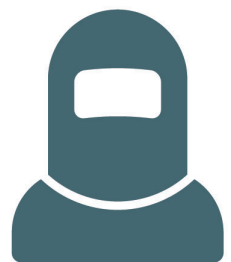




OVERVIEW

OF THE
GOVERNMENT
MEASURES FOR
PREVENTION OF
AND PROTECTION
AGAINST THE
CORONAVIRUS
AND THEIR
IMPACT ON
LABOUR RIGHTS



OVERVIEW

OF THE GOVERNMENT MEASURES FOR PREVENTION OF AND PROTECTION AGAINST THE CORONAVIRUS AND THEIR IMPACT ON LABOUR RIGHTS

*The data under analyses have been gathered from the
Helsinki Committee for Human Rights report



British Embassy
Skopje



IMPROVED
PRODUCTIVITY
THROUGH
BETTER LABOUR
LEGISLATION
IN MACEDONIA



November, 2020

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against the coronavirus and their impact on labour rights

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INTRODUCTION

In December 2019, in the City of Wuhan in the Hubei Province of the People's Republic of China, emerged a new coronavirus that shortly after spread across the globe.¹ The first positive case in Macedonia was registered on 26 February 2020. On 11 March, the Government adopted a set of measures and recommendations for prevention of and protection against the coronavirus,² following the confirmation of several cases of patients diagnosed with COVID-19³. On the same date, the World Health Organisation declared the COVID-19 pandemic.⁴

On 11 March, the Government adopted their first measure for prevention of and protection against the coronavirus suspending the education process and teaching in all kindergartens and primary schools. In order to execute this measure effectively, the Government decided that one of the parents of children up to the age of ten who go to kindergarten or primary school will be released from their work duties. Soon after were identified the categories of workers that should be released from work duties due to certain health conditions. On 14 March, the Government recommended that all employers in the country should organise the work and the way of working of employees according to the "work from home" institute, depending on the type of their work and capacities. On 18 March 2020, a state of emergency was declared on the territory of the whole country.⁵

Along with the number of registered coronavirus cases increased the violations of labour rights. Based on that knowledge, this overview takes into consideration all the measures adopted by the Government since the beginning of the pandemic crisis, which have directly affected workers. Its aim is to offer a comprehensive monitoring of trends, challenges and issues resulting from the implementation of the measures. This

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1 World Health Organization '[Timeline: WHO's COVID-19 response](#)' (2020).

2 All measures and conclusions adopted on the Government sessions related to prevention of and protection against the coronavirus are available on the Government's [official website](#).

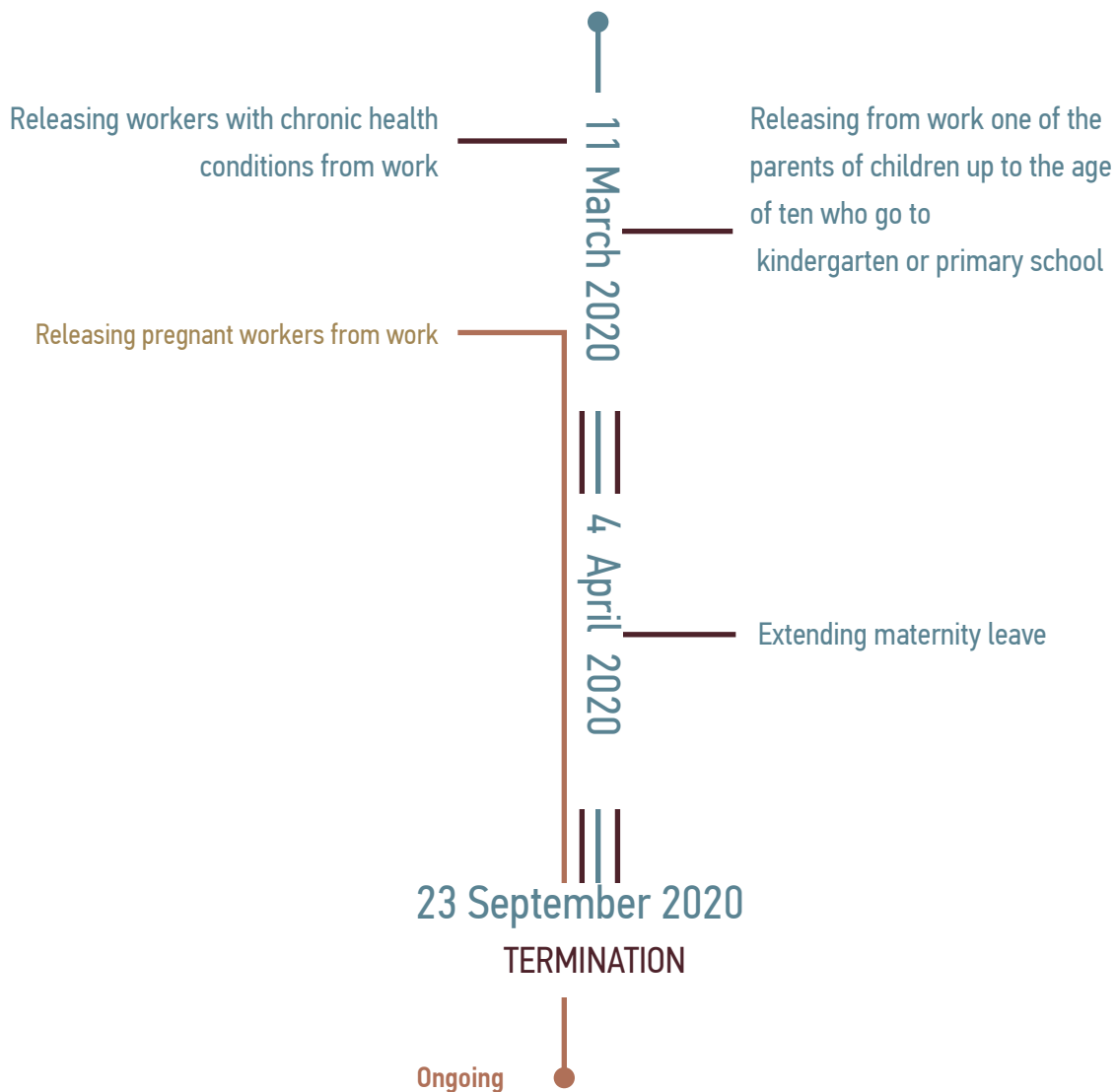
3 The disease caused by the new coronavirus SARS-COV-2.

4 World Health Organization '[WHO Director-General's opening remarks at the media briefing on COVID-19 - 11 March 2020](#)' (March 2020).

