



European
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EUROPEAN SOCIAL CHARTER

7th National Report on the implementation of
the European Social Charter

submitted by

THE GOVERNMENT OF ALBANIA

(Articles 1, 20, 24 and 25
for the period 01/01/2007 – 31/12/2010)

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CYCLE 2012

Article 1

The right to work

Paragraph 1

Question: How many participants are involved in the active measures of employment?

Answer

Employment encouragement programs: Employment encouragement programs include some of the state active programs, which deal directly with the group of unemployed jobseekers to encourage them to find as long-term employment as possible. These programs, along with the employment mediation program, have a real impact on the reduction of the number of registered unemployed persons, and what's more important, their dropping out of the passive schemes of support with payments (unemployment payment and social assistance). During 2010, the Employment Office has applied the following programs:

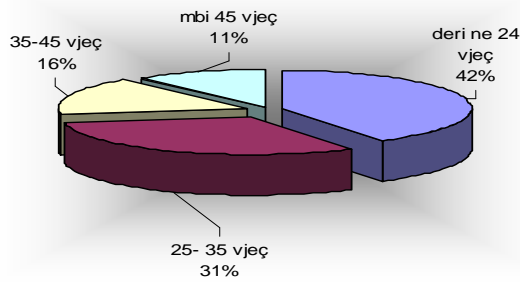
- **Decision of the Council of Ministers No. 48 of January 16, 2008 “On the employment of unemployed jobseekers in difficulties”,** as amended, through the subsidizing of social insurance and assistance for the minimum wage for the employed persons, where **473** unemployed jobseekers were employed.
- **Decision of the Council of Ministers No. 47 of January 16, 2008 “On the employment of unemployed jobseekers (PUPA) through on-the-job training”,** as amended, where **769** unemployed jobseekers were employed.
- **Decision of the Council of Ministers No. 873 of December 27, 2006 “On performing of vocational training by students who have graduated higher studies inside or outside the country”,** under which **515** unemployed jobseekers, including students who had graduated their studies over the two recent years, performed their vocational training.

The employment encouragement programs in 2010 included 1,757 unemployed jobseekers, 1,229 or 70% of who were female unemployed jobseekers. Women’s participation was at high rates across all programs and they are of the following age:

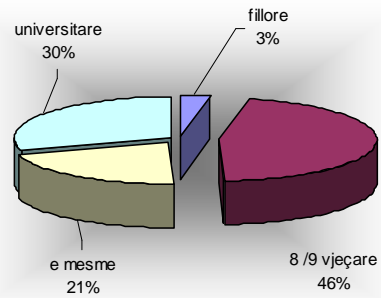
- The on-the-job training program included persons up to 35 years old, mainly in activities such as clothing (clothes and shoes);
- The employment subsidizing programs for the social insurance part include persons over 35 years old (mainly in activities such as fish processing and sapling cultivation).

Participants' characteristics:

By age group



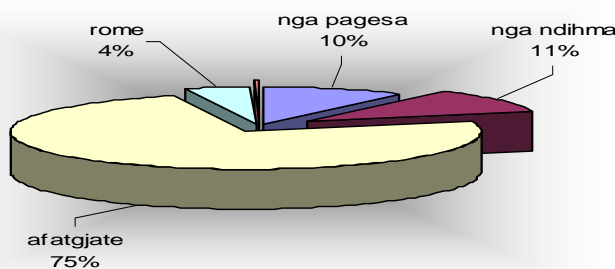
By education level



- Graph 1 translation:
- 35-45 vjeç → 35 - 45 years old
 - Mbi 45 vjeç → over 45 years old
 - Deri ne 24 vjeç → up to 24 years old
 - 25 – 35 vjeç → 25 – 35 years old
- Graph 2 translation:
- filllore → elementary
 - 8 /9 vjeçare – 8 /9 years
 - E mesme → high
 - universitare → university

When implementing them, priority was given to specific categories of special groups and to those in difficulties such as 18-25 years old persons who enter the labor market for the first time, long-term unemployed persons, Roma, persons with disabilities, as well as, those who receive social assistance and unemployment payment. **These groups comprise over 50% of the total unemployed jobseekers, as beneficiaries of these programs.**

Unemployed jobseekers from special groups:



- Graph 1 translation:
- 4% roma → Roma
 - 10% nga pagesa → from payment
 - 11% nga ndihma → from assistance
 - 75% afatgjate → long-term

Detailed characteristics of participants by programs:

- Participants up to 35 years old and with 9-year school education prevailed in the on-the-job training programs, and more long-term unemployed persons were involved.
- In the case of the employment subsidizing programs for the social insurance part, the dominant age was over 35 years old while the education level was 9-years and high education and the participation was not only from the group of long-term unemployed persons, but also from the schemes of assistance with payment, Roma, and so on.

The application of the vocational training program for the newly graduated students helped the participating students in 2010 to carry out their vocational training mainly in schools (teachers, psychologists), in healthcare institutions (physicians, nurses, lab technicians, pharmacists, dentists and so on), in law firms (lawyers), etc. 37% of the vocational training was carried out in the state administration, mainly in the social field professions, economists, engineers and so on. 10 persons receiving social benefits were involved and this was expected due to the specific characteristics of this program.

The following table provides data as detailed by years for the employment encouragement programs

Year	Total unemployed jobseekers involved in programs	State budget funds
2008	2183	200 million Albanian Leks
2009	2274	200 million Albanian Leks
2010	1757	150 million Albanian Leks

Question: How much time does it take, on an average, for a person from the moment of registration as unemployed up to the moment of receiving an offer to participate in an active measure?

Treatment of unemployed jobseekers is made under the Decision of the Council of Ministers No. 70 of February 11, 1999, as amended by the Decision of the Council of Ministers No. 992 of July 02, 2008 “On the registration of unemployed jobseekers”. In implementation of the aforementioned Decision, every person, who seeks employment or a new job, registers as an unemployed jobseeker to benefit from employment services, as well as, from other state programs of support with payment. Right from the first moment, the person gets informed about

the services, which the employment office provides. Employment services are provided to the jobseekers based on their applications and personal and occupational characteristics. We provide our customers with information about vacancies, counseling about occupation and career, mediation services in accordance with their characteristics. When filling the vacancies, the following categories get priority: a) jobseekers belonging to special groups; b) long-term unemployed jobseekers; c) other jobseekers. An unemployed jobseekers must be registered for, at least, three months in the Employment Office in order to benefit from programs such as employment encouragement program through on-the-job training as adopted upon the Decision of the Council of Ministers No. 47 of January 16, 2008, and that of employment encouragement for the unemployed jobseekers in difficulties under the Decision of the Council of Ministers No. 48 of January 16, 2008.

Number of mediations and registrations as performed by the employment offices over years

Years	Number of mediations	Number of unemployed jobseekers registered in the Employment Offices	Unemployment rate at a national level
2008	11.150	141.700	13
2009	11.907	144.700	13.75
2010	12.317	142.800	13.49

As the above table indicates, number of mediations has increased year by year, and this is linked directly with the improvement of the employment services level and the improvement of the labor market information.

Question: What specific measures are taken for the long-term unemployed persons?

The above graphic presentation indicates clearly that the long-term unemployed jobseekers take up 75% of the total unemployed persons in the employment encouragement programs.

The following table provides a more complete overview of the labor market data according to the Survey as conducted by INSTAT in 2007, 2008 and 2009:

Labor Survey Data

Year	Unemployment rate (%)			Long-term unemployment rate (%)	Unemployment rate (%) (15-64)	Labor participation rate (%) (15-64 years)	Inactivity rate (%) (15-64 years old)
	Young persons	Adults (25-64)	Total				

		(15-24 years old)	years old)			years old)	old)	
2007	Total	20.1	12.0	13.5	9.4	56.4	65.2	34.8
	Males	22.8	12.6	14.4	9.9	63.6	74.4	25.6
	Females	16.6	11.3	12.2	8.8	49.3	56.2	43.8
2008	Total	27.16	10.9	13.0	8.5	53.8	61.9	38.1
	Males	27.1	10.3	12.5	8.0	63.0	72.1	27.9
	Females	27.2	11.6	13.5	9.1	45.6	52.8	47.2
2009	Total	27.2	11.3	13.8	9.1	53.4	61.9	38.1
	Males	26.2	9.6	12.2	7.8	64.3	73.3	26.7
	Females	28.3	13.4	15.9	10.6	43.6	51.8	48.2

Source: INSTAT, Labor Survey 2007 & 2008 & 2009

Ratio of young persons unemployment rates vs. adults unemployment rate			
Year	2007	2008	2009
Total	1.7	2.5	2.4
Males	1.8	2.6	2.7
Females	1.5	2.3	2.1

Source: INSTAT, Labor Survey 2007 & 2008 & 2009

Question: Total expenditures amount for employment policies, active and passive measures as a GDP percentage

Total labor market fund (Active measures + Passive Measures) takes up 0.76% of the GDP.

