

# Debate

By Živko Mitrevski PhD, President, Federation of Trade Unions of Macedonia (SSM), to the article 'The trade union right to organize and its exercise in the Republic of Macedonia' by Temelko Risteski, Vesna Sijić and Emrah Mihtaroski (2012) *SEER Journal for Labour and Social Affairs in Eastern Europe* 15(3): 353-362.

## Introduction

Reviewing the *SEER Journal for Labour and Social Affairs in Eastern Europe* edition 2012/3, we were uncomfortably surprised by the poor presentation and the partly substantiated and malicious descriptions of the labour movement in Macedonia presented in the above article.

Our reaction is specifically to the authors who, unilaterally and without any analysis, have located all trade unions and trade union confederations in Macedonia in the same place and at the same level.

On behalf of the Federation of Trade Unions of Macedonia (SSM), I would like to highlight some of the activities in which the new leadership of the Federation, from 2010, has been engaged thus far. SSM recently issued a publication entitled *Our achievements – Programme confirmation*, in which we describe in detail the activities of the Federation in the sphere of the social dialogue, labour legislation and other activities.

In order to provide arguments with which to confound the baseless allegations of the authors about the labour movement and the trade unions of the Republic of Macedonia, we intend to set out in the following sections some better conception of the scope of our activities.

## The Federation of Trade Unions of Macedonia

SSM is the longest continuing organisation of workers in the Republic of Macedonia, having survived for a whole century and which develops its activities on the principles of free will, independence and solidarity. It is a modern and democratic organisation that is committed to influencing the improvement of the legal status of workers and the development of our country via constructive co-operation with our social partners.

The 18<sup>th</sup> Congress of the Federation, held on 28 October 2010, represented the establishment of a new direction for the action and operation of the Federation and its 17 affiliated trade unions.

Subsequently, the Federation of Trade Unions of Macedonia, following a new approach to institutional reform, became an active factor in the rapid development of the Republic of Macedonia, based around faster European integration processes; and an active player in the creation of a modern European-style social dialogue. Reforms put in place there have been oriented towards strict adherence to the economic and social position of workers and to trade union freedoms and rights established in the Constitution, laws, collective agreements and international standards.

The Federation has used this framework to establish principles on the basis of which it has become an equal social partner in the building of a social state in accordance with the Constitution, creating involvement with the other social partners in efforts to build a more prosperous social industrial relations.

The Federation and its affiliated trade unions, as part of a large family of democratic European and international trade unions, has contributed in the period between 2010 and 2012 to the struggle for the promotion and defence of the social and economic rights of workers, in particular in the preservation of jobs against the challenges of transition, globalisation and the global economic crisis. The activities of the Federation in this period were specifically targeted on the areas of economic and social development; social dialogue and collective bargaining; the protection of workers' rights and international co-operation; and, of course, the building of a modern, mobile and mass trade union of workers in which workers themselves can have confidence and which will help them exercise their rights.

In this period, the Federation saw another 26 000 new members join affiliated organisations, while the Trade Union of Defence and Security Workers of Macedonia affiliated to SSM, as its 18<sup>th</sup> sector trade union, on 26 November 2011. The Federation seeks to unite and represent the common social, economic and cultural interests of all its affiliated unions.

### Social dialogue

Social dialogue is a vital and necessary tool in the modelling of industrial relations between the social partners, but both a big challenge and an objective for SSM in response to the complex economic and social situation with which Macedonia has been faced in this period

Article 246 of the Labour Law provides:

*For the purposes of determining and achieving compliance activities in order to protect and promote economic and social rights, i.e. the interests of workers and employers, running of harmonized economic development and social policy, encouraging of the social dialogue and conclusion and application of collective agreements and their compliance with the measures of the economic, social and development policy, the Economic and Social Council is established.*

A special contribution to the revival of social dialogue in Macedonia was provided by the new leadership of SSM and, as a result, on 25 August 2010 a new agreement was signed for the establishment of the Economic and Social Council between the government and the representative social partners. The Council is a national tripartite body established by the government and the social partners for conducting social dialogue in order to create the conditions for economic and social stability and as a means of realising the fundamental values of the Republic of Macedonia, as a democratic and social state.

