



Greek National Commission for Human Rights (GNCHR)

**Observations by the GNCHR on the 5th National Report
on the implementation of the Revised European Social Charter
(Reference Period 01/01/2017 - 31/12/2020)**



December 2022



The Greek National Commission for Human Rights (GNCHR) is the independent advisory body to the Greek State on matters pertaining to human rights protection and the National Human Rights Institution (NHRI). It was established with Law 2667/1998 in accordance with the UN Paris Principles and is governed by Law 4780/2021. Its members are persons appointed by twenty institutions (independent Authorities, third level trade unions, NGOs, universities and research institutions)



Content

Observations by the Greek National Commission for Human Rights on the 5th National Report on the implementation of the European Social Charter	5
SUMMARY	5
INTRODUCTION	6
<i>Role and remit of the GNCHR</i>	6
<i>Submission of the present Report</i>	7
GENERAL OBSERVATIONS.....	8
Public Hearing	11
SPECIFIC OBSERVATIONS.....	12
Article 2.- The right to just conditions of work	12
Par. 1 of Article 2: <i>to provide for reasonable daily and weekly working hours, the working week to be progressively reduced to the extent that the increase of productivity and other relevant factors permit;</i>	12
<i>Digital transition challenges in labour rights protection</i>	14
Par. 4 of Article 2: <i>to eliminate risks in inherently dangerous or unhealthy occupations, and where it has not yet been possible to eliminate or reduce sufficiently these risks, to provide for either a reduction of working hours or additional paid holidays for workers engaged in such occupations;</i>	17
Par. 1 of Article 4: <i>to recognise the right of workers to a remuneration such as will give them and their families a decent standard of living;</i>	18
Par. 2 of Article 4: <i>to recognise the right of workers to an increased rate of remuneration for overtime work, subject to exceptions in particular cases;</i>	20
Par. 3 of Article 4: <i>to recognise the right of men and women workers to equal pay for work of equal value;</i>	21
Par. 4 of Article 4: <i>to recognise the right of all workers to a reasonable period of notice for termination of employment;</i>	23
Article 5.- The right to organise	25
Article 6.- The right to bargain collectively	28
Par. 4 of Article 6: <i>the right of workers and employers to collective action in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into</i>	28
Article 26.- The right to dignity at work	29



Trafficking and forced labour.....	31
Article 28.- The right of workers' representatives to protection in the undertaking and facilities to be accorded to them	32



Observations by the Greek National Commission for Human Rights on the 5th National Report on the implementation of the European Social Charter

SUMMARY

The Greek National Commission for Human Rights (GNCHR) within its mandate to monitor the compliance of the Greek legislation to the provisions of international and European treaties and Directives, as well as soft law instruments, takes the opportunity to submit its observations on the 5th National Report on the implementation of the revised European Social Charter, as it concerns individual and collective labour rights.

In this regard, the GNCHR refers back to its previously expressed concerns and comments on the **impact of financial and other restrictive measures on labour rights and working conditions** in Greece on the one hand,¹ while it formulates further relevant observations on the situation of labour rights and the progress made by the competent authorities from 2017 until today on the other.

Additionally, the GNCHR draws the attention to the Greek State's obligation to assess in a coordinative manner the cumulative impact of the restrictive measures² that have been taken during a multiple crisis environment (debt crisis, migrant crisis, pandemic crisis) on the proper access and enjoyment of human rights, including labour rights. The 5th

¹ See [GNCHR Observations on Greece's combined 23rd and 24th periodic report to the Committee on the Elimination of Racial Discrimination \(CERD\), 2021](#), [GNCHR Submission to the UN Human Rights Committee on the List of Issues Prior to Reporting for the Third periodic examination of Greece under the International Covenant on Civil and Political Rights, 2021](#), [GNCHR Stakeholder Report to the Universal Periodic Review \(UPR\) of Greece, 2021](#), [OBSERVATIONS SUBMITTED BY THE GREEK NATIONAL COMMISSION FOR HUMAN RIGHTS \(GNCHR\) IN VIEW OF THE EXAMINATION OF THE 27th GREEK REPORT ON THE APPLICATION OF THE EUROPEAN SOCIAL CHARTER \(ARTICLES 3, 11, 12, 13 AND 14\) AND ON THE 11th GREEK REPORT ON THE APPLICATION OF THE ADDITIONAL PROTOCOL TO THE EUROPEAN SOCIAL CHARTER \(ARTICLE 4\) \(REFERENCE PERIOD 01/01/2012-31/12/2015\), 2017](#), [GNCHR factsheet on the "Impact of Economic Reform Policies and Austerity Measures on Human Rights" 2018](#), [GNCHR Observations on the 24th Greek Report on the application of the European Social Charter and on the 9th Greek Report on the application of the Additional Protocol to the European Social Charter, 2014](#), [GNCHR, Observations on Draft Law of the Ministry of Labor and Social Affairs *On the Protection of Employment, Establishment of the Independent Authority Labor Inspectorate Ratification of the ILO Convention No. 190 on violence and harassment in the world of work Ratification of the ILO Convention No. 187 on the Promotional Framework for Occupational Safety and Health at Work Incorporation of Directive \(EU\) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and careers*", 14 June 2021 \(hereinafter \[GNCHR Report on the Draft Law of the Ministry of Labour and Social Affairs, 2021\]\(#\)\), \[Summary of GNCHR Observations on Draft Law of Ministry of Labour and Social Affairs *On the Protection of Employment, Establishment of the Independent Authority Labor Inspectorate Ratification of the ILO Convention No. 190 on violence and harassment in the world of work Ratification of the ILO Convention No. 187 on the Promotional Framework for Occupational Safety and Health at Work Incorporation of Directive \\(EU\\) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and careers*, 2021 \\(hereinafter \\[Summary of GNCHR Observations on Draft Law of Ministry of Labour and Social Affairs *On the Protection for Employment*, 2021\\]\\(#\\)\\).\]\(#\)](#)

² See [GNCHR factsheet on the "Impact of Economic Reform Policies and Austerity Measures on Human Rights" 2018](#).

national Report on the implementation of the revised European Social Charter is lacking such a reference, which is intrinsically connected to the State's obligation to comply in law and practice to the protection of labour rights enshrined in the revised European Social Charter.

The GNCHR also remains focused *inter alia* on the proper exercise of labour rights concerning **terms and conditions of work of third country nationals. As it concerns the enjoyment of labour rights of migrant workers on the agriculture sector**, the GNCHR, in light of the ECHR's landmark judgment *Chowdury and Others v. Greece* in 2017,³ monitors the steps that the State has undertaken to substantially comply with its obligations to appropriately prevent phenomena of trafficking in human beings for the purpose of labour exploitation and of forced labour. The GNCHR **reiterates the need to effectively protect the right to work of migrant workers** in line with the State's human rights' obligations arising out of international and European commitments, as well as, following the recent practice of conclusion of bilateral agreements for legal labour migration to Greece.

INTRODUCTION

Role and remit of the GNCHR

The GNCHR as the A Status National Human Rights Institution and the independent advisory body to the Greek State on matters pertaining to the protection of human rights, has, by virtue of [Law 4780/2021](#), which has replaced its founding Law 2667/1998, acquired legal personality, functional independence, administrative and financial autonomy. It should be noted that since 2001, the GNCHR is being accredited A status (full compliance) with UN Paris Principle, indicative of its independence and effective fulfillment of its role.

The GNCHR Plenary is comprised of 20 members nominated by institutions whose activities cover the field of human rights: independent authorities, third level trade unions, NGOs, bar associations, universities, research institutions and the Parliament.⁴

The GNCHR is entrusted with the dual mandate of protecting and promoting human rights in Greece as set forth in its founding law and its Regulation. In this respect, its main mission is:

- The constant monitoring of developments regarding human rights protection, the continuous reporting and the promotion of the relevant research.

³ GNCHR [Chowdury and Others v. Greece. Recommendations for the full compliance of the Greek State](#), 27 August 2018, [Communication](#) on the assessment of the level of compliance of the Greek State with GNCHR's recommendations on ECtHR judgment *Chowdury and Others v. Greece* (Manolada-case) 5 June 2020.

⁴ For the full list of GNCHR's Members, please visit the site of the GNCHR www.nchr.gr



- The maintenance of permanent contact and co-operation with international organisations, such as the United Nations, the Council of Europe, the OSCE, with NHRIs of other States, as well as national or international non-governmental organisations.
- The formulation of policy advice on human rights issues.

Amongst its most essential competences is **the provision of advice** to the competent bodies of the State for the effective implementation of human rights protection, in the context of its preventive and protective action, in view of harmonizing legislative, administrative or other measures with the country's international obligations. Its advisory role, however, is not limited to submitting opinions, recommendations, proposals or reports and participating in Parliamentary sessions. Its role also extends to assisting the reports submitted by national competent authorities for their compliance with international, regional and / or and European human rights standards (*monitoring and reporting*) as well as encouraging the ratification of international human rights treaties. In fact, in its institutional role and mission as a “guardian” of human rights at national level, the GNCHR plays a central role in **bridging the gap not only between the State and Civil Society, but also between the Country’s international commitments for the implementation of human rights and their effective enjoyment in practice.**

Submission of the present Report

As regards the present Report **on the current state of play of labour rights in Greece** GNCHR points out, that it has already, in the past, expressed its concern regarding issues falling under the scope of application of the revised European Social Charter (hereinafter the revised ESC) and its Additional Protocol and has addressed relevant opinions and recommendations to the competent Ministries. It has also submitted comments on previous (21st and 24st) Greek Reports on the application of the revised ESC with a view to its examination by the European Committee of Social Rights (hereinafter ECSR). The Ministry of Labour and Social Affairs (Directorate of International Relations) forwarded a copy of the 5th National Report on the implementation of the European Social Charter to the GNCHR for its information on 13.7.2022, after having sent it to the ECSR on 12.7.2022. The GNCHR deplores the fact that **no previous fruitful collaboration** between the GNCHR and the administrative authorities has been achieved so as to enable it to formulate observations in view of **the submission of a comprehensive National Report**. At this point, the GNCHR, taking into account that the National Report covers the reference period 1-1-2017 to 30-1-2020, **considers critical** for the comprehensive examination of the progress made in light of the revised ESC up to date, that **the National Report should reflect also the current framework at the time of its submission and not only that of the reference period**, especially given that updated information on the country’s current legal framework is officially requested in the reporting questionnaire by the Committee. Nonetheless, GNCHR’s observations **cover the period from 2017 up to date, in order to correctly reflect the situation in Greece.**

