

National report:
European Works Councils,
reality or future?



Impressum:

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Publishes: Center for Research and Policy Making (CRPM)

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January, 2021

CIP - Каталогизација во публикација

Национална и универзитетска библиотека "Св. Климент Охридски", Скопје

349.227:331.105.44(4-672ЕУ)

331.105.44(4-672ЕУ)

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National report: European Works Councils, reality or future? [Електронски извор] / author Kristijan Trajkovski; translation Jasna Georgijeva-Stankovikj. - Текст во PDF формат, содржи 38 стр. - Skopje: Center for Research and Policy Making, 2021

Начин на пристапување (URL): <http://www.crpm.org.mk>. - Наслов преземен од екранот. - Опис на изворот на ден 26.04.2021. - Фусноти кон текстот

ISBN 978-608-4586-73-9

COBISS.MK-ID 53759749



This publication is part of the following project: "Improving the quality and level of the representation of employees through organizational assimilation and the efficient use of the EWC instrument by parties interested in industrial relations" ref. VS/2020/0040, financed by the European Union.



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Introduction

The presence of multinational companies with their subsidiaries in several EU member states has imposed the need to create conditions and formal channels for negotiations and consultations between management and a group of employee representatives. That is why the Directive on the European Works Council was adopted back in 1994. In essence, its implementation has laid the foundation for association of employees in councils through which they will represent their interests within the company at the central level and through the consultation process they will be involved in making decisions that are important for the development of the company and address issues such as future investments, production capacity expansion, workforce development, employment policies and other important issues.

The trend of increased presence of multinational companies within the domestic markets “engulf” the region of Eastern Europe. This called into question the power of workers organizing, and a number of complex issues arose, such as existence of various legal rules in the field of labour, the establishment of industrial relations and social dialogue, language barriers, and the lack of adequately trained transnational staff advocacy. The Directive establishing the European Works Council has been adapted to include the new countries that have joined the European Union, but despite a long period of implementation, the number of European Works Councils in the countries of this region is still low. In addition, there is a lack of clear assessment of the implementation and effective application of European Works Councils in practice and in these countries there is a lack or limited level of knowledge on these issues by the social partners.

In Republic of North Macedonia as a candidate country for membership in the European Union activities aimed at harmonization of national labour legislation with European legislation have been accelerated in recent years. Within that process, a special legal solution was prepared, i.e. Law on the European Works Council, which transposed Directive 2009/38/EL on establishing the European Works Council. However, this instrument still does not find its application, partly due to the limitations regarding the legal framework, as well as due to the low level of information among the stakeholders about the existence of this instrument. Also, the legal framework does not regulate the establishment of works councils in domestic companies, and the only actors in industrial relations that can represent workers are the unions. In recent years, their power and numbers have been declining and the unification of workers in new enterprises has become increasingly difficult. Therefore, in addition to domestic and a significant part of multinational companies, there are no trade unions, and the employer is often bypassing the need to establish a union by appointing a representative of the employees.

The Center for Research and Policy Making, in cooperation with the four partner organizations: Institute for Public Policy- Romania (leading partner), Center for Economic Development- Bulgaria, Institute for Public Affairs- Poland and Institute for Development and International Relations- Croatia, implements the project

“Improving the quality and the level of the representation of employees through organizational assimilation and the efficient use of EWC instrument by parties interested in industrial relations”. The project is implemented with the support of the European Union through the Directorate- General for Employment, Social Affairs and Inclusion of the European Commission. This projects aims to increase the level of knowledge and strengthen the capacity of the social partners in the country in relation to the policies of the European Union in the field of industrial relations, with a focus on European Works Councils. In particular, it will assess the implementation of the Directive on the European Works Council in the partner countries, as well as the level of knowledge regarding European Works Councils in the social partners.

The report below is based on the findings of the research conducted within the project. The report contains an analysis of the current situation and the legal framework, including an explanation of the setting of the social dialogue. The level of information and expertise of the representatives of the social partners was examined, and the expectations of the research team are that the implemented activities will provide a significant basis for paving the way for development and consistent application of this instrument for representing workers, and thus to support in building professional union workers. Additionally, the report provides appropriately designed recommendations for promoting social dialogue at the enterprise level and improving the quality of workers representation and advocacy, through the creation of (European) Works Councils with the support of the trade unions.

Research methodology

The research methodology was developed in collaboration with the project partners. It included qualitative methods for data collection and processing. In order to better assess the situation, we used primary and secondary data sources.¹ Given that the European Works Council (EWC) is not applied in the Republic of North Macedonia, most of the report, with the exception of the theoretical background for its functioning, is in fact an analysis of the findings obtained from the research activities carried out within this project. Several research activities were carried out for the preparation of this report, and special attention was paid to cover as many relevant issues of interest to the stakeholders as possible in order to design appropriate recommendations.

The methodological approach in the work of the Center for Research and Policy Making (CRPM) is phased and the following four phases were implemented:

Phase 1: Development of methods, approach and research tools

The CRPM team worked on developing an approach to conducting research activities, developing four research tools.² The development of research tools took into account: the existing legal framework, the setting of industrial relations, the way of conducting social dialogue, as well as the fact that the Directive has been transposed into appropriate law, and the European Works Council are not applied in the country by the stakeholders.

Phase 2: Data collection

In the second phase, data was collected in accordance with the research questions, and through the application of the developed tools and relevant research methods (interviews and discussions with stakeholders). In order to examine the different views and attitudes, an appropriate approach was applied to the relevant participants that make up the industrial relations in the country. Namely, 19 in-depth interviews were conducted with the representatives of trade unions, employer's organizations, representatives of economic chamber, as well as representatives of management bodies and human resources departments of multinational companies in the country. Additionally, interviews were conducted with two representatives of the Ministry of Labor and Social Policy (MTSP), as a competent institution for creating legislation in the field of labor law. A significant part of the interviews were conducted with private companies whose management bodies or headquarters are in European Union (EU) countries, and have their subsidiaries and production facilities in Republic of North Macedonia. In-depth interviews within this phase were conducted with:

- 1) 10 representatives from private companies;
- 2) 4 representatives from trade unions;
- 3) 3 representatives from the employers organizations and economic chamber;

¹ For secondary data sources, we used previous analyzes of the topic

² Prepared: questionnaires' for in-depth interviews with representatives of trade unions/ employers organizations/ economic chamber/ and enterprises, as well as guides for conducting focus groups with representatives of the social partners.

4) 2 representatives from public institutions.

Data collection also included the implementation of two focus groups, the first with the representatives of trade unions and other relevant stakeholders,³ and the second with representatives of organizations of employers and the economic chamber. Six representatives from the social partners⁴ and other relevant stakeholders took part in both discussions. The aim of the focus groups was to examine the level of knowledge and the information of the social partners regarding EU policies in the field of industrial relations, and especially for the European Works Councils. In the data collection phase, it was taken into account that the European Works Councils do not find their application and therefore the questions were aimed at examining the obstacles and limitations that exist in terms of representing workers at the employer level. In addition, their views on the degree of compliance of domestic legislation with European directives, as well as their involvement in the preparation of legal regulations were examined. A discussion was opened with the participants on identifying barriers to international cooperation between trade unions, and the facilitator provided an incentive for “brainstorming” that will help in finding appropriate solutions to overcome the identified problems.

The research team also conducted a cabinet research which included an analysis of the Law on European Works Councils, as a legal act transposing Directive 2009/38/EC establishing the EWC, as well as the Labor Law (LL) as a legal act regulating all issues in the field of labor, including labor representation, protection of workers interests in employment, trade union representation and issues related to conducting social dialogue. The subject of analysis was also Directive 2002/14/EC which establishes the general framework for informing and consulting employees in the European Community. This Directive has been transposed into separate articles of the Labor Law to provide a basis for informing and consulting employees with the employer.

The conducted analysis of the legal framework is made in order to assess the weaknesses, but also to set the direction that public institutions should follow to adapt labour legislation to the needs of the social partners, taking into account the right to represent employees, as well as the protection of their rights. Additionally, in this report, previous reports on the application of the EWC instrument in the countries of the European Union were subject to analysis, and notes from the conducted video conferences with representatives of the German trade unions are included in the procedure for building the recommendations. At these meetings, positive experiences, knowledge and best practices for the application of this instrument were transferred and their goal was to contribute to strengthening the capacities of trade union workers in Republic of North Macedonia.⁵

³ In addition to the trade union workers, representatives of civil society organizations working on issues in the field of legal protection and advocacy of workers, as well as preparing analyzes on the process of harmonization of European labour legislation with domestic legislation also participated.

⁴ The research included agents of the representative social partners and influential capital associations from the country (economic chamber).

⁵ For the exchange of the best practices in the period October- November 2020, three video conferences were conducted with representatives of trade unions from Germany that have experience with European Works Councils. Representatives of trade unions and the research team of each partner country took part in the conference.

Phase 3: Data analysis

In the third phase of the process of preparing this report, the research team worked on the processing of the obtained data. Based on the findings presented in this report, the Institute for Public Policy of Romania, as a leading partner, will prepare a comparative analysis that will present the situation in the region and enable the exchange of the best practices and experiences between countries.

Phase 4: Procedure for reviewing the draft version of the analysis

In order to better reflect the situation in the country in terms of conducting social dialogue at the employer level, as well as to create additional value to the recommendations that were originally developed, a consultation procedure was conducted and the content of the draft national report was reviewed. An expert in the field of trade union work with many years of experience in terms of introduction and advocacy of workers before the employer had his contribution in the procedure.

1. Representing, informing and consulting workers in the decision-making process

Through cooperation and mutual action between trade unions, organization of employers and the state, favorable conditions are created for solving the problems related to the protection of the interests of workers and employers. Solidly established industrial relations and effective social dialogue are a means to achieve a better standard of living for workers and better working conditions.⁶

According to the International Labour Organization (ILO), social dialogue encompasses all forms of negotiation, consultation and exchange of information between the social partners on issues of common interest relating to the economic and social policies of the country.⁷ At the same time, it is a mechanism for institutional resolution of conflicts that occur in industrial relations, but also a way to achieve social equality, economic efficiency and democratic inclusion of all stakeholders, including employees in their workplace.⁸ The dialogue brings social peace to the employer and it is important in terms of protecting workers rights, establishing the amount of wages, improving working conditions and promoting sustainable enterprises.⁹

Social dialogue can take place at national or regional level, at the level of an industry or employer (enterprise).¹⁰ In essence, this implies the existence of two models for conducting bipartism social dialogue, i.e., social dialogue thorough collective bargaining and workplace cooperation within the company.¹¹ The first model is a way of conducting social dialogue that includes collective bargaining between the social partners regarding the collective rights and obligations of workers and employers. This dialogue takes place at the level of trade unions and organization of employers, i.e., at the level of the state, industry or enterprises in which workers are unionized. On the other hand, the second model for informing and consulting employees, implies a form of social dialogue by involving employees with their representatives in the decision making process related to the workplace, and in cooperation with the management bodies within the company.¹² Some research links the existence of works councils and good cooperation between workers and

⁶ More at: Trajkovski, Kristijan. 2019. "The adaptation of industrial relation towards the new forms of work". CRPM. 2019.

