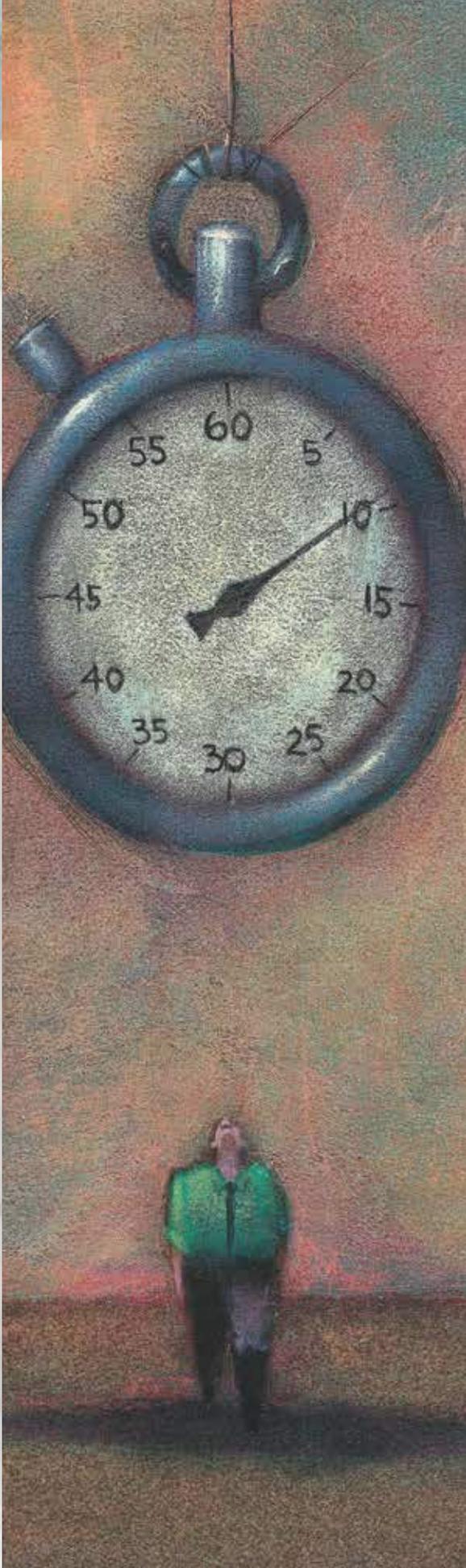




IMPLEMENTATION OF THE LAW ON PROTECTION FROM HARASSMENT AT THE WORKPLACE



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FROM HARASSMENT AT THE WORKPLACE

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INTRODUCTION

The harmonization of our legislation with the European directives on discrimination and equal treatment of both men and women during recruitment and at the workplace resulted in regulation of the phenomenon of harassment at the workplace. This phenomenon was regulated for the first time in 2005¹ with the provisions of the Law on Labor Relations, which defined the phenomena of psychological harassment (mobbing) and sexual harassment at the workplace. After the initial regulation for harassment at the workplace in the Law on Labor Relations, in 2009 the law was supplemented with provisions² that only refer to psychological harassment at the workplace (mobbing). The small number of foreseen provisions in the labor legislation that were introduced in 2005 and 2009 did not include a precisely established procedure and mechanisms for prevention and tackling this type of cases. This conclusion was verified by the findings and recommendations from conducted research³ by ESE with regard to these matters that pointed out the need for regulation of this phenomenon in a special law.

The regulation of this phenomenon in a special law in 2013 represents the first step to establish the base for prevention and adequate processing of cases of harassment at the workplace. However, its further adequate implementation is essential for proper and comprehensive tackling and suppression of the phenomenon of harassment at the workplace.

Therefore, as continuation of the previous action we have taken to ensure systematic monitoring of the phenomenon of harassment at the workplace, we conducted the analysis about the level of implementation of the Law on Harassment at the Workplace. The conducted analysis points out the problems and challenges which are faced by the workers and employers during the implementation of the law and also includes recommendations to overcome them.

The findings from this analysis can be used for taking further action in this area, i.e. to alarm and point out to the competent institutions about the need for implementation of the law in practice, as well as stimulation and encouragement of employees to utilize the law and the legal possibilities for protection in cases of harassment at the workplace.



¹ Law on Labor Relations, Official Gazette of RM No. 62/2005

² Law on Labor Relations, Official Gazette of RM No.114/2009

³ “Institutional response and organizational policies regarding the violence at the workplace” and “Violence on women at the workplace”

GOAL AND METHODOLOGY

The primary subject of the analysis is the extent to which the Law on Protection from Harassment at the Workplace is implemented, with focus on the legal provisions that refer to the obligations of the employers to take preventive measures to protect the employees from harassment and their obligation to inform them about the novelties in the law, to appoint individuals mediators in cases of harassment at the workplace as well as utilize the law through already conducted formal procedures on the basis of written requests for protection submitted by employees.

For the needs of the analysis, we conducted 17 interviews with representatives of the state authorities and 17 representatives of private companies. The survey with representatives of the state sector included six ministries, seven other state authorities, 2 public institutions and 2 local self-government units. The survey with the private sector included companies from the following profiles and branches: textile industry, agrarian mechanization, manufacturing shoes, production of plastic bags, factory for production of electric, electronic and optical connectors, coaxial and lantern cables and interconnection systems, factory for polyester products, factory for solar panels, company in the dairy industry, company for biscuits and cookies, construction industry, tourism and catering, dentistry laboratory and brewery, in the following towns in R.Macedonia: Stip, Vinica, Kocani, Prilep, Ohrid, Struga, Strumica, Gevgelija and Skopje.

The survey also included two trade union organizations whose representatives were interviewed about their views, knowledge and experience regarding the implementation of the Law on Protection from Harassment at the Workplace. Despite the numerous attempts to conduct an interview with a third trade union organization that was not realized. Namely, the trade union organization – Federation of trade unions of Macedonia (SSM) did not agree to cooperate in this area, although it initiated and drafted the Law on Protection from Harassment at the Workplace, whereby they should show biggest interest for the implementation of the respective law.

In order to obtain relevant information about the subject of the survey, we interviewed the managerial positions, i.e. managers and directors, owners as well as staff in charge of human resources and legal matters from both the public and private sector organizations.