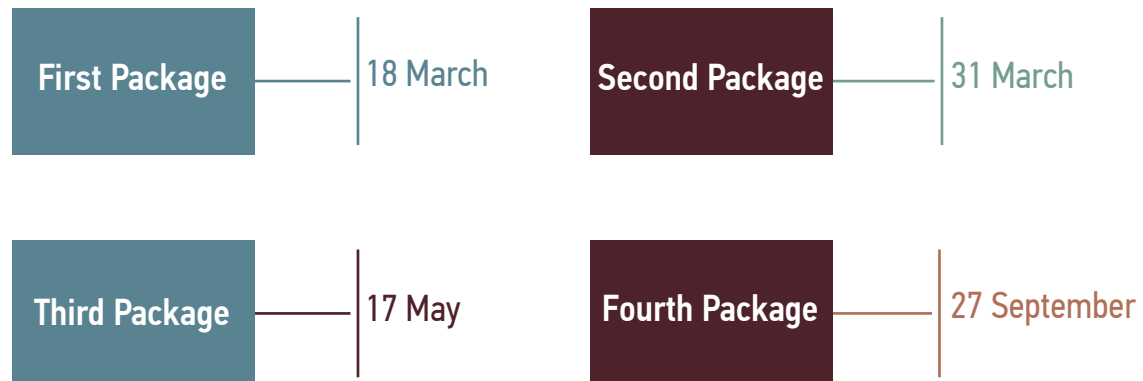
5 Decision establishing the existence of the state of emergency dated 18.3.2020 of the President of the Republic of North Macedonia ("Official Gazette of the Republic of North Macedonia" No. 68/2020).

analysis comprises two sections – the first section reflects on the Government measures for prevention of and protection against the coronavirus that affected the workers' everyday life in the country; the second section analyses the economic measures and their impact on labour rights. The conclusions drawn from this overview have been summarised at the end of this document.

Measures for prevention of and protection against the coronavirus



Economic measures



MEASURES FOR PREVENTION OF AND PROTECTION AGAINST THE CORONAVIRUS: BETWEEN THEORY AND REALITY

Measure for realising from work one of the parents of children up to the age of ten

The measure for realising from work one of the parents of children up to the age of ten was one of the gender-sensitive measures implemented by the Government in the crisis management. On 11 March, the Government suspended the education process and teaching in all kindergartens and primary schools. In order to execute this measure effectively, the Government decided that one of the parents of children up to the age of ten who go to kindergarten or primary school will be released from their work duties. This measure ostensibly recognised the equal right of household responsibilities division and childcare between the parents. However, the data obtained through the registered labour rights violations indicate

that this measure was by and large used by mothers.⁶ The data show that this crisis amplified the underlying gender inequalities in our society as a direct result of the lack of commitment to address those problems prior to the crisis.⁷

This is evident in the State Labour Inspectorate (SLI) data registering a total of 1454 requests by citizens in the period between 11 and 31 March. In 830 cases workers sought information about the adopted measures for prevention of and protection against the coronavirus, and the remaining 624 reports concerned the employers' incompliance with these measures. 194 out of the 624 reports concerned the denial of the right to a paid leave for parents of children up to the age of ten; 148 reports were about employment termination of employment contracts; while the remaining 282 reports were related to labour rights violations on various grounds. In the period between 6 and 9 April the Inspectorate registered a total of 219 reports requests by citizens, 48 reporting employers' incompliance with the measures introduced for prevention of and protection against the coronavirus, and 171 were of informational character.⁸ This suggests that the SLI predominantly dealt with reports of violations of the measure for releasing from work one of the parents of children up to the age of ten - these represented 28 per cent of the total number of reports to the Inspectorate in the first months of the crisis.⁹

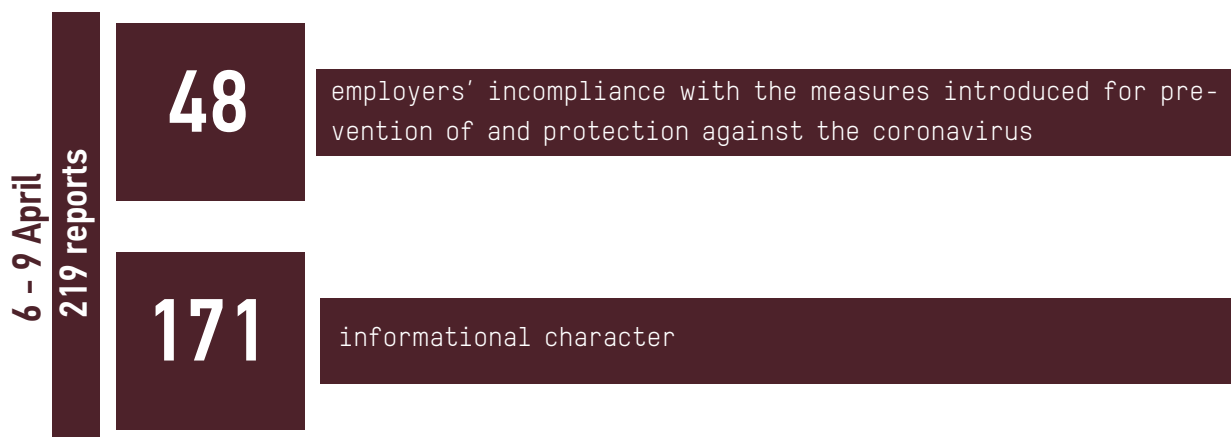


6 Helsinki Committee for Human Rights, "[Workers' rights in the time of the coronavirus – summarised results](#)" (July 2020).

7 For example, see Marija Bashevska, "[Gender Equality Index in North Macedonia](#)" (2019).

8 Vildan Drpljanin, Natasha Petkovska, "[Association, Confusion or Abuse: the Role of the Trade Unions in Protecting the Workers](#)" (September 2020).

9 Reactor – research in action, "[Paid and Unpaid Work, Gender Based Discrimination and Labour Rights in the Times of COVID-19](#)" (April 2020).



