

Decent Work in the Republic of Macedonia



TABLE OF CONTENTS

| | |
|--|----|
| Introduction | 1 |
| Analysis of constraints and weaknesses | 2 |
| Conclusions and recommendations | 9 |
| Bibliography | 11 |

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In February 2011, a two year programme called "**Decent Work Balkan Network - Putting Equality and Solidarity at the heart of EU integration**" was launched by Olof Palme International Center (Sweden), SOLIDAR (Belgium), AGENDA Institute (Albania), Center for Democracy Foundation (Serbia), CLARD (Kosovo), STBIH (Commerce Trade Union in Bosnia Herzegovina), Progress Institute for Social-Democracy (Macedonia) and Progetto Sviluppo CGIL (Italy). The project is additionally supported by national associates and by the International Trade Union Confederation/Pan-European Regional Council (PERC). The key aim is to strengthen the capacity of trade unions, think tanks and NGOs to promote Decent Work and Quality Jobs in the Balkans together by developing national and regional networks, joint advocacy actions and public campaigns, formulating policy proposals and monitoring the implementation of the European socio-economic acquis. To read more see <http://www.solidar.org>

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Introduction

The International Labour Organization (ILO) defines decent work as productive work that provides a fair income, ensures occupational safety and social insurances, and offers the possibility of personal development and social integration. Decent work is also associated with freedom of expression, participation and equal treatment of women and men.¹ Overall, it helps generate income that enables economic and social progress, strengthens individuals, their families and communities as a whole. Serving as a basis for human well-being, it is a source of personal dignity, family stability and community peace. Furthermore, decent work is a key factor in reducing poverty and achieving equal, inclusive and sustainable development.²

The purpose of this case study is to identify the key hurdles that prevent the majority of workers in the Republic of Macedonia from enjoying decent work conditions. The analysis is based on three groups of factors:

- a) systematic factors including imbalances in the labour market, low salary levels and associated poverty, the large shadow economy and non self-sustainable pension and disability insurance funds and health insurance fund;
- b) key institutional constraints such as politicisation of institutions, and marginalisation and politicisation of trade unions; and
- c) legislative weaknesses.

Finally, recommendations are provided on how to improve the situation concerning decent work in Macedonia.

¹ International Labour Organization

² International Labour Organization, 2008

Analysis of constraints and weaknesses

1. Systematic constraints

Even if the best laws are enacted the situation will not improve regarding decent work unless unemployment and poverty are addressed. These two phenomena have weakened the position of workers vis-à-vis employers while the state continues to close its eyes to misuses and violations of labour rights in order to preserve the alleged social peace. In this section, we will analyse the issues linked to the labour market, salary levels, shadow economy, and the worsening self-sustainability of the Pension and Disability Insurance Fund and the Health Insurance Fund.

1.1 Imbalances in the labour market

Labour force supply significantly surpasses that of demand which has resulted in a high rate of unemployment. The unemployment rate is one of the highest in Europe (32%).³ According to the labour force survey (LFS), in 2010 the number of employed amounted to 637.855, while the number of unemployed amounted to 300.439⁴. In addition, the number of employed for whom contributions were paid was only 413.797⁵.

Another issue is that unemployment is long term where 81.8% of those unemployed have been out of work for more than one year. This group consists predominantly of those who have been unemployed for more than 4 years (63.8% out of the total number of unemployed). In comparison, in the European Union (EU) only 34.2% of the unemployed have been out of work for longer than one year.⁶ This has resulted in diminished human capital as people lose their acquired skills and capabilities while waiting to find a new

³ Average rate of unemployment in EU countries amounted to 7% in 2008 (Eurostat, 2010).

⁴ State Statistical Office of the Republic of Macedonia, 2011

⁵ LFS defines employed individuals as those who are registered and receive pay for at least 1 hour of work per week or individuals who work on a family property with no pay.