Besides the interviews, in order to obtain direct and indirect information from employees, we organized 2 focus groups. 27 individuals from the public and private sector participated in the focus groups. Also, for the purpose of further insight in the formal procedures for protection from discrimination and harassment at the workplace, we submitted requests for information of public character with regard to the following: submitted complaints to the State inspectorate for labor regarding cases of harassment; submitted complaints to the Commission for prevention and protection from discrimination and submitted lawsuits for harassment at the workplace to the Basic court Skopje 2, which is civic court that is competent for the area with the biggest number of citizens.



IMPLEMENTATION OF THE LAW ON PROTECTION FROM HARASSMENT AT THE WORKPLACE

1. PREVENTIVE MEASURES FOR PROTECTION FROM HARASSMENT AT THE WORKSPACE AND INFORMING THE EMPLOYEE

The employer⁴ is obligated to take necessary measures for prevention and protection of the employee and the individuals hired on service contracts that participate in the work of the employer, from harassment at the workplace in accordance with the law.

The employer is obligated to inform the employee about the measures and the procedure regarding the protection from harassment at the workplace, as well as about the rights, obligations and responsibilities of the employer and the employee during the recruitment and in the course of the employment.

From the analysis....

1.1 KNOWLEDGE ABOUT THE LEGISLATION ON HARASSMENT AT THE WORKPLACE

Given that the knowledge or the familiarity with the legislation on harassment at the workplace is a precondition for the employer to inform the employee, the representatives of employers were asked if they know whether psychological and sexual harassment are regulated by law, whereby the following data were received:

Ministries are informed about the regulation of the phenomenon of psychological harassment at the workplace by law. Namely, all six involved ministries indicated that psychological harassment at the workplace is regulated by several laws, that is, by the newly adopted Law on Protection from Harassment at the Workplace⁵, Law on Prevention and Protection from Discrimination and the Law on Labor Relations. Two representatives of the ministries indicated that besides the stated laws, the phenomenon of psychological harassment is also regulated by the Law on Civil Servants, while representative from one ministry stated that this phenomenon is regulated also by the Law on Equal Opportunities Among Women and Men. Only the representative from one ministry stated that this phenomenon is regulated by the Law on Labor Relations, whereby s/he did not mention the new Law on Harassment at the Workplace.

The situation regarding the psychological harassment is identical if other state authorities are taken into consideration (bodies as part of the ministries, independent bodies of state administration, public institutions and local self-government units). Namely, the involved state administration bodies are largely informed about the legislation on psychological harassment at the workplace and they stated the following laws: Law on Protection from Harassment, Law on Labor Relations, Law on Prevention and Protection from Discrimination and the Law on Equal Opportunities among Women and Men. Furthermore, three of the total of eleven involved institutions indicated that psychological harassment is also regulated by the Law on Equal Opportunities, while four of them indicated the Law on Civil Servants. Two of the involved state institutions only stated the law whose implementation is subject of analysis, i.e. the Law on Harassment at the Workplace, while they did not state the other laws. Only one of the state institutions with competencies in the social sphere is not informed about the regulation of the phenomenon of the psychological harassment at the workplace by law.

⁴ Article 3: Employer is a natural person or legal entity, as well as other entity (public authorities' body, local self-government body, branch office of foreign company, diplomatic and consular representative office), that employs workers on basis of employment contract, Law on Protection from Harassment at the Workplace, Official Gazette No. 79/2013² Law on Labor Relations, Official Gazette of RM No.114/2009

⁵ Law on Protection from Harassment at the Workplace, Official Gazette No. 79/2013



Two of the trade union organizations that were involved in the survey are informed about the legal regulation of the phenomenon of psychological harassment at the workplace, whereby the first trade union organization indicated that it is regulated by the Law on Protection from Harassment at the Workplace, Law on Prevention and Protection from Discrimination, Law on Labor Relations and Law on Equal Opportunities among Men and Women, while the second trade union organization indicated that harassment is regulated by the Law on Protection from Harassment at the Workplace and the Law on Labor Relations.

All seventeen private companies stated that they are informed about the regulation of the phenomenon of psychological harassment at the workplace by law, whereby nine of them stated the Law on Protection from Harassment at the Workplace, the implementation of which is subject of this analysis, while three companies stated the Law on Labor Relations. Despite the awareness about the existence of regulations, five of the companies do not have information about the respective laws and manner in which the phenomenon is regulated.

With regard to the legislation on sexual harassment, private companies unlike the state institutions are less informed about the regulations about this type of harassment. Thus, five of the interviewed companies are not informed and do not have any information whether the phenomenon of psychological harassment is regulated by law. It is a surprising fact that two of the stated five companies that do not dispose of complete information about the regulations on sexual harassment in the respective law, although those are organizations whose functioning and mandate largely implies adherence to the legislation, as well as improvement in the extent of knowledge of both employers and employees regarding their rights and obligations. On the other hand, one has to mention that two of the private companies that do not dispose of information about the legislation and are actually categorized as bigger companies and have in average about 120 employees.

Most of the participants in the focus groups, i.e. individuals who are employed in both the private and public sector are not fully informed about the Law on Protection from Harassment at the Workplace. In fact, the employees who stated that they are informed are actually not informed about the manner in which harassment is regulated. According to some employees, the partial disposal of information is mainly due to the fact that the employer does not pay attention to the quality and manner of providing information, but rather that is done because of the stipulated high misdemeanor sanctions⁶ for disrespect of the provisions to inform the employees about the new legal provisions. As far as the extent of information in the public, i.e. private sector is concerned, some of the former employees in bigger private companies indicated that despite the established system of communication and outreach in the companies, yet there is lack of information about the new legal solutions and regulations.

⁶ Law on Protection from Harassment at the Workplace, chapter VII. Misdemeanor provisions, Article 36, paragraph 1, item 3: *Fine at the amount of 5000 to 6000 Euros in amount equivalent to MKD shall be imposed for an offence committed by an employer- legal entity if: it does not inform the employee before the start of employment and also the already employed staff about the prohibition for harassment at the workplace, the obligations and responsibilities regarding the harassment at the workplace, manner and possibilities for protection.*



1.2 RESPECT FOR THE LEGALLY STIPULATED OBLIGATIONS TO INFORM THE EMPLOYEES

Among the six involved ministries, only one did not organize an informative meeting, education or training with regard to the Law on Harassment at the Workplace. According to the stated opinion, this ministry indicated that the employees are informed about their rights and obligations through the Law on Civil Servants, i.e. during their recruitment. The ministries have informed their staff about the regulation of harassment at the workplace in different ways, whereby some of them used the following ways: informal meetings, informative meetings, announcements on the notice board, involvement of heads of sectors in informing the staff about the novelties of the law or the managers of human resources departments organized an informative meeting with the heads of other sectors.

