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EUROPEAN SOCIAL CHARTER

5th National Report on the implementation of

the European Social Charter

submitted by

THE GOVERNMENT OF "THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"

- Articles 2, 4, 5, 6, 21, 26, 28 and 29 for the period 01/01/2013 - 31/12/2016

- Complementary information on Article 1§4 and 15§1 (Conclusions 2016)

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REPUBLIC OF MACEDONIA

MINISTRY OF LABOUR AND SOCIAL POLICY

FIFTH REPORT
ON THE IMPLEMENTATION OF
THE REVISED EUROPEAN SOCIAL CHARTER

Submitted by

THE REPUBLIC OF MACEDONIA

(for the Articles 2, 4, 5, 6, 21, 26, 28 and 29)

Skopje, November, 2017

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PREFACE

Republic of Macedonia on 06.01.2016 ratified the Revised European Social Charter.

Pursuant to Article C and Article 21 of Part IV of the Charter, Republic of Macedonia submits its fifth Report on the Implementation of Ratified Provisions of the Revised European Social Charter (1996).

The Report is prepared in accordance with the new reporting system, adopted by the *Committee of Ministers* of the Council of Europe, in force as of October 31st, 2007.

This Report contains relevant information and data on the implementation of the obligations undertaken by Republic of Macedonia related to the articles of the thematic group *"Labour Rights"*, i.e.:

- Article 2 (paragraphs 1, 2, 3, 4, 5, 6 and 7);
- Article 4 (paragraphs 2, 3 and 5),
- Article 5;
- Article 6 (paragraphs 1, 2, 3 and 4);
- Article 21;
- Article 26 (paragraphs 1 and 2);
- Article 28;
- Article 29.

The reference period of this Report is 01.01.2013-31.12.2016.

During the preparation phase, the social partners have been requested to provide their own contribution and inputs in the preparation of this Report, as well as in providing answers/replies to the specifically asked questions by the European Committee of Social Rights (from the Conclusions XX-3 - 2014).

In **Annex 1** to this Report, all the information, remarks and inputs received from the Federation of Trade Unions of Macedonia with regard to certain conclusions of the European Committee of Social Rights on the conformity and non-conformity of the situation in our country with the provisions of the Charter belonging to this thematic group *("Labour Rights")*, have been entirely presented, as received.

Pursuant to Article 23 of Part 4 of the Revised European Social Charter, copies of the prepared Report were delivered to the relevant national organizations of employers and trade unions, such as:

- **Federation of Trade Unions of Macedonia;**
- **Confederation of Free Trade Unions of Macedonia;**
- **Organization of Employers of Macedonia.**

Copies of the Report were also submitted to the other relevant trade unions and employers' associations that act on a national level.

In addition to the fact that the social partners were consulted and their contribution was requested at the preparatory stage, **the full draft text of the Report on the implementation of the revised European Social Charter, before its submission to the Government of Republic of Macedonia, was reviewed, discussed and unanimously adopted at the 39th meeting of the Economic and Social Council (ESC) held on November 27, 2017.**
In addition to this Report (**Annex 3**) is also an Excerpt from the Minutes of the thirty-ninth ESC session.

As **Annex 2** to this Report, we submit also the requested information regarding two articles from the thematic group *"Employment, Training and Equal Opportunities"* for which the European Committee of Social Rights concluded that there is a non-conformity in the legislation and practice in the Republic of Macedonia with the standards and requirements of the Charter due to the lack of relevant information, published in the Committee's Conclusions 2016 for the following provisions: **Article 1 (paragraph 4)** and **Article 15 (paragraph 1).**

This Report was reviewed and adopted by the Government of the Republic of Macedonia, at its 43th Session, held on December 19, 2017.

ARTICLE 2 – The right to just conditions of work

Article 2§1

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake 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.

During the reporting period, the Law on Labour Relations was amended in respect of overtime work. Namely, the Law on Amending the Law on Labour Relations, published in the Official Gazette of Republic of Macedonia no. 33/15, in Article 117, paragraph 2 has been amended and it establishes that overtime work can last up to eight hours per week and up to 190 hours per year, except for the things that due to the specific work process cannot be terminated or for which there are no conditions and opportunities to arrange shift work. Overtime work in period of three months cannot exceed eight hours per week on average.

The Law on Amending the Law on Labour Relations, published in Official Gazette of Republic of Macedonia No. 129/15 shall amend the amount of fines. Namely, pursuant to Article 265, a fine in the amount of 3000 Euro in denar counter-value shall be imposed on an employer-legal entity if they ordered the worker to work with longer working hours than the working hours determined by law, if they does not keep or improperly keep records of the working time and overtime and did not inform the inspector of the introduction of overtime. For the same offense of the responsible person in the legal entity, a fine of 30% of the measured fine for the legal entity will be imposed, while a fine in the amount of 300 to 450 euro in denar counter-value will be imposed on an employer-natural person.

Regarding the question of the European Committee of Social Rights whether there are restrictions on daily and weekly working hours in accordance with the organization of flexible working hours, where daily and weekly working hours can vary between certain maximum and minimum numbers[1], we inform you that the Law on Labour Relations determines a 40 - hour working week, which usually lasts five working days (Article 116, paragraphs 1 and 2). It does not contain provisions that relate to the organization of flexible working hours, nor does it determine the minimum and maximum duration of daily and weekly working hours.

In order to monitor and control the application of the provisions of the Law, the State Labour Inspectorate, in accordance with the competences, performs regular inspection supervisions according to the Annual Work Programme and handles written

[1] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 5.

and oral requests from workers for protection of labour rights[2]. Thus, the State Labour Inspectorate in 2013 adopted 365 decisions to eliminate irregularities in overtime work, of which 139 in the field of commerce, 96 in the processing industry, 44 in catering, 30 in service industries, and the rest in other areas.

In 2014, 264 decisions were adopted, of which 91 in the trade, 61 in the processing industry, 54 in catering, 13 in construction, and the rest in other areas.

In 2015, 265 decisions were adopted, of which 88 in the trade, 65 in the processing industry, 62 in catering, 15 in service activities, 10 in civil engineering and the rest in other areas.

In 2016, 238 decisions were adopted, of which 66 in the trade, 66 in transport and storage, 39 in processing industry, 33 in catering, and the rest in other areas.

Concerning the conclusion of the European Committee of Social Rights on the non-conformity of the situation in Republic of Macedonia with Article 2, paragraph 1 of the European Social Charter, concerning the treatment of the time spent by medical workers while on standby, i.e. on a call, we inform you that with Article 218 of the Law on Health Protection (Official Gazette of Republic of Macedonia no.43/12, 145/12, 87/13, 164/13, 39/14, 43/14, 132 / 14, 188/14 and 10/15), "work on call", i.e. "standby time", is regulated as a form of work when the healthcare worker, that is, the healthcare co-worker does not have to be present in the healthcare institution, but shall be obliged be available by telephone or by means of other telecommunication means, in order to be able to provide registered counselling and, when necessary, to arrive at the workplace in order to perform an urgent medical intervention. As stated in the Committee's conclusion, the standby time shall not be deemed business hours, except for the hours of engaged call. It is important to mention that this manner of work i.e., "work on call" is practiced because of the need to provide urgent and immediate assistance by a specialist doctor of a particular specialty. Standby is practiced by doctors-specialists, usually in populated areas with fewer inhabitants, and when a 24-hour coverage with all specialists in the Public Health Institutions cannot be provided. These are cases where, for example, there is a need to call an ophthalmologist due to a greater eye injury that must be taken care of immediately, and not for regular examinations.

These cases of a need of urgent and immediate assistance are not frequent because at that time there is a continuous health care in the public health institution where the doctor is employed is provided. Specialist doctors who are called on standby are called only in cases of life-threatening conditions (traffic and other accidents, emergency situations). Hence, we consider that "standby time" does not constitute a violation of the right to rest, given that the standby is not in the employer's premises, and no effective work is performed.

[2] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 6.

Also, in the context of the given explanation above in the text, we note that, according to the Collective Agreement for the Health Care Activity of Republic of Macedonia, the healthcare worker shall be entitled to an allowance for the hours for the engaged call during the standby period. Pursuant to this collective agreement, the compensation for standby amounts as follows: without a call and engaging, 8% of the daily allowance of his/her monthly wage, and for a call and engaging, 113% of his/her monthly wage per hour, during the time he/she was at work.

Article 2§2

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake to provide for public holidays with pay.

During the reporting period, the Law on Labour Relations (Official Gazette of Republic of Macedonia No. 129/15) was amended regarding the amount of fines. Namely, pursuant to Article 265, a fine in the amount of 3000 Euro in denar counter-value shall be imposed on an employer-legal entity, which does not provide the employee with leave from work with compensation for monthly wage for the holidays of Republic of Macedonia, which are determined as days off, and if for any introduction of a public holiday, it has not previously notified Regional State Labour Inspector. For the same offenses of the responsible person in the legal entity, a fine of 30% of the measured fine for the legal entity will be imposed, while a fine in the amount of 300 to 450 euro in denar counter-value will be imposed on an employer-natural person.

In inspection supervisions, it is controlled whether the employer keeps records of working on a public holiday, whether workers working on a holiday are paid a monthly wage allowance under a collective agreement and whether the labour inspectorate is notified about the work on holiday. Decisions to eliminate irregularities are made for non-compliance with the legal provisions. Thus, in 2013, 206 decisions were passed, with which the employers were ordered to pay a monthly wage allowance for work on a holiday in accordance with the law and a collective agreement of which 74 in the trade, 62 in the processing industry, 28 in the catering industry, and the rest in other industries. In 2014, 262 decisions were adopted, of which 93 in the trade, 86 in the processing industry, 36 in catering, and the rest in other areas. In 2015, 256 decisions were adopted, of which 79 in the trade, 93 in the processing industry, 44 in catering, and the rest in other areas. In 2016, 193 decisions were adopted, of which 72 in the trade, 69 in the processing industry, 21 in catering, and the rest in other areas.

Article 2§3

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake to provide for a minimum of four weeks' annual holiday with pay.

During the reporting period, the Law on Labour Relations (Official Gazette of Republic of Macedonia No. 33/15) was amended, and Article 141 paragraph 2 was amended and now shall read: "Annual holiday, in agreement with the employer, may be used in several parts, where one part of the annual holiday must last at least two uninterrupted working weeks."

By the same law, an amendment to Article 144 paragraph 2 was made, by which the employee shall be entitled to use the two days of annual leave on days that they will determine, if this does not seriously endanger the working process, since they must notify the employer at the latest three working days before they use them.

The Law on Amending the Law on Labour Relations, published in Official Gazette of Republic of Macedonia No. 129/15 shall amend the amount of fines. Namely, pursuant to Article 265, a fine in the amount of 3000 Euro in denar counter-value shall be imposed on an employer – legal entity which will not provide the employee with a break during the business hours, holiday between two consequent days, weekly and annual holiday in accordance with this Law and which will not issue a decision on annual holiday. For the same misdemeanors, the responsible person in the legal entity will be imposed with a fine of 30% of the measured fine for the legal entity, while a fine in the amount of 300 to 450 euro in denar counter-value will be imposed on an employer-natural person.

In the regular inspection supervisions, the State Labour Inspectorate shall make sure that the employees are issued with decisions on annual holiday and whether they use the same in line with the law. In 2013, 82 complaints referring to the rights to annual holiday were submitted and 136 decisions were adopted. In 2014, 43 complaints were submitted and 164 decisions on removing irregularities were adopted. In 2015, the Inspectorate received 45 complaints related to the right to annual vacation submitted by employees, and in 2016 there were 57 such complaints submitted. In 2015, 155 decisions instructing the employers to eliminate the identified irregularities regarding the use of annual leave were adopted, and 57 such decisions were adopted in 2016.

Article 2§4
With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake 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.

In 2014 amendments to the Law on Safety and Health at Work (Official Gazette of Republic of Macedonia No. 158/14) were made, which supplemented Article 11 with new paragraph 2 and the safety statement (envisaged with paragraph 1) was provided for where the employer shall be obliged to provide an opinion from the union or representative of the employees where there is no union (paragraph 2).

Regarding the Committee's finding that the previous report of Republic of Macedonia contains no information on preventive measures aimed at eliminating or reducing work-related risks[3], we inform that the preventive measures for eliminating or reducing the risks related to work are contained in the Law on Safety and Health at work. Namely, pursuant to Article 11 of the Law on Safety and Health at Work (Official Gazette of Republic of Macedonia No. 92/07, 136/11, 23/13, 25/13, 164/13, 158/14, 15/15, 129/15, 192/15 and 30/16), each employer must prepare and conduct safety statement for each workplace, specifying the manner and measures that the employer should undertake in order to remove the determined irregularities and workplace hazards. Manner of preparation of the safety statement, its contents, as well as the data on which the risk assessment should be based are prescribed in the *Rulebook on the manner of preparation of a safety statement, its contents, as well as the data upon which the risk assessment should be based* (Official gazette of Republic of Macedonia No. 2/2009).

In conducting inspection supervisions, state labour inspectors in the area of safety and health at work must perform control of developed and conducted safety statement for each workplace.

In 2013, 16,593 inspection supervisions were conducted at business entities, where a total of 15,687 irregularities were found; in the control inspection supervisions it was determined that 12,529 irregularities are removed, i.e. 79.9% of the employers acted upon the same. In 2014, 16,735 inspection supervisions were conducted at business entities, where a total of 14,068 irregularities were found; in the control inspection supervisions it was determined that 12,172 irregularities are removed, i.e. 86.5% of the employers acted upon the same. In 2015, 16,753 inspection supervisions were conducted at business

[3] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 9.

entities, where a total of 21,923 irregularities were found; in the control inspection supervisions it was determined that 19,906 irregularities are removed, i.e. 90.8% of the employers acted upon the same. In 2016, 11,713 inspection supervisions were conducted at business entities, where a total of 12,402 irregularities were found; in the control inspection supervisions it was determined that 11,101 irregularities are removed, i.e. 89.5% of the employers acted upon the same.

During the reporting period, four requests for part-time work were received from employers performing healthcare activities, accompanied by opinions from the health institution working with occupational medicine and the labour inspection. On the basis of those opinions, the minister in charge of labour affairs approved the requirements for part-time work.

Article 2§5

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake to ensure a weekly rest period which shall, as far as possible, coincide with the day recognised by tradition or custom in the country or region concerned as a day of rest.

In the reporting period, no changes were made to the legal framework regarding the issue of weekly rest.

Regarding the question of the European Committee of Social Rights of whether the minimum legal duration of the weekly rest period is calculated as an average for a period of up to six months, this means that the worker can work more than twelve consecutive days without receiving a two-day rest[4], we note that in the activities i.e. for jobs or occupations where, according to Article 136 of the Labour Law, the weekly rest period is set at an average minimum duration, over a longer period of time, which must not be longer than six months, the law does not envisage the maximum of days in which works will be carried out continuously, without a weekly rest for the worker. Considering that the work rest allows for more engaged and more efficient performance of the work by the employee; such deviations, according to the interest of the employer as well, would be reduced to a minimum, that is, only when the nature of the work requires constant presence at work, and where the nature of the activity requires continuous collateral work or service provision, as well as in unequal or increased workload.

To the State Labour Inspectorate in 2013, 28 complaints were submitted pertaining to the right to weekly rest and 43 decisions were adopted to eliminate irregularities. In 2014, 16 complaints were submitted and 37 decisions were adopted. In 2015, 21 complaints were submitted and 51 decisions were adopted. In 2016, 19 complaints were submitted and 62 decisions were adopted.

[4] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 11.

Article 2§6

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake to ensure that workers are informed in written form, as soon as possible, and in any event not later than two months after the date of commencing their employment, of the essential aspects of the contract or employment relationship.

