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EUROPEAN SOCIAL CHARTER

3rd report on the implementation of
the European Social Charter

submitted by

**THE GOVERNMENT OF “THE FORMER YUGOSLAV
REPUBLIC OF MACEDONIA”**

(Articles 2, 5 and 6
for the period 01/01/2005 – 31/12/2008)

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REPUBLIC OF MACEDONIA
MINISTRY OF LABOUR AND SOCIAL POLICY

**THIRD REPORT
ON THE IMPLEMENTATION OF THE
EUROPEAN SOCIAL CHARTER**

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THE GOVERNMENT OF THE REPUBLIC OF MACEDONIA

(for reference period: 2005-2008)

(regarding Articles 2, 5 and 6)

Skopje, December 2009

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PREFACE

Republic of Macedonia submits its third Report on implementing the ratified provisions of the European Social Charter (1961), in accordance with *Article 21* from the Charter.

The report has been prepared in compliance with the new reporting system, adopted by the Council of Europe's *Committee of Ministries* and in effect since 31 October 2007.

This Report includes the provisions of the European Social Charter that belong to the *third thematic group* (Labour rights), more precisely the Articles 2, 5 and 6 ratified by the Republic of Macedonia, for the reference period 2005-2008.

In accordance with the Article 23 of European Social Charter, copies of the prepared Report have been delivered to the relevant national organizations of employers and trade unions, as follows:

- *Federation of Trade Unions of Macedonia*
- *Confederation of Free Trade Unions of Macedonia*
- *Union of Independent and Autonomous Trade Unions of Macedonia*
- *Confederation of Trade Union Organizations of Macedonia*
- *Organization of Employers of Macedonia*
- *Confederation of Employers of Macedonia*
- *Association of Employers in the area of traffic and connections*
- *National Federation of Agencies for temporary employments.*

Article 2

All workers have 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 shall 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.

Question 1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

General legal framework, reforms

The Constitution of the Republic of Macedonia determines the right to work in the line of basic human freedoms and rights. According to Article 32 from the Constitution of the Republic of Macedonia, each person is entitled to work, to free choice of employment, protection during work and financial security for the period of temporary unemployment.

In addition, the Constitution, the law and the collective agreements prescribes that each employee is entitled to daily, weekly and annual rest period. The employees can not renounce these rights.

The exercise of the rights of the employees and their position are determined by law and by collective agreements.

The existing legal regulations (laws and collective agreements) guarantee the right of the employees to daily and weekly working hours, including the overtime work.

The question regarding the working time is more specifically determined by adopting the Labour Law in 2005 ("Official Gazette of the Republic of Macedonia" No. 62/2005) in special chapter IX – Working time.

The Law regulates the full working time, where according to Article 116 the full working time must not be longer than 40 hours per week, while the working week usually is with duration of five working days.

The Law gives opportunity, by law or collective agreement, the working time of 40 hours per week to be decreased to 36 hours per week, which will be considered as full working time.

For certain working positions, for which exist bigger hazards of injuries or health detriments, the full working time may be with duration of less than 36 hours per week.

In order to provide control in relation to respecting the length of the working time and the overtime work, the employer is legally obliged to keep records for the full working time and the overtime work (Article 116, paragraph 6 from the Law on Labour Relations, hereinafter as Labour Law). In order to provide timely, correct and permanent evidence of the length of the working time and the overtime work, there is legal obligation for employer with more than 25 employees at one location to keep electronic records.

The existing legal solutions give opportunity for overtime work; however the same is being limited to possible number of hours during the week. There is a limitation of the

overtime work also on annual basis. In addition, conditions for the period when the worker should work longer than the full working time are also foreseen.

Namely, in accordance with the Labour Law, there is an opportunity for introducing overtime work up to 10 hours per week, but not more than 190 hours on annual level. For the jobs, which because of the specific process of work can not be terminated or for which there are no conditions or possibilities to be organized in shifts, the overtime work may be with duration of more than 10 hours per week, or 190 hours per year. In these cases, the employer is obliged to perform rearrangement of the working time and to introduce new shifts.

The limitation of the working time within certain activities has created problems in performing the functions. This is specially expressed within the Ministry of Interior, from where remarks have been given to the problems caused by the limitation of the overtime work. Because of that, the amendments of the Labour Law, adopted in September 2009, regulates the employees in the Ministry of Interior, which perform special duties and responsibilities according the certain law, to work longer than 190 hours per year, for performing emergency and urgent works, for which the employee is obliged to give written consent. With this legal decision, because of the specific character of the work, only the employees with special duties and authorizations by the Ministry of Interior, defined with special law, i.e. the Law on Internal Affairs ("Official Gazette of the Republic of Macedonia" No. 92/2009), can work more than the determined maximum of 190 hours, where the Law in details describe the cases when overtime work happens.

Therefore, in relation to the duration of the working time longer than legally prescribed maximum, with the Law on Internal Affairs, in Article 124, an opportunity is given the working time for the employees in the Ministry of Interior to be longer than the legally prescribed maximum in the working week, in terms when urgent works and tasks are done explained with the definition of interior affairs, in relation to the given law (establishing the system of public and state security, preventing forcible destruction of the democratic institutions determined by the Constitution of the Republic of Macedonia, life protection, personal safety and safety of citizens' property; preventing aggravation of national, racial or religious hatred and intolerance; preventing execution of criminal acts and misdemeanours, discovering and capturing the doers and undertaking other legally determined measures for pursuing the doers of such acts; civil affairs and other affairs determined with the Law on Internal Affairs and special law).

The employees that work longer than the full working time are entitled to right to salary supplement. The amount of the salary supplement is determined by the general and branch collective agreements. Therefore, the General Collective Agreement for the economy of the Republic of Macedonia and the General Collective Agreement for the public sector of the Republic of Macedonia are stipulating the basic salary of the employee to be increased for 35% for every hour of overtime work. In July 2009, because of the implementation of the gross salary concept, i.e. the inclusion of food and transport expenses in the salary and the fiscal implications from this, the General Collective Agreement for the public sector of the Republic of Macedonia was amended ("Official Gazette of the Republic of Macedonia" No. 85/2009) where the percentage for the salary supplement for the overtime work has been decreased from 35% to 29%.

The salary supplement for overtime work of the employees in the Ministry of Interior is paid in accordance with the Collective Agreement of the Ministry of Interior ("Official Gazette of the Republic of Macedonia" No. 8/1998, 12/2000, 2/2003, 3/2004, 16/2006, 21/2009). In addition, according to Article 102 from the Law on Police ("Official Gazette of the Republic of Macedonia" No.114/2006, 6/2009), the police officer is

obliged by order of the direct superior, to perform the police works longer than the full working time when is necessary, because of their successful and timely performance. The police officer for the overtime work is entitled to overtime payment or free days, in accordance with the regulations for labour relations and the Collective Agreement of the Ministry.

Overtime work in the Army is defined with the Law on Military Service ("Official Gazette of the Republic of Macedonia" No. 62/2002, 98/2002, 36/2003, 71/2003, 112/2005, 134/2008, 6/2009), more precisely in Article 89 Paragraph 2, where the working time can be longer than 40 hours per week in the case of:

1. There is an order for the incensement of combat alertness;
2. There is need of additional engagement of certain army units for maintenance of combat alertness;
3. There is an alert in the army units and institutions;
4. During combat simulations;
5. When the Army is engaged in removing of consequences of a state of emergency;
6. During duty shifts and similar duties in the army units and army institutions;
7. When there is a need for prolonging the work, which can not be stopped because of a harmful consequences on the combat alertness of the army unit and institution if stopped or there are certain conditions in the unit and institution.

In the paragraph 4 of the same article is prescribed that an order for overtime work in the cases of the lines 1 and 2 of this article, is given by the Minister of Defense and in the cases of the lines 3-7 an order is given by the commander of a battalion or equal warrant officer or higher.

Article 149 of the Law on Military Service prescribes the conditions for giving army supplement, among other, in cases of working longer than the full weekly working time.

With the amendments to Labour Law, in October 2009, the overtime work of 10 hours per week was decreased to 8 hours per week. This amendment performed adjustment of the provisions in relation to the working time with the Directive 2003/88/EC of the European Parliament and Council of 4 November 2003 referring to certain aspects of organizing the working time. The Law specify the cases in which overtime work may be introduced, as follows:

1. In cases of extraordinary increasing of the working scope;
2. If there is need of continuing the business or production process;
3. If necessary, to remove the damage of means for work, which could cause termination of the work;
4. If necessary, to provide safety of the people and property, as well as circulation safety.

An opportunity is given by law or collective agreement for certain activities to be determined and other cases when overtime work may be introduced.

For the overtime work, the employer is obliged to keep separate records and to state the hours of overtime work in the monthly salary calculation for the employee. However, the Labour Law, through special provisions, prescribes the cases in which

work longer than the full working time is forbidden. Article 120 prescribes the cases when the employer must not impose work longer than the full working time:

1. To a female employee, in accordance with the provisions from the Law because of protection of pregnancy, birth or parenthood;
2. To a mother of a child up to three years age and a single parent of a child up to six years age, except if the employee give written statement for voluntary agreement to work overtime;
3. To an elderly employee;
4. To an employee younger than 18 years of age;
5. To an employee, whose health, based on doctors' commission's opinion, will be aggravated if work longer than the full working time;
6. To an employee that has full working time shorter than 36 hours per week because of work at the working position, where exist bigger hazards of injuries or health detriments; and
7. To the employee that works less than the full working time (part working time) in accordance with the regulations for pension and disability insurance (disability), regulations for health insurance (medical rehabilitation) or other regulations (parental obligations).

In the health area, because of its specificity, besides the overtime work, which is paid same as for the other employees in the public sector, a work in case of alertness (on call) is defined, where the manner of payment is prescribed with the Collective Agreement for the employees in the area of health ("Official Gazette of the Republic of Macedonia" No. 18/2004, 76/2004, 61/2006, 41/2007, 62/2007, 132/2007, 14/2008, 37/2008, 132/2008 and 88/2009). The supplement for probation is different and depends on whether the health worker was called to work or not. Thus, if the employee was not called, the salary supplement amount is 10% higher of employees' salary, and if the employee was called to work, the salary supplement is paid for the hours for which the employee was arranged in amount of 135%. Because of decreasing the salary supplements for overtime work, night shift and working in shifts with the General Collective Agreement for the public sector of the Republic of Macedonia, adequate amendments were done in the Collective Agreement for the health area in July 2009 ("Official Gazette of the Republic of Macedonia" No. 88/2009), according to which the supplement for alertness without establishing a call is 8%, while in the other cases, when the call will be realized and the worker will be engaged, the salary supplement for those hours is 113%.

Question 2. Please state the undertaken measures (administrative measures, programmes, action plans, projects, etc) for implementing the legal framework.

Undertaken measures for implementing the legal framework

In order to provide monitoring of the working time of the employees within the legally prescribed terms and protection of the worker within the legal solutions, the State Labour Inspectorate (SLI), according to its competences, performs regular supervision of the application of the given provisions. SLI, in accordance with the Work Programme, performs regular inspection supervisions of the employers for all areas of labour and acts upon written and oral requests of the employees for protection of the labour rights.

If the labour inspector during the supervision determines that the working hours and the schedule of the working time are not respected or there are no electronic records of the working time, she/he is authorized to issue decision for prohibition to work up to 7 days and to submit a request for starting a misdemeanour procedure (Article 264).

Based on the performed inspection supervisions in the given reporting period, it is concluded that the not respecting of the working time often occurs in the activity of textile production and the retail trade, and that is why the controls are often directed towards these activities. In addition, it has been determined that in these activities the employees work 6 days per week, for 8 hours and longer.

In 2005, SLI received 63 requests from employees for rights protection in relation to not respecting the working time, from which 14 requests were in the trade, 29 in the textile industry and the rest in other areas.

In 2006, SLI received 121 requests from employees for rights protection in relation to not respecting the working time, from which 39 requests were in the trade, 44 in the textile industry and the rest in other areas.

In 2007, SLI received 125 requests from employees for rights protection in relation to not respecting the working time, from which 23 requests were in the trade, 42 in the textile industry and the rest in other areas.

In 2008, SLI received 114 requests from employees for rights protection in relation to not respecting the working time, from which 29 requests were in the trade, 32 in the textile industry and the rest in other areas.

According to the Law on trade ("Official Gazette of the Republic of Macedonia" No. 16/2004, 128/2006, 63/2007, 88/2008, 159/2008, 20/2009, 99/2009 and 105/2009), the employer is obliged to adjust the length and the schedule of the working time for each trade facility according to the number of its employees. It is noted that the same is not respected, the inspector with a decision should order the employer to adjust the working time with the number of employees. After performed inspection supervisions in the trade area and notes that the employers from the trade activity did not adjust the working time of the trade facility with the number of employees, certain number of decisions has been issued for adjusting the working time with the number of employees.

Therefore, based on that, in 2005 after performed total of 11758 regular inspection supervisions, 484 decisions have been issued.

In 2006, after performed total of 12596 regular inspection supervisions, 554 decisions have been issued.

In 2007, after performed total of 11203 regular inspection supervisions, 415 decisions have been issued.

In 2008, after performed total of 19477 regular inspection supervisions, 332 decisions have been issued.

At least once a year, SLI at the same time performs supervision of all employers from these areas, where for the noted situation undertakes measures in accordance with the law (decisions for prohibition for performing work, decisions for removing the determined lacks and irregularities and requests for starting a misdemeanour procedure).

The Economic Social Council of the Republic of Macedonia also discussed the question regarding the working time, for which SLI prepared special information. The information for the working time in the textile industry was reviewed on the XXIV session of the Economic Social Council, which took place on 05.12.2007. In the Information was stated that in October 2007, SLI performed controls of 350 employers with total number

of 26209 employees and has submitted 160 requests for starting misdemeanour procedure because of different injuries of the Labour Law.

In the period from January-October 2007, SLI performed 829 controls in the confection plants and has determined 93 cases in which the employers have violated the working time, as follows: weekly rest period, rest period between two successive days, not using annual leave in accordance with the Labour Law. The inspectors have issued 93 decisions for alerting the legal entities to adjust the working time in accordance with the Law. In the information, the inspectors stated that the employers in all cases where they introduce overtime work, issue a decision by stating the reasons for introducing the overtime work.

In the same Information was stated that besides the regular controls, SLI acts upon written requests and telephone calls. In September and October 2007, 15 clients pointed out for irregularities in the confection plants, from which 8 cases were appealing for not respecting the working time.

On the same session, the representatives of the trade unions, which are members of the Economic Social Council, pointed out that according to their seeing, there is an appearance of misuse, or not respecting the working time and this appearance is quite present in the trade and in other areas.

Regarding the contents of the Information, the representatives of the employers presented their feelings and opinions from a held special meeting in relation with the Information that has been reviewed by the representatives of the textile industry and confection within the Economic Chamber of the Republic of Macedonia, along with the Textile Association within the Organization of Employers of Macedonia. Among other things, according to their seeing, the textile industry is not an activity that is violating the rights of the employees at most; however the overtime work, according to them, should be paid by law. According to their seeing, in relation with their situations in the past period, there have been important improvements.

After the extensive and detailed discussion and presenting the actuality by SLI, the members of the Economic Social Council have accepted the Information and have concluded that there has been an improvement and progress of the working conditions and the application of the working time for the employees in the textile industry, which is being respected in the last period. On the same session, the members of the Council proposed for the State Labour Inspectorate to continue with regular inspection supervision in all the areas, in relation to not respecting and misuse of the working time.

In 2005, the Constitution of the Republic of Macedonia was amended with a special amendment, which prescribes sanctions for misdemeanours, prescribed by law, to be stated by a state administrative body or organization and other body that performs public authorizations. According to that, in 2006 a new Law on misdemeanours was adopted. Pursuant to the Law, for certain misdemeanours foreseen with the special laws, conducting a misdemeanours procedure and stating misdemeanour sanctions, can be conducted by a misdemeanour body within the administrative body. Correspondingly, amendments have been done to the material laws, that is, to the Labour Law ("Official Gazette of the Republic of Macedonia No.161/2008). Namely, the Labour Law, with special provisions, regulates the issue on forming and working of the misdemeanour commissions and of a Commission for mediation. Pursuant to the provisions of the Law, the misdemeanour commission decides for the misdemeanours at a first degree:

- If the employee is ordered to work longer than the working time determined by law;
- If the employer does not keep or irregular keeps records for the working time and the overtime work;

- If the employer does not respect the regulations for rearrangement of the working time;
- If the employee is not provided with break during the working time, rest period between two successive working days, weekly and annual leave, in accordance with the law, and is not issued a decision for annual leave.

Pursuant to the Law, the misdemeanour commission is established by the Minister of labour and social policy. The Commission is competent for conducting misdemeanour procedure and is consisted of president and two members from the employed civil servants in the state administration. A president of the Commission can be only graduated lawyer, with passed bar examination. The Commission is elected for a period of 3 years, with a possibility for re-election. The Law, more precisely prescribes the terms for dismissal of the members and the president of the commission, in the following cases:

1. Expiration of the period for which the member has been appointed;
2. On his/her request;
3. Fulfilling the terms for age pension, according to law;
4. If he/she is convicted with effective court verdict for criminal act;
5. If he/she is stated permanent disability for work;
6. If violation of the regulations for conducting a misdemeanour procedure is determined with effective decision;
7. If he/she does not fulfil the obligations resulting from the work in the misdemeanour commission;
8. If he/she has not registered existence of conflict of interest for a case, upon which the misdemeanour commission is deciding.

According to the legal decisions, the Misdemeanour Commission is entitled to perform evidence and collect data that are necessary for determining the misdemeanour, as well as to perform other works and undertakes activities determined by the Labour Law, the Law on misdemeanours or other law. In their work, the members of the Misdemeanour Commission are autonomous and independent and they decide based on their professional knowledge and personal belief. The Misdemeanour Commission works on a session and the decisions are made with majority of voices from the total number of members. The work of the Commission is prescribed with Rules of procedure, adopted by the Minister of labour and social policy, and for their work keeps records regarding the number of the submitted requests for misdemeanours, sentenced sanctions and made decisions.

The amendments of the Labour Law ("Official Gazette of the Republic of Macedonia", No.161/2008), done in December 2008, prescribes for a special legal institute "settlement" that refers also to the misdemeanours during the working time, in cases if:

- The employee is ordered to work longer than the working time determined by law;
- If the employer does not keep or irregular keeps records for the working time and the overtime work;
- If the employer does not respect the regulations for rearrangement of the working time;
- If the employee is not provided with a break during the working time, rest period between two successive working days, weekly and annual leave, in accordance with the law and is not issued a decision for annual leave.

Namely, the settlement foresees an obligation for the state labour inspector, before submitting a request for misdemeanour procedure, to propose a settlement procedure to the doer of the misdemeanour, in accordance with the Labour Law or other law and the Law on misdemeanours. For this opportunity, there is a need of consent by the doer of the misdemeanour, in other words the same must agree on starting a settlement procedure. In that case, the state labour inspector is obliged to compose a minutes, which will include the important elements of the misdemeanour, the time, place and manner of doing the misdemeanour, the description of the misdemeanour action, the persons met on the place and issuing payment order for paying the sentenced fee.

The prepared minutes and the payment order should be signed by the state labour inspector and the doer of the misdemeanour. By signing the receipt of the payment order, it is assumed that the doer is consent to pay the fee, within eight days from the day of receiving the payment order, on the account of the body, stated in the payment order.

In the cases, when the doer of misdemeanour is legal entity, the minutes and the payment order are signed by the responsible person, or the person that was on-site during the inspection supervision or other official or responsible person that has stated that is entitled to sign the minutes and to receive the payment order.

In cases when the fee is paid within 8 days from the day of receiving the payment order, the same is decreased for half of the amount from the stated fee. If the doer does not pay the fee within 8 days from the day of receiving the payment order, the state labour inspector should submit request for starting a misdemeanour procedure to the misdemeanour body.

In addition, the amendments of the Labour Law in 2008 ("Official Gazette of the Republic of Macedonia" No. 161/2008) prescribes for a legal institute "mediation", which is done by a commission, also, established by the Minister of labour and social policy. The Commission works in accordance with Rules of procedure, prescribed by the Minister of labour and social policy.

Regarding the misdemeanours, which refer to work longer than the working time prescribed by law, if the employer does not keep or irregularly keeps records for the working time and the overtime work; does not respect the regulations for the rearrangement of the working time; the employees is not provided with break during the working time, rest period between two successive working days, weekly and annual leave, in accordance with the law; and not issuing decision for annual leave to the employees, the state labour inspector is obliged to suggest a procedure of mediation and achieving consent of the doer, with which the doer is obliged to pay the fee, other charges and to remove the consequences from the misdemeanour.

The state labour inspector is obliged to compose minutes for the type of misdemeanour, in which should state the agreement of both parties for starting a procedure of mediation, signed also by the doer of the misdemeanour.

The minutes and the request for starting a procedure for mediation are delivered to the Commission for mediation within three days by the state labour inspector.

The procedure for mediation, based on minutes and cost estimate, is conducted by the Commission for mediation.

The Commission for mediation is consisted of a president and two members from the civil servants employed in the state administrative body, competent for the issues in the labour area. Also, the President of the Commission for mediation should be graduated lawyer with passed bar examination.

The President of the Commission for mediation is obliged to start the Commission's procedure within 48 hours from the day of arrival of the request for mediation.

The Commission works on a session, where obligatory attend the representatives of the doer of the misdemeanour and the state labour inspector.

For obtained consent with mediation, an agreement is done in which is stated the consent of both parties and the same determine the obligations of the doer of misdemeanour, especially as follows: amount and manner of payment of the fee; amount and manner of payment of other charges and costs and the measures that should be undertaken by the doer in order to remove the consequences of the misdemeanour.

In cases in which consent with mediation will be obtained, the fee for the doer can be decreased for one half from the prescribed fee for the misdemeanour.

In the cases when the procedure for mediation will not succeed, the Commission for mediation must inform the state labour inspector, in order to submit request for starting a misdemeanour procedure to the misdemeanour body.

The Commission for mediation is obliged to keep records for the started procedures for mediation and for their outcome.

According to the existing legal provisions, the insight of the situation for the need of solving issues for which there is need of starting misdemeanour procedures and procedure of mediation, the Minister of labour and social policy, formed two misdemeanour commissions and one commission for mediation, with a special decision in May 2009.

The legal arrangement of the duration of working time for the employee was specially analyzed from the aspect of compliance with the European Union' legislation, that is with the directives regulating this issue. For this purpose, in the period from May 2008 to September 2009, the Project – "Overview of the national labour legislation" EU financed, was implemented. The project was implemented with cooperation of the Ministry of labour, social affairs and family of Slovakia and the Agency for regional development Senec – Pezinok. The main goal of the Project was to give support for improving the capacities of the Republic of Macedonia, during the strengthening the labour market and its preparation for EU membership, by performing analysis of the existing legislation in relation to the decisions regulated in the EU Directives and the legislations of the EU member states. For that purpose, within the Project, direct cooperation was established with the employees in the Ministry of labour and social policy, as well as with the social partners for revising and implementing the labour legislation of the country in accordance with the EU legislation and the EU best practices. During the implementation of the Project, and in order to achieve the goal, the best practices from Slovakia were used, as well as practices of other European countries, in the area of labour and employment.

In that period, the Slovakian experts provided for training for the employees in the Ministry, the other ministries and the social partners for the techniques of preparing the corresponding (approx. 20) tables, the same were prepared and delivered to the European Union at the end of March 2009.

A revision of the Labour Law and the Law on Employment and Insurance in case of Unemployment was done, with concrete recommendations for their compliance with the EU legislation. In addition, an analysis of the Law on Employment of Persons with Disabilities, the Law on Equal Opportunities and the Law on Agencies for Temporary Employments was done.

At the final conference (14 September 2009), the Final Report was adopted, which includes the recommendations. The recommendations were discussed in the last three months with representatives from the Ministry of labour and social policy, the other involved parties in the project implementation, as well as with the social partners on a special conference. Moreover, in the last three months, before ending the Project, several trainings for the twinning team from different thematic groups were organized. A special training session was held on request of the trainees, where the recommendations were also discussed.

The final report includes the key recommendations, which are of essential importance for the further process of legislation compliance. Therefore, the Ministry of labour and social policy (MLSP) needs to continue with capacities strengthening in order to achieve all obligations that result from transposing the *acquis* in the national legal system, to intensify the activities in relation to the transposing the EU directives and similar.

Taking into consideration the recommendations, the situation and the opportunities, MLSP, based on the recommendations after the end of the Project, consider that the transposing of the directives should be done in several phases.

In that direction, the transposition of the EU directives has been started. The same was done with the amendments of the Labour Law, which have been adopted by the Parliament of the Republic of Macedonia in October 2009. The amendments and performed transposing of certain provisions from the Directive 2003/88/EC of the European Parliament and the Council of 4 November 2003 referring to certain aspects of organizing the working time.

The following phase foresees amendments of the Labour Law, which amendments shall execute transposing of the directives in relation to collective dismissals, transfer of enterprises, shortening of the working time, paying the employees, informing on the individual terms for employment of workers, consulting the workers, informing during employment to young people at work. These amendments are planned to be prepared and delivered to the Government in December 2009.

At the beginning of 2010 is foreseen to implement the recommendations regarding the rest of the directives for the working time and the parental leave.

At the end of 2010 is planned to implement the recommendations regarding the directives of the European working councils, the statute of the European companies and the European cooperative dismissal with an opportunity for implementation in a special law.

According to the recommendations, it is assumed that a special law should transpose the directive related to the insolvency of the companies, for which will be needed additional experts assistance with a special Twining project. The time period depends on accepting that kind of project and the deadline that should be determined within the same.

Question 3. Please provide pertinent figures, statistics and factual information, in particular: average working hours in practice for each major professional category; any measures permitting derogations from legislation regarding working time

Relevant numbers, statistics and factual information

According to the data from the State Statistics Office, from the annual statistical research for employed and salaries, situation October, in the Republic of Macedonia, the

highest is the percentage of employed that received salary for work of 160-200 hours per month. The biggest participation of the paid employees with more than 200 hours is presented in the sectors: public administration and defence, mandatory social protection, health and social work; civil construction and mining and quarrying. The situation per separate sectors and years, given in the last overview is stated in percentage:

Sectors	Year	Structure of employees			
		Total %	up to 160 hours %	from 160 to 200 hours %	More than 200 hours %
<i>Total</i>	2005	100	1.6	96.6	1.8
	2006	100	2.7	95.9	1.4
	2007	100	2.9	95.4	1.6
	2008	100	3.3	95.1	1.6
<i>Agriculture, hunting and forestry</i>	2005	100	1.3	96.8	1.8
	2006	100	1.5	98.2	0.2
	2007	100	1.7	97.5	0.8
	2008	100	2.2	97.5	0.3
<i>Fishing</i>	2005	100	-	100.0	-
	2006	100	-	100.0	-
	2007	100	25.7	75.2	-
	2008	100	8.8	91.2	-
<i>Mining and quarrying</i>	2005	100	0.2	97.7	2.2
	2006	100	0.6	98.1	1.3
	2007	100	0.4	95.4	4.2
	2008	100	0.4	97.8	1.9
<i>Processing industry</i>	2005	100	2.0	96.1	1.9
	2006	100	1.9	96.7	1.4
	2007	100	2.2	97.5	0.3
	2008	100	2.3	97.1	0.6
<i>Supply with electricity, gas and water</i>	2005	100	0.4	98.2	1.3
	2006	100	0.6	98.8	0.5
	2007	100	0.4	97.9	1.7
	2008	100	1.1	97.8	1.2
<i>Civil construction</i>	2005	100	1.9	95.7	2.4
	2006	100	1.2	96.7	2.1
	2007	100	2.6	95.3	2.1
	2008	100	1.9	94.1	3.9
<i>Wholesale trade and retail trade; maintenance of motor vehicles, motorbikes and items for personal usage and for households</i>	2005	100	1.8	98.1	0.1
	2006	100	5.3	94.7	0.0
	2007	100	6.1	93.9	0.0
	2008	100	5.6	93.3	1.1
<i>Hotels and restaurants</i>	2005	100	1.1	98.4	0.5
	2006	100	7.3	92.5	0.2
	2007	100	5.3	94.7	0.1
	2008	100	10.6	89.3	0.1
<i>Traffic, storage and connections</i>	2005	100	1.7	98.0	0.3
	2006	100	6.1	93.7	0.2

	2007	100	3.4	91.1	5.5
	2008	100	5.6	93.8	0.6
<i>Financial mediation</i>	2005	100	1.1	98.9	-
	2006	100	1.6	98.1	0.3
	2007	100	1.1	97.8	1.1
	2008	100	1.1	97.0	1.9
<i>Activities in relation to real estate, renting and business activities</i>	2005	100	1.6	98.4	-
	2006	100	2.1	98.1	0.0
	2007	100	2.6	97.1	0.3
	2008	100	3.3	96.7	0.0
<i>Public administration and defence, mandatory social protection</i>	2005	100	0.5	94.2	5.3
	2006	100	0.7	95.1	4.1
	2007	100	1.1	92.5	6.4
	2008	100	1.1	91.9	7.0
<i>Education</i>	2005	100	3.2	96.8	-
	2006	100	3.4	96.6	-
	2007	100	3.8	96.2	-
	2008	100	4.7	95.3	-
<i>Health and social work</i>	2005	100	0.8	94.9	4.4
	2006	100	1.1	94.0	4.9
	2007	100	1.7	96.1	2.2
	2008	100	1.1	96.5	2.4
<i>Other communal, cultural, general and personal service activities</i>	2005	100	0.7	96.9	2.3
	2006	100	1.3	98.0	0.7
	2007	100	1.2	95.8	2.9
	2008	100	2.6	96.9	0.5

Source: State Statistics Office

The data show that the biggest number of employed, which have received salary for over 200 hours are in the public administration and the defence, the mandatory social protection with 7% of the employed, in the civil construction 3,9% of the employed that received salary and the employed in the health with 2,4%.

Considering that the misdemeanour commissions started to work in June 2009, from June to September 2009, they have received 8 requests for starting misdemeanour procedures for not respecting the provisions from the law, which regulated the working time, 3 are for not giving obligatory rest period between two successive working days, 3 requests for not keeping electronic records for more than 25 employees and 2 requests for not keeping records for full working time and overtime work. The same are solved with decisions for which was sentenced total fee for the legal and the responsible person of the legal entity in amount of 22.000 Euros in denars counter value. Complaints have been submitted against the first degree decisions of the misdemeanour commissions to the Administrative court of the Republic of Macedonia, for which still has not been decided.

The Commission for mediation, which also started to work in June 2009, from that period until the end of September 2009, have received 90 requests for starting a procedure for mediation, and 10 are with success, that is, an agreement has been signed with the doer of the misdemeanour. This number refers to the total number of submitted requests for starting a procedure for mediation, until now there is not

statistical processing of the type of requests, therefore, no data on the requests for respecting the working time.

Article 2§2

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

Question 1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

General legal framework, reforms

The national holidays and other holidays, the non-working days that are celebrated as well as the manner of paying the workers that work on a national holiday or a non-working day that is celebrated, are prescribed with the Law on Holidays of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia" No. 21/1998 and 28/2007).

The existing legal regulation prescribes for the workers that work on a day of national holidays to be provided with additional payment, and an absence from work, which is paid.

Therefore, the Law on Holidays of the Republic of Macedonia, in the days which are determined by law as holidays, the worker is entitled to contribution to salary, or increased salary in accordance with the law and a collective agreement.

The Article 148 of the Labour Law, states that the worker is entitled to absence from work, with a contribution to salary for the holidays of the Republic of Macedonia, which are determined as free days from work.

This right of the employee can be limited, if the working, or producing process is done continuously or the nature of the work requires performing the work during a holiday. In addition, the activities or cases for which there is a need of working on a national holiday are more precisely defined.

Employee that works on a holiday determined by law is entitled to salary, salary supplement and contribution to salary. The amount of the salary supplement and the contribution to salary is prescribed by the collective agreements.

Therefore, the General Collective Agreement for the public sector of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia" No.10/2008) and the General Collective Agreement for the economy of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia" No. 76/2006) prescribes for the basic salary of the employee to be increased for 50% if the employee is working during a holiday. Besides the salary supplement of the employee, a contribution to salary is also paid to the employee. This means that the employee that works during a holiday is entitled to salary with total amount of 250% (100% salary, 100% contribution to salary and 50% salary supplement), and the employee that does not work on that day, is only entitled to contribution to salary in amount of the salary that would receive if going to work.

Question 2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc) for implementing the legal framework.

Undertaken measures for implementing the legal frame

In order to provide adequate application of the legal regulation in relation to paying the workers during holidays, prescribed by law, the State Labour Inspectorate, according to its competences, performs regular supervision over the application of the given provisions. In relation to this, on a holiday there is a practice to have supervision at certain legal entities, in order to determine the factual situation in relation to whether the workers that work on a holiday are paid supplement and contribution to salary, according to the existing regulation.

The implemented supervisions by SLI confirm that on a holiday mostly work the plants for textile production, retail trade with food products and catering services. In addition, as reason for working on a holiday, the often reply is the timely increased scope of work and the short deadlines for fulfilling the obligations towards the suppliers. During the supervision, also, was noted that the employers, in most cases, arrange the work on a holiday, with written decisions and orders, for on-time informing the workers. For example, on 23.10.2008, which according to the Law on Holidays of the Republic of Macedonia is a national holiday, SLI performed inspection control in regions with more textile factories, where certain number worked, and the other activities did not.

Question 3. Please provide pertinent figures, statistics or any other relevant information, if appropriate.

Relevant numbers and statistics

After adopting the amendments of the Law on Holidays in 2007, SLI regularly performs controls among the employers on each holiday.

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 two weeks' annual holiday with pay.

Question 1. Please describe the general legal framework. Please specify the nature of, the reasons for and extent of any reforms.

General legal framework, reforms

The Labour Law prescribes the right to annual leave, its duration, obtaining, the manner of using the annual leave, as well as the indemnity for the unused part of the annual leave, only in case of terminating the working relation on any basis.

Article 137 of the Labour Law, adopted in 2005, prescribed the annual indemnity to be with duration of 20 to 26 working days. This legal decision, created certain dilemmas in the practical implementation, because often the question was asked whether the days for annual leave are paid or not. Because of that, this provision was specified with the amendments to the Labour Law in 2008 ("Official Gazette of the Republic of Macedonia" No. 106/2008) according to which, it was prescribed that the worker is entitled to paid annual leave of at least 20 days. The maximal duration of the annual leave remains to be 26 working days, which continuation should be regulated with the collective agreements. This legal provision gives basis and opportunity for the social partners to come to an agreement and to prescribe the conditions and the criteria for duration of the annual leave more than 20 days, but maximum to 26 working days.

The determination of the days for annual leave, the holidays, weekends and the free days, the absences because of sick leave, as well as the other cases for justified absence from work, are not calculated in the days of annual leave. For the length of the annual leave and the period of its usage, the employer obligatory issues to the employee a decision for annual leave.

As conditions that are relevant for the duration of the annual leave from the minimal determined right (of 20 working days), which more precisely are determined with the collective agreements, are the time spent in working relations, the complexity of the assignments at the working place, working conditions, health condition of the employee, etc. These cases are stated in the General Collective Agreement for the public sector in the Republic of Macedonia and the General Collective Agreement for the economy in the Republic of Macedonia. The same conditions are prescribed with the branch collective agreements, where more precisely are determined the days for every criterion separately.

The annual leave, by rule, is used in the current calendar year and the same can be used in two parts, where the first part must be at least 12 days and to be used until the end of the calendar year. The unused part of annual leave must be used until the end of the month June the following calendar year.

The employee can not renounce the right to using the annual leave and any decision or agreement regarding the renunciation of the right to annual leave, pursuant to the Law, is considered as null. Only in case of terminating the working relation, the worker is entitled to compensation for the unused annual leave.

According to the Labour Law, certain categories of employees, such as: elder worker, disabled person, worker with at least 60% bodily harm and worker that nurses and raises a child with bodily or mental disability, are entitled to additional three working days of annual leave. In addition, worker younger than 18 years, besides the minimal annual leave is entitled to additional seven days of annual leave.

The workers that in the calendar year do not obtain the right to whole annual leave, are entitled to using the annual leave in total amount of per two days for every month spent at work. Those are workers that have not established continuous work in duration of 6 months. This can be used by a worker that has stopped with the working relation before deadline expiring, after whose expiration, he has obtained the right to whole annual leave, as well as worker whose working relation in the current calendar year has stopped before the first of July.

The worker that for the first time starts with working relation, obtains the right to whole annual leave, after establishing continuous work of at least six months, regardless the fact whether the same works full time or part time (Article 139).

The Law gives possibility for the annual leave that has not been used in the current calendar year, because of absence resulting of sick leave or injury, maternity

leave or leave for nursing and caring for a child, the worker to use it until 30th June the following calendar year.

According to Article 142 from the Labour Law, because of the character of the work, the length and the manner of using the annual leave in the institutions in the area of education and science, are determined with the regulations in the area of education and science. According to that, the employees in the area of education and science use the annual leave collectively during the summer period, when there is no educational activity in the schools.

Question 2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

Undertaken measures for implementing the legal framework

Pursuant to the Labour Law, the employer is obliged to issue the employee a decision for using the annual leave in which precisely is stated the time period for using the annual leave, as well as the total number of days of annual leave, to which the employee is entitled.

Regularly, during the inspection supervisions, the State Labour Inspectorate controls whether the employees have been issued decisions for using the annual leave in duration foreseen within the law. Moreover, during the controls, the records for presence at work are being checked, whether the employee has not been at work at the days foreseen in the decision. According to the reports from SLI, there has not been an occurrence for employee that has been issued a decision for annual leave, to work in that period.

Question 3. Please provide pertinent figures, statistics or any other relevant information, if appropriate.

Relevant numbers and statistics

According to the data from the State Labour Inspectorate, the number of submitted complaints by employees, which are not provided to use the annual leave, is very small. Most of the complaints refer to the fact that the annual leave is not given during the summer months (July, August), where the State Labour Inspectorate does not have basis for taking measures, from reason that the schedule of annual leaves is done by the employer, which is obliged to provide to the employee usage of 12 working days until the end of the current year, and the rest until 30th June the following year.

No requests for acting regarding the right to use annual leave have been submitted to the Misdemeanours Commission and the Commission for mediation.

Article 2§4

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake to provide for additional paid holidays or reduced working hours for workers engaged in dangerous or unhealthy occupations as prescribed

Question 1. Please describe the general legal framework. Please specify the nature of, the reasons for and extent of any reforms.

General legal framework, reforms

In order to provide effective execution of the right to fair working conditions, the Labour Law and the collective agreements prescribe special measures for protection of the workers that work on working positions that are particularly difficult, exhausting and harmful for the health.

Therefore, according to Article 116, paragraph 4 of the Labour Law, it is stated that by law or other regulations in accordance with law, or with collective agreement, can be determined the full working time for the working positions, which have bigger hazards for injuries or health harm, to be less than 36 hours per week. These working places for the employees in the area of the public sector are more precisely determined with the General Collective Agreement for the public sector of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 10/2008). Such as: worker that works especially hard, difficult and harmful for the health works and whose harmful influence on his/her health or working capability can not be fully removed with protective measures. For the stated jobs it is stated that the working time of the employee to be shorten in relation to the harmful influence on his health, or working capability, but not shorter than 36 hours in one working week, in accordance with collective agreement on activity level. This working time shall be considered as full working time. Depend on the type of the activity, the collective agreements also regulate works that are considered for especially harmful for the health of the employee.

Also, these working positions are defined with the branch collective agreement for the employees in the health area.

Because of full legal arrangement and including of all working positions that are considered to be hard, difficult and harmful for the health of the worker, and the work hazard can not be fully removed with protection measures, the of the Labour Law, adopted in September 2009, foresee the working time of the employee to be shorten in relation to the harmful influence on his health, or working capability.

The employee that works part time at working positions which are hard, difficult and especially harmful for the health of the employee, has the same rights as working full time. The amendments of the Law more precisely foresee these working positions, as follows:

- especially hard physical work;
- work under increased atmospheric pressure;
- work under increased noise;
- work in water or humidity;
- work exposed to ionizing radiation;
- work with ill from infectious diseases and with infectious materials;
- work of surgical interventions in surgery rooms;

- work in the area of psychiatry;
- work with persons with heaviest impediments in the intellectual development;
- work in court medicine and pathologic anatomy;
- work with corrosive materials;
- work of flying staff;
- ballet performances;
- musicians with wind instruments;
- folk dancers and opera soloists;
- work near voltage or under voltage; and
- work on height or depth.

The amendments of the Law, besides the determination of the working positions, also regulate the whole procedure of executing this right. The Minister competent for issues in the area of labour, issues approval for work with part working time, based on previously obtained opinion from health institution, which executes activity labour medicine and opinion from the labour inspection. The health institution that performs the activity labour medicine and the labour inspection deliver the opinion based on the previously prepared and delivered report from the employer.

Request for starting a procedure for obtaining approval for part time work can be submitted by employee or trade union organization to the employer.

Request for obtaining approval for part time work is submitted by the employer to the Ministry competent for issues in the area of labour. With the request, the employer must deliver opinion from a health institution that executes activity labour medicine and opinion from the labour inspection. If the labour inspection determines that the employee works hard, difficult and especially harmful works for the health of the employee, with a decision shall order the employer to start a procedure for determining the part working time.

The employee that works on working positions for which there is approval for part time work, he/she must not work overtime, nor to start working relations with another employer for the same positions, during the period for which works part time.

Question 2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

Undertaken measures for implementing the legal framework

During the reporting period, SLI has not received requests for protecting the rights from misuse of the part working time.

In order to provide adequate implementation of the Law, the amendments in September 2009, by defining the works that are considered as hard, harmful and difficult for the health of the employee, among the others in order to overcome the problems for supervision by the inspection, and in order to have adequate application of the determined right, define the works that can be considered as heavy, harmful and difficult for the health of the employee.

Question 3. Please provide pertinent figures, statistics or any other relevant information, in particular: circumstances under which the postponement of the weekly rest period is provided.

Relevant numbers and statistics

According to the data from the State Statistics Office, from the annual statistical research for employees and salaries, the situation in October 2008, in the Republic of Macedonia 2.9% of the total number of employees worked part time, from which 43.8% are women. The situation per separate sectors and years is given in the following overview:

Sectors	Year	Total number of employees		Percent of employees with full time work %		Percent of employees with part time work %	
		Total	women	Total	women	Total	women
Total	2005	411031	172970	99.0	41.9	1.0	56.9
	2006	418192	176372	98.2	41.4	1.8	44.8
	2007	434041	184340	98.3	41.6	1.7	49.6
	2008	434858	180443	97.1	40.2	2.9	43.8
Agriculture, hunting and forestry	2005	12115	2668	99.3	21.6	0.7	58.4
	2006	11864	2834	99.2	23.5	0.8	47.4
	2007	12 568	3 071	99.5	24.1	0.5	58.0
	2008	12852	3207	98.2	24.0	1.8	55.5
Fishing	2005	112	20	100.0	17.9	-	-
	2006	147	26	100.0	17.7	-	-
	2007	135	34	80.0	14.8	20.0	48.1
	2008	120	34	91.7	24.2	8.3	50.0
Mining and quarrying	2005	2099	207	100.0	9.9	-	-
	2006	2731	312	98.9	11.3	1.1	10.0
	2007	2 751	406	99.8	14.7	0.2	20.0
	2008	3373	327	99.3	9.6	0.7	20.8
Processing industry	2005	110129	53386	99.0	47.8	1.0	66.1
	2006	108994	53398	99.2	48.5	0.8	59.9
	2007	113088	56 179	99.1	49.1	0.9	60.6
	2008	107706	52373	98.6	47.9	1.4	54.2
Supply with electricity, gas and water	2005	13493	2065	99.7	15.3	0.3	16.7
	2006	13626	2130	99.6	15.5	0.4	23.2
	2007	13 516	2 086	99.8	15.3	0.2	44.8
	2008	13939	2218	99.6	15.7	0.4	36.7
Civil construction	2005	28731	4132	99.5	14.2	0.5	29.8
	2006	27546	4293	99.8	15.5	0.2	18.5
	2007	26 307	4 400	99.6	16.7	0.4	7.0
	2008	25333	4204	99.3	16.4	0.7	21.5

<i>Wholesale trade and retail trade; maintenance of motor vehicles, motorbikes and items for personal usage and for households</i>	2005	71860	32566	98.7	44.6	1.3	55.9
	2006	72576	31633	96.3	41.7	3.7	50.7
	2007	76 750	34 360	96.3	43.0	3.7	47.5
	2008	75855	31373	94.2	38.7	5.8	46.5
<i>Hotels and restaurants</i>	2005	12892	5530	99.3	42.5	0.7	63.5
	2006	13040	5885	93.1	42.9	6.9	32.3
	2007	13 040	5323	95.0	39.0	5.0	35.1
	2008	13265	5311	89.7	35.1	10.3	47.7
<i>Traffic, storage and connections</i>	2005	27712	6606	98.7	23.8	1.3	6.9
	2006	27255	5836	95.6	21.2	4.4	5.5
	2007	29 683	6 820	97.4	22.5	2.6	20.3
	2008	27446	5882	93.4	20.8	6.6	9.4
<i>Financial mediation</i>	2005	6458	4077	99.3	62.5	0.7	85.4
	2006	6479	4175	99.6	64.1	0.4	79.3
	2007	7 110	4 536	99.6	63.4	0.4	80.6
	2008	8413	5290	99.6	62.7	0.4	42.9
<i>Activities in relation to real estate, renting and business activities</i>	2005	14553	6819	99.5	46.4	0.5	85.0
	2006	17960	8359	98.7	45.7	1.3	66.5
	2007	21 677	8 817	98.2	39.8	1.8	50.4
	2008	24176	9673	96.1	38.7	3.9	34.6
<i>Public administration and defence, mandatory social protection</i>	2005	37206	11014	99.8	29.5	0.2	66.7
	2006	38526	11447	99.9	29.6	0.1	58.8
	2007	39 053	11 576	99.9	29.6	0.1	58.5
	2008	41377	12240	99.9	29.5	0.1	66.7
<i>Education</i>	2005	30690	17650	96.9	55.5	3.1	64.6
	2006	31559	18343	97.0	56.2	3.0	63.7
	2007	32 134	18 614	96.6	55.7	3.4	64.5
	2008	33548	19790	95.6	56.2	4.4	63.7
<i>Health and social work</i>	2005	30373	21551	99.4	70.6	0.6	64.8
	2006	33235	22986	99.5	68.7	0.5	77.9
	2007	31 809	23 220	98.9	72.1	1.1	78.0
	2008	32788	22854	99.5	69.3	0.5	79.7
<i>Other communal, cultural, general and personal service activities</i>	2005	12608	4679	99.4	36.8	0.6	48.1
	2006	12654	4716	99.2	36.8	0.8	61.9
	2007	14 420	4 899	99.2	33.5	0.8	62.2
	2008	14667	5666	97.9	37.4	2.1	57.8

Source: State Statistics Office

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

Question 1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

General legal framework, reforms

The right to weekly rest period is regulated with the Labour Law, which states that the employee is entitled to weekly rest period in duration of at least 24 hours continuously. As a day of weekly rest period is usually considered Sunday, or any other day of the week (Article 134).

In practice, as a day for weekly rest period in most cases is Sunday, except in the cases where the working process evolves continuously and where the employees work in three shifts. In these cases, the employees for weekly rest period use other day of the week.

There is no legal opportunity for the employee to cancel the right to using the weekly rest period, in other words the existing legal regulation does not prescribe the circumstances in which postponing of the weekly rest period is foreseen. However, separate legal regulations foresee in cases when the employee works on a day of weekly rest period, the same to be able to use it some other day in the week or to be paid.

For the employees in the Ministry of Interior, in order to provide the right to weekly rest period, and because of the specific character of the work in the cases when they work on that day, the same right can be used during the following week. Namely, according to Article 39 from the existing Collective Agreement of the Ministry of Interior, the employee is entitled to weekly rest period in duration of at least 24 hours continuously, and if necessary to work on the day of his weekly rest period, it is obligatory to provide that kind of rest during the following week.

Question 2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

Undertaken measures for implementing the legal framework

SLI regularly controls the usage of the weekly rest period of the employees and until now has not stated shortage of this right. In case when there has not been an opportunity for the employee to use the right in the current week, it has been stated that he has been provided to use it some other day of the following week.

Question 3. Please provide pertinent figures, statistics or any other relevant information, in particular: circumstances under which the postponement of the weekly rest period is provided.

Relevant numbers and statistics

No requests for acting regarding the right to use the weekly rest period have been submitted to the Misdemeanours Commission and the Commission for mediation.

Article 5 The right to organization

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 Contracting 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.

Question 1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

General legal framework, reforms

The Constitution of the Republic of Macedonia guarantees the citizens the freedom of association for establishing and protecting their political, economic, social, cultural and other rights and beliefs (Article 20).

In addition, the Constitution of the Republic of Macedonia states that because of executing their economic and social rights, the citizens are entitled to found trade unions, and those to establish their own associations and to participate in international trade union organizations. The limitation of the right to trade union organizing shall be regulated by law within the armed forces, the police and the administration bodies.

However, according to the existing law regulations (Article 49 from the Law on Defence “Official Gazette of the Republic of Macedonia No. 42/2001”), the trade union organizing is forbidden in the Army of the Republic of Macedonia only in case of military and state of emergency.

In relation to the given right, from the aspect of possible limitations for the employees in the Ministry of Interior, in the existing national legislation there are no legal provisions that limit the right to trade union organizing for the employees in the police, or the Ministry of Interior. More precisely, for the employees in this Ministry applies directly the decision proscribed in the systematic laws of the state, especially the Labour Law. The mentioned decisions apply also for the employees within the Ministry of Interior, without additional limitations determined by the laws *lex specialis* (the Law on Interior Affairs and the Law on police). Consistent respect of the constitutional and legal guarantees in relation to the trade union associating for the employees in the Ministry of Interior is confirmed with the Collective Agreement of the Ministry of Interior, as collective agreement signed on a level of employer, which regulate the rights and obligations of the employees in the Ministry of Interior affairs and the employer.

For further operationalizing of the constitutional provisions from Articles 20 and 37 that refer to the right of organizing, the Labour Law (“Official Gazette of the Republic of Macedonia” No. 62/2005 and 130/2009) is significant, which contains special chapter titled as Trade Unions and Associations of Employers. This chapter regulates more issues important for the trade union organizing. This right refers to the freedom of the employees to establish trade unions, and to freely become members or to join the trade unions. The employees shall join and obtain membership in the trade unions by personal assessment. According to the legislation of the Republic of Macedonia, the membership in the trade unions and the participation in the trade union’s activities must not be a criteria on which the employer shall base the decision for signing an employment contract, for change of the working position of the employee, the vocational education, promotions, payments, social contributions and termination of the employment contract. In addition, no previous approval is needed from state body or the already established trade unions for establishing a new trade union. Important condition for the manner and the terms for establishing the trade union is the statute determination of the terms for joining the same. Furthermore, the right to trade union organizing is provided also with the provisions, where they prescribe the trade union organization not to be dismissed and their activity not be stopped in administrative manner, if they are established and they perform the activity in accordance with the law and other regulations, as well as with the provision that the activity of the trade unions and their representative can not be limited by acts of the employer, if the same is in accordance with the law or the collective agreement.

The trade unions, may establish own alliances or other forms of association, in which their interests can be related on higher level (trade unions of higher level), which are entitled to freely associate and cooperate with the international organizations that are formed in order to execute their rights and interests.

The Labour Law prescribes for fundamental obligation for the employer to create conditions for the activity of the trade union for the purpose of protecting the rights of the employees arising from the working relations. This fundamental obligation is further detailed in the adequate provisions from the General Collective Agreement for economy of the Republic of Macedonia (“Official Gazette of the Republic of Macedonia” No. 76/2006) and the General Collective Agreement for the public sector of the Republic of Macedonia (“Official Gazette of the Republic of Macedonia” No. 10/2008 and 85/2009). The decisions from both collective agreements are mainly taken from international documents, such as the Convention No.135 from the International Labour Organization

(ILO) and the ILO Recommendation No.143 for protection and relief for the representatives of the employees in the enterprises. In addition, the trade labour agreements with special provisions prescribe the working conditions of the trade union in separate activities.

The Labour Law prescribes for special protection of the trade union representative. Therefore, he/she is protected from dismissal in accordance with the Labour Law. The salary of the trade union representative, because of trade union activity, can not be decreased or the employment contract to be terminated, nor during the performance of the duty, the employer can terminate the employment contract. That can be done only with previous agreement of the trade union. Also, if the trade union within eight days does not declare oneself for giving or denying the approval, it is assumed that it is consent with the decision of the employer. If the trade union does not give consent, the consent may be replaced with court decision. The protection against dismissal for the trade union representative is for the whole time of the mandate duration and at least two years after terminating the mandate. However, the employee that is elected or appointed for the trade union function, determined by statute, and whose performance requires temporary to stop working within the employer, his working relation is in standby and he is entitled within five days after terminating the executed function, to return to work for performing works that correspond to his level of vocational background.

Concerning the protection of the trade union representative, the General Collective Agreements go further, regulating that he/she can not be assigned to other position at the same employer or other employer, to be determined as redundancy and assigned on that basis and no procedure can be started against him, i.e. terminating the working relation with a dismissal. According to the provisions from the general collective agreements, the trade union representative, if necessary, should be provided with excuse from work for his training and efficient performance of the function in the trade union.

The Labour Law guarantees autonomy and independence of the trade unions, by regulating that the employers and their associations can not perform monitoring of the establishing and functioning of the trade unions or their associations on higher level, and for that purpose can not finance or in other way help the trade unions, or their associations on higher level.

Besides the trade union organizing, there is full freedom and independence of organizing of the employers. Namely, the employers are entitled, by personal free choice, to establish association and to obtain membership, under the conditions prescribed by the statute or the rules of that association. In addition, these associations are voluntary joined by the employers because of representing, improving and protecting their economic, social and other interests. They, as the trade unions, may be established without any previous approval, and their activity can not be stopped in administrative way, if they are established and they perform the activity according to the law.

The associations of the employers, may establish own alliances or other forms of association, in which their interests are related on higher level (associations of employers of higher level), and are entitled to freely association and cooperation with the international organization in order to execute their rights and interests. The association of the employers, or the associations of employers on higher level, must have statute.

The trade union, or the association of employers and their associations on higher level obtain the feature of legal entity on the day of registration in the Trade Union Registry, or the Registry of employers' associations, which is kept within the ministry competent for issues in the area of labour.

The Ministry of Labour and Social Policy keeps special registry of trade unions on higher level and registry of employers' associations. The Registry includes the following:

- day of establishing;
- name, headquarters, area of acting;
- name of the executive body;
- name of the person authorized for representation;
- termination of the acting;
- termination of the authorization of a branch, or other form of Interior organization in the legal trade.

The following need to be enclosed, when delivering the application for registering:

- decision of establishing;
- minutes from the establishing assembly;
- statute, name of founder and members of the executive body;
- full name of the person or persons authorized for representation;
- data on the number of members of the trade union, based on paid membership fee;

After the applications for registering in the registry, all registered trade unions and associations of employers are issued decision that contains the following data: date of registering and the number under which the trade union, or the association of employers is registered in the registry, the name of the trade union, or the association of employers; headquarters and full name of the person, or persons authorized for representing. Copy of the decision is delivered to the Central Registry of the Republic of Macedonia. In the registry must be entered every change by the person authorized for representing the trade union, or the association of employers within 30 days from the day of occurrence of the change. The changes that are registered refer to the name of the trade union, or the association of employers, or branch, or other form of Interior organization, the headquarters, the area of acting, the name of the executive body, the person authorized for representing and the terminating the acting, or the authorizations in the legal trade.

The member of the trade union or the association of the employers may request court protection. In addition, the law foresees the trade union, or the association of employers and their associations on higher level, to be able to request from the court to prohibit the activity that is contra the right of free associating of the employees, or the employers. The Law, also, regulates the cases for termination of the acting of the trade union or the association of employers, if:

1. The executive body of the trade union or the association of the employers decides on that, which body is authorized by the statute to decide on termination of the acting of the trade union or the association of employers;
2. Without specially important and justified reasons, more than double time has passed after holding the session of the highest executive body of the trade union or the association of employers, which session is determined by the statute to be held; and
3. The number of the members of the trade union or the association of the employers is decreased under the number determined within this Law on founding the trade union or the association.

The acting of the trade union or the association of the employers shall be prohibited by a decision of the regular court, competent according to the headquarters of

the trade union, or the headquarters of the association of employers, if its activity is opposite of the Constitution and the Law.

Special provisions from the Labour Law regulate the issue of being representative.

The recognition of being representatives of the trade unions is determined in accordance with the entry in the Registry of trade unions, or associations of employers, kept within the Ministry of Labour and Social Policy and the number of members based on joiners. Article 212 from the Labour Law prescribes that a representative trade union for signing collective agreement with the employer, is a trade union which has at least 33% joined employees from the employer or the trade union that is a member of the representative trade union on a higher level of organization.

The same article from the Law prescribes that a representative trade union for signing a collective agreement on a level of a branch and on a state level is a trade union that has at least 33% members from the total number of employees in the branch or the area for which the collective agreement is signed or the trade union is a member of the representative trade union on a higher level of organization.

In addition, the Law defines the threshold of recognition for being representative for association of employers, or representative employers' association. Therefore, a representative association is employers' association, that has at least 33% members from the employers and the total number of employees in the branch or area for which the collective agreement is being signed.

These legal provisions in relation to determining and proving the representativeness for the trade unions and the employers created certain practical problems, mostly because of the higher percentage, used for determining if certain trade union and employers' association is representative. The International Labour Organization and the European Commission referred to these problems. Because of that, amendments of the Law were done, according to which, detailed criteria for representativeness and procedure of determining the same have been defined. Before acceding to changing the Law in the section of representativeness, several meetings were held with all trade unions and employers registered on national level, in order to define the same mutually. The international practice and experience were also reviewed.

Therefore, with the amendments of the Labour Law, which were adopted by the Parliament of the Republic of Macedonia in October 2009 ("Official Gazette of the Republic of Macedonia" No. 130/2009), certain changes have been done in the section of the provisions that define the threshold of representativeness of the trade unions and employers' association, criteria for representativeness have been defined, as well as the manner and procedure for determining the representativeness. The provisions specified that the representativeness of the employers and the trade unions is determined for the purpose of collective agreeing, participation in tripartite bodies and tripartite delegations of social partners.

The Law regulates new criteria for representativeness of the trade unions on a state level. New conditions for representativeness, which the trade union needs to cumulatively fulfil in order to be representative, are the following:

- To be registered in the trade union registry, kept in the ministry competent for issues in the area of labour;
- To have at least 10% members from the total number of employees in the Republic of Macedonia in the sector for which the collective agreement is signed, which pay fee to the trade union;

- To affiliate at least three trade unions on national level from different branches, or divisions that are registered in the registry kept in the Ministry competent for issues in the area of labour;
- To act on a national level and to have registered members in at least 1/5 of the municipalities in the Republic of Macedonia;
- To act in accordance with its statute and the democratic principles; and
- To have trade unions – members that have signed or joined to at least three collective agreements on a level of branch, or division.

The same article determines the criteria for representativeness of a trade union in the public sector, in the private sector in the area of economy, on a level of branch, or division and on a level of employer.

The Law regulates new criteria for representativeness also for the employers' associations on a state level, on a level of private sector in the area of economy and on a level of branch, or division. On a state level, representative employers' association is the one that cumulatively fulfils the following conditions;

- To be registered in the registry of employers' associations, kept by the Ministry competent for issues in the area of labour,
- To have members at least 5% of the total number of employers or the employer-members employ at least 5% of the total number of employees in the Republic;
- The members of the association to be employers from at least 3 branches, or divisions;
- To have members in at least 1/5 of the municipalities in Macedonia;
- To have signed or joined to at least three collective agreements on a level of branch, or division; and
- To act in accordance with its statute and democratic principles.

Body, competent for determining the representativeness on a level of Republic and on a level of branch, or division, is defined to be the Minister competent for issues in the area of labour, on a suggestion of the Commission for determining the representativeness. In addition, the composition and the manner of work for the Commission are defined. The Commission foresees number of nine members, per three members of the Ministry of Labour and Social Policy, Ministry of Justice and the Ministry of Economy. The registered trade unions and employers' associations may determine per one of their representatives that will participate in the work of the Commission, in order to provide transparency of the whole process. More detailed is defined the procedure for determining the representativeness, the progress of the procedure, the necessary documentation and the manner of acting and making decisions.

Question2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

Undertaken measures for implementing the legal framework

In order to provide adequate application of the existing legal regulation, suggesting change towards providing functional social dialog according to the situations

and opportunities in the country; in cooperation with the International Labour Law, several workshops have been organized that refer to the issues of representativeness, strengthening the institutions of the social dialog, presenting the experiences from other countries related to functioning of the social dialog, or the manner of determining, the threshold of representativeness, etc. (see answer under Paragraph 2 from Article 6).

In addition, within the Project on business surrounding, USAID in cooperation with the Ministry of Labour and Social Policy, in the period from 24.09.2007 to 27.09.2007, organized a study visit to the Republic of Croatia with Croatian representatives of the social partners. The purpose of the visit, among the others, was presenting the experiences from the functioning of the social dialog on a national level, criteria on representativeness and the manner and procedure of determining the representativeness.

Question 3. Please provide pertinent figures, statistics or any other relevant information, if appropriate.

Relevant numbers, statistics and other information

In the Registry of the Ministry of Labour and Social Policy, which was kept before the adoption of the Labour Law in 2005, and taking into consideration the continuity of the acting of separate trade union organization, the following trade union organizations have been registered:

Trade union organizations in the Republic of Macedonia registered in the Trade Union Registry		Date of entry in the Registry
1.	Trade union of metal workers, energy workers and miners of Macedonia	08.02 1994
2.	Trade union of workers in the forestry and wood industry of Macedonia	22.02.1994
3.	Trade union of workers in the agro-industrial complex of RM "Agrosindikat" (agro-trade union)	22.02.1994
4.	Trade union of civil engineering, industry of construction materials and designing of the Republic of Macedonia	28.02.1994
5.	Autonomous trade union of health, pharmacy and social protection of the Republic of Macedonia	28.02.1994
6.	Trade union of graphic, information film, publishing activity and paper production of the Republic of Macedonia	28.02.1994
7.	Macedonian Trade Union Association	28.02.1994
8.	Macedonian trade union of trade workers	28.02.1994
9.	Macedonian trade union of workers in the textile, leather and shoes industry	28.02.1994
10.	Macedonian Independent Autonomous Trade Unions (UNASM)	07.03 1994
11.	Trade union of workers in traffic and connections of the Republic of Macedonia	30.03.1994

12.	Trade union of workers in administration, judiciary, municipality organizations and civil association	28.09.1994
13.	Trade union of workers in the chemical industry and non-metal industry in the Republic of Macedonia	30.09.1994
14.	Trade union of workers in the financial organizations of Macedonia	05.11.1994
15.	Autonomous trade union of education, science and culture of the Republic of Macedonia	07.11.1994
16.	Independent trade union of employees in Ministry of Interior Affairs of the Republic of Macedonia (Macedonian police trade union)	28.12.1994
17.	Trade union of workers in catering, communal economy and artisanship of Macedonia	10.05.1996
18.	Association of trade unions of Macedonia	15.01.1998
19.	Independent trade union of employees in defence	12.01.1998
20.	Independent trade union of workers in electric power economy of Macedonia	04.05.1998
21.	Trade union of postal and telecommunication workers of Macedonia	16.09.1998
22.	Coalition of independent trade unions of Macedonia	25.01.2000
23.	Federation of independent trade unions of traffic in Macedonia	20.08.2001
24.	Independent trade union of employees in clinic centre Skopje and other healthcare workers and healthcare associates in other healthcare organizations and institutions in the Republic of Macedonia	12.12.2001
25.	Federation of independent trade unions of civil engineering in Macedonia	31.05.2002
26.	Trade union of Macedonian diplomatic service	15.07.2002
27.	Federation of independent trade unions of industry in Macedonia	04.07.2003
28.	Association of truck transporters of RM "Makamtrans"	16.07.2003
29.	Union of music trade unions of Macedonia	27.04.2004
30.	Macedonian Trade Union Organizations Confederation	29.09.2004
31.	Association of independent trade unions of traffic staff of railway workers in RM "Zheleznichari" (railway workers) - Skopje	17.12.2004
32.	Trade union of financial activities of Macedonia	18.04.2005
33.	Independent trade union of taxi drivers of Macedonia	08.11.2005
34.	Independent trade union of drivers JSP (public traffic enterprise) Skopje	16.11.2005
35.	Macedonian Free Trade Union Confederation	23.03.2006
36.	Multiethnic trade union of education in the Republic of Macedonia	11.04.2006
37.	Federation of trade unions for transport and connections	25.09.2006
38.	Trade union of scene musical artists of the Republic of Macedonia	01.03.2007
39.	Agricultural trade union of the Republic of Macedonia	05.03.2007
40.	Independent trade union of workers from energy, mining and industry of Republic of Macedonia	21.05.2007
41.	Trade unions of doctors within the Clinical hospital Bitola	09.07.2007
42.	Trade union of catering and tourism of the Republic of Macedonia	29.10.2007
43.	Independent trade union of employees in the local self-government of Republic of Macedonia	25.03.2008
44.	Trade union of workers in the administration and state administration	27.05.2008

A Registry of employers' associations, within the Ministry of Labour and Social Policy is kept after the adoption of the Labour Law in 2005. According to that, in the registry of employers' association, kept within the Ministry of Labour and Social Policy, are registered the following associations of organizations of employers:

Organizations of employers in RM registered in the Registry of employers' associations		Date of entry in the Registry
1.	Organization of Employers of Macedonia	22.03.2006
2.	Confederation of Employers of Macedonia	22.03.2006
3.	Association of Employers in the area of traffic and connections	13.07.2006
4.	National Federation of Agencies for temporary employments	02.06.2008

Article 6

Employees' right to collective negotiation

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.

Question 1. Please describe the general legal framework applicable to the private as well as the public sector. Please specify the nature of, reasons for and extent of any reforms.

General legal framework, reforms

The existing legal framework gives opportunity for providing consultations between the employees and the employers, on national and regional level. The Economic Social Council is special national body, in which the consultations between the social partners are taking place. The basis for forming the Economic Social Council is given in the Labour Law in special chapter (21) – "Economic Social Council" (ESC). ESC is a tripartite body that serves as forum for tripartite consultations between the Government of the Republic of Macedonia and the social partners for economic and social issues and issues in the labour area.

ESC is established, because of determining and achieving the adjusted activities in order to protect and promote the economic and social rights, or interests of the employees and the employers, keeping adjusted economic, developing and social

policy, stimulating the social dialog and signing and applying collective agreements and their compliance with the measures of economic, social and developing policy.

The activity of the ESC is based on the need of tripartite cooperation between the Government of the Republic of Macedonia, the trade unions and the employers' associations, in solving the economic and social issues and problems.

Within the determined competences, the ESC has the following functions:

- Monitors, studies and estimates the influence of the economic policy and the measures of the economic policy for the social stability and development;
- Monitors, studies and estimates the influence of the social policy and the measures of the social policy for the economic stability and development;
- Monitors, studies and estimates the influence of the changes of prices and salaries on the economic stability and development;
- Provides for justified opinion to the Minister of Labour for issues and problems related to signing and applying the collective agreements;
- Suggests to the Government, the employers and the trade unions, or their associations on higher level, keeping complied policy of prices and salaries;
- Gives opinions upon draft laws in the area of labour and social security;

- Promotes and stimulates the need of tripartite cooperation (tripartite social dialog) between the social partners for solving the economic and social issues and problems;
- Stimulates the peaceful solving the collective labour disputes; and
- Gives opinions and suggestions to the Minister of Labour in relation to the other issues.

More precise authorizations of the ESC are defined within the Agreement on Council establishment. Namely, the Agreement defines the managing, the number of members, the competences, the structure, manner of work, etc.

The ESC as tripartite body, during the reporting period functioned in accordance with the Agreement signed between the Government of the Republic of Macedonia, the Federation of Trade Unions of Macedonia and the Economic Chamber of Macedonia.

In the work of the Council participated per three representatives of the Government, where the representative of the Minister of Labour and Social policy, as President, per one representative of the Ministry of Finance (Minister of Finance) and the Ministry of Economy (Deputy Minister of Economy).

The representatives of the trade unions were represented by members that were selected by the Federation of Trade Unions of Macedonia from different activities (President of Federation, agro-trade union, post and telecommunications, textile industry, traffic and connections, etc., which also had their deputies).

The representatives of the employers were presented by the President of the Organization of Employers of Macedonia and two more members that were nominated by the organization itself.

According to the Agreement, the President manages the work of the Council, along with two deputies of the President and a secretary.

The Council's President is the Minister of Labour and Social Policy, which is a member of the Council by function and which in accordance with his competences presents and represents the Council in front the authorized bodies and the public, calls

for sessions, suggests session's agenda, coordinates and adjusts the work. Besides suggesting the session's agenda by the President of the Council, a proposal for keeping a session with an agenda or amending and complementing the agenda can be given by any member of the Council.

The secretary of the Council is person from the Ministry of Labour and Social Policy, which performs administrative-technical tasks and assists the President of the Council in communication and holding the sessions of the Council.

The Council works on sessions. The sessions of the Council are scheduled by the President of the Council, when necessary, and at least quarterly. The sessions are scheduled with an invitation, containing agenda and working material, at least 8 days before holding the session. The agenda for the session is determined by the Council on the session itself. Each of the members can suggest changes and complements of the agenda, which was very often occurrence in the last period.

The working materials are prepared by the proposer of the material or other competent institution. The adopted documents from the economic-social sphere are forwarded to the Assembly of the Republic of Macedonia, the Government, line ministries and other competent bodies. The Council forms special working bodies for certain issues. The sessions of the Council are public and the Council informs the public for its work with statements or announcements for the made conclusions and opinions on certain issues.

The tripartite functioning on local level can be specially marked within the preparation of the local action plans in 12 local self-governments in 2008 (Bitola, Berovo, Pehchevo, Kumanovo, Shtip and Karbinci, Strumica, Kochani, Sveti Nikole, Struga, Radovish and Prilep). In the preparation of the local action plans, representatives of the local self-government, the trade unions, representatives of the employers and the local employment centres took part. The preparation of the local action plans was realized with technical assistance of the CARDS Project – Employment policies 3.

Question 2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc) to implement the legal framework.

Undertaken measures for implementing the legal framework

Consultations between the social partners on national level are done through participation in preparation and implementation of concrete projects related to the local economic development, employment, trainings, etc. Within the social partnership, with participation of the social partners, a National Action Plan on employment 2006/2008 was prepared, as well as a National Strategy on employment 2006-2010. According to the special laws, the representatives of the social partners through their representatives are included in the managing bodies of the adequate funds and institutions for representing the interests of their members, coordinate the same with the representatives of the Government and actively participate in forming and implementing the regulations in the adequate area. On a level of employer, the social dialog is done

through founding and acting of trade unions and participation in the procedure of signing collective agreement on a level of employer.

During 2005, because of provision of improving and strengthening of the social dialog, a special unit in the Ministry of Labour and Social Policy is formed, which provides administrative and technical support of the Economic Social Council (ESC). The forming of the unit was based on proposal of the ESC, which considered the need to provide experts and administrative-technical conditions for support of the Council's work, or monitoring and coordinating the work. According to the Systematization Act of the Ministry of Labour and Social Policy, the Unit for Social Partnership performs works in relation to coordinating activities related to social dialog and social partnership on national and local level, coordinates the implementation of programmes and projects in the area towards capacities strengthening of the social partners, establish cooperation with international organizations and institutions, follows the international regulations and documents that are related with the social dialog and social partners, implements experts-operative works in competence of the unit for providing support, monitoring, organizing and giving experts assistance and support for the work of the tripartite social dialog on national and local level, etc. Two people work in the unit.

In addition, during the past period, several measures and activities were undertaken for improving and developing the social dialog, for strengthening the capacities of the social partners and the employees from the Unit of Social Partnership.

In the realized activities that were intended for capacities strengthening of the social partners, the Ministry of Labour and Social Policy organized different activities (conferences, seminars, workshops), which were aimed towards stimulating their active participation and contribution in the functioning of the social dialog. All registered trade unions and employers' organizations on national level were also included.

All activities in function of capacities strengthening of the social partners were realized by the Ministry of Labour and Social Policy in cooperation with the European Commission, International Labour Organization, USAID, etc.

Namely, during the implementation of the Project "Technical Assistance for support of the employment policies – Phase 3", financed by the European Union, which started with implementation in November 2007 and ended in April 2009, a special component was directed towards capacities building of the social partners. The work within the Project included estimation of the current condition, including identification (mapping) of existing organizations, their capacities and registered needs for support in form of capacity building. Based on the estimation, set of trainings were organized, as follows:

- "European Social Fund (ESF)" During this seminar, the representatives of the social partners were introduced with the goals, tasks of the structured funds, ESF programme cycles, main principles of programming, monitoring and evaluation of ESF, etc.
- "Financial planning and management". At this seminar, the knowledge of best practices of financial planning and management in organization of the social partners from other countries in Europe was shared.
- "Creating a project". The aim of this seminar was for the social partners to obtain the knowledge of creating a project and management of the project cycle;

- “Strategic planning.” At this seminar, the social partners were introduced with the process of strategic planning and capacity estimation.
- “Bipartite social dialog”. At this seminar, the social partners learned from the EU countries about the best practices in negotiating.

The social partners were included in the whole process of realization of the CARDS project – Employment policies 2 and Employment policies 3.

The social partners directly and actively were included in the implementation of the Twinning project on harmonization of the national labour law with the EU legislation, which started in May 2008 and ended in September 2009. Representatives of the social partners were members of all working groups formed within the Project implementation (working conditions, informing and consulting the employees; equal treatment and anti-discrimination; health and safety at work) and had the opportunity directly and in details to learn about the EU legislation and actively to participate in the process of analyzing the compliance of the Macedonian legislation and its harmonizing with the European regulations in the labour area.

During the implementation of the Twinning Project, several seminars and trainings were organized, where the social partners took active participation and had the opportunity to give opinions, remarks and suggestions regarding the transposing the European directives in our labour legislation.

Taking into consideration the meaning of the social dialog on local level, activities for establishing tripartite social dialog on local level were also undertaken, in order to strengthen the capacities of the social partners on local level. The Ministry of Labour and Social Policy in cooperation with USAID – “Project on business surrounding” 2008, organized three regional conferences in Skopje, Tetovo and Bitola, where the idea of establishing tripartite social dialog on a local level was promoted, and where experiences from other countries were presented, in relation to the meaning and functioning of the social dialog on local level (Croatia and USA). In addition, within this project, in 2008 was organized “Regional Conference on policies and measures for employment” in Skopje. At this conference, active participation took representatives of the trade unions and the employers.

The Ministry of Labour and Social Policy (MLSP) in 2007 undertook activities for strengthening the capacities of the social partners in order to be actively included on policy drafting, through their inclusion in seminars organized in cooperation with the International Labour Organization, in relation to the following:

- Employment policies of the Republic of Macedonia;
- Introducing the gender issues in the employment policies; and
- International labour standards.

In 2008, MLSP in cooperation with the International Labour Organization (ILO) organized two seminars, where besides representatives of several ministries, also representatives of all trade unions and organizations of employers were included:

- “Industrial relations in the Republic of Macedonia in relation to international labour standards: facing the challenges”, which was focused on determining the representativeness of the social partners and the international experiences.

- “Elimination of child labour”. Aims of this seminar: to introduce to the civil servants, social partners and representatives of NGOs, the international labour standards in relation to child labour; presenting the ILO programme on eliminating the child labour; presenting the activities of ILO against human trafficking.

Since 12.03.2008, the realization of the “Project on technical cooperation: Consolidation of legal and institutional bases for social dialog in the countries of Western Balkan and Moldova” started. It is a three-year project implemented by the ILO and is planned to end in 2011. The project partners from Republic of Macedonia are the Ministry of Labour and Social Policy, the Confederation of Free Trade Unions of Macedonia, the Federation of Trade Unions of Macedonia, the Union of Independent and Autonomous Trade Unions of Macedonia, the Organization of Employers of Macedonia and the Confederation of Employers of Macedonia. The aim of the project is strengthening the institutions for social dialog and increasing the capacities of the tripartite actors, which will improve and develop the social dialog in the Republic of Macedonia, as necessity in the process of European integrations and adopting the European social model. Within the project, the ILO realized trainings for the negotiating skills within the frames of the collective negotiating, further, the social partners were included in the regional conference for peaceful solving the working disputes, where they had the opportunity to exchange experiences with the representatives of other countries and to review the best practices. Furthermore, in the following period within the same project, in the second half of 2009, trainings for safety and health at work shall be realized for the representatives of the employers in the Republic of Macedonia.

The International Organization of Labour (ILO) in 2009 started with realization of the project “Increasing the efficiency of the labour inspection”, with a goal to strengthen the capacities of the labour inspection. In the first phase of the project, a revision was done in the labour inspection in the Republic of Macedonia in order to determine how to apply the labour legislation and policies more efficiently and to provide that the Ministry of Labour and Social Policy has sufficient capacity for development of sustainable programmes for labour inspection. Moreover, the revision helped for focusing to the interior organization, staff and resources, planning of the inspection and related activities, inspection/specific topics (in relation to ILO Conventions) and cooperation with social partners. Based on the results from the revision, an Action Plan for labour inspection shall be created. In October 2009 the first training was held, where besides the labour inspectors, part took representatives of all trade unions and employers organizations. The training referred to risk assessment at the working place, where the trainers were from the International Training Centre of ILO in Torino and from the United Kingdom’s Institution for safety and health at work.

Additionally, in cooperation with ILO, the social partners from the Republic of Macedonia participated in regional conference for the influence of the world financial and economic crisis on the mechanisms for salary determination, which was held in 2009 in Sarajevo.

Besides the above mentioned activities, which had big role in capacity strengthening of the social partners, in the following period, according to the National Programme for approximation of the EU legislation, the following activities are to be taken:

- Promoting and stimulating the tripartite social dialog on national and local level, improving the bipartite social dialog on level of enterprises, as well as capacity strengthening the social partners through inclusion in all activities that will be realized by the ministry;
- Organizing educational and promotional activities for raising awareness and strengthening the capacities for the functioning of the social dialog on all levels;
- Organizing workshops, seminars, trainings and campaigns in function of strengthening the capacities of the social partners for their participation in creating the employment policies, as well as in relation to issues in the area of functioning of the European social dialog, the ministry social dialog, as well as the social dialog on a level of employers;
- Participation of the social partners in capacity strengthening of the social dialog, towards providing active participation of the social partners in creating and implementing the policies and measures in the economic and social sphere, elaborating, creating and implementing the legislation, in the working groups and in the Economic Social Council;
- Strengthening the tripartite social dialog on national and local level, as well as bipartite social dialog, through trainings and seminars for capacity strengthening and the awareness of the social partners for the importance of the collective negotiating, information exchange and conducting a dialog.

In addition, according to the Operational programme for human resources development 2007-2013 (IPA – Component 4), a Twinning Project for support of the national employment policies is in phase of preparing, which will promote more active and more intensive inclusion of the social partners in the activities in the section of development, monitoring and evaluation of the employment policies during 2010 and 2011.

Question 3. Please provide pertinent figures, statistics or any other relevant information, if appropriate.

Relevant numbers and statistics

Within the functioning of the Economic Social Council, as national tripartite body through which the tripartite social dialog is conducted, during the period of 2005-2008, total of 15 sessions were held, when the social partners had the opportunity to give their opinions and recommendations for most of the issues in the economic and social area. The recommendations and opinions, or the conclusions for certain issues were delivered to the Government of the Republic of Macedonia, and the opinions in relation to the legal regulations, besides the Government, were also delivered to the Assembly of the Republic of Macedonia.

The Economic Social Council, during the held sessions in the mentioned period, reviewed many laws, documents or separated issues, as follows:

- Proposal for adopting a Labour Law;
- Proposal for adopting a Law on Bankruptcy;
- National Program for Adopting the EU legislation – chapter 19 – Social policy and employment;
- Multi-indicative plan;
- Proposals and questions for further functioning of the Economic Social Council;
- Activities and measures for legalization of the grey economy – Action plan;
- Proposal – Agreement for establishing the Economic Social Council;
- Draft Law on Employment and Work of Foreigners;
- Proposal for adopting the draft Law on Occupational Safety and Health with draft Law;
- Draft Law on Peaceful Resolution of Labour Disputes;
- Proposal for adopting a Law on Voluntarism;
- Proposal for adopting a Law on amending the Law on Pension and Disability Insurance;
- Information on the Draft-design of the Voluntary Fully Funded Pension Insurance (third pillar) in the Republic of Macedonia;
- Proposal for adopting the Law on Voluntary Fully Funded Pension Insurance with a Draft Law;
- Information for the started activities for forming mutual consulting committee with ECOSOC of EU;
- First report for realization of the obligations undertaken by the European Social Charter of the Council of Europe;
- Proposal for adopting the Law on Employment of Disabled Persons;
- Information for overtime work of the production processing plants;
- Proposal of the Trade union on civil engineering, industry and designing of the Republic of Macedonia (SGIP) for starting a procedure for ratification of the Convention No. 94 of the International Labour Organization for the labour clauses in the public agreements;
- Proposal for adopting a Law on amending the Labour Law;
- Initiative for determining the minimal salary in the Republic of Macedonia;
- Draft programme for work of the Economic Social Council for the year 2008;
- Draft National Programme for adopting the EU legislation (revision 2008);
- Report for the campaign “Stop for unregistered work”;
- Information regarding the minimal salary;
- Information for introducing a gross salary system;
- Information for realization of the Action plan for decreasing the grey economy for the past period of 2008, etc.

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;

Question 1. Please describe the general legal framework applicable to the private as well as the public sector. Please specify the nature of, reasons for and extent of any reforms.

General legal framework, reforms

Chapter 19 of the Labour Law ("Official Gazette of the Republic of Macedonia" No. 62/2005) prescribes the right to collective negotiating.

Namely, the Labour Law more specifically regulates the issues related to collective agreements in respect to the type of collective agreements, application and importance of the collective agreements, subject of the collective negotiating, obligation of collective negotiating, persons bound by the collective agreements, the form of the collective agreements and the participants in reaching a collective agreement.

At national level of the Republic of Macedonia, two general collective agreements have been reached, consisting of a General Collective Agreement for the Economic Sector and a General Collective Agreement for the Public Sector. Further on, collective negotiating continues with reaching special collective agreements at branch level and individual collective agreements at employer level.

The General Collective Agreement is applied directly and is binding for the employers who are members of an association of employer's signatories of the Collective Agreement or who had joined the association at a later date. This legal solution caused problems in practice, since it did not ensure full and equal coverage of the rights, obligations and responsibilities of all subjects in the public and private sector.

As far as the branch-level General Collective Agreements are concerned, they are applied directly and are binding for the employers who are members of an association of employer's signatories of the Collective Agreement or who had joined the association at a later date.

Pursuant to the amendments to the Labour Law, which were adopted in October 2009, it is anticipated that the General Collective Agreement for the Private Sector, i.e. the Economic Sector, to be applied directly and to be binding for all employees and employers in the economic, i.e. private sector. Likewise, the General Collective Agreement for the Public Sector is anticipated to apply directly and to be binding for all employees in the public sector. This ensures encouragement of the collective negotiating process. In addition to that, it also ensures equal coverage of the rights, obligations and responsibilities of all subjects in the public and private sectors.

Furthermore, in the practical application there was varying interpretations of the General Collective Agreement for the Public Sector in regards to which subjects it applied to, due to the varying interpretations as to which subjects fall under the public sector. Therefore, the term public sector is defined with the amendments, or more precisely, the General Collective Agreement for the Public Sector which shall apply to the bodies of the civil administration and other state authorities, authorities of the local

self-government units, the institutions, public enterprises, state bureaus, funds and other legal entities that carry out activities of public interest.

The objective of collective negotiating is to regulate the rights and obligations of the contractual parties who had signed the agreement. The collective agreement may also contain rules regulating the signing, content and termination of employment relations and other labour relation issues or relating to labour relations.

The Labour Law anticipates the obligation for the persons, who according to this law may become party to the collective agreement, to negotiate with a good will in order to reach a collective agreement regarding the issues which according to the Law may be subject to the collective agreement.

Pertaining to the persons who are bound by the separate/special collective agreements (branch level and at the enterprise level), the Labour Law shall bind all persons who have signed it and all persons who during the reaching of the collective agreement were or later became members of the associations which have signed the collective agreement. Moreover, the collective agreement also binds all persons who joined the collective agreement and all persons who later became members of associations which have joined the collective agreement.

At the same time, the individual collective agreement also binds and is applicable to the employees of an employer who are not members of a trade union or the trade union – signatory to the collective agreement.

A collective agreement shall be signed between the employer or the representative association of employers and the representative trade union. However, there is the possibility if consent is not reached to sign the collective agreement, the participant may request arbitration for resolution to the conflicting issues.

The representative association of employers and the representative trade union are defined as parties who sign the General Collective Agreement for the territory of the Republic of Macedonia. If none of the trade unions or employer associations meets the conditions for representation, with a view to signing the collective agreement, the Labour Law provides the option that trade unions, i.e. employer associations, to be allowed the reach an accord of association for participating in the signing for the collective agreement.

A representative trade union and representative employer association at branch level, i.e. business activity level may sign the special collective agreement for the branch, i.e. business activity. As far as the special collective agreements for the public enterprises and public institutions, the may be reached by the founder or the authority it shall authorise and the representative trade union.

The special collective agreement for persons who autonomously perform activities in the area of arts and culture (independent artists) shall be signed by the representative trade union and the representative association of employers.

And at the lowest level, an individual collective agreement shall be signed by the representative trade union of the employer and the person authorised by the employer.

If more than one representative syndicates are involved in the signing of the collective agreement, a negotiation board shall be formed whose members have to be determined by the representative trade unions.

For legitimate collective negotiating, the representatives of the trade unions and employer associations involved in the negotiations for reaching a collective agreement and who shall sign a collective agreement need to be authorised by their authorities.

The collective agreement shall bindingly appoint persons and areas to which it applies.

The collective agreements are usually signed for a period of two years, but there is a legal opportunity for their prolonging, if there is a written consent by the parties to the agreement. At the same time, a collective agreement signed for a fixed term, shall cease its validation at the time of expiration of the period it was signed for. The validation of the collective agreement may also be terminated by agreement of all participants or by cancellation, in the manner laid down in the collective agreement. When the validation of the collective agreement is extended by accord of the parties to the agreement, the accord shall be reached 30 days before the expiration of the validity of the collective agreement at the latest. If not specified otherwise in the collective agreement, the provisions shall continue to apply after the expiration of the collective agreement, until the signing of a new collective agreement,

A special provision in the Labour Law (Article 229) defines the cancellation of the collective agreement. At the same time, it is stipulated that the collective agreement itself has to contain provisions for the cancellation period, the cancellation procedure, amending and supplementing the collective agreement. A collective agreement that is valid for a fixed term can be cancelled only if it provides the option for cancellation of the agreement. In the case of cancellation, the collective agreement shall apply for a maximum of six months from the date of submission of the cancellation notice, wherefore the parties are obliged to start the negotiation procedure, at the latest, 15 days from the day of submission of the cancellation notice. After the expiration of this period, the collective agreement shall cease to its validation, unless the contractual parties agree otherwise.

The delivery and registration of the collective agreement is also prescribed by the Labour Law. Every general and branch-level collective agreement and any changes (amendments, supplements, cancellation or termination) of the collective agreement, before its publication, shall be submitted for registration by the Ministry competent for the appropriate area of labour. Namely, the collective agreement or the amendment to the collective agreement shall be delivered to the competent authority by the party which is designated first in the Agreement, or the party who is cancelling the collective agreement.

The Law also provides the opportunity the collective agreement to be joined by persons who are eligible to be parties to the collective agreement. This may be accomplished by submission of a Statement of Accession to the Collective Agreement. The persons who subsequently join the collective agreement shall have the same rights and obligations as the parties who reached the agreement.

Article 235 of the Labour Law stipulates that in a case of dispute during the procedure for reaching, amendment and supplementation of a collective agreement, the dispute shall be resolved via peaceful means. The parties may choose to entrust the resolution of the collective working dispute to arbitration.

Question 2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

Measures undertaken to implement the legal framework

Whereas the implementation of the Labour Law in reference to representation, which was determined at a fairly high level, also had a direct influence on the process of

realisation of social dialogue on tripartite and bipartite level, and directly reflected on the collective agreeing. A problem occurred to the trade unions and employers to meet the conditions in respect to the representation threshold in order to accede towards signing a collective agreement. In this regard, special meetings were organized with the Board of Employers and Trade Unions. Additionally, a special meeting was held between representatives of the International Labour Organisation with participation by representatives of all registers trade unions and employer association in the Republic of Macedonia, where comparative representation models were reviewed. Furthermore, during 2008 and 2009, representatives of the trade unions and employers held special meetings (25.11.2008, 01.12.2008, 25.06.2009, 30.06.2009, 06.07.2009) with a view to review and align the representation criteria. New representation criteria were prepared on the basis of the comparative experiences and situations in the country.

In the view of improving the social dialogue and more extensive coverage by the collective agreements, during the implementation of the Project “Employment Policies 3 - CARDS Programme”, a joint workshop was held with the social partners during the period 24-25.11.2008, on the topic of “Bipartite social dialog – collective negotiation and agreements”. All associations of the employers and trade unions took active participation in this workshop. The purpose of this workshop was to improve the knowledge of collective negotiation and collective agreements in order to recover the bipartite social dialog. The social partners had the opportunity to learn the best practices in the negotiation; to obtain the check list for preparation and starting negotiations; to become aware for the issues that could be covered in the collective agreements, etc.

Question 3. Please provide pertinent figures, statistics or any other relevant information, in particular on collective agreements concluded in the private and public sector at national and regional or sectoral level, as appropriate.

Relevant numbers and statistics

General collective agreements signed on national level:

1. General Collective Agreement for economy of the Republic of Macedonia (“Official Gazette of the Republic of Macedonia” No.76/2006);
2. General Collective Agreement for the public sector of the Republic of Macedonia (“Official Gazette of the Republic of Macedonia”, No. 10/2008);

Collective agreements signed on a branch level:

1. Collective Agreement for social protection of the Republic of Macedonia (“Official Gazette of the Republic of Macedonia” No.83/2006);
2. Collective Agreement for the health area of the Republic of Macedonia (“Official Gazette of the Republic of Macedonia” No. 60/2006);
3. Collective agreement for the communal activities of the Republic of Macedonia (“Official Gazette of the Republic of Macedonia” No. 107/2006);

4. Collective Agreement on amending the Collective Agreement of the Ministry of Interior ("Official Gazette of the Republic of Macedonia" No.16/2006 and No.21/2009);
5. Collective Agreement for employees in the tobacco economy of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia" No.65/2007);
6. Collective Agreement of the protective associations of Macedonia ("Official Gazette of the Republic of Macedonia" No. 119/2007);
7. Collective Agreement for the textile industry of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No.137/2007);
8. Collective Agreement for catering of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia" No. 2/2008);
9. Collective Agreement for the leather-processing industry of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia" No. 21/2008);
10. Collective Agreement for the chemical industry ("Official Gazette of the Republic of Macedonia" No. 52/08);
11. Collective Agreement for the employees in the agriculture and food industry of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia" No. 162/08).

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;

Question 1. Please describe the general legal framework as regards conciliation and arbitration procedures in the private as well as the public sector, including where relevant decisions by courts and other judicial bodies, if possible. Please specify the nature of, reasons for and extent of any reforms.

General legal framework, reforms

The bases for peaceful solving the individual and collective labour disputes are determined with the Labour Law, with the Law on Peaceful Solving Labour Disputes ("Official Gazette of the Republic of Macedonia", No. 87/2007) and the Mediation Law ("Official Gazette of the Republic of Macedonia", No. 60/2006, 22/2007 and 114/2009).

The Labour Law prescribes a basis to determine arbitration for solving collective labour disputes with a collective agreement, as special form of peaceful solving the disputes. The collective agreement determines the composition, procedure and other issues important for the work of the arbitration (Article 183).

The Assembly of the Republic of Macedonia, during the session held on 09.05.2006, adopted the Mediation Law, which is a part of the package of laws for the judiciary reform anticipated with the National Action Plant from the European partnership for the year 2000, announced in the Official Gazette of the Republic of Macedonia, No. 60/2006 dated 15.05.2006.

The Mediation Law ("Official Gazette of the Republic of Macedonia" No. 60/2006, 22/2007 and 114/2009) determines the principles of mediation, the term mediator, the procedure for mediation and the organization of the mediators. The Mediation Law is based on the principle of voluntarism, neutralism and objectivism, confidentiality, publicity in the mediation, equality of the parties, access to information of mediation, efficiency and justice. A mediator is business capable physical person, who will assist the parties to achieve agreement, without the right to impose resolution of the dispute, in accordance with the principles of mediation.

According to Article 1 paragraphs (2) and (3) from the Mediation Law, the provisions of this law prescribe the mediation in civil, trade, labour, consumers and other disputable relations between physical and legal entities, where the parties may freely manage their requests, in accordance with the law, except when the law does not prescribe that. The provisions from this law apply also in the family and criminal disputes, if the mediation responds to the nature of the disputable relations and in case if with special law its application is not excluded.

The Mediation Law prescribes the procedure for peaceful solving individual labour disputes, but not the collective labour disputes.

The Law on Peaceful Solving Labour Relations ("Official Gazette of the Republic of Macedonia", No. 87/2007) prescribes the manner and procedure on peaceful solving collective and individual labour disputes.

According to this Law, collective labour dispute is a dispute resulting of signing, amendment and modifying or application of a collective agreement, executing the rights of the trade union organizing and strike. Individual labour dispute, in relation to this law, is a dispute resulting of terminating an employment contract and payment of the lowest salary.

During the peaceful solving the dispute, the principles of voluntarism and the principle of tripartite, neutrality and impartiality are characteristic. This Law anticipates for an establishing of a Republic Council for peaceful solving the labour disputes and determines the scope of work for the same. According to the Law, the Council performs professional works that refer to peaceful solving, collective and separate individual working disputes, performs selection of mediators and arbitrators, keeps list of mediators and arbitrators, is responsible for the vocational improvement of the mediators and arbitrators, decides for exclusion of mediators and arbitrators, keeps records for the procedures for peaceful solving the labour disputes and other tasks prescribed by law.

The Council will be chaired by a Director, which shall be appointed by the Government of the Republic of Macedonia. According to the Law, it is stated that in the procedure, the parties of the dispute should participate, as well as the mediator, or the arbitrator. The participants in signing the collective agreement, i.e. the parties in the dispute, freely and voluntary decide for participation of a mediator in the dispute, or for accessing towards solving the dispute.

This Law also prescribes the procedure for peaceful solving the labour disputes, which starts by submitting a proposal to the Council. The proposal should contain data about the parties in the dispute and the case of the dispute with the necessary documentation in relation to the dispute.

The mediator is a person that offers assistance to the parties in the collective dispute in order to sign an agreement for solving the dispute, while the arbitrator is a person that decides for the case of the individual dispute. The mediator, i.e. the arbitrator, is mutually elected by the parties in the dispute from the list of mediators, i.e. arbitrators in the mutual proposal, within three days from the day of accepting the certain

proposal. If the parties of the dispute do not determine mutually a mediator, i.e. arbitrator, the same is appointed by the Director of the Council.

The costs for the mediator, i.e. arbitrator are bared by the Council. Besides these costs, each party in the dispute bares its own costs in relation to the manner of mutual indemnity of the participants in the peaceful solving of the dispute, during and in relation to conducting the procedure of the dispute.

The Law, in details prescribes the starting and duration of the procedure for peaceful solving the disputes.

The procedure of the arbitrator ends by issuing a decision for the case of the dispute. The parties in the dispute are obliged to inform the court for adopting the decision, if previously the procedure in front the court was started and cancelled.

The same prescribes the conditions that should be fulfilled by the persons that are arbitrators, i.e. mediators, the manner and procedure for their selection. The same are appointed for a period of 4 years with an opportunity for repeated election.

Question 2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

Undertaken measures for implementing the legal framework

During the preparation of the amendments of the Mediation Law, cooperation with the International Finance Corporation (IFC) member of the World Bank was achieved.

IFC provided technical assistance for implementing two pilot projects in the Primary Court Skopje 2 and the Primary Court in Prilep.

In the "Official Gazette of the Republic of Macedonia" No. 78/2006, the Rulebook on the programme for mediators training and the form for finished training for mediator were issued.

On 19.04.2006, a Memorandum of understanding was signed between the Ministry of Justice and the International Finance Corporation IFC.

In June 2006, an announcement was published by the Ministry of Justice for application of candidates for beginning and advanced training for mediators, when 60 certificates were issued for mediators.

In September 2006, a Chamber of mediators of the Republic of Macedonia was formed. Within five months from the forming of the Chamber, also bodies of the Chamber were formed, as Assembly, Steering Committee and Supervisory Board, as well as a President of the Chamber was elected. The Chamber adopted Ethical codex for mediators. In addition, a Schedule of rates was issued for rewards and compensation of the costs for the mediators ("Official Gazette of the Republic of Macedonia" No. 46/2008). In this period, the Chamber prepared a List of mediators.

The Law on amending the Mediation Law "Official Gazette of the Republic of Macedonia" No. 22/2007 dated 16.02.2007, the Article 28 from the Law is amended, where the Chamber of mediators obtains the feature of legal entity.

In March 2007, the Chamber is registered in the Central Registry.

In March 2007, training for mediation of journalists and representatives of the government institutions was implemented.

In April 2007, training of judges and public prosecutors was implemented, with support of the Project for Technical Assistance of Ministry of Justice, funded by IFC and the Government of the Netherlands.

In May 2007, the Chamber announced a competition for training of mediators in accordance with the Law. For the announcement, 93 candidates applied, from which 38 were selected and finished the training. The training was organized with IFC, which provided trainers and all technical conditions.

In August 2007, total of 98 mediators were trained.

On 24.11.2007, in the Economic Chamber of the Republic of Macedonia, the First regular annual assembly of the Chamber of mediators took place.

In July 2008, in the Primary Court in Prilep, a promotion of cooperation with the Primary Court Prilep was held for popularization of the Pilot project for mediation.

On 28.03.2009, the second regular annual assembly of the Macedonian Chamber of mediators was held.

On the session of the Assembly of the Republic of Macedonia, held on 10.09.2009, the Law on amending the Mediation Law was adopted ("Official Gazette of the Republic of Macedonia" No.114/2009). The Law on amending the Mediation Law specifies certain issues that were not regulated with the Mediation Law, the scope of mediation appliance was expanded to the criminal and family disputes, the duration of the procedure was decreased to 45 days, the provisions for supervision were specified and more adequate legislative arrangement of the Law was done.

The general collective agreements prescribe that, the collective labour disputes that will not be solved peacefully, shall be solved by arbitration. The same contain provisions in relation to the procedure for arbitration. According to these provisions, the parties of the dispute can submit proposal for procedure in front the arbitration within 8 days from the day of occurrence of the dispute, or from the day of stopping the peacefully solving procedure. Arbitration can be executed by one or several arbitrators. The parties in the dispute mutually select the arbitrator from the List of arbitrators. The arbitrator is obliged to schedule discussion within 5 days from the submission of the proposal. Authorized representatives of the parties in the dispute, should be invited to the discussion. The decision of the arbitrator is final and executive for the parties in the dispute. The deadline for finalizing the procedure in front the arbitration was also determined as 15 days from the day of occurrence of dispute.

Question 3. Please provide pertinent figures, statistics or factual information, in particular: information on the nature and duration of Parliament, Government or court interventions in collective bargaining and conflict resolution by means of, *inter alia*, compulsory arbitration.

Relevant numbers and statistics

In the period from September 2007 to June 2009, total of 106 initiatives for mediation were registered. The number of accepted initiatives is 77, while 29 initiatives were rejected. In relation to the success of the conducted mediations, in 57 cases an

agreement has been achieved, in 15 cases no agreement has been achieved, and in 5 procedures the legal deadline for signing an agreement has expired. Regarding the types of disputes which are solved with mediation, 39 agreements have been signed for solving economic individual disputes, 5 agreements for labour disputes, 10 for family disputes and 3 agreements for solving other disputes.

Concerning the fact that the Republic Council for peaceful solving of labour disputes has not been established yet, there are no statistical data and information of peaceful solving collective and certain individual labour disputes, in accordance with the Law on Peaceful Solving the Working Disputes.

From the current implementation of the regulations, in relation to arbitration, no procedures for solving labour disputes with arbitration have been started.

Article 6§4

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

Appendix to Article 6§4

It is understood that each Party may, insofar as it is concerned, regulate the exercise of the right to strike by law, provided that any further restriction that this might place on the right can be justified under the terms of Article G.

Question 1. Please describe the general legal framework as regards collective action in the private as well as the public sector, including where relevant decisions by courts and other judicial bodies, if possible. Please also indicate any restrictions on the right to strike. Please specify the nature of, reasons for and extent of any reforms.

General legal framework, reforms

Article 38 of the Constitution of the Republic of Macedonia guarantees the right to strike as one of the primary human freedoms and rights of. However, the Constitution allows by Law to restrict the rights to exercise the right to hold strikes to the armed forces, the police and the authorities of the state administration.

Chapter XX of the Labour Law ("Official Gazette of the Republic of Macedonia nos. 62/2005, 106/2008 and 161/2008) regards strikes as an institution in greater detail.

The trade union and its associations on higher level, with a view to protect the economic and social rights of their members under labour relations, have the right to call a strike and to lead the same. A strike must be notified in writing to the employer, or rather the association of employers against whom it is directed. The letter notifying of the strike has to specify the reasons for the strike, the place where the strike is to be held, the day and time of strike's commencement.

The strike cannot commence before the completion of the reconciliation procedure. The obligation for reconciliation cannot restrict the right to strike, when such

a procedure is anticipated in the Labour Law, or implementation of any other procedure for peaceful solving of the conflict for which the parties have agreed to.

As far as a solidarity strike is concerned, it may be commenced without application of a reconciliation procedure, but not before the expiration of two days from the day of commencement of the strike for which support is being organised.

The strike must be organised in a manner that shall not prevent or hinder the organisation or functioning of the operating process for the workers who do not participate in the strike and shall not prohibit entry of workers or responsible persons in the business premises of the employer.

The removal of workers from the processes of work is anticipated by Article 237 of the Labour Law, pursuant to which the employer may remove workers from the operating process only in agreement of an already started strike. However, the number of workers removed from work cannot be larger than 2% of the number of workers participating in the strike.