⁷ Carls Kristin and Bridgford Jeff. 2015. „Social dialogue: Guideline for training of the members of the trade union.“ International Labour Organization. Budapest. 2015.

⁸ International Labour Organization. 2018. "Social dialogue and tripartitism. A recurrent discussion on the strategic objective of social dialogue and tripartitism under the follow-up to the ILO Declaration on Social Justice for a Fair Globalization, 2008." Report VI. International Labour Office Geneva. 2018.

⁹ See the previous footnote.

¹⁰ In practice, it takes place outside the formal framework, i.e. communication takes place between the social partners regarding their issues of interest.

¹¹ International Labour Organization. 2018. "Social dialogue and tripartitism. A recurrent discussion on the strategic objective of social dialogue and tripartitism under the follow-up to the ILO Declaration on Social Justice for a Fair Globalization, 2008." Report VI. International Labour Office Geneva. 2018.

¹² International Labour Organization. 2018. "Social dialogue and tripartitism. A recurrent discussion on the strategic objective of social dialogue and tripartitism under the follow-up to the ILO Declaration on Social Justice for a Fair Globalization, 2008." Report VI. International Labour Office Geneva. 2018.

employers to improving workers well-being, as well as better performance and increased enterprise productivity.¹³ Therefore the process of informing and consulting employer (or management) is necessary to be a transparent and two-way partnership that will be characterized by a satisfactory level of cooperation in terms of planned or adopted decisions on issues related to or are of interest to employees, but also to the development of the company. It is important to note that consulting employees in the decision-making process (or in management) is not only beneficial for employees, but also benefits the employer himself. It is often forgotten or the interests of this relationship for the employer are not properly determined by the legal regulations.¹⁴

Representing workers within companies for the purpose of informing and consulting is a key feature of European industrial relations.¹⁵ To this end, the European Parliament and the Council of the European Union in 2002 adopted Directive 2002/14/EC establishing a general framework for informing and consulting employees in the European Community, which aims to promote social dialogue between managers and workers.¹⁶ Namely, the adoption of the Directive starts from the need to strengthen the dialogue and to encourage mutual trust within companies to better anticipate risks, enable flexible organization of work and allow workers access to training in the company, at the same time maintaining security and enabling workers to have a greater ability to take measures and activities that will increase their employability and where the involvement of workers in the work and future of the company will be encouraged and its competitiveness in the markets increased. When adopting the Directive, the need for timely information and consultation was taken into account, because they are a means for successful adaptation of companies to the new conditions created by the globalization of the economy, especially through the development of new types of work organization.¹⁷ Regardless the manner in which it is implemented in national law, the matters governed by this Directive enable direct or indirect involvement of staff in the decision-making process (co- decision-making), which can be an effective means of preventing potential conflicts, or a tool for resolving them early.¹⁸

Although Directive 2002/14/EC set out a basic framework for informing and consulting staff, it does not explain the form in which this procedure will be conducted. However, in practice the most common form of representative bodies for conducting social dialogue within the company between the employer and the employees is through the establishment of works councils.¹⁹ The procedure for establishing information and

¹³ Muller, Steffen. 2013. "Works Councils and Labour Productivity: Looking beyond the Mean." *British Journal of Industrial Relations*. Volume 53, Issue 2. 2013.

¹⁴ Hirschl, Ange. "EU legal framework for the participation of workers in decision-making process." Publication: Inclusion of employees into decision making process.

¹⁵ Center for Research and Policy Making and Center for Economic Development. 2010. "Industrial relations in Europe 2010." CRPM. 2010.

¹⁶ Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002.

¹⁷ See the previous footnote

¹⁸ Hirschl, Ange. "EU legal framework for the participation of workers in decision-making process." Publication: Inclusion of employees into decision making process.

¹⁹ Jevtic, Milan. 2012. "The role of Works Councils and Trade Unions in representing interests of the employees in EU member states [partnership or competition]." Friedrich Ebert Stiftung. 2012.



consultation bodies is different in the countries of the European Union. Thus in some countries, if the employers meet certain technical requirements, they are obliged to establish this body, while in other places the initiative should come from the trade unions or from the workers themselves who are employed in the company.²⁰ In practice, some observations suggest that in some countries these bodies are thought to undermine the unions' representative role.

1.1. European Works Councils

The economic integration of the countries in the European Union and the increased presence of multinational companies with their subsidiaries in several member states imposed the need to create a formal framework for negotiations and consultations between employees and management at European level. Namely, the initial ways of informing and consulting the employees²¹ did not enable direct connection of the employees with the higher level of management where the decisions are made, but only with the management at the national level in the country where the company has its branch.

The idea of establishing mechanisms for transnational information and consultation of workers in the EU emerged in the 1970s. They did not remain just an idea, as their practical application began in the 1980s when members of works councils in French multinational companies decided to invite representatives of the company's subsidiaries from other countries to their meetings.²² This spontaneous development will later be taken as a practice at European level, but due to the resistance of the member states to the European Union interference in the field of social issues, the initiative did not see the light of day as a legal act. However, the Maastricht Treaty in 1992 overcame the "brake" and paved the way for the adoption of Directive 94/45/EC establishing the European Works Council, which enter into force in 1996²³ and was updated in 2009 as Directive 2009/38/EC.²⁴

The implementation of the Directive established a framework for the formal representation of employees in multinational companies and the conduct of social dialogue at European level. Namely, the European Works Councils are bodies that support the right to information and consultation in multinational companies within the European Union. They are important in terms of European industrial relations, as they are the first authentic European institution to represent the interests at the

²⁰ Hall, Mark и Purcell, John. 2011. "Information and consultation practice across Europe five years after the EU Directive." European Foundation for the improvement of Living and Working Conditions. 2011

²¹ Refers to representative bodies at the enterprise level such as works councils.

²² De Spiegelaere, Stan и Jagodzinski Romuald. 2015. "European Works Councils and SE Works Councils in 2015. Facts and figures." ETUI. Brussels 2015.

²³ See the previous footnote.

²⁴ Directive 2009/38/EC of the European Parliament and of The Council of 6 May 2009 on the on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees.

enterprise level and reflect the need to respond to the “Europeanization” of companies emerging from the single European market, by complementing existing national channels of information and consultation.²⁵ This means that EWC are conceived as an instrument for building a partnership and a spirit of workplace cooperation between employees’ representatives and employers on the basis of respect for the reciprocal rights and obligations imposed by the Directive. The Directive leaves room for the parties to decide on the precise functioning of the EWC and on the ways in which they wish to cooperate. However, as far as social dialogue is concerned, in practice this spirit of cooperation can hardly be prescribed by a legal by a legal solution and even more difficult to implement.²⁶

The very definition of EWC clarifies their basic functions and rights, i.e. that they serve as bodies for informing and consulting regarding business within the company. Consultations address issues related to management’s business decisions, while information must be provided on all issues that affect or are of interest to employees. Transnational issues of interest to employees include those relating to at least two subsidiaries of the company, which may affect the workforce at European level or involve the transfer of activities between Member States.²⁷ The information received from the management of the company should be used by the employees to assess the impact of the decision to be made, while the consultations are an opportunity for the employees’ representatives to express their opinion on the proposed measures that the management could take into account in the decision-making process. Consultations as required by the framework should be timely, without undue interference, and the management should respond to the opinion given by the workers representatives.²⁸

The benefits of operating EWC within multinational companies are significant for employees, both in terms of presenting their interests and views to management, and in terms of cooperation between employees in order to build solidarity on issues that affect them, and in terms of the decisions that the leadership at European level has the power to make. Although their role in the decision-making process is only consultative, they are still imposed on a way that cannot be left out and their existence for the employer requires employees to be informed in a timely manner about management decisions and the future development plans of the company. An additional benefit for the employees is that the EWC meetings can be used for mutual networking and building channels of cooperation with the representatives of each of the subsidiaries of the company.

On the other hand, there are certain limitations and challenges that make their functioning difficult, such as the cost of holding meetings with physical presence,

²⁵ EurWORK. 2019. “European works councils.” European Observatory of Working Life. 20.12.2019.

²⁶ Carls Kristin and Bridgford Jeff. 2015. „Social dialogue: Guideline for training of the members of the trade union.” International Labour Organization. Budapest. 2015

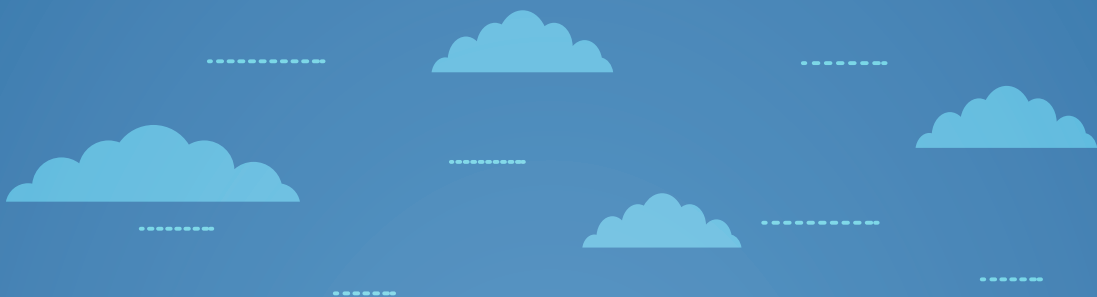
²⁷ More about the functioning of EWC at: Carls Kristin and Bridgford Jeff. 2015. „Social dialogue: Guideline for training of the members of the trade union.” International Labour Organization. Budapest. 2015.