Besides, the GNCHR while acknowledges the importance of the relevant process, at the same time deplores the fact that the first Code of Individual Labour Law (Presidential Decree 80/2022, A'222) has been published without the competent Ministry having previously informed the GNCHR. The presentation of the draft of this Code to the GNCHR, given the Commission's representative structure with Members appointed by Organisations and Institutions related to the knowledge of labour rights' field,⁵ would have given the opportunity on an early stage for observations on codified legislation that was not already in compliance to binding international provisions (i.e. the minimum age for employment in Greece, the redundancy pay in case of employment termination),⁶ some of them already found not in compliance to the revised ESC.⁷

The GNCHR observations follow essentially the main fields of interest of the Committee with regard to the situation in Greece as it concerns the implementation of the ESC, returning to a number of themes outlined in the conclusions and the questions of the European Committee of Social Rights (ECSR) and focusing where necessary on matters which are the most pressing or where the ECSR is most interested. In this regard, the GNCHR considers of great importance the need to ensure the full implementation of all labour rights' principles under the **effects of the ongoing war in Ukraine resulting in a precarious socio-economic environment with a negative impact on both living and working conditions.**

In light of the above mentioned, the **GNCHR welcomes the 5th National Report on the implementation of the European Social Charter and at the same time takes the opportunity to submit its Observations, while would deeply appreciate it, if the European Committee of Social Rights (ECSR) would take them under consideration.**

GENERAL OBSERVATIONS

The GNCHR, taking into account the debt crisis restrictive measures, along with the migration policy restrictive measures, followed by the pandemic measures and their

⁵ For example Members are appointed to GNCHR's Plenary by the Greek General Confederation of Labour (GSEE), by the [Supreme Administration of Civil Servants' Unions of Greece \(ADEDY\)](#), the [Greek National Confederation of Persons with Disabilities \(NCPD\)](#), [Hellenic League for Human Rights \(HLHR\)](#), [Hellenic League for Human Rights](#), [Greek Council for Refugees \(GCR\)](#), [Amnesty International Greek Section](#), [Greek Transgender Support Association \(SYD\)](#), [Hellenic Data Protection Authority](#), the Greek Ombudsman.

⁶ According to national legislation the minimum age for employment in Greece is the 15th year (Article 51 of Law 3850/2010). The ILO CEACR has repeatedly recommended to the competent authorities (also in the form of Direct Request: [Direct Request 2015](#), [Direct Request 2018](#)) to comply with the relevant International Labor Convention that provides for the 16th year, as the 15th year constitutes non-compliance with ILO Convention 138 and ILO Convention 182. In fact, the provision of article 51 of Law 3850/2010 was codified in article 293 of the new Code of Individual Labour Law (Presidential Decree 80/2022, A'222).

⁷ See ECSR Decisions on Collective Complaint 65/2011 and Collective Complaint 66/2011 submitted by General Federation of Employees of the National Electric Power Corporation (GENOP-DEI) and Confederation of Greek Civil Servants' Trade Unions (ADEDY), and on Collective Complaint 111/2014, submitted by Greek General Confederation of Labour (GSEE).

cumulative negative impact on workers' rights⁸ and living standards **draws the attention also to the negative impact of the ongoing war in Ukraine on the socio-economic environment and its consequences on labour markets and the existing labour rights.** The Greek economy, before it managed to resume its pre-pandemic and post – debt crisis level, is facing a new destabilizing shock centered on energy, raw materials and basic food prices. This disturbance directly affects the supply side and indirectly, through the pay-as-you-go effects of inflation, the demand side, increasing the risk of a new slowdown in the economy.⁹ The GNCHR would like to stress that the extent and depth of the impact of the pandemic crisis on labour rights and the functioning of the economy in general is depicted in a series of recommendations addressed by the GNCHR to the Greek government.¹⁰

Moreover, the GNCHR, in view of comprehensively monitoring the promotion and protection of **individual and collective labour rights**, as well as, other relevant labour rights, remains skeptical and highlights the existing challenges, such as just conditions of work, fair remuneration, protection of dignity, right to organize, right to collective bargaining and conclusion of collective agreements etc. in the context of adapting the Greek legislation to the human rights standards set by the revised ESC. At the same time it

⁸ The GNCHR notes with disappointment that, despite its repeated recommendations on the need to effectively monitor and assess the impact of both the austerity measures and the restrictive measures taken to address the COVID-19 pandemic on the enjoyment of human rights and especially on labour rights, the cumulative impact of these measures has never been assessed. See [Summary of GNCHR Observations on Draft Law of Ministry of Labour and Social Affairs On the Protection for Employment, 2021](#), [GNCHR Report on the Draft Law of the Ministry of Labour and Social Affairs On the Protection for Employment, 2021](#). See also: [URGENT GNCHR Statement on Labour and Social Security Rights in Greece, 2017](#), [GNCHR factsheet on the "Impact of Economic Reform Policies and Austerity Measures on Human Rights" 2018](#), [Statement of the Greek National Commission for Human Rights \(GNCHR\) on the impact of the continuing austerity measures on human rights, 2015](#), [Statement of the Greek National Commission for Human Rights \(GNCHR\) on the impact of the continuing austerity measures on human rights, 2014](#), [Open letter of the President of the European Network of National Human Rights Institutions, Mr. Alan Miller, to the President of the European Commission, Mr. José Manuel Barroso and the President of the European Central Bank Mr. Mario Draghi, 2014](#), [The NCHR Recommendation and decisions of international bodies on the conformity of austerity measures to international human rights standards, 2013](#), [Austerity measures v. Human Rights and EU foundational values, paper by Sophia Koukoulis-Spiliotopoulos on behalf of the GNCHR, 2013](#), [GNCHR recommendation: "Urgent need to reverse the course of collapse of individual and social rights", 2011](#), [GNCHR Recommendation: On the imperative need to reverse the sharp decline in civil liberties and social rights, 2011](#), [Decision on the need for continued respect for fundamental rights during the exercise of the strategy to exit the economy and society from the external debt crisis, 2010](#), [The need for constant respect of human rights during the implementation of the fiscal and social exit strategy from the debt crisis, 2010](#).

⁹ See [INE Research 2008-2014](#), [INE GSEE Edition 240](#), March-April 2018, INE GSSE, [Annual Report 2020](#), [The Greek economy and the employment, October 2020 \[in Greek\]](#), INE GSSE, [Annual Report 2022 \[in Greek\]](#).

¹⁰ [GNCHR Report on the need for protection of human rights with regard to the measures taken in response to the coronavirus \(COVID-19\) pandemic and recommendations to the State](#). Description of the issues discussed in the Plenary Meetings during the lockdown Meetings of 8th, 22nd, 29th of April and of 6th May 2020, 12 June 2020, [GNCHR Report regarding the impact of the pandemic and the measures taken to address it on human rights](#). Extraordinary times call for extraordinary responses, 5 July 2021 [in Greek], [GNCHR Extraordinary times call for extraordinary responses: Summary of Recommendations to the State regarding the impact of the pandemic and the measures taken to address it on human rights, 12 July 2021](#).

stresses the need to undertake additional steps for **strengthening the regulatory framework in force and to fill gaps where these are found to remain or occur.**

Concerning the **situation of forced labour and trafficking in the agricultural sector** in Greece, the GNCHR remains vigilant and continues to monitor and assess the **essential implementation of the current regulatory and institutional framework for preventing and combatting both phenomena.** In this context, it is necessary to reiterate that the emergency measures taken to respond to the outbreak of the COVID-19 pandemic have achieved importantly the protection and safeguarding of public health, yet they did not tackle the chronic problems faced by migrant workers in general and especially in the agriculture sector. So the provision of financial assistance, as a special purpose allowance and the prohibition of termination of employment contracts for businesses, while attempted to address the negative effects on the protection of labour rights during the pandemic, however the poor living and working conditions in the agriculture holdings, such as, the overcrowding and the complete lack of basic human standards, exacerbated the increased risk of labor exploitation and forced labor.¹¹

To that direction GNCHR draws the State's obligation to include special references on the reception and working conditions of third country nationals to bilateral agreements with other countries. The GNCHR has also highlighted the controversy in State's laws and policies regarding prioritization of prevention and control of undocumented labour on the one hand and restriction of access to labour for asylum seekers on the other hand.¹²

From the **social security and social insurance aspect of the right to work**, the GNCHR has pointed out the need to assess the consequences of the measures addressing the pandemic, with a view to restoring the content of these rights and securing smooth access without discrimination.¹³ In this context, the GNCHR has put emphasis on the following critical issues, such as: **a)** the proper institutional and practical implementation of the framework for preventing and combating forced labor, **b)** the restrictions on access to employment and social security in the case of applicants of international protection that exacerbate labor delinquency and abusive behavior towards these persons, and **c)** the protection of vulnerable groups, such as the elderly or persons with disabilities, which,

¹¹ GNCHR [Report](#) on the need for protection of human rights with regard to the measures taken in response to the coronavirus (COVID-19) pandemic and recommendations to the State. Description of the issues discussed in the Plenary Meetings during the lockdown Meetings of 8th, 22nd, 29th of April and of 6th May 2020, 12 June 2020, GNCHR [Report](#) regarding the impact of the pandemic and the measures taken to address it on human rights. Extraordinary times call for extraordinary responses, 5 July 2021 [in Greek], GNCHR Extraordinary times call for extraordinary responses: [Summary](#) of Recommendations to the State regarding the impact of the pandemic and the measures taken to address it on human rights, 12 July 2021.

¹² See the new regime applicable to asylum seekers in article 53 of Law 4636/2019 as amended. GNCHR [Observations](#) to the Draft Law on International Protection and other provisions, October 2019 [in Greek].

¹³ See [Summary of GNCHR Observations](#) on Draft Law of Ministry of Labour and Social Affairs *On the Protection for Employment*, 2021, [GNCHR Report on the Draft Law of the Ministry of Labour and Social Affairs](#) *On the Protection for Employment*, 2021, p. 16-18.

due to the accelerated shift of public and private services to digital technology and the cessation of social security benefits combined with the physical presence, are threatened by exclusion from social services and consequently by deterioration of their living standards. It should be also mentioned that Covid pandemic measures which include the provision of digital services, have created an important window of opportunity to accelerate the digitalisation process of the State, which Greece has taken advantage of, to the maximum extent possible.

