



Targeted Surveys on application of core labour standards Moldova

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Targeted Surveys on application of core labour standards, Moldova

This report has been developed to provide a picture of the application of core labour standards in Moldova. The report is based on a combination of desk research and stakeholder interviews. The assessments of the issues covered in the report are based on the views of credible international organisations, national governments, employer organisations, trade unions, experts and other stakeholders.

Progress

- Legal framework on the core labour standards, especially non-discrimination.
- Government attention on issues relating to the core labour standards.

Challenges

- Social dialogue at the national level.
- Collective bargaining at the enterprise level.
- Functioning of the labour inspectorate.
- Broader decent work issues, including wage arrears.
- Anti-union discrimination

Key context

Moldova is the poorest and most unequal country in Europe. The Moldovan economy is characterised by a small domestic market with limited competition, large economic distance to regional markets and low endowment in institutional, human and natural capital. These factors constitute a serious constraint to the application of core labour standards, largely because the labour market is unable to support sufficient productive, decent work opportunities and workers are vulnerable to various forms of labour exploitation.

In 2014, almost one billion dollars, equivalent to 12.5% of GDP, was embezzled from the national banking system. The resulting political and economic upheaval has reportedly resulted in very little limited substantive progress relating to labour standards in recent years, as attention has been focused elsewhere. While this situation is beginning to improve, speculation around the outcome of parliamentary elections due in November 2018 has created some uncertainty regarding the future direction of labour-related reform.

National stakeholders and international observers report that weaknesses in Moldova's labour inspection regime constitute the biggest constraint to the application of core labour standards. Recommendations by the ILO Committee of on the Application of Standards and the most recent observations from ILO CEACR (2018) have raised significant concerns that the labour inspection system does not conform with relevant ILO conventions. Of particular concern is Law No. 131 on "State control over Business Activity" (2012) which significantly restricts the functioning of the inspectorate, specifying that visits by the labour inspectorate should be announced five days in advance, that each workplace can be inspected no more than once per year and that during the first three years of the operation of a company, inspections will be of a

consultative nature and that sanctions and other restrictive measures will not be applied, even in the case of severe violations. Since the law was passed, annual inspection reports have shown a dramatic decrease in the number of infringement reports submitted to judicial authorities, from 891 in 2012 to 165 in 2016, with reports of further declines since 2016.

Freedom of association and collective bargaining

Moldova's legal framework on freedom of association and collective bargaining is mostly consistent with international standards, although there are some outstanding issues relating to the right to strike. Instead, ineffective enforcement and supervision of labour laws is the principal constraint in ensuring freedom of association and collective bargaining rights in Moldova. This is evidenced by the fact that authorities did not record or punish a single violation of the trade union law during 2017, despite trade unions registering reports of 129 infringements (USDOS, 2018).

According to trade unions, there has been a decline in collective bargaining and social dialogue in recent years, both at national and enterprise level. Specific concerns include allegations from that for the last two years, labour law reforms have been embarked on without any tripartite discussion. Meanwhile, at the enterprise level, trade unions indicate that a range of issues which were previously decided upon through collective negotiations, especially relating to wages and salary supplements, are now set unilaterally by firms. While the most recent ILO Decent Work Country Programme (2016-2020) sets out several actions towards strengthening social dialogue and collective bargaining in Moldova, trade unions report that actual progress towards these goals has been limited at the sectoral, regional and firm level.

Forced labour

The legal framework on forced labour is broadly adequate and there are no significant concerns with its scope or content. However, international observers note that the law is not adequately enforced and penalties and sanctions for forced labour are seldom imposed.

In practice, international observers report that forced labour in Moldova is closely linked to international and internal trafficking. In particular, Moldova is identified as a significant source country for men, women and children subject to trafficking and forced labour abroad, primarily in Russia, Ukraine and elsewhere in Europe. Within the country, forced labour reportedly occurs in all regions, particularly on farms and in agricultural work.

Child labour

The legal framework on child labour is broadly adequate but enforcement is often insufficient, including in relation to worst forms of child labour. While trade union and employer representatives report that child labour is not a significant issue and "does not really exist in Moldova", international observers have reported that child labour remains an issue in practice, particularly in relation to primary agriculture. In August 2017, the Ombudsman reported that the number of children subject to labour exploitation in Moldova has increased, and that authorities, including the National Committee for the Elimination of Child Labour, lack effective mechanisms to tackle the problem, particularly since it largely occurs in the informal sector (Ombudsman, 2018).

