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REVISED EUROPEAN SOCIAL CHARTER

5th National Report on the implementation of
the Revised European Social Charter

submitted by

THE GOVERNMENT OF PORTUGAL

(Articles 2, 4, 5, 6, 21, 22, 26, 28 and 29
for the period 01/01/2005 – 31/12/2008)

Report registered by the Secretariat on 2 March 2010

CYCLE 2010

REVISED EUROPEAN SOCIAL CHARTER

5th National Report on the implementation of

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for the period from 1 January 2005 to 31 December 2008

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5th R e p o r t

submitted by the **Government of Portugal**

for the time period from 1 January 2005 until 31 December 2008 (Articles 2, 4, 5, 6, 21, 22, 26, 28 and 29)

in accordance with the provisions of Article C of the revised European Social Charter and the Article 21 of the European Social Charter, which the instrument of ratification was deposited on 30 May 2002.

In accordance with Article C of the revised European Social Charter and Article 23 of the European Social Charter copies of this report have been sent to

the General Confederation of Portuguese Workers
(Confederação Geral dos Trabalhadores Portugueses)

the General Union Confederation of the Workers
(União Geral de Trabalhadores)
and
the Confederation of the Portuguese Industry
(Confederação da Indústria Portuguesa)

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Preliminary remarks

Portugal hereby submits its fifth Report that has been prepared in accordance with the reporting system adopted by the Committee of Ministers on 26th March 2008 for the presentation of the national reports concerning their national implementation of the revised European Social Charter.

The Report deals with group 3 (area of right of the work) concerning Articles 2, 4, 5, 6, 21, 22, 26, 28 and 29 and the period under review: 1 January 2005 until 31 December 2008.

The 5th Report is a follow-up to earlier reports submitted by Portugal on the national implementation of the obligations laid down in the revised European Social Charter. It does not refer to the individual provisions of the Charter unless either the remarks of the European Committee for Social Rights of the European Social Charter (by way of simplification hereinafter referred to as "Committee") in particular in the conclusions give reason for this, or if relevant amendments in the material and legal situation have occurred.

ARTICLE 2

RIGHT TO JUST CONDITIONS OF WORK

Paragraphs 1 to 4

Update to the information supplied in the 2nd European Social Charter (revised) Report

During the period covered by the present report, there were no changes to the existing legislation, and no new legislation was published. The provisions of the Revised European Social Charter have thus been analysed in the light of the Labour Code (CT) approved by Law no. 99/2003 of 27 August 2003, and of Law no. 35/2004 of 29 July 2004.

Other than this we would only point to the Tripartite Agreement on a New System for Regulating Labour Relations, the Employment Policies and Social Protection in Portugal (SRRLPEPSP), which the Government and virtually all the social partners signed in June 2008. This Agreement formed the basis for the revised Labour Code which was approved by Law no. 7/2009 of 12 February 2009, and which proposed the creation of the group adaptability format.

It also recommended the creation of two other formats for organising working hours, which are designed to reconcile an enterprise's operational needs with the interests of its workers:

- The possibility of collective labour regulation instruments that would allow the creation of hour banks, whereby working hours could be increased by up to 4 hours/day, to a maximum of 60 hours/week and 200 additional hours per annum, and then the additional hours worked in this way could be compensated for by reductions of the same number of hours, monetary payment, or both.

- The possibility of collective labour regulation instruments or individual agreements between employers and workers, whereby normal working hours could be concentrated into working weeks of three to four days by increasing the number of hours worked each day by up to 4, with the obligation to maintain the normal average number of hours worked per week over each 45-day reference period.

Lastly, the Agreement proposed to make it possible:

- For collective labour regulation instruments to derogate from the rules governing periods of paid rest given in compensation for overtime worked on normal working days, on days otherwise designated as periods of compensatory rest, or on public holidays, by permitting overtime to be compensated for in the form of reductions of the same number of hours, monetary payment, or both.

- For individual workers to choose, subject to their employer's agreement, to take paid leave and compensate for such absences by working on other occasions, which are then not counted as overtime.

Daily and Weekly Working Hours

Article 163(1) of the Labour Code states that a normal working period cannot exceed 8 hours per day and 40 hours per week.

Collective labour agreements can provide for these limits to be exceeded in the situations provided for by Article 167(2) of the Labour Code. Article 168 of the same Code states that collective labour agreements can decrease these normal limits, but that in such cases the workers' pay cannot be reduced.

Under Article 164 of the Code, collective labour agreements can also allow adaptable working hours, in such a way that the normal weekly period can be worked on an average basis. In this case the daily limit can be increased by up to 4 hours, with a maximum weekly limit of 60 hours (overtime worked due to situations of force majeure do not count towards this limit), and a maximum average in each 2-month period of 50 hours/week.

The period of reference can be determined by the collective labour agreement, up to a maximum of 12 months. If the agreement does not specify the period, the maximum is 4 months, or 6 months in the cases provided for by Article 166(2) and (3) of the Labour Code (these provisions concern workers' needs, or the specific nature or circumstances of their work, or the area in which the enterprise works).

Article 169 of the Labour Code states that the average number of hours worked per week, including overtime, cannot exceed 48. The respective period of reference can be determined by the applicable collective labour agreement, up to a maximum of 12 months. In the absence of such a provision/agreement, the maximum period is 4 months.

➔ In the timeframe covered by the present report, **130** recorded collective labour agreements stipulated normal working weeks below the legal norms, ranging from **23 hours/week** (private education) to **39 hours/week**, with normal working days of between **6 hours** and **7.5 hours**.

Where adaptability was concerned, **91** recorded collective labour agreements provided for periods of reference of between **2 weeks** and **12 months**; of these, the largest single number – **37** agreements – stipulated a reference period of **4 months**. The increase in daily hours worked varied from **1 hour** to **4 hours**.

The majority of collective labour agreements did not differentiate between professional groups when they determined working hours, although **53** of them did stipulate shorter durations for administrative staff, and for certain professional categories in the private education sector (normal and special) and in charities, compared to the hours worked by most other professional groups. There is no available information as to any relationship between reductions in working hours and increases in productivity.

Paid Public Holidays

Article 208 of the Labour Code lists 13 mandatory public holidays. In addition to this, Article 209 provides for 2 optional ones.

Work done of a public holiday is considered overtime and entitles the worker to a 100% increase in pay for each hour worked (Article 258[2] of the Labour Code).

Work done on a public holiday can also be normal work in the event that the enterprise in question is dispensed from the requirement to suspend its activities on such days and the work is not done outside standard working hours (Article 259[2] of the Labour Code).

➔ In the timeframe covered by the present report, **126 recorded** collective labour agreements provided for an increase in the hourly rate greater than that set out in Article 258(2), ranging from **+120%** to **+300%**. Of these, **12** differentiated between overtime on public holidays worked during the daytime and that worked at night, with a higher rate for night-time work; and **3** established different rates for overtime worked on certain public holidays.

Holidays

Article 213(1) of the Labour Code states that annual holidays must comprise at least 22 working days. Paragraph (3) of the same Article goes on to say that this can be increased to up to 25 days per annum in the case of workers who are particularly assiduous, in the sense that in the previous year they were never absent from work without due justification, and were only absent with due justification as follows:

- absent for a maximum of one full day or two half-days: 3 extra days of holiday.
- absent for a maximum of two full days or four half-days: 2 extra days of holiday.
- absent for a maximum of three full days or six half-days: 1 extra day of holiday.

➔ **82** collective agreements stipulated an annual minimum above that laid down by law. These varied from **23** to **33 working days**, as follows:

- 18 collective agreements provide for **23 days.**
- 1 collective agreement provides for **24 days.**
- 47 collective agreements provide for **25 days.**
- 7 collective agreements provide for **26 days.**
- 3 collective agreements provide for **27 days.**
- 1 collective agreement provides for **28 days.**
- 3 collective agreements provide for **30 days.**
- 2 collective agreements provide for **33 days**.

These increases in annual holidays cut across every sector of the economy.

57 collective labour agreements do not impose any requirements on the increase in annual holidays; the other **25** subject it to certain conditions, such as **assiduity** (**15**), the **worker's age** (**3**), the **number of years the worker has been with the enterprise** (**2**), **taking the majority of the entitlement outside the time of year when most workers take their holidays** (**1**), **two, or four, of the above conditions** (**3**), and others (**1**).

TABLE 2.1.1.

Average Weekly Hours Worked by Employees (Full and Part-Time) during Normal Working Hours, by NUT and by Level of Qualification – Men and Women

(Mainland and Autonomous Regions)

Level of Qualification	2005				2006				2007			
	Mainland	Madeira	Azores	*Total*	Mainland	Madeira	Azores	*Total*	Mainland	Madeira	Azores	*Total*
Senior Management	35.42	34.96	35.23	35.20	35.51	35.29	35.24	35.35	34.98	33.45	35.10	34.51
Middle Management	34.52	34.82	35.63	34.99	34.91	35.06	35.46	35.14	35.83	36.84	35.90	36.19
Foremen, Supervisors, Team Leaders	37.92	38.04	37.84	37.93	38.19	38.14	38.13	38.15	38.32	38.42	38.07	38.27
Highly Qualified Professionals	36.38	37.07	36.91	36.79	36.84	37.21	36.82	36.95	37.10	37.85	36.88	37.28
Qualified Professionals	36.78	36.72	37.21	36.90	37.14	37.19	37.41	37.25	37.38	37.39	37.48	37.42
Semi-Qualified Professionals	36.88	37.65	36.68	37.07	37.04	37.63	36.98	37.22	37.14	37.78	37.25	37.39
Unqualified Professionals	33.31	33.93	34.73	33.99	33.50	34.19	34.95	34.22	33.44	34.48	35.01	34.31
Labourers and Apprentices	36.30	36.71	36.22	36.41	36.64	36.32	36.69	36.55	36.86	35.47	37.46	36.60
N.a.	32.03	34.64	35.05	33.91	32.76	34.08	35.28	34.04	32.58	34.44	35.07	34.03
TOTAL	**35.50**	**36.06**	**36.17**	**35.91**	**35.84**	**36.12**	**36.33**	**36.10**	**35.96**	**36.23**	**36.47**	**36.22**