⁶ World Bank, 2010

job. These prolonged periods of unemployment indicate that the labour market is suffering from structural constraints.⁷

Other important features of the labour market are: a high portion of the workforce with low education levels⁸, high rate of unemployment among young people⁹ and women,¹⁰ low rate of labour force migration and a significant number of unemployed persons with special needs and those belonging to a specific ethnic group (e. g. Roma).

1.2 Low wages and poverty

One of the main objectives of any decent work agenda should be fair pay. For many people in Macedonia this condition is not fulfilled. Figure 1 shows the distribution of employed people based on the size of their net wage. As shown, two thirds of employees receive a wage that is lower than the average one in the country¹¹.

⁷ Trpeski, 2011

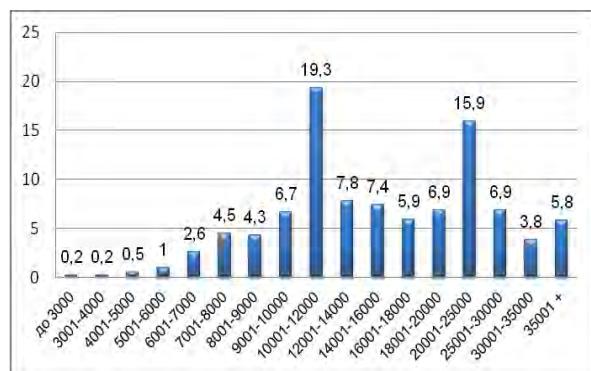
⁸ The distribution among the employed is as follows: 25.1% with primary and lower secondary education, 54.7% with 3 or 4 years secondary education and 20.2% with higher or university level education. Among the unemployed the distribution is: 34.5% with primary and lower secondary education, 54% with 3 or 4 years secondary education and 11.5% with higher or university level education. As the European Commission commented, the level of education and training of the labour force is still low and there is a significant difference between the qualification profiles and the needs of the private sector (European Commission, 2008). In order to improve the educational levels of the workforce, it is worth noting that the government has been pushing for the process of opening up faculties in almost every town in recent few years. The problem has been the quality of education since the quality of staff and infrastructure of many new faculties do not correspond to university level.

⁹ Unemployment among young people amounts to 54.9% and is almost three times higher than the same rate in the EU (20.7%).

¹⁰ The unemployment rate among women is 32.5% and about 1% higher than among men. This situation is similar in most other EU countries.

¹¹ Average net wage per month in 2010 amounted to 20.550 mkd (€330).

Figure 1: distribution of employed people based on the size of their net wage, 2010



Source: State Statistical Office of the Republic of Macedonia 2011b

A comparison between wages and the cost of living is the best indicator of whether wages are set at a fair level or not. According to the Trade Union of Macedonia (CCM), a four member family needed 29.200 mkd per month to meet the basic costs of living in 2010.¹² Figure 1 above shows that 47.1% of employees earn a wage lower than 14.000 mkd per month. In addition, if both wage earners in a family receive a salary lower than 14.000 mkd (in total 28.000 mkd), their income is not sufficient to meet the basic costs of living. In fact, 51.1% of households with one or more employees live below the poverty line¹³ which illustrates the harsh reality that many face in Macedonia. The percentage of the population living in poverty amounted to 30.9% in 2010.¹⁴

1.3 Large shadow economy

The share of the shadow economy in the total economy is at least twice as large as in EU countries. It is estimated that the size of the shadow economy represents between 40-45% of the total gross domestic product (GDP)¹⁵,

¹² According to the poll for household consumption (APD), an average four member family needed 31.619 mkd per month in 2009 (State Statistical Office of the Republic of Macedonia, 2010).

¹³ State Statistical Office of the Republic of Macedonia, 2011c

¹⁴ The percentage of poor in 1998 stood at 20.7%. The highest growth was in the period from 1999 to 2002. In 2002 the percentage of poor people amounted to 30.2%. The highest percentage was recorded in 2009 – 31.1%.

¹⁵ Risteski, 2009

where it is primarily used to evade taxation and to circumvent provisions in the legislation in order to maximise profits.¹⁶ The key factors behind a growing shadow economy are high unemployment rates and an increasing number of poor people as people have no other choice than “to work in the black market”. The most vulnerable groups are the unemployed, employees with low, irregular pay or without any pay, retired people and students.

