**“LAW AND DEVELOPMENT” PUBLIC ASSOCIATION**

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**INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**(ON THE ARTICLES 6 – 14 OF THE COVENANT)**

First of all, I would like to inform that the “Law and Development Public Association” (LDPA) which is my current workplace was established on 31 May 2005. The main goals of this NGO are to support the improvement of democratic institutions, implementation of legal reforms in Azerbaijan. LDPA has implemented 43 projects (28 legal awareness and legal aid activities; 4 election-related activities; 3 municipality-related activities; 4 activities on parliamentary constituency relations; 4 activities related to non-governmental organizations) until now. As a result of the LDPA activities, approximately 8 thousand people have received different types of legal advice, 3 thousand people benefited directly from legal aid and they were represented before state bodies and the courts, the cases of 21 applicants have been satisfied by the European Court of Human Rights. Additionally, the LDPA has conducted more than 150 local and regional roundtables, workshops and training sessions apart from the 20 publications (handbooks, booklets) on legal defense and analysis. The LDPA has also contributed to the development of the draft law on “Legislative initiative rights of the citizens”.

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**General information**

At present, Azerbaijan has ratified about 60 conventions, including eight major conventions of the International Labor Organization. The Republic of Azerbaijan has also ratified Article 18 of the European Social Charter.

After the adoption of the Constitution, the country has adopted numerous laws and regulations to ensure economic, social and cultural rights.

In addition to legislation that guarantees human rights and freedoms, there are courts and other legal mechanisms designed to ensure these rights and freedoms.

At present three-tier court system – the first instance, the Court of Appeal and Supreme Court are functioning.

At the same time, the Constitutional Court of the Republic of Azerbaijan acts as the supreme body of constitutional control, which is not considered the next judicial instance in the country.

It should be noted that although the rights and freedoms enshrined in the Constitution and legislation generally cover the rights and freedoms provided for in international legal acts, there are many problems in the implementation and protection of these rights.

These problems stem from the fact that the rule of law is not always preferred in the country, legal protection mechanisms do not work and there is no independent judiciary.

In addition, existing mechanisms are not effective enough to ensure economic, social and cultural rights. Although some positive results have been observed in the fight against corruption recently, in general, the incidence of corruption in public institutions operating in the field of social and economic activities and the misappropriation of funds allocated for social security remain the same.

In general, during the Report period, although the government has taken some positive measures in the fields of employment, labor rights, social protection rights, education rights and others, there are some problems yet. These problems mostly consist of the following:

* The unemployment level between economically active people is still high. Although official statistics informed that the indicator of unemployed people is about 5%, researches show that real unemployment level is 25%;
* Unemployed people’s registration and recruitment system are not improved for all unemployed people’s registration, providing them with suitable work. This system does not contain all unemployed people’s registration and salaries on the suggested workplace do not provide normal living conditions;
* In the country, the level of informal employment is not low and this shows itself in the non-state sector more, especially construction and service sectors. Moreover, in the informal employed people sector, housewives’ labor is not little;
* Although labor legislation identifies the equality rights of everyone without any discrimination, it considers some compromises, privileges, and additional warranties for women in the Labour Code. Besides, in the Labour Code, some workplaces and professions are prohibited for women;
* There are some problems in the field of providing labor rights of persons with disabilities. So that, half of the persons with disabilities are at a capable age. However, 32 814 of the people who receive a pension for disability and 823 of the people who receive an allowance are engaged with labor activity. This is 5% of the 600 thousand people with disabilities;
* In some cases, employers violate employees’ rest rights and these typical cases are observed more in the fields of communal services and construction. So that, employees are involved in additional work over the working time, or these cases take place in resting time and holidays;
* Although measures of the government to increase the amounts of the minimum salary, minimum pension, and some social allowance, etc., have positively impacted on improving living conditions of the population’s low-income group, this has not been sufficient to adapt to requirements of the market;
* In the country, comprehensive useful preparation measures have not been taken before the implementation of compulsory insurance system and this system is inefficient for now. Moreover, there is a parallel administration system in the health system now.

**CLAUSE-BY-CLAUSE**

**Article 6. Employment**

In the country, labor relations are mainly regulated by the Labor Code of the Republic of Azerbaijan, but at the same time, there are a number of normative legal acts regulating this area.

5 million 190,1 thousands of the 10 067 108 people are economically active, of which 4 936,8 thousand are employed. According to official data, the number of economically active population increased by 1.14% and the number of employed population by 1.24% in early 2020 compared to 2019.

As of January 1, 2020, the number of employees was 1 645,4 thousand. 914.5 thousand of them work in the public sector and 730.9 thousand in the non-state sector. 24.2% of employees are in production and 75.8% in service sectors.

As of January 1, 2020, the number of job seekers and unemployed people registered with the employment services in the country was 234,895 of which 69,680 (30%) of them were women.

The number of employment contracts increased by 161,000 in 2019, following the government's decision to exempt up to 8,000 manats from taxes on employees with employment contracts from 2019. Also, after the decision of the Government to compensate for salaries in connection with the coronavirus pandemic in April 2020, the number of employment contracts increased by 105,000 as of May 1 of that year.[[1]](#footnote-1)

As of the beginning of 2020, the average monthly nominal wage of employees in the country's economy was 712.1 manat.[[2]](#footnote-2)

By the Order of the President of the Republic of Azerbaijan dated June 18, 2019, the amount of the minimum monthly salary from September 1, 2019 was set at 250 manats.

***Forced labor***

According to Article 35 of the Constitution, no one can be forced to work. On the basis of a court decision, it is allowed to engage in forced labor in accordance with the terms and conditions provided for by law, to be used in connection with the execution of orders of authorized persons during military service, and to perform work required by citizens during emergencies and martial law.