By the Law on Amending the Law on Labour Relations, published in Official Gazette of Republic of Macedonia No. 113/14, an amendment of Article 13 paragraph 3 was performed according to which the employment contract shall be concluded one day before the employee begins to work, and in urgent cases, at least one hour before the employee commences with work.

With the amendments and supplements to the same law published in the Official Gazette of Republic of Macedonia no. 113/14 and 33/15, Article 23 receives amended content:

Thus, when the employer employs workers by public announcement, the same shall be obliged to state in the announcement:

- title of the job position;
- required conditions for performing the work;
- commencement and completion of the daily and weekly working hours;
- working hours schedule;
- amount of the basic net monthly wage or amount of the lowest to the highest amount of the net monthly wage for the workplace for which an employee is required;
- application deadline which must not be shorter than five working days;
- deadline within which the selection will be performed; and
- accurate employer data (name, seat, telephone, contact person and address for submission of applications).

If at the public announcement up to 200 candidates have applied for a job, the selection is made within 45 days, if there are from 201 to 500 candidates for one job, the selection is made within 90 days and if there are over 500 candidates for one job position, the selection is carried out within 120 days after the expiration of the reporting period. For the duration of the public announcement, the director may not publish new announcement for the same job position. Public announcement ends with selection, non-selection or expiration of the stated deadlines. If for certain job position an employee with special authorisations is required, the public announcement should state that the job position requires special authorization. Publishing shall also be deemed the publication in the premises of the service responsible for employment mediation. If the employer publishes the vacancy in the public information means as well, the deadline for application shall start from the date of the last announcement.

Article 2§7

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake to ensure that workers performing night work benefit from measures which take account of the special nature of the work.

There were no amendments made in the reporting period to the legal framework regarding the weekly rest issue.

Regarding the question of the European Committee of Social Rights, whether, in addition to the initial consultation, there is regular consultation with workers' representatives regarding the use of night work, the conditions under which it is implemented and the measures taken to meet the needs of workers and the special nature of the night work[5], we note that regular consultation with the representatives of workers regarding the use of night work is not defined in the law, but it can be done at any time, if there is a need for the same and on the initiative of both parties, but in accordance with Article 29 of the Law on Safety and Health at Work (Official Gazette of Republic of Macedonia No. 92/07, 136/11, 23/13, 25/13, 164/13, 158/14, 15/15, 129/15,192/15 and 30/16), the employee's representative shall be entitled to walk around the workplace due to the perception of the safety situation at work and shall ask the employer to take appropriate measures and provide direction proposals in order to reduce the hazards to employees and remove sources of dangers.

[5] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 13.

ARTICLE 4 – The right to a fair remuneration

Article 4§2

With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake to recognize the right of workers to an increased rate of remuneration for overtime work, subject to exception in particular cases.

In the reporting period 2013-2016, there were no amendments in the legislation regarding the issues concerning the amount of the bonus in proportion to the regular monthly wage and the right to paid holiday instead of overtime allowance.

In the reporting period, there are also no amendments to the legislation and the proportion between overtime and regular monthly wage.

Regarding the specific question asked by the European Committee of Social Rights regarding the amount of the bonus in proportion to the regular monthly wage[6], we inform that the Law on Labour Relations (Article 105, paragraph 3) foresees that the monthly wage of the employee consists of the basic monthly wage, part of monthly wage for work success and monthly wage supplements. The type of monthly wage supplements is defined in Article 106, paragraph 3, where it is stipulated that the employee is entitled to monthly wage supplement for extended work (overtime) as well.

The Law on Labour Relations stipulates that the full working hours must not be longer than 40 hours during the week (Article 116), but Article 117 stipulates that at the request of the employer, the worker can work more than the full business hours - overtime. There are cases where employees may work overtime (increased volume of work, extension of the business or production process, removal of damage to the means of work, ensuring the safety of people and property, as well as in other cases that need to be regulated by law or collective agreement). The Law limits the maximum working hours for overtime to 8 hours during the week and up to 190 hours per year.

It should be taken into consideration that the Law on Labour Relations regarding working hours is fully harmonized with the legislation of the European Union, i.e. with Directive 2003/88/EC, which refers to certain aspects of organization of the working hours.

If the worker is working overtime, that is, over the maximum number of working hours determined by law, because that time is part of their time for rest, a legal obligation is foreseen to pay the same in the amount determined by law and collective agreement.

There is no legal basis for exceptions, which means that every worker who works overtime has the right to monthly wage allowance in accordance with law and collective agreement, regardless of his position or place of work.

[6] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 14.

To the employee who has worked more than 150 hours longer than the full-time, and has not been absent from work for more than 21 days during the year, the employer shall be obliged, besides the monthly wage supplement, to pay them a bonus in the amount of one average monthly wage in the Republic as well. The employer shall be obliged to keep separate records of the overtime work and to indicate the hours for overtime work in the monthly calculation of the employee's monthly wage. The employer shall be obliged to inform the Regional State Labour Inspectorate about any introduction of overtime work in advance.
With Article 24 of the General Collective Agreement for Private Sector Employees (Official Gazette of Republic of Macedonia No. 76/2006), the basic monthly wage of the employee is expected to increase by an hour by at least 35%. With Article 17 of the General Collective Agreement for the Public Sector of Republic of Macedonia (Official Gazette of Republic of Macedonia No. 10/08 and 85/09) it is foreseen that the official monthly wage of the employee for overtime work shall increase by 29% per hour.

The State Labour Inspectorate, with every regular supervision and handling of complaints, controls the records on working hours and overtime, as well as the payment of an allowance for overtime pay.

Regarding the issue of the employees' right to paid holidays instead of reimbursement for overtime work and whether it is with an extended duration[7], we inform that the issue of overtime for administrative officials is regulated by the Law on Administrative Officers (Official Gazette of Republic of Macedonia no. 27/14, 199/14, 48/15, 154/15, 5/16 and 142/16), under Article 92, and according to the same there is no difference in the proportion between regular work and overtime. However, Article 92, paragraph 5 foresees that the employee who works longer than the full-time should be entitled to as many free hours or days as they were engaged for work outside the regular working hours, i.e. an increased duration of the free hours or days is not anticipated. In addition, paragraph 6 foresees the free hours i.e. days, they must be used by the end of the following month, and if the employee is not provided with the use of free hours or days, an allowance should be paid to them in the amount of 35% of the base monthly wage calculated per hour.

In 2013, the State Labour Inspectorate has issued 274 decisions, which instruct employers to pay an allowance for overtime work. In 2014, 227 decisions were adopted, in 2015, 219 decisions and in 2016, 234 decisions.

[7] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 14.

Article 4§3

With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake to recognize the right of men and women workers to equal pay for work of equal value.

There were no amendments made in the reporting period to the legal framework regarding the weekly rest issue.

Regarding the issue of the European Committee of Social Rights, which is the definition of equal work or work of equal value under the Law on Labour Relations[8], we note that the law does not determine a definition of equal work or work of equal value, but it arises from Article 108 of the Law on Labour Relations, according to which the employer shall be obliged to pay equal remuneration to the workers for equal work with equal requirements at the workplace regardless of gender. The provisions of the employment contract, the collective agreement, or the general act of the employer, which are contrary to this Article, shall be null and void.

Regarding the Committee's question as to which rules apply with regard to the guarantees for the implementation of the principle of equal remuneration, the burden of proof and sanctions, and the request for information on domestic case-law for the provision of equal remuneration[9], we inform that the person who considers themselves discriminated shall provide facts that make their claim likely, while proving that no discrimination is at the expense of the defendant pursuant to Article 38 of the Law on Prevention and Protection Against Discrimination (Official Gazette of the Republic of and Macedonia No. 50/2010). *"If the party in a court procedure claims that according to the provisions of this law it is confirmed that its right to equal treatment is violated, the same shall be obliged to present all the facts and evidence that justify its claim. The proof that there was no discrimination is borne by the opposing party."*

In the implementation of the Law on Labour Relations so far, according to our findings and the experiences of the State Labour Inspectorate, no cases of non-compliance with the Law have been noted, from the aspect of the principle of equal treatment, i.e. the same monthly wage is determined regardless of whether it is a man or a woman.

Pursuant to Article 6 of the Law on Labour Relations, the employer shall not put the employment seeker or the worker in unequal position because of racial or ethnic origin, skin colour, gender, age, health condition or disability, religious, political or other believe, membership in unions, national or social origin, family status, economic status, sexual orientation or other personal circumstances.

[8] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 15.

[9] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 15.

Thereto, women and men must be provided with equal opportunities and equal treatment in connection to:

- access to employment, including promotion and vocational and professional training in work;
- working conditions;
- equal remuneration for equal work.

If the candidate for employment, i.e. the worker, in case of dispute presents facts that the employer acted to the contrary of Article 6, then the burden of proving that no discrimination was present i.e. that the same acted in accordance with the said article, shall fall to the employer, unless they prove that the different treatment is made due to exception determined by the Law (Article 8).

Through inspection supervision, the inspection services, pursuant to law, represent a guarantee for exercising the legally provided right.

In our knowledge and data available, there are no requests or information about unequal remuneration submitted by employees in the reporting period.

Regarding the Committee's question whether in a court procedure for equal remuneration it is possible to compare the payments and the jobs outside the organization directly affected[10], we inform that in the reporting period we do not have such information about a possible court procedure for an equal or unequal remuneration. We consider that it is due to the insufficient awareness of the rights of women in connection to the existence of this phenomenon, but it is also due to the ignorance that the right to equal remuneration for equally valued work is regulated by law.

Thus, according to researches, the gender gap in the monthly wages between women and men (assuming they have the same level of education, same work experience, working in the same sector, occupation, etc.) is 17.5%. The gap is largest in the industry and traditional services.

Regarding the request for statistical data of the ECSR, which refer to the gender pay gap between women and men in all sectors of activity (i.e., inadequate gap)[11], and statistics relating to the gender gap in the monthly wages between women and men for work with equal value (i.e., adjusted gap), we inform that the State Statistical Office has produced data based on surveys conducted in our country for the years 2010 and 2014, due to the reason that the surveys/researches from which the indicators are calculated are with a four-year periodical. In addition, there is a table provided, containing the gap in the earnings between women and men by sectors, for 2010 and 2014, in percent.

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10 European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 16.

11 European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 16.

Gap in the earnings (pay gap) between women and men by sectors, in percent

	2010	2014
Mining and quarrying	15.9	17.1
Manufacturing industry	22.5	21.3
Electricity, gas, steam and air conditioning supply	2.5	3.1
Water supply; waste water disposal, waste management and remediation activities	-22.3	3.8
Civil engineering	-0.8	-2.6
Wholesale and retail trade; repair of motor vehicles and motorcycles	16.5	21.4
Transport and storage	-7.0	-10.0
Accommodation capacities and food service activities	3.7	5.0
Information and communication	7.3	3.8
Financial activities and insurance activities	9.3	15.3
Real estate-related activities	-6.9	-3.9
Professional, scientific and technical activities	-3.7	27.5
Administrative and auxiliary service activities	11.4	5.5
Public administration and defense; mandatory social insurance	4.4	0.9
Education	1.5	-1.0
Activities in health and social protection	12.7	13.9
Art, entertainment and recreation	8.9	19.9
Other service activities	-0.7	-18.2

Source: State Statistical Office

Regarding the second part of the ECSR's request for statistics relating to the gender pay gap between women and men for work of equal value (i.e., adjusted gap), we inform that a fair valuation of the work that performed by women and men and overcome of discrimination in monthly wages are essential for achieving gender equality, and a key element for decent work at the same time.

Pursuant to the positive legislation, Republic of Macedonia promotes and implements policy based on the principle of equality in pay for women and men for a job with equal value, as defined in the Equal Remuneration Convention, 1951. (no. 100), in order to promote the equality and to effectively approach to the overcome of the discrimination in monthly wage, especially because the women and men often perform different works.

However, while the principle of equal remuneration for men and women for work of equal value, often referred to as "equal monthly wage", is widely accepted, however, the real scope and application in practice are different. Unequal incomes are a concealed long-standing problem that is difficult to overcome without clearly understanding the concepts and consequences for the job position and the society as a whole, as well as without introducing proactive measures. The challenge to apply the principle gets important in the context of the current economic crisis, with "equal monthly wages" simply considered as an added expense.

For this purpose, the Ministry of Labour and Social Policy, in cooperation with the office of the International Labour Organization (ILO), has developed a Minimum Wage Policy Guide that explains the concepts that form the basis for equal incomes for work of equal value and provides guidance for its practical application. Although the Guide refers specifically to equal remuneration between men and women, as this is a long-term issue of interest to the International Labour Organization and continues to be a challenge today, it aims to offer considerations to overcome the problem of equity in wages on bases other than gender.

The guide is intended for government officials, workers' organizations and employers, policy makers, practitioners, trainers, and other stakeholders in this dynamic area and the same can help to:

- raise the awareness and understand the principle of equal remuneration for work of equal value;
- assist in the application of the principle in the national law and practice;
- assist the national bodies in the equality in promoting the principle; assist in the application of the principle in the institutions determining the wages;
- negotiate for provisions for equal remuneration in collective agreements;
- development of policies for job positions, including methods for assessing the job position;
- provide information and examples to the trainers for raising awareness and building capacity;
- provide foundation for ratification of the Convention no. 100;

The Ministry of Labour and Social Policy and the International Labour Organization have also prepared a report that assesses and analyses gender and motherhood gaps in Macedonia. The report is based on the methodology developed in the working document of the International Labour Organization – *The motherhood pay gap: A review of the issues, theory and international evidence (Grimshaw and Rubery, 2015*).

Motherhood pay gap measures the gap in wages between mothers and non-mothers. It also measures the gap in the wages between mothers and fathers. This is different from the gender gap in wages, which measures the gap in wages between all women and men in the labour force (Grimshaw and Rubery, 2015).

The results for Republic of Macedonia suggest that women receive wages that are lower by about 18-19% of men's wages. Surprisingly, the study found that mothers (defined as women aged 25 to 45, with a child under the age of 6) were paid equally as non-mothers (or mothers with children older than six years) in 2011, and that they earn 6% more than women who do not had children under the age of six in 2014. Results also suggest that the mothers are paid 7.8% less than fathers. In the period between 2011 and 2014, the gender gap in wages has reduced only among the job positions of women and men with lowest wages, which indicates that the introduction of the minimum wage maybe contributed to reduction of the gender gap in wages.

Through the component *"Promoting gender equality and strengthening the position of women in the world of work"* of the Partnership Agreement between the International Labour Organization and Norway, the ILO works with governments and social partners to develop a knowledge base on gender equality at the workplace, promoting representation and advocacy for workers, and capacity building of constituents to promote gender equality.

In 2011, the International Labour Organization commissioned a study on the gender pay gap in Republic of Macedonia that focused on the factors underlying the gender pay gap, its economic consequences and the existing mechanisms and policies for its addressing. Since then, training has been carried out to improve the data collection activities of national statistical offices and to improve access to gender-specific data on the labour market. The country also witnessed the adoption of a minimum wage law, which came into force in 2012. In the textile and leather industry, where women are overrepresented, the minimum wage was set at a lower level and is expected to reach the national level in 2018. In January 2013, the Macedonian Government adopted its first National Strategy on Gender Equality. The Strategy shall be implemented by 2020 and, given the obligations of the Government in accordance with the Convention on Equality of Wages, 1951 (No. 100) and the Convention on Discrimination (Employment and Occupation), 1958 (No. 111), it prioritizes the promotion of equal wages for women and men, and the fight against discrimination on the grounds of gender.