²⁸ See the previous footnote.

language barriers that employees have, different legal systems and the setting of industrial relations, and sometimes the policy of the enterprise which in some countries is reduced to the use of cheap labour, without paying attention to the development and protection of the rights of the labour force. In addition, recent reviews of the situation indicate that European Works Councils have not met initial expectations²⁹ and that the focus of their existence in practice is reduced to sharing information with workers rather than active cooperation.³⁰

²⁹ Hann Deborah, Hauptmeier Marco, Waddington Jeremy. 2017. "European Works Councils after two decades." *European Journal of Industrial Relations*. July 2017.

³⁰ International Labour Organization. 2018. "Social dialogue and tripartism. A recurrent discussion on the strategic objective of social dialogue and tripartism under the follow-up to the ILO Declaration on Social Justice for a Fair Globalization, 2008." Report VI. International Labour Office Geneva. 2018.



2. Legal framework for representation and inclusion of workers in decision making process in the Republic of North Macedonia

The European commitment of Republic of Macedonia has contributed to certain changes in the field of labour legislation and industrial relations. With the accession process, the European Union introduced new requirements for countries in transition, which among other things meant the adoption of new models workplace relations and social dialogue characterized by the active role of the social partners in decision making procedures on relevant issues in the field.

As part of the process of harmonization of domestic labour legislation with the law of the European Union, significant systemic changes were made in the legal regulations. Namely, it meant transposing European directives into articles of existing laws or adopting new legal solutions to ensure an adequate degree of compliance. The regulation of relations between the social partners also included the acceptance of several ILO conventions, which practically set up mechanisms that contributed to the promotion of social dialogue and the strengthening of the role of trade unions in the process of negotiation and representation of labour in relation to capital. It was of particular importance to establish the right of the union to be informed and consulted on all issues related to the socio-economic position of the employee.³¹ In the Macedonian legal system, these issues are regulated by the Labour Relations Law³² and Collective Agreements, and the Law provides the legal framework for social dialogue, which can be conducted in its two forms, as bipartite and tripartite dialogue.³³

Consequently, in terms of the procedure for consulting, informing and representing Macedonian workers, the analysis showed that two important European directives have been transposed. The first is Directive 2002/14/EC establishing the general framework for informing and consulting employees in the European Community, which aims to enable greater involvement of workers in the management and is transposed into separate articles of the Labour Law, and the second is Directive 2009/38/EL establishing the European Works Council, transposed into a separate law, the Law on the European Works Council. It is worth noting that the conducted analysis of the degree of compliance showed that certain European directives have not been properly transposed into domestic labour legislation, and as a result certain instruments for labour representation have not come to life in our country.

³¹ Agricultural Union. National directions/ recommendations for improvement of informing and consulting and process of inclusion in the Macedonian agriculture

³² Labour Relations Law [„Official Gazette of the Republic of Macedonia“ no. 62/2005; 3/2006; 3/2006; 44/2006; 65/2006; 16/2007; 57/2007; 77/2007; 106/2008; 161/2008; 63/2009; 114/2009; 130/2009; 149/2009; 10/2010; 50/2010; 52/2010; 58/2010; 124/2010; 132/2010; 47/2011; 11/2012; 39/2012; 13/2013; 25/2013; 170/2013; 187/2013; 106/2014; 113/2014; 20/2015; 33/2015; 72/2015; 129/2015; 27/2016; 134/2016; 120/2018; 110/2019 и 267/2020]

³³ Center for Research and Policy Making. 2017. “Industrial Relations in Macedonia: Challenges Ahead of Economic Recovery”. CRPM. Skopje 2017.

2.1. Transposition of Directive 2002/14/EC establishing a general framework for informing and consulting employees of the European Community

During 2010, within the process of harmonization of the labour legislation of the European Union, the Assembly of the Republic of North Macedonia adopted several amendments to the Labour Relations Law, which include transposition of directive 2002/14/EC into separate articles. Namely, new titles were added for the two new articles of the LRO which refer to: Informing and consulting the employees (Articles 94-a) and Informing and consulting in case of collective dismissals for business reasons (Article 95).³⁴

Informing the workers in accordance with the amendments from the Labour Law means the transfer of data by the employer to the representatives of the workers so that they can get acquainted with them and can investigate them.³⁵ Furthermore, consulting is defined as the exchange of opinions and the establishment of dialogues between workers' representatives and the employer, and the Law regulates the obligation to inform and consult to refer to a company, public enterprise and other legal entity with more than 50 employees and in institutions that have more than 20 employees.³⁶ Informing and consulting includes informing about the close and probable trends of the employers' activities and his economic situation, about the situation, structure and probable course of employment and about any envisaged measure, especially when there is a threat to employment and decisions that can lead to substantial changes in the organization of work or in contractual obligations.³⁷ The Law also regulates the manner and time of providing the information, i.e. it requires them to be timely and with their content appropriate to enable the representatives of the workers to conduct appropriate analysis of the same and to prepare for consulting where necessary.³⁸ Article 95 of the Labour Relations Law regulates informing and consulting if the employer makes a decision to terminate the employment regardless of the total number of employees, i.e. in case of collective dismissals for business reasons. In that case, the employer is obliged to conduct a consultation procedure with the workers' representatives and to provide them with all relevant information before their engagement, in order to reach an agreement.³⁹ If the employer does not provide information and consultation to the employee within the meaning of Articles 94-a and 95, the Law provides for a fine.⁴⁰

³⁴ Article 21 of the Law on Amending the Labour Relations Law ("Official Gazette of the Republic of Macedonia", no. 124/2010). 20.09.2010.

³⁵ Article 94-a, paragraph 1 of the Labour Relations Law ("Official Gazette of the Republic of Macedonia", no. 62/2005; 3/2006; (...) 267/2020).

³⁶ Article 94-a, paragraph 3 of the Labour Relations Law ("Official Gazette of the Republic of Macedonia", no. 62/2005; 3/2006; (...) 267/2020).

³⁷ Article 94-a, paragraph 4 of the Labour Relations Law ("Official Gazette of the Republic of Macedonia", no. 62/2005; 3/2006; (...) 267/2020).

³⁸ Article 94-a, paragraph 5 of the Labour Relations Law ("Official Gazette of the Republic of Macedonia", no. 62/2005; 3/2006; (...) 267/2020).

³⁹ Article 95, paragraph 5 of the Labour Relations Law ("Official Gazette of the Republic of Macedonia", no. 62/2005; 3/2006; (...) 267/2020).

⁴⁰ Article 265, paragraph 1 of the Labour Relations Law ("Official Gazette of the Republic of Macedonia", no. 62/2005; 3/2006; (...) 267/2020).

Article 130 of the Labour Relations Law states that the employer is obliged to consult with the employers' representatives union before the introduction of night work, and if such is not established, with the workers' representative regarding the issues for its implementation.⁴¹ Only in this article of the Law the term consulting with the union is mentioned, although it should be noted that it is out of the context of informing and consulting the workers, which refers to more important issues such as employment, wages and the like.

The representatives of the trade unions in the country are afraid of the possibility in the new Labour Relations Law to remain or to strengthen the instrument for appointing a representative from the employees in the company. At the enterprise level, the employee representative can sign a contract with the employer, and given the level of development of industrial relations, employers themselves often follow a line of least resistance and nominate and appoint employee representatives themselves.⁴² Namely, in that way the trade union is "bypassed" and the need for formal organization of the workers in works councils (which is the most common way) and similar representative bodies of the employees, leaving a vacuum of ambiguity and insufficiently clearly arranged instrument which opens the possibility of abuse by the employer and fulfillment of the legally prescribed obligations exclusively in order to avoid their violation, without the dialogue taking place substantially.

The Federation of Trade Unions of Macedonia (SSM) and Organization of Employers of Macedonia (ORM) have signed the General Collective Agreement for the private sector in the field of economy, which applies to all employers.⁴³ According to the collective agreement, the employer at least once a year or as needed, provides information to workers on issues that are relevant to their economic and social status. The information is provided in a manner appropriate to the information itself and may be in writing or orally, through an authorized representative. The consultation is defined, which in the sense of the Agreement implies exchange of opinions and establishment of dialogue between the representatives of the trade union, i.e. the workers and the employer, whenever necessary in the cases determined by law, especially for the economic situation, but also for the decisions of the management which can lead to substantial changes in the organization of work or in agreed obligations. At the employer level, the union selects or appoints an information or consultation representative and thus conducts social dialogue.

Practically, with the General Collective Agreement for the private sector in the field of economy, SSM provides a position in which it will lead the dialogue with the employer regarding informing and consulting the employees, instead of the "freedom" left by the Labour Relations Law, which can be abused by the employer if he appoints the representative himself.

⁴¹ Article 130, paragraph 5 of the Labour Relations Law ("Official Gazette of the Republic of Macedonia", no. 62/2005; 3/2006; [...] 267/2020).

⁴² Conclusion from the research conducted within the project. CRPM 2020.

⁴³ General Collective Agreement for the Economy of the Republic of Macedonia („Official Gazette of the Republic of Macedonia" no. 88/2009; 60/2010; 84/2010; 94/2010; 81/2012; 150/2012; 189/2013; 115/2014; 119/2015; 150/2016).

The impression from the analysis is that the issues that are the subject of informing and consulting the employees are limited to substantial changes in the organization of work or in the contractual obligations, when it comes to the transfer of ownership of the enterprise or when the employer intends to conduct collective redundancies. There are not more general issues that workers can be consulted on and participate in decision making such as enterprise development issues, investment policies, employment policies, wage levels, workforce training and the application of new production technologies, etc. These are issues that in some way give more weight to the consulting process and employees get a more significant role and a sense of belonging to the company, contributing to its development. Consequently, we can conclude that there is a lack of a more detailed legal framework for the establishment of Works Councils as a body for representation and consultation of workers, regardless of whether that body would originate from the union or operate independently within a company, even where workers are not unionized. Instead the application of the instrument is envisaged by a representative of the employees, which is not sufficiently developed in the legal provisions, so it is reduced to the selection of one employee without stating the procedure for his selection, the way of his control of other employees and other issues that limit its functioning and independence in terms of representing the employees within the company.