Source: GEP/MTSS-SISEB/Staff Tables

TABLE 2.1.2

Average Weekly Hours Worked by Employees (Full and Part-Time) during Normal Working Hours, by NUT and by Level of Qualification – Men and Women

(Mainland and Autonomous Regions)

Level Of Qualification	2005				2006				2007			
	Mainland	Madeira	Azores	*Total*	Mainland	Madeira	Azores	*Total*	Mainland	Madeira	Azores	*Total*
Senior Management	35.59	35.23	35.49	35.44	35.61	35.55	35.33	35.50	35.08	33.55	35.17	34.60
Middle Management	34.73	35.06	35.86	35.21	35.05	35.38	35.60	35.34	35.97	37.24	36.03	36.41
Foremen, Supervisors, Team Leaders	38.50	38.93	38.54	38.66	38.71	38.90	39.15	38.92	38.88	39.03	39.27	39.06
Highly Qualified Professionals	36.85	37.77	38.08	37.57	37.24	37.77	38.03	37.68	37.47	38.34	37.95	37.92
Qualified Professionals	37.26	37.67	37.87	37.60	37.61	37.96	38.15	37.91	37.86	38.12	38.19	38.06
Semi-Qualified Professionals	37.35	38.46	37.35	37.72	37.45	38.23	37.46	37.71	37.55	38.22	37.78	37.85
Unqualified Professionals	33.70	34.73	35.19	34.54	33.88	34.75	35.39	34.67	33.84	35.01	35.58	34.81
Labourers and Apprentices	36.59	36.96	36.71	36.75	36.93	36.51	37.23	36.89	37.17	35.73	37.86	36.92
N.a.	32.74	35.55	35.18	34.49	33.43	34.62	36.13	34.73	33.24	34.93	35.78	34.65
TOTAL	**35.92**	**36.71**	**36.70**	**36.44**	**36.21**	**36.63**	**36.94**	**36.59**	**36.34**	**36.69**	**37.07**	**36.70**

Source: GEP/MTSS-SISEB/Staff Tables

During the period covered by the present report, the legal framework governing working conditions (the data presented herein were taken from the Labour Inspectorate's Annual Activity Reports for 2005 to 2008, which were drawn up in accordance with Articles 20 and 21 of ILO Convention no. 81 and Articles 26 and 27 of ILO Convention no. 129) was marked by the Portuguese legislative authorities' decision to codify our labour legislation. This resulted in the publication of a Labour Code that came into force on 30 August 2004. Compliance with the legal provisions on the right to working conditions in the workplace is controlled by labour inspectors, the number of whom who were engaged in this task in each year is shown in the following Table (Table 2.1.3).

TABLE 2.1.3
Variation in the number of serving labour inspectors 2005/2008

Year		2005	2006	2007	2008
No. of serving labour inspectors	**Men**	136	117	123	113
	Women	130	133	160	151
	Total	266	250	283	264

Source: ACT

The work they have been doing can be seen from the following Table (Table 2.1.4), which shows: the number of establishments that were the object of at least one inspection concerning one or more aspects of the labour law; the number of times those establishments were visited; and the number of workers employed at the establishments in question.

TABLE 2.1.4
Establishments visited, inspection visits, and workers covered 2005/2008

Year	2005	2006	2007	2008
Establishments visited	31,593	35,662	38,348	62,477
Inspection visits	53,651	65,284	60,989	71,442
Workers covered	550,535	568,926	564,715	620,246

Source: ACT

The results of the labour inspectors' interventions in workplaces within the timeframe covered by the present report can be seen from Table 2.1.5, which shows how many infractions against the legal rules were the object of proceedings that led to the imposition of monetary sanctions on employers, as provided for by law (the Labour Code).

TABLE 2.1.5
Infractions in the field of the duration and organisation of working hours, which were reported by labour inspectors in 2005/2008

Year			2005	2006	2007	2008
Reported infractions	Duration and organisation of working time		963	951	963	973
	Display of the organisation of working time	Working time: charts	1,401	1,470	7,793	1.613
		Transport by road / Road transport	560	978	372	908
		Overtime record	368	376	481	356
	Total		3,292	3,775	3,609	3,850

Source: ACT

The minimum 22 working days of annual holiday must be scheduled by April each year and displayed in the form of a chart in the workplace. The following Table (2.3.1) shows the number of cases in which labour inspectors reported infractions involving a breach of this obligation. When holidays are not taken, or are taken but not paid, the labour inspectors calculate the amounts in question and require the employer to pay them. The Table also gives the value of the payments that were ordered in this way.

TABLE 2.3.1
Infractions concerning failures to draw up holiday charts reported by inspectors, and overdue amounts in situations of non-payment of holidays and holiday bonuses, in 2005/2008

Year		2005	2006	2007	2008
No. of reported infractions concerning failures to draw up holiday charts		202	202	222	133
Payments ordered (in €)	Holidays	63,873	25,361	83,191	70,609
	Holiday bonus	363,456	604,698	451,076	640,914
	Total (holidays + bonus)	427,329	630,059	534,267	711,523

Source: ACT

As a result and/or as a further development of the transposition of Directive 89/391/EEC into Portuguese law and its individual directives, (in the shape of the Labour Code and the related special legislation) laying down a set of obligations in relation to the management of health and safety at work. These include planning, organising preventive activities, and collecting, treating and publicising the results of those activities. The first line of Table 2.4.1 shows the number of infractions that labour inspectors reported in this field.

Some sectors of activity are particularly dangerous and are therefore the object of specific legislative provisions. They include construction and public works (Executive Law no. 273/2003 of 29/10/2003), the extractive industry (Executive Law no. 324/95 of 29/11/1995), and fisheries (Executive Law no. 116//97 of 12/05/1997). The second line of Table 2.4.1 gives the number of infractions that labour inspectors reported in this field, most of which concerned the construction business.

The prevention of chemical risks (including cancerogenous agents and asbestos), physical risks (particularly the safety of workplaces, working equipment, exposure to noise and vibrations, and the manual movement of loads), and biological agents are addressed by Portuguese legislation derived from the European Community. The third line of Table 2.4.1 lists the number of infractions that labour inspectors reported in this field.

TABLE 2.4.1
Health and safety at work (HSW) infractions reported by labour inspectors

Year	2005	2006	2007	2008
1. HSW organisation and management	2,209	2,361	2,660	3,612
2. Special sectors of activity	2,628	1,791	2,939	2,898
3. Chemical, physical and biological risks	186	213	298	268
Total	5,023	4,365	5,897	6,778

Source: ACT

The Labour Inspectorate's[1] annual activity plans for the period covered by the present report have particularly prioritised intervention in the sectors of activity mentioned above. The Inspectorate has undertaken communication and publicity campaigns designed to inform the various social actors about the prevention of occupational exposure to asbestos (2006) and the manual movement of loads (2007 and 2008), all of which were incorporated into the Europe-wide campaigns promoted by the Senior Labour Inspectors' Committee (SLIC) The Labour Inspectorate also conducted a campaign to prevent exposure to silica (2008).

[1] Working Cobditions Authority

Paragraphs 5 to 7

During the period covered by the present report, there were no changes to the existing legislation, and no new legislation was published.

➔ During this period we recorded **50** collective labour agreements that permit the weekly rest period to be taken on days that do not include Sunday. This situation is especially prevalent in the bakery, transport, hotel, textile, telecommunications, and waste treatment sectors. The circumstances in which the obligatory weekly rest period does not necessarily coincide with Sundays are those provided for by Article 205(2) and (3) of the Labour Code, but we have also identified **10** collective agreements in which this situation is not linked to a particular professional category.

The Labour Code requires employers to provide their workers with written information about the most important aspects of their labour contracts. Table 2.5.1 shows how many infractions were reported by labour inspectors in this respect.

TABLE 2.5.1
Infractions concerning the duty to inform workers, which were reported by labour inspectors

Tear	2005	2006	2007	2008
No. of infractions reported	70	105	91	94

Source: ACT

The annual reports of the Portuguese Labour Inspectorate do not contain data that would enable us to know how many reported infractions specifically concerned night-time working. Albeit they are not broken down as such, infractions of this kind are nonetheless included in the data presented in Table 2.1.5.

ARTICLE 4

RIGHT TO A FAIR REMUNERATION

Paragraph 1

Update to the information supplied in the 2nd European Social Charter (revised) Report

During the period covered by the present report, collective bargaining continued to tend to be the key instrument for deciding salaries in virtually every sector of activity in Portugal, subject to the minimum laid down by the State (table 4.1.1.).

Everyone who is employed by a third party, whatever the sector of activity, is covered by the legislation that determined and then updated the Minimum National Wage (SMN). Under the terms of Article 266 of the Labour Code[1] every worker is guaranteed a minimum monthly remuneration, the amount of which is set each year by special legislation, following consultation of the Standing Committee of the Social Concertation Commission - CCS (tables 4.1.2; 4.1.3; 4.1.4).

The only point of note during the period that is of interest to us here were the changes in the amount of the guaranteed minimum monthly remuneration:

- **Executive Law no. 238/2005** of 20 December 2005 specified the sum of **€ 385.90** for **2006**. In December 2006, the Government and the social partners signed an Agreement on the future variation of the guaranteed minimum monthly remuneration, which was to rise to **€ 450 in 2009 and € 500 in 2011**. In the wake of this Agreement **Executive Law no. 2/2007** of 3 January 2007 set **€ 403** as the **guaranteed minimum monthly remuneration for 2007**, while **Executive Law no. 397/2007** of 31 December 2007 adopted the sum of **€ 426 for 2008.**

One of the situations that the Labour Inspectorate focuses on is any failure to pay, or payment of less than, the amount laid down each year by the law that sets the Minimum National Wage, or the amount of remuneration of any kind determined by a collective labour regulation instrument (be it an agreement or otherwise). In such cases the labour inspectors calculate the amounts in question and order the employer to pay them. Table 4.1.5 shows the sums involved in such cases.