Discrimination

Moldova has made substantial progress to improve its legislative framework on non-discrimination in recent years, but that there are outstanding issues relating to the legal definition giving expression to “equal pay for work of equal value”. Few complaints relating to discrimination are brought forward in practice, indicating shortcomings in the implementation and enforcement of relevant laws. In particular, it is reported that decisions on discrimination cases issued by the courts commonly do not include proper assessments of evidence, do not follow national law and do not apply international legal principles relating to equality.

Overall, both by global and regional standards, Moldova performs relatively well on measures of gender equality in employment. However, the Moldovan Equality Council and international observers have raised concerns regarding the prevalence of gender discrimination, particularly in relation to pregnancy and maternity. The Equality Council and the ILO have also reported discrimination issues in relation to Roma persons, persons with disabilities, older workers and on the basis of health status and language.

Other working conditions

Moldova faces a number of significant employment challenges. The labour market is characterised by high levels of informality, low levels of productivity and low levels of employment.

Occupational safety and health. OSH legislation is generally considered adequate and reforms are ongoing to align national legislation to relevant EU Directives. However, trade unions report ‘deep concern’ with the overall level of enforcement of OSH laws by the government and of non-compliance with relevant legislation by employers. In September 2017, responsibility for the enforcement of occupational safety and health (OSH) legislation was transferred to 10 separate supervision authorities. Trade unions report that not all of these authorities employed qualified personnel to conduct inspection activities and that workplace accidents which took place since September 2017 (around 60, including 11 fatalities and 4 serious injuries), have not been properly investigated or addressed (CNSM, 2018).

Wages. Delayed wage payments and wage arrears are a significant issue across all sectors and are growing over time, reaching MDL 178 million (EUR 9 million) in April 2017 (USDOS, 2018). “Envelope wages”, whereby workers receive cash-based unregistered payments for at least part of their salary, are also common practice in Moldova, reportedly accounting for 29.6% of total payroll (ILO, 2016).

Social security coverage. The widespread practice of undeclared wages has also been identified as a major obstacle to establishing a comprehensive social security system as it significantly impacts on access to social security for workers whose salaries are not fully declared. International observers also report concerns relating to the shrinking coverage of the pension scheme, and around social security coverage for disadvantaged and marginalised individuals and for Moldovans working abroad.

Status of ratification and reporting

Moldova has ratified all eight ILO fundamental (core) labour conventions without reservations and maintains their ratification. Moldova has also ratified all four ILO

governance (priority) conventions. Moldova is up-to-date with all of its reporting obligations to the monitoring bodies of the ILO in relation to these conventions.

		Application issues - latest ILO CEACR observations and direct requests on core conventions
Freedom of association & collective bargaining	C87	(2018): Requested govt. to adopt legislative provisions expressly providing for the participation of trade unions and employers' organizations in determining the minimum services to be ensured in the event of a strike, and to amend the list of essential services where strikes are prohibited.
	C98	(2018): Requested govt. to amend Labour Code to ensure that referral of a collective bargaining dispute to the courts is possible only upon request by both parties to the dispute.
Forced Labour	C29	(2017): The Labour Code allows for forced labour in circumstances which contravene C29, including for violations of labour discipline and expressing political views.
	C105	(2017): <i>No specific application issues raised.</i>
Child labour	C138	(2016): The Labour Code allows children aged 15 to conclude work contracts with the written permission of their parents, provided that this does not impair with their health, education or development.
	C182	(2016): No specific concerns raised but requested additional information relating to trafficking and Roma children.
Discrimination	C100	(2017): <i>No specific application issues raised.</i>
	C111	(2017): Requested amendments to the Labour Code to ensure that restrictions on women's work are limited to maternity protection.

References

ILO CEACR, [Observations and Direct Requests for Moldova](#).

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Ombudsman of the Republic of Moldova, 2018, [Rights, responsibility and human freedom in the Republic of Moldova in 2017](#).

US Department of State (USDOS), 2018, [Country Reports on Human Rights Practices for 2017](#).