2.2. Transposition of Directive 2009/38/EC establishing European Works Councils

Directive 2009/38/EL establishing European Work Councils has been transposed into the Law on the European Works Council, adopted in 2012.⁴⁴ This Law regulates the establishment of the European Works Councils or the establishment of the procedure for informing and consulting the employees in the companies operating in Republic of North Macedonia, whose head office is in a country of the European Union. It aims to promote the right of information and consultation on transnational issues affecting employees, but also to promote dialogue between social partners in accordance with the law, collective agreements and international agreements. We can say that the Directive is very solidly transposed in the legal solution. All important issues are covered, and the Law regulates the procedure for establishing a European Works Councils and the election of representatives of companies operating in the country.

Namely, according to the law, the central management of the company at EU level is obliged to provide conditions and funds necessary for the establishment of a European Works Council. A special negotiating body is constituted for its establishment, which is formed for the purpose of establishing the council or determining the procedure for informing and consulting the employees. The body is established at the initiative of the central government or at the request of at least 100 employees or their representatives from at least two subsidiaries in at least two different EU Member States. One employee representative shall be appointed from each Member State in which the subsidiary operates. The representatives of the employees of the Republic

⁴⁴ Law on European Works Council („Official Gazette of Republic of Macedonia” no. 6/2012; 147/2015).

of Macedonia in the special negotiating body elect the representative trade unions in elections, by secret ballot. The representative unions in the company and at least 50 employees in the branch have the right to nominate candidates. All costs related to the establishment and operation of the special negotiating body shall be borne by the central administration.⁴⁵

The special body and the central administration are negotiating and cooperating in order to reach an agreement on whether a European Works Council will be established for the information and consultation process or procedure for informing and consulting employees will be established. The European Works Council is established by a written agreement concluded by both parties, which sets out several important issues, including: which branches and groups the contract refers to, the composition of the EWC, the scope of work and the like. Regarding the appointment of EWC members from RNM, the law stipulates that the members will be elected by the employees of the company and the groups of companies operating at EU level, in elections by secret ballot. Representative unions in the company or subsidiary and at least 50 employees have the right to nominate candidates for members of European Works Councils. As for the special negotiating body, the costs of establishing and operating the EWC are borne by the central government. It is obliged to provide the premises, material resources, translators and administrative staff needed for the council meetings. All obligations and duties arising from the operation of the EWC apply to the employees and their representatives from the country.⁴⁶

We can see that with the Law on the European Works Council, the trade unions in the country are given importance, enabling them to play a significant role in the establishment of the European Works Council. Namely, as we noted above, Article 13, paragraph 1 of the Law regulates: "Representatives of the employees of the Republic of Macedonia in the special negotiating body shall elect the representative trade unions in elections by secret ballot."⁴⁷ Although Article 11, paragraph 5 states that "Employees of the company or subsidiary in which no employee representatives are elected, have the right to elect and appoint members of the special negotiating body"⁴⁸, which indicates that if there is no union to elect representatives, the employees would still have the right to elect and appoint members and because of that, this Law "spills over" the indication of the trade unions that it is necessary to further regulate the instrument representative of the employees in this, but also in the Labour Relations Law, in order to protect the rights of workers and those enterprises to be better and trade union organized. The Article 23 of the Law on EWC states that representative unions have the right to nominate candidates for EWC members and Article 24 mentions that the central government is obliged to submit data on members to them. Additionally, Article 33 of the Law on Informing the Representative of the Employees states that

⁴⁵ Law on European Works Council („Official Gazette of Republic of Macedonia" no. 6/2012; 147/2015)..

⁴⁶ See the previous footnote.

⁴⁷ Article 13, paragraph 1 of the Law on European Works Council („Official Gazette of Republic of Macedonia" no. 6/2012; 147/2015)..

⁴⁸ Article 11, paragraph 5 of the Law on European Works Council („Official Gazette of Republic of Macedonia" no. 6/2012; 147/2015).



after the meeting of the EWC, the board is obliged to inform the representatives of the employees, i.e. the representative unions about the procedure of informing and consulting or if such representatives do not there notify all employees in the company or subsidiaries. All this suggests that the unions are taken into account in the whole procedure and the functioning of the EWC, but only if there is a union in the company.

Due to the complexity of the issues related to the representation of the employees, certain analyzes indicate that the Directive should be used in its broader meaning and transferred to the Labour Relations Law and thus to return the works councils that were crucial in the time of socialist rule.⁴⁹ Thus, with provisions that the instrument representing employees will be redirected to creating conditions for the establishment of the works councils by regulating their complementarity with trade unions, there would undoubtedly be significant results with long-term positive effects in terms of protection workers' rights and their effective representation in social dialogue with the employer.

What is also important is that the Law on European Works Council, which was adopted in 2012 and amended in 2015⁵⁰, although it entered into force eight days after its adoption, in the final provisions, i.e. article 43 states that the law "will start to be applied with the accession of the Republic of Macedonia to the European Union". Practically on this issue we have a law that cannot be applied, so the whole burden falls not only on the disinterest of employers or the passive approach of workers to their association, but also on the legal framework that creates indecision even in companies that are ready to establish association of this kind.

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⁴⁹ Najcevska Mirjana, Cekikj Aneta, Blazeva Ana, Sisovski Jordan and Stojadinovikj Sonja. 2019. "Analysis of the standards of labour rights and their application in the Republic of North Macedonia". Helsinki Committee for Human Rights of the Republic of Macedonia.2019.

⁵⁰ Law amending the Law on European Works Council ["Official Gazette of Republic of Macedonia," no. 147/2015]. 27.08.2015.

3. Assessment of the views of the social partners (research findings)

The Center for Research and Policy Making conducted several research activities aimed at examining the level of knowledge and information of the social partners regarding the policies of the European Union in the field of industrial relations, with emphasis on the European Works Councils. Given that this tool for informing and consulting employees in our country does not find its application, research questions were designed to stimulate thinking among research participants to understand the obstacles and limitations that exist in terms of representation of workers at the employer level, as well as the degree of compliance with EU law, the identification of the barriers and the functioning of social dialogue, the readiness of the social partners for transnational representation, as well as their cooperation with international organizations.

3.1. Social partners- trade unions

The trade unions agree that the process of harmonization of national legislation with the law of the European Union takes place without particular obstacles, but emphasize that it is worrying that the legal regulations do not interact with what is happening in practice. From a formal point of view, the state performs an excellent task, but from a material point of view things are not set as they should be, because the regulations are not fully implemented.⁵¹

“In principle, in Macedonia, we love to copy laws from European Union member states and then not apply them. In general, since I work on that issue, I can say that the labour legislation is not so bad, and speaking from the point of view of how it is written, but its application is 50-50, almost catastrophic.”⁵²

In general, the tripartite social dialogue from the point of view of the organizations representing the interests of workers is taking place at a solid level and the participants in the research did not emphasize the need for further harmonization of European with national labour legislation, with the exception that application of what is already described. We noticed that the representatives of the trade unions are actively involved and consulted in the preparation of the laws in the field of labour legislation. The Federation of Trade Unions of Macedonia, as a representative trade union, is involved in a formal and informal way in the preparation of legal solutions, including those that take place within the process of transposition of European legislation. In fact, SSM is the only organization together with the Organization of Employers, which was directly involved in the preparation of the Law on the European Works Council in 2012. Some of the proposals and remarks regarding the legal

⁵¹ Participant number 2. Representative of non-governmental organization for human and labour rights. Focus group organized on 17.07.2020.

⁵² Participant number 6. Trade union representative. Focus group organized on 17.07.2020.

solution have been taken into account, but they are of the opinion how much that law needs to be adopted when it will not be applied in practice or would find its application in one or two decades from its entry into force.⁵³

Consultations with trade unions also take place through the Economic and Social Council, meetings with representatives of public institutions or working groups for making legal decisions, as well as other informal meetings with social partners or political actors. It is mostly agreed on how certain legal solutions will be prepared, but there is a lack of unity regarding the protection of workers' rights and interests.⁵⁴ In order to achieve the set goals for the protection of workers' interests in the preparation of legal regulations, trade union representatives often use informal meetings to discuss relevant issues.

At its own initiative, SSM often organizes meetings on all relevant issues, to which representatives and associates from the international trade union confederations are invited. At those conferences and meetings, the stakeholders exchange opinions, but also the best practices and experiences from the countries of the European Union. Meetings are often used to gain support from the European and World Trade Union Confederation. Their influence is quite significant and serious; therefore the direct communication by organizing meetings of this kind, with the support and solidarity approach of the European trade union confederations is important.⁵⁵ Conferences and events to bring European legislation closer to the social partners are also organized by non-governmental organizations working to protect workers' rights. They say that although their recommendations are taken into account as important and they are promised to pass them on to the social partners at the meetings of the Economic and Social Council, it all ultimately comes down to a promise, without serious commitment.⁵⁶ Their activities and influence are mostly through analyzes and recommendations regarding the legal regulations, and the unions that are not representative function in a similar way.⁵⁷ Small trade unions are less informed about current developments. Therefore, the impression is that only representative trade unions have the power to directly and indirectly engage in the decision making process and draft legal legislation in the field of labour legislation, while other actors working in the interest of workers are consulted, but their opinions are hardly taken as relevant.

The human resources that works organizations have in terms of their power to introduce and represent the interests of workers are significant. Namely, the representative trade union has the capacity to prepare well-argued and sound proposals for improving the legal framework. The Federation of Trade Union of Macedonia has prepared a completely new text of the Labour Relations Law, which

⁵³ Participant number 7. Trade union representative. Focus group organized on 17.07.2020.

⁵⁴ Focus group conclusion with representatives of trade unions and organizations representing the interests of workers. Organized on 17.07.2020.

⁵⁵ See the previous footnote.

⁵⁶ Participant number 4. Representative of non-governmental organization for human and labour rights. Focus group organized on 17.07.2020.

⁵⁷ Participant number 1. Trade union representative. Focus group organized on 17.07.2020.

was submitted to the Ministry of Labour and Social Policy. The advocacy process involved domestic and foreign professionals and the union organized conferences, consultations and meetings in a wider format. In order to introduce and represent the workers, as well as to build reasoned views and proposals, the trade unions are currently conducting research and analysis of the situation.

Having in mind the level of involvement of the organizations that represent the workers in the social dialogue, we have made an in-depth review in terms of the level of awareness they have regarding the European Works Councils. In general, the level of information among the participants in the discussion is low, i.e. wider knowledge of the European Works Councils had the representatives of SSM, including the representatives of the branch unions, and less those who work in the non-governmental sector. The discussions also included a representative of the Trade Union of Industry, Energy and Mining of Macedonia (SIER) who had the opportunity during an international study visit to participate in a working meeting of the European Works Council which is active within the company in which he is employed. And it is unclear for him why this law was adopted in 2012, when it cannot be implemented in practice.