Data of the employment encouragement programs over years

Description	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Fund in million Euro	1.9 ¹	4.1	3.1	2.3	1.1	1.5	1.1	0.98	1.05	1.7	1.5
Unemployed Jobseekers	7621	1177	4769	3529	90	3385	438	2221	2289	2188	2271

Source: National Employment Service

Paragraph 2

Measures against discrimination in the labor market

Issues of protection against discrimination in the field of employment and occupation are addressed by the labor Code of the Republic of Albania (Article 9), by Law No. 9970 of July 24,

¹ Average exchange rate of the Bank of Albania for the following years: In 1999, 1 Euro=146.96 Albanian Leks; In 2000, 1 Euro=132.58 Albanian Leks; In 2001, 1 Euro =128.47 Albanian Leks; In 2002, 1 Euro =132.36 Albanian Leks; In 2003, 1 Euro =137.51 Albanian Leks; In 2004, 1 Euro= 127.67 Albanian Leks; In 2005, 1 Euro=124.19 Albanian Leks; In 2006, 1 Euro=123.08 Leks; In 2007, 1 Euro=123.62 Leks; In 2008, 1 Euro=122.80 Leks and in 2009, 1 euro=132.06 Leks, in 2010 1 Euro = 138 Leks.

2008 “On gender equality in society” (Article 19) and by Law No. 7995 of September 20, 1995 “On employment encouragement”, as amended, Article 3 of which ensures the right of all citizens to benefit from the public employment services, apply for a job or to seek training to get employed.

Additionally, Law No. 7995 of September 20, 1995 “On employment encouragement”, as amended, has defined the special groups of unemployed jobseekers, which have difficulties to get involved in the labor market. The term “special groups”, under this Law, implies jobseekers including: mothers with many children; persons older than 50 years; young persons under 18 years of age; long-term unemployed persons; person belonging to families under the poverty level; victims of trafficking; persons who benefit from social assistance programs; persons who become unemployed due to undertakings and institutions in reformation, restructuring and privatization process; unemployed girls and mothers; divorced women with social problems; emigration returnees with economic problems; new graduates who do not have sufficient guidance regarding the labor market; persons who have been in prison; persons with disabilities; Roma; orphans who have obtained the status as such, and who are unemployed.

Policies, which constitute positive measures or positive discrimination, have been drafted and implemented in support of this same Law and to provide these groups with equal opportunities, and, in most cases, they are necessary for critical moments, in which these groups find themselves. In addition, this is discrimination compensation in order to provide the groups suffering from discrimination with equal opportunities, so that they become entitled to equal protection before the law.

1. There are two programs, which are applied in relation to this issue, as follows: Decision of the Council of Ministers No. 632 of September 18, 2003 “On the employment encouragement program for female unemployed jobseekers”, as amended by the Decision of the Council of Ministers No. 508 of August 08, 2007, under which the treated special groups include women over 35 years old, trafficked women, women from the Roma community and women with disabilities, which receive compensation and a salary share up to the level of minimum wage. This program is supported by the State Budget and its implementation started back in 2004. During 2010, this program included **407** female unemployed jobseekers belonging to special groups.
2. The Decision of the Council of Ministers No. 48 of January 16, 2008 “On the amount and criteria of benefiting from the employment encouragement program for the unemployed jobseekers in difficulties”, as amended by the Decision of the Council of Ministers No. 991 of July 02, 2008, under which the following are considered as unemployed jobseekers in difficulties:
 - a) Long-term unemployed persons;
 - b) Persons who benefit social assistance;

- c) Persons who benefit unemployment payment;
- d) 18-25 years old persons who enter the labor market for the first time;
- e) Persons over 45 years old who have higher level of education than high education or its equivalent;
- f) Persons with disabilities;
- g) Persons from Roma community.

During 2009 and 2010, when this program was applied, **804** unemployed jobseekers from the special groups were employed at a national level.

Another positive act, as drafted by the Ministry in implementation of the aforementioned Law, is the application of no fees for the special groups, which consist of unemployed jobseekers who are registered in the employment offices and, who are willing to attend vocational training courses as provided by the Public Vocational Training Regional Directorate (PVTRD). This target group included persons from Roma community, trafficked girls and women, persons who have been in prison, orphans, and persons with disabilities and returnees with economic difficulties.

The following table provides data about unemployed special groups' jobseekers, who benefited, pursuant to this Order, vocational training with reduced fees or for free for various occupations, which are demanded by the market (tailors, solar panel technicians, electricians, plumbers, hairdressers, car service technicians, cooks, air-conditioning technicians, and so on).

DATA ABOUT TRAINEES BY YEARS

	2004	2005	2006	2007	2008	2009	2010
Total registered persons	9114	7574	6727	7400	7752	6915	8855
Females	5243	4388	3693	3899	4409	3843	4514
Employed	2080	1747	1068	1317	1495	1192	2016
Unemployed	3611	3157	2901	3977	3429	3580	4025
School students	3260	2228	1995	2318	2563	2143	1882
By age group							
16-19 years old	2911	2319	2310	2628	2659	1924	2144
20-24 years old	2773	2443	2187	2295	2581	1920	2910
25- 34 years old	1854	1497	1266	1488	1609	1258	2192
Over 34 years old	1576	1315	964	989	903	725	1609
By education level							
8-year education	2065	1592	1515	2032	1902	1636	2013
High education	3624	3192	2808	2795	3170	2302	3380
Vocational education	1279	1062	922	1968	574	418	949
Higher education	2146	1728	1482	605	2106	1471	2513

Total number of certified persons	8328	7004	6118	7029	7577	6611	8485
Unemployed jobseekers	1005	1253	1683	1700	1857	2308	2089
Females				615	780	938	911
With reduced fee				1468	1396	1511	1697
For free				148	131	345	165
Of which							
- Roma				72	18	144	62
- Orphans				35	82	67	48
- Trafficked women				10	5	43	19
- Former prisoners				29	26	10	36
- Persons with disabilities				2	0	81	0
Employed after a training course	675	764	855	742	541	791	792

Source: national Employment Service

Data on the vocational training program by years

Description	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Fund in thousand Euros	204.1	233.8	296	483	465	587	580	600	788	950	962	932
Total trainees	4793	7277	7252	8558	8097	8328	7004	5818	7029	7577	6611	8485

Article 1, Paragraph 1 of Law No. 8872 of March 29, 2002 “On the vocational education and training in the Republic of Albania”, which regulates the entire activity of the vocational education and training, prescribes the following:”This Law ensures the right, as provided for in the Constitution of the Republic of Albania, to lifelong vocational education and training, the opportunities of graduating basic vocational education and obtaining of vocational knowledge as required for employment, by creating equal opportunities for all”.

Additionally, apart from the laws, which have been included in the 2006-2008 Reports, which prohibit discrimination under the provision of this Article of the Charter, the Albanian legislation, in conformity also with the recommendations provided in the frame of International Conventions implementation and the European Union accession process, has experienced positive enhancement as follows:

- Law No. 9970 of July 24, 2008 “On gender equality” (GEL) ² was adopted.

² Adoption of Law No. 9970 of July 24, 2008 “On gender equality” repealed Law No. 9198 of July 01, 2004 “On gender equality in society”, to which the 2006 and 2008 Reports referred.

The purpose of the Gender Equality Law is to protect and guarantee equal opportunities and treatment for both sexes, elimination of all forms of gender discrimination. Under the law, the definition of gender discrimination is in compliance with Article 1 of the Convention on the Elimination of All Forms of Discrimination against Women”³. Article 6 provides the definition of direct and indirect discrimination.⁴

- The most important Law, which prohibits discrimination and imposes sanctions, is Law No. 10221 of February 04, 2010 “On the protection against discrimination”⁵ (ADL). Although the anti-discrimination principles are enshrined in the Constitution of the Republic of Albania and other laws, the purpose of the law, which was drafted by the civil society and, which emerged as an incentive of a group of Members of Parliament, was to fill a legal gap in regard to human rights protection.

The scope of the Gender Equality Law consists in the enforcement and respecting of the equality principle in connection with gender, race, color, ethnicity, language, gender identity, sexual orientation, political, religious or philosophical convictions, economic, education or social condition, pregnancy, gender affiliation, parentage, parental responsibility, age, family or marital status, civil status, residence, health conditions, genetic predispositions, disability, belonging to a special group, or any other cause.

Purpose of this law is to ensure every person’s right to the following: a) equality before the law; b) equality of chances and opportunities to exercise the rights, to enjoy the freedoms and to

³ "Gender based discrimination" shall mean any distinction, exclusion or restriction made on the basis of sex, which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field (Article 3, Paragraph 4 Definitions)

⁴ Article 6 of the Gender Equality Law – prohibition of gender based discrimination: 1. any less favorable treatment of a person due to gender, compared to the treatment, which is made or, which would be made to a person of the other gender in a similar situation comprises direct gender based discrimination and, therefore it shall be prohibited. 2. Drafting, implementation, encouragement and establishing of provisions, conditions, criteria or practice, which look apparently neutral, but which lead to the creation of a less favorable situation for a person belonging to one of the genders, comprises indirect gender based discrimination and, therefore it shall be prohibited. This prohibition shall exclude the cases when these provisions, conditions, criteria or practices are justified by an eligible purpose while the means or ways of achieving this purpose shall be necessary and appropriate.

⁵ Fully aligned with the following:

1. 32000L0043, Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.
2. 32000L0078, 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.
3. 32004L0113, Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services.
4. 32006L0054, Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast).

participate in public life; c) effective protection against discrimination and against any form of behavior, which incites discrimination.

Article 3 of the Gender Equality Law provides definitions of different kinds of discrimination by type of their scope, therefore including also the definitions of direct and indirect discrimination.

Question: Whether discrimination on grounds of sexual orientation is prohibited or not?