Although the Macedonian legislation provides for equal remuneration for equal or same work, the principle of equal pay for work of equal value incorporated in the Convention No. 100 is not fully implemented in practice. Equal pay for work of equal value would apply to workers who perform things of a different nature, but with equal value.

In this regard, the ILO has commissioned this study to improve the understanding of the principle of equal pay for work of equal value and for identifying gender pay gap and maternal wage gap based on new available data. This is the first study that is based on the above-mentioned work document of the International Labour Organization for the motherhood pay gap.

The International Labour Organization organized a Workshop on Equality of Wages in Gender/Motherhood Gap in Skopje in September 2015, where the draft version of the paper was presented. The report was finalized after the workshop on the basis of comments received from participants from government institutions, employers 'organizations and workers' organizations.

The purpose of this analysis is to evaluate and analyze the gender and motherhood wage pay in Republic of Macedonia in two years, 2011 and 2014. The phenomenon of any significant movements of the gaps between 2011 and 2014 was analysed in particular, which can be attributed to the functioning of the specific policies implemented in the period between the two years. Data from the Labour Force Survey were used. In general, the results suggest that women are paid less than men in Republic of Macedonia by about 18-19% from men's wages, while mothers (defined as women aged 25 to 45, with a child under the age of 6) were paid equally to non-mothers in 2011 and were only slightly better paid - by 6% - in 2014. In the period between the two years, the gender pay gap decreased only for the lowest paid jobs, which suggests that certain policies (especially the introduction of the minimum wage) may have contributed to reducing the gender pay gap. In addition, there are limited evidence that the effect of glass ceilings exists for the higher (but not for highest) paid job positions. In contrast, it was found that motherhood is insignificant across most of the wage distribution, including its corners, suggesting that there is no sticky floor or glass ceilings for non-mothers.

The results suggest that mothers are less paid than fathers, and they receive a salary that is, on average, 7.8% lower than that of fathers. We conclude by giving suggestions on certain policy options that have the potential to reduce the gap and promote greater gender equality. The study determined a relatively large and permanent gender gap in the monthly wages in Republic of Macedonia of about 18-19% of the men’s wages. When the gap is corrected for the personal and labour market characteristics of both genders,

it increases further, given that the employed women have much better characteristics on the labour market than employed men (education, work experience, etc.).
This implies that if employed men in Republic of Macedonia have the same characteristics as women, the gap would increase further (i.e., they would earn even higher salaries than women).
The study also determined that employers may discriminate employed women because men with the same characteristics as women receive a higher monthly wage for those characteristics (i.e., experience, education, etc.). Also, the study found that there is a motherhood gap in the monthly wage (when mothers compare to fathers, but not when mothers compare to non-mothers) of 7.8%, which means that mothers with the same characteristics on the labour market as fathers still earn an average of 8% lower monthly wages.

According to the survey, the government efforts to ensure higher gender equality (including the International Labour Organization Convention on Equality of Wages and Other Legislative and Institutional Frameworks for Gender Equality and Prevention of Discrimination) prove to be ineffective. As documented, the gap persists over the years. However, it was established that the introduction of the minimum wage probably reduced gender inequality in lower-paid/low-skilled jobs and could be considered a good measure in politics (although gender equality of wages was not considered an argument in favour of the introduction of the minimum wage at national level). Besides, large portion of the discrimination basics are rooted in the society, norms, values and culture. In Part 2, we looked at the theoretical basis of discrimination that could lead to taste-based discrimination and/or statistical discrimination. These grounds for discrimination are unlikely to change, but policy interventions can move things in the right direction over time.

What options do policy makers have to reduce the gender pay gap? Based on the main findings of the report, and considering the country's institutional context regarding gender equality (section 3.2), we refer to several policies that could be effective in reducing the gender pay gap in Macedonia:

- further investment and expansion of the network of accessible and high-quality services for child care and preschool education;
- improved access to early childhood development facilities will have a positive impact on women's participation in the labour market, reduce career cuts among women and, therefore, can improve the relative position of women in the labour market, including their salary prospects;
- proper transposition of the International Labour Organization Convention on Equality of Wages, in its true sense, in the National Labour Legislation - This has the potential to reduce discrimination based on the segregation of women in "female" occupations that normally pay lower salaries do not correspond to the productivity of women;

- developing clear procedures and an institutional framework for resolving disputes regarding wage equality;

The real impact of measures and legislative provisions that promote gender equality (and equality of wages) largely depend on the practical implementation and threats of sanctions in case of non-compliance by employers.
It should also be noted that the cooperation between the social partners is essential for the success of the above measures.

Article 4§5

With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake to permit deductions from wages only under conditions and to the extent prescribed by national laws or regulations, or fixed by collective agreements or arbitration awards.

Pursuant to Article 111 of the Law on Labour Relations, the employer can retain the payment of the wage, only in the legally determined cases. All provisions in the employment contract determining other manners of payment retaining shall be void (paragraph 1). Employer must not settle its obligation for wage payment (paragraph 2) with the liabilities of the employee, without previous written consent provided by the employee. Employee must not provide the consent under paragraph 2 of this Article before the employer's claim arises (paragraph 3).

In terms of requesting information from the Committee regarding the retention of deductions from the payment of salaries to private sector employees[12], we inform that this issue is also regulated by the General Collective Agreement for the private sector in the field of economy (Article 18) which stipulates that the employer who encountered difficulties in the work, on the basis of a prepared programme that provides for the overcoming of problems arising from the consent of the trade union, can determine deviation from the accounting value for unit coefficient for the lowest level of complexity, where the reduction of the calculated value per unit coefficient for the lowest level of complexity cannot be more than 20% and may not last more than six months.

According to the Law on Enforcement (Official Gazette of Republic of Macedonia No. 72/16), article 117, it is determined that the enforcement on salary and pension, as well as compensation instead of monthly wage, for claim based on legal support, compensation for damage due to a violation of health or reduction, i.e. loss of working ability and compensation for loss of support due to death of the provider of support, can be implemented up to ½, and for claims on another basis - to the amount of 1/3 of the wage or pension.

Regarding the information regarding the limitations of the deductions from the wage payment for the employees in the public sector, we inform that Article 88 of the Law on Administrative Officers (Official Gazette of Republic of Macedonia no. 24/2014, 199/2014, 48/2015, 154/2015, 5/2016 and 142/2016) states that only the amount of the points of the administrative officers is determined.

[12] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 17.

ARTICLE 5 – The right to organise

Article 5
With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations, the Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom. The extent to which the guarantees provided for in this article shall apply to the police shall be determined by national laws or regulations. The principle governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations.

In the reporting period, no changes were made to the legal framework regarding the issue of registration of associations of employers, the issue of judicial protection of the right to association, the issues of trade union organization, i.e. membership in a trade union and prohibition of discrimination on this basis and the question of the position of foreign workers regarding the right to establish or join a trade union.
Regarding the representativeness, the Law on Amending the Law on Labour Relations (Official Gazette of Republic of Macedonia No. 187/13), Article 213-d, paragraph 3 is amended in connection to body competent for deciding in second instance upon an appeal, i.e. the words "the Government of Republic of Macedonia" is replaced by the words "State commission for deciding in second instance administrative procedure and labour relations procedure", where, in addition, the Law on Amending and Supplementing the Law on Labour Relations (Official Gazette of Republic of Macedonia No. 27/16) after the word "appeal" in the aforementioned article and paragraph adds the words "within 15 days from the date of reception of the decision". It is about system amendment which determines the second-instance procedure upon the decisions on determining representativeness.

Regarding the Committee's question of whether the same procedure in registration of trade unions also refers to the registration of employers' associations[13], we note that the procedure of registration in the Ministry of Labour and Social Policy's Registers is the same for both trade unions and employers' associations and that the Law on Labour Relations does not stipulate special condition in terms of certain number of members as prerequisite to establish a trade union.

Regarding the issue of clauses that prohibit compulsory membership in trade unions before or after employment, as well as clauses for security of trade unions[14], we inform that the basis for the prohibition of compulsory membership is contained in the anti-discrimination provision of Article 6 of the Law on Labour Relations (revised text

[13] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 18.
[14] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 19.

Official Gazette of Republic of Macedonia No. 167/15), in which sense the prohibition of discrimination on the grounds of membership in a union with which the employee would be put in a disadvantage, consequently refers to the violation or influence on the freedom of organizing (Article 184 paragraph 1 of the Law), i.e. membership or non-membership in a trade union (Article 185 of the same Law).

Furthermore, Article 198 of the Law determines that:

(1) The worker must not be put into unfavourable condition in relation to the other workers due to membership in a trade union, and it is especially not allowed:

1) conclusion of an employment agreement with particular worker under conditions that prohibit them to join an union, i.e. to resign from an union;

2) termination of an employment agreement or putting the worker into more unfavourable condition in other manner, in relation to the other workers, because of their membership in union or participation in union activities outside the working hours, and by consent of the employer and during the working hours.

(2) The membership in the union and the participation in the activities of the union must not be a circumstance on which the employer will base the decision to conclude an employment agreement, to change the work the worker is performing i.e. the place of the work, the professional education, the promotion, the payment, social compensations and termination of the employment agreement.

(3) The employer, the director or other body and the representative of the employer must not use force against any union.

Paragraph 2 of the Article clearly states that the decision on the conclusion of the employment contract should not be based on union membership, as a condition for concluding it, hence any such provision or clause in the employment contract would be null and void in accordance with the Law on Labour Relations.

Bearing in mind the foregoing, the existence of trade union clauses (automatic deductions from wages from all workers, whether they are members or not, in order to finance a union that operates within the company) is directly related to freedom, that is, the right to choose for membership or non-membership in a trade union, whereby such clauses would be contrary to the provisions of the abovementioned articles (Articles 6 and 185), if such a clause would constitute a condition for concluding an employment contract. The Law on Labour Relations does not specifically define the existence of such clauses, nor the existence of so-called solidarity funds related to trade union activity

among employers. On the other hand, the automatic deduction of salary from the salary cannot be legally performed by the employer without an additional statement, that is, consent from the workers, despite the existence of such a clause in the employment contract.

With regard to requesting information from the Committee on access to employment for officials in all trade unions[15], we inform that no changes have been made to the General Collective Agreement for the public sector, i.e. the same provisions remain.

Regarding the Committee's question whether the right to challenge the decisions of the Government regarding representativeness concerns the organizations of employers[16], we inform that the Ministry of Labour and Social Policy, in accordance with the mentioned legal amendments in the part referring to the remedy for the decision for determining representativeness, informs the Committee that the right to appeal to the State commission for deciding in second instance administrative procedure and labour relations is envisaged in all the above solutions regardless of whether they relate to employers' associations or trade unions. Right to appeal shall be equally exercised by both the trade unions and the employers' associations. Against the second instance decision of the State commission, both the trade unions and the employer's association shall be equally entitled to submit a lawsuit for initiation of administrative dispute before the Administrative Court. In the reporting period, there are no data on the exercise of the right to appeal against decisions for determining the representativeness of trade unions and employers' associations.

Regarding the request for information by the Committee on the enjoyment of certain authorizations of trade unions that are not representative[17], we inform that there is no legal obstacle to the same, i.e., unions that are not representative to enjoy certain powers such as to approach authorities for an individual employee's interest, can help an employee who is required to justify his or her action before the administrative authority, can display remarks on premises and to receive documents of a general nature relating to the management of the staff they represent. In this regard, the Ministry of Labour and Social Policy in the past period did not face any obstacles of unions to enjoy the abovementioned authorizations in practice.

In general, the practice for other non-representative trade unions, the unions that are contacted should be contacted.

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15 European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 19.

16 European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 20.

17 European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 21.

Regarding the Committee's remark on the restriction of the right to organize members in administrative bodies[18], we report that there is no legal amendment regarding the right to trade union organization in the administrative organs, the police and the armed forces.

Furthermore, in addition to the aforementioned, we inform you that Article 37 of the Constitution of Republic of Macedonia stipulates that: In order to exercise their economic and social rights, the citizens shall be entitled to establish trade unions. Trade unions may establish their own federations and to be members of international trade union organizations. The conditions for exercising the right to union organization in the armed forces, the police and the administrative bodies can be limited by law. Trade union organization in the armed forces, the police and the administrative bodies shall not be restricted. As long as it is about well-organized trade unions in the stated institutions.

Regarding the question for the right of foreign workers for establishing or joining a trade union[19], we note that in the first Report for the period of 200-2012, the Committee was also informed that Article 20 of the Law on Labour Relations (Official Gazette of Republic of Macedonia No. 54/13 – revised text) guarantees the right of foreign workers to establish or join a trade union. At the request of the Committee about information of when that provision has entered into force, we inform you that the provision became applicable with the entering into force of the Law on Labour relations (Official Gazette of Republic of Macedonia No. 62/05) on August 5th, 2005.

[18] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 21.

[19] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 21.

ARTICLE 6 – The right to bargain collectively

Article 6§1

With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake to promote joint consultation between workers and employers.

In the reporting period no amendments to the legal regulation referring to this paragraph were performed.

With regard to the request for information by the European Committee on the relevant framework for joint consultations and process in practice at sectoral and enterprise level[20], we inform that this issue is already answered by the information contained in the previous Report, referring to sector-level consultations and an undertaking in relation to collective bargaining in accordance with Articles 217 and 219. For any other kind of consultations conducted at these levels, data and examples from the social partners can be stated since these consolations are not regulated by legal framework.
Also, regarding the tripartite consultations at the local level, information is provided in the previous Report, only now there are a total of 15 local Economic and Social Councils (6 more in the 2014-2016 period).

As regards the request for confirmation by the Committee for joint consultation between workers and employers without the participation of state bodies[21], we confirm that there is no participation of representatives of public bodies in such consultations. Examples of such joint consultations can include consultations and negotiations for conclusion of a Collective Agreement for Agriculture and Food Industry Employees (2015), Collective Agreement on Tobacco Company Employees (2014) and Collective Agreement on Leather and Shoe Industry (2015).

Regarding the issue related to representativeness which may limit the possibility for trade unions to participate effectively in the consultations mentioned in the conclusions[22], we inform that with the new amended conditions in the Law on Labour Relations, the threshold for representativeness is significantly reduced and thus does not impose any restrictions for the unions to participate in the mentioned consultations.

Further, we notify you that the Law on Labour Relations foresees possibility of concluding an agreement in order to participate in negotiations on collective agreements, if none of the trade unions fulfils the requirements for representativeness.

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20 European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 22.

21 European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 22.

22 European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 23.

In addition, the Law also foresees other possibility in case none of the trade unions fulfils the conditions for representativeness, where the union with the largest number of members will get temporary representation for participation in the negotiations and conclusion of a collective agreement, until the envisaged conditions are fulfilled.

Currently, there are 55 trade unions registered in the Ministry's Register, 51 of which are branch unions, and 4 are federations of unions with activity area on the entire territory of Republic of Macedonia. Out of the branch unions, 17 are represented by 22 branches, that is, departments, 2 trade unions with representativeness at the public sector level, 1 trade union with representativeness at the level of the private sector and 2 unions of trade unions with national representation on the territory of Republic of Macedonia.

Article 6§2

With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements.

In the reporting period no amendments to the legal regulation referring to this paragraph were performed.

Regarding the request for information by the Committee regarding complaints lodged by trade unions or employers' associations[23], we report that no complaint was lodged against first-instance decisions for determining the representativeness of trade unions and employers' associations during the reporting period.

In respect to the ECSR's request to confirm that trade unions and employers' associations can participate in joint consultations and collective bargaining even if they do not have a representative status[24], we inform that according to the Law on Labour Relations there is no legal obstacle, trade unions and employers' organizations with no representative status to participate in the process of consultations and negotiations for concluding collective agreements, but they cannot be signatory to the collective agreement. Further, we notify you that the Law on Labour Relations foresees possibility of concluding an agreement in order to participate in negotiations on collective agreements, if none of the trade unions fulfils the requirements for representativeness. In addition, the Law also foresees other possibility in case none of the trade unions fulfils the conditions for representativeness, where the union with the largest number of members will get temporary representation for participation in the negotiations and conclusion of a collective agreement, until the envisaged conditions are fulfilled.