„I was invited as an employee of the company, without the right to vote. I attended the meeting and I can say that it is positive for us both from the point of view of the employer, because there were good topics discussed at the employer level. At those meetings, the unions get first-hand information. I believe that it will be the same for us when we become an EU member.“⁵⁸

There is an impression among the trade union workers who took part in the discussion that their colleagues are not well enough informed about the European Works Councils, even those who hold managerial positions with trade unions. According to them, there is a lack of readiness of the managements in the multinational companies to cooperate in this way, although they are familiar with the existence of these instruments for social dialogue. Their experience of cooperating with colleagues from the countries where works councils operate is that even in conditions of more developed industrial relations, there is always a danger of “playing” certain workers’ rights, if there is no serious structure and trade union organization of workers.

„How familiar we are with the European Works Councils is shown by the fact about the situation in the companies from the so called free economic zones. You have to know that in those companies, domestic managers from Macedonia are familiar with the works councils and the way they use them to curtail the rights of workers, i.e. not to allow union organization and the

⁵⁸ Participant number 3. Trade union representative. Focus group organized on 17.07.2020.

liketo abuse them. This is the level at which we are familiar.“⁵⁹

The experiences of union workers gained through cooperation with international partners, show that even in European countries with developed industrial relations in those companies where workers are not organized in unions, organizing in works councils is a serious challenge. The indications from the European experiences should be taken into account, because if they are in danger of circumventing certain workers' rights, what would happen in a country like RN Macedonia where there is no serious structure and organization of workers in many companies?⁶⁰ According to the experiences of individual branch union presidents, the positive experiences and raising the level of social dialogue with the employer depends on the approach of the employer and the management.⁶¹

In Republic of North Macedonia, the European Works Councils as an instrument for representing workers at the enterprise level are not applied, and according to union workers in the short term one should not expect anything significant to change. The legal solution was adopted eight years ago, but although they were consulted during its preparation, they expect that when the time comes for its implementation, they will be able to give their opinion so that things can be put on a sound footing from the beginning. Their experience shows that the rapid application of an instrument of this kind, in essence, will not improve the dialogue between labour and capital, because the number of unionized workers in the country does not go up, and everything will be reflected in the establishment of works councils. As already mentioned, there is a high degree of concern and fear among trade union workers that works councils will be abused to avoid workers' union organizing. In that way, their struggle for workers' rights will become more difficult; with the initial impression being that workers are more represented by being represented at the enterprise level, but how much such a representation will be reflected in reality and contribute substantially is the question which they set for themselves. Their experiences in this regard are not always positive.⁶²

In the absence of the European Works Councils, but also of the works councils in general, the question arises as to how the consultations with the employees take place and how the lack of this mechanism is compensated and whether domestic and multinational companies have prescribed their own rules. Some of the participants referred to the situation in the former state, SFR Yugoslavia and the way these issues were regulated in that period. Namely, the works councils were inherent in that system and the workers solved the problem in the workplace primarily through other tools for advocacy and protection, which is not the case today.⁶³ In certain economic activities, the consultation process does not take place as is usually understood. This

⁵⁹ Participant number 6. Trade union representative. Focus group organized on 17.07.2020.

⁶⁰ Focus group conclusion with representatives of trade unions and organizations representing the interests of workers. Organized in 17.07.2020.

⁶¹ Participant number 3. Trade union representative. Focus group organized on 17.07.2020.

⁶² Participant number 2. Trade union representative. Focus group organized on 17.07.2020.

⁶³ Participant number 5. Representative of human rights protection organization. Focus group organized on 17.07.2020.

is a result of the constantly weakening role of the unions. However, trade unionists believe that comparisons of this kind should not be made, as the function of works councils in the past and today is completely different. Namely, this is due to the fact that in the former system, union membership comes with the employment of the employee, so in a way the union could show greater authority in the public.

„In the past it was 100 % membership, and now we have gone far in a democratic society in which we do not fight with the manager who came to office from the circle of workers and for whom the workers agreed that he be the first among equals. We are fighting with some who have transferred social capital to their own name, so now they are ruthless or with some who has created capital and established a company and we have to fight him in order to give more of his pocket to us, the workers, which is very difficult. Let's try not to lie ourselves.“⁶⁴

The Labour Relations Law provides for a representative of the workers, but does not prescribe and clearly state how that representative will be elected and how to create certainty that the workers have really chosen the worker as their representative and whether he really works to represent their interests. As previously stated, for representatives of workers and organizations working for their protection there is a high probability that the employer himself will appoint a worker who is in a closer relationship and will later sign everything necessary, according to what the employer will order and that will be presented as harmonized through some kind of a dialogue. Therefore, it is noted that there is complete legal uncertainty because it is said that there will be a representative of the workers, but the way it will all work is not clearly defined and leaves room for abuse.

„I think it depends on the employers, not that there are no positive examples where the internal rules are governing that, especially in larger companies where workers have struggled to have some clear rules on how to elect a representative. The idea that there is a consultation between workers and an employer in Macedonia is a little bit (...) I think it is illusory to say that there really is a dialogue because employers try to implement the provisions of the LRL and as long as he thinks it is within the law, he does not goes any step further“.⁶⁵

„Is not regulated either how a representative of the workers is elected, or who choses him, or before whom he is accountable, or where he is registered, and he is not given any legal opportunity

⁶⁴ Participant number 6. Trade union representative. Focus group organized on 17.07.2020.

⁶⁵ Participant number 5. Representative of human rights protection organization. Focus group organized on 17.07.2020.

to sign contracts and meet the employers need and the like. In my opinion as a person, not as a trade unionist, it should be immediately deleted from the law. If I am not a trade unionist and if I am employed in a company, the manager can choose me just by pointing at me, if he orders to sign for a salary of 25.000 denars, you will sign and not object.”⁶⁶

Trade union workers are aware of the fact that the Labour Relation Law prescribes certain principles for informing and consulting workers, but they are not sufficient framework for establishing a dialogue mechanism that will give solid results. Namely, according to their experiences, the consultation process depends on how things are set up in the company itself. Actually, in the places, where the workers are organized in a union, informing and consulting the employer with the employees is successful, and where there is no union, the workers complain that they have never been discussed with on important issues about the situation in the company for years. In companies where there are organized workers, the employer is obliged to submit even the financial report to the workers. When workers are not organized in a union, in practice all these issues are resolved in a very complicated manner.

„We have witnessed such cases, we have been into companies where we do not have a union, just to meet the workers. We have been welcomed by the employer and get allowance to enter, but also we have seen a moment when the manager at the beginning of the meeting appoints a workers’ representative in order to tell how things are going in the company in front of the trade union representatives.”⁶⁷

Although there are no clear mechanisms for conducting social dialogue between employees and management, as is the case with works councils, in some companies the opinion is valued, especially in unfavorable circumstances, such as the coronavirus crisis when any advice for employers is welcomed. In companies where workers are organized in a union, consulting and informing takes place through the union. Serious employers provide information about the situation through bulletin boards, and lately with the application of the technology in many companies with a large number of employees, video beams are installed. According to union workers, where there is no union, there are allegations by the workers that their rights are being violated, and often a bulletin board was places in the manager’s office , on the ground floor of the plant, or in other places where workers could not access any time of the working day. Workers are also consulted on more important issues such as the situation in terms of labour, production and the like. Consultation meetings usually take place when a particular problem or crisis situation arises in the company. Both parties initiate meetings, but when the employer is faced with a problem that needs to be overcome,

⁶⁶ Participant number 6. Trade union representative. Focus group organized on 17.07.2020.

⁶⁷ See the previous footnote.

it is noted that these meetings are organized in a significantly shorter period of time.⁶⁸

However, the general impression of all participants in the discussion is that very important issues are not discussed between employees and management, and the energy is focused more on individuals than on the collective and the work agreements. The dialogue is not conducted at the desired level, so for example the level of wages is rarely discussed, especially in companies where workers are not organized and unions do not have open access to establish an association. Therefore, one participant will say: "Everything is discussed in the companies, except for the workers' rights."⁶⁹ It is also worrying that the workers are passive and do not know their right well enough to be able to demand more from employers. They believe that everyone should work together and strive to achieve a European level of work of the unions, i.e. they should not be seen by the members as organizers of meetings between workers and awarding discounts for buying products, but as an organization in which they themselves will contribute in building the capacity to protect their rights.

3.2. Social partners- Representatives of employers

The representatives of the employers⁷⁰ have almost the same position as the representatives of the workers regarding the process of harmonization of the European with the domestic legislation. The remarks are that in essence there is no adjustment procedure in the country, but the legal regulations are in some way copied and put into force without first analyzing whether they are properly harmonized with the existing legal framework. The participants believe that in the future we should be careful in this regard in order to make applicable legal solutions.

„There are legal rules that are no longer applicable in the European Union, and in our country they are still valid and in force. What we have told in the Ministry of Labour is that changes need to be made and the new directives that replace the previous ones need to be ratified.“⁷¹

Similar to the union workers, they actively contribute and are consulted by the MTSP regarding the preparation of labour regulations in the field of labour. The approach of each organization is different, so the Economic Chamber has established a platform to improve business regulation. Within the cooperation, they have signed a memorandum of cooperation with the Government of Republic of North Macedonia, with the competent institutions having an obligation to take into account all

⁶⁸ Focus group conclusion with representatives of trade unions and organizations representing the interests of workers. Organized on 17.07.2020.

⁶⁹ Participant number 5. Representative of the organization for human rights protection. Focus group organized on 17.07.2020.

⁷⁰ Representatives of Organization of Employers and Economic Chamber participated in the discussion.

⁷¹ Participants number 5. Representative of Organization of Employers. Focus group organized on 17.07.2020.

proposals and suggestions and to be properly informed about the further steps in the reform phase. Economic chamber are associations that represent the interests of their members in order to develop their competitiveness and improve the conditions for business, but still they are not part of the economic and social council. As organizations, they have a significant impact on the social dialogue in the country, as they represent the largest part of the capital in the country so often their recommendations are taken into account in the procedure for drafting legal regulations. The main problem according to the representatives of the employers is that in the phase of preparation of the legal regulations, their proposals are not taken in full, i.e. somewhere in the procedure they take a different form and do not fully reflect their initial requirements.