Despite the measure to be released from work, the employers forced eligible workers to go to work. Even when the employers released the workers from work duties, they reduced their salaries. Some employers even threatened them with terminations and non-extension of employment contracts. These were the most common violations of labour rights reported to the Helsinki Committee for Human Rights in July. In one such case, the employer paid only 50 per cent of the full amount of the salary for April and May, to a textile worker – mother of a child up to the age of then, who was released from work. After the SLI carried out an extraordinary inspection supervision of the employer, it found that the employer violated the worker's right to paid leave. The employer complied with the Inspectorate's instructions and removed the irregularities by paying the worker the difference in her salary for the specified months.¹⁰

The International Labour Organization (ILO) has rated four sectors as being at high risk of severe COVID-19 impact in terms of job losses: accommodation and food services; real estate, business and administrative activities; manufacturing; and the wholesale/retail trade. In 2020, 527 million women, representing 41 per cent of total female employment, are employed in these sectors, compared to 35 per cent of total male employment. This indicates that in low-income countries and lower middle-income countries, there is a risk that many manufacturing jobs will disappear, especially in the garment industry which absorb large numbers of women,

¹⁰ Notice from the State Labour Inspectorate to the Helsinki Committee for Human Rights dated 5.8.2020.

thus suggesting that the crisis will disproportionately affect women in the labour market as compared to men.¹¹

Women are predominantly represented in the textile industry in Macedonia¹², which is by far the least paid industry and textile workers often receive a salary barely exceeding the minimum wage. Hence, women in this sector were among the most negatively affected by the economic crisis. Employers tried to bypass the regulations on paying minimum wage and they illegally invoked the institute of "temporary forced leave" against their workers.¹³ In the case of temporary forced leave, the worker is provided with a compensation amounting to 70 per cent of her wage, meaning that the worker may end up receiving a compensation lower than the statutory minimum wage. However, the State Labour Inspectorate stressed unequivocally that the workers using the Government measures for release from work are entitled to their full wage. Due to the aforementioned cases of labour rights violations and illegal payment of reduced wages, workers in the textile industry who were released from work, often received a salary of approximately 7500 denars (~120 EUR).

Women in this country predominantly carry the burden of household responsibilities and childcare. Moreover in towns where the textile industry is the most dominant one and a major source of households income, women are usually the breadwinners for the household.¹⁴ Therefore, the illegal reduction of salaries means that workers receive an amount that can barely meet even the basic existential needs of their families.

Labour rights violations constitute violations of women's rights, which only reiterates the multidimensional and intersectional aspect of the crisis. Therefore, any solution that fails to consider class and gender as intertwined and cross-cutting elements would prove inadequate for managing and preventing the crisis. Women are structurally oppressed sim-

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¹¹ International Labour Organization "[The COVID-19 response: Getting gender equality right for a better future for women at work](#)" (2020).

¹² As many as 90 per cent of the total number of employees in the textile workshops in Shtip are women – Centre for Research and Policy Making "[Macedonian Clothes for Europe](#)" (2006).

¹³ For the incorrect interpretation of the labour rights and the reduction and/or non-payment of salaries, see more on page 13.

¹⁴ Maria Mies "Patriarchy and Accumulation on a World Scale: Women in the International Division of Labour" (1986).

ply by the fact that they are the predominant labour force in the least paid industry. Considering that the system which simultaneously allows for them to be placed in a subjected and oppressed position and fails to provide them with protection mechanisms, in the current crisis they will be disproportionately affected.

Termination of the measure

At its fourth session the Government decided to terminate the measure for releasing from work of one of the parents of children up to the age of ten who attend classes at any level of the education process (kindergartens or primary schools), as of 23 September.¹⁵ Concurrently, the measure for extended maternity leave also ceased to apply since September 23, so these workers returned to performing their work duties. This decision was made by the Government shortly after it was announced that the Commission for Infectious Diseases had submitted a proposal to the Government for extending the validity of the measure until the end of the year.¹⁶ The measure for releasing from work continues to be valid only for the pregnant workers.¹⁷

This decision provoked a series of reactions from the workers which fall in the scope of these measures. Through organised demonstrations in front of the Government on 17 and 21 September, they expressed their disagreement with the decision.¹⁸ Government representatives met with the parents, who requested for an extension of the measure for one to two months in order to be able to properly adjust to the new circumstances. The parents were promised that the Government hears and understands their

15 Government of the Republic of North Macedonia, [“Fourth session of the Government: Employees released from work according to the list of chronic diseases, with the exception of the ones with a note from a specialised doctor, all parents of children who were so far released from work, to return to performing their work duties as of 23 September”](#) (September 2020).

16 A1on, [“Commission for Infectious Diseases: Maternity leave to be extended until the end of the year, pregnant women released from work”](#) (September 2020), last accessed on 12.10.2020.

17 Government of the Republic of North Macedonia, [“Pregnant women continue to use the measures adopted by the Government, as of 23 September the employees who used the measure for extended maternity leave to return to work”](#) (September 2020).

18 Nova Makedonija, [“The authorities will not give in, mothers terminate their employment to take care for their children at home”](#) (September 2020)), last accessed on 12.10.2020.

requests.¹⁹ However, despite this promise, the affected parents and their children were left without systemic protection in terms of handling the consequences caused by the coronavirus crisis.

Measure for releasing workers with chronic health conditions from work

On 11 March, the Government adopted a measure identifying the categories of workers that should be released from work duties due to certain health conditions. This included workers suffering from chronic respiratory diseases, severe cardiovascular diseases, Type 1 diabetes, malignant diseases, and immunocompromised conditions. The Ministry of Health and the Commission for Infectious Diseases established a list of diagnoses concerning the abovementioned health conditions, accordingly.²⁰

