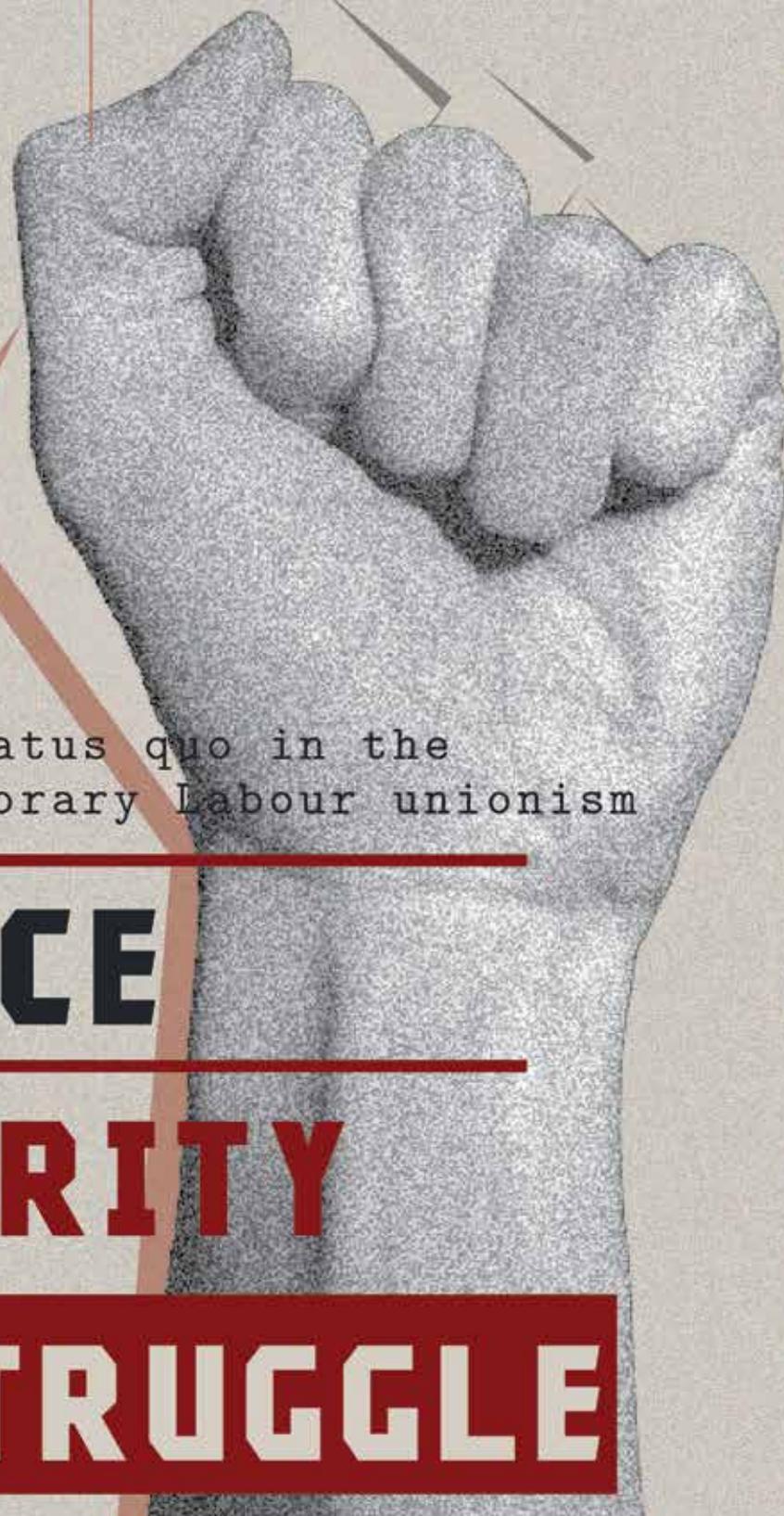


Vildan  
Drpljanin

Natasha  
Petkovska



challenging the status quo in the  
Macedonian contemporary Labour unionism

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**ALLIANCE**

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**SOLIDARITY**

**AND STRUGGLE**

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# СОЈУЗНИШТВО СОЛИДАРНОСТ И БОРБА

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ОСПОРУВАЊЕ НА СТАТУС-КВОТО ВО  
МАКЕДОНСКИОТ СОВРЕМЕН СИНДИКАЛИЗАМ

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# ALLIANCE, SOLIDARITY, AND STRUGGLE

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CHALLENGING THE STATUS QUO IN THE MACEDONIAN  
CONTEMPORARY LABOUR UNIONISM

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# SPECIAL NOTES

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The main question that guided the whole writing process and to which this paper seeks an answer is: ‘How can the legal subjectivity of trade unions contribute to the transformation of the trade union movement, with the ultimate goal of improving workers’/human rights?’ The paper aims to provide recommendations and options for public policies in trade union associations and workers’ rights.

In the beginning, we would like to express special gratitude to Tome Georgievski - pensioner and former vice president of the Federation of Trade Unions of Macedonia, Ceylan Veliu - worker and master in criminal law and Petar Dimitrov - worker and master in business law on the subject of legal subjectivity of trade companies for their review of the paper from different perspectives in the original version. Special thanks to Biljana Cklamovska - an external associate of the Union of Independent and Autonomous Trade Unions of Macedonia, Zoran Vasileski - lawyer, Ina Dzugumanova - legal advisor and human rights activist, Mariglen Demiri - researcher, Marjan Risteski - president of the Confederation of Trade Union Organisations of Macedonia and Neda Petkovska - researcher in the field of gender equality for the review of the final version of this paper.

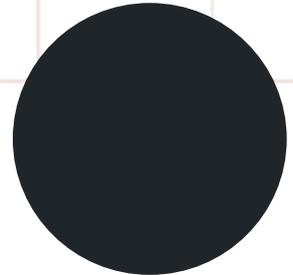
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The research findings would not be complete without the cooperation with the Independent Trade Union for Education and Science (NSON), the Trade Union of ZK Pelagonija AD Bitola, the Trade Union of ERIDEN DOOEL - Bitola, the Agro-trade union, the Trade Union of Makedonska Poshta Skopje - Branch Office of Kumanovo, The trade union of workers in the textile, leather and shoe industry (STKC), the Independent Trade Union for Education, Science and Culture (SONK), the Independent Trade Union of Energy and Economy Workers (SSESM), the Independent Academic Trade Union (NAKS), the Trade Union of Culture (SKRM), The Trade Union of Postal and Telecommunication Operators (SPTOM), Independent Trade Union of Defense Workers (NSOM), The trade union of forestry, wood industry and energy workers (SSHDE), the Independent Trade Union for Health, Pharmacy and Social Welfare (SSZFSZ), the Federation of Trade Unions of Macedonia (SSM) and the Macedonian Confederation of Free Trade Unions (KSS).

# ABSTRACT

This paper analyses the role of the trade unions in labour relations through the prism of their legal subjectivity. By presenting two different views on the legal status, the aim is to show how the conducted research findings impose the tendency to challenge the existing status quo. Given the asymmetric power between higher-level unions and the lower-level unions in the discourse on their legal subjectivity, the paper shows that when all trade unions enjoy the status of a legal entity, the substantive trade union organisation is strengthened, as opposed to the purely formal one. The arguments point out that acquiring the status of a legal entity with the moment of registration in the relevant register, is the first step on the long road to strengthening the alliance, solidarity, and the struggle to achieve common interests and goals for the unions. The paper provides answers on the primary function of the trade union and the legal status of all trade unions. The paper contributes to creating public policies for strengthening the role of trade unions in the protection of workers' rights.

**Keywords:** trade union, legal subjectivity, lower-level trade union, higher-level trade union, labour rights, Law on Labour Relations.



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# LIST OF ABBREVIATIONS

LLR	Law on Labour Relations
KSOM	Confederation of Trade Union Organisations in Macedonia
KSS	Macedonian Confederation of Free Trade Unions
ILO	International Labour Organisation
MLSP	Ministry of Labour and Social Policy
NAKS	Independent Academic Trade Union
NSON	Independent Trade Union for Education and Science
SKRM	Trade Union of Culture of the Republic of Macedonia
SONK	Independent trade union for education, science, and culture
SPTOM	Trade Union of Postal and Telecommunication Operators
SSESM	Independent Trade Union of Energy and Economy Workers of Macedonia
SSZFSZ	Independent trade union for health, pharmacy, and social protection of Macedonia
SSM	Federation of Trade Unions of Macedonia
STKC	Trade Union of workers in the textile, leather, and shoe industries
UNASM	Union of Independent and Autonomous Trade Unions of Macedonia
UPOZ	The Trade Union of the Workers from the Administration, Judicial Bodies, and Citizens' Associations of the Republic of Macedonia

# INTRODUCTION

“To work and toil and then to be hungry and suffering. Worker-traveller: to have nothing, to suffer for everything - and you and your brothers to do everything! To make palaces to live in a cellar - from the cradle to the grave to be a slave. From your trouble to live others! Oh, brother! Spit on such a life! With your brothers, with your trouble, bring down this world and make a new one - brotherly! “

- Kocho Racin (1936)<sup>1</sup>

Tired Macedonian workers often work full time every day of the week for the minimum wage, are not entitled to annual leave longer than ten days, and are not paid for overtime work.<sup>2</sup> The minimum net salary in the country is currently 15,194 denars, which is an increase of only 239 denars compared to the previous year<sup>3</sup>. In comparison, the average net salary

is 27,948 denars<sup>4</sup>. Still, most people not only work for a wage much lower than the average but often work for a wage in the amount below the minimum.<sup>5</sup> To get a clear picture of the situation of workers in Macedonia, all this should be put in the context of the unequal distribution of wealth. It is crucial to see in what circumstances the trade union movement is found and to what extent the trade unions exercise their protective role

1 Kosta Solev Racin, *Poetic Works* (Makedonska knjiga 1936).

2 Vildan Drpljanin, “The labour and sweat are ours, the money and capital belong to 900 people in the country” (ResPublica, 2020) <<https://respublica.edu.mk/mk/blog/900>> last accessed on 03.05.2021.

3 Government of the Republic of North Macedonia, “The minimum wage is increasing, Sunday will be a non-working day, workers in shopping centres will have a double wage and a day off” (March 31, 2021) <<https://vlada.mk/node/24758>> last accessed on 04.05.2021.

4 State Statistical Office, “Average monthly paid net salary per employee, February 2021” (April 21, 2021) <<https://www.stat.gov.mk/PrikaziSoopstenie.aspx?rbtxt=40>> last accessed on 04.05. 2021.

5 Vildan Drpljanin, “The labour and sweat are ours, the money and capital belong to 900 people in the country”.

so that one can understand the situation of the oppressed workers

One worker in Macedonia, with his labour on average, produces about 1130 euros per month. About 400 euros remain for them, approximately 140 euros are intended for taxes, and the remaining 590 euros are for the labour bosses - their employers.<sup>6</sup> If, on the other hand, the income of the rich (1 percent of the entire population) and the gain of the remaining 99 percent were simply presented, the distribution of wealth in Macedonia would look like this:

---

If the state
budget would be 100
denars, 14 denars are
distributed to 9000
people and 86 denars
to 891,000 people

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This power imbalance, resulting from the surplus value produced by the worker<sup>7</sup>, is the primary catalyst for class differences and the creation of societies where a small group of people possesses significantly more wealth

than anyone else. The rapidly emerging health crisis and its aftermath as a result of the pandemic caused by the virus COVID-19<sup>8</sup> have produced enormous economic and social implications from which humanity is yet to recover. Workers were the first to be hit, inevitably giving this situation the character of a workers' crisis. The crisis condition for the workers meant a struggle to preserve their own and the health of their loved ones and a struggle to save their existence.<sup>9</sup>

The inequality in the income distribution, measured by the Gini index of monthly net income in the country, increased from 30 to 33.5 percent for the period from February to June 2020, which is a very high increase in such a short period.<sup>10</sup> This shows that the crisis had a different impact on social groups in proportion to their power. Thus, the less powerful social groups were significantly more affected by the negative implications of the crisis because they are most often people with precarious employment.<sup>11</sup> An example of this is the textile workers, whose employment contracts are often concluded for only one month. Another reason for the increase in income inequality is that in the last year, the employees' incomes in the activities that are most affected by the crisis significantly decreased, in contrast

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6 Eurostat, Comparative view, the last available data for Macedonia are from 2019, a summary view is enabled and available at the following link: <https://cutt.ly/zbR4dxR>.

