

Draft version of  
**the Law on Labour Relations**  
– Helsinki Committee's propositions

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COMMITTEE FOR HUMAN  
RIGHTS OF THE REPUBLIC OF  
**MACEDONIA**

## Provision from the Law



## Article 19

- Employment contract for a definite period of time, transforming the labour relation for a definite period of time into a labour relation for an indefinite period of time
- Article 19, paragraph 3

## Proposed solution

The Organization of Employers proposed deletion of paragraph 3 from Article 19 from the new text of the LLR. The paragraph in question restricts employers when employing workers for a definite period of time by specifically listing the cases when an employer can conduct an employment contract for a definite period of time. According to the Organization of Employers, the new legal solution is restricting.

**The Helsinki Committee recommended** not deleting the proposed paragraph 3 since it positively restricts the employer's possibilities to employ workers for a definite period of time. It is the Committee's opinion that all necessary reasons for employing workers for a definite period of time are included in the proposed paragraph. It ensures workers' certainty and protection in cases of termination of the labour relations since employers must have justified reasons in order to employ workers for a definite period of time. Otherwise the employment for a definite period of time is conducted only towards simpler termination of the employees' labour relations.

## Recommendation of the Helsinki Committee

A new paragraph, paragraph 5 was added to the aforementioned article to implement the Helsinki Committee's recommendation, transformation of the labour relation for a definite period of time into a labour relation for an indefinite period of time after the expiration of the legally prescribed period from Paragraph 1 of the Article (three years) should be a mandatory obligation of the employer.

### BECAUSE:

This will improve the protection of labour rights since the Law had previously failed to specify the procedure for transformation of labour relations, i.e. it wasn't specified whether the procedure should be initiated by the employee or it should be the employer's legal obligation. Consequently, and due to the lack of information regarding their labour rights on part of the employees, most employees who met the legal obligations for transformation of the employment contract did not have their contract transformed by their employers.

## Implementation status of the recommendation

The Committee's recommendation was incorporated in the Draft-Law, i.e. Paragraph 3 of Article 19 remained in the latest version of the Draft-Law.

## Provision from the Law



**Procedure prior to the dismissal due to personal reasons of the employee** – Article 76 of the LLR determines the personal reasons on the grounds of which the employer can terminate the employment contract.

## Proposed solution

Pursuant to the second paragraph of Article 76, the employer is obliged to notify in written the employee when not satisfied with the employee's manner of performing the duties and provide a deadline for improvement (not less than 15 working days, not longer than 60 days) before making the decision to terminate the employment contract.

## Recommendation of the Helsinki Committee

**The Helsinki Committee proposed** addition of a new paragraph to the Article, in order to specify that the deadline provided by the employer shall not include days of absence due to annual leave, temporary inability to work due to illness or injury and other justifiable reasons pursuant the Law and the Collective Agreement.

### BECAUSE:

In practice, employers usually count days off due to annual leave or absence due to illness, hence employees do not always have a real chance and opportunity to improve their work.

## Implementation status of the recommendation

The recommendation was incorporated in Article 76 of the Draft-Law as additional protection of employees.

## Provision from the Law



Complaint against the decision on termination of the employment contract with a notice period; Complaint against the decision on termination of the employment contract without a notice period or on suspension from duty with the employer – Article 80 and 81 of the Draft-Law regulate the procedures, deadlines and manner of filing a complaint against the decision for termination of the employment contract with a notice period (Article 80) and against the decision for termination of the employment contract without a notice period or on suspension from duty with the employer (Article 81).

## Proposed solution

Both articles prescribe that the employee shall file a complaint against the aforementioned decisions not later than eight days after receipt of the decisions.

## Recommendation of the Helsinki Committee

The Helsinki Committee recommends increasing the deadlines in both articles to fifteen days.

### BECAUSE:

Practice from the past reveals that employees need a longer deadline for filing a complaint against the decision for termination of the employment contract since in most cases they are not aware of the deadlines and the manner of filing the complaint. Consequently, employees should be provided with longer time to find information and decide whether they will exercise the right to file a complaint. Experience shows that employees usually fail to meet the deadline for filing a complaint against the decision for termination of the employment contract due to not being informed. By extending the deadline for filing a complaint, the employer is not damaged in any way, while the employee shall be provided with sufficient time to become informed and decide.