Also, the requirements of Article 17 of the Labor Code prohibit forcing the employee to perform work (service) that is not part of the job function with the use of force by any rules and methods, as well as the threat of termination of the employment contract.

According to Part 2 of Article 17 of the Labor Code, forced labor is allowed only on the basis of relevant legislation related to military or emergency situations, as well as in cases performed under the supervision of relevant state bodies during the execution of court decisions that have entered into force.

According to official data, in 2019, only 6 facts of forced labor were revealed in the country.[[3]](#footnote-3) However, according to economic experts' statements to the media, this figure is below from reality.

***Child labor***

Article 17 of the Constitution and Article 46 of the Labor Code stipulate that a child under the age of 15 may not be employed. An employer violating this requirement of the law shall be fined in the amount of one thousand to one thousand five hundred manats, and legal entities in the amount of three thousand to five thousand manats by Article 192.8 of the Code of Administrative Offenses of the Republic of Azerbaijan.

The Labor Code allows individuals between the ages of 15 and 18 to work under special conditions and rules. When concluding an employment contract with these persons, the written consent of one of their parents or their legal substitutes is required.

Chapter 38 of the Labor Code as a whole regulates the characteristics of labor relations between persons aged 15 to 18. There guarantees for recruitment of employees under the age of 18, work where the labor of these employees is prohibited, concessions in the payment of their labor, prohibitions on their night work, overtime work and work on weekends, as well as to be sent on a business trip, etc. such issues are reflected.

At the same time, it should be noted that there are cases of exploitation of child labor in the field of informal employment. Such cases are observed more commonly in car washes, delivery services of small catering establishments and such areas.

In addition, in practice, the cases of child labor used in begging are also observed.

***Measures against unemployment and unemployment benefits***

According to official statistics, by the beginning of 2020, the unemployment rate in the country is 4.8 percent (about 250,000 people). However, according to economic experts' statements to the media, this figure is about ten times higher. It should be noted that during the coronavirus pandemic alone, the government made lump-sum social payments to 600,000 unemployed people over three months.

As of February 1, 2020, the number of unemployed registered in the employment services was 86,200, of which 37.7% of them were women.

Also, the process of compensating the unemployed during the coronavirus pandemic has revealed that the number of unemployed in the country is several times higher than the officially announced figure. According to official data, covering this period in March-April, social support was provided to 600,000 unemployed people at 190 manats each. About 400,000 unemployed people were denied such payments.[[4]](#footnote-4)

According to the State Employment Service under the Ministry of Labor and Social Protection of the People, in 2019, 103 028 unemployed and job-seekers were provided with suitable jobs.

According to the Order of the President of the Republic of Azerbaijan No. 1941 dated April 7, 2016 "On additional measures to ensure self-employment", the self-employment program is implemented in the country since then.

In 2019, 10 354 people were involved in the self-employment program, and in 2020, 12 000 families are planned to be involved in the self-employment program.[[5]](#footnote-5)

The Ministry of Labor and Social Protection of the Population has approved the "Action Plan for 2020 to improve the recruitment of unemployed and job-seekers."

By the Order of the President of the Republic of Azerbaijan dated February 13, 2020, the "Action Plan for the implementation of the Employment Strategy for 2020-2025" was approved.

With the entry into force of the Law on Unemployment Insurance on January 1, 2018, the deduction of 0.5% unemployment insurance premiums separately from the calculated salary of the employee and the employer's salary fund has started.

As of February 1, 2020, the average amount of unemployment insurance payments amounted to 295.6 manat, which is very low compared to current market relations.

***Vocational education and training programs***

In 2019, there were 111 vocational schools in the country, where 23,965 people studied. In order to ensure flexible management in the field of vocational education, on the basis of 55 vocational schools, 24 specialized vocational education centers have been established in recent years. Diagnostic assessment of knowledge and skills of 2435 engineering and pedagogical staff working in vocational education institutions was carried out, their weekly lesson load norm was increased by 1.5 times, monthly salary was increased by 2 times on average.[[6]](#footnote-6)

In the field of vocational education, 24 specialized vocational education centers have been established in recent years on the basis of 55 vocational schools.

For the first time in the 2019-2020 academic year, students were admitted in accordance with the Law of the Republic of Azerbaijan "On Vocational Education" on the levels of primary and technical vocational education, 14.6 thousand people successfully passed the competition and were admitted to vocational education institutions.

**Problems in the field of employment**

* The unemployment level between economically active people is still high. Although official statistics informed that the indicator of unemployed people is about 5%, researches show that real unemployment level is 25%. Note that, during the Coronavirus pandemic period the number of unemployed people, applied for one-time social payment, was approximately 5 times more than the officially announced unemployment level;
* Unemployed people’s registration and recruitment system are not improved for all unemployed people’s registration, providing them with suitable work. This system does not contain all unemployed people’s registration and salaries on the suggested workplace do not provide normal living conditions. Besides, the unemployment allowance is less than the comparison of real market prices.
* In the country, the level of informal employment is not low and this shows itself in the non-state sector more, especially construction and service sectors. Moreover, in the informal employed people sector, housewives’ labor is not little. As the result, all these deprive workers of social protection rights – state warranty for unemployment, salary for work which is more than work period, social vacation, and pension.
* In the country, reasonable reforms are not implemented in the expansion of the labor market, the creation of sustainable workplaces, and also production and industry enterprises. The vast majority of work, which are introduced as new workplaces, are more seasonal and temporary characteristic and the level of salaries are mainly low in these workplaces. Besides, although many vocational education schools and lyceums on technical vocational education have been opened, some of these professions, which are educated in these lyceums, do not match with professions needed more in the labor market. Moreover, sometimes vocational education programs do not suit the needs of the labor market completely.