7 Kire Vasilev, Ana Guleva, *The Trade Unions in Macedonia*, (Left Movement "Solidarity", 2017).

8 Disease caused by the new coronavirus SARS-COV-2.

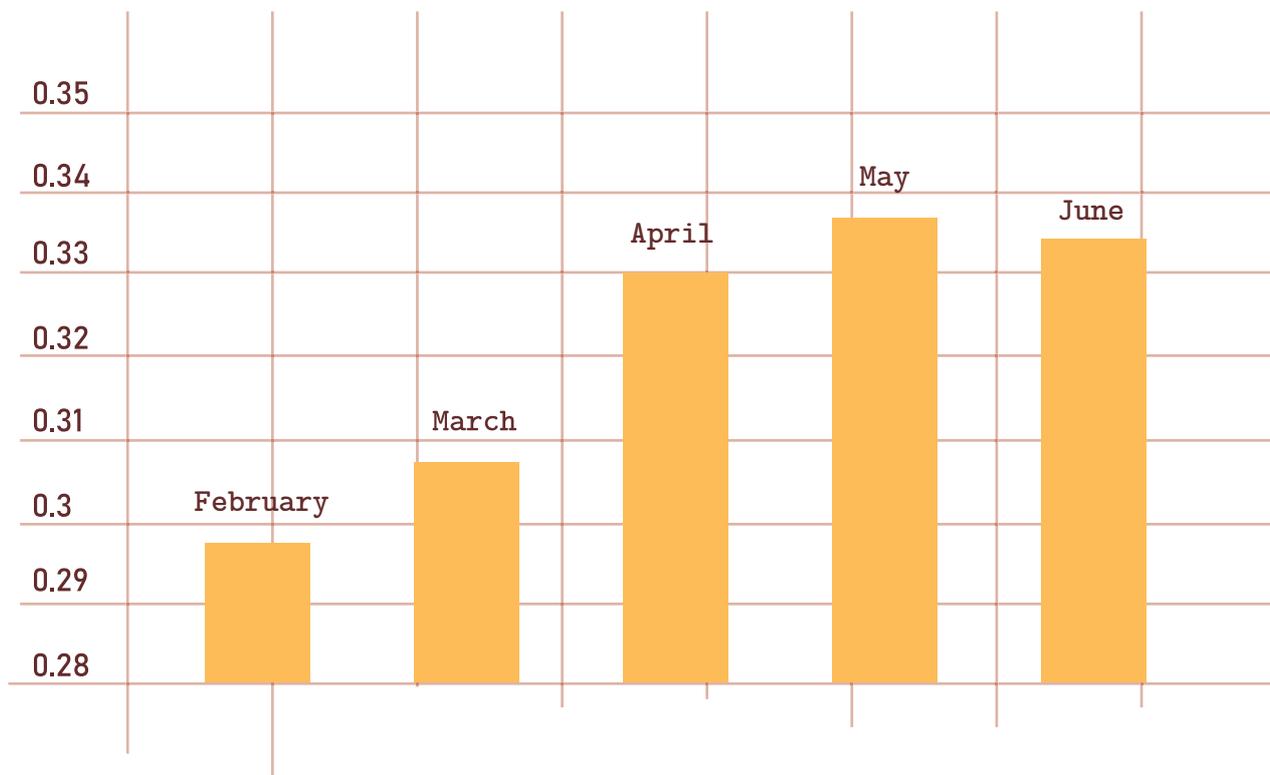
9 Helsinki Committee for Human Rights, "Special Report on the Situation of Human Rights in the Time of Covid-19" (October 13, 2020) <<https://mhc.org.mk/news/poseben-izveshta%0d1%98-za-sosto%0d1%98bata-so-chovekovite-prava-vo-vreme-na-kovid-19/>>.

10 Biljana Jovanovikj, Branimir Jovanovikj, Viktor Mitevski, Viktor Stojkoski, "Inequality in time of Corona - Effects of the Covid-19 Pandemic on the Macedonian Economy: A Policy Brief" (2021) <<https://zmai.mk/wp-content/uploads/2021/01/Efektite-od-Kovid-vrz-MK-ekonomija-MK.pdf>>, page 18.

11 Ibid, page 18.

to the incomes from the capital, which are the primary source of income for the rich.<sup>12</sup>

2020, immediately after introducing the first measures to deal with the crisis, there was a marked decline



Picture no. 1 - Graphic display of the Gini index for the period February-June 2020.<sup>13</sup>

The findings from the researches on the effects of the pandemic on less powerful social groups show that the most affected are those on the minimum wage, young people and women, whose incomes have decreased significantly compared to the incomes of other citizens<sup>14</sup>, and also the impoverished regions and the labour-intensive industries.<sup>15</sup> In March and April

in industrial production of textiles, clothing, and leather.<sup>16</sup> In 2020, the total number of newly unemployed people in the cities where the textile industry is most present increased by 128 percent compared to 2019.<sup>17</sup> This means that in 2020, 6783 new unemployed people were registered in the textile industry, while in 2019 this number was 2971.<sup>18</sup>

12 Ibid. page18.

13 The graphic presentation is taken from Biljana Jovanovikj, Branimir Jovanovikj, Viktor Mitevski, Viktor Stojkoski, “Inequality during the Crown - Effects of the Covid-19 Pandemic on the Macedonian Economy: A Policy Brief” (2021).

14 Ibid, page 20.

15 Ibid, page 21.

16 Association for Research and Analysis ZMAI, “The effects of COVID-19 on the industrial production of the textile and leather industry” (March 29, 2021) <<https://zmai.mk/ефектите-од-covid-19-врз-индустриското-произ/>>.

17 Those cities are Shtip, Tetovo, Skopje, Prilep and Kumanovo. See more Association for Research and Analysis ZMAI, “Increased number of unemployed in the textile industry during the pandemic” (February 25, 2021)<<https://zmai.mk/зголемен-бројот-на-невработени-лица-в/>>.

18 Ibid.

Textile workers are the most suitable example for analyzing the effects of the crisis on workers in Macedonia. When this category of workers is approached interactively, it is noted that it represents all the less powerful social groups - young people, women, people from more impoverished regions, and labour-intensive industries. In the last five years, the most common reason for termination of employment in the textile industry is the expiration of the specified period for which the employment contract was concluded, and the number of workers who lost their jobs in 2020 on this basis is increased 123 percent.<sup>19</sup> What makes the situation worse is that losing one's job is not the only problem that the textile workers face. Textile workers were among 17,000 workers who did not receive their wages for three months due to the opposition's blockade of the economic measures in the Assembly.<sup>20</sup> In April 2021, 6,000 textile workers were sent on "forced leave" because the employers waited for state financial assistance.<sup>21</sup>

During this period, the workers received wages below the minimum.

According to the latest available data, in Macedonia in recent years, about 450,000 people lived below the relative poverty line. In contrast, the percentage of people living below the absolute poverty line<sup>22</sup> was about 4.6 or approximately 100,000 people.<sup>23</sup> Given the data from the Employment Agency for 43,086 people who lost their jobs after the start of the pandemic in March 2020,<sup>24</sup> as well as the shown inequalities in workers' incomes, it is estimated that the crisis has the power to push an additional 25,000 people below relative and another 100,000 people below the absolute poverty line.<sup>25</sup> Under such conditions, as many as 70 percent of the citizens think that their income from work, salary, savings, and other income in the family could last up to three months.<sup>26</sup> It is assumed that the average annual disposable income of a household after the end of the crisis will decrease by 7.2 percent or 38,341 denars.<sup>27</sup>

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19 Ibid.

20 Helsinki Committee for Human Rights, a group of trade unions "May Day proclamation: workers unite! Together in the struggle for our rights!" (May 1, 2021) <<https://mhc.org.mk/news/prvomajski-proglas-rabotnichki-i-rabotnici-obedinete-se-zaednichki-vo-borba-za-nashite-prava/>> last accessed on 04.05.2021.

21 Helsinki Committee on Human Rights, "Monthly report on human rights in the Republic of North Macedonia – April/May 2021" (2021) < <https://mhc.org.mk/reports/mesechen-izveshtaj-za-chovekovite-prava-vo-republika-severna-makedonija-april-maj-2021/>> last accessed on 23.06.2021.

22 Under \$ 1.9 per day per person according to purchasing power parity. See more at the Institute for Economic Research and Policy Finance Think, "How Much Covid-19 will Increase the Poverty in North Macedonia?" (November 2020)<<https://www.financethink.mk/wp-content/uploads/2020/11/PB43-2.pdf>>.

23 Ibid.

24 The Employment Agency only in June started to keep separate statistics for the influx of persons who have acquired the status of unemployed persons, for whom the de-registration from the compulsory social insurance was registered in the period after March 11, 2020. The total number of unemployed persons, starting from March 2021, is presented here. The number of unemployed persons for the months of March, April and May, for which the Employment Agency did not keep separate statistics regarding the crisis, is 21,838 persons. Employment Agency of the Republic of North Macedonia. "Overview of data on inflow and outflow of unemployed persons" (2021)<<https://av.gov.mk/pregled-na-podatoci-za-priliv-i-odliv-na-nevraboteni-lica.nsp>> last accessed on 03.05.2021.

25 Institute for Economic Research and Policy Finance Think, "How much will Covid-19 increase the poverty in North Macedonia?"

26 Institute for Economic Research and Policy Finance Think, "The economic effects of the corona crisis" (April 2020) <[https://www.financethink.mk/wp-content/uploads/2020/10/QLife\\_No.3.pdf](https://www.financethink.mk/wp-content/uploads/2020/10/QLife_No.3.pdf)>

27 Institute for Economic Research and Policy Finance Think, "How much will Covid-19 increase the poverty in North Macedonia?"

The constant increase of class divisions extinguishes the workers' solidarity and the desire for organized action. It directs the workers towards waging an individual struggle for the realization of certain workers' rights. This personal struggle, characteristic of modern capitalism, creates many unemployed workers, such as those with a contract for work, informal care workers, illegal workers, "housewives", etc., invisible. Those who are only actual workers are not legally considered employees and do not enjoy systemic protection and are additionally more susceptible to exploitation.<sup>28</sup> In this way, they are outside any organized struggle for their labour rights.

The promotion of workers' rights and the improvement of the overall condition of workers are put in the background, in the shadow of the protection of existing rights that are violated daily. The coronavirus-induced health crisis is the best indicator of the consequences and the absence of any security or guarantee of a dignified treatment of non-associated workers. Under such conditions, the disorganisation of the workers, the trade union disunity and the inadequate representation and advocacy

for the defense of workers' rights were evident.

The unsuccessful attempts of the unions, which even before the crisis did not enjoy much trust, to represent the interests of workers adequately and protect workers' rights indicate the same. Their approach is best illustrated by the activity related to the measures for support of the economy, in the preparation of which the representatives of the chambers of commerce actively participated and were satisfied that the Government accepted a number of their proposals.<sup>29</sup> In contrast, the demands of the representative unions that participated in the coordinative meetings were not taken into account and were not incorporated into any of the packages of economic measures.<sup>30</sup> This indicates that the "traditional" Macedonian unions, even after 30 years, have not deserved a stable place at the negotiating table and still do not have the power to struggle for adequate protection of workers' rights. The representative unions did not even manage to obtain a proper increase of the minimum wage in the amount of 16,976 denars.<sup>31</sup> The peaceful acceptance of such solutions shows the still present dependence of the trade unions on cooperation with

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nia?".

28 Vildan Drpljanin, "Invisible Workers" (ResPublica, 2020) <<https://respublica.edu.mk/mk/blog/2020-10-26-11-16-26>> last accessed on 03.05.2021.

29 Helsinki Committee for Human Rights, "Monthly Report on Human Rights in the Republic of North Macedonia - December 2020" (2020) <<https://mhc.org.mk/reports/mesechen-izveshta%01%98-za-chovekovite-prava-vo-republika-severna-makedoni%01%98a-dekemvri-2020/>> last accessed on 04.05.2021.