Public Hearing

The GNCHR **on the basis of its pluralistic and polyphonic composition**, regularly consults with the relevant stakeholders and persons in the field concerned by means of **organizing public hearings**. In this framework, the GNCHR invites persons, at its discretion, to be heard before it, who can assist its work by an account of personal experiences or the expression of views in connection with the protection of human rights (Article 18 (4) of law 4780/2021). Public Hearings is a good example of the operation of the GNCHR, especially while working on reports but also on proposals for legislative amendments and relevant implementation measures. Findings and results of the hearings are incorporated in the GNCHRs' Reports and are beneficial for the formulation of comprehensive recommendations to the State.

In this regard, the GNCHR organised, within its Sub-Commission for Social, Economic and Cultural Rights, a Hearing of persons and bodies on the Draft Bill of Law 4808/2021 of Ministry of Labour and Social Affairs under consultation "*On the Protection of Employment – Establishment of the Independent Authority 'Labor Inspectorate' – Ratification of the ILO Convention No. 190 on violence and harassment in the world of work – Ratification of the ILO Convention No. 187 on the Promotional Framework for Occupational Safety and Health at Work – Incorporation of Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and careers*". During this hearing, which took place, with a broad on line participation of organisations, experts and State officials, on the 25th of May 2021, significant issues regulated by this Draft Law, gaps and deviations, have been identified in the light of European, regional and international conventions and guidelines, while the findings and results of the Hearing have been used for the formulation of comprehensive recommendations to the to the Ministry of Labour and Social Affairs, in order to take the appropriate measures. **The GNCHR continues to raise the issues of non – conformity with international human rights standards of the adopted legislation (Law 4808/2021).**¹⁴

¹⁴ See [Summary of GNCHR Observations on Draft Law of Ministry of Labour and Social Affairs On the Protection for Employment, 2021](#), [GNCHR Report on the Draft Law of the Ministry of Labour and Social Affairs On the Protection for Employment, 2021](#), p. 13, 19 and 70.

SPECIFIC OBSERVATIONS

Article 2.- The right to just conditions of work

Par. 1 of Article 2: to provide for reasonable daily and weekly working hours, the working week to be progressively reduced to the extent that the increase of productivity and other relevant factors permit;

With regard to the **Questions (a) and (b)** of the Committee related to *reasonable working hours and enforcement measures and monitoring arrangements, in particular as regards the activities of labour inspectorates*, and taking into account the comments submitted by the National Report, the GNCHR, bearing in mind that **working time has an important causal link to the safety and health of workers**, would like to stress that the National Report does not make any reference to the current relevant legal framework as defined by national laws (i.e. Law 3850/2010/OGG A' 84 on the Code of Laws on the Health and Safety of Workers) the European legislative framework and by collective agreements (i.e. the National General Collective Agreement, which sets the binding minimum terms of work for all workers under private law contracts in the Greek territory).¹⁵

GNCHR draws the attention of the Committee to the revised labour regulations that impose restrictions in the current legal framework on working hours. More specifically, **Article 55** of [Law 4808/2021](#) provides for forty (40) hours per week, which can be divided into five or six days of work as a point of reference for full employment. In addition, **Article 56** of [Law 4808/2021](#) re-regulates the terms and conditions of breaks, while **Article 57** of [Law 4808/2021](#) adds a regulation, according to which it is possible to provide additional work by a part-time employee. Also, with **Article 58** of [Law 4808/2021](#), provisions are introduced regarding the remuneration for additional and overtime work, while in **Article 59** of [Law 4808/2021](#), regulations are provided regarding the arrangement of working time if there is no trade union or no agreement between the trade union and the employer. Furthermore, with **Article 60** of [Law 4808/2021](#) mandatory holidays are established for all businesses and with **Article 61** of the same Law provides for the maximum of annual holidays. Finally, **Article 62** of [Law 4808/2021](#) introduced regulations for the granting of unpaid leave, while **Article 63**

¹⁵ Directive 93/104/EC has been transposed into national law by the Presidential Decree 88/1999, which was replaced by Directive 2000/34 and further amended by Directive 2003/88 and transposed into national law by the Presidential Decree 76/2005 that amended the previous Presidential Decree 76/2005. In particular, the Presidential Decree 76/2005 provides (Article 14) for the possibility of derogations from its provisions, authorized only by means of collective bargaining agreements between the most representative trade unions of employers and workers or between employers and the most representative trade unions of workers or by agreements between employers and workers' representatives at the works councils on condition that workers are granted equivalent periods of compensatory rest or in exceptional cases where it is objectively impossible to grant equivalent periods of compensatory rest, the workers concerned shall be afforded appropriate protection in accordance with the occupational risk assessment.

provides for exemptions from mandatory Sunday rest and public holidays, which in fact extends the list of businesses, for whom the Sunday holiday does not apply (Articles 180-209 of the Code of Individual Labour Law).¹⁶

Taken into considerations the above mentioned, the GNCHR would like to highlight two crucial points of the new law provisions as modified by [Law 4808/2021](#):

i) it is noted with great concern, in view of **Article 59** of [Law 4808/2021](#),¹⁷ that new practices on the settlement of the working time through only an individual employer-worker agreement are introduced. In other words, **it is for the first time established the possibility to determine the arrangement of working time on the basis of an individual employment contract and not with a collective labor contract or collective agreement**. This will further allow working time to be regulated and taken over by employers, who will be able to make arrangements in relation to their interest, which implies an increased risk for employees. It is obvious that this regulation is reversing mandatory rules of national law ([Law 1892/1990](#) that provides for enterprise collective agreements),¹⁸ and besides it is **not in compliance with the EU law**.

ii) it is also noted that given that the weekly working time has been established in 40 hours since 1975, [Law 4808/2021](#) provides for the **extension of permitted overtime work, while increases the remuneration for illegal overtime hours**, which could, in fact, be rendered inapplicable, especially given the extent of **authorisation granted to the Secretary-General of Labour to increase permitted overtime work above the 150 hours limit, thus rendering the once illegal overtime work, legal (Article 58 of Law 4808/2021)**. Also, another new limit of a 25% percent above the maximum overtime and approximately 50% more than the minimum is set by the [Law 4808/2021](#), in order for the companies to have no need to hire additional staff, which leads to increased costs and reduced profits, but requires in practice a higher work intensity of the existing personnel.¹⁹

The results of the above mentioned provisions in force are the following: **(i)** trade unions are being by-passed, their collective autonomy is being crucially limited and their trade union action and functioning is damaged, **(ii)** trade union freedom is subsequently affected, **(iii)** no new job positions are expected to be created, **(iv)** there will be a

¹⁶ The expansion of the list of businesses and holdings that can operate on Sunday raises the issue of the Decision No. 100/2017 of the Council of State, according to which: "by law *GYNE* (3455/1909, A' 286/7.12.1909), which has established Sunday rest and other holidays.

¹⁷ See [Summary of GNCHR Observations on Draft Law of Ministry of Labour and Social Affairs *On the Protection for Employment*, 2021](#), [GNCHR Report on the Draft Law of the Ministry of Labour and Social Affairs *On the Protection for Employment*, 2021](#), [GNCHR Report on the Draft Law of the Ministry of Labour and Social Affairs](#), 2021, p. 57-58. See also below p. 21-22.

¹⁸ [Law 1892/1990 *For the modernization and development and other provisions*](#), (OGG A' 101/31.07.1990).

¹⁹ [Summary of GNCHR Observations on Draft Law of Ministry of Labour and Social Affairs *On the Protection for Employment*, 2021](#), [GNCHR Report on the Draft Law of the Ministry of Labour and Social Affairs *On the Protection for Employment*, 2021](#), p. 56.

reduction in the remuneration of workers, through the non-payment of their extra work, during periods of increased employment, (v) without an efficient control mechanism (Labour Inspectorate), which will operate intensively in all sectors, including, the agriculture sector, this measure will in fact lead to a breach of the limits on daily and weekly employment allowed and will circumvent the 8-hour limit, and vi) health and safety conditions of workers as well as occupational accidents and illnesses, will be further deteriorated. To this point GNCHR deplores the fact that no recent (post-COVID) data are available on health and safety at work.

With regard to the **Question (c)** of the Committee related to *law and practice as regards on-call time and service (including as regards zero-hours contracts), as well as, in terms of work and rest time as well as remuneration* and **Question (d)** related to *the impact of the COVID-19 crisis on the right to just conditions of work and to general measures taken to mitigate adverse impact*, the GNCHR would like to **focus on the challenges of (i) the digital transition in labour rights protection, (ii) the teleworking and (iii) the digital employment card**. In particular:

Digital transition challenges in labour rights protection

With regard to the digital transition challenges in job protection and in the protection of the right to a reasonable daily and weekly working time for workers on digital platforms, the GNCHR has welcomed **Article 67** of [Law 4808/2021](#) introducing regulations regarding teleworking and the right to disconnect, as well as, **Articles 68-69** of the same Law concerning digital platforms (Articles 124-125 of the Code of Individual Labour Law). The same applies to the provisions of **Articles 70-71** of [Law 4808/2021](#) (Articles 125-6 of the Code of Individual Labour Law), which provide, in principle, for trade union rights of service providers – natural persons and their health and safety, and **Article 72** (Article 128) that provides for the obligation to inform service providers of their rights. However the GNCHR notes with disappointment, that the national Report makes no reference to **Articles 69-71** of [Law 4808/2021](#), which regulate the contractual relationship between digital platforms with service providers. The GNCHR taking into consideration the need of unhindered access to labour rights, has expressed its concern for the introduction of the negative presumption of non-existence of dependent employment relationship, which is the current legal basis of the enjoyment of individual and collective labour rights in Greece. It is noted that the Greek State will provide detailed information on those provisions with the country's next Report, given also the fact the foreseen Presidential Decree (Art. 67 par. 12 Law 4808/2021) on the regulation of several important conditions of telework has not been yet issued, despite its relevance to platform work.²⁰

²⁰ See page 21 of the 5th National Report on the implementation of the European Social Charter, 12.7.2022.