The prevalence of the shadow economy is mostly associated with seasonal work and poorly qualified workers and concerns sectors such as construction, transport, the textile industry, trade, agriculture and domestic services. In addition, the development of information technology has introduced some non-traditional forms of “black market jobs” such as translators, designers, programmers¹⁷, professors teaching specific subjects etc.

The issue of “black market jobs” is that it “favours” employers since there is no written evidence which guarantees the legal protection of a worker. In most cases, the employers do not register these workers at all and if they do, they make fraudulent registrations with the Employment Agency notifying the latter that the employee resigned, when in fact the employee continues to work for them even after the initial contract has expired. “Black market workers” receive their wages in cash, thus, the employers are not obliged to pay any contributions and taxes. This in turn means that these workers are not able to benefit from health and pension insurances. Even while registered with the Employment Agency, the employers often pay the lowest possible contributions and taxes. Working hours are mostly not fixed, and can extend up to 10 hours a day and include Sundays. Annual vacation is shorter than its legally set duration. Unfortunately, workers in the shadow economy are forced to accept any type of behaviour from their employers since their very survival is at stake¹⁸.

¹⁶ Jankulovska, 2002

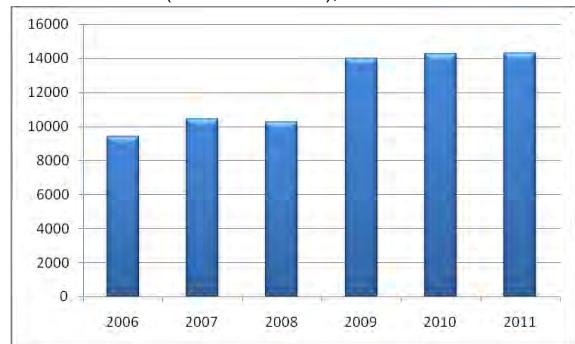
¹⁷ Tevdovski & Tosevska, 2006

¹⁸ Jankulovska, 2002

1.4 Lowered self-sustainability of Funds

The Fund for Pension and Disability Insurance (PIOM) and the Health Insurance Fund (FZO) should provide a decent standard of living upon retirement and quality and accessible health services throughout a worker's lifespan. In recent years, the government has been pursuing a policy that has seriously endangered the self-sustainability of these funds. Instead of trying to increase the revenues of these funds through paid pension and health contributions, the opposite was done by decreasing the contribution rates. This decrease has not been compensated with the creation of new jobs, i.e. more revenue from additional paid contributions. As a result, the revenues of the funds are decreasing and the required budget transfers for their normal functioning have been growing in the last few years, as shown below.

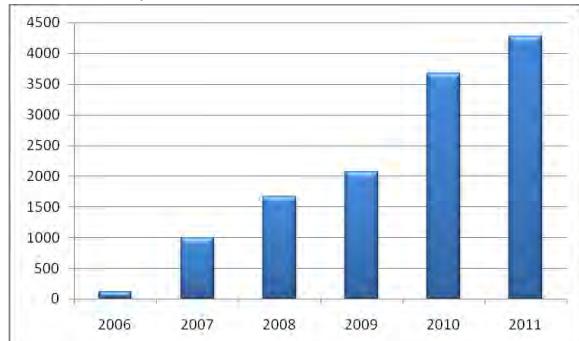
Figure 2: Budget transfers to the Pension and Disability Insurance Fund (in million denars), 2006 – 2010.



Source: Financial statement of the Budget of the Republic of Macedonia for 2006, 2007, 2008 and 2009, Modifications and amendments of the Budget for 2010 and 2011.

Additional increases in the required budget transfers are anticipated in 2011.

Figure 3: Budget transfers to the Health Insurance Fund (in million denars), 2006 – 2010



Source: Financial Statement of the Budget of the Republic of Macedonia for 2006, 2007, 2008 and 2009, Modifications and amendments to the Budget 2010 and 2011.