30 Ibid.

31 At a session of the Economic and Social Council on the need for harmonization of the minimum wage, members composed of employers and the Government with 8 to 4 votes, outvoted the unions i.e. the workers for the amount of the minimum wage harmonization in accordance with the Law and instead of the amount of 16,976 denars, an amount of 15,190 was adopted as a net basis for the minimum wage. Federation of Trade Unions of Macedonia, "At a meeting of the ESC, workers outvoted for their minimum wage by Government officials and employers" (March 31, 2021) <<https://www.ssm.org.mk/mk/na-sednica-na-ess-rabotnicite-nadglasani-za-nivnata-minimalna-plata-od-pretstavnicite-na-vladata-i>>

institutions and politicians regarding collective bargaining. This further reduces the already low confidence of workers in the representative and higher-level unions, mainly because they do not represent it and are rarely familiar with the situation on the ground.<sup>32</sup>

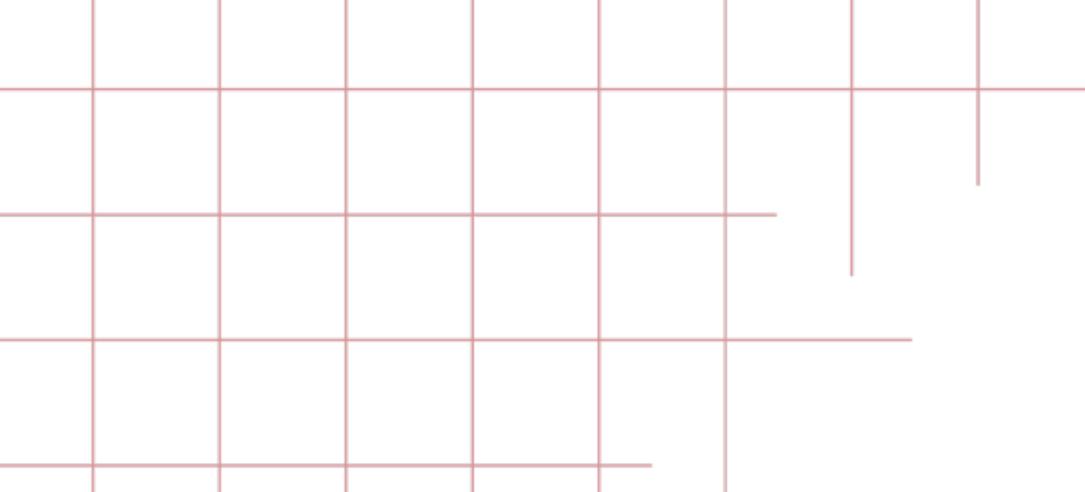
In conditions when all three sides of the social partnership - workers, employers, and the Government - are affected by the health and economic crisis,<sup>33</sup> it is worth considering what the accurate picture is

for the trade unions at the moment and what needs to be done to restore the union movement in the hands of workers. Therefore, it is necessary to propose alternative solutions that could lead to strengthening the union power of the workers, such as, for example, the acquisition of legal subjectivity for all unions, which will be analysed below.

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<sup>32</sup> Kire Vasilev, Ana Guleva, *Trade Unions in Macedonia* (2017) page 42.

<sup>33</sup> Todor Kalamatiev, Aleksandar Ristovski, "Labour relations in conditions of health and economic crisis caused by Covid-19" (January 2021) <<https://bit.ly/3h1LyGW>>.



# METHODOLOGY

# AND RESEARCH APPROACH

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## AIM OF THE RESEARCH

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This paper aims to formulate a specific recommendation regarding the dilemma of whether each trade union should have the status of a legal entity and its legal subjectivity.<sup>34</sup> By answering this question, the paper will contribute to regulating these provisions in the new Law on Labour Relations. Moreover, the question of legal subjectivity will impose alternative solutions for the transformation of the long-abused trade unionism. It will direct the confusing trade union movement in the right direction towards solidarity and joint promotion of workers' rights.

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## RESEARCH QUESTIONS AND THESIS

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Several dilemmas arise when analysing the trade union from the point of view of its nature and primary purpose. One of them is whether the trade union's primary function is to provide financial and legal services to its members or the trade union should primarily be a mechanism through which its members will achieve common goals for social change and participation in democratic processes.<sup>35</sup> Hence, this research

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34 Under "Every union" is understood all types of unions, regardless of the way they are organized. This means that employer-level unions, professional unions, branch unions and general unions are covered. The current law determines legal subjectivity only for branch unions and general unions.

35 Of course, there is a possibility that the truth is somewhere in the middle as a combination of the two questions or that the purpose of the trade union is completely third, but for the needs of this paper and the issue under investigation, these are the two most relevant views. More about these dilemmas can be found in Child J, Loveridge R and Warner M, Towards an Organisational Study of Trade

paper tries to answer two crucial questions: what is the primary function of the trade union according to their personal beliefs and based on that whether all trade unions should have a separate legal subjectivity. The answer to the first question will undoubtedly answer part of the second, which will further lay the foundations for creating public policies to strengthen the role of trade unions in protecting workers' rights.

The hypothesis that this scientific research focuses on is that the lack of legal subjectivity of all unions leads to two fundamental problems: the distancing of the workers from trade unions at the employer level and the annexation of lower-level trade unions by the higher level of trade unions.<sup>36</sup> Acquiring legal subjectivity would mean increasing the visibility of the lower-level trade unions, which would further strengthen the workers' confidence in the trade union movement and, finally, to an organisation of the working class.

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## RESEARCH METHODS

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Recognizing the need for a comprehensive analysis of the changes that follow the new Law on Labour Relations, this paper, through an interdisciplinary approach, will analyse the historical, economic, and social aspects of workers' rights in general, as well as the trade union movement, in particular. The paper will give targeted recommendations for the transformation of Macedonian modern trade unionism.<sup>37</sup>

The primary data was collected through in-depth interviews with representatives of 17 unions at the level of an employer, professional trade unions, branch trade unions, and general trade unions.<sup>38</sup> Given the extraordinary circumstances during the preparation of the paper, the interviews were conducted by telephone and in writing.<sup>39</sup> The questions asked to the interviewed union representatives were open-ended. The respondents had the opportunity to answer descriptively for the result of the research interviews to show their perspective that is full of details. Annex 1 contains the respondents' answers in the full transcript. For the purposes of this research, the leading data are highlighted in the main text.

The subject of this research and its aim has been successfully mastered using the basic research methods: analysis of the provisions on the legal subjectivity

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Unions (1973) 7 Sociology 71.

36 Vildan Drpljanin, "Who and how (will) organize the unions?" (ResPublica, 2019) <<https://respublica.edu.mk/blog/2019-09-11-08-39-41>> last accessed on 18.03.2020.

37 Kire Vasilev, Ana Guleva, *Trade Unions in Macedonia* (2017).

38 All trade unions that responded to the invitation are listed at the beginning of this paper in the "Special Notes" section.

39 On March 11, 2020, the World Health Organisation declared a pandemic due to Covid-19 disease. On March 18, 2020, the Republic of North Macedonia declared a state of emergency throughout the country.

of trade unions in the existing Law on Labour Relations and the proposed provisions in the new law. They are interpreted following the usual meaning of the words used, taking into account the context in which the existing one is applied and in which the new Law should be adopted. The asymmetric power between higher-level unions and lower-level trade unions in the discourse of their legal subjectivity is critically examined and analysed in the second part of the research. The primary data were analysed qualitatively, and their significance was explained in detail, through categorized fragments of the interviews with the respondents, without altering their original statements at all. Additionally, the paper in its final version was sent for review to two of the four national unions - the Union of Independent and Autonomous Trade Unions of Macedonia (UNASM) and the Confederation of Trade Union Organizations in Macedonia (KSOM), and their observations are inserted and analysed in the appropriate sections.

Following the above research methods, the paper will show how unions rely on almost identical arguments to prove two completely different views of legal subjectivity for all trade unions. The authors of this paper will provide their insights into the weight of these arguments and the side they support.

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## STRUCTURE OF THE RESEARCH

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The first part of this paper will examine the historical, economic, and social aspects of the trade union movement in Macedonia through the past and the conditions that enabled the existing status quo. This section will also offer a comparative analysis of the legal regulation of trade unions in the past and today. The second part addresses the current state of the status quo. Only trade unions at a higher level have legal subjectivity, as currently provided by the Law on Labour Relations. The new proposed legal solutions that would give all trade unions the status of a legal entity are analysed in the third part, in which the authors will offer arguments to challenge the status quo. Finally, the paper provides concluding observations, with specific recommendations on whether each union should have the status of a legal entity and its legal subjectivity.

# TOWARDS THE STATUS-QUO OF TRADE UNIONISM

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## MACEDONIAN TRADE UNION EVOLUTION

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The Macedonian railway workers in the spring of 1900 on the railway Veles-Demir Kapija went on strike for higher wages and shortening of the too-long work hours. The strike was probably the first united cry of the organized Macedonian workers.<sup>40</sup> The mass interruption of work, organized by the local socialist organization from Veles on the railway lines Thessaloniki-Skopje-Pristina,<sup>41</sup> lasted

two days and completely disabled the passenger and freight traffic on the section Thessaloniki-Skopje.<sup>42</sup> Mostly young strikers succeeded in their demands. This example further encouraged Skopje miners,<sup>43</sup> Strumica seamstresses,<sup>44</sup> Debar tobacco processors,<sup>45</sup> Bitola shoemakers, and other workers across the cities to strike for better working conditions.<sup>46</sup>

At the end of 1908 and the beginning of 1909, the first legal Mace-

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40 Ivanovski, Todorovski, Lazarov, Petkovski, Janev and Dimitrievski, *History of the Trade Union Movement in Macedonia* (Federation of Trade Unions of Macedonia 2008).

41 Data confirmed by documents related to the workers' organisation in Macedonia, available at the National and University Library "St. Kliment Ohridski", date of inspection: 3.7.2020.

42 Ivan Katardziev, Ivan Mazov and Slavko Mandicheski, *Selected Articles on the Workers' and Socialist Movement in Macedonia* (1962).

43 Orde Ivanovski, Mile Todorovski, Lazar Lazarov, Borislav Petkovski, Jovan Janev and Marjan Dimitrievski, *History of the Trade Union Movement in Macedonia* (Federation of Trade Unions of Macedonia 2008).

44 Orde Ivanovski, *The Workers' Trade Union Movement in Macedonia until 1918* (Communist, 1985).

45 Orde Ivanovski, *The Workers' Trade Union Movement in Macedonia until 1918* (Communist, 1985).

46 All these groups of workers organized their strikes in the period between the end of the 19th and the beginning of the 20th century. The data are confirmed by documents related to the workers' organisation in Macedonia, available at the National and University Li-

donian trade unions were created, including the mixed trade union in Skopje, where workers from different ethnic communities were members.<sup>47</sup> One of the greatest successes of these labour unions is the first Labour Day celebration,<sup>48</sup> 1 May 1909 and the establishment of the practice of the annual celebration of this day.<sup>49</sup> Given that the working class then consisted of the proletarian peasantry,<sup>50</sup> apprentices,<sup>51</sup> guild and a small number of industrial workers,<sup>52</sup> ruthless exploitation was the primary motive for union organizing.

In the period between the two world wars, from 1919 to 1939, the labour movement received a new development course under the social and political changes.<sup>53</sup> The expansion of the trade union movement took place under the direct leadership of the Socialists. It resulted from the founding of the party organisations, i.e. the unification of the workers' movements of the Yugoslav peoples into a single political party and class union. The defining moment for the labour movement in that period was the adoption of the

dictatorial decree "Obznana" in royal Yugoslavia,<sup>54</sup> which was the basis for clashes with political dissidents and at the same time forbade any workers' and trade union organisation.<sup>55</sup> Prior to the decree, the trade unions in the kingdom functioned in a single organisation called the Central Workers' Trade Union of Yugoslavia (CRSVJ), formalized at the first congress of the Socialist Workers' Party of Yugoslavia from 22 to 23 April 1919.<sup>56</sup> The CRSVJ had over 200,000 workers, and the union was under considerable party control despite substantial communist fractions. Still, the decree banned and criminalized the union's activities and the Communist Party of Yugoslavia (CPY). The decree was passed in December 1920 and abolished collective agreements, reduced workers' wages by a third, and extended daily working hours to ten or more hours.<sup>57</sup>

All this was the reason for the mass organisation of strikes and the promotion of demands related to working hours, wages, collective agreements, working conditions, and exploitation by employers. In the period

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brary "St. Kliment Ohridski", date of inspection: 3.7.2020.

47 Orde Ivanovski, Mile Todorovski, Lazar Lazarov, Borislav Petkovski, Jovan Janev and Marjan Dimitrievski, *History of the Trade Union Movement in Macedonia* (Federation of Trade Unions of Macedonia 2008).

48 Until 1908, Macedonian workers had no right to organize and operate legally. Strikes were banned and strikers were persecuted and punished.