**The followings are recommended for the elimination of problems in the field of employment:**

* + In “Employment Strategy of the Republic of Azerbaijan for 2019-2030 years” and “Measure Plans on the implementation of Employment Strategy for 2020-2025 years”, adding of concrete activities and measures which serve for the solution of above problems is expedient.
  + Refusal of post-Soviet stereotypes in the unemployed people’s registration and recruitment systems, and also the implementation of the new registration and recruitment system, which are based on the practice of economically improved countries, is important. Moreover, the unemployment allowance must be suitable for the requirements of real market relations and living level.
  + In the country, preparation of special state programs for the elimination of informal employment and improving normative legal acts system according to this are expedient. Besides, to inspire employers in the field of formalizing labor relations on labor contracts and civil law contracts, more long-term tax concessions (approximately 20 years) for employers and also reducing degrees of social insurance payments from 22%-15% to 15%-10% are important. Furthermore, for some category persons, also housewives, starting the implementation of working from home or distantly can lead to positive practice in this field.
  + Preparation of special state program for the expansion of labor market and extension of permanent workplaces, creation of large enterprises and service objects in the field of agriculture and service in the country and considerable state support to private sector can improve significantly the condition exists in this field. Besides, preparation for professions, needed more in the labor market in technical vocational schools and lyceums, must be preferred.

**Article 7. Labor law**

***Equal labor***

The Constitution, the Labor Code, the Law on Guarantees of Gender (Men and Women) Equality and other legislative acts recognize the equality of labor rights for all, as well as other rights.

Also, with article 7 of the "Law on Guarantees of Gender (Men and Women) Equality" a number of responsibilities of the employer in the labor activity are included.

Article 8.1 of the same law stipulates that if men and women are treated differently in the case of promotion, vocational training and additional education, and in assessing the quality of work and dismissing, with the request of the employee the employer must justify that the difference is not related to the employee's gender.

On top of that, an entire chapter, Chapter 37 (Articles 240-246) of the Labor Code, is devoted to women's labor rights, guarantees in their implementation, as well as provisions on certain benefits and privileges in labor relations. Providing the establishment of benefits, privileges and additional guarantees in labor relations for women, the disabled, persons under the age of 18 and others in need of social protection by article 16 of the Labor Code is not considered discriminatory. Also, according to Article 3.2.1 of the "Law on Guarantees of Gender (Men and Women) Equality", they are not considered discriminatory.

In addition, according to Article 241 of the Labor Code, women's labor in workplaces with difficult and harmful working conditions, as well as in underground tunnels, mines and other underground works, involving women in lifting more than 15 kilograms of heavy objects and transporting 10 kilograms of goods from one place to another and such activities are prohibited. In accordance with the requirements of this article, by the Resolution of the Cabinet of Ministers of the Republic of Azerbaijan dated October 20, 1999 No. 170 the "List of industries, professions (positions), as well as underground work, where the use of women's labor is prohibited and working conditions are harmful and heavy" (the List) was approved.[[7]](#footnote-7)

According to this List, the use of women's labor in 678 works on 38 sectors of the economy such as industries, occupations (positions) with harmful and difficult working conditions, harmful works, underground work, etc., are prohibited. Workplaces and occupations where women's labor is prohibited are mainly explained by the fact that women's health, especially reproductive health is harmed, that these occupations and workplaces are unsafe and heavy, and that they require great physical effort.

According to the Labor Code, an employee has the right to receive no less than the minimum wage set by the state for his/her own work without discrimination. Salary is paid not less than the amount determined by the employment contract, as well as the amount determined on the basis of the tariff (position) salaries provided for in the concluded collective agreement.[[8]](#footnote-8)

According to article 9 of the "Law on Guarantees of Gender (Men and Women) Equality" salaries, bonuses and other material payments made in order to motivate the employee working in the same workplace, with the same qualification, in the same working conditions, performing the same valuable work must be paid in the same way regardless of gender.

Labor law also guarantees the employment rights of persons with disabilities on an equal basis with others.

Chapter 5 of the Law on the Rights of Persons with Disabilities establishes norms related to the implementation of the labor rights of persons with disabilities, ensuring employment, making workplaces accessible to people with disabilities and making them suitable for use, duty of employers employing persons with disabilities as a result of accidents at work or occupational diseases, working conditions of persons with disabilities, their individual labor and entrepreneurial activity.

The Labor Code of the Republic of Azerbaijan provides for a number of privileges in the exercise of labor rights of persons with disabilities: Passing attestation of 1st and 2nd group disabled employees is not required; their working week may not exceed 36 hours and they are assigned part-time work. In addition, persons with disabilities, regardless of their disability group, cause and duration, are entitled to at least 42 calendar days of paid leave and up to one calendar month of unpaid leave.

In addition, the Law on Employment gives preference to unemployed people with disabilities, as people with special needs for social protection (Articles 25.5 and 24.9). According to Article 28.1.7 of the Law, the state must create additional jobs and social enterprises and implement targeted programs to ensure the employment of persons with special needs for social protection and have difficulty finding employment. According to Article 11 of the law, the state provides additional guarantees to people with special needs for social protection and have difficulty finding employment by creating additional jobs and social enterprises, organizing vocational training courses based on adapted training programs, and setting quotas as well.

In addition, the Cabinet of Ministers has a number of decisions in this area, including "Rules for the introduction of quotas for citizens with special needs for social protection and have difficulty finding employment", "List of enterprises not subject to quotas", "Standards of jobs for people with disabilities" and normative legal acts such as “Rules for implementation of control in the field of employment”, “Rules for state monitoring in the field of rights of persons with disabilities” have a special place.

Along with developing the legal framework for the employment of persons with disabilities, the government is also implementing a number of measures.

At present, half of the more than 600,000 people with disabilities in Azerbaijan are at working age. 32,813 people receiving disability pensions and 823 people receiving benefits are employed.

