

LAW

No 7961, dated 12.07.1995

Changed by law no. 8085, date 13.03.1996

Changed by law no. 9125, date 29.07.2003

CODE OF LABOR OF THE REPUBLIC OF ALBANIA

In support of Articles 81 and 83, point 1, of the Constitution, upon the proposal of the Council of Ministers,

THE PEOPLE'S ASSEMBLY
OF THE REPUBLIC OF ALBANIA

DECIDED:

THE BASICS OF THE CODE OF LABOR

CHAPTER I

Article 1

Changed by law no. 9125, date 29.07.2003

Code of Labor is based on the Constitution of the Republic of Albania.

Article 2

(1) Code of Labor respects the international conventions ratified by the Republic of Albania.

(2) Code of Labor is based on the generally recognized norms of the International Law.

APPLICATION SCOPE OF THE CODE

CHAPTER II

A. IN SPACE

Article 3

Changed by law no. 8085, date 13.03.1996

Changed by law no. 9125, date 29.07.2003

(1) The contract of employment is regulated by the law of the State where the employee usually carries out his/her job even when he/she is temporarily sent to work in another State.

(2) When the employee does not usually carry out his/her job in the same country, the contract of employment is regulated by the law of the country where his or her work centre is located.

If the work centre cannot be identified, it will be regulated by the law of the State where are located the headquarters of the physical or juridical person that has employed the employee.

(3) When, because of the circumstances on the whole, the contract of employment is more closely connected with the law of another State, then this law will be applied.

(4) The parties, through mutual agreement, may choose the application of another law different from what is provided for in the above paragraphs.

(5) This choice may not deprive the employee from the protection guaranteed to him/her the mandatory provisions of the law that will be applicable for lack of choice.

As this provision defines, mandatory will be called all the provisions which, according to law, must not be affected by contract to the detriment of the employee.

B. ACCORDING TO PERSONS

Article 4

Changed by law no. 9125, date 29.07.2003

Excluded from the application scope of this Code will be:

- the employment of the persons, which is regulated by a special law.

Particular provisions of this Code shall be applicable even for the persons whose employment is regulated by a special law, if the special law does not provide for the solution of problems connected with the employment relations.

C. ACCORDING TO CONTENT

Article 5

Changed by law no. 9125, date 29.07.2003

Excluded from the application scope of this Code will be:

a) the activity restricted only to the exercise of the duty of the adviser or of the member of the administration body of the juridical person, which has the juridical form of a company, when this activity contains only the execution of the obligations stemming from this duty;

b) the jobs that are carried out on friendly, volunteering or neighborliness basis;

c) family jobs that are carried out by family members: spouses, children and their spouses, their predecessors, including adopted individuals, for as long as they share the same household with the employer, except for the cases where it is proved that the persons carrying them out are employers.

D. IN TIME

Article 6

Changed by law no. 8085, date 13.03.1996

(1) The provisions of this Code are applicable for all the contracts of employment, which will be bound after its entering into force.

(2) This Code is applicable even for the contracts of employment bound before its entering into force, but which will be executed after its entering into force. In all the cases, the seniority at work of the employer will be calculated from the beginning of his/her labor relations.

(3) The same rules are applicable in the case of partial changes of this Code.

(4) The Council of Ministers may decide that the provisions of this Code, which are related to health and safety protection, be executed progressively during a limited period in several enterprises, as defined by the decision of the Council of Ministers; these enterprises will be subject to special provisions.

Article 7

Changed by law no. 8085, date 13.03.1996

Territorial Competences

(1) Lawsuits against the persons living inside the territory of Albania are started at the court of the defendant's place of residence.

(2) A lawsuit is started even in the country where the employee usually carries out his/her job. When the employee does not carry out his/her job in the same country, a lawsuit may be started in the country where is located the work centre that has employed him/her.

(3) The agreements that have to do with the jurisdiction will be valid only if they are defined as such before the conflict arises.

THE BASIC RIGHTS

CHAPTER III

A. PROHIBITION AGAINST COMPULSORY LABOR

Article 8

Changed by law no. 8085, date 13.03.1996

(1) All forms of compulsory labor are prohibited.

(2) With compulsory or forced labor is meant any job or service imposed on the individual against his/her will, threatening him/her through whatever punishment.

Prohibited is the use of compulsory labor as:

a) a coercive measure or sanction against persons that have or air beliefs running contrary to the ruling political, economic and social order;

b) a method of mobilization or exploitation of labor force for the purpose of economic development;

c) a disciplinary measure at work;

d) a punishment for having participated in a strike;

e) a measure of racial, social, national or religious discrimination.

(3) The following are not considered to be compulsory labor:

a) any job or service imposed on the basis of the law on the Armed Forces of the Republic of Albania, which are designed to serve activities of purely military character;

b) any job or service imposed on the individual as a punishment determined by the court and during which the person is not put at the service of the citizens or private juridical persons, except for the cases provided for in paragraph 2 of this Article.

c) any job imposed in case of war or because of forces majeure, natural calamities, especially in case of fire, floods, starvation, earthquakes, epidemics and under all circumstances threatening life or normal living conditions of the entire population or of one part of it.

PROHIBITION AGAINST DISCRIMINATION

Article 9

Changed by law no. 8085, date 13.03.1996

(1) Any kind of discrimination in the field of employment or profession is prohibited.

(2) With discrimination is meant any differentiation, exclusion or preference based on race, color of skin, sex, age, religion, political beliefs, nationality, social origin, family relation, physical or mental disability, threatening the individual right to be equal in terms of employment and treatment. Differentiation, exclusion or preferences required concerning a particular job are not considered to be discriminating. The special protection measures in favor of the employees, which are provided for by this Code or the Decision of the Council of Ministers or collective contracts, are not considered to be discriminating.

(3) With employment and occupation are meant vocational orientation and education, giving of work and exercising of different professions as well as employment conditions related to the distribution of labor, job performance, remuneration, social aid, discipline or termination of the employment contract.

B. TRADE UNION LIBERTY. COLLECTIVE BARGAINING

Article 10

(1) Trade Union liberty is defended by law.

(2) No one has the right:

a) to condition the employment of the employee with his/her being or not a member of a Trade Union created as defined by law, or with his/her decision to walk out of it;

b) to remove or violate the right of the employee because of his/her being or not a member of a Trade Union created as defined by law, or of his/her participation in a Trade Union activity by respecting the legislation in force.

THE PRIORITY OF THE RIGHT-RELATED NORMS

CHAPTER IV

Article 11

Changed by law no. 8085, date 13.03.1996

Changed by law no. 9125, date 29.07.2003

(1) The rights and obligations concerning labor relations are regulated in order of priority by the following sources:

- a) The Constitution of the Republic of Albania.
- b) The international conventions ratified by the Republic of Albania.
- c) This Code and its sub-legal acts.
- d) The collective contract of employment.
- e) The individual contract of employment.
- f) The interior regulations.
- g) The local and occupational customs.

(2) The sub-legal acts are designed to complement and implement the provisions provided for by this Code.

They may determine employment conditions for the employees, which are less favorable than those provided for by this Code, only when this is explicitly defined in the latter.

(3) Any provision going beyond the complementing and implementation of this Code is invalid. However, valid are only those provisions that improve the employer's position.

(4) The employee cannot give up his own rights stemming from the mandatory provisions of this Code or of the Collective Contracts of Employment. Valid will be the agreements that are concluded in the presence of the labor inspector, or in the form as defined by the Collective Employment Contract, which, based on reconciliation, aim to avoid a conflict through mutual toleration freely accepted by both parties.

(5) Occupational customs are applied only in absence of legal provisions, of provisions included in the agreement, contract, and when the legal provisions refer to the occupational customs explicitly.

CREATION OF INDIVIDUAL LABOR RELATIONS

CHAPTER V

A. DEFINITION

CONTRACT OF EMPLOYMENT

Article 12

Changed by law no. 8085, date 13.03.1996

Changed by law no. 9125, date 29.07.2003

The contract of employment is an agreement between the employers and the employees, which regulates the labor relations, and contains the rights and obligations of both parties. Through the Contract of Employment, the employee undertakes to offer his/her services for a fixed or unfixed period of time within the framework of the organization and orders of another person who is called employer, and who undertakes to pay a given remuneration.

GROUP CONTRACT

Article 13

(1) When the employer enters into a contract with a group of employers as a whole, he/she is contractually bound with each group member.

(2) Any agreement, according to which the employee pledges to use the services of a third party, playing the part of an employer, is invalid.

PART-TIME LABOR

Article 14

(1) Through the part-time employment contract, the employee accepts to work on the basis of hours, half or complete working days for a normal weekly or monthly duration, which is shorter than that of full-time employees working under the same conditions.

(2) The part-time employee enjoys the same proportional rights as the full-time employee.

HOME-BASED LABOR

Article 15

(1) Through the home-based employment contract, the employee is obliged to carry out his/her job alone or with the help of his/her family members at his/her home or any other facility he/she has chosen on the basis of the alternatives offered by the employer.

(2) The employee working at his/her home enjoys the same rights as the employee working at the enterprise. When the employee does not work at his/her home, he/she may ask additional funds to cover the facility-related expenses.

THE COMMERCIAL AGENT (Commissioners)

Article 16

Changed by law no. 8085, date 13.03.1996

(1) Through the contract of employment of the commercial agent, the employee (the commercial agent), in return for payment, is obliged to enter into negotiations or conclude agreements about whatever activities outside the enterprise, in compliance with the orders of his/her employer and on the latter's behalf.

(2) The person exercising this activity in an independent way will not be considered as a commercial agent.

(3) The provisions of this Code are applicable even in the case of the commercial agent being an employee.

CONTRACT OF APPRENTICESHIP

Article 17

(1) Through the contract of apprenticeship, the teaching master binds himself/herself to train his/her apprentice in accordance with the rules of his/her trade, and the apprentice binds himself/herself to serve the teaching master in order to get qualified.

(2) The provisions of this Code are applicable even in the case of the contract of apprenticeship.

PROVISIONS RELATED TO SPECIAL CONTRACTS

Article 18

Changed by law no. 8085, date 13.03.1996

(1) The Council of Ministers may provide special rules applicable to the contract of home-based employment, the contract of employment of the agent who is independent, and the contract of apprenticeship.

(2) The Council of Ministers may provide special rules about the employees working at home, in agriculture, construction, transports, mines or ports, and about the temporary employees.

B. ARISING OF LABOR RELATIONS

EMPLOYMENT

Article 19

Changed by law no. 8085, date 13.03.1996

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(1) The employer employs the employee directly.

(2) To employ the employee, the employer may use the services of State recruitment offices or of private employment agencies.

(3) Private recruitment activity is subject to the same rules that the Council of Ministers provides for the exercise of the State recruitment activity designed to make profits.

THE CAPACITY TO CONTRACT

Article 20

Changed by law no. 8085, date 13.03.1996

(1) Entitled to enter into a contract of employment are:

a) the persons in possession of full capacity to act in accordance with provisions of the Civil Code;

b) the persons in possession of restricted capacity, but who are expressly or silently authorized to work by their legal representative.

(2) The persons mentioned in point “b” of this article exercise their rights and fulfill their obligations, which stem from the contract, like all the other employees, and have the right to terminate this contract.

THE FORM OF THE CONTRACT OF EMPLOYMENT

Article 21

Changed by law no. 8085, date 13.03.1996

Changed by law no. 9125, date 29.07.2003

(1) The contract of employment may be concluded or changed either orally or in a written form. It may be changed only if the parties agree to do so. Any change of the written contract to the detriment of the employee must be executed in a written form.

(2) The contract of employment is considered as concluded when the employer accepts the carrying out of a job for a definite or indefinite period of time within the framework of his/her organization and under his/her orders, and which, on the basis of these circumstances, is carried out against payment.

(3) The contract of employment concluded in a written form must particularly contain:

a) the identity of the parties;

b) the workplace;

c) the general description of the job;

d) the date of starting the job;

e) the duration, when the parties enter into a contract of defined time limits;

f) the duration of paid vacations;

g) the notice deadline to terminate the contract;

h) the constituent elements of the wage and the day on which it is given;

i) the normal time of the working week;

j) the contract of employment must contain the collective contract in force as well.

(4) When the contract of employment is concluded orally, the employer, within 30 days, starting on the day of the concluding of the contract, is obliged to compile the written relevant document bearing his/her signature and that of the employee, which particularly contains the elements as provided in point (3) of this article. Failing to

compile this document in a written form shall not affect the validity of the contract, but it only makes the employee responsible as defined by Article 202, point 2, of this Code.

(5) The notice concerning the elements provided for in paragraph 3, letters “f”, “g”, “h” and “i”, if the need arises, shall be given by referring to the Code provisions, to the decisions of the Council of Ministers, or to a collective contract.

EMPLOYEE’S OBLIGATIONS

CHAPTER VI

PERSONAL JOB PERFORMANCE

Article 22

Changed by law no. 8085, date 13.03.1996

(1) The employee carries out his/her charged job in person, except for the cases where, through agreement, the contrary is provided.

(2) Invalid will be the employee’s pledge to secure his/her own replacement for the employer when the former is not obliged to work as a result of the execution of this Code.

(3) The employee is replaced or helped by a third person, with the expressed or silent consent of the employer. In this case, the replacement or the helpmate is considered as the employer’s employee. Any contrary agreement is invalid.

BINDING IN OBEDIENCE

Article 23

Changed by law no. 8085, date 13.03.1996

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(1) The employee respects the employer’s general and specific orders and instructions.

(2) The employee is not obliged to execute the employer’s general and specific orders and instructions, which cause the conditions of the contract of employment to change. The change of the contract is made through the mutual agreement of the parties.

(3) The employee is not obliged to execute the employer’s general and specific orders and instructions, which put his/her life and health at stake.

BINDING IN CAUTION AT WORK

Article 24

Changed by law no. 8085, date 13.03.1996

(1) The employee carries out the job he/she is charged with carefully.

