624	53102	13351	66453	53019	12694	65713	54250	13029	67279
	%	80,0	20,0	100	79,9	20,1	100	80,7	19,3	100	80,6	19,4	100
Community, social and personal service activities	Number of employees	5515	4057	9572	5037	3580	8617	5197	3539	8736	5440	3422	8862
	%	57,6	42,4	100	58,5	41,5	100	59,5	40,5	100	61,4	38,6	100

Source: National Bureau of Statistics of the Republic of Moldova, statistical survey M3 - Annual "Wage earnings and labor costs". Starting with 2013, the new version of Classification of Economic Activities of the Republic of Moldova (CAEM Rev.2), fully harmonized with the Statistical classification of economic activities in the European Community (NACE Rev.2), is implemented. The data are obtained from economic and social units with one and more employees and all budgetary institutions, regardless of the number of employees. The information is presented without the data of the districts on the left bank of the Nistru River and Bender municipality.

The dynamics of the average salary of women compared to men in different sectors of the national economy for the period 2013-2016 is shown in Table 3.

Table 3. The average salary of women compared to men in different sectors of the national economy, 2013-2016

	2013	2014	2015	2016

	Salary, MDL		%	Salary, MDL		%	Salary, MDL		%	Salary, MDL	
	women	men		women	men		women	men		women	men
Total of economy	3459,6	3913,8	88,4	3831,7	4374,9	87,6	4235,2	4881,3	86,8	4637,4	5414,4
Agriculture, forestry and fishing	2254,2	2492,2	90,4	2518,5	2783,0	90,5	2757,8	3089,0	89,3	2989,1	3420,3
Industry	3543,8	4343,8	81,6	3924,9	4805,5	81,7	4350,4	5316,9	81,8	4736,5	5763,2
Constructions	3387,2	3906,3	86,7	3826,1	4230,0	90,4	4003,0	4443,6	90,1	4269,5	4946,4
Wholesale and retail trade; maintenance and repair of motor vehicles and motorcycles	2849,3	3159,4	90,2	3208,1	3522,1	91,1	3677,1	4068,9	90,4	3934,6	4557,6
Accommodation and catering	2466,5	2447,7	100,7	2677,3	2928,0	91,4	2923,4	3283,6	89,0	3227,2	3513,7
Transport and storage	3635,2	3650,8	99,6	3899,0	3956,8	98,5	4292,8	4277,9	100,3	4574,8	4865,1
Financial and insurance activities	6629,6	7730,5	85,7	6632,8	9155,9	72,4	6701,5	10937,5	61,3	8214,1	14016,
Real estate transactions	3124,6	3147,1	99,3	3371,8	3740,9	90,1	3719,3	4222,8	88,1	4241,3	4865,0
Public Administration and Defense; Social Security	4665,9	4914,3	94,9	4899,6	5456,9	89,8	5309,0	6067,6	87,5	5822,1	6445,5
Education	2971,2	3260,8	91,1	3323,8	3601,3	92,3	3812,1	3936,1	96,8	4042,6	4056,9
Health care and social assistance	3533,0	3922,2	90,0	3974,8	4460,0	89,1	4263,6	4926,7	86,5	4806,6	5703,9
Other community, social and personal service activities	4445,3	4594,6	96,7	5146,6	5456,9	94,3	6080,9	5675,4	107,1	6717,0	7060,6

Source: National Bureau of Statistics of the Republic of Moldova, statistical survey M3 - Annual "Wage earnings and labor costs". Starting with 2013, the new version of Classification of Economic Activities of the Republic of Moldova (CAEM Rev.2), fully harmonized with the Statistical classification of economic activities in the European Community (NACE Rev.2), is implemented. The data are obtained from economic and social units with one and more employees and all budgetary institutions, regardless of the number of employees. The information is presented without the data of the districts on the left bank of the Nistru River and Bender municipality.

The gender pay gap is largely determined by the feminisation/ masculinization of the areas and wage gaps in these areas. It is caused both by structural factors of the labor market and by factors directly related to the employer's policy. Among the structural factors are elements such as low access to nursery services, the fact that childcare leave is one of the longest compared to EU countries and that mostly just women can benefit from it. At the same time, the salary differences are determined by the internal (formal and informal) procedures of the employer.

The statistical data presented in the table shows that during the years 2013 - 2016 the average wage of women increased by 133.9% and the average monthly salary of women compared to men decreased from 88.4% to 85.5% .

At the same time, we find that, as a result of the salary increase measures, in some branches the average salary of women compared to men in 2016 compared to 2013 is increasing (industry - from 81.6% to 82.2% , education - from 91.1% to 99.6%.

Table 2. shows that women earn, on average, less than men. In 2016, women earned on average by 14.5% less than men (85.5% of the average salary of men). Expressed in numerical value, the discrepancy is on average about 783 lei. Thus, the average salary for women was 4631.4 MDL and for men 5414.4 MDL.

The largest discrepancies between women's and men's earnings are in financial activities, art, recreation and leisure, information and communications, and in industry (Table 4).

Table 4. Gender pay gap on economic activity in 2013-2016

		2013	2014	2015	2016
	Economic activities - total	11,6	12,4	13,2	14,5
Economic activities including branches	Agriculture, forestry and fishing	9,5	9,5	10,7	12,6
	Industry	18,4	18,3	18,2	17,8
	Constructions	13,3	9,5	9,9	13,7
	Wholesale and retail trade; maintenance and repair of motor vehicles and motorcycles	9,8	8,9	9,6	13,7
	Accommodation and catering Transport and storage	-0,8	8,6	11,0	8,2
	Information and communications	21,2	23,0	27,5	32,8
	Transport and storage	0,4	1,5	-0,3	6,0
	Financial and insurance activities	14,2	27,6	38,7	41,4
	Real estate transactions	0,7	9,9	11,9	12,8
	Public Administration and Defense; Social Security; compulsory social insurance	5,1	10,8	12,5	9,7
	Education	8,9	7,7	3,2	0,4
	Health care and social assistance	9,9	10,9	13,5	15,7
	Art, recreation and leisure activities	11,2	15,1	15,3	18,1
	Other community, social and personal service tivities	3,2	5,7	-7,1	4,9

Sursa: National Bureau of Statistics of the Republic of Moldova, statistical survey M3 - Annual "Wage earnings and labor costs". Starting with 2013, the new version of Classification of Economic Activities of the Republic of

Moldova (CAEM Rev.2), fully harmonized with the Statistical classification of economic activities in the European Community (NACE Rev.2), is implemented. The data are obtained from economic and social units with one and more employees and all budgetary institutions, regardless of the number of employees. The information is presented without the data of the districts on the left bank of the Nistru River and Bender municipality.

Women's pay levels are lower than that of men in most economic activities, with a discrepancy of 0.4% in education, to 41.4% in financial and insurance activities. Gender pay gap which disadvantages women were recorded in activities such as information and communication (-32.8%), industry (-17.8%), art, recreation and leisure (-18.1%), health and social assistance (-15.7).

In the real sector of the economy, wage policy has been aimed at improving the salary situation of low paid employees, including women, in particular by increasing the minimum wage guaranteed, which is the state's guarantee for employees in this sector.

The guaranteed minimum wage in the real sector is set by the Government after consultation with the social partners and is reviewed annually depending on the annual increase of the consumer price index and the rate of increase of labor productivity at national level.

Thus, for the reference period, for a full working program of 169 hours on average per month, the minimum guaranteed salary in the real sector was set in the following ammounts:

- From May 1, 2013 in the amount of 1400 MDL per month, or 8.28 MDL/hour (Government Decision no.287 of 30.04.2013)
- From May 1, 2014 in the amount of 1650 MDL per month, or 9.77 MDL/hour for enterprises, organizations, institutions with financial autonomy, regardless of the type of ownership and form of legal organization, except agriculture and forestry, for employees in the agriculture and forestry sector, 1560 MDL, or 9.23 MDL/hour (Government Decision no.299 of 23.04.2014)
- From May 1, 2015 in the amount of 1900 MDL per month, or 11,25 MDL per hour (Government Decision no.219 of 29.04.2015)
- From May 1, 2016 in the amount of 2100 MDL per month, or 12,43 MDL per hour (Government Decision no.488 of 20.04.2016)
- From May 1, 2017 in the amount of 2380 MDL per month, or 14,09 MDL per hour (Government Decision no.242 of 26.04.2017)

According to the Wages Law no. 847-XV of 14 February 2002 in the real sector of the national economy, the forms and conditions of salary, as well as the salaries in the units with financial autonomy, are established by collective negotiations or, as the case may be, individual ones between employers (individual or legal entities) and employees or their representatives, depending on the financial possibilities of the employers, and as a minimum limit and guarantee of the state in determining wages in the real sector serves **the guaranteed minimum wage in the real sector.**

At the same time, according to paragraphs (4) and (5) of Article 12 of the Wages Law, as amended by Law no. 253 of 17 November 2017, the guaranteed minimum wage in the real sector serves as the basis for the *differentiation of rate of salary in relation to the qualification, the level of professional training and competence of the employee, as well as the degree of responsibility involved in the functions/work performed and their complexity.*

Thus, according to the provisions of point 2^1 of the Government Decision no. 743 of 11 June 2002, introduced by the Government Decision no. 294 of 11 May 2017, the minimum salary/rate of salary were set as a result of their differentiation based on the established criteria by the mentioned law (Table 5).

Table 5. The coefficient of multiplicity in relation to the guaranteed minimum wage in the real sector by the level of professional training

Categories of employees by level of professional training	**The coefficient of multiplicity in relation to the guaranteed minimum wage in the real sector**
Unqualified workers	1,0
Medium-skilled workers	1,20
High skilled workers	1,40
Specialists	1,50
Senior staff	2,00

The minimum guaranteed salary in the real sector does not include extra payments, addition for night work, rest days and non-working holidays, increase for work done under unfavorable conditions, and other incentive payments or compensation.

As a result of the evolution of the macroeconomic indicators and of the financial possibilities, during the reference period, the minimum salary in the country was increased once by the Government Decision no.550 of 09 July 2014.

Thus, starting with October 1, 2014 the minimum salary increased from 600 MDL per month to 1000 MDL/month or from 3.55 MDL/ hour to 5.92 MDL per hour. The minimum wage serves as a basis for salary calculations in the public sector (budget).

At the same time, we mention that in the Republic of Moldova, according to Art.131 (3) of the Labour Code, the minimum wage does not include the additions, bonuses, incentives payments and compensation. Based on these provisions, the minimum wage is paid to an insignificant number of employees. Only 10.3% of the total number of employee receive from a minimum salary to two minimum salaries,

The average salary of a real sector employee in 2016 amounted to 5390.1 MDL, increasing by 1.36 times compared to 2013 (3948.6 MDL) and in the budgetary sector constituted 4359.1 MDL increasing by 1.31 times compared to 2013 (3317.2 MDL).

