



# LABOUR STANDARDS IN ALBANIA

RESEARCH REPORT

LABOUR  
STANDARDS  
IN ALBANIA



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Research Report

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**Authors:** Aleka Papa, Zyhrada Kongoli

**Translation from Albanian:** Durim Tabaku

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**Institute for Democracy and Mediation**  
Instituti për Demokraci dhe Ndërmjetësim

Institute for Democracy and Mediation (IDM)  
Address: Rr. Shenasi Dishnica, 1. PO BOX 8177 Tirana, Albania  
E-mail: [info@idmalbania.org](mailto:info@idmalbania.org)  
Web-address: [www.idmalbania.org](http://www.idmalbania.org)

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# List of acronyms and abbreviations

<b>CE</b>	Central Inspectorate
<b>CoM</b>	Council of Ministers
<b>CPD</b>	Commissioner on Protection from Discrimination
<b>CSO</b>	Civil Society Organization
<b>DCM</b>	Decision of Council of Ministers
<b>EU</b>	European Union
<b>GTD</b>	General Tax Directorate
<b>IEEI</b>	Inspectorate of Electrical Equipment and Installations
<b>ILO</b>	International Labour Organization
<b>LC</b>	Labour Code
<b>MEI</b>	Ministry of Energy and Industry
<b>MoSWY</b>	Ministry of Social Welfare and Youth
<b>MRIU</b>	Mining Rescue and Inspection Unit
<b>NLC</b>	National Labour Council
<b>SII</b>	Social Insurance Institute
<b>SLI</b>	State Labour Inspectorate
<b>UN</b>	United Nations

# 1 INTRODUCTION

Over the past years, Albania has made continuous efforts to comply with labour standards at least at the legislative and policy level. The Labour Code (LC), which is the main law that provides for labour rights, obliges employers to comply with a variety of rules towards meeting the labour standards. In particular, the LC lays down the employees' rights as regards the equal treatment and non-discrimination, safety and health at work, special protection for women and children, maternity protection and social security. Nonetheless, even if the root causes and extent of non-compliance have not been conclusively identified or measured, prima facie evidence suggests that labour rights' breaches remain problematic in practice and they tend to reach worrying levels in selected sectors of the economy and among categories of vulnerable and precarious workers. Reports from civil society organizations (CSOs) and media have pointed to inadequate working conditions in sectors like *façon* and mining, by highlighting non-payments of social security contributions and non compensation for over-time work as some cases of breach.<sup>1</sup>

The issue on stake is that only the creation of more jobs cannot be sufficient; equally important is the compliance with minimum labour standards and the quality of the working environment. For instance, the Sustainable Development Goals (SDGs) in the Agenda 2030 have highlighted the quality of employment, by considering poor-quality employment as serious of a problem as unemployment.<sup>2</sup> To this end, the monitoring and enforcement of compliance with minimum standards remains the critical element of any effective labour regulation regime. These tasks are principally assigned to the State Labour Inspectorate (SLI) but multiple state and non-state actors can play instrumental roles in both promoting and securing compliance with labour laws. However, despite the efforts of the SLI over the past years, the compliance gap in practice has emphasized the challenges of effectively detecting and addressing the complex and plural reasons behind non-compliance. On the other hand, the potential role of social partners has

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- 1 Read the report "Labour on a shoe string" from the Change your Shoes campaign on the working conditions in the footwear industry in Albania along with other Eastern European countries: [http://labourbehindthelabel.net/wp-content/uploads/2016/06/BD\\_REPORT\\_labour\\_on\\_a\\_shoestring.pdf](http://labourbehindthelabel.net/wp-content/uploads/2016/06/BD_REPORT_labour_on_a_shoestring.pdf). The Guardian has written an article that condemned poverty wages and poor working conditions. See "The expensive 'Italian' shoes made for pittance in East European sweatshops" <https://www.theguardian.com/fashion/2016/aug/20/shoes-uk-high-street-made-for-a-pittance-eastern-europe-sweatshop/>. In August, the media exposed the case of a 17-year-old boy found dead in the landfill site in Sharre because of the lack of occupational safety measures. The boy was underage and without social security. For media reporting see: <http://www.reporter.al/vdekja-e-ardit-gjoklit-zbulon-kantierin-cnjerezor-ne-landfillin-e-sharres/>
  - 2 This shift can be seen in how the jobs challenge has been articulated from the MDGs to the SDGs. See: <https://sustainabledevelopment.un.org/?menu=1300>. To read more on why creating more jobs isn't enough see [https://www.weforum.org/agenda/2016/08/why-creating-more-jobs-isnt-enough?utm\\_content=buffera8cee&utm\\_medium=social&utm\\_source=twitter.com&utm\\_campaign=buffer](https://www.weforum.org/agenda/2016/08/why-creating-more-jobs-isnt-enough?utm_content=buffera8cee&utm_medium=social&utm_source=twitter.com&utm_campaign=buffer). Retrieved on 23.8.2016.

## BOX 1. WHAT ARE LABOUR STANDARDS?

Labour standards are rules that govern working conditions and industrial relations. They range from fundamental human rights such as freedom from forced labour and freedom of association to more specific rights such as health and safety, maternity leave or minimum wages. Workers' rights build on labour standards.

Labour standards may be established at the national level, in the form of laws or regulations, or at the international level through global or regional institutions. International labour treaties, such as ILO Conventions, are binding when ratified and subject to monitoring by the ILO Committee of Experts. However, there are very limited means of enforcing the obligations against a non-complying state.

For more read: ILO. (2014). Rules of the Game: a brief introduction to International Labour Standards. Retrieved from [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---normes/documents/publication/wcms\\_318141.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_318141.pdf).

remained mainly unexploited, mainly due to the insufficient organization of trade unions at the company level or above, skepticism of the employers towards trade unions at all levels and a general lack of the culture of dialogue.<sup>3</sup> The compliance gap, on the other hand, continues to pose serious implications for the quality of work and workers' lives – predominantly disadvantaged workers who are mainly reliant on the safety net and for the most part vulnerable to exploitation.

In this context, this research report represents a novel contribution to the policy debate on employment and decent work in Albania for a number of reasons. First, it complements the debate with empirical data on the levels of non-compliance with minimum labour standards in Albania, since thorough investigations covering a wide continuum of labour standards are scarce or missing. What is more, in view of the recent amendments to the Labour Code (LC), the need for comprehensive information on the country up-to-date compliance with labour standards becomes a requisite. Second, it offers an inquiry of the root causes behind labour law contravention and the current role played by the social partners, the public authorities and civil society with the aim of calling for a more proactive and effective way to foster protection of labour rights in Albania.

The remainder of this report is structured as follows. The next chapter introduces the research methodology used for this study and how it has guided data collection and analysis. The third chapter provides an assessment on the current legal, policy and

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3 EC's Report for Albania notes that significant efforts are needed to transform it into an effective social dialogue forum, improve collective bargaining and intensify bipartite social dialogue, in particular at local and enterprise level. For a general overview on the developments of social dialogue in Albania read "Long Road to Social Dialogue in Albania: Turning Challenges into Opportunities". Retrieved from <http://library.fes.de/pdf-files/bueros/albanien/12293.pdf>.

institutional framework as regards labour standards in Albania. The fourth chapter provides a detailed account of the results from the field research and discusses key findings. The last chapter provides some final conclusions coupled with relevant policy recommendations.



# 2 METHODOLOGY

## **OBJECTIVES**

This research was undertaken with the general aim of providing an assessment of the country compliance with international labour standards, and drawing attention to related policy gaps to be used as reference for policymaking and further research alike. The research strives to meet three specific objectives as follows:

- Assess the current state of labour standards in Albania vis-à-vis the international labour standards as defined by the International Labour Organization (ILO).
- Identify the root causes for those cases when incidences of breaching labour rights are identified as a means to draw recommendations on how to tackle the challenge in a systemic way.
- Assess the role the social partners, the public authorities and civil society are currently playing and analyze how they could work more proactively and efficiently to foster protection of labour rights in Albania.

## **RESEARCH QUESTIONS**

To fulfill the objectives of the research, the main research question is: What is the current situation of compliance with labour standards in Albania?

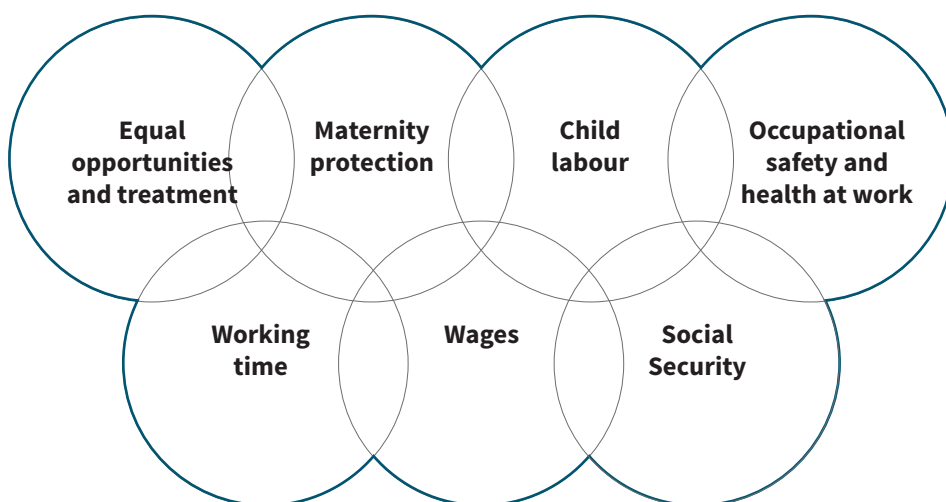
As support to the main research question the following sub-subsequent questions have been identified:

1. How enabling is the current legal, institutional and policy framework regarding labour standards, especially in consideration of the most vulnerable categories of workers?
2. What is the current situation of working conditions in selected sectors of the economy as perceived by the workers?
3. What is the role played by public authorities, trade unions and CSOs in restraining non-compliant behavior? What is the level of stakeholder cooperation among them and how could it be galvanized?
4. What are the root causes and main influencing factors behind labour standards non-compliance and how could they be tackled in a systemic fashion?

5. How could the gap in compliance with labour standards between the existing state of affairs and the optimal situation be closed?

To focus the analysis, this research was centered on a combination of labour standards with selected sectors of the economy. When referring to labour standards, the following seven dimensions will be under scrutiny: equal opportunities and treatment, maternity protection, child labour, occupational safety and health at work, working time, wages and social security.<sup>4</sup> Meanwhile, the three selected sectors are: mining and quarrying sector, construction and façon.<sup>5</sup> The selection of economic sectors was guided by three intertwined criteria: actual working conditions in these sectors identified from the qualitative component in the initial phase of the research along with the different descriptive reports, the contribution of these sectors to economic growth<sup>6</sup> and the need for a “quasi-control group” to create comparable data – in this case workers in public enterprises.

**Figure 1 Labour standards under scrutiny**



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- 4 The scale and relative costs of implementing standards might change in relation to the standard under scrutiny. For a general overview of the standards consult the resources on the web-page of ILO: <http://www.ilo.org/global/standards/lang-en/index.htm>.
  - 5 To define the economic sectors the Statistical classification of economic activities or NACE Rev.2 was utilized according to the Albanian legislation in force. The mining sector is classified as section B, including divisions 05-09. Construction is classified as section F, including divisions 41-43. Façon is classified as section C, including divisions 14-15.
  - 6 For a detailed analysis go to the findings section.

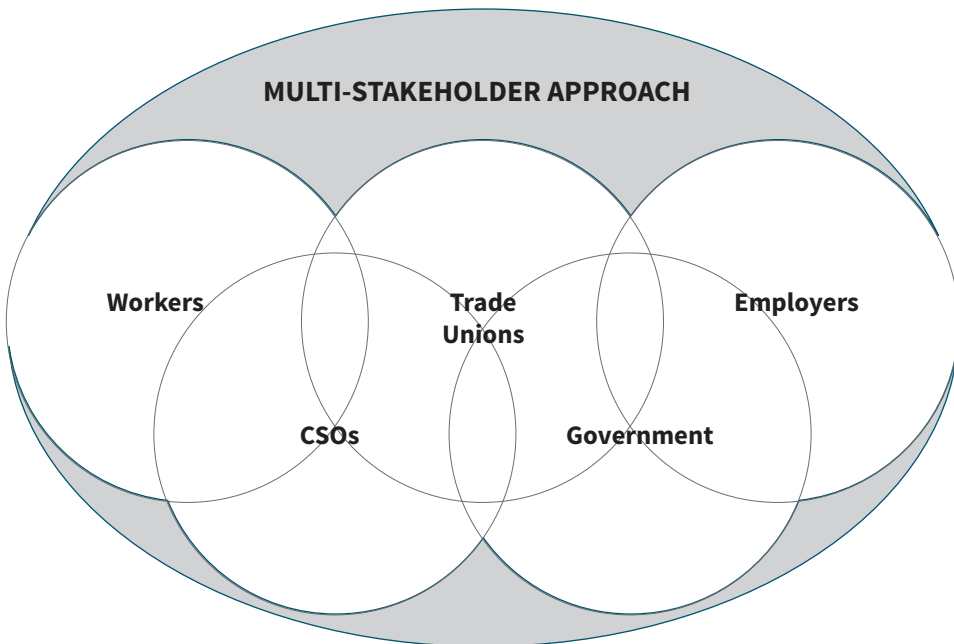
## **RESEARCH DESIGN**

The research adopts a combination of quantitative and qualitative approaches. Although each approach has its respective strengths and limitations, the combination of evidence generated through both approaches leverages the particular strengths of each and develops into a valuable resource of informing policy and practice in the investigation of labour standards.

Quantitative approaches are concerned with quantities of a phenomenon or its outcomes. They offer the ability to establish patterns that exist within the population and make comparisons at the population level, accordingly. In the field of labour standards, there is little empirical knowledge about employment conditions, industrial relations and practices within Albania. To this respect, the quantitative component will be utilized to describe working conditions (incl. wage rates, number of working hours, social security membership) and other aspects of labour relations (i.e. awareness and workers' representation).

On the other hand, qualitative research is fundamentally interested in gaining insight into, and understanding a phenomenon. Qualitative approaches provide greater explanatory depth and nuanced understanding of research areas. To this reason, first, the qualitative component will be utilized to capture the root causes and main influencing factors behind labour standards non-compliance that are qualitative, non-numerical information, that

**Figure 2 Multi-stakeholder approach**



are difficult to capture in pre-structured questions. Second, it will be utilized to delve into the role played by public authorities, trade unions and CSOs in restraining non-compliant behavior. Moreover, the qualitative research will be employed as a first step before embarking on the quantitative survey.

Due to the holistic nature of the problem, we will use a multi-perspective and stakeholders approach, by analyzing the problem and gathering information from all the stakeholders involved in labour relations.

## **DATA ANALYSIS**

Quantitative data will be analyzed using STATA. Univariate analysis will be conducted to obtain a general understanding of the sample. Bivariate analysis will be conducted to look at two variables simultaneously. Qualitative data will be analyzed using content analysis.

## METHODS

The table below summarizes the specific methods of data collection in detail.

SUB-QUESTION	METHOD(S)	DESCRIPTION OF THE METHOD(S)
<p>How enabling is the current legal and policy framework regarding the 7 labour standards, especially in consideration of the most vulnerable categories of workers?</p>	<p>Review of the legal, institutional and policy framework</p> <p>Desk research</p>	<p>Systematic analysis of the legal and policy framework guiding the seven selected labour standards under scrutiny.</p> <ul style="list-style-type: none"> <li>• The comparative method was used to deepen the description and bring into focus suggestive similarities and contrasts of national labour standards, in relation to the international labour standards as defined by the International Labour Organization (ILO) and EU aquis in the area.</li> <li>• The analysis included a review of the institutional framework in place.</li> </ul> <p>Review of recent national and international reports making reference to the gaps in implementation and compliance with labour standards. This review was also used as a preliminary mean to identify the gaps in practice to be explored systematically later in the field.</p>
<p>What is the current situation of working conditions in selected sectors of the economy as perceived by the workers?</p>	<p>Survey</p>	<p><b>Objective of the survey</b> To draw a comprehensive depiction of how Albanian workers experience and assess their working lives and working conditions.</p> <p><b>Sampling</b> The target population are employed individuals in the mining and quarrying sector, construction and <i>façon</i>, along with workers in public enterprises.</p>

Based on the assumption that the variability in the reporting of working conditions is largely dependent on the economic sector under consideration, a unified approach was used by combining quota sampling and snowball / chain referral sampling. Quota sampling offers a series of advantages as: firstly, it enables obtaining an exact sample from the population, when it is impossible to compile a sampling frame; secondly, it facilitates the comparison between different sub-group; and third, it is convenient in terms of speed and cost of administration. In this context, equal quotas of 250 respondents for each sector were specified.

Snowball sampling offers added value in terms of its ability to access to the so-called “hidden populations”, like those employed in the informal sector. In this case, snowball sampling was used to complement quota sampling with respondents from the whole spectrum of employment using multiple informal networks.

#### **Sample size** 1000

**Territorial scope** The territorial scope of the survey was guided by the geographical concentration of selected sectors of the economy. Field research was distributed across 9 regions of the country (see the findings section for details on the geographical distribution of the sample).

**Data collection mode** Questionnaires were administered through face-to-face (F2F) interviews conducted by a total of 19 field researchers divided into 10 teams. The teams had an equal gender distribution, but female researchers led the process in sub-populations where workers are mostly women (as is the case of *façon* sector). All field researchers were subjected to a preliminary training to ensure the integrity and neutrality of the process of data collection. Interviews were conducted in environments outside the workplace of the respondents to minimize respondents' anxiety. Local coordinators monitored field work.

**Data processing and analysis** Empirical data were processed statistically with the statistical package STATA 12. Univariate and bivariate analysis was conducted to describe and examine the relationship between the characteristics of respondents at the individual level and sector level.

**Challenges and limitations** Participation of respondents was somewhat challenging because potential respondents perceived risk from their participation in a study investigating the conditions of their employment. Meanwhile, response bias remains one of the challenges of survey-based research.<sup>7</sup> In this context, to mitigate the bias on questions with sensitive nature, verification with other similar questions in the questionnaire and qualitative information was added.

<p>What is the role played by public authorities, trade unions and CSOs in restraining non-compliant behavior?</p> <p>What is the level of stakeholder cooperation among them and how could it be galvanized?</p> <p>What are the root causes and main influencing factors behind labour standards non-compliance and how could they be tackled in a systemic fashion?</p> <p>How could the gap in compliance with labour standards between the existing state of affairs and the optimal situation be closed?</p>	<p>Desk research</p> <p>In-depth interviews</p> <p>Semi-structured interviews</p> <p>Focus Group Discussions (FGDs)</p>	<p>Review of academic research and relevant reports that provide conceptual perspectives on the answering of research questions.</p> <p>Conduction of in-depth and semi-structured interviews with key informants. Interviews allowed for an in-depth focus gathering information from multi-stakeholders with a view to identify common trends and to compare patterns among sub-groups. Qualitative data were also used to validate quantitative survey data (see above). Number of in-depth interviews: 8 Number of semi-structured interviews: 10. Additional qualitative data were gathered from field observation during the administration of the survey.</p> <p>Conduction of focus group discussions. Focus group discussions (FGDs) are suitable for the extraction of beliefs, perceptions and understandings in a common context. Number of DFG: 4.</p>
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7 See: H. Baumgartner and J.E.M. Steenkamp. "Response biases in marketing research" The handbook of marketing research: Uses, misuses, and future advances (Sage Publications, 2006).



# 3 LEGAL, INSTITUTIONAL AND POLICY FRAMEWORK

This part of the study provides an assessment on the current legal and policy framework as regards labour standards in Albania. It will be focused on 7 selected standards which will be analyzed in relation to the international standards in order to provide an overview of the current situation.

Due to the volume of the legal framework addressing different aspects of labour standards in Albania, including but not limited to Labour Code (LC), civil servant law, law on State Police, laws on social security and health insurances, law on Foreigners, the laws that ratify ILO Conventions and other international agreements as well as the secondary legislation, this analyses attempts to spotlight the exposure of the most vulnerable categories of workers. In this respect, it mainly focuses to private employees' labour rights related regulations and policies since the category of public employees more likely enjoy a higher level of protection.

Private employee's work relation is regulated by the Labour Code and its implementing provisions. Therefore the analysis of this particular part of legislation constitutes the major part of the study. The Albanian Parliament has adopted some changes and amendments to the LC<sup>8</sup>, which entered into force in the second half of year 2016. As regards the implementing provisions, Council of Ministers is required to issue DCMs pursuant to some articles of the law within 6 months upon entry into force of the law. As far as this study is concerned, the CoM will approve by end of year 2016 new minimum conditions of safety and health in the work place<sup>9</sup>; the measures to be taken by the employer on the permissible limits in terms of work environment protection by air pollution, chemicals, radiation, noise and vibration, as well as any similar element that is harmful to the health of employee<sup>10</sup>; minimal requirements on protection of workers from the risk of explosive ambience<sup>11</sup>; the minimum number of employees for one employer to make available a special place

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- 8 Law No. 136/2015 "On some changes and amendments to the Law No. 7961, dated 12.07.1995 "Labour Code of the Republic of Albania" as amended", published at Official Gazette No 220 published on December 22, 2015
- 9 Ref: Article 23 amending Article 45 of the existing law and Article 93 of the Law No. 136/2015
- 10 Ref: Article 24 changing Article 48 of the existing law and Article 93 of the Law No. 136/2015
- 11 Ref: Article 27 changing and amending Article 63 of the existing law and Article 93 of the Law No. 136/2015

for dining and the sanitary hygienic conditions such place should meet<sup>12</sup>; easy jobs and the specific rules and conditions for the maximum duration and commission of work for children as well as easy jobs and specific rules on maximum duration and performance of work for adult employees over age 18<sup>13</sup>; the non-exhaustive list of factors, processes and working conditions that impair security and health of the mother and/or child as well as special rules on working conditions for pregnant women, women who have recently given birth and those breast-feeding<sup>14</sup>; and a lower minimum wage for students attending dual form of vocational and training system<sup>15</sup>.

For the rest of the articles for which a sub-legal act to be approved by CoM is foreseen, no time-line is provided as in case of rules and work conditions as well as the procedure for granting an authorization by Labour Inspectorate<sup>16</sup>; special rules for cases when work at night is permitted for pregnant women, women who have recently given birth and those breast-feeding<sup>17</sup>.

