

Workers' Rights In The Republic Of Northern Macedonia And Legal Protection By Inspection Bodies

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ABSTRACT

Workers' rights are one of the most important universal social rights guaranteed by international conventions. Democratic and social countries have workers' rights regulated and codified by legal norms. In the Republic of Northern Macedonia, the right to work is a constitutional category and this right is specified and regulated in detail by legal acts in the field of labor. Employees' rights and the relations created between the employer and the employee are regulated on a legal basis, respectively through norms and legal acts in the field of labor. The employment relations established between the employer and the employee in the Republic of Northern Macedonia are regulated by the Law on Labor Relations, collective agreements and the employment contract itself. The rights and obligations of the employer and the employee which derive from the above-mentioned acts are not always functionalized and made operational by the same bodies who have issued them in the first place. Failure to respect the rights of workers and failure to fulfill the obligations of the employer to workers arising from the legal acts establishing the employment relationship are considered as a violation of workers' rights. The Republic of Northern Macedonia, in addition to guaranteeing the rights of workers, has established a mechanism for monitoring and protecting workers' rights through inspection bodies which, based on their legal authorizations, actively monitor legal entities in order to improve the conditions of workers and the protection of their rights. The competent institution for the protection of workers' rights is the state labor inspectorate which, on the basis of legal authorizations and authorizations, monitors legal entities in fulfilling their legal obligations to workers and periodically informs its supervisory institutions about the activities it has performed.

Keywords: labor rights, workers' rights, labor relations, legal norms, State Labor Inspectorate.

I. INTRODUCTION

The rights and obligations of the employee and the employer deriving from the employment relationship are regulated by the Constitution, laws in the field of labour, collective agreements and other legal acts issued by the competent bodies. (Starova, 2009) In the Republic of Northern Macedonia, the right to work is a constitutional category. The Law on Labour

Relations and other legal acts regulates the object and subjects of labour relations. The Labour Relations Law has regulated in detail the relations between the employer and the employee as the two main entities to establish employment relations. (Article 5 of the Law on Labor Relations of the RMV)

The rights and obligations of the employer and the employee are diverse, so in this paper we were

not able to highlight and underline the latter in detail, but we have managed to align the conclusions with the data researched and presented below empirically by analysing them through analytical comparative methodologies.

Every citizen of the Republic of Northern Macedonia has the right to establish an employment relationship if he / she meets the main criteria provided by the Law on Labor Relations. The citizen of the Republic of Northern Macedonia freely decides on his or her professional orientation and s/he creates an employment relationship of his choice, which makes him or her a holder of certain rights and obligations in that relationship. (Article 5 of the Law on Labor Relations of the RMV)

According to the Legislation of the Republic of Northern Macedonia, the employee has some basic rights when he / she enters into an employment relationship, such as an employment contract, his / her compulsory social and health insurance, as well as other salary compensations. The employee through the signing of the contract has determined the net salary that he must receive. Employees, in addition to his net salary, also receive other salary compensations as an additional part of it.

In general, in the Republic of Northern Macedonia, the most significant violation of workers' rights is the non-payment of the contract salary, non-payment of the minimum wage, non-payment of additional parts of the salary, non-payment of social and health insurance, non-payment of recourse for annual leave (K-15), working hours, overtime, night shifts, working in shifts, working on weekdays, working on holidays, etc. (Article 106 of the Law on Labor Relations of the RMV)

Guaranteeing and legally protecting workers' rights does not necessarily mean that they are respected by employers. In addition to legal protection, it is more than necessary to carry out various inspections against employers, by the

competent institutions to monitor employers in order to verify and confirm the extent to which employers respect the rights of workers or in the case of them being violated, protective measures should be taken by the employers against them.

In the Republic of Northern Macedonia there are state institutions which are competent for the protection of workers' rights. The competent institution for the protection of workers' rights is the State Labor Inspectorate, which continuously inspects legal entities at the state level in order to verify how much they respect and protect the rights and obligations arising from the employment relationship. The State Labor Inspectorate, in addition to the inspections it does in accordance with the legal rules, in certain situations conducts inspections at the employer in case the parties respectively the workers complain about the violation of their rights by the employer. (<https://dit.gov.mk/>, n.d.)