49 Data confirmed by documents related to the workers' organisation in Macedonia, available at the National and University Library "St. Kliment Ohridski", date of inspection: 3.7.2020.

50 Peasants who were mostly farmers.

51 Auxiliary merchants and craftsmen.

52 Mostly masters who worked with tools.

53 Orde Ivanovski, Mile Todorovski, Lazar Lazarov, Borislav Petkovski, Jovan Janev and Marjan Dimitrievski, *History of the Trade Union Movement in Macedonia* (Federation of Trade Unions of Macedonia 2008).

54 Sabrina P. Ramet, *The Three Yugoslavias: State-Building and Legitimation, 1918-2005* (Woodrow Wilson Center Press; Indiana University Press 2006).

55 The authorities feared that in the then-political situation, workers' protests posed a danger that could escalate into an open conflict in the kingdom.

56 Fred Singleton, *A Short History of the Yugoslav Peoples* (Cambridge University Press 1985).

57 Sabrina P. Ramet, *The Three Yugoslavias: State-Building and Legitimation, 1918-2005* (Woodrow Wilson Center Press; Indiana University Press 2006).

after the decree, the branches of two trade unions mainly operated in the territory of Macedonia. These were the Independent Trade Unions of Yugoslavia (NSJ),<sup>58</sup> which due to a re-ban because they were under the influence of the CPY in 1925 were re-registered in URSOVI unions, and the Federation of Trade Unions of Yugoslavia (SRSJ).<sup>59</sup> Although the trade union bans, such as the January 6 dictatorship of 1929 to 1931 or the prohibitions of the Cvetkovikj-Machek government in 1940, were inherent in those years, between the two world wars, the territory of present-day Macedonia was almost always covered by a net of trade unions. The industry mainly was underdeveloped, but metalworkers and railroad workers, waiters, seamstresses and carpenters were best organized.<sup>60</sup>

However, the unions were primarily powerless to oppose the social-economic plunder and exploitation of workers through the coupon and spahic system at the time. Hence, it is quite natural that many workers saw the solution to social, including workers', injustices in the CPY's call to join the partisan detachments in 1941. Most members of the partisan forces from Macedonia were metalworkers, electricians, seamstresses, and carpenters, so it is not surprising that some of the most prominent

Macedonian names, in today's world, were trade union leaders. Vera Aceva, Cvetan Dimov, Orce Nikolov, Bajram Shabani and Rade Jovcevski-Korcagin are known as partisans, but before the war they were organizers of strikes and strugglers for social justice.

After the Second World War, in December 1944 in Skopje, the First official conference of representatives of the working class was held, and in January 1945 a general workers' rally was held. An Action Trade Union Board was formed in Macedonia, and local boards were created in all cities, organized by the workers in their professional unions. The trade unions were indisputably involved in the reconstruction of the country. They actively participated in adopting and implementing the Law on Agrarian Reform and Colonization.<sup>61</sup> and the Law on Nationalization.<sup>62</sup> By these laws the feudal remnants of the agricultural economy were abolished, and the land was given to the peasants who cultivated it. This is just one episode of the rich treasury of trade union history from 1944 to 1991, when Macedonia, had a developed labour movement as part of SFR Yugoslavia. The working class considered that period a turning point because the self-governing system was established.

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58 This union was founded on 27 December 1921 as MSO (Inter-Federation Trade Union Committee) by 12 professional trade unions that were active before the ban in 1920 under the name CRSVJ (Central Workers' Union of Yugoslavia). The union was revolutionary and communist in nature.

59 Founded in 1922 by the Central and Reformist Socialists

60 Kire Vasilev, Ana Guleva, *Trade Unions in Macedonia* (2017).

61 Law on Agrarian Reform and Colonization ("Official Gazette of the People's Republic of Macedonia" no. 3/1946) adopted on 09.02.1946, in force from 17.03.1946.

62 Law on Nationalization ("Official Gazette of the Federal People's Republic of Yugoslavia No. 98 / II), adopted on 05.12.1946, in force from 06.12.1946.

This success of the workers' movement in the 20th century is completely degraded in the post-socialist transition, in which hundreds of thousands of workers plunged into deep poverty at the expense of a few oligarchs who became multimillionaires. The period from the eighties to the two thousandths in Macedonia cannot be characterized by anything other than massive workers' dissatisfaction and the strikes and protests of the loss-making companies in 2002 are one of the most organized and radical workers' rallies in Macedonia. With the beginning of the privatization process, the transition of social relations, and the development of political pluralism, the transformation of the Macedonian Communist Trade Union - the Federation of Trade Unions of Macedonia (SSM) began. The 13th Congress of SSM was held in 1990, at which the need to build a trade union that would respond to the new society was confirmed, and at its Fourteenth Congress in 1993, SSM established its autonomous and independent position, which was further strengthened at the Fifteenth congress held in 1997. The statutes and programs adopted at these congresses promote SSM and its affiliated unions as independent, non-governmental, non-partisan workers' organisations to realise and

protect their social, economic, and cultural rights.<sup>63</sup>

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## HISTORICAL COMPARATIVE ASSESSMENT OF TRADE UNION ORGANISATION

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The last 120 years, in which the Macedonian labour movement has been documented, give a good description of the strengths and weaknesses of our collective organisation. The transition is undoubtedly one of the main reasons for the poor state of workers' rights today, because it has completely defeated the labour movement in Macedonia. Still, it is inevitable that historically the trade union tradition has developed more slowly due to low industrialization. For example, European unions,<sup>64</sup> as a union formed in 1818 by workers in charge of cotton spinning machines in Manchester, England,<sup>65</sup> due to the terrible conditions and low wages, are almost a century ahead of the Macedonian trade unionism. Despite these differences, and the different social needs created by the passage of two centuries since then,<sup>66</sup> the basic premise for workers'

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63 Tome Georgievski, *Contemporary Trade Unions - Legal political foundations and action* (2000) 8.

64 Trade unions that covered all branches of labour, regardless of skills or profession, existed for a period of time in most industrialized countries. In Britain, where they played a greater role in modern trade union organisation than anywhere else, they were established as early as the 19th century. See Eric J. Hobsbawm, *Labouring men: Studies in the History of Labour* (first published 1964, Anchor Books 1967) 211. British trade unionism reached its peak between 1950 and 1975, which Hobsbawm called the "Golden Age". See Eric J. Hobsbawm, *Age of Extremes: The Short Twentieth Century 1914-1991* (first published 1994, Abacus Books 1995) 257-286.

65 Robert G. Hall, "Tyranny, Work and Politics: The 1818 Strike Wave in the English Cotton District" (1989) 34 *International Review of Social History* 433, 433.

66 Both in terms of everyday life, as well as in terms of union organisation and the needs of workers and employers. More explained

association remains the same today, both in the UK and in Macedonia.<sup>67</sup> The existence of trade unions arises directly from the need of workers to be organized, united, and in solidarity in the struggle for their workers' rights.<sup>68</sup> That need is the basis of existence, whether it is a matter of wages and working hours,<sup>69</sup> with collective bargaining as the most outstanding achievement of the union struggle or any other working and living conditions affecting workers.<sup>70</sup>

Hence, the trade unions in Macedonia draw the basis for their existence from the Constitution.<sup>71</sup> The highest legal act guarantees the citizens the freedom of association for the realization of their political, economic, social, cultural and other rights and beliefs.<sup>72</sup> This determination is then specified in Article 37 of the Constitution, which stipulates that citizens have the right to form trade unions to exercise their economic and social rights and explicitly states that trade unions can establish their own unions and acquire membership in international trade unions.<sup>73</sup>

In the past, the position of trade unions was regulated explicitly

by the first Law on Labour Relations of 1993,<sup>74</sup> which devoted eight articles to the trade union organisation. Still, it did not expressly mention the trade union's legal legitimacy. Therefore, the legal basis for exercising the protective function of the federations of trade unions, branch trade unions, and regional trade unions arose from the provisions of Article 134,<sup>75</sup> as well as Article 137 of the Law,<sup>76</sup> and from Instructions for acting upon the requests of the members of the trade unions for granting legal protection.<sup>77</sup> Thus, to exercise their employment rights, the union members had the right to seek legal protection from the Federation of Trade Unions of Macedonia. The legal protection included providing legal advice, expert answers and clarifications, compiling submissions and representation before management bodies in companies, institutions, and other employers, and before judicial and inspection bodies. In this way, the trade union in practice exercised its competence and responsibility to strengthen the legal position of workers, which theoretically arose from the implicit legal subjectivity.

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in Gregor Gall, *The International Handbook of Labour Unions: Responses to Neo-Liberalism* (Elgar 2011) 84-89.

67 Explained in detail in Doellgast VL, Lillie N and Pulignano V, *Reconstructing Solidarity: Labour Unions, Precarious Work, and the Politics of Institutional Change in Europe* (First edition, Oxford University Press 2018) 83-100.

68 Michael Yates, *Why Unions Matter* (2nd ed, Monthly Review Press 2009) 31-37.

69 Michael Yates, *Why Unions Matter* (2nd ed, Monthly Review Press 2009) 47-52.

70 Tome Georgievski, *Contemporary Trade Unions - Legal political foundations and action* (2000) 15.

71 Constitution of the Republic of Macedonia („Official Gazette of Republic of Macedonia“ no. 52/1991).

72 Constitution of the Republic of Macedonia, Article 20 paragraph 1.

73 Constitution of the Republic of Macedonia, Article 37 paragraph 1.

74 Law on labour relations („Official Gazette of Republic of Macedonia“ no. 80/93 од 30.12.1993).

75 Law on labour relations (1993), Article 134: In exercising the individual rights from the employment, the employee has the right to seek protection from the employer, before the competent court, the trade union, the inspection bodies and other bodies, in accordance with the law.

76 Law on labour relations (1993), Article 137: The competent body is obliged, before making the decision on the request, i.e. after the employee's complaint, to request an opinion from the union in which the employee is a member and to obligatorily review it and comment on it, if the union has submitted an opinion.

77 Tome Georgievski, *Contemporary Trade Unions - Legal political foundations and action* (2000) 112-117.

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## THE LEGAL STRUCTURE OF TRADE UNIONS TODAY

In 2005, a new Law on Labour Relations (LLR) was adopted,<sup>78</sup> which is still in force. This Law today stipulates that only the trade union at a higher level acquires the status of a legal entity on the day of registration in the Central Register, after prior registration in the register of trade unions.<sup>79</sup> The Ministry of Labour and Social Policy maintains a register of trade unions<sup>80</sup>, and according to the latest data from 31.03.2021, the Register has 65 registered trade unions.<sup>81</sup>

In such an arrangement, the lower-level unions cannot have their own transaction account and seal and cannot act in the legal transactions as a legal entity.<sup>82</sup> In a situation of lack of legal subjectivity, the trade union is prevented directly, as a legal entity, from filing a lawsuit to the competent court. The active legitimation for filing a lawsuit, in this case, goes to the union at a higher level, within which the low-

er-level union is united.<sup>83</sup> Hence, the regulation of the provisions on trade unions, the freedom of association in labour relations, and the framework under which the process of collective bargaining and the strike takes place are of immense importance. Given the circumstances in which this paper is being prepared - a moment when the drafting of the new Law on Labour Relations is intensifying, and it should soon be in the Assembly, this is an excellent opportunity to discuss these issues.

Workers' rights begin and often end within the workplace. The workers' or trade union organisation is always conditioned by the socio-economic and social circumstances of the given society.<sup>84</sup> Collective bargaining, legal protection of workers, and the strike are activities that reflect the strategy of modern trade union organisation.<sup>85</sup> This paper focuses on the role of trade unions in labour relations, emphasizing the legal protection of workers' rights, through the prism of the legal subjectivity of trade unions. Therefore, it is necessary to investigate and ask the unions that represent us on their position on whether each trade union should have the status of a legal entity and its legal subjectivity.

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78 Law on labour relations („Official Gazette of 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 Republic of North Macedonia“ no. 110/19).

79 Law on labour relations, Article 189.

80 Law on labour relations, Article 190 paragraph 1.

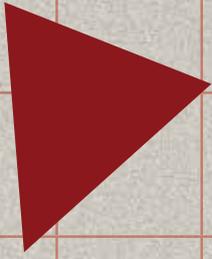
81 The register of trade unions is available on the website of the Ministry of Labour and Social Policy, <<http://www.mtsp.gov.mk/registri.nspx>> last accessed on 18.03.2020.