In 2019, the State Employment Service (SES) of the Ministry of Labor and Social Protection of Population provided 2,200 people with disabilities with suitable jobs, 1,495 people were involved in public works and 994 people in vocational activities.

At the same time, we consider it necessary to note that in reality, employers are not interested in hiring people with disabilities. Because the labor legislation provides for a number of benefits for these people, which is not in the interests of employers.

According to the "Rules for the application of quotas for citizens with special needs for social protection and difficulty in finding employment" a quota is set at the rate of 3 percent of the average annual number of employees in enterprises with 25 to 50 employees, at 4 percent in enterprises with 50 to 100 employees and 5 percent in enterprises with more than 100 employees.

In addition, the Cabinet of Ministers Resolution No. 380 dated September 3, 2019 approved the "Workplaces Standards for Persons with Disabilities." Here the general requirements for the workplace of persons with disabilities, requirements for the workplace of persons with disabilities moving in a wheelchair, workplace requirements for persons with visual impairments, workplace requirements for persons with visual impairments, workplace requirements for persons with complete hearing impairment, workplace requirements for persons with hearing and visual impairments, and the norms for the requirements of the workplace of persons with hearing impairments have been identified.

***Everyone's same opportunity to be promoted to higher positions only on the basis of work experience and qualification level***

According to article 8.2 of the "Law on Guarantees of Gender (Men and Women) Equality" a person who has been rejected for employment has the right to request a written explanation from the employer about the education, vocational training, experience, professional qualities and other advantages of the recruited member of the opposite sex.

According to Article 185 of the Labor Code, employees who excel in performing their job functions at a high level of professionalism and adhering to internal disciplinary rules are rewarded by the employer with gifts of money or valuables, additional leave, individual pay, higher personal insurance, sanatorium-resort treatment, paying the cost of a tourist trip, applying for a state award in accordance with the established procedure, and other incentives.

***The right to rest***

Article 37 of the Constitution states that employees with a contract of employment are provided with working day defined by law but not more than 8 hours a day, weekends and holidays, paid leave of not less than 21 calendar days at least once a year.

According to Article 90 of the Labor Code, the duration of daily working hours in a six-day working week may not exceed 7 hours if the weekly norm is 40 hours, 6 hours if the weekly norm is 36 hours and 4 hours if the weekly norm is 24 hours.

According to Article 104 of the Labor Code, every employee must be allowed to use weekly days off continuously. The number of days off per week should be two days in a five-day working week and one day in a six-day working week.

The Labor Code provides norms for basic and additional leave, social leave, educational and creative leave, as well as unpaid leave.[[9]](#footnote-9)

Observations show that workers in the public utilities, gas, electricity and water supply sectors in the country are often employed on weekends and holidays, and are not paid for the days off they work.

***Working conditions that meet safety and hygiene requirements, and fair salary***

Article 14 of the Labor Code provides for the provision of healthy working conditions as one of the responsibilities of public authorities in the field of labor relations, and Article 54 provides for the observance of labor protection and technical safety norms as one of the responsibilities of the employer. Observance of labor protection rules is also one of the duties of the employee.[[10]](#footnote-10)

According to Article 222 of the Labor Code, the employer must organize control over healthy and safe working conditions, hazardous and harmful production factors, and regularly and timely inform employees about changes in this area. The results of the attestation are reported to the labor collective. Based on the results of the attestation of workplaces, the employer must take the necessary measures to bring them into line with applicable occupational safety normative acts. The employer must provide rooms for warming or resting of employees working outdoors or in unheated indoor buildings and hot workshops during the cold and hot seasons of the year.

It is a criminal offense to cause serious or less serious damage to human health, as well as death as a result of negligence as a result of a violation of the rules of technical safety or other rules of labor protection by law and is punished by a fine and imprisonment in accordance with the circumstances of the case.[[11]](#footnote-11)

It should be noted that insurance coverage against loss of professional ability to work as a result of industrial accidents and occupational diseases is regulated by the "Law on Compulsory insurance against loss of professional ability to work as a result of industrial accidents and occupational diseases" and this law imposes a mandatory obligation on employers to insure employees.

***Rest, leisure and reasonable limitation of the working day, and paid regular leave, as well as payment for holiday days***

According to Articles 109 and 164 of the Labor Code, rest, leisure and reasonable limitation of the working day, and paid regular leave, as well as holidays are paid not less than twice the daily wage in the time payment system, not less than double wages in the system of remuneration of labor, for employees receiving a monthly salary not less than the amount of the daily official salary in addition to the salary if the work is performed within the norm of monthly working hours, not less than twice the daily official salary in addition to the salary if the work is done in excess of the monthly working time norm.

The average salary paid for the period of leave is determined on the basis of the average salary of the 12 calendar months preceding the month in which the leave is granted, regardless of the year in which it is granted.

**Problems in the field of labor rights**

* + Although labor legislation identifies the equality rights of everyone without any discrimination, it considers some compromises, privileges, and additional warranties for women in the Labour Code. Besides, in the Labour Code, some workplaces and professions are prohibited for women. According to this, “List of works, professions and underground works which are prohibited for women, harmful and heavy labor condition exists” has been confirmed by the Decision No. 170 of the Cabinet of Ministers on 20 October 1999. On this List, 678 harmful and heavy works, professions for labor condition on 38 fields of economics, and also the implementation of women’s labor in underground works are prohibited. Although these concessions, privileges and additional warranties are evaluated as positive discrimination, we consider that all these are essentially sexual discrimination;
  + There are some problems in the field of providing labor rights of persons with disabilities. So that, half of the persons with disabilities are at a capable age. However, 32 814 of the people who receive a pension for disability and 823 of the people who receive an allowance are engaged with labor activity. This is 5% of the 600 thousand people with disabilities. This condition is usually related to not being of employers interested in recruit persons with disabilities, being formal of workplaces determined by quota and less amount of workplaces where have the special condition;
  + In some cases, employers violate employees’ rest rights and these typical cases are observed more in the fields of communal services and construction. So that, employees are involved in additional work over the working time, or these cases take place in resting time and holidays. However, salaries are not generally paid to employees for additional work. As a result of the high level of unemployment in the country, employees, who work in this field, remain in force to agree with this condition in order not to lose their work.
  + In the country, available minimum salary and average monthly wages are also quite less with the comparison of requirements of real market prices.