[1] Approved by Law no. 99/2003, of 27 August 2003, which repealed Executive Law no. 69-A/87 of 9 February 1987 (the law governing the national minimum wage).

TABLE 4.1.1
Collective Labour Regulation Instruments in force

Portugal

Year	Number of CLRI's	Number of workers covered
1985	465	1,775,473
1986	453	1,773,193
1987	471	1,812,750
1988	469	1,863,277
1989	473	2,019,726
1990	-	-
1991	487	2,096,452
1992	488	2,126,215
1993	504	2,065,502
1994	525	2,031,937
1995	513	2,060,423
1996	520	2,060,639
1997	518	2,167,112
1998	524	2,249,133
1999	528	2,374,796
2000	539	2,464,252
2001	-	-
2002	549	2,564,448
2003	568	2,617,656
2004	591	2,686,020
2005	594	2,854,297
2006	597	2,882,984
2007	613	2,970,042

Source: GEP/MTSS, Staff Tables

TABLE 4.1.2
Average monthly pay by Economic Activity and by Gender (in Euros)

		2005		2006		2007		2008
CAE Rev. 2		April	October	April	October	April	October	April
Total	T	945.39	959.55	986.04	997	1024.55	1033.84	1063.38
	M	1051.78	1066.38	1094.15	1111.81	1142.99	1152.89	1185.78
	F	791.81	803.07	825.51	829.79	858.96	869.46	894.64
C Extractive industries	T	914.73	928.04	897.06	928.1	959.99	989.31	1018.39
	M	910.1	927.44	892.94	924.83	960.92	988.89	1016.83
	F	957.26	933.82	941.64	959.53	953.21	992.61	1030.24
D Transforming industries	T	831.73	843.1	864	871.74	892	894.01	927.73
	M	962.77	973.73	998.22	1008.47	1026.16	1026.43	1066.84
	F	641.99	654.89	668.62	674.89	692.36	698.97	724.51
E Prod. and dist. of elect. gas and water	T	1382	1438.06	1463.22	1528.79	1575.32	1631.06	1685.45
	M	1380.21	1442.36	1472.14	1551.32	1586.07	1645.77	1699.71
	F	1391.36	1415.58	1417.99	1415.62	1521.86	1563.02	1617.64

F Construction	T	792.14	803.29	826.35	845.58	872.66	886.21	909.36
	M	785.37	798.64	820.31	844.42	866.71	880.43	902.36
	F	847.34	837.93	881.99	855.45	925.48	930.14	967.52
G Wholesale and retail, repair of automobiles	T	897.42	906.91	936.86	938.43	944.91	952.6	986.57
	M	996.12	1014.55	1033.29	1042.4	1045.39	1056.35	1087.36
	F	767.47	756.81	793.89	788.67	808.05	811.78	852.39
H Accommodation and restaurants	T	628.61	642.5	644.14	658.16	658.83	673.38	669.17
	M	728.72	753.53	767.91	790.92	793.34	797.29	796.14
	F	546.77	554.21	559.93	564.99	570.17	595.67	592.25
I Transport, wareho. and communications	T	1450.43	1441.66	1479.38	1499.56	1533.13	1545.12	1616.42
	M	1469.48	1456.37	1431.08	1517.04	1554.53	1554.23	1631.03
	F	1397.61	1399.52	1496.05	1446.99	1470.59	1518.07	1575.08
J Financial activities	T	1902.11	1974.45	1997.6	2052.86	2064.36	2110.94	2172.81
	M	2130.41	2209.99	2236.98	2292.83	2312.06	2371.59	2450.99
	F	1578.47	1619.34	1646.15	1704.2	1774.12	1810.82	1860.87
K Real-estate activ. and busin. services	T	1201.25	1218.36	1254.15	1269.68	1300.57	1309.81	1333.46
	M	1389.46	1368.7	1417.82	1448.99	1496.86	1509.37	1524.54
	F	956.33	1025.98	1035.61	1052.3	1046.93	1046.94	1059.46
M Education	T	1062.66	1068.81	1105.67	1089.94	1153.78	1159.53	1180.38
	M	1302.59	1272.66	1328.7	1305.25	1394.01	1369.44	1394.16
	F	980.57	1000.15	1030.98	1018.86	1069.38	1084.91	1104.32
N Health and social action	T	777.49	778.2	819.32	827.82	860.54	871.32	905.93
	M	1095.8	1089.63	1158.17	1167.17	1220.19	1265.91	1285.94
	F	732.24	731.29	765.95	771.32	800.09	808.57	844.34
O Other activities, collective, social and personal serv.	T	1126.55	1148.26	1186.62	1180.08	1212.94	1252.27	1245.32
	M	1454.08	1520.28	1524.58	1544.42	1580.4	1635.53	1608.55
	F	884.1	891.62	938.1	924.73	942.86	961.12	970.64

Source: GEP/MTSS, Survey of Pay and Working Hours *(in Portuguese)*

TABLE 4.1.3
Average monthly pay by Professional Level (in Euros)

	2005		2006		2007		2008	Variation
CAE Rev. 2	April	October	April	October	April	October	April	Apr08/Apr07
Total	945.39	959.55	986.04	997	1024.55	1033.84	1063.38	3.8
Managers	2847.67	2780.97	2904.4	2875.26	2968.33	3149.11	3136.4	5.7
Employees	985.63	1007.62	1041.49	1054.25	1084.04	1086.07	1121	3.4
Labourers	709.33	713.04	726.74	734.84	761.21	757.78	784.34	3
Apprentices	511.58	515.57	527.24	525.34	541.18	564.36	587.54	8.6

Source: GEP/MTSS, Survey of Pay and Working Hours *(in Portuguese)*

TABLE 4.1.4
Average monthly basic remuneration by Professional Level (in Euros)

	2005		2006		2007		2008	Variation
CAE Rev. 2	April	October	April	October	April	October	April	Apr08/Apr07
Total	797.24	809.34	832.35	840.08	860.22	865.68	891.44	3.6
Managers	2595.51	2547.92	2655.15	2664.55	2762.45	2938.24	2898.46	4.9
Employees	835.39	853.02	879.59	888.73	911.69	909.16	939.88	3.1
Labourers	571.58	575.23	592.11	593.7	610.96	606.22	632.15	3.5
Apprentices	430.46	431.64	444.5	436.51	452.65	458.5	468.77	3.6

Source: GEP/MTSS, Survey of Pay and Working Hours *(in Portuguese)*

TABLE 4.1.5
Full-time workers covered by the Minimum Wage, by Occupational Activity, as a percentage of full-time employees

	2005		2006		2007		2008
CAE Rev. 2	April	October	April	October	April	October	April
Total	4.8	4.5	4	4.5	5.5	6	6.8
C – Extractive industries	1.9	2.5	1.6	2.3	2.5	1.8	1.6
D – Transforming industries	6.1	5.8	5.1	5.6	6.6	6.8	8.4
E - Prod. and dist. elect., gas and water	0.1	0.2	0.3	0.1	0.2	0.1	0.1
F - Construction	4.8	4	3.4	3.3	4.8	4.9	5.9
G – Wholesale and retail	3.7	4.3	4	4.2	5.9	6.6	7.9
H – Accommodation and restaurants	10.4	7.5	8.2	10.2	12.6	13.9	11
I – Transp., wareho. and communication	0.7	0.7	1	1.4	0.6	1.1	0.7
J – Financial activities	0.2	0.2	0.1	0	0.1	0.1	0.4
K – Real-estate activ. and bus. services	4.9	4	2.8	4.2	5	4.7	6
M – Education	2	2.5	1.2	0.9	2.2	1.6	2.3
N – Health and social action	2.7	2.4	2.7	3.1	4.3	5.3	5.9
O - Other activ., collective, social and personal services	6.1	8.7	4.6	5.9	4.2	6.3	6.3

Source: Survey of Pay and Working Hours *(in Portuguese)*

TABLE 4.1.6
Amount of orders to pay salaries (in Euros)

Year	2005	2006	2007	2008
Basic remuneration	3,194,233	7,064,261	6,346,977	6,994,091
Christmas bonus	363,579	529,551	767,522	683,336
Other remunerations	2,609,532	2,469,124	4,383,614	2,876,619
Total	6,167,344	10,062,936	11,498,113	8,360,763

Source: GEP/MTSS

Paragraph 2

In terms of this paragraph we should mention the Tripartite Agreement on a New System for Regulating Labour Relations, the Employment Policies and Social Protection (SRRLPEPSP), which is also referred to under Article 2 of the present Report, This Agreement was signed by the Government and virtually all the social partners in June 2008, and underlay the revised Labour Code approved by Law no. 7/2009 of 12 February 2009. It provisions include proposals:

- Not to count work done in compensation for periods of absence as overtime, when so proposed by the worker and accepted by the employer, and subject to the limits imposed by law.

- To allow collective labour agreements to regulate the way in which overtime is recompensed (monetary compensation, compensation in the form of rest, or the creation of holiday and leave periods that are not provided for by law).

Paragraph 3

The new form says that **Member States that have accepted Article 20 of the European Social Charter (revised) do not need to answer the questions on Article 4§3**, but may instead address them in their answers in relation to Article 20.

As such, and given that Portugal is bound by Article 20 of the European Social Charter (revised), our answer in relation to Paragraph 3 will be given in conjunction with that concerning Article 20.