A comparison of the remuneration of work between men and women for work of equal value is possible only for employees in the public sector, where wage conditions and wage scales are established on a central level by law and Government decisions.

The National Bureau of Statistics has limited statistical data on the remuneration of work between men and women for work of equal value between enterprises, ie it is not possible to present a real situation in this compartment.

At the same time, we inform that a professor, teacher and educator with higher education, in the pre-university education, regardless of whether he is male or female, the amount of the salary from September 1, 2016 is 2955 MDL.

For a librarian with higher education and fom 8 to 13 years of seniority, the 13th salary is foreseen, with the salary of 1342 MDLi, no matter of the person's gender.

Likewise, any man or woman holding the function of head of department/ section, senior or principal consultant in a department of a ministry and having the respective salary grade has the same salary.

Regarding the request of the Committee on applicable rules to ensure compliance with the principle of equal remuneration, probation, sanctions and redundancies through repression as a result of a claim concerning equal remuneration, we mention that, according to the information provided by the national courts, examination requests for such causes have not been recorded.

The general judicial basis, which gives everyone the opportunity to defend a right or interest that has been harmed, as well as a right referring to the remuneration of labor, is stipulated in the Constitution of the Republic of Moldova. In this sense, Article 26 of the Constitution mentions, as principle, that any person has an indisputable right to defense, this being a constitutionally guaranteed right. In order to develop this principle, the Constitution provides that every person has the right to operate independently, by legitimate means, in case of violation of his rights and freedoms. The legal mechanisms provided by the law, to which the person who considers that his right to work under the labor law has been violated, are different. The Labor Code directly covers some of these mechanisms; others are covered by other normative acts, all of which are subordinate to the law. In this respect, the person can resort to the following legal mechanisms:

- To appeal to the state supervising and state enforcement bodies, including Labour Law (the State Labour Inspectorate)
- To appeal to the labor jurisdiction bodies;
- To appeal to trade unions or other employee representative bodies;
- To appeal in exceptional cases to means of self-defense.

Normative acts on labor and, above all, the Labour Code set out several ways in which an employee, a former employee or a person seeking a job can defend a right that relates to remuneration for work. These ways, outlined through legal rules, are not contained only in the content of the law framework in this field, but are regulated in a broader regulatory framework. The way in which the person is able to refer (appeal) the bodies of labor jurisdiction is regulated by the Labour Code no. 154 of 28 March 2003, the Civil Procedure Code no. 225 of 30 May 2003 and the administrative Contentious Law no. 793 of 10 February 2000.

For violation of labor law, including admission to discrimination in respect of remuneration, any subject of employment relationships is liable in criminal, contravention and material terms.

At the same time, the Strategy for ensuring equality between women and men in the Republic of Moldova for the years 2017-2021, approved by the Government Decision no. 259 of 28 April 2017, provides for a specific objective and actions dedicated to the implementation of the given principle.

Specific objective 1.2: Harmonizing national legislation with European standards on equal pay for equal work and equal value.

In order to implement this objective for the following years were included the following actions:

1.2.1. Harmonization of the national regulatory framework with the provisions of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

1.2.2. Development of public policy proposal on the establishment of nurseries in enterprises.

1.2.3. Evaluation of functions and professions in terms of ensuring the principle of equal pay for equal work and work of equal value;

1.2.4. Analysis of the compatibility of national legislation with the principle of equal pay for equal work, based on international experience;

1.2.5. Approval and implementation of methodologies for examining cases of wage discrimination.

In addition, we mention that the National Employment Strategy for the years 2017-2021, approved by the Government Decision no. 1473 of 30 December 2016 includes measures to promote gender equality in the field of occupational policies, which will contribute to improving the situation of women on the labor market. Thus, the Action Plan of the Strategy includes two Action Directions dedicated to this goal:

Action direction 1.2.4 Development of research, analysis and gender mainstreaming capacities in sectoral policies, which includes the following actions:

- Development and implementation of methodologies for mainstreaming gender and human rights in employment policies;
- Training the ministry staff for the development and implementation of gender mainstreaming methodologies;

Action direction 3.2.3. Improving gender-sensitive monitoring and evaluation of employment measures, which includes the following actions:

- Development and Application of Methodologies to Evaluate the Impact of Active Gender-sensitive Employment Measures;
- Continuous updating of the unique automated information system of the labor market in terms of gender perspective.

In addition to the above mentioned, we note that an innovative aspect of the Strategy consists in the establishment of the Labor Market Observatory. The core mandate of the Labor Market Observatory is to analyze economic, employment, demographic fields, human resources and labor market forecasts including thematic specialization and various social groups (eg young people, women, migration, etc.).

From the above we conclude that the legislation of the Republic of Moldova guarantees the right to fair remuneration, prohibiting any discrimination based on sex, age, race, ethnicity, religion, political option, social origin, domicilium, etc.

PARAGRAPH 4. Right to a reasonable period of notice in case of termination of employment

In the context of those presented in the previous report in the additional reference period in paragraph 4, Article 4, we mention that by Law no. 264 of 1 November 2013 the Article 186 of the Labour Code of the Republic of Moldova, which establishes the principle of equal rights of employees (regardless of whether they are male or female) and which, following the amendments, guarantee:

(1) To the employees dismissed in connection with the liquidation of the unit or the termination of the activity of the individual person (Article 86 (1) (b)), or the reduction of the number or personnel of the unit (Article 86 (1) (c)) shall be guaranteed:

a) For the first month payment of a **severance allowance** equal to the sum of an average weekly salary for each year worked at the unit concerned but not less than an average monthly salary. If the unit was the legal successor of the previously reorganized unit and the individual employment agreement with the employees concerned has not ceased before (Article 81), all years of activity shall be taken into account;
b) for the second month, **the payment of a dismissal allowance equal to the average monthly salary** if the dismissed person was not placed in the workforce;
c) For the third month, **the payment of a dismissal allowance equal to the average monthly salary** if, after the dismissal, the employee was registered within 14 calendar days at the territorial employment agency as an unemployed person and not was placed in the workforce, fact confirmed by the certificate[3].
d) Upon the liquidation of the unit by written agreement of the parties, the full payment of the sums related to the dismissal of the employee for all three months at the date of dismissal.

(2) The severance allowance in the amount of a two-week average salary is paid to employees upon termination of the individual employment agreement in relation to:

a) the finding that the employee does not correspond to his or her function or work due to the state of health in accordance with the respective medical certificate or due to the insufficient qualification confirmed by the decision of the attestation commission (Art. 86 (1) (d) and (e))
b) re-establishment at the workplace, according to the court decision, of the employee who had previously performed the work (Article 86 (1) (t));
c) refusal of the employee to be transferred to another locality in connection with the transfer of the unit to this locality (Art.86 (1) (y));

(3) Employees whose individual employment contract has been suspended in connection with the incorporation into the military service, the military service with reduced term or civil service (Art. 76 (e)) or who have resigned in connection with the violation by the employer of the individual or collective labor agreement (Article 85 (2)) shall benefit from the indemnity provided for in paragraph (2).

(4) the payment of the severance allowance is made at the previous workplace.

(5) In the collective or individual labor agreement, other cases of payment of the severance allowance, increased amounts thereof, as well as longer terms of the allowance may be provided.

Repeatedly, we mention that during the period of notice the employee is paid full salary. National legislation does not provide for terms of notice depending on the length of service at the unit.

PARAGRAPH 5. Limits to wage deductions

Articles 147-150 of the Labour Code govern deductions from salaries.

In the above mentioned information of Article 4 (5), during the reference period, we mention that other payments of salary other than the deductions covered by Articles 147-150 of the Labour Code are: income tax, individual social security contributions, premium mandatory healthcare insurance.

In the reference period, the monthly personal income tax exemption for individuals was steadily increasing (760 MDL - in 2013, 793 MDL - in 2014, 844 MDL - from 01.05.2015 to 01.01.2017)

Income tax rates for individuals for the years 2013-2016 have been set at the rate of:

- Year 2013 -7% of the taxable annual income of up to 26700 MDL and 18% of the annual taxable income exceeding the amount of 26700 lei,
- Year 2014 -7% of the taxable annual income up to 27852 MDL and 18% of the annual taxable income exceeds the amount of 27852

- Year 2015 -7% of the taxable annual income up to 29640 MDL and 18% of the annual taxable income exceeds the amount of 29640 MDL.

Year 2016 -7% of the taxable annual income up to 31140 MDL and 18% of the annual taxable income exceeds the amount of 31140 MDL.

Individual social security contributions are 6% of the salary for the years 2013-2016.

The mandatory health insurance premium constituted 3.5% - in 2013; 4.0% - in 2014; in 2015 and 2016 - 4.5%.

At the same time, in order to ensure a guaranteed minimum monthly income, disadvantaged families are granted social assistance, determined in accordance with the assessment of the average monthly family income and the need for social assistance, according to the Law on Social Aid no. 133-XXI of 13June 2008.

The monthly amount of social assistance is established as the difference between the minimum guaranteed monthly income of the family (which by the state budget law for 2013 was set in the amount of 680 MDL, for 2014 - 680 MDL, and for 1st November - 720 MDL, for 2015 - 720 MDL, from 1st April - 765 MDL, and from 1st October - 900 MDL, for 2016 - 900 MDL) and its overall income.

Thus, if after deductions, for example 50% of the minimum salary, the employee will have only 500 MDL as remuneration in one month, he/she can benefit from social aid in the amount of 400 MDL (900-500 = 400 MDL).

ARTICLE 5. The right to freedom of association

Application of the provisions of Art. 5 of the Charter is ensured on the territory of the Republic of Moldova through a comprehensive normative framework, which includes the ***Constitution (1994), the Labour Code (2003), the Law on Trade Unions (2000), the Law on Employer's Association (2000)*** and a set of normative acts subordinated to the law.

Trade Unions

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*. Both citizens of the Republic of Moldova who are in the country or abroad, as well as foreign citizens and stateless persons legally present on the territory of the country benefit from this right. 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 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.

The primary trade union organization is the initiative of at least 3 persons considered founders and may cease to exist based on the decision of its members. The organizational structure, the way of joining, membership, dividing or dissolving the trade union, as well as the way of association in trade union centers in the form of federations and confederations, are provided by the statute of each trade union, which it develops on its own.

Employers and public authorities are prohibited from intervening to limit or interrupt the exercise of trade union rights. At the same time, if the activity of the trade union contradicts the provisions of the legislation in force, it may be suspended for a period of up to 6 months or

prohibited by the decision of the Supreme Court of Justice at the request of the Minister of Justice. Prohibition of trade union activity based on decisions of other organs is not allowed.