More than half, that is seven out of eleven state institutions (63, 6%) did not take any activities to introduce the employees with the subject of regulation by the Law on Protection from Harassment at the Workplace, although there is stipulated misdemeanor sanction for disrespect of this obligation from the law. Also, it is surprising that an institution that is competent to conduct inspective oversight on the implementation of the Law on Protection from Harassment at the Workplace, as well as the institution which is competent to perform work in the field of labor relations and employment, did not take activities to inform their staff about this law. The group of state authorities that did not inform the employees also includes one of the two involved municipalities in this survey. State institutions that did not organize special educational events, meetings and trainings were asked about the manner in which the staff got information about the novelties in the regulations of the respective law. The stated possible ways in which the staff got informed about the novelties in the legislation regarding the phenomenon of harassment at the workplace are as follows: following the regulations through the official gazette and informal sharing among the colleagues; lawyer i.e. human resources sector, sector for legal and administrative matters follows the novelties and announces them on the notice board in the institution; the legal sector disposes of information about the novelties and every employee when needed can request information; the sectors in the institution have access to the official gazette and this is how they follow the changes in the legislation, as well as information through television and the media, in general.

Most of the private companies did organize informative meetings, while a few of them also organized special trainings on harassment at the workplace. An exception is the Economic Chamber of North-Western Macedonia, which did not take any type of activity in this context. Only small part of the companies did prepare and submit written information to the staff and/or posted the information on the notice board. In addition, some companies indicated that their legal departments or persons-in-charge have the obligation to follow the legislation and to convey the necessary information to the staff. One company is a positive exception in the context of the trade union organization of its staff, and accordingly the trade union representatives do inform the staff about the novelties regarding the legislation.

The interviewed representatives of trade unions within their branch women's organizations did conduct a series of seminars that elaborate the topic of harassment at the workplace, including the novelties stipulated in the Law on Protection from Harassment at the Workplace.

1.3 EXISTENCE OF SYSTEM TO INFORM THE EMPLOYEES

Besides establishing whether the employers respect the stipulated legal provision to inform the employees about the Law on Harassment at the Workplace, another subject of the analysis was whether the employers have established a general system to inform about the novelties in the legislation or the changes and amendments of the existing laws within the scope of their interest.

With regard to the question about the established system to inform the employees about the changes of legislation, the interviewed representatives of the involved **ministries** stated different ways of providing information. Thus, the Ministry of education and science stated that the sector for legal affairs is obligated to continuously monitor the changes of legislation, as well as to notify the other sectors about such changes. At the Ministry of health, the heads of sectors have obligation to follow and inform about changes in this context. The Ministry of defense and the Ministry of labor and social policy believe that the obligation for giving information and following the legislation is an obligation of each and every civil servant, whereby the Ministry of labor stated that they do inform the employees through access to the electronic database of the Official Gazette, while the Ministry of labor and social policy through appointment of person-in-charge in each sector that will inform the employees about all legislative changes. Besides the above stated ways, the Ministry of transport and communication in accordance with the ISO standards and the quality management model has introduced an electronic notice board which is available on the website of the ministry and each and every employee is obligated to follow the legislative changes. The ministry of interior besides the information it provides through the service for normative and legal matters, also provides access to the electronic database of the official gazette as well as using the website of the ministry.



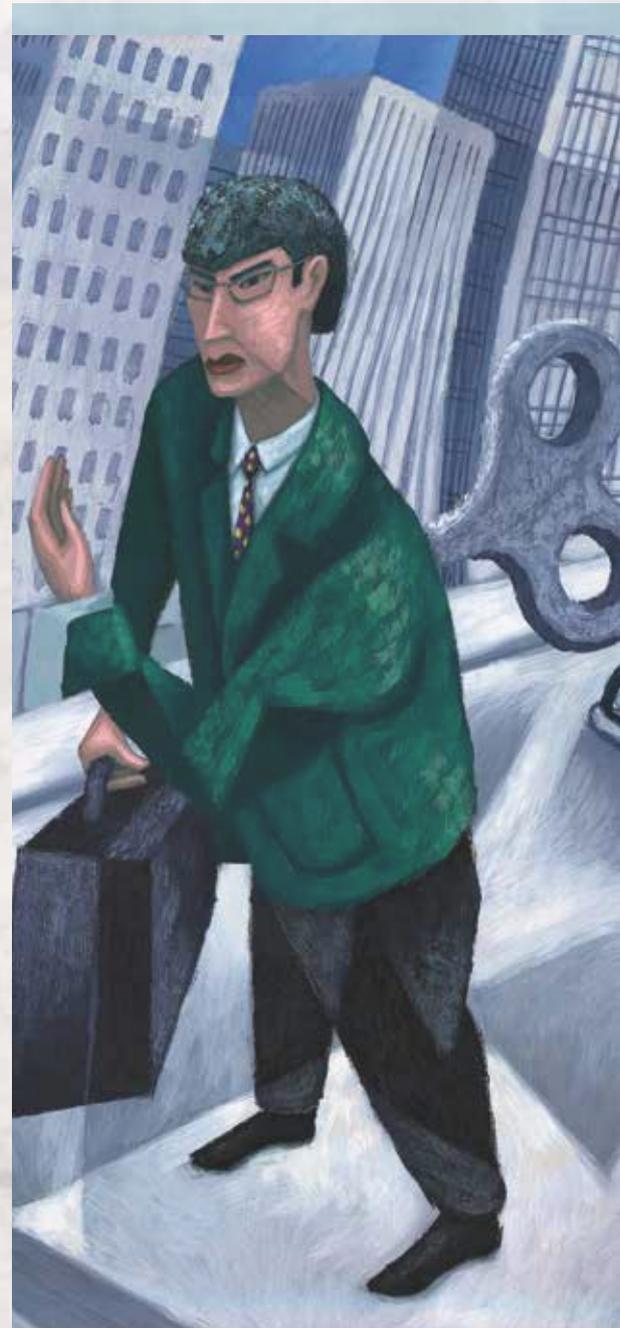
The systems which are used to inform the employees are identical in the other **state institutions** which were involved in the survey. They stated that the lawyer, that is the sectors for legal matters or human resources departments in their institution do follow the changes in the legislation whereby the information is further transferred from the managers to the other employees. The institutions that do not have organizational units which are competent about the normative matters or human resources, do conduct the following of changes and providing information through the logistics sector, the secretary of the institution or at informative meetings held on monthly basis.