Paragraph 4

On the subject of this paragraph the 2008 Tripartite Agreement proposed changes to the minimum prior notice for collective redundancies, as follows:

a) 15 days, if the redundancy affects a worker who has been employed by the enterprise for less than one year.

b) 30 days, if the redundancy affects a worker who has been employed by the enterprise for more than one and less than five years.

c) 60 days, if the redundancy affects a worker who has been employed by the enterprise for more than five and less than ten years.

d) 75 days, if the redundancy affects a worker who has been employed by the enterprise for ten years or more.

In the event that a collective redundancy affects both spouses, the minimum notification period is that applicable to the scale immediately above the one that would apply if only one of them were being made redundant.

The prior notification periods in cases of redundancy due to the abolition of the worker's job, and in cases of dismissal for lack of suitability, have also been changed and are now the same as those applicable to collective redundancies.

➔ During the period covered by the present report, we were not notified of any collective labour agreements that made use of the option offered by the provisions of the Labour Code in this matter. The only postscript to this concerns the prior notification to be given upon termination of a trial period, in relation to which **3** collective agreements require more time than that stipulated by Article 105(2) of the Labour Code, when the trial period has lasted for more than 60 days. This in fact goes in the opposite direction to Article 110(1) of the Labour Code, which says that collective labour agreements can reduce the prior notification of the trial period.

Paragraph 5

Nothing new to report.

ARTICLE 5

THE RIGHT TO ORGANISE

Update to the information supplied in the 1st European Social Charter (revised) Report

In the Chapter on Worker's Rights, Freedoms and Guarantees, the Constitution of the Portuguese Republic (CRP) enshrines both workers' freedom to form, belong to and operate trade unions and the rights of trade unions themselves, particularly those concerning collective bargaining, and the right to strike, all of which it includes in the category of fundamental rights and duties.

Paragraph (1) of Article 55 of the CRP acknowledges that workers are entitled to this freedom "as a condition and guarantee of the building of their unity in defence of their rights and interests" Paragraph (2) guarantees that in the exercise of their freedom in relation to trade unions, workers enjoy the freedom to form trade unions at every level and the freedom of membership without any discrimination, including the right not to pay dues to unions to which they do not belong.

The Labour Code (CT) develops these constitutional rules. Article 475(1) states that workers are entitled to form trade unions at any level in order to defend and promote their socio-professional rights. Article 479(1) guarantees them the right to join a trade union that represents their professional category, without any discrimination; while paragraph (4) of the same Article recognises a worker's right to leave a trade union at any time, subject to giving written notice at least 30 days in advance.

This freedom in relation to trade unions is reflected in the autonomy and independence with which trade unions are entitled to organise themselves – a right that is established by Article 55 of the CRP and regulated by Articles 452 480 and 481º of the CT.

Trade unions are governed by articles of association and regulations which they themselves establish, their officeholders must be elected freely and democratically from among their members, and they are entitled to organise themselves and manage their own activities. No one can simultaneously occupy a senior position in both a trade union and a political party, a religious institution, or any other association in relation to which there would be a conflict of interest (Articles 480 and 481 of the CT).

The individual freedom to form, belong to and operate a trade union is protected by both the prohibition of discriminatory acts (Article 453 of the CT) and the generic legal provisions on equality and non-discrimination (in particular, Articles 22 and 23 of the CT and 32 and 34 of Law no. 35/2004).

Article 22(2) of the Labour Code states that no worker or job seeker may be privileged, benefited, prejudiced, deprived of any right, or exempted from any

duty because he/she belongs to a trade union (among other prohibited reasons). Article 23(1) forbids employers from directly or indirectly discriminating against anyone on the basis of the fact that they belong to a trade union (among other prohibited reasons). Article 33d of Law no. 35/2004 adds that the right to equal opportunities and treatment in access to employment, vocational training and promotions and to proper working conditions also covers belonging to and taking part in workers' organisations.

RESTRICTIONS

Article 270 of the CRP permits restrictions on the exercise of the rights of expression, meeting, demonstration, association and collective petition by military and militarised personnel, and by members of police forces and security services. This means that military personnel [Article 6i of Law no. 53/98 of 18 August 1998], members of the Maritime Police and militarised personnel on active service (Article 3 of Organisational Law no. 4/2001 of 30 August 2001), and members of the PSP police force who perform policing functions [Article 3d of Law no. 14/2002 of 19 February 2002] are not allowed to strike.

Legal Framework governing the Security Force – GNR and PSP

I. The legal framework governing the **Republican National Guard (GNR)** is completed by: Law no. 39/2004 of 18 August 2004, which lays down the principles and general bases underlying the exercise of the right of military personnel in the GNR to form professional associations, and puts the restrictions permitted by Article 270 of the CRP into practice; and Executive Law no. 233/2008 of 2 December 2008, which regulates Law no. 39/2004.

One of the main restrictions is that it is prohibited for associations of GNR personnel to possess a party-political or trade-union nature (Articles 1[2] and 6d of Law no. 39/2004 of 18 August 2004). However, as part of the work they do to represent their members and defend their statutory, professional and deontological interests, such associations do possess a considerable range of rights. These include the right to be represented on consultative councils, study committees and working groups, the right to be consulted by the GNR's governing bodies, the right to make proposals and give formal opinions, the right to hold meetings on GNR premises, the right to promote activities and issue publications, the right to display documents, and the right to establish relationships with similar international associations, federations and organisations.

There are currently **four professional associations of personnel belonging to the Republic National Guard**.

II. Besides the provisions of the CRP, in the case of the **Public Security Police (PSP)** the right to organise is governed by Law no. 6/90 of 20 February 1990 (the Law Governing Associations in the PSP, the general bases established by which are regulated by Executive Law no. 161/90 of 22 May 1990), and by Law no. 14/2002 of 19 February 2002. The latter regulates the exercise of the freedom to form, belong to and operate

trade unions, and the rights of PSP personnel who perform policing functions to collective bargaining and participation in the running of the police force.

Under the terms of these Laws PSP personnel are thus entitled to form professional associations, which in turn possess rights such as that to represent their members and defend their statutory, professional and deontological interests, help define the statute governing the profession, and be consulted in relation to police working conditions, among others (Law no. 6/90 of 20 February 1990). PSP officers also enjoy the freedom to form, belong to and operate trade unions, as laid down by the CRP and by Law no. 14/2002 of 19 February 2002. However, PSP personnel with policing functions are subject to the restrictions, which Article 3 of the latter Law imposes on the exercise of this freedom. These restrictions are linked to the specific characteristics of the nature and mission of this security force.

There are currently nine trade unions for PSP personnel who perform policing functions, and two for staff who perform other functions.

Legal Framework governing the Armed Forces

- **The Law Governing National Defence and the Armed Forces (LDNFA):**

Article 31 of the LDNFA[1] states that in the case of members of the armed forces, the exercise of the rights of expression, meeting, demonstration, association and collective petition and the right to stand for election are subject to the rules set out in paragraphs A to F of the same Article.

Article 31-D addresses the freedom of association. Paragraph (1) says that both permanent serving members of the armed forces who volunteered for service and those who are engaged under contract are entitled to form any type of association, including professional ones, except for associations which possess a political, party-political, or trade-union nature. Paragraph (2) stipulates that the exercise of this right must be regulated by a specific law.

The right of military personnel to form professional associations was regulated by Organisational Law no. 3/2001 of 29 August 2001. Article 1 states that "Serving military personnel, be they permanent members of the armed forces engaged under any form of arrangement, or those who are engaged under contract, shall possess the right to form professional associations that institutionally represent their members as regards assistance-related, deontological or socioprofessional matters."

Compared to the previous rules, this constituted a broadening of the scope of the activities of the professional associations to which military personnel are allowed to belong, given that they used to be restricted to associations of a deontological nature. Paragraph (2) of the same Article says that such

[1] Law no. 29/82 of 11 December 1982, as amended by Laws nos. 41/83 of 21 December 1983, 113/91, of 29 August 1991, 111/91 of 29 August 1991, and 18/95 of 13 July 1995, and by Organisational Laws nos. 3/99, of 18 September 1999, 4/2001 of 30 August 2001, and 2/2007 of 16 April 2007.

associations must be national in scope and must have their registered office in Portuguese territory.

Notwithstanding the fact that the law prohibits military personnel from taking part in trade-union activities[2], the law governing the right to professional association, which was approved by Organisational Law no. 3/2001 of 29 August 2001, *gives various rights to associations that are lawfully constituted by military personnel. These particularly include the right: to be represented on consultative councils, study committees and working groups that are formed in order to analyse matters that are of important interest to the institution, within the field of their specific responsibilities; to be consulted on questions concerning the professional, remuneratory and social status of their members; to hold meetings within the scope of the objectives set out in their articles of association; to express opinions on matters that are expressly included in the objectives set out in their articles of association; and to belong to and establish contacts with similar international associations, federations and organisations[3].*

Given the specific nature of the armed forces' mission, the restrictions on the exercise of certain rights by military personnel, which are permitted by Article 270 of the CRP, are necessary in order to ensure the cohesion, discipline and impartiality of those forces.

- **Executive Law no. 295/2007 – the Statute Governing Officeholders of Professional Associations of Military Personnel who Belong to the Armed Forces:**

Executive Law no. 295/2007 of 22 August 2007 defined the status and role of the officeholders of professional associations of military personnel who belong to the armed forces[4][5].

For the purposes of this Executive Law, any permanent or contracted military personnel who actively belong to the governing bodies of such professional associations are considered to be officeholders of the associations in question.

Article 3 states the general principle that military personnel cannot be prejudiced or benefited because they act as officeholders of military professional associations.

Taken in conjunction with Article 6, Articles 7 and 8 say that serving military personnel who act as officeholders of such associations may be dispensed from duties (except when they are on call) in order to take part in association meetings and in activities related to the work of their association.

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[2] See Article 31-D(1) of Organisational Law no. 4/2001 of 30 August 2001.

[3] Paragraphs a), b), e), g) and h) respectively of Article 2 of Law no. 3/2001 of 29 August 2001.