All the provisions of the legislation in force concerning the right to association, the guarantees of activity, the organization and the termination of activity of the employees' organizations refer to both the primary trade union organizations and the federations and confederations in which they are associated. The provisions in question shall also apply to military units and internal affairs bodies, taking into account the particularities established by legislative acts that determine their legal status.

Below are listed the most important of the rights granted to trade unions by law:

- the right to participate, through compulsory endorsement, in the elaboration of labor and social-economic policies;
- the right to challenge, in the established manner, the normative acts that violate the labor, professional, economic and social rights of the employees;
- the right to participate, as a representative of the employees, in the negotiation and conclusion of collective labor agreements and collective agreements;
- the right to control the observance by employers and their representatives of labor law and other normative acts that contain labor law norms, setting up own labor inspectorates or appointing employees for labor protection;
- the right to submit to the employer claims for the establishment of new working conditions or modification of the existing ones, the conduct of collective bargaining, the conclusion, modification and execution of the collective labor agreement, to which the employer is obliged to answer in writing within 5 working days;
- the right to participate in the conciliation of collective labor conflicts within the Conciliation Commission;
- the right to strike if all ways of resolving the collective labor dispute have been exhausted in the conciliation procedure provided by the Labour Code.

Guarantees intended to provide favorable conditions for the activity of the trade union body within the unit are described in the comments for Art. 28 of the Charter.

Employer's Association

According to Art. 6 of the Law on Employer's Association, the employers' association may be constituted by the association of at least 3 patrons - legal persons and/or individuals and acquires the status of legal person from the moment of registration by the Ministry of Justice. Employers' associations may be members of one or more federations or employers' confederations.

According to art. 10 of the same Law, employers benefit from state protection against any acts that prevent the organization, functioning and administration of their activity. For example, they can not be liquidated and their activity can not be suspended on the basis of dispositions of public administration authorities. Also, members of the eligible management bodies of the employers' organizations are protected by law against any form of conditioning, coercion or limitation of the exercise of their functions.

Like trade unions, employers are part of social dialogue; they participate in the negotiation and conclusion of collective labor agreements and collective agreements, as well as in other negotiations and consultations within tripartite structures. In collective bargaining for the drafting of the collective labor agreement or the collective agreements, employers' representatives are released from basic labor with the maintenance of the average salary within the term established by agreement of the parties (maximum 3 months). They are also compensated for all expenses related to participation in collective bargaining in the manner determined by the legislation in force, the collective labor agreement or the collective agreement.

Along with the trade unions, employers participate, according to Art. 13 of the Law on Employer's Association, in the elaboration of the labor and social and economic policies, presenting opinions on draft normative acts and being represented on joint foundations in the National Commission for collective consultations and negotiations.

Regarding the progress made in relation to the previous situation, we inform that on July 22, 2016, Law no. 188 for the amendment and completion of some legislative acts, which amended

the Law of Trade Unions and the Law on Employer's Association was adopted. Most of the amendments of the two laws have a clarity character, but some of them are more important.

Thus:

- from the ***Law on the trade unions***, was excluded the norm according to which the primary trade union organization, the territorial branch center and the inter-territorial center acquired rights and obligations of a legal person according to the statutes of the national-branch trade unions or registered national-inter-branch trade union centers (in the previous editorial - Article 10(5)). At present, any trade union becomes a legal entity since its registration at the Ministry of Justice.
- from the Law on Employer's Association have been excluded the obligation to inform annually the Ministry of Justice about the continuation of the employers' organization activity, as well as to communicate any change of headquarters.

As for the reasons why the Ministry of Justice may refuse to register a trade union, we mention that they are similar to those from which the Ministry of Justice may refuse registration of any public association.

According to Art. 21 of the Law on Public Associations no. 837-XIII of 17 May 1996, these reasons are as follows:

- the status of the association contravenes the Constitution of the Republic of Moldova and other legislative acts;
- previously, the status of a public association with the same name was registered;
- the registration body finds that the documents submitted by the association contain non-authentic information;
- the name of the public association violates the public morality, the national and religious feelings of the persons;
- not all acts indicated in the law have been presented.

In accordance with Art. 10 of the Trade Unions Law, for the registration of the trade union, the following documents are submitted to the Ministry of Justice:

a) the application, signed by the head of the trade union body;

b) the two-copies of the statute signed by the founders of the trade union;

c) the decision of the assembly (conference, congress) on the founding of the trade union.

Within one month from the date of submission of the said documents, the Ministry of Justice is obliged to take the decision to register the trade union and to issue the state registration certificate or to refuse the registration, arguing the decision taken. The non-registration of the trade union within the established time limit or the refusal to register for reasons which the founders consider unfounded may be challenged in the competent administrative court as provided for by the legislation.

Referring to the Ministry of Justice's refusal to register the Union Association of Public Administration and Civil Service (USASP), we communicate the following.

On February 19, 2007, the Ministry of Justice filed the acts for registration of the statute of the National Branch of Union Association of Public Administration and Civil Service of the Republic of Moldova.

Following the examination of the submitted documents, on March 17, 2007 the Ministry of Justice informed the applicants that the examination of the application had been suspended, explaining that for the registration of the National Branch Trade Union Center it is necessary to create territorial trade union organizations.

Undertaking this task during months of March-April 2007, on May 5, 2007, the National Branch Trade Union Center of Union Association of Public Administration and Civil Service repeatedly filed the documents for registration at the Ministry of Justice.

Examining the submitted documents, on June 4, 2007 the Ministry of Justice issued the decision no. 17^{1}, refusing to register the above-mentioned syndicate, invoking the following arguments in support of its position:

- According to the provisions of Art. 181 of the Civil Code, trade unions belong to the category of non-commercial legal entities in the form of associations. Paragraph (1) of that Article provides that associations are to be associated with natural and legal persons. The

legal form of organization mentioned in the constitutive documents submitted to the Ministry of Justice for registration is the National-Branch Trade Union Center. Article 1 of the Trade Unions Law no. 1129 of 7 July 2000 states that the national-branch trade union center is a voluntary association of trade unions, usually belonging to the same branch. Thus, members of the national-branch trade union center are the public organizations (trade unions). In order to register the association of these organizations as a national-branch trade union center, it is necessary for the founders to be registered organizations, having the status of a legal person, which will be confirmed by copies of documents proving their legal capacity.

- The statute does not meet the requirements of Art. 18 (2) of the Civil Code. In order to comply with these requirements, it will be filled in with data about the founders of the National-Branch Trade Union Center, about the manner and conditions for its reorganization, as well as about the establishment and liquidation of its subsidiaries.
- The content of Art. 1 of the Statute, by which the National-Branch Trade Union Center is declared the legal successor of the Federation of Trade Unions of Public Services of the Republic of Moldova, presents serious derogations from the provisions of the legislation in force. Succession in rights occurs only in cases expressly provided for by law. From the documents attached to the application for registration the establishment of the grounds and circumstances of the transfer of the Federation's rights and obligations to the Trade Union Center is not possible.

On July 3, 2007, the Union Association of Public Administration and Civil Service addressed to the Ministry of Justice a letter requesting the revocation of Decision no. 17^1 of 4 June 2007 and the registration of its statute. By the answer of the Ministry of Justice no. 05/8004 of 27 July 2007, the applicant was informed that the reasons for the refusal were exhaustively set out in Decision no. 17^1 and that the Union Association of Public Administration and Civil Service could be registered after presenting constitutive acts in accordance with the requirements of the legislation in force.

On August 8, 2007, the Union Association of Public Administration and Civil Service appealed to the Chisinau Court of Appeal with a request for summons, through which, invoking the intention of the Ministry of Justice to protect the unions already registered from competition, requested the Ministry to register the Statute of the Center, to bring the registration procedure in accordance with the Unions Law no. 1129-XIV of 7 July 2000, as well as to repair the material and moral damage caused by the retention of reservation of the statute of the Center.

On December 3, 2007, the Chisinau Court of Appeal partially upheld the action, requiring the Ministry of Justice to register the status of the National-Branch Union Association of Public Administration and Civil Service. The reparation of the material and moral damage was not ordered, the applicant not presenting evidence capable of confirming the material expenses, and the moral damage being considered to be corrected by the fact that the registration claims were satisfied.

On December 24, 2007, the Ministry of Justice filed an appeal at the Supreme Court of Justice for the annulment of the decision of the Chisinau Court of Appeal.

On March 5, 2008, the Supreme Court of Justice upheld the appeal of the Ministry of Justice and handed the case back to the Chisinau Court of Appeal.

On June 2, 2008 the Chisinau Court of Appeal partially admitted the action of the Union Association of Public Administration and Civil Service, obliging the Ministry of Justice to register the statute of the Center. The decision in question was appealed by both parties in the proceedings.

After examining the case by the Civil and Contentious College of the Supreme Court of Justice, the USASP's appeal was dismissed, while the appeal declared by the Ministry of Justice and the subsidiary intervener of the Trade Union Federation of Public Services Employees "SINDASP" was upheld. As a result, on November 12, 2008, the court issued a new decision (attached), which dismissed the original USASP's action against the Ministry of Justice, the court's actions being recognized by the court as fully legal.

In this context, we note that the existence of an irrevocable court decision in this matter does not deprive the Union Association of Public Administration and Civil Service of the right to

repeatedly request the registration of its statute after presenting the constitutive acts according to the requirements of the legislation in force.

Until now, the Ministry of Justice has not received such a request. At the same time, according to data provided by the courts, other request for summons for the refusal to register a trade union were not examined during the reference period.

ARTICOLE 6. The Right to bargain collectively

PARAGRAPHS 1 and 2. Joint consultation and negotiation procedures

The right to consultation and collective bargaining, both in the public and private sectors, is ensured through a comprehensive regulatory framework that includes:

- ***The Constitution (1994)*** - guarantees the right to negotiation in the field of labor and the binding nature of collective agreements (Article 43);
- ***Labour Code (2003):***

- establishes the right of employees to conduct collective bargaining, the conclusion of collective labor agreements and collective agreements, as well as information on the execution of such contracts and agreements;
- obliges the employer to enter into collective bargaining if the employees have come up with such an initiative and conclude the collective labor agreement with regard to the clauses on which a consensus has been reached;
- defines as collective forms social partnership collective bargaining on the drafting and conclusion of collective agreements, as well as mutual consultations (negotiations) on issues related to the regulation of labor relations and the relations directly related to them;
- provides the general framework of social partnership in the workplace, establishing the parties, bodies and procedures through which it will be achieved (Title II).