The Health Insurance Fund has been facing similar problems as discussed above, and the state budget is also used to compensate the amounts that are lacking and required for its proper functioning. In the period between 2006 and 2009, budget transfers increased 30 times (see Figure 3 above). These increased budget transfers are unfortunately not due to the alleged increased concerns about healthcare services but are required to prevent the Fund from collapsing.¹⁹

2. Institutional constraints

Institutional constraints prevent the appropriate implementation and application of laws. The politicisation of institutions and the minimised role of trade unions are analysed below.

2.1 Politicisation of institutions

In recent years, massive politicisation of governmental institutions has taken place. Institutions, standards and regulations intended to protect public interests have been controlled in a way which enables the ruling political parties to take decisions based on their own interests. Employment prospects and promotion in the public administration are not based on knowhow and results achieved, but on party political affiliation – as confirmed by the yearly progress

¹⁹ The Health Insurance Fund has been destabilised due to a number of contradictory reforms in the sector and a decrease in contributions for health insurance.

reports published by the European Commission. After the change of government in 2006, a great number of officers were hired at all levels in the public administration which led to a loss of expertise after re-organisation (EC, 2007). The assessment of employees and the employment procedures is not transparent (EC, 2008). An increased number of employees are on fixed term contracts, which is contradictory to the Law on public officers. A number of employees on fixed term contracts are young people without any appropriate roles and without clear job descriptions. This policy is undermining skilled public officers (EC, 2009).

Furthermore, the increased mistrust in the judicial system is a direct consequence of institutional politicisation. Also, it is difficult to exercise the provisions concerning workers' rights as the latter are not equal before the law. Hence, "...Additional efforts are needed to reassure the independence and non-politicisation of jurisdiction, especially with a view to employment of people and their promotion".²⁰

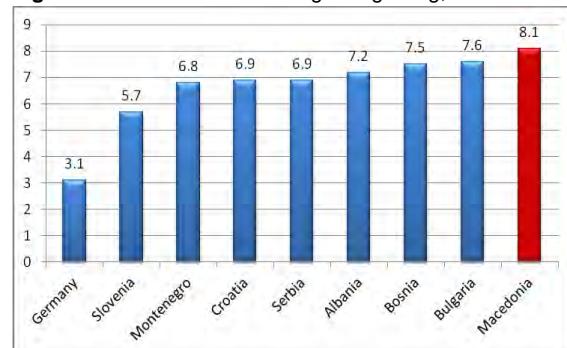
2.2 Marginalisation and politicisation of trade unions

A clear marginalisation of trade unions has taken place recently. Trade unions have lost a significant number of their members and due to marginalisation of the social dialogue their influence vis-à-vis employers and the government has been declining. For instance, some articles in the Law on employment concerning the activity of trade unions were changed in 2009 without any social dialogue taking place and certain regulations were adopted having negative effects on trade union rights.²¹ Also, governmental control over trade unions increased due to a modification regarding the representativeness criteria. The competent authority deciding on the representativeness of trade unions is the Minister of Labour and Social Policy based on a proposal of the Commission

for Establishing Representativeness. The Commission consists of nine members appointed by the government and suggested by the Ministry of Labour and Social Policy, whereby three come from the Ministry of Labour and Social Policy, Ministry of Justice and Ministry of Economy. Registered trade unions and employers' associations do not have members on the Commission.²²

Even though the law forbids discrimination of trade unions, in practice there has been a breaking up of trade union organisations by employers, and these cases usually take two to three years to be resolved in the courts. There have also been cases where employers have tried to influence trade union elections.²³

Figure 4: Index of collective wage bargaining, 2008



Source: Economic Freedom of the World Database

Figure 4 compares the index of collective wage bargaining in the Republic of Macedonia and in South East Europe (SEE) using Germany as a benchmark. The index values range from 1 to 10, where 1 means that the wages in the country are fixed through the collective bargaining process and 7 that wage fixing does not depend on this process, but on an individual enterprise. The highest index value is in the Republic of Macedonia and may be explained by the fact that the collective bargaining process is absent.