[4] In compliance with Article 4 of Organisational Law no. 3/2001 of 29 August 2001 – the Law Governing the Right of Professional Association by Military Personnel – which states that the status and role of the officeholders of such associations must be approved by the Government in the form of an Executive Law.

[5] Not all military personnel belong to the armed forces. Members of the GNR, for example, are also considered to be military personnel.

- **Law no. 9/2008 – Exercise of the Right of Association by Maritime Police personnel:**

The Maritime Police force is incorporated into the Maritime Authority System (SAM), within the framework of which[6] it is responsible for the policing work. It belongs to the operational part of the National Maritime Authority (AMN), and is an armed and uniformed police force composed of both military personnel from the Portuguese Navy and Militarised Agents[7].

It is important to note the publication of Law no. 9/2008 of 17 February 2008, which regulated the exercise of the right of association of Maritime Police personnel, as required by Law no. 53/98 of 18 August 1998 [8]. This Law represented the settlement of a dispute that had dragged on for a number of reasons. This process eventually culminated in the express recognition of the legitimacy of the right to associate in order to defend the collective legal rights and interests of the members of the association, and to collectively defend their individual legal rights and interests, as laid down by law.

Taken together, the definition by Executive Law no. 295/2007 of 22 August 2007 of the status and role of officeholders of professional associations of military personnel who belong to the armed forces, and the regulation by Law no. 9/2008 of 19 February 2008 of the right of association of Maritime Police personnel, completed the legal rules governing the framework for the exercise of the eight of association by military and militarised armed forces personnel.

Table 5.1 shows the total number of registered trade unions in Portugal in the last nine years.

TABLE 5.1
Registered trade unions, by year (mainland Portugal)

Type of organisation	2000	2001	2002	2003	2004	2005	2006	2007	2008
Trade unions	325	329	332	340	343	347	346	344	348
Federations	25	28	28	28	27	27	28	27	29
Unions	39	39	39	39	39	39	39	39	39
Confederations	5	7	7	7	7	7	8	8	8
Total	394	403	406	414	416	420	421	418	424

Source: DGERT, MTSS database

[6] Article 7(1)b of Executive Law no. 43/2002 of 2 March 2002, which created both SAM and the National Maritime Authority. The Executive Law configured the latter as the senior body with responsibility for the coordination of the Portuguese Navy units and services that possess responsibilities or undertake actions as part of SAM.
[7] See Articles 3(3) and 15 of Executive Law no. 44/2002 of 2 March 2002.
[8] Laid down the rules governing the exercise of certain rights of Maritime Police personnel.

TABLE 5.2
Police trade unions registered with the Directorate-General of Employment and Labour Relations (DGERT) under the terms of Article 483 of the Labour Code, as per Article 5 of Law no. 14/2002

Associação Sindical dos Profissionais da Polícia (Union Association of the Police Professionals)	ASPP/PSP
Associação Sindical dos Oficiais de Policia (Union Association of the Police Officials)	ASOPSP
Sindicato Independente da Carreira de Chefe de Polícia da Policia de Segurança Pública (Independent Union of the Police Leader Career of Public Security Police	SICCP
Sindicato Independente dos Agentes de Polícia (Independent Union of the Police Officers)	SIAP
Sindicato Nacional de Oficiais de Polícia (National Union of Police Officials	SNOP
Sindicato do pessoal com funções não policiais da Polícia de Segurança Pública (Union of the Personnels with non-police functions of the Public Security)	SPNP*

*Under the terms of Article 3 of the Articles of Association published in *Boletim do Trabalho e Emprego*, series 1, no. 16, 2005, the SPNP represents all the professionals in the Public Security Police who do not perform policing functions.
Source: DGERT, MTSS database

The following numbers of new trade unions were formed during the period covered by the present report (all sectors of activity):

TABLE 5.3
Trade unions formed

Year	No. of unions
2005	6
2006	11
2007	7
2008	6

Source: DGERT, MTSS database

The following numbers of new employers' associations were formed during the period covered by the present report (all sectors of activity):

TABLE 5.4
Employers' associations formed

Year	No. of associations formed
2005	13
2006	9
2007	4
2008	6

Source: DGERT, MTSS database

Article 56(1) of the CRP gives trade unions the responsibility and power to defend and promote the defence of the rights and interests of the workers they represent. To this end Article 477d of the Labour Code entitles trade unions to bring and intervene in lawsuits and administrative procedures concerning their members' interests, as laid down by law. Paragraphs (2) and (3) of the same Article recognise a number of other trade union rights.

In their work on the conditions needed to exercise the right of collective representation, the inspectors of the Working Conditions Authority (ACT) focused on matters concerning the protection of rights and guarantees awarded to workers' representatives in and because of the performance of their functions, the conditions needed to perform collective representation functions in enterprises, and the provision of information and dialogue between enterprises and the organisations that represent workers (tables 5.5. and 5.6).

TABLE 5.5
Situations inspected and results

Year / Subject	2002	2003	2004	2005	2006	2007
Confirmed Irregularities	9	6	2	3	3	1
Being Processed	5	15	12	10	16	3
Unconfirmed Irregularities	9	7	3	8	-	3
Solved	24	18	8	10	7	6
Official Reports	9	6	2	3	3	1

Source: ACT, 2008

TABLE 5.6
Collective Representation and Social Dialogue

Interventions	Visits	Notices to Take Measures	Official Warnings	Reports	Infractions re Employees	Fines imposed	
						Min.	Max.
1304	1304	181	217	997	59	215.887	625.851

Source: ACT, 2008

The inspectors made 1,304 visits designed to promote conditions that favour the exercise of workers' rights to collective representation and social dialogue.

The inspections they conducted in this respect led the ACT staff to issue 59 official reports on infractions, which resulted in the imposition of (minimum) fines in the sum of € 215,887. The labour inspectors also issued 217 official warnings.

ARTICLE 6
The right of workers to bargain collectively

Update to the information supplied in the 1st European Social Charter (revised) Report

Paragraph 1

There were no changes to the legislation on working conditions during the period covered by the present report, and both Law no. 99/2003 of 27 August 2003, which approved the Labour Code, and Law no. 35/2004 of 29 July 2004, which regulated the Code, remained in force.

Paragraph 2

There were no legislative changes during the period in question.

The following negotiated collective labour regulation instruments (IRCTs) were signed (data refers only to the private sector):

TABLE 6.2.1.

IRCT	2005	2006	2007	2008
Collective labour contracts	151	153	160	172
Collective labour arrangements	28	28	27	27
Single company agreements	74	65	64	97
Additional party agreements[1]	26	14	17	9
Voluntary arbitration decisions	-	-	-	-
TOTAL:	*279*	*260*	*268*	*305*

Source: ACT

In geographic terms, of the above collective labour agreements, the following possessed a national scope:

- **2005**: **150**
- **2006**: **166**
- **2007**: **153**
- **2008**: **190**

1,045 collective agreements were published between 1 January 2005 and 31 December 2008. Only 372 of them were considered relevant to the analysis of the subjects addressed by the provisions of the Revised European Social Charter. Of these, 314 were overall revisions or initial agreements, and 58 were partial amendments.

[1] These are agreements whereby one or more additional parties subscribe to an existing agreement or contract. They are not included in the total number of collective labour agreements given under Article 2, inasmuch as they do not make any changes to the working conditions provided for by the existing agreements.

Paragraph 3

No changes were made to the legislation during the period.

Paragraph 4

During the period covered by the present report, neither the legislation on the right to strike (Law no. 99/2003 of 27 August 2003, which approved the Labour Code, and Article 57 of the Constitution of the Portuguese Republic – CRP), nor the restrictions thereon (Article 270 of the CRP), was the object of any alteration. However, it should be noted that the Tripartite Agreement on a New System for Regulating Labour Relations, the Employment Policies and Social Protection (SRRLPEPSP), which the Government and virtually all the social partners signed in June 2008 and which formed the basis for the revised Labour Code that was approved by Law no. 7/2009 of 12 February 2009, contained the following proposals:

- *"Within the framework of the exception to the prohibition of the substitution of strikers, in the event that minimum services are not provided, it is expected that an enterprise that is contracted to perform the tasks of striking workers will limit its activities to that which is strictly necessary in order to provide those services.*
- *It is expected that when the minimum services that are to be provided during a strike are negotiated, if minimum services with the same content have already been defined by arbitration for two substantially identical earlier strikes, then the competent department of the ministry with responsibility for the labour field will propose to the parties that they accept the said definition, and any refusal to do so should be recorded in the minutes of the bargaining process.*
- *It is expected that once certain minimum services that are to be provided during a strike have been defined, the workers' representatives who designate the workers who are to provide those services will inform the employer thereof by the same deadline".*

TABLE 6.4.1.

2005

DURATION OF STRIKE	TOTAL			SINGLE COMPANY STRIKES			MULTI-COMPANY STRIKES		
	No. of Strikes	No. of strikers (thousands)	No. of work days lost (thousands)	No. of Strikes	No. of strikers (thousands)	No. of work days lost (thousands)	No. of Strikes	No. of strikers (thousands)	No. of work days lost (thousands)
TOTAL	**106**	**11.1**	**16.2**	**20**	**10.7**	**11.1**	**126**	**21.7**	**27.4**
LESS THAN 1 DAY	16	1.4	0.4	6	1.7	0.5	22	3.1	0.8
1 TO 5 DAYS	83	9.3	10.2	14	9.0	10.6	97	18.3	20.9
6 TO 10 DAYS	3	0.1	0.5	-	-	-	3	0.1	0.5
11 TO 15 DAYS	3	0.1	0.7	-	-	-	3	0.1	0.7
16 TO 25 DAYS	-	-	-	-	-	-	-	-	-
26 TO 50 DAYS	1	0.1	4.5	-	-	-	1	0.1	4.5
OVER 50 DAYS	-	-	-	-	-	-	-	-	-

Source: GEP/MTSS, Strikes *(in Portuguese)*

TABLE 6.4.2.