With regard to the trade unions, one trade union organization stated that the membership is informed about all the novelties, changes and amendments of regulation through the several offices and coordinators throughout the country, while the representative of the second trade union organization stated that the only possibility to obtain the necessary information is that those who are interested can individually request information about certain changes in the legislation from the leadership of the trade union organization. Such position shows that there is lack of proactive approach by trade unions in the provision of information to the employees, and on the contrary they all expect that the employees should show interest and request information about any legislative changes.

Private companies have introduced a system for providing information about any legislative changes, whereby most of them have a practice to post the legislative changes and novelties on notice boards. In some of the companies, legal departments or persons-in-charge to monitor the legislation do inform the other sectors in parallel with the practice to organize informative meetings.

Despite the fact that the findings from conducted interviews with employers from both the public and private sector show the existence of an established general system to inform the employees, yet the participants in the focus groups indicated to a serious flaw in this context. Namely, the staff from the private and public sector think that information about legislative changes in general do not reach the employees.

The following statements also support those claims: *“We do not get information about any law, not only about this law on harassment“* or *“ The director and the lawyers from the legal department are the only ones who have access to the official gazette , which should be in fact public newsletter. And what are we supposed to look for, when we do not know what we are supposed to look for”*.



2. APPOINTING A MEDIATOR

A mediator is a neutral person that mediates among the parties in order to solve their disputable relations. The mediator is elected from among the list of mediators who are determined by the employer from among the employees. An employer with 50 or more staff is obligated to compile a list of mediators who will be mediating among the parties in case of harassment at the workplace. If the employer has less than 50 employees, the mediator is appointed through agreement with the employee who is exposed to harassment at the workplace.

From the analysis...

Twelve, i.e. 64,7% of the ministries and other state institutions, i.e. bodies of public authorities, public institutions as well as local government units do not have identified persons to be mediators despite the existing legislative obligation⁷ to compile a list of mediators. Furthermore, one has to take into account the fact that the legal obligation to compile a list of mediators should be fulfilled within 30 days from entry into force of the Law on Protection from Harassment at the Workplace. Misdemeanor liability is stipulated for the employers that do not respect this obligation, i.e. for those employers who do not compile a list of mediators within the foreseen deadline of 30 days will be sanctioned with fine at the amount of 5000 to 6000 Euros in MKD counter value. This legal provision was not respected by two of the six involved ministries and ten of the total of eleven institutions. Three institutions pointed out that their obligations regarding the employment and labor relations are not regulated and are not subject of the Law on Protection from Harassment at the Workplace, but the Law on Civil Servants. These answers show the existence of a position that there is no need to separately regulate the procedure on harassment at the workplace about civil servants, but the proceedings on harassment shall be resolved through the existing disciplinary commissions. Given the fact that matters related to disciplinary liability (for committed disciplinary offence and irregularity) do not cover the specific action of psychological and sexual harassment at the workplace, in that case, the Law on Civil Servants is not applicable for this phenomenon, but the Law on Protection from Harassment at the Workplace. However, one of the involved public institutions that appointed a mediator, stated that it has not informed the mediator about his appointment and the duties arising thereof.

One of the trade union organizations pointed out that in certain trade union organizations in their trade union, the procedure for selection of mediators has already started, while the second trade union organization has no obligation to appoint a mediator due to the small number of employees.

Thirteen from the total of seventeen private companies (76,4%) have compiled a list of mediators. Bigger companies have respected the legal obligation that one mediator is appointed at every 50 employees, and accordingly some of them have more than one mediator in accordance with the legal obligation. Persons who already have the role of representative of the employees in accordance with other laws are most often selected as mediators, and most often those are lawyers or representatives of trade union organizations. On two occasions, it was stated that the elected mediators are persons who are close to the management team, i.e. the bosses.

Part of the participants in focus groups did emphasize that the information spreading and the appointment of mediators was done by the employers only with the purpose to adhere to the form and not the essence of the legal obligation. Furthermore, in the selection of mediators, the employees think that attention was not paid whether those individuals are close to the management of the company or the head of the state institution, and whether those individuals would be fighting for the rights of the employees.

⁷ Article 12, Law on Protection from Harassment at the Workplace, Official Gazette No. 79/2013

3. SUBMITTED WRITTEN REQUESTS FOR PROTECTION FROM HARASSMENT AT THE WORKPLACE

The employee or the person hired on service contract that participates in the work of the employer, and who believes to have been exposed to harassment, before filing a lawsuit in front of a competent court, can submit a written request for protection from harassment at the workplace to the employer, in accordance with this law.