Teleworking

Regarding the recent legal provisions for teleworking and the right to disconnect from work, the GNCHR welcomes the efforts made by the competent state authorities with regard to the regulation of remote employment/teleworking by **Article 67** of [4808/2021](#), which followed the regulative experience on telework of the COVID pandemic.²¹ The GNCHR highlights the **acknowledgement of the right to disconnect for teleworkers for the first time**, that is, a right to refrain completely from working and communicating digitally or answering telephone calls, emails, or any form of communication outside working hours and during their statutory leave. At the same time the GNCHR expresses its **reservations as to its interaction with the concept of "on call teleworking"**, which, by virtue of its ambiguity, could possibly undermine the scope of the right to disconnect. It further notes positively the protection, in the same provision, of teleworkers' health and safety, of the employee's privacy in compliance with its personal data,²² and the guarantee that teleworkers have the same rights as workers who work at the employers' premises. However, the GNCHR notes with great concern that the fact that the Presidential Decree which is provided to be issued following **Article 67** par. 12 of [Law 4808/2021](#), which will specify the rules of teleworking, does not provide for important issues such as those concerning the determination of place and time of the teleworking scheme, the safeguarding of confidentiality and privacy, the means and range of Labor Inspectorate control, etc.

Nevertheless, the GNCHR takes the opportunity at this point to recall that **during the pandemic**, despite the temporary and urgent nature of the remote working measures, the recourse to this type of working as one of the main ways of providing work due to the circumstances, has brought to light, on the one hand, a **lack on the part of the State of the promotion of the already existing legal framework for the protection of remote working, such as the incorporation in the national legislation through the National General Collective Agreement 2006-2007 of the European framework - agreement on telework**, and, on the other hand, an **increase of serious abuses due to the imposed exposure of workers to obscure working conditions**. The GNCHR stresses the need for **monitoring the implementation of remote working measures and their impact on employees' rights**.

²¹ Except from [Law 4808/2021](#), which replaced Law 3846/2010 (OGG A' 66) additional regulations for teleworking in public sector are provided by [Law 4807/2021](#) *Institutional framework of teleworking, provisions for public sector human resources and other urgent regulations* (OGG A' 96/2021).

²² More about the protection of citizens' personal data see GNCHR Observations of the GNCHR on the Draft Law: "*Procedure for lifting the privacy of communications, cyber security and protection of citizens' personal data*", December 2022.

Digital Employment Card

GNCHR deems that the re-introduction of the Digital Employment Card is a step towards the right direction, as addressing the phenomena of undeclared work constitutes a legal and legitimate aim. Nonetheless, the non-coherent implementation of this provision does not seem to benefit everyone, given that it **can only be applied to specific industries and companies**. Lastly, the processing of a large number of personal data concerning not only their presence, but also the habits of the workers, raises serious concerns.²³

Par. 2 of Article 2: to provide for public holidays with pay;

With regard to the **Question (a)** of the Committee related to *changes to work arrangements following the pandemic on public holidays and annual holiday*, the GNCHR would like to stress the provision of **Article 63** of [Law 4808/2021](#) which extends, among others, the list of businesses, for whom the Sunday holiday does not apply, in principle it maintains exemptions from mandatory Sunday rest and public holidays.²⁴ The national Report makes no reference to the current legal provisions that introduce additional **exceptions to the fundamental rule of compulsory rest on Sundays and holidays**. In this regard the GNCHR refers to the Decision No. 100/2017 of the Council of State, according to which exceptions from the **compulsory rest on Sundays and holidays**, must be imposed **in case of reasons relating to the public interest**, which is not only determined by the profit of certain businesses or activities or by needs that can be also satisfied during working days, but also by the **basic needs of citizens**, whose satisfaction cannot be suspended on Sundays and holidays.²⁵ The GNCHR regrets that in fact the abolition of the **compulsory rest on Sundays and holidays** benefits businesses, which are hence eligible to make use of increased overtime hours and to maximize their income with possible negative effects on workers, since this regulation is accordingly associated with the increase of overtime hours at 150 hours a year. On the contrary, Sunday work in industry is not associated to any legal obligation of employers to increase in job vacancies. Those restrictions have a serious impact on both the professional and private lives of workers and must be taken into account alongside the other legal arrangements pertaining to the deregulation of the working time protective framework.²⁶

²³ [Summary of GNCHR Observations](#) on Draft Law of Ministry of Labour and Social Affairs *On the Protection for Employment*, 2021, [GNCHR Report on the Draft Law of the Ministry of Labour and Social Affairs On the Protection for Employment](#), 2021, p. 65, 72, 77-80, 83-84.

²⁴ [Summary of GNCHR Observations](#) on Draft Law of Ministry of Labour and Social Affairs *On the Protection for Employment*, 2021, [GNCHR Report on the Draft Law of the Ministry of Labour and Social Affairs On the Protection for Employment](#), 2021, p. 55-58.

²⁵ The expansion of the list of businesses and holdings that can operate on Sunday raises the issue of the Decision No. 100/2017 of the Council of State, according to which: "by law *TYNE* (3455/1909, A' 286/7.12.1909), which has established Sunday rest and other holidays .

²⁶ See above p. 13-14.

Par. 4 of Article 2: to eliminate risks in inherently dangerous or unhealthy occupations, and where it has not yet been possible to eliminate or reduce sufficiently these risks, to provide for either a reduction of working hours or additional paid holidays for workers engaged in such occupations;

As it concerns the current institutional framework on Health and Safety and the safeguarding of fair working conditions in public and private sector in the context of the measures addressing the pandemic, the GNCHR, referring once again to the consequences of the austerity measures in Greece on individual and collective labor and on social security rights, takes the opportunity to reiterate the **need to implement the fundamental constitutional principles of proportionality and social solidarity, in order to achieve and maintain a fair balance between conflicting rights**. Particularly with regard to individual and collective labor rights, the GNCHR, in view of the process of codification of Labor Law in an appropriate manner,²⁷ has pointed out that the importance of the prior evaluation of the consequences of the imposed restrictive measures on those rights and the restoration of legal certainty and protection next with regard to the relevant institutional framework, so that uncertainty and possible irreversible consequences in the exercise of fundamental constitutionally guaranteed labor rights may not gain ground. As critical issues the National Commission has indicated that: **a)** the State has not yet paid due attention to the proper institutional and practical implementation of the framework for preventing and combating forced labor, **b)** the restrictions on access to employment and social security in the case of applicants of international protection exacerbate labor delinquency and abusive behavior towards these persons, **c)** vulnerable groups, such as the elderly or persons with disabilities which, due to the accelerated shift of public and private services to digital technology and the cessation of social security benefits combined with the physical presence, are threatened by further deterioration **of their living standards and consequently their economic and social exclusion**.²⁸

This being said, the GNCHR would like to stress the specific need to **guarantee fair working conditions, especially in intrinsically hazardous or unhealthy professions** in times of crisis as the pandemic Covid-19 the case was, underlining that Greece has not yet complied with the European Committee of Social Rights ruling on the Collective Complaint 30/2005 (IMDA against Greece),²⁹ with regard to the adoption of measures either to reduce working

²⁷ See above p. 8.

²⁸ GNCHR [Report](#) on the need for protection of human rights with regard to the measures taken in response to the coronavirus (COVID-19) pandemic and recommendations to the State. Description of the issues discussed in the Plenary Meetings during the lockdown Meetings of 8th, 22nd, 29th of April and of 6th May 2020, 12 June 2020, GNCHR [Report](#) regarding the impact of the pandemic and the measures taken to address it on human rights. Extraordinary times call for extraordinary responses, 5 July 2021 [in Greek], GNCHR Extraordinary times call for extraordinary responses: [Summary](#) of Recommendations to the State regarding the impact of the pandemic and the measures taken to address it on human rights, 12 July 2021.

²⁹ See GSEE, Observations submitted by the Greek General Confederation of Labour–GSEE for the implementation of “Labour Rights” (Articles 2, 4, 5, 6, 21, 22, 26, 28, 29) of the revised European Social Charter, 19.9.2022.

hours or to grant additional paid leave to workers in these professions and related to the application of Article 2, par. 4 but also Article 22 of the revised ESC.

Apart from the above, worth mentioning here is the **submission of a Collective Complaint by Amnesty International on the Violation of the Right to Protection of Health and the Principle of Non-Discrimination against Greece**, on 2 November 2022. Amnesty International maintained that the Government violated provisions of the revised ESC regarding the right to health and non-discrimination due to the effects of austerity measures, which were imposed after the financial crisis of 2009/2010.³⁰

Par. 1 of Article 4: to recognise the right of workers to a remuneration such as will give them and their families a decent standard of living;

With regard to the **Question (a)** of the Committee related to *fair specific information about furlough schemes during the pandemic, including as regards rates of pay and duration*, the GNCHR acknowledging that human rights put people at the center, refers here to its comments on the **impact of coronavirus pandemic crisis on the enjoyment of work-related rights**,³¹ and at the same time points out that measures such as the

³⁰ See Amnesty International [Collective Complaint on the Violation of the Right to Protection of Health and the Principle of Non-Discrimination](#), Violation of Article 11 (1) Read Alone of In Conjunction with Article E, *Amnesty International v. Greece*, 2 November 2022, [in Greek]. More particularly, Amnesty International filed a collective complaint to the ECSR against Greece - a right acquired by her after the ratification of the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints adopted in 1995 and ratified by Greece in 2016. The substance of this action is based on the negative impact on the right to health and the prohibition of discrimination of the austerity measures adopted by the Greek government in the period 2009-2010 and onwards, during the economic crisis. In particular, the applicant invokes a violation of Articles 11.1 (Right to health protection) and Art. E Part V (prohibition of discrimination), arguing that the austerity measures have undermined the accessibility and affordability of healthcare in Greece, with a disproportionate impact on specific marginalized individuals and groups. In support of its position, Amnesty International cites its Report of 2020, which analyses the performance of the National Health System over the decade of the economic crisis. In fact and in response to the economic crisis, starting in 2010, the Greek government began to reduce public spending and introduce a series of austerity measures. Public spending on health was reduced by 42.8% and per capita, spending on health (in other words per person) also fell by 40%. The general cuts in public expenditure were accompanied by structural changes in various governmental sectors. Regarding the public health system, the cost-sharing on pharmaceuticals was increased from 13.3% in 2012 to 18% in 2013, additional user fees were introduced for users of the health system (a measure that was eventually abolished), and the time-consuming waiting for healthcare access negatively affected people waiting for care. In Article E Part V (prohibition of discrimination) the report examines how austerity measures have affected specific groups of people in Greece, including people with lower incomes and people with disabilities, those who were unemployed and/or homeless, refugees and asylum seekers, and people with chronic health conditions. Finally, Amnesty International denounces the way in which Greece has applied the austerity measures described above, stressing that it is not in line with the obligations imposed by international human rights standards, since not all alternatives were exhausted before resorting to austerity measures. For these reasons, Amnesty International calls for the ECSR to find a violation by Greece of Articles 11 and E Part V of the revised ESC.