The Council is composed of twelve representatives of the social partners, with four coming from each of the social partners. The trade union movement is represented on

the Council by two representatives each from SSM and KSS (the Confederation of Free Trade Unions of Macedonia).

In the period between 2010 and 2012, the ESC discussed many important issues in the economic and social sphere and as regards the working and legal position of workers, focusing on different initiatives and international conventions.

In order also to establish a social dialogue at local level, the social partners agreed on the establishment of local economic and social councils. By the end of 2012, economic and social councils had also been created in five municipalities (Kumanovo, Strumica, Stip, Tetovo and Kavadarci), while the establishment procedure is continuing in several other municipalities.

The development of social dialogue between 2010 and 2012 was influenced by several factors, in particular:

- the working and legal status of workers in the context of international standards
- the harmonisation of the labour legislation with EU directives
- the economic crisis
- the need for the regulation of labour relations by collective agreements
- the development of democratic decision-making at national and local level.

In the area of social dialogue, SSM has made a particular recent contribution in the consideration of the government's set of anti-crisis measures seeking to mitigate the crisis. In contrast to the previous strategy of commenting on the government's proposals, SSM emerged for the first time at the end of June 2010 with its own set of proposals to mitigate the economic and social situation of workers and reducing unemployment. SSM sought actively to contribute to the fight against the crisis and proposed:

- full implementation of the package of four anti-crisis measures by all parties involved in this process, taking additional measures to improve the investment climate to attract foreign and domestic investors to create jobs
- timely refund of VAT for enterprises and the timely fulfilment of the obligations of all parties towards the state
- subsidies for the support of existing jobs, especially in metals production, textiles, construction, agriculture and other sectors
- including workers and employers in planned public projects
- creating the conditions in which to determine a minimum wage by law after the crisis
- the regular payment of salaries to employees and their increase according to trends in inflation and productivity.

Particular measures that fell within the focus of these aims were:

- opening up the banking sector and facilitating access to cheap bank loans for enterprises
- reprogramming of the due obligations of enterprises, as well as providing lower interest rates on investment loans
- the construction of budgetary consolidation strategies to ensure growth, financed in the main by cost reductions
- fiscal discipline of taxpayers
- infrastructure development

- full respect of international standards of workers' rights in the context of the termination of employment due to business reasons or bankruptcy
- the introduction of forced leave, or reduced working hours from 40 to 32 or 36 hours, with the remainder subsidised by the state through special funds financed by the EU
- training and retraining programmes, as well as a social development plan for those workers who remained jobless and for those who would lose their jobs as a result of the global financial crisis, in which state and employers would provide some forms of support.

For more productive employment, SSM suggested:

- implementing effective, appropriately targeted active labour market policies
- improving the competitiveness of, and increasing the resources available to, the public employment services so that jobseekers received adequate support when working for private employment agencies
- providing quality services and respect for rights
- implementing programmes of vocational and entrepreneurial skills for paid employment and self-employment, especially for people who have lost, or are at risk of losing, their job as well as for vulnerable groups
- limiting or avoiding job losses and supporting employees joining the workforce through well-planned schemes implemented through social dialogue and collective bargaining. A special measure was proposed as regards introducing better conditions for retirement as a means of creating employment opportunities for young people.

Within the framework of the Economic and Social Council, a co-ordinating body for corporate social responsibility (CSR), composed of representatives of the social partners, chambers of commerce, academia, NGOs, the media and other experts has been established. The purpose of this body is to mobilise businesses and all interested stakeholders in the implementation of CSR as a key strategy in the improvement of businesses' environmental and social impact, contributing to a more competitive Macedonian economy on the global market. SSM has participated actively in the activities of this body, especially in the area of the assessment of remuneration via trade union organisation and collective agreements concluded at the level of the employer.

### Labour legislation

The Federation continues to pay special attention to activities regarding the laws governing the working and legal status of workers. SSM actively co-operates, as a representative trade union, with its social partners to improve legislation that would provide decent work for workers and the accomplishment of their rights, in the scope and at the quality of the level of rights under European law.