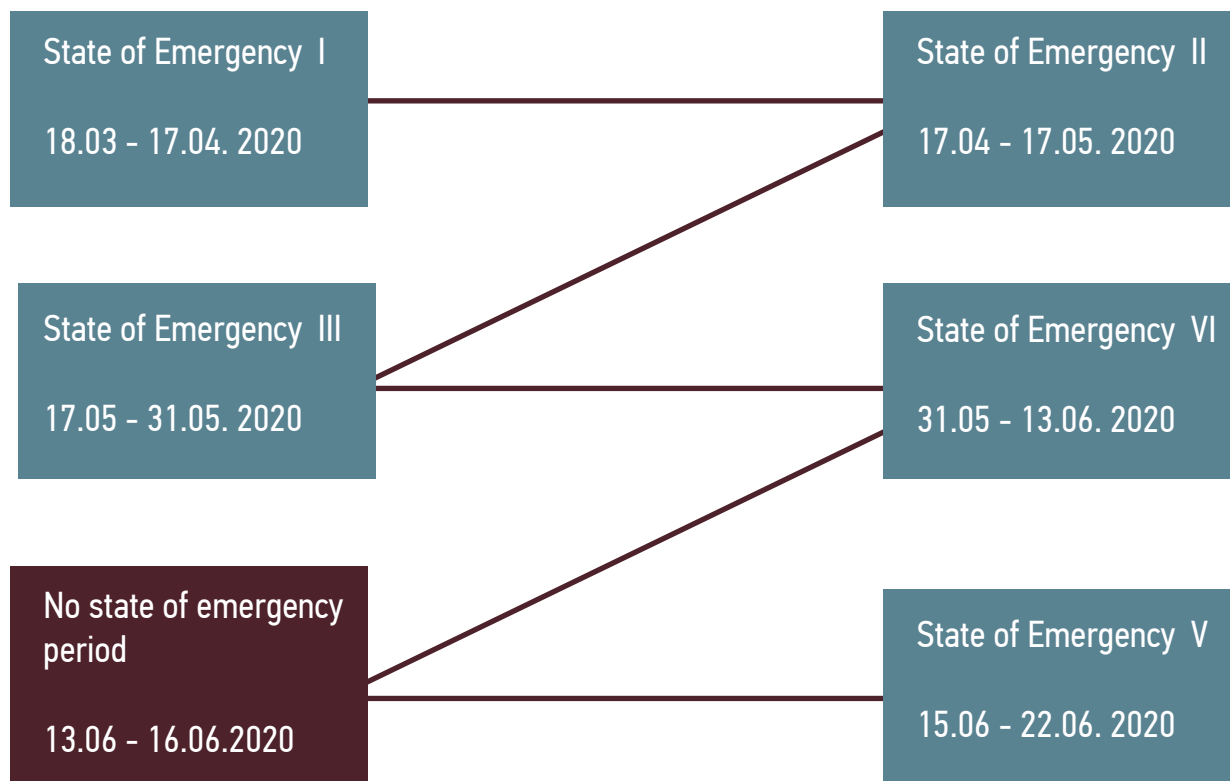
The state of emergency was prolonged five times.²¹ In the period between 13 and 15 June the state of emergency was lifted, and all deadlines were reactivated during that period; for example, the deadlines relevant for labour relations disputes. The state of emergency was declared for the last time from 15 to 22 June.²²

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¹⁹ Government of the Republic of North Macedonia, [“The Prime Minister Zaev and the Ministers Shahpaska and Filipche with representatives of parents who used the measure for extended maternity leave: we will demonstrate maximum flexibility, but we have to learn to live with the pandemic”](#) (September 2020).

²⁰ Ministry of Health, [“List of chronic diseases with diagnosis that are released from work”](#) (March 2020)).

²¹ Decision establishing the existence of the state of emergency dated 18.3.2020 of the President of the Republic of North Macedonia („Official Gazette of the Republic of North Macedonia No. 68/2020), Decision establishing the existence of the state of emergency dated 17.4.2020 of the President of the Republic of North Macedonia („Official Gazette of the Republic of North Macedonia” No. 104/2020), Decision establishing the existence of the state of emergency dated 17.5.2020 of the President of the Republic of North Macedonia („Official Gazette of the Republic of North Macedonia“ No. 127/2020), Decision establishing the existence of the state of emergency dated 31.5.2020 of the President of the Republic of North Macedonia („Official Gazette of the Republic of North Macedonia“ 6p.142/2020) and Decision establishing the existence of the state of emergency dated 15.6.2020 of the President of the Republic of North Macedonia („Official Gazette of the Republic of North Macedonia“ No. 159/2020).

²² Decision establishing the existence of the state of emergency dated 15.6.2020 of the President of the Republic of North Macedonia („Official Gazette of the Republic of North Macedonia” No. 159/2020).



In the period after 22 June, the workers were faced with uncertainties regarding the applicability of the measures for releasing from work certain categories of workers, due to the latest developments. The media reported that, immediately after the state of emergency was lifted, certain employers in both the private and public sectors called the employers back at their workplaces.²³ However, the Government issued a statement that the measures for releasing workers with chronic health conditions from work will be applicable after the termination of the state of emergency.²⁴ During this period, the Helsinki Committee registered 17 cases when workers continued to work on their employers' requests, despite and

23 Focus, [“The measure for parent with children up to the age of ten will continue to be valid beyond the state of emergency-employers must not engage them”](#) (June 2020), last accessed on 12.10.2020.

24 Government of the Republic Of North Macedonia [“From the 65th session of the Government: The measures that release from work the parents who have children up to the age of ten or is active in the fourth grade remain valid; Malls will close at 22:00 hrs”](#) (June 2020). Release from work applied to parents of children up to the age of ten or active in the fourth grade, chronically ill persons, pregnant women, single parents, parents of children with disability who use the day care centre service, as well as persons who go to work with assistance – completely blind persons, people using wheelchair, and person with moderate and severe intellectual disability, with a possibility, to the extent possible, to perform their work tasks at home.

contrary to the adopted measures. Other registered violations concerned unpaid salaries and/or reduced salaries of workers falling under the scope of this measure.

Some of the employers abused this measure by forcing the workers to take a sick leave, and thus be entitled to receiving 70 per cent of the amount of their salaries. Other employers reduced the salaries of workers with chronic health conditions. For example, an employer reduced the salary of a group of 200 workers with chronic health conditions by 30 per cent, throughout the period when they were released from work. The reduction in their salaries is illegal and it directly affects both their material existence and the subsistence of their families, while concurrently constituting a violation of the state of emergency caused by the pandemic. After reporting this case to the State Labour Inspectorate, the SLI found that there was in fact a violation of the workers' rights by the employer. The employer complied with the Inspectorate's instructions and removed the irregularities by paying the workers the full amount of their salaries. The number of sanctioned violations is inconsiderable compared to the number of registered reports. Considering the extensive number of unreported cases, preventive measures must be taken in order to adequately protect labour rights.

Termination of the measure

The adopted Government measure for relieving workers with chronic health conditions from work duties with pay was terminated as of 23 September 2020. Thus, these workers returned to their workplaces. The only exception was provided for workers with malignant illnesses and/or workers with illnesses in a state of deterioration, proven by an opinion of a specialist. Based on a doctor's note, workers can use sick leave for temporary incapability to work, with a right to remuneration of 70 per cent of the salary (if absent up to 15 days) or 90 per cent (if absent for more than 15 days).

Considering that the rate of the newly diagnosed cases reached 164 per 100.000 for a period of one week,²⁵ and during that same period, the presence of chronic health conditions was found in 28,3% of the epidemiologically investigated cases,²⁶ the termination of this measure for the workers with chronic health conditions meant that the system has left them without protection mechanisms.