2006

DURATION OF STRIKE	TOTAL			SINGLE COMPANY STRIKES			MULTI-COMPANY STRIKES		
	No. of Strikes	No. of Strikers	No. of work days lost	No. of Strikes	No. of strikers	No. of work days lost	No. of Strikes	No. of strikers	No. of work days lost
TOTAL	**155**	**33,493**	**44,232**	**135**	**24,166**	**36,330**	**20**	**9,327**	**7,902**
LESS THAN 1 DAY	26	3,016	882	22	2,327	719	4	689	163
1 TO 5 DAYS	117	29,445	30,750	101	20,807	23,011	16	8,638	7,739
6 TO 10 DAYS	6	471	2,310	6	471	2,310	-	-	-
11 TO 15 DAYS	2	137	1,636	2	137	1,636	-	-	-
16 TO 25 DAYS	4	424	8,654	4	424	8,654	-	-	-
26 TO 50 DAYS	-	-	-	-	-	-	-	-	-
OVER 50 DAYS	-	-	-	-	-	-	-	-	-

Source: GEP/MTSS, Strikes *(in Portuguese)*

TABLE 6.4.3.

2007

DURATION OF STRIKE	TOTAL			SINGLE COMPANY STRIKES			MULTI-COMPANY STRIKES		
	No. of Strikes	No. of strikers	No. of work days lost	No. of Strikes	No. of strikers	No. of work days lost	No. of Strikes	No. of strikers	No. of work days lost
TOTAL	**99**	**29,164**	**29,851**	**83**	**8,004**	**9,761**	**16**	**21,160**	**20,090**
LESS THAN 1 DAY	17	1,275	343	15	1,021	266	2	254	77
1 TO 5 DAYS	75	27,633	28,321	61	6,727	8,308	14	20,906	20,013
6 TO 10 DAYS	3	180	842	3	180	842	-	-	-
11 TO 15 DAYS	3	60	281	3	60	281	-	-	-
16 TO 25 DAYS	1	16	64	1	16	64	-	-	-
26 TO 50 DAYS	-	-	-	-	-	-	-	-	-
OVER 50 DAYS	-	-	-	-	-	-	-	-	-

Source: GEP/MTSS, Strikes *(in Portuguese)*

ARTICLE 21

THE RIGHT TO BE INFORMED AND CONSULTED

Update to the information supplied in the 2nd European Social Charter (revised) Report

Paragraphs 1 and 2

The period covered by the present report saw the approval of two pieces of legislation that lay down specific rules governing workers' rights to be informed and consulted:

- Executive Law no. 215/2005 of 13 December 2005, which transposed Council Directive no. 2001/86/EC of 8 October 2001, which supplemented the Statute for a European company with regard to the involvement of employees, into Portuguese law.

This Executive Law contains specific provisions designed to ensure that the formation of a European joint-stock company does not lead to the elimination of, or any reduction in, the existing worker-involvement practices of the companies that participate in the formation.

Worker involvement in the activities of a European joint-stock company is guaranteed by the creation of a workers' council, of one or more information and consultation procedures, or of a worker participation system (Article 2 of Executive Law no. 215/2005 of 13 December 2005).

The Executive Law defines worker involvement as "*the procedure, including information, consultation and participation, via which the workers' representatives can influence the European joint-stock company's decisions"* (Article 4c).

The workers' council is *"the organisational structure which represents the workers of the European joint-stock company and those of its subsidiaries and establishments that are situated in the European economic area, and which is formed, in accordance with the terms of the present Executive Law, with the objective of informing and consulting the workers it represents, as well as, where appropriate, exercising participation rights related to the said company"* (Article 4a).

Article 40(1) specifies that the members of the workers' council must be appointed as follows:

"a) In the event that only the European joint-stock company exists in Portuguese territory, by agreement between the said company's workers' committee and the trade unions, or, if there are no trade unions, by the workers' committee;

b) In the event that both the European joint-stock company and one or more of its subsidiary companies exist in Portuguese territory, by agreement between their workers' committees and the trade unions, or, if there are no trade unions, by agreement between the workers' committees;

c) In the event that both the European joint-stock company and one or more of its subsidiary companies and one or more establishments exist in Portuguese territory, by agreement between their workers' committees and the trade unions, which trade unions must represent at least the workers of the said establishments;

d) By agreement between the trade unions that together represent at least two thirds of the workers of the European joint-stock company, its subsidiaries and its establishments;

e) In the event that the agreement provided for by the previous subparagraph does not occur, by agreement between the trade unions that each represent at least five per cent of the workers of the European joint-stock company, its subsidiaries and its establishments."

Paragraph a) of Article 4 defines information as "*the information which, at a given moment in time, the European joint-stock company provides to the workers' council or workers' representatives within the scope of an information and consultation procedure, on matters which jointly concern both the company and one or more of its subsidiaries or establishments located in another Member State, or which exceed the management powers of one or more subsidiaries or establishments, in such a way and with such a content that it enables the workers' representatives to analyse its object in depth and, where appropriate, to prepare consultations with the company's competent management body;".*

Consultation is defined as *"the procedure which, on the basis of information that the European joint-stock company has provided to the workers' council or workers' representatives within the scope of the information and consultation procedure, consists of the joint consideration at a given moment in time of the matters in question and the information provided, in such a way and with such a content that it enables the workers' representatives to issue a formal opinion on the measures that are to be adopted by the company's competent management body, which opinion can be taken into consideration in the decision concerned;"* (Article 4b).

The participation system is the *"procedure whereby the workers' representatives designate, elect, or recommend or oppose the appointment of, members of a European joint-stock company's management or supervisory body;"* (Article 4h).

- *Law no. 8/2008 of 18 February 2008, which transposed Council Directive no. 2003/72/EC of 22 July 2003, which supplemented the Statute for a European*

company with regard to the involvement of employees, into Portuguese law.

This Law created a system for involving workers in the activities of European joint-stock companies which was identical to that provided for by Executive Law no. 215/2005 of 13 December 2005.

It should be noted that on the subject of collective redundancies, the Tripartite Agreement on a New System for Regulating Labour Relations, the Employment Policies and Social Protection (SRRLPEPSP), which the Government and virtually all the social partners signed in June 2008 and formed the basis for the revised Labour Code which was approved by Law no. 7/2009 of 12 February 2009, proposed that the deadline for an employer to promote the existence of an information and bargaining phase with the body that represents its workers, with a view to reaching an agreement on the extent and effects of the measures to be taken, and on other measures designed to reduce the number of workers to be made redundant, be reduced from ten days after the date of the initial notification, to five days.

The following table shows the available data for 2008. The Labour Inspectorate's action plans have been giving priority to interventions in this field, both in terms of investigating complaints made by trade unions, and as regards proactive actions undertaken at the initiative of the inspection services themselves.

TABLE 21.1.1.

Data concerning the exercise of collective representation

Year	2005	2006	2007	2008 (*)
Requests for intervention (trade unions)	13	10	11	(**)
Infractions reported by inspectors	3	3	1	59

(*) Data collection subject to new parameters, including those concerning the information and consultation process.
(**) Not available.

An analysis of the collective agreements published between 2005 and 2008 shows that 101 of them contain clauses on matters that must be the object of information and consultation and on the regulation of the exercise of this right by the bodies that collectively represent workers. These provisions include both simple references to the law, and transcriptions thereof. Only one of the 101 collective agreements made any innovation to the legal provisions, in the sense that it provided for the obligatory consultation of the bodies that represent workers in relation to significant increases in the amount that workers contribute to the cost of meals.

The following table shows the number of administrative infractions grouped by type of subject matter, reported by the inspectors between 2002 and 2008.

TABLE 21.1.2.

Administrative Offences - Infractions
(Labour Code, Regulations and other legislation)

Infractions	2002	2003	2004	2005	2006	2007	2008
Total infractions	**12,255**	**13,197**	**12,617**	**12,366**	**14,751**	**13,342**	**14,932**
Infractions / Discrimination / Party Guarantees	**849**	**863**	**151**	**1,022**	**936**	**843**	**871**
Party guarantees	-	-	-	646	543	485	437
Equality and non-discrimination	-	2	2	22	27	25	**20**
Remuneration	-	-	123	240	251	167	191
Fixed-term contracts	-	-	-	114	115	166	223
Working Time	**1,664**	**2,479**	**3,423**	**3,292**	**3,775**	**3,609**	**3,850**
Duration and organisation of working time	-	-	-	963	951	963	973
Drawing up / display of working hour tables	1,223	1,301	1,794	1,401	1,470	1,793	1,613
Working hours: transport	43	712	1,194	560	978	372	908
Recording overtime	398	466	435	368	376	481	356
Holidays	**166**	**223**	**147**	**202**	**202**	**222**	**133**
Holiday tables	166	223	147	202	202	222	133
Staff Tables	**593**	**1,102**	**372**	**303**	**3051**	**193**	**328**
Collective Labour Regulations	**-**	**-**	**140**	**194**	**213**	**293**	**295**
Foreigners	**1,077**	**551**	**418**	**541**	**366**	**371**	**325**
Safety, Hygiene and Health at Work (SHHW)	**6,281**	**1,149**	**1,773**	**2,209**	**2,361**	**2660**	**3,612**
Prevention – general principles	101		71	104	153	207	127
Information and consultation			6	1	8	12	7
Training			3	994	35	29	133
SHHW activities – health monitoring			151	125	1,196	1,378	2017
Emergency activities			3	225	6	7	5
Coord. external actions			15	16	10	9	11
Organisation of SHHW services			4	76	22	19	28
Insurance vs. accidents at work		467	439	478	493	574	**960**
Obligatory doc. – notification of accidents		79	188	35	105	115	141
Doc. – SHHW activities		603	881	16	33	48	53
Obligatory doc. – formats for SHHW services		-	2	2	14	16	38
Obligatory doc. – annual activity report		-	-	8	37	40	**35**
Other infractions		-	-	129	249	206	57
Special Sectors of Activity		**4,452**	**3,117**	**2,628**	**1,791**	**2,939**	**2,898**
Construction sites	4,732	4,438	3,092	2,618	1,777	2,932	2,898
Extractive industry	4	14	25	8	11	6	10
SHHW fishing vessels		-	-	2	3	1	-
Specific Risks		**253**	**208**	**186**	**213**	**298**	**268**
Workplaces		68	44	53	50	94	70
Machinery Directive	1	1	3	1	-	-	2
Working equipment	94	119	116	100	140	161	146
Equipment with visor		-	1	-	-	-	2
Personal protection equipment		50	24	20	12	13	**15**
Manual movement of loads	1	-	2	1	-	1	**4**
Safety and health at work - signs	11	5	6	9	2	12	**8**
Noise	10	2	12	1	2	3	**3**
Asbestos		-	-	-	6	12	**8**
Lead		-	-	1	-	-	**-**
Explosive atmospheres		-	-	-	-	-	**2**
Chemical agents	1	7	-	-			**4**
Cancer-inducing agents		-	-	-	-		**-**
Biological agents		-	-	-	1	2	**4**