82 This is of particular importance in exercising judicial protection of the right to trade union association.

83 Vildan Drpljanin, “Who and how (will) organize the unions?” (ResPublica, 2019) <<https://respublica.edu.mk/blog/2019-09-11-08-39-41>> last accessed on 18.3.2020.

84 Tome Georgievski, *Contemporary Trade Unions - Legal political foundations and action* (2000) 18.

85 Tome Georgievski, *Contemporary Trade Unions - Legal political foundations and action* (2000) 9.

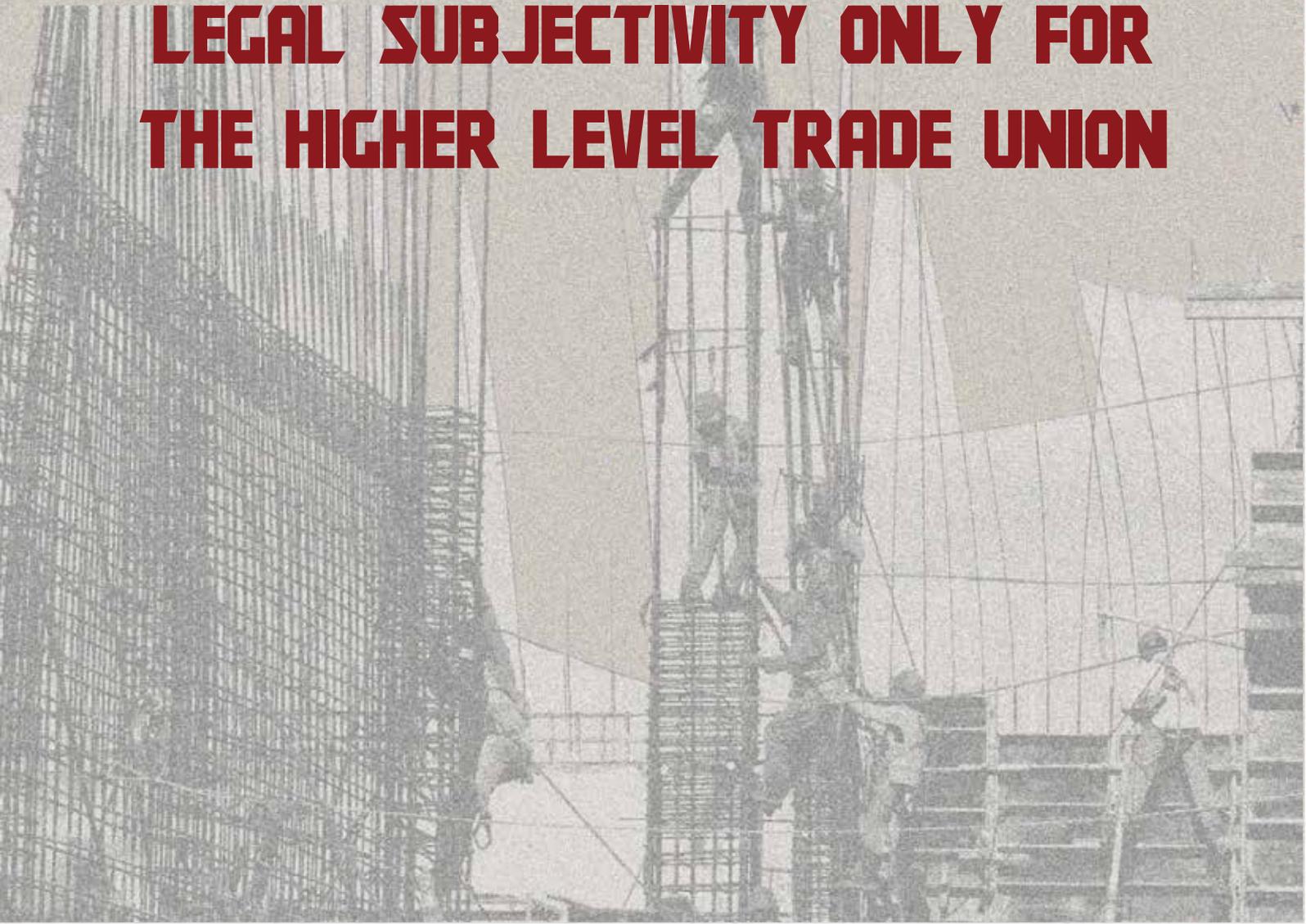


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**- PART ONE -**

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**LEGAL SUBJECTIVITY ONLY FOR  
THE HIGHER LEVEL TRADE UNION**



unions.<sup>92</sup> Most consider trade unions



The trade union organisation rate in Macedonia is 21.6 percent<sup>86</sup>, almost close to the global average of 23.81 percent<sup>87</sup>, but significantly below the European Union average of 29.76 percent.<sup>88</sup> However, suppose one looks only at the rate of trade union organisation. In that case, one gets the impression that the Macedonian trade unions do not lag far behind their regional and world partners.<sup>89</sup> The ratio is much worse if you look at the situation in terms of the essential work of the unions in the country.<sup>90</sup>

As a safeguard mechanism, trade unions enjoy the lowest level of trust between workers and as many as 73.8 percent of the members<sup>91</sup> said they were not satisfied with the work of the

to be inefficient, corrupt and/or co-opted with factory owners.<sup>93</sup> Indicatively, most of these problems can be attributed to the unions' legal status and directly to their will and ability to provide adequate protection.<sup>94</sup>

In that regard, the practical conditionality of the unions to unite to acquire the status of a legal entity to have their account, seal, and to be able to sue is a double-edged sword.<sup>95</sup> On one hand, the trade unions are encouraged to consolidate and form larger trade unions, but at the same time, the professional trade unions and employer-level unions are deprived of many opportunities due to the lack of legal entity status. This Law on Labour Relations position is a crucial element that dictates the basics of trade union organisation and

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86 Kire Vasilev, Mariglen Demiri, Natasha Neshevska, Nikola Shteriov „Analysis of the level of satisfaction with the mechanisms for protection of workers' rights in the Republic of North Macedonia“ (2019) Helsinki Committee for Human Rights, 39

87 ILOSTAT, 'Industrial relations', Summary Reports, <<https://bit.ly/2SYvgD3>> last accessed on: 27.3.2020.

88 ILOSTAT, 'Industrial relations', Summary Reports, <<https://bit.ly/2SYvgD3>> last accessed on: 27.3.2020.

89 For more detailed analysis see Valerija Botrić, “Structural unemployment and its determinants in Southeast Europe” (2011) Economic thought and practice (1), 81-100.

90 As an illustration, a good indicator is the annual report on labour in the country, see Friedrich Ebert Foundation, “Annual review of labour relations and social dialogue” (2018) <<http://library.fes.de/pdf-files/bueros/bratislava/15359.pdf>> last accessed on: 27.3.2020.

91 Kire Vasilev, Mariglen Demiri, Natasha Neshevska, Nikola Shteriov „Analysis of the level of satisfaction with the mechanisms for protection of workers' rights in the Republic of North Macedonia“ (2019) Helsinki Committee for Human Rights, 41. The research does not cover a representative sample, but the findings of the analysis are indicative enough to conclude that the unions do not enjoy much trust among workers.

92 If the “partly dissatisfied” are added, the figure reaches a staggering 86.1 percent.

93 Kire Vasilev, Mariglen Demiri, Natasha Neshevska, Nikola Shteriov „Analysis of the level of satisfaction with the mechanisms for protection of workers' rights in the Republic of North Macedonia“ (2019) Helsinki Committee for Human Rights, 41.

94 Kire Vasilev, Mariglen Demiri, Natasha Neshevska, Nikola Shteriov „Analysis of the level of satisfaction with the mechanisms for protection of workers' rights in the Republic of North Macedonia“ (2019) Helsinki Committee for Human Rights, 42-45.

95 A decades-old legal dilemma in the literature, see Simpson RC, “The Significance of the Legal Status of Trade Unions in Britain and Australia” (1976) 18 Journal of Industrial Relations 229, 229-242

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the relations between the trade unions.

### **1.1. OPPORTUNITIES FOR TRADE UNION ORGANISATION AND THE STRUGGLE FOR WORKERS' RIGHTS**

Trade unions at the employer level, as informal groups according to the Law on Labour Relations, clearly emphasize that they need a special legal entity to improve their work.<sup>96</sup> However, some unions believe that the legal status is not important at all, but that:

The strength [...] of trade unions does not stem from their legal status or (non) application of existing laws, but from the degree of readiness of its members - workers (or, in the case of a federation of trade unions of each of the individual trade unions-members) to organize and struggle together for better conditions.<sup>97</sup>

This raises the question of how then the legal subjectivity could offer greater protection when it is not a response to the main challenges that the unions face? However, on the explicit question of how the legal subjectivity can offer greater protection, the representative of the specific union at the employer level states that the legal status is necessary because “the union is a separate political and organisational identity [which] should have the status of a legal entity, as the other types of organisations?”<sup>98</sup>

On the same line, other union representatives at the employer level believe that legal subjectivity is necessary because of the “importance of the union”<sup>99</sup>, as well as because of “the duty to act in accordance with all legal regulations for financial operations and employment”<sup>100</sup>. All three unions are seeing a positive change in their potential legal subjectivity. Still, they do not seem to be paying enough attention to the dangers that may arise. For example, the removal of the conditionality that unions practically have to unite to acquire the status of a legal entity through the higher form of a trade union can disintegrate trade union organisation. If trade unions do not have to join existing trade unions at a higher level to be able to carry out their function smoothly, will there still be a need for trade union association?

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96 Visible from the interviews with the trade unions at Eriden DOOEL, ZK Pelagonija and Makedonska Posta Skopje - Branch Kumanovo.

97 Trade union of ERIDEN DOOEL - Bitola, representative: Gorast Muratovski - member of the executive board.

98 Visible from the interview with the trade union of ERIDEN DOOEL - Bitola, representative: Gorast Muratovski - member of the executive board.

99 Visible from the interview with the Trade Union Board of ZK Pelagonija AD - Bitola, representative: Mendo Milevski - President.

100 Visible from the interview with the Trade Union of the Makedonska Poshta Skopje - Branch Kumanovo, representative: Svetlana Bozinovska - member of the Central Board.

In addition, the fact that the lower level unions cannot have their transaction account and seal and act as a legal entity does not necessarily mean that their work is hindered. It is indisputable that these preconditions are of particular importance in the exercise of judicial protection<sup>101</sup>. Still, the trade union as an individual is a much larger institute, and its activities are much more comprehensive than the “dropping” of lawsuits. The active legitimation for filing a lawsuit according to the status quo goes to the union at a higher level, within which the union is united, which means that the lower level unions can still use that opportunity, only through another channel. Given that the responsibility of higher-level trade unions is a crucial feature of the current system, it is essential to look at their standpoints to explore the need for potential change.

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## 1.2. THEORETICAL DEBATE - ESSENTIAL IMPLICATIONS

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The agro-union, as an example that is fully aligned with one of its unions at the employer level<sup>102</sup>, also emphasizes the need for a special legal status for the trade unions<sup>103</sup>. Thereby, the union does not enter into a more specific consideration of the positive and negative sides of this change, but only states that all unions “should” have their own legal subjectivity<sup>104</sup>. On the other hand, STKC, with an almost equally short answer, quite the opposite, believes that only the branch unions and general unions should have the status of a legal entity, but not the trade unions<sup>105</sup>. The weak underpinnings of such opposed responses may mean that unions do not consider this issue particularly important in terms of their role. However, the lack of interest may be due to the predominantly theoretical nature of this dilemma and the lack of familiarity with the real implications that the possible solution would reflect on the protection of workers’ rights.<sup>106</sup>

Trade unions, such as SONK and NAKS, thoroughly approach this issue and take a similar view. SONK believes that:

with the acquisition of the status of a legal entity, the motivation for unit-

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101 Due to the fact that the union in a situation of lack of legal subjectivity is prevented directly as a legal entity to file a lawsuit to the competent court.

102 The trade union board of ZK Pelagonija AD - Bitola.

103 Visible from the interview with the Agro-trade union

104 Visible from the interview with the Agro-trade union

105 Visible from the interview with the Trade Union of Workers in the Textile, Leather and Shoe Industry, representative: Ljupcho Radovski - President.