Furthermore, the right to strike is limited because trade unions have to determine in advance the length of the strike, and the participants in the strike can be fired or sued for

²⁰ European Commission, 2009

²¹ International Trade Union Confederation, 2011

²² Saveski, Apasiev, Kovachevski & Vasilev, 2010

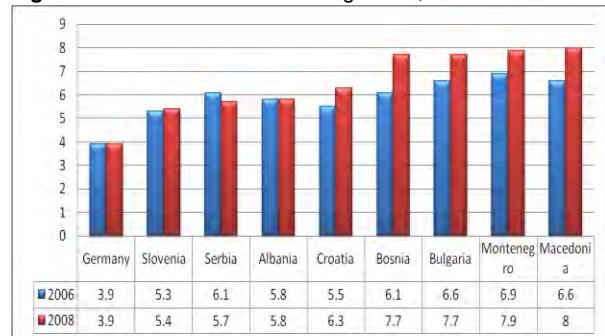
²³ International Trade Union Confederation, 2011

damages if the court decides that the strike is illegal. Also, employers may suspend up to 2% of participants during the strike if they are violent or show non-democratic behaviour (International Trade Union Confederation, 2011). These legal provisions may be misused.

3. Weaknesses and constraints of legislations

In recent years the process of curtailing workers' rights has continued. Figure 5 compares the indices of labour market regulation ranging from 1 to 10, where 1 means that the labour market is strongly regulated and 7 means that the system is flexible. In 2006 the value of the index in the Republic of Macedonia was similar to the values in other countries in South East Europe. Over two years, the regulation of the labour market deteriorated and in 2008 it stood at 8, indicating that legislation is not protecting workers sufficiently. In comparison, the index values for Germany in 2006 and 2008 were 3.9.

Figure 5: Index of labour market regulation, 2006 and 2008



Source: Economic Freedom of the World Database

3.1 Law on employment

The Law on employment should be the principal law (lex fundamentalis) governing workers' rights. Since the independence of the country and up until now, two laws have been passed - in 1993 and in 2005. The Law on employment from 1993 was modified eleven times during this twelve year period. The current applicable Law on employment has been through seven modifications and amendments so far. In addition, the Constitutional Court made several

decisions for abrogation of its provisions. Essentially, each modification has curtailed workers' rights as shown by the following examples from the last 5 years:

- Reduction of the legally allowed annual vacation;
- Prolongation of the period of employment for contracts with a definite time;
- Cancelation of the priority right to employ persons declared as redundant workers;
- Introduction of the possibility to give notice to certain workers due to business reasons and to hire others the very next day in the same position with the same professional background;
- Reduction of the base used for calculating severance payment;
- Abrogation of the imposed ban for employees to work more than one week on a night shift;
- Allowing employees to be requested to perform any job duties, not just those that are appropriate for the workplace (Saveski, Apasiev, Kovachevski, & Vasilev, 2010); and
- Abolition of the right to less working hours for disabled persons.

3.2 Law on safety and occupational health

The modifications and amendments to the Law on occupational safety from 1998 and the adoption of a new Law in 2007 have improved the situation by specifying that workers have the right to refuse to perform a job where he/she has not been informed about possible dangers and damages, or if the employer does not provide the required medical examination. The obligation to inform employees of any type of risk at the workplace has also been introduced and it is expected that the employer provides medical examinations for all employees every 18 months. The rights of workers' representatives for occupational safety have been partially extended in some areas. However, their authorisations have been reduced by cancelling their right to request interruption of work if they discover that it endangers workers' safety and health. The negative aspect of this law is the provision which states that the law does not

apply to domestic workers such as housemaids (Saveski, Apasiev, Kovachevski, & Vasilev, 2010).