Based on the carried out research, we have managed to make use of the institutional reports published by the Ministry of Labor and Social Policy in the Republic of Northern Macedonia (<https://www.mtsp.gov.mk/pocetna.n.spx>, n.d.) and based on the reports it has been confirmed that the State Labor Inspectorate conducts observational inspections and the same are published periodically. Based on the reports available, we will try to present statistical data to gain new knowledge on the purpose of research of this paper.

2. Data on Inspections Performed on Employers by the State Labor Inspectorate in RMV

The State Labor Inspectorate of RMV conforms to the legal norms and competences it has, performing inspections on all subjects of law at the state level, regardless of whether they are registered as legal entities or not, with the sole purpose of protecting the rights of workers, especially in the field of labor relations. The State Labor Inspectorate conducts several types of

inspections in accordance with the need and planning of the work process. In general, the State Labor Inspectorate conducts routine, extraordinary and control inspections. (Article 32 of the Law on Inspection) In the following chapter we will present statistical data on the number of inspections carried out by the State Labor Inspectorate of RMV for a period of five years from 2017 to 2021.

Table no.1- Empirical data on the number of inspections performed for the period 2017-2021 in the Republic of Northern Macedonia (Inspection reports performed in the field of labor relations for the year 2017, 2018, 2019, 2020 dhe 2021 of the State Labor Inspectorate of the Republic of Northern Macedonia, n.d.)

Nr.	Inspection types	Year				
		2017	2018	2019	2020	2021
1	Routine Inspections	13985	11724	8776	2777	1646
2	Control Inspections	4044	3495	2717	1767	2886
3	Extraordinary Inspections	2474	2756	2655	14636	11681
Total		20503	17975	14148	19180	16213

Going by the data presented in the above table, it can be concluded that during the period 2017-2021 by the State Labor Inspectorate a total of 88019 inspections were conducted out of which 20503 inspections were conducted in 2017, 17975 inspections were conducted in 2018, 14148 inspections were conducted in 2019, 19,180 inspections were conducted in 2020 and 16,213 inspections were conducted in 2021.

Going by the data presented in the above table it can be concluded that in the period 2017-2021 a total of 38908 regular inspections were conducted, out of which 13985 inspections were conducted in 2017, 11724 inspections were conducted in 2018, 8776 inspections were conducted in 2019, 2777 inspections were carried out in 2020 and 1646 inspections were carried out in 2021.

The table shows that in the period 2017-2021 a total of 14909 inspections were conducted out of which 4044 inspections were conducted in 2017, 3495 inspections were conducted in 2018, 2717 inspections were conducted in 2019, 1767 inspections were conducted in 2020 and 2886 inspections were conducted in 2021.

The table also shows that in the period 2017-2021 a total of 34202 extraordinary inspections were carried out of which 2474 inspections were carried out in 2017, 2756 inspections were carried out in 2018, 2655 inspections were carried out in 2019, 14,636 inspections were conducted in 2020 and 11,681 inspections were conducted in 2021.

If an analysis is made it is clear that in 2020 and 2021 there is a drastic increase in extraordinary inspections compared to previous years and all this is due to COVID-19 pandemic, with labour inspectors having made inspections extraordinary instead of regular inspections.

3. Data on the Issuing of Fines on Employers by the IPH in the RNM

The State Labour Inspectorate of the RNM in accordance with the Law on Labour Relations and other laws in the field of labour, if it proves that there are legal violations, it can impose fines on employers. Based on the table below, it can be concluded that the State Labour Inspectorate of the Republic of Northern Macedonia in the period 2017-2021 has imposed a total of 904 fines, of which in 2017 it imposed 96 fines, in 2018 it imposed 103 fines, in 2019 it imposed 118 fines,

in 2020 it imposed 517 fines and in 2021 it imposed 70 fines.