106 Milka Ivanovska, “Organized labour in post-socialist Macedonia: the path to marginalization (1989-1998)” (2014) Central European University, Budapest, Hungary.

ing the unions at a higher level should be even more significant.<sup>107</sup>

which means that the Trade Union does not see the danger of dismantling the trade union organisations.<sup>108</sup> Thereby, SONK devotes a considerable part of the interview to the subsidiaries of the trade unions and the (un)regularity of their work with the Law on Trade Companies<sup>109</sup>. SONK believes that:

a particular framework or limit should be made in terms of the rights, but also the obligations of the subsidiaries at their disposal, to protect the unions from huge damages,<sup>110</sup>

which would make the trade unions more protected. Similarly, NAKS states that every trade union should have the status of a legal entity, but adds that:

there should be a legal possibility for the union to have its subsidiaries with different employers or not, without them having the status of a legal entity, if it suits the activity.<sup>111</sup>

It is evident that SONK and NAKS are not afraid of “dividing” the legal subjectivity over several trade unions<sup>112</sup>. Still, they believe that this will not provide complete protection against abuses in the ratio of rights and responsibilities. In any case, it is crucial for this paper that there is a compromise between these branch unions regarding the legal subjectivity of all four types of trade unions. The findings of SSES and SPTOM follow the compromise that all trade unions should be legal entities to independently ... act, dispose and decide on their funds ...<sup>113</sup> and that “... it is necessary for their functioning ... “. <sup>114</sup>

Although such findings create an initial picture of a consensus among branch unions regarding legal subjectivity, this is far from the truth. Many of the trade unions, including the two representative ones at the state level, believe that the disbandment of the legal subjectivity will not bring anything good but will only set the state back. According to them, the solution that provides legal status to all unions is “already seen and did not bear any fruit, only left the workers without

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107 Visible from the interview with the Independent Trade Union for Education, Science and Culture, representative: Jakim Nedelkov - President.

108 Visible from the interview with the Independent Trade Union for Education, Science and Culture, representative: Jakim Nedelkov - President.

109 Law on Trade Companies (“Official Gazette of the Republic of Macedonia” No. 28/04, 84/05, 25/07, 87/08, 42/10, 48/10, 24/11, 166/12, 70/13, 119/13, 120/13, 187/13, 38/14, 41/14, 138/14, 88/15, 192/15, 6/16, 30/16, 61/16, 64/18 and 120 / 18).

110 Visible from the interview with the Independent Trade Union for Education, Science and Culture, representative: Jakim Nedelkov - President.

111 Visible from the interview with the Independent Academic Union, representative: Elena Dzukeska - Acting president.

112 Under current legislation, SONK and NAKS have the status of legal entities.

113 Visible from the interview with the Independent Trade Union of Energy and Economy Workers of Macedonia, representative: Robert Simonoski - President.

114 Visible from the interview with the Union of Postal and Telecommunication Operators, representative: Boro Veligdenov - President.

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protection in empathetic moments.” Hence, it is worthwhile to look at this side of the story to draw objective conclusions.

### 1.3. THE RISK OF MONOPOLIZING THE TRADE UNION ORGANISATION

SKRM and UPOZ are one of the branch unions against the idea that each trade union should have the status of a legal entity. As the main reason for this opinion, SKRM states that:

Currently, there is a problem[...] in small institutions with several employees who want to be members of one or another trade union.<sup>115</sup>

According to them, employees in such a situation who want to form their trade union do not have enough people to fill in all the required bodies in the registration application and are left without representation.<sup>116</sup> This is a legitimate remark, which can be easily overcome with proper legal regulation and appropriate conditions for trade unions at different levels. Even with further legal regulation regarding the legal entity, the trade union at the employer level will register, just like before. Still, with the registration, it would become a legal entity.

Taking that into account, UPOZ believes that “... the current provisions of the Labour Law in this regard are good and should not be amended...”.<sup>117</sup> UPOZ thinks that the experience before the amendments to the Labour Law, when each union had the status of a separate legal entity, and thus a tax number and separate account in commercial banks, was very negative. The consequence was the misuse of union membership funds by some unions, abuse of the funds, and irrational spending.

[Following] the amendments to the Labour Law from 2012 [...] one accounting is kept for all trade unions, there is an insight into the spending of members’ funds, and each trade union is obliged to present its final account to the members, and the same is obligatory for the Trade Union at a higher level, first before the Supervisory Board and then before the presidency.<sup>118</sup>

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115 Visible from the interview with the Trade Union of Culture of Republic of Macedonia, representative: Goce Pavlovski – Secretary General.

116 Visible from the interview with the Trade Union of Culture of Republic of Macedonia, representative: Goce Pavlovski – Secretary General.

117 Visible from the interview with the Trade Union of Public Administration, Judicial Bodies and Citizens’ Associations of the Republic of Macedonia, representative: Trpe Deanoski – Secretary General.

118 Visible from the interview with the Trade Union of Public Administration, Judicial Bodies and Citizens’ Associations of the Republic of Macedonia, representative: Trpe Deanoski – Secretary General.

UPOZ's concern is also justified in terms of the potential impact that business people can have in electing a union representative at the employer level and higher trade unions. However, even in the current scenario, influencing the election of trade union representatives at the lowest to the highest level is not ruled out. Still, it seems that UPOZ managed to maintain a certain balance with its legal solution.

[And] with the current legislation, the trade unions have a certain legal subjectivity. In the Trade Union of UPOZ all trade unions have their account in the commercial banks, independently choose their representatives, have their seal, and can negotiate with the employer in their institutions on all issues.<sup>119</sup>

Finally, there is an agreement on this issue between the two largest trade unions in the state, the representative SSM and KSS. Both trade unions advocate the idea of legal subjectivity only to higher-level trade unions. According to SSM, any other solution generates the risk of:

dismantling the trade union movement and using trade unions by employers to pursue their interests, not trade unions' role.<sup>120</sup>

SSM considers that if the trade unions in the companies have the status of a legal entity, any motivation for the association will be lost, the unions will disseminate, their bargaining power will decrease, and the development of social dialogue and collective bargaining may be called into question in the state. According to them:

the association is the power of the trade unions, and anyone who advocates otherwise works directly to the detriment of the trade unions and their dismantling and disseminating, causing harm only to the workers.<sup>121</sup>

At the general level, the other representative trade union, KSS, states that it is not possible "... to control the work of all trade unions ..."<sup>122</sup> and that a different solution from the current one would be a blow against the stability of membership the work of trade unions.<sup>123</sup> They point out that they do not find the legal subjectivity of great importance when the motive and the purpose for action are more

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119 Visible from the interview with the Trade Union of Public Administration, Judicial Bodies and Citizens' Associations of the Republic of Macedonia, representative: Trpe Deanoski – Secretary General.

120 Visible from the interview with the Federation of Trade Unions of Macedonia, representative: Darko Dimovski – President.

121 Visible from the interview with the Federation of Trade Unions of Macedonia, representative: Darko Dimovski – President.

122 Visible from the interview with the Federation of Trade Unions of Macedonia, representative: Darko Dimovski – President.

123 Visible from the interview with the Confederation of Free Trade Unions of Macedonia, representative: Blagoja Ralповski – President.

relevant. Hence, KSS considers it significant to emphasize that:

The trade unions have the status of a legal entity, and the trade union organisations do not, and in the part of KSS there are over a thousand trade union organisations, so imagine what the action of each of them will be ?!124

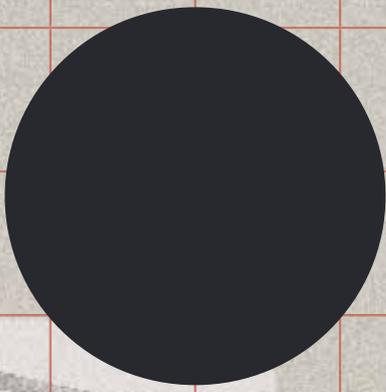
According to them, the goal of the idea for separate legal subjectivity is to dissolve the national trade unions and completely delegitimize the social dialogue and solidarity trade union action by exerting such severe pressure and imposing a change of legal regulations.

The current set-up of trade unions inevitably carries severe risks of monopolizing the organisation and may alienate workers from their parent trade unions. So far, the legal regulation in practice has resulted in the invisibility of the trade unions without legal subjectivity and numerous problems for the unions at a higher level in terms of consulting and engaging the membership.<sup>125</sup> However, it cannot be stated with certainty whether legal subjectivity is the leading cause of this situation or simply a consequence of other problems. The trade unions did not act as protectors of the workers either in the drafting of the new LLR, including the provisions regulating the freedom of association, and failed to inform on their commitment regarding this issue properly. Indeed, the change in the legal subjectivity of trade unions can potentially bring new problems and weaknesses in the short term. Still, given the extent to which workers' situation has deteriorated, this solution must be considered to make an appropriate comparison.

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124 Visible from the interview with the Confederation of Free Trade Unions of Macedonia, representative: Blagoja Ralpovski – President.

125 Vildan Drpljanin, “Who and how (will) organize the unions?”(ResPublica, 2019) <<https://respublica.edu.mk/blog/2019-09-11-08-39-41>> last accessed on 18.3.2020

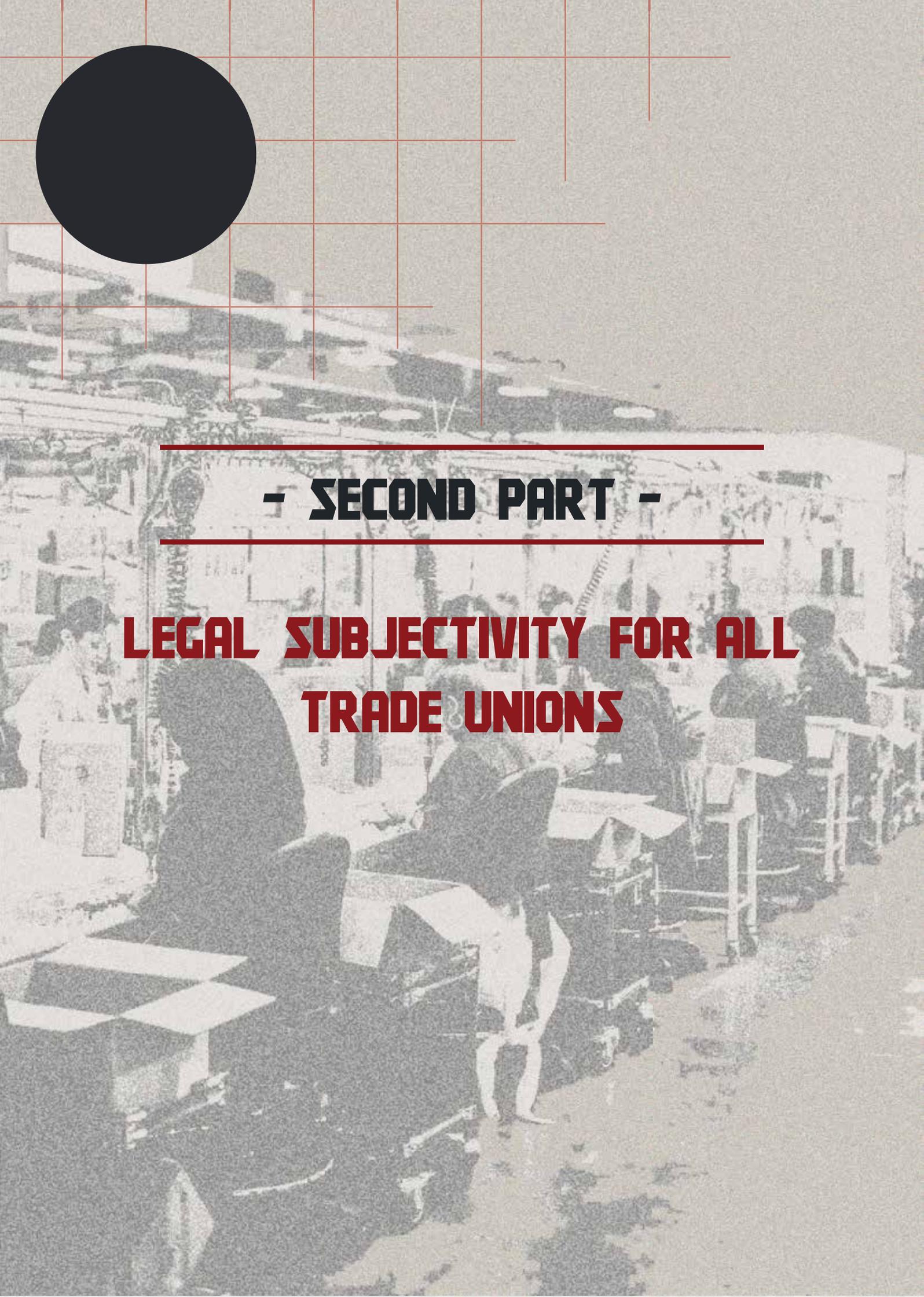


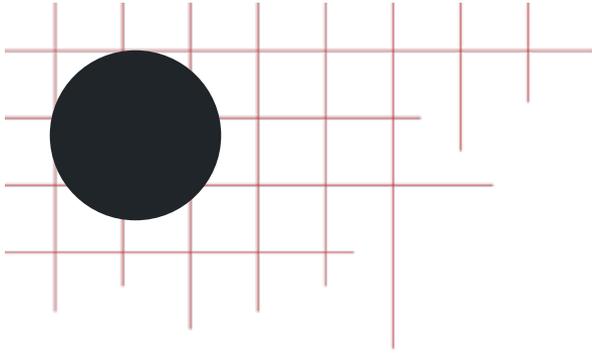
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**- SECOND PART -**