### ***Overview of the legal, policy and institutional framework***

All framework components, including legal, policy and institutional one, are subject of continuous change and update in simultaneous way. In order a reform in a given area to be sustainable the legal and institutional developments, usually going together, must be preceded by policy documents.

Even the policy documents should be preceded by accurate assessments of current situations and analysis of compliance of previous one, if there is any, in order to provide for the appropriate actions to take place in a given sector. Because the labour standards fall under the responsibility of different ministries and usually they don't situate it in the same level of priority or don't collaborate well, the ideal order of actions is sometimes not followed.

As a result, the related legislation changes frequently which creates difficulties to comply with and even to keep track. An illustration of this statement is the fact that the LC has been changed several times since 1995 and so is changed and amended the law on social security attempting to increase the financial sustainable of social security scheme. The same goes for implementing legislation, including acts issued by CoM and those issued by the ministries in charge.

The recent changes in the legal framework affecting labour standards are mostly focused

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- 12 Ref: Article 28 changing and amending Article 70 of the existing law and Article 93 of the Law No. 136/2015
  - 13 Ref: Article 43 changing Article 99 of the existing law and Article 93 of the Law No. 136/2015;
  - 14 Ref: Article 45 changing and amending Article 104 of the existing law and Article 93 of the Law No. 136/2015;
  - 15 Ref: Article 51 changing Article 111 point 3 of the existing law and Article 93 of the Law No. 136/2015;
  - 16 Ref: Article 44 changing Article 102 of the existing law;
  - 17 Ref: Article 50 changing Article 108 of the existing law;

and intended to provide broader protection to employees in the framework of the employment relationship. This applies mainly to the standards of occupational health and safety at work, working hours and overtime as well as maternity protection.

Some pieces of legislation or sublegal acts cover simultaneously more than one of the selected labour standards. For that reason analysis below makes reference to acts that address one given standard in a more comprehensive way.

Along with the efforts to update the national legislation in the area of labour standards, Albania has shown some progress also in developing and/updating the policy documents, including strategies, action plans and other policy documents.

The umbrella policy document covering all areas is the National Strategy for Development and Integration (2014-2020) which is followed by a National Plan on European Integration for the period 2014-2020<sup>18</sup>. According to this document, the Government of Albania is committed to promote decent work opportunities through effective policies of the labour market. In the field of employment the main priority is to improve the system and the standards of social protection as well as its accurate implementation through strengthening the governance side.

As the first country programme on decent work for Albania was developed in 2006, a new Decent Work Country Programme for the period 2016-2020 is under preparation while the National Strategy on Employment and skills 2014-2020 states very clearly the aim of encouraging of decent work opportunities for all women and man.

The review and improvement of the labour standards in terms of policy and legislation is an incessant process also in other countries in Europe. In addition the jurisprudence of the European Court of Justice (ECJ) is making a contribution in relation to the interpretation of European Directives as in the case ECJ ruling for the right of mobile workers to be paid for travel time. Its ruling<sup>19</sup> was based on its interpretation of the European Working Time Directive.

## **EQUAL OPPORTUNITIES AND TREATMENT**

The standard of “equal opportunities and treatment” implies a number of sub-standards relating to equal opportunities, non-discrimination and equal treatment at work in different stages and several aspects of work relation including recruitment, remuneration, access to professional development and promotion. It applies in some work relation plans such as national workers rights vs. foreigners, full-time workers vs. part-time workers, workers with disabilities vs. other employees, workers with defined duration employment contract vs. workers with undefined duration employment contract. Equal opportunity

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18 Approved by the DCM No. 438, dated 02.07.2014

19 Case C-266/14 involving Spanish security firm Tyco

and treatment at work means that all the terms and conditions of employment are based exclusively to merit, skills, experience and abilities of the employee for the job position that he/she applies and/or holds.

### **Regulatory framework**

This standard is regulated in Constitutional<sup>20</sup> level providing for equality before the law for all including minorities, equality between nationals and foreigners as well as non-discrimination provisions.

Albania has adopted the law on protection from discrimination<sup>21</sup> which law has fully approximated, among others, the Council Directive<sup>22</sup> for equal treatment in employment and occupation. The law ensures the rights of employees for equality before law, equality in opportunities as well as provides effective protection from discrimination. A special provision in this law addresses the prohibition of discrimination in relation to announcement of vacancies, recruitment and selection of employees as well as equal treatment at work. In addition it provides for the responsibility of the employer to comply with the law requirements, to address the claims raised in the basis of discrimination practices as well as to take an active role in raising the awareness and proper understanding on non-discrimination rules and procedures.

Pursuant to the recommendations issued by Commissioner on Protection from Discrimination (CPD), the recent changes made to LC mark an improvement as regards the non-discrimination regulations in labour relationships. In this regard, LC has fully approximated the related provisions of the Council Directive on establishing a general framework for equal treatment in employment and occupation, the Council Directive implementing the principle of equal treatment between persons irrespective of racial or ethnic origin<sup>23</sup> as well as of the Directive on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast)<sup>24</sup>.

The new LC regulations aim at strengthening the protection of the personality of the employees at work, through equal treatment. The prohibition of discrimination and application of the principle of equal treatment in the exercise of the employment and occupation right is implemented with respect to: a) access to employment, self-

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20 Articles 16/1, 18 and 20/1 of the Constitution of the Republic of Albania

21 Law No 10221, dated 04.02.2010 "On protection from Discrimination"

22 Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation

23 Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin

24 Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast)

employment and occupation, including selection criteria and recruitment conditions, of any branch of activity and at all levels of the professional hierarchy, and promotion; b) access to all types and at all levels of vocational guidance, vocational training, advanced vocational training and re-training, including practical work experience; c) employment and working conditions, including termination of the contract of employment and remuneration; and ç) membership and involvement in labour organizations and employer organizations or any organization whose members exercise a particular profession, including the benefits provided by these organizations<sup>25</sup>.

Equal opportunity and treatment at work between all persons is based on the principle of equal treatment between persons irrespective of racial or ethnic origin. The new regulations made in LC prohibit all types of discrimination. It literally provides for the right of each employee to be equally treated based on their qualifications and performance in terms of education effort and level of responsibility without discrimination on the grounds of: gender, ethnicity, colour, language, gender identity, sexual orientation, disability, health status, social origin, national origin or religion, philosophic or political opinion, economic, education and social situation, maternity, parental background, parental responsibility, age, marital or family status, civil status, residence, health status, genetic predispositions, disability, living with HIV/AIDS, joining or belonging to labour organizations, belonging to a particular group, or any other reason, that aims or causes to prevent or make impossible the exercise of the right of employment and occupation, in the same way as others<sup>26</sup>.

As regards equal treatment at work between man and women, it falls under the subject of several legislative acts including Family Code, law on gender equality in society, law on protection from discrimination, Electoral Code and other related laws which provide opportunity for women to be equally treated and likewise enjoy equal position with men. In this respect, Albania has also ratified a number of Conventions with regard to protection of women's rights such as Convention on the Elimination of all Forms of Discrimination towards Women, International Convention on Civic and Political Rights, International Convention on Economic, Social and Cultural Rights and European Convention on Human Rights.

Equal treatment refers to equal entitlements like equal payment and compensation. While the existing regulation refers to equal remuneration between sexes, the recent changes made to the LC have expanded the scope of equal remuneration by making reference to any form of discrimination, direct or indirect one, relating to all aspects and conditions of remuneration for equal work or work of equal value. In this view the related provisions have been elaborated by widening the non-discriminatory ground.

The issue of foreign employees' rights is also addressed by the recent changes of the LC. The employment relation of foreigners is based in the principle of equal treatment with national employees. The employment relationship for foreigner workers is regulated

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25 Ref: Article 4/5 of the Law No. 136/2015 changing Article 9 of the existing regulation in the LC

26 Ref: Article 4/2 of the Law No. 136/2015 changing Article 9 of the existing regulation in the LC

by the provisions of the Albanian legislation and only if the Albanian regulation is less favorable than the legislation of the exporting country, the more favorable legislation for the employee shall apply.

The equal treatment of workers employed with defined employment contract duration has also attained a particular attention of the changes made to LC<sup>27</sup>. They enjoy proportionally equal rights. This category of employees cannot be treated in less favorable way compared to workers with undefined employment contract duration as regards employment conditions, training and career opportunities at work.

Even the part time workers' rights are regulated based on the principle of non-discrimination. Part-time employees enjoy the same rights compared with full-time employees who perform the same work and should not be treated in less favourable manner.

In any case the employer informs all categories of employees for vacancies that may arise and ensures equal opportunities with other employees and/or other job seekers. This means that the same employment opportunities are provided to full time employees, part time employees and those employed with defined duration employment contract.

### ***Policy framework***

There is a Strategic Plan of the Commissioner for Protection from Discrimination for the period 2012-2015, which documents has not been renewed.

The National Strategy on Gender Equality and Reduction of Gender-Based Violence and Domestic Violence for the period 2011-2015 includes in its objectives the actions to moderate gender pay gap. This document has been renewed for the period 2016-2020 and aims at economic empowerment of women, especially those living in rural areas. Following the implementation of the previous National Strategy for Gender Equality, has been noted that the economic empowerment of women and men has increased lately due to the support of various programs of employment and vocational training. Likewise, the legal framework in this regard has improved women entrepreneurs situation, as well the creation of a special fund for women entrepreneurs.

In relation to the LGBTI rights, the Government of Albania has approved recently the Strategy and the Action Plan on LGBTI community for the period 2016-2020 in accordance with the recommendation of the Committee of Ministers of the Council of Europe CM / Rec (2010) 5 and other relevant documents<sup>28</sup>. The action plan provides for the key actions to be taken to ensure an increased access to employment for the persons from LGBTI community.

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27 Ref: Article 66 of the Law No. 136/2015 amending Article 149 of the existing regulation in the LC

28 The Universal Report of periodic review, United Nations Council for Human Rights in Albania of 2014; The 2015 Report of the European Commission against Racism and Intolerance (ECRI) for Albania.

As part of the integration of the Roma and Egyptian communities, the National Action Plan for Roma and Egyptians for the period 2016 - 2020 it was approved by the Albanian Government in December 2015.

### ***Institutional framework***

The law on protection from discrimination determines the tasks of Council of Ministers, Minister in charge of labour and social issues as regards the raising of awareness among employers and employees and endorsing temporary specific policies to promote equality in general and in particular between women and men as well as with persons with disabilities. It also provides for the establishment of the institution of the CPD which guarantees the effective protection from discrimination.

As far as the standard of equal opportunities and treatment at work is concerned, the tasks of CPD include the monitoring of law implementation, the promotion of equal and non-discrimination principle and in particular the review of claims from persons that assume being discriminated, carrying out administrative investigations, imposing administrative sanctions and representing the claimant in court.

## **MATERNITY PROTECTION**

Maternity protection standard in work relationship is addresses mainly in the LC as well as in the law on security and health at work<sup>29</sup>. The LC provides for a special protection for women before and after giving birth. In any case, the termination of employment contract during maternity leave is invalid. In addition to that the LC provides regulation for particular rights during maternity period.

The LC regulations regarding maternity protection relate to the prohibition of work for women 35 days before giving birth and at least 63 days after giving birth. The prohibition period after giving birth has been 42 days and has been extended upon recent changes to LC. In addition to that, the recent changes have approximated the Council Directive on introduction of measures to encourage improvements in the safety and health at work of pregnant workers those who have just given birth and/or are breastfeeding.

If the woman decides to go back at work after the above-mention period and her workplace reveals a risk to the safety or health, the employer should take the necessary measures by temporarily adjusting the working conditions and/ working hours in order to avoid the risks concerning the employee. If the adjustment is not technically and/or objectively feasible or cannot reasonably be required on duly substantiated grounds, the employer should take the necessary measures to move the woman concerned to another similar

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29 Law No. 10237, dated 18.02.2010 "On safety and health at work"

job. If even the transfer is not feasible the woman shall be granted with beneficiaries according to the social security legislation in force.

As regards night work, the woman are not obliged to perform night work during their pregnancy and for a period of 1 year following childbirth if danger for her or child health. This should be supported by a medical report. In such cases the woman can be transferred to daytime work. If the transfer is not feasible the women will benefit from social security scheme. The CoM shall determine the special rules when the nighttime work is allowed for woman during maternity period.

The pregnant woman is allowed to take time off, without loss of pay, in order to attend medical examinations. If the woman chooses to go back at work after the compulsory maternity leave and until the child will be 1 year old, she is entitled to get a paid leave for 2 hours per day.

Maternity protection rules, when applicable, are valid also in case of adoption. In case of adoption, the employee enjoys the right of leave as provided by social security legislation.

The law on security and health at work intends to ensure the security and health at work through information and increase of conscience of employees in order to prevent professional risks and avoid risks for and accidents. According to this law the women during maternity period are considered to fall under groups at risk. Therefore they enjoy particular protection and their employer is obliged to adopt the workplace considering their higher sensitivity toward risks.

Pursuant to LC regulations and the law on security and health at work, is approved a DCM<sup>30</sup> on approval of regulation on introduction of measures on security and health at work for pregnant women and new mothers. According to this regulation, the employer is responsible to assess the risk through preventing and protection services as well as to inform the employees. The regulation refers to all related DCM addressing risks at work for particular sectors/industries/biological agents/chemicals, offering as such an inventory of related sub-legal acts.

### ***Policy framework***

There is a Strategic Plan of the Commissioner for Protection from Discrimination for the period 2012-2015, which documents has not been renewed.

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30 DCM, No. 634, dated 15.07.2015 "On approval of regulation "On introduction of measures on security and health at work for pregnant women and new mothers"



### ***Institutional framework***

The Ministry of Social Welfare and Youth and the Ministry of Health play a particular role as regards the proposal and adoption of policies and/or legislative and normative acts as well as sub legal acts in the area of maternity protection.

According to the related laws and sub-legal act, there is no institution in charge to particularly monitor the implementation of maternity protection rules and regulations.

## **CHILD LABOUR**

The standard of child labour involves different aspects such as minimum age for admission to employment, light work, hard and hazardous work as well as worst forms of child labour. These aspects are regulated in legislation level aiming to prevent child labour below the given age, to determine under which special conditions a child is allowed to work and to protect them of any risks at work or exploitation forms.

ILO does not have a specific definition on child labour standard but in two ILO Conventions specifically Convention on minimum age<sup>31</sup> and Convention on the worst form of child labour<sup>32</sup> bring significant concepts, which facilitate in establishing a definition of child labour.

### ***Regulatory framework***

Albania has ratified the UN Convention on Children' Rights as well as ILO Conventions on minimum age and on the worst form of child labour. In addition the LC, law on protection of child' rights and the law on security and health at work addressed many aspects of child labour protection.

In particular, the LC provides for a special protection for children considering in this category all people under 18. The employment of children under age 16 is prohibited except for the children in the age 15-16, who may be subject of cultural activities or related activities or vocational training as per the rules.

Children under age 15 or children who attend full time compulsory education can be employed for the purposes of exercising cultural, artistic, sports or advertising activities. This can be realized only if the job meets simultaneously the conditions of light work and a given engagement is authorized in advance by the Labour Inspectorate, case by case.

For the first time, the recent changes made to LC provide a definition for "light work"

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31 Minimum Age Convention, 1973 (No. 138)

32 ILO Convention on Worst Forms of Child Labour, 1999 (No. 182)

concept intending to protect safety, health or development of children while encouraging the participation of children in school, in vocational guidance or training programs. It is under the discretion of the CoM to determine the light works and set specific rules on maximum work duration and work conditions for children.

According to the legislation child engagement at work will be considered hard and/or hazardous if negatively affects the child. In this respect many factors should be taken into consideration including the duration of hours at work, circumstances in which the work is performed and the effect of child work engagement on his/her education. Hazardous work is any work which by its nature or physical conditions of work has or leads to, adverse effects on the child's safety, physical or mental health as well as moral development. CoM has approved the list of hard and hazardous works with dangerous exposure to physical, biological and chemical agents for minors under 18 years old<sup>33</sup>.

As regards the duration of working time for children, the LC<sup>34</sup> limits the length of working time for employees to maximum 6 hours per day. The nighttime work is prohibited for employees under age 18.

Pursuant to LC provisions, CoM has adopted a decision on protection of minors at work which DCM will be updated by end of year 2016, in the frame of recent changes adapted to LC.

Law on protection of child rights<sup>35</sup> also affects the child labour standard. The prevention of child work is covered by the definition on child protection. The law also deals with the protection of the children from economic exploitation as well as from performing every kind of work that is forced, presents risks, affects education, damages health and impairs physical, mental, spiritual, moral or social development of the child.

The children rights protection law pays a particular attention to the category of children with disabilities to ensure an effective access in education, training, health care and rehabilitation services as well as their preparation for employment and entertainment. This is done with the aim of developing opportunities in a favorable manner, in order to achieve a full social, cultural and spiritual integration for children with disabilities.

### ***Policy framework***

The CoM<sup>36</sup> has approved the Action Plan on Children Rights for the period 2012-2015, which documents has not been renewed. There is a draft document "National Agenda on Children's Rights 206-2020" which is being consulted.

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33 Decision of Council of Ministers no. 205, dated 09.05.2002 On some changes to the decision of the Council of Ministers no. 384, dated 20.05.1996" On minors protection at work"

34 Ref: Art 78/3 of the Labour Code of Republic of Albania

35 Law No.10 347, dated on 04.11.2010 "On child rights protection"

36 DCM No. 182, dated 13.03.2012 "On the approval of Action Plan for Children 2012-2015"

The Albanian government has given a special priority to the protection of children's rights by systematically integrating in the main pillars of the government policy frameworks, child labour and the worst forms of child labour.

Moreover, as regards the area of children's rights protection<sup>37</sup>, was evaluated the implementation of the current national plan for children<sup>38</sup>, in order to prescribe recommendations for future actions to be encompassed in National Agenda for Children 2016-2020.

In addition, the Ministry of Youth and Social Welfare together with the Ministry of Interior and Ministry of Education and Sports adopted a National Action Plan for Children in street situations (2015- 2017). This plan is focused mainly in education, social policies and employment, as well as in the protection and promotion of children's rights, with the aim to address the needs of vulnerable children.

### ***Institutional framework***

Each employer is obliged to inform right away the labour inspectorate on the new employees. In this respect the inspectorate is informed on the child engagement at work and has the authority to monitor the implementation of law requirements and compliance with standards. In addition to other functional duties as regards the monitoring of labour standards at work, the Labour inspectorate is in charge to authorize the employment of children under age 15 in cultural or other similar activities.

The law on child rights protection introduces the institutional mechanisms on protection of the children's rights. They are in central and local level. In central level operate National Council on Protection of Children's Rights, Ministry of Social Welfare and Youth and State Agency on Protection of Children's Rights.

The duties of National Council on Protection of Children's Rights consists on the coordination of national policies in order to guarantee the rights and protection of children in all areas, evaluation of the concrete situation on respecting of children's rights and issuing guidelines and recommendations to relevant institutions.

Minister responsible for children's rights issues for the time being is the Minister of Social Welfare and Youth. The duties of this institution consists on monitoring of the implementation of the law and of the international obligations of Albania as regards this area, proposing to the Council of ministers legislative changes, coordination of his work with the responsible authorities in drafting and fulfilling the standards on protection of children and other related tasks. The responsible state authorities in central and local level has the legal obligation to cooperate with the minister responsible on children's

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37 National Plan for European Integration 2016-2020, Ministry of European Integration

38 National Action Plan for Children, 2012-2015

rights issue in drafting policies and joint programs in the area.

State Agency on Protection of Children's Rights is engaged in several tasks regarding monitoring and controlling of the implementation of the children's rights protection law, on presenting proposals on several policies and changes to the legislative framework in the area of protection of children's rights, to the Minister responsible on child protection issues and other related tasks.

In local level, the child rights protection mechanisms include special units on children rights, established in municipality and qark level.

## **OCCUPATIONAL SAFETY AND HEALTH AT WORK**

This standard is regulated broadly in the Albanian legislation, addressing general principles as well as particular requirements for specific sectors. The most distinguished roles for this standard are given to labour inspection on the promotion and monitoring of compliance with legislation requirements. This applies for the all selected standards and more in particular for the standard of safety and health at work, which also involves greater attention because of being more sensitive. In this respect Albania has also ratified the ILO conventions No 81 and No. 129 on labour inspection.

### ***Regulatory framework***

Albanian legislation at large requires employer to ensure a safe and healthy working environment for workers. LC sets the general rules and principles concerning the preventive measures to avoid accidents and occupational diseases, to ensure hygiene at work place and undertake all protection measures towards potential risks, including training and awareness raising activities.

The LC has approximated some European standards and provides in a special chapter the law requirements on occupational safety and health at work. The employer is held responsible to take all necessary measures to guarantee the safety as well as the physical and mental health of its employees.

In addition, there is a bunch of DCMs addressing particular aspects of safety and health at work or the special rules to be observed in particular sectors of industry because of higher exposure towards risks. Due to the recent changes and amendments approved to LC, the existing DCMs issued pursuant to LC requirements will be updated.

Namely, new DCMs on minimum conditions of safety and health in the work place; the measures to taken by the employer on the permissible limits in terms of work environment protection by air pollution, chemicals, radiation, noise and vibration, as well as any similar element that is harmful to the health of employee; minimal requirements on protection of workers from the risk of explosive ambience; the sanitary hygienic conditions for the

place, made available by employer for dining, should meet; the non-exhaustive list of factors, processes and working conditions that impair security and health of the mother and/or child, will replace the existing ones.

Because of the particular importance of the issue, there is also a specific law<sup>39</sup> on safety and health at work, which addresses more thoroughly rules and regulations to be observed at work place in all activities in the private and public sectors. This law also prescribes more into detail the duties and responsibilities of employers but also employees to promote sustainable prevention and encourage greater participatory efforts to achieve safer and healthier workplaces. It also provides the specific roles and responsibilities of a number of state authorities in charge to facilitate the implementation of the law, to monitor such implementation and to impose sanctions in case of irregularities and/or non-compliance.

Albania has also ratified in year 2003 the ILO Occupation Safety and Health Convention no. 155. Some other Albanian laws cover safety and health requirements in different sectors for transportation, processing and installation of goods and/or services implying high exposure towards risk.

### ***Policy framework***

There is a new Occupational Health and Safety Strategy and Action Plan for 2016-2020, which document has been approved by the Government of Albania<sup>40</sup>. Still much remains to be accomplished in respect of the transposition of the related EU acquis requirements<sup>41</sup>.