Chapter II “Protection against occupational discrimination”, Article 12 “Prohibition of discrimination”, provides for the following:

1. *“Discrimination of a person due to his right to employment shall be prohibited. Discrimination shall include any distinction, restriction or exclusion, which is based on the grounds as mentioned in Article 1 of this Law and, which has to do, inter alia, with the following: a) advertisement of vacancies; b) recruitment and selection of workers; c) treatment of workers at the workplace including their treatment when setting or changing their work conditions, remuneration, benefits and work environment, treatment concerning vocational training or during the disciplinary process or, in relation to dismissal or termination of the employment contract; d) membership in trade unions and the possibility to benefit from opportunities, which are offered by this membership.*
2. *Any kind of harassment shall be prohibited, including also sexual harassment, by the employer against the worker or against a jobseeker or between workers.*
3. *Enforcement of specific and temporary measures based on the causes as mentioned in Article 1 of this Law in order to accelerate equality in the field of employment shall not be viewed as discrimination. Enforcement of such measures may, in no case, imply permanent maintaining of unequal or different standard, while special measures shall be lifted when the goal of treatment and providing equal opportunities is achieved.”*

Question: Information on exemptions to the rules which are permitted for genuine occupational requirements, examples of the occupations concerned”.

Exemptions from the general rule are set out in Article 6 “*Eligible differential treatment*” of Law No. 10 221 of February 04, 2010, under which “*1. Prohibition of discrimination as described by this Law shall not apply in cases when there is an objectively justifiable and eligible purpose under the Constitution, international agreements or acts as ratified by the republic of Albania and legislation in force.*

Differential treatment, which is based on a characteristic that has to do with the reasons as mentioned in Article 1 of this Law, shall not be deemed as discrimination when, due to the nature of vocational activities or, due to the conditions, under which the occupation or the activity is carried out, these characteristics shall constitute a necessary genuine occupation requirement,

on condition that the purpose of differential treatment shall be valid and the requirement shall not exceed what is indispensable for its fulfillment.”

The law has not laid down concrete examples of exemption from the general rule.

Question: How the concept of discrimination both direct and indirect has been interpreted by the courts? How the concept of discrimination on grounds of ages has been interpreted?

Article 3, Paragraph 1 of Law No. 10 221 of February 04, 2010, discrimination is defined as follows:

“1. “Discrimination” is any distinction, exclusion, restriction or preference as based on any of the grounds described in Article 1 of this Law, the effect or purpose of which is to nullify or impair the exercise of human rights and fundamental freedoms, which are recognized by the Constitution of the Republic of Albania, by the international acts as ratified by the Republic of Albania, and by the laws in force, in the same manner as the other people do.”

Article 3, Paragraphs 2 and 3 of the aforementioned law provide the concepts of direct and indirect discrimination as follows:

“2. “Direct discrimination” is that form of discrimination, which occurs when a person or a group of persons are treated less favorably than another person or group of persons in the same or similar situation, based on any of the grounds as set out in Article 1 of this Law.

3. “Indirect discrimination” is that form of discrimination occurring when a provision, criteria or practice, which is misleadingly impartial, would put a person or a group of persons in unfavorable conditions in regard to the grounds as laid down in Article 1 of this Law compared to another person or group of persons, as well as, when this measure, criteria or practice is not objectively justified by a lawful purpose, or when the means of achieving this goal are either inappropriate or unnecessary and disproportionate to the situation, which has caused it.”

In regard to setting restrictions on the grounds of age, Article 20, Paragraph 7 of the Law has contemplated the following:

“7. Prohibition of discrimination shall not be applied when determining a specific age for opportunities of social benefits, commodities, facilities and services, if reasonable and objective criteria exist for such determination, without affecting the substance of the right to benefits, and when the aim of the determination is to achieve a lawful purpose for a public interest, or to protect other people’s rights, always in direct proportionality to the situation, which has caused the determination.”

Concerning the interpretation made by the courts in regard to these forms of discrimination, as well as, the discrimination on age grounds, the Commissioner for Protection against Discrimination has not received any notification from the courts, because under Article 36 “*On the procedures before the court*”, Paragraph 3 of the Law stipulates the following: “*The court shall notify the Commissioner about filing of all cases, which allege discrimination.*”

Question: Whether, in respect of discrimination on grounds of disability the requirement of “reasonable accommodation” has been adopted?

Denial of a reasonable accommodation is considered by the Law as a form of discrimination and it is defined as follows:

“7. “Denial of a reasonable accommodation” is that form of discrimination, which occurs whenever there is a denial or an objection to carry out necessary and suitable changes or adjustments, which are required in a specific case and, which do not impose an excessive burden, in order to ensure enjoyment and exercising on equal basis of the rights and fundamental freedoms for persons with disabilities, or when in other circumstances as described in Article 1 of this Law.”

Question: The number of cases alleging discrimination brought before the courts, as well as the number of findings of discrimination?

As we have mentioned also above, the Commissioner for Protection against Discrimination has not received any notification from the Court, which, under the Law, notifies the Commissioner about any cases alleging discrimination brought before the courts (Article 36/3).

On the other hand, 8 complaints alleging discrimination have been filed with the Commissioner for Protection against Discrimination in compliance with the procedures as set forth by this Law concerning complaints adjudication.

Question: Information on the procedure to be followed in cases alleging discrimination, for example whether there alleviation in the burden of proof?

The law has provided for the procedures of reviewing a complaint alleging discrimination when brought before the Commissioner for Protection against Discrimination and the procedures before the Court. The procedures of reviewing a filed complaint alleging discrimination are laid down by Article 33 of the Law as follows:

1. *“A person or a group of persons who claim that they have been discriminated, or an organization with legitimate interests, which alleges discrimination on the behalf of a person or a group of persons may file with the Commissioner a complaint along with the available evidence in writing and, in exceptional cases, orally in a manner that it can be transcribed.*

2. *The organization with legitimate interests shall present a special power of attorney to represent the person or the group of persons.*
3. *The complaint shall contain, at least, the following: a) the complainant's name; b) the explanation how to get in touch with the complainant; c) the entity, which is alleged to have committed the discrimination, or explanation about the possibility of the entity's identification; d) the description of the alleged discrimination; e) measures as requested by the Commissioner; e) the date and the signature of the complainant or of his representative.*
4. *The complaint shall be refused if: a) it is anonymous; b) it comprises an abuse of the right of complaint to the Commissioner, or if it is incompatible with the provisions of this law; c) the same case is under adjudication in the frame of another case, or a decision has been made about it before and there are no new evidences; d) it is clearly ungrounded, or it contains insufficient information to enable an inquiry; e) all facts, which constitute the substance of the complaint, have happened before this Law's coming into effect; f) it is filed latter than three years after the occurrence of the discrimination, or latter than one year after receiving notification by the affected entity about this fact.*
5. *Physical or legal persons, against which the complaint has been filed, shall be notified in writing by the Commissioner within 15 days of the day of receiving the complaint.*
6. *The Commissioner shall not charge any fees to the complainant about the complaint review.*
7. *The Commissioner shall verify the facts upon receiving the complaint. To this end, the Commissioner may ask the complainant and the person, against which the complaint has been filed, to submit expositions in writing within 30 days of the day when parties receive notification. When deemed necessary, the Commissioner gathers information also from all other persons or sources.*
8. *When appropriate, the Commissioner shall conduct a public hearing and invite the parties and any other interested person.*
9. *When deemed appropriate, the Commissioner shall seek to achieve a reconciliation agreement between the complainant and the entity, against which the complaint has been filed.*
10. *The Commissioner makes a decision, which will be notified to the parties by 90 days of receiving the complaint, or in case a hearing has been conducted, by 90 days of the hearing day. The Decision shall contain the required adjustments and measures, therefore defining a deadline for their accomplishment.*
11. *If the Commissioner rules accommodations or measures, the entity, against which the complaint has been filed, shall report by 30 days before the Commissioner about the actions, which are taken to implement the decision. In case the entity, against which the complaint has been filed, fails to inform the Commissioner, or fails to implement the decision, the Commissioner shall fine the entity, against which the complaint has been filed. The fine shall be cancelled if the entity, against which the complaint has been filed, shall enforce the decision by 7 days following the fine."*

Every person or group of persons alleging that discrimination was exerted against them involving one of the causes mentioned in Article 1 of this Law may file a lawsuit with the competent court under the rules of the Code of Civil Procedure concerning compensation according to the Law or, as per the case, they may report to the competent authorities for criminal prosecution. Filing of a complaint with the Commissioner is not a prerogative in terms

of filing a lawsuit, while it is not an obstacle for the affected party to do to court or to the criminal prosecution bodies.

An organization with a legitimate interest or the Commissioner may file a lawsuit on the behalf of a person or group of persons, on condition that the Commissioner or the organization has the consent upon special power of attorney or upon declaration before the court of the person or the group of persons that have been affected by the discrimination.

Article 36 of the Law provides for the procedures before the court. According to the sanctions as set forth in this Article, court evidence consists of the following:

“ 1. The lawsuit shall be filed with the competent court by one of the entities as set out in Article 34 of this Law no latter than 5 years of the day when the alleged discriminatory behavior has occurred, and no latter than 3 years of the day when the affected party is notified about this behavior.

2. The affected party shall have the obligation to notify the Commissioner before filing a lawsuit with the court about discrimination.

3. The court shall notify the Commissioner on filing of all lawsuits concerning discrimination.

4. The court may ask the Commissioner, at any stage of the proceeding, to present an opinion in writing, the outcomes of his investigation if an investigation has been conducted, or any other information, which is of importance for the issue.