Regarding the request for information by the Committee on conclusion of collective agreements in the private and public sector at the level of enterprise, branch, sector and country[25], we inform that in the period from 2013 to 2016, with regard to

[23] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 25.

[24] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 26.

[25] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 26.

collective bargaining, in the registers conducted in the Ministry of Labour and Social Policy in accordance with the legal obligation arising from the Law on Labour Relations, registration of 2 collective agreements in the field of the public sector, 11 collective agreements in the private sector of the economy is performed and 50 collective agreements at the level of employers are registered. The obligation to report on concluded collective agreements at the level of employer is prescribed by Article 231, paragraph 3 of the Law on Labour Relations. With collective agreements at branch, that is, department level in the private sector in the field of the economy, a total of 51 388 employees and a total of 530 employers were covered. In the public sector, a total of 55,194 employees[26] were covered by the collective agreements at branch, that is, department level and at the level of employer.

As for the request for specific information regarding the extension of the scope of the collective agreements[27], we inform that this possibility is not determined by the Law on Labour Relations and it is envisaged the same to be subject of an analysis that has been identified as an activity from the Tripartite Action Plan for the Promotion of the Collective Bargaining.

The Commission for representativeness in the period 2013-2016 has held a total of 7 sessions, where in the same period on the basis of proposals from the Commission a total of 39 decisions were adopted by the Ministry of Labour and Social Policy, out of which 27 were for determining the representativeness of trade unions and 12 for determining the representativeness of employers' association.

Regarding the issue of the participation of employees in the public sector, and in the private sector, in making decisions regarding the working conditions[28], we inform that this is done through the participation of the unions in the collective bargaining.

[26] According to data from determined representativeness of the association of employers and trade unions on a higher level

[27] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 26.

[28] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 27.

Article 6§3

With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitration for the settlement of labour disputes.

With the Law on Amending and Supplementing the Law on Peaceful Resolution of Labour Disputes (Official Gazette of Republic of Macedonia no. 27/14 of 05.02.2007) a systematic and procedural amendments to the Law on Peaceful Resolution of Labour Disputes was made (Official Gazette of Republic of Macedonia no. 87/07 of 12.07.2007), and the Republic Council for Peaceful Resolution of Labour Disputes was abolished, thus transferring all competences related to professional and administrative matters related to the peaceful resolution of labour disputes to the Ministry of Labour and Social Policy. Furthermore, the amendments additionally regulated the procedures for peaceful settlement of collective and individual disputes in the area of initiating and conducting procedures. The Law was supplemented by the possibility to include a conciliator in the process of collective bargaining in order to provide assistance to the parties and to prevent the occurrence of a dispute, and the part concerning the peaceful resolution of collective disputes for activities of general interest was also supplemented, and stipulates that in the event of a strike, it shall be inactive while the procedure for peaceful settlement of the dispute is ongoing. Regarding the procedure for collective labour disputes, a change was made in regards to the number of participants in the Conciliation Board, where instead of one party representative, an equal number of representatives are foreseen from both parties, and also the deadline for completing the procedure from the beginning of the hearing before the Board, is reduced from 30 to 20 days. Also, the amendments introduce compensation tariff list of conciliators and arbitrators and change the procedure for selection of conciliators and arbitrators, with the initial Commission being replaced by a Tripartite Commission formed by the Economic and Social Council, and does not perform the function of choice of conciliators and arbitrators, but gives a proposal for issuing a license for conciliator and arbitrator to the Ministry of Labour and Social Policy on the basis of submitted requests.

After the entry into force of the Law on Amending and Supplementing the Law on Peaceful Resolution of Labour Disputes (Official Gazette of Republic of Macedonia no. 27/14), the implementation of the Law on Peaceful Resolution of Labour Disputes was carried out with expert support from the International Labour Organization within the project "Promotion of Social Dialogue", financed by the EU and implemented by the International Labour Organization, with duration from 01.10.2014 to 31.03.2017.

During the reporting period from the entry into force of the amendments to the Law on Peaceful Resolution of Labour Disputes in the Register of Conciliators and Arbitrators, 59 persons were registered as licensed conciliators and arbitrators, while in the same period, 4 procedures for peaceful resolution of collective labour disputes were conducted.

Regarding the issue related to the procedures of mediation and reconciliation in the public sector[29], we inform that with the Law on Amending and Supplementing the Law on Peaceful Resolution of Labour Disputes, the deadline for completing the procedure for peaceful resolution of a collective labour dispute after the opening of a hearing is reduced to 20 days, during which the conciliation procedure is terminated before the Board, if the parties to the dispute conclude or do not conclude an agreement for resolving the dispute within 20 days from the day of the opening of the hearing.

Regarding the Committee's question of whether the arbitration decisions are binding for both parties who have agreed on such a procedure in the collective agreement[30], we confirm that they are binding.

[29] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 28.

[30] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 28.

Article 6§4

With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake and recognize 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.

In the reporting period, no changes were made in the legislation in this area.

Regarding the Committee's question on the involvement of civil servants in the decision-making concerning the determination of the means of meeting the minimum functions of the body during a strike[31], and whether the restrictions on the right to strike meet the conditions laid down in Article G of the Charter[32], we inform about the following:

As an example of collective action, we indicate the Collective Agreement of the Ministry of Interior Affairs, where the relations for trade union or organizing are regulated, whereby it is foreseen that the Ministry shall be obliged to provide regular and timely information to the Trade Union and the employees on:

- initiated procedure for amending and supplementing the acts on organization and work, and systematization of the positions in the Ministry;
- decisions that affect the economic and social position of the employees at the Ministry;
- decisions that regulate the rights and obligations of the employees;
- application of certain provisions of the collective agreement and trade union activities.

The Ministry is obliged to create conditions for the activities of the Trade Union, in accordance with the law and the provisions of this collective agreement, and regarding the protection of the workers' rights arising out of labour relation determined by law and collective agreement. On the request of the Trade Union, the Ministry shall provide data and information on the issues having the most direct influence on the material and social position of the members of the Trade Union (the workers), and shall consider the opinions and proposals of the Trade Union in the procedure for making decisions and resolutions that have an impact on the material and social position of the workers, i.e. in the exercise of the rights of the workers. The members of the bodies determined by the statute of the Trade Union are the Trade Union representatives. The

[31] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 29.

[32] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 30.

Trade Union shall prepare a list of trade union representatives and submit it to the Minister, or the appropriate organizational unit in charge of human resources management for the needs of the Ministry, the Bureau or the Directorate. The Ministry shall submit invitations to the Trade Union Representative with materials for the working meetings that decide on the rights of workers, and shall also enable their participation in the meetings. The President and Secretary General of the Trade Union shall be provided with uninterrupted communication with the Minister, and in the event of their unavailability, with the managerial employee authorised by them, and other trade union representatives at the level of organizational unit are allowed to communicate uninterruptedly with the Official Gazette of Republic of Macedonia no. 69 of 30.04.2015, 75 of 91 managers at the level of organizing the trade union organization when necessary for exercising the rights of the workers, the functions and the activities of the Trade Union.

The Ministry and the President of the Trade Union shall, at least once in a period of two months, hold a working meeting in order to analyse the social and economic, and professional situation of the employees in the Ministry, etc.

There are such or similar solutions of trade union organization in almost all of the aforementioned institutions.

According to the law, there may be restrictions which apply only when exercising the right to strike. Again, we point out an **example of the Collective Agreement of MoI**.

EXERCISING THE RIGHT TO STRIKE:

1. Right to strike – Article 285

(1)The employees at the Ministry can exercise the right to strike in a manner and under the condition that the regular execution of the internal or police affairs is not impaired.

(2)In order to prevent possible harmful consequences from non-performance of internal affairs during the strike, the Minister or an authorized employee thereof shall be obliged to ensure the necessary functioning of the organizational units in the process of work.

(3) In the case referred to in paragraph (2) of this Article, employees shall be obliged to proceed with the corresponding orders.

(4) If the employees fail to act in accordance with paragraph (3) of this Article, the Minister or an authorized employee thereof shall be obliged to secure the realization of the working process by replacing the appropriate employees.

2. Obligation to announce a strike – Article 286

The organizer of the strike shall be obliged to announce the strike to the Minister and to submit the decision to start a strike, as well as the programme on the manner and scope of performing the duties and tasks that are necessary to be performed during the strike, no later than seven days before the strike starts.

3. Works to be done during a strike - Article 287

During the organized strike, the Ministry shall be obliged to carry out the following tasks:

- organization and servicing of telecommunication and information systems, and the crypto-protection system for urgent needs;
- issuing personal documents (passport, ID, driver's license) to citizens for urgent needs;
- from the scope of work of the Administration, and
- other things and tasks in accordance with a special law.

4. Prohibition of a strike - Article 288

(1) A strike in the Ministry is prohibited in a military, extraordinary or crisis situation.

(2) In the event of a complex security situation, disturbance of public order and peace on a larger scale, natural disasters and epidemics, or endangering the life and health of people and property on a larger scale, more than 10% of the workers in the Ministry cannot participate in a strike simultaneously and the strike cannot last longer than three days (Official Gazette of Republic of Macedonia no. 69/2015).

(3) If the strike started before the occurrence of any of the conditions referred to in paragraphs (1) and (2) of this Article, the employees in the Ministry shall be obliged to stop the strike immediately. **“**

According to Article 289, during a strike, workers are entitled to compensation in the amount of the basic salary of the employee.

There are similar provisions in other institutions, where it is possible by law to limit some of the mentioned trade union rights of the employees in those institutions.

Article 21 – The right to information and consultation

Article 21

With a view to ensuring the effective exercise of the right of workers to be informed and consulted within the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice:

a. to be informed regularly or at the appropriate time and in a comprehensible way about the economic and financial situation of the undertaking employing them, on the understanding that the disclosure of certain information which could be prejudicial to the undertaking may be refused or subject to confidentiality; and

b. to be consulted in good time on proposed decisions which could substantially affect the interests of workers, particularly on those decisions which could have an important impact on the employment situation in the undertaking.

Annex of Articles 21 and 22

1. For the purpose of the application of these articles, the term "workers' representatives" means persons who are recognised as such under national legislation or practice.

2. The terms "national legislation and practice" embrace as the case may be, in addition to laws and regulations, collective agreements, other agreements between employers and workers' representatives, customs as well as relevant case law.
3. For the purpose of the application of these articles, the term "undertaking" is understood as referring to a set of tangible and intangible components, with or without legal personality, formed to produce goods or provide services for financial gain and with power to determine its own market policy.
4. It is understood that religious communities and their institutions may be excluded from the application of these articles, even if these institutions are "undertakings" within the meaning of paragraph 3. Establishments pursuing activities which are inspired by certain ideals or guided by certain moral concepts, ideals and concepts which are protected by national legislation, may be excluded from the application of these articles to such an extent as is necessary to protect the orientation of the undertaking.
5. It is understood that where in a state the rights set out in these articles are exercised in the various establishments of the undertaking, the Party concerned is to be considered as fulfilling the obligations deriving from these provisions.
6. The Parties may exclude from the feld of application of these articles, those undertakings employing less than a certain number of workers, to be determined by national legislation or practice.

During the reporting period, the Law on Labour Relations has been amended. Thus, by the Law on Amending and Supplementing the Law on Labour Relations published in the Official Gazette of Republic of Macedonia no. 129/15 the amount of fines

has been amended. Namely, pursuant to Article 265, a fine in the amount of 3,000 euro in denar counter-value shall be imposed on an employer-legal entity if they does not introduce the employee with the measures for safety and health at work, and does not train them for their application, in accordance with the regulations on safety and health at work; if the employer organizes the night work contrary to Article 130, i.e. the same does not conduct consultations with the representatives of the employees; if the employer does not provide protection of rights in case of transfer of a company or parts of a company; as well as if the employer does not provide information and consultation to the employee in collective dismissals. For the same violations, the responsible person in the legal entity shall be fined in the amount of 30% of the imposed fine for the legal entity, while a fine in the amount of 300 to 450 euro in denar counter-value shall be imposed to the employer-natural person.

Concerning the specific question of the ECSR on whether all categories of workers are involved in calculating the number of employees who enjoy the right to information and consultation[33], we inform that all categories of workers are involved in calculating the number of employees who enjoy the right to information and consultation.

In addition to informing and consulting employees in collective redundancy procedures, the Law, in Article 130, stipulates that the employer shall be obliged to introduce night work, if night work is regularly performed with workers who work at night at least once a year, to consult with the representative trade union with the employer, and if not, with the workers' representative for determining the time, considered as a night work, the forms of organizing the night work, the measures for protection at work, as well as measures of social protection.

Pursuant to Article 32, the right and obligation of each worker is to take care of their own safety and the safety of the other persons working with them, in accordance with the training and instructions given to them by the employer, to be familiar with the safety measures of the health at work and to be trained for their application, in accordance with the regulations on safety and health at work. Additionally, in accordance with Article 42, after appropriate consultation and consent of the women, and depending on the nature, intensity and duration of the risk, the employer should introduce measures to improve the health and safety at work of the pregnant workers, workers who have recently given birth or are breastfeeding, as well as the removal or reduction of the risk of:

[33] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 31.

- irreversible effects,
- causing cancer,
- hereditary genetic damage,
- causing harm to the unborn child and
- causing harm to the child's diet.

If risk is not detected during risk assessment, the employer should inform all employees of potential risks. Also, the employer should explain what shall be done to ensure that new pregnant workers will not be exposed to risks that can cause damage to their health and safety.

Also, in transferring of a trading company or parts of a trading company, prior to transferring the rights and obligations arising from the labour relation of the employees to the employer - the transferor of the employer - the acquirer, the transferor and the acquirer shall be obliged to inform the trade union organizations about this fact and consult them in order to reach an agreement on:

- the specified or proposed date of transfer;
- the reasons of such transfer;
- legal, economic and social implications for the workers, and
- the foreseen measures in relation to workers.

The transferor shall be obliged to inform the representatives of the trade union organizations among their employees about the transfer in a timely manner before carrying out the transfer. The acquirer shall be obliged to, regarding the transfer, inform the representatives of the trade union organizations of their workers, in any case, before their workers are directly affected, as regards their working and employment conditions. When the transferor or acquirer provides measures in respect of their workers, the transferor or acquirer shall be obliged to timely consult the representatives of the workers' trade union organizations in relation to such measures, in order to reach an agreement. Information and consultation cover the measures provided in relation to transfer of workers must be carried out before the change in operation occurs, regardless of whether the decision to transfer is undertaken by the employer or by the person controlling the employer. The obligation to inform also applies to workers at an employer whose workers do not have a union organization.

Informing and consulting shall be also carried out in cases where a higher authority is responsible for deciding on the transfer of activities or tasks or part thereof, from the employer - transferor of the employer - the acquirer.

Regarding the request of information of the Committee on issues that are subject to information and decisions that are subject to consultations[34], we inform that these are legally established obligations, explained in the text above.

Regarding the request of the European Committee for information with regard to complaints submitted to the State Labour Inspectorate, and in relation to the violation of the right to information and consultation of employees[35], we inform that in the reporting period, the State Labour Inspectorate has not received complaints regarding the violation of the right to information and consultation of workers.

Regarding the Committee's question whether there is a court procedure available to employees or their representatives who believe that their right to information and consultation within the enterprise is not respected[36], we inform that informing and consulting when it is foreseen as an obligation for the employer in the anticipated cases in accordance with the Law on Labour Relations, can be the basis for initiating a dispute before a competent court when a certain right of employment is violated.