(2) To carry out the job, the employee, in accordance with the fixed rules, must use the work tools, the devices, the employer’s means and the equipment placed at his/her disposal.

BINDING IN RENDERING ACCOUNTS AND IN GIVING BACK

Article 25

(1) The employee renders account before the employer about any thing he/she has benefited on behalf of the employer while exercising his/her activity within the contract, especially as concerns the sums of money.

(2) The employee immediately gives back to the employer any thing he/she has received from him/her, with the exception of the personal tips and gifts given to him/her.

(3) The employee immediately gives back to the employer any thing he/she has produced as a result of his/her activity carried out on the basis of the contract.

BINDING IN LOYALTY

Article 26

(1) The employee loyally safeguards the legal interests of the employer.

(2) The employee, within his/her powers, helps the other employees or the employer in case of calamity or jeopardy.

(3) The contract still being valid, the employee must not carry out any paid job for third parties, if this harms the employer or puts him under competition.

(4) During the validity of the contract and after its completion, the employee must keep for himself/herself the facts designed to remain secret, such as:

- the secret of manufacturing and activity he/she has been familiar with while serving the employer.

(5) The employee has the right to denounce at the bodies of competence the offenses, the violations of the labor legislation or of the contract he/she is familiar with.

EMPLOYEE'S RESPONSIBILITY

Article 27

Changed by law no. 8085, date 13.03.1996

Changed by law no. 9125, date 29.07.2003

(1) The employee is responsible to the employer for the damage he/she has caused him/her when he/she violates the contractual obligations deliberately or because of negligence.

(2) The degree of care the employee should demonstrate at work depends on the technical knowledge required to carry out the assigned job, taking into consideration the employee's skills and qualities, which the employer knew, or should have known. The damage, which really results from job performance, is covered by the employee.

(3) The damage includes the real damage and the lack of profit.

(4) The court may partially or completely discharge the employee from the obligation to pay the damage when:

- the employee has acted with slight negligence;

- the employer, while organizing or controlling the work, commits the same mistake, which is connected with the cause of the damage;
- taking into consideration the employee's sources of income, the obligation to completely pay the damage is not compulsory.

A. PROHIBITION AGAINST COMPETITION AFTER THE TERMINATION OF LABOR RELATIONS

CONDITIONS

Article 28

Changed by law no. 9125, date 29.07.2003

(1) The employee older than 18 years of age may pledge in writing to the employer that, after finishing his/her job, he/she will by no means put the latter under competition, and especially that he/she will not set up a competing enterprise, as well as that he/she will neither work at nor show interest in it.

(2) The agreement on forbidding competition will become valid only if the employment relations enable the employee to learn the secrets, which have to do with the employer's manufacturing or activity, and when their use might cause a serious damage to the employer.

(3) The employer may ask for the agreement on forbidding competition to be executed only on condition that, during the period of prohibition, he/she offers his/her employee not less than 75% of the salary he/she would receive if he/she were still working for his/her employer. When the salary is a changeable one, the reward is calculated on the basis of the average salary of the preceding year and gets indexed.

RESTRICTIONS

Article 29

Changed by law no. 9125, date 29.07.2003

(1) The agreement must explicitly define the prohibition of competition concerning the place, the time, and the kind of activity, in order not to harm the employee's economic future. The prohibition period may not be longer than one year.

(2) The court may decrease the above-mentioned elements of the prohibition of excessive competition, taking full consideration of all the circumstances; it will consider the remuneration given by the employer, if that exceeds the minimum provided for in Article 28.

TERMINATION OF PROHIBITION

Article 30

Changed by law no. 9125, date 29.07.2003

(1) The prohibition of competition will terminate in due time as fixed in the agreement.

(2) Regardless of the deadline fixed in the agreement, the prohibition of competition will terminate, if they prove that the employer is no more interested in its continuation.

(3) The agreement on the prohibition of competition will not be executed, if the employer terminates the contract without reasonable causes, or if the employee terminates the contract because of a reasonable cause, which has to do with the employer.

SANCTIONS

Article 31

Changed by law no. 8085, date 13.03.1996

Changed by law no. 9125, date 29.07.2003

(1) The employer who violates the prohibition against competition must pay the damage he/she has caused to the employer.

(2) If the agreement provides for punishment through fine in the case of any violation of the prohibition of competition, the employee may continue his/her rivaling activity after having paid the fixed fine; however, he/she must also pay the difference between the fine and the damage caused to the employer..

(3) If the agreement provides for the punishment through fine in the case of the prohibition of competition, the court may decrease the fine when it obviously is excessive, taking full consideration of the circumstances that have led to such violations.

(4) The employer, when explicitly fixing this right in a written form, apart from his/her claim to the fine and other specified damages, he/she may also demand that the rivaling activity terminate, if such a measure gets justified, taking full consideration of the employer's infringed or jeopardized interests, as well as the employee's conduct.

EMPLOYER'S GENERAL OBLIGATIONS

CHAPTER VII

PROTECTION OF PERSONALITY

Article 32

(1) The employer respects and protects the employee's personality while dealing with him/her within the framework of work relations.

(2) He/she must prevent any attitude that threatens the employee's dignity.

(3) The employer is forbidden to carry out any action of sexual harassment against the employee and prohibits the commitment of such actions by the other employees.

By sexual harassment is meant any nuisance that considerably harms the psychological state of the employee because of sex.

OBLIGATION

Article 33

The employee, during labor relations, must not collect information concerning the employee, except for the cases where this information has to do with the trade skills of the employees, or is necessary for the contract to be executed.

CHECKING OF PERSONAL POSSESSIONS

Article 34

Changed by law no. 9125, date 29.07.2003

(1) The employee and his/her personal possessions do not become subject to checking, except for the cases where there arises the need to protect the property of the employer, of the juridical person's employees, or of the third parties from an unlawful violation.

(2) The employer or a person assigned by him/her does the checking during the working time. The person checking and the person subject to checking must be of the same gender.

(3) Checking shall be executed within the territory of the enterprise and in the presence of another employee accepted by the employee subject to checking.

CERTIFICATE OF LABOR

Article 35

(1) At any time, the employee asks the employer to give him/her a certificate about the nature, duration and quality of work, as well as about his/her conduct.

(2) Upon the expressed request of the employee, the certificate contains data only about the nature and duration of labor relations.

(3) The employer is not entitled to provide the third parties with information about his/her employee, except for the cases provided by law, or with the consent of the employee.

REGISTER

Article 36

(1) The employer keeps the register of the employees employed in his/her enterprise.

(2) The content of the register is defined by the provisions of this Code, and through the Decision of the Council of Ministers.

DISCIPLINARY MEASURES

Article 37

Changed by law no. 9125, date 29.07.2003

The disciplinary measures are mainly provided for only in the collective contract of employment. In each case, the individual contract must refer to the relevant acts concerning the disciplinary measures.

AVAILABILITY OF THE CODE

Article 38

The employer must make a copy of the Code of Labor available for the employees at every enterprise.

SAFETY AND HEALTH PROTECTION

CHAPTER VIII

Article 39

EMPLOYER'S RESPONSIBILITY

(1) To prevent the accidents and occupational diseases, the employer must clearly set the rules of technical safety.

(2) The employer must pay the difference between the damage and the benefit the employee receives from social insurance, when the accident or the occupational disease is a result of serious guilt on the part of the employer.

(3) When the employer fails to register his/her employee in social insurance, he/she must cover all the employee's expenses that result from the accident or the occupational disease, as well as all the damages that result from non-registration.

GENERAL MEASURES

Article 40

Changed by law no. 9125, date 29.07.2003

(1) The employer binds himself/herself to take care of the hygiene of the workplaces. After having consulted the employees, the employer must take the necessary protective measures against special hazards presented by poisoning substances and agents, machines, transportation of heavy weights, air pollution, noise and vibrations, as well as against the hazards related to several branches of economy such as construction, civil engineering, mines and chemical industries. The employer must and put signals, which can be clearly identified, at any workplace hazarding the employees' life and health.

(2) When working presents special hazards, the employer must organize medical visits for employment purposes and during the process periodically and with his/her own expenses.

(3) The special measures for the safety and protection of health are defined by the Decision of the Council of Ministers.

ADMINISTRATIVE AUTHORIZATION

Article 41

Changed by law no. 8085, date 13.03.1996

Changed by law no. 9125, date 29.07.2003

(1) The employer must take permit from the labor inspector before putting his/her enterprise or a part of it in motion, before creating new workplaces, as well as for any important change in the manner of work, exploitation of the raw materials used, machinery and equipment, excluding the permits required on the basis of other laws. The classification of the activity, the documentation to be presented by the employer, as well as the procedures for granting the permit by the labor inspector, will be fixed by the Council of Ministers.

(2) The labor inspector must provide the employer with all the legal and sub-legal acts concerning the envisaged activity, and shall discuss with him/her about the measure that should be taken.

(3) The protective measures imposed by the labor inspector must not lead to disproportional expenses in relation with the goal of the activity.

(4) The employer will implement his/her project, if, within 30 days starting from the date of the presentation of the documents, the labor inspector does not reject it in writing and in a motivated way.

DOCUMENTS TO BE PRESENTED

Article 42

The employer must always keep the following documents at his/her enterprise and present them to the labor inspector:

- a) a copy of the declarations of the accidents at work, which have happened at least during the last three years;
- b) the plan, and the project of workplaces;
- c) the list of the dangerous substances that are used in his/her enterprise.

This list must contain sufficient data that allow to identify the composition of used substances, the jeopardy, the protective measures and the number of employees that work with them.

TRAINING OF EMPLOYEES. TAKING OF PROTECTIVE MEASURES

Article 43

(1) The employer must inform the employees about the hazards that are connected with the work, and train the employees to respect the requirements in the field of health, safety and hygiene.

(2) Training and information provided in the above paragraph are done during the process of employment and repeated in case of need, especially if working conditions undergo change.

(3) The employer must explain to the employees exposed to hazards the indispensability to execute the measures related to technical safety and hygiene.

Article 44

(1) The employee must execute the measures imposed by the employer and inform the latter when finding it difficult to execute them.

(2) Only qualified persons may run the transportation, mechanical and electric machines and equipment.

A. WORKPLACE

ARRANGING OF WORKPLACE

Article 45

(1) Workplace, in all its constituent parts, must be adapted to the nature of work to be carried out there.

(2) The surface and space of the workplace must be sufficient for the employee so that he/she can carry out his/her job in complete safety and without hindering circulation in the environment.

(3) Installment of machines and equipment as well as storage must not hinder circulation or occupy any space where work is done.

SUSTAINABILITY AND CLEANLINESS

Article 46

(1) The walls, the floors, and the ceilings must be strong and in a good state. They must always be kept clean.

(2) The walls, the floors, and the ceilings must be cleaned frequently in order to secure the cleanliness of the facility, continuation of work and circulation, preventing of fires and protection of both employees and population from any threat of infection that might be caused by the productions and animals, which are dangerous to health.

REPAIRS

Article 47

(1) Plastering, painting or repairing of floors, walls and ceilings must be done as frequently as required.

(2) The walls and ceilings must be periodically controlled in order to eliminate and replace those parts that present jeopardy to the employees' life and health, machines and ready-made products.

B. WORK ENVIRONMENT

PRINCIPLES

Article 48

The Council of Ministers, or the body it authorizes, defines the permitted limits for the protection from air pollution, chemical substances, radioactivity, noise and vibrations at workplaces.

AIR

Article 49

(1) Work environment must have enough air and a system of ventilation to avoid the temperature harmful to the employee's health, and stinks.

(2) Airing must be realized in such a way that it directly pours outside. If natural airing fails to be sufficient, it must be complemented through mechanical ventilation in compliance with the space of the environment and the number of people happening to be there.

(3) The atmosphere of environment and workplace must be kept clean in order to protect the health of the employees.

(4) Smoking is prohibited in environments where more than one worker works.

(5) If some work processes do not allow to completely avoid the production of serious polluting substances harmful to health, dust, smoke, gasses must continuously be driven out of the work environment through special devices.

NOISE AND VIBRATIONS

Article 50

(1) The intensity of noises bearable for the employee must be kept at a level that suits his/her health through the absorption or decreasing of noises at their source and isolation of environment with the appropriate means.

(2) The intensity of vibrations bearable for the employee must be kept at a level that suits his health through the absorption or decreasing of vibrations at their source with the appropriate means.

C. DANGEROUS MACHINES

GENERAL PROTECTION

Article 51

(1) No employee must use machines without having taken all the required safety measures in advance.

(2) The dangerous parts of the machines must be equipped with protecting means.

MAINTENANCE

Article 52

Changed by law no. 8085, date 13.03.1996

The employer must see to it that repairing, maintenance, greasing and checking of machines, of equipment, of transmission tools or of the mechanisms containing mobile parts be done only after having stopped the machine, only after having checked and made sure that one can by all means put it into use, and only after having interrupted the power supply that puts the machine into motion.

TRADING OF MACHINES

Article 53

Forbidden will be the selling, renting, ceding, exposing or using of machines, of which the dangerous elements, as defined by Article 51, fail to contain the required protective devices.

D. WORKING CONDITIONS AND LOADS

WORKING CONDITIONS

Article 54

(1) When the employee works continuously or discontinuously works in a sitting position at his/her workplace, he/she must be provided with a chair appropriate to perform his/her job.

(2) If carrying out of the job requires standing up or stooping for a long time, the employee must enjoy the right to paid and short breaks lasting not less than 20 minutes every 4 continuous working hours.

(3) Pregnant women must be subject to breaks every 3 hours.

LOADS

Article 55

Changed by law no. 9125, date 29.07.2003

(1) A person is forbidden to carry alone any load or weight heavier than 55 kg.

(2) The sender or, in his/her absence, his/her transporter of packages or weights heavier than 55 kg, must put down in visible and sustainable writing the weight on the outside part of the wrapping or of the package itself.

(3) The employer must put at the disposal of the employees all the necessary manual or mechanical means that make the weights they carry lighter.

(4) As concerns women, the weight they may carry is up to 20 kg.