Additionally, the strengthened Economic and Social Council has allowed the Federation to contribute to the drafting of amendments to laws and their adaptation to European regulations and to participate in discussions of parliamentary committees.

Activity in this area has been extremely important as a result of the adoption of new laws and amendments.

With the strong encouragement of SSM, an office of the International Labour Organization was opened in Macedonia, in close co-operation with the ILO Office in Budapest responsible for south-east Europe. Successful co-operation has been delivered, particularly on the wide range of issues appropriate to trade unions and workers' rights. With the ratification of ILO conventions, SSM has contributed to the improvement of international labour standards in Macedonian legislation.

### *Labour legislation activity in 2010*

In 2010, amendments were made to the Labour Law on three occasions (*Official Gazette of RM* No. 50, 52 and 124). Some of SSM's proposals in response were accepted during discussions and, for some of them, SSM filed initiatives before the Constitutional Court of the Republic of Macedonia.

Namely, considering draft amendments to Article 83, Paragraph 1 of the Labour Law, it was accepted that compensation in cases of the suspension of labour be 50 % of the salary that the employee had received the previous month, instead of the proposed level of 30 %, as a result of SSM lobbying.

SSM proposals for strengthening the trade union role concerning the provision of timely information and participation were accepted in the third set of changes to the Labour Law via the creation of an obligation for employers, also to consult the trade union on issues of concern to workers. SSM also gave full support to provisions specifying the prohibition of discrimination, strengthening employment contracts, protecting young workers and prohibiting child labour.

Some observations made by SSM on certain proposed amendments were not accepted during the hearings, as regards the obscure definition of working time (Article 5, Paragraph 1, point 5); the regulation of night work without established time limits (Article 129, Paragraph 1); and the lack of trade union representation on the Commission established for determining the representativeness of trade unions (Article 213-b). These were translated into successful initiatives to annul the provisions with the Constitutional Court of the Republic of Macedonia, whose decision abolished all these provisions.

SSM was also active in two other areas in 2010:

- psychological harassment in the workplace – psychological harassment of workers has been increasing, leading SSM to commence activities and initiatives to regulate this phenomenon with a specific law, including the preparation of a draft legal text, which was adopted by the Economic and Social Council and the government in 2012, and helping to deliver training for anti-bullying advisers
- the adoption of a new Law on Public Servants (*Official Gazette* No. 52/10) contained many remarks and suggestions from trade unions, primarily resulting from the ambiguities of certain provisions of the draft.

### *Labour legislation activity in 2011*

In 2011, SSM, along with other relevant social partners, launched an initiative to amend the Labour Law given certain inconsistencies and ambiguities that had arisen in its practical application. SSM was especially interested in amending the Law on the

determination of representativeness in the conclusion of collective agreements; ensuring the Representation Committee was composed in a fully tripartite manner; and determining the focus of trade union statutes by union acts, i.e. without undue state interference in the adoption of legal rules and restrictions. SSM also aimed to reduce the level of fines on trade unions in terms of their lack of compliance with state policies.

These requirements, which were supported by other trade unions and by employer representatives, were accepted and included as amendments to the Labour Law (*Official Gazette* No. 11 and 39 of 2012). *Official Gazette* No. 47 of 2011 modified Article 46 of the Labour Law to set down the conditions under which temporary employment can be transformed into permanent employment before the end of the five-year period specified by Paragraph 1.

SSM also actively participated in deliberations in five other legal areas affecting workers, with suggested improvements to workers' position respected and adopted:

- Law on European Workers Councils (*Official Gazette* No. 6/12) which provided a strengthening of the position of workers, and trade unions as their representatives, in procedures for timely and full information and consultation on all economic and social issues affecting workers in transnational companies
- Law on Pensions and Disability Insurance. SSM and KSS signed an initiative in February 2011 on the introduction of additional requirements for retirement, as follows: workers should be able to retire after 35 years service for women and 40 for men, regardless of age; retirement should take into account the complexity of jobs (i.e. risky and demanding jobs in mining, construction and other industries); workers aged 60 should be able to retire where they have a minimum length of service of 15 years; and workers meeting the age requirement should be able to make up contributions where they do not meet the minimum service requirement. The priority motive for this initiative is to look after certain categories of workers that, under the current law, cannot be entitled to a pension, such as redundant workers and workers from bankrupted companies
- Law on Occupational Health and Safety – SSM has been actively involved in the process of amending this law, originally adopted in 2007, and continuously strives for its full implementation in working environments, preserving the dignity of labour and providing healthy and safe working conditions for all workers. SSM has maintains representatives in the National OHS Council, representing the rights and interests of workers and proposing measures for the Strategy, Programme and Action Plan of the government on occupational health and safety
- Law on the Peaceful Resolution of Labour Disputes. In 2011 and 2012, SSM organised public debates on the necessity of the full application and implementation of this law, originally passed in 2007. Trade union members and experts stressed the need to revive and promote the peaceful resolution of labour disputes, contributing to the avoidance of long and expensive litigation processes before the ordinary courts
- the promulgation of a trade union minimum basket – this realistic calculation of the cost of living in Macedonia was delivered in February 2011. Besides showing the actual rise in the cost of living, the trade union basket provides the opportunity to initiate other policy issues, including the basis for the lowest and minimum wage,

and the different models which exist to help people living in poverty and other contemporary difficult conditions. The value of the basket in December 2010 was 29 199 MKD.

### *Labour legislation activity in 2012*

During 2012, despite the earlier changes in the Labour Law which had been advocated by SSM and published in *Official Gazette* No. 11/2012, further amendments were made and published in *Official Gazette* No. 39/2012. SSM had supported the amendment of Article 112, which introduced two new paragraphs where, in the case of a worker's incapacity for work due to injuries caused by the unsafe measures of the employer under the Occupational Health and Safety Law, the employer will pay compensation of salary after a period of thirty days.

During November 2012, SSM submitted comments on the latest round of proposed amendments, regarding protection against form of discrimination based on pregnancy, birth and parenthood. These proposals were accepted and are contained in amendments which were published in *Official Gazette* No. 13/2013. Under Article 9b, all forms of discrimination are prohibited against workers on the basis of pregnancy, childbirth and parenting, irrespective of the duration and type of employment. Under Para. 1, discrimination concerns access to employment, working conditions and all employment rights as well as the ending of the contracts of workers who are pregnant or who use the rights arising from childbirth and parenthood. This Article amended Articles 11, 25 and 101 of the Labour Law.

SSM submitted several proposals to amend certain provisions of the Law on Pensions and Disability Insurance (*Official Gazette* No. 98/12), especially in terms of the right to a pension based on full and unlimited years of service and with no reduction in the valorisation coefficient. What was accepted concerns miners working underground, providing a right to a reduced age for obtaining a pension for any period spent at work with a degree of increased service, while the law also establishes trade union representation on the Steering Committee of the Pensions Fund, a post which is taken by an SSM representative.

In March 2012, the social partners agreed that miners may exercise a right to retirement at 52 years and 4 months instead of the previous 53 years. This decision reaffirmed that, with constructive social dialogue, even at a time of global economic crisis, we can resolve problems in the interests of workers.

On Labour Day, SSM started a campaign for the establishment of a minimum wage in Macedonia. The minimum wage is directly connected with the most important questions of living, such as: employment; wages; and regular payment. These issues are at the centre of the efforts of the Federation, and campaigning activity has also been taken up by KSS and by the Union of Independent and Autonomous Trade Unions of Macedonia (UNASM). SSM actively participated in the process of drafting the legal texts which, for the first time after a long period, establishes a minimum wage that employers are obliged to pay to workers for full-time work. The amount of the minimum wage for 2012 was established at 8 050 MKD (39.6 % of the average gross wage in Macedonia published by the State Statistical Office for January-November of the previous year).

The establishment of the minimum wage by law (*Official Gazette* No. 11/12) is an important element of policy to combat poverty and the meeting of the basic subsistence needs of workers and their families. This historic act defined one of the most important issues that had not been determined for twenty years. At a time of economic crisis, high unemployment, a high level of informal economy and low wages, the minimum wage is an important safety category in providing a floor for wages, particularly for the 65 000 employees who receive salaries below that level.