Regarding the question of the European Committee for Social Rights in regards to the authorizations and operational means of the State Labour Inspectorate[37], we inform that the Inspectorate supervises the laws and other regulations that regulate the rights and obligations of workers and employers. Inspection supervisions are performed as regular, in accordance with the annual programme of work and as extraordinary supervisions - acting upon requests from workers for protection of labour rights.

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34 European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 32.

35 European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 32.

36 European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 32.

37 European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 of the Charter, (Council of Europe, January 2015), p. 32.

ARTICLE 26 – The right to dignity at work

Article 26§1

With a view to ensuring the effective exercise of the right of all workers to protection of their dignity at work, the Parties undertake, in consultation with employers' and workers' organisations to promote awareness, information and prevention of sexual harassment in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct.

Considering that the Law on Labour Relations in the field of discrimination regulates sexual harassment, and considering the significance and gravity of this issue, it was necessary to further regulate this issue within the existing or new legislation. In this regard, the Government of Republic of Macedonia decided to adopt a new Law on Protection against Harassment at Workplace, which was adopted in 2013. This law regulates the rights, obligations and responsibilities of the employers and employees in connection to prevention of psychological and sexual harassment at the workplace and place of work, the measures and procedures for protection against harassment at the workplace, as well as other issues related to prevention and protection against harassment at the workplace.
The purpose of the Law is prevention and protection against psychological and sexual harassment at the workplace, i.e. the place of work, and provision of a healthy working environment (Articles 1 and 2). With this Law, from the legislative aspect, the realization of the right to protection against sexual harassment is completed.

The employee or the person under contract that participates in the work with the employer, who consider that they are exposed to harassment at the workplace, should address the person that they consider harassed them in written and indicate them that their behaviour is inappropriate, unacceptable and undesirable, in order to resolve the disputed situation, that is without initiating a procedure for protection against harassment at the workplace, and to warn them that they shall seek legal protection if such behaviour does not cease immediately (Article 17).

Pursuant to Article 18, the employee or the person under contract that participates in the work with the employer, who consider that they are exposed to harassment, shall submit a written request for protection against harassment at the workplace to the employer in accordance with this Law, before filing a complaint before a competent court. The employees, who believes that they are exposed to harassment by an executive body in the legal entity or a natural person as an employer, may file a complaint before the competent court after a prior written warning to the perpetrator of harassment, without prior procedure for protection against harassment at the workplace with the employer.

In accordance with Article 11 from the Law on Protection against Harassment at Workplace, the employer shall be obliged to inform the employees about the measures and the procedure for protection against harassment at the workplace, and about the rights, obligations and responsibilities of the employer and the employee. In accordance with Article 13, paragraph 3 of the same law, the employer with 50 or more employees

shall be obliged to compile a list of intermediaries for mediation between the parties in case of harassment at the workplace.

In 2013, the State Labour Inspectorate adopted 362 decisions that require employers to comply with the stated legal provisions. In 2014, 385 such decisions were adopted, in 2015, 256 decisions, and in 2016, 316 decisions were adopted.

Sexual harassment is defined in Article 7 paragraph 2 of the Law on Prevention and Protection against Discrimination (Official Gazette of Republic of Macedonia No.50/2010) and reads:

"Sexual harassment is an unwanted sexual behaviour that is expressed physically, verbally or in any other way, and has the purpose or effect of violating the dignity of a person, especially when creating a hostile, threatening, degrading, or humiliating environment".

Judicial proceedings for harassment

In the Analysis of the practical application of the Law on Prevention and Protection against Discrimination, it has been established that in the period of 15.11.2012 to 15.5.2013, nine procedures for harassment at the workplace (mobbing) were recorded before the Basic Court - Skopje 2, and all of them were initiated in accordance with the Law on Labour Relations. Four lawsuits were filed by women and were related to harassment at the workplace. This can indicate that there is distrust in the judicial system, and although "women face discrimination at the workplace, they are not encouraged to initiate litigations, primarily because of the fear of losing their jobs, and due to the fact that they may be victimized by their employers for filing a lawsuit, or undertaking other actions" (Analysis of discriminatory practices in the field of employment and labour relations, 2013, p. 53).

Regarding the request from the Committee for taking preventive measures for raising awareness about the problem of sexual harassment at the workplace[38], we inform that the information on this issue is contained in the text above.

Regarding the request from the Committee for procedures and remedies available to victims of sexual harassment, as well as the responsibility of the employers involving their staff[39], we inform that in the case of perpetrators of sexual harassment involving the staff as a victim or perpetrator, or in the event that the act takes place in

[38] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 from the Charter, (Council of Europe, January 2015), p. 33.

[39] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 from the Charter, (Council of Europe, January 2015), p. 33.

premises under their responsibility, when the conditions for fulfilment of the necessary components of the Criminal Code are created, protection on grounds of criminal prosecution and criminal responsibility for such kind of committed acts is carried out.

Regarding the question of the Committee on the burden of proof in cases of sexual harassment[40], we inform that in the procedures that are being conducted at the court instance regarding sexual harassment, pursuant to Article 33 of the Law on Protection against Harassment at the Workplace, if in the course of the proceedings the plaintiff has made probable the existence of sexual harassment at the workplace, the burden of proving that there was no specific behaviour that represented harassment at the workplace falls to the defendant.

With Article 32 of the same Law, it is stipulated that the employee who believes that they are exposed to harassment at the workplace can also claim compensation for material and non-pecuniary damage caused by sexual harassment at the workplace.

In accordance with the national legislative, in this domain, regarding the information on the court decisions made, we state that the judiciary has an obligation to publish them on their websites, within a given period, upon their legality.

Regarding the question of availability of the right to compensation for damage related to sexual harassment at the workplace[41], we inform that it is available to all the victims, including situations where the employee is under pressure to quit their job for reasons related to sexual harassment, through the mechanism of protection of the wrongful termination of employment by the inspection services. In situations of wrongful termination of employment, with a final decision of the employer, the inspection bodies can, in accordance with their authorizations, prevent the wrongful termination of employment through the legal basis regulated by Article 262 of the Law on Labour Relations, i.e. to postpone the execution of the final decision of the employer until the adoption of a final court decision in a filed labour dispute.

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40 European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 from the Charter, (Council of Europe, January 2015), p. 34.

41 European Committee of Social Rights, Conclusions XX-3 (2014), Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 from the Charter, (Council of Europe, January 2015), p. 34.

Article 26§2

With a view to ensuring the effective exercise of the right of all workers to protection of their dignity at work, the Parties undertake, in consultation with employers' and workers' organisations to promote awareness, information and prevention of recurrent reprehensible or distinctly negative and offensive actions directed against individual workers in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct.

In accordance with Article 11 of the Law on Protection against Harassment at the Workplace, the employer shall be obliged to inform the employees about the measures and the procedure for protection against harassment at the workplace, and about the rights, obligations and responsibilities of the employer and the employee. In accordance with Article 12, paragraph 3 of the same law, the employer with 50 or more employees shall be obliged to compile a list of intermediaries for mediation between the parties in case of harassment at the workplace.

In 2013, the State Labour Inspectorate adopted 362 decisions that require employers to comply with the stated legal provisions. In 2014, 385 such decisions were adopted, in 2015, 256 decisions, and in 2016, 316 decisions were adopted.

At the meetings that the Ministry of Labour and Social Policy has with the social partners, it informs them about the findings of the State Labour Inspectorate in order to raise awareness to prevent recurring wrongful or particularly negative and offensive activities.

Regarding the question of the preventive measures taken in order to raise awareness of the problem of moral harassment at the workplace, as well as consultations with employers and employers' associations in this regard[42], we inform that in accordance with the competencies, the Sector for Equal Opportunities conducts trainings and seminars related to equal opportunities, gender equality and non-discrimination within its activities at an annual level. On these seminars, one session is intended for psychological and sexual harassment at the workplace as a topic that unfortunately is present in Republic of Macedonia.

Namely, the participants on these seminars are introduced to the basic elements of what harassment at the workplace is, who the perpetrators of this type of violence are, but also what mechanisms are available to prevent or to protect themselves of this kind of discrimination or violence at the workplace/mobbing.

[42]European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 from the Charter, (Council of Europe, January 2015), p. 35.

Most of these activities are realized with the participation and support of the trade unions in Republic of Macedonia, as well as the international organizations that are present in Republic of Macedonia.

Regarding the request for information by the Committee on the procedures and remedies available to the victims of harassment at the workplace, as well as the extent of the responsibility of the employers, that includes their staff as victims or perpetrators of such act[43] as well, we inform that within the Law on Protection against Harassment at the Workplace, the rights, obligations and responsibilities of the employees are envisaged in a separate chapter. The employees and the persons under contract that participate in the work with the employer, are entitled to protection against harassment at the workplace, and shall be obliged to inform the employer if they notice the existence of harassment at the workplace. (Article 14) Article 15 stipulates that when the employee and the person under contract that participates in the work at the employer, discovers behaviour that they justifiably consider being harassment at the workplace, they have the right to initiate a procedure for protection against harassment at the workplace, in accordance with this Law. In accordance with Article 17 of the same Law, the employee or the person under contract that participates in the work with the employer, and who considers that they are exposed to harassment at the workplace, should address in written the person they consider they are harassed by and indicate them that their behaviour is inappropriate, unacceptable and undesirable, in order to resolve the disputed situation, i.e. without initiating a procedure for protection against harassment at the workplace, and to warn them that they shall seek legal protection if such behaviour does not cease immediately. The initiation of the procedure is provided for in Article 18, where the employee or the person under contract that participates in the work with the employer, who considers themselves harassed, shall submit a written request for protection against harassment at the workplace to the employer in accordance with this Law, prior to filing a complaint before a competent court. The employee, who believes that they are exposed to harassment by an executive body in the legal entity or a natural person as an employer, may file a complaint before the competent court after a prior written warning to the perpetrator of harassment, without prior procedure for protection against harassment at the workplace with the employer. The request referred to in Article 18 shall be submitted to the person responsible at the employer with the capacity of a legal entity (director or other authorized person), i.e. to the employer with the status of a natural person or another person authorized by them (Article 19).

[43] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 from the Charter, (Council of Europe, January 2015), p. 35-36.

Pursuant to Article 12 of the same Law, the employer, i.e. the person responsible at the employer shall be obliged to immediately, and within eight days from the day of receipt of the request for protection against harassment at the workplace at the latest, propose to the parties a mediation as a way of resolving the disputed relation, and to propose them to choose a person from the list of mediators. The mediator is a neutral person mediating between the parties in order to resolve their disputed relationship. The mediator is selected from the list of mediators determined by the employer from among the employees. The employer with 50 or more employees shall be obliged to compile a list of mediators for mediation between the parties in case of harassment at the workplace.

Pursuant to Article 31 of the Law, the employee who believes that they are exposed to harassment at the workplace, and who is not satisfied with the result of the procedure for protection of harassment at the workplace at the employer, may file a complaint to the competent court. The disputes initiated pursuant to this Law shall have the character of labour disputes.

Fine in the amount of 6,000 euro in denar counter-value shall be imposed on an employer – legal entity for an offense of harassment at the workplace and abuse of the right to protection against harassment at the workplace. Fine in the amount of 30% of the fine imposed on the legal entity shall be imposed on the responsible person in the legal entity for the violation. Fine in the amount of 600 to 900 euro in denar counter-value shall be imposed on the employer-natural person for the violation.

Article 30 stipulates that the initiation of a procedure for protection against harassment at the workplace, as well as the participation in that procedure as a witness, cannot be the basis for putting the employee in an unfavourable position in terms of exercising the rights and obligations of a working relation, initiating a procedure for determining disciplinary measure, material and other responsibility of the employee, cancellation of the employment contract, i.e. termination of the employment of the employee for business reasons, within two years from the day when the procedure for protection against harassment was initiated or from the day when they participated as a witness in a procedure for protection against harassment at the workplace.

Regarding the question for the burden of proof in cases of harassment at the workplace[44], we inform that if the plaintiff has done the probable existence of harassment at the workplace during the procedure, the burden of proof that there was no specific behaviour considered as harassment at the workplace is on the defendant. (Article 33)

[44] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 from the Charter, (Council of Europe, January 2015), p. 36.

Regarding the question of availability considering the right to compensation for damage related to sexual harassment at the workplace[45], we inform that it is available to all the victims, including situations where the employee is under pressure to quit their job on reasons related to sexual harassment, through the mechanism of protection of the wrongful termination of employment by the inspection services. In situations of wrongful termination of employment, with a final decision of the employer, the inspection bodies, in accordance with their authorizations, can prevent the wrongful termination of employment through the legal basis regulated by Article 262 of the Law on Labour Relations, i.e. to postpone the execution of the final decision of the employer until the adoption of a final court decision in a filed labour dispute.

[45] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 from the Charter, (Council of Europe, January 2015), p. 36.

ARTICLE 28 – The right of workers' representatives to protection in the undertaking and facilities to be accorded to them

Article 28
With a view to ensuring the effective exercise of the right of workers' representatives to carry out their functions, the Parties undertake to ensure that in the undertaking:

a they enjoy effective protection against acts prejudicial to them, including dismissal, based on their status or activities as workers' representatives within the undertaking;

b they are afforded such facilities as may be appropriate in order to enable them to carry out their functions promptly and efficiently, account being taken of the industrial relations system of the country and the needs, size and capabilities of the undertaking concerned.

Annex to Article 28

For the purposes of applying this Article, the term "workers' representatives" means persons recognized as such, in accordance with the national legislation or practice.

In the reporting period, there are no changes in the legislation related to this article of the Charter.

During the reporting period, no requests from the worker's representatives were submitted to the State Labour Inspectorate for the protection of their rights regarding the exercise of their rights and obligations as workers' representatives.

Regarding the questions of the Committee considering the provisions protecting the rights of the workers' representatives, except the union representatives[46], we inform that the Law on Labour Relations more specifically regulates the protection of trade union representatives, while for the rest of the employees, other provisions apply for the protection of workers. Nor do the General Collective Agreements contain such provisions.

Regarding the request of the Committee for calculating the damages of such cases within the framework of the civil law, as well as the circumstance under which such activities are available for damage compensation[47], we inform about the following:

In accordance with Article 77 of the Law, the membership of the employee in a trade union or participation in trade union activities in accordance with law and collective agreement is among the unfounded reasons for cancelation of the employment contract. But, in accordance with Article 102 of the same Law, if the court adopts a decision which states that the employee's employment is illegally terminated, the employee shall be

[46] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 from the Charter, (Council of Europe, January 2015), p. 37-38.

[47] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 from the Charter, (Council of Europe, January 2015), p. 37-38

entitled to return at work following the effectiveness of the decision, if required. In addition to returning to work, the employer shall be obliged to pay to the employee the gross monthly wage that they would receive if they were at work, in accordance with law, collective agreement and employment agreement, reduced by the amount of the income the employee earned based on work, upon termination of the employment.

Regarding the finding by the Committee that the state does not finance trade unions or their associations at a higher level, and the issue of the provision confirming that the costs are not at the expense of the workers' representatives, including union representatives[48], we inform that there is no provision that confirms that the costs are not at the expense of worker's representatives and the representatives of trade unions.

[48] European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 from the Charter, (Council of Europe, January 2015), p. 38.

ARTICLE 29 – The right to information and consultation in collective redundancy procedures

Article 29
With a view to ensuring the effective exercise of the right of workers to be informed and consulted in situations of collective redundancies, the Parties undertake to ensure that employers shall inform and consult workers' representatives, in good time prior to such collective redundancies, on ways and means of avoiding collective redundancies or limiting their occurrence and mitigating their consequences, for example by recourse to accompanying social measures aimed, in particular, at aid for the redeployment or retraining of the workers concerned.