³¹ GNCHR [Report](#) on the need for protection of human rights with regard to the measures taken in response to the coronavirus (COVID-19) pandemic and recommendations to the State. Description of the issues discussed in the Plenary Meetings during the lockdown Meetings of 8th, 22nd, 29th of April and of 6th May 2020, 12 June 2020, GNCHR [Report](#) regarding the impact of the pandemic and the measures taken to

provision of financial assistance as a special purpose allowance and the prohibition of termination of employment contracts for businesses attempted to address the negative effects on the protection of labour rights during the pandemic.

More specifically, having regard its previous Observations on the revised ESC in 2014 in the context of measures that had imposed wage cuts and wage “freezes”, the GNCHR has pointed out that employment issues, which used to be regulated by Collective Agreements and arbitration decisions, have entailed the most dramatic drop in the standard of living conditions guaranteed by the revised ESC and the Greek Constitution.³² In that cycle, the GNCHR has expressed its serious concerns about the serious (32%) reduction of the minimum wage for all workers under 25 years of age, which was found by the ECSR to be in breach of Article 4 ESC.³³ The impact of these measures has never been evaluated, as the ECSR has ascertained, and they have not led to the reduction of the unemployment of the young, while the use of flexible forms of employment for them is increasing.

It is here worth mentioning that following the increases in the minimum wage in Greece in 2022, Greece has been rising to the 11th place from the 16th in 2021. This development is positive, however the minimum wage in Greece is still below a decent living. The minimum wage purchasing power is constantly decreasing as the prices rise, and therefore it deems necessary to significantly further increase the minimum wage within 2023.³⁴

Additionally, it is here worth mentioning, as regards families and their need for work-life balance, the transposition of the EU Directive [2019/1158](#) on work-life balance in national law through [Law 4808/2021](#) with the main objective to **facilitate the reconciliation of work and family life and achieve equality between men and women**. However, it is of great importance that the new set of provisions **apply in a non-discriminatory manner to all categories of workers**, “non-formal” workers included, promote equal opportunities and reduce, under no circumstances, the national labor “acquis”. In this

address it on human rights. Extraordinary times call for extraordinary responses, 5 July 2021 [in Greek], GNCHR Extraordinary times call for extraordinary responses: [Summary](#) of Recommendations to the State regarding the impact of the pandemic and the measures taken to address it on human rights, 12 July 2021.

³² The GNCHR has in the past, expressed its concern regarding issues falling in the scope of application of the European Social Charter and its Additional Protocol and has addressed relevant opinions and recommendations to the competent Ministries. These measures were provided by Ministerial Council Act 6/28.2.2012, which was issued by virtue of the enabling provision of Article 1(6) of Act 4046/2012 repeating clauses of the 2nd MoU. See also GNCHR, “[Observations on the 24th Greek Report on the application of the European Social Charter and on the 9th Greek Report on the application of the Additional Protocol to the European Social Charter](#)”, October 2014.

³³ ECSR Decisions on Collective Complaint 65/2011 and Collective Complaint 66/2011 submitted by General Federation of Employees of the National Electric Power Corporation (GENOP-DEI) and Confederation of Greek Civil Servants’ Trade Unions (ADEDY), and on Collective Complaint 111/2014, Greek General Confederation of Labour (GSEE).

³⁴ INE GSEE, Interim Report 2022, [Main Results](#), [in Greek], p. 4.

regard, GNCHR expresses its concerns about the fact that in Greece self-employed parents do not have access to this form of parental leave.

With regard to the **Question (b)** of the Committee related to *fair remuneration (above the 60% threshold, or 50% with the proposed explanations or justification) sufficient for a decent standard of living, for workers in atypical jobs, those employed in the gig or platform economy, and workers with zero hours contracts*,³⁵ the GNCHR reiterates here its serious concerns about the protection of the rights of the gig or platform workers.³⁶ More specifically, as it those employees concerns, the amended legislation introduces a **negative presumption to the detriment of the existence of a dependent work** (in which terms and conditions of employment can be examined by the Labour Inspectorate), since the service provider is entitled, under its contract, to use subcontractors or substitutes, to provide its independent services to any third party, to determine the time when the services are to be provided, etc. It is foreseen that only the signing of a standard contract with the above content will create a presumption at the expense of the dependent employment contract, even if the reality of employment, as is usually the case, will be completely different. This is a **regulation leading to a weakening of the legal position of digital platform workers and hardening their position to submit evidence**, as they will be the ones to break the presumption above, in particular, where, according to the correct legal classification of their contract, the latter should be considered as a dependent employment contract.

Par. 2 of Article 4: to recognise the right of workers to an increased rate of remuneration for overtime work, subject to exceptions in particular cases;

With regard to the **Questions** of the Committee related to *the right of workers to an increased rate of remuneration for overtime work, subject to exceptions in particular cases*, the GNCHR, taken into account the above mentioned, reiterates its **concerns regarding the extension of permitted overtime work accompanied with an increase of the remuneration for illegal overtime hours**, which could, in fact, be rendered inapplicable, especially given the extent of authorisation granted to the Secretary-General of Labour to increase permitted overtime work above the 150 hours limit, thus rendering the once illegal overtime work, legal.³⁷ However, this regulation carries risks for workers, especially if one takes into account the possibility of arranging working time, which the employer can use in order to secure, through his agreement with workers, working time beyond legal hours, while evading illegal overtime hours.

³⁵ See page 21 of the 5th National Report on the implementation of the European Social Charter, 12.7.2022.

³⁶ See [Summary of GNCHR Observations on Draft Law of Ministry of Labour and Social Affairs On the Protection for Employment, 2021](#), [GNCHR Report on the Draft Law of the Ministry of Labour and Social Affairs On the Protection for Employment, 2021](#).

³⁷ See above p. 13-14.

In addition, another factor of particular importance in terms of endangering the workers' protection is **the retreat of the to-date existing collective dimension of regulation through collective agreement of working time**, by granting the possibility for an individual agreement between the employer and the worker about working time. Accordingly, the essential term concerning working time can now be regulated not through information and consultation with trade unions and collective bargaining by a collective agreement, but by an individual employment contract, which will allow the implementation of the system of working time to be regulated and taken over by employers.³⁸

The GNCHR remains also concerned about the implementation of **flexible arrangements as to employment terms for working parents**, especially given that this is combined with a general flexibility as regards working time, which is promoted in other provisions through [Law 4808/2021](#). The GNCHR has recommended to the competent Authorities to ensure the guarantees of transparency and objectivity, as well as the prohibition of discrimination against workers on grounds of exercising the aforementioned rights.

Par. 3 of Article 4: to recognise the right of men and women workers to equal pay for work of equal value;

With regard to the **Questions (a) and (b)** of the Committee related *to the right of men and women workers to equal pay for work of equal value*, the GNCHR still identifies certain gaps in the existing legislation and in its implementation in practice,³⁹ that **limit women's labour rights, such as the high female unemployment rate,⁴⁰ dismissals of pregnant women in the private sector in flagrant breach of the law, the absence of a minimum single maternity benefit to all working mothers and the continuous reduction of the already insufficient day-care structures for children and dependent persons.** Moreover, the multiple State interventions to collective autonomy, especially as to the scope and mandatory character of both general and sectoral Collective Agreements setting uniform labour standards, resulted in the widening of the gender pay-gap.⁴¹ Additionally, there is still a failure to collect reliable statistics on gender discrimination in the workplace in Greece.⁴²

³⁸ See above p. 13-14.

³⁹ [Submission by the Greek National Commission for Human Rights \(GNCHR\) to the UN Human Rights Council's Universal Periodic Review of Greece](#), September 2015.

⁴⁰ 2019-04-01 [Observatory of the General Secretariat for Gender Equality 19th e-bulletin - Female Unemployment](#).

⁴¹ [Submission by the Greek National Commission for Human Rights \(GNCHR\) to the UN Human Rights Council's Universal Periodic Review of Greece](#), September 2015.

⁴² Greek General Confederation of Labour (G.S.E.E) CEACR Observations 30.8.2019.

Moreover, the GNCHR has repeatedly in the past commented on the disproportionate impact of the financial crisis and austerity measures on women⁴³, that **coronavirus pandemic crisis and the emergency restrictive employment measures taken to tackle the crisis, affected disproportionately women's labour rights**. According to the findings of the European Committee of Social Rights, indications are that women's employment has been placed at greater risk than men's by the pandemic, while the disadvantages are likely to be more lasting in terms of reduced career prospects and even ultimate exit from the labour market.⁴⁴ It is here worth mentioning, that CEACR Committee, referring to the conclusions of the *UN Working Group on Discrimination Against Women in Law and in Practice*⁴⁵, according to which Greece is lagging behind other countries in the EU regarding women's rights despite the legal and policy frameworks, due to poor implementation of law, persistence of discrimination and lingering impacts of the crisis and austerity measures, invited the Government to take all the necessary measures. The Government, in order to assess and address all the issues identified by the Committee on the Application of Standards of the International Labour Conference, should collaborate with employers' and workers' organizations, the Ombudsperson and the enforcement authorities.⁴⁶

Based on the statistical data on Greece of GSEE Labour Institute (INE GSEE) research,⁴⁷ women during the period 2008-2014, were gradually forced to leave paid work in order to meet needs that were not covered by the State and related to the care of the family, children and the elderly.⁴⁸ In 2018, 23.7% of women in the active population were unemployed, compared to 14.7% of men.⁴⁹ This is a significantly larger gap than the EU average (0.5%).⁵⁰ Similar are the results of the INE GSEE Annual Report 2020,⁵¹ which shows that the pandemic had a serious impact on young women's unemployment. Specifically, in the fourth quarter of 2020, the unemployment rate for women aged 15 to

⁴³ GNCHR, [Factsheet](#) on the Impact of Economic Reform Policies and Austerity Measures on Human Rights, 2019, GNCHR, "[Statement of the Greek National Commission for Human Rights \(GNCHR\)](#) on the impact of the continuing austerity measures on human rights", July 2015, GNCHR, "[Observations on the 24th Greek Report on the application of the European Social Charter and on the 9th Greek Report on the application of the Additional Protocol to the European Social Charter](#)", October 2014, GNCHR, "[Observations on the Draft of the Second Periodic Report of the Hellenic Republic for the International Covenant on Civil and Political Rights \(ICCPR\)](#)", December 2013.