**Recommendations on the elimination of problems in the field of labor rights**

* + The Republic of Azerbaijan has joined to the Conventions about “Discrimination in the fields of labor and employment” of the International Labor Organization and also about “Equal opportunities and treatment for male and female employees – workers with family duties” and has taken responsibilities following the requirements of this Convention. Moreover, according to the official statistics, the economic activity of the population between women and men is 62,9% and 69,7% (respectively). In this case, it is recommended that all compromises and privileges concerning women must be abolished in the Labor Code, and these must only be applied for pregnant and women with children under the age of one and a half;
  + Related to providing favorable condition for labor rights of persons with disabilities, it is recommended that stimulant concessions (tax concessions, discounted business credits, etc.) for employers, workplaces meet the necessary standards, special enterprises should be created, state control to providing labor rights of persons with disabilities must be strengthened and sanctions for violation of the labor rights must be hardened in the country;
  + State control for providing the labor rights of employees, also the rights to rest, and fair payment of labor must be strengthened and regular monitorings by the State Labor Inspection must be implemented. In addition, the amounts of minimum salary and average monthly salary must be increased in accordance with living minimums and providing decent living standard.

**Article 8. Trade Unions**

The Constitution guarantees the right of everyone to form or join a trade union or other public association and the free operation of these unions.[[12]](#footnote-12)

According to Article 19 of the Labor Code, a trade union organization may be established on the basis of purely voluntary principles, without any distinction between employees or without prior permission from the employer. By joining relevant trade unions employees may engage in trade union activities to protect their labor, social, and economic rights and legitimate interests. According to the Law on Trade Unions, workers, retirees, and people receiving an education can form trade unions voluntarily, without any distinction and prior consent, as well as have the right to join trade unions and engage in trade union activities to protect their legitimate interests, labor, social, and economic rights. Trade unions are independent from government agencies, enterprises, political parties and public associations, and do not report to them. Any interference by state bodies and officials that restricts the rights of trade unions or impedes their legal activities within the framework of their charters is prohibited.

Trade unions participate in the implementation of control in the field of employment in accordance with Article 35 of the Law of the Republic of Azerbaijan "On Employment".

The Azerbaijan Trade Unions Confederation (ATUC) covers 16,135 trade union organizations and about 1121,946 trade union members.

**Problems in the field of Trade Unions**

According to Article 261 of the Labor Code, the parties to a collective labor dispute are employers, employees (labor collective or part thereof) or trade unions. Trade unions have the right to hold strikes, as well as to hold other mass events by assembling freely in accordance with the legislation in order to achieve a lawful and fair settlement of collective labor disputes, within the scope of their powers established by this Code and other normative legal acts.

Observations show that in the country, all counterpart organizations, also Azerbaijan Trade Unions Confederation, which combines all trade unions in itself, do not operate independently. These institutions have formal characteristic like being in the post-Soviet Union and prefer to protect employers’ interests, despite their missions. Analysis of court practice on labor disputes shows that trade unions usually perform for employers’ benefits in labor disputes. In the result, these institutions do not implement their legal functions and they operate only formally;

**It is recommended** that the State must implement relevant measures for the creation of trade unions by their own initiatives, their independent activity and implementation of functions defined by law and severe sanctions related to interference to their activity and functions must be considered in the legislation. Furthermore, Azerbaijan Trade Unions Confederation, which has not any role in the activity of trade unions and protection of their rights and interests, must be omitted;

**The right to strike**

According to Article 36 of the Constitution, the strike right of those working on a contract basis may be restricted only in cases provided by law. Military servants and civilians serving in the Armed Forces of the Republic of Azerbaijan may not go on strike.

The Labor Code implies the right of employees to strike alone or with others. It states that if the employer does not provide safe working conditions and there is a threat to health or life in this regard, the employee may refuse to perform the job function and declare a strike in the prescribed manner. The Labor Code provides for the use of strikes as a legal means of resolving collective labor disputes. The Labor Code provides for the right of workers or trade unions to strike from the moment a collective labor dispute arises. If the parties have agreed to use peaceful methods of resolving the dispute, a strike is allowed when these methods fail to resolve the collective labor dispute. If the employer unreasonably prolongs the settlement of the dispute by conciliatory means, as well as fails to fulfill the agreements reached by conciliatory methods, the labor collective, the trade union body has the right to go on strike directly. Participation in a strike is voluntary. Individuals who force a person to participate in a strike or refuse to participate by using force or threatening to use force or by using his /her financial dependence are liable in accordance with the legislation. Strikes are prohibited in some service areas (hospital department, power supply, water supply, telephone, air and rail traffic management, fire protection service) that are vital to human health and safety. Compulsory arbitration is applied when the parties are unable to resolve the collective labor dispute in these areas by conciliation.[[13]](#footnote-13)

It should be noted that although the legislation on the right of workers to strike contains the necessary legal norms, people can not really exercise these rights.

**Problems in the field of the rights to strike means that** the implementation practice of these rights absolutely do not exist in the country. Firstly, the reasons for this tendency are the negative attitude of the State to these cases, its approach to strikes as potential political actions. Besides, employers are also against these strikes, and employees avoid trying to these actions because they cannot get support from administrative bodies, trade unions and as a result, they will lose their jobs. We consider that generally, the attitude of the government to these actions must change.