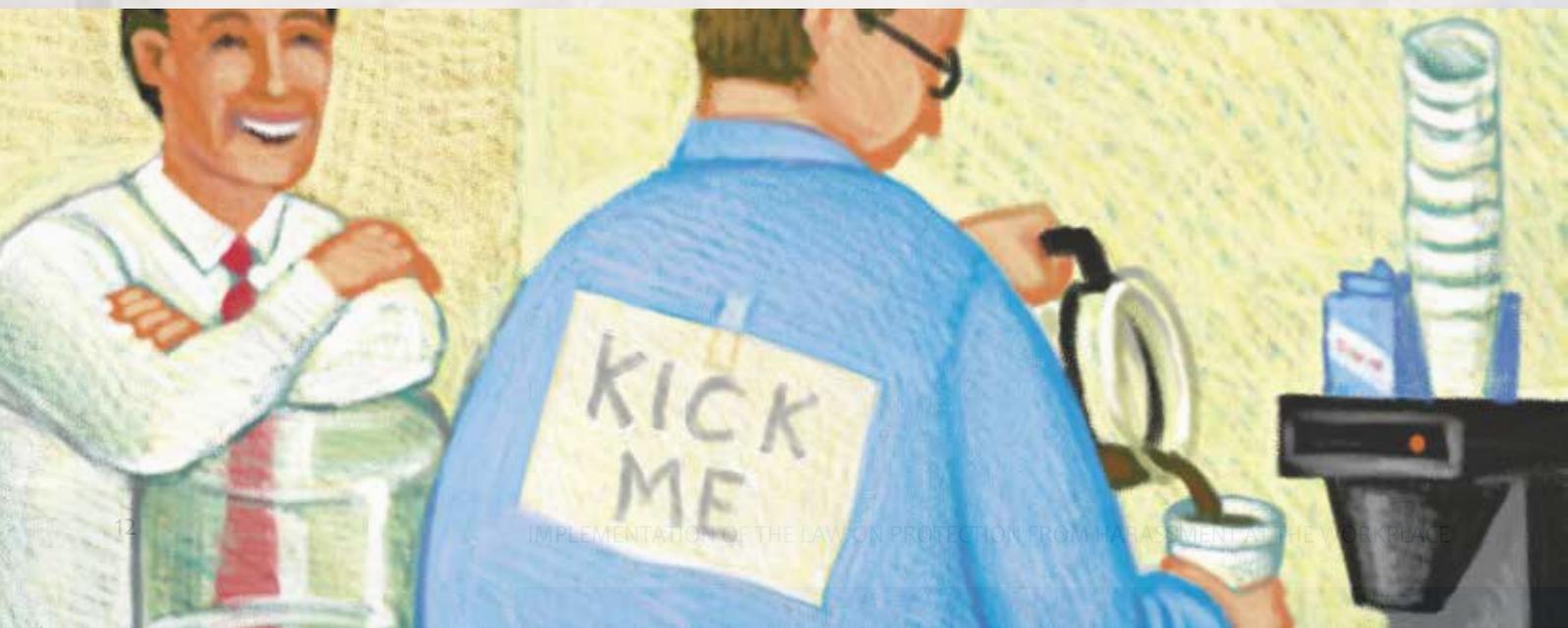
The request is submitted to the person-in-charge at the employer with capacity of legal entity (director or other authorized person), i.e. to the employer with capacity of natural person or other person that they will authorize.

From the analysis

3.1 TO WHOM ARE WRITTEN REQUESTS SUBMITTED

Five of the involved ministries stated that it is precisely known in their ministry to whom the written requests for protection from harassment at the workplace should be submitted. Namely, two ministries indicated that the request is submitted to the state secretary, while one ministry stated that the request is submitted to the organizational unit for human resources management and legal matters. The Ministry of labor and social policy stated that the request is submitted to the authorized person who is nominated by the minister, however; they did not indicate who is the authorized person, while the Ministry of defense has no information about the point where the written request for protection from harassment at the workplace is submitted. The representative of the last involved ministry, i.e. the Ministry of transport and communications did not provide a precise answer about where such request is submitted, but stated several responsible persons, such as the minister, state secretary and the head of human resources department.

Other bodies of state authorities, public institutions and local government units stated the following managerial positions to whom one can submit request for protection from harassment at the workplace, as follows: mayor's cabinet; secretary in the institution; director; head of department/human resources sector; archive and legal department that establishes an ad-hoc disciplinary committee. It is a concerning fact that the state institution which is competent for inspective oversight on the implementation of the Law on Protection from Harassment at the Workplace, stated that it has not been determined to whom exactly should the written request for protection be submitted, and they assume that such request should be submitted to the manager/director.



In one trade union organization there is a functional SOS line for harassment where all complaints, appeals and requests for protection are received and there records are kept for all calls. In the second trade union organization, the requests are submitted to the trade union through trade union representative.

The representatives of eleven private companies did not answer the question to which the request for protection from harassment at the workplace should be submitted with the explanation that they have had no such previous experiences, i.e. so far, there was no need for organized mediation, and also because of the good communication with all levels of management. In two of the companies, the requests for protection from harassment at the workplace are submitted to the trade union representatives, whereby one of them stated that the overall procedure for harassment at the workplace is realized through the presidency of the trade union that reviews the written complaints and decides whether there is real harassment at the workplace, and then they decide if the employee should lodge an appeal, i.e. continue the further formal procedure. Four private companies stated that the requests in their company should be submitted to: legal department, human resources department and the representative of the employees who is appointed in accordance with the Law on Protection at Work⁸.

3.2 NUMBER OF SUBMITTED WRITTEN REQUESTS

To sum up, 35,2% of the ministries and other state institutions, i.e. bodies of state authorities, public institutions as well as local government units received extremely small number of requests for protection from harassment at the workplace, whereby four received only one request, and two of them received two requests (three ministries received one request and three state institutions received a total of five requests). It is a surprising fact that there are a very small number of received requests for protection from harassment at the workplace, given that it is a matter of big organizations, as well as that the phenomenon of harassment is regulated since 2005. Such concerning facts are in correlation with the data and views expressed at the focus groups, that is, the employees are not informed about the Law on Protection from Harassment at the Workplace, whereby they do not have concrete information about the submission of written requests and initiation of a procedure for harassment at the workplace. Despite the lack of information among the employees, we believe that the existence of distrust in the institutions and the system of protection, as well as fear to report are the factors that significantly influence the small number of submitted requests.



⁸ Law on Protection at the Workplace, Article 28, Official Gazette of RM No.92/2007

In only one private company, one request for protection from harassment was submitted. In the stated example, it was pointed out that the proceedings were deferred and the resolution was in favor of the perpetrator of harassment, and not the victim of harassment. In all other private companies, no requests were submitted for protection from harassment at the workplace.

The small number of submitted written request for protection from harassment within the organizations both in the public and private sector is confirmed with the insufficient number of initiated court proceedings⁹ and conducted inspective oversights on basis of submitted reports about harassment at the workplace¹⁰ received through the request for information of public character. On the other hand, there are indicative data about the high number of submitted complaints¹¹ to the Committee for protection from discrimination in the area of work and labor relations, including the psychological and sexual harassment at the workplace. Furthermore, the number of submitted requests in this area represents half of the total number of submitted complaints for discrimination on all other grounds to the commission.

3.3 SUBMISSION OF REQUESTS FOR PROTECTION FROM HARASSMENT IN INDIRECT MANNER

The purpose of this legal measure is to stimulate the reporting by those victims of harassment who are afraid and have distrust to report the harassment themselves, and in such cases the request for protection from harassment is submitted by another person who they trust and who represents their interests.

Although the law stipulates the possibility that the request for protection from harassment at the workplace is also indirectly submitted by another individual¹², on behalf of and with consent from the employee, **that practice does not exist in any of the involved state institutions, i.e. state authorities, local government units and public institutions, nor in any of the involved private companies.**

⁹ Submitted lawsuits on harassment to the Basic Court Skopje 2 (2011 - 8 lawsuits; 2012 - 7 lawsuits, 2013 - 3 and in the course of 2014 – 5 lawsuits filed for harassment at the workplace).