Workers' health protection measure

Many employers failed to comply with the measures and recommendations adopted by the Government and the Ministry of Health for prevention of and protection against the coronavirus. Frontline workers – workers in supermarkets, salesmen and saleswomen, janitors, have not been given adequate protection in the workplace.²⁷ Disregarding the labour regulations related to workplace health and safety, employers failed to ensure adequate protective equipment, so these workers endured conditions that put their lives and health at high risk. Moreover, they did not receive a salary increase corresponding to the increased workplace risk. United Nations human rights experts say that

[n]o worker is expendable. Every worker is essential, no matter what category is applied to them by States or businesses. Every worker has the right to be protected from exposure to hazards in the workplace, including the coronavirus.²⁸

The employers failed to introduce and implement the necessary measures to protect the workers from the transmission of the coronavirus, and

25 European Centre for Disease Prevention and Control, [“Distribution of cumulative confirmed cases per 100.000 inhabitants – last 7 days for the Republic of North Macedonia”](#) (October 2020); last accessed on 27.10.2020.

26 Public Health Institute, [“The situation with COVID-19 in North Macedonia and the world, 19-25.10.2020”](#) (October 2020).

27 The Office of the United Nations High Commissioner for Human Rights, [“Every worker is essential and must be protected from COVID-19, no matter what”](#) (May 2020).

28 Ibid.

continued to abuse their statutory obligations for ensuring health and safety measures at the workplace in every aspect of the employees' work. This obligation is emphasised in a pandemic which threatens the life of the workers.

On 1 June, five textile and garment factories were closed in the city of Shtip after a factory in the city was previously closed at the end of May where half of the workers tested positive for COVID-19. The same day when 27 positive persons were registered in the Municipality of Shtip (the largest number of cases by then), the Municipality's Crisis Headquarters submitted a proposal that the factories be closed. This proposal was further confirmed by the Commission for Infectious Diseases and the Crisis Headquarters of the Government. Several cases positive to coronavirus were identified in the five textile factories that employed approximately 500 workers. The employers organised shared transportation for the workers from the five factories with the infected workers of the other factory, thus exposing them at high risk of transmission. The Mayor of Shtip reported that, in the first textile and garment factories that employs 110 of the workers, half of the employees (55 persons) were infected with coronavirus.²⁹ Therefore, the State Labour Inspectorate, in coordination with the police, carried out intensified inspection supervisions on the territory of the Municipality, where the Main Coordination Crisis Headquarters shut down the work in the textile and leather factories, throughout this period. The implemented inspection supervisions established that the employers in these factories fully complied with the decision.³⁰

However, the mass media showed workers' testimonies regarding the immense pressure by their employers to continue to work during the critical period:

"He said to me – infected or not, you will stay here, no matter who survives. I decided not to go to work, but who will feed my children, because they were left without a fa-

.....
29 I want to say, "[5 textile and garment workshops closed in Štip after 27 new cases of Covid-19 were registered](#)" (June 2020), last accessed on 12.10.2020.

30 Government of the Republic of North Macedonia, "[From the 61st session of the Government: The programme for financing the programme activities of associations and foundations for measures for the management of the COVID-19 crisis](#)" (June 2020).

and another worker said:

“There is no telling him how scared we are. We take the same bus as the five women who are already infected. I’m afraid that if he finds out that I complain, I will be left penniless, and I have two children.”³¹

The employers did not provide the women workers with protective masks, disinfection products, nor the possibility of the required physical distancing. The workers were forced to take transport with limited capacities below the required standards, where keeping distance was rendered impossible.³² There is no official information as to whether the State Labour Inspectorate requested for initiation of criminal procedures for these grave violations of labour rights falling in the scope of cruel, inhuman and degrading treatment.

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³¹ A1on, “[Bosses to the Shtip women workers: infected or not, you will sit here, no matter who survives](#)” (June 2020), last accessed on 12.10.2020.

³² Ibid.

Economic Measures and Their Impact on Labour Rights

First and second package of economic measures

In order to effectively address the economic consequences of the coronavirus crisis the Government introduced economic measures providing for direct financial assistance for the micro, small and medium companies by the Development Bank of North Macedonia.³³

Another measure was introduced for supporting the companies by subsidising the contributions for social insurance for employees of the affect-

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³³ Every company, depending on the number of employees, could receive from 3 to 30 thousand euros. Micro companies, up to 10 employees, could take a loan from 3 to 5 thousand euros. Small companies with 10 to 50 employees could take a loan in the amount from 10 to 15 thousand euros, and medium companies with 50 to 250 employees could take a loan in the amount from 15 to 30 thousand euros. The loans were interest-free, with an interest rate of 0 per cent with a grace period of 6 months and a repayment period of 2 years.

ed companies from the tourism, transport, hospitality and other affected sectors, for April and May 2020, with the amount of subsidy per employee reaching up to 50 per cent of the average salary paid in 2019. The companies were required not to reduce the number of their employees below the number of employees in February 2020, applicable from the date the measure is used; not to pay dividends during 2020, by the date of submission of the annual balance, or 2020 financial reports; and not to pay rewards – bonuses following the enactment of this measure. This measure aimed to directly assist the companies that have achieved poorer financial results in 2020 on account of the coronavirus crisis.³⁴

However, immediately after the Government introduced this set of economic measures, the Helsinki Committee registered the first violations of labour rights reported by workers. By abusing the state of emergency, the employers initiated massive canceling of the employment contracts for entire groups of workers. Other employers influenced the workers to consensually cancel their employment contracts. Some employers significantly reduced the workers' salaries. In March, the Employment Service Agency in Ohrid received reports for layoffs of approximately 3000 employees in textile factories, footwear factories, hotels, and restaurants.³⁵

According to the data recorded in the Employment Service Agency in the period from 11 March until 31 August 2020, the total number of unemployed persons in the country based on labour relations termination on all grounds mounted to 12,580.³⁶ During the same period, the Helsinki Committee registered 197 reports for labour rights violations with the scope of approximately 2723 workers, 99 of which concerned: termination of employment (44 reports, 460 workers), forced termination of employment by mutual agreement (39 reports, 323 workers), non-extension of fixed-term employment contracts (10 reports) and non-extension of fixed-term employment contracts of pregnant workers (6 reports).³⁷ These data inevitably

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³⁴ Decree with the effect of a law for financial support to employers affected by the health and economic crisis caused by the coronavirus COVID-19, for the payment of salaries for April and May ("The Official Gazette of the Republic Of North Macedonia" No. 93/2020).

³⁵ Alsat, "[Ohrid, increased number of employment terminations on the account of COVID-19](#)" (March 2020).

³⁶ Employment Service Agency of the Republic of North Macedonia, "[Overview of persons registered in the Employment Service Agency of the Republic of North Macedonia](#)" (August 2020).