Efforts were also made to improve labour inspection by training inspectors on applying the new occupational safety and health legislation and extending electronic reporting to the regional labour inspectorates. Accident reporting and labour inspections to reveal undeclared workers were improved. The number of reported accidents at work increased from 86 in 2013, to 111 cases in 2014.<sup>42</sup>

### ***Institutional framework***

As regards the institutional framework, the Minister of Social Welfare and Youth (MoSWY) is the responsible authority on inspection policies and implementation of labour legislation. This authority issues guidelines, approves regulations and sets procedures for the exercise of the activity of the Inspectorate. The Labour Inspectorate depends from the MoSWY and operates in central and local level.

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39 Law No. 10237, dated 18.02.2010 "On safety and health at work"

40 DCM No. 371, dated 18.05.2016

41 Albania Decent Work Country Programme Document, 2012 - 2015

42 National Plan for European Integration 2016-2020, Ministry of European Integration

The law<sup>43</sup> on labour inspection and State Labour Inspectorate provides for extended responsibilities of Labour Inspectorate as regards the promotion, monitoring and inspection of health and safety rules implementation in all activities in private and public sector, except those when the inspection on safety and health is provided in a special law. It also may impose sanctions and fines in cases when incompliance with LC, and other related legislation is noticed.

In addition to Labour Inspectorate, there are several other institutions involved and responsible to monitor the compliance with occupational safety and health at work such as the Ministry of Health, State Sanitary Inspectorate, Institute of Public Health, Inspectorate for Electrical Equipment and Installations, Inspectorate for the Control of Petroleum and Gas, environmental inspector, inspector responsible for trade and industry and the mining inspectorate.

## **WORKING TIME**

Regulating the working time is a continuous issue of policy debate. Even though the eight-hour working time is an internationally accepted legal norm standard, employees especially private employees do often waive from this standard. In most of the times they are exposed to excessive working hours, insufficient rest and inadequate payment for actual hours worked.

### ***Regulatory framework***

The working time provisions are regulated in legislation level for all the employees in general by the LC and in particular for state employees by the DCM on working and resting time of state institutions<sup>44</sup>.

The recent changes made to the LC<sup>45</sup> affected the rules on working time by presenting and regulating aspects regarding employees' working hours which were not regulated before. Such regulations of the Albanian legislation are set in line with international legislation rules and standards. In this respect, the related changes to the LC have approximated some EU acquis and specifically directive concerning certain aspects of the organization of working time<sup>46</sup>. Such regulation intends to ensure the rights of employees by setting rules and regulating the aspect of working and resting time for all the employees.

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43 Law No. 9634, dated 30.10.2006 "On labour inspection and State Labour Inspectorate", as amended

44 DCM No.511 dated 24.10.2002 "On working and resting time of the state institutions", changed and amended with DCM No. 463 dated 16.06.2011

45 Law no. 136/2015 "On some changes and amendments to the law no. 7961, dated on 12.07.1995 "Labour Code of the Republic of Albania, as amended"

46 Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organization of working time

This section of analysis provides information of the rules on the daily work duration, weekly working time, weekly rest and holidays, additional hours of work, part time employees and annual leave. It makes reference to the duration of working and the organization of working time.

The LC defines working time as the period during which the employee is at the employer's disposal. In the working time period is also included the time when the employee participates in vocational training or retraining sessions with the permission of the employer. In the daily working period is not included the time needed to the employee to arrive to the individual working place and leave from it as well as the holidays. The code sets rules on normal weekly working time which is 40 hours and cannot be more 48 hours. In case of overtime the maximum weekly work duration is 50 hours.

The maximum number of extra hours is defined in the collective or individual employment contract. The employer enjoys the right to require the employee to perform extra hours of work based on the circumstances, if it is needed. While requiring extra working hours the employer takes always into consideration the personal and family situation of the employee. The extra hours are determined in the collective agreement or in the individual contract and the employer should not require the employee to perform extra hours if the employee has conducted 50 weekly working hours. According to the changes made to LC, the employer may require extra hours of work, but no more than 200 hours per year.

It is not allowed to work extra hours in cases of pregnant women, the period after the birth of child until the child reaches the age of 1 year. Additional hours are also prohibited for persons with disabilities, for reasons objectively justified, related to the degree of their limited ability.

Every employee is entitled to a minimum daily rest period of 11 consecutive hours within 24-hours period; a break, if the working day is longer than six hours; a minimum uninterrupted rest period of 24 hours for each week; a weekly rest period not less than 36 hours; rest after a continuous work of 6 hours, which in the cases of pregnant women is every 3 hours, not less than 30 minutes; paid annual leave of at least 4 weeks.

LC provides that, where the working day is longer than six hours without interruption, every worker is entitled to a rest break no less than 20 minutes, which should be given after three hours and not later than 6 hours of continuous work. In cases when the employee works more than 9 continuous hours per day, is entitled to another break of not less than 20 minutes. The duration and the terms on which it is granted, should be laid down in individual contracts or collective agreements.

Albania has ratified the ILO Convention No. 171 on night work. In this Convention are presented specific measures required by the nature of night work in order to protect employees' health, assist them to meet their family and social responsibilities, provide opportunities for occupational advancement, and compensate them. The term night work means all work which is performed during a period of not less than seven consecutive hours, including the interval from midnight to 5 a.m. while LC defines the night work as the job carried out from 22:00 till 6:00 a.m. The duration of night work includes a period

of not more than eight consecutive hours. With the recent changes of the LC is regulated also the night worker.

Shift work is considered work performed by employees who succeed each other at the same work, according to a certain pattern, at different times over a given period of days or weeks.

Labour Code ensures that every worker is entitled to paid annual leave of at least four weeks except where the employment relationship is terminated and the employee has failed to meet the leave. The minimum period of paid annual leave may not be replaced by an allowance in lieu except where the employment relationship is terminated.

Albania has ratified the ILO Convention on part time work<sup>47</sup>. Based on the legislation the protection of part-time workers, concerning the areas of access to employment working conditions and social security are of social and economic importance. LC also approximated the directive on part time workers<sup>48</sup> intending to eliminate obstacles on equally treatment for this category. In this view LC defines the minimum requirements for the protection of part time or full time employees' rights to favourable conditions of work as well as gives recommendations to employers to adopt measures in order to take into account the preferences of employees with regard to flexible working time.

DCM on working and resting time of state institutions also regulates working time duration and organization but only for civil servants and other state employees in state institutions.

The regulatory measures presented above demonstrate that working time protection to employees often involves creative and innovative combinations of measures and standards. The setting of such measures and standards are of high importance because working time, worker's health and work performance are interconnected and can greatly affect the quality of work. Long working hours, irregular distribution of working hours in the cases of shift workers and night work are crucial causes directly affecting the employees' health.

## **WAGES**

According to the Albanian legislation each employee enjoys the right to obtain a wage for a normal work that adequately meets the employers' needs and requirements, in relation with the job position that he/she held. The employers are required to pay the employees with at least a minimum wage or an appropriate wage in compliance with all legal requirements on wages.

The issues concerning the payment of the wages to the employees are regulated by a

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47 Law no 8939 dated on 12.09.2002 "On ratification of ILO Convention no. 175 'On part time work', 1994"

48 Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC



specific section of the LC which is recently changed. In order to protect the employees in respect of their right to decent payment, Albania has ratified the ILO Convention on wage protection<sup>49</sup>.

LC states that the wage is invulnerable. It defines the wage as the basic salary together with its increases of a permanent character. In the wage is not included the compensation given to the employee because of his/her professional activity. The wage value should be in compliance with the job position that the employee held but anytime not less than the legal minimum wage determined by the DCM.

As regards minimum wage issues, Albania has ratified the ILO Convention on minimum wage fixing<sup>50</sup>. According to Albania legislation, the elements to be taken into consideration in setting the level of minimum wages shall, as far as possible and appropriate in relation to national practice and conditions, include the needs of workers and their families, taking into account the general level of wages in the country, the cost of living, social security benefits, and the relative living standards of other social groups as well as economic factors, including the requirements of economic development, levels of productivity and the desirability of attaining and maintaining a high level of employment.

The provisions regulating minimum wage were affected also by the recent approved changes to the LC by stating that the Council of Ministers may impose a wage lower than the national minimum wage in cases of apprenticeship in the vocational education training system, in the dual form. This provision can facilitate the youth access in the labour market.

LC regulates also the aspect concerning the commission. Commission is a payment awarded to the employee for an activity that he/she must carry out or complete with the client on behalf of the employer.

The employee also enjoys the right to benefit compensation. The compensation should be calculated on the basis of the annual turnover determined by the law and generally recognized commercial principles. Beside the compensation, the employee is also entitled to severance payment when the employment contract is terminated by the employer and the work relation lasted more than three year. Severance payment is at least equal to the salary of 15 days for each of the years that the employee has served for employer.

LC also provides for a special reward over wage in the end of the year considering the employee's performance at work. If the employee pays an annual reward three consecutive years, without expressed reservations is obligated to continue the payment in the future. In such cases when the labour relations terminate before the period of benefiting from the reward, it will be paid proportionally to the period in which the work is carried out.

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49 Law no.8787 dated on 07.05.2001 "On ratification of the "Convention No. 95" On Protection of Wages" of International Labour Organization, 1949"

50 Law No.8775, dated on 23.04.2001 "On ratification of "Convention no.131 dated 06.06.1970 of International Labour Organization "Minimum wage fixing ""

The LC sets for the equal rights for men and women in the working place. It protects women in the workplace, especially in the view of equal pay and paid leave. Equal treatment between man and women is regulated also by the law on Gender Equality in Society.

The recent changes to the LC regulate also the discrimination in wage. The elimination of discrimination in wage is reached when the employer gives to the discriminated employee a wage that includes all the advantages enjoyed by other employees in a comparable situation. Equal payment without discrimination is considered when for the same job the wage is calculated in the basis of the same unit of measurement and for job measured by working time, the wage is the same for the same job. In this respect, the wage paid by the employer to the employee is referred to the normally basic wage or to the minimum wage, to the wage and any other payment, in cash or in kind, directly or indirectly. As per the provisions of the recent changes of the LC the equal work or work of equal value is based on all relevant criteria, especially in the nature of work, its quality and quantity, working conditions, vocational training and seniority, physical and intellectual efforts, experience and responsibilities. Changes in wages should not be considered discrimination in payment.

The LC regulates specifically the way that the employer has to pay the salary. If the employee performs a job based on working hours or days or weeks the employer has the obligation to pay his wage every two weeks. If the wage is calculated on monthly basis then the employer should pay the salary in the end of the month.

The way of payment is also affected by the recent changes of the Labour Code. What is noted is the fact that it is determined that the wage is paid only through bank system and in Albanian currency unless otherwise defined by the agreement between the parties. It may be paid also by bank checks, postal checks, or payment orders, but only when this kind of payment is necessary due to particular circumstances.

As concerns payments in kind, the parties should agree in writing and within the limit set by DCM. The value of payments in kind should be fair and reasonable. The monthly amount of wages in kind should not exceed 20 percent of the monthly wage.

As per the recent changes, in case the employer is insolvent, the LC provides that in such cases the employer's obligations to pay the wages of the employees has priority towards all other obligations, even when these obligations are guaranteed by movable or immovable property.

### ***Policy framework***

There is a National Strategy on Gender Equality 2011-2015 which affects also gender inequality on wages<sup>51</sup>, but is not renewed.

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51 Decision of Council of Ministers no. 573 dated on 16.06.2011" On the National Strategy on Gender Equality and Reduction of Gender-Based Violence and Domestic Violence 2011-2015"

The official minimum wage, determined by CoM, for both the public and private sector is set at ALL 22,000. Despite regular adjustments to the minimum wage, the prevalence of poverty in Albania highlights the need for it to play a more active role to protect the most vulnerable workers.

## **SOCIAL SECURITY**

The social security standard is regulated on Constitutional and legislation level. The constitution provides that everyone has the right to social security according to a system set by law<sup>52</sup>.

### ***Regulatory framework***

Law on social insurance<sup>53</sup> along with the law on compulsory health care insurance<sup>54</sup> are the two main legislative acts which regulate the social security aspects. The general system of social insurance comprises compulsory social insurance, voluntary social insurance, supplementary social insurance, special state pensions, social pensions, occupational funds and voluntary pension funds.

As per the law on social insurance the compulsory social insurance is non for profit and protects incomes of the persons employed in connection with temporary inability to work due to illness; maternity; age, disability and loss of the main source of income in family; accidents at work and occupational diseases as well as unemployment. It also applies to other economically active persons, employer and self-employed, in connection with maternity as well as age, disability and loss of the main source of income in family. The CoM can approve additional categories of employees including seasonal and temporary employees, self-employed in agricultural sector; unpaid family workers, trainees and students during teaching practice time, which are insured by the employer only for accidents at work.

The compulsory health insurance scheme ensures the coverage of population for benefiting from health care services, financed by public or private sectors. Payment of health insurance contributions is obligatory for all economically active persons, including employer, self-employed, employees and unpaid family workers.

In a particular chapter of the law on social insurance are regulated the categories persons who benefit from social insurance scheme and the criteria they should meet to be eligible. The compulsory social insurance scheme covers all economically active citizens in

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52 Ref: art 52 of the Constitution of the Republic of Albania

53 Law No 7703 dated 11.05.1993 "On Social Insurances in Republic of Albania, recently changed with Law No 104/2014 dated 31.07.2014"

54 Law No. 10383 dated 24.02.2011 "On Compulsory Health Care Insurance in the Republic of Albania"

Albania, including foreign citizens and stateless persons, who work in Albania.

Persons employed and their employers are obliged to pay contributions on disease, maternity and pensions in an amount that depends on their gross salary. For social insurance purposes, the CoM has defined minimum and maximum monthly salary, on the basis of which is calculated the amount to be paid as social insurance. Employers are obliged also to pay contributions for work-related accidents, occupational diseases and unemployment. Different from the application of social insurance percentages that are calculated within a minimum and maximum, health insurance percentage applies to all the amount of gross salary.

### ***Institutional framework***

The main institution in charge for the collection of social and health contributions is the tax authority, which institution cooperates with Social Insurance Institute and Health Insurance Institute.

The policies in the area of social and health insurance are outlined and proposed by Ministry of Social Welfare and Youth together with Social Insurance Institute and by the Ministry of Health together with Health Insurance Institute.

The pension scheme has serious financial problems. Evasion of social insurance contributions is widespread and the low participation rate of the active population in the scheme will result in the growing number of elderly with no or a low level of pension, which in turn would increase the need for social assistance.

Even though the reform of the social security system is an on-going process in Albania it still remains an issue for urgent attention. This reform is of high importance especially in the view of providing adequate benefits and to establish long-term sustainability.

In order to increase financial sustainability of social security scheme, in early 2014 the government undertook pension reform which was embodied with the drafting of the Pension Policy Document and Law improving the current law on social insurance.<sup>55</sup>

This reform provides change on the pension calculation formula, reflect simplicity and transparency, links better the benefits with the paid contribution and guarantees benefits of the normal level by bringing a significant improvement of the replacement rate compared with the current scheme.

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55 National Plan for European Integration 2016-2020, Ministry of European Integration



# 4 WORKERS' PERCEPTION OF THEIR WORKING CONDITIONS: THE CASE OF MINING, CONSTRUCTION AND FAÇON

This chapter provides an overview of the working conditions in the sectors of mining, construction, and active manufacturing enterprises (herein to be referred to as *façon*) by making use of empirical data and the survey conducted on sites during September-October 2016. Following an analysis of the labor market and social-economic profile of workers, the study continues with a presentation of the main findings from the survey examined by dimensions of labor standards: wage, social insurance, working hours, occupational safety and health, special protection for women and children, equal opportunities and treatment, and awareness and representation of employees. The reference period<sup>56</sup> of the survey responses covers the last 12 months. A detailed description of the methodology and the sample employed for this survey are provided in the chapter on the methodology.

## ***An Analysis of the Labor Market***

This section seeks to contextualize the role and importance of the sectors under consideration in the Albanian economy by paying particular attention to the main parameters of the labor market.

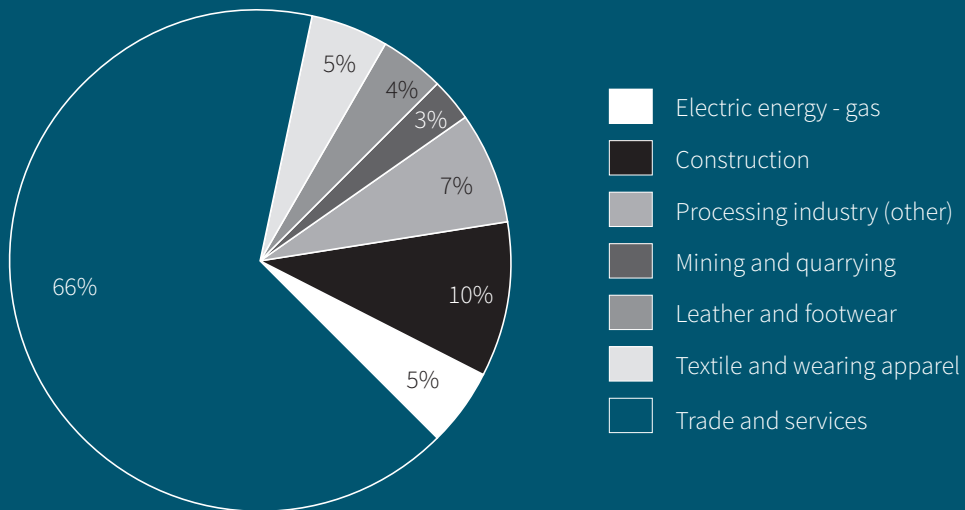
The sectors of *façon*, mining industry, and construction have employed about 85 thousand people or about 22% of the total of employees from the producers of goods and services in the country<sup>57</sup>. The construction sector alone has employed about 37 thousand people, or 10% of the total of employees from the producers of goods and services in the country. On the other hand, the *façon* (textile/garment and footwear/leather) and mining sectors take up a considerable share of the manufacturing industry in terms of the number of employed in the Albanian economy. In total, they have hired 48 thousand people, constituting 63% of the total employed in the manufacturing sector.

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56 Timeframe of data collection.

57 Source: Structural Survey of INSTAT, year 2014 (the latest data available)

GRAPH 3. EMPLOYEES BY SECTOR (%)



Source: Structural Survey of INSTAT, year 2014 (the latest data available)

Most employees in the *façon* sector are women, making up nearly 87% of the total employed.<sup>58</sup> The textile and footwear industry has played an important role in employing women from relatively poor layers of population, particularly from rural or suburban areas. According to official data of INSTAT, the average annual wage in the *façon* sector is 280 thousand Albanian Leks (ALL), some 38% lower than the mean wage of all market manufacturers.<sup>59</sup> This industry is characterized by labor intensive and expenditures on personnel take up 30-40% of the total spending, unlike mining and construction, in which this type of spending is 17% and 11% respectively.

The mining and quarrying have an annual wage of 1.1 million ALL, twice higher than the average wage of the all market producers, and are among best paid sectors in this industry. The average annual pay is 461 thousand ALL, which is about 3% higher than the average wage of all market producers.

Table 1 provides a general overview of other indicators.

58 Source: Structural Survey of INSTAT, year 2014 (the latest data available)

59 Source: Structural Survey of INSTAT, year 2014 (the latest data available)

**Table 1. Basic indicators by sector**

	Textile and wearing apparel	Leather and footwear	Mining & quarrying	Construction	Total of market producers
<b>Number of enterprises</b>	691	210	619	3,495	85,206
<b>Employed yearend</b>	19,172	16,833	11,703	36,811	387,201
<b>Female yearend</b>	17,385	13,888	1,278	5,278	144,464
<b>Mean wage per employees</b>	277	282	1,100	461	448
<b>Total income (mln ALL)</b>	17,767	19,593	106,842	177,294	1,739,465
<b>Total costs (mln ALL)</b>	15,071	17,419	80,656	160,061	1,690,340
<b>Of which : personnel costs (mln ALL)</b>	6,006	5,449	13,669	17,288	128,438
<b>Net profit/ loss (mln ALL)</b>	2,696	2,174	26,187	17,234	106,662
<b>Profit (%)</b>	15.2	11.1	24.5	9.7	6.1

Source: Structural Business Survey of INSTAT, year 2014 (the latest data available)

### **A Socio-Economic Profile of Employees**

This profile aims to illustrate the main features of the individual and household sample divided by sector of interest. The profile collects general demographic data, such as distribution by gender, age, education, civil status, in addition to the data on job position, such as type of employment contract, seniority, and membership in trade unions. These data were supplemented with other data reported on households' social-economic situation. The social-economic profile of the employed is thus a precursor and integral part of the working condition analysis, hence, of the direct or tangential impact that individual and contextual factors have in shaping work relations.

The final sample included 250 employees interviewed in each of the four sectors of economy, in a geographic distribution that covers 9 regions (as shown in Table 1: number of interviews by regions and sectors). This territorial coverage of the sample was dictated



by crossover of geographic concentration of selected economy sectors with the number of employed in each sector and the need to ensure a representative sample at country level.<sup>60</sup>

**Table 2. Geographic distribution of sample by sectors (n)**

Region	Sector			
	Mining	Construction	Façon	Public entities
Dibra	175	5		15
Durres		35	80	25
Elbasan	35	10	5	40
Fier		30	25	35
Kukes	20	15		25
Shkodra	20	10	40	30
Tirana		100	90	50
Vlora		45	10	30
	<b>n=250</b>	<b>n=250</b>	<b>n=250</b>	<b>n=250</b>

*N=1000*

The following empirical data presented in the form of graphics and illustrative tables focus in the sectors of mining, construction and façon, as the sector of public enterprise is by methodology used as a quasi ‘check group’ to enable data comparison among major sectors of interest.