Annex to Article 29

For the purposes of applying this Article, the term "workers' representatives" means persons recognized as such, in accordance with the national legislation or practice.

Regarding the questions of the Committee as to whether the national legislation guarantees the right of the workers' representatives to obtain all relevant information during the entire consultations process[49], as well as the sanctions in case the employer fails to inform the workers' representatives on the planned layoffs, including the preventive measures that the layoffs will not take place before the employer's obligation is to inform and consult the workers' representatives is fulfilled[50], we inform on the following:

During the reporting period, the Law on Labour Relations has been amended. Thus, by the Law on Amending and Supplementing the Law on Labour Relations published in the Official Gazette of Republic of Macedonia no. 129/15 the amount of fines shall be amended. Namely, pursuant to Article 265, a fine in the amount of 3000 euro in denar counter-value shall be imposed on the employer-legal entity, if they does not inform and consult the employee in collective layoffs. For the same violations, the responsible person in the legal entity shall be fined in the amount of 30% of the imposed fine for the legal entity, while a fine in the amount of 300 to 450 euro in denar counter-value shall be imposed on the employer-natural person.

The fines provided for in the Law on Labour Relations directly refer to guaranteeing the right of workers 'representatives to obtain all relevant information during the entire consultation process, as well as sanctioning the employer if they fail to notify the workers' representatives about the planned layoffs.

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49 European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 from the Charter, (Council of Europe, January 2015), p. 40

50 European Committee of Social Rights, Conclusions XX-3 (2014), (Republic of Macedonia, Articles 2, 4, 5, 6, 21, 26, 28 and 29 from the Charter, (Council of Europe, January 2015), p. 41.

ANNEX 1

ANNEX TO THE FIFTH REPORT
ON THE IMPLEMENTATION OF THE
REVISED EUROPEAN SOCIAL CHARTER

This Annex contains all information, suggestions, opinions and remarks of the Federation of Trade Unions of Macedonia (SSM – Sojuz na Sindikati na Makedonija), regarding the Conclusions 2014 of the European Committee for Social Rights, concerning the conformity and non-conformity of the situation in our country with the provisions of the Charter in respect to the provisions belonging to the thematic group *"Labour rights"* (Article 2 (paragraphs 1, 2, 3, 4, 5, 6 and 7), Article 4 (paragraphs 2, 3 and 5), Article 5, Article 6 (paragraphs 1, 2, 3 and 4), Article 21, Article 26 (paragraphs 1 and 2), Article 28 and Article 29)

The Federation of Trade Unions of Macedonia reviewed the report submitted by the Ministry of Labour and Social Policy. It is a report that MLSP, in collaboration with other ministries and institutions, prepares it and submits it every year to the European Committee of Social Rights of the Council of Europe. This year under preparation is the V (fifth) Report on implementation of the accepted provisions of the European Social Charter (revised), with regard to the accepted provisions of the Charter, which refer to the thematic group "Labour rights".

According to the submitted Report, the conclusions of the Committee for the Republic of Macedonia refer to 20 situations, as follows:

9 conclusions of conformity: Articles 2§2, 2§3, 2§4, 2§5, 2§6, 2§7, 5, 6§3, 6§4.
2 conclusions of non-conformity: Articles 2§1, 6§1,

In respect of the other 9 situations related to Articles 4§2, 4§3, 4§5, 6§2, 21, 26§1, 26§2, 28 and 29, the Committee needs further information in order to examine the situation. The committee considers that the absence of the requested information amounts to a breach of the reporting obligation accepted by the Republic of Macedonia under the Charter. The Committee requests the Government to remedy this situation by providing this information in the next report.

In relation to the submitted text on the Report, the Federation of Trade Unions of Macedonia (SSM) provides the following:

Suggestions, Opinions and Remarks

1. In the text referring to the conclusions on the conformity of the articles 2/2; 2/3;2/4;2/5;2/6;2/7;5;6/3 and 6/4, to be stated the exact title - General Collective Agreement for the Private Sector in the Field of Economy.
   Regarding the same text, SSM points out that the validity and application of the General Collective Agreement for the Public Sector should be checked, i.e. its conformity with the Law on Labour Relations, primarily from the aspect of validity and scope of the entities to which this General Collective Agreement applies.

2. Regarding the conclusion on non-conformity of Article 2/1 and the question of the Committee whether there are restrictions on daily and weekly working hours and whether the daily and weekly working hours vary between certain maximum and minimum figures, we point to the provisions of Article 123 paragraph 4, 5 and 124 of the Law on Labour Relations.

   Regarding the conclusion of the Committee that the situation in Republic of Macedonia is not in conformity with Article 2/1 of the Charter (since the hours spent in preparing the medical staff for work is considered as a period of recess), SSM considers that it is necessary to bring the regulation in line with the position of the Committee.

3. Regarding the question of the Committee (Article 4, paragraph 3) on defining an equal work or work of equal value according to the Law on Labour Relations, SSM points out that the definition in Article 108 of the Law on Labour Relations is not the most accurate in terms of reflecting the right to equal pay for work of equal value, nor is there a methodology for regulating the parameters of the term – work with equal value.

4. Regarding Article 4, paragraph 5 – limiting deductions from monthly wage, we point out the limitations contained in the Law on Labour Relations, as well as in the Law on Enforcement.

5. Regarding Article 5 – The right to organize, the Committee notes that the right to organize is limited to the members of the public and administrative bodies, we point out that the Macedonian Police Union, the Defence and Security Sector Trade Union, the Independent Trade Union of Health, Pharmacy and Social Protection of Republic of Macedonia (Union of UPOZ has been organized) operate within SSM.

6. Regarding the conclusion of the Committee that the situation in Republic of Macedonia is not in conformity with Article 6/1 of the Charter, and in direction of supplementing the text of the Report, the SSM provides the following amendments:

- Using the National Economic and Social Council (NESC) as a model, the Federation of Trade Unions of Macedonia and the social partners have established LESC (Local Economic and Social Councils) in Kumanovo, Shtip, Strumica, Bitola, Gostivar, Tetovo and in the city of Skopje, Gazi Baba, Prilep, Resen, Sveti Nikole and Veles.
- In relation to the collective agreements in the public sector, the trade unions within SSM have concluded the following CA at the level of activity (sector):

  The Independent Trade Union of Health, Pharmacy and Social Protection of Republic of Macedonia have signed two branch collective agreements:

  - Collective Agreement for healthcare activity in Republic of Macedonia;

- Collective Agreement for social protection in Republic of Macedonia

The Macedonian police trade union with the Ministry of Interior has concluded:

- Collective Agreement of the Ministry of Interior

The Trade Union of Forestry, Wood industry and Energy of Republic of Macedonia has concluded:

- Collective Agreement for the workers of PE for forest management "Makedonski sumi" – R.O. Skopje.

Collective Agreement of the Ministry of Defence

7. Regarding the conclusion of the Committee concerning Article 6/2 of the Charter, in order to provide the requested information, SSM points out that it is a signatory of the General Collective Agreement (GCA) for the private sector in the field of economy, and it also submits data on Collective agreements on a branch level, signed by the trade unions within SSM, as follows:

REVIEW of collective agreements

GENERAL COLLECTIVE AGREEMENTS				
No.	**Trade union**	**Collective Agreement**	**Signing date/ Publishing date**	**Valid until:**
1.	**SSM**	General Collective Agreement for the private sector in the field of economy (revised text)	**Concluded 13.05.2014** **Official Gazette of RM no 115/14**	31.12.2015
		AGREEMENT for amending the GCA for the private sector in the field of economy	**Official Gazette of RM no 119/15**	July 2017
		AGREEMENT for amending the General Collective Agreement for the private sector in the field of economy	from 9.08.2016 **Official Gazette of RM no. 150/16**	

2.	**SSM** **KSS**	General Collective Agreement for the **public sector** in Republic of Macedonia	Ongoing negotiations	
SPECIAL COLLECTIVE AGREEMENTS				
1.	**SSESM** **1**	**CA for ENERGY**	**Signed 3.03.2016** Official Gazette of RM no. 47/16	**Two years 3.03.2018**
After the expiration of the period for which this collective agreement is concluded, its provisions shall continue to be applied until the conclusion of a new collective agreement.				
2.	**SUTKOZ** **3**	**CA for COMMUNAL ACTIVITIES**	Signed 23.06.2006 Official Gazette of RM no. 107/06	**Five years until 23.06.2011**
		after the expiration of the period for which this agreement is concluded, its provisions shall continue to be applied until the conclusion of a new collective agreement		
		CA for PROTECTION COMPANIES of MACEDONIA	signed 15.09.2014 Official Gazette of RM no. 151/14	**Two years until 15.09.2016**
		if the validity of CA does not extend within the time limit, its provisions shall apply until the conclusion of a new collective agreement		
		CA for CATERING of RM	Official Gazette of RM no 2/08	**Five years until 27.12.2012**
		after the expiration of the period for which this agreement is concluded, its provisions shall continue to be applied until the conclusion of a new collective agreement		
3.	**STKC** **2**	**CA for TEXTILE INDUSTRY of RM**	Signed 3.12.2015 Official Gazette of RM no 220/15	**Two years until 3.12.2017**
		If the parties who signed this Collective Agreement do not initiate a procedure for		

		amending this agreement or failing to conclude a contract, the validity of this Collective Agreement is extended for **two years**		
		CA for LEATHER AND SHOE INDUSTRY of RM	concluded on 3.12.2015 Official Gazette of RM no 220/15	**Two years until 3.12.2017**
		If the parties who signed this Collective Agreement do not initiate a procedure for amending and supplementing this agreement or failing to conclude a contract, the validity of this Collective Agreement is extended for **two years**		
4.	**AGRO** **3**	**1. CA for the employees of TOBACCO BUSINESS (revised text)**	Signed 26.06.2014 Official Gazette of RM no 115/14	**Two years 26.06.2016**
		AGREEMENT for extending the Collective Agreement for employees of the tobacco business	Signed 23.06.2016 Official Gazette of RM no 137/16	
		if no extension agreement is concluded, this collective agreement is extended **for two years**		
		2. CA for the employees in AGRICULTURE and FOOD INDUSTRY **Lowest basic monthly wage** **- agriculture – 9,900.00** **- food industry – 10,150.00**	Signed 23.09.2015 Official Gazette of RM no 175/15	**Two years until 23.09.2017**
		AGREEMENT for determining the lowest basic monthly wage (accrual value for unit coefficient for the lowest degree of complexity) **- agriculture – 10,100 den.** **- food industry – 10,400 den.**	Concluded on 24.12.2015 Official Gazette of RM no 3/16	**Two years until 23.09.2017**
		CA for the employees in AGRICULTURE and FOOD INDUSTRY **(revised text)**	concluded on 24.12.2015 Official Gazette of RM no 3/16	

		3. CA for the employees in water economy	Ongoing negotiations	
5.	**SHNM** **1**	**1. CA for CHEMICAL INDUSTRY**	Signed on 10.01.2013 Official Gazette of RM no. 10/13	**Two years until 10.01.2016**
		after the expiration of the period for which this Collective Agreement is concluded, its provisions shall continue to be applied until the conclusion of a new collective agreement		
6.	**Healthcare** **2**	**1. CA for HEALTHCARE ACTIVITY of RM** - CA for Amending the CA for the Healthcare of RM **Agreement** for determining the lowest monthly wage **(lowest monthly wage 12,167.00 den.)** **(minimum wage 15,172.00 den.)** **ANNEX** for Amending the CA for the healthcare activity in RM **ANNEX** for Amending the CA for the healthcare activity in RM	Signed 03.05.2006 Official Gazette of RM no 60/06 Official Gazette of RM no 33/11 **Official Gazette of RM no 5/13**	
		ANNEX for Amending the CA for the healthcare activity in RM	**Official Gazette of RM no 118/15**	
		ANNEX for Amending the CA for the healthcare activity in RM	**Official Gazette of RM no 3/16**	
		AGREEMENT for amending the Agreement for determining the lowest monthly wage for the lowest degree of complexity and for the method of calculation and payment of salaries in the healthcare activity	Signed on 22.07.2016 **Official Gazette of RM no. 137/16**	
		ANNEX for Amending the Collective Agreement for the healthcare activity in Republic of Macedonia	**Concluded on** 22.07.2016 **Official Gazette of RM no. 137/16**	
		2. CA for SOCIAL PROTECTION of RM	Signed on 6.06.2006 Official	

		- CA for Amending the CA for Social Protection of RM **Agreement (lowest monthly wage or the lowest degree of complexity 10,756.00 den.** **Basic monthly wage not lower than 12,713.00)**	Gazette of RM no. 83/06 Signed 30.01.2009 Signed 18.01.2010	
7	**MPS** **1**	**1. CA of the MINISTRY OF INTERIOR**	Official Gazette of RM no. 69/15	**Two years until April 2017**
		CA for Amending the CA of the MINISTRY OF INTERIOR	Official Gazette of RM no. 227/15	
		COLLECTIVE AGREEMENT for Amending the Collective Agreement of the Ministry of Interior	**concluded on 2.09.2016 Official Gazette of RM no. 177/16**	
		COLLECTIVE AGREEMENT for Amending the Collective Agreement of the Ministry of Interior	**concluded on** 14.10.2016 **Official Gazette of RM no. 6p.197/16**	
		- After the expiration, the provisions of the Collective Agreement are applied until the conclusion of new collective agreement		
8.	**MBO** **1**	**CA for the MINISTRY OF DEFENCE**	Signed on 11.06.2013 Official Gazette of RM no. 108/13	**Two years until 11.06.2015 -**
		after the expiration, the provisions of the Collective Agreement are applied until the conclusion of new collective agreement		
9.	**UPOZ** **1**	1. **Collective Agreement of the STATE, JUDICIAL and LOCAL SELF-GOVERNMENT BODIES OF RM**	Signed on 23.10.1995 Official Gazette of RM no. 53/95	**An indefinite time**

		- CA for Amending the CA of the State, Judicial and Local Self-government Bodies of RM	Official Gazette of RM no. 112/09	
10.	**SSDE 1**	Amending and supplementing the Collective Agreement for the workers in the PE for Forest Management (which includes seven sawmills)	3.9.2014	**Three years** 3.9.2017
Note: in accordance with the decision of the SSM Council of 28.12.2016, the trade unions: AGRO, SUTKOZ, UPOZ and SIER – **ARE NOT MEMBERS OF SSM**				

8. In relation to Article 6/3, SSM points out that Article 51 of GCA for the private sector in the field of economy of Republic of Macedonia regulates a procedure before arbitration in a case of collective labour dispute, and paragraph 6 of the same article determines that the arbitrator's decision is final and enforceable for the parties to the dispute.

9. In relation to Article 6/4, we refer to the provisions of Article 32, paragraphs 3 and 4 of the Law on Public Sector Employees, where it is stipulated that in exercising the right to strike, the public sector employees shall be obliged to provide a minimum unimpeded performance of the functions of the institution, and the necessary level of exercise of the rights and interests of the citizens, and the manager of the institution, in accordance with the Law and with the CA, determines the manner of performing the competencies, i.e. the activities of public interest of the institution during a strike, and the number of employees who will perform competencies during a strike.

10. In relation to Article 26/1 and 26/2 – Sexual harassment (and moral harassment), we point to the Law on Protection against Harassment at the Workplace, which regulates the rights and obligations of employees and employers for prevention and protection against harassment at the workplace (including sexual harassment).
    The protection is provided in a procedure with the employer, but also in a court proceeding. The burden of proof in these proceedings is on the defendant.