3.3 Law on labour inspectorates

The modifications to the Law on labour inspectorates strengthened the rights of workers and the competences of inspectors. For instance, an important regulation which was added is that the labour inspector should respond to every request from a worker to carry out an inspection in the company. Therefore, the unsatisfactory functioning of the labour inspection is not due to the weaknesses in the Law, but due to non-functioning labour inspectorates. The main problem is the small number of labour inspectors, while another important problem is the political influence on the body which distorts its impartial and proper functioning.

3.4 Law on mobbing absent

Today, no occurrence is so widespread and so under-discussed as mobbing²⁴. It was the Trade Union of the Republic of Macedonia (SSM) that first reacted when the new Law on employment (2005) and the Law on safety and occupational health (2007) were adopted, and called for mobbing to be legally regulated and sanctioned. SSM submitted suggestions for a Law on mobbing but it never became a subject of parliamentarian procedure.²⁵ Instead, in September 2009 the Law on employment was amended by adding a few articles that prohibit psychological harassment at the workplace, i.e. mobbing. These articles did not, however, acknowledge that the problem is widespread enough for appropriate legal protection to be provided to victims of mobbing. Additional issues

should also have been taken into consideration such as:

- measures to be taken by the employer to prevent mobbing;
- protection of employees and legal proceedings for protection;
- protection of victims of mobbing, if a legal suit is instigated;
- identification of the "mobber";
- education and training of employee's to help recognise mobbing; and
- role of trade unions and the representative for occupational safety to prevent and protect employees from mobbing, etc. (Ristova, 2010).

Therefore, it would be highly desirable to adopt a specific Law on prevention of psychological harassment at the workplace (mobbing) in order to ensure better protection of employees.

3.5 Law on minimum wage: without delay for selected sectors

The minimum wage is the lowest wage level for which anyone is allowed (with lowest qualification) to work on a full-time basis. Its central element is equity. The level is set based on the relation between the income of persons with the lowest wage and the cost of living. The ILO points out that the introduction of a minimum wage has the following aims: to prevent exploitation of workers by employers, to promote a fair wage structure, to provide minimum acceptable standards of living for employees with the lowest wage and to alleviate poverty (International Labour Organization, 1992).

In the EU, three quarters of the countries have national legislation on minimum wage, i.e. 20 out of 27 members²⁶ and it varies from €123 per week in Bulgaria to €1,758 in Luxemburg. In neighbouring countries in the region, the

²⁴ Mobbing is defined as the negative behaviour of any individual or group, frequently repeated, at least within a period of six months. It is about violation of dignity, integrity, image and honour of employees, and causes fear or provokes hostile, humiliating and offensive behaviour with a final aim to terminate the employment relationship by giving notice.

²⁵ The legal text contained about forty articles based on similar laws on mobbing in Sweden, Germany and the USA.

²⁶ Belgium, Bulgaria, Czech Republic, Estonia, Ireland, Greece, Spain, France, Latvia, Lithuania, Luxemburg, Hungary, Malta, Netherland, Poland, Portugal, Romania, Slovenia, Slovakia and Great Britain

minimum wage level is €140 in Montenegro and Albania, €150 in Serbia and €380 in Croatia.

Already in 2008 the Social Democratic Union of Macedonia (SDSM) proposed a law on minimum wage but this was not supported by the parliamentary majority. Before the parliamentary elections in 2011, the positions on the minimum wage level differed as follows: €160 per week (9.900 mkd) – Trade Union of Macedonia (SSM), €145 (9.000 mkd) – Social Democratic Union of Macedonia (SDSM) and €107 (6.600 mkd) – Employers' Organisation of Macedonia (ORM). Finally, in October 2011 the Government agreed with the social partners to introduce a net minimum wage amounting to 8.050 mkd starting from January 2012.

However, the main issue is that the announced law on minimum wage does not apply to all sectors. In fact, for the textile, clothing and leather manufacturing sectors this law will become applicable only after 3 years i.e. in January 2015. Since these three sectors employ more than 80% of those with a net salary lower than 8050 mkd²⁷, it means that the majority of workers will benefit from this increase only as of 2015.²⁸

The second issue is the decreasing purchasing power as the real value of an amount fixed today will be lower in three years. For this reason a

correction of the minimum wage should be made twice a year taking into consideration fluctuations in the cost of living, average wage, employment and the general economic outlook.