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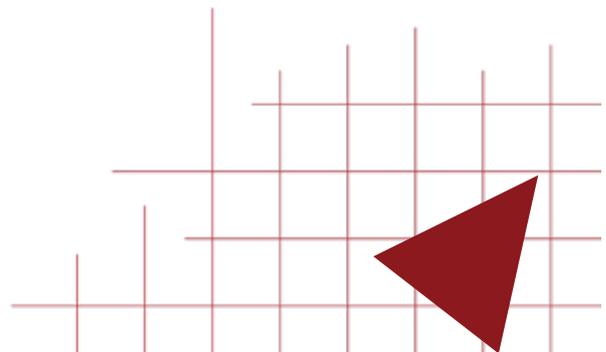
**LEGAL SUBJECTIVITY FOR ALL  
TRADE UNIONS**





The position of the trade union organisation through the prism of the current Labour Law and the “nurturing” of the status quo are elaborated in detail in the first part of this paper. Currently, everything related to trade unions, employers’ organisations, collective bargaining, and strikes is regulated with the Labour Law.<sup>126</sup> Legal subjectivity is “reserved” only for higher-level trade unions.

The drafting of the new Law on Labour Relations raised the most sensible regulation of this matter. The proposed legal provisions that will probably enshrine in the Labour Law again stipulate that all trade unions, without exception, will acquire the status of a legal entity at the moment of registration with the competent register. This legal solution provoked fierce opposition from the representative trade unions and the trade unions at a higher level. For instance, if the employees in a company decide to form a trade union, it will acquire the status of a legal entity at the moment of registration with the Central Registry. Taking this into account, this part of the research paper will challenge the status quo by analysing the answers of the respondents from the interviews. The answer to the question about the primary function of the trade unions will lead us to the second answer that this paper seeks. Precisely it will answer the dilemma of whether all trade unions should have legal subjectivity. This section will show that enjoying the status of a legal entity for all trade unions leads to strengthening the essential trade union organisation instead of the purely formal one.



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<sup>126</sup> Chapters XVIII, XIX and XX of the Law on Labour Relations („Official Gazette of Republic of Macedonia“ Nos. 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 Republic of North Macedonia “ No. 110/19).

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## 2.1 (UN) OPPORTUNITY TO EXERCISE THE PRIMARY FUNCTION OF TRADE UNIONS

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The constitutionally guaranteed right of workers to form and join trade unions to exercise their economic and social rights are enshrined into the Law on Labour Relations and the statutes of all established trade unions. This right is further emphasized by the International Labour Organisation, which guarantees that workers and employers, without any distinction and prior approval, have the right to establish and join organisations of their choice.<sup>127</sup> The ILO emphasizes that obtaining the legal status of workers ‘and employers’ organisations, federations, and confederations must not be subject to requirements that restrict the freedom of association.

<sup>128</sup>

To find the most appropriate solution for the legal subjectivity, we challenged the unions that represent us to reconsider the primary function for which they were established. From the interviews conducted with 17 trade unions in Macedonia, as many as 13 trade unions explicitly state the protection of workers’ rights as the primary function of trade unions. The other three unions gave differently but substantially similar answers to the above said, while the SSZFSZ believes that the primary function of the trade union is collective bargaining.<sup>129</sup> In a situation where most respondents agree that the primary function of the trade union is to protect workers’ rights, the dilemma inevitably arose as how the lower-level trade unions, in the absence of legal subjectivity, could effectively defend their members. SONK presented the scenario in which a trade union does not enjoy the status of a legal entity and cannot act independently in legal transactions. SONK confirms that the trade unions “could not (...) carry out the mission for which they were established” in the absence of legal entity”.<sup>130</sup> The NACS says workers need union protection at both the employer and branch levels and adds that it is essential to enable trade union association to be functional at both levels.<sup>131</sup>

Functional trade union protection, in practice, is difficult to achieve when trade unions at the employer level do not have legal subjectivity. Non-functional-

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127 International Labour Organisation, Convention No. 87 on Freedom of Association and Protection of the Right to Organise Convention, 1948 (Article 2).

128 International Labour Organisation, Convention No. 87 on Freedom of Association and Protection of the Right to Organise Convention, 1948 (Article 7).

129 Visible from the interview with the Independent Trade Union for Health, Pharmacy and Social Protection of the Republic of Macedonia.

130 Visible from the interview with the Independent Trade Union for Education, Science and Culture, representative: Jakim Nedelkov – President.

131 According to the interview with the Independent Academic Trade Union, representative: Elena Dzukeska – Acting President.

trade union protection when trade unions face a challenge in protecting workers' rights will be presented through a precise example below in the text in the light of the events that occurred during the preparation of this paper

Following the emergence of several cases of patients diagnosed with COVID-19, on 10 March 2020, the Government of the Republic of North Macedonia adopted several measures and recommendations for the protection and prevention of coronavirus. The first measure ceased the educational process and teaching in all kindergartens and primary schools. At the same time, the Government declared that for implementing this measure, one of the parents whose children up to the age of ten attend kindergarten or primary school would be released from the obligation to perform the work activities. Immediately after that, the categories of persons who should be released from work and work activities were determined due to specific health conditions. On 11 March 2020, the World Health Organisation declared a pandemic of COVID-19. On 14 March, the Government recommended all employers in the country to organise the work by "working from home" according to the type of work and opportunities. On 18 March 2020, Macedonia declared a state of emergency throughout the state.

In its monthly report for March, the Helsinki Committee for Human Rights notes that employers, abusing the declared state of emergency to deal with the coronavirus, began to terminate employment contracts of entire groups of workers massively, and where possible, influenced them to an amicable termination of employment.<sup>132</sup> The Employment Agency records 43,086 people who lost their job since the beginning of the crisis in March 2020.<sup>133</sup> From May until June 2020, the Helsinki Committee registered 182 reports on labour rights violations involving approximately 2708 workers during the first four months of the crisis<sup>134</sup>. Of these, 90 reports from the recorded data referred to a dismissal of workers (43), forced termination of employment (36), non-extension of fixed-term contracts (10), and non-extension of fixed-term contracts of pregnant workers (4).<sup>135</sup> The State Labour Inspectorate in the period from 11 to 31 March registered 1454 reports from citizens. In 830 cases, workers requested information regarding the measures introduced to protect and prevent coronavirus, and the other 624 reports related to non-compliance with these measures by employers. Of these 624 complaints, 194 were related to non-compliance with the right to paid leave of a parent with a child up to ten years of age, 148 complaints about dismissal decisions, while the other 282 reports are on various grounds for violations of

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132 Helsinki Committee on Human Rights, "Monthly report on Human Rights in Republic of North Macedonia March 2020" (2020) <<https://mhc.org.mk/reports/mesechen-izveshtaj-za-chovekovite-prava-vo-republika-severna-makedonija-mart-2020/>> last accessed on 19 April 2020.

133 Employment Agency of Republic of North Macedonia. "Overview of data on inflow and outflow of unemployed persons" (2021) <<https://av.gov.mk/pregled-na-podatoci-za-priliv-i-odliv-na-nevraboteni-lica.nspj>> last accessed on 03.05.2021.

134 The data refer to the period from the introduction of the first measure of the Government for protection and prevention of coronavirus from 10 March to 31 May.

135 The Helsinki Committee on Human Rights presented the workers' rights during the coronavirus through five two-week infographics: <<https://mhc.org.mk/reports/rabotnichkite-prava-vo-vreme-na-koronavirusot-3/>>, <<https://mhc.org.mk/reports/rabotnichkite-prava-vo-vreme-na-koronavirusot-br-3/>> <<https://mhc.org.mk/reports/rabotnichkite-prava-vo-vreme-na-koronavirusot-br-4-2/>>, <<https://mhc.org.mk/reports/rabotnichkite-prava-vo-vreme-na-koronavirusot-br-5-2/>> and <<https://mhc.org.mk/reports/rabotnichkite-prava-vo-vreme-na-koronavirusot-br-6/>>, last accessed on 15.06.2020.

labour rights.<sup>136</sup> From 6 to 9 April, the SLI registered 219 complaints from citizens, of which 48 complaints related to non-compliance with the measures for protection and prevention of coronavirus by employers, and 171 were for informative purposes.<sup>137</sup>

Considering the low trust in the trade unions, the considerable number of reported violations in NGOs and other mechanisms for the protection of workers' rights in this period is not unforeseen. The crisis and the emergency circumstances only show how difficult it is for workers to access judicial protection, especially while facing mass termination of employment contracts, in a situation where workers cannot rely on the unions "closest" to them.

If workers had access to and were able to obtain primary legal protection with the help of their parent trade unions, closest to them, data from other labour rights advocates would show a much lower number of reported violations. In the absence of legal subjectivity, trade unions at the employer level cannot directly and immediately protect the labour rights of their members. This indicates that trade unions that do not have the status of a legal entity fail to fulfil their primary function - the protection of workers' rights in "normal", and even less in emergency conditions.

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## 2.2 LEGAL SUBJECTIVITY AS A BASIS FOR THE FUNCTIONING OF THE TRADE UNIONS

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Following the national law, international standards for protecting workers' rights are treated as standards for the protection of human rights.<sup>138</sup> In the discourse of workers' protection as human rights, the asymmetric power between higher-level unions and lower-level unions comes to light. Due to the lack of legal subjectivity of all unions, workers are prevented from using all mechanisms and possible means to protect their rights, which leads to further endangerment of the rights. Under such circumstances, trade unions are treated as a problem rather than as a solution, and their role as a protection mechanism for workers is wholly neglected.

For instance, in the factory Feni Industry in Kavadarci, after its privatiza-

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136 State Labour Inspectorate "Report coronavirus – 15131 and website web site from 11 March until 31 March 2020" (2020) <<http://dit.gov.mk/?p=5522>> last accessed on 23.04.2020.

137 State Labour Inspectorate "Report on reported violations from 06 until 09 April 2020" (2020) <<https://dit.gov.mk/?p=5671>> last accessed on 04 May 2020.

138 George Politakis and International Labour Office (eds), *Protecting Labour Rights as Human Rights: Present and Future of International Supervision; Proceedings of the International Colloquium on the 80th Anniversary of the ILO Committee of Experts on the Application of Conventions and Recommendations, Geneva, 24-25 November 2006* (International Labour Office 2007), 229.

tion until 2017, there were gross violations of workers' rights, including delays in payment and reduction of wages. The data from one research show that a trade union organisation was formed in this factory as part of the branch Trade Union of Industry, Energy, and Mining.<sup>139</sup> Under circumstances of violation of workers' rights and in the absence of support from the branch union, trade unionists from the trade union who tried to take specific actions found themselves in a vulnerable and powerless position vis a vis the employer. One of these trade unionists took action to stop the work process after the workers clearly expressed their will for it in a previously conducted anonymous survey. Considering that there was a threat, the employer instituted disciplinary proceedings against this worker, pressuring him to give up any trade union activities.<sup>140</sup> This is just another confirmation of the claim that the worker and the lower-level trade union, who do not find support and protection from the branch union, find themselves in a very unfavourable position.