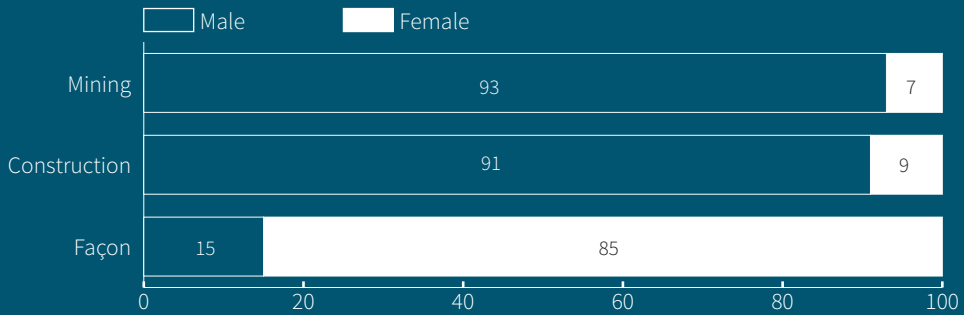
In total, the data show that the gender distribution of the sample reflects the real situation of gender segregation in these sectors: men take up 93% and 91% of the samples in the sectors of mining and construction, also known as basically ‘male’ sectors, and women occupy 85% of the sample of façon sector (see Graph 3). In public enterprises, gender distribution is more balanced – 51% are women and 49% are men.

There is no big difference in the average age of workforce among sectors. Yet, employees in the mining sector tend to be younger than those interviewed in other sectors. Thus, the average employee in the mining sector is 36.7 years of age (SD=10.4)<sup>61</sup> in an age interval

60 See chapter on methodology.

61 SD shows the standard deviation.

GRAPH 4. GENDER DISTRIBUTION BY SECTOR (%)



Source: Structural Business Survey of INSTAT, year 2014 (the latest data available)

that varies from the minimum of 20 years old to a maximum of 60 years of age; about 37% of the sample from this sector is under 30 years of age. In the construction sector, the average age is 38.1 years old (SD=9.2, age interval 19 - 60 years old) and nearly 26% of the sample is under 30 years of age. The average age in the façon sector is 36.4 years old (SD=8.2, age interval 19 - 58 years of age). On the other hand, the average official in interviewed public entities is 39.3 years old (SD=10.2, age interval 22– 63 years of age).

The distribution of the sample by level of education reflect the overall trend of employment in the selected sectors, where most employees have basic and upper secondary education (as indicated in Graph 5). More than half of interviewees have only completed general or vocational upper secondary education (in an interval that varies from 54% of the sample in the mining sector to 57% in the construction sector). More than 1/3 of the mining and façon samples have attended the obligatory primary education. Some 22% of the employed of the construction sector have pursued university education. In terms of the public enterprise sample, this ratio is overturned, as most interviewees (66%) have completed university education.

Reports on individual incomes reveal the economic vulnerability of the employed in the façon sector, most of which are women. An overwhelming majority or less than 9 out of 10 employees (89%) report to have earned 15,001-35,000 ALL per month. Distribution of individual monthly income by other sectors is shown in Table 3.

GRAPH 5. LEVEL OF EDUCATION OF INTERVIEWEES BY SECTOR (%)

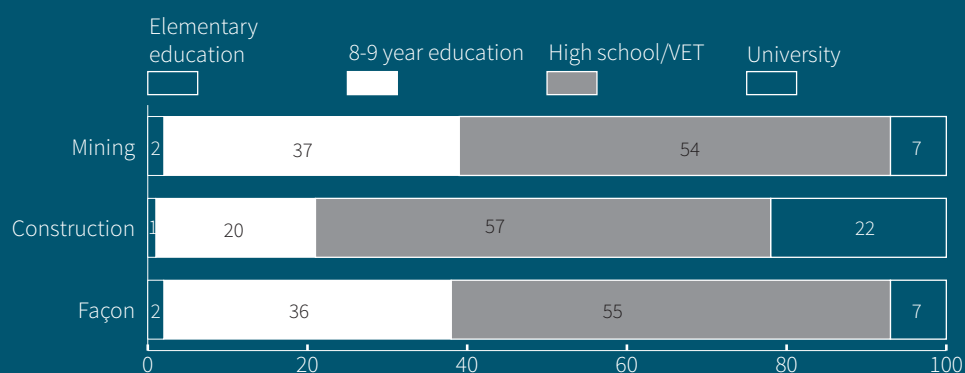


Table 3. Individual monthly income by sector (%)

	Mining	Construction	Façon
Less than 15,000 ALL	0	2	2
15,001 to 22,000 ALL	0	8	35
22,001 to 35,000 ALL	7	22	54
35,001 to 50,000 ALL	39	40	8
50,001 to 75,000 ALL	41	18	1
75,001 to 100,000 ALL	9	6	0
Over 100,001 ALL	4	3	0

N=995

The majority of respondents confirmed that they work in enterprises or companies with over 50 employees (see Table 4). The number of employees varies from 48% in public enterprises and construction sector to 80% in façon.

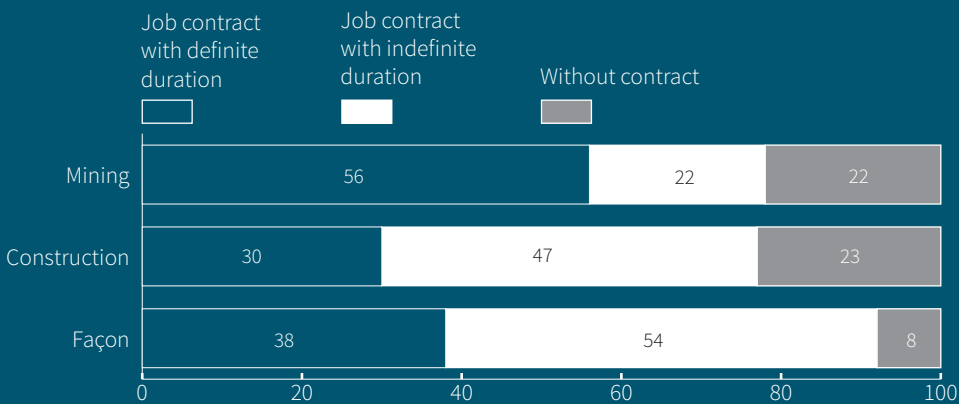
**Table 4. Number of employees at the workplace (%)**

	Mining	Construction	Façon
<b>2-4 employees</b>	0	3	2
<b>5-9 employees</b>	7	15	3
<b>10-49 employees</b>	40	34	15
<b>Over 50 employees</b>	53	48	80

N= 991

On the other hand, the data on characteristics of the workplace along with those of the work relations point out the level of insecurity<sup>62</sup> that employees are likely to experience in their job in the related sector. As shown in Graph 6, about 54% and 47% of the respondents in the façon and construction have signed job contracts with their employers for an indefinite time. More than 2 out of 10 employees (22%) in the mining sector and 23% in the construction sector declared that they had no job contract in place. Among those employed in surveyed public enterprises, some 70% have signed job contracts of indefinite validity.

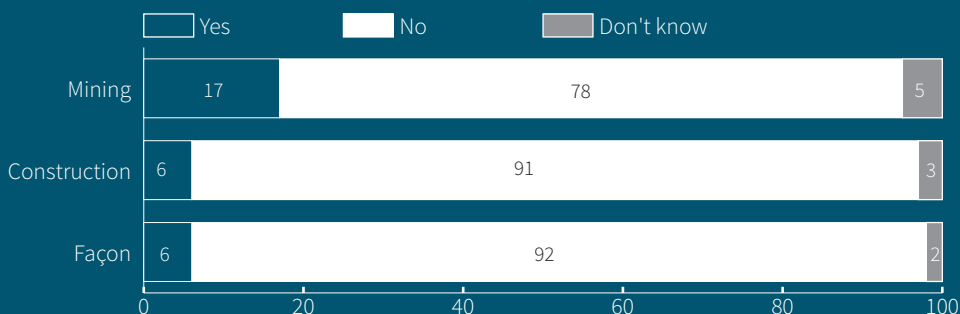
**GRAPH 6. TYPE OF JOB CONTRACT BY SECTOR (%)**



62 Known in literature as "job security".

Union representation is more common in the mining sector (see Graph 7), where about 17% of the surveyed employees declared to be members of the union as compared with only 6% in the construction and façon sectors. A bivariate analysis reemphasizes that union organization continues to be unattractive to youth groups, considering that 70% of union members in the mining sector are over 40 years of age.

GRAPH 7. MEMBERSHIP IN TRADE UNIONS BY SECTOR (%)



## BOX 2. STANDARD OF WAGE IN FIGURES (Q&A)

### What is the situation of informality in the labor market?

- Only 3 out of 5 employees in the façon sector (59%), 54% in the mining sector and 44% in the construction sector are paid via bank transfer. An overwhelming majority of these workers are paid the minimum wage.
- The other share of employees faces various situations of labor market informality.

### Who is not paid regularly by the employer?

- About 1/3 of façon employees and a little more than 1 in 5 employees (22%) of the construction sector are rarely or never paid regularly.

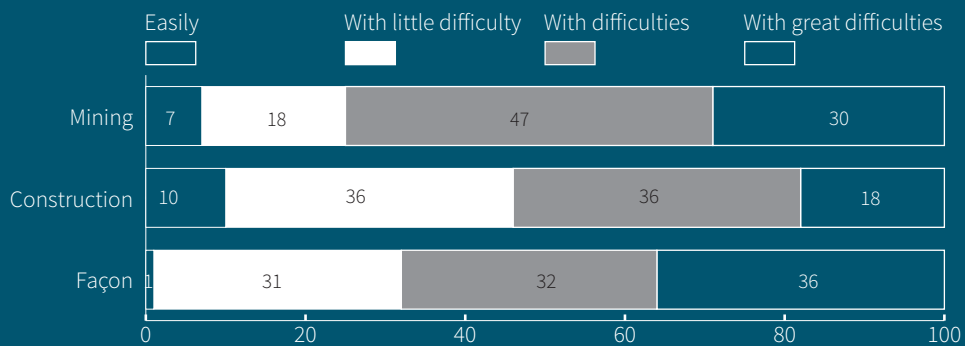
### Do social partners bargain on pay determination?

- About 26% façon employees and 13% of workers in the mining sector are paid in accordance with the provisions of the collective employment contract.

*Burimi: Sondazhi IDM (2016)*

Household sample features a difficult economic situation, particularly for the employed in the mining and *façon* sectors. Firstly, the sample's overwhelming majority of respondents are married; their number varies from 73% in public enterprises to 78% in the *façon* sector. Interviewed households have at average two children<sup>63</sup>; this average ranges from 1.76 children in the *façon* sector (SD=0.7, Interval of children=1-5 children) to 2.01 in the mining sector (SD=0.6, Interval of children=1-5 children). Total monthly incomes of most interviewed households can barely suffice to meet daily needs. Some 77% of respondents in the mining sector and 68% of interviewees in the *façon* can barely make both ends meet (see Graph 8).

GRAPH 8. DIFFICULTY IN SATISFYING HOUSEHOLD NEEDS BY SECTOR (%)



## WAGE

This batch of questionnaire cover the wage standard by exploring issues related with the method of payment, regularity of payment, negotiations on fixing the salary and the perception on the level of bonuses (payroll costs).

The analysis shows that survey's empirical data tend to confirm the qualitative data, which consider the standard of wage as one of the most problematic standards, particularly in the sectors of construction and *façon*. This is demonstrated in several aspects of this standard, as follows:

Thus, even though the Labor Code amended provisions<sup>64</sup> specify that the method of wage

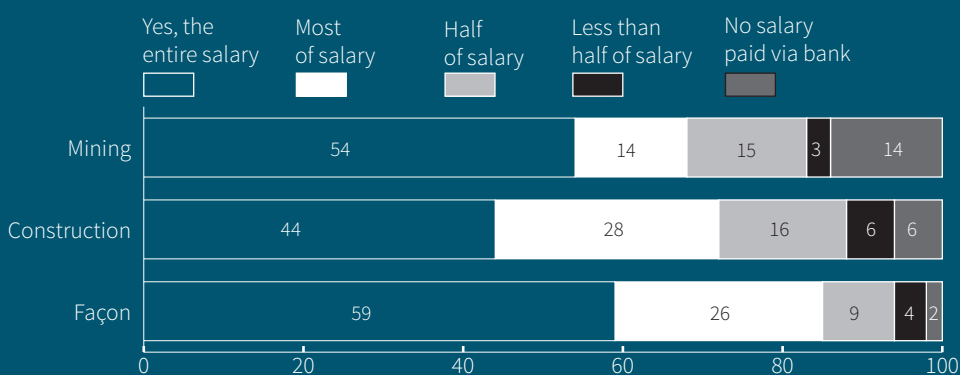
63 Younger than 18 years of age not employed

64 Article 118

payment is no longer optional but salary should be paid via bank transfer<sup>65</sup>, paying the salary of employees by bank continues to disguise various features and rates of informality in the surveyed sectors. The survey found that only 3 out of 5 employees in the *façon* sector (59%), a little more than half, 54%, in the mining sector and 44% in the construction sector were paid via bank transfer

As already shown in Graph 9, the other share of employees experienced various forms of informality regarding salaries (undeclared wage in the labor market), varying from payment of the largest portion of their real wage via bank to payment in cash. For example, 28% of construction workers, 26% of the *façon* employees and 14% in the mining sector

GRAPH 9. PAYMENT OF SALARY VIA BANK BY SECTOR (%)



declared that they received a significant share of their wage via bank transfer. On the other hand, 14% of mining employees, 6% in the construction and 2% in the *façon* are paid their salary in cash, not by bank transfer. These findings match those of a regional research report on informality recently conducted by CRPM, IDM and D4D (2016)<sup>66</sup>, which points out that hidden salaries remain the most acute concern, with the employment income being partially or completely undeclared for almost half (46%) of employees in Macedonia and 40% in Albania. Similarly, previous research has quantified that about 35% of employment in industry may be considered informal employment, with this percentage rising as high as 70% in the construction sector.<sup>67</sup>

65 Exemptions in specific cases or in instances foreseen in the collective contracts or arbitration decision

66 The Shadow Worker – Hidden Economy and Undeclared Labor in Macedonia, Albania and Kosovo. Policy Brief No. 38, October 2016. CRPM, IDM & D4D. Retrieved from: <http://www.crpm.org.mk/wp-content/uploads/2016/11/23.-PB1-RHEM-07.11.2016-Final.pdf>

67 Davalos, M. (2015). Insights into key challenges of the Albanian labor market. Washington, D.C: World Bank Group.

Crosstabbing the method of payment of salary with the base of payment of social and health insurance contributions<sup>68</sup> reveals that those employees stating to be fully paid via bank transfer are most likely to be paid the minimum wage. Thus, about 97% of employees in the mining sector together with 83% in the *façon* and 76% in the construction sector are indeed paid the minimum wage.

Currently, the official minimum wage, determined by the Council of Ministers, is 22,000 ALL for both the private and public sector. In its draft budget for 2017, the central government has planned to instate a minimal wage increase by 36% for the first time in three years. In a comparative report, IMF recommends that the process of determining the minimum wage be depoliticized and this wage accommodate certain vulnerable groups and sectors.<sup>69</sup> In this regard, social partners have repeatedly asked the central government to define the minimum living threshold in the country, because minimum wage calibration would thus consider the variable economic and social conditions, such as price increase, change of living standard, or increase of economic growth and productivity.<sup>70</sup> In an estimation for 2015, the minimum living threshold per capital in Albania, in accordance with the absolute method, results to be 16,000 ALL per month (7,089 ALL per month for food-related expenses and 8,913 ALL per month for non-food expenses). It is necessary, however, that the obligation to estimate the minimum living threshold be specified by law and minimum wage indexing builds on this indicator.<sup>71</sup>

Secondly, the data show that *façon* workers tend to report more irregularities<sup>72</sup> in payment of wages by their employers when compared with other sectors.<sup>73</sup> Thus, in the last 12 months, less than 1/3 of the *façon* employed declared to have problems with wages, with the latter being paid in an adequate manner either rarely or never. Also, a similar situation is reported by 1 in 5 (22%) construction workers (see Graph 10.) As expected, this problem was not an issue in public enterprises, where 87% of respondents stated that they are paid their wages almost always regularly.

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68 Question 12 below

69 IMF Country Report No. 16/151. Cross-Country Report on Minimum Wages. Selected issues. June 2016. <https://www.imf.org/external/pubs/ft/scr/2016/cr16151.pdf>

70 Albania Decent Work Country Programme Document, 2012 – 2015. In April 2016, the National Chamber of Garment and Footwear Producers demanded from the GoA to consider its proposal that the minimum wage at national level should not be increased at the same rate with other economic sectors, but should differ by sector, according to their share of reported expenses to the total. <https://www.ata.gov.al/fasonet-leter-rames-rritje-te-pages-minimale-me-1-mije-leke/>

71 Estimation of minimum living in Albania. ACER. October 2016. Retrieved from: <http://www.avokatipopullit.gov.al/sites/default/files/RaportMonitorimi/studimi%20per%20minimumin%20jetik.pdf>

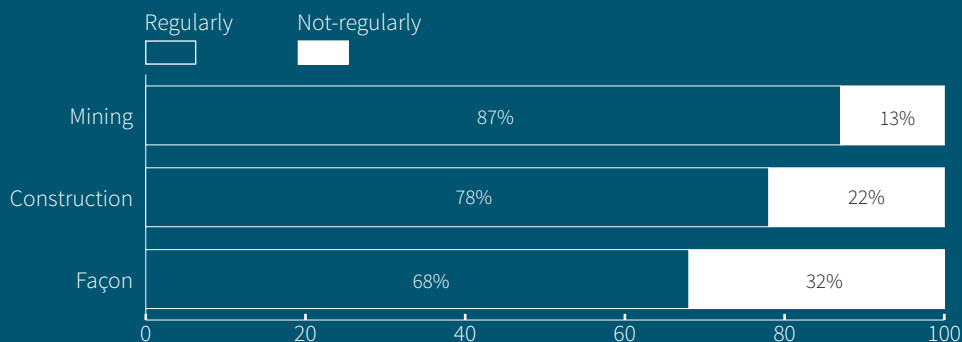
72 Article 116 of the Labor Code stipulates that the employer regularly pays the salary to the employee every two weeks when the wage is calculated on the basis of hours, days and weeks, and at the end of each month when the wage is calculated on the basis of months, unless otherwise defined by a written agreement.

73 Findings confirm trends of other reports on working conditions in the *façon* sector. C.f. <http://www.fes-tirana.org/media/publications/pdf-files/2016/t-160621-wage-labour-conditions-eng.pdf>



Thirdly, when asked how their wage was determined, most interviewed employees confirmed that their employer set their wages one-sidedly; the percentage of respondents sharing the same opinion varies from 60% in the façon to 76% in the mining sector.

GRAPH 10. EMPLOYERS' REGULARITY IN PAYING WAGES BY SECTOR (%)<sup>74</sup>



Some 13% of the employed in the mining sector and 26% of respondents from the façon sector declared that their employer paid their wages regularly in pursuance of collective contract provisions. On the other hand, 1 out of 5 employees in the construction sector have negotiated with their employer for their wage. Graph 11 presents the percentages of responses. In the case of public enterprise employees, about 32% declared to have their wage set in accordance with the collective contract.

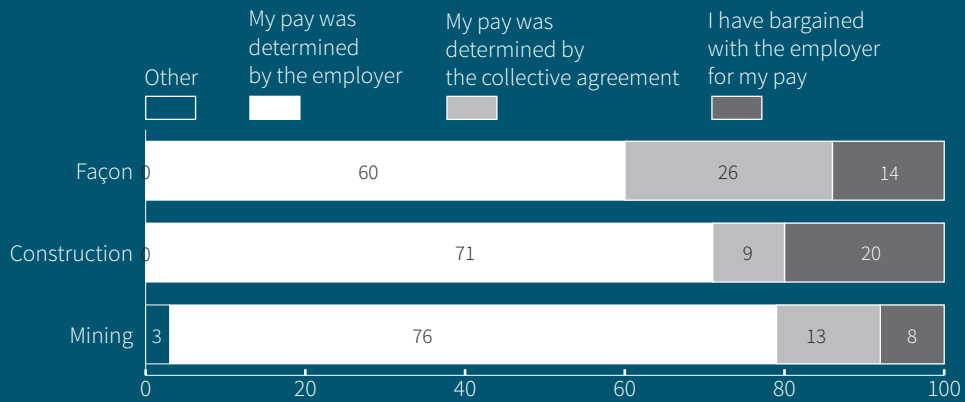
Employees with more than one year in the same workplace<sup>75</sup> were asked on nominal changes to their pay in the last year. A descriptive analysis indicates that only 1 in 5 employees in the mining and façon sector and 13% in the construction have had a salary increase from the previous year. A small share of the sample reported on a decrease of salary. See Graph 12 for the distribution of results.

Most workers think that in consideration of the workload and the value added to their workplace their salary across the sectors is relatively low (See Graph 13). Only 1/3 of employees across the sectors are happy with their pay. The majority of responses is given to the “very low” and “low” categories. As expected, most dissatisfaction with the level of pay is noticed in the mining sector, where about 70% of the interviewed employees

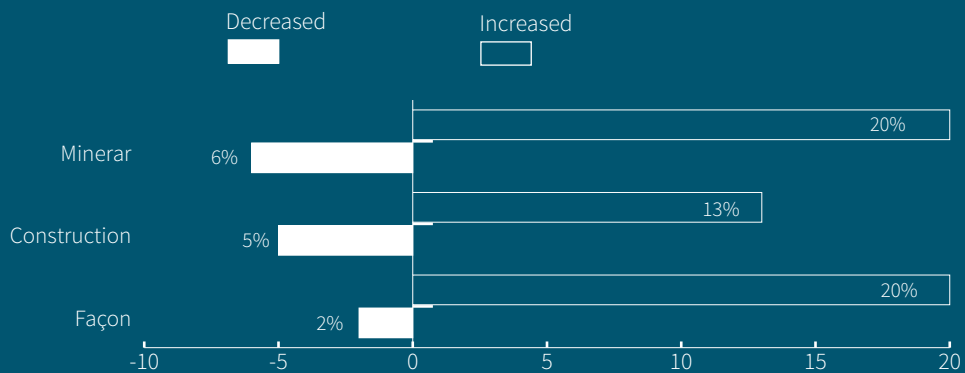
74 The “regularly” category was created by aggregating the “almost always”, “often” and “sometimes” categories. The “not regularly” category was created by aggregating the “rarely” and “never” categories.