5. The plaintiff shall have the obligation to bring evidence in support of the lawsuit by using all kinds of legal evidences that may confirm the discriminatory behavior.

6. After the plaintiff bring his evidence, on which he grounds his allegation and, on which the court may presume discriminatory behavior, the defendant shall be obliged to confirm that facts don not constitute discrimination under this Law.”

Question: Information on remedies i.e. reinstatement or damages that may be awarded to a victim of discrimination and confirmation that there are no pre-defined limits to the amount of damages that may be awarded.

The law stipulates that the court defines reinstatement in its decision in cases when there has been an infringement of the Law “On the protection against discrimination”, therefore setting, at the same time, also a deadline for carrying out the reinstatement. Establishing of measures under the law “On the protection against discrimination” does not exclude establishment of measures under other laws (Article 37 of Law No. 10 221). All interested parties including the Commissioner are informed about the court decision.

The reinstatement includes, *inter alia*, remedying of legal infringements and their consequences through restoration to the initial stage, due compensation for the property and moral damages, or through other appropriate measures (Article 38 of Law No. 10 221).

Question: Information on the rights of associations, organizations or other legal entities, to obtain a ruling that the prohibition of discrimination has been violated in the employment context.

An organization with legitimate interests alleging discrimination on behalf of a person or a group of persons may file a complaint along with the available evidences before the Commissioner in writing or, in exceptional cases, orally in a manner that it can be transcribed. The organization with legitimate interests shall present a special power of attorney to represent the person or the group of persons (Article 33/1 of Law No. 10 221).

An organization with a legitimate interest or the Commissioner may file a lawsuit on the behalf of a person or group of persons, on condition that the Commissioner or the organization has the consent upon special power of attorney or upon declaration before the court of the person or the group of persons that have been affected by the discrimination (Article 33/2 of Law No. 10 221).

Question: Information on a specific independent body to promote equal treatment.

To accomplish affective protection against discrimination and against any form that incites discrimination, the Law has provided for in Article 21 the establishment of the institution of the Commissioner for Protection against Discrimination, as a legal person, with its own independent budget, which is funded by the State Budget and various donations. When carrying out the tasks as assigned by Law, the Commissioner is supported by the Office of the Commissioner for protection Against Discrimination (the Office). The Office has its necessary staff and equipments to back up the Commissioner to perform the tasks as assigned by law. The Parliament determines the Commissioner's wage, the organization chart and the classification of salaries of the staff of the Office of the Commissioner for Protection against Discrimination. The staff of this office enjoys the status of civil servant.

The Commissioner is independent in performing his or her functions and the Commissioner obeys only the Constitution and the Laws, and the office term is 5 years with the right to be reelected only once. The law has provided the Commissioner with the following powers:

a) Review the complaints, which are filed by the persons or groups of persons alleging discrimination, as provided for in this Law; b) review the complaints as filed by organizations, which have a legitimate interest to act on behalf and upon the consent in writing of the individuals or groups of individuals alleging that they have been subject to discrimination; c) carry out administrative inquiries after receiving reliable information concerning infringement of this Law; d) impose administrative sanctions under the provisions of this Law; d) encourage the

principle of equality and nondiscrimination, especially by sensibilizing and informing about these issues, including also providing written information, *inter alia*, about this Law, in Albanian language, in minorities' language, as well as, in formats, which can be used by persons with disabilities; e) monitor the enforcement of this Law; e) conduct surveys about discrimination; f) make recommendations to the competent authorities, especially by proposing the adoption of new legislation, or amendment or reformation of the existing legislation; f) publish reports and make recommendations on any type of issue, which has to do with discrimination; g) address public opinion directly about any type of issue, which has to do with discrimination; h) present opinion in writing about any type of issue, which has to do with discrimination, upon the request of court adjudicating the issue; i) contribute to the reports and, as per the case, present reports to the international and regional organization; k) represent the complainant at court in civil cases upon his or her consent under Article 34, Paragraph 3 of this Law; l) provide information on the right of protection against discrimination and the legal remedies available for this protection; m) organize regular dialogue concerning discrimination issues with the relevant social groups by involving the Not-for-profit organizations; n) organize awareness and education activities, which help in the enforcement of this Law.

All public institutions and private entities are obliged to support the Commissioner when performing his duties, especially by providing the information that the Commissioner needs.

Prison labor

The General Regulation of Prisons was adopted in March 2009. Article 83 up to 87 of the Regulation, define the employment procedures of convicted offenders and detainees and also their inclusion in the social insurance scheme. On average, 606 persons are employed per month, of which 157 pretrial detainees and 449 convicted offenders. Prisoners are usually employed as green houses workers, cook assistants, food distributors, maintenance workers, gardeners, and mechanics, bricklayers, librarians and cleaning workers, etc. The number of prisoners employed, as to the each penitentiary institution is as follows:

Institutions	Number of prisoners
1. Jordan Misja	41
2. Vlorë	22
3. Tropojë	3
4. Sarandë	3
5. Peqin	85
6. Lushnjë	37
7. Kukës	3
8. Korçë	48
9. Durrës	23
10. Berat	7

11. Vaqarr	27
12. Tepelenë	19
13. Rrogozhinë	52
14. Mine Peza	15
15. Lezhë	71
16. Krujë	24
17. Kavajë	10
18. F.-Krujë	51
19. Burrë	25
20. Ali Demi	40

The Order issued by the Director General of Prisons, addressed to all the penitentiary institutions: “On the establishment of a permanent committee to deal with the assessment of prisoners to be employed” has improved the employment practices of convicts within the institutions, by making utmost use of the opportunities the institution offers for the employment of convicts.

Labor in prisons is based on voluntary basis. At the end of the July 2010, General Directorate of Prisons devised the new organics of employment of the prisoners and the respective budget. Main objective of this process is regulating prison works in terms of paying working hours. The project was submitted to the Ministry of Justice for their consent. After that, the Ministry of Justice forwards the proposal to the Ministry of Finance for the budget allocation and then proceeds with the adoption of the project by the Council of Ministers. The entire project is in process.

Up to the consent by the Council of the Ministers of the new project for the employment of detainees, labor in prisons is rewarded based on the Law no. 7298 of 08 April 1989 “On the allowances of the period of detention of those involved in the scheme of the employment”. Based on the above mentioned law, the detainees benefit 3.9 days of reduction of condemn per month.

As to the article 95 of the General Regulation of Prisons, the new proposal for the labor in prisons will enter into force after the approval by the Council of Ministers.

On average, there are 8 hours of work per day. The prisoners engaged in labor activity are provided with health books. Approval of the Decision of the Council of Ministers during April 2011 “On including the persons sentenced to imprisonment and remand prisoner into the category of economically non-active persons”, entitles them to the right of benefiting from the health insurance scheme, free of charge.

In some penitentiary institutions, involvement into work of persons who are deprived of their liberty is seen as a tool for vocational training. Taking as an example the women in Ali Demi prison; they are engaged in gardening activity, mainly in the cultivation and the maintenance of

the decorative flowers. The social staff of this institution is making efforts on finding potential private enterprises that are interested in marketing flowers.

During 2011, a joint project of Save the Children and UNICEF will be implemented in the Juvenile Institution of Kavaja, aiming strengthening, improving juvenile offenders' abilities by offering vocational trainings in wood, steel, gardening, as well as making this process a kind of profitable work for juveniles. As to this project, support will be offered to Kavaja institution in finding vendors or enterprises interested in marketing items worked and made through vocational training activities. Juveniles between 16 to 18 years old are targeted to be involved in this project.

The prison work in the Albanian Penitentiary System is not carried out for the benefit of any private enterprise. The legislative framework for the prisons system entitles the right, but up to nowadays there was no adequate request/application of private enterprises for collaboration in this field.

Concerning the observation made by the Committee maintaining that there are other circumstances in the Albanian Law, under which the workers may be required to undertake a task against their will, as well as, the observations, which were made about the prison employment, will be part of the table on the amendments to the Labor Code.

Paragraph 3

Question: Will the number of the staff of public employment service increase?

During 2009, the number of the professionals of public employment service constituted 53% of the overall number of the National Employment Service staff. In 2010, this number increased and actually it constitutes 64% of the overall staff number.

Question: What is the number of persons working in the public vocational training centers?

There are 110 persons working in the public vocational training centers.

Question: Information on the cooperation results among the public employment service and private employment agencies.

Together with the ILO/MIGRANT project, as implemented by the International Labor Organization (ILO) in 2007, the private employment agencies established in 2007 the forum of private employment agencies. These agencies have adopted a code of ethics concerning coordination of activities and exchanging of experience. Representatives of public services concerning guidance, cooperation and experience exchange with these private employment agencies participate in this forum.

The ILO/MIGRANT Project enabled in 2007 the translation into Albanian language of the ILO publication “Guide for Private Employment Agencies – regulation, monitoring and implementation”. This guide is available for use by the private employment agencies, Regional Employment Services and professionals of the Ministry of Labor, Social Affairs and Equal Opportunities.

Summary table of the number of the private employment agencies 2008 -2009

	Beginning 2008 (licensed by the Ministry)	End of 2008 (licensed by the Ministry)	Beginning of 2009 (licensed by the Ministry)	End of 2009 (licensed by the NLC)	2010 (licensed by the NLC)
Total private employment agencies	8	7	7	5	5

The Government of Albania carried out in 2009 a reform in the field of licensing of these agencies by transferring the license issuance from the Ministry of Labor, Social Affairs and Equal Opportunities to the National Licensing Center (NLC) and there are no inspection procedures to be conducted by the Ministry of Labor, Social Affairs and Equal Opportunities in advance of receiving the license. Nevertheless, in implementation of the legislation in force, these agencies, after their licensing, are subject of inspection by the State Labor Inspectorate (SLI).