**Article 9. The Right to Social Protection**

In 2019, the nominal income of the country's population increased by 7.4 percent compared to the previous year and amounted to 57035 million manats, and the average per capita income was 5758.6 manats. The average monthly nominal wage of employees in the country's economy increased by 13.7% compared to the same period in 2018 and amounted to 614.2 manats. Salaries in the oil and gas sector amounted to 3,060.8 manats, in the non-oil and gas sector 559.0 manats. The salaries of employees of state enterprises amounted to 506.9 manats, and 751.6 manats in private enterprises.[[14]](#footnote-14)

The living wage for 2020 is set at 190 manats for the country, 201 manats for the working population, 157 manats for pensioners and 170 manats for children. As of January 1, 2020, the number of insured registered in the individual registration system of the SSPF increased by 222,882 people or 6% compared to the same date in 2019 (3711,939 people) and reached 3,934,821 people.

The average monthly amount of labor pensions was increased from 227.8 manats as of January 1, 2019 to 262 manats as of January 1, 2020, including the average monthly amount of old-age pension from 256.5 to 295 manats, the average monthly disability pension from 185 to 225 manats and the average monthly pension for the loss of the head of the family from 175.7 to 201.1 manats, respectively. The average monthly amount of pensions increased by 15.1% compared to the previous year.

From April 1, 2019, the amount of social benefits assigned to many categories of the population has been increased. Thus, the amount of social benefits for age has been increased from 73 to 130 manats, the amount of disability benefits respectively from 82 to 150 manats for I degree disability, from 61 to 130 manats for II degree disability, 52 to 110 manats for III degree disability, the amount of allowance for children with disabilities under 18 years of age from 82 to 150 manats, the amount of allowance for the loss of the head of the family from 68 to 80 manats, the amount of allowance for guardians of orphans and children deprived of parental care from 61 to 100 manats, the amount of allowance for children of conscripts from 68 to 100 manats, the amount of allowance for women with more than five children from 33 to 55 manats for each child, the amount of allowance for the birth of a child from 109 to 200 manats the amount of allowance for a funeral from 146 to 300 manats.

In 2019, the average pension in the country increased by 15 percent, old-age pension by 15 percent, and disability pension, the most vulnerable category, by 22 percent. From October 1, 2019, the minimum pension is set at 200.00 manats.

As of May 2020, the number of families receiving targeted state social assistance was 82,300 families (342,000 family members). The amount of assistance per family is 224 manat.[[15]](#footnote-15) Because of the loss of the head of the family currently 116,000 families receive a monthly pension and 27,000 families receive a monthly allowance.[[16]](#footnote-16) Persons who have reached the age of retirement, but are not entitled to an old-age pension, receive a social benefit of 130 manats.

The average monthly amount of labor pensions was increased from 227.8 manats as of January 1, 2019 to 262 manats as of January 1, 2020, including the average monthly amount of labor pension for that date from 256.5 to 295 manats, the average monthly amount of disability pension from 185 to 225 manats, and the average monthly amount of pension for the loss of the head of the family from 175.7 manat to 201.1 manat. The average monthly amount of pensions increased by 15.1% compared to the previous year.

In 2019, the number of pensioners was 1295.5 thousand, the number of recipients of social benefits and compensation was 420.8 thousand, and the number of pensioners was 62.5 thousand.

The minimum amount of labor pension in Azerbaijan has been set at 160 manats since March 1, 2019 and 200 manat from October 1, 2019.

The need threshold for 2019 has been set at 143 manats. At the end of 2019, the number of families receiving Targeted State Social Assistance was 71.1 thousand (number of family members 297 thousand), which is 29.3 thousand families or 69% more than last year. At the end of 2019, the average monthly amount of Targeted State Social Assistance per family was 207.6 manat.

***Social protection of persons with disabilities***

About 20 draft legislative acts arising from the Law of the Republic of Azerbaijan "On the Rights of Persons with Disabilities" have been prepared, which are aimed at ensuring targeting and social justice in the field of definition of disability and improving the quality of services provided.

During 2019, rehabilitation services were provided to 10,457 people with disabilities and children with disabilities under the age of 18 in the rehabilitation centers of the Ministry of Labor and Social Protection of the People. In 2019, the Prosthetic and Orthopedic Rehabilitation Center of the Ministry of Labor and Social Protection of the Population provided prosthetic and orthopedic rehabilitation services to 9,682 people with disabilities.

During this period, the Center provided 2,052 wheelchairs, 1,732 lower and upper limbs, as well as breast prostheses, 1,386 lower and upper limb orthoses, 9,395 various rehabilitation aids, 554 corsets for the back and neck, 2,830 pairs of prosthetic shoes, 4,192 pairs of orthopedics shoes, 518 four-legged means of support. Persons with disabilities were also provided with 3,203 armpit and elbow sticks, 2,693 crutches, 678 hearing aids and other rehabilitation aids.

In total, the Prosthetic and Orthopedic Rehabilitation Center provided 38,041 rehabilitation aids to people with disabilities and inpatient rehabilitation services to 745 people in 2019.

340 people have been admitted to the State Social Protection Fund's Social Shelter for homeless people over the age of 18 and the Social Shelter and Rehabilitation Institution for neglected, lonely and socially vulnerable minors, so far.

As of May 2020, the Ministry of Labor and Social Protection of Population has provided housing to 7,700 families of martyrs and war invalids.

***Social support to the population during the coronavirus pandemic***

In April and May 2020, the government made lump sum payments of 190 manats per month to a total of 600,000 people. The Ministry of Labor and Social Protection of the Population has posted a list of 600,000 people who received a lump sum payment on the official website of the Ministry (sosial.gov.az). 229 million manats was spent for this purpose.

In June 2020, lump sum payments of 190 manat were made in 13 cities and regions where a special quarantine regime is applied. These payments covered about 290,000 people and cost about 55 million manats.