75 The base is 864 employees.

GRAPH 11. WAGE-DETERMINATION BY SECTOR (%)

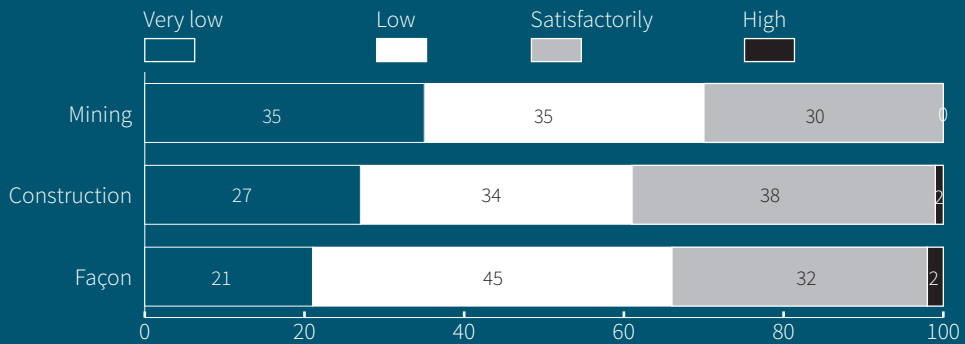


GRAPH 12. CHANGE OF SALARY FROM PREVIOUS YEAR BY SECTOR (%)



believe to be paid a low salary. This tend to relate with the reported level of workplace hazard. About 80% of mining employees that report to have a level 5 job hazard (which represents the highest level in the Likert scale of 1 to 5) think that their pay is either low or very low.

GRAPH 13. SATISFACTION WITH THE RATE OF WAGE BY SECTOR (%)



## SOCIAL SECURITY

This batch of survey questions on working conditions deals with the social insurance standard, focusing in two important issues: payment of social and health insurance contributions by the employer and the wage base used to pay these contributions.

Firstly, while it has been a revolving process in Albania, the social insurance system reform continues to be an issue calling for urgent attention in practice, particularly from the viewpoint of ensuring adequate benefits and establishing a system of long-term sustainability. Resuming with the above discussion and analysis (on standard of wage), 15% of interviewees in the mining sector, 4% in the façon, and 11% in the construction sector declared they their employer did not pay insurance contributions. Some of the employed – 14% in the construction and 11% in the façon – do not know whether their contributions are even paid at all. See Graph 14 for responses to this question.

### BOX 3. STANDARD OF SOCIAL SECURITY (Q&A)

#### Are social and health contributions paid?

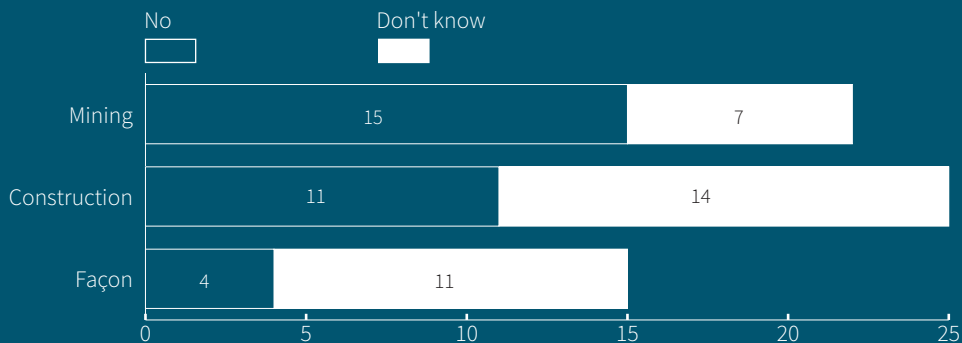
- 15% of employees in the mining sector and 11% in the construction sector declare they their employer does not pay them insurance contributions.

#### What is the base of social and health contribution?

- 74% of employees in the mining sector and 68% in façon, declare that their contributions are paid on minimal wage, even though in most cases the minimum wage does not match with their real salary.
- Some 14% of the façon employees declare that, while their contributions are paid on minimum wage, their paycheck is lower than the minimum wage.

Source: IDM Survey (2016)

GRAPH 14. PAYMENT OF SOCIAL AND HEALTH INSURANCE CONTRIBUTION BY SECTOR (%)



Respondents declaring that their social and health insurance were paid by their employer were further asked on the base of these contribution and whether this based matched their real wage. Findings reveal evasion of social insurance contributions as an endemic abuse across sectors under consideration jeopardizing the social protection of these employees when the latter are no longer economically active in the labor market. As shown in Table 5, a vast majority of the sample, 74% of the respondents in the mining sector, 66% in the construction and 68% in the façon, declared that their contributions were paid on minimal wage, even though in most cases the minimum wage does not

match with their real salary. Some 14% of the façon laborers declared that, while their contributions were paid on minimum wage, their paycheck was indeed lower than the minimum wage. This phenomenon is also reported by 4% of the construction workers. Thus, even though theoretically it is a social protection measure, the minimum wage does not play this role adequately, since noncompliance is pervasive.

**Table 5. Base of payment of social and health insurance contribution by sector (%)**

	Sector		
	Mining	Construction	Façon
On minimum wage (which is the same as real wage)	54	27	33
On minimum wage (regardless that real wage is higher)	20	35	21
On minimum wage (regardless that real wage is lower)	0	4	14
On wage agreed with the employer (which is the same as real wage)	20	26	24
On wage agreed with the employer (regardless that real wage is higher than this amount)	2	3	3
Don't know	4	5	5

## **KUTIZA 4. STANDARDI I ORËS SË PUNËS NË SHIFRA (Q&A)**

### **Kush punon më shumë orë në javë?**

- 66% e punonjësve në sektorin e ndërtimit punojnë më shumë se 48 orë në javë – pragu i “mbipunës”.

### **Kush kompensohet kur kryen orë shtesë?**

- 24% e punonjësve në sektorin minerar, 26% në sektorin e ndërtimit dhe 35% në sektorin fason kompensohen rregullisht me pushim ose pagë kur kryejnë orë shtesë.

*Burimi: Sondazhi IDM (2016)*

## **WORKING TIME**

This batch of the survey is focused in the standard of working time. It seeks to examine the trends of duration of worktime across the sectors, including typology and frequency of standard working time and to illustrate employees' experiences with compensation in case of working overtime in their workplace.

At first, the survey data tend to confirm the previous researches that underline an overall trend with extended working hours and beyond standard norms of "5 working days and 40 hours per week",<sup>76</sup> with the sector of construction being most affected. Interviewed construction employees report to be working averagely<sup>77</sup> 51 hours per week (SD=6.3) or 11 hour over the normal duration of working week. A majority of respondents, 66%, work more than 48 hours per week – the threshold of overworking as per the European Directive<sup>78</sup>. Findings show that from the perspective of the sector's workforce this trend is not about to change in the short run since 34% of respondents think they will come across violation of worktime duration in the next 12 months. Similarly, faon and mining employees report to work overtime (See Graph 15 for the distribution of real working hours per week by sectors). Faon employees work 47 hours per week (SD=5.3) and the mining workmen work 44 hours per week (SD=7.6). In public entities, however, the real week duration is reported to be averagely 42 hours.

From a comparative perspective, Eurofund (2016) ranks Albania next to countries like Macedonia, Greece, or Montenegro, where employees tend to work overtime – more than 1/3 of employees work more than 48 hours per week.<sup>79</sup> An INSTAT survey published in 2015<sup>80</sup> finds that the average number of real working hours is 44 hours per week. Yet, extended working hours are not likely to justify the level of employees' productivity.<sup>81</sup>

Table 6 below presents the frequency of employees' work on weekends and official holidays. It points out overtime work for workers in the construction and faon sectors. More than 8 out of 10 people employed in the construction sector are regularly at work on Saturdays, as compared with 6 in 10 employees, or 59% and 58% in the faon and mining sectors respectively. Less than half or 47% of the construction employees work regularly or sometimes on Sundays, compared with more than 4 out of 10 faon employees who are regularly or sometimes at work 7 days in a week.

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- 76 According to the Labor Code (Article 83), the normal duration of the weekly working time is no longer than 40 hours. For similar surveys visit: <http://www.instat.gov.al/al/publications/librat/2015/anketa-e-kostove-t%C3%AB-pun%C3%ABs-2013-.aspx>
- 77 Weekly work duration implies the worktime used from 00:00 of the Monday morning until the next 24:00 of the next Sunday. It does not include lunch break and travel time to and from work. If the reported hour is longer than 30 minutes, it is rounded up to the next hour.
- 78 Directive 2003/88/EC
- 79 Eurofund. (2016). 6th European Working Conditions. [http://www.eurofound.europa.eu/sites/default/files/ef\\_publication/field\\_ef\\_document/ef1634en.pdf](http://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef1634en.pdf)
- 80 Labor Cost Survey. <http://www.instat.gov.al/en/publications/books/2015/labour-cost-survey-2013-.aspx>
- 81 The Global Competitiveness Report 2016–2017 [http://www3.weforum.org/docs/GCR2016-2017/05FullReport/TheGlobalCompetitivenessReport2016-2017\\_FINAL.pdf](http://www3.weforum.org/docs/GCR2016-2017/05FullReport/TheGlobalCompetitivenessReport2016-2017_FINAL.pdf)

GRAPH 15. DISTRIBUTION OF WEEKLY WORKING HOURS BY SECTOR (%)

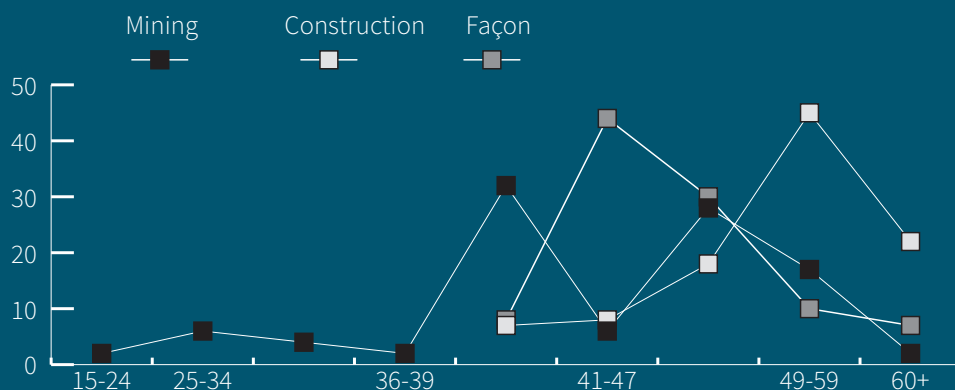


Table 6. Work in non-standard hours by sector (%)

	Mining		Construction		Façon	
	Sundays	Official holidays	Sundays	Official holidays	Sundays	Official holidays
<b>Regularly</b>	1	2	2	3	3	7
<b>Sometimes</b>	17	28	45	39	38	24
<b>Never</b>	82	70	53	58	59	69

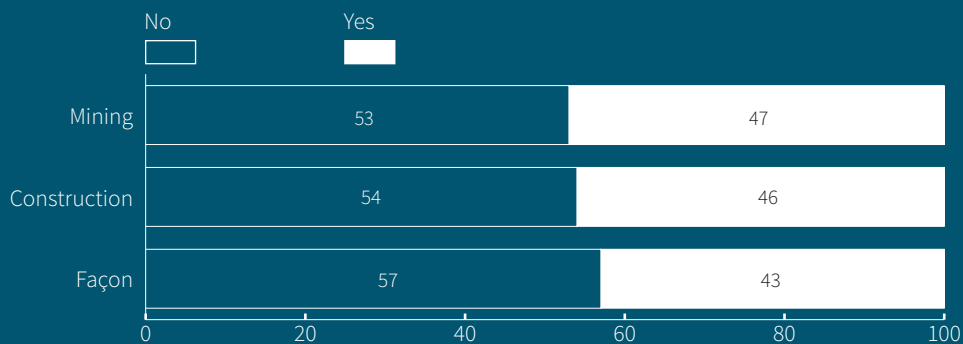
The new amendments to the Labor Code specify that monetary compensation of leave days is no more permitted with the exception of cases where labor relations are terminated. While the labor legislation stipulates that the duration of the annual vacations is not less than 4 calendar weeks during the continuing year of work,<sup>82</sup> findings reveal that over the last 12 months employees across the three sectors under study have coped with difficulties in taking their paid annual leave. More than half of interviewed employees have not, in one way or another, made use of their possibility to take the paid annual leave of 4 weeks. This share of respondents varies from 53% in the mining sector to 57% in the façon.

The observed trends on duration of work are most likely attributed to a combination of demand for work, employees' productivity and variables that shape work agreements and

82 Article 92 of the Labor Code

the labor market context. A relational analysis underlines the importance of economic factors as forecasters of work duration. Thus, 75% of those working more than 48 hours a week in the construction sector earn individual incomes ranging from 22,001 to 35,000 ALL and 69% of their households have difficulties or great difficulties in making ends meet. Employees' age is not a forecaster of work duration.

GRAPH 16. PAID ANNUAL LEAVE BY SECTOR (%)

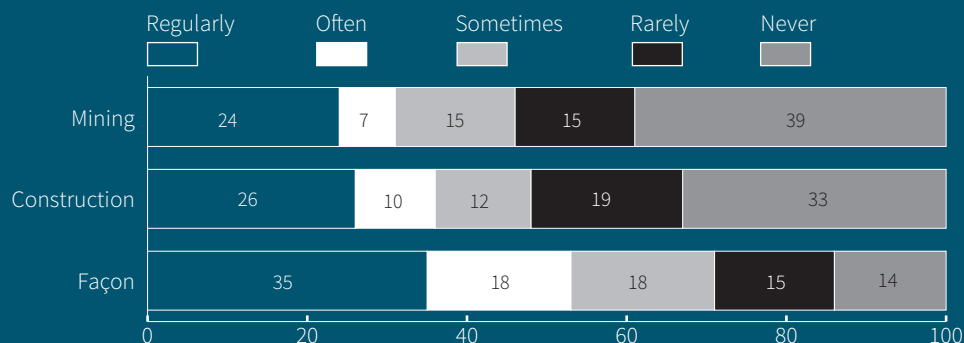


Overtime means every working hour worked beyond the normal daily working time or maximum weekly duration of work.<sup>83</sup> In this regard, only 24% of mining employees, 26% in the construction, and 35% in the façon sector report to be regularly compensated with leave or payment in case of working overtime. Some 39% in the mining sector and 33% in the construction declare that they have never been compensated for overtime work in the last 12 months.

83 Article 88 of the Labor Code



GRAPH 17. COMPENSATION FOR OVERTIME WORK BY SECTOR (%)



## BOX 5. STANDARD OF OCCUPATIONAL SAFETY AND HEALTH (Q&A)

### To what extent are the necessary protective equipment and uniform used?

- Even though 70% of the construction employees are requested to always use protective equipment or uniform, only 51% of them comply with this requirement.

### What is the rate of accidents at the workplace?

- About 58% of mining employees have suffered or witnessed an accident at their workplace in the last 12 months.

### Do employees need training on occupational health and safety?

- While most employees have been trained in this area at least once, they think there is need for further training in this respect.
- Even though respondents think that they need capacity building in this area, only 2 out of 10 employees across these sectors have asked their employer to provide training on occupational safety.

### Are workers' recommendations on improvement of occupational safety rules taken in consideration?

- 39% of employees in the mining sector declare that the miners' suggestions on improvement of safety rules are either rarely or never taken into consideration.

Source: IDM Survey (2016)

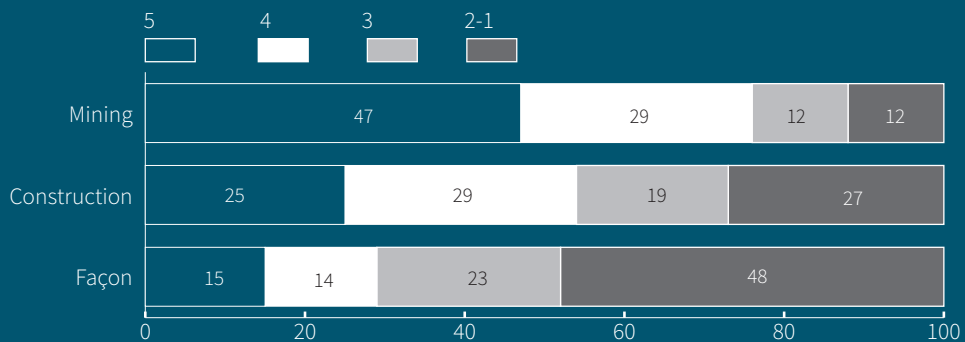
## **OCCUPATIONAL SAFETY AND HEALTH**

This batch of questions is focused in the issue of occupational safety and health. It examines issues relative to the perceived level of hazard, experience in the use of the necessary equipment and uniform, work accidents, and the opportunities for training on occupational safety and health.

Respondents were initially asked to evaluate in a scale of 1 to 5 the level of hazard to their safety and health at the workplace, where 1 represents a very low hazard and 5 a very high level of hazard. Unsurprisingly, about 76% of the mining employees declare to be working in a workplace of high or very high risk as compared with 54% of construction respondents and 29% of the faon employees. Graph 18 provides a graphical description of their responses.

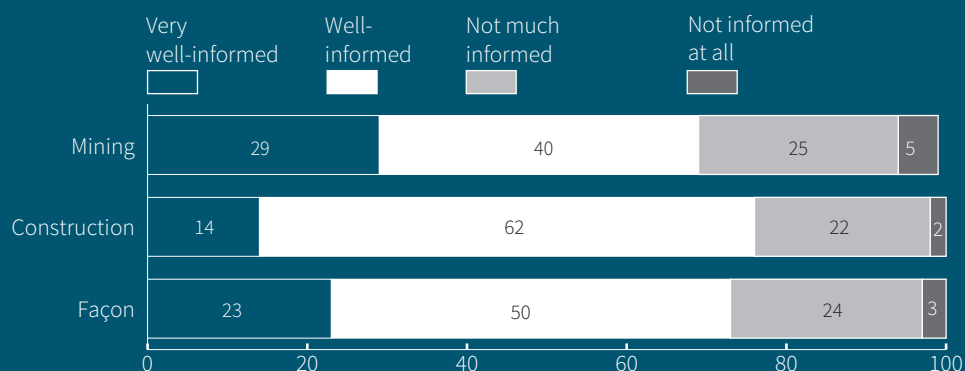
When asked to assess the level of information on danger to occupational health and safety across the sectors under consideration, respondents believe that they are generally informed on the level of hazard at their workplace. As indicated in Graph 19, about 29% of the mining interviewees, 23% in the faon and 14% in the construction consider themselves to be well informed on their occupational hazards and danger.

**GRAPH 18. EVALUATION ON LEVEL OF HAZARD TO SAFETY AND HEALTH BY SECTOR (%)**



The legislation in place has envisaged representation in the issues of occupational health and safety, as stipulated in the Law No. 10337, “On Occupational Safety and Health”. The law specifies that an enterprise with at least 50 fulltime employed on permanent basis should establish a council on occupational safety and health. The role of this council, as the main body to protect employees in the area of occupational health and safety in large workplaces is to contribute to the protection of physical and mental health and safety of employees and to the improvement of their working conditions. This council

GRAPH 19. INFORMATION ON DANGER TO OCCUPATION SAFETY AND HEALTH BY SECTOR (%)



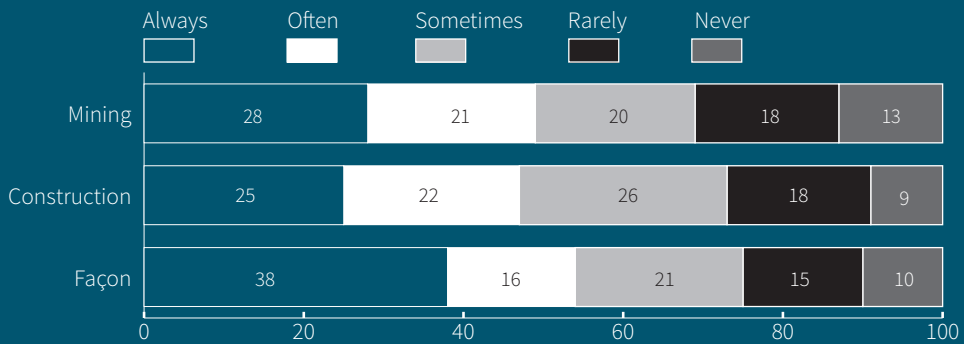
is a consultative body. In real life, this legal requirement has not been complied with at a satisfactory level. Creation of this council and appointment of its representatives has been simply formal and fictitious. To a certain extent, these legal requirements have been met in the County of Tirana, instigated by a close cooperation with the State Labor and Social Service Inspectorate.<sup>84</sup> Also, the new amendments to the Labor Code stipulate that the employer should inform the employees' representative and consult with him/her regularly, at least on yearly basis, with regard to a variety of current and future activities of the enterprise, economic situation and status of employment relations.

In this respect, when asked on information over dangers to occupational safety and health on the part of employers, one can observe a similar trend across the sectors. About 54% of the façon employees stated that their employer keeps them always or oftentimes informed on the occupational hazards to their health and safety. This situation is also reported by 49% of employees in the mining sector and 47% in the construction. Thus, no mining employers are not inclined to inform their employees on the occupational danger. Also, about 1/3 (or 31%) of the mining employees report that their employer keeps them rarely or never informed on occupational dangers.

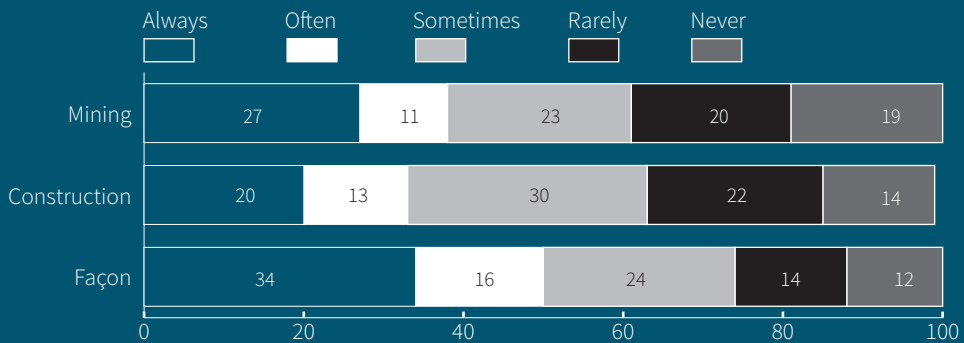
When further asked whether their suggestions on improvement of safety rules were ever considered, most of the employed responded that their and their peers' suggestions on improvement of occupational safety and health rules are not considered. Some 38% of the mining employees stated that workers' feedback on improvement of safety rules are always or often considered. Almost the same percentage (39%) of the respondents declared that their feedback on improvement of safety rules are never or rarely considered.