- ***Trade union law (2000)*** - establishes the right of trade unions to collective bargaining, the conclusion of collective bargaining agreements and the exercise of control over their execution (Article 15);
- ***Law on Employer's Association (2000)*** - provides for the right of employers to negotiate and conclude collective labor agreements, conciliation, mediation and resolution of disputes and conflicts of work, other negotiations with public authorities and trade unions, as well as social dialogue within tripartite structures (Articles 14 and 20);
- ***The Law on the Organization and Functioning of the National Commission for Collective Bargaining and Consultation, of the Consultation and Collective Bargaining Committees at Branch and Territorial Level (2006)*** - establishes the tasks of the respective committees, the way of their creation and functioning, the guarantees of their activity;
- ***The regulations of the commissions for collective consultations and negotiations at branch, territorial and unit level,*** approved by the decisions of the National Commission for collective consultations and negotiations - determine the areas of competence and the organization of the respective committees.

Since the basic normative act in the field of social partnership is the Labor Code, we reproduce below its pertinent provisions.

Labour Code:

Article 15. Notion of social partnership

Social partnership represents a system of relations established between employees (employee representatives), employers (representatives of the employers) and the respective public authorities in the process of determining and fulfilling the social and economic interests and rights of the parties.

Article 16. Parties of social partnership

(1) The parties of social partnership at entity level are employees and employers as representatives empowered in the established manner.

(2) The parties of social partnership at national, branch and territorial levels are trade unions, patronages and the corresponding public authorities, as representatives empowered in the established manner.

(3) Public authorities are a party of the social partnership in the cases when they act as employers or as their representatives empowered by law or by other employers.

Article 17. The main principles of social partnership

The main principles of social partnership are:

a) lawfulness;

b) parties' equality;

c) parity of parties' representation;

d) empowerments of the parties' representatives;

e) interest of the parties for participation in the contractual relations;

f) the respecting by the parties of the norms of the legislation in force;

g) mutual trust between parties;

h) assessment of real possibilities of fulfillment of obligations;

i) priority of methods and procedures of conciliation and the obligatory consultation with the parties on the issues related to labour field and social policies;

j) renouncing to unilateral actions which violate the agreements (collective labour contracts and collective agreements) and mutual familiarization of the parties with the changes of situation;

k) taking decisions and undertaking actions within the limits of the rules and procedures coordinated by parties;

l) obligatory execution of the collective labour contracts, collective agreements and other agreements;

m) control over fulfillment of collective labour contracts and collective agreements;

n) parties' responsibilities for failing to respect the assumed responsibilities;

o) state favoring of the social partnership development.

Article 18. System of social partnership

The system of social partnership includes the following levels:

a) national level– establishes the bases of regulation of social-economic and labour relations in the Republic of Moldova;

b) branch level– establishes the bases of regulation of the relations in the labour and social fields within a certain branch (branches) of the national economy;

c) territorial level- establishes the bases of regulation of the relations in the labour and social fields in the administrative-territorial entities of second level;

d) entity level– establishes the concrete mutual obligations between employees and employer in the labour and social fields.

Article 19. Forms of social partnership

The social partnership shall be carried out by:

a) collective negotiations regarding elaboration of drafts of collective labour contracts and collective agreements and their conclusion on bi- or tripartite bases, through representatives of the social partnership parties;

b) participation in the examination of drafts of the normative documents and proposals regarding the social-economic reforms, in the improvement of labour legislation, assurance of civil conciliation, settlement of collective labour conflicts;

c) mutual consultations (negotiations) on issues related to regulation of work relations and relations directly related to them;

d) participation of employees (their representatives) in the entity administration;

Article 20. Representatives of employees within the social partnership

(1) Representatives of employees within the social partnership are the trade union bodies at national, territorial, branch and entity levels, empowered in accordance with the statutes of the trade unions and legislation in force.

(2) Interests of the entity employees within the social partnership – in collective negotiations, in conclusion, modification and amendment of the collective labour contract, in carrying out the control over its fulfillment, as well as in the performance of the right of participation in the entity administration – shall be represented by the entity trade union body, if absent – by other representatives elected by the entity employees.

(3) Interests of employees within the social partnership at territorial, branch and national levels - in collective negotiations, in conclusion, modification and amendment of the collective agreements, in settlement of collective labour conflicts, including in conclusion, modification or amendment of the collective agreements, when carrying out the control over their fulfillment are represented by the respective trade union bodies.

Article 21. Elected employees' representatives

(1) Employees who are not trade union members shall have the right to empower the trade union body to represent their interests in the labour relations with the employer.

(2) In the entities which do not have trade unions, the employee interests can be defended by their elected representatives.

(3) Representatives of the employees shall be elected within the general assembly (conference) of the employees, with the vote of at least half of the total number of the entity employees (delegations).

(4) The number of elected representatives of the employees shall be established by the general assembly (conference) of employees, taking into account the entity staff number.

(5) The empowerments of the elected representatives of employees, manner of their performance, as well as the duration and limits of their mandate, shall be established by the general assembly (conference) of employees.

Article 22. Employer's obligation to create conditions for the activity of the employees' representatives within the social partnership

Employer is obliged to create conditions for the activity of the employees' representatives in accordance with the present code, Trade Union Law, other normative documents, collective agreements and collective labour contract.

Article 23. Representatives of the employers within the social partnership

(1) Representatives of the employer – in collective negotiations, in conclusion, modification or amendment of the collective labour contract – are the entity head or persons empowered by him in accordance with the present code, other normative documents and documents of entity constitution.

(2) In collective negotiations, in conclusion, modification or amendment of the collective agreements, as well as in settlement of the collective labour conflicts related to conclusion, modification or their amendment, the interests of employers are represented by patronages, upon the case.

Article 24. Other representatives of employers within the social partnership

The state and municipal enterprises, as well as the organizations and institutions financed from the national public budget, can be represented by the central and local public administration authorities empowered by law or by the heads of these enterprises, organizations and institutions.

Article 25. Bodies of the social partnership

(1) In order to regulate the social-economic relations in the field of social partnership, the following structures are created:

a) at national level – National Commission for consultations and collective negotiations;

b) at branch level – branch commissions for consultations and collective negotiations;

c) at territorial level – territorial commissions for consultations and collective negotiations;

d) at entity level – commissions for social dialogue "employer – employees".

(2) The creation and activity of the commissions at national, branch and territorial levels shall be regulated by the organic law, but of the commissions on the entity level – by standard regulations, approved by the National Commission for consultations and collective bargaining which is published in the Official Gazette of the Republic of Moldova.

Article 26. Carrying on collective bargaining

(1) The representatives of the employees and employers shall have the right to initiate and participate in collective bargainings for elaboration, conclusion, modification or amendment of the collective labour contract or collective agreements.

(2) Representatives of the parties to whom the proposal has been submitted in written form to start collective bargaining shall be obliged to proceed to them within 7 calendar days from the date of the notification.**Article 27. Manner of carrying on collective bargainings**

(1) Participants in the collective negotiations shall be free to choose the issues to be the subject of regulation of the collective labour contracts and collective agreements.

(2) In the entities where part of the employees are not trade union members, they shall have the right, according to the art.21 paragraph (1), to empower the trade union body to represent their interests in negotiations.

(3) In the entities where the trade unions are not created, employee interests shall be expressed, according to art. 21 paragraph (2) by the elected representatives of the employees.

(4) If there are more than one trade union bodies at national, branch or territorial level, a unique representative body is created to carry on collective negotiations, elaborate the project of collective agreement and its conclusion. Creation of the representative body is affected on the basis of the principle of proportional representation of trade union bodies, depending on the number of trade union members.

(5) The right to participate in collective negotiations, to sign collective agreements on behalf of employees at national, branch or territorial level belongs to the corresponding trade unions (trade union associations). In the event that, at the respective level, there are several trade unions (trade union associations), each of them shall benefit from the right to be represented by the unique representative body for carrying on the collective negotiations. In case of absence of agreement regarding creation of an unique representative body for carrying on collective negotiations, the right to carry on collective negotiations belongs to the trade union (trade union associations) with the highest number of members.

(6) The parties are obliged to provide each other with the needed information for carrying on collective negotiations within 2 weeks from the moment of request.

(7) Participants in the collective negotiations, other persons involved in the collective negotiations, shall have the obligation not to disclose the received information if it is a state or commercial secret. Persons who disclosed the respective information shall carry disciplinary, material, administrative, civil or material responsibility, in the manner established by the legislation in force.

(8) The terms, place and manner of carrying on the collective negotiations shall be established by the parties that participate in the respective negotiations.

Article 28. Regulation of disputes

If in the course of collective negotiations, no coordinated decision on all or some of the tackled issues has been adopted, an official report on the existing divergences shall be drawn up. The regulation of divergences which appeared in the process of collective negotiations regarding conclusion, modification or amendment of the collective labour contract or collective agreement, takes place in the manner established by the present code.

Article 29. Guarantees and compensations for participants in the collective negotiations

(1) Persons who participate in collective negotiations, during the drafting of collective labour contract or collective agreement, shall be released from their main work, while maintaining their average wage for the time period established by the parties' agreement, but not more than 3 months.

(2) All expenses related to participation in collective negotiations shall be compensated in the manner established by the legislation in force or collective agreement. The work of the experts, specialists and mediators shall be remunerated by the inviting party, unless the collective labour contract or collective agreement stipulates otherwise.

(3) The representatives of the employees who participate in collective negotiations, during the time they are carried on, cannot be subject to disciplinary sanctions, transferred to another

work or dismissed without preliminary consent of the body which empowered them, except the dismissal cases stipulated by the present code for committing some disciplinary breaches.

Negotiations and collective consultations take place, as a rule, in the committees for collective consultations and negotiations established at different levels of partnership.

At the same time, collective bargaining at national level takes place not only within the National Commission for Collective Bargaining and Negotiation, but also through other instruments of partnership, such as tripartite working groups. For example, under the aegis of the Ministry of Health, Labour and Social Protection, a tripartite working group (with the participation of trade union and employers' representatives) is set up, which periodically examines the proposals for the improvement of the labor legislation presented by each of the partners, preparing legislative solutions and presenting them later to the Government for promotion. During the reporting period, a number of draft laws have been negotiated to amend and supplement the Labour Code, which are already adopted by the Parliament.

Also, the consultations and negotiations in the field of health and safety at work at unit level are also carried out within the Committee on Occupational Safety and Health, if it is constituted at unit level (according to the Law on Safety and Health at Work No. 186- XVI of 10 July 2008, the committee may be made up of representatives of the employer and representatives of the employees at the initiative of either party).

As a result of collective bargaining, the Government, trade unions and employers have concluded at this time 15 collective agreements at national level, which regulate various aspects of social life, increasing the legal protection of employees in relation to the norms of the legislation in force. Among these, seven are basic agreements (the other are for amendment), that we list below:

1) Collective agreement (national level) no. 1 of 3 February 2004 "Payroll to employees in working relationships based on individual labor contracts";

2) Collective agreement (national level) no. 2 of 9 July 2004 "Type of work and rest time";

3) Collective agreement (national level) no. 4 of 25 July 2005 "On the Model of the Individual Labor Contract";

4) Collective agreement (national level) no. 8 of 12 July 2007 "On the elimination of the worst forms of child labor".