¹⁰ Conducted inspective oversight by the State labor inspectorate upon complaints for harassment in accordance with the Law on Protection from Harassment at the Workplace (2011-1; 2012-2; 2013-5; 2014-2 complaints). The inspectors acted upon all complaints, and the employers were instructed to eliminate the irregularities.

¹¹ Submitted complaints to the Commission for protection from discrimination in the field of labor relations (2011-28 complaints; 2012-29; 2013-39; 2014-42 complaints).

¹² Trade union, person-in-charge of safety and protection at the workplace, person in charge of human resources management or representative of employees on behalf of the employee.

4. ADVANTAGES FROM THE ADOPTION OF THE LAW ON PROTECTION FROM HARASSMENT AT THE WORKPLACE

All six involved ministries are of the opinion that the advantage from the adoption of the Law on Protection from Harassment at the Workplace is the regulation of this phenomenon by law, that is the possibility for protection of the employees and the increase in the awareness of the staff to report harassment at the workplace. The Ministries of transport and communications, interior and labor and social policy stated several other additional advantages from the adoption of the new Law on Protection from Harassment at the Workplace. Thus, according to the Ministry of labor and social policy *‘It’s positive that the employees are given a possibility to resolve the problem amicably (inside the institution), and thus avoid the long court proceedings and costs. In this way, through mediators, the two parties are given possibility to present their facts, in order to explain how harassment was made. If there is consent by the two parties to identify a solution, for instance, to stop the harassment, one of the persons to be reallocated to another working premise (if they stay in the same office), or if there is possibility that the employer reallocated the other person to work in different shift. That is the advantage of the law which ensures to find faster resolution for certain situations that emerge in the working environment‘*. The Ministry of transport and communications indicated to several advantages, as follows: *“The possibility to directly conduct the process and resolve the problem on all levels (not only by the manager), the possibility to address the person that did the harassment and together with the mediator to resolve the problem, provides for a wider societal dimension about this matter, and is no longer a taboo topic, and the positive aspects of the regulation of discrimination and functioning of the Commission for protection from discrimination, as well as that the burden of proof is on the person that did the harassment“*. The Ministry of interior emphasized that *„the new law regulates the rights, obligations and responsibilities of the employer and employee with regard to the two types of harassment (psychological and sexual), whereby these rights and obligations so far were not regulated by any law“*.

The answers of the other **ostate authorities, public institutions and local government units** are largely in compliance with the answers given by the ministries. According to the Crisis Management Centre, the advantage from the adoption of the Law on Protection from Harassment at the Workplace is that it enables the protection of employees, as well as it gives the possibility to identify a solution with the help of mediators. *“Given the hierarchy of civil servants in the state administration bodies, it is good that this law protects all levels of employees for their smooth performance of the work. Also, it is good that there is room to find solution to the problem with a mediator (third party), before the competent court is approached”*.

The two trade union organizations think that the adoption of the law shall encourage the employees to report and submit requests for protection from harassment. Furthermore, according to one trade union organization, the harassment is made in a very subtle manner, while some of the employees are afraid to report it.

The representatives of **private companies stated several advantages from the adoption of the Law on Protection from Harassment at the Workplace**, such as: *“ensuring security and protection of the worker at the workplace; possibility for everyone to freely express oneself, to react, i.e. to report if harassed; free from fear that someone can bully them in any possible way; adequate and formal protection of those who might be potential victims; change in the behavior (positive) of the employees, as well as in and out of the organization, as well as bigger profitability of the production“*.

The participants in the focus groups did not state the advantages from the adoption of the law for a simple reason that they are not informed neither about the existence of the law, or about the subject of its regulation.



5. DISADVANTAGES THAT AGGREGATE THE IMPLEMENTATION OF THE LAW ON PROTECTION FROM HARASSMENT AT THE WORKPLACE AND PROPOSALS FOR IMPROVEMENT

The included ministries gave different opinions about the disadvantages that aggravate the implementation of this law. According to the Ministry of education and science, the Law on Protection from Harassment at the Workplace does not include civil servants, and therefore this is considered as disadvantage of the law. One feels the need to emphasize that the Law on Protection from Harassment at the Workplace is applied and is valid for all employees, as well as for people who are hired on service contracts. The Ministry of interior indicated that there is need for adoption of act that would regulate the procedure for single manner of action to be taken by the employers, but also to clearly regulate the whole procedure for protection from harassment at the workplace. In addition, the Ministry of health pointed out that there is no sufficiently strong public awareness about the importance of this phenomenon, and that there is fear from political retaliation, as well as lack of sufficient education about the implementation of this law. The necessity for education and training of the civil and public servants was also emphasized by the Ministry of transport and communication, whereby it was stated that bigger responsibility in this context should be given to the citizen associations and the trade union organizations. The Ministry of defense did not indicate which are the disadvantages that aggravate the implementation of the law, while the Ministry of labor and social policy pointed out the disadvantage that the mediator cannot make a merit based decision, but rather his/her role is to mediate among the parties while they reach agreement. We are of the opinion that such position of the ministry is not in compliance with the primary role of the mediator, which is in fact being neutral among the parties in order to resolve their dispute and that the mediator is obligated to act in independent and impartial manner during the mediation procedure.

Most of the other eleven bodies of state authorities believe that it is too early to talk about disadvantages; some of them believe that the law has no disadvantages and some of them indicated to certain disadvantages. Namely, seven of the state authorities think that the law is relatively new and that it is too early to speak about its implementation, while two of the state authorities think that there are no flaws about the regulation of harassment at the workplace. The other two institutions indicated to certain disadvantages, i.e. the afore mentioned that this law does not include certain category of staff and that the already established mechanisms for resolution of cases of harassment should be in charge and not according to what is stipulated by the new law.

Two trade union organizations, in general believe that there are flaws in the implementation of the law, whereby one of the organizations thinks that it is a serious problem to prove that harassment has happened given that the law stipulates that the written request for protection from harassment is submitted within six months at latest from the day when harassment was made at the workplace.

The biggest number of private companies cannot identify any flaws with the explanation that it is a matter of a relatively new law, so that they will identify the flaws and barriers that aggravate its implementation from its further implementation in practice. Only one of the interviewed companies indicated that the law is inadequate and inapplicable, for a simple reason that it should be explained, simplified and primarily there should be a definition provided about the phenomena of psychological and sexual harassment.