„So, what we write is accepted and we agree, but the proposal should go through the whole procedure for adoption. You know that the adoption of a draft law is given by the Ministry (working group), so it goes through the phases of the Assembly, but until it gets there we eventually have a deformation of it all (...) One word or sentence should be changed in the proposal and we already have another meaning, and then it is too late to change it all.“⁷²

To represent the interests of their members, Organization of Employers and other stakeholders raise initiatives or organize conferences and meetings to open discussions on important issues. The meetings are organized not only when the dialogue is mediated by the MTSP or the Government, but also when they have undeveloped views and opposing opinions with the unions. The remarks are that the negotiation process, despite having a “noise” until it reaches its final goal, is still a long process that can last “indefinitely”. This is the case with the preparation of the new Labour Relations Law. Basically there are issues that need to be aligned with the unions and it takes a long period of negotiation, but sometimes they face unnecessary procrastination.⁷³ They all agree that all stakeholders should be committed to improving and rectifying all shortcomings of labour legislation.

„We have good cooperation with the Ministry of Labour in the field of labour laws, but it is difficult to say to what extent our proposals have been accepted. A compromise is required to pass a law or a new collective agreement. We represent the interests of employers, but not to the detriment of workers. I think we are satisfied with the cooperation, but it can always be better.“⁷⁴

The experiences of the organization of employers that are members of the

⁷² Participant number 1. Representative of the Economic Chamber. Focus group organized on 17.07. 2020.

⁷³ The preparations for the new Labour Relations Law have begun in 2018. According to the stakeholders, the process is long, mainly due to the extensive consultation process conducted by the MTSP.

⁷⁴ Participant number 2. Representative of Organization of Employers. Focus group organized on 17.07. 2020.

Economic and Social Council are different, i.e. good and bad. Good experiences are when their proposals are taken into account and they happen to be part of a certain legal solution or to be completely translated into a new law, but a weakness in terms of tripartite dialogue is that the proposals from employers and workers need to coincide with the political agenda. Otherwise, they are less likely to be overlooked and implemented. The bad experiences are also in the direction of not accepting technical remarks, which although not essential, are still important for the improvement of the legal regulations.

„In our opinion, the social dialogue should be developed and it is still at a very low level, but we are on a good path to develop it and reach a higher level of social dialogue where not only the implementation will be achieved but also we will enjoy the results and the everyone's opinions will be accepted.“⁷⁵

The most important regulation for which, conditionally speaking, the spears are broken between the workers and the employers is the Labour Relations Law and that is why the representatives of the employers approach their proposals seriously and sustainably. They base their arguments on analysis and research, and sometimes, depending on the complexity and weight of the issues in question, surveys are conducted. They conduct the surveys within their membership, mostly to prepare appropriate proposals or to receive feedback before submitting them to the competent institutions. Advocacy documents are often not only aimed at their members, but also cover the interests of all employers and therefore the process of their preparation involves several phases.

According to the participants, one of the most important directives transposed into domestic law is Directive 2002/14/EC on informing and consulting workers. It is considered crucial in terms of establishing works councils, but that instrument is not regulated by Labour Relations Law. That is why companies use different ways of consulting workers, often by setting up internal bodies for that purpose. Almost a decade ago, the MTSP initiated the introduction of provisions in the Labour Relations Law that would regulate works councils, but it all remained as an idea that has not been discussed among the social partners since

„In the collective agreements, as much as we can, together with the trade unions, we regulate the issue of informing and consulting, and for many issues of that kind we ask for the consent of the unions themselves.“⁷⁶

The representatives of the employers have a similar attitude as the trade union workers

⁷⁵ Participant number 5. Representative of Organization of Employers. Focus group organized on 17.07. 2020.

⁷⁶ Participant number 2. Representative of Organization of Employers. Focus group organized on 17.07. 2020.

regarding the transposition of the important European directives in the field of labour. They think that the laws are not bad, they are even excellent for some issues, but their application in practice is a problem. The level of awareness regarding the European works councils is similar to that of the trade union workers, with a small part of them being essentially familiar with the situation or being involved in the preparation of the legal solution. The Organization of Employers of Macedonia says that a discussion on that topic has not been open for a long time, and in the period of adoption of the Law on European Works Councils they were informed in detail about these issues and gave their contribution. Namely, they were consulted and several debates and workshops were held on that topic, but the issue was not approached with great interest by employers, at least not as they do in terms of changing the regulations in the field of labour relations. Their impression is that this instrument undermines the role of the union, and in the discussion with the union workers they noticed that their position is that the works councils should be in some way an integral part of the union, i.e. the representatives of the works councils should be representatives of the unions.

„Our unions demand the works councils have their own representatives, i.e. representatives from the unions. Our position at that time was that it should not be so, but that issue should be further opened and discussed. We believe that workers need to be better informed, but we should not set up works councils as we did under the socialism.“ ⁷⁷

Besides OEM, other representatives of employers are partially familiar with this instrument. They consider it necessary to have a works council, as a form of representation of workers in an enterprise through which employers will be able to more easily reach the opinion of workers regarding the work of the company on the one hand, and on the other hand workers will be better informed of any major steps taken by the company. In essence, works councils say that they will be a point of contact between management and workers. It is estimated that the Directive establishing EWC has been solidly transposed into the domestic law, i.e. it has been translated into law, which has not yet found its application. In addition, they believe that only a small number of multinational companies operating in the country could meet the requirements. With regard to domestic companies, they believe that it is necessary to create conditions for the application of this instrument.

„However, if we want to envisage this form of association it is certainly possible, with a dialogue with the unions because this is a kind of competition for them, but their awareness has changed because they are no longer so attractive to workers and they do not want to join because they think they are getting nothing. This will be a new model that will be interesting for both workers

⁷⁷ Participant number 2. Representative of Organization of Employers. Focus group organized on 17.07. 2020.

and employers, but also for the unions because in our opinion the proposal that the unions have their own representative to be implemented successfully is acceptable.“⁷⁸

In the absence of works councils, informing and consulting employees within the company takes place through informal communication, but also through the human resources department. They say the sector is bridging the gap between the two sides, and the companies that care about their employees often prepare internal surveys and interviews to assess job satisfaction, as well as questions about the company's operations. As a mechanism for the development of these workers' rights are the collective agreements at the level of industry, but they apply only to the members of the representatives of the advocacy trade unions and organizations of employers, but not to the other companies in the field.

„Many things are regulated by the collective agreements at the employer level, and we have very few agreements of this kind. I can say that it is one of the weakest links in our system. The bigger companies do have, but the smaller ones do not. The method of consultation is different at every employer. Some receive e-mails, others inform the workers through bulletin boards, get convened, and we have experience where the employer convenes the union representatives in the company once a month to discuss the problems and if necessary meetings are held with the workers.“⁷⁹

Experience shows that meetings between employees and management are initiated when necessary, in order to overcome a certain situation or state of crisis. In practice, the concept of information and consultation with employees are not fully applied, and regularity is needed in that regard, in order to maintain a good working atmosphere in the company. According to workers representatives, there is generally no problem in terms of information, as each employer finds a way to inform workers, but there is a slight limitation in the application of the consultation process. Practically when the employer needs to consult the employees, it can cover topics that are sensitive and important to the company, such as changes in terms of workforce, production and sales, discussion of future investments and the like.

They agree that there is room for improvement and intensification of the social dialogue at the employer level, but this is influenced by many factors, especially the fact that workers in the country are most interested in discussing wages, without being willing to increase their productivity. The social dialogue at the employer level can be to improved and expanded and dealing with issues such as: working conditions, wages and annual leaves, days off, education days, and some of these issues where workers are organized in union can be covered by collective agreements.

⁷⁸ Participant number 4. Representative of Organization of Employers. Focus group organized on 17.07. 2020.

⁷⁹ Participant number 2. Representative of the Organization of Employers. Focus group organized on 17.07.2020.

In order to promote social dialogue, it is necessary to increase trust, and by reducing the power of trade unions, the works council for many companies will be something artificially set, i.e. without a good union structure; the chances that the works council will gain importance with the employer are small. Therefore, we should work on raising awareness of what it means for the employee to be well informed and consulted by the employer. In general, the conclusion is that certain issues in the Labour Relations Law should be further regulated, and then the consistent implementation of the Law on the European Works Council should be expected (when we become EU member). If it is determined that there is a need to introduce the instrument works council, the conditions for establishing such a body in the country should be regulated in detail. An alignment should be achieved through dialogue between workers representatives and employers.

3.3. Findings from the conducted interviews with representatives of private companies

In-depth interviews were conducted with several representatives of domestic and multinational companies to examine the current situation, but also the views on the need to apply the (European) works councils as a consultative body between management and employees, and further opened the possibility for discussion aimed at finding solutions to overcome the shortage in conditions when this information and consultation body is not established in the company.

Regarding the European Works Councils, some of the managers in domestic and multinational companies are not fully acquainted with the existing legal framework for informing and consulting workers, although they say that most often those bodies would exist in domestic branches if there are any in the countries where the headquarters of the company are located,⁸⁰ which is not the case with the telecommunication sector in which their establishment is missing, and they operate in European countries.⁸¹ It is important that companies have set an appropriate business strategy that will include or consult employees in decision making. If it is not the case, then only managers are consulted on important issues,⁸² and in some cases this is the only practice, because regarding this issue, there is a complete lack of respect for workers interests.⁸³ If there is no official channel through which the employees will be consulted, it remains in the good will of the managers to informally share the information or to transfer it in the opposite direction, i.e. from the employees to then management in order to build the positions better. Otherwise it is more difficult or lacking to inform and consult them.

In the absence of a European Works Council, multinational companies communicate and consult with their employees through employees' representatives,⁸⁴ and in

⁸⁰ Conclusion from an in-depth interview with a representative of a multinational manufacturing company.

⁸¹ Interview no.8 with a representative of a multinational company from the telecommunications sector.

⁸² Interview no.3 with a representative of a multinational company from the banking sector.