Paragraph 4

Vocational guidance, training and rehabilitation

Law No. 10434 of June 23, 2011 “On some amendments and additions to Law No. 8872 of March 29, 2002 “On vocational education and training in the Republic of Albania”, as amended, which, in addition to the improvement of the existing law and its alignment with the changes that have happened to the vocational education and training system over the recent years, aims also at the harmonization of this system with the European requirements and standards, therefore opening the way so that our students and trainees, who receive vocational education and training, will have the opportunity to integrate in the domestic labor market, as well as, in the regional one and beyond.

Performed structural and institutional changes due to the reforms as undertaken in the field of vocational education and training are reflected in this draft law, while a special attention is paid

to the social partnership and cooperation with the business as two very important elements, without which we can not have a modern and contemporary vocational education and training that is capable of training skillful workers and technicians.

More specifically, the amendments as made to the law have led to the enhancement of the role of social partners who are part of the National Council of Vocational Education and Training, therefore making it possible that their voice becomes stronger in this Council in regard to the proper orientation of policies, strategies and reforms in the field of vocational education and training.

A strong system of vocational education and training may not make sense unless there is close cooperation with the business community. The law provides for the necessary opportunities concerning the materialization of this cooperation through business stimulation and encouragement in cases when it supports and cooperates with the vocational schools and training centers.

Decentralization of the activity of training schools and centers is a very important element and the aim of this is to improve the effectiveness of their activity. The aim of the law is to provide more independence to these institutions so that they may use their resources in a more flexible manner, therefore leading to the enhancement of the efficiency of their activity by graduating and certifying students and trainees with contemporary knowledge and competencies.

The law is in full compliance with Law No. 10247 of March 04, 2010 “On the Albanian training framework”, thus making sure that training as provided in the vocational education and training system complies with the training levels of the Albanian Training Framework, therefore providing many opportunities in terms of entering the labor market.

Upon the adoption of this law, and the bylaws latter on pursuant to it, the reform, which has started in the field of vocational education and training, embarks on a more consolidated stage, thus aiming at a higher quality in vocational education and training, a larger support for this system not only by the state budget, but also by the other, to turn this important component of human resources development into an important element of country’s economic development through lifelong learning.

Question: Detailed information on the organization and staff of organizations providing vocational counseling.

Under Instruction No. 2222 of October 31, 2002,

1. National Employment Service shall provide through employment offices vocational counseling and guidance to all persons who apply for it.
2. Public Vocational Training Centers shall provide vocational counseling and guidance to trainees.

3. When conducting vocational counseling and guidance, the Employment Offices and Vocational Training Centers shall cooperate with the employers' and workers' organizations, universities, high vocational schools, INSAT, and so on.
4. The Employment Offices shall provide mobile vocational counseling and guidance services in cooperation with the 8-year schools, high schools and universities and in the premises of the latter.
5. When conducting vocational counseling and guidance, specific attention must be paid to special groups, which are defined in the law and bylaws.
6. This service shall be provided by respecting gender equality.
7. Regional Employment Offices shall assign one or two staff members (as per the organization chart) to carry out the vocational counseling and guidance service.
8. The Local Employment Offices shall assign one staff member to carry out the vocational counseling and guidance service.
9. The Public Centers of Vocational Training shall assign one staff member to carry out the vocational counseling and guidance service. This service of the Public Centers of Vocational Training shall be carried out in cooperation with the Employment Offices.

The process of assigning the staff concerning vocational counseling and guidance service is a under a changing process in the frame of the alignment of employment and vocational training services with those of EU.

Question: What measures are taken concerning vocational counseling and guidance service for people with disabilities?

Different NGO-s at regional level have worked to help persons with disabilities and therefore training courses have been conducted, the outcome of which was certification of total 36 persons. They were trained for free.

Work has started on adjusting the physical infrastructure of the facilities, in which vocational training is provided, so that persons with disabilities may have access. Such a thing has started in Elbasan region; while work is going on to adjust also other public center of vocational training.

In 2011, the Ministry of Labor, Social Affairs and Equal Opportunities together with the Albanian Foundation for the Rights of Persons with Disabilities and Vodafone Albania Foundation succeeded in employing 20 young persons with disabilities in business companies, media and civil society organizations. Moreover, since January 2011 it has kept supporting 20 young persons with disabilities in the form of "counseling through accompanying" to facilitate entering into the labor market.

To improve access to the labor market and to encourage drafting of very effective policies regarding employment of persons with disabilities, the Ministry of Labor, Social Affairs and Equal Opportunities has trained specialists of Technical Secretariat of Disabilities in this Ministry to facilitate employment and providing of counseling assistance for the persons with disabilities. Training courses have been conducted for several months in the frame of ALBVET Program as supported by the Swiss Government to qualify individuals on labor market research in Albania, to identify social and vocational capabilities of persons with disabilities and to draft plans to start up a mini business in accordance with their potentials.

Question: How many persons have benefited from the vocational training and guidance services?

During January – December 2010, there were 10, 799 persons registered (of which **8,485 persons were certified, where 4, 514 or 53% of them were females**).

During 2010, training by categories was as follows:

- 2, 089 unemployed jobseekers or 25 % of the total were trained.
- 4, 025 unemployed jobseekers or 48 % of the total were trained (this includes also 2,089 jobseekers registered in the Regional and Local Employment Offices)
- 2,016 employed persons or 24% of the total were trained
- 1,882 others (students/pupils) or 22% of the total were trained.

165 persons, of which 62 Roma, 48 orphans, 19 former trafficked women and 36 persons with disabilities were trained for free during January – December 2010.

934 inmates or 11% of the total were trained in the Penitentiary Institutions.

4, 514 females or 53% of the total were trained.

By level of education, 2,013 persons or 24% of the total with 8-9 year level of education, 3,380 persons or 40% of the total with high school education, 949 persons or 11% of the total with high school vocational education, and 2,513 persons or 30% of the total with higher education were trained.

By age group, 2,144 persons or 25% of the total of 15-19 years old, 2,910 persons or 34% of the total of 20-24 years old, 2,192 persons or 26% of the total of 25-34 years old, and above 34 years old persons or 19% were trained.

Data about the vocation training program over years

Description	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Fund in thousand Euros	204.1	233.8	296	483	465	587	580	600	788	950	962	932
Total trainees	4793	7277	7252	8558	8097	8328	7004	5818	7029	7577	6611	8485

Lifelong vocational education/training:

Lifelong vocational training or learning throughout the life is a concept that is embedded in Law No. 10, 434 of June 23, 2011, as one of the learning activities, which is undertaken throughout the entire life to build capacities and to enhance training.

Lifelong training has developed and it has taken several dimensions and it has reached out several institutions.

Lifelong training for the unemployed and the employed is carried out mainly by the Ministry of Labor, Social Affairs and Equal Opportunities, although there are also many other public or private institutions, which perform such an activity.

- a) Ministry of Education carries out lifelong training of teachers and its staff.
- b) Ministry of Health carries out lifelong training of doctors and son on.
- c) Public Administration Training Institute carries out training of public administration staff.
- d) Businesses conduct training courses in the undertaking often as per their needs, and so on.

Question: How many courses were carried out and how many persons attended lifelong training.

10, 799 persons (of whom, 8,485 persons were certified, where 4, 514 or 53% of the latter figure were females) were registered during 2010 in the structures of the Ministry of Labor, Social Affairs and Equal Opportunities through the network of 10 Public Centers at a national level with a staff of 110 full time members in addition to the part-time staff, which is hired every year as per the needs.

Training by categories in 2010 was as follows:

- 2, 089 unemployed jobseekers or 25 % of the total were trained.
- 4, 025 unemployed jobseekers or 48 % of the total were trained (this includes also 2,089 jobseekers registered in the Regional and Local Employment Offices)
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Question: In cases when the undertaking organizes training, does the undertaking or the persons who are trained cover the costs?

According to the survey, which included interviewing of more than 1000 undertakings in 2010, 24% of the undertakings had provided training for their staff. 29% of the total number of workers received training. The undertakings covered the costs when conducting training.

There are specific cases when on-the-job training is covered by state budget funds through employment encouragement programs. So, 769 unemployed jobseekers were trained in 36 entities in 2010.

Under the new Law No. 9959 of July 17, 2008 “On foreigners”, foreigners enjoy the right of equal treatment likewise the Albanian citizens concerning work conditions, including the provisions on the dismissal and remunerations, sanitation conditions at work, technical safety, participation in vocational training and the latter on condition that they enjoy the right of stay and employment in the territory of the Republic of Albania for a period longer than one year.

Article 20

The right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex

The following table indicates the priority of including female unemployed jobseekers in the employment active programs, as well as, in employment mediation in case of vacancies.

Additionally, in vocational training programs (Table above) females occupy 50% of the trainees in the vocational training centers, in occupations as demanded by the labor market.