5) Collective agreement (national level) no. 9 of 28 January 2010 "On the Minimum Guaranteed Salary in the Real Sector";

6) Collective agreement (national level) no. 11 of 28 March 2012 "On criteria for mass reduction of jobs";

7) Collective agreement (national level) no. 12 of 9 July 2012 "Staff Statement Form and Nominal Permit to Work".

From 2013 until now, 2 collective agreements have been concluded at national level:

- Collective agreement (national level) no. 14 of 22 November 2013 for the approval of amendments and additions to the Collective agremement (national level) no. 8 of 12 July 2007 "On the elimination of the worst forms of child labor" *and*

- Collective agreement (national level) no. 15 of 9 June 2015 for the approval of the amendments and additions to the Collective agreement (national level) no. 2 of 9 July 2004 "Working time and rest time".

National conventions do not have a predefined term of action and continue their action until they are abolished by the partners. According to specific rules, the clauses contained in the listed above agreements extend to all employees in the country.

As regards collective agreements at branch and territory level, as well as collective labor agreements at the unit level, they are usually concluded for 1-2 years, their action being subsequently extended by additional agreements signed by the parties.

Since 2013 and until the present time at branch and territory level, 43 collective agreements have been concluded: in 2013 - 14; in 2014 - 8, in 2015 - 10, in 2016 - 7, and in 2017 - 4.

At the unit level, according to data provided by the Labour Inspectorate, in 2013 there were registered 993 collective labor contracts in 2014-94, in 2015-837, in 2016-1274, and in 2017-553.

Regretfully, we do not have data on the number of employees covered by collective agreements at branch and territory level, as well as on collective labor agreements at the unit level.

PARAGRAPH 3. Conciliation and arbitration

The conciliation procedure for solving collective labor disputes is provided by Art. 359 of the Labour Code, which we reproduce below.

Labour Code – Art. 359:

(1) The procedure of conciliation is held between the parties of the dispute, within a conciliation commission.

(2) The conciliation commission is formed of an equal number of representatives of the parties of the dispute, at the initiative of one of them, within 3 calendar days from the starting day of the collective labour conflict.

(3) The Conciliation Commission shall be constituted ad hoc, whenever a collective labor dispute arises. (4) The order (the provision, the decision, the decision) of the employer (its representatives) and the respective decision (s) of the representatives of the employees shall serve as the basis for the establishment of the conciliation commission. (5) The President of the conciliation commission is elected with the majority vote of the commission members.

(6) Employer is obliged to create normal working conditions for the conciliation commission.

(7) The debates of the conciliation commission are registered in an official report drawn up in 2 or more copies as the case may be, indicating the general or partial measures of resolution of the conflict agreed upon by the parties.

(8) In the event that the members of the conciliation commission reached an agreement about the claims submitted by the representatives of employees, the commission will adopt, within 5 working days, an obligatory decision for the parties of the dispute and will deliver it to the parties within 24 hours from the moment of adoption.

(9) If the members of the conciliation commission haven't reached an agreement, the president of the commission will inform about it the parties of the dispute in writing within 24 hours.

Labour Code – Art. 360 (1):

(1) If the parties in conflict have not reached an agreement or disagree with the decision of the Conciliation Commission, each of them is entitled to submit, within 10 working days from the date of the decision or receipt of the respective information (Art. 359(8) and (9)), a request for settlement of the conflict in the court.

In the context of the evolutions recorded in this chapter, we mention that on July 3, 2015, was adopted the **Law no. 137 on Mediation**, which provides for the possibility of resorting to mediators to resolve a conflict, based on a mediation contract signed by the parties.

Under the law in question, the following labor disputes may be subject to mediation:

- individual labor disputes related to the payment of damages, in the event of non-fulfillment or inadequate performance of the obligations by one of the parties to the individual labor contract;

- individual labor disputes concerning the conclusion, execution, modification, suspension, termination and nullity of the individual labor contract;

- collective labor disputes, if the parties in conflict have not reached an agreement or disagree with the decision of the Conciliation Commission.

The law also provides for the possibility of mediation in disputes of administrative litigation (disputes in which at least one of the parties is a public authority or an official of that authority).

As an information, we forward the text of Law no. 137 of 3 July 2015. Since we do not have another translation, please accept the Russian version of it.

Additionally, at the request of the Committee, we communicate the following:

Citizenship of committee members for consultations and collective bargaining. *According to the provisions of Art. 7 and 20 of Law no. 245-XVI of 21 July 2006 on the organization and functioning of the National Commission for Collective Bargaining and Consultation, of the Committee for Consultation and Collective Bargaining at Branch and Territorial Level,* a member or an alternate member of these Committees may be named the person who is a citizen of the Republic of Moldova.

Consultation of committees for collective consultations and negotiations. The National Commission has an advisory role in the elaboration of social and economic strategies and policies. According to the Law no. 245-XVI of 21 July 2006, the draft normative acts in the field of labor and social-economic norms are to be coordinated with the National Commission, its permit accompanying the projects until the adoption. Thus, as an example can serve the collective consultations within the National Commission, consultations on draft normative acts, which end with issuing permits.

Another example is the consultations on the opportunity of ratification of multilateral international treaties, which are based on the commitments assumed by our country through the ratification of the International Labor Organization Convention no. 144 on tripartite consultations aimed at promoting the application of international labor standards. Starting with 2013, were held consultations within the Commission on the ratification of the following international labor treaties:

- Convention of the International Labor Organization no. 173 on the protection of workers' claims (in the event of the employer's insolvency);
- Convention of the International Labor Organization no. 149 on employment, working conditions and living conditions of nurses;
- the Protocol of 2014 to the International Labor Organization Convention no. 29 on forced or compulsory labor.

PARAGRAPH 4. Collective action

The right to strike is regulated by Art. 362-369 of the Labour Code, which we reproduce below.

Labour Code:

Article 362. Strike announcement

(1) The strike represents the refusal of the employees to fulfill, totally or partially, the work obligations, for the purpose of settling the collective labour contract, commenced in accordance with the legislation in force.

(2) The strike can be announced in accordance with the present code only for the purpose of defending the employees' professional interests of economic and social character and cannot pursue political purposes.

(3) The strike can be announced if all the ways of settling the collective labour conflict, within the procedure of conciliation stipulated by the present code, were beforehand used up.

(4) The decision on strike announcement is taken by the representatives of employees and is brought to notice to employer 48 hours before its commencement.

(5) The copies of the decision regarding announcement of the strike can be also delivered, depending on the case, to higher ranked bodies of the entities, patronages, trade unions, central and local public authorities.

Article 363. Organization of strike at entity level

(1) Prior to the strike in the unit, compliance with the conciliation procedure (art. 359) is mandatory. (2) The representatives of employees express the interests of employees on strike in their relations with employer, patronages, central and local public authorities, as well as in the court, in case of civil and criminal procedures.

(3) The employees on strike, together with employer, have the obligation, during the strike, to protect the entity assets and provide a continuous functioning of equipment and installations which stoppage might put in danger the life and health of people or can cause irreparable damages to the entity.

(4) Participation in strike is voluntary. Nobody can be forced to participate in strike.

(5) Employees who do not participate in strike can continue the activity at their workplace, unless the technological, security and hygiene labour conditions do not allow it.

(7) During the strike, employer cannot be prevented from to carrying out his activity by employees on strike.

(8) Participation in strike or its organization with respecting the provisions of the present code is not a breach of the work obligations and cannot have negative consequences on the employees on strike.

(9) During the strike, all the rights resulting from the individual and collective labour contract, collective agreements, as well as from the present code, except the wage rights, are kept for the employees.

(10) Labour remuneration of the employees who do not participate in the strike and stopped their work due to the strike will be effected according to the provision of the Art.80.

Article 364. Organization of strike at territorial level

(1) The right to announce and organize the strike at territorial level belongs to the territorial trade-union body.

(2) The claims of participants in strike are examined by the territorial commissions for consultations and collective negotiations, at the request of the interested social partnership.

(3) The strike will be announced and carried out in accordance with the present code and collective agreement concluded at territorial level.

Article 365. Organization of strike at branch level

(1) The right to announce and organize the strike at branch level belongs to the branch trade union body.

(2) The claims of the participants on strike are examined by the branch commission for consultations and collective negotiations, at the request of interested social partnership.

(3) The strike will be announced and will be carried out in accordance with the present code and collective agreement concluded at branch level.

Article 366. Organization of strike at national level

(1) The right to declare and organize the strike at national level belongs to the respective national-inter-trade union body.

(2) The claims of participants in strike are examined by the national Commission for consultations and collective negotiations, at the request of the interested social partnership.

(3) The strike will be announced and will be carried out in accordance with the present code and collective agreement concluded at national level.

Article 367. Place of carrying out of the strike

(1) The strike is usually carried out at the permanent workplace of employees.

(2) If the claims of employees are not satisfied within 15 calendar days, the strike can be also carried out outside the entity building.

(3) With the consent of employees' representatives, the public administration authorities shall establish the public places or rooms where the strike will be carried out.

(4) The carrying out of the strike outside the entity and in public places shall be in accordance with legislative documents that regulate organization and carrying out of meetings.

Article 368. Strike suspension

(1) Employer can request strike suspension for a period of maximum 30 calendar days in the event that life and health of people can be in danger or when is deemed that strike has been declared or carried out with violation of the legislation in force.

(2) The request of strike suspension shall be submitted to the court.

(3) The court shall establish the term of request examination, which cannot exceed 3 working days, and order summoning of the parties.

(4) The court shall examine the request within 2 working days and shall announce a decision by which:

a) employer's request is rejected;

b) employer's request is accepted and strike suspension is ordered.

(5) The court will deliver its decision to the parties within 48 hours from the moment of pronouncement.

(6) The court decision can be contested according to the Code of Civil Procedure.

Article 369. Limitation of participation in the strike

(1) The strike is prohibited during the period of natural calamities, outbursts of epidemics, pandemics, during the period of setting up of state of emergency or war.

(2) In the strike cannot participate the:

a) medical-sanitary personnel from hospitals and services of urgent medical assistance;

b) employees running the systems of water and energy supply;

c) employees running the telecommunication system;

d) employees of the services running the airplane traffic;

e) officials in the central public authorities;

f) employees of the bodies that provide the public order, law enforcement order and state security, the court judges, employees from military entities, organizations or institutions of Armed Forces;

g) employees working in entities with continuous flow;

h) employees working in entities manufacturing goods for the needs related to country defense.

(3) The classified list of entities, sectors and services, which employees cannot participate in the strike according to paragraph (2), is approved by the Government after consultation with patronages and trade unions.