⁸³ Interview no.6 with a representative of a domestic company from the manufacturing industry.

some cases through trade union representatives of their employees.⁸⁵ Employees are encouraged to engage in certain activities and are asked for ideas that are later implemented, which addresses issues of importance to the company such as achieving efficiency and effectiveness in the work process.⁸⁶ In some companies, a culture of open communication is practiced, especially when the employer wants to address directly issues related to workers' rights⁸⁷ and support in that process is provided by human resources departments, but also by the union membership.⁸⁸ In these companies, to a large extent, the union is involved in the process, which often appears in the role of a signatory of a collective agreement at the employer level, which improves and promotes the rights of the workers⁸⁹ and thus fills the absence of the consultative body that would participate in making executive decisions.⁹⁰ Cooperation with the union at the enterprise level can be formal or informal, depending on the nature of the issues being discussed and they are consulted mainly when it comes to activities related to employees and their rights in general.⁹¹

Employers value the expertise of workers on certain issues and therefore are often consulted when working conditions and safety need to be improved, but for them as representatives of companies it is an indisputable fact that the degree of cooperation is limited when it comes to preparing enterprise's development strategies as well as similar significant policies. At the meetings with the representatives of the employees or the union workers, various issues related to the economic situation in the company, the working environment and working conditions, equal opportunities, health and safety at work, new investments, production volume, etc. are discussed.⁹² In the firms where the consulting is implemented, the items on the agenda are known in advance, so it is expected that the parties will be solidly prepared before the meeting. From the experience of certain managers so far, the impression is that the workers do not have a high degree of trust in the work of their representative bodies (refers to workers representatives), and this can be changed through joined efforts, transparency, discussions and acceptance of ideas for action on both sides.⁹³ However, it is important to note that these are individual experiences, not practices, as some companies in the structure and business plan of the work consider that it is not necessary to consult workers on the most important issues.

According to the experience of employers, the initiative for informing and consulting

⁸⁴ Interview no.3 with a representative of a multinational company from the banking sector.

⁸⁵ Interview no.2 with a representative of a domestic company from the manufacturing industry.

⁸⁶ See the previous footnote.

⁸⁷ Interview no.4 with a representative of a multinational company in the energy sector.

⁸⁸ Interview no.5 with a representative of a multinational company from the IT sector.

⁸⁹ Interview no.4 with a representative of a multinational company in the energy sector.

⁹⁰ Interview no.5 with a representative of a multinational company from the IT sector.

⁹¹ Interview no.9 with a representative of a multinational company from the telecommunications sector.

⁹² Interview no.2 with a representative of a multinational company from the manufacturing industry.

⁹³ See the previous footnote.

can come from both sides, and the way in which the outcome of the conversations is transmitted to all employees is different, although it usually includes information through bulletin boards, electronic communication, and often through immediate managers. IT companies also hold electronic meetings with employees and in addition, it takes place at the level of individual sectors. At those meetings, the business plans and the results of company's operation are shared.⁹⁴ For that purpose, certain companies annually organize meetings of a similar nature attended by representatives of management and employees. In companies where there is a culture of higher communication and building a spirit of cooperation, the company has introduced open days for employees with the management and human resources department, where they can report a problem, be informed about things that are of interest to them, as well as other issues relating their rights.⁹⁵ In companies that pay more attention to the well-being of employees and their integration into the work organization is important, they say that meetings with unions at enterprise level are solid and productive, and often raise questions aimed at restructuring the company, working conditions and the work environment.⁹⁶ IT companies often seek and encourage employees (and they feel free) to give advice, guidance or ideas to improve the work process, because these are large projects on which a lot of people work, who are experts in the relevant field.⁹⁷ The impression among the participants in the research is that the employees have a desire to be informed about the current developments, but there is a lack of desire for their own contribution and giving ideas, so these questions can often be reduced to complaints and grievances regarding the work of the management.

The research team examined whether the Macedonian worker is sufficiently integrated in the working structure of the company, so he experiences success as his personal success and is ready to contribute to the growth and development of the company. Opinions were divided and company representatives say that it mainly depends on the workers, but also the transparency of the company in terms of work results. Companies that invest in the development of their human resources say that there is a certain degree of connection between the company and the employee, but still the identification and the sense of pride of the workers for belonging to the work structure is still low. They believe that because of that the personal contribution of the employees and their commitment to development and the achieved result from the operation of the company is lower.⁹⁸ If the workers are younger or seasonally employed, the feeling that they should contribute to the development of the company is almost completely absent, but it is still important whether the management at the central level has an interest in involving them, so that they can be expected to encourage a sense of appreciation and belonging to the work organization. The

⁹⁴ Interview no.5 with a representative of a multinational company from the IT sector.

⁹⁵ Interview no.4 with a representative of a multinational company in the energy sector.

⁹⁶ Interview no.9 with a representative of a multinational company from the telecommunications sector.

⁹⁷ Interview no.10 with a representative of a multinational company from the IT sector.

⁹⁸ Interview no.5 with a representative of a multinational company from the IT sector.

salary can be a significant incentive for employees to take the initiative, but it is even more important that they are valued and treated fairly.⁹⁹ In places where the working conditions are better, the employee wants to get involved with their ideas,¹⁰⁰ and many employees would like to share their opinion for the good of the company.¹⁰¹ The culture of sharing plans for development or results and achieved success is developed by new companies in order for the employee to be aware of his role in the company and to know whether his work contributes to the overall financial results and success of the company.¹⁰² However, it is necessary to fulfill all legally prescribed rights of workers, to gain all the benefits of employment and employment organization, and when they feel economically secure, some managers believe that workers will show interest, on their own initiative, in finding a way to further invest, organize and increase the sense of belonging in the company.¹⁰³

Given that the sense of belonging is low and there is a lack of self-initiative by workers to form works councils, some managers believe that the union should move these things forward. That is, in conditions when the workers are not organized, the union should take over the role and put pressure on the enterprises for workers organization at the enterprise level, and then at the branch. The remarks are that sometimes that pressure on the employer is missing.¹⁰⁴ The impression of certain companies is that the workers are not ready to organize, so sometimes the management, due to their needs, initiates them to choose a representative from their ranks so that the employer has the opportunity to communicate and agree with them on certain issues. The importance of works organization is seen as added value by the representatives of companies for which it is strange that in many domestic companies workers are not organized in a union or in certain representative bodies at all. They believe that this is due to the fear of losing their jobs, because in many companies workers are afraid for their future if they approach the employer with requests to join a union.¹⁰⁵ Given that the union should lead these processes for the advocacy of workers, it is necessary to train union workers to do their job properly.¹⁰⁶ Many of the companies in which the workers are unionized, believe that there is no particular need to establish a representative body as the works council that would take care of workers' interests. Where workers are not organized in a trade union, company representatives are of the opinion that works councils should function as a separate body from the unions, while in those entities where social dialogue takes place, workers unions and trade unions should cooperate. However, everyone agrees that the existence of formal consultative bodies within companies will

⁹⁹ Interview no.1 with a representative of a multinational company from the manufacturing industry.

¹⁰⁰ Interview no.8 with a representative of a multinational company from the telecommunications sector.

¹⁰¹ Interview no.3 with a representative of a multinational company from the banking sector.

¹⁰² Interview no.5 with a representative of a multinational company from the IT sector.

¹⁰³ Interview no.3 with a representative of a multinational company from the banking sector.

¹⁰⁴ Conclusion from an in-depth interview with a representative of a multinational manufacturing company.

¹⁰⁵ Interview no.6 with a representative of a domestic company from the manufacturing industry.

¹⁰⁶ Interview no.4 with a representative of a multinational company in the energy sector.

undoubtedly contribute to raising awareness among workers about their affiliation, but also for their greater inclusion in the co-decision process.

From the perspective of employers, the social partners, the social partners are not flexible, but try at all cost to achieve their goals. This is reflected in the social dialogue and often the agreed solutions are “partial” and as a result of certain compromises that the representatives of the unions and the employers make in order to get something more within the collective negotiations later. Therefore, some of the legal solutions do not represent the real needs of companies, but of workers.

Conclusion

The trend of increased presence of multinational companies in the last decade has “affected” the Republic of North Macedonia. This is especially noticeable after the implementation of public policies aimed at attracting foreign direct investment in so called free economic zones. Cheap labour and favorable business conditions were a sufficient incentive for multinational companies to open production facilities in the country. Their presence has called into question the power of workers organizing, and the research has shown that the corporate executives, even when familiar with European Works Councils, are often used to curtail workers’ rights, often by appointing a staff representative in order to avoid trade union organization of workers.

The social partners agree that the harmonization of national legislation with the European Union law in the field of labour takes place without particular obstacles, during which they are consulted, but it is worrying that the legal regulations do not interact with what is happening in practice. Namely, from a formal point of view, the state performs an excellent task, but from a material point of view, things are not set as they should be, because the regulations are not fully implemented. Additionally, the analysis showed that the two important European directives¹⁰⁷ related to the issues of informing and consulting employees by employers in domestic and European companies have been transposed into the domestic law, but with some significant shortcomings that affect the employee advocacy process. Thus, Directive 2002/14/EC establishing a general framework for informing and consulting employees is transposed into only a few articles of the Labour Relations Law, and dialogue issues are limited to a few. Also, the association of employees within the company into works councils is not regulated, although in many legal systems this directive is a framework for the establishment of works councils that facilitate social dialogue at the employer’s level. Instead of works councils, our law provides for the election of a representative of workers, but this instrument for advocacy is not clearly defined and a number of essential details are not regulated, such as the procedure for his election, the manner of accountability and guarantees that he will represent the interests of employees, etc. The ambiguity in this part creates complete legal uncertainty and room for abuse in conditions when the functioning of the procedure for informing

¹⁰⁷ Refers to Directive 2002/14/EC and Directive 2009/38/EC

and consulting employees does not have a strong basis in most companies, and the culture of building partnership and cooperation between employees and management is low. This leaves ample room for excluding trade unions from social dialogue with the employer.

The obvious lack of a well- established legal ground for workers' associating through the formation of works councils with the support of trade unions creates a vacuum in which workers are not even unionized in domestic enterprises, but their representative is appointed, all making it difficult for them to organize in foreign enterprises, as well. Although Directive 2009/38/EC establishing the European Works Council has been transposed into a separate legal solution, i.e. the Law on European Council, which regulates all issues very solidly, this instrument still does not find its application, partly due to legal restrictions, as well as due to the low level of awareness among stakeholders about the existence of this instrument. This tool for informing and representing employees at European level is familiar mainly to those union workers and representatives of employers' organizations that participated in the transposition of the Directive 2012. The problem is that the legal solution does not find its application eight years after its entry into force, as the final provisions provide for its application after the country's accession to the European Union. In addition, research has shown that if workers are not unionized, the chances of organizing workers of a different kind are significantly lower, especially in bodies that have substantially less power to represent themselves in social dialogue with the employer.