According to economists, the one-time assistance did not cover all low-income people in need of social support and did not fit into the minimum consumer basket.

At the same time, about 400,000 people who applied for lump-sum social payments were denied lump-sum payments of 190 manats. Observations show that most of the denials were unfounded and that the investigation of the denials was not transparent and objective.

**Problems in the field of social insurance rights**

* + Although measures of the government to increase the amounts of the minimum salary, minimum pension, and some social allowance, etc., have positively impacted on improving living conditions of the population’s low-income group, this has not been sufficient to adapt to requirements of the market.
  + Although many measures have been taken in the field of social protection of persons with disabilities, persons’ accessibility with disabilities to some social services, necessary treatment, and rehabilitation in treatment-recovery centres is not sufficient. Moreover, providing wheelchairs and other equipments of persons with disabilities is not in a sufficient level. In addition, in regions providing transport vehicles and other equipments of persons with disabilities is not usually a necessary level.

**It is recommended that** measures of the government in the field of providing decent living conditions of the population’s low-income part and adapting current market requirements must be continued. Besides, in the fields of accessibility of persons with disabilities to some social services, necessary treatment, and rehabilitation in treatment-recovery centres, supplying them with necessary medicines and equipments, further and systematic measures must be taken.

**Article 11. Protection from poverty**

According to Article 12 of the Constitution, ensuring a decent standard of living for citizens is one of the highest goals of the state, and Article 16 states that the state of Azerbaijan should improve the welfare of the people and every citizen, to take care of a decent standard of living.

Approved by the decree of the President of the Republic of Azerbaijan dated October 30, 2018 the "Employment Strategy of the Republic of Azerbaijan for 2019-2030" was adopted. Expanding the scope and increasing the effectiveness of active employment measures, strengthening the integration of citizens with special needs for social protection and difficulties in finding employment into the labor market, development of social dialogue and prevention of informal labor relations, and developing a system for monitoring and forecasting the labor market are also among the priorities of the new Employment Strategy.

According to official statistics, poverty in Azerbaijan was 4.8 percent in 2019.[[17]](#footnote-17) However, according to independent economists, the poverty rate in the country is many times higher.

It should be noted that in March-April 2020, in connection with the coronavirus pandemic the government provided one-time social assistance of 190 manats each to 600,000 people in need of social protection. About 400,000 people were denied such payments. This fact in itself shows that the number of poor people in the country is many times higher than the official figures.

**Article 12. The right to health protection and medical care**

In 2019, the funds allocated from the state budget for the development of the country's health amounted to 1,042.5 million manats, including 152 million manats for state programs related to public health, which is respectively 41% and 6.2% more than in 2018.

In 2019, the number of doctors per 10,000 population was 32.9, the number of paramedics was 54.8, and the number of hospital beds was 44.7.[[18]](#footnote-18)

In 2018, 17 maternal deaths were registered in the country, and 21 in 2019. Infant mortality under 1-year-old was 1,547 in 2018 and 1,557 in 2019. Taking into account international live birth criteria the infant mortality rate was 11.0 promill.

On average, more than 91% of children are examined annually under the State Program on Compulsory Medical Examination of Children. 4.0% of the children who underwent medical examination were registered in the dispensary, and 0.9% were placed in specialized medical institutions due to their health condition.

In 2019, more than 47 million outpatient visits were made to state medical institutions, and 712,000 patients underwent inpatient treatment. During this period, about 8,000 people used rehabilitation and sanatorium services. In 2019, 915 people underwent cardiac surgery at the expense of the state, of which 263 were children.

So far, compulsory health insurance has been introduced as a pilot project in three regions of Azerbaijan. In January 2020, the introduction of compulsory health insurance in stages began across the country, and from October 2020 it is expected to cover the entire country. Compulsory health insurance provides emergency and urgent medical care (including ambulance service), primary health care (family doctor), outpatient examination and treatment, inpatient treatment, functional-diagnostic examinations, physiotherapy services, laboratory examinations, pregnancy and birth services, emergency vaccinations, scheduled vaccinations based on the vaccination schedule of children, surgery (including high-cost vital open and closed cardiovascular operations).

It should be noted that compulsory health insurance was introduced late in Azerbaijan and people's expectations from this system are not high.

***Protection of public health during the coronavirus pandemic***

The government of Azerbaijan launched a response to the coronavirus pandemic a little bit late. Thus, it failed to act quickly in the closure of borders, the introduction of quarantine and measures to prevent the spread of the virus. As a result, coronavirus infections continue to be more prevalent in densely populated cities and relatively low in less populated areas.

Relatively few infections in March-April 2020 became more common in June-July and according to official data, the number of infections averaged 500 per day and continues in the same trend.

According to official data, more than 20 hospitals with a total of 10,000 beds have been allocated for coronavirus patients in the country. There are about 30 laboratories for this purpose and Azerbaijan ranks about 40th in the world in terms of the number of tests per capita.

In previous months, when infections were low, the number of beds and medical care in coronavirus hospitals was sufficient, but in the later stages, thousands of people did not have access to hospital treatment. Only critically ill patients were hospitalized, and the majority of patients were mostly treated at home.

Because the home treatment system is not well established, using private health services people are more likely to seek treatment at their own expense without government support. Due to the lack of artificial respirators and devices for critically ill patients in hospitals, not all patients in critical condition were provided with the necessary medical services.

Thus, due to the coronavirus pandemic, the health system of Azerbaijan has not been able to establish the necessary level of public health, and the Government has not controlled the coronavirus pandemic.