(5) As concerns pregnant women and breast-feeding mothers, it is forbidden to transport loads that jeopardize the health of both mother and child.

E. MOVING AND FALLING

PASSAGES

Article 56

(1) The passages, the corridors, the doors, and the exits, in case of danger, must be free from any obstacle of materials or objects that hinder the circulation of men and means, or evacuation in case of fire.

(2) Work facilities, which are located on floors or underground, must always have stairs of sufficient width, with supports or handrails.

EXITS

Article 57

The exits, which may be located on the ground of the building, must be closed with an appropriate and fixed floor, or are protected.

SCAFFOLDS AND TRESTLES

Article 58

Changed by law no. 8085, date 13.03.1996

(1) The scaffolds and the work platforms, which are properly protected, must be replaced for any job that presents jeopardy, whether ladders or other means are used to carry it out.

(2) The elevated floors and platforms, the trestles and entering into them must be constructed, placed and protected so as to secure safety for the employees working on them.

(3) The scaffolds, the work and circulation platforms and the trestles leading into space must be equipped with protective means at the height of 1m by 45 cm above the floor level and with plinths at a height of not less than 15 cm, or with the other means that secure the same safety.

THE LADDERS

Article 59

(1) The ladders must be resistant: as concerns them, there arises the need to calculate the weight that they must carry: they must be equipped with steps placed on equal distances and properly nailed down to the supporting parts. They must be long enough to create the possibility for both feet and hands to rest safely.

(2) The steps must be properly fixed so that they neither shake nor slip away.

HODS. WATER HOLES. RESERVOIRS

Article 60

The hods, the water holes or the reservoirs must be constructed, placed and protected so as to protect the employees from falling and hazards, which may be caused in the case of side parts falling apart, or in the case of filling, spilling or spraying done with various products that cause burns of thermal or chemical origin.

PREVENTION FROM SLIDING

Article 61

Changed by law no. 8085, date 13.03.1996

(1) The ground of work installments and circulation areas must be properly leveled and devoid of any hole, slit or obstacle, which might cause the employees to fall, or hinder the normal functioning of the mobile means, equipment and installments.

(2) All the necessary measures must be taken in order to avoid falling or sliding on the ground, which is with sliding substances, wet, or with stains from various substances.

LIGHTENING

Article 62

(1) The lightening of environment, of workplace or of their respective entrances must be sufficient so that normal performance of work is secured.

(2) The lightening must be perceived, realized and maintained so that any tiring of sight is avoided.

F. FIRES AND EXPLOSIONS

PRINCIPLES

Article 63

Changed by law no. 8085, date 13.03.1996

The employer must make the analysis of fire or explosion threats and take the necessary measures to prevent them, taking full consideration of the nature of the used substances, environment and work processes.

VAPORS THAT MAY CATCH FIRE

Article 64

(1) The environment where they process or store substances that emit flammable vapors must be ventilated and, in no case, it should contain flames, devices, installments or means, which cause sparkles.

(2) The prohibition against smoking must be clear, and all the possible means should be used to remind of that.

EXTINGUISHERS

Article 65

(1) Every work environment must by all means be equipped with fire extinguishers in sufficient amounts, which should be maintained in a state of good functioning.

(2) Reserves of water and sand must be kept near those workplaces that present great danger.

INSTRUCTIONS FOR THE EMPLOYEES

Article 66

(1) The employer must inform the employees about the danger related to fire and various explosions, the protective means to prevent such a danger included.

(2) The employer teaches the employees how to use the extinguishers and other protective means against fire.

(3) The employer shows the employees the exits to be used in case of fire and conducts, at least once a year, exercises related to the war against fire and the manner of the evacuation of persons.

PROTECTION AGAINST ATMOSPHERIC CONDITIONS

Article 67

(1) When the employees work in the open, construction sites, public works, agriculture or industry, they must be provided with a shelter, which should be situated in such a distance that the employees might use it freely.

(2) The guards of any enterprise must stay in a certain environment.

INDIVIDUAL EQUIPMENT

Article 68

(1) When the measures of collective protection fail to protect the employees, the employer, free of charge, must put at the disposal of the employees individual protective equipment designed for protection against fire.

(2) The equipment must be tested and cleaned before handing them over to the employees. They must be in a good available state in any time and stored in places protected from dust and other polluting agents.

G. DRINKS. EATING.

DRINKS

Article 69

The employer must put at the disposal of the employees drinkable water, at least 6 liters a day per person.

FOOD

Article 70

The employer puts at the disposal of the employees dining facilities of acceptable hygienic conditions, when this is justified by the number of employees, the distance from workplace, the place of residence, or the manner of the organization of work.

H. WARDROBE. SANITARY INSTALMENTS.

PERSONAL BELONGINGS

Article 71

The employees must have the possibility of changing their clothes, of putting them and their personal belongings in a place protected from theft, difficult atmospheric conditions and polluting sources.

SANITARY INSTALMENTS

Article 72

(1) The employer must put the disposal of the employees all the means necessary to secure the personal hygiene: water in sufficient amounts, soap, cleaning and sweeping means.

(2) The showers are located in the enterprise just where they carry out soiling and dirtying jobs.

(3) Water Closets must be sufficient in number. They must be located in every facility and their ventilation should be secured.

(4) Hygienic rooms for women must be built in every enterprise.

DWELLING. SHELTERING.

Article 73

The residences that the employer gives to the employees must have acceptable hygiene and cleanliness and separate Water Closets for men and women.

MAINTENANCE

Article 74

The sanitary equipment and the facilities of personal use by the employees must be maintained clean.

FIRST AID

Article 75

(1) In every enterprise, they must take measures to give the first aid to any person injured at his/her workplace.

(2) In every enterprise, at least one personnel member of each group must have taken the instructions necessary to give the first aid in emergency cases.

(3) In every work environment, there must be the first aid kit regularly equipped with the necessary materials and means.

DURATION OF WORK AND BREAKS

CHAPTER IX

DEFINITIONS

Article 76

(1) By duration of work is meant the time during which the employee is at the disposal of the employer. Excluded from the working time is the time designed for break, during which the employee is not at the disposal of the employer.

(2) Excluded from the daily duration of work is the time that the employee needs to go to work and leave from it. The exceptions are regulated by the Decision of the Council of Ministers.

A. DAILY DURATION OF WORK

DEFINITION

Article 77

By daily duration of work is meant the daily effective time of work from 0 o'clock until 24 o'clock of the same day, breaks excluded.

DURATION OF WORK AND DAILY BREAK

Article 78

Changed by law no. 9125, date 29.07.2003

(1) The normal daily duration of work is no longer than 8 hours. It is defined by the decision of the Council of Ministers in the collective or individual contract of employment, within the limits of the maximum weekly working time.

(2) For the employees under 18 years of age, the daily duration of work is not longer than 6 hours a day.

(3) The daily break is at least 11 hours a day without interruption within the same day or, in case of need, two consecutive days.

BREAKS

Article 79

(1) The hours of beginning and finishing work are defined by interior regulations, within the limits set by law and through the Decision of the Council of Ministers.

(2) The moment and the duration of daily breaks are defined in the collective contract of employment or in the individual contract, within the limits set by the Decision of the Council of Ministers.

NIGHT WORK

Article 80

(1) By night work is meant the work carried out from 22 o'clock until 6 o'clock in the morning.

(2) The duration of night work and of the work carried out one day before or after it must not be longer than 8 hours without interruption. They must be preceded or followed by an immediate daily break.

EXTRA PAYMENT ADDED TO SALARY

Article 81

(1) Every working hour taking place from 19 o'clock until 22 o'clock entitles the employee to an extra payment added to the salary, which is not lower than 20 per cent of the salary.

(2) Every working hour taking place during the interval between 22 o'clock and 6 o'clock in the morning entitles the employee to an extra payment added to the salary, which is not lower than 50 per cent of the salary.

B. THE WEEKLY WORKING TIME

DEFINITION

Article 82

By the weekly working time is meant the working time, which takes place from Monday morning at 0 o'clock until the coming Sunday at 24 o'clock.

THE MAXIMUM DURATION OF THE WEEKLY WORKING TIME

Article 83

Changed by law no. 9125, date 29.07.2003

The normal duration of the weekly working time is no longer than 40 hours. It is defined by the decision of the Council of Ministers in the collective or individual contract of employment.

DIFFICULT JOBS

Article 84

The Council of Ministers determines a reduced weekly duration for jobs that are difficult to do or harmful to health.

C. WEEKLY HOLIDAYS AND RED-LETTER DAYS

WEEKLY HOLIDAYS

Article 85

(1) The weekly holidays are not shorter than 36 hours, out of which 24 hours without interruption.

(2) The weekly holidays include Sunday.

(3) The weekly holiday is not payable.

(4) The exceptions are regulated by the Decision of the Council of Ministers.

RED-LETTER DAYS

Article 86

Changed by law no. 8085, date 13.03.1996

Changed by law no. 9125, date 29.07.2003

(1) As a rule, work is prohibited on official red-lettered days.

(2) The employee enjoys the right to payment official red-lettered days. When the red-letter day falls on weekly holidays, Monday will be a holiday.

(3) The exceptions to work on official red-letter days are defined by the Decision of the Council of Ministers or in the collective contract of employment.

WORK ON SUNDAY OR ON RED-LETTER DAYS

Article 87

Changed by law no. 8085, date 13.03.1996

Changed by law no. 9125, date 29.07.2003

The work done on Sunday or on other official holidays shall be compensated with a wage increase not less than 25% or with a leave from duty equal to the duration of the performed job plus an additional leave from duty not shorter than 25% of the duration of this job, which will be taken one week before or after it has been carried out.

D. EXTRA HOURS

DEFINITION

Article 88

(1) By extra hours is meant every working hour carried out beyond the normal daily working time or maximum weekly duration of work.

(2) An extra hour is any hour of work carried out beyond the normal timetable of the employee who carries out a part-time job.

THE OBLIGATION TO WORK EXTRA HOURS

Article 89

If the circumstances require extra hours of work, the employer will ask the employee to do so for as long as it is possible and necessary, as well as by taking full consideration of the personal and family situation of the employee.

THE MAXIMUM DURATION OF THE EXTRA HOURS

Article 90

Changed by law no. 8085, date 13.03.1996

(1) The maximum number of the extra hours is defined in the collective or individual contract of employment.

(2) Asking the employee to carry out weekly extra hours of work is prohibited when he/she has done 50 working hours in a week.

(3) The Council of Ministers fixes specific rules for carrying out of extra hours of work for the jobs, which are difficult or harmful to health.

(4) Upon the authorization of the Labor Inspectorate, the maximum duration of the extra hours may be extended in case of force majeure, or of urgent work to be done in favor of the population.

COMPENSATION

Article 91

(1) For the extra hours of work that have not been compensated with a holiday, the employer must pay the employee the normal salary and an extra payment not lower than 25 per cent of the salary, unless otherwise defined by the collective contract.

(2) In agreement with the employee, the employer may compensate the extra hours of work with a holiday, which is at least 25 per cent longer than the former and corresponds to the duration of the extra hours of work and is given within 2 months, starting from the day of the carrying out of the job, unless otherwise defined by the collective contract.

(3) The extra hours of work done during weekly holidays or on the official red-lettered day are compensated with a holiday or payment, which are at least 50 per cent greater than the extra hours of work done or the normal salary respectively, unless otherwise defined by the collective contract. This compensation includes the compensations included in the preceding paragraphs as well.

E. ANNUAL VACATIONS

DURATION

Article 92

Changed by law no. 9125, date 29.07.2003

(1) The duration of the annual vacations with pay is defined by the collective contract or by the individual contract of employment.

(2) The duration of the annual vacations is not less than 4 calendar weeks during the continuing year of work.

(3) When the employee has not completed a full year of work, the duration of the annual vacations with pay is defined in relation to the duration of labor relations. The periods of temporary disability to work are considered as working time.

THE DATE OF ANNUAL VACATIONS

Article 93

Changed by law no. 9125, date 29.07.2003

(1) Taking full consideration of the employee's choice, the employer sets the date of the beginning of the annual vacations with pay. The starting date of the annual vacations is notified to the employee at least 30 days ahead of due time.

(2) The employee who is hospitalized or stays at home because of sickness or accident, which can be certified by means of medical report, may demand to postpone his/her annual vacations.

(3) The annual vacations must be given during the working year or until the end of the first quarter of the following year, and they can never be less than an uninterrupted week.

(4) The right to the vacations not (given) taken remains for three years, starting from the date on which the employer becomes entitled to this right.

SALARY

Article 94

Changed by law no. 8085, date 13.03.1996

(1) The salary to be paid for the annual leave is the one that the employee would benefit even if he/she did not take it. To this salary, a fair compensation shall be added, corresponding to the part of the salary benefited in kind; the calculation criteria for this salary shall be fixed by the Council of Ministers.

(2) The salary that is given for the annual vacations with pay is the one that exists at the moment of taking them.

(3) In the case of a changeable salary, the salary that is given for the annual vacations with pay is calculated on the bases of the average monthly salary of the preceding year: it is indexible.

(4) The salary for the annual vacations is paid to the employee at the moment of taking them.

(5) When the labor relations have terminated and the employee has not been given the annual vacations he/she is entitled to, he/she enjoys the right to a benefit equal to the salary of these vacations.

(6) If the employee, during the annual vacations with pay, carries out a job payable by a third party, which runs contrary to the legitimate interests of the employer, the latter may not give him/her the salary for the vacations with pay or may ask him/her to return the prepaid salary.

REGISTER

Article 95

The employers are obliged to keep the registers of the salaries and paying of contributions, which are actualized every month for all the employees who work for them, and present these registers as often as requested by the labor inspectors.

The employers must keep a register, in accordance with the rules defined by this law, where, for each employee, they record the date of beginning his/ her work, the duration of the vacation he/she is entitled to, the dates on which the vacations are taken and the salary paid for the annual vacations with pay.