(4) In case of strike prohibition according to the art (1) and (2), the collective labour conflicts shall be settled by the bodies of labour jurisdiction."

Exhaustively the categories of employees who can not participate in the strike are listed in the Nomenclature approved by the Government Decision no. 656 of 11 June 2004 (Table 6)

Table 6. Nomenclature of units, sectors and services whose employees can not participate in the strike

No.	Name of units, sectors	Function title/function 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.	Medical and Sanitary institutions	Personnel on duty from healthcare and pharmaceutical institutions regardless of the type of property and their legal form of organization and from the National Agency for Public Health.
6.	Units from the telecommunication system	Employees involved in operative services for maintenance and management of electronic communications services and infrastructure.
7.	Power supply units	All employees
8.	Units supplying water and sanitation services	All employees
9.	Air Traffic Management System	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 Anticorruption Center	Civil servants with special status
14.	Armed forces	Militaries and all employees

15.	Customs Service	Civil servants with special status
16.	Penitentiary administration system	Civil servants with special status
17.	The General Prosecutor's Office, the territorial prosecutor's offices and the specialized prosecutor's offices	Prosecutors
18.	State Protection and Guard Service	Protection officers (persons with public-dignity functions and civil servants with special status)

ARTICLE 21. The right to information and consultation

As a general ground for realizing the right of employees to be kept abreast of the economic and financial situation of the enterprise in which they work, serves the Art. 34 of the Constitution of the Republic of Moldova, which enshrines the right of the person to have access to any information of public interest.

Until now, the Labour Code provided only the right of employees to participate in the administration of the unit (Article 9 (1) (j) and Art. 42), as well as certain rules regarding the prior notification of employees upon termination of their individual labor contract.

On June 2, 2017, the Parliament adopted the Law no. 155 on amendment and completion of the Labour Code through which they have been transposed, including the **Directive 2002/14/EC** of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community and **Directive 2001/23/EC** of 12 March 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. Following the adoption of the aforementioned Law, the ***Labour Code*** is compteted by two new articles, as follows:

Article 42[1]. 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 obliged to inform and consult them with reference to the relevant subjects in relation to their activity at the unit.

2. The obligation to provide information 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 labor 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. 88. For the mass reduction of employment, the conditions for information and consultation provided in Art. 88 (1) (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) at meetings with representatives of the relevant employer in relation to the discussed subject;

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

c) in order to obtain a consensus on the subjects falling within the competences of the employer referred to in paragraph (2) (b) -d).

During the consultation process, employees' representatives have the right to meet with their employer and obtain a reasoned response to any notice they can make. If certain measures are envisaged with regard to employees, the consultation will be done in such a way as to give to the employee representatives the opportunity to negotiate and reach a consensus with the employer before the envisaged measures will be implemented.

If certain measures are envisaged with regard to employees, the consultation will be done in such a way as to give the employee representatives the opportunity to negotiate and reach a consensus with the employer before the envisaged measures are implemented.

(8) Where there is a Labor and Safety Committee established in accordance with the provisions of the Law on Safety and Health at Work, information and consultation on the subjects referred to in paragraph (2) letter d) will take place within it.

(9) Employees' representatives, as well as any assisting experts, shall not be authorized to disclose to employees or third parties information, which, in the legitimate interest of the entity, has been provided on a confidential basis following the signing of a written undertaking. This restriction will apply wherever these representatives or third parties are, even after the expiration of their mandate. The employees will not divulge the confidential information received in the same way from the employer. Failure to comply with confidentiality entails the obligation of the guilty person to repair the damage caused.

(10) By derogation from the provisions of paragraph (1) to (8), the employer is not obliged to disclose information or consultations, if such actions may result in the disclosure of a state secret or trade secret. The employer's refusal to provide information or consultations on the subjects mentioned in paragraph (2) may be challenged in the court.

(11) The information and consultation of the employees in connection with the reorganization of the unit, the change of the type of ownership or the owner of the unit account shall be taken of the particularities stipulated in Art. 197^{1}.

(12) Collective agreements and/or collective labor agreements may provide for any information and consultation procedures that will not diminish the rights of employees in relation to the provisions of this Code.

Article 197^{1}. 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 labor contracts and the collective labor 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 labor contract (with the exceptions provided in Article 86 (1) (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) (a) - 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. 42^1.

(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.

The above-mentioned rules will apply to all units, irrespective of the type of property, legal form of organization or number of employees.

ARTICLE 26. The right to dignity at work

In the context of the implementation of Art. 26, the right to dignity of work, we mention the following.

Law no. 121 of 25.05.2012 on Ensuring Equality expressly mentions Art. 1 that the purpose of the legislative act is to prevent and combat discrimination as well as to ensure the equality of all persons living on the territory of the Republic of Moldova in the political, economic, social, cultural and other spheres of life, irrespective of race, color, nationality, ethnic origin, language, religion or belief, sex, age, disability, opinion, political affiliation or any other similar criterion, and at art. 3 mentions that subjects in the field of discrimination may be natural and legal persons, both public and private.

Article 2 defines harassment as "any unwanted behavior that leads to the creation of an intimidating, hostile, degrading, humiliating or offensive environment having the purpose or effect of damaging a person's dignity on the basis of the criteria set forth in this law."

Article 7. Prohibition of discrimination in the workplace

(1) Any distinction, exclusion, restriction or preference on the basis of the criteria established by this law, which have the effect of limiting or undermining equal opportunities or treatment upon hiring or dismissal, in the direct activity and in the training, shall be prohibited. The prohibition of discrimination based on sexual orientation will apply in the field of employment.

(2) The following actions of the employer shall be considered discriminatory:

a) placing employment announcements indicating the conditions and criteria that exclude or favor certain persons;

b) unjustified refusal to employ a person;

c) unjustified refusal of admission of persons to vocational training courses;

d) unequal remuneration for the same type and/or workload;

e) differentiated and unjustified distribution of work tasks resulting from the granting of a less favorable status to persons;

f) harassment;

g) any other action that contravenes the legal provisions.

(3) Refusal of employment, admission to vocational training or promotion of persons is considered unfounded if:

a) it is required to submit additional documents in addition to the legally established ones;

(b) it is claimed that the person does not meet requirements which have nothing in common with the professional qualification required to practice the profession or are required to comply with any other unreasonable requirement with similar consequences.

(4) The employer is obliged to place in the accessible places for all employees the legal provisions that guarantee the observance of the equal opportunities and treatment at the workplace.

(5) Any distinction, exclusion, restriction or preference in respect of a particular workplace shall not constitute discrimination where, by virtue of the specific nature of the activity in question or the conditions under which it is carried out, there are certain essential and determinant occupational requirements provided that the requirements to be legitimate and proportionate.

(6) Differential treatment based on the religion or belief of a person when religion or belief is an essential, legitimate and justified professional requirement is not discrimination in the professional activities of religious denominations and their constituent parts.

Implementing the Law on Equality is realized through the Code of Contravention, which provides for sanctions for violation of equality in the workplace, including for harassment.

The Code of Criminal Procedure of the Republic of Moldova expressly mentions the competence of the Council on the Prevention and Elimination of Discrimination and Ensuring Equality to ascertain violation of equality in the field of labor (Article 54^2), including harassment that is sanctioned under paragraph (2) Art. 54^2, which states that "the employer's manifestation of any behavior based on race, nationality, ethnic origin, language, religion or belief, gender, age, disability, opinion, political affiliation or any other criterion leading to the creation of an intimidating, hostile, degrading, humiliating or offensive framework at the workplace is sanctioned by a fine of 78 to 90 conventional units for individuals, and a fine of 150 to 240 conventional units imposed to the person in charge of or without depriving in both cases of the right to hold certain positions or the right to carry out certain activities for a period from 3 months to one year." It is worth noting, however, that, by virtue of the legal powers conferred to the Council on the Prevention and Elimination of Discrimination and Ensuring Equality, in the case of found contraventions he can only draft the the counterfeiting of the illicit deed, sanctioning competence lies with the courts. This complicates the procedure for claiming the victim's violated right.

The Criminal Code of the Republic of Moldova by Art. 173 defines sexual harassment as "the manifestation of physical, verbal or non-verbal behavior that damages the dignity of the person or creates an unpleasant, hostile, degrading, humiliating, discriminatory or insulting atmosphere in order to determine a person for sexual intercourse or other actions unwanted sexual nature, committed through threats, coercion, blackmail". Please note that these provisions, which are given in the competence of the criminal prosecution authorities, aim to punish sexual harassment in general not only at the workplace. The sanctions of this article provide that sexual harassment shall be punished by a fine in the amount of 650 to 850 conventional units or by community service from 140 to 240 hours or by imprisonment for up to 3 years. Additionally, Art. 1 of the Labour Code – "Main notions" - includes the terms "sexual harassment" and "dignity at work".

On the other hand, the State distinguishes between contravention of harassment at the workplace, which can only compose the contravention components if committed by the employer against the employee, and sexual harassment, which is framed in the chapter "Sexual offenses" and sanctioned by criminal law.

It is worth pointing out that the limitation imposed by the Contraventional Code to sanction only the employer for the harassment act narrows the circle of persons who could be subjected to contraventional harassment, such as work colleagues or subdivision leaders.

During the reporting period, the Council on the Prevention and Elimination of Discrimination and Ensuring Equality examined 102 complaints alleging discrimination in the workplace and issued 4 decisions to establish harassment at the workplace. At the same time, he did not receive any complaint about harassment at work based on sex.

During the reference period, the Council on the Prevention and Elimination of Discrimination and Gender Equality participated, organized and carried out several trainings for several categories of beneficiaries in order to respect the principle of equality and non-discrimination, including at the workplace.

As a relevant norm in relation to the provisions of art. 26 of the Charter is to be mentioned and art. 16 of the Civil Code, which proclaims the right of any person to respect for honor, dignity and professional reputation.

According to that article, any person has the right to ask for the denial of the information that damages his honor, dignity or professional reputation if the person who has spread it does not prove that it corresponds to reality. If this information is disseminated by means of mass media, the court forces it to publish a refusal on the same heading, page, in the same program or cycle of broadcasts no later than 15 days after the date of entry into force of the court decision. If a document issued by an organization contains information that violates the honor, dignity and professional reputation, the court forces it to replace the document. In other cases, the way of rebutting information, that damages the honor, dignity and professional reputation is determined by the court.

Besides contempt, the person whose information has been disseminated that infringes his honor, dignity and professional reputation is entitled to seek compensation for material and non-material damage caused thereby.