The employer may remove from the process of work only the workers who, with their behaviour, encourage violent and undemocratic conduct, which prevent the negotiations between the employees and the employer. During the time that they are removed from work, the employer is obliged to pay the workers the contributions prescribed by special regulations about the lowest base salary for the payment of contributions.

However, not every type of work process can be ceased during a strike. Therefore, at the proposal of the employer, the trade union and the employer, in concordance, shall prepare and adopt rules for production, sustainability and necessary work processes that cannot be interrupted during a strike. These rules shall in particular contain the number of employees and the work processes that must be engaged during the strike, with a view to enabling the regeneration of the work after the strike's completion (manufacturing sustainability work processes), or rather with the aim of carrying out work that is necessarily essential with a view to prevent the endangerment of lives, personal security or the health of the citizens (i.e. necessary job/work processes). Nevertheless, the right to strike cannot in any way be prevented or seriously restricted by determining these work process.

Should the trade union and the employer fail to reach a settlement within 15 days from the date of provision of the employer's proposal to the trade union in relation to the determination of manufacturing, sustainability or necessary work processes that cannot be ceased during a strike, the employer or the trade union may request an arbitration to decide on these work processes within the subsequent 15 days.

The Labour Law speaks also of the consequences of a strike. In addition, it stipulates that if the organisation or participation in a strike is in compliance with the provisions of the Labour Law and the Collective Agreement, it does not constitute a violation of the employment contract. Therefore, the employee cannot be demoted to a less favourable position in comparison to other employees, due to organisation or participation in a strike. On the other hand, an employee may be dismissed only if they had organised or participated in a strike which had not been organised in accordance with the Law and the Collective Agreement or if, during the strike, they had perpetrated another serious transgression of the employment contract. Nevertheless, the Law stipulates that an employee must not be forced in any way to participate in a strike.

During the course of the strike, the employer is obligated to pay the salary contributions to the employees who take part in a strike, which are established by the special regulations for the lowest basic salary for the payment of contributions.

Out of their own funds, the organiser of the strike may provide salary compensation during the strike to the employees who took part in the strike.

The employer, i.e. the association of employers may request the competent court to forbid organisation and carrying out of a strike, which is in contradiction to the provision of the Law. Furthermore, the employer may request compensation for damages caused due to a strike which is not organised and carried out in accordance with this Law. On the other hand, the trade union may also request the competent court to forbid removal from work during a strike, which is contraire to the provisions of this Law. Additionally, the trade union may request for compensation for damages which it or the employees have suffered due to exclusion from work during a strike, if the exclusion has not been carried out in accordance with the Law.

The decision to prohibit a strike shall be passed by the competent labour dispute court of the first instance. According to the Labour Law, the procedure for the strike prohibition request, i.e. the removal from work, is urgent.

Strikes by the armed forces, police, the civil administration bodies, public enterprises and public institution are regulated by special laws.

Hence, pursuant to Article 121 of the Law on Interior Affairs ("Official Gazette of the Republic of Macedonia" No. 92/2009), strikes are prohibited in the Ministry of Interior in a military, emergency and crises situations. In the case of a complex security situation, large scale disturbance of the public law and order, natural disasters and epidemics or large scale endangerment of the life and health of people and properties, not more than 10% of the workers in the Ministry may participate in a strike, and it cannot last more than three days. Within this framework, if the strike had started before the occurrence of any of the above mentioned conditions, the workers of the Ministry of Interior are obligated to end the strike immediately.

In addition to the above specified, the Law on Police (Official Gazette of the Republic of Macedonia Nos. 114/2006 and 06/2009) also contains provision related to strikes, where Article 106 stipulates the possibility for the police officers the right to hold a strike to be exercised in a manner and under the condition to not significantly disturb the regular performance of police matters. Within these frameworks, the organiser of the strike is obligated to notify of the strike to the Minister of Interior and to submit the decision to hold a strike, as well as the programme of the manner and scale of performance of police matters which are necessary to be carried out during the strike, seven days before commencement of the strike at the latest. The Law on Police precisely determines the work and tasks which are necessary to be carried out during a strike, amongst which:

- prevention, detection and documentation of crimes, capturing the perpetrators and handing them over to the competent authorities and emergency work of forensics science;
- regulation and control of traffic on the roads;
- the Co-ordination and Communication Centres;
- police officers for intervention and carrying out inspections;
- provision of security to people and premises;
- securing the state borders, control of the crossing of the state border, prevention of perpetration and resolution of border incidents and other violations at the state border and expulsion of foreigners; and
- use of helicopters.

The Law on Police also stipulates restrictions to the right to strike. Hence, Article 108 forbids strikes in the police force in military and emergency situations. Furthermore, in the case of a complex security situation, large scale disturbance of the public law and order, natural disasters and epidemics and other accidents or large scale endangerment of the life and health of people and properties, not more than 10% of the total number of police officers may participate in a strike, and it cannot last more than three days. If the strike had started before the occurrence of any of the above mentioned cases, the police officers are obligated to end the strike immediately.

The Defence Law ("Official Gazette of the Republic of Macedonia, nos. 42/2001, 5/2003, 58/2006, 110/2008), more precisely Article 48, regulates the right to hold a strike in the Army of the Republic of Macedonia and the conditions and the manner of organizing a strike. Consequently, the Law prohibits strikes to be held in the Army in a military or emergency situation, as well as in cases of implementation of international agreements that relate to the exercise activities, training, peacekeeping and humanitarian operations in the Republic and abroad, where units of the Army take participation.

The right to strike in the Army can be exercised under the condition not to disturb the military readiness of the Army or to endanger the lives and health of the members of the Army.

With a view to preventing damaging consequences to the military readiness of the Army and the lives and health of the members of the Army during the strike, the Minister of Defence and the Chief of the General Staff of the Army are obligated to ensure the functioning of the Army's vital functions. During the strike, the participants in the strike are obligated to remain at the posts and to carry out the activities necessary for the realisation of the Army's vital functions. The strike must be notified in advance at least 10 days before its commencement. No more than 10% of the Army's employees may participate in the strike and it cannot last for more than three days. The Law on Army Service in the Republic of Macedonia stipulates that an army officer may exercise the right to strike once during the year.

For the employees in the public enterprises, the conditions under which a strike may be organised are prescribed the Law on Public Enterprises. Namely, Articles 32, 33 and 34 of the Law on Public Enterprises ("Official Gazette of the Republic of Macedonia" nos. 38/1996, 40/2003, 49/2006, 22/2007 and 83/2009) anticipate that the trade union, or rather the employees in the public enterprise, should they decided to exercise their right to strike, they should deliver a letter of warning to the Director at the latest 7 days before their intention to call for a strike, wherefore they must specify the reasons and the intentions for the strike. After delivery of the warning, the striking board, the representatives of the board of managers and the Director are obligated to offer proposal to resolve the dispute and to inform the workers and the public of the proposal. The Law also determines period in which consent should be realised, which is 15 days, and if consent is not reached within this deadline, the trade union, i.e. the striking board, has to deliver a decision to hold a strike which shall include the place, time of day and the duration of the strike.

The Law on Civil Servants ("Official Gazette of the Republic of Macedonia" Nos. 59/2000 and 34/2001) stipulates that, when exercising their right to strike, civil servants are obligated to ensure undisturbed operation of the functions of the authority/body, wherefore the official who manages the body has to determine with an official act, the

minimum number of civil servants who have to work with a view to ensuring the minimal conditions.

Question 2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

Measures undertaken to implement the legal framework

Taking into consideration that the right to strike is regulated in the Constitution and by the special laws, it is exercised without any hindrances. This can be confirmed by the figures specified in the answer to the Question no. 3 which follows.

Question 3. Please provide pertinent figures, statistics or any other relevant information, in particular: statistics on strikes and lockouts as well as information on the nature and duration of Parliament, Government or court interventions prohibiting or terminating strikes and what is the basis and reasons for such restrictions.

Relevant figures and statistics

The Law on Records in the Labour Field ("Official Gazette of the Republic of Macedonia" No. 16/2004) anticipates maintaining records on strikes by the employers, where the strike is occurring, and the trade unions. Therefore, with a view to ensuring relevant figures about the number of strikes in the reporting period, the areas or the business activities where they have been organised, the number of people who have participated in the strike, the Ministry of Labour and Social Policy sent a written request to all registered trade unions and employers nationwide in order to secure the data pursuant to the Law.

The Ministry of Labour and Social Policy has received data by the Federation of Trade Unions of Macedonia about the strikes held during the 2005-2008 period, and the Confederation of Free Trade Unions of Macedonia.

Hence, according to the Federation of Trade Unions of Macedonia, the most common reasons for public collective organised expression of dissatisfaction by workers are: late payments of salaries and contributions, working conditions, transgression of the laws and collective agreements, bankruptcies and liquidation of enterprises, loss of jobs, including redundancies, groundless termination of jobs, etc.

With a view to ensuring resolutions to the occurred conflict situations among the workers and the employers, according to the information from the Federation of Trade Unions of Macedonia, they are involved in all levels of organisation within its competencies pursuant to the laws and the collective agreements, as well as in resolution of disputes between enterprises and institutions.

During the mentioned period, a large number of conflicting situations and occurred changes in relation to violation or contraventions of the legal rights of the workers, according to the information provided by the Federation of Trade Unions of Macedonia, were resolved via signing agreements of settlement.

According to the Federation of Trade Unions of Macedonia, the following strikes were realised during the reporting period:

2005

Trade Unions under the umbrella of Federation of Trade Unions of Macedonia

AGRO Trade Union

Skopje – “Zhito Skopje”. The decision to hold a strike was brought on 31.10.2005 due to unpaid 5 monthly salaries (for May, June, July, August and September) and contributions pursuant to the Branch Collective Agreement. In 2006, the workers requested a bankruptcy procedure to be instigated.

Trade Union of Workers in the Textile, Leather Processing and Footwear Industry of the Republic of Macedonia

Kavadarci – AD “Soniteks” – Textile Factory, has around 240 employees, who are not organised under a trade union. 180-200 workers of the total number of employees spontaneously ceased performing their jobs on 01.12.2004, while the last negotiations were held on 10.12.2005. At the demand of the workers, the President of the Regional Trade Union Organisation was also brought into the negotiations and 160 membership cards were signed to join the Trade Union. There were about 40-50 strike-breakers who were either general or administrative workers. Reason for the strike were violations of the rights related to labour relations: payment of salaries and salary allowances, use of annual vacations, sick leave pursuant to the Law and the Collective Agreement; respecting of working hours; recording and correction of established working norms, etc. 15 days after commencement of the strike, around 80 workers continued striking and they were served with decision for termination of employment, which were appealed and a court procedure has started to resolve the issue.

Trade Union of the Workers in Transport and Communications of the Republic of Macedonia

Skopje – JSP Skopje had a cautionary strike in view the inadequate treatment of the transport enterprise in regards to the private transporters (Taxi Vans), one of the primary and longstanding demands, as well as others, of which only a part were satisfied.

Employees of **JP MZH – Public Enterprise “Macedonian Railways”** due to unpaid salaries and material expenses, occurrence of redundancies of 900 workers and due to incomplete negotiations about the amount of the social package and the reduction of the number of employees pursuant to the Action Plan for transformation of the Enterprise.

DGCA - the Directorate General of Civil Aviation held a strike by the Air Traffic Control technical-aviation personnel with the aim of increasing salaries, receiving additional aviation remuneration, the non-transparent transformation process of the DGCA, insurance of the employees during work (for some of them these demands were not satisfied).

AD Proleter held a strike that lasted for 5 months. The privatisation was disputed by part of the employees' dispute, which were then reallocated and fired from work, which also included members of the Trade Union boards (who initiated procedures for realisation of trade union rights via the legal representatives of the Federation of Trade Unions of Macedonia). The strike was held with the presence of employees of the Ministry of Interior Affairs.

Shtip, "Balkan Express", workers went on strike due to unpaid salaries and contributions.

Kumanovo – "Jug Turist", strike due to 17 months of unpaid salaries.

Bogdanci – AD MLAZ, Mrdaja due to unpaid salaries.

2006 - 2007

I. Federation of Trade Unions of Macedonia

During this period, at the Federation of Trade Unions of Macedonia (SSM) level, the traditional May Day protests were held as a possibility of the members who are under the SSM umbrella – workers and citizens of the Republic of Macedonia to express their dissatisfaction due to the awful economic – social situation and to be part of the European and global longstanding tradition of Trade Unions in observing the great May Day Labour Holiday. The workers – members of the Trade Union united under the SSM gathered in front of the SSM building and by way of a peaceful march went to in front of the Assembly of the Republic of Macedonia and the Government Building of the Republic of Macedonia, and they were addressed by the SSM President.

The Federation of Trade Unions of Macedonia sent a reaction in regards to the Draft Law Amending the Law on Holidays of the Republic of Macedonia which was to be adopted in a fast-track procedure, wherefore it express its position that it is unacceptable such a law to be adopted without wider consultation and that the proposal to make the May Day Holidays one day shorter is not satisfactory. Observation of the Labour Holiday became a tradition not only with the workers, but with all citizens in general, especially the second day, and it should not be terminated.

II. Trade Unions

Trade Union of the workers in the agricultural industry complex of the Republic of Macedonia (AGRO Trade Union)

“Droga Kolinska”. On 27.02.2007, the 50 former employees held a protest on the day that the new plant was put into operation. These employees were fired without grounds, some of them were proclaimed as redundant, without receiving severance pay. Some of the employees have started court trial proceedings.

“Zhito Prilep”. On two occasions 150 employees ceased working, in April and May 2007 due to 6 months of unpaid salaries and contributions. After negotiations one of the salaries was paid immediately and now salaries are being paid regularly.

Tobacco Company “Boro Petrushevski Papuchar”. From 1 May 2006, around 70% of the employees were forced to go on enforced leave. The employees periodically protested in front the Factory, but were not allowed to go inside. With the assistance of the Regional Trade Union Council of Kumanovo, the employees were allowed access and had discussions with the management structure and they were promised that the compensation for the forced leave would be paid regularly and when there was a need they would be called back to work.

ZP “Kraishte” Tikvesh - 120 employees out of a total of 148, on 17.11 and 20.11.2006 held a spontaneous walkout due to unpaid salaries, unpaid contributions for the pension, disability insurance and health insurance for 4 years, and because of calculated, but unpaid trade union membership fees. The Trade Union formed a Striking Board and held negotiations, after which only one outstanding salary was paid.

AD “Blagoj Gjorev” factory for oils and other foodstuffs - more than 220 employees went on a strike for a longer period, 2-6 months, with the demand to the Court to prove the right of ownership, untimely paid salaries and payment of contributions. The demands were partially realised and satisfactory for a small part of the participants. The organisers of the strike are shareholders and employees.

Trade Union of Workers in the catering industry, Tourism, Communal-Residential Economy, Artisanhip and Protection Companies of the Republic of Macedonia (SUTKOZ)

The workers of **“Chistota i zelenilo”** from Kumanovo went on strike in December 2006, due to outstanding salaries for four months. The strike lasted for 20 days and by way of negotiations, an agreement was signed for the payment of the outstanding remaining salaries. The strike was stopped, and the agreement is being respected.

Public Communal Enterprise “Isar” – Shtip, from 16 – 23 October 2006, 200 workers protested in front of the Council building of the Municipality of Shtip, every day from 07 am to 12 am. The protest was organised and lead by the Trade Union organisation of the PE “Isar” – Shtip. The branch Trade Union – SUTKOZ and SSM were actively involved in the resolution of the situation via the Regional Trade Union Council of Shtip.

The basic demands of the protest did not have a social character, but were directed at coercing the Board of Managers of the PE to change the decision to stop new employments, restrictions to the fuel for the vehicles and to reduce the salary of the Director and him to hand in his irrevocable resignation.

The Public Enterprise PE “Komunalec” Probishtip on 10.09.2007 and **“Ilinden 2001”** on 21.10.2006 went on strike due to unpaid salaries.

The Trade Union of Civil Engineering, Industry and Planning (SGIP)

On 15.06.2007, **ADG “Mavrovo”** held a one day cautionary strike with participation of 3,000 employees. The strike was organised because of unpaid salaries and unregulated health insurance and years of service required for retirement.

ADG “Pelagonija - Visokogradba” held a one day strike on 28.03.2007 with participation of 200 employees. The strike was organised because of unpaid salaries and unregulated health insurance and years of service required for retirement.

“Kumanovo Industry of Ceramics” (KIK) – 110 workers went on strike on 14.02.2007 due to unpaid salaries. The strike ended with the signing of an Agreement for payment of the outstanding salaries. In May 2007, the workers organised a one-day walkout as a warning for the untimely payment of the salaries. The demands were satisfied and now the work process is flowing normally.

On 01.11.2006, 72 employees of **DOOEL “Inox Electric”** went on strike due to irregular payment of salaries and salary contributions. The demands were met, but 8 workers were fired after the strike. The strike was organised by the employees, and after forming a trade union organisation on 28.11.2006 they sent letters for a cautionary strike, which did not come to fruition considering that the demands were met and the salaries and salary contributions started to be paid regularly, both for the ongoing month and outstanding salaries.

Trade Union of Workers in the Administration, Judicial Bodies and Associations of Citizens of the Republic of Macedonia (UPOZ)

On 25.12.2006, a one day protest was held by the Court Police due to non-compliance with the provisions of the Courts Law in respect to the salaries and salary contributions. The protest was organised by the UPOZ Trade Union and was concluded with the satisfactory fulfilment of the demands.

Independent Trade Union of Healthcare, Pharmacy and Social Security of the Republic of Macedonia.

In October 2006, there was a call for protest by 21,000 workers in these sectors due to certain irregularities in the compliance with the provisions of the Collective Agreement for the Healthcare sectors, but it was delayed. Namely, after negotiations between the Branch Trade Union and the appropriate Ministry, it was agreed that further

steps were to be made for the realisation of the demands, i.e. the reduced value of the coefficient unit shall be returned in phases.

**Trade Union of Workers in the Textile, Leather Processing and Footwear
Industry of the Republic of Macedonia (STKC)**

“Matis” Delchevo, (130 employees), 3 strikes were held.

“Kikoteks” Kichevo, (220 employees) – 1 strike.

“Vinka” Vinica - (450 employees), 2 strikes.

“Otex” Ohrid, (600 employees), 1 strike.

“Edinstvo” – Struga (350 employees), 1 strike.

“Tiberia Cotton” (110 employees), 1 strike

For all of the above enterprises, with the exception of “Edinstvo” – Struga, where the reason for the strike was shares and ownership of the company, the reasons for the strikes were: Disrespect of the basic labour relation rights, unpaid salaries and contributions (pension and disability insurance and health insurance), overtime work, food and transport allowance and specifying the working tasks. The strikes were organised and lead by the trade union organisations in accordance with the Law.

“Nice Textile”, with 300 employees, there was a one day walkout in March 2007 due to non-compliance with the working hours according to Law and due to indecent and insulting-discriminatory behaviour of the employer towards the employees.

Trade Union of Industry, Energy and Mining of Macedonia (SIER)

AD Cable Factory “Negotino” - out of a total of 430 employees, 250 of them spontaneously gathered on 15 and 16 March 2007 due to: ensuring work for all employees; elimination of enforced leave; payment of outstanding salaries for 2006 and regular payment of salaries in the forthcoming period; payment of contributions to the Pension and Disability Insurance Fund and Health Insurance. The Trade Union Organisation addressed the company’s Director in writing, after which a meeting was held. It was agreed that the demands would be met. Until now, only the demand for payment of salaries was partially satisfied.

The employees of **“Silmak” Tetovo**, on 05.10.2006 held a protest in the premises of “Silmak”. The reasons were: Interruption of power supply by the ESM (Power Supply Company of Macedonia) because of an outstanding debt and for sending the employees to three months of enforced leave. The organiser of the protest was the Trade Union organisation of “Silmak” and all 850 employees participated. After coming to a compromised solution between Silmak’s management and the ESM, the employees returned to work and production went back to normal.

“Dimche Banjarot” - 200 employees, in October 2006 held a walkout with the duration of one day because of unpaid salaries for three months and unpaid contributions for the pension and disability insurance for 4 years. The company is in bankruptcy.

The workers of the **“Zletovo” Mine** protested because of unpaid salaries and contributions in May 2006 in Skopje, in front of the Government of the Republic of Macedonia. In August 2006, they held a protest in front of the administrative building of the Mine. In December 2006, they held a protest in Skopje, in front of the Ministry of Labour and Social Policy.

Trade Union of the Workers in Transport and Communications of the Republic of Macedonia

Air Traffic Control – the Agency for Civil Aviation, Skopje in December 2006, organised a 2 day walkout. The walkout was held with a view to reaching of an agreement, in phases via negotiations to accomplish the demands: amendments to the Law on Air Flight; employment for an undetermined amount of time of the controllers who work on service with provision contract; improvement of the conditions for work; compliance with the Labour Law; signing of a Collective Agreement. The Aviation – Technical Personnel, after the notified walkout reached an agreement that their requests in regards to the amendments to the Aviation Law should be resolved with negotiations.

Public Transport Enterprise – Skopje scheduled a precautionary strike for 04.04.2007 in respect to the improvement of the conditions for work. It was agreed that, their demands to be discussed with the Mayor of the City of Skopje and the Public Revenue Office.

Factory for Rail Vehicles “Kolska” held strikes on five occasions to the duration of 3 to 10 days. Their demands were: payment of salaries and regular payment of contributions and revision of the manner of privatisation. The number of persons participating in the strikes was somewhere between 250-270 employees. The strikes were held in the grounds of the enterprise, in front of the Assembly and the Government of the Republic of Macedonia. The strike was organised by the trade union organisation of the factory.

Trade Union of Chemistry and Non-Metals of the Republic of Macedonia (SHNM)

“Medicinska plastika” Tetovo (in bankruptcy) – 400 employees protested in September and October 2006 because of unpaid salaries and contributions. The bankruptcy procedure is still ongoing.

Trade Union of the Graphics, Information, Film, Publishing and Manufacturing of Paper in the Republic of Macedonia

The employees of the **Macedonian Radio and Television** (around 1,100) held a strike in 2006 for outstanding salaries and salary contributions for six months. After payment of part of the outstanding salaries, the strike was put to rest. During this period, negotiations are being held for the payment of the remaining 4 salaries and salary contributions.

Trade Union of Forestry and Wood Industry of the Republic of Macedonia

The Forestry Enterprise “Pilana”, 80 employees organised a walkout in February 2007 because of unpaid salaries and contributions for 4 months, as well as to get work. The salaries have not been paid, nor are the salaries being paid of the ongoing months.

“Prvi Maj” – Carpentry Enterprise, held a 7-day strike in December 2006 for unpaid 5 salaries and because of proclamation of redundancies. The workers demanded opening of the bankruptcy procedure, but an agreement was struck to have the outstanding salaries paid pursuant to the established dynamics, while the workers proclaimed as redundant (there was voluntary application) to immediately be paid a severance fee, as well as those that meet the conditions for retirement. The company is now working normally.

2008

During 2008 several protests and strikes were held, with the participation of a large number of workers and citizens. The most massive amongst them were: the public protests organised by the Federation of Trade Unions of Macedonia (SSM), the May Day manifestation with a protesting nature, the protests by the workers of “Feni Industry” and AD “Ohis”, strikes by the workers in the judicial administration, in the PE MRTV, and others.

I. Protests at the level of Federation of Trade Unions of Macedonia

1. May Day protests

On the occasion of the International Labour Day – the First of May, the SSM organised a May Day manifestation in 2008 with a protestation nature, which was accomplished by way of a peaceful march through the streets of Skopje. Under the motto: “Let’s Defend Labour”, around 2,000-2,500 members of the trade unions and citizens of the whole country expressed their dissatisfaction and disappointment of the low level of living standards and its further deterioration, whose consequences are

directly felt by the workers. The manifestation was party of the Programme for observing the important SSM centenary – 100 years of trade union movement in Macedonia.

The Government of the Republic of Macedonia and the employers were sent an appeals and demands: to respect the rights of the labour rights as determined by the laws and international norms and standards, to respect the collective agreements as a prerequisite for preventing social confrontations and conflicts; to create healthy and safe conditions for work; not to transgress the fundamental right of the workers to unite under trade unions.

2. Public Protests

In November 2008, the SSM organised public protests in 6 cities in the Republic and a General protest in Skopje.

The immediate reason for organisation of the protests was the adoption of the amendments to the Labour Law, which are unfavourable to the workers because many of the previous rights were reduced. These amendments were adopted via an express procedure by the Assembly of the Republic of Macedonia and without any consultations with the social partners. Due to these reasons, the Council of the SSM, at its session held on 7.10.2008 made the decision the SSM to hold public protests in 2008, as a sign of revolt against the Law's amendments. In addition to the revolt and discord regarding the adopted amendments to the Labour Law, the other reasons for the protest were: Insufficient functioning of social dialogue in the country; the non-acceptance of the proposals by the amendments to the Law in regards to pension and disability insurance; the failure to establish a minimum salary; the low standards of living and the constant increase of prices of the basic food products and the Law on Material Security only of a certain category of workers under bankruptcy procedure.

The protests in Prilep, Veles, Strumica, Ohrid, Shtip and Kumanovo were held on 07.11.2008. Trade union representatives and citizens from the neighbouring towns also participated in the protests and in thus, in actual fact, the whole of Macedonia was covered. There was a massive turnout by the trade union members and the citizens. Over 2,000 participants turned up in Strumica, in Prilep over 1,000, in Ohrid about 1,000, in Kumanovo around 1.200 and 500 turned up in Shtip. The protests were held peacefully and without any incidents. The participants began marching from the regional trade union councils and offices, then peacefully moved through the streets, or assembled in the squares, or they blocked the local streets to the duration of one to two hours.

The general public protest of the SSM was held in Skopje, on 14.11.2008 at Pella Square. The protest was held in a peaceful atmosphere with participation of over 4,000 members of the trade unions united under the SSM, workers under bankruptcy, workers proclaimed to be redundant, young, unemployed, pensioners, non-governmental organisations and other citizens. The following demands arose from the Protest:

- Termination of the provisions of the Labour Law apply to: fixed term employment contracts; proclamation of redundancies; in regards to work during night time; annual leave; to bring back the worker's book as a document for recording the years of service of a worker and to apply the provision for the high monetary penalties which are unacceptable and to decrease them.

- New amendments should be adopted for the Law on Pension and Disability Insurance, which would include the years of service as a condition for retirement in addition to the age of a person.
- The minimal salary in the country to be established by Law;
- The state to take measures for the improvement for the standards of living of the citizens.
- To promulgate a law which would allow for every worker under bankruptcy procedure and workers proclaimed as redundant with over 25 years of service to be materially secured, while those with less than 25 years of service to receive a pecuniary compensation for a certain period.

The following messages were conveyed to the Assembly and Government of the Republic of Macedonia from the Protest:

- To respect the democratic procedures when adopting or amending laws of interest to the workers and the citizens and ensuring peaceful and stable development of democracy in the country and realisation of the human rights and freedoms;
- To respect the social partnership and the SSM, which never under no circumstances will accept curbing and degradation of worker rights.
- There is no progress and democracy with unmotivated, scared workers, workers who do not feel secure about their future.

II. Protests and Strikes at Trade Union Level

As an expression of the dissatisfaction from the economic-social status and the disrespect of the collective agreements, or rather the realisation of the workers' demands, organisation of protests and strikes was practiced as the ultimate method of trade union struggle in 2008.

However, the largest part of the incurred disputes regarding the rights of the workers in labour relations, and in the interest of both sides in the dispute, negotiations between the trade union representatives and the employers were practiced. During the course of the negotiations, the protests, i.e. strikes were called off, which proved to be a needed, rational and efficient practice. Furthermore, as an efficient method of resolving the conflicting situations caused by transgression of workers rights in terms of labour relations, agreements/accords were signed between the parties in the dispute.

These practices were very common before the conflicting situation escalated, to take on other dimensions and to organise other forms of expression of worker's dissatisfaction. Signing of agreements between the Trade Union and the employers was applied especially in regards to proclamation of redundancies. In this respect, the preparedness and the expertise of the Trade Union to overcome the problems especially came to the forefront, without any negative consequences and in the interest to its members.

Trade Union of the Agro-industrial Complex of the Republic of Macedonia

AD Sugar Factory “4 November” – Bitola. The strike began on 05.11.2008 and lasted until 11.11.2008, and 98 workers participated. The demands of the strike were: salary increases, payment of recourse for annual leave and reaching collective

agreements at employer level. The strike ended with an Agreement reached on 13.11.2008 between the primary trade union organisation and the employer pursuant to which the workers, as of 01.11.2008, were given a pay rise by 20% and employees were awarded with an additional salary for a successful end to production campaign.

Trade Union of Workers in the Hospitality Industry, Tourism, Communal-Residential Economy, Artisanhip and Protection Companies of the Republic of Macedonia

In April 2008, 300 workers of **PE “Isar” Shtip** went on strike, and in November 260 workers of **PE “Chistota i zelenilo” – Kumanovo** went on strike with the demand that the outstanding salaries be paid. The workers’ demands were realised.

Trade Union of Workers in the Administration, Judicial Bodies and Associations of Citizens of the Republic of Macedonia (UPOZ)

During 2008, the UPOZ Trade Union organised **a general strike** in the judicial authorities (courts). The demands applied to: salary increases and payments of transport and food allowances in accordance with the collective agreement, adoption of amendments of the Law on Court Services which would integrate the remarks of the UPOZ Trade Union and signing of the collective agreement in the judicial bodies. The strike was held on 18, 19 and 20 February 2008. After negotiations with the Ministry of Justice, the strike was supposed to resume on 31 March, but due to the NATO Summit, where Republic of Macedonia’s accession into the NATO Alliance was reviewed, its start was delayed by one week. The strike resumes on 7 April and lasted until 11 April, since it was called off due to the parliamentary elections. It was anticipated that the strike would resume on 24 November, however at a meeting with the Government held previously, it was agreed that the basic demand for a salary increase to be fulfilled. Considering that the other demands were not satisfied, the UPOZ presidency decided to postpone the strike for an undetermined amount of time. Over 2,700 employees in the judicial administration participated in the strike. Out of the all demands, the primary requests for a salary increase of the court workers were satisfied. In addition to the increase of 34% for a three year period, the court workers received another salary increase of 20%. The Trade Union is in negotiations in respect to the other demands.

Trade Union of Industry, Energy and Mining of Macedonia

“Toranica” Mine, Kriva Palanka. On 15.07.2008, the workers of the mine held a cautionary strike to the duration of two hours because the employer did not accept to have negotiation in relation to unrealised labour relation rights regarding the salaries and salary compensations. During the course of the subsequent period, negotiations were held on these issues, but considering that an agreement which is in the interest of the workers has not been reached, the negotiations continue.

“Feni Industry” – Kavadarci. On 28.10.2008, the workers of “Feni Industry” Kavadarci held a protest in front of the building of the Government of the Republic of Macedonia. 620 protested with a demand to have a meeting with the management of the enterprise with a view to finding solutions for: the use of the price of used electrical

energy for domestic power supply, reinstating the Free Economic Zone and approval for the concession of “Studena Voda”.

On 29.12.2008, 60 workers protested in front of “**Feni Industry**” with the demands: to stop the procedure for firing workers who had been proclaimed as redundant, to continue sending workers on enforced leave – by rotating all of the workers and to offer better conditions for the payment of higher severance fees for voluntary resignation from the jobs.

On 15.10.2008, the workers of **AD “OHIS”** held a protest in front of the Government of the Republic of Macedonia with the demand for settling the status of the company, i.e. the material-social position of around 1,500 employees. The strike continued in the enterprise, while “Prvomajska” street was blocked on 16.10.2008. All of the demands were met with the adoption of the Law on Transforming all Debt Claims by the Republic to Macedonia on the basis of public revenue as a permanent deposit in the companies AD “Ohis”, AD “EMO - Ohrid”, Tobacco Company AD Prilep and “11 Oktomvri - Eurokompoziti” AD Prilep

Trade Union of Workers in the Textile, Leather Processing and Footwear Industry of the Republic of Macedonia

DPPY “MATTS” DOOEL Skopje – Delchevo plant. The strike started in January 2008 and lasted during the whole year with certain cessations. With the second employer, the workers who previously had indefinite long term contracts, signed fixed term employment contracts. In December 2008 work ceased completely, while after the expiration of the contracts on 17.12.2008 were not offered extensions for their employment contracts. 128 employees participated in the strike, and the general demands were: payment of outstanding salaries, contributions and transport fees, pursuant to the collective agreements and the Labour Law.

AD “DEKON” – Gostivar. 336 workers went on strike on 16.06.2008 with a demand for the payment of two outstanding salaries. In the meanwhile, forcefully and over night, the workers became members the Union of Independent Trade Unions (UNSM). The strike then escalated with an entry ban of the management in the company’s premises even though that over 60% of the company’s capital is privately owned. The management entered the company at the beginning of December, but there is still cessation of work.

During this period, in certain cases, the trade union organisations submitted demands and held negotiations with management structures which ended without any cessation of work and strikes.

Trade Union of the Graphics, Information, Film, Publishing and Manufacturing of Paper in the Republic of Macedonia (GIFIH)

PE Macedonian Radio Television (MRTV) – Skopje. 2008 was characteristic by the long-lasting strike by the employees of PE MRTV due to 5 outstanding monthly salaries, contributions and food and transport allowances, implementation of the new

systematisation that resulted in the termination of a large number posts, as well as other problems that the employees were faced with. The strike started on 03.06.2008 and it was carried out in a specific manner – the work did not cease, all workers were performing their tasks. Meetings were held at certain periods with the aim of informing the employees about the progress of the negotiations in regards to the submitted demands. An announcement was aired on the programmes of the Radio and Television, informing that the employees were on strike, while the speakers wore badges reading: “In Europe without a Public Service”. 1,050 employees participated in the strike.

The Federation of Trade Unions of Macedonia and the GIFIH Trade Union were involved fully in the efforts to find solutions to the problems and the accomplishment of the rights of the employees. The strike ended with the signing of an agreement with the new Executive Director. The outstanding salaries and salary compensations were paid off by the end of 2008, while the payment of the salary contributions is being regulated. The problem with redundancies remained unresolved and the situation is still being monitored.

Confederation of Free Trade Unions of Macedonia

According to the data from the Confederation of Free Trade Unions of Macedonia the Trade Union for Education, Science and Culture (SONK) organised a strike during the period from 24 November till 2 November. Over 95% of the members of SONK participated in the strike, from all areas (education, science and culture) wherefore only the preschool institutions only tended to the children, but did not perform any educational activities.