In another case, a trade union organisation was left without support from SIER in exercising the right to strike by union workers in MZT Foundry. The president of the trade union organisation in MZT Foundry asked for support for organizing a strike from the parent trade union SIER. Only after a five-month delay, the branch union supported 16 people from one department of MZT Foundry for organizing a strike, stopping production, and expressing revolt over unpaid wages for one year.<sup>141</sup> The strike resulted in the acceptance of some of the workers' demands for signing a contract, amending employment contracts, paying their wages and annual leave allowance. The documents for the fulfilment of these activities were prepared by SIER, but contained inaccurately defined provisions. The president of the trade union organisation considered that such an agreement was harmful to the workers. Thus he did not sign it, and as a result, he immediately lost the support of the branch union. In the meantime, a bankruptcy procedure for MZT Foundry was initiated, and the workers did not manage to collect their claims as creditors.<sup>142</sup>

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139 Kire Vasilev, Ana Guleva, Trade Unions in Macedonia (2017). Pages 54-55.

140 Ibid.

141 Ibid. Page 67.

142 Ibid. Page 68.



Picture number 2 - Protests in front of the Assembly by the workers in MZT Foundry.<sup>143</sup>

Considering that different unions have different requirements within a branch, it is necessary to consider the organisational set-up of the branch trade unions. For instance, the Trade Union of Education, Science and Culture currently does not have an autonomous sectoral representation but a multi-sectoral and regional one, where teachers and other education workers are predominantly represented. Thus, problems and issues specific to, for instance, theater workers are not adequately represented in the branch union.<sup>144</sup> To strengthen the trade unions at a lower-level and to affirm their position outside the broader “branch” image, all trade unions must enjoy legal subjectivity. Under such conditions, independent trade unions will leave the traditional branch trade unions with which they do not share the same issues and where their voice remains unheard.

The conducted empirical research regarding the satisfaction level of labour protection mechanisms, including trade unions, has shown that workers are dissatisfied with their work. As many as 9.5 percent of the workers in Shtip who participated in the focus group for satisfaction with the activities of the trade unions answered that they are not satisfied at all with their work.<sup>145</sup> The other workers from Shtip state that the problem is that the factories in which they work do not have a trade union. However, even when a trade union was established, the workers said that the trade union representatives were closer to the employers, and the testimonies of the

<sup>143</sup> The picture is taken from the Facebook page of the MZT Foundry’s Trade Union.

<sup>144</sup> Kire Vasilev, Ana Guleva, *Trade Unions in Macedonia* (2017). Page 58.

<sup>145</sup> Kire Vasilev, Mariglen Demiri, Natasha Neshevska, Nikola Shteriov, “Analysis of the satisfaction level of the mechanisms for protection of workers’ rights in Republic of North Macedonia” (2019) Helsinki Committee for Human Rights, 41.

Bitola workers confirmed this conclusion. According to the same survey, 78.1 percent of the surveyed Bitola workers stated that they were utterly dissatisfied with the work of trade unions. They referred to an example where a union representative advised an employer on avoiding the obligation to pay annual leave allowance (K-15) in a restaurant in Bitola.<sup>146</sup>

Therefore, most of the trade unions we interviewed to find the solution to this problem precisely in the possibility of granting a status of legal entity to the trade unions at the employer level. Four of the surveyed trade unions answered that while gaining the status of a legal entity, the trade unions will gain greater responsibility towards their members. Legal subjectivity, according to respondents, will bring greater transparency in the work of trade unions at the employer level. In such a case, the trade unions will “bear legal responsibility in case of non-compliance with the obligations under the laws and articles”.<sup>147</sup> According to NAcS, “the legal subjectivity has to be the basis for the functioning of each trade union”<sup>148</sup>, thus contributing to increasing the opportunities for the realization of the interests of the trade union members, at the same time providing a guarantee for appropriate control over the work of the authorized persons.<sup>149</sup>

It is thought-provoking that the two largest trade unions in the country, the representative SSM and KSS, despite agreeing that the basic function of trade unions is to protect workers’ rights, equally consider that the status of a legal entity is, and should be, predetermined only for trade unions at a higher level.<sup>150</sup> Furthermore, according to SSM, with the acquisition of legal subjectivity, the motivation of the lower-level trade unions for the association will be lost. They will dissolve, potentially disrupting the development of social dialogue and collective bargaining in the country.<sup>151</sup> Whether the motive for the association will be lost if all trade unions obtain legal subjectivity or this is an unjustified fear of the two largest trade unions seeking to keep the status quo intact remains to be seen from the responses of other respondents.

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146 Ibid.

147 Visible from the interview with the Independent trade union for education and science, representative: Tomislav Gievski – President.

148 Visible from the interview with the Independent Academic Trade Union, representative: Elena Dzukeska – Acting President.

149 Visible from the interview with the Independent Academic Trade Union, representative: Elena Dzukeska – Acting President.

150 Visible from the interview with the Federation of Trade Unions of Macedonia, representative: Darko Dimovski – President and the interview with the Confederation of Free Trade Unions of Macedonia, representative: Blagoja Ralpovski – President.

151 Visible from the interview with the Federation of Trade Unions of Macedonia, representative: Darko Dimovski – President.

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## 2.3 MOTIVE FOR ASSOCIATION

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For advocates of the status quo, who are more preoccupied with political debate and mutual arguing, providing legal subjectivity to trade unions at the employer level would mean a ‘blow’ to trade union association.<sup>152</sup> However, this standpoint of the larger trade unions can be considered from another point of view. It could be argued that they care more about the political correctness of their actions and statements than they care about the needs and problems faced by the Macedonian worker.<sup>153</sup> Historically, the debates of the trade unions since the privatization process rarely focus on the worker.<sup>154</sup>

Protecting themselves, higher trade unions are opposed to granting a legal entity status to trade unions at the employer level. Following this statement, SPTOM points to an example from the Branch Trade Union of Transport and Communications Workers at SSM, where trade union representatives were unjustifiably dismissed, and the accounts of several trade unions were blocked without the approval of their membership.<sup>155</sup> According to them, when all trade unions would enjoy the status of a legal entity, the association at a higher level will get a different proportion because it will be voluntarily with sincere intentions for joint action and prosperity.”<sup>156</sup> Assuming that special legal subjectivity will not weaken association and that at the same time decentralization will increase employee participation and trust, the new solution seems much more convincing than the status quo.

According to NSON, by gaining the status of a legal entity:

the trade union representatives [will] bear greater responsibility towards the members. At the same time, the establishment of trade unions for the purposes of the political centres will be avoided.<sup>157</sup>

SESSM further confirms the need for independence and autonomy of all trade unions. They state that the legal subjectivity of the lower-level trade unions will guarantee ‘greater freedom of action and thought without the possibility of intru-

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152 Visible from the interview with the Federation of Trade Unions of Macedonia, representative: Darko Dimovski – President and the interview with the Confederation of Free Trade Unions of Macedonia, representative: Blagoja Ralповski – President.

153 Dimitar Apasiev, “Trade Unionism in Republic of Macedonia” (2013) Journal of Political, Social and Cultural Affairs “Novi Plamen” 18-19/2013, 155.

154 Kire Vasilev, Ana Guleva, Trade Unions in Macedonia (2017).

155 Visible from the interview with the Trade Union of Postal and Telecommunication Operators, representative: Boro Veligdenov – President.

156 Visible from the interview with the Trade Union of Postal and Telecommunication Operators, representative: Boro Veligdenov – President.

157 Visible from the interview with the Independent trade union for education and science, representative: Tomislav Gievski – President.

sion and blackmailing the leadership towards obedience and poltroonery'. Furthermore, they stated that this could lead to avoiding the threats to the trade union representatives, that they will be replaced by other persons who are not "in line with the wishes of the membership".<sup>158</sup>

According to fourteen of the total number of respondents, legal subjectivity will not negatively affect trade unions' association at a higher level. Moreover, some believe that this will strengthen the alliance, solidarity, and the unions' struggle towards accomplishing common interests and goals. One of them is the SSZFSZ, according to which the unions will unite at a higher level:

Where they believe they will have more excellent protection of their rights. With this, the branch trade unions will have a motive for more significant engagements to attract and keep the members in the trade unions..<sup>159</sup>

The fear of the two largest unions seems unjustified, as many unions claim that gaining legal entity status will strengthen the incentive to unite at a higher level. In this case, the protection of workers' rights at the expense of the shaky status quo will be strengthened. The other two national unions, UNASM and KSOM, share that all trade unions should gain a legal entity status.

The Union of Autonomous and Independent Trade Unions of Macedonia considers the trade unions at the employer level as "the basic cell of every Federation, Union, and Confederation".<sup>160</sup> The very name of this union shows their commitment for gaining a status of legal entity for all trade unions, because in that way "workers will be more free to unite independently without pressure and influence."<sup>161</sup> In this manner, the union established at the level of employer or profession can independently decide to join one of the trade unions it trusts. UNASM confirms our previous claim that the current situation is characterized by massive partisanship of the trade unions. The trade union consolidation and recruitment of new members through the governing structures is based on party affiliation. According to them, the struggle for the exclusivity of the legal subjectivity is a struggle only for power and for the money collected from the trade union membership fees. Otherwise, there would be no obstacle for any small trade union to aim to unite in an alliance, provided that the trade union trusts the alliance. Additionally, granting legal subjectivity to lower trade unions will encourage collective agreements at the employer level, which are now very few. It often happens that the workers who draft the collective

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158 Visible from the interview with the Independent Trade Union of Energy and Economy workers of Macedonia, representative: Robert Simonoski – President.

159 Visible from the interview with the Independent Trade Union for Health, Pharmacy and Social Protection of the Republic of Macedonia.

160 This standpoint is taken from the review of the paper made by Biljana Chklovskova – external associate of the Union of Autonomous and Independent Trade Unions of Macedonia

161 Ibid.

agreements suffer mobbing and enormous pressure from the representatives of the larger trade unions stating that only they are authorized signatories to the collective agreements.

The provided resolution, according to UNASM, is expected to contribute to the formation of non-partisan trade unions that represent the interests of all workers in their ranks regardless of their political affiliations, views and/or sympathies. The proposed amendment regarding the status of a legal entity can pave the way to overcome the main feature of today's trade union organisation, the mutual clash for supremacy and power, restoring the main goal for which the unions were founded, i.e., the protection of workers' rights.

The president of KSOM holds a similar standpoint, stating that if the trade union at a lower-level has its legal subjectivity, it will significantly contribute to a more democratic and better trade union organisation. At the same time, "new faces in the trade union movement will come to the fore and [now] they cannot come to the fore, both for subjective and objective reasons."<sup>162</sup> The trade union at the level of the employer or the trade union organisation with the status of a legal entity will be able to decide following its confidence in which trade union at a higher level will join. KSOM is convinced that the changes regarding the status of a legal entity will strengthen the quality of the social dialogue quickly.<sup>163</sup>

Labour relations are constantly changing in the modern economic and socio-political context, and they further influence the change of the trade unions operation. Giant multinational corporations move their manufacturing hubs to places with cheap labour, flexible working conditions, and favourable trading conditions.<sup>164</sup> Policies that contributed to and successfully maintained the balance of such labour division resulted in increased profits in Western multinational companies.<sup>165</sup> The mode of operating of these corporations, which are constantly looking for cheap labour, produces a world-wide labour force often that faces the same international employer.

In addition, globalization has posed new challenges to trade unions, such as the in formalisation and feminisation of labour, migration, the loss of social benefits, mass exploitation, and deindustrialisation.<sup>166</sup> The coronavirus crisis is just the beginning of the health and environmental issues that trade unions will face, as these issues undoubtedly affect workers' rights. However, this recent development resulting from neoliberal globalization was met with resistance from lower-level

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162 This standpoint was taken from the review of the paper by Marjan Risteski – President of the Confederation of Trade Unions of Macedonia.

163 Ibid.

164 Andrea Komlosy, *Work: The Last 1,000 Years* (Verso 2018); Cornelia Staritz, Mike Morris, Leonhard Plank, "Clothing Global Value Chains and Sub-Saharan Africa: Global Exports, Regional Dynamics and Industrial Development Outcomes", vol 2016/16 (2016) International Trade Working Paper 2016/16.

165 Suzana Simonovska, Neda Petkovska, *Yearbook Annuaire, Book 72* (2019, Faculty of Philosophy – Skopje), 533-554.

166 Kire Vasilev, Ana Guleva, *Trade Unions in Macedonia* (2017). Page 33.

trade unions in economically developed states such as Spain, Italy, France, Germany, Britain, and the United States. By exercising their right to strike, they reject the new working conditions and labour flexibility imposed by global capital. <sup>167</sup>

In that regard, the need for association at the global level was acknowledged by the representative of the Workers' Trade Union of ERIDEN DOOEL - Bitola. According to this trade union at the employer level:

