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NEWSLETTER 4

WORKING GROUP II
SOCIAL POLICY AND EMPLOYMENT

Sixth Session of Working group 2 – Social policy and Employment

WORKPLACE HEALTH AND SAFETY AT WORK: NATIONAL CONDITIONS AND EUROPEAN PERSPECTIVES

The sixth session of Working Group II (WGII): Social Policy and Employment was held on August 26, 2019 (Monday), in the Club of Representatives of the Parliament of the Republic of North Macedonia in Skopje, from 09:30-13:00. The topic of the session was: Occupational Health and Safety at Work: National Conditions and European Perspectives. More than 40 participants attended the session. There were members of the working group, as well as representatives of all segments of society: the Government of the Republic of North Macedonia; representatives from the relevant Ministry of Labor and Social Policy (MLSP); Civil Sector Organisations; experts, representatives of Trade Unions, Employers' Organisations and the academic community.

Mileva Gjurovska, President of the European Movement in the Republic of North Macedonia and Coordinator of the National Convention on European Union in the Republic of North Macedonia, gave a brief introduction to the sixth session of Working Group II (WGII):

Social Employment Policy, while Jovana Trenchevska, State Secretary in MLSP and Marija Risteska - Director of CRPM, was the chair of the session.

The first part of the session consisted of introductory presentations delivered by Svetlana Trbojevic - Expert NCEU-MK, Professor at the Faculty of Philosophy, Cyril and Methodius University - Skopje, and Milan Petkovski, President of the Macedonian Occupational Health and safety Association (MH). In the second part, the following experts presented their analysis on the session's topic: Toni Vojneski, Inspector of the State Labor Inspectorate; Suncica Dimitrijoska, Professor, Institute of Social Policy; Angel Dimitrov, Employers' Organisation (ORM); Vane Kocev Syndicate Organisation - Bucim, Radovis, and Hilda Meshkova, Judge, Basic Court - Skopje 2.

Opening the session, **Mileva Gjurovska** spoke of the importance of the National Convention on the European Union in Macedonia's EU accession process.



The National Convention was initially a project in the Slovak Republic designed primarily to facilitate the Slovak integration in the EU. However, given the positive experiences, the Convention continued to operate even after Slovakia became a full Member State, in order to further assist in the reform process. Given that the National Convention has been praised by the EU as a good practice, it was introduced in other EU aspirant countries in the Balkans such as the Republic of Serbia, Montenegro and Albania.



Furthermore, Gjurovska noted that the National Convention in the Republic of North Macedonia is a unique forum where the challenges of EU integration process are analysed and debated in four chapters: Chapter 11 - Agriculture and Rural Development, Chapter 19 - Social Policy and Employment, Chapter 23 - Judiciary and Fundamental Rights and Chapter 24 - Justice, Freedom and Security. Experiences from the current work of the National Convention on the EU in North Macedonia show that the legislation is largely harmonised with that of the EU,

however the country lacks behind in the practical application of the legislation. Referring to Chapter 19, Gjurovska emphasised that the scope of this chapter is extremely complex. In order for there to be progress in this chapter it is essential that advances are made in other areas, where the harmonisation of our legislation with that of the EU has yet to occur. In this chapter, the NCEU-MK is working to harmonise our employment legislation with that of the EU. For a long time now, the European Union is dedicated to systematically improve the employment policies that will create a favourable environment for inclusion of young people in the European labor market. As part of its activities in this session, the NCEU-MK has engaged representatives from all relevant stakeholders in this field: state institutions, trade unions, employers, NGOs, and the academic community.

Following, **Jovana Trenchevska**, State Secretary in the MLSP, underlined that occupational health and safety is extremely important not only within the EU, but in our country as well, and that the MLSP is actively working to align its occupational health and safety policies with those of the EU. This topic is particularly important given the adverse trends associated with occupational diseases and injuries at work, some of which have fatal consequences for workers.