²⁷ The number of employees in these sectors is as follows: - 1967 (textile), 6573 (leather and leather related products) and 39140 (clothing) or a total of 47,680 persons.

²⁸ This was nicely illustrated in the "I want to say" column in the daily newspaper Vest (8 and 9 October 2011): "I'm impressed by the Government's devotion and systematic approach to law making. First, they invent an add, then they make a law. See the "Congratulations agreement" campaign for minimum wage. Everything is known in detail. The level of net minimum wage. The level of gross minimum wage. The time when the law will start to apply. But it does not mention that the law will not be applicable to all. For employees in the textile, leather and shoe industries this law will only enter into force in 2015. However it is exactly these three industries where workers face the highest risk of exploitation. This add is the same as those produced by telecom operators and banks. Watch out because the most important rules are written using smallest font at the end. The difference is that banks and telecoms at least put an asterisk for further explanation. In this case, the Government did not explain "It will start to apply in three years. Congratulations agreement. Congratulations salary after three years."

Conclusions and recommendations

The analysis shows that even if the best laws are enacted the situation regarding decent work can rarely improve unless systematic and institutional constraints are eliminated. As noted above, the unemployment rate is the second highest in Europe and more than 80% of employees have been searching for a job for more than 1 year. Most employees' wages do not meet the criteria of a fair wage as they do not cover the basic costs of living in a great number of families (51.1% of poor families have at least one member employed). The shadow economy employs at least 100.000 workers who are forced to accept any kind of behaviour from their employers without any legal protection because their very existence is at stake. These systematic constraints have considerably weakened the position of workers vis-à-vis employers while the state continues to close its eyes to misuses and violations of labour rights to preserve the alleged social peace.

In addition, during recent years the self-sustainability of the Pension and Disability Insurance Fund and the Health Insurance Fund which should allow for a decent level of living standards upon retirement and lifelong access to quality and accessible health services has been damaged. The politicisation of institutions is making it difficult to implement laws appropriately, as decisions are taken on the basis of the ruling political parties' own interests. Trade unions have lost a significant number of their members and their influence on employers and the government via social dialogue has been decreasing. At the same time, governmental control of trade unions has been increasing and legislation in the field of labour rights is either missing or contains elements that are to the detriment of workers. All these developments have led to a continual reduction in workers' rights.

In order to improve the situation in terms of decent work the following recommendations are made:

- Law on minimum wage should be adopted without delaying its applicability to some sectors.
- Law on mobbing should be adopted through social dialogue.
- Law on employment should be modified and amended in a way which reverses the changes that currently curtail workers' rights (mentioned in section 3.1 above). The provision on the possibility of reduced working hours for disabled persons should be restored.
- The types of jobs that, due to their character and dynamics, are not considered as having a working relationship need to be legally governed. This applies to seasonal work and work on fixed term contracts that does not exceed 14 hours per week. Mechanisms need to be foreseen that will enable these workers to be covered by social funds and entitle them to basic social insurance. In this way, the size of the "black market employment" could be reduced.
- Provisions on the reduced rights to strike should be restored.
- For public administration employees, instead of fixed working time, a flexible model should be introduced whereby working hours start between 7:30 and 8:30am to allow for more time with the family in the evening.
- Number of labour inspectors should be increased.
- Representativeness of trade unions needs to be determined by an independent commission which should be established by the Parliament.
- Trade unions and the NGO sector should monitor the abuses of working time with the

help of counseling offices and available telephone lines.

- Trade unions and the NGO sector should work together to educate employees about their legal rights. Particular attention should be paid to mobbing.
- Trade unions and the NGO sector should work together to raise awareness in the media about the rights of employees.
- Trade unions and the NGO sector should organise debates which analyse proposed government reforms that decrease pension and health contribution rates.
- Activities of the NGO sector should address the misbehaviour of politicised institutions.

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