84 Action Plan on Policies on Occupational Safety and Health 2015 – 2020

GRAPH 20. EMPLOYER KEEPS EMPLOYEES INFORMED ON OCCUPATIONAL HAZARDS TO THEIR HEALTH AND SAFETY BY SECTOR (%)



GRAPH 21. ARE WORKERS' FEEDBACK ON IMPROVEMENT OF OCCUPATIONAL SAFETY RULES CONSIDERED BY SECTOR (%)



Respondents were also asked to evaluate the frequency of various phenomena stated in the form of affirmative statements in order to further examine their experience with occupational safety and health. Empirical data reveal discrepancy or a gap identified practically between the need to use protective equipment or uniform at workplace and their use in practice, particularly in the construction sector. Graph 22 illustrates distribution of “always” category among the sectors under consideration. Even though 70% of the construction employees are requested to always use protective equipment or uniform, only 51% of them comply with this requirement. This gap is, indeed, 9 point percent in the mining and façon sectors.

Respondents were further asked about this case to examine whether this gap was a result of employer’s failure to provide this equipment. The responses tend to validate this hypothesis. Thus, only 38% of the interviewed employees or less than 2 in 5 employed in the mining sector and 40% in the construction declared that their employer always provided the necessary protective equipment. On the other hand, 12% of the employed in the mining and construction sectors said that their employer never gave them the necessary protective uniforms and equipment. Table 7 provides these data by categories.

GRAPH 22. THE NEED TO USE PROTECTIVE EQUIPMENT VS THEIR REAL USE BY SECTORS (% OF “ALWAYS” CATEGORY)

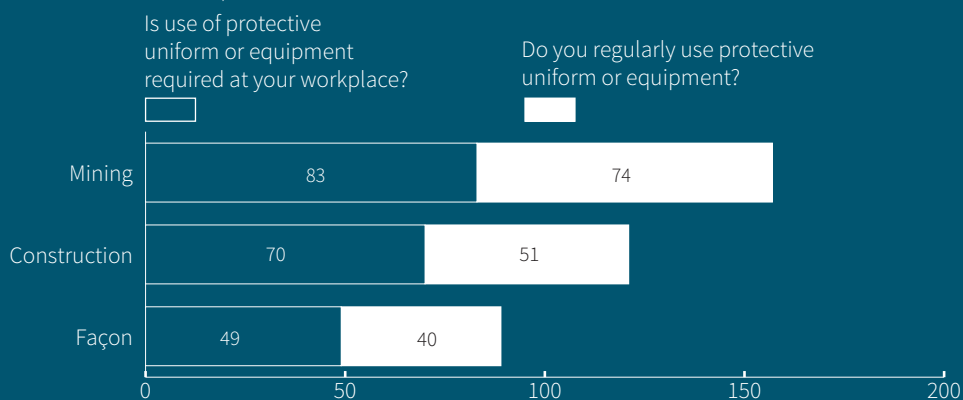
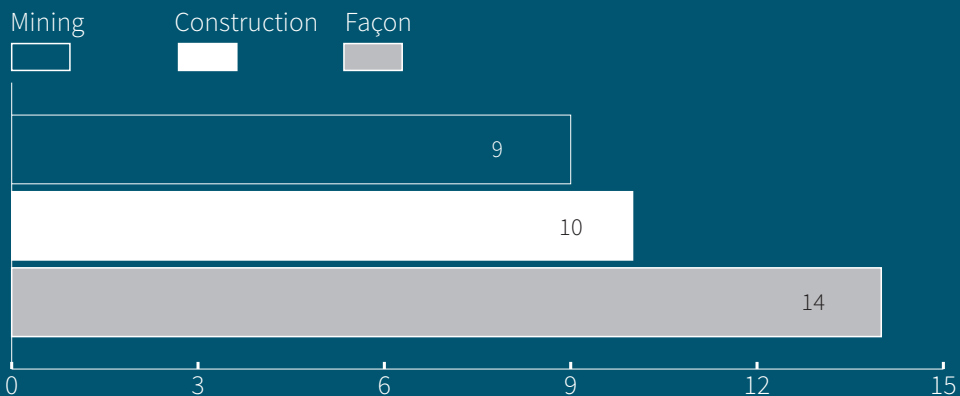


Table 7. Provision of protective equipment by employer by sectors in %

Does your employer provide these necessary equipment or uniform?	Sector		
	Mining	Construction	Façon
<b>Always</b>	38	40	43
<b>Often</b>	24	31	20
<b>Sometimes</b>	17	12	11
<b>Rarely</b>	9	5	8
<b>Never</b>	12	12	18

To further explore into employers’ approach on the use of occupational protective equipment at workplace by employees, findings show that only 14% of façon employed, 10% of the construction employees and 9% of those employed in the mining declared that their employer or supervisor promotes “always or often” nonuse of the necessary protective equipment or uniforms.

GRAPH 23. EMPLOYER PROMOTES NONUSE OF PROTECTIVE EQUIPMENT OR UNIFORM BY SECTORS (% OF “ALWAYS” AND “OFTEN” CATEGORIES)



In addition, when asked about their approach to rules, only 4 in 10 façon employees report that there are so many rules on occupational safety and health that it is impossible to consider all of them. A similar response is also given by 11% employed in the construction and 8% of those working in the mining sector. Graph 24 provides a graphical description of other statements.

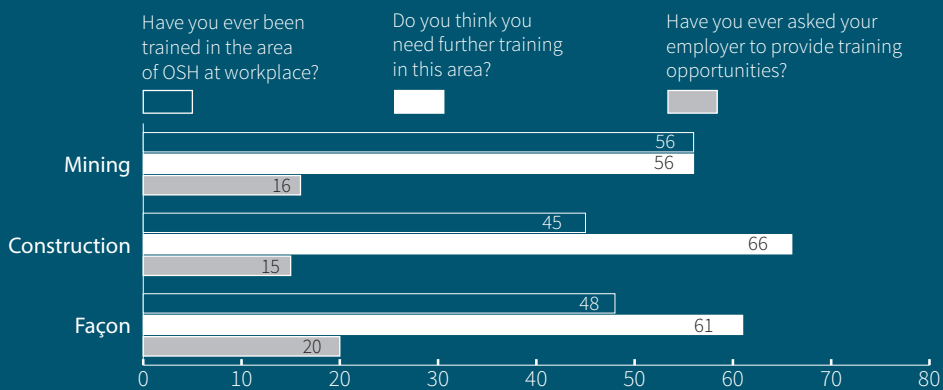
GRAPH 24. AGREEMENT AT STATEMENTS ON SAFETY RULES BY SECTOR (%)



85 Agregimi i kategorive “jam plotësisht dakord” dhe “jam kryesisht dakord”

Survey participants were then asked about training with topics on occupational safety and health. Findings reveal that, even though most of them are trained in this area, many respondents think that additional training on occupational safety and is required. This opinion is shared by 66% of construction respondents, 61% of façon employees, and 56% of mining interviewees. While they express the necessity for capacity building on safety and health at work, fewer than 2 in every 10 employees across the three sectors have asked their employer to provide training opportunities for this issue. Graph 25 illustrates distribution of responses.

GRAPH 25. TRAINING ON SAFETY AND HEALTH AT WORKPLACE BY SECTOR (%)



Another batch of questions was intended the important issue of work accidents. About 58% of employees interviewed in the mining sector reported to have experienced or witnessed a work accident in the last 12 months. Within this category, fewer than 2 in every 10 respondents have suffered a work accident, whereas about 37% of the respondents have witnessed an accident. In the construction sector, 11% of the interviewed employees have experienced a work accident in the last 12 months and 22% have witnessed such instance.

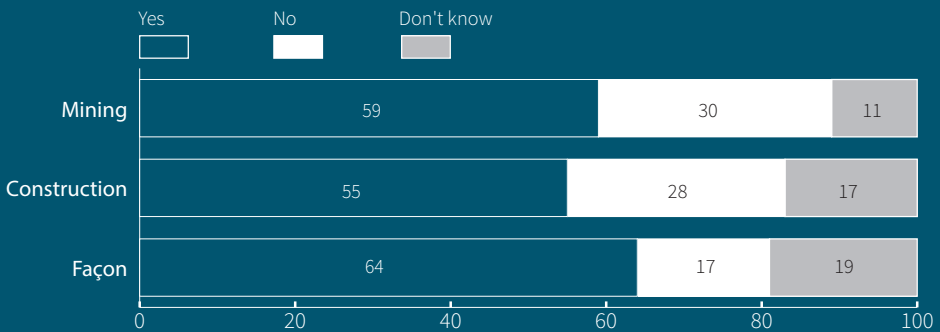
When further asked about whether appropriate measures were taken, to the best of their knowledge, to respond to work accidents, 30% of mining employees and 28% of the construction employees did not think that appropriate measures were taken. Some 19% of the façon respondents and 17% of the construction interviewees stated that they were not aware of any measures taken to address work accidents. Graph 26 describes distribution of respondents' answers. Cross comparison of instances of work accidents with the measures taken for them shows that employees are most likely to appreciate even inadequate measures taken when they were the victims of accidents. Most respondents – 57% in the mining sector and 52% in the construction – reported that no adequate measures were taken when they suffered a work accident.

GRAPH 26. ACCIDENTS AT WORKPLACE IN THE LAST 12 MONTHS BY SECTOR (%)



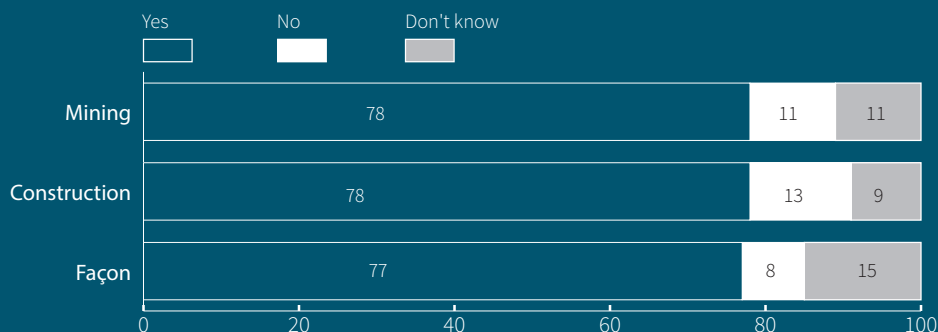
Yet, as shown in Graph 28, most respondents across selected sectors are similarly confident for their knowledge on measures to be taken in case of accidents (share of respondents having this opinion is 77-78%).

GRAPH 27. TAKING APPROPRIATE MEASURES IN CASES OF ACCIDENTS BY SECTOR (%)





GRAPH 28. KNOWLEDGE ON MEASURES TO BE TAKEN IN CASE OF AN ACCIDENT BY SECTOR (%)



### **SPECIAL PROTECTION FOR WOMEN AND CHILDREN**

This batch of questions was focused in the standard of special protection of pregnant women at workplace and the issue of child labor. The questions seek to explore the trends of unfair treatment of pregnant women at work place and the spread of the phenomenon of child labor.

Employees in the façon sector and public enterprises were initially asked to evaluate how appropriate and fair they would consider the treatment of pregnant women at workplace in a scale of 1 to 5, where 1 means a very adequate treatment and 5 a very inadequate treatment. This survey finds that about 15% of interviewed people in the façon sector and the same percentage in the public enterprises rate pregnant women’s treatment at 4-5 (as inadequate or very inadequate).

Respondents were further asked on real-life cases of unfair treatment of pregnant women at the workplace. Inadequate sanitation conditions ranked as the most common problem mentioned in 60% of the cases in the façon sector and 66% of the cases in the public enterprises. Termination of employment contract by employer ranks second, with 29% of the cases. Other undue treatments include inappropriate working hours (in 27% of the cases) and continuation in doing heavy or hazardous jobs in 18% of the cases. Table 8 ranks various cases of unfair treatment of pregnant women by percentage of cases.

## BOX 6. STANDARD OF PROTECTION FOR WOMEN AND CHILDREN IN FIGURES (Q&A)

### What are the cases of unfair treatment of pregnant women at workplace?

- In the *façon* sector, most common cases of unfair treatment of pregnant women in the workplace include inadequate conditions for pregnant women (in 60% of the cases), termination of employment contract unilaterally by the employer (in 29% of the cases) and unsuitable working hours (in 27% of the cases).

### How spread is the phenomenon of child labor?

- About 24% of construction employees and nearly 13% of *façon* workers perceive the phenomenon to be widespread in their respective sectors.

Source: IDM Survey (2016)

Table 8. Cases of unfair treatment of pregnant women (% of cases)<sup>86</sup>

	Public enterprises	Façon
Inadequate sanitation conditions for pregnant women	66.26	60.11
Unsuitable working hours	23.31	26.78
Lack of lunch break	23.31	22.4
Continuation of doing hard or hazardous job	21.47	18.03
Verbal abuse	8.59	17.49
Nonpayment of maternity leave	6.13	15.3
Stay of forced return to work	8.59	15.3
Unilateral termination of employment contract by employer	6.13	28.96
	163.8	204.37

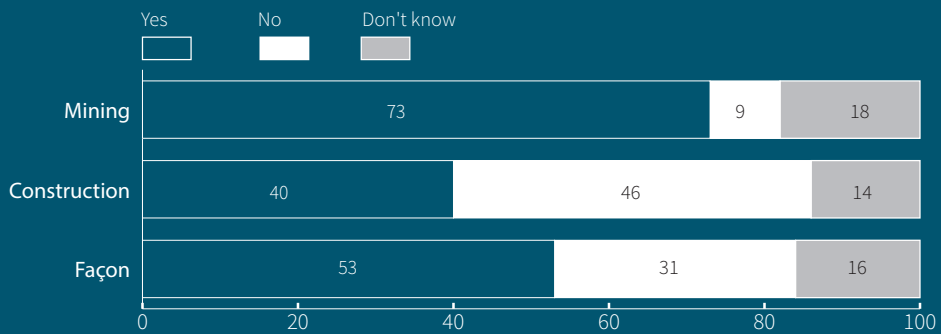
A vast majority, 76%, of *façon* employees report that upon completion of maternity the new mother returns to the same job. Only 4% report that the new mother is hired back to a less favorable job because of failure to perform on the part of the employee. The new amendments to the Labor Code specify that the employer is obligated to temporarily

<sup>86</sup> The final sum is not 100%, because the question had multiple choice answers.

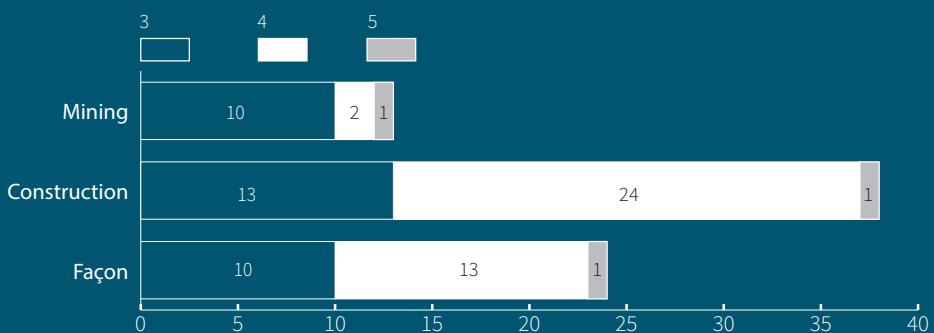
adapt the workplace for the new mother after 63 days of employee's childbirth; otherwise, the employer shall transfer the employee to a similar workplace.

In light of the new Labor Code amendments, respondents were also asked whether they would consider it necessary to share some of the maternity leave with their spouses (parental leave). The descriptive analysis is interesting, as a vast majority (73%) of employees in the mining sector – with the youngest sub-population of the sample – consider sharing the maternity leave to be necessary, as compared with 53% of the *façon* workers, which are mainly women.

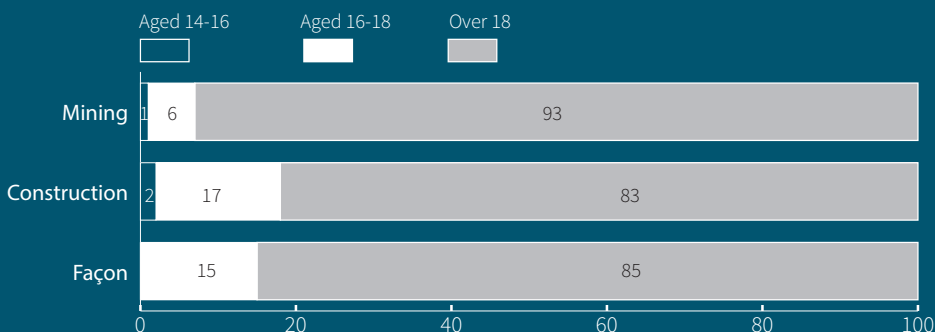
GRAPH 29. SHARING SOME OF THE MATERNITY LEAVE WITH THE SPOUSE BY SECTOR (%)



GRAPH 30. SPREAD OF THE PHENOMENON OF EMPLOYMENT OF CHILDREN UNDER 18 YEARS OF AGE BY SECTOR (%)



GRAPH 31. MINIMAL AGE OF EMPLOYEES BY SECTORS (%)



Secondly, in terms of child labor, interviewed employees were asked about their knowledge on the spread of employment of children aged under 18 in their sector. Respondents were to evaluate in a scale of 1 to 5, where 1 means the phenomenon is not spread at all and 5 implies a very widespread phenomenon.

As illustrated by Graph 30, about 24% of the construction employees think this phenomenon is widespread in their sector as compared with 13% in the façon and 2% in the mining. These trends are also confirmed when respondents are asked about child labor in their specific workplace and not generally for their sector. Thus, when probed into the minimal age of employees at their workplace, an overwhelming majority declared to be adults aged 18 and older. In the construction sector, however, 17% of employees stated that some of their peers are aged 16-18 years and 2% are under 16 years of age. Some 15% of the façon employees belong to the age group of 14-16 years. Graph 32 provides a view of distribution of answers by sector.

## EQUAL OPPORTUNITIES AND TREATMENT

This batch of questions focuses on the standard of equal opportunities and treatment seeking to probe into the trends of discrimination at workplace and into issues of equal opportunities for treatment and promotion.

Since some forms of discrimination, such as those related with ethnicity, sexual orientation or faith, refer to a limited group in the sample that specifically relates to these minorities or groups and not to the entire sample, the questions focused in the incidence of this phenomenon in their workplace and not necessarily in the respondents' personal experiences. Table 9 shows incidences of various discrimination forms encountered at the workplace across the sectors in the last 12 months under consideration. In fact, we should bear in mind that questions on discriminations are generally inclined to conceal higher incidences.

## BOX 7. STANDARD OF EQUAL OPPORTUNITIES AND TREATMENT IN FIGURES (Q&A)

### What are some of the forms of discriminations identified at the workplace?

- Verbal abuse is spread across all sectors in about 68% of the cases in the façon sector and 78% in the construction.
- In the façon sector, where the vast majority of employees are women, 10% of the cases included sexual harassment of female workers at the workplace
- While only 17% of the mining respondents declare to be members of a trade union, about 34% of mining employees think that their employer differentiates the treatment of members of unions to non-members.

Source: IDM Survey (2016)

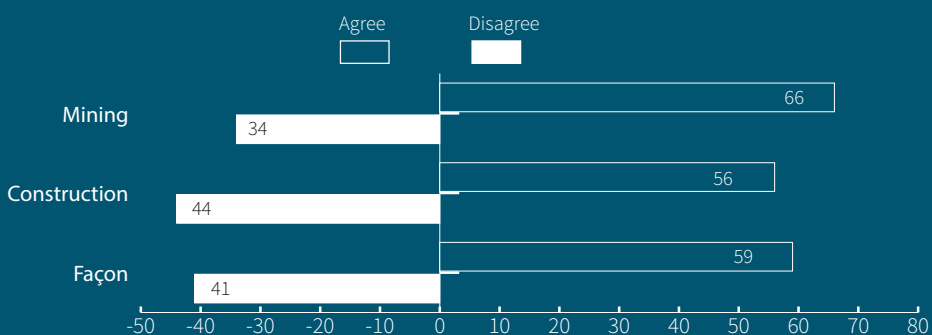
Table 9. Discrimination at workplace by sectors (% of cases)

	Sector		
	Mining	Construction	Façon
Verbal abuse	69.23	78.13	67.53
Physical violence	8.97	9.38	8.44
Unwarranted sexual harassment	0	1.5	9.74
Gender-based different treatment from others	8.97	1.56	20.13
Age-based different treatment from others	10.26	15.63	23.38
Ethnicity-based different treatment from others	1.28	0	3.25
Faith-based different treatment from others	5.13	0.78	3.9
Political affiliation-based different treatment from others	33.33	15.63	19.48
	142.31	130.47	157.14

Hence, in consideration of the responses given to the above questions, verbal abuse seems to be particularly pervasive across the sectors, ranging from 68% of the cases in *façon* to 78% in construction, even though the forms of verbally abusive could practically encompass various sector-related realities and sensitivities. In addition, the above data reveal the spread of discrimination based on age and political conviction. In the last 12 months, *façon* employees have seen a different treatment at their workplace because of age in about 23% of the cases. Some 33% of the cases of reported on discrimination in the mining cases are linked with employees' political affiliation.<sup>87</sup> In the *façon* sector, where the vast majority of employees are women, 10% of the cases included sexual harassment of female workers at the workplace.

Also, while only 17% of the mining respondents declare to be members of a trade union, about 34% or about 1/3 of the mining employees think that their employer differentiates the treatment of members of trade unions to non-members. This percentage is higher among *façon* and construction workers.

GRAPH 32 EMPLOYER DOES NOT DIFFERENTIATE BETWEEN UNION MEMBER AND NON-MEMBER WORKERS



Additionally, employees were asked on equal opportunities to promotion and access to training provided by their employer. Table 10 data shows that about 68% of the mining employees, 75% in the construction and 82% in the *façon* declared that promotion at the workplace is linked with the skills and work performance. Regarding access to training provided by their employer, 42% of mining respondents, 35% in the construction, and 23% in the *façon* declared that they disagreed with the statement that all employees had

87 Report of the Commissioner for Protection from Discrimination for year 2015 noted a considerable increase of the complaints filed on discrimination for employment on grounds of political conviction. [https://www.parlament.al/ep-content/uploads/2016/03/Raport-Vjetor-2015\\_KMD.pdf](https://www.parlament.al/ep-content/uploads/2016/03/Raport-Vjetor-2015_KMD.pdf)

equal access to training provided by their employer. An equal share of public enterprise employees, about 74%, agreed with these statements. A bivariate analysis shows no gender-based differences in the case of public entities.