In 2012, SSM submitted an initiative to the Economic and Social Council for a draft law on the prevention of psychological harassment in the workplace, following activities that had been underway for a couple of years. Before determining the final version of the draft, SSM organised a public debate for representatives of trade unions, academic and public institutions, public authorities and NGOs. The Ministry of Labour and Social Policy accepted the initiative and prepared a draft text, discussion on which is now continuing in working groups.

SSM submitted an initiative to the Economic and Social Council for amendment of Articles 9, 13 and 38 of the Law on Adult Education (*Official Gazette* No. 7/08), as well as regarding Articles 9, 12 and 34 of the Law on Vocational Education and Training (*Official Gazette* No. 71/06). In both cases, the aim was to seek to enable a realisation of the trade union role of representing the interests of workers in all areas of life.

Realising its tasks in the monitoring of legislation, SSM undertook activities through its bodies, and also as an active member of the Economic and Social Council, to participate in the discussion and adoption of many laws relevant to the workers including, amongst others, the Law on Salaries; Law on Contributions for Mandatory Social Insurance; Law on Civil Servants; Law on Judicial Service; Civil Procedure Law; Health Care Law; Health Insurance Law; Law on the Prevention and Protection of Discrimination; and the Law on Equal Opportunities for Women and Men.

#### *Labour legislation activity in 2013*

On the jointly-constructed views of the social partners concerning the Labour Law in practice, amendments have been adopted relating to the following issues (*Official Gazette* No. 25/2013):

- *contract terminations.* It is provided that an employee will personally write the required statement in the case of amicable terminations, which will prevent the possibility of abuse under which employees sign blank statements
- *mandatory fine for unregistered workers.* In the case of unregistered workers, the employer may be fined and, if the workers are not registered within eight days, the facility where the tasks are performed will be closed down. If there are three or more unregistered workers, the facility will be closed without the possibility of fines. In this period, no worker may be fired and, if so, they are due 70 % of their salary and salary-related contributions.

Amendments have also been discussed that define the working and legal status of migrant workers; further regulate public employment advertisements and records of attendance at work; and provide for the obligatory notification of the Labour Inspectorate concerning overtime and scheduled working during state holidays; etc.

## Conclusions

Considering that the positions and activities of the trade union movement *vis-à-vis* global capital relationships can be efficient and effective only in the context of a global association of the trade union movement, SSM has taken some steps towards joining the trade union entities within Macedonia and eliminating the previous atmosphere of inter-union struggle. At SSM's initiative, a Memorandum of Co-operation was signed on 22 February 2011 between SSM, KSS and UNASM, while SSM also signed a Memorandum of Co-operation with the Federation of Associations of Retirees of Macedonia, on 10 August 2012.

The activities of SSM (and its affiliated unions) are a specific response to several areas in which SSM has built a position as a relevant social partner, developing and promoting the social dialogue while achieving results using classical methods but also as a result of its institutional networking.

Particular results and outcomes may be seen in the labour legislation, which is characterised by a ceasing of the process of the decline in workers' rights, while there has been a process of improvement on, and implementation of, a series of EU directives. Further promoting the social dialogue, the adoption of a series of historical laws, such as the Minimum Wage Law, the Law on European Works Councils and the preparation of the Law on Psychological Harassment is anticipated soon.

The progress and contribution of SSM is obvious in the enrichment of the labour legislation in terms of the ratification of new ILO conventions. This represents a concrete contribution in terms of increasing the number of standards in operation, but also in terms of raising awareness of the need for international labour standards.

The process of the identification between the position of trade unions and SSM as a whole is confirmed for the period in question by the series of collective agreements which have been concluded, some of them for the first time in our long trade union history, such as one for the energy sector, but also one in which, for the first time, the rights of particular categories of worker were covered and protected, such as seasonal workers. Meanwhile, the reference period is one in which we have resolved the problem of miners in underground mines associated with seniority, while also increasing the number of jobs with the opportunity for workers to benefit from their experience.

The Federation also made major changes in the period described in the concept of education by the establishment of a School for Young Trade Union Leaders and via the activities of its Youth Section and Women's Section. At the same time, an EU project was implemented, for the first time, while other European strategic partners and the occupational health and safety concept was promoted. Co-operation was established with the European Trade Union Institute and, for the first time, the trade union minimum basket was created and regularly followed.