DATA ON UNEMPLOYED JOBSEEKERS IN YEARS

	2004	2005	2006	2007	2008	2009	2010
Total	13071	10964	14277	10261	12611	11907	12317
Females as % vs. total	46.0	49.0	53.0	41.0	43.0	45.0	51.5
Heads of households as % vs. total	28.0	27.0	26.0	30.0	25.0	26.0	24.3
By age groups as % vs. total	100.0	100.0	100.0	100.0	100.0	100.0	100.0
- Up to 19 years old	9.5	8.7	8.5	6.7	8.1	8.0	6.6
- 20-24 years old	20.0	20.6	19.3	17.4	19.3	21.6	21.5
- 25-29 years old	27.3	27.9	27.2	27.0	26.8	26.8	17.3
- 30-34 years old							14.1
- 35-39 years old	28.1	26.3	27.7	27.8	25.7	24.4	12.8
- 40-44 years old							10.7
- 45-50 years old	15.0	16.5	17.4	21.1	20.0	19.2	9.6
- Over 50 years old							7.3
By level of education as % vs. total	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Less than elementary education	40.9	41.0	41.2	41.6	45.9	38.6	0.4
Elementary education							3.8
9-year education							37.1
General high education	39.1	37.8	38.3	42.0	38.8	40.5	35.6
Vocational high education	14.5	14.0	12.5	8.6	7.0	8.9	9.5
University	5.6	7.1	8.0	7.8	8.3	12.0	13.5

Employment payment beneficiaries as % vs. total	4.0	5.0	5.0	6.0	5.0	6.0	6.1
Social assistance beneficiaries as % vs. total	7.0	6.0	9.0	11.0	6.0	6.0	5.8
Long-term as % vs. total				20.0	17.0	15.0	20.7
Roma as % total				0.5	0.1	0.3	1.1
Persons with disabilities as % vs. total				0.1	0.1	0.1	0.1

DATA ON FEMALE UNEMPLOYED JOBSEEKERS IN YEARS

(In thousands)

	2005	2006	2007	2008	2009	2010
Total unemployed jobseekers	153.3	149.8	142.9	141.7	144.7	142.8
Female unemployed jobseekers	74.0	72.2	70.0	70.2	73.6	72.9
Heads of households	6.3	9.3	7.5	6.3	6.4	6.3
By age groups						
- Up to 19 years old	5.8	6.2	6.5	5.3	5.3	3.0
- 20-24 years old	12.7	11.8	5.8	9.6	9.7	7.7
- 25-29 years old	18.4	17.6	10.8	16.5	16.5	8.3
- 30-34 years old						9.0
- 35-39 years old	20.4	20.6	17.3	19.6	19.9	9.4
- 40-44 years old						10.5
- 45-50 years old	16.9	13.4	19.4	18.5	18.8	11.7

- Over 50 years old						13.3
By level of education						
Less than elementary education						1.5
Elementary education	16.9	13.4	16.7	36.2	36.6	7.0
9-year education						32.7
General high education	39.4	39.5	36.5	22.8	22.8	20.3
Vocational high education	22.0	23.0	22.8	8.7	8.8	8.5
University	11.5	10.0	9.0	1.7	2.0	2.9

Regarding access to employment in public administration, Article 3 of Law No. 8549 of November 11, 1999 “On civil servant status” prescribes civil service principles which include the following: professionalism, independence, integrity, political impartiality, transparency, service to the public, career sustainability, and so on. Articles 12 and 13 of the Law provide for the general requirements of admission to the civil service, as well as, the principle that admission to the civil service is carried out through an open competition, which is based on merits. As it can be noticed, the Albanian legislation on civil service has excluded all kinds of discrimination of any form.

Moreover, in regard to protection against dismissal and occupational reintegration, under Article 25 of Civil Service Law and Decision of the Council of Ministers No. 360 of July 14, 2000 “On dismissal from civil service”, civil servants are entitled to the right of appeal against dismissal decisions to the Civil Service Commission and, after that, also to the court.

Question: Explain what does “differential treatment” mean, if interpreted as a cover for indirect discrimination and what kind of exemptions from the rule are allowed?

Answer:

Article 9 of the Labor Code has provided for the prohibition of any kind of discrimination in the field of employment and occupation, as well as, it has defined what is implied by discrimination. In addition to this, it is defined that distinctions or exemptions, which may be required for a certain job, are not discriminatory, but, instead, they serve as a protection measure regarding the best performance by appropriate individuals who are vocationally educated and trained to satisfy the specific job requirements. For example, the job requirements for the network maintenance may not be met by an individual who is not trained as an electrician.

Sanctions when failing to comply with Article 9 of the Labor Code are set out in Article 202, which defines that the fine in such cases is up to 50 times the minimum monthly wage. Additionally, the Labor Code recognizes the persons' right to claim compensation, the amount of which is determined by the Court.

Question: Is the transfer of the burden of proof valid to all cases of occupational discrimination, or is it only in cases of dismissal by the employer? Are the workers protected against repercussions following a complaint as made in order to ensure an equal treatment, which has not been respected?

Answer:

Under jurisprudence, in the case of employment relations, the burden of proof rests with the worker when alleging discrimination on grounds of sex, as well as, in cases of sexual harassment.

Under Article 146/c of the Labor Code, only in cases when there is a termination of employment without valid reasons, the burden of proof rests with the employer. Under this Article, termination of employment by the employer is considered without valid reasons when it is based on inseparable motives of the worker's personality, but which have no legitimate connections with the employment relations. Valid reasons are deemed those including race, color, sex, age...civil status, family obligations, pregnancy..."

Under Article 105/a/2 of the Labor Code, when the employer terminates employment during the time when the woman is pregnant or when she returns to work after childbirth, the burden of proof lies with the employer to confirm that the reason of dismissal was other than pregnancy or childbirth.

Under the amendments as made to the Labor Code, Article 32 lays down that it is the person, against whom the allegation is made for having committed sexual harassment against the worker, or the violation of personality at the work place, who has to prove that he has not applied any of the aforementioned forms of sexual harassment and personality violation.

Large corporations in the country have defined in their regulations that sexual harassment is a serious violation and therefore they have provided for dismissal as a disciplinary measure in such cases.

These regulations have also defined that sexual harassment may occur in a visual, verbal and physical manner.

Moreover, these corporations ensure camera monitoring of the work place.

In regard to the observations, which are made about the burden of proof, this will be addressed by the working group, which is reviewing the Labor Code, as well as, all the observations made by the Committee.

Question: Is there any definition of women participation in the police and armed forces:

Answer

There are no limitations in the legislation concerning participation of women in armed forces and police. Year after year and, keeping in mind also gender perspective, empowerment of gender equality structures and the performed awareness, number of women in armed forces and in police structures has increased. In implementation particularly of Gender Equality Law and implementation of UN Security Council Resolution No. 1325 “Woman, peace and security”, defense structures and those of police are giving priority to the enhancement of women participation and decision-making by respecting the gender neutral quota of 30%. Meanwhile, in 2008 – 2010, police were trained mainly on gender equality issues and domestic violence and violence against women.

To enhance women’s access to the State Police, a working group was established to draft the Strategic Goal of Diversity Development and the Action Plan in implementation of this paper.

There are no limitations in the legislation also in regard to women’s participation in Armed Forces and staff recruitment policies of the Armed Forces contain even approved criteria, which require that about 15% of recruited staff has to be females. Number of women in Armed Forces who are involved in combat and noncombat missions outside the country was 64 in 2008-2011.

**Statistics of women’s participation in Police over 2008-2011
Women’s employment progress in the police:**

2008	2009	2010	2011
8.76 %	8.81 %	9.257	9.55

Statistics of women and man in police by ranks and years

Years	2008		2009		2010	
	% e F	% e M	% e F	% e M	% e F	% e M
General Director	0	100	0%	100%	0%	100%
Deputy General Director	0	100	0%	100%	0%	100%

First Leader	4.00%	96.00%	4.17%	95.83%	4.17%	95.83%
Leader	8.79%	91.21%	9.90%	90.10%	9.80%	90.20%
Chief Commissar	9.98%	90.02%	10.71%	89.29%	10.68%	89.32%
Commissar	10.92%	89.08%	13.83%	86.17%	9.75%	90.25%
Vice Commissar	11.27%	88.73%	11.49%	88.51%	12.05%	87.95%
Chief Inspector	6.66%	93.34%	6.38%	93.62%	6.43%	93.57%
Inspector	5.16%	94.84%	3.10%	96.90%	2.60%	97.40%
Vice Inspector	4.00%	96.00%	2.92%	97.08%	3.09%	96.91%
Civil	61.11%	38.89%	47.63%	52.37%	51.16%	48.84%
Total						

Rank Level	Total number of police staff	Number of Females	%
Operational Level	6335	246	3.88%
First Level of Direction	2367	273	11.53%
Middle level of Direction	133	11	8.27%
High Level of Direction	6	0	0
Civil	743	383	51.55%
Total	9584	913	9.53%

STATISTICAL DATA ABOUT WOMEN IN POLICE

No.	Rank	Number of females
1.	First Leader	1
2.	Leader	10
3.	Chief Commissar	48

4.	Commissar	55
5.	Vice Commissar	170
6.	Chief Inspector	111
7.	Inspector	119
8.	Vice Inspector	16
9.	Civil	383
10.	Total	913

The following data is by levels:

Operational level **246 or 30.2 % of females in the police**

First level of direction **273 or 29.9 % of females in the police**

Middle level of direction **11 or 1.2 % of females in the police**

Number of females occupies 9.55 % of the active staff in the police

The situation by service is as follows:

No.	Type of service	Number of females	% vs. number of females	% vs. the total police
1.	Crime investigation	170	18.6	1.8
2.	Public safety	160	17.5	1.7
3.	Border Police	121	13.3	1.3
4.	Supporting services	440	48.2	4.6
5.	Police Training	22	2.4	0.2

FEMALE STATISTICS IN THE GENERAL POLICE DIRECTORATE IN TIRANA

The General Police Directorate in Tirana has 189 females or 20.7 % of the females in the police.

The situation by services in the General Police Directorate in Tirana is as follows:

No.	Type of service	Number of females	% vs. number of females
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1.	Crime investigation	50	5.5
2.	Public safety	66	7.2
3.	Supporting services	70	7.7
4.	Police Training	3	0.3

No.	Level	Number of female officers
1.	First Leader	1
2.	Leader	10
3.	Chief Commissar	48
4.	Commissar	55
5.	Vise Commissar	170
6.	Chief Inspector	111
7.	Inspector	119
8.	Vise Inspector	16
9.	Civil	383
10.	TOTAL	913

Level	Rank	Female	Male	Total number
High level of direction	General Director	0	1	1
	Deputy General Director	0	5	5
Middle Level of Direction	First Leader	1	23	24
	Leader	10	98	108
First Level of Direction	Chief Commissar	48	399	447
	Commissar	55	466	521
	Vise Commissar	170	1226	1396
	Chief Inspector	111	1585	1696

Operational Level	Inspector	119	1387	4506
	Vise Inspector	16	127	143
	Civil	383	361	744
	TOTAL	913	8678	9591

Question: Effectiveness of the right to equal pay for work of equal value

Article 16, Paragraph 7 of Law No. 9970 of July 24, 2008 “On gender equality in society” defines that one of the employer’s obligations is to apply the principle of equal pay for work of equal value. Article 17, Paragraph 1, Subparagraph “a”, sets out that actions of the employer in the public or private sector are discriminatory if, due to gender, the employer applies differentiated standards against workers regarding equal pay for work of equal value. Article 16, Paragraph 4 defines the employer must: “Promote equal distribution between females and males of various kinds of jobs and within various categories of workers, through training and building vocational capacities and through other temporary measures”.

There is no definition in Albania about any wage difference between men and women and there is no methodology to measure these differences.

Albanian legislation is not discriminatory in terms of equal remuneration between men and women. There is no validated unequal remuneration on the grounds of sex in our country. Under Law No. 8487 of May 13, 1999 "On the competences of determining workers’ wage” and the Decision of the Council of Ministers No. 522 of May 13, 2009 "On determining the minimum wage at a national scale”, wages are determined by job position, without any gender distinctions at all. However, it is a fact that women hold less leading positions and they do lower-ranking jobs compared to men.

There are no approaches as established yet in our country to conduct work and performance appraisal.

Referring to the Labor Survey 2008 of INSTAT, the ratio of wage difference between men and women is 19, 15 %.

The Social Insurance Law provides for equal obligations concerning social insurance contributions and equal benefits, irrespective of gender. There are exemptions in the sense of positive discrimination of women in the conditions of benefiting old age pension. For women to benefit the old age pension, part-time university studies of less than 6 years are recognized as insurance periods. In addition, mothers with 6 children or more, who have turned 8 years old, benefit full old age pension when they become 50 years old and have been insured for 30 years, a

rule which is different from the general conditions for women, who must be 60 years old and must have been insured for 35 years to benefit old age pension.

Regarding the enforcement in practice of these rights, we may say that 5,211 entities with 49,063 workers, 21,959 of which are females and 27,104 males, were inspected in the course of inspections as carried out by the State Labor Inspectorate during January-June 2011.

The following are the outcomes of the inspections as performed about legislation enforcement:

- There is no discrimination observed concerning race, color, origin, and so on, in regard to employment. The State Labor Inspectorate has not received any complaint alleging discrimination on the grounds of the aforementioned categories.
- The inspections, which were conducted by the labor Inspectors, during January-June 2011, identified 37 private entities, in which 294 foreign workers are employed. 19 of them are females and 275 males. During the inspection, the inspectors did not observe any case of discrimination of foreign workers.
- No discrimination on the grounds of gender can be notably observed. During the inspections, which the labor inspectors carried out regarding payment of contributions as based on the minimum wage, it was found out that payment of contributions for 14,423 female workers (regardless of their real wage) is calculated on the basis of minimum wage. Whereas, payment of contributions for 16,049 male workers (regardless of their real wage) is calculated on the basis of minimum wage.
- In addition, it was observed in the course of the inspections as performed by the labor inspectors that, during January-June 2011, duration of paid annual leave under 28 calendar days for female workers was 2% more than for the female workers. These sporadic cases were addressed by the labor inspectors as per the law.
- During the inspections and carried out during January – June 2011, 37 private entities were identified, in which 294 foreign workers are employed. 19 of them are females and 275 males. The State Labor Inspectorate has not received any complaint by any of the foreign workers alleging discrimination against them.
- Moreover, when conducting their inspection, the labor inspectors did not observe any case of discrimination committed against foreign workers.

Question: Measures as taken to promote equal opportunities between men and women in employment relations

I- Adoption of Law No. 9970 of July 24, 2008 “On gender equality in society” (GEL)

Law No. 9970 of July 24, 2008 “On gender equality in society”: The aim of this Law is to protect and guarantee equal opportunities and treatment for both genders, as well as, to eliminate discrimination on the grounds of gender in any form that it shows up. The law provides definition of terms such as harassment due to gender affiliation, sexual harassment, etc. The Law defines employer’s obligation to respect gender equality principles and worker’s rights; measures in the case of discriminatory advertisements; tasks of the authority in charge of respecting gender equality in employment relations, evaluation of unpaid work, and sanctions in the case of failing to respect this law, and so on.

In particular, Part IV of the Law sanctions “Protection and equal treatment on the grounds of gender affiliation in employment relations.”

To promote gender equality before and after the employment relations, the employer has the following obligations:

- Ensure equal opportunities for females and males when applying for vacancies.
- Apply same criteria across all recruitment procedures.
- Employ jobseekers without any discrimination on the grounds of gender in all positions or vacancies across all levels of occupational hierarchy.
- Promote equal distribution in various job positions and within different categories of jobseekers, through training and vocational capacity building and other temporary measures.
- Establish equal and appropriate work conditions, equal opportunities for information, equal training and treatment of workers in the course of employment relations.
- Apply equal criteria when evaluating the work quality. The employer may not apply an evaluating criterion, apparently neutral, but which, in practice, is to the disadvantage of persons of the other gender.
- Provide equal payment for work of equal value.
- Take measures to prevent discrimination, sexual harassment and frustrations against the workers.

Article 22 of the Law deals with “Special temporary measures in the field of employment”. The following is not discrimination when applied to ensure equal participation if:

- The advertising of a vacancy contains a preference for the candidate of the less represented gender.

- The employer gives priority to the candidate of the less represented gender when performing recruitment selection process, promotion, and vocational capacity building, in the circumstances when the candidates have equal results or level.

The Law specifically provides for disputes resolution and disciplinary measures (refer to the information provided in Article 1, Paragraph 2 of the Charter).

II- Adoption and implementation of the National Strategy of Gender Equality & Domestic Violence 2007-2010, with concrete enforcement measures.

One of the Strategic Goals of the Strategy during 2008-2010 was, “Woman economic empowerment and enhancement of her opportunities for employment and vocational training”. The evaluation of the implementation of the Strategy over these years indicated that the Government and donors have supported mainly the initiatives of gender budgeting at local level, as well as, encouragement of various employment programs or supporting of businesswomen in the course of the implementation of targets of this Strategic Goal. The outcome of this was that about 80% women benefited from employment encouragement and vocational training programs, while priority was given to special groups such as Roma women, trafficked women, women with social problems, and so on.

Regarding the support for the private initiatives, the government has provided support for the initiatives of setting up the crediting programs with the purpose of encouraging women’s business by means of implementing a number of programs such as the Fund of Guaranteeing Credits for Export as part of guaranties, which the government provides to cover the needs for short-term commercial credits of up to 85% of the credit amount.

The new Strategy of Gender Equality and Reduction of Gender Based and Domestic Violence 2011 – 2015 was adopted as of June 2011 where a special importance has been given particularly to the undertaking of actions in relation to women and girls’ economic empowerment by means of providing facilities when crediting, further strengthening of employment encouragement programs especially for groups of women with social disadvantages; their vocational training and employment; specific training for employers and workers to familiarize them with the rights and occupational nondiscrimination; undertaking of legal initiatives to provide paternity leave after the birth; taking of reliving measures for workers with household responsibility, and so on. A specific fund for lending money to women is set to be set up by 2015.

III- Awareness campaign organized by the government mechanism of gender equality (Ministry of Labor, Social Affairs and Equal Opportunities) for the women’s rights where the woman economic empowerment occupies a special part during the period of 2008 – 2011. The Ministry of Labor, Social Affairs and Equal Opportunities in the capacity of the responsible state authority for gender issues organizes, on continuous basis, awareness activities on women’s rights and promotion of gender equality, familiarization with national and international legislation where employment rights and relations are a special part. Gender stereotypes and their elimination have

been part of the discussion in conferences and awareness meetings, as well as, part of the action plan of the new gender equality strategy. The purpose of organizing annual regional fairs in the frame of woman economic empowerment was to support women's business and raise the awareness of all business community, responsible state institutions at central and local level, organizations and donors to support women's free initiatives and their self-employment.