## Implementation status of the recommendation

The recommendation was accepted and incorporated in Articles 80 and 81 of the Draft-Law.

## Provision from the Law



Fine due to violation of the working duties and the working order and discipline – Article 82

## Proposed solution

No proposed solution

## Recommendation of the Helsinki Committee

The Helsinki Committee proposed specifying the disciplinary procedure for determining violation of the working obligations, working order and discipline by the employee before imposing a fine.

### BECAUSE:

This should provide greater protection of labour rights and limit the possibility for arbitrary and unfounded punishment of employees by the employer.

## Implementation status of the recommendation

This recommendation was not incorporated in Article 82 of the Draft-Law.

## Provision from the Law



Statute of limitations on employment claims – Article 114

## Proposed solution

Article 114 of the Draft-Law prescribed that the limitation period of monetary claims arising from employment shall be three years from the day of liability occurrence.

## Recommendation of the Helsinki Committee

The Helsinki Committee proposed that the limitation period of monetary claims arising from employment should be five years.

### BECAUSE:

Pursuant to the Law on Obligations, the general limitation period of claims is five years. The Organization of Employers opposed the proposal and asked that the limitation period remain as the initially proposed period – three years.

## Implementation status of the recommendation

The latest version of the Draft-Law incorporated the recommendation issued by the Helsinki Committee.

## Provision from the Law



**Ban on performing work beyond the full-time working hours**  
– Article 121

## Proposed solution

Article 121, paragraph 1, point 3 of the Draft-Law prescribes that the employer must not order work beyond the full-time working hours to an employee who is a parent with a child under the age of three and self-supporting parent with a child under the age of six, unless the employee gives a written statement voluntarily agreeing to work overtime.

## Recommendation of the Helsinki Committee

The Helsinki Committee recommended removing the possibility for overtime work with the employee's consent.

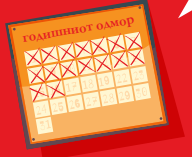
### **BECAUSE:**

In practice, this possibility is usually abused and female employees with children under the age of three and self-supporting parents with a child under the age of six are forced by employers to sign a statement agreeing to work overtime, whereupon the element “voluntarily” loses its meaning. This mostly occurs in the textile, leather and shoe industry.

## Implementation status of the recommendation

The recommendation was not introduced in the latest version of the Draft-Law.

## Provision from the Law



Compensation for the unused part of the annual leave prior to termination of labour relations – Article 145

## Proposed solution

Article 145 of the Draft-Law prescribes that the employee shall have the right to a compensation for the unused part of the annual leave prior to termination of labour relations, provided the termination was not his/her fault. In the initial version of the Article, the Law conditioned the compensation with the employee's prior request for taking annual leave.

## Recommendation of the Helsinki Committee

The Helsinki Committee requested that this precondition be erased.

### BECAUSE:

The Committee believes it to be absolutely unnecessary for the employee to previously request taking annual leave. Since the termination of employment is not requested by or the fault of the employee, they are unable to know exactly when their employment shall be terminated in order to previously request using annual leave.

## Implementation status of the recommendation

The recommendation was accepted and incorporated in the latest version of the Draft-Law.



## Provision from the Law



### Absence from work due to holidays – Article 148

## Proposed solution

Article 148, paragraph 2 of the Draft-Law prescribes that the right to absence from work with salary compensation during the holidays may be restricted if the work, i.e. the production process is carried out uninterruptedly or if the nature of the work requires its performance on holidays as well. Paragraph 3 of the Article prescribes that the employer shall be obliged to previously inform in writing the State Labour Inspectorate about every introduction of work on a state holiday.

## Recommendation of the Helsinki Committee

The Helsinki Committee requested that the restriction of the right to absence from work due to holidays be regulated differently.

### **BECAUSE:**

Practice from the past reveals significant inefficiency on the part of the State Labour Inspectorate in cases of unreported work on a state holiday and non-working days, as well as no salary compensation for the same. Therefore, we believe that these two paragraphs offer employers the opportunity to abuse the right to absence from work with salary compensation during holidays.

## Implementation status of the recommendation

The recommendation was not accepted or incorporated in the latest version of the Draft-Law.

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