**Problems in the fields of protection of health and medical care**

During the Report period, although some positive measures have been taken like reforms in the health system of the country, putting new health enterprises to use and supplying them with medical equipments fitted to modern demands, until several years administration of health system had been implemented as a post-Soviet administration system. Only several years ago, the compulsory health insurance system has been started to apply in the country starting from regions. Observations show that useful and relevant preparation measures have not been implemented before applying of the compulsory medical insurance system. In addition, the parallel administration system exists in the health system now. So that, in the country, besides to the Ministry of Health, administration of the health system is also implemented by the State Agency on Mandatory Health Insurance and its institution of Administration Union of the public legal entity “Administration of the Regional Medical Divisions” (TABIB) in the country. This type of administration impacts negatively on the efficiency of the administration of health remarkably.

**It is recommended that** appropriate measures must be implemented for adapting a compulsory medical insurance system to international standards and double administration in the health system must be eliminated in the country.

**Article 13 – 14. The right to education**

In recent years, important strategies and programs have been adopted in the field of education, and the development of education has become one of the main priorities of state policy. Expenditures on education from the state budget have increased significantly, increasing by more than 60% compared to 2013, from 1.4 billion manats to 2.2 billion manats in 2019.

Pre-school education of 5-year-old children in general education institutions at the expense of the state budget was increased from 24% in 2013 to 84.2% in 2019, and more than 105,000 children were involved in education. It is planned to increase the school enrollment rate to 90% next year.

In 2018, there were 52 universities, 176,723 students, 4,439 general education institutions, and 1,561,875 pupils in the country.

As of 2019, there were 1,803 pre-schools in the country, and there were 126,866 children in these institutions.[[19]](#footnote-19)

In the 2018-2019 academic year, 10.5 thousand people with disabilities were involved in special education across the country. 6655 of them were involved in home education, 629 in special schools of the Baku City Education Department. 3272 people study in special educational institutions, integration trained educational institutions and special classes at general education schools.

The number of state-funded scholarships has been increased by 16,000 since March 1, 2019, and the number of students receiving scholarships is expected to reach 45% in the 2019-2020 academic year.

Opportunities for higher education in the country have been expanded, and the number of students admitted has increased by 21% over the past five years. The growth trend was continued in the approved admission plan in 2019, the admission plan for the bachelor's degree increased by 48.5 thousand people (6.4%) compared to 2018.

The training of scientific and pedagogical staff was continued in the doctoral program which is a top-level of higher education, 356 people were admitted to the doctor of philosophy programs, 328 to dissertations, 61 to doctoral programs and 84 to dissertations. In the 2019-2020 academic year, the number of foreigners from about 90 countries studying in Azerbaijan was more than 6 600, increased by 21% compared to the previous year.

The project “Implementation of inclusive education at the primary education” implemented by the Ministry of Education jointly with UNICEF was continued. Within the framework of the project, 66 students with disabilities were involved in inclusive education in 4 pilot schools (schools number 220, 138, 252 and 202). In the 2018-2019 academic year, 10.5 thousand people with disabilities were involved in special education across the country.

In 2019, 74 children were placed in state children's institutions, and 51 children were returned from state children's institutions to the care of their biological families and close relatives. In order to improve the welfare of families and their children who cannot take care of their children, to prevent them from entering institutions, 40 children were sent to rehabilitation services, 21 children to alternative services in family-type small group homes, and 264 children with disabilities to rehabilitation services.

Thereby, in general, it can be considered that the necessary legal and practical measures have been taken in the field of education.

However, at the same time, in the country there are still some problems in the field of pre-school, primary, general and higher education.

**Problems in the field of education rights**

During the Report period, although some positive measures have been taken in the education system of the country, there are still some problems in the fields of organizing education programs with the requirements of real market relations and expansion of innovations in education. Besides, on a paid basis payments in education are more than the population’s real living conditions and this case does not provide accessibility of everyone to education.

**It is recommended that**the expansionof modern innovative programs in education, organizing education programs following real market requirements, and defining tuition fees following the population’s living conditions are expedient.

1. <http://sosial.gov.az/3431> [↑](#footnote-ref-1)
2. <http://sosial.gov.az/FWsiyahısı/hes2019.pdf> [↑](#footnote-ref-2)
3. [www.sosial.gov.az](http://www.sosial.gov.az/) [↑](#footnote-ref-3)
4. <http://sosial.gov.az/3427> [↑](#footnote-ref-4)
5. <https://president.az/articles/35601> [↑](#footnote-ref-5)
6. <https://www.azstat.org/portal/> [↑](#footnote-ref-6)
7. <http://e-qanun.az/framework/3085> [↑](#footnote-ref-7)
8. Articles 155 and 156 of the Labor Code [↑](#footnote-ref-8)
9. Chapters 16-23 of the Labor Code [↑](#footnote-ref-9)
10. Articles 215 and 216 of the Labor Code of the Republic of Azerbaijan [↑](#footnote-ref-10)
11. Article 162 of the Criminal Code of the Republic of Azerbaijan [↑](#footnote-ref-11)
12. Article 58 of the Constitution of the Republic of Azerbaijan [↑](#footnote-ref-12)
13. Articles 261, 270 and 281 of the Labor Code of the Republic of Azerbaijan [↑](#footnote-ref-13)
14. Summary Report on the activities of the Cabinet of Ministers of the Republic of Azerbaijan in 2019

    <https://cabmin.gov.az/az/article/798/> [↑](#footnote-ref-14)
15. <http://sosial.gov.az/3452> [↑](#footnote-ref-15)
16. <http://sosial.gov.az/3445> [↑](#footnote-ref-16)
17. [www.stat.gov.az](http://www.stat.gov.az/) [↑](#footnote-ref-17)
18. [https://www.azstat.org/portal/tblInfo/TblInfoList.do;JSESSIONID=184A27A8944C053A900522A683382FA9#](https://www.azstat.org/portal/tblInfo/TblInfoList.do;JSESSIONID=184A27A8944C053A900522A683382FA9) [↑](#footnote-ref-18)
19. <https://www.azstat.org/portal/> [↑](#footnote-ref-19)