After having stated the disadvantages, the state institutions were asked if they think that the procedure for protection from harassment at the workplace should be improved. Thus, only **two of the ministries provided proposals for improvement**, whereby the first ministry recommended an increase in the prescribed fines for the perpetrators, i.e. introduction of an imprisonment sentence, but also to announce the individuals who are proved to be perpetrators of harassment in public. The second ministry proposed that the procedure should be improved by stipulating a suspension for the person that harasses another person at the workplace. **From among the other state authorities, only two of them gave proposals about the improvement of the procedure**, whereby the first proposal refers to the need to regulate the manner of protection of the identity of the person that submits the request for protection from harassment at the workplace, while the second one refers to the cancelation of the mediation procedure, because the mediator cannot influence the final decision and in case of court proceedings his/her opinion is not taken into consideration nor the procedure that he/she run. Three of the state administration bodies stated general proposals such as need to organize public media campaigns to raise the awareness about the consequences from harassment at the workplace, training for the managers regarding the procedure on harassment, as well as preparation and distribution of informative materials. **One of the trade union organizations indicated that there is need to strengthen the capacities of institutions for recognition of these matters and to increase the public awareness about the importance of this law.** The proposal stated by the participants in the focus groups refers to the need to build the capacities of the elected mediators so that they can be educated and sensitized during the mediation procedure in cases of harassment at the workplace.



6. CONCLUSIONS AND RECOMMENDATIONS

Public sector

All ministries and state administration bodies (bodies as part of the ministries, independent bodies of state administration, public institutions and local government units) are informed about the legislation on the phenomenon of harassment at the workplace and the concrete regulations about these matters in the law. It implies that they are completely familiar with the obligations arising from the regulations, i.e. from the Law on Harassment at the Workplace. However, one of the six included ministries and seven of the eleven state institutions did not take any activities to introduce the employees with the subject of regulation in the Law on Protection from Harassment at the Workplace, although misdemeanor sanctions are stipulated for disrespect of this legal obligation. Furthermore, it is a surprising fact that the institution which is competent to conduct inspective oversight over the implementation of the Law on Protection from Harassment at the Workplace, as well as the institution which is competent to perform the works in the area of employment and labor relations, did not take any activities to introduce their employees with this law.

It is worth mentioning that all ministries and state authorities bodies have established systems to inform the employees about the changes of legislation, which additionally verifies the data that the ministries and state authorities were familiar with the legal obligations and could have implemented them, and on the other hand could have used the same system to inform the employees about the novelties introduced with the Law on Protection from Harassment at the Workplace. However, the disrespect for the legally stipulated obligations by the state sector is obvious also with regard to the obligation to compile a list of mediators. Thus from the total of seventeen ministries and state authorities, twelve have not identified the mediators. This results in an exceptionally small number of requests for protection from harassment which are submitted in the state sector (three ministries received one request and three state institutions received total of five requests), despite the data that almost all ministries and state authorities' bodies have appointed persons to whom one should submit written requests for protection from harassment at the workplace. Also, it is worth mentioning that there is wrong interpretation by some institutions in the state sector that the Law on Protection from Harassment at the Workplace does not include them, that is, it is not valid for civil servants.

All ministries and state authorities' bodies share the view that the advantage from the adoption of the law is the regulation of this phenomenon by law. Unlike the identical position with regard to the advantages of this law, concerning the disadvantages that aggravate the implementation of this law, most of the ministries and state authorities' bodies think that it is too early to talk about disadvantages. The usual disadvantages refer to the not equalized action and complete non-regulation of the protection for harassment; lack of sufficiently strong public awareness about the importance of this phenomenon and the fear from political retaliation. Their proposals for improvement are in the context of increasing the fines and sanctions for perpetrators, that is, introduction of imprisonment sentence; public announcement of the people who will be proved to have been perpetrators of harassment at the workplace; protection of the identity of the submitter of the request for protection from harassment; cancelation of the mediation procedure; foreseeing suspension for the perpetrator of gross harassment on another employee and organization of public media campaigns to raise the awareness about this phenomenon.

Private sector

Private companies are informed about the regulation of the phenomenon of harassment at the workplace, whereby they are all familiar with the psychological harassment and less familiar with the regulation on sexual harassment. Yet, one should emphasize that besides the awareness about the regulation on this types of harassment, the private sector does not dispose of concrete information about the respective law and the

manner in which this phenomenon is regulated. Most of the private companies have informed the employees about legislation on harassment at the workplace. All private companies have introduced a system to inform about the legislative changes, and accordingly they could have used the system to inform the employees. Most of the private companies (thirteen from total of seventeen) have compiled a list of mediators, whereby the biggest companies have respected the legal obligation that one mediator is selected for 50 employees. The problem is that sometimes the elected mediators are individuals who are close to the managerial team. Besides the familiarity with the regulation on phenomena of harassment and general respect for the legal obligation to inform the employees and appointment of mediators, only in one private company there was request submitted for protection from harassment at the workplace. In the stated example, the procedure was in general deferred and it was resolved in favor of the perpetrator of harassment, and not the victim of harassment which can further aggravate the implementation of this law. In most of the private companies there is no appointed person to receive the requests for protection, while in some of the companies those are submitted to the trade union or to the already established services and/or mediators.

According to the private companies, there are several advantages from the adoption of the Law on Protection from Harassment at the Workplace, such as: providing security and protection of the worker at the workplace; possibility for everyone to freely express oneself and react, i.e. to report the harassment; adequate and formal protection of those who can be potential victims; change in the behavior of the employees and increased profitability in the production. Most of the private companies think that it is a relatively new law, so the flaws and barriers that aggravate its implementation can be identified from the further implementation of the law.

Trade unions

Trade unions are informed about the regulation of the phenomenon of harassment at the workplace, as well as the regulation of these phenomena by law. In the framework of their women's organization branches they have organized a series of seminars that elaborate the topic of harassment at the workplace, including the novelties which are stipulated with the Law on Protection from Harassment at the Workplace. In general, trade union membership gets informed about all novelties, changes and amendments to the regulations through the offices and coordinators of the trade union throughout the country. However, in certain trade unions, the required information can be obtained only if some of the members request that. This situation indicates to the elementary non-fulfillment of the trade union's mandate which is in fact the proactive approach of trade unions regarding the provision of information and protection of workers. This claim is supported by data obtained from state institutions and private companies that not a single direct written request was submitted regarding protection from harassment, i.e. written request submitted by trade union organization. Namely, although the provision stipulated by law aims to stimulate the reporting by those victims who have fear and distrust to do that individually, yet it seems as this possibility is insufficiently utilized by the trade union organizations.