    The legal service of SSM provides free legal protection of its members for labour rights, including the right and protection against harassment at the workplace. The data show that in the companies where the workers are

unionized, they are also informed, trained and able to recognize the abuses of their rights and the manner and procedure for their realization and protection through the activities of SSM, and because of these reasons we often do not have any appeals for protection against harassment at the workplace or possible appeals that are resolved by talking, warning and preventive action in these companies.

11. In relation to Article 28, SSM points out that besides protection of the rights of trade union representatives regulated by the Law on Labour Relations and the Collective Agreement, at the initiative of SSM, equal protection is provided for the workers' representatives for occupational safety and health in accordance with the amendments to the Law on Safety and Health at Work (Official Gazette no. 158 from 2014)
The protection period lasts during the performance of the function and 2 years after its termination.
Article 28 from the Law on Safety and Health at Work (SHW) has stipulated that the SHW Representative has the right to special protection against employment that the representative of a trade union with the employer also has in accordance with the law and the CA.

Article 30, paragraph 2 from the Law on Safety and Health at work has stipulated that the employer must provide the SHW workers' representative with unhindered performance of their function, by providing adequate time and necessary resources without reducing their monthly wage, and must not put them in an unfavourable position due to their activities.
Organizing and conducting trainings for employees and their representatives is at the expense of the employer. (Article 31 paragraph 6 Law on Safety and Health at the workplace)
The right to trade union organization is regulated by the Constitution of Republic of Macedonia and Chapter 18 - Trade Unions and Employers' Associations from the Law on Labour Relations.
Article 199 from the Law on Labour Relations stipulates that the employer shall be obliged to provide the largest representative trade union with conditions to perform the activity and timely and successful exercise of the right to protection and promotion of the interests of the membership.
Article 200 of the Law on Labour Relations regulates the protection of trade union representatives.
The working conditions of the trade union are regulated by Chapter 13 from the GCA for the private sector in the field of economy.
Article 54 from the GCA states that the employer shall be obliged to create conditions for the performance of the activities of the trade union, i.e., pursuant to Article 56, paragraph 2 of the GCA, the employer provides professional, administrative and technical conditions for the work of the trade union.
Article 57 of the GCA regulates the special protection of the trade union representative (they cannot be held accountable, nor disadvantaged, including

the termination of their employment) that lasts during their mandate and two years after.

12. In relation to Article 29 - Right to information and consultation in a collective redundancy procedure, we point out that Article 265/paragraph 1/item 9 stipulates the fines for violation by an employer - a legal entity, by the person responsible in the legal entity, as well as an employer - a natural person if they do not provide information and consultation of the employee in terms of Article 95 (in collective layoffs).

ANNEX 2

MINISTRY OF LABOUR AND SOCIAL POLICY

ANNEX

TO THE FIFTH REPORT ON IMPLEMENTATION OF

THE REVISED EUROPEAN SOCIAL CHARTER

submitted by the Republic of Macedonia

regarding the requested information on

Article 1 (paragraph 4) and

Article 15 (paragraph 1)

related to the conclusions on non-conformity due to the lack of information, published in the Conclusions 2016 of the European Committee of Social Rights.

Skopje, November 2017

ARTICLE 1 – The right to work

Article 1§4

With a view to ensuring the effective exercise of the right to work, the Parties undertake to provide or promote appropriate vocational guidance, training and rehabilitation.

Regarding the question of the Committee of which legal basis in Republic of Macedonia provides access to vocational guidance and further training, which includes adult education, education for foreign persons with no restrictions related to the duration of their stay[51], we inform about the following:

Pursuant to Article 3 of the Law on Employment and Insurance in Case of Unemployment, the duties of the Employment Service Agency in the field of labour exchange are regulated, which include:

- keeping records of employers and their needs of workers;
- reception of offers for vacancies from the employers and identification of the employer's needs according to the conditions in the expressed needs of workers;
- keeping records of unemployed persons according their qualifications, knowledge and experiences;
- keeping records of other persons who register with the Agency, according to their qualifications, knowledge and experiences;
- adopting and implementing operational plans for active measures and employment programmes;
- comparing the needs of the employer with the qualifications, knowledge and the experience of the unemployed persons;
- preparation of individual action plan to perceive the ability and the professional skills of the unemployed person and of other person who seeks job, and determination of the type and degree of the required employment assistance.
- providing information to the employer and the unemployed persons for the labour market;
- directing the unemployed persons to training, retraining or further qualification for employment;
- helping the employers for employment of unemployed persons with favourable conditions;
- providing special services for the employment of unemployed disabled persons;
- **professional orientation of the unemployed and other persons due to selection of occupation or employment by testing and interview;**
- monitoring the stated unrealized needs of workers at the employer;
- researching, monitoring and analysing the phenomena and movements on the

[51] European Committee of Social Rights, Conclusions XX-1 (2016), (Republic of Macedonia, Articles 1, 15, 20 and 24 from the Charter, (Council of Europe, January 2017), p. 13

labour market;
- providing professional and geographic mobility of the labour force in order to harmonize the supply and demand for labour force in Republic of Macedonia and abroad;
- establishing and maintaining good relations and cooperation of the Employment Services Agency of Republic of Macedonia with the employers and the person who adopts decisions on the selection in employment and
- providing rights on the basis of insurance in case of unemployment.

Article 19 of the same Law stipulates that the services for the labour exchange for the unemployed and other persons who seek job from the Agency, in particular shall be consisted of:

- collecting information from the unemployed person in the registration in the Agency, for filling forms and documents, by interview of the unemployed person with the responsible person in the Agency;
- collecting data from the unemployed person for his/her qualifications, knowledge and abilities, for selection and referral to the job position;
- assessment of the needs of the unemployed person from the services of the Agency;
- informing the unemployed person about the time and manner of reporting to the Agency;
- providing information to the unemployed and other persons for the type of services and manner that may be obtained from the Agency;
- records of unemployed persons in the Agency in order to be employed or to exercise the rights based on unemployment;
- counselling and referring the unemployed and other persons who seek job for **professional orientation** for selection of occupation or employment by testing and interview;
- searching the files of the unemployed persons, in order to find qualified unemployed persons, according to the professional capabilities, i.e., the things they can and require to work;
- providing information to the unemployed and other jobseekers about the vacancies, by the person in charge of the Agency in relation to employment;
- interviewing and referring the unemployed persons to the employer who reported a need of workers;
- providing advice to the unemployed and other persons who are job seekers on how to look for a job through ads, contacts with the employers and in other manner;
- testing and counselling the unemployed and other job seekers, for selection of occupation for which the person has the most interest and capabilities, for who an occupation that corresponds to the knowledge and capabilities of the person is required;
- organizing training and providing advice for upgrading the capabilities of the unemployed persons due to employment;
- providing services to the unemployed persons in working clubs for transferring knowledge and techniques for finding a job;

- coordinating the training, retraining and the further qualification in the public and private institutions in the area of education of the persons during the training, retraining or the further qualification;
- job seeking for unemployed persons with high qualification, for unemployed persons with disabilities and persons who wait for employment longer period of time;
- information on the deficient occupations and employment possibilities;
- maintaining and keeping records of unemployed persons.

There is a separate section in the abovementioned law: **PROFESSIONAL ORIENTATION OF THE UNEMPLOYED OR OTHER JOB SEEKERS.**

Professional orientation is the assistance that the Agency provides to the unemployed and other job seekers for the selection of occupation or employment by testing and interviewing and giving information on the needs of separate occupations and the employment possibilities.

The professional orientation also covers the individual counselling in the selection of occupation according to the desires, interest and capabilities of the persons for certain occupation and the needs and possibilities of the labour market.

Counselling for professional orientation shall be provided to unemployed persons, high school students, university students, employed and persons with disabilities, if that is important for the selection of their occupation and professional development.

Advice on professional orientation is carried out by the Agency on whose territory the person seeking advice has a place of residence.

For the students from the final years of all levels of education, counselling for professional orientation is carried out by the Agency on the territory of which the educational institution is located.

For the students from the final years of primary and secondary education, the Agency shall be obliged, in cooperation with competent institutions in the field of education, to organize counselling regarding the choice of occupation through: lectures by scientific and professional workers, going to exhibitions, movies, enterprises related to employment, institutions etc.

After individual counselling and testing for the choice of occupation on the basis of special qualities, knowledge, interests and inclinations of the student, the Agency recommends choosing the most appropriate type of occupation.

The use of counselling services for professional orientation is free of charge, and it is done in a manner determined by an act of the Agency.

In all services and active employment measures implemented by the Employment Service Agency of Republic of Macedonia, only the registered unemployed persons are eligible to participate. Foreign nationals have the right to be registered as unemployed, but only if their employment is terminated before the expiration of the work permit, for the duration of the work permit. In doing so, they do not participate in the services and active employment measures."

Regarding the request of the Committee for providing additional information concerning the vocational guidance, i.e. the question on whether the labour market offers free vocational guidance for employed and unemployed persons, what are the expenditures for such services, how are they equipped with staff, and the number of beneficiaries, in order to be able to assess the compliance of the situation in Republic of Macedonia with Article 1, paragraph 4 of the Charter[52], we inform about the following:

Professional orientation and career counselling are aimed at enabling the unemployed job seekers to acquire skills for exploring the career opportunities, skills to search for a job, and planning their own career development.

The professional orientation and career counselling is carried out through the application of techniques for assessing the characteristics of the unemployed persons, individual and group counselling and planning of career development, preparation of career plans, etc.

Professional orientation implies the services that the Employment Service Agency of Republic of Macedonia provides for the selection of occupation or employment by testing and interviewing, and giving information on the needs of separate occupations, as well as the employment possibilities.

The Employment Service Agency of Republic of Macedonia supports the beneficiaries of its services in the development of career development skills through the following activities:

- Providing information (individually or in groups through workshops, by using materials in printed or electronic form);
- Using tools for self-assistance that should help the beneficiaries to make decisions and to acquire skills in the management of their own career development;
- Application of Battery of instruments for professional orientation and other assessment techniques;
- Career counselling in groups;
- Individual career counselling and preparation of career action plans, and other.

[52] European Committee of Social Rights, Conclusions XX-1 (2016), (Republic of Macedonia, Articles 1, 15, 20 and 24 from the Charter, (Council of Europe, January 2017), p. 13

The use of counselling services for professional orientation is free of charge.

The activities for professional orientation and career counselling are carried out by career counsellors in the employment centres through individual or group work with the beneficiaries of the service. In 2016, in collaboration with the USAID Youth Employability Skills (YES) Network Project, trainings were held for the employees from the last 7 employment centres and additional employees from other employment centres, for career counsellors, for the model for group career counselling and application of the Battery of instruments for professional orientation (developed in the Project). With all the training during the Project, from all the employment centres, a total of 66 employees were trained for career counsellors, for the use of self-assessment tools, drafting career action plans, etc. They were also trained for group career counselling on the basis of the application of the new Model for group career counselling.

During 2016, 3061 unemployed persons participated in the Professional orientation and career counselling service, out of which 1.621 were women, and 2,001 (65.37%) were young unemployed persons up to 29 years.

Besides the unemployed persons, within the framework of the professional orientation, activities were realized with the students from the primary and secondary schools, i.e. 201 students from the primary schools and 9 students from the secondary schools in their final years of study received individual counselling for professional orientation.

Regarding the requests of the Committee that the next, i.e. the current report should clarify whether the continuation of vocational training (retraining and further qualification) is also organized directly by the employers, and whether training programmes are available for active workers, as well as the requirement that the current report should contain updated information regarding the percentage of unemployed and employed persons who participate in continuous vocational trainings[53], we inform about the following:

Programmes for training, retraining or further qualification are organized at the request of an employer, in whose premises and for whose needs the unemployed persons are trained. In doing so, the employer submits a training plan and programme, and at the same time appoints a person who is employed by the employer and will be a mentor of the training. These trainings last up to 3 months, while the Employment Service Agency of Republic of Macedonia covers all costs for the unemployed persons.

[53] European Committee of Social Rights, Conclusions XX-1 (2016), (Republic of Macedonia, Articles 1, 15, 20 and 24 from the Charter, (Council of Europe, January 2017), p. 14

The employers can organize training, retraining or further qualification for their employed workers, but the Employment Service Agency of Republic of Macedonia does not participate in this.

Training, retraining and further qualification as a service from the exchange on the labour market is stipulated by the Law on Employment and Insurance in the Case of Unemployment. In addition, this service is provided by the Employment Service Agency of Republic of Macedonia only to the registered unemployed persons.

In 2016, 458 contracts were signed with unemployed persons for training at 177 employers, and 355 people were employed. In 2016, this activity was delivered through the IPA project "Support for employment of young people, long-term unemployed and women".

The Employment Service Agency of Republic of Macedonia delivers several types of trainings aimed at increasing the employment opportunities of the unemployed persons, whose results are shown in the annual report for the Employment Service Agency of Republic of Macedonia for 2016.

ARTICLE 15 - The Right of persons with disabilities to independence, social integration and participation in the life of the community

Article 15§1

With a view to ensuring persons with disabilities to independence, irrespective of age and the nature and origin of their disabilities, the effective exercise of the right to independence, social integration and participation in the life of the community, the Parties undertake, in particular to take the necessary measures to provide persons with disabilities with guidance, education and vocational training in the framework of general schemes wherever possible or, where this is not possible, through specialised bodies, public or private.

Regarding the request of the European Committee of Social Rights for the relevant data for the reform in relation to the categorization of people with disabilities[54], we inform about the following:

The Government of Republic of Macedonia in cooperation with the UNICEF Office in Skopje and their partners of many years from the governmental and non-governmental sector, promoted the Macedonian version of the "The International Classification of Functioning, Disability and Health" - a tool that will help change the way we see and respond to the needs of children with disabilities and will enable for their greater inclusion in the society. At the same time, this event marked the start of a new phase of the campaign "Be Fair. For childhood without barriers. Let's see the abilities of the children and unleash the potential of every child!"

Additionally, in the period from 2009 to 2015, the Ministry of Labour and Social Policy opened 28 day care centres offering social services for children with disabilities under the age of 18 years. Their goals include providing support to families and helping parents to prevent the institutionalization of children with disabilities.

The state and the society as a whole must take care of all the citizens. The care for people with disabilities must be continuous from both factual and legal aspects. The inclusion of people with intellectual disability in social and society-related processes is not just their right and benefit, but also an institutional and moral obligation. In that direction, the Ministry of Labour and Social Policy actively, continuously and with exceptional

[54] European Committee of Social Rights, Conclusions XX-1 (2016), (Republic of Macedonia, Articles 1, 15, 20 and 24 from the Charter, (Council of Europe, January 2017), p. 17

progress, prepares, proposes and implements measures, activities, laws and strategies in order to improve the living conditions of this category of people.

The creation of policies, measures and activities is based on comprehensive analyses, conditions and trends, on international standards and positive experiences in the European Union, on the basis of international and national documents that regulate the rights of persons with disabilities.

In its work, the Ministry of Labour and Social Policy regulates the rights of persons with disabilities in accordance with: The Law on Social Protection, the Law on Employment of Disabled Persons, the Law on Disability Organizations, Law on the Use of Sign Language, and Law on National Database for Persons with Disabilities, etc.

In the sphere of employment of persons with disabilities, the special conditions for employment and work of disabled persons were regulated in the past period: when performing an activity independently, such as when employed by an employer or as an employer, in the state administration, units of local self-government, public enterprises and other state institutions.

The granting of non-refundable means of employment for indefinite period of time to an unemployed disabled person, the adaptation of the workplace, if needed, at which the disabled person will work, and the procurement of equipment according to the criteria, tax exemptions and provision of funds for contributions and financial support in the work is of utmost importance.
The institutional protection of persons with disabilities is realized through a network of institutions depending on the needs of the beneficiaries, as follows: Institute for Rehabilitation of Children and Youth, Special Institute Demir Kapija, and Institute for Protection and Rehabilitation “Banja Bansko” – Strumica.