Presentation/Submission Documents	**672**	**628**	**883**	**781**	**821**	**799**	**924**
Minimum Monthly Remuneration	**2**	**3**	**34**	**2**	**-**	**-**	**--**
Unemployment Legislation	**256**	**296**	**384**	**476**	**462**	**496**	**691**
Overdue Wages	**98**	**205**	**125**	**-**	**-**	**-**	**-**
Temporary Work	**51**	**35**	**77**	**98**	**43**	**65**	**56**
Occupation Qualification	**4**	**6**	**8**	**8**	**7**	**3**	**13**
Duty to Inform Workers	**56**	**54**	**18**	**70**	**105**	**91**	**94**
Underage Labour	**94**	**66**	**77**	**43**	**55**	**69**	**25**
Other	**486**	**520**	**1,214**	**311**	**350**	**391**	**549**
Total Fines (Euros)	**16,232,138**	**14,852,637**	**15,809,572**	**16,405,242**	**16,008,854**	**19,778,552**	**18,423,747**

Source: IDICT, IGT and ACT Annual Activity Reports *(in Portuguese)*

ARTICLE 22

THE RIGHT TO TAKE PART IN THE DETERMINATION AND IMPROVEMENT OF WORKING CONDITIONS AND THE WORKING ENVIRONMENT

Update to the information supplied in the 2nd European Social Charter (revised) Report

Paragraphs a to d

Nothing to report as regards the legal framework.

Where action plans are concerned, it is worth noting the National Strategy for Safety and Health at Work (ENSST), the approval of which by Council of Ministers Resolution no. 59/2008 of 12 March 2008 followed on from the issue by the European Union of a new European Strategy on Safety and Health at Work 2007-2012. The National Strategy is an instrument that is designed to increase the protection given to workers' health and safety. The ENSST shares the core objective of achieving a significant and sustained reduction in both accidents at work and occupational illnesses. Its starting point is the real-life situation in Portugal today, and it is structured in such a way as to ensure greater and more effective compliance with the law by micro, small and medium-sized enterprises, which form the vast majority of the Portuguese business fabric. Inasmuch as the ENSST is a strategic framework document that will be providing the guidelines and direction for all our actions in the health and safety at work field, it will be implemented and monitored in the form of annual plans, which will themselves be approved by the Consultative Council of the Working Conditions Authority.

As part of ACT's inspection and control work in the safety, hygiene and health at work field, in 2007 visits were made to 26,211 establishments with a total of 373,943 workers, 62,641 of whom were women and 18 were below the age of eighteen. The inspectors issued 18,627 notices to take measures concerning Community Safety and Hygiene at Work (OSHA) Directives. 10,525 of these were issued under the terms of the legislation that transposed the Construction Sites Directive, and caused work to be suspended in 2,380 cases. A total of 5,897 infractions were officially reported and (minimum) fines worth € 12,593,467 were imposed. In the first half of 2008, visits were made to 10,667 establishments with a total of 77,227 workers (52,257 men and 24,970 women). As a result 8 999 notices to take measures were issued, 5,195 of them under the terms of the legislation that transposed the Temporary or Mobile Construction Sites Directive, and work was suspended in 1,027 cases. A total of 3,557 infractions were the object of official reports, and (minimum) fines in the sum of € 6,665,242 were levied.

In 2007, the measures that were taken in the field of the promotion of improved working conditions and under the terms of the **National Action Plan for Prevention (PNAP)** included:

i) Strengthening the National System for the Prevention of Occupational Risks (SNPRP), with particular emphasis on the implementation of prevention services in enterprises

The process whereby ACT authorises entities that provide external OSHA services is the first step towards regulating the market and guaranteeing the quality of prevention services. By the end of 2007 there were 72 authorised entities, 17 of which were authorised to provide services in the Safety, Hygiene and Health at Work field, 50 in the Safety and Hygiene at Work field, and 5 in the Health at Work field.

ii) Developing and implementing Safety and Health at Work projects aimed at specific enterprises, sectors or target groups, and sectors of activity where accident rates are highest[1]

In its role as a National Focal Point of the European Agency for Safety and Health at Work, ACT promoted a set of activities intended to inform different audiences and raise their awareness about the issues linked to working conditions and attitudes towards the prevention of occupational risks in the workplace. In particular, these included 40 seminars, 56 street actions, 7 awareness-raising actions, 4 workshops, 6 open days, and 1 competition.

[1] Seminars and awareness-raising actions funded within the scope of the Occupational Risk Prevention Programme and Award "Live Better at Work" *(Viver Melhor no Trabalho)*.

ARTICLE 26

THE RIGHT TO DIGNITY AT WORK

Update to the information supplied in the 2nd European Social Charter (revised) Report

Paragraph 1

1. Nothing to report as regards the legal framework.

During the period covered by the present report it is particularly worth noting the Rules governing the Labour Contract for Public Functions (RCTFP), adopted by law n.º 59/2008 on 4th September, Article 15 of which is entitled *Harassment.* Paragraph (1) states that: *the harassment of a job seeker or of a worker shall constitute discrimination*. Paragraph (2) says that: *Harassment shall comprise all undesired behaviour that is related to any of the factors listed in paragraph (1) of the previous Article and is undertaken during access to employment or during employment, work or vocational training itself, with the objective or effect of affecting the dignity of the person or creating an intimidating, hostile, degrading, humiliating or destabilising environment.*

Paragraph (3) goes on to say that: *harassment shall especially comprise all undesired behaviour of a sexual nature, be it in verbal, non-verbal or physical form, which is undertaken with the objective or effect referred to in the previous subparagraph.*

Article 5 of the RCTFP Regulations creates a duty to inform, as follows:
The public employer must display the information concerning workers' rights and duties in the matter of equality and non-discrimination, in an appropriate location in the organ, department or service.

2. The effective fight against sexual and moral harassment also involves the topic's incorporation into a number of policy measures and national plans.

Besides the information that was given in the 2nd Report, in this respect we should note the III National Equality Plan (PNI 2007-2010)[1], which was approved by Council of Ministers Resolution no. 82/2007 of 22 June 2007. PNI III represents a consolidation phase in the national Gender Equality policy. It fulfils commitments that were made at both the national (particularly in the XVII Constitutional Government's Programme, and in the Major Options of the National Plan 2005-2009) and the international (particularly in the European Commission's Road Map for Equality between Men and Women 2006-2010) levels. In addition, it also constitutes a framework of reference for the activities of the Working Conditions Authority (ACT).

[1] PNI III defines 5 Strategic Areas of Intervention, with 32 practical objectives and 153 measures.

In this field, PNI Strategic Area of Intervention no. 2 "Gender Perspective in the Priority Policy Domains"[2], priority policy domain no. 2.2 – Economic Independence[3], Objective: *Promote equal treatment and opportunities for men and women in the labour market*, includes Measure S), the purpose of which is to specifically act to combat moral and sexual harassment at work by publicising the provisions of Article 23(3) of the Labour Code, as a means of strengthening the fight against moral and sexual harassment in the workplace.

Strategic Area of Intervention no. 4 "The Fight against Gender-related Violence" includes measure C), the goal of which is to prevent, fight and denounce moral and sexual harassment in the workplace. This measure's result indicators are the amount of information provided, and the annual number of reported cases of sexual harassment in the workplace.

3) In relation to the information provided in the 2nd Report, it is important to note that when CITE[4] follows up complaints, in general terms and in compliance with the adversarial principle of law, the entity against which a complaint is lodged is always given the opportunity to present its point of view. All the elements that are provided by the parties are considered as a whole, whereupon CITE then issues an opinion in which it recommends the applicable procedure, if any.

Between 2006 and 2008, CITE received 159 complaints (58 in 2006; 65 in 2007; 36 in 2008), 12 of which concerned gender-based discrimination, 134 concerned breaches of the legislation governing motherhood and fatherhood, 11 concerned failures to reconcile work and family life, and 1 was on a subject that lies outside CITE's competences. These complaints were made by 155 women and 4 men.

Of the 12 complaints in relation to gender-based discrimination, only 2 were motivated by sexual harassment and 5 by moral harassment (1 each in 2006 and 2007, and 3 in 2008).

[2] Identifies 8 priority policy domains, with a total of 16 practical objectives and 76 measures.
[3] 3 Objectives, 19 measures.
[4] Creation approved by Executive Law no. 211/2006 of 27 October 2006, and rectified by Rectification Declaration no. 83-A/2006 of 26 December 2006.