³⁷ Helsinki Committee for Human Rights, "[Workers' rights in times of the coronavirus – summarised dataLabour rights in the time of the Coronavirus – summarised results](#)" (July 2020).

impose the need to assess the impact these sets of economic measures and their implementation had on labour rights, inevitably taking in consideration the gender aspect of the issue.

Employment termination

Despite the need for solidarity during this crisis, many employers resorted to terminating the employment contracts for business reasons. The employers' unfair treatment of the workers and the asymmetrical power already existing between them were reaffirmed in the example of the Trade and Services Company KAST INVEST DOO Skopje.³⁸ There, the employer orally terminated the employment contracts for business reasons to 120 employees, who were informed that a bankruptcy procedure will be initiated against the company. The employment termination document presented no justification of the business reasons for which their contracts were terminated. Contrary to the Law on Labour Relations,³⁹ the employer did not initiate a consultative process with the workers' representatives, at least one month before the commencement of the collective employment termination, nor did he provide the workers with all the relevant information for reaching an agreement.⁴⁰ The employer failed to notify the competent authority for mediation in employment regarding the planned collective employment terminations and for the consultations with the workers' representatives.⁴¹ Consequently, the workers were not informed about the implementation form and the course of the procedure for termination of the employment contracts for business reasons, and so they were not in the position to adequately protect their labour rights and legal interests. Moreover, the employer failed to specify the minimum notice of termination that is applicable in the cases of collective employment terminations.⁴² Some of the workers did not even receive an employment termination resolution to which they could

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38 Helsinki Committee for Human Rights, "[Monthly human rights report for the Republic of North Macedonia, March 2020](#)" ([April 2020](#)).

39 Law on Labour Relations ("Official Gazette of the Republic Of Macedonia" No. 62/05, 106/08, 161/08, 114/09, 130/09, 50/10, 52/10, 124/10, 47/11, 11/12, 39/12, 13/13, 25/13, 170/13, 187/13, 113/14, 20/15, 33/15, 72/15, 129/15, 27/16, 120/18 and "Official Gazette of the Republic of North Macedonia" No. 110/19).

40 Article 95 Paragraph 2 of the [Law on Labour Relations](#).

41 Article 95 Paragraph 6 of the [Law on Labour Relations](#).

42 Article 88 Paragraph 2 of the [Law on Labour Relations](#).

submit an appeal. In addition to appeals, a lawyer hired by the Helsinki Committee for Human Rights filed for initiation of a criminal procedure on behalf of the workers for violation of their labour rights.

Reduced and/or unpaid salaries

Following the first months of the crisis, contrary to the reduced number of reported employment terminations, increased the number of reports of employers that did not pay the workers' salaries or reduced them by 50 per cent, unlawfully invoking the "force majeure" institute. The Ministry of Labour and Social Policy interpreted the Article 112 of the Law on Labour Relations - according to the Ministry, workers are entitled to a remuneration of salary throughout the whole duration of their absence from work, however, the amount of the remuneration varies in different situations. The Ministry pointed that, in order for employment terminations to be avoided, under certain circumstances, the workers may use the institute of "temporary forced leave" with a remuneration of salary in the amount of 70 per cent. Moreover, the Ministry interpreted the institute of "force majeure" as a situation where, to prevent the spreading of the coronavirus, the work of the legal entities in certain sectors was completely prohibited - therefore, employers may invoke the provision of Article 112 Paragraph 7 of the Law on Labour Relations for the period when there is no possibility to work, and they may pay the workers a remuneration in the amount of 50 per cent of their salaries.⁴³

It is necessary to reiterate that the Constitution of the Republic of North Macedonia, as the highest legal act, stipulates that only the Assembly has the power to provide authentic interpretation of legal provisions.⁴⁴ This interpretation is particularly concerning if one considers the nature of an institution such as the Ministry of Labour. This Ministry is established in order to ensure and introduce safe, fair, and harmonious practices and policies for workers at their workplaces, which is crucially

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⁴³ Pravdiko, "[MLSP: Remuneration for salaries to workers, during a forced absence of leave, or force majeure](#)" (April 2020), last accessed on 13.10.2020.

⁴⁴ Article 68 Paragraph 1 Indent 2 of the Constitution of Republic of North Macedonia.

important for the social and economic wellbeing. At the moment when this paper was produced, the statement of the Ministry's interpretation of the relevant provision was removed from the Ministry's website.

The Federation of Trade Unions of Macedonia (SSM) countered this statement emphasizing that the Government's decision to fully prohibit the work of the legal entities in certain sectors, for the purpose of preventing the spreading of the coronavirus, does not constitute a force majeure.⁴⁵ Therefore, the Helsinki Committee and SSM demanded that the Government should pass a decree for regulating that workers' salaries cannot be reduced for more than 20 per cent during the crisis, as is defined in the General Collective Agreement (GCA) for the private sector in the area of economy.⁴⁶ In this case, the GCA for the private sector provides for more favourable entitlements of workers than the Law on Labour Relations, and these should apply accordingly.⁴⁷

The Helsinki Committee registered 39 reports involving 912 workers whose salaries were either not paid or reduced. Moreover, by not paying their salaries and social contributions, a huge number of workers and their families were left without health insurance in one of the most critical moments for the public health.

No health insurance in times of pandemic

The blow delivered by the economic and health crisis to the workers' quality of life and sustenance is evident in the cul-de-sac situations that a typical Macedonian worker faces on a daily basis. Such is the example of a textile worker, who was tested positive to the coronavirus several times in a row and was therefore forced to stay at home on account of her incapability to work at her workplace. The work duties of the textile

45 Federation of Trade Unions of Macedonia "[SSM reaction to the interpretation of the Law on Labour Relations by MLSP for payment of remuneration for salary](#)" (2020).

46 Helsinki Committee for Human Rights, "[Requests to the Government for protecting the workers and the poor- Monthly human rights report for the Republic of North Macedonia, March 2020](#)" (April 2020).

47 With the employment contract, or the collective agreement, the rights can be defined in a more favourable way for the workers, than defined by the law. - Article 12 Paragraph 3 of the [Law on Labour Relations](#).

worker were of such a nature that they could not be performed at home, so she had no other option than to file for a sick leave for the days when she was prevented from working. Unlike other workers who can work from home, sick leave was the only way for this textile worker to justify her absence from work. Otherwise, the worker would be compelled to go to work so as not to get fired,⁴⁸ but this would have constituted a violation of the resolution for treatment and isolation at home issued by the State Sanitary and Health Inspectorate.