⁴⁴ European Committee of Social Rights, [Statement](#) on COVID-19 and social rights, adopted on 24 March 2021, p. 6.

⁴⁵ UN Human Rights Council, Visit to Greece: [Report](#) of the Working Group on discrimination against women and girls, A/HRC/44/51/Add.1, April 2019.

⁴⁶ [Direct Request \(CEACR\) - adopted 2020](#), published 109th ILC session 2021.

⁴⁷ [INE Research 2008-2014](#).

⁴⁸ During the period 2008-2014, the men employment reduced by 26.4% and that of women by 19.5%. Especially for women, the risk of poverty and social exclusion in Greece raised to 36.7% in 2014 from 29.8% in 2008, Update, [INE GSEE Edition 240](#), March-April 2018.

⁴⁹ General Secretariat for Demography and Family Policy and Gender Equality (GSDFPGE) "Women's Unemployment", Table 3 Unemployment rates by gender 2013-2018.

⁵⁰ EIGE database EU - 28 for 2017.

⁵¹ INE GSSE, [Annual Report 2020](#), The Greek economy and the employment, October 2020 [in Greek] p. 10.

19 exceeded 70%, when in the first quarter of the same year, it was equal to 35.6%. For women aged 25 to 29, the unemployment rate increased from 25%, in the fourth quarter of 2019, to 33% in the fourth quarter of 2020. In this regard, the GNCHR shares the INE's findings, according to which the pandemic crisis is exacerbating gender inequality, especially at a young age, in a labor market where gender equality was far from achieved prior to the onset of the crisis.⁵² Taking into account the above mentioned, **the GNCHR notes deeply worried, that what may appear to be temporary public health-related measures could risk embedding permanent.**⁵³

With regard to **work-life balance that is guaranteed by national law after the transposition of the EU Directive 2019/1158 on work-life balance** in national law, the GNCHR, bearing in mind the impact of the previous financial crisis on reconciliation of work, private and family life and the tendency of mothers in Greece to settle the dispute between them and their employers privately, thus accepting a violation of their rights, afraid of losing their jobs, while those who complain to the Ombudsman's Office are often hesitant to proceed to further action, voices its **concerns about the essential implementation of recent Law 4808/2021** and the achievement of **equality between men and women**.

In this regard, GNCHR further expresses its concerns about the application of flexible working arrangements for working parents or careers that is often the case of working mothers. **The implementation of work-life balance measures should primarily promote the participation of women in the labour market, the equal sharing of caring responsibilities between men and women, and the closing of the gender gaps in earnings and pay**, instead of reinforcing existing inequalities in this field. Finally, the GNCHR expresses its disappointment with regard to the fact that **Greece is one of the Member States that does not grant parental leave to parents who are same-sex couples**.

Par. 4 of Article 4: to recognise the right of all workers to a reasonable period of notice for termination of employment;

With regard to the **Questions (a) and (b)** of the Committee related *to a reasonable period of notice for termination of employment, including any specific arrangements made in response to the COVID-19 crisis and the pandemic, and to the conformity or non-conformity of national legal framework and practice with the ECSR conclusions, the GNCHR has to recall its prior recommendations/observations, which regrettably remain relevant.*

⁵² GNCHR [Report](#) regarding the impact of the pandemic and the measures taken to address it on human rights. Extraordinary times call for extraordinary responses, 5 July 2021, GNCHR Extraordinary times call for extraordinary responses: [Summary](#) of Recommendations to the State regarding the impact of the pandemic and the measures taken to address it on human rights, 12 July 2021.

⁵³ See Greek General Confederation of Labour (GSEE) CEACR Observations 30.8.2019.

More specifically, given the fact that the national law provisions on the trial period (see Article 17, para 5, [Law 3899/2010](#), OGG 212/17.12 - 12-month trial period instead of the two-month period according to prior legislation) and on the notification of termination during the trial period (see subp. IA.12 case 1, [Law 4093/2012](#), OGG 222/12.11) remain in force, the GNCHR should reiterate, what it has stated in its last Report to the Committee, that dismissals had been generally facilitated and in principle continue being facilitated by reducing severance pay. At the same time it reminds the previous and repetitive recommendation by the ECSR to the State competent authorities, namely to draw attention on the conformity of national legislation to the revised ESC provisions and rights and on the duty of national Courts to ensure the protection of these rights. This is crucial for restoring justice and social peace and ensuring the smooth functioning of democratic institutions.⁵⁴

At this point, the GNCHR takes this opportunity to refer to the **recent amendments of workers' protection framework from redundancies by Law 4808/2021**, although it does not form part of the group of provisions to be checked, since the new law provisions directly or indirectly affect the correct application of Article 4 of the revised ESC. More specifically, concerning the law of termination of employment contracts and in particular the nullity of dismissal, the recent amendment of the national legislation strengthens the managerial prerogative of employer and violates in principle the protection of workers' rights from redundancies, given also the restrictive austerity regulations for the protection of employment, which are still in force.⁵⁵ In practice the employer is absolved from the obligation of reinstatement and the obligation to pay arrears of wages, which is, according to the new law provisions (par. 3 of **Article 66** of [Law 4808/2021](#), Article 339 of the Code of Individual Labour Law) replaced by **the payment of additional compensation**.⁵⁶ This measure will further affect the worker's insurance coverage, since, as opposed to what applies to arrears of wages, the dismissal compensation is not subject to social insurance contributions, but only to tax. Moreover, the same provisions allow the employer, on the one hand, to correct the defects of the termination afterwards, resulting in considering the fulfillment of the requirements as a new termination, while the previous one is now considered ill-founded and, on the other hand, to nullify the repercussions of the nullity of dismissal and the consequent arrears of wages, rendering the lawsuit initiated by the worker even more obsolete.

⁵⁴ GNCHR Observations on the 24th Greek Report on the application of the European Social Charter and on the 9th Greek Report on the application of the Additional Protocol to the European Social Charter, 2014.

⁵⁵ Summary of GNCHR Observations on Draft Law of Ministry of Labour and Social Affairs *On the Protection for Employment*, 2021, [GNCHR Report on the Draft Law of the Ministry of Labour and Social Affairs On the Protection for Employment](#), 2021.

⁵⁶ Article 66 of Law 4808/2021 does not comply with Article 24 of the Revised European of the Social Charter, as found by the European Committee of Social Rights of the Council of Europe following the Collective Complaint 111/2014 submitted by the Greek General Confederation of Labour (GSEE).

Moreover, in light of **Article 66** of [Law 4808/2021](#), even where grounds for dismissal of all categories co-exist (e.g. dismissal due to discrimination and at the same time non-payment of the severance pay), the worker may not at the same time request annulment of the contract's termination and its consequences (e.g. outstanding salaries) and civil enforcement. In the event of accumulation of the relevant action-related requests, said action shall be rejected as inadmissible. This is one more example whereby the worker is prevented from exercising his/her rights in Court where there are grounds for invalidity of dismissal. Moreover, in accordance with the same Article, in the event of invalidity of the employment contract termination because it was not served in writing or the statutory severance pay was not paid, **the employer is given the opportunity to restore the termination** by correcting the deficiencies rendering it null and void within 4 months from redundancy. It should be noted that the worker is entitled to appeal against the validity of the redundancy within a three-month period from its occurrence before the competent Court; therefore, in this case, the employer shall have already been informed of its shortcomings. The employer is also given the opportunity to correct the shortcomings of the employment contract termination, even upon the lapse of the 4-month period, in which case the fulfillment of the conditions will be considered as a new termination and the previous one shall be considered as non-existent. The new provision shall **enable the employer to correct mistakes and omissions** by canceling the consequences of the redundancy invalidity and the resulting outstanding period consequences, making the trial initiated by the employee devoid of purpose and depriving the latter of all protection.

Taking into account the above mentioned, the GNCHR reiterates with emphasis the recommendation repeatedly addressed to the Greek Authorities, urging them to assess the cumulative impact of the measures that have been taken both during the economic crisis as well as during the health pandemic crisis and the energy crisis on the enjoyment of labour rights. What's the latter concerns, the GNCHR invites the Greek competent Authorities to seek out ways to deal with this negative impact, with a view to securing employment under extraordinary circumstances.

Article 5.- The right to organise

With regard to the **Questions (a) and (b)** of the Committee related *to recent legal developments and measures taken to promote unionisation and membership, as well as, measures taken or considered to proactively promote or ensure social dialogue, with participation of trade unions and workers organisations, in order to take stock of the COVID-19 crisis*, the GNCHR, taking into account, that the National Report does not report on the national legal framework after the 2017-2020 reference period until the time of the Report's submission, has to draw the attention of the Committee to the recent legislative amendments brought about by [Law 4808/2021](#), that led to the **detriment of the**

fundamental trade union right of workers (Articles 83-101 of Law 4808/2021), and which hinder the proper implementation of Article 5 of the revised ESC.⁵⁷

In particular, the GNCHR expresses its **strong reservations as to the obligation of registering trade unions to the General Workers' Trade Union Registry**, because such requirement, as an obligatory prerequisite for the access to and the exercise of trade union rights, constitutes an interference, which is not sufficiently justified, especially taking into consideration the suspension of trade unions' and workers' representatives rights in case of non-registration. In the light of the principles that **i)** the State owes, on the one hand, to secure via its legislation and on the other hand to abstain from acts infringing the right of workers and employers to freely organize their action and decisions and **ii)** any restrictions raised by the legislation in exercising human rights cannot possibly lead to an offense of the core of the limited right and to ultimately depriving the beneficiary from its exercise, the GNCHR states its strong concern about the provisions put forward for the General Workers' Trade Union Registry. Furthermore the National Commission also notes that the provisions of **Article 83 of Law 4808/2021** constitutes a **State intervention in the process of establishing a trade union and of instituting the prerequisites for exercising the trade union action**, jeopardizing the trade union's existence itself, because its registration in the General Workers' Trade Union Registry becomes a condition for its legal personality acquisition, substituting the operational independence guarantees of a Court. Moreover, the internal autonomy of trade unions and their action are at stake through said state intervention. By introducing state control in internal autonomy and action of trade unions, the core of trade union freedom is affected, because the exercise of the trade union action depends on its compliance with the preconditions of **Article 83**, whose non adherence is controlled by the State. Therefore, said restrictions constitute **state intervention in the establishment and functioning of a trade union**, as a result, an issue of agreement results with the **Article 23, par. 1, Greek Constitution** and the country's obligations, as deriving from the international conventions that protect these rights (**Article 28, par. 1, Greek Constitution**).

In this regard, the **Council of State 4th Chamber by virtue of its Decision 2175/2022 - General Workers' Trade Union Registry and Registry of Employers' Organisations**" on the application filed by the *Labour Centre of Athens and others* for annulment of a decision of the Minister of Labour and Social Affairs, **regarding the procedure for registration of under establishment and already existing trade union organisations in the above mentioned Digital Registry, found a series of violations** in the content of that Ministerial Decision. In particular, the Court recognised that the promotion of relevant legitimate and public interest objectives must not be pursued by legislative provisions

⁵⁷ See also GNCHR [Urgent Statement](#) regarding collective labour law arrangements in the framework of the "Development Multi-Bill", 19.9.2019.

resulting in infringing the core of freedom of association or putting forward restrictions on such freedom, in breach of the principle of proportionality or unlawfully infringing other rights protected by the Greek Constitution, the European Convention, the ILO Convention 87 or by the European Union Law, such as the right to the protection of personal data.⁵⁸

Last but not least, the GNCHR would like to point out here its recommendations on the process and the **general principles that should govern electronic voting** submitted to

⁵⁸ Ministerial Decision 62599/26.8.2021 “*General Workers’ Trade Union Registry and Registry of Employers’ Organisations*” (B 4279/16.9.2021) of the Minister of Labour and Social Affairs issued upon authorization of Article 6 par. 4 (d) of Law 1876/1990, as in force, which established, inter alia, the procedure for the registration of under establishment and already existing trade union organisations in the maintained in electronic form said Registry. By virtue of the decision 2175/2022 the Chamber found that neither Article 2 of [Law 1264/1982](#), as in force, as amended by Article 83 of Law 4808/2021, concerning the registration in the General Workers’ Trade Union Registry (GEMISOE, in Greek ΓΕΜΗΣΟΕ) of a trade union organisation - whether under establishment or already existing - nor does the appealed Ministerial Decision establish a procedure for the “administrative approval” or the “administrative authorization” for the establishment or operation of a trade union organisation. The fundamental provisions of Article 2 of [Law 1264/1982](#), as in force, concerning registration in the GEMISOE and the registration of data concerning the exercise of trade union rights, within the framework of constitutionally legitimate and public interest objectives, of the legislator’s discretion to regulate the terms of exercise of trade union rights stemming from the Constitution and the Law, do not, in principle, per se, contravene neither Article 23 par. 1 of the Constitution which guarantees the freedom of association, nor Article 11 of the ECHR, nor ILO Convention 87 (1948). However, as the Court ruled, the promotion of relevant legitimate and public interest objectives must not be pursued by legislative provisions resulting in infringing the core of freedom of association or putting forward restrictions on such freedom, in breach of the principle of proportionality or unlawfully infringing other rights protected by the Constitution or by European Union Law, such as the right to the protection of personal data. In this light, it was ruled, inter alia, that the provision of par. 6 (a) of Article 2 of [Law 1264/1982](#), as in force, concerning the cumulative suspension of a number of trade union rights in case of failure to register or update even a sole item of the information specified in section c par. 4 of the same article, entails a manifestly disproportionate and particularly serious intervention in the right to freedom of association, in breach of Article 23 par. 1 of the Constitution. All the provisions of Article 10 of the appealed Ministerial Decision on granting data, to the extent that they concern the processing of personal data, have been set in breach of the empowering provision of Article 6 par. 4 (d) of Law 1876/1990. The provisions of par. 4 section c and par. 6 of Article 2 of [Law 1264/1982](#), as in force, jointly applied, impose the obligation on trade union organisations to register at GEMISOE, the data of the members of their management bodies in any case, i.e. even without their consent. However, with this context, the said provisions contravene the provision in section d of par. 2 of Article 9 of the General Data Protection Regulation (Regulation (EU) 2016/679) and, consequently, the provision of par. 1 of Article 9 of the said Regulation (GDPR), which sets the rule of the prohibition of processing specific personal data revealing the status of membership in a trade union organisation. The provision of Article 13 par. 2 of [Law 1264/1982](#), as in force, which allows the processing of specific personal data concerning trade union membership via the registration of the minutes of the sorting of ballot papers and the counting of electronic votes in GEMISOE, contravenes the provision of par. 1 of Article 9 of the GDPR, which prohibits the processing of such data. Eventually, the Court rules as unlawful the provision in the last paragraph of Article 12 of the appealed Ministerial Decision, which sets 1 January 2022 as the date of its entry into force. And thus because with the said provision, from that date commences effectively, the operation of GEMISOE, although substantial provisions of its organisation and operation have been adopted in breach of Article 23 par 1 of the Constitution, Article 9 par. 1 of the GDPR and in breach of the relevant empowering provision of Article 6, par. 4 (d) of Law 1876/1990, as in force.

the competent authorities,⁵⁹ in order to, on the one hand, ensure the transparency and integrity of the procedure and, on the other hand, provide crucial guarantees of confidentiality and privacy protection for individuals. It should be noted that until now the competent Ministries (Labour and Social Affairs, Digital Governance) have not yet issued, as needed, any legislative act on the due transition to the , electronic vote process of Trade Unions, given also that the “GEUS” Platform is not duly adapted to Trade Unions’ electoral process and guarantees (Law 1264/1982). As the GNCHR has noted in its Observations in [Law 4808/2021 \(Articles 73-81\)](#), it introduces a **disproportionate restriction on the right to strike**,⁶⁰ while recalling that, under the current regime, the 24-hour notification is informal and can be performed in any way (meaning not in writing), provided that the trade union can prove that the employer has been timely notified, if the latter disputes it. The **written notification of the employer, served by a bailiff**, cannot be justified on grounds of public interest, as it **nullifies the main feature of the strike**, which is immediate exercise of the collective right, also in conjunction with the additional restriction imposed by the present Draft Law concerning the suspension of the right to strike until public debate process is completed. Last but not least, the GNCHR has in this regard submitted its observations on the compatibility of the Draft Law provisions with the legal framework on Data Protection.

Article 6.- The right to bargain collectively

Par. 4 of Article 6: the right of workers and employers to collective action in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into

The GNCHR, bearing in mind that Article 6 of the revised ESC does not bind Greece with regard to regulating the employers’ right to collective action, would like to shortly refer to the restrictions on the exercise of workers’ right to strike imposed by [Law 4808/2021 \(Articles 91-95\)](#). These restrictions must also be taken into account in the light of the substantial limitation of the trade union right through the compulsory registration procedure to the General Workers’ Trade Union Registry under the threat of suspension of the exercise of these fundamental collective rights of workers.⁶¹ In particular, new regulations, such as the **employer's obligation of a written notice of the exercise of the right to strike delivered by a bailiff to the employer with detailed description and justification of the strike** (day and time of strike, when the strike starts and ends, the form of the strike, its reasons etc.), **imposes further restrictions** leading to blocking

⁵⁹ See [Summary of GNCHR Observations on Draft Law of Ministry of Labour and Social Affairs On the Protection for Employment, 2021](#), [GNCHR Report on the Draft Law of the Ministry of Labour and Social Affairs On the Protection for Employment, 2021](#).

⁶⁰ See also below comments on Article 5 of the revised ESC.

⁶¹ See above comments on Article 5 of the revised ESC, p. 26.

the right to strike. The GNCHR would like to point out that pursuant to the Greek legislation, the right to strike is already subject to a number of restrictions and conditions of legality, despite its constitutional protection under Article 23, par. 2 of the Greek Constitution.

Furthermore, with regard to Article 93 (protection of the right to work) of [Law 4808/2021](#), which **makes the trade union responsible for actions by third parties**, such as the right of workers who do not participate in the strike, to come and leave freely and without hindrance from their work place, with dramatic impact on the right to strike. Moreover, the introduction of vague concepts such as psychological violence poses great risks to the exercise of the right to strike, being in danger of becoming inactive. The restrictions and prohibitions laid down in the new provision, combined with other anti-union provisions, do not only hinder the legitimate exercise of the right to strike, but lead to its collapse in breach of Article 23, par. 2 of the Greek Constitution.

Additionally, a further restriction following the revised by [Law 4808/2021](#) provisions, is the **obligation of agencies, companies and undertakings towards the security personnel** (Minimum Guaranteed Service Personnel). Nonetheless, the percent of security personnel available to meet the basic needs of the community during the strike has been raised to at least one third (1/3) of the service normally provided, which constitutes a large coverage rate of the needs, thus **undermining the effectiveness of the exercise of the right to strike** as protected by Article 23, par. 2 of the Greek Constitution and Article 6 of the revised ESC.

Indicative of the fact that the protection of workers in Greece from collective labor agreements is remarkably limited, is the obligation for Greece, according to a new relevant EU Directive,⁶² to increase the coverage rate of collective agreements by 54.2 percentage points so to gradually raise coverage to 80%.⁶³

Article 26.- The right to dignity at work

With regard to the **Questions (a) and (b)** of the Committee related to the *regulatory framework and any recent changes in order to combat harassment and sexual abuse in the framework of work or employment relations*, the GNCHR welcomed the ratification of the ILO Convention No. 190 on *Violence and harassment in the world of work* in national law,⁶⁴ expressing its belief that **it will contribute to the prevention of such incidents, the punishment of perpetrators and especially the timely and proper protection of**

⁶² DIRECTIVE (EU) [2022/2041](#) OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on adequate minimum wages in the European Union.

⁶³ INE GSEE, Interim Report 2022, [Main Results](#), [in Greek], p. 4.