Additionally, at the request of the Committee, we communicate the following regarding ***the prevention of sexual harassment***. By Law no. 71 with respect to the amendment and completion of some legislative acts of 14.04.2016, Art. 9 and 10 of the Labour Code have been completed with additional obligations for employees and employers, including the obligation for employees to respect the right to dignity of other employees, and for employers to take measures to prevent sexual harassment in the workplace as well as measures to prevent persecution for filing complaints of discrimination in the competent body. Both Art. 10 (2) and Art. 199 (1) of the Labour Code provide for the obligation to include in the internal regulations of each unit the provisions concerning the observance of the principle of non-discrimination, the elimination of sexual harassment and any form of denial of work. At the same time, according to Art. 48 (2) of the Code, the employee is to be provided, for information purposes, with a set of documents that are applicable to him, including the internal regulations of the unit. Thus, familiarizing the employee with the provisions of the internal regulation also includes an effect of prevention of sexual harassment at the workplace.

By adopting the Law no. 71 of 14.04.2016 for the amendment and completion of some legislative acts, other amendments were made to prevent and combat sexual harassment as follows:

- art. 10 of the Law no. 5 of 09.02.2006 on ensuring equal opportunities for men and women was completed with paragraph (21) according to which the employer is obliged to ensure that all employees are informed about the prohibition of acts of discrimination and sexual harassment at the place for work;

- art. 19 of the Law no. 5 of 09.02.2006 on ensuring equal opportunities for women and men was compteted with paragraph (32) according to which the gender coordinating groups have the task of examining cases of discrimination based on sex and sexual harassment at the branch level as well as in the decentralized structures, as well as to forward to the law enforcement bodies the materials accumulated in cases of examination of complaints about sexual harassment at the workplace;

- paragraph 1 of Article 113 of Law no. 140 of 10 May 2001 on the State Labour Inspectorate was completed with letter k) according to which the State Labour Inspectorate is obliged to check the observance of the legal provisions regarding the prevention and elimination of cases of discrimination according to any criterion and of sexual harassment at the work place.

As far as concrete measures are concerned to prevent sexual harassment at the unit, they are to be developed and implemented by each employer on its own.

Appeals in case of sexual harassment. Taking into account the provisions of Law no. 298 of 21 December 2012 on the work of the Council on the Prevention and Elimination of Discrimination and Ensuring Equality, the Council examines complaints and issues on them decisions with a recommendatory character, contributes to the amicable settlement of the conflicts arising from the acts of discrimination and observes the committing of contraventions field, drawing up minutes, which it handed over to the court for substantive examination.

We also mention that the National Action Plan on Human Rights for 2018-2022, approved by the Parliament Decision on 24.05.2018, Field of Intervention 7: Gender Equality and Family Violence, includes Objective I: Preventing and Combating Violence against Women Women and Violence in Family with Strategic Goal B: which means that all declared cases of sexual harassment (including at work) are promptly and effectively investigated. The following actions are set out in this respect:

• Ensure disaggregation of data on sexual harassment offenses against other sexual offenses;

• Strengthen the capabilities of police officers, prosecuting authorities, lawyers, paramilitaries and judges to delineate sexual harassment offenses of other sexual offenses;• Informing the public about the defining aspects of sexual harassment, the rights and guarantees of victims of sexual harassment

In addition, we mention that the objective of preventing and combating sexual harassment has been integrated into policy documents in the field of the rule of law of security and defense. Thus, on March 28, 2018, was adopted the Government Decision regarding the approving of National Program for the Implementation of UN Security Council Resolution 1325 on Women, Peace and Security for 2018-2021 and the Action Plan on its implementation. In this respect, Objective 3. Preventing and combating discrimination, sexual harassment and gender-based violence in the sector provides for the following actions:

• Elaborating internal procedures on preventing and combating discrimination, sexual harassment and gender-based violence in the security sector;

• Designate persons mandated to examine and address cases of discrimination, sexual harassment and gender-based violence;

• Implement a training program to prevent discrimination, sexual harassment and gender-based violence for those in charge of the field;

• Developing an internal mechanism for reporting cases of sexual harassment and gender-based violence;

• Achieving and debating annually institutional progress reports on preventing and combating gender-based violence, discrimination and sexual harassment.

With reference to statistical data reflecting the phenomenon of sexual harassment, we mention that based on the evidence of the Analytical Note "How to Prevent and Reduce Sexual Harassment at Work and Policy Recommendation Studies", conducted by the Partnership Center For Development in 2018, every fifth a woman employed in the Republic of Moldova is subjected to subtle forms of sexual harassment at work (look, inappropriate gestures, language of sexual harassment etc.) and 4 out of 100 women face serious forms of harassment declaring that they have been proposed sexual rewards or favors (Table 7).

Table 7. Forms of sexual harassment at workplace against women, by severity, %

Forms of sexual harassment in work	**%**
Insidious	21,1%
Medium	9%
Severe	4,4%

We mention that, according to the above-mentioned source, cases of sexual relations are increasing (Table 8).

Table 8. Sexual harassment in workplace against women, %, comparative data 2006 and 2016

Sexual harassment in the workplace	2006	2016
Inappropriate glances	29,3	31,1
Obscene gestures	22,2	21,2
Inappropriate touching	12,4	13,5
Language/jokes with sexual connotation	15,0	21,7
Hugs without permission	12	10,5
Kisses without permission	7,1	5,0
Invitations to amorous dating for reward	7,1	8,4
The requirement to have sexual relations for reward	3,8	6,7
Threats in order to have sexual intercourse	1,1	3,2
Use of force in order to have sexual intercourse	0,8	3,3

According to the data provided by the Information Bureau of the National Criminal Register, the number of sexual harassment offenses registered in 2011-2016 was increasing (Table 9).

Table 9. Number of registered sexual harassment offenses, 2011-2016

2011	2012	2013	2014	2015	2016
6	12	16	20	21	23

We also mention that the number of criminal cases examined by the courts in the period 03.09.2010 - 30.06.2015 was 18 (table 10).

Table 10. Number of criminal cases examined by the courts in the periode of 03.09.2010 - 30.06.2015

Criminal cases	Number
Criminal cases, total	10
of which:	
Judgment of acquittal	1
Judgment of cessation	6
Judgment of conviction	9
Pending cases	2

Submitting a complaint to the Council on the Prevention and Elimination of Discrimination and Ensuring Equality is not a prerequisite procedure to address the court. According to Art. 18 of Law no. 121 of 25 May 2012 on Equality, any person who considers himself/herself a victim of discrimination has the right to address the court and to request:

a) determination of the violation of its rights;

b) prohibiting the continued violation of its rights;

c) restoring the situation prior to violation of its rights;

d) reparation of the material and moral damage caused to him, as well as the recovery of the costs;

e) declaration of nullity of the act that led to its discrimination.

The request for summons may be filed for one year from the date the crime was committed or from the date on which the person could have learned of his or her deed.

Trade unions or public associations in the field of the promotion and protection of human rights may also submit actions in court for the protection of persons who consider themselves victims of discrimination.

At the request of the victim of discrimination, the dissemination of information about private life and its identity may be forbidden. The recording, storage and use of personal information on victims of discrimination shall be subject to compliance with the special confidentiality rules laid down by law.

According to art. 21 of the same Law, persons who address the court on the cases of discrimination are exempted from the payment of the state tax.

The legislation in force does not expressly provide for the liability of the employer for actions of discrimination by third parties in relation to the employees of the unit or vice versa. But

such liability is not excluded if the employer is recognized by the court as being guilty of violating the law in force. According to the legislation (Article 10 of the Labour Code, Article 7 of the Law on Equality), the employer has, inter alia, the following obligations:

• to take measures to prevent sexual harassment in the workplace and measures to prevent persecution for filing complaints of discrimination in the competent body;

• to introduce provisions on the prohibition of discrimination by any criterion and on sexual harassment in the internal regulation of the unit;

• to place in the accessible places for all employees the legal provisions that guarantee the observance of equal opportunities and treatment at the workplace;

• ensure that employees' dignity is respected;

• to examine the notifications of the employees and their representatives regarding violations of the legislative acts and other normative acts containing the norms of the labor law, to take measures for their removal and to inform the persons mentioned within the deadlines established by law;

• to compensate for the material and moral damage caused to the employees in connection with the fulfillment of the labor obligations in the manner established by this Code and by other normative acts.

Because the obligations listed above are an integral part of labor law, the State Labour Inspectorate has the right to control their observance by the employer.

Probative task

According to Art. 19 of Law no. 121 of May 25, 2012 on Equality, the person who address the court must present facts that allow the presumption of a fact of discrimination. At the same time, the burden of proving that the facts do not constitute discrimination lies with the respondent, except for the facts that bring criminal liability.

Labour Code **(**art. 8) expressly prohibits any direct or indirect discrimination based on sex, age, race, skin color, ethnicity, religion, political option, social origin, domicile, disability, HIV/AIDS infection, membership or trade union activity , as well as other criteria unrelated to its professional qualities, is forbidden.

In order to achieve the principle stated above, Art. 9 (2) of the Code sets the following obligations for employees:

• to show non-discriminatory behavior in relation to other employees and the employer;

• to respect the right to dignity of other employees.

Different obligations for employers are provided in Art. 10 par. (2) of the Labour Code. These are as follows:

• to ensure equal opportunities and treatment for all persons in employment by profession, guidance and vocational training, promotion at work, without any discrimination;

• to apply the same criteria for assessing the quality of work, sanctioning and dismissal;

• to take measures to prevent sexual harassment in the workplace and measures to prevent persecution for filing complaints of discrimination in the competent body;

• to provide equal conditions for women and men to combine work and family obligations;

• to introduce provisions on the prohibition of discrimination by any criterion and on sexual harassment in the internal regulation of the unit;

• to ensure that employees' dignity is respected.

ARTICLE 27. The right of workers with family responsibilities to equal opportunities and equal treatment

PARAGRAPH 4. The right to parental leave and child care

Efforts to promote gender equality in work and childcare have led to policies that encourage men to actively participate in parental responsibilities, so that both parents are in the workplace, but at the same time to fulfill the responsibilities of the parent.

Increasing number of men choosing parental leave is an important policy objective, not only for improving gender equality in the labor market and family responsibilities, but also for the benefit of children for their good development.

In this context, the statistical data in dynamics presented by the National Social Insurance House reveals the progress registered in this chapter (Table 11).

Table 11. Men-beneficiaries of monthly child-raising allowance up to the age of 3 years, years 2012-2017

Nr.	Period	Absolute data	% of the total number of beneficiaries
1	01.01.2013	270	0,8
2	01.01.2014	528	1,4
3	01.01.2015	1.164	2,9
4	01.01.2016	2147	5,1
5	01.01.2017	3355	7,6
6	01.01.2018	4359	9,6

We also mention that, through Law no. 71 on the amendment and completion of certain legislative acts of 14 Aprilie 2016 was amended and completed the Labour Code of the Republic of Moldova. Therefore, a new article, "124^1 Paternity Leave", has been introduced, according to which paternity leave is granted under the conditions set out in this article in order to ensure the effective participation of the father in the care of the newborn child of the same article, the father of the newborn child shall be entitled to a paternal leave of 14 calendar days.