The employer paid her a remuneration of salary according to his legal obligation in cases of sick leave for temporary incapability to work, however, the Health Insurance Fund rejected her request for remuneration of salary for the remaining days, because the worker did not meet the requirement for working for at least six months uninterrupted with the current employer. In addition to the fact that this disease, according to the Rulebook on the List of Professional Diseases, is treated equally as all the other situations of inability to work, one should also have in mind that this is a pandemic with a scope we have not faced before.

The virus transmission is a threat to society as a whole and to the workers in particular, and as such is different from any other illness that affects the worker personally. Therefore, it should not be acceptable that the worker should choose whether to stay at home without any remuneration and with her sustenance put at risk, or whether she should continue going to work and thus endanger her co-workers. Additionally, this constitutes as a criminal offence and is punishable according to the Criminal Code. When deciding upon the health insurance of a particular person, which, at the same time, means deciding about her life, the State institutions should take into account the specificity of the situation in which the workers are currently in and should not interpret the legal acts too narrowly in a situation that is a precedent in and of itself.

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⁴⁸ The employer may terminate the employment contract of the worker without termination notice if the worker fails to show up for work for three consecutive days. – Article 82 Paragraph 1 Point 2 of the [Law on Labour Relations](#).

Precarious workers and workers with fixed-term employment contracts

Two more categories were left unprotected throughout the entire crisis – the precarious workers (fee-based workers, freelancers, etc.) and the workers with fixed-term employment contracts. Precarious workers are susceptible to a specific form of exploitation, because these are people who, in reality, have established labour relations, but the Law on Labour Relations does not recognise them as workers.⁴⁹ In this way, they remain outside the (presumed) protection that the remaining workers are entitled under the Law on Labour Relations. Precarious workers typically work pursuant to a temporary service contract, engagement contract, service provision contract, etc., and therefore, the Law does not “grant” them pension and health insurance, nor any other entitlement that for the other workers arise from their employment contracts.⁵⁰ This implies that persons who are “only” physically workers, in circumstances of a health crisis, do not have a health insurance. Furthermore, they have no assurance that they will be paid for their labour and can lose their jobs at any given moment.⁵¹ Thus, the Helsinki Committee requested that for protection and suitable financial support to be provided throughout the crisis period to this category of workers without social and health insurance.

The second category of workers are manipulated and abused by the dishonest employers, who decide that they no longer have need for them, and do not extend their fixed-term employment contract with the expiration of the time for which the contract has been concluded. In 2018, 25,8 per cent of the employed persons were hired on fixed-term contracts, which means that 1 in 4 workers in Macedonia has been employed pursuant to such contracts.⁵² The abuse of power that employers have over the workers whose fixed-term agreements expire during the economic crisis of these proportions, has delivered a significant blow on the sustenance of one of the most vulnerable categories of workers.

49 Mariglen Demiri, “[Students and precarious workers](#)” (March 2020).

50 Ibid.

51 Vildan Drpljanin, “[Invisible workers](#)” (October 2020).

52 Zdravko Saveski, “[Fixed-term employment contracts – tool for forcing subjugation](#)” (Mach 2020).

Third package of economic measures

In the period from March to June, at least 323 workers were forced to sign agreements for termination of their employment contracts.⁵³ In this way, they were denied any access to protection mechanisms and they were left to fight for “naked” sustenance at the margins of our society. Another obstacle was the inability to obtain remuneration in the case of unemployment considering their labour relation has ended with mutual agreement. As a result, considering the fact that the initial Government measures failed to protect the workers, the Helsinki Committee and circa ten trade unions and other civil society organisations (CSOs) submitted a set of requests to the Government with specific relevant proposals for their implementation.⁵⁴ Among other things, it was requested that the entitlement to remuneration in the case of unemployment during the crises be extended to workers whose labour relations have been terminated based on their own declaration, in mutual agreement or because of an alleged violation of the work order and discipline. Additionally, the trade unions and CSOs requested that no financial support be provided to companies who have laid off workers since the beginning of March.

The Government introduced the measure “Remuneration for all persons who lost their jobs from 11 March to 30 April 2020” to comply with the requests from the trade unions and CSOs. This measure provided that all persons who have lost their jobs, including the ones who had signed a written declaration, have signed a mutual agreement or have been laid off by their employers, will be entitled to a remuneration by the Employment Service Agency. The scope of this measure covered at least 8000 workers whose sustenance was at serious risk, as they had been deprived of their single source of income.

At the beginning of April, the Government adopted the Decree for financial support of employers from the private sector affected by the crisis, for payment of salaries for April and May 2020. It provided that the em-

⁵³ Helsinki Committee for Human Rights, “[Workers’ rights in the time of the coronavirus – summarised data](#)Labour rights in the time of the Coronavirus – summarised results” (July 2020).

⁵⁴ Helsinki Committee for Human Rights, “[Requests to the Government for protecting the workers and the poor](#)” (April 2020).

employers who had used the financial support for payment of salaries must not reduce the number of employees until September 2020.⁵⁵ At the end of that month, the Government amended the Decree and reduced the no-termination of employment deadline by two months, meaning that the employers could not reduce the number of employees until July 2020.⁵⁶

Immediately following the amendment, the Minister for Finance, Nina Angelovska, informed that the companies using the state financial support for payment of salaries will be allowed to lay off up to 15 per cent of their employees. As a result of the joint response from the CSOs and the trade unions, in May, this Decree was substituted with a new one. The amendments provided that the employer who will use the state financial support for payment of salaries must not reduce the number of employees in April and May 2020, and in the two following months, until July 2020.⁵⁷

Abuse of the three packages of economic measures

According to the data recorded in the Public Revenue Office, 281 employers who received financial support in April in the amount of 9,995,565 million denars (app. 162,3000 euros), have failed to meet their obligation for payment of salaries to 722 employees. In May, 427 employers did not pay salaries to 984 employees, even though they had received the financial support in the amount of 13,698,998 million denars (or 222,430 euros). Other companies have reduced the minimum wage to 52,465 workers and paid them 1.5 million euros less.⁵⁸ The Public Revenue Office issued warnings to the employers who used the financial support but have not paid the salaries. Furthermore, these employers were issued with misdemeanour sanc-

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55 Decree with the effect of law for financial support to employers affected by the health and economic crisis caused by the coronavirus COVID-19, for the payment of salaries for April and May ("Official Gazette of the Republic of North Macedonia" No. 93/2020).

56 Decree with the effect of law for financial support to employers affected by the health and economic crisis caused by the coronavirus COVID-19, for the payment of salaries for April and May ("Official Gazette of the Republic of North Macedonia" No. 111/2020).