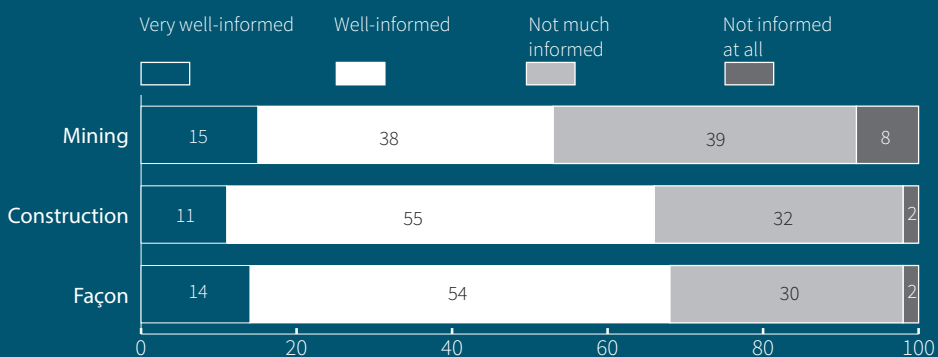
**Table 10. Equal opportunities at the workplace by sector (%)**

		Sector		
		Mining	Construction	Façon
Promotion of employees at workplace is linked with the skills and work performance.	Fully agree/ agree	68	75	82
	Disagree/fully disagree	32	25	18
All employees have equal access to training provided by employer.	Fully agree/ agree	58	65	77
	Disagree/fully disagree	42	35	23

### **EMPLOYEES' AWARENESS AND REPRESENTATION**

This batch of questions is focused in the dimension of awareness and representation of employees at their workplace. It tries to examine issues relative to employees' awareness of their labor rights and their perceptions of opportunities and challenges or labor representation.

**GRAPH 33. INFORMATION ON THE LABOR RIGHTS BY SECTOR (%)**



## **BOX 8. EMPLOYEES' AWARENESS AND REPRESENTATION IN FIGURES (Q&A)**

### **Are employees informed about their labor rights?**

- About 53% of the mining employees consider themselves to be “very well informed” or “informed” of their labor rights.
- Most employees across the sectors are not aware of the new amendments made to the Labor Code.

### **How do employees act when they perceive that their labor rights are violated?**

- A little more than half (54%) of façade employees, 55% in the mining sector, and 58% in the construction file a complaint with their supervisor or employer when their labor rights are violated.
- Some 30% of employees in the mining sector and 25% in the construction choose to not file a complaint at all and not act on it.
- Only about 48% of the workforce in the mining sector and 56% in the construction said that they would report the violations without fear of consequences.

### **What is the situation of union representation like?**

- While only 4% of façade workforce and 15% of the mining employees think that their unions are not responsible for the working conditions in their respective sectors, the demand for labor representation is still high. Some 73% of the mining employees believe that a better organization of the workforce at their workplace would considerably improve their working conditions.

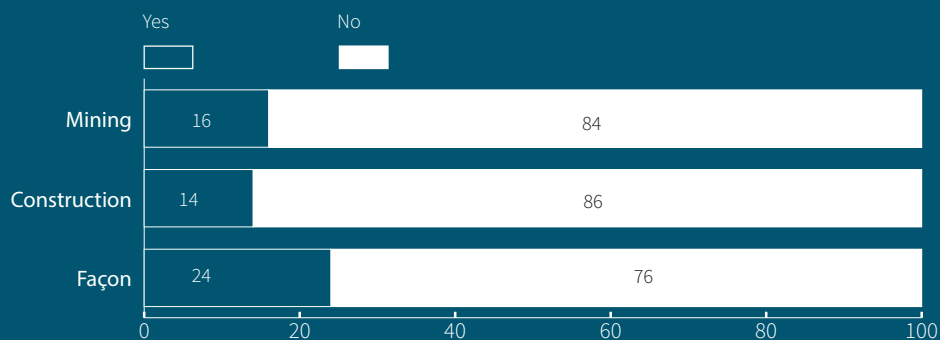
*Source: IDM Survey (2016)*

Findings reveal that most interviewed employees report to be well informed of their labor rights. Yet, in comparison with the façade and construction workforce, the employees of the mining sector are somewhat skeptic of the information on their labor rights. Nearly 53% of the interviewed employees in the mining sector are well informed or informed of their labor rights as compared with 66% of workforce in the construction and 68% in the façade.

Respondents were then asked about their knowledge of the new amendments made to the Labor Code. Most of them were not aware of these changes to the legislation. Only 24% of the façade employees, 16% in the mining and 14% in the construction reported to be cognizant of the legal amendments to the Code. Graph 34 gives a view of the percentages to this question.



GRAPH 34. KNOWLEDGE ABOUT AMENDMENTS TO THE LABOR CODE BY SECTOR (%)

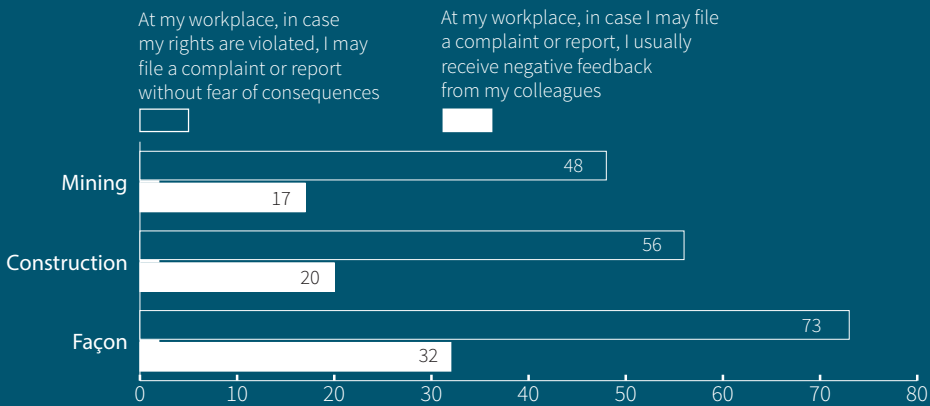


Following the questions on awareness on their labor rights, the interviewed workforce was asked about the first step they undertake when their labor rights are violated. A little more than half of respondents across the three sectors file a complaint with the supervisor or employer: 54% in the façon, 55% in the mining sector, and 58% in the construction. A relatively considerable number of respondents (25% in construction and 30% in mining) choose to not complain at all. The most common reasons for those respondents who choose not to complain include “nowhere to complain”, “I may get fired if I complain” and up to “there is not justice”. Ranking of responses is provided in Table 11. Following the same line of this finding, only 48% of the mining employees and 56% in the construction affirm that they would report a violation ignoring the fear of consequences. See Graph 35.

Table 11. First step taken on violation of labor rights by sector (%)

	Sector		
	Mining	Construction	Façon
<b>File a complaint with the supervisor/ employer</b>	55	58	54
<b>File a complaint with the union</b>	9	2	4
<b>File a complaint with the peers</b>	4	14	18
<b>File a complaint with the Labor Inspectorate</b>	0	1	4
<b>Call a lawyer</b>	2	0	1
<b>No complaint</b>	30	25	19

GRAPH 35. PERCEPTIONS ON REPORTING VIOLATION OF LABOR RIGHTS BY SECTOR (%)



A great part of literature considers involvement of employees at workplace as an indispensable component of the effective regime for regulating labor relations. On the other hand, research probing into the relationship between social dialogue and improvement of working conditions indicate that the presence of various forms of employees' representation in workplace is most likely to become a determinant factor in improving working conditions (Voss, 2009; Oxford Research, 2011). Thus, the issue whether and how the workforce is represented in their workplace becomes an issue linked with the quality of working conditions. The Eurofund glossary on industrial relations defines employees' representation as "a right to demand a union organization or individual to represent employees with the aim of negotiating with the management on issues such as wages, hours of work, benefits, and working conditions." In compliance with the applicable legislation, employees' representation may be in the form of councils of employees in trade companies with over 50 workforce or in the form of councils for occupational health and safety.

In this regard, survey's empirical data on representation of employees in the selected sectors tend to point out the vicious circle of the lack of legitimacy where union organizations are captured.<sup>88</sup> In employees' perception, unions are perceived as slothful and to a certain extent incapable of assisting workers in their cause for acceptable wages and decent working conditions. Thus, only 4% of façon workforce and 15% of the mining employees think that their unions are not responsible for the working conditions in their respective sectors.

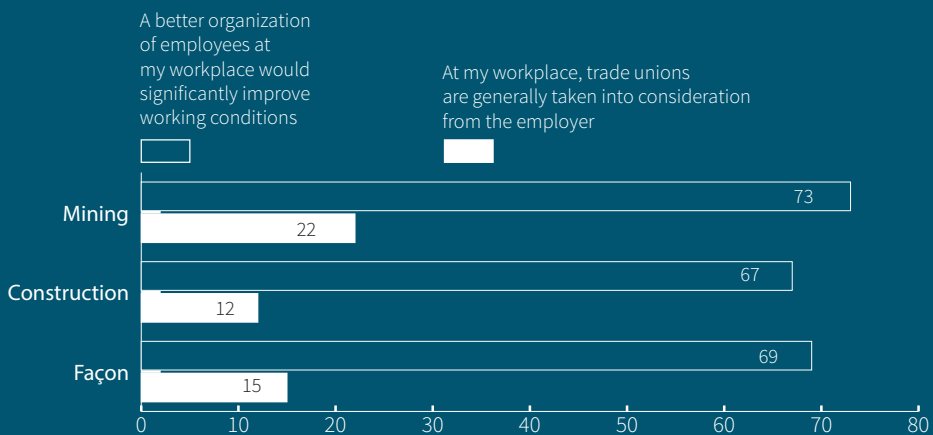
88 See Pappa 2015.

**Table 12. Perceptions on union organizations by sector (%)<sup>89</sup>**

	Sector		
	Mining	Construction	Façon
<b>Unions are not responsible for the working conditions in my sector</b>	15	19	4
<b>In my sector, unions generally examine complaints and problems of their membership.</b>	35	19	20

Megjithatë, edhe pse në pjesën dërrmuese punonjësit përgjatë sektorëve të ndryshëm deklarojnë së sindikatat përgjithësisht vijnë të mos merren parasysh nga ana e punëdhënësit, përsëri një pjesë po aq e madhe beson se një organizim më i mirë i punëtorëve në vendin e punës do të përmirësonte dukshëm kushtet e punës. Shiko grafikun 36 për shpërndarjen e përgjigjeve.

**FIGURE 36 PERCEPTIONS ON EMPLOYEES' REPRESENTATION AT WORKPLACE BY SECTORS (%)**



89 The categories “fully agree” and “agree” have been aggregated.

# 5 ROLE AND COOPERATION AMONG STAKEHOLDERS IN THE LABOUR FIELD

This part of the study focuses in analyzing the functions and competencies of institutions with a prominent role in ensuring compliance with the labor standards. Cross-institutional cooperation for the protection of employees' work relations and abidance to labor standards is a guarantee for their compliance. This is attributed to the preventive role these institutions may play as well as their punitive function for instigating punishment for detected violations. A coordinated effort of institutions involved in the inspection and monitoring of compliance with the labor standards would serve to boost efficiency and effectiveness of their activity and adoption of uniform approaches.

Yet, each institution exercises its activity in pursuance of the authority vested unto that institution, as provided for in the relevant legal and sublegal acts. Cooperation among other institutions is crucial for accomplishing their mission and achieving results. The performance of institutions delivering crosscutting services is closely linked with the level of interaction among them. Boosting public trust in general and employees and employers in particular is at the core of every country's functioning and becomes essential for developing countries, like Albania.

The major institutions with specific duties on enforcement of standards in the area of labor relations and authorized to monitor them include: Ministry of Social Welfare and Youth, Central Inspectorate, State Labor and Social Service Inspectorate (under the authority of this Ministry).

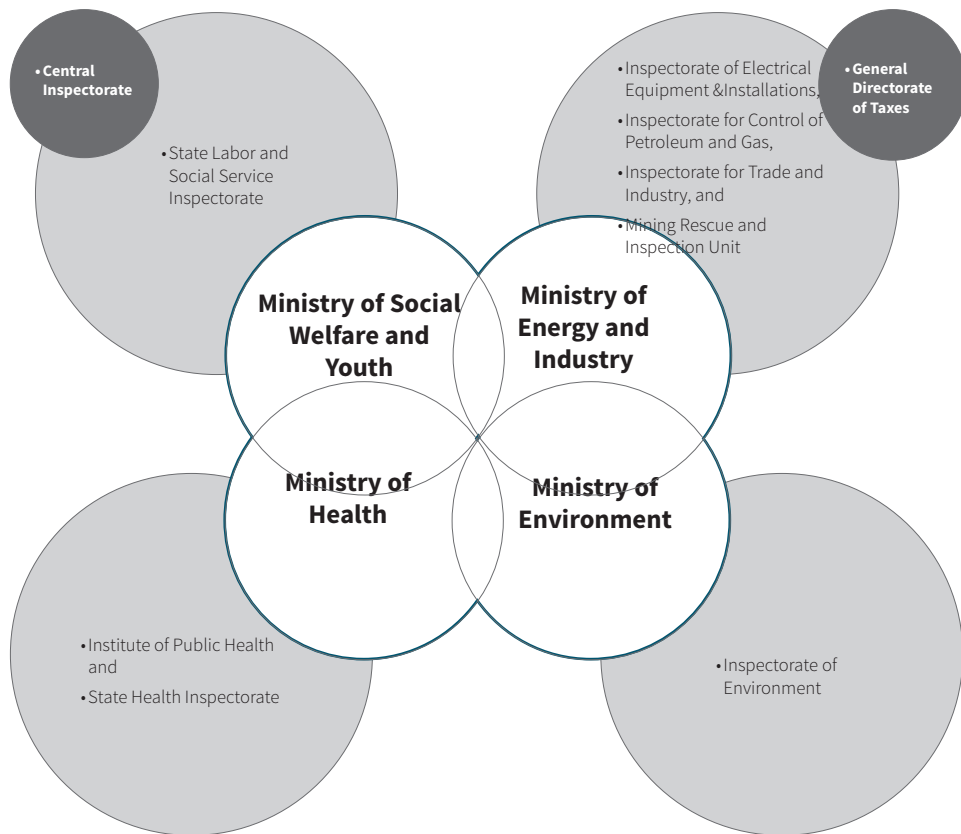
In addition to the above institutions, some other important actors include:

- National Labor Council
- Ministry of Finance and other institutions under its authority: Institute of Social Insurance and General Tax Directorate
- Ministry of Health and other institutions under its authority: Institute of Public Health and State Health Inspectorate
- Ministry of Energy and other institutions under its authority: Inspectorate of Electrical Equipment and Installations, Inspectorate for Control of Petroleum

and Gas, Inspectorate for Trade and Industry, and Mining Rescue and Inspection Unit

- Ministry of Environment and Inspectorate of Environmental
- Ministry of Agriculture, Rural Development and Water Administration
- Ministry of Transport

**Graph 1. Main institutions operating in the domain of labor relations and occupational safety**



*Ministry of Social Welfare and Youth (MSWY)*

The Ministry of Social Welfare and Youth's activity revolves around guaranteeing a wide range of constitutions rights and, in particular, the right to safe and decent employment. In this respect, MSWY is the institution whose main role is to develop state policies on employment, work relations, inspection, occupational safety and health, development and monitoring of policies, legislation, and other activities linked with social insurance. The Minister of Social Welfare and Youth, who is the minister responsible covering the related area of state activity, has a prominent role in inspecting accomplishment of standards as provided for in the Law on Labor Inspection<sup>90</sup> and the Law on Inspection in the Republic of Albania.<sup>91</sup>

In reliance of the Law on Labor Inspection and Social Services, the minister develops policies on labor inspection and on protection of employees in the course of work process and takes measures that seek to ensure implementation of these policies through the enforcement of labor law provisions in all workplaces, promotion of measures on occupational safety where hazardous substances are used, and empowering measures that prevent work accidents and industrial diseases. Labor inspectors and controllers are charged with the enforcement of labor law provisions and ensuring protection of employees.

The Law on Inspection determines that the state inspectorates perform inspection functions under the jurisdiction of central government authority, such as central public institutions under the authority of a minister. As a rule, a state inspectorate is responsible for all inspection functions in a ministry's scope of state activity.<sup>92</sup>

In terms of work relations, while labor inspectorate plays the main role, other institutions, such as tax department, health inspectorate and other public bodies, may detect through their planned or random inspections violations of applicable standards in accordance with their scope of work. These overlapped competencies increase the importance and role of cooperation and collaboration among institutions to the benefit of more efficient use of human resources and infrastructure as well as to abide to the principle of reasonable controls over businesses.

The respective ministry supports the effective functioning of state inspectorate under its authority and, with methodological support from the Central Inspectorate, determines annual and midterm strategic goals of the state inspectorate as well as specific indicators of efficiency and quality of state inspectorate's inspection activity and performance.<sup>93</sup> The responsible minister has the right to request reports, information, and documents on overall inspection activity or on a specific matter and issue written and justified order on initiation of an inspection to a certain entity or for a specific issue involving more than one entity.<sup>94</sup>

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90 Article 5 of the Law No. 9634, dated 30.10.2006, "On Labor Inspection", as amended

91 Law No. 10433, dated 16.6.2011, "On Inspection in the Republic of Albania"

92 Article 10 of Law No. 10433, dated 16.6.2011 "On Inspection in the Republic of Albania"

93 Article 18 paragraph 2 of Law No. 10433, dated 16.6.2011 "On Inspection in the Republic of Albania"

94 Article 18 paragraph 4, 5 of Law No. 10433, dated 16.6.2011 "On Inspection in the Republic of Albania"

## **CENTRAL INSPECTORATE (CI)**

The Central Inspectorate was established by Law on Inspection in the Republic of Albania. This inspectorate functions as a central public institution under the authority of the Prime Minister's Office.<sup>95</sup> The scope of work of this central authority in the area of inspection is to ensure application of uniform rules and standards of inspection.

The CI mission is to improve effectiveness and accountability of inspection activities by performing its functions, which include adoption of general rules based on which state inspectorates develop and approve specific rules on their scope of inspection on methodology of risk assessment, planning of inspections, documentation of inspection activities, indicators of effectivity and quality of inspection activities, and criteria of their evaluation.

Coordination is another major role played by CI. Based on monthly inspection plans developed by all state institutions, CI coordinates the procedure of joint inspection by giving notice of an inspection schedule in case an entity subject of inspection is planned to be inspected by more than one inspectorate.<sup>96</sup> CI creates and maintains an inspection online portal, which serves as a platform for planning and coordinating inspections, for exchanging information and data for various inspectorates and for public information.<sup>97</sup>

CI monitors implementation of the law on inspection and law on state inspectorate and oversees state inspectorates for implementation of this piece of legislation. In addition, CI identifies, analyzes and provides feedback to line ministries or state inspectorates regarding any legal or sublegal initiative in the area of inspection and gives opinions and recommendations on improvement of related legislation.

## **LABOR AND SOCIAL SERVICE INSPECTORATE (LSSI)**

LSSI is a central public institution, under the authority of the Ministry of Social Welfare and Youth, and is organized at central and regional level. Regional offices of LSSI exercise their activity in the territory of the related region and are responsible to conduct inspections in these regions.

LSSI's major mission is to guarantee abidance to legal requirements in the area of labor and social service legislation by means control, detection, counseling, notification, education, conflict resolution, prevention, and, in case the above form are not successful, in order to address detected irregularities LSSI takes administrative measures to sanction

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95 Article 18 paragraphs 4, 5 of Law No. 10433, dated 16.6.2011 "On Inspection in the Republic of Albania"

96 Council of Ministers' Decision No. 696, dated 16.8.2013 "On Determination of Procedures of Exercising Central Inspectorate's Powers and Rules on Content and Administration of 'E-Inspection' Online Portal"

97 Council of Ministers' Decision No. 696, dated 16.8.2013 "On Determination of Procedures of Exercising Central Inspectorate's Powers and Rules on Content and Administration of 'E-Inspection' Online Portal"

entities that do not abide to labor standards as provided for in the labor legislation.<sup>98</sup>

The LSSI's scope of work includes implementation of legal provisions and collective agreements that regulate labor standards and working conditions, such as working hours, wages, occupational safety and health, equal opportunities and treatment, child labor and employment of marginalized groups, social securities, protection of mothers during and post maternity period.

LSSI has the right to inspect all physical and legal, domestic or foreign, private or public, entities that run for-profit and non-profit economic activities with the exception of institutions or activities that are protected by the rules on national security.

The LSSI's scope of work is restricted only in case a specific law grants the activity of inspection labor relation, occupational safety and health to another institution, such as the Mining Rescue and Inspection Unit.

The role of LSSI includes counseling of employers and employees on implementation of legal requirements and proposal of necessary means and instruments to improve the situation.<sup>99</sup> LSSI exercises its activity mainly in cooperation with ministries and other subordinate institutions as well as other state institutions.<sup>100</sup>

As the authority responsible for policies of labor inspection and implementation of labor legislation, the minister responsible for labor controls the activity of LSSI. The latter reports to units, structures and levels authorized by MSWY with regard to the status, progress of implementation, budget, efficiency, results of activity of this institution, programs completed or underway, proposals on improvement or amendment of legislation, and any other initiative on projects, studies, and cooperation in the area of inspection.<sup>101</sup>

To accomplish its mission, LSSI cooperates with the Ministry of Internal Affairs with the aim of creating all required facilities to conduct inspection in legal and physical entities. LSSI inspectors request the cooperation of State Police officers, particularly when they are not permitted forcefully by the employer or persons duly authorized by them to enter the business premises in order to conduct a control in conformity with the labor legislation and when in the course of the inspection their life is in danger. In case of an urgent intervention, upon receiving an official verbal or written notice from regional or local labor inspectors, the State Police bodies collaborate with the group of inspectors in those entities where exercise of duty is hindered.<sup>102</sup>

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98 Council of Ministers' Decision No. 295, dated 20.3.2013, "On Creation, Organization, and Functioning of Labor and Social Service State Inspectorate"

99 Council of Ministers' Decision No. 1139, dated 16.7.2008 "On Organization and Functioning of Labor State Inspectorate"

100 Article 12/1 of the Law No. 9634, dated 30.10.2006 "On Labor Inspection", as amended

101 Council of Ministers' Decision No. 1139, dated 16.7.2008 "On Organization and Functioning of Labor State Inspectorate"

102 Council of Ministers' Decision No. 164, dated 22.3.2007 "On Cooperation of Labor State Inspectorate with the Ministry of Interior"



LSSI collaborates with the Ministry of Finance and its entities, such as the Social Insurance Institute (SII) and General Tax Directorate (GTD). LSSI collaborates with SII to exchange information on entities at which work accidents or industrial diseases have occurred. In these cases, the regional office of SII collects data on work accidents and industrial diseases and on days paid for the quarter. These data are included in a quarterly report submitted to on the 5th date of the subsequent month of the quarter.

LSSI collaborates with GTD to exchange information on entities registered with the tax directorate. The GTD information should contain, among others, data on the number of employees declared to the tax bodies, on any and all entities, on case-by-case basis, as well as on any change in the number of tax-declared employees.<sup>103</sup> In addition to actions undertaken to fight informality, more often than not there is no planned and coordinated cooperation between the two institutions even though they have overlapped powers. Both institutions may, at the same time and at their own discretion, impose separate sanctions to a business entity for the same violation.

LSSI collaborates with the institutions under the authority of the Ministry of Justice, such as General Directorate of Prisons, on inspection of civil servants regarding implementation of labor legislation and submission of data on workplace accidents with fatal casualties or industrial diseases by this directorate. In addition, LSSI cooperates with the Institute of Forensic Medicine on availability of a copy of the report prepared by the forensic medicine for the identification of the cause of workplace accident.<sup>104</sup>

LSSI collaborates with the institutions under the authority of the Ministry of Public Works and Transport on exchange of information on business entities operation with special permission, as foreseen in special laws; on development of work programs for conducting joint thematic controls; exchange of information on cases of detected violation of the applicable legislation not covered by the institution conducting the control; on cooperation in cases of investigation of workplace accident and industrial diseases; on providing joint training for qualification of specialists and inspectors; on performing research on common issues in the area of safety and health at work and on development and implementation of projects that aim to improve employees' occupational safety and health. LSSI cooperates with the National Urban Construction Inspectorate on occupational safety and health in the area of construction and with the General Captain's Office of Ports to issue permits to labor inspectors with the aim of conducting an inspection for employees that work in the ports with regard to enforcement of labor legislation.<sup>105</sup>

LSSI cooperates with the Ministry of Health, which is the responsible body for coordination and development of occupational medicine at national level, on development and

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103 Council of Ministers' Decision No. 753, dated 8.9.2010, "On Cooperation of the Labor State Inspectorate with Institutions under the Authority of the Ministry of Finance"

104 Council of Ministers' Decision No. 726, dated 1.9.2010, "On Cooperation of the Labor State Inspectorate with Institutions under the Authority of the Ministry of Justice"

105 Council of Ministers' Decision No. 708, dated 25.8.2010 "On Cooperation of the Labor State Inspectorate with Institutions under the Authority of the Ministry of Public Works and Transport"

adoption of sublegal acts in pursuance of the provisions of the Law on Occupational Safety and Health, such as regulation on protection and promotion of health of employees. This body cooperates with institutions under the authority of the Ministry of Health, such as Institute of Public Health and State Sanitation Inspectorate on preparing joint work programs to conduct joint inspections; exchange of information on cases of detected violation of the applicable legislation not covered by the institution conducting the control; on cooperation in cases of investigation of workplace accident and industrial diseases; on providing joint training for qualification of specialists and inspectors; on performing research on common issues in the area of safety and health at work and on development and implementation of projects that aim to improve employees' occupational safety and health.<sup>106</sup>

State Environment Inspectorate is another body which LSSI collaborates with. This inspectorate reports to the Ministry of Environment and is composed of two directorates: the Directorate of Environment Inspectorate, which operates basically outside company premises, and the Directorate of Forestry Police Inspectorate, which, among others, works on compliance of occupational safety and health in enterprises that exploit forestry resources. LSSI cooperates with the State Environment Inspectorate on exchange of information on business entities operation with special permission, as foreseen in special laws; on development of work programs for conducting joint thematic controls; exchange of information on cases of detected violation of the applicable legislation not covered by the institution conducting the control; on providing joint training for qualification of specialists and inspectors; on performing research on common issues in the area of safety and health at work and on development and implementation of projects that aim to improve employees' occupational safety and health.<sup>107</sup>

## **MINISTRY OF ENERGY AND INDUSTRY (MEI)**

This ministry covers four major sectors in the area of occupational safety and health, including activities extracting petroleum and gas, activities on the safety of machinery and equipment under pressure, activities for extraction of ore, and activities of production, transmission, and distribution of electricity as well as electrical installation and equipment.

This ministry guarantees occupational safety and health through the Central Technical Inspectorate and the Electrical Equipment and Installation Inspectorate. The latter is responsible for overseeing enforcement of rules that guarantee safe professional actions with electrical equipment and installations in the course of economic activities of legal and physical entities.

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106 Council of Ministers' Decision No. 696, dated 18.8.2010, "On Cooperation of the Labor State Inspectorate with Institutions under the Authority of the Ministry of Health"

107 Council of Ministers' Decision No. 754, dated 8.9.2010, "On Cooperation of the Labor State Inspectorate with Institutions under the Authority of the Ministry of Environment, Forestry, and Water Administration"

Labor inspection in the underground mining activity is currently conducted exclusively by the Mining Rescue and Inspection Unit (MRIU), under the authority of the Ministry of Energy and Industry. It should be pointed out that the mining sector is considered to be the most problematic in terms of compliance with the safety rules and working conditions.

### **NATIONAL LABOR COUNCIL (NLC)**

The National Labor Council (NLC) is a tripartite consultative body with the representatives of the Council of Ministers and other organizations of employers and employees. NLC conducts consultations, takes decisions by consensus and makes specific recommendations to the Council of Ministers, through the Minister responsible for labor issues. Consultations are made mainly in issues related development and implementation of labor legislation, amendments to Labor Code and content of sublegal acts, national policies and organizations on employment and protection of employees, workplace safety and health, wellbeing, economic and social development programs, and implementation of International Labor Organization norms.

The main goal of the NLC is to maintain social balances through harmonization of parties' interests, achieve social understanding by developing the Government-Social Partners dialogue, minimize social conflicts, and make arrangements accepted by all parties through exchange of information and review of proposals and other available options. NLC examines issues of common interest on organizations of workers and employees with the aim of coming up with solutions accepted by parties.<sup>108</sup>

NLC has 6 permanent and specialized tripartite commissions covering these topics: judiciary; employment; vocational education and training; wages, pensions and unemployment benefits; working conditions, occupational safety and health; economy and finance; and equal opportunities, disabled, and youth. The Council is composed of 27 member and 27 candidates,<sup>109</sup> in which every social partner has 10 Council members respectively. Members to this Council are assigned upon a Council of Ministers' Decision on three-year basis and representation is the basic criterion for membership. The minister responsible for labor assigns members upon proposals of the organizations of workers and employers.

The Council convenes on a program approved by it or upon a written request of parties in pursuance of provisions stipulated in its internal rule of procedure. NLC has its independent budget, consisting of budgets allocated from the state budget and donations or other legitimate projects. State budget funds are mainly used to cover expenses related with NCL meetings, permanent commissions' meetings, operation of state reconciliation

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108 Council of Ministers' Decision No. 730/2003 "On Functioning of the National Labor Council and on Assignment of Representatives of the Council of Ministers to This Council", as amended

109 Candidates are optional members that substitute a regular member in absentia and have similar rights and functions with him/her.

office, and organization of and participation in tripartite trainings.

The recent changes and amendments to the Labor Code foresee institutionalization of social dialogue at subnational/regional level<sup>110</sup> by establishing 12 regional tripartite consultative councils as per the model and experience of NLC.

The role to be played by the regional councils is compliant with the role of NLC but limited to regional “to examine issues of mutual interest on organizations of workers and employees with the aim of coming up with solutions accepted by related parties at regional level.”

Consultations seek to address issues related particularly with: regional policies on employment, vocational education and training, protection of workers, hygiene and safety at work, production, wellbeing, and issues of education and economy. Composition-wise, these regional structures include 15 members, of which 5 representatives come from organizations of workers and employers respectively and 5 from regional government. Members are assigned to this council upon a decree of the prefect in reliance of the proposals of regional social partners and expenses are to be covered by the Prefect’s office budget.

## **COOPERATION WITH OTHER STAKEHOLDERS**

Cooperation and coordination should be carried out not only at interinstitutional level but also in interaction with other bodies and organizations that represent the interest of employers and workers or civil society organizations.

In terms of trade unions, signing of collective contracts constitutes the first important step towards the unions’ role as advocates of workers’ right at the workplace. According to Article 160 of the Labor Code, a 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. The collective contracts reached on joint negotiations should include provisions on conditions of employment, signing, content and termination of individual labor contracts, vocational training, and relationship between contracting partners. Article 164 gives the option to employers’ organizations to refuse to sign collective contracts unless they meet the conditions of trade unions’ representation. In this case, an evidence is to be 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 to revoke the decision of non-recognition of union representation. When several unions come together for negotiations, the group of organizations with the largest number of members is considered most represented. Collective contracts can be signed at two levels – level of industry (branch of activity) or level of enterprise. The Labor Code does not have specific provisions on collective contracts at national level. In practice, negotiation and collective

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110 Article 200/1 of the Labor Code

contracts are hard to implement and enforce, particularly in the private sector (KE, 2014, 2013, 2012, 2011).

A reconciliation office is established in every region to manage collective disputes.<sup>111</sup> This office is composed of a chairperson and two members, representative of the most represented union organizations and two members, representatives of the most represented employers' organizations. The National Reconciliation Office is responsible to resolve disputes that affect more than one region.

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111 Article 189 of Labor Code

## 6 OVERVIEW OF DRIVERS OF NON-COMPLIANCE WITH LABOR STANDARDS IN PRACTICE

Findings show that enforcement of labor standards in Albania is affected by the interaction of a series of dynamic factors<sup>112</sup> that range from lack of adequate capacities of responsible institutions to the general culture of noncompliance. On the other hand, the process of social dialogue continues to be undermined by unequal structures of power and deficient coordination between social partners and responsible state authorities. Therefore, a combination of these two dynamics is expected to negatively impact particularly the working conditions of most vulnerable categories of workers in the most problematic sectors, such as mining, façade, and construction, through three main active channels:

1. Inadequate implementation of labor legislation;
2. Impossibility of union organizations to protect workers and improve their working conditions;
3. Lack of effective social dialogue at decentralized level.

Firstly, in terms of adequate implementation of the legislation, qualitative data suggest that the situation improved in the last year, which is partly attributed to the improvement of the legal framework and to a great extent to the proactive role of relevant institutions. Irrespective of this, quantity data point out the endemic problem of high informality in the labor market.

In the framework of the fight against informality, the General Tax Directorate in cooperation with the Labor Inspectorate planned and conducted coordinated and intensive controls. As a result of this campaign, within a short time, an unusual increase in the number of declarations on employed people was noticed. Logically, most new employment declaration represent formalization of work relations, which were previously either informal or disguised.

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112 From a dynamic perspective, the variables of explanatory model, such as the features of labor market and the social-institutional ones, interact with one another. Thus, the labor market situation is impacted by economy's priorities and work regulations, but, on the other hand, it also affects these factors at the same time.

Regardless, the situation of informality, which directly affects all working standards at the same time, remains problematic and hidden economy and hidden employment are still high. Our survey revealed that 3 out of 5 interviewed workers in the *façon* sector (59%), about 54 in the mining, and 44% in the construction are paid full wage via banking system. The rest of employees face various situations of informality in the labor market. Some 14% of interviewed employees in the mining sector, 6% and 2% in the construction and *façon* respectively declare that they take their full salary in an envelope, not by bank transfer. To continue with this analysis, 14% of employed respondents in the mining sector and 11% in the construction declare that their employer does not pay their social insurance contributions. The same statement is made by 4% of *façon* employees. Also, 14% of interviewed employees from the construction sector and 11% from the *façon* do not even know whether their contributions are paid at all.

The most common form of manipulation of employment declaration is the statement of a different wage from the real one. Thus, employers declare they have hired workers on a minimal or smaller wage than the salary they really pay to them. Consequently, the amount to be paid for social and health insurance is smaller on a low wage. This situation affects the standard of wage, the standard of equal opportunities and treatment and, above all, the standard of social insurance.

Violation of the social insurance standard directly affects the standard of protection of pregnant women and new mothers since their income earned during maternity leave are linked with and determined by the Law on Social Insurance<sup>113</sup>. In this respect, a considerable majority of respondents declare that their contributions are paid on minimal wage, even though the latter does not match their real wage. In real figures: 74% of surveyed employees in the mining sector, 66% in the construction, and 68% of the interviewed *façon* employees shared this opinion. Some 14% of the *façon* employees declared that, while their contributions are paid on minimal wage, their real salary is smaller – their monthly pay is smaller than the minimal wage. This phenomenon is also reported by 4% of the construction workers.

Following the same line, a study<sup>114</sup> conducted by SELDI in 2016 shows the forms of how informality appears, where workers may be hired in an informal activity or in a registered business but which has not declared all employees. The study shows that the figures of hidden/undeclared employment are still high, particularly in Albania, Serbia and Kosovo. In other countries, like Bulgaria, the situation is somewhat better due to a combination of legal obligation to have contracts only in written form and frequent inspections.

Hence, employers and workers, who are two actors that have the main role to accomplish the standards, collude to conceal employment or earnings from employment for interests that are different to both but that converge to a certain moment. All in all, the employee is the most harmed from this deal.

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113 Article 105 of the Labor Code, as amended

114 Shadow power-Assessment of corruption and hidden economy in Southeast Europe - Southeast European leadership for Development and Integrity (SELDI) - 2016

The recently-adopted changes to the Labor Code<sup>115</sup> include the obligation of written work contracts, since the contract form was initially optional. The work contract could be signed and amended in oral or written form.<sup>116</sup> The legal amendment became effective in June 2016 and is most likely to improve the situation of formalization of employment relations and accomplishment of labor standards.

There are other economic, social, and cultural factors in addition to informality, which is the most dangerous factor that affects adequate implementation of labor legislation, all standards, and the employees' position in all aspects. Among these factors are unemployment rate, characteristics of social insurance system, and level of employees' awareness. Our analysis shows that this tends to change relative to employment sector.

The unemployment rate has a significant impact on compliance with the labor standards, since high levels of unemployment force employees to have very few chances of resistance to the employer. An employee would more easily accept to be hired informally in a job or sign a contract that reflects neglectful working conditions than lose this employment opportunity or its following options, for the same reason.

On the other hand, in the social security field, employees in Albania contribute to a social and health insurance system that is little or no motivational at all, because benefits provided by this system is not satisfactory, are unpredictable and insecure. Thus, those people who do not contribute to the health insurance scheme or give insignificant contributions and those who pay high rates of insurance in reliance of their high pays are very little different in terms of the treatment they receive in case of need for healthcare service. Furthermore, social insurance contributors pay for a scheme that undergoes frequent changes affecting their insecurity to foresee benefits from this scheme in the retirement age or to plan for other benefits.

From the employers' perspective, findings show that parties are more inclined to violate standards related with payments, such as the standards of wage or social insurance. This is explained with their low motivation to pay taxes, because the benefits they see from payment of taxes and contributions are demotivational.

Changes were made to the tax legislation in 2005<sup>117</sup> stipulating severe sanctions, at 500,000 ALL, for instances of concealment of the real wage and employees on the part of the employer. These changes seek to decrease the high rate of informality and improve the situation of wage declaration.

Instigated not on the basis of an adequate assessment of factors and situation, this legislative measure increased the number of declarations in no time, even though this increase was short-lived due to inadequacy of the measure. Hence, many businesses

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115 Article 13 of Law No. 136/2015 "On Some Additions and Amendments to the Labor Code, as amended"

116 Article 21 of the Labor Code, as amended

117 Law No. 99/2015, "On Some Additions and Amendments to Law No. 9920, dated 19.05.2008 'On Tax Procedures in the Republic of Albania' as Amended"



became a victim of this sanction, as other business entities reduced personnel failing to put up with the pressure or ensured facilities by paying bribes. At the end of the day, this legal amendment created more vulnerabilities for corruption, deprived of employment opportunities to many people and put many business operations to stress.

These sanctions were perceived by the business community to be very radical, particularly when considering what they represent for an Albanian businessperson. From the viewpoint of severity of violation and economic harm caused by it, the sanction was not compliant with the principle of proportionality leading to aggravation of the situation and making the central government review these elements and adopt other changes to the law.<sup>118</sup>

Improvement of abidance to standards is also affected by the example or pressure of the international presence in the domestic market. Because of a high level of accountability for implementation of laws, foreign companies are more motivated to abide to labor standards producing an impact on employees' awareness and emancipating the labor market.

In addition to other reasons related with the evasion of tax liabilities, the most demotivational factor to employers for accurate declaration of work relations or its real elements include an habitually unfair practice pursued by the Albanian judicial system, which has imposed outrageous remuneration to be paid by employer even for cases of legitimate termination of work relations in pursuance of the procedure on contract termination.

Secondly, trade unions' failure to advocate for workers' working conditions constitutes another serious threat to accomplishment of labor standards. As already indicated by the findings of this quality and quantity survey, nn employees' perception, unions are perceived as slothful and to a certain extent incapable of assisting workers in their cause for acceptable wages and decent working conditions. Thus, only 4% of façon workforce and 15% of the mining employees think that their unions are not responsible for the working conditions in their respective sectors. In this context, employers see themselves increasingly discriminated and exploited because of the situation and deficient effectiveness of trade unions and the tendency of some employers to abuse with the existing legislation by taking advantage of the unequal power structures. On the other hand, lack of a sound democratic internal system has made representation one of the major challenges confronting the union movements in Albania.

Thirdly, lack of effective social dialogue at decentralized level is also likely to have a negative impact in this aspect. As coordination among social partners has been limited, decisions made at national level have not been implemented adequately at lower levels. Because of this, the quality of social dialogue at decentralized level varies considerably from one region to another, where few representatives of social partners have stated during the quality component that social dialogue at local level is virtually nonexistent.

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118 Law No. 112/2016, "On Some Additions and Amendments to Law No. 9920, dated 19.05.2008 'On Tax Procedures in the Republic of Albania' as Amended"

# 7 RECOMMENDATIONS

This research report seeks to examine the issue of implementation of labor standards in Albania to help shape the public debate on employment and decent work in Albania. The timeframe of this research is the previous year. The report strives to assess the current status of enforcement of labor standards in Albania vis-à-vis international labor standards. The research employs an approach of mixed methods and the instruments of data collection were adapted to the specific context.

An examination of the main findings of this study helped to draw the following recommendations to address measures and options that help to improve abidance to labor standards in Albania's context. These recommendations, which are not exhaustive, are intended to the main actors in work relations – state authorities, union organizations, employers, and civil society organizations.

The role of state authorities in promoting and enforcing labor standards remains central. In a nutshell, their role focuses in four main directions: enabling legislation, monitoring of accomplishment of labor standards, sanctions in case of violations, and promotion of labor standards.

The following recommendations are intended for state authorities:

- The Council of Ministers and line ministries should complete the legal framework in accordance with the provision and deadlines stipulated in the Labor Code.
- Competent institutions, such as the Labor and Social Service State Inspectorate, General Tax Directorate, and State Police, should enhance coordination and cooperation to ensure adequate accomplishment of labor standards on the part of employers and to sanction in a reasonable and rationale manner the violation and impose proportional penalty fine to those entities that do not comply with the labor standards and that break the legal provisions.
- Ministry of Finance in cooperation with other actors and stakeholders should consider the review of tax rates, particularly for income earned from salary in order to avoid informality.
- The Central Inspectorate and the Labor Inspectorate should work to enhance professional and ethical capacities of the labor inspectors.
- The responsible state institutions, such as the Labor Inspectorate and the tax

administration, should encourage and promote the spirit of collaboration with the employers.

- The Labor Inspectorate and the employees' organizations should commit to increase awareness, particularly workers' awareness on their rights granted by law regarding fulfillment of working conditions and labor standards by employers.
- The School of Magistrates should engage in continuous training of judges on standards and issues of labor law with the aim of ensuring a fair adjudication of cases of work relations filed with the court.
- The Ministry of Social Welfare and Youth and the Ministry of Finance will have to update their data analysis on unemployment rate, level of corruption, level of informality, economic situation in the country, and extent of enforcement of the labor legislation.
- The Ministry of Social Welfare and Youth should ensure adequate budgeting for capacity building and improvement of infrastructure of institutions charged to monitor abidance to these standards.

Cooperation and coordination should be carried out not only at interinstitutional level, but also in interaction with bodies and organizations that represent the interests of employers and workers or civil society organizations. In this respect, union organizations face a series of challenges that vary from structural changes of the labor market relative to the sector where they run their activity to problems of internal democracy. These challenges have brought about their implications on monitoring and enforcement capacities of trade unions. Anyway, increase of capacities of union organizations to monitor and enforce minimal labor standards may serve as one of the factors with the potential to boost the legitimacy of their union cause. Also, this may help unions revitalize and consolidate their presence at workplace. This cooperation can help to achieve the goal of policies which are pursued to reflect as adequately as possible the reality so as to ensure efficiency and sustainability.

Some recommendations for social partners include:

- Union organizations should take measures to reestablish the lost legitimacy to their membership and public by undertaking reforming processes that strengthen the internal democracy of union organizations.
- Union organizations will have to increase awareness of their members on the rights of workers and strengthen the position of their membership to address problems and to enforce workplace standards.
- Union organizations should work to increase capacities of the trade unions at the level of enterprise/sector/territory to help improve organizational management, accountability to membership and public relations.

- Union organizations should assist and support workers to increase their awareness on labor rights.
- Social partners at the national level should work together to identify common objectives and priorities with the final goal of improving the working conditions.

Civil society actors may be valuable allies to support organizations of employers and workers by enabling access to employment for marginalized groups, which are not the usual target of social partners (self-employed, unemployed, informal workers, etc.) and by expanding the scope of policies and by shaping the public opinion.

The following recommendations are intended for civil society organizations:

- Increase level of engagement and cooperation of the media and among other civil society actors to address the issue of labor rights and enforcement of standards at the workplace;
- Undertake advocacy campaigns on improvement of working conditions by reporting various cases of violation of labor rights;
- Conduct regular assessments of the situation of working conditions in selected sectors of economy;
- Work to cooperate with union organizations to touch on areas, such as informal sector where union organizations find it difficult to be present.

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