⁶⁴ See [Summary of GNCHR Observations on Draft Law of Ministry of Labour and Social Affairs On the Protection for Employment, 2021](#), [GNCHR Report on the Draft Law of the Ministry of Labour and Social Affairs On the Protection for Employment, 2021](#), [GNCHR Observations on Greece's combined 23rd and 24th periodic report to the Committee on the Elimination of Racial Discrimination \(CERD\), 2021](#).

victims of violence and/or harassment, provided that it will not remain inactive and it will be accompanied by the appropriate implementation measures. However, the GNCHR negatively assessed the way **the Greek legislator chose to ratify** ILO Convention No. 190, as the bill submitted to Parliament – and finally voted – raised serious concerns regarding the Convention's effective implementation. In addition, the GNCHR placed particular emphasis on the **confusion caused by the bill (now voted Law 4808/2021) with regard to the limits of the relative competences of the finally three (3) co-responsible Independent Authorities** – the Labor Inspectorate (SEPE), the Ombudsman and the National Transparency Authority – stressing that ambiguity and duplication of responsibilities are to the detriment of victims of violence and harassment, as well as of CSOs assisting them. To this end, the GNCHR recommended the clarification and complete rewording of the relevant provisions.⁶⁵

With regard to the provisions on the implementation of the ILO Convention 190, it is expected to be difficult mainly due to ambiguities, omissions and contradictions. At the same time, as regards the provisions introducing the definitions of the phenomena of violence and harassment at work, despite the improvement of the Draft submitted to the Parliament, the **GNCHR notes with regret that there remain plenty of issues of non-compliance with the existing framework**, to the extent that the Law provisions do not take into account European law and the EU acquis in the field of violence and harassment in the world of work. The GNCHR emphasizes also the need for the ILO Recommendation R206 concerning the elimination of violence and harassment in the world of work to be employed for the interpretation and supplementation of the ILO Convention 190, as it encompasses the main implementation pillars of the ILO Convention 190. The GNCHR notes that it is required, among other things, that the protective institutional framework is properly formulated on the basis of the root causes of violent behaviors and acts.

Furthermore, as regards the scope of the ILO Convention 190 and notwithstanding that the scope was in a certain degree expanded in the Draft eventually introduced to the Parliament, the GNCHR points out that not all fields in which work is provided and which are mentioned in the ILO Convention 190 are covered. In particular, the following fall outside the ambit of the Draft Law: those who provide work under – real or not – self-employment conditions, the agricultural sector and seafaring workers. At the same time, given the lack of an Explanatory Memorandum, it is not clear at all what the phrase "informal economy", which was included in the Draft submitted to the Parliament, covers in terms of its legal scope, as it is neither defined in the Draft, nor is there a reference to any relevant definition thereof.

⁶⁵ See [Summary of GNCHR Observations on Draft Law of Ministry of Labour and Social Affairs On the Protection for Employment, 2021](#), p. 3, [GNCHR Report on the Draft Law of the Ministry of Labour and Social Affairs On the Protection for Employment, 2021](#), p. 8, 29 and 71.

Furthermore, the scope remains limited in terms of the employer's obligations, since the present Draft Law is limiting the obligation to adopt policies in order to prevent and eliminate violence and harassment at work, as well as the obligation to deal with internal complaints only to companies employing more than twenty (20) individuals. Given that Greek economy consists mainly of micro, small and medium-sized enterprises, this criterion of twenty (20) employees is neither provided for in the ILO Convention 190, which clearly stipulates that all workers must be protected without discrimination, nor is it justified anywhere in the Draft Law.

Trafficking and forced labour

The GNCHR takes the opportunity to express here, in view to **effectively prevent and combat trafficking in human beings**, its **serious concerns with regard to the implementation of the relevant legal framework** and thereby in the implementation of the obligations contained in the Council of Europe Convention on Action against Trafficking in Human Beings.⁶⁶ The National Commission draws the attention of the Committee to the need for the competent State authorities to improve the labor working conditions in practice and address phenomena, notably the uncontrolled working environment, worse remuneration, residence settlement conditions as well as lack of provision for basic health and safety especially in the agriculture sector. The GNCHR while monitoring the compliance of the Greek State with the decisions of the European Court of Human Rights (ECtHR) and the adaptation of Greek legislation to the international, European and national human rights standards, has put particular emphasis to the level of compliance of the Greek State with the ECtHR judgment in *Chowdury and others v. Greece* (the "Manolada-case").⁶⁷ Moreover, the GNCHR pointed out to the particular link between human trafficking and forced labour as well as to the connection between trafficking in human beings for the purpose of labour exploitation and undeclared employment in the agricultural sector in Greece, and called upon the Greek competent authorities to reconsider the relevant legislative and institutional framework, in multiple occasions. In this regard, the GNCHR monitors new unfortunate incidents involving migrant land workers as a direct result of the abusive working conditions in the agricultural sector and the failure of the competent authorities to adopt appropriate prevention and reinforcement measures to this end, such as clearly defined labour inspections in the agricultural sector in accordance with international labour standards

⁶⁶ See GNCHR [Chowdury and Others v. Greece. Recommendations for the full compliance of the Greek State](#), 27 August 2018, [Communication](#) on the assessment of the level of compliance of the Greek State with GNCHR's recommendations on ECtHR judgment *Chowdury and Others v. Greece* (Manolada-case), 5 June 2020.

⁶⁷ GNCHR [Chowdury and Others v. Greece. Recommendations for the full compliance of the Greek State](#), 27 August 2018, [Communication](#) on the assessment of the level of compliance of the Greek State with GNCHR's recommendations on ECtHR judgment *Chowdury and Others v. Greece* (Manolada-case), 5 June 2020.

guaranteed also by the toolbox of ILO instruments. The lack of available and reliable data and strong monitoring capacity remains a key challenge that impedes progress.

In light of the pandemic crisis, the measures taken to respond to the outbreak of the crisis highlighted the challenges. Despite the fact that emergency measures were taken in order to protect the rights of all people without discrimination, yet they did not tackle the chronic problems faced by migrant workers in the agriculture sector. The GNCHR expresses its regret that during the pandemic, the living and working conditions in the agriculture holdings, the overcrowding and the complete lack of basic human standards exacerbated the increased risk of labor exploitation and forced labor.⁶⁸

Article 28.- The right of workers' representatives to protection in the undertaking and facilities to be accorded to them

The GNCHR places particular emphasis on **the provisions on trade unions** and especially on the guarantee of the "minimum trade union rights". Given that the National Report makes no reference to the restrictions on the exercise of the trade union rights imposed by [Law 4808/2021](#) on the existing legislation (**Article 18** of [Law 1264/1982](#), for articles 14-17),⁶⁹ the National Commission **reiterates its strong reservations as to the obligation to register trade unions to the General Workers' Trade Union Registry, because such requirement, as an additional criterion for the exercise of constitutional rights, constitutes an interference, which is not sufficiently justified.**⁷⁰ More particularly the GNCHR regrets that regarding the new provision in **Article 88 of Law 4808/2021**, a series of restrictions on the protection against dismissal is provided, thus put under risk the trade union right through the compulsory registration procedure with the General Workers' Trade Union Registry under the threat of suspension (abolition) of the exercise of these fundamental collective rights of workers. Following the new rule of **Article 88**, if there are more trade unions in the same employer, its representatives do not have the protection separately set out in the provision, based on the number of members of each trade union. The new provision sets a ceiling on the number of members to be protected by the employer and the extent to which the representatives of each trade union are protected shall be proportionate to the number of votes cast in the last elections for administration in relation to all the members of all the organizations who voted in the last elections for the nomination of administrations. The law in force during the reference

⁶⁸ GNCHR [Report](#) on the need for protection of human rights with regard to the measures taken in response to the coronavirus (COVID-19) pandemic and recommendations to the State. Description of the issues discussed in the Plenary Meetings during the lockdown Meetings of 8th, 22nd, 29th of April and of 6th May 2020, 12 June 2020, GNCHR [Report](#) regarding the impact of the pandemic and the measures taken to address it on human rights. Extraordinary times call for extraordinary responses, 5 July 2021 [in Greek], GNCHR Extraordinary times call for extraordinary responses: [Summary](#) of Recommendations to the State regarding the impact of the pandemic and the measures taken to address it on human rights, 12 July 2021.

⁶⁹ See also above comments on Article 5 of the revised ESC, p. 25-27.

⁷⁰ See above p. 26-27.

time 2017-2020 (which was applicable under [Law 1264/1982](#)) did not contain such restrictions.

Furthermore, restrictions are imposed by **Article 88 of Law 4808/2021** on the special protection of elected trade unions representatives, who are directly exposed to the risk of persecution by the employer due to their trade union action (despite the rules provided by **Articles 14 and 15** of the [Law 1264/1982](#)). **Articles 14 and 15** of the [Law 1264/1982](#) implement the **constitutional requirement to protect the basic trade union right (Article 23, par. 1 of the Greek Constitution)** as well as the relevant requirements of international conventions (**Article 28, par. 1 of the Greek Constitution**), such as the revised ESC and ILO Convention 87. Without the trade union action's protection against redundancy and transfer, the effectiveness of the exercise of trade union rights is highly in question. Those regulations broaden also the grounds for redundancy by introducing the vague concept of "*serious reasons*". The specification of the term by the Courts has the risk to "*legitimize*" a wide range of illegal dismissals of protected trade unionists, even without the prior identification of the grounds for dismissal by the Committee of Article 15 of [Law 1264/1982](#), which is repealed.

In light of the above mentioned, the GNCHR would like to remind the relevant guarantees of the Greek Constitution, namely the freedom of association, the right to free collective negotiations and the respect of collective labour agreements (**Article 22 par. 2 and Article 23 par. 1**), emphasizing at the same time that equal pay for work of equal value of all employees irrespective of sex or other distinctions is recognized as a fundamental constitutional principle (**Article 22 par. 1**). Bearing those constitutional guarantees in mind, the GNCHR expresses its concern about the inclusion in the content of Law 1876/1990 of restrictive provisions regarding the freedom of association, the exercise of the right to collective organization of employees and employers, specifically about the establishment of a *General Workers' Trade Unions' Registry and Employers' Organizations Registry* and lastly the provisions concerning the possibility of deciding by electronic vote in the framework of general assemblies of the workers' and employers' organizations.⁷¹

⁷¹ See GNCHR [Urgent Statement](#) regarding collective labour law arrangements in the framework of the "*Development Multi-Bill*", 19.9.2019.