Table no.2- Data on the number of fines issued to employers for the period 2015-2019 in the Republic of Northern Macedonia (Reports of inspections carried out in the field of labor relations for 2017, n.d.)

Nr.	Fines	Year				
		2017	2018	2019	2020	2021
1	Invitation to pay the fine	96	103	118	517	70
Total		904				

4. Data on Criminal Charges against Employers

Based on the data, it has been confirmed that in the period 2017-2021, a total of 13 requests for

criminal charges were filed, and in 2019, 5 requests for criminal charges were filed, in 2020, 4 requests for criminal charges were filed, and in 2021 4 requests for criminal charges were filed

Table no. 6 - Data on the number of criminal charges filed against employers for the period 2017-2021 in the Republic of Northern Macedonia¹

	Year 2017	Year 2018	Year 2019	Year 2020	Year 2021
Criminal charges	0	0	5	4	4
Total	13				

5. CONCLUSION

Legal regulation is not the fundamental problem in the effective and efficient protection of workers' rights. From a formal-legal point of view, the Legal Regulation of the Republic of Northern Macedonia is in line with the ILO Conventions and very few changes are needed to fully transpose the EU directives and to implement the revised European Social Charter. The protection mechanisms provided by law are sufficient, but there are problems of a procedural and substantive nature during their use.

A key shortcoming of the existing system of protection of workers' rights is the lack of adequate information of workers about their rights. Collective agreements do not specify the matter regarding safeguards and do not provide employees with understandable and clear

procedures on how to act in situations where they need to seek protection. The complexity and multi-layered system of protection of workers' rights makes it extremely difficult to use these mechanisms in practice. The Republic of Northern Macedonia enters a new phase of regulation when everything that is not defined by law is treated as prohibited instead of seeking the best solutions within the existing regulations and does not explain why a specific problem is not solved. Inspectors do not make full use of the opportunities provided by law and the system for reporting violations of workers' rights is not adapted to the needs of workers. They act reactively, rather than proactively. There is a lack of adequate institutional support for mechanisms for the protection of workers' rights that will be manifested as an institutional link and cooperation in order to use all the capacities of the community.

Coordinated cooperation established between institutions is lacking. Cooperation is mainly at the level of personal acquaintances and interventions from higher instances. The success of interventions depends on the goodwill of

individuals. There is a lack of cooperation at a lower level and institutional mechanisms that move the processes of protection of the rights of ex-officio workers.

REFERENCES

1. Article 106 of the Law on Labor Relations of the RMV.(n.d.). Retrieved from https://mtsp.gov.mk/content/pdf/trud_2017/pravilnici/16,11-%D0%B0%D0%BA%D0%BE%D0%BD%D0%A0%D0%B0%D0%B1%D0%9E%D0%B4%D0%BD%D0%BE%D1%81%D0%B8.pdf
2. Article 32 of the Law on Inspection.(n.d.).Retrieved from https://www.mioa.gov.mk/sites/default/files/pbl_files/documents/legislation/zakon_za_inspekciski_nadzor_konsolidiran_06.07.2018.pdf
3. Article 5 of the Law on Labor Relations of the RMV.(n.d.).Retrieved from https://mtsp.gov.mk/content/pdf/trud_2017/pravilnici/16,11-%D0%B0%D0%BA%D0%BE%D0%BD%D0%A0%D0%B0%D0%B1%D0%9E%D0%B4%D0%BD%D0%BE%D1%81%D0%B8.pdf
4. <https://dit.gov.mk/>. (n.d.). Retrieved from <https://dit.gov.mk/>
5. <https://www.mtsp.gov.mk/pocetna.nspix>. (n.d.).
6. Inspection reports performed in the field of labor relations for the year 2017, 2018, 2019, 2020 dhe 2021 of the State Labor Inspectorate of the Republic of Northern Macedonia. (n.d.). Retrieved from https://dit.gov.mk/?page_id=66
7. Reports of inspections carried out in the field of labor relations for 2017, 2. 2. (n.d.). Retrieved from https://dit.gov.mk/?page_id=66
8. Starova, G. (2009). "The right to work".Shkup: Logos-A.