Workers are allowed to join unions, which protect their interests and represent them in collective bargaining with employers. Trade unions are considered to represent the workforce as a whole, but they cannot represent workers before the employer and participate in decision making processes of the enterprise where workers have not formed a trade union. Namely, there is a significant difference in the functioning, but also in the role that the unions and the works councils have in terms of workers advocacy. The role of the union is to act on the basis of the general principles for protection of the interests of the workers, to represent and advise the workers in proceedings at the employer's and to provide them with legal aid and protection of their rights. The union is especially concerned about the realization of the rights agreed in the collective agreements, so they have the right to call a strike and implement it, in order to protect the economic and social rights arising from employment. On the other hand workplace cooperation, i.e. through the works council, is a form of a bipartite social dialogue at the enterprise level. Through it, the employees get the opportunity to integrate in the company, to receive information about the work and future decisions and plans of the administrative bodies, but also to be consulted or to decide on undertaking future activities for the benefit of the working organization. Depending on the set-up of the councils, but also on the readiness of the employers to actively involve the workers in the important processes, more active forms of cooperation are applied, which include involvement in the decision making process on important issues.

In recent years, unions have been losing their power, and their organization in new

enterprises is at a low level. As a result, in most multinational companies there are no workers associations, and the union is often being bypassed by electing a workers' representative. They also face limited conditions for building advocacy capacity, and the possibility of representing employees at European level in conditions when there is a lack of experience in terms of the functioning of works councils, language barriers and the low culture of building partnerships is questionable by the management through social dialogue. In addition to the legal framework, workers association for trade unions workers in enterprises takes place in difficult circumstances and because they no longer face corporate leadership (as is the case in the socialist system of social governance), but the once social capital is private or created by new owners and it is difficult to struggle to get more rights, higher wages and the opportunity to participate in decision making.

Consequently, according to the latest available information obtained by the research team, only one multinational company in the country is about to make an official decision to establish a European Works Council in which the representative from the Macedonian branch will be a full member, regardless the fact that the Republic of North Macedonia is not a member of EU. This is due to the efforts made by the union during the negotiations that are conducted to change the ownership structure and is therefore considered a significant success of the union workers. This is due to the efforts made by the union during the negotiations that are conducted to change the ownership structure and it is therefore considered a significant success of the union workers. After all, they are the only representatives of the stakeholders in the country who had the opportunity to gain practical experience regarding the functioning of the European Works Councils. This tells us clearly, that in terms of the protection of the workers' rights and the advocacy of workers, trade unions play an important role, but it is inevitable to note that a difficult-to-solve enigma is emerging in front of them. Namely, the unions have been facing rapid aging and reduction of the membership for years, and organizing the workers in the new companies is not easy. Due to the complexity of the issues, it is necessary for the Directive to be used in its broader meaning and the legal framework to be supplemented in a way that will enable works councils to be of real importance in the process of informing and consulting and being complementary to trade unions, because the circumstances impose an existence of formal bodies that will enable better cooperation between employees and management within the domestic companies, too.

Recommendations

The analysis of the existing legal framework, the situation and the results obtained from the research showed that there are a number of limitations that affect the creation of formal channels for leading the process of advocacy of employees and their inclusion and consultation in decision making. The Labour Relations Law does not provide a basis for the establishment of works councils in companies without an international ownership element, and the European Works Councils, because the country is not a member of the European Union, still do not find their application in practice. In essence, the European Works Councils are useful instrument for informing and consulting employees, but in order to ensure greater certainty and improve its characteristics at the moment when it is expected to start its consistent application in practice, it is necessary to include the social partners in establishing the ground principles for its functioning. Consequently, in the absence of practical application of the (European) works councils, the social partners have almost no experience in their functioning, so the recommendations will be mainly aimed at improving the legal framework for representing workers in order to better inform, consult or involve in the decision-making process, but also for strengthening the capacities of trade union workers and employers.

Recommendations regarding legal framework

- Considering that a relatively small number of companies in the country meet the conditions for establishing a European Works Council in accordance with the Law on European Works Council, and the law itself leaves the impression that it is applicable only if we are part of the European Union, or Macedonian company opens subsidiaries in member states in the medium or long term, the legislator needs to think about reforming the existing legal framework. This implies the preparation of a new legal solution for the establishment of works councils, which will cover and regulate in detail all issues related to the establishment and functioning of the works council, in order to fulfill the rights of the workers to represent, inform and consult by management in the decision making process relevant to the workforce and the development of the enterprise. A new legal solution will be a good opportunity for consistent harmonization of the domestic legislation with the two European Directives, taking into account their wider significance. The adoption of a new legal solution needs to be implemented with the involvement of the social partners, but also non-governmental organizations that have accumulated relevant knowledge in the field.¹⁰⁸
- In the short term, it is necessary to enable the application of the Law on European Works Council if the company headquartered in a European Union country through its subsidiary in Republic of North Macedonia reaches an agreement with employees to establish a works council, regardless of the

¹⁰⁸ Except of this recommendation, all others referred to the adjustment of the legal framework in accordance with the identified problems within the conducted research.

fact that the country is still candidate for membership in the European Union. This recommendation starts from the assumption that the establishment of the council is based on good will and the parties would only benefit from the development of mutual cooperation and social dialogue. At the moment one multinational company is before the establishment of a European Council, where the agreement for the establishment of EWC will regulate the participation of the EU.

- It is necessary to amend the Labour Relations Law through a broader understanding of Directive 2009/38/EC and Directive 2002/14/EC and to introduce the instrument of works council for informing and consulting workers which can be applied to national companies. This will enable the establishment of works councils in multinational companies that do not have their headquarters in a member state of the European Union. The research showed that the existence of a formal channel of this kind can increase the productivity and the sense of belonging of the employee and thus he will contribute with his ideas for the development of the company in the consultation process.
- It is necessary to quickly and urgently edit the existing instrument representative of the workers (employees) which is mentioned in several articles of the Labour Relations Law. Namely, the Law does not prescribe and clearly explain several important issues that in practice can create complete legal uncertainty and abuse of labour rights and obligations that the employer has for informing and consulting and leave the opportunity to replace the roles of the union and the representative of employees, which is contrary to the ILO Directive and conventions. In addition, research has shown that this legal vacuum can be abused by employers to avoid forming a union or to elect a representative "tailored" to the employer with whom he can negotiate and sign contracts. Therefore, it is necessary to regulate the issues related to: the procedure for selection of a representative from the employees, the manner in which the consultations will be conducted, their regularity, the manner in which the other employees will be informed about the outcome, the manner in which the representative will be able to be called for liability and be replaced if it is found that it does not represent the interests of employees and similar technical issues that will protect the employees.
- Supplementing and amending the Labour Relations Law in the articles that regulate the informing and consulting of employees by expanding and specifying the scope of issues that will be covered by the consultation.
- Arranging the costs for providing a room and conditions for meeting the employees and the employee representative.
- Involvement of the trade unions in the procedure for selection of a representative of the employees as a guarantee for protection against abuse.
- Recommendation to think in terms of establishing conditions for the functioning of the (European) works councils in close cooperation with the trade unions,



with the representative from the ranks of the works councils to be elected by the union and secret ballot. This can encourage the formation of trade unions at the employer level, which will strengthened the position of the union in society and will be able to protect the interests of workers in relations to enterprises, given that works councils in practice will face difficulty and need support. The possibility of reaching an employer level agreement between the union and the employer will further expand, which will contribute to increasing and promoting the rights and benefits for workers.

Recommendations for trade unions

- Trade unions need to work to raise awareness among trade union workers and their members about the existence of formal bodies for employees' advocacy at employer level, such as the European Works Councils and the need for their application in the social dialogue.
- Organizing trainings and workshops for capacity building and exchange of experiences with the inclusion of international experts on the topic of European Works Councils.
- Organizing trainings for acquiring skills that will enable overcoming the barriers for advocacy at European level. Overcoming barriers means training for acquiring new skills, learning new languages of communication, acquiring knowledge in the field of domestic and European Labour Law, improving communication skills, as well as the level of knowledge and information about EWC.
- Organizing working visits in the European trade unions that apply the instrument of the European Works Council. These activities will contribute to the exchange of best practices and experiences, and will positively impact on the way to strengthen the overall human capacity of Macedonian unions. These activities will contribute to the exchange of best practices and experiences, and will be reflected positively in order to strengthen the overall human capacity of Macedonian unions. These workshops will present practical experiences from the member states of the European Union and will be an important opportunity for trade union workers to get acquainted in detail with the process of establishing and functioning of the European Works Councils, as one of the ways to promote the right to information and consultation of employees.
- It is necessary for the unions to commit in the medium term to the trade union organization of the workers in the private sector, especially in the multinational enterprises from the free economic zones. They can achieve this through continuous activities and campaigns to raise awareness among Macedonian workers and encourage them to start an association in their company.
- Encouraging trade union organization in small enterprises by promoting the ideas for establishing works councils, because in enterprises with limited

resources (human and financial) any advice from the professional staff within the consulting process, especially in times of crisis can be significant in decision making.

- Increasing the presence in the media and social networks through regular updating with information on the implemented activities. Additionally, digital tools can be used to prepare awareness campaigns for (European) works councils.
- Greater degree of international networking for the exchange of best practices and experiences, especially in terms of instruments such as European Works Councils that are not applied in the country

Recommendations for the employers and their representatives

- Organizations of employers need to work to raise awareness among employers and corporate executives about the existence of formal bodies for representing employees at the employer level, such as the European Works Councils and the need for their application in the social dialogue.
- Organizing trainings and workshops for strengthening the capacities of managers in order to exchange best practices and experiences with the inclusion of international experts and representatives of multinational companies, on the topic of European Works Councils.
- Organizations of employers need to implement activities to strengthen the capacity of their staff, in order to facilitate the process of overcoming barriers to the establishment of European Works Councils, and to contribute to building a spirit of cooperation between employers and workers.
- Implementation of activities by multinational companies to strengthen the capacity of managers in terms of European law on advocacy, informing and consulting of employees through European Works Councils, but also in terms of domestic labour legislation.
- Organizing working visits for managers in multinational companies located in a member state of the European Union in which European Works Councils operate. These activities will contribute to the exchange of best practices and experiences.