In terms of the difficult world and European debt and financial crises, SSM has also managed, through social dialogue, to prevent mass lay-offs, reduced wages and increased pension age. Actually, these have been the three main pillars on which our activities have been focused.

Consequently, we hope that you now have an alternative picture of trade union activities that were maliciously, and without substantiation, presented by the authors of the original text.

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Reply by Temelko Risteski, on behalf also of co-authors Vesna Sijić and Emrah Mihtaroski, to the response of Živko Mitrevski PhD, President, Federation of Trade Unions of Macedonia (SSM), to their original article

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We thank Mr. Mitrevski for his response, because the exchange of opinions leads to the truth. However, we sincerely regret that the response does not really address itself to the findings in our paper about particular pathological phenomena in the exercise of the right of trade unions in the Republic of Macedonia.

There is no doubt that there are trade unions and a trade union movement in Macedonia. We do not deny that, in Macedonia, there is quality labour legislation and quality collective agreements which are compatible with the standards of the right to trade union organisation in the European Union and the standards contained in international legal acts on human rights.

The Macedonian labour legislation contains numerous provisions for the protection of the right to organise trade unions that guarantee quality and the effective exercise of workers' rights and the protection of these.

There is no doubt that the Federation of Trade Unions of Macedonia has great merit. We believe that the President of the Federation of Trade Unions of Macedonia, Mr. Mitrevski, is an honest man and that all the statements in his response to our paper on the activities of the Federation of Trade Unions of Macedonia in the social dialogue, in the adoption of labor legislation in 2010, 2011, 2012 and 2013 and other activities mentioned in the conclusion of the response, are correct. Indeed, all of us have been involved in some of these activities.

Unfortunately, however, there is a mismatch between the normative and the actual situation in the Republic of Macedonia. This is expressed through numerous barriers in the exercise of the rights of trade union organisation, including among them:

- the high degree of fragmentation of the union movement
- conflicts between trade unions
- employers prohibiting workers becoming members of trade unions and participating in their activities
- the fear among workers of becoming members of trade union organisations on the grounds that this would be unfavourably viewed by employers
- the bureaucratisation of trade union leaderships and their separation from members
- tensions between trade union leaderships and other union members
- conflicts and disagreements between trade union leaderships about the methods and ways of the trade union struggle for workers' rights
- trade union leaderships flirting with the government.

We can review the websites of any of the mass media in the Republic of Macedonia to locate articles about some of these phenomena, whose immediate consequence as regards trade union organisation include:

- insufficient protection of labour rights
- frequent occurrences of the harassment of workers
- the low level of the guaranteed minimum wage (about €120 per month)
- delays of several months in the payment of wages to workers

- non-payment of compensation for overtime and work during public holidays
- denial of the right to daily and annual leave
- lack of health and safety protection for workers, as well as more frequent workplace injuries and deaths, especially in construction and mining
- the lack of payment of employers' contributions for health, pensions and disability insurance.

We must be careful to observe that a lack of result in these areas is not always a reflection of a failure of effort, or of determination, on the part of trade union organisations. It is clear that there are trade union organisations and leaderships who do maintain the struggle to protect the rights of workers, although they are, in our view, in the minority.

Our findings for these pathological phenomena are based on verifiable facts, contained in references which we set out in the original Macedonian language version of our paper.<sup>1</sup> President Mitrevski in his response praises the achievements of the Federation of Trade Unions of Macedonia in the social dialogue and in its participation in the adoption of labour legislation and other activities, but he does not directly address these pathological phenomena in the organisation of Macedonian workers. We do not think that he is therefore able to sustain a claim that these phenomena are, on the facts, unfounded. We very much regret that, in our consideration, he missed the target of his response and does not therefore give us an opportunity to hear an opposing view of our findings under the old lawyer principle of *audiatur et altera pars*.<sup>2</sup>

But, however that is, we do warmly greet him.

1 We would repeat that this is available from the authors.

2 Latin = Let us hear the other side.