Complaints lodged with CITE, by subject, 2006-2008

Complaints by subject	2006	2007	2008
Non-renewal of fixed-term contract of a woman who is pregnant, has recently given birth or is breast-feeding	**19**	**28**	**12**
Discrimination due to motherhood	**8**	**24**	**9**
Dismissal of pregnant worker	**3**	**3**	**4**
Maternity and paternity leave – Meal allowance	**3**	**1**	**2**
Maternity leave – Meal allowance	**2**		
Termination of labour contract during trial period	**2**		
Dismissal of working mother	**2**	**1**	**2**
Breast-feeding and productivity bonus	**1**	**1**	
Termination of pregnant worker's accumulation of functions	**1**		
Calculation of length of service of a worker who has recently given birth	**1**		
Change in functions of working mother	**1**	**1**	
Effective occupation and change in the functions of a working mother	**1**		
Maternity allowance	**1**		**1**
Sub-total complaints re motherhood and fatherhood	***45***	***59***	***30***
Sexual harassment	**2**		
Moral harassment	**1**	**1**	**3**
Access to employment	**1**		
Working conditions	**1**		
Unequal pay	**1**	**1**	**1**
Sub-total complaints re gender-based discrimination	***6***	***2***	***4***
Breast-feeding	**3**		
Flexibility of working hours	**1**		**1**
Changes to working hours	**1**	**3**	**1**
Scheduling of holidays	**1**		
Subtotal complaints re reconciliation of work and family life	***6***	***3***	***2***
Outside CITE's scope	**1**	**-**	**-**
TOTAL	***58***	***65***	***36***

Source: CITE

Paragraph 2

There is nothing to add in relation to the information provided in the 2nd Report.

Article 28

RIGHT OF WORKER REPRESENTATIVES TO PROTECTION IN THE UNDERTAKING AND FACILITIES TO BE AFFORDED TO THEM

Update to the information supplied in the 2nd European Social Charter (revised) Report

Paragraphs a. and b.

During the period covered there were no changes to the existing legislation.

1. In relation to the period covered by the present report it is important to mention Executive Law no. 215/2005 of 13 December 2005 and its transposition into Portuguese law of Council Directive no. 2001/86/EC, which completed the provisions of the Statute for a European Company governing worker involvement; and Law no. 8/2008 of 18 February 2008, which transposed Council Directive no. 2003/72/EC of 22 July 2003, which completed the provisions of the Statute for a European Cooperative Company governing worker involvement (see the present report's answer in relation to Article 21).

2. Together, Article 44 of Executive Law no. 215/2005 of 13 December 2005 and Article 47 of Law no. 8/2008 state that the members of special negotiating groups, the members of workers' councils, the workers' representatives in an information and consultation procedure, and the workers' representatives on a corporate governing or supervisory body are entitled to:

- A monthly credit – the same as that given to members of workers' committees – in the form of a number of hours in which to perform their functions.
- A credit in the form of the time required to take part in meetings with their European Company or European Cooperative Company, in meetings of a governing or supervisory body, and in preparatory meetings, to include travel time, all of which is to be paid.
- Absences from work, over and above these credits, in the performance of their functions are also permitted under the same terms as those which the Labour Code lays down for the members of other bodies that collectively represent workers.
- The same protection in the event of disciplinary proceedings, dismissal or transfer as that which the Labour Code provides to the members of other bodies that collectively represent workers.

In addition, workers' representatives on the governing or supervisory bodies of a European Joint Stock Company are also entitled to:

- Remuneration when they are absent from work in the performance of their functions.

In this respect the provisions of Article 456(2) of the Labour Code are supplemented by **1** collective agreement, which extends the period during which there is a presumption that the dismissal of a worker is unjust, from 3 to 5 years, in any of the following situations: candidates for appointment to the governing bodies of trade unions, anyone who holds or has held such a position, trade union delegates, workers' safety, hygiene and health representatives, members of European company councils, members of workers committees and subcommittees, and members of coordinating committees. **2** collective agreements increase the minimum compensation payable for unjust dismissal laid down by Article 456(5) of the Labour Code, when the object of the dismissal is an elected member of a body that collectively represents workers.

As the 2nd National Report said, the Labour Code also guarantees the rights to meet in the workplace (Article 468), to adequate facilities and material and technical resources (Articles 469 and 501), and to display and distribute information (Articles 284 and 501).

In this respect, of the various agreements we have analysed, a number stipulate that employers must give a credit of a number of hours above that laid down by law:

- To trade union delegates: **58** collective agreements.
- To trade union delegates who belong to the inter-trade-union committee: **11** collective agreements.
- To trade union officers: **32** collective agreements.
- To members of workers' committees and subcommittees: **3** collective agreements.
- To workers' safety, hygiene and health representatives: **1** collective agreement.

It should be noted that **2** collective agreements dispense workers who take part in trade union activities from the obligation to do overtime; and **1** collective agreement provides for the same dispensation in relation to night and shift work. **1** collective agreement dispenses members of workers' committees from the obligation to work shifts.

Lastly, we should also say that **10** collective agreements give a credit of a number of hours to candidates for election to bodies that collectively represent workers, during the electoral period.

3. When it comes to the conditions needed to exercise the collective representation function, the work of the labour inspectors has particularly been directed towards ensuring: the protection of the rights and guarantees attributed to workers' representatives in the performance, and because, of their functions; the conditions needed to exercise collective representation functions in enterprises; the provision of information; and dialogue between enterprises and the bodies that represent workers.

This subject has been treated as a priority in the Labour Inspectorate's action plans, both in terms of the investigation of complaints made by trade unions and workers' committees, and as regards the pro-active work of the Inspectorate itself.

1,304 visits were made with the objective of promoting favourable conditions for the exercise of the collective worker representation function and social dialogue, and inciting organisations to assume their social responsibilities.

As a result of this work, ACT issued 59 formal reports on infractions, which led to the imposition of minimum fines in the sum of € 215,887. The labour inspectors issued 217 formal warnings.

Conditions needed to exercise collective representation functions

Year	2005	2006	2007	2008 (*)
Requests for Intervention (Trade Unions)	13	10	11	(**)
Infractions reported	3	3	1	59

Source: ACT
(*) Data collection subject to new parameters, including those concerning information and consultation processes.
(**) Data not available.

ARTICLE 29

THE RIGHT TO INFORMATION AND CONSULTATION IN COLLECTIVE REDUNDANCY PROCEDURES

Update to the information supplied in the 2nd European Social Charter (revised) Report

There is nothing new to report in relation to the general legal framework.

We should merely note that on the grounds of the need for rationalisation and for increased security for all parties, the Tripartite Agreement on a New System for Regulating Labour Relations, the Employment Policies and Social Protection (SRRLPEPSP) contained a proposal (point 3.9) for a reduction in the procedural models under which workers can be made collectively redundant, and to include a rule making prior notice periods proportional to seniority, as follows:

- *Within five days of issuing the initial notification[1], an employer must begin a phase in which it provides information and negotiates with the organisation(s) representing the workers involved. The purpose of these negotiations must be to reach an agreement on the extent and effects of the measures the employer wishes to take, and on other measures designed to reduce the number of workers who are to be made redundant.*

- *Once this agreement has been reached, or, if there is no agreement, fifteen days[2] after the initial notification, the employer will be able to decide to proceed with the redundancy.*

- *The minimum prior notice period will be fifteen, thirty, sixty or ninety days, if the worker in question has been employed for less than a year, for between one and five years, for between five and ten years, or for ten years or more[3], respectively. These periods will also apply to redundancies due to the abolition of a job, and to dismissals for lack of suitability. In the event that both spouses are affected by a redundancy or dismissal, the applicable notice period will be the one above that which would normally apply.*

The following information concerns collective redundancies that were completed during the period covered by the present report – 1 January 2005 to 31 December 2008:

- In 2005, 94 enterprises with a total of 10,035 workers undertook collective redundancies. From the universe of 1,504 workers covered by the original

1 Under Article 420(1) of the Labour Code (CT) approved by Law no. 99/2003 of 27 August 2003, this period is currently ten days.
2 Under Article 422(1) of the CT approved by Law no. 99/2003 of 27 August 2003, this period is currently twenty days.
3 Under Article 398(1) of the CT approved by Law no. 99/2003 of 27 August 2003, notice must be given at least sixty days prior to the planned date for the termination of the labour contract, regardless of how long the employee has worked for the employer.

redundancy plans, 739 were in fact made redundant, 606 terminated their labour contracts by mutual accord, and 2 were the object of other measures[4].

- In 2006, 116 enterprises with a total of 10,570 workers undertook collective redundancies. From the universe of 2,377 workers covered by the original redundancy plans, 1,931 were made redundant, 273 terminated their labour contracts by mutual accord, and 70 were the object of other measures.

- In 2007, 155 enterprises with a total of 17,526 workers undertook collective redundancies. From the universe of 2,687 workers covered by the original redundancy plans, 2,289 were made redundant, 224 terminated their labour contracts by mutual accord, and 112 were the object of other measures.

- In 2008, 231 enterprises with a total of 15,312 workers undertook collective redundancies. From the universe of 3,743 workers covered by the original redundancy plans, 3,538 were made redundant, 167 terminated their labour contracts by mutual accord, and 40 were the object of other measures.

The Working Conditions Authority (ACT) supervises all collective redundancy processes and verifies that they comply with the law. It intervenes in situations that appear to constitute unlawful collective redundancies because they are in breach of the rules governing the procedures to be followed by enterprises.

As part of its work in this field, in 2005 the Inspectorate-General of Labour (IGT)[5] officially reported 43 situations in which fines of at least around 29,192 euros were imposed.

In 2006, there were 9 such reports, with fines of at least around 7,654 euros.

In 2007, there were 32 official reports, with fines of at least around 21,755 euros.

2008 saw the launch of a procedure under which ACT cooperates with other labour administration departments to detect redundancy situations, so as to ensure that every known case is the object of inspection.

[4] Article 420(1) of the Labour Code requires the implementation of measures to reduce the number of workers who are made redundant. In particular, it provides for the possibility of: (1) a suspension from work; (2) a reduction in working time; (3) vocational conversion and reclassification; (4) early retirement and pre-retirement.

[5] In the current moment is The Working Conditions Authority.