Art. 124^1 (3) provides that paternity leave is granted on the basis of a written request within the first 56 days of the child's birth. A copy of the child's birth certificate is attached to the application.

By Government Decision no. 1245 of 15 November 2016, the Regulation on the conditions for determining, the method of calculation and payment of the paternal indemnity (published in the Official Gazette no. 405-414 of 25.11.2016), which stipulates the right of the insured father in the public insurance system social worker, employed on the basis of the individual labor contract or in a service relationship under the administrative act, to the paternal allowance for the care of the newborn child for a period of 14 calendar days.

The paternal allowance is granted to the father of the child (insured employee) when the following conditions are met:

1) confirms a total contribution of up to 3 years or of at least 9 months in the last 24 months prior to the date of childbirth;

2) required paternity leave within the first 56 days of the date of the child's birth and is on paternal leave from the basic work unit;

3) requires the paternity allowance to be determined within 30 days from the date of paternity leave;

4) earned a basic income in the last 3 months preceding the child's birthday.

According to the Regulation, the paternal allowance is established starting with May 27, 2016. The paternal allowance will also be granted to the father of the newborn children who benefited from the paternal leave until the date of approval of the nominated Decision.

Thus, the number of fathers who benefited from paternal allowance in the period 2016-2017 are for December 2016 - 60 dads; for the year 2017 - 2559 dads.

In addition, according to the data of the National Social Insurance House, in the situation of 01.04.2018, the average amount of the monthly child allowance for the child up to the age of 3 is 1385 MDL, and the average amount of the paternity indemnity constituted 4292 MDL.

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

General rights granted to trade unions by law are listed in the comments for Art. 5 of the Charter. They are supported by a wide range of warranties designed to provide favorable conditions for the union's work within the unit. In order to ensure these conditions, the Labour Code (Article 390) and the Law on Trade Unions (Article 35) lay down certain obligations for employers, including:

- free granting, to the trade union body of the rooms with the necessary inventory, ensuring the necessary conditions and services for its activity (including repair, heating, illumination, cleaning and security services);
- providing the trade union, telecommunication and informational means of social-cultural objects (rest facilities, camps for children and adolescents) at the balance of the units or leased by them;
- collecting without mayment, of monthly membership fees and transferring them to the settlement account of the respective trade union body;
- remuneration of the work of the heads of the trade union bodies whose individual employment contract has been suspended in connection with the election to the elective office on the account of the unit;
- allocating funds up to 0.15% of the salary fund for their use by trade unions for the purposes set out in the collective labor agreement.

Additionally, the legislation provides for a number of warranties that personally target the representatives of the employees - both in their capacity to be elected in the trade union organs, as well as in the participants in collective bargaining.

The guarantees for participation in collective bargaining have been listed in the comments for Art. 6 of the Charter (Article 29 of the Labour Code) - these are applicable to the trade unions (if any) and to the representatives of the employees elected according to Art. 21 of the Labour Code. In addition to the above mentioned, trade union representatives benefit from the following guarantees:

- The members of elective trade union bodies unreleased from their main workplace are entitled to free time during the program hours for execution of their rights and fulfillment of their trade union obligations, with keeping their average salary. The concrete duration of the working time reserved for this activity is stipulated in the collective labour contract. *(Article 387 (4) of the Labour Code);*
- employees whose individual employment contract is suspended following their election to elective positions in the trade union bodies, after the expiry of their term of office, they are given the previous work place and in the absence thereof another workplace (function) of equal value to the same or, with the agreement of these employees, to another unit. If the assignment of a previously occupied workplace or an equivalent workplace is impossible due to the liquidation of the unit, its reorganization, the reduction of the number or the staff, the employer shall pay to the indicated persons a dismissal allowance equal to 6 average monthly salaries. *(Article 388 (2) and (3) of the Labour Code);*
- the persons elected in trade union bodies of all levels and non-dismissed from the main workplace cannot be subject to disciplinary sanctions and/or transferred to another job without the written preliminary agreement of the trade union body of which they are members. *(Article 387 (1) of the Labour Code);*
- dismissal of employees who were elected in the trade union bodies, regardless of the fact if they were released or not from their main workplace, shall not be admitted within 2 years after

mandate expiration, except the cases of entity liquidation or commitment by the respective employees of some culpable actions, for which the legislation in force stipulates the possibility of dismissal. In such cases, dismissal is made on the basis of general reasons. *(Article 388 (4) of the Labour Code);*

- heads of the primary trade union organization (trade union organizers) non-dismissed from the main workplace cannot be dismissed without preliminary agreement of the higher ranked trade union body. *(Article 87 (3) of the Labour Code).*

Regarding the evolutions made in relation to the previous situation, we inform that on 21 July 2017, Law no. 188, by which was amended Art. 87 of the Labour Code was adopted. If former union members in some cases (staff reductions, inadequacy of the job due to insufficient qualification, repeated breach of labor obligations) could be dismissed only with *the consent* of the trade union body in the unit, since the entry into force of the said law, their dismissal accepts with prior *consultation* of the trade union body in the unit.

ARTICLE 29. The right to information and consultation in procedures of collective redundancy

According to Art. 88 (1) (i) of the Labour Code, if the reorganization or liquidation of the unit implies the mass reduction of the jobs, the employer is obliged to inform at least 3 months in advance about the union bodies in the unit and the respective branch and to start negotiations in order to respect the rights and interests of employees.

The rule covered by Art. 16 (3) of the Unions Law no. 1129-XIV of July 7, 2000 differs from that of the Labor Code - it obliges the employer to inform the branch union also in the event of situations that could cause worsening of the working conditions of the employees:

(3) The liquidation, the reorganization of the unit or the change of the ownership form, the total or partial discontinuation of the production process at the employer's initiative, facts leading to the mass reduction of the jobs or the worsening of the working conditions may be carried out only on the condition of informing, at least 3 months in advance, of the trade union in that branch and the initiation of collective bargaining in order to respect workers' rights and interests.

Article 11(3) of the Law on Employment and Social Protection of Persons in Need of Employment no. 102-XV of March 13, 2003 also provides in such cases for the employer to bring the created situation to the attention of the central and local public administration authorities:

(3) The reorganization or liquidation of the unit and its subdivisions, the total or partial stationing of the production process at the initiative of the administration, any other action leading to the mass reduction of the workplaces shall be allowed only subject to the notification, at least 3 in advance before the time of their commencement, of the respective trade unions and the condition of negotiating with them in order to respect the rights and interests of the employees, informing the central and local public administration authorities at the same time."

At the same time, both the Labour Code and Law no. 102-XV, provide employers with the obligation to inform in writing 2 months in advance about the close dismissal, the employment agency in whose territorial unit the unit is located about the possible dismissal of each employee, according to an approved form National Agency on Employment. After the employee's notice was issued two months earlier, employees participate in the pre-termination services provided by the Agency, which include the following activities:

- informing about the legal provisions regarding the social protection of jobseekers and the provision of employment and training services;
- engaging in free employment and training on how to find a job;
- professional reorientation within the unit or short courses;
- surveying the employees' opinion and counseling them, with the participation of the trade union body, on measures to reduce unemployment.

According to Art. 88(1) (i) of the Labour Code, the criteria for mass reduction of employment are laid down in collective agreements. These criteria are currently laid down in the

Collective agreement at national level no. 11, concluded on March 28, 2012. We reproduce below the relevant provisions:

Article 2.

(1) Establishing as a criterion for mass reduction of employment within the unit the dismissal within a period of 30 calendar days of a number of:

a) at least 30% of the employees, if the employer that reduces the workplaces has between 10 and 49 employees;

b) at least 15 employees if the employer that reduces the workplaces has 50 to 99 employees;

c) at least 15% of the employees, if the employer that reduces the workplaces has 100 to 249 employees;

d) at least 40 employees, if the employer that reduces the workplaces has 250 to 399 employees;

e) at least 10% of the employees, if the employer that reduces the workplaces has more than 400 employees.

(2) A mass reduction of the workplaces shall mean the collective redundancy of at least 30% of the employees of the total number of employees with an indefinite period of individual work contract within 90 days, irrespective of the number of employees employed in the unit.

Article 3.

(1) The employer, in accordance with the provisions of Art. 88(1), (g) and i) of the Labour Code, shall inform in writing the Employment Agency and the trade unions of the unit about:

(a) the reasons for the redundancies;

(b) the number and categories of workers expected to be made redundant;

c) the period when the redundancies will take place;

d) the proposed criteria for the selection of workers to be made redundant;

e) payments to be made to the dismissed employees;

f) the measures to be taken to reduce the impact of redundancy on the employee;

g) other useful information related to dismissal.

2. The trade union body and/or the employees' representatives shall provide the necessary support to the employer and to the employees covered by this agreement in order to carry out the redundancy and possible re-employment procedures.

Article 4.

The unit in which mass layoffs took place and which, after a period of time resumes its activity, has the obligation, according to Art. 11(5) of the Law no.102 of 13.03.2003 on the employment and social protection of jobseekers to inform the dismissed employees about the re-employment, who shall present themselves to the unit within 15 calendar days of at the time of the information.

Article 5.

The employment agencies, with the participation of the employer and the trade union body within the unit, will give the employees, which will be dismissed assistance for their employment, presenting their vacancies on the labor market and the opportunities for retraining.

Article 6.

Under the scope of this Agreement, all the units, irrespective of the type of property and the legal form of organization, fall.

Compliance with the above-mentioned provisions is ensured by the activity of the State Labour Inspectorate, which exercises control over the application of the labor legislation and finds contraventions in this field.

Penalties for non-observance of the legal provisions regarding the right of employees' representatives to information and consultation in collective redundancy proceedings are applied by the court, according to Art. 55 of the ***Contraventional Code.***

Article 55. Violation of labor law, legislation on safety and health at work

(1) Violation of labor law, legislation on safety and health at workshall be sanctioned by a fine of 60 to 84 conventional units for the individuals, with a fine of 120 to 210 conventional units for the accountable person, with a fine of 210 to 270 conventional units for the legal person.

(2) The same actions committed on a minor shall be sanctioned by a fine of 72 to 90 conventional units for the individuals, with a fine of 150 to 210 conventional units for the accountable person, with a fine of 240 to 288 conventional units for the legal person.

In this context, we announce that, following the entry into force of Law no. 208 of 17 November 2016 on the amendment and completion of some legislative acts, the value of the conventional unit of fine increased from 20 to 50 MDL.

A relevant change regarding to Art. 29 of the Charter constituted the completion of the Labour Code with Art. 421 (see the information provided for Article 21), which regulates the right of employees to information and consultation, including in the events of mass reduction of workplaces.