Such an upward trend in occupational illnesses and injuries at work, due in large part to the insufficient and inadequate undertaking of preventive and protective measures to protect the health and safety of workers in their workplaces. That this is a global phenomenon is also indicated by data from the International Labor Organization, which estimates that millions of people are suffering from occupational diseases or injuries, and that 7,500 workers die each day as a result from work and occupational diseases. Referring to the situation in N. Macedonia, Trenchevska noted that based on data from the Institute of Public Health, which is responsible for the preparation of reports on occupational safety at work, in 2018 there were 846 workplace injuries reported. This represents a decrease of 24% in compared to 2017. Most of the workplace injuries (about 34%) are in the industrial field and mining. While the statistics show that 58% of the injured workers are male, and 42% are female. Most of the registered workplace injuries occur in the city of Skopje, followed by Veles, Bitola and Kavadarci. All stakeholders, state institutions, trade unions, and employers have the same objective, ie to reduce the risk of occupational diseases and injuries at work, and should therefore work together to achieve this end. This is particularly important in times of global changes in the economy, technology, climate, environmental pollution, migration, etc.,

which contribute to changing conditions and forms of work, and thus to changing policies, standards, measures safety in protecting workplaces and adapting them to new situations.



Alignment of our legislation with that of the EU began more than a decade ago with the adoption of the 2007 Occupational Health and Safety Act, transposing Framework Directive 391 on the introduction of measures to improve the health and safety of workers at work. Since then most EU directives on occupational health and safety protection have been transposed. A Strategy for Health and Safety at Work has been developed, a Council for Health and Safety at Work has been established as an expert consultative body of the Government, which reviews and evaluates the situation, policies and strategic documents in the field, as well as numerous bylaws and rulebooks that regulate this matter more precisely (more than 20 rulebooks transposing 25 European directives).

Trencevska pointed out that the harmonisation of the domestic legislation with that of the EU in the field of safety and protection of workplaces, as well as its application in practice, will continue. She also emphasised that the State Labor Inspectorate is an important institution for monitoring the implementation of the standards of safety and security at work.

Taking the role of chair of the session, **Marija Ristevska** briefly addressed the topic, noting that the area of occupational safety is mainly regulated by the International Labor Organization, while the EU mainly follows its policies. This area is relatively late in becoming part of the EU's common policies, mainly due to national initiatives from some of the member states. By 2013, there have been 30 directives that regulate this area in detail.



Milan Petkovski, President of the Macedonian Occupational Health and Safety Association (MOHSA), and an expert at the NCEU-MK, presented at the session. On the present topic, he believes that one should primarily work on creating a preventive culture following the example of the Nordic countries, where many of those countries do not have a Law on Health and Safety at Work, but rather cover those questions under the Labor Law. He further pointed to another problem, namely the problem of having a representative data on this issue. Having data that does not represent the reality, contributes to the creation of a wrong favourable picture of the situation in Macedonia. Petkovski underlined that the official statistics differ drastically from the records his association has accumulated since 2007 and that they publish annually. According to their records, one worker loses his or her job every week, meaning about 500 people have lost their lives directly in the workplace over the past 10 years. The likelihood of losing your job in Macedonia is four times higher than in the UK. Petkovski further noted that there is no data on occupational disease from the Institute of Public Health, so the data has to be directly requested from physicians to verify such cases. The Institute of Occupational Medicine annually verifies about 70 to 80 cases of occupational diseases.



Compared to the average number of professionally infected workers in the EU countries where there are 41.9 workers per 100,000 workers in our country the statistics show that the number is 0.43. Furthermore, Petkovski pointed out that the most common topic of discussion at this kind of meetings is the Occupational Health and Safety Act. This Act has been the easiest to influence and amend, and this in the past 10 years it has undergone eleven changes, most of which relate to taking an expert safety and occupational safety exam. But he noted that Macedonia has the advantage of having numerous occupational health and safety engineers who know the standards of occupational health and safety but who are not properly used by various institutions as well as by social partners.

The next speaker was **Svetlana Trbojevic** - NCEU-MK expert, and Professor at the Faculty of Philosophy - Skopje at the Ss. Cyril and Methodius University in Skopje. She referred to this as an important topic, and pointed to the International Labor

Organisation's call to all countries on the occasion of April 28 International Labor Day to implement all Conventions related to this issue, to minimise the risks of workplace injuries. Like the previous speaker, Trbojevic emphasised the importance of preventive action in occupational health and safety, pointing out that health is a bio-psycho-social phenomenon. This means that the focus of prevention cannot only be on physical health, but also on the mental disorders of workers, that may be the result of an "unhealthy" work environment, such as mobbing.

Given that there is a lack of evidence for these types of diseases, it is also necessary to assess the mental health of workers in addition to assessing the physical health of workers. It is therefore necessary to hire professionals who will take care not only of the physical safety and security of workers, but also professionals such as psychologists, social workers and sociologists, who were formerly part of the expert teams of large companies that provided psycho-social care, the social component of workers' health.



Trbojevic has indicated that we will adopt EU regulation, but what is missing is its day-to-day implementation. There is a noticeable lack of funds for implementation of existing strategies, inconsistency with the application of legal norms, etc. She thinks there are times when workers themselves refuse to use protective equipment, so she believes that it should be up to both employers and workers to raise awareness of workers' health and safety at work.



In the second part of the session, the first speaker was **Toni Vojneski**, Inspector of the State Labor Inspectorate, who shared his experiences on health and safety at work. At the beginning, he presented the structure of the State Labor Inspectorate and the way they carry out their activity in the area of monitoring the implementation of the Law on Health and Safety at Work. According to him, the State Labor Inspectorate is composed of 7 sectors with 24 departments, and the inspection has two departments, one of which is the Sector for Labor Relations Supervision and it has

nine departments, and the Sector for Health and Safety at Work, which has three divisions. The country is divided into three regions, and there are two type of inspectors: integrated (working on labor relations and safety at work) and inspectors working only on safety at work. Inspectors perform regular supervision, mostly preventive supervision, then control supervision, directed, coordinated, extraordinary supervision, inspections of injuries and accidents at work, in order to improve the health and safety of the workers. Vojinski also mentioned that they are working under the Law adopted in 2007, which has already undergone many changes. After all the changes maybe it is time for the Law to be reconsidered and consolidated. It is the duty of the Inspectorate to work in accordance with the Law and, above all, in the provision of preventive measures against occupational risks, the removal of risk factors for accidents, as well as to inform, consult and train workers. Based on this Law, about 35 rulebooks (bylaws) have been adopted, which elaborate on certain issues in the domain of the Law. The State Labor Inspectorate also participates with its representative in the work of the National Council for Health and safety at Work, participates in all activities carried out by the Ministry of Labor and Social Policy, and what the Inspectorate mainly advocates is the improvement and development of administrative capacity and human resources in the area of occupational health and safety,

through the organisation of training, projects, and the enhancement of work equipment. The main problem of the Inspectorate is the lack of staff, so that it can be successfully covered the whole territory of Macedonia. Vojneski pointed out that as a result of the record of workplace accidents in the first quarter of the year, the government directed the State Labor Inspectorate to intensify inspection supervision in activities with an increased risk to occupational health and safety such as construction, the processing industry and other industries

The next speaker on the agenda of the session was **Suncica Dimitrijoska**, Professor, Institute of Social Work and Social Policy, Faculty of Philosophy - Skopje, who focused on the problem of employment of people with disabilities, a topic that was indirectly related to the topic of the session. At first, she pointed to a misunderstanding of the term disability, someone with a disability means people with disabilities, people with mental health problems. Dimitrijoska concluded that in our country there are numerous policies that allow for this part of the population to become an active participant of the labor market depending on their working capacity. Comparative analysis of international and our regulations shows that all relevant standards relating to this area have been ratified and incorporated into our legislation, except for Convention 322 on which work remains to be done.

Based on the data from the Employment Agency for 2018, a very small number of people with disabilities are unemployed (1322). The questions arise whether the employed ones are truly working? The number of people with a developmental disability is far greater than the number that the unemployed number would indicate. According to Dimitrijoska, these people certainly have obstacles on the way to their employment. One of the obstacles is not having proper education, or not being able to perform required tasks. Long-term unemployment also has a negative impact on their mental health, as do to all other unemployed individuals.



Guided by the saying nothing for us without us, she believes that people with disabilities should be involved in policy making, regarding issues that directly affect them. The Law on Labor Relations also contains articles that facilitate the inclusion of people with disabilities in the work process (part-time, extra vacation, vocational training, rehabilitation, but also prohibition of discrimination).

Special conditions for employment of these individuals are regulated by the Law on Employment of Disabled Persons which was adopted in 2000 and has been amended 12 times so far. Efforts have been made since 2014 to pass a new law. Dimitrijoska underlined that people with disabilities need to get a report from a special Working Capacity Committee to be able to exercise their right to employment. As of 2016, approximately 1460 people have received a positive finding on employability. What is important to note is that these people are likely to be employed in open, rather than protective, economies, something that Macedonia has achieved in the period 2007-2015. It is also very important that these people are included in the education system (for example, out of 2145 employees with disabilities, 35 were university educated) and that these institutions are accessible to these people. At the end of her address, Dimitrijoska pointed out that the inclusion of persons with disabilities in the open economy should be further promoted.



The next speaker was **Angel Dimitrov**, representative of the Organization of Employers in Macedonia (ORM). He noted that in the 12 years since its enactment, the Law on Health and Safety at Work, has proven to be inadequate, ie it failed to fulfil the purpose for which it was enacted. Conversely, within the EU the adoption of the Directive led to a serious reduction of injuries and deaths at work. According to Dimitrov, this situation is due to the Law being turned into an ordinary bureaucratic procedure, ie it is reduced to a procedure consisting of heaps of documents that everyone should show to the inspectors during inspection. Dimitrov agrees with the inspector Vojneski that they can only act within the law. In fact, according to him, the Law on Occupational Health and Safety should be made effective in practice, not reduced to checking formal documents, such as regularity of systematic reviews, risk assessments, etc., that even when there are accidents with severe injuries the inspectors cannot investigate the causes of the injuries, but check the formal documents which indicates that even control is reduced to a formal bureaucratic process. Dimitrov thinks the law should be transferred from bureaucratic drawers to factory halls, fields, construction sites - where accidents happen with the joint involvement of all stakeholders affected by the law. One of the things to do is to increase the role of professionals, especially those who have passed professional exams in this field and who are employed in companies.

According to him large companies have hired great experts in this field, who cannot be found in smaller firms and social enterprises, who can implement the Law at the workplace level because they are exposed to workplace risks and injuries on a daily basis, and the conditions in which those risks and injuries occur, so they can react in a timely manner. It is therefore recommended that employers whose companies have such professionals be able to independently perform risk assessment and occupational safety and injury training, while outsiders may be engaged when dealing with specific risks arising from complex technical systems. According to him, this is in line with EC recommendations for practical guidelines for employers that external experts should be used to help companies, but those who have opportunities and have qualified staff can do it themselves.

The second thing that should be done, according to Dimitrov, is to precisely define the responsibilities of individuals and entities responsible for health and safety at work. While the employer bares the majority of the responsibility, trade unions and other involved professionals have their share of responsibility that should be clearly defined. Given the poor implementation of the Law, Dimitrov suggests that hired outside professionals who carry out risk assessment should be held responsible for the poorly done work,

rather than impose the responsibility on the employer who hired them. Furthermore, the role of the National Council for Health and Safety at Work should be enhanced in monitoring the implementation of the Law and there should be measures to improve it, as the Council is composed of genuine professionals. Obligations under the Occupational Health and safety Act should be distinguished from those arising from the Law on Protection and Rescue, the Law on Firefighting and the Law on Technical Inspectorate. There should be provisions for alcohol and intoxication tests at work, as there are cases in some companies that employees use alcohol or narcotics while at work. In addition, it is important to define work from home as part of the new forms of work that the EU propagates, as well as distinguish between the responsibilities of a small company and those of a large company. Moreover, the Law must clearly define what it means to be in-charge of a company, for while that usually means the director or manager, if the company employs a responsible professional, he or she should be responsible for a specific activity for which they are hired. According to the Framework Directive, it is necessary to have a new definition of risk assessment, because according to the Directive, a clearance of safety is issued only through a risk assessment, however in our country is the other way around.

Pursuant to Directive 391 of 1989 in accordance with Article 118a of the EU Treaty, the financial and administrative constraints on the creation and development of small and medium-sized enterprises should be reduced, and they should be separated from large companies in the context of law enforcement. Also, the obligation of the employer to monitor the health status of employees, should be removed from the Law. According to the framework directive, the employer is obliged to send to the review those who are at special risk, and not all employees. Depending on the risk, the worker may be sent for an examination for a shorter period of two years. Finally, there should be specific deadlines and criteria for the examination of the means of work with a special Rulebook.



The next speaker in the session was **Vane Koccev**, president of the Trade Union Organisation at the Bucim Mine from Radovis, and a member of the Occupational Health and Safety Service, who addressed the issue of health and safety at work from a workers' perspective.

According to him, trade union organisations have an obligation to monitor the safety and security of workers. In those enterprises where there are trade union organisations, security measures are more widely respected. Like previous speakers, he pointed to the number of accidents, some with a tragic epilogue, in the workplace, but also acknowledge that trade unions should act with greater urgency in providing safety and security measures for the workers. He referred to the health and safety situation in the company where he is employed, which has more than 600 employees. According to the legislation, three representatives have been elected, and 25 safety professionals are employed. He noted that they were fortunate to have a conscientious and responsible employer and management team. Meetings are held on a quarterly basis with the trade union, management, security professionals presenting all current issues, minutes being taken and tasks assigned if necessary, to improve safety at work. In addition, they work on commission with the Occupational Health and Safety Unit and perform safety audits once a week in each of Bucim's plants, after which measures are taken to eliminate any deficiencies. This means that the union has an important role and a great responsibility, along with other stakeholders for the safety and security of workers. What highlights the problem is the administrative obligations arising from non-compliance with the laws, in this case the Law on Mineral Raw Materials and the Law on Health and

Safety at Work, which contributes to the inefficient spending of funds and time in administrative activities. This is the reason that all relevant stakeholders in this field have suggested that these laws should be reviewed.



At the end of the session, Judge **Hilda Meshkova**, Judge at the Skopje Court of First Instance 2 addressed the Labor Disputes Unit where she is working on litigation related to non-compliance with the rules on health and safety at work. She pointed out that they have many cases and that this matter requires a more in-depth analysis, especially under the ILO International Convention. Under the ILO International Convention and the Occupational Health and Safety Act, health and safety at work is part of individual labor law. This matter is regulated by collective agreements individually, but Meshkova thinks it should also be regulated at the employer level.

Appropriate effective regulation requires detailed job descriptions of individual workplaces, and the employer and employee accurately comprehend the job requirements. As there are many accidents at work, the state should insist more strongly on the protection of workers. She noted that under the Labor Law there is a possibility for an employee to refuse to perform a job if it endangers his or her health and safety or that of other workers, but this does not work in practice. She disagrees with the earlier proposal by employers to waive the obligation to monitor the health of workers and considers that this should be an obligation because only a healthy and capable worker can be effective and in accordance with the principles of welfare state. During her work she is introduced to the description and inventory of different jobs with different security risks, which require appropriate security and protection measures. The number of cases where employees have contributory negligence regarding safety measures, is increasing. In court proceedings, for serious injuries to workers in the workplace for breach of occupational safety and security measures, the court seeks the subjective guilt of the employer or the employee. In determining this guilt, the courts rely on the testimony of experts who carry out appropriate forensic examinations (technical, medical, etc.) in order to reach an appropriate decision.

In the last part of the session, Ristevska opened the discussion on the draft recommendations for this session. They were reviewed, discussed by participants in WGII representatives of government institutions, the judiciary, representatives of civil society organisations and in particular those working in the field of health and safety at work, trade union representatives,

employers' organisations, foundations, and the academic community. In their discussions they made relevant remarks and suggestions, which were implemented in the recommendations and then unanimously adopted at the session.