Since November 2014, in the Institute for Protection and Rehabilitation “Banja Bansko” - Strumica, a free service of rehabilitation and recreation for children with disabilities in the mental and physical development aged 6-26 years and beneficiaries of the right to a special allowance has been realized, expecting to cover around 1.600 children. The service covers a 5 day vacation (three meals and snacks) for children with disabilities and their companion (parent/guardian/carer), organized transportation from the Public Transport Company and implementation of the Programme for working with the beneficiaries of the service-children with disabilities. In the past, the service has been used by 178 children and their parents.

The Ministry of Labour and Social Policy, i.e. the Government of the Republic of Macedonia, adopted a **Strategy for Deinstitutionalization in the Social Protection System (2008-2018).** In cooperation with the non-governmental sector, with the process of deinstitutionalization, starting from 2008 until today, 17 residential units for organized living with support were established, 9 in Negotino and 8 residential units in Skopje, with a total of 81 beneficiaries accommodated.

With this form of extra-institutional protection, in addition to beneficiaries deinstitutionalized from the Public Institution "Special Institution - Demir Kapija", beneficiaries from the Public Institution "Institute for Rehabilitation of Children and Youth Topansko Pole" – Skopje, who completed the rehabilitation process in this institution, from other institutions in which they were inappropriately accommodated, as well as beneficiaries from the parent families as prevention from institutionalization, were also included.

In the direction of providing support to disabled persons and their families in the place of residence, the Ministry of Labour and Social Policy continues to undertake measures and activities that will be of great help for timely detection and adequate and professional work with this category of persons.

In the period of 2016-2017, the Ministry of Labour and Social Policy with the support of the funds from the pre-accession assistance of the European Union, implemented the project "*Improving the social inclusion services*" in which one of the main components was the introduction and standardization of the personal assistance service in the Republic Macedonia. As a result of the project and because of the sustainability and justification of the funds provided by the European Union, but also because of the reform processes in the delivery of services for persons with disabilities, in the latest amendments and supplements to the Law on Social Protection, the Ministry of Labour and Social Policy proposed changes in Article 10, paragraph 1 to provide measures for providing personal assistance to persons with disabilities, which means that the Government of Republic of Macedonia is given a basis for adoption of special programme for providing personal assistance.

Starting from the need of establishing day care centres and other social services for the support of children and adults with disabilities and their families at the place of residence, MLSP continues to develop a network of day care centres as social services for children and adolescents with disabilities, whose number to date is a total of 30 day care centres for different types of disabilities, and where about 500 people spend their day.

Regarding the ECSR's request for further information in the current report on the conditions for testing or examining children with disabilities, and repeats its question on whether the qualifications that these students acquire are equal to those of the other students, regardless of whether they are attending regular or special schools and whether special preparations have been made for them during the examination of knowledge[55], we inform about the following:

The information from the Department for Primary and Secondary Education within the Ministry of Education and Science refer to the following situation for the number of children with disabilities in primary education:

- 2014/2015, the number of children with special educational needs (POP) who studied in regular primary schools is 725, while 422 students studied in special primary school;
- 2015/2016, the number of children with special educational needs (POP) who studied in regular primary schools is 707, while 573 students studied in special primary school;
- 2016/2017, the number of children with special educational needs (POP) who studied in regular primary schools is 725, while 457 students studied in special primary school;

Parents are not obliged, in accordance with the legal regulations, to submit a finding and an opinion on the type and degree of disability of their child, and hence, the number of children with special educational needs included in the regular classes can be even greater.

Regarding the question "Do the qualification that these students acquire are equal to the qualifications of the other students, regardless of whether they are attending regular or special schools, and whether special preparations have been made during the examination of knowledge", we provide the following answers:

- All children have the right to primary education, and the acquired primary education is equal for all, regardless if they are children with special educational needs or not. With primary education, the students acquire general and applicable knowledge, needed in everyday life or further education.

[55] European Committee of Social Rights, Conclusions XX-1 (2016), (Republic of Macedonia, Articles 1, 15, 20 and 24 from the Charter, (Council of Europe, January 2017), p. 19

- For easier acquisition of knowledge and mastering the material of primary education, for students with special educational needs included in the regular primary schools, the school forms an inclusive team comprised of a student adviser, psychologist, student's teacher, student's parent or guardian, special educator (if any), and, if, necessary, the student's doctor may also be involved. The inclusive team prepares an individual educational plan for each student, according to their needs. The Government of Republic of Macedonia has employed 131 special educators in the regular primary and secondary schools in Republic of Macedonia, or, more precisely, 74 in the primary schools and 57 special educators in the secondary schools.

- In 2015, the Bureau for Development of Education, in cooperation with UNICEF, prepared a Teachers' Manual on Formative Assessment in Class Teaching "Formative Assessment in Students with Learning Disabilities". It also points to the manner of formative assessment in students with learning disabilities; where they are included in planning the lecture and setting clear objectives and expected outcomes for success and performance criteria; asking questions and discussions, constructive feedback, self-evaluation and mutual assessment; planning based on reflection; informing the parents.

The attitude in schools is increasingly redefined, making students with learning difficulties valued for what they are, versus diversity.

The manner and forms of monitoring the achievements should be directed to the process of learning, adapted to the specifics of the student, and to act in an affirmative and encouraging way.

Descriptive assessment is the best way to provide children with feedback on what they achieved, what is the progress in a certain period, and it also acts as a stimulant to self-esteem, a sense of success and the overall development of the child.

The Manual itself gives the teachers specific guidance on which working methods to apply and which materials to use in order to meet the individual needs of the child, and not to separate them from the other children.

Other additional information:

- A working group established by the Minister of Education and Science has prepared an unified form for recording and monitoring the development of the students in primary and secondary special schools, which is applicable starting from the academic year 2016/2017. The forms are strictly used for the needs of the school in accordance with the parent/guardian of the student. The monitoring form is aimed at monitoring the development of the students, their achievement and progress.
- Regarding the manner and conditions for enrolment of students with special educational needs in primary schools, we inform that a new Rulebook has been adopted, replacing the old Rulebook on enrolment of students with special educational needs in primary schools – Rulebook on the number of students with special educational needs in the class and the manner and conditions for enrolment of students with special educational needs (Official Gazette of Republic of Macedonia no. 136/17) of 26.9.2017.
- In September 2017, the "Project for children with visual disturbance" was successfully promoted, supported by the United States Agency for International Development (USAID) and the Lions Clubs International Foundation (LCIF), which promoted 120 textbooks for primary education, from first to ninth grade in Macedonian and Albanian language, adapted and printed on Braille for students with disabilities.
- In September 2017, the translation of the Manual on International Classification of Function, Disabilities and Health. The Manual emphasizes the abilities, and not the barriers or the disability itself, and shall serve as a tool for introducing inclusive practices in health, education and social protection sectors. The Manual is important incentive for final adoption of the Rulebook on Assessment of Additional Educational, Health and Social Support of a Child or Youth, adopted by all relevant Ministries – the Ministry of health, Ministry of Labour and Social Policy, Ministry of Education and Science. In addition, the Ministry of Local Self-government is expected to include in this procedure.

Data on the secondary schools

- 50 scholarships for students with special needs from public and private secondary schools in Republic of Macedonia for the academic year 2016/2017 are awarded in a public Competition each academic year. Students with special educational needs, who study in regular secondary schools or in special secondary schools, apply for this Competition. Students, among other things, submit findings and opinion on the type and degree of disability, and are ranked according to the average grade of the certificates for the completed years. A Commission at the Ministry of Education and Science ranks them on their average grade, not on the degree of disability, and it does not matter if they come from special schools, or regular secondary schools.

- In accordance with the data available to the Ministry of Education and Science, in the academic year 2016/2017, 230 children with special educational needs were enrolled in secondary schools, founded by the municipalities, i.e. the City of Skopje.
- In the academic year 2016/2017, 229 students were enrolled in special secondary schools.
- The Minister for Labour and Social Policy, in accordance with the Minister of Education and Science and the Minister of Health adopted “Rulebook on the assessment and degree of disability of people in mental or physical development", and it is published in the Official Gazette of Republic of Macedonia no 172 in 2016.
- In Republic of Macedonia, 79 municipalities and the City of Skopje are in the second phase of fiscal decentralization, and are financed with block grants. Each year, the Government of Republic of Macedonia adopts "Decree on the methodology for determining the criteria for allocation of block grants to secondary education in municipalities and the City of Skopje" for distribution of block grants for secondary education. Until 2017, this criterion for the students with special needs in secondary education is not used, but it shall be used for the academic year 2018/2019. That is, when calculating the block grants, the students with special needs in secondary education in the municipality/City of Skopje shall be considered, in accordance with the “Decree on the methodology for determining the criteria for allocation of block grants to secondary education in municipalities and the City of Skopje" for 2018, adopted by the Government of Republic of Macedonia (Official Gazette of Republic of Macedonia no. 127/17).

Regarding the Committee request for information on how the regular curriculum is adapted to take into account the special needs, on how the personal curriculum for the students with disabilities is prepared, and whether the supervision of the quality of the curriculum is based on the same mechanisms used in regular education[56], we inform about the following:

The regular curriculum is adapted to take into account the special needs of the students.

The State Education Inspectorate (DPI) has identified that out of 269 schools with children with special educational needs, there are 1277 classes in 238 schools involving children with special educational needs. While in 31 schools, there are 294 special classes for children with special educational needs. Of these schools where there are special classes for children with special needs, 30 of them have provided a solution for

[56] European Committee of Social Rights, Conclusions XX-1 (2016), (Republic of Macedonia, Articles 1, 15, 20 and 24 from the Charter, (Council of Europe, January 2017), p. 19

verification of the activity for disability, while in 1 school the verification procedure is in progress.

From the inspections performed, it was concluded that the schools where there are classes for children with special needs, the teaching staff has an appropriate education. Most often, those are teachers with Special Education Bachelor's degrees, as well as subject teachers with special education specialization, while in regular classes where there are students with special needs, teachers in class and subject teaching are holding the lectures.

Children are categorized according to their disability.

- Until this year, in the special primary schools for children with intellectual disability, students with documentation in accordance with the “Rulebook on the criteria and manner of realization of primary school for students with disabilities" were enrolled. The number of students in classes or groups depending on the developmental disabilities (hearing, sight, body development, chronic illness, mild impediments in psychological development, combined developmental disabilities and neglect) is 5-12 students, depending on whether the class is combined or not.
- Starting next year, the enrolment in special primary schools will have to be carried out in accordance with the new "Rulebook on the number of students with special educational needs in a class, and the manner and conditions for the enrolment of students with special educational needs in primary schools", where the number of students in a class or group depending on the developmental disabilities, is predicted to be from 4 to 8 students, depending on whether the class is combined or not.
- At the same time, the enrolment of students with special educational needs in regular primary schools from next year, must be in accordance with the new “Rulebook on the number of students with special educational needs in a class, and the manner and conditions of enrolment of students with special educational needs in primary schools”, where it is stipulated that up to two students with special educational needs can be enrolled in a class, and if there are more students with special educational needs in the school, than they are evenly distributes the students in all the classes in the same grade in the primary school.
- The curriculum for the work of the special primary schools from first to ninth grade for students with impediments in the psychological development (intellectual disabilities), autism, and multihandicapped, is prepared by the Bureau for Development of Education approved by the Ministry of Education and Science.
- An individual educational plan (personal curriculum) is being prepared in accordance with Article 51, paragraph 4 from the Law on Primary Education, prepared by an inclusive team in the schools.

The Ministry of Education and Science and the State Education Inspectorate propose strengthening the cooperation of the professional services in the schools with the local self-government in order to help the parents prepare these children for the beginning of their primary education, in order to increase the regularity of the students with special educational needs in the regular schools.

* * *

In its latest conclusions (from 2016), the European Committee of Social Rights states that despite the additional information submitted by us in the previous reports, it still considers that most of the issues raised in the previous conclusions (Conclusions XX-I/2012 and XIX- I/2008) have not yet been answered/replied, or relevant statistical data is not provided, therefore it cannot determine whether the situation in the Republic of Macedonia is in conformity with Article 15, paragraph 1 of the Charter[57].

The Republic of Macedonia continuously strives to submit to the European Committee of Social Rights all relevant information that are available and at disposal, in relation to the provisions of the Charter that are the subject of reporting. Also, it is our intention in all Reports to provide as precise and comprehensive responses/replies as possible to all specifically raised questions and requests for additional information by the Committee.

Such is the case also with the submission of the required information related to Article 15 of the revised European Social Charter, for which, in this Report as well, we submit the latest updated information and data available to the competent institutions in the Republic of Macedonia.

In order to enable real perception, consideration and assessment of the situation in the Republic of Macedonia in respect to the rights established and guaranteed by Article 15, paragraph 1 of the European Social Charter, we kindly ask the Committee (ECSR) to indicate exactly which information and data is missing, and what exactly are those unanswered questions that it refers to in its last (2016) and several previous conclusions (Conclusions XX-I/2012 and XIX-I/2008).

[57] European Committee of Social Rights, Conclusions XX-1 (2016), (Republic of Macedonia, Articles 1, 15, 20 and 24 from the Charter, (Council of Europe, January 2017), p. 20

ANNEX 3

ANNEX

TO THE FIFTH REPORT ON THE IMPLEMENTATION OF

THE REVISED EUROPEAN SOCIAL CHARTER

Excerpt

from the Draft-Minutes of the Thirty-ninth Session of the

The Economic and Social Council,

held on November 27, 2017

Skopje, November, 2017

//Coat of Arms of the Republic of Macedonia//

Republic of Macedonia
Government of the Republic of Macedonia
Ministry of Labour and Social Policy
Economic and Social Council

To
The Government of the Republic of Macedonia
Skopje

Government of the Republic of Macedonia
Ministry of Labour and Social Policy
Economic and Social Council
No. 08-9011/2
30.11.2017
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EXCERPT
from the draft of the minutes of the 39th session
of the Economic and Social Council,
held on 27.11.2017

Item 2: Reviewing and adopting the 5th Report on the implementation of the revised European Social Charter

The Economic and Social Council reviewed the 5th Report on the implementation of the revised European Social Charter and unanimously without any objections adopted the proposed text of the 5th Report on the implementation of the revised European Social Charter.

THE PRESIDENT OF THE
ECONOMIC AND SOCIAL COUNCIL

Mila Carovska
//Illegible handwritten signature//
//Round stamp of the Ministry of Labour and Social Policy//

Prepared by: Goran Neshevski *//Illegible handwritten signature//*
Approved by: Mirjanka Aleksevska *//Illegible handwritten signature//*

Република Македонија
Влада на Република Македонија
Министерство за труд и социјална политика
Економско-социјален совет

До
Влада на Република Македонија
Скопје

Влада на Република Македонија
Министерство за труд и социјална политика
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ИЗВАДОК

од Нацрт на Записникот од триесет и деветтата седница на Економско-социјалниот совет, одржана на 27.11.2017 година

„Точка 2: Разгледување и усвојување на Петти Извештај за имплементацијата на ревидираната Европска Социјална Повелба

Економско – социјалниот совет го разгледа Петтиот Извештај за имплементација на ревидираната Европска Социјална Повелба и едногласно без забелешки го усвои предложениот текст на Петтиот Извештај за имплементацијата на ревидираната Европска Социјална Повелба."

ПРЕТСЕДАТЕЛ НА
ЕКОНОМСКО-СОЦИЈАЛЕН
СОВЕТ

Мила Царовска

Изработил: Горан Нешевски
Одобрил: Мирјанка Алексевска