OTHER VACATIONS

Article 96

(1) In the case of the marriage or death of any of the spouses, of his/her direct predecessors and descendants, the employee benefits 5 days of paid leave.

(2) In the case of the serious sickness of his/her direct predecessors or descendants, which is certified by medical report, the employee benefits not more than 10 days of paid leave.

SPECIFIC PROVISIONS

Article 97

(1) The Council of Ministers sets specific rules in favor of the juridical and physical persons to the extent that their specific situation makes it necessary:

- a) for the enterprises that provide bread and other means that are easily damaged;
- b) for the hotels, restaurants, coffee bars, cultural institutions and the enterprises that provide the hotels, restaurants and coffee bars in case of particular events;
- c) for the enterprises that meet the needs of tourism;
- d) for the enterprises of agriculture, gardening, forestry and pastures;

e) for the enterprises of motor-road, rail, maritime and air transport, the enterprises that supply vehicles with fuel or that maintain and repair them;

f) for the written and spoken press;

g) for the institutions of education, culture, clinics, hospitals, medical cabinets and drug stores;

h) for the construction sites, mines and stone quarries, which, because of their geographic situation or specific climate or technical conditions, require a particular arrangement of the working time;

i) for the enterprises where regular or periodical work at night, on Sunday or other official red-lettered days is necessary;

- for technical reasons, especially when the process of work cannot be interrupted because of the danger posing for the employees or the environment or because of the technology of production;

- for economic reasons, especially when the interruption or restarting of the working process requires large investment and sinking funds;

j) for the persons whose presence is indispensable, as well as for those that make frequent business trips.

(2) Invalid will be all the specific provisions that threaten the right of the employees to annual vacations with pay, as defined by this Code.

SPECIAL PROTECTION FOR JUVENILES AND WOMEN

CHAPTER X

A. SPECIAL PROTECTION FOR THE JUVENILES

THE MINIMUM AGE

Article 98

Changed by law no. 9125, date 29.07.2003

(1) The employment of the juveniles under the age of 16 is prohibited. This prohibition does not apply to the juveniles from 14 to 16 years of age, when they are employed during the holidays from school, provided that this employment doesn't harm their health and growing up.

(2) The juveniles from 14 to 16 years of age may become subject to vocational advice and training in accordance with the rules set by decision of the Council of Ministers.

EASY JOBS

Article 99

Changed by law no. 8085, date 13.03.1996

Changed by law no. 9125, date 29.07.2003

(1) The juveniles between 16 and 18 years of age may be given easy jobs that do not harm their health and growing up.

(2) The Council of Ministers defines the easy jobs and sets specific rules for the maximum duration and conditions of performing the job.

DIFFICULT OR DANGEROUS JOBS

Article 100

Changed by law no. 9125, date 29.07.2003

Only the adults over 18 years of age may be employed to carry out difficult jobs or jobs that pose danger for their health or personality.

The Council of Ministers sets specific rules for the duration and conditions of carrying out difficult or dangerous jobs.

NIGHT WORK

Article 101

Changed by law no. 8085, date 13.03.1996

Forbidden to carry out night work are the employees under 18 years of age and those recognized as invalids on the basis of the medical report and in accordance with the law on social insurance.

SPECIAL PROVISIONS

Article 102

(1) When judging it reasonable and after consulting with the concerned organizations of employees and of employers, the Labor Inspectorate may permit the juveniles to carry out social and cultural activities.

(2) The individual authorizations provide for the maximum duration of work and working conditions.

MEDICAL CHECK

Article 103

(1) The juveniles under 18 years of age must be employed only when they are recognized as capable of working after a complete medical check.

(2) For certain jobs, the Council of Ministers will decide that even the adults up to 21 years of age should become subject to medical check.

(3) The Council of Ministers sets special rules for the procedures of the medical check.

(4) The employer is obliged to cover all the expenses related to the medical examination of his/her employees.

B. SPECIAL PROTECTION FOR WOMEN

PROHIBITION OF WORK FOR PREGNANT WOMEN AND YOUNG MOTHERS

Article 104

Changed by law no. 9125, date 29.07.2003

(1) Pregnant women are forbidden to work during the 35 days that precede the expected date of giving birth to the baby and 42 days after giving birth to the baby. The first period becomes 60 days, when the woman is expected to give birth to more than one child.

(2) Pregnant or breast-feeding women may not be employed to carry out difficult or hazardous jobs, which jeopardize the health of mother and child. The Council of Ministers shall define the difficult or hazardous jobs, which jeopardize the health of mother and child as well as special rules for the working conditions concerning pregnant or breast-feeding women.

MATERNITY LEAVE

Article 105

Changed by law no. 8085, date 13.03.1996

Changed by law no. 9125, date 29.07.2003

(1) The law on social insurance defines the income benefited in case of giving birth to a baby.

(2) After the period of 42 days following the delivery of the child, the woman shall decide herself whether she wants to work or benefit from social insurance.

WOMAN'S EMPLOYMENT PROTECTION

Article 105/a

Changed by law no. 9125, date 29.07.2003

(1) Prohibited are pregnancy tests before starting employment, if they are demanded by the employer, except for the cases where the workplace requires to work

under conditions that may negatively influence on pregnancy, or that may harm the mother's or child's life or health.

(2) In the cases where the employer terminates the contract, when the woman is working while being pregnant, or back at work after the child delivery, according to Article 30 of this Code, the employer is responsible to certify that the dismissal reason was not either pregnancy or child delivery.

ADOPTION LEAVE

Article 106

(1) In case of adopting a newborn baby, the woman enjoys the right to the leave defined by the law on social insurance.

(2) During this period, the employer may not oblige the woman who has adopted a child to work.

TERMINATION OF CONTRACT

Article 107

(1) Invalid will be the termination of the contract of employment announced by the employer in the period during which the woman pretends to benefit income from Social Insurance because of child delivery or adoption.

(2) When the termination of the contract of employment is announced before the protection period, as defined by Article 104, and the notice deadline still remains valid, this deadline will be suspended during the protection period. The notice deadline restarts to be valid only after the ending of the protection period.

NIGHT WORK

Article 108

Changed by law no. 9125, date 29.07.2003

(1) Pregnant women are forbidden to work at night.

(2) The Council of Ministers sets specific rules for the cases where women and breast-feeding mothers are permitted to work at night.

WAGE

CHAPTER XI

A. WAGE FIXING

DEFINITION

Article 109

(1) By wage is meant the basic salary including its increases of permanent character.

(2) The compensation that the employee receives for the expenses occurring because of his/her professional activity will not be considered as constituent elements of the wage.

WAGE VALUE

Article 110

Changed by law no. 8085, date 13.03.1996

(1) The employer pays the employee the wage in accordance with the provisions of the collective contract or the individual contract, or if this is not the case, the employer is obliged to pay basic wage for that particular kind of job.

(2) The wage may be calculated on the basis of time, in accordance with the performed job (unit-related wage, duty-related wage, or commission-related wage); the wage may also be calculated in the function of the enterprise accomplishments (sharing the profit or income turnover).

(3) The payment for the job, which is not based on the time criteria, must be calculated in such a way that enables the employee of average skills, who works normally, to benefit the at least the same wage as that of the employee who is paid on the basis of time and carries out the same job.

MINIMUM WAGE

Article 111

(1) The wage may not be lower than the nominal wage fixed by the Decision of the Council of Ministers.

(2) The minimum wage will be fixed on the basis of:

a - the economic factors, the needs of the economic development and the decrease of unemployment, and the increase of production;

b - the needs of the employees and their families, taking into consideration the general level of living of the employees in the country, the income benefited from social insurance and the living standards of different social groups.

(3) The Council of Ministers may fix a lower minimum wage to facilitate the entering of young people in the labor market.

COMMISSION

Article 112

(1) The commission is the reward recognized to the employee for an activity that he/she must carry out or complete with a client to the benefit of the employer.

(2) When the parties have agreed on a business commission, the employee enjoys the right to benefit the fixed amount once the client gets free from his/her obligations.

(3) Invalid will be the agreement on the basis of which the employee must be held responsible for the damage, which is a consequence of the wrong execution of his/her obligations on the part of the client.

SHARING THE RESULTS

Article 113

When, on the basis of the contract, the employee enjoys the right to benefit a certain service in relation to the result of exploitation, this will be calculated on the basis of law and the generally recognized commercial principles.

REWARD

Article 114

Changed by law no. 8085, date 13.03.1996

(1) If the parties agree, the employer gives the employee a special reward in addition to his/her salary at the end of the year, taking full consideration of the quality of his/her work and the economic performance of the enterprise.

(2) When the employer gives the employee a reward for three consecutive years without expressed reservations, he/she will be obliged to give this reward in the future as well. In this case, with the exception of the employer's expressed reservations, if work relations terminate before the moment of profiting the reward, the reward will be given in proportion with the time of the work done.

EQUALITY BETWEEN SEXES IN TERMS OF REWARD.

Article 115

(1) The employer gives the same salary to both women and men who carry out jobs of equal value.

(2) The differences in wages, which are based on objective criteria regardless of sex, as well as the quality and amount of work, vocational training and seniority at work, will not be considered as discriminating.

(3) When the employee presents serious information, which imply the existence of discrimination, the employer will be obliged to prove the contrary.

(4) The discrimination is eliminated when the employer grants the discriminated employee a reward that includes all the advantages that the employee of the other sex enjoys.

(5) The Council of Ministers may provide other rules to impose the implementation of equality between the employees in terms of rewarding.

B. PAYMENT

INDISPENSABILITY

Article 116

(1) The employer regularly pays the salary to the employee every two weeks when the wage is calculated on the basis of hours, days and weeks, and at the end of each month when the wage is calculated on the basis of months, unless otherwise defined by a written agreement.

(2) Sharing in annual result is paid when it is made public not more than three months after the termination of the financial year.

(3) The employer gives the employee an advance within the limits of the amount of the work done when it is possible and indispensable. The advance may be subtracted from the salary on the payday.

SUBTRACTIONS FROM SALARY

Article 117

Changed by law no. 8085, date 13.03.1996

(1) The employer subtracts from the employee's salary the income tax, the contributions of social and health insurance, which are defined by law, sub-legal acts, collective or individual contracts.

(2) The employer, only through a written authorization given by the employee, may subtract Trade Union fees from the wage. This authorization may be invalidated at any time.

MANNER OF PAYMENT

Article 118

Changed by law no. 8085, date 13.03.1996

Changed by law no. 9125, date 29.07.2003

(1) The wage must be paid in Albanian currency, unless otherwise defined by the agreement between the parties. It may be paid also in banking checks, postal checks, or payment orders, when this kind of payment is necessary due to special circumstances, or when it is envisaged by the collective contract or by an arbitrage decision. When this kind

of payment is not envisaged or set, the consent of the concerned employee will be drawn. The employer is held financially liable to the employee in the cases where the bank fails to pay the employee his/her due amount within 30 days, starting from the day of depositing the sum on behalf of the employee.

(2) As concerns payment in kind, the parties agree in writing and within the limit set by the Decision of the Council of Ministers. Payment in kind has to do only with accommodation and food that is consumed during the break at the enterprise by the employee.

WAGE CALCULATION

Article 119

(1) For each wage, the employer provides the employee with the calculation including the total sum of the salary, the calculation bases if it is changeable, as well as all the subtractions from it.

(2) When the wage is not calculated in due time, the employer is obliged to provide the employee with the required information, or instead of him/her, an expert appointed upon their mutual agreement; or if the contrary is true, an expert appointed by the court.

He/she authorizes the employee or the expert to consult the necessary books and documents to the extent such a control requires.

INTEREST RATES IN CASE OF DELAY

Article 120

Changed by law no. 8085, date 13.03.1996

If the payment of the wage is delayed, the annual interest rates of the tax in case of delay is not less than 10 per cent of the unpaid amount and, in all the cases, not less than 150 per cent of the inflation rates during the period of delay.

C. PROTECTION

REJECTION

Article 121

(1) Accepting of the calculation and depositing of the wage without rejection on the part of the employee is not considered as a withdrawal from the wage, form a part of it or from the compensations that he/she is entitled to.

(2) Invalid will be the withdrawal from the wage for the work carried out on the basis of the contract by the employee during work relations or one month after their termination.

(3) Also invalid will be the withdrawal from the wage belonging to the employee until the termination of the notice deadline, when the contract entered into is of no defined duration; when the contract entered into is of defined duration, the withdrawal from the wage belonging the employee will be invalid until the termination of the notice deadline related to the contract of undefined duration.

FREE USE OF WAGE

Article 122

Changed by law no. 8085, date 13.03.1996

Changed by law no. 9125, date 29.07.2003

(1) Invalid will be payment or holding of the future wages as surety, with the exception of the cases where the employee must abide by a court decision, which should not affect the intact wage.

(2) The employer may compensate the wage with credit granted to the employee, provided that the intact wage remains unaffected. The obligations stemming from a deliberately caused damage are compensated without restriction.

(3) Forbidden will be the giving of fines by the employer, with the exceptions of the sanctions defined by a collective contract.

(4) The agreements to use the wage in favor of the employer are invalid.

THE INTACT WAGE

Article 123

Changed by law no. 9125, date 29.07.2003

(1) Wage shall be considered intact to the extent that it is necessary to secure the leaving of the employee and of his/her family.

(2) The court shall fix the intact wage case by case. While deciding on this, the court considers the necessary expenses related to food, rent, clothes, as well as fiscal obligations, or the compulsory social insurance contributions of the employee and of his/her family.

(3) If the court decides that it is unable to assess all the elements to fix the intact wage, the latter shall be equal to the minimum wage on domestic scale as defined by the Decision of the Council of Ministers.

INCAPABILITY TO PAY

Article 124

(1) By incapability to pay is meant the situation connected with the active assets of the employer and aims at paying back his/her creditors, as well as the cases where it is impossible to pay back the obligations to the employees because of the financial situation of the employer.

(2) In case of any incapability to pay, the obligations of the employer to the employees, amounting up to a total sum not smaller than 5 months minimum wage, take priority over all the other obligations even when these obligations are guaranteed by means of movables or immovables.

(3) The obligations of priority of the employer to the employee are not suspended by the procedure of bankruptcy.

D. WORK TOOLS AND EXPENSES

WORK TOOLS AND MATERIALS

Article 125

(1) The employer provides the employee with the necessary work tools and materials, which are required to carry out the job, unless otherwise defined by the agreement.

(2) If the employee himself secures the work tools and materials in agreement with the employer, the latter will be obliged to reward the employee in respect of the amount of expenses that the former has made.

EXPENSES

Article 126

Changed by law no. 8085, date 13.03.1996

(1) The employer reimburses the employee for all the expenses resulting from the carrying out of the work. When the employee is sent to work outside his/her workplace, the employer will pay him/her the expenses required for this case.

(2) The collective contract of employment or the written contract may provide that the expenses made by the employee himself/herself be paid in the form of a fixed sum as an advance calculated on the basis of a working day, working week, or working month. The arrangement of the calculation is valid only in the cases where it covers all the required expenses.

(3) Invalid will be the contracts that provide for the partial or complete inclusion of the reimbursement in the employee's wage.

(4) Invalid will be the contracts on the basis of which the employee himself/herself must cover all the expenses or a part of them.

Article 127

Changed by law no. 8085, date 13.03.1996

(1) If, in agreement with the employer and for reasons related to work, the employee uses his/her private vehicle or another one made available by the employer, it is the latter that will cover the usual expenses for using or maintaining the vehicle.

(2) If, in agreement with the employer and for reasons related to work, the employee uses the vehicle, it is the employer that will pay the taxes on the vehicle and the contributions of insurance against civil liability, as well as the damage related to the amortization.

PAYMENT SCHEDULES

Article 128

(1) The reimbursement of expenses is given on the same day with the wage on the basis of the employer's calculation, with the exception of the cases where the agreement provides for schedules other than that.

(2) When the fulfillment of the contractual obligations regularly requires making of expenses on the part of the employee, the employer will give him/her advances to cover the expenses at given time intervals and in each case on monthly basis.

REFUSAL OF WORK

Article 129

Changed by law no. 8085, date 13.03.1996

Changed by law no. 9125, date 29.07.2003

(1) If the employer refuses to engage the employee in work for any reason that has not to do with him/her, the former will be obliged to pay the employee even when the latter does not continue to work.

(2) The employer may subtract from the wage what the employee has saved because of the obstacle to work, or what the latter has gained by carrying out another job or making profits, which he/she has deliberately given up.

(3) Forces majeure as well as the case where the employee intentionally makes it impossible for the work to be carried out are exceptions.

E. ABSENCES OF EMPLOYEE

SICKNESS

Article 130

Changed by law no. 9125, date 29.07.2003

(1) When the employee cannot work because of sickness, the employer will pay him/her 80 per cent of the wage for a period of 14 days, which is uncovered by Social Insurance (Article 23, point 1 and Article 25 of the Law No 7703, dated 11.05.1993, "On Social Insurance in the Republic of Albania").

(2) The employee proves his/her disability to work through a medical report issued by a doctor. Upon the request of the employer, the employee is obliged to become

subject to examination by another doctor assigned by the employer; this doctor will declare only the disability of the employee to work, keeping the medical secret.

(3) If there is an incompatibility between the viewpoints of the employee's doctor and those of the doctor assigned by the employer, the employee must become subject to an expertise that will be trusted to a doctor assigned by the Labor Inspectorate.

(4) The employee loses the rights against the employer when the former unjustly refuses the verification of his/her disability to work.

(5) When the sickness is a consequence of serious negligence on the part of the employee, on the basis of an agreement between the parties, the right to wage is simplified or completely abrogated. In the absence of an agreement, the court will define this right.

THE ACCIDENT

Article 131

Changed by law no. 9125, date 29.07.2003

When the employee is disabled from work because of an accident at work or of an occupational disease, he/she will benefit compensations from Social Insurance.

THE CARE FOR DEPENDANT CHILDREN

Article 132

(1) In case of indispensable care for dependant children, the employee will be entitled to his/her wage with a leave of absence equal to no more than 12 days a year. The employee with dependant children of up to 3 years of age is entitled to a paid leave not longer than 15 days, when his/her child is sick, and this has been proved by a medical report. He/she is entitled to an additional leave of absence without pay, which may not be longer than 30 days a year.

(2) The leave is given to the spouse that effectively looks after the child. If such is not the case, then the leave will be given to both child's mother and father on alternative basis.

(3) The employer may verify the medical report to look after the child by assigning another doctor.

The provisions governing the verification of disability to work because of sickness will be applied by analogy.

FULFILLMENT OF LEGAL OBLIGATIONS

Article 133

(1) The employer pays the wage for not more than 14 working days to the employee who is absent from work because of the fulfillment of legal obligations.

(2) The employer may subtract from the wage the rewards that the employee receives for the fulfillment of legal obligations.

CLIMATE CONDITIONS

Article 134

The rights of the employees in case of interrupting work because of extraordinary climate conditions are defined by the decision of the Council of Ministers.

EMPLOYEE'S INVENTION COPYRIGHT

CHAPTER XII

INVENTIONS

Article 135

(1) The inventions, be them patented or not, which the employee has made or been involved in during the exercise of his/her activity to the benefit of the employer and in compliance with his/her contractual obligations, belong to the employer.

(2) By means of a written agreement, the employer may exercise the copyright related to the inventions that the employee has made during the exercise of his/her activity to the benefit of the employer; however, this is excluded from the fulfillment of his/her contractual obligations.

(3) The employee, who has made an invention, as defined by the above-mentioned paragraph, informs the employer about this in writing; the latter, within 6 months, will notify the employee in writing whether he/she wants to gain the invention copyright or leave it to him/her.

(4) If the invention is not left to the employee the employer will pay him/her a fair reward, taking full consideration of all circumstances, of the economic value of the invention, of the collaboration of the employer and his/her assistants, of the use of his/her equipment, of the expenses related to the employee and of his/her job in the enterprise.

INDUSTRIAL DRAWINGS AND MODELS. LITERARY AND ARTISTIC WORKS.

Article 136

(1) When the employee creates a work during the exercise of his/her activity to the benefit of the employer and in compliance with his/her contractual obligations, be it protected or not, the employer may use it to the extent that the goal of the contract allows for.

(2) The same rules are applied even to the industrial drawings and models as well as to the computer programs that the employee creates during the exercise of his/her activity to the benefit of the employer and in compliance with his/her contractual obligations.

PUTTING OF EMPLOYEES AT DISPOSAL AND TRANSFERRING OF WORK RELATIONS

CHAPTER XIII

PUTTING OF EMPLOYEES AT DISPOSAL

Article 137

Changed by law no. 8085, date 13.03.1996

(1) The employer may not put an employee at the disposal of another employer without the consent of the former. In this case, the first contract between the employer and the employee remains in force.

(2) When an employer puts his/her employee at the disposal of another employer, then the former employer is obliged to grant the employee at least the same working conditions as those that the latter employer has granted to the employees of his/her enterprise, who carry out the same work.

(3) The employer, at whose disposal the employee has been put, has the same obligations to him/her for health protection, insurance and hygiene as to his/her other employees.

(4) When the employer fails to fulfill his/her obligations to the employee who has been put at the disposal of another employer, then the latter, through solidarity with the former employer, will be held liable for fulfilling the obligations to the employee.

A. TRANSFERRING OF ENTERPRISE

PRESERVATION OF RIGHTS

Article 138

Changed by law no. 8085, date 13.03.1996

Changed by law no. 9125, date 29.07.2003

(1) In the case of transferring of enterprise or a part of it, the rights and obligations stemming from that, on the basis of a contract of employment, which remains valid until the moment of transferring, will pass on to the person subject to the transferring of these right. The employee, even when refusing to change the employer, remains tied to the new employer until the termination of the legal notice deadline.

(2) As concerns the obligations stemming from the contract of employment, the person who transfers the rights will be held liable to the person who acquires these rights until the termination of the contractual notice deadline or of the deadline defined by a collective contract.

(3) Dismissal from his/her job of the employee by the employer due to the transferring of the enterprise, shall be invalid. Excluded shall be the dismissals that take place due to economic, technical or structural reasons, which require the change of the employment plan. In this case, the dismissals must respect the rules as set in Chapter XIV.

INFORMATION AND CONSULTATION

Article 139

Changed by law no. 9125, date 29.07.2003

(1) The person who transfers the rights and the person who acquires them must inform the Trade Union, which is recognized as the representative of the employees, or if such is not the case, the employees concerned with the act of transferring, especially about the motivation of transferring, about the juridical, economic and social consequences affecting the employees and about the measures that must to be taken with respect to them.

(2) The person who transfers the rights and the person who acquires them are obliged to provide this information at least 30 days before the transferring takes place.

(3) Within the same deadline, they must make consultations in relation with the measures that affect the employees because of transferring.

(4) In the case of the employer terminating the contract to the detriment of the employee due to the disrespecting of these procedures, the employee, in addition to the wage he/she should take during the deadline notice, is entitled to damage compensation equal to six monthly salaries.

TERMINATION OF WORK RELATIONS

CHAPTER XIV

DURATION OF THE CONTRACT OF EMPLOYMENT

Article 140

Changed by law no. 9125, date 29.07.2003

(1) The contract of employment is entered into:

- a - for an undefined duration;
- b - for a defined duration.

(2) As a rule, the contract of employment is entered into for an undefined duration. Entering into a contract of employment for a defined duration must be justified

through objective reasons, which are connected with the temporary nature of the assignment that the employee will be charged with. If the parties entering into the contract do not exactly define its duration, this contract will be considered as of undefined duration.

A. CONTRACT OF UNDEFINED DURATION

TERMINATION

Article 141

The contract of undefined duration will end, if one of the parties terminates it, or if the notice deadline expires.

PROBATION PERIOD

Article 142

(1) The first 3 months of work are considered as a probation period, except for the cases where the parties have entered into a contract to carry out the same work.

(2) The probation period may be reduced or removed by means of a written agreement or a collective contract.

(3) During the probation period, each of the parties may terminate the contract by informing the other party about its decision at least 5 days in advance.

NOTICE DEADLINES FOLLOWING THE PROBATION PERIOD

Article 143

Changed by law no. 9125, date 29.07.2003

(1) After the probation period, to terminate the contract of undefined duration, the parties must respect a notice deadline of one month during the first year of work; of two months for two up to five years of work; of three months for more than five years of work.

(2) These time limits may be changed by virtue of a written agreement or of a collective agreement. The deadline notice may not be shorter than 2 weeks, when the employee has been working for a period of up to 6 months. The deadline notice is not shorter than one month, when the employee has been working for a period longer six months.

(3) The deadline notice to terminate the contract shall be extended, depending on the case, until the end of the week or of the month. The same rule shall be applied, if the deadline notice is suspended during the period of disability to work, of pregnancy, or of the holidays given by the employer.

(4) When one of the parties terminates the contract without respecting the deadline notice, then the termination will be considered as a termination of contract with immediate effect.

THE PROCEDURE OF EMPLOYMENT CONTRACT TERMINATION BY THE EMPLOYER

Article 144

Changed by law no. 8085, date 13.03.1996

Changed by law no. 9125, date 29.07.2003

(1) After the probation period, when the employer thinks to terminate the contract of employment, he/she must inform the employee in writing at least 72 hours before the meeting, and talk with him/her.

(2) The employer, during the conversation, shall present to the employee the reasons concerning the decision planned to be taken, and offer him/her the opportunity to express himself/herself.

(3) The termination of the contract shall be made known to the employee within a time limit of 48 hours up to one week after the appointment.

(4) This procedure shall be applied even in the case of an immediate termination of the contract.

(5) The employer failing to respect the procedure provided for by this Article, shall be obliged to pay the employee a damage compensation equal to a salary of two months, which is added to other possible damage compensations. The termination of the contract contrary to this provision shall remain invalid.

(5/1) It's up to the employer to prove that the procedure provided for by this Article has been respected.

(6) This provision does not apply to the cases of collective dismissals from work.

SENIORITY-RELATED REWARD

Article 145

(1) The employee will benefit the seniority-related reward, if the employer terminates the contract, and the labor relations have lasted not less than three years. The employee will lose the right to the seniority-related reward, if his/her dismissal from work is of immediate effect and based on reasonable causes.

(2) The seniority-related compensation equals at least to the salary of 15 days of work for each complete working year, which is calculated on the bases of the wage existing at the end of the termination of labor relations. If the wage is changeable, the reward will be calculated on the average wage of the preceding year, and it will be indexed.

(3) The seniority-related reward will be added to the reward, which is given in the case of the termination of contract for reasonable causes, or in the case of the termination of contract of immediate effect for no reasonable causes.

TERMINATION OF CONTRACT FOR NO REASONABLE CAUSES

Article 146

Changed by law no. 8085, date 13.03.1996

Changed by law no. 9125, date 29.07.2003

(1) The termination of the contract by the employer will be considered of no reasonable causes, when:

- a) The employee has claims that result from the contract of employment;
- b) The employee has fulfilled a legal obligation;
- c) It is done for motives that are connected with the personality of the employee, having no legitimate ties with labor relations. Such motives are considered to be the following: race, color, sex, age, civil status, family obligations, pregnancy, religious and political beliefs, nationality, and social status.
- d) It is done for motives that are connected with the employee's exercise of a constitutional right, which however does not lead to the violation of the obligations resulting from the contract of employment;
- e) It is done for motives that are connected with the employee's being or not a member of Trade Unions created as defined by law, or because of his/her participation in Trade Union activities on the basis of law;

(2) If the contract is terminated for no reasonable cause, then the employee will have the right to sue the employer at the court within 180 days, starting from the day on which the notice deadline has expired. In the case where the abusive motive has been discovered after the expiration of this deadline, the employee should start legal actions within 30 days, starting from the day on which this motive has been discovered.

(3) The termination of the contract for unreasonable causes shall be invalid. The employer who has terminated the contract for unreasonable causes is obliged to pay the employee a damage that may amount up to the wage of one year, which is added to the wage he/she must receive during the notice deadline. As concerns the employers of the Public Administration, where there is an irrevocable court decision on returning to the same workplace, the employer is obliged to execute this decision.

TERMINATION OF CONTRACT IN AN INAPPROPRIATE TIME

Article 147

Changed by law no. 9125, date 29.07.2003

(1) The employer may not terminate the contract in the case where, according to the legislation in force, the employee is completing his/her military service, benefits payment related to temporary disability to work from the employer or Social Insurance for a period not longer than one year, as well as in the case where the employee is on vocations given to him/her by the employer.

(2) When the termination of the contract takes place before the employee becomes subject to military service, or to temporary disability to work, or to vocations given by the employer and the notice deadline has not expired yet, such a deadline shall be

suspended with respect to the period of his/her completion of the military service, of the temporary disability to work, or of vocations given by the employer, and it shall restart after the ending of this period.

COLLECTIVE DISMISSAL FROM WORK

Article 148

Changed by law no. 9125, date 29.07.2003

(1) The collective dismissal from work will be considered to be the termination of labor relations by the employer for reasons that have not to do with the employees, when the number of dismissals from work within 90 days is at least 10 for the enterprises employing up to 100 employees; 15 for the enterprises employing 100-200 employees; 20 for the enterprises employing 200-300 employees; and 30 for the enterprises employing more than 300 employees.

(2) When the employer plans to execute collective dismissals from work, he/she is obliged to inform in writing the employees organization recognized as the representative of the employees. In absence of this, the employer informs his/her employee through advertisements put on the workplace, which can be easily seen. The notice must contain especially the reasons of dismissal from work, the number of the employees to be dismissed, the number of the employees normally employed, as well as the time during which it is planned to execute these dismissals. The employer submits to the Ministry of Labor and Social Affairs a copy of this notice.

(3) The employer makes consultations with the employees organization, recognized as the representative of the employees, for the purpose of reaching an agreement. In absence of this, the employer gives the opportunity to the employees to participate in the consultations. They are made in order to take measures to avoid or reduce the collective dismissals from work and to soften their consequences. The consultations are made within 20 days, starting on the day of notice as defined by point 2 of this Article, except for the case where the employer accepts a longer duration.

(4) The employer informs in writing the Ministry of Labor and Social Affairs concerning the completion of the consultations. He/she sends a copy of this notice to the concerned party. If the parties have failed to agree, the Ministry of Labor and Social Affairs helps them to reach an agreement within 20 days, starting from the day of notice as defined by this point, except for the case where the employer accepts a longer duration. The Ministry of Labor and Social Affairs can by no means stop the collective dismissals from work.

(5) After the termination of the twenty-day deadline as defined by point 4 of this Article, the employer informs the employees to be dismissed about the termination of the contract, respecting the notice deadlines as defined by Article 143.

(6) The employer failing to respect the procedure of the collective dismissals from work as defined by points 1, 2, 3, and 4 of this Article, is obliged to pay the employee a damage, which equals up to six months of salary, and is added to the wage during the notice deadline, or to the damage compensation, which is received in the case where this deadline fails to be respected as defined by Article 143.

(7) The employer should give priority to the reemployment of the employees dismissed from work for reasons that have not to do with the employees, if he/she employs employees of comparable qualification.

B. CONTRACT OF DEFINED DURATION

EXPIRY

Article 149

(1) The contract of defined duration will expire at the end of the envisaged time, without preliminary termination.

(2) If, after the expiration of the envisaged duration, the contract is extended beyond this duration in silence, it will be considered as a contract of undefined duration.

PROBATION PERIOD

Article 150

Changed by law no. 9125, date 29.07.2003

(1) The parties envisage in writing a probation period, which lasts not longer than three months. The probation period may not be envisaged in the cases where the parties have been bound on a contract of employment, of which the object was the carrying out of the same job.

(2) During the probation period, the notice deadline extends to 5 days. If the contract does not become invalid during the probation period, then this will be included in the duration of the contract of defined duration.

CONTRACT OF LONG DURATION

Article 151

Changed by law no. 9125, date 29.07.2003

(1) When the parties have been bound on one or more successive contracts of defined duration for not less than three years, the non-renewal of the final contract by the employer will be considered as the termination of the contract of undefined duration.

(2) When the contract is entered into for more than three to five years, the employee may terminate it after three years. In this case, the deadline notice is two months, and it is extended until the end of the second month. When the contract is entered into for more than five years, the employee may terminate it after five years. In this case the deadline notice is three months, and it is extended until the end of the third month.

SENIORITY-RELATED REWARD

Article 152

Changed by law no. 9125, date 29.07.2003

With the termination of labor relations that have lasted not less than three years, the employee benefits a seniority-related reward as in the case of the termination of contract of undefined duration by the employer.

C. IMMEDIATE TERMINATION OF CONTRACT

REASONABLE CAUSE

Article 153

Changed by law no. 9125, date 29.07.2003

(1) At any time the employer and the employee may immediately terminate their contract for reasonable causes.

(2) Reasonable cause will be considered all the serious circumstances that, in accordance of the principle of mutual trust, do not allow for asking the one who has terminated the contract to continue the labor relations.

(3) The court decides itself whether there have been reasonable causes for the immediate termination of the contract. Reasonable causes will be considered only those cases where the employee violates the contractual obligations of serious offence, as well as the cases where the employee repeatedly violates the contractual obligations of non-serious offence, regardless of the employer's written warning.

**IMMEDIATE AND JUSTIFIED TERMINATION OF CONTRACT BY
THE EMPLOYER OR THE EMPLOYEE**

Article 154

Changed by law no. 9125, date 29.07.2003

(1) The contract of employment expires with its immediate termination.

(2) When the reasonable causes for the contract termination of immediate effect are connected with the violation of the contract by one party, it must completely pay the damages to the harmed party, as a result of failing to respect the notice deadline.

(3) The court, in the cases where the employee violates the contractual obligations of serious offence, decides that the employer does not pay the damage as defined by Article 144, point 5.

(4) The employee, who is immediately dismissed from work for reasonable causes, loses the right to seniority-related reward, but he/she preserves the right to the reward for non-consumed vocations. Any other claim, which results from labor relations, may become subject to court examination.

IMMEDIATE AND UNJUSTIFIED TERMINATION OF THE CONTRACT OF EMPLOYMENT BY THE EMPLOYER

Article 155

Changed by law no. 9125, date 29.07.2003

(1) The employee enjoys the right to the wage that he/she would have gained if the labor relations had expired at the end of the notice deadline defined by law or contract or with the expiry of the contract of defined duration.

(2) The employer may subtract from the wage the income that the employee has saved as a result of work interruption, the income from another job, or the income that he/she has deliberately given up.

(3) In the cases of the immediate and unjustified termination of the contract of employment by the employer, the court, after having assessed all the circumstances, will decide to oblige the employer to pay the employee damages that equal to not more than the wage of a working year. As concerns the employees of the Public Administration, when there is an irrevocable decision on returning to the previous workplace, the employer is obliged to execute this decision.

IMMEDIATE AND UNJUSTIFIED TERMINATION OF THE CONTRACT BY THE EMPLOYEE

Article 156

(1) When the employee does not begin, or abandons his/her work immediately for unreasonable causes, he/she will be financially held liable to the employer and so pay the latter not more than a weekly salary; he/she must be held liable also for the additional damage, which is the difference between the damage and the weekly salary.

(2) The court may decide on the decrease of the payment of damages if the employer has not suffered any damage, or if the damage is smaller than the amount of damages to be paid as defined by the above-mentioned paragraph of this Article.

(3) When the right to asking to be paid the damages does not expire because of compensation, it will remain valid for thirty days, starting from the date on which the employee has refused to begin work or abandoned it.

EMPLOYEE'S DEATH

Article 157

Changed by law no. 9125, date 29.07.2003

(1) The contract expires with the death of the employee.

(2) In this case, the employer must pay for the employee the salary of one month, starting from the day of the latter's death, the salary of two months, whereas if the labor relations have lasted for more than three years, and if the employee leaves his/her spouse and juvenile children, or in absence of them, other persons, as defined by the Code of Family.

EMPLOYER'S DEATH

Article 158

(1) With the death of the employer, the contract will pass on to his/her heirs without undergoing changes; each party may terminate the contract by respecting the legal notice deadline.

(2) The contract entered into mainly because of the employer's qualities will expire with his/her death; in this case, the employee will benefit his/her wage until the legal notice deadline expires.

COLLECTIVE CONTRACT OF EMPLOYMENT

CHAPTER XV

CONTENT

Article 159

(1) The collective contract contains the provisions governing the conditions of employment, the entering into contracts, the content and concluding of individual contracts of employment, the vocational training as well as the relations between the contracting parties.

(2) The collective contract may contain provisions that place the employers and the employees in compulsory relations established by the parties through a collective agreement towards the juridical persons.

(3) The collective contract may not contain provisions that are less favorable for the employees than those of the laws and sub-legal acts in force, with the exception of the cases expressly defined by law.

PARTIES

Article 160

The collective contract of employment is entered into by one or more employers or organizations of employers, on one side, and one or two Trade Unions, on the other side.

SCOPE OF APPLICATION

Article 161

(1) The collective contract defines the territorial and occupational scope of its application.

(2) The collective contract is entered into on enterprise or branch level in accordance with the agreement between the contracting parties.

BOUND ENTITIES

Article 162

Changed by law no. 8085, date 13.03.1996

(1) Any employer who has signed the collective contract or any member of a contracting organization is bound on the collective contract.

The latter will apply to all the employees of the employer, who are, are not, members of the contracting Trade Union organization.

(2) When the employer resigns from the signing organization, he/she will remain bound on the collective contract until its expiry, but not more than three years.

(3) When the employer alienates the enterprise, the collective contract will equally apply to the new owner until the termination of the time during which it is valid.

(4) Upon the order of the Minister of Labor, the effects of the collective contract may include all the employers of the branch when the employers bound through the collective contract employ at least half of the employees of the branch. The procedure is regulated by the Decision of the Council of Ministers.

THE DEMAND TO HAVE TALKS ON BINDING THE COLLECTIVE CONTRACT

Article 163

Changed by law no. 9125, date 29.07.2003

(1) Any representative organization of employees, which is created in compliance with law, may ask from any employer or organization of employers to start the negotiations on binding the collective contract on enterprise, enterprises, and branch or industry level in favor of one or several occupational categories. Many organizations of employees may exercise this right jointly.

(2) The request for beginning the negotiations on binding the collective contract is made in writing. It is accompanied with the copy of the statute of the organization or of the organizations of the requesting employees, as well as with the necessary indices that prove their representation in the enterprise, enterprises, or in the given branch.

(3) The employer who has been asked to begin the negotiations must make the request public by posting it on an exposed place at his/her enterprise within two weeks. If the request is made on a branch level, it should be posted on all the enterprises or branches. The organization or the organizations of the employees, which demand the beginning of negotiations, must see to it that the posting gets done properly.

(4) If the representation of the organization or of organizations of the employees who have demanded the beginning of the negotiations is not objected, it should be acted as defined by Article 165. In this case the representation of the organization or of the organizations of the employees may not be objected for a period of two years.

(5) If the signing of the collective agreement has not been preceded by a proper posting of the request, the employers or the organization of the employers may not object the beginning of a new procedure of having the representation of the organization or of the organizations of employees recognized, aiming at the opening of the negotiations for signing another collective agreement. The first collective agreement, bound without respecting the obligation of making it public through posting, shall be invalid from the moment of the entering into force of the second agreement, which is bound by respecting the procedures as defined by this Code.

RECOGNITION PROCEDURE OF THE MOST REPRESENTED ORGANIZATION OR ORGANIZATIONS OF THE EMPLOYEES

Article 164

Changed by law no. 8085, date 13.03.1996

Changed by law no. 9125, date 29.07.2003

(1) If the representation of the organization or organizations of the employees who have demanded the beginning of the negotiations is objected, any concerned organization of employees should submit to the employer or the organization of the employers, at its own expenses, the evidence of representation. This evidence is presented in the form of a notary certificate by virtue of which the notary public certifies the number of the members of the organization of the employees on the basis of the membership fees paid during the last two years, or of the personal statements of the member employees.

(2) The organization proving that it has the greatest number of member employees at the enterprise, or branch, shall be considered as the most represented organization. If some organizations of employees are presented together, then the group of the organizations, which has the greatest number of members, shall be considered to be the most represented.

(3) If the employer, the organization of the employers, or the organizations of the employees, object the notary certificate, then they should submit a complaint at the District Reconciliation Office (if the negotiations on the collective contract do not extend beyond the borders of a district), or at the National Reconciliation Office (if the negotiations on the collective contract extend beyond the borders of more than one district). This complaint must be submitted within weeks, starting from the day of the announcement of the results in compliance with the notary certificate. The Reconciliation Office examines all the available evidence and decides on the representation of the organization, or of the organizations of the employees, and announces it within two weeks, starting from the day of its involvement in the issue. When the employer, or the organization of the employers, rejects the decision of the Reconciliation Office, they have the right to seek the organization of a secret ballot within two weeks, starting from the day of the announcement of the decision.

The manner of the organization and the voting procedure are regulated by Decision of the Council of Ministers.

(4) The representation of the organization, or of the organizations of the employees, cannot be objected for a period of two years, starting from the date of the announcement of the decision by the Reconciliation Office, which has been accepted by the parties, or of the result by the voting commission.

NEGOTIATIONS. MEDIATION. ARBITRATION

Article 165

Changed by law no. 8085, date 13.03.1996

Changed by law no. 9125, date 29.07.2003

(1) When the representation of the organization, or of the organizations of the employees, has not been objected, or when it has been definitely recognized, the employer or the organization of the employers must receive the party demanding the negotiations within two weeks, starting from the date of the expiring of the posting deadline, or in the cases of the objection of the representation, starting from the date of its final announcement.

(2) If the negotiations fail to end within 30 days, starting from the date of the expiring of the posting deadline, or in the case of the objection of representation, starting from the date of its final announcement, none of the parties may use the right to strike, without prior involvement of the mediator, of the Reconciliation Office, as well as if the parties agree, the Court of Arbitration, in accordance with the procedures provided for in Chapter XVII of this Code.

FORM

Article 166

(1) The collective contract will be valid only if in a written form. All the parties must sign it. When a party is an organization, the representatives of the latter are assigned in compliance with the statute.

(2) The collective contract may be terminated or changed only in writing.

(3) The collective contract will be valid only if it is made in the form of a written decision given by the Reconciliation Office, which the parties have assigned through an agreement.

DEPOSITION

Article 167

(1) The employer must deposit the original copy of the collective contract at the Ministry of Labor within 5 days, starting from the date of the conclusion of this contract between the parties.

(2) The deposition of the contract provided by Paragraph (1) of this Article will not condition the validity of the contract.

CHANGING AND RENEWAL

Article 168

In the cases of the changing or renewal of the collective contract, the provisions 164, 165 of this Code will be applicable through analogy.

EFFECTS ON THE RELATIONSHIPS BETWEEN THE CONTRACTING PARTIES AND THE THIRD PARTIES

Article 169

Changed by law no. 8085, date 13.03.1996

(1) Each of the contracting parties implements the contract; when the party is an organization, it will see to it that its members implement the contract.

(2) Each of the parties must not use any conflicting means against the other party about the issues regulated by the contract. The imposition of work peace is absolute only when the parties have expressly agreed to that.

(3) The imposition of work peace, as defined by Paragraph (2) of this provision, will be executed by any Trade Union or contracting organization within the territorial and occupational scope of implementation of the collective contract, and by any person bound on the latter.

SETTLEMENT OF DISPUTES

Article 170

Changed by law no. 9125, date 29.07.2003

(1) When one party violates the collective contract, the other party will address to the court or Court of Arbitration, of which the creation is provided by the contract. None of the parties must settle the disputes through self-judgment by any party.

(2) When the contract is violated, the court or the Court of Arbitration will decide on imposing the party that has been found guilty to pay the damages caused to the other party.

(3) When any member of the contracting party has committed the violation, the court will decide on imposing him/her to pay the damages that the other party or any of its threatened members has suffered.

(4) In addition to the damage compensation as defined by the above point, the court will decide on the amount of fine that the party, which has been found guilty, must pay to the benefit of the harmed party, in the cases where this amount has not been set by the collective contract.

EFFECTS ON THE INDIVIDUAL CONTRACTS OF EMPLOYMENT

Article 171

(1) The provisions of the collective contract of employment, which govern the working conditions, will directly regulate the individual contracts of employment, which are bound by any employer who has concluded the contract.

(2) Any provision of the individual contract of employment, which is less favorable for the employee than the provision of the collective contract, is invalid, and will be substituted for this provision.

SETTLEMENT OF CONFLICTS

Article 172

The court has the authority to settle any individual or collective dispute concerning the implementation of the contract.

DURATION

Article 173

(1) The collective contract is bound for a defined or undefined duration.

(2) Each party may terminate the collective contract bound for an undefined duration. In this case, the notice deadline extends to six months.

(3) Each party may terminate the collective contract bound for a defined duration lasting more than three years, once the deadline has expired. In this case, the notice deadline extends to six months.

(4) When several employers or employees bind the collective contract, the termination of the contract by any of them makes the collective contract between the rest of them remain valid.

(5) The collective contract may not be kept in force in a reasonable way, when the circumstances change considerably and cannot be foreseen at the moment of binding it.

In this case, the most concerned party may address to the court to decide on its early termination.

VARIETY OF COLLECTIVE CONTRACTS

Article 174

(1) When, at the same enterprise, there is an inclination to implement two collective contracts, one bound on enterprise level or on the level of a group of enterprises, whereas the other one on branch level, any employee may demand the implementation of the most favorable provision.

(2) If, at the moment of concluding the collective contract on branch level, the employer has been bound on collective contract on enterprise level or on the level of a group of enterprises, he/she may announce himself/herself free from the latter, once the contract bound on branch level enters into force, unless otherwise defined by the collective contract on branch level.

THE CONSEQUENCES OF THE TERMINATION OF THE COLLECTIVE CONTRACT

Article 175

(1) The collective contract ceases to exert its effects on the contractual parties, when the deadline to terminate it has been reached.

(2) Any individual contract of employment included within the scope of the implementation of the collective contract continues to be regulated by the provisions of this contract, with the exception of the cases where it has been changed through an agreement between the employer and the employee or when they have terminated it. The same rule applies to the relations between the employer and the employee and any juridical person as defined in the collective contract by the parties.

(3) The collective contract may provide that all the benefits or a part of them resulting from it are valid during the duration of the contract. The right to benefit becomes null and void once the contract terminates.

TRADE UNION ORGANIZATIONS

CHAPTER XVI

A. CREATION

PROFESSIONAL ORGANIZATIONS

Article 176

Changed by law no. 8085, date 13.03.1996

Changed by law no. 9125, date 29.07.2003

(1) Trade Unions and the Organizations of Employers are professional organizations. The professional organizations of employees and of employers are independent social organizations that are created as volunteering unions of employees or of employers, of which the goal is to represent and protect the economic, professional and social rights and interests of their members.

(2) The organizations of the employees and of the employers have the right to create federations, confederations and join them. The federation is created as a result of the voluntary unification of two or more professional organizations. The confederation is created as a result of the voluntary unification of two or more federations. Any organization, federation or confederation has the right to join international organizations of employees or of employers.

(3) As the meaning of this provision suggests, the pensioners and the unemployed may join the organizations of the employees.

STATUTE

Article 177

Changed by law no. 9125, date 29.07.2003

(1) The act of creation and the statute of any professional organization must be signed by not less than five founding members representing the organization of employers, and by not less than twenty founding members representing the organization of employees.

(2) The statute must obligatorily define:

- a) the name of the organization;
- b) the place where its residence is located;
- c) its goals;
- d) the conditions of admission, resignation and expelling of the members;
- e) the rights and duties of the members;
- f) the composition and functioning of the steering bodies as well as the duration of mandates;
- g) as the case might be, belonging to the federation or confederation;
- h) the measures to be taken in case of its dismissal.

(3) The highest body of the organization fixes the amount of membership fees.

ACQUIRING OF JURIDICAL PERSONALITY

Article 178

Changed by law no. 9125, date 29.07.2003

(1) The Trade Union organizations, federations and confederations must submit their respective acts of creation and statutes to the Court of Tirana, so that they can be recognized as juridical persons.

(2) The Trade Union organization acquires the juridical personality after 60 days, starting from the date on which it has submitted its statute to the Court of Tirana, unless otherwise decided by the court.

NAME

Article 179

No Trade Union organization can bear the name of any existing organization.

DEPOSITING OF THE STATUTE

Article 180

Any Trade Union organization must deposit a copy of its statute at the Ministry of Labor.

B. TRADE UNION LIBERTIES

PRINCIPLES

Article 181

Changed by law no. 9125, date 29.07.2003

(1) The Trade Union organization freely organizes the administration and activity; it freely drafts its program.

(2) Any Trade Union organization must carry out its activity in compliance with the legislation in force.

(3) The discrimination of the Trade Union representatives is prohibited.

(4) The termination by the employer of the contract of employment of representatives of the organization of the employees without the consent of this organization shall be invalid, except for the cases where the employee violates the law, the collective contract of employment, the individual contract of employment, or if the employer proves that the termination of the contract is absolutely indispensable for the economic activity of the enterprise.

(5) The change of the conditions of the contract of employment of the representatives of the organization of employees may be made only with the consent of the employee and of this organization. The employer may not change the workplace of the representatives of the organization of employees, even if this change is provided for by the contract of employment, without the consent of the employee and of this organization, except for the cases where the change is absolutely indispensable for the economic activity of the enterprise.

(6) If the representatives of the organization of employees, which act on national scale, during their mandate, work and get paid by these organizations, their contracts of employment with the employer shall be suspended. At the end of the mandate,

suspension ceases to exist and the contract of employment shall reenter into force. From this moment on, the parties shall enjoy all the rights and obligations, which stem from the contract of employment.

(7) The employer must create all the necessary conditions and facilities for the elected representatives of the organizations of employees to normally exercise their functions, which are defined in the collective contract of employment. To serve this purpose, the employer must:

- a) allow them to enter into work environments;
- b) allow the distribution of notices, of brochures, of publications, and of other documents, which belong to the organization of employees;
- c) give them the required time to participate in the activities of these organizations inside and outside the country;
- d) allow them to enter into work environments and create facilities for them to collect the membership fees of the organization, as well as to hold meetings.

THE PROTECTION OF THE RIGHTS OF THE MEMBERS AT COURT

Article 182

Changed by law no. 8085, date 13.03.1996

Any organization of employees, which is recognized as a juridical person, may address to the court for the protection of the interests of each of its members, and to make the employer act as defined by law, by collective and individual contracts of employment.

FINANCIAL SOURCES

Article 183

(1) The financial sources of the Trade Union organizations consist of membership fees, of donations, and of the income from social, economic or cultural activities.

(2) The incomes obtained by the Trade Union organizations are excluded from taxes for as much as provided by the fiscal law.

C. PROHIBITION AGAINST INTERVENTION

PRINCIPLES

Article 184

Changed by law no. 9125, date 29.07.2003

(1) Forbidden will be any act of intervention in the creation, functioning and administration of the professional organizations, on the part of the State bodies.

(2) Forbidden will be any act of intervention in the creation, functioning and administration of the organizations of employees, on the part of employers, or of the organizations of employers.

THE ACTIONS OF INTERVENTION OF THE STATE BODY

Article 185

(1) The State body does not intervene in the cases that restrict the rights provided by Article 182 of this Code, or that hinder their legal exercising, with the exception of the cases where legitimacy has been violated.

(2) The Trade Union organization may address to the court to prevent any act of intervention or threat to it.

THE ACTIONS OF INTERVENTION OF THE EMPLOYER OR OF THE ORGANIZATION OF EMPLOYERS

Article 186

(1) As actions of intervention on the part of the employer, or of an organization of employers, will be considered the measures that:

a) encourage the creation of the organizations of employees, which are dominated by an employer or an organization of employers, or support organizations of employees with financial means or through other ways, for the purpose of placing these organizations under the control of an employer, or of an organization of employers;

b) prevent the creation, functioning or administration of an organization of employees;

c) harm the employee because of his/her Trade Union membership or activity, by discriminating him/her.

DISMISSAL

Article 187

Changed by law no. 9125, date 29.07.2003

(1) The dismissal of a Trade Union organization is decided in compliance with the manners as defined by the statute.

(2) Upon the request of the Minister of Labor or of any other body assigned on the basis of law by the court, the Court of Tirana may decide on the dismissal of the Trade Union organization, whenever it carries out activities that openly run contrary the law, and if any other measure fails to stop the organization from carrying out this activity.

MEDIATION, RECONCILIATION, ARBITRATION

CHAPTER XVII

DEFINITION

Article 188

Changed by law no. 8085, date 13.03.1996

By collective conflict is meant any conflict between some employees, one or several organizations of employees, on one hand, and one or several employers, or one or several organizations of employers, on the other hand.

THE MEDIATOR

Article 188/a

Changed by law no. 9125, date 29.07.2003

The mediator is assigned by the Minister of Labor and Social Affairs, or by the administrative body authorized by the former, within the public administration of the Ministry of Labor and Social Affairs.

THE STATE RECONCILIATION OFFICE

Article 189

Changed by law no. 9125, date 29.07.2003

(1) The Reconciliation Office is set up in every district. The Reconciliation Office is set up upon the order of the Minister of Labor and Social Affairs.

(2) The National Reconciliation Office is set up in Tirana.

(3) The Reconciliation Office consists of its Chairman and two members who are representatives of the most represented organizations of employees, and of two other members who are representatives of the most represented organizations of employers.

(4) The Chairman and the members are paid by the state at the amount as fixed by the Decision of the Council of Ministers.

(5) The reconciliation procedure is free of charge and regulated by the Decision of the Council of Ministers.

TERRITORIAL COMPETENCES

Article 190

Changed by law no. 8085, date 13.03.1996
Changed by law no. 9125, date 29.07.2003

(1) The Reconciliation Offices in the districts is responsible for settling any conflict arising within the district where it is located.

(2) The National Reconciliation Office is responsible for settling any conflict that affects more than one district.

(3) The Minister of Labor and Social Affairs, whenever the circumstances justify him, may put in motion the National Reconciliation Office to deal with any conflict arising within a district.

(4) The National Reconciliation Office may decide to convene even outside Tirana.

MATERIAL COMPETENCES

Article 191

Changed by law no. 8085, date 13.03.1996
Changed by law no. 9125, date 29.07.2003

(1) The mediator and the Reconciliation Office may be put into motion concerning any collective conflict. They may declare not to be responsible, if the parties are bound through a collective contract in force, which provides for a sufficient reconciliation procedure.

(2) The conflicts related to the interpretation or implementation of law, in principal, are examined by the court, or by the Court of Arbitration. If the mediator or the Reconciliation Office has been put into motion, they may give up the reconciliation procedure. Each party reserves the right to address to the court, or to the Court of Arbitration.

(3) When the circumstances justify, the Chairman may accept that the Reconciliation Office be put into motion in a conflict between two or several organizations of employees and two or several organizations of employers.

THE PROCEDURE

THE MEDIATOR

Article 192

Changed by law no. 9125, date 29.07.2003

(1) The mediator is engaged in cases of any collective conflict, upon the request of any concerned party, addressed to the Minister of labor and Social Affairs, or to the State Labor Inspectorate.

(2) When engaged in dealing with a collective conflict, the mediator must intervene without delay to help the parties to find a solution through good understanding.

(3) The mediation procedure is obligatory and shall last up to 10 days.

THE RECONCILIATION OFFICE

Article 193

Changed by law no. 9125, date 29.07.2003

(1) If the mediator fails, the Minister of Labor and Social Affairs or the administrative body authorized by him shall put into motion the Reconciliation Office.

(2) The Office may summon any concerned party. The parties have the obligation to be present at the examination session and participate in the debates, presenting the data that the Office requests.

(3) Upon the motivated request of one of the parties, only the Chairman receives the data related to the documents presented by this party. Afterwards, he makes them known to the members of the Reconciliation Office to the extent that he deems to be reasonable.

(4) The Reconciliation Office tries to help the parties to reconcile.

(5) The Reconciliation Office presents a reconciliation proposal to the parties, which it can decide to make public.

(6) The parties may be helped by any person assigned by them.

(7) The reconciliation procedure is obligatory and lasts up to 20 days.

(8) The other procedural regulations are set by the Chairman of the Reconciliation Office.

THE COURT OF ARBITRATION

Article 194

Changed by law no. 9125, date 29.07.2003

(1) If the reconciliation fails, both parties together may address to the Court of Arbitration. The parties, through agreement and freely, shall choose one or three arbiters. To help and advise the parties, the Ministry of Labor and Social Affairs offers them a list of arbiters.

(2) The decision of the Court of Arbitration is an executive title, on the basis of the rules governing arbitration, which are provided for in the Code of Civil Procedure.

(3) The arbiters shall be paid by the parties.

(4) Arbitration must end within 3 weeks, starting from the date of putting into motion the Court of Arbitration.

SPECIAL REGIMES PROVIDED THROUGH A COLLECTIVE CONTRACT

Article 195

Changed by law no. 9125, date 29.07.2003

(1) The parties bound by a collective contract may assign a mediator, a Reconciliation Office or a Court of Arbitration, to settle the disputes between them.

(2) In this case, the mediator and the State Reconciliation Office provided for by this Code shall not be responsible to resolve a conflict. Excluded shall be the cases where the mediator and the Reconciliation Office, as defined by the agreement, are unable to be put into motion in due time.

ARBITRATION IN THE SERVICES OF VITAL IMPORTANCE

Article 196

Changed by law no. 9125, date 29.07.2003

In the services of vital importance, as defined by this Code, the conflicts shall be resolved in an obligatory way and definitely, following the procedure of mediation and reconciliation, by a Court of Arbitration consisting of arbiters chosen by the parties. If the parties fail to agree, the arbiters are assigned by the Minister of Labor and Social Affairs, within five days, starting from the date of the request of one of the parties.

THE RIGHT TO STRIKE

GENERAL CONSIDERATIONS

Article 197

Changed by law no. 9125, date 29.07.2003

(1) The right to strike is guaranteed by the Constitution of the Republic of Albania.

(2) The Trade Unions are entitled to exercise the right of strike for the purpose of solving their economic and social demands in compliance with the rules as defined by this Code.

(3) Participation in the strike is voluntary. No one may be forced to participate in a strike against his/her own will.

(4) Any action that includes compelling, threatening or discrimination of the workers because of their participation or not in a strike shall be prohibited.

(5) While the strike is taking place, the parties must make efforts, through negotiations, to reach a common understanding and sign the relevant agreement.

THE ENTITY ENTITLED TO GO TO STRIKE

Article 197/1

Changed by law no. 9125, date 29.07.2003

Only the Trade Unions shall enjoy the right to organize and announce the strike.

THE PROTECTION OF THE RIGHT TO WORK AND OF THE RIGHT TO STRIKE

Article 197/2

Changed by law no. 9125, date 29.07.2003

- (1) The use of force to interrupt the lawful strike of the workers is prohibited.
- (2) The organizations of employees may undertake actions through peaceful means in order to persuade the workers to participate in strike, without violating the right to work of the workers that do not participate in strike.
- (3) The employer, during the time that the strike is taking place, shall be forbidden to replace at work the strikers with other persons, who, in the time of the announcement of the strike, have not been his/her employees; likewise, he/she shall be forbidden to employ new employees after this date.

LAWFULNESS OF STRIKE

GENERAL CONDITIONS

Article 197/3

Changed by law no. 9125, date 29.07.2003

The strike shall be lawful if it fulfills the following conditions:

- (1) It is organized by a Trade Union, which enjoys juridical personality, or is affiliated to an organization of employees with juridical personality.
- (2) It aims to reach the signing of a collective agreement of employment, or, if this already exists, the fulfillment of the demands resulting from the labor relations, which are not regulated by this contract, with the exception of the cases where the latter one provides for the complete imposition of peace as defined by Article 169, point 2.
- (3) The Trade Union or the Trade Unions, on one side, and the organization or the organizations of employers, on the other side, have made efforts to come to an agreement, by becoming subject to the procedure of mediation and reconciliation.
- (4) It does not run contrary to the legislation in force.

SPECIAL CASES

Article 197/4

Changed by law no. 9125, date 29.07.2003

(1) The strike cannot not be exercised, or if it has begun, it can be suspended, in special cases for as long as this situation continues to prevail.

(2) The following shall be considered as special cases:

- a) Natural catastrophes.
- b) State of war.
- c) Extraordinary situation.
- d) The cases where the freedom of elections is put at stake.

SERVICES OF VITAL IMPORTANCE

Article 197/5

Changed by law no. 9125, date 29.07.2003

(1) Strike cannot be applied to the services of vital importance where the interruption of work would jeopardize the life, the personal security, or the health of a part or of the entire population. In this case, the collective conflicts are solved definitely and in an obligatory way, in accordance with Article 196 of this Code.

(2) The following are considered to be services of vital importance:

- a) indispensable medical and hospital services;
- b) water supply services;
- c) electricity supply services;
- d) air traffic control services;
- e) services of protection from fire;
- f) services at prisons.

MINIMUM SERVICES

Article 197/6

Changed by law no. 9125, date 29.07.2003

(1) The strike cannot be exercised if there is a failure in providing minimum services.

(2) Minimum services may be required in the sectors of services concerning the fulfillment of the basic needs of the population in order to guarantee the fulfillment of its basic needs.

(3) To provide minimum services, the Trade Unions, while the strike is taking place, must assign and ensure the workers necessary for guarding and maintaining the machinery and equipment.

(4) The workers mentioned in point 3 are assigned through an agreement between the employer and the respective Trade Union or Trade Unions of the employees. When the parties fail to come to a mutual understanding about the number and duties of the

respective workers necessary for providing minimum services, the dispute shall be settled definitely and in an obligatory way by an arbiter assigned by the Minister of Labor and Social Affairs, or the administrative body assigned by him, in consultation with the concerned parties. The arbiter must decide within 24 hours, starting from the moment of his/her appointment.

SOLIDARITY STRIKE

Article 197/7

Changed by law no. 9125, date 29.07.2003

The solidarity strike shall be lawful if it supports a lawful strike, which is organized against an employer who is actively supported by the employer of the solidarity strikers, in order to stop or terminate the strike.

THE EFFECTS OF THE STRIKE

THE EFFECTS OF THE LAWFUL STRIKE

Article 197/8

Changed by law no. 9125, date 29.07.2003

(1) While the strike is taking place, the obligations and rights resulting from the employment contract, including the right to salary and obedience imposition at work, shall be suspended.

(2) The provisions of point 1 shall not affect the rights defined by law concerning social care, accidents at work, and occupational diseases.

(3) The suspension period shall not affect seniority and its related effects.

(4) Dismissal from work due to participation in a lawful strike shall be invalid. This provision shall be inapplicable when the employee, during the strike, commits an act, which runs contrary to law.

THE EFFECTS OF THE UNLAWFUL STRIKE

Article 197/9

Changed by law no. 9125, date 29.07.2003

(1) When the strike is unlawful, the employer may terminate the employment relations with the strikers. He/she enjoys the right to terminate the contract of employment with the workers that will not restart to work within three days, this being of

immediate effect, and demand from them to pay him/her for the damage they have caused. In this case, the provisions governing the procedures of dismissal from work shall not be applicable.

(2) The demand for paying the damages may also be addressed against the Trade Union, which is organizing the strike.

(3) When the strike is accompanied with unlawful actions, the parties shall address the case to the court, which determines the responsibilities of the parties, the actions that they must carry out, and it also determines the damage caused and the obligation of the party to pay it.

(4) If the circumstances permit, the Court may decide on resuming the work.

TERMINATION OF STRIKE

Article 197/10

Changed by law no. 9125, date 29.07.2003

The strike shall terminate when the parties reach an agreement, or when the Trade Union that has announced the strike decides to interrupt it.

Article 198

(Invalidated by the Law No 9125, dated 29.07.2003)

LABOR ADMINISTRATION

CHAPTER XVIII

MINISTER OF LABOR

Article 199

(1) The Minister of Labor is the administrative body responsible for the Labor Administration.

(2) The Minister of Labor is the administrative body that has the power to prepare and implement labor legislation and policies.

(3) The Minister of Labor manages to represent the State in the field of the international labor relations.

NATIONAL COUNCIL OF LABOR

Article 200

Changed by law no. 8085, date 13.03.1996

Changed by law no. 9125, date 29.07.2003

(1) The National Council of Labor is created, and it consists of representatives of employers, of employees, and of Government.

(2) The Council examines issues of common interests for the organizations of the employers and employees in order to find an acceptable solution for the parties.

(3) The consultations are made especially concerning the preparation and implementation of the labor legislation, the amendments to this Code and the content of the sub-legal acts, the policies and national organizations dealing with employment, vocational training and qualification, protection of the employees, hygiene and technical safety, production, wellbeing, programs of economic and social development, as well as with the application of the norms of the International Labor Organization.

(4) The National Council of Labor consists of 27 members and 27 candidate members, out of which 10 members and 10 candidate members represent the organizations of the employers, 10 members and 10 candidate members represent the organizations of the employees, and 7 members and 7 candidate members represent the Council of Ministers. The representative candidate members will attend the sessions of the Council, if the representative members are absent.

(5) This Council will be made up of the most represented organizations of employers and employees, as defined by the Council of Ministers, every three years.

(6) The Council of Ministers, in consultation with social partners, assigns permanent tripartite specialized commissions.

(7) The Minister of Labor and Social Affairs appoints the members and the candidate members of the National Council of Labor, who are representatives of the organizations of employers and employees, upon the proposals coming from the latter and in compliance with point 5 of this Article.

(8) The National Council of Labor may create specialized commissions, temporary working groups to provide advice and study special issues of common interest.

(9) The National Council of Labor has its own independent budget, which is set upon the Decision of the Council of Ministers.

(10) The functioning rules of the National Council of Labor are regulated by the Decision of the Council of Ministers.

SANCTIONS

CHAPTER XIX

CIVIL SANCTIONS

Article 201

(1) If his/her rights are violated, the injured person has the right to demand to be paid the damages that he/she has suffered.

(2) The employer or the employee may not demand the payment of damages in kind, with the exception of the cases expressly defined by law.

FINE

Article 202

Changed by law no. 8085, date 13.03.1996

Changed by law no. 9125, date 29.07.2003

(1) The violation of Articles 9, 10, 39 (the first Paragraph), 40, 41, 43, 44 (the second Paragraph), 69, 75, 98, 100, 101, 103, 108, 181 (points 3, 5 and 7, letters “a”, “b”, and “c”), 184-186 defined by this Code, will be punished with a fine amounting to 50 times of the minimum monthly wage.

(2) The violation of Articles 21 (the third and the fourth Paragraph), 32 (the third Paragraph), 33, 34, 36, 38, 42, 70-74, 78 (point 1, 2 and 3), 79 (the second Paragraph), 80 (the second Paragraph), 81, 83, 84-87, 90 (the second and the third Paragraph), 91-96, 111, 116, 119 (the first Paragraph), 139, 148 (point 7), 165 (point 1), 167, 99 (point 1), 105/a, 193 (point 2), 197/2 (point 3) of this Code will be punished with a fine amounting to 30 times of the minimum monthly wage.

(3) The violation of Articles 26 (the fourth Paragraph), 44 (the first Paragraph), 49 (the fourth paragraph), and 50, will be punished with a fine amounting to 20 times of the minimum monthly wage.

(4) Any violation will be punished with fine. When the violation is a repeated one and to the detriment of several employees, the total amount of fines given will not be greater than 50 times of the maximum fine.

(5) The employer, on solidarity basis, will be held liable to pay the fine, if the violation is done by a person that he/she has charged with special tasks to represent him/her in the enterprise.

(6) The violations of the provisions of this Code, if they are considered to be offences, will be punished in compliance with the provisions of the Penal Code.

PRESCRIPTION

Article 203

(1) The duration of prescription concerning the rights of the employee toward the employer, and of the employer to the employee extends to three years. This duration begins on the date of the birth of the right. When the right is based on the violation of a provision of the Penal Code, the duration of prescription concerning the offence will apply to the civil offence as well.

(2) The employer will give up the right to request the payment of the damages caused by the employee, if he/she fails to demand this right in writing within six months, starting on the day of his/her being notified.

(3) The employer will be considered to have given up any right that he/she has acquired during the labor relations, if he/she, until the end of the contract, fails to inform the employee in writing about the reserves he/she has as concerns the facts about which he/she has been informed, and which he/she claims.

(4) The investigation of the penal violations is prescribed within two years, starting from the day on which the offence has been committed, with the exception of the investigations defined the Penal Code.

Article 204

The entering of this Code into force invalidates the Law No 6200, dated 27.06.1981, “On the Labor Code in the People’s Socialist Republic of Albania”, the Law No 7526, dated 03.12.1991, “On Labor Relations”, the Law No 7724, dated 21.06.1993, “On the Regulation of the Working Time and Leave”, the Law No 7516, dated 07.10.1993, “On Trade Unions”, the Law No 7673, dated 17.02.1993, “On the Collective Contract of Employment”, as well as any other provision running contrary to this Code.

Article 205

This Code will enter into force 15 days after having been published in the ‘Official Gazette’.