57 Decree with the effect of a law amending and supplementing the Decree with the effect of law for financial support to employers affected by the health and economic crisis caused by the coronavirus COVID-19, for the payment of salaries for April and May ("Official Gazette of the Republic of North Macedonia" No. 113/2020).

58 Public Revenue Office, "[Analysis of the use of the measure for the financial support for payment of salaries for April and May 2020](#)" (July 2020).

tions, and the Public Revenue Office, in cooperation with the State Labour Inspectorate, initiated proceedings against these employers to return the full amount of the received financial support.

The purpose of the state financial support specified in the Government's decree for management of the crisis caused by COVID-19 was to preserve the workers' jobs, and not for the employers to illegally profit at the expense of workers in times of the greatest health, social and financial crisis to this day.⁵⁹ Therefore, the risk from abuse will be present as long as the financial measures for assistance and support are paid to employers, rather than to workers directly.

Fourth package of economic measures

During August and September, the Government announced that it held regular meetings with the chambers of commerce, the employers' organisation, trade unions, university professors and practitioners, so as to adopt the fourth set of economic measures.⁶⁰ On 27 September the new set of measures was adopted as a follow-up of the previous three, and its total value was assessed to 470 million euros. This package of measures aimed at providing direct financial support, assistance for liquidity of the private sector and incentivising the companies to return and preserve the workers at their workplaces.⁶¹ Certain measures concerning several categories of citizens and companies were adopted accordingly.⁶² One of these was the measure for supporting the companies to pay the salaries to their employ-

59 Helsinki Committee for Human Rights, "[Criminal liability of companies that used the state financial support, but have not paid salaries to their employees](#)Labour rights in the time of the Coronavirus – summarised data" (July 2020).

60 MIA – Media Information Agency, "[Zaev: the fourth package of measures covers the poorest, an incentive measure is also the return of fired workers](#)" (September 2020).

61 Government of the Republic of North Macedonia, "[From the 6th session of the Government: The fourth set of economic measures adopted for revitalisation of the economy in circumstances of COVID-19; A Decree was adopted for the organisation and realisation of instruction under extraordinary circumstances in primary and secondary schools](#)" (September 2020).

62 A measure was adopted providing that single parents, pensioners receiving pensions under 15,000 denars, unemployed persons who are passive job seekers, independent artists, filmmakers, cultural workers, show business artists, and students will receive payment cards in the amount of 6000 denars. Government of the Republic of North Macedonia, "[Payment cards for citizens for an increased consumption and for the development of the domestic economic activities](#)" (October 2020).

ees for October, November and December. The novelty introduced with this measure provided that the support was to be progressively defined, in accordance with the companies' actual drop in income – the greater the drop in income, the greater the support from the state for payment of salaries.⁶³

The representatives of economic chambers in the country were satisfied that they were once again involved in the design of the measures and that the Government adopted many of their proposals in the fourth set of economic measures.⁶⁴ Unlike them, the workers' needs reflected in the requests by the trade unions and CSOs⁶⁵ were again not taken into consideration in this set of measures. The financial measures perceivably aimed at assisting and supporting the workers were again not paid directly to them, which poses a threat of being abused once again.

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63 Government of the Republic of North Macedonia, ["Support to the payment of salaries, that continues to apply in the final quarter of the year, that is in October, November and December"](#) (October 2020).

64 Government of the Republic of North Macedonia, ["Chambers of commerce satisfied with the measures provided in the fourth package for supporting the companies and citizens and that many of their suggestions and proposals have been accepted"](#) (September 2020).

65 Helsinki Committee for Human Rights, ["Criminal liability of companies that used the state financial support, but have not paid salaries to their employees"](#) (July 2020).

CONCLUSION

None of the adopted sets of economic measures reflected the needs of workers nor provided for protection of the labour rights against abuse during their implementation. The purpose of the state financial support for managing the crisis caused by COVID-19 was to preserve the workers' jobs, and not for the employers illegally profit at the expense of workers in times of the greatest health, social and financial crisis to this day. However, the data recorded by the Helsinki Committee show that from March to June 799 workers lost their jobs,⁶⁶ and the Employment Service Agency has counted 12,580 unemployed persons until August.⁶⁷ Therefore, the risk from abuse will be present as long as the financial measures for assistance and support to workers are paid to employers, rather than to the workers directly.

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66 Helsinki Committee for Human Rights, "[Workers' rights in the time of the coronavirus – summarised dataCriminal liability of companies that used the state financial support, but have not paid salaries to their employees](#)" (July 2020).

67 Employment Service Agency of the Republic of North Macedonia, "[Overview of persons registered in the Employment Service Agency of the Republic of North Macedonia](#)" (August 2020).

Notwithstanding that some of the civil society organisations and trade unions' requests were taken into consideration, in general, workers were not involved in the process of making the decision and adoption of measures for managing the crisis, which had a direct impact on their sustenance. Although the measures were sensitive to a certain extent (e.g., the measure for releasing from work certain categories of workers), the employers bypassed the measures and abused them at the workers' expense, which led to more frequent violations of labour rights. The reports addressed to the Helsinki Committee from March to June concern 912 workers whose salaries were either reduced or not paid at all during this period.⁶⁸ Moreover, 1022 workers faced violations of the Government measures for releasing the workers from work.⁶⁹ In this way, the measures have contributed to deepening the inequality between workers and employers.

In addition to the general image depicting the demotion of labour rights in general, the much more significant effect that this crisis had on women cannot be overlooked. Women are predominantly represented precisely in the industries that are at high risk of severe COVID-19 impact and where majority of violations were committed. In fact, this is evidenced in the reports of labour rights violations addressed to the Helsinki Committee between March and June – 70 per cent of the total number of reports were filed by women.⁷⁰ All these imply that, in addition to the social inequalities, the crisis and its inadequate management have only deepened the gender gap in the country.

This overview serves to contribute for the further creation of recommendations for protection of labour rights in one such crisis, and should also be taken as a starting point when formulating the future crisis management measures, with the full involvement of the workers in this process. The analysed data presented the labour rights violations and the gender inequalities resulting from the measures and their implementation, and they unambiguously impose the need for future efforts to create structural changes while implementing a systemic approach to resolving the problems in these aspects of the social living, even beyond the end of the crisis.

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⁶⁸ Helsinki Committee for Human Rights, "[Workers' rights in the time of the coronavirus – summarised data](#)" (July 2020).

⁶⁹ Ibid.

⁷⁰ Ibid.



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