Trade unions are not an exception from the disrespect for the obligation to appoint a mediator. Thus, there is an ongoing procedure for appointment of mediators at one of the trade unions, while the second trade union has no obligation to appoint a mediator due to the small number of employees.

Trade unions are of the opinion that the adoption of the law contributes to the encouragement of the employees to report harassment and request protection. According to them, one of the most serious problems regarding the implementation of the law is the process of proving harassment, especially because the law stipulates that the written request for protection from harassment is submitted within six months at latest when harassment was made for the last time at the workplace. They propose that the capacities of institutions need to be strengthened regarding the recognition of these matters and also public awareness needs to be raised about the importance of this law.

Workers

The biggest part of the participants in focus groups, i.e. persons employed in the state and private sector are not completely informed about the Law on Protection from Harassment at the Workplace. In particular, this refers to the manner in which harassment is regulated. According to the workers, the partial information sharing by the employers, results from disrespecting the quality and manner of providing information, and that is done only because of the stipulated high misdemeanor sanctions about disrespect for the provisions to inform the employees about the new legal provisions. The same refers to the established general system to inform the employees. Namely, the employees in the state and private sector think that the information about legislative novelties does not reach the employees at all. According to the employees, the fear from high fines is the reason why employers appoint mediators in cases of harassment. We assume that pressurized by the huge fines, the employers made sure to appoint individuals to be mediators who are close to the management of the company or individual on managerial position in the state institution. Therefore, one of the proposals of the participants in the focus groups refers to the need to build the capacities of elected mediators so that they can be educated and sensitized about the mediation procedure in cases of harassment at the workplace.

1. The state should take measures and activities for promotion of the Law on Protection from Harassment at the Workplace, in particular regarding the procedure for protection, through organization of media campaigns to raise the awareness and encourage the employees to report psychological and sexual harassment at the workplace;

2. The state, i.e. the Ministry of labor and social policy should take activities for promotion of the competence and mandate of the State labor inspectorate, which is the competent body to conduct inspective oversight on the implementation of this law. Furthermore, the Ministry of labor and social policy should take activities for establishment of system for continuous monitoring of the situation regarding the harassment at the workplace;

3. The Law on Protection from Harassment at the Workplace should include clear and precise definition of psychological and sexual harassment, as well as the forms and ways of manifestation. Furthermore, the law should include a provision that clearly establishes the categories of employees to which it applies;





4. It is necessary that state institutions and private companies provide adequate and quality information to the employees regarding the subject of regulation in the Law on Protection from Harassment at the Workplace, whereby special accent should be put on the ways in which psychological and sexual harassment are manifested at the workplace, as well as the procedure for protection. Furthermore, it is necessary that employees are informed about the existence of legal provision for indirect reporting of cases of harassment at the workplace, in particular reporting by the trade union, persons-in-charge of matters related to the safety and health at the workplace, human resources management and other representatives of employees;

5. State institutions and private companies that did not fulfill the legal obligation to appoint mediators should appoint such individuals as soon as possible, who will be mediating in case of harassment at the workplace, whereby during the selection of mediators the employer must ensure that they are neutral, independent and impartial. In this context, it is necessary that employers from public and private sector provide for building the capacities of elected mediators, so that they can be educated and sensitized during the procedure for protection from harassment at the workplace, as well as to inform the employees about the compiled list of mediators, their role and manner in which the procedure for protection at the workplace is conducted through mediator.

6. One has to strengthen the role of the Trade union, in order to ensure their proactive role in the provision of security, safety and protection of workers. Trade union organizations should promote their role and mandate, as well as examples of positive experiences from provided protection among their membership, in order to contribute towards encouragement of the employees to report cases of harassment at the workplace.

ANNEX 1: LIST OF INCLUDED STATE INSTITUTIONS

Ordinal number	Name of institution
1.	Municipality of Gazi Baba
2.	PI Children's home "11 Oktomvri"
3.	Ministry of agriculture
4.	Municipality of Kisela Voda
5.	Ministry of education and science
6.	Ministry of defense
7.	Ministry of labor and social policy
8.	Bureau for development of education
9.	State inspectorate for construction and urbanism
10.	State inspectorate for labor
11.	Ministry of transport and communication
12.	Centre for social work
13.	Crisis management centre
14.	Ministry of interior
15.	Agency for employment of Republic of Macedonia
16.	Agency for food and veterinary service
17.	Polyclinic Bit Pazar

ANNEX 2: LIST OF INCLUDED TRADE UNIONS

Ordinal number	Name of trade unions
1.	Union of independent trade unions of Macedonia (UNASM)
2.	Confederation of free trade unions of Macedonia (KSS)

ANNEX 3: LIST OF INCLUDED PRIVATE COMPANIES

Ordinal number	Name of the company and number of staff
1.	LINEA STIP, ready-made clothing, 380 staff
2.	AGRO BAR, Vinica – Agrarian mechanization, 96 staff
3.	BARGALA- Stip, Shoes production, 1100 staff
4.	MONDO, Stip, plastic bags production, 58 staff
5.	AMFHENOL TECHNOLOGY, Kocani- design, production and trade with electric, electronic and optical connectors, coaxial and lantern cables and interconnection systems, 260 staff
6.	METAS, Kocani- ready-made clothing (male shirts production), 150 staff
7.	PRLEP BREWERY, Prilep, 248 staff
8.	SOLAR TUBES, Prilep- Production of solar collectors, 150 staff
9.	DONIA, Prilep- production of biscuits and cookies, 32 staff
10.	TRIM, Ohrid- Construction company, 100 staff
11.	UNIPLAST, Struga- Polyester products production, 23 staff
12.	ZDRAVJE RADOVO DAIRY- Radovo, Strumica, 330 staff
13.	Agency for temporary employment PARTNER Skopje, 23 staff
14.	Hotel PRINCESS, Gevgelija- 160 staff
15.	JOKA Dairy, Strumica- 21 staff
16.	Economic chamber for North-west Macedonia, Skopje- 2000 members
17.	DENTAL Craft, Skopje- Dentistry laboratory, 12 staff





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