Article 24

The right to protection in cases of termination of employment

Question:

Full information on all reasons, for which an employer may terminate employment upon notice

Answer:

The indefinite-term contract ends when terminated by one party (in our case the employer) and when the notification deadline is over – as laid down in Article 141 of the labor Code. We hereby emphasize that this must be performed in conformity with the stipulations regarding notice deadlines (Article 143 of the Labor Code) and the procedure of employment contract termination by the employer (Article 144 of the labor Code).

The employer may not terminate the employment contact at an inappropriate time (as set out in Article 147 of the Labor Code), when the worker is on military conscription, benefits temporary unemployment payment at work, as well as, when he is on holidays. Moreover, even in cases when contract is terminated before the worker is called to conscription, when the worker is subject to temporary disability, or when the worker is on leave, this deadline is suspended.

The employer may terminate the employment contract upon notice in all cases when this happens not because of the worker, and in these cases the latter benefits the compensation as provided for by the law.

Regarding the notice deadline during probation, we hereby clarify that the amendments, which are drafted to be made to the Labor Code, stipulate that the notification deadline is to be extended from 5 to 7 days.

The obligation to provide a valid reason for terminating employment.

Question: The Committee requests the incorporation in the next report of the every significant case when a dismissal has been adjudicated. More explanation is required about immediate dismissals as adjudicated by the Court, under Article 153 of the Labor Code.

Answer

In all cases when the court has adjudicated immediate dismissals, it has ruled compensation of the worker with an amount equal to the annual salary.

Question: How is retirement age determined (mandatory ages of retirement as defined in statute, contract, or through collective bargaining) and pension age (when an individual gets entitled to the right of a state pension), and which is the consequence to the employment relationship when an individual reaches the retirement age? Does the Albanian Law allow termination of employment when the worker reaches the retirement age, and are there any specific procedures to follow or conditions to meet when a person reaches the age to retire, or do the contracts of workers, who reach this age, terminate automatically?

The Social Insurance Institute (SII) manages the mandatory social insurance scheme. According to this scheme, the retirement age is determined under Article 31 and 92 of Law No. 7703 of May 11, 1993 “On social insurance in the Republic of Albania”, as amended, which sets forth the age of 65 years old for men and 60 years old for women.

To benefit pension from the social insurance mandatory scheme, first there is need to make an application for pension, which means that pension is a right in per se and this right must be exercised, which depends on the individual’s will, therefore when he or she makes the application for pension. This is based on Article 31 “The right to pension” of Law No. 7703, 7703 of May 11, 1993 “On social insurance in the Republic of Albania”, as amended, which contemplates that “Ensured persons shall be entitled to full old age pension at the age of 65 years old for men and 60 years old for women after having completed 35 years of insurance. Transition periods are an exception to this rule; therefore Article 92 of the transitional provisions of this Law applies. Mothers with six children or more, who turn 8 years old, benefit full old age pension when they become 50 years old and when insured for 30 years.

In the private sector, termination of employment is regulated by the Labor Code. If the person makes the application for pension, then the Social Insurance Institute determines the pension when conditions are met.

For the public administration staff, Decision of the Council of Ministers No. 478 of June 16, 2010 “On termination of employment by the public administration bodies after the fulfillment of conditions for old age pension” prescribes that fulfillment of pension conditions results in the termination of employment.

Pension conditions are set out in Law No. 7703, while the implementation procedures in the Social Insurance Institute Regulation No. 1 of October 21, 2008 “On pensions determination, administration and payment.”

Question:

The Committee considers that dismissal on the grounds of age is not a valid reason to terminate employment, except when in conformity with the retirement age as justified by the requirements of the job position or service. Necessary measures must be taken to ensure protection for all workers against dismissal on the grounds of age.

Answer

When reforming the strategic undertakings in Albania, the employers have pursued the practice of terminating employment with workers approaching the pension age who have benefited a compensation amount of up to two years of annual salary. This was carried out through bargaining with the Trade Unions and relying on the individual applications of interested workers.

Question: Information on dismissal in cases when the worker has reached the age of pension. Does the worker go immediately on pension upon reaching the retirement age? If not, are there any necessary requirements to fulfill or special procedures to follow?

Answer

As we have mentioned above, reaching the age of going on pension is not a necessary condition to terminate employment relations. If the employer wants to keep the worker at work and the latter wants to continue to work, that is, if there is a harmonization of their needs, the worker may continue the employment relation. In such a case the worker may not benefit old age pension, but he or she may benefit it at the moment of terminating the employment relation.

Article 33 of Law No. 7703, 7703 of May 11, 1993 "On social insurance in the Republic of Albania", as amended, entitles the insured person, who has fulfilled the requirements of full old age pension, to the right of benefiting an increase of 0.34% to the full pension for each month of the postponing of his or her going on pension if:

- He or she continues to work, pays contributions and applies for pension at a latter date than the date of fulfilling the requirements.
- Interrupts pension and continues to work, pay contributions and applies for it again at a latter date.

Prohibited dismissals

Question:

What rules are applied to protect the workers in cases of dismissals, which are made on the grounds of revenge, in cases when they return and demand their rights through the court or any other authority, or in cases of temporary absence at work due to sickness reasons?

Answer:

In the case of indefinite-term contracts, when the employment is terminated without valid reasons, i.e., when the worker maintains claims that derive from the employment contract; when the worker has met a legal obligation; when employment is terminated for motives, which are inseparable from the worker's personality, but which do not have any legitimate connections with the employment relations; when employment is terminated for motives, which have to do with the exercising by the workers of a constitutional right, but which does not lead to any infringement of the obligations that derive from the employment contract; when employment is terminated due to motives of membership or not in a trade union, which is established under the law, or due to worker's participation in trade unions activities under the law; the affected employer enjoys the right to file with the Court a lawsuit against the employer.

The employer who has terminated the employment contract without valid reasons is obliged to compensate the worker with an amount equal up to one year salary, which is added to the salary that the worker must receive during the notification period. ***In the case of public administration employees, when there is a final court decision to return to the prior job position, the employer is obliged to obey this decision.*** (?) (Article 146 of the Labor Code).

Moreover, also in the cases of immediate and ungrounded termination of employment contract by the employer, the court imposes the obligation of employer against the worker to compensate the latter with an amount equal to no more than the salary of one year (Article 155, Paragraph 3 of the Labor Code).

Regarding termination of employment without valid reasons in the public administration, with reference to the restructuring of the institution, the civil servant gets transferred to the waiting list for one year. During this year, the civil servant enjoys the right of receiving the salary of his or her prior job position, as well as, the right of placement to another parallel position without undergoing competition.

Question:

What are the criteria that a worker must satisfy to win the claim of disability for 1 year, in the case as prescribed by Article 147/1?

Answer:

To confirm the allegation about benefiting temporary disability for one year, and to avoid employment termination, the worker must have the medical prescription as issued by the relevant Commission (Medical Commission of Disability Evaluation).

Question:

Which are the competent courts to adjudicate cases of employment termination under Articles 146 and 153?

Answer:

Competent courts are organized by level of jurisdiction, First Instance Courts, Appellate Courts.

Question:

Does the Albanian legislation contain definitions about rules, under which the burden of proof does not entirely rest with the plaintiff?

Answer:

It is in the Albanian legislation.

Question: Can the court rule only on returning to the job position in case of unlawful dismissal, apart from the case of the public administration staff?

Regarding interpretation of Article 146, Paragraph 3 of the Labor Code, which provides for the employer's obligation to employ the worker when there is a final court decision, the United Colleges of the High Court through the Unified Decision No. 7 of June 01, 2011, and referring to the national and international case law, held the position that the right of returning to work does not enjoy legal protection, but the party, which gets affected by an unlawful dismissal, is entitled to the right of compensation, which it can get through the court.

In this frame, the Courts, when an immediate and ungrounded employment termination is confirmed, must entitle the affected party to the relevant compensation for failing to comply with the employment contract termination procedure; for failing to comply with the notification deadline; for immediate termination of employment and without valid reasons, as well as, when it is the case, compensation for work experience.

Article 25

The right of workers to the protection of their claims in the event of the insolvency of their employer

Question: What are the rules and procedures, which regulate insolvency?

If the question is about the time, during which the employer must fulfill the priority obligation of the worker in case of insolvency, then we may say that the Labor Code has not defined any deadline, during which this obligation is to be fulfilled.

Question: How the workers are protected when bankruptcy occurs when the employer's obligations against the worker have not been met and solvency has not been declared.

Answer

The workers are entitled to the right of going to court, which decides about cases when bankruptcy happens when the employer's obligations against the worker have not been met and the employer has not declared the solvency.

Question: what is the normal or average time from the application up to the moment when the payment is made?

In case of insolvency, the obligations of the employer vs. the workers up to a general amount of no less than the minimum salary of 5 months have priority against all other obligations even when these obligations are guaranteed with movable or immovable properties. This priority is assumed to be maintained in the amendments, which are foreseen to be made to the Labor Code, despite stipulations set out in other legal provisions. The deadline from the announcement of the claim up to receiving the payment amount varies from the court procedures and judiciary instances. If the court decision is appealed, then the time of receiving the payment will be prolonged. Lack of labor courts has further prolonged the time of receiving this payment, since it is well-known that these courts act much faster.

Question: Are all workers' categories protected by the Law: part-time, full time and temporary contracts?

All categories of workers are protected by law concerning the right to claims in case of their employer's bankruptcy. All workers, regardless of the fact that they are part-time employed (as defined in Article 14/2 of the Labor Code) have the right to benefit from Article 141 of the Labor Code, in proportion to the time, during which they carry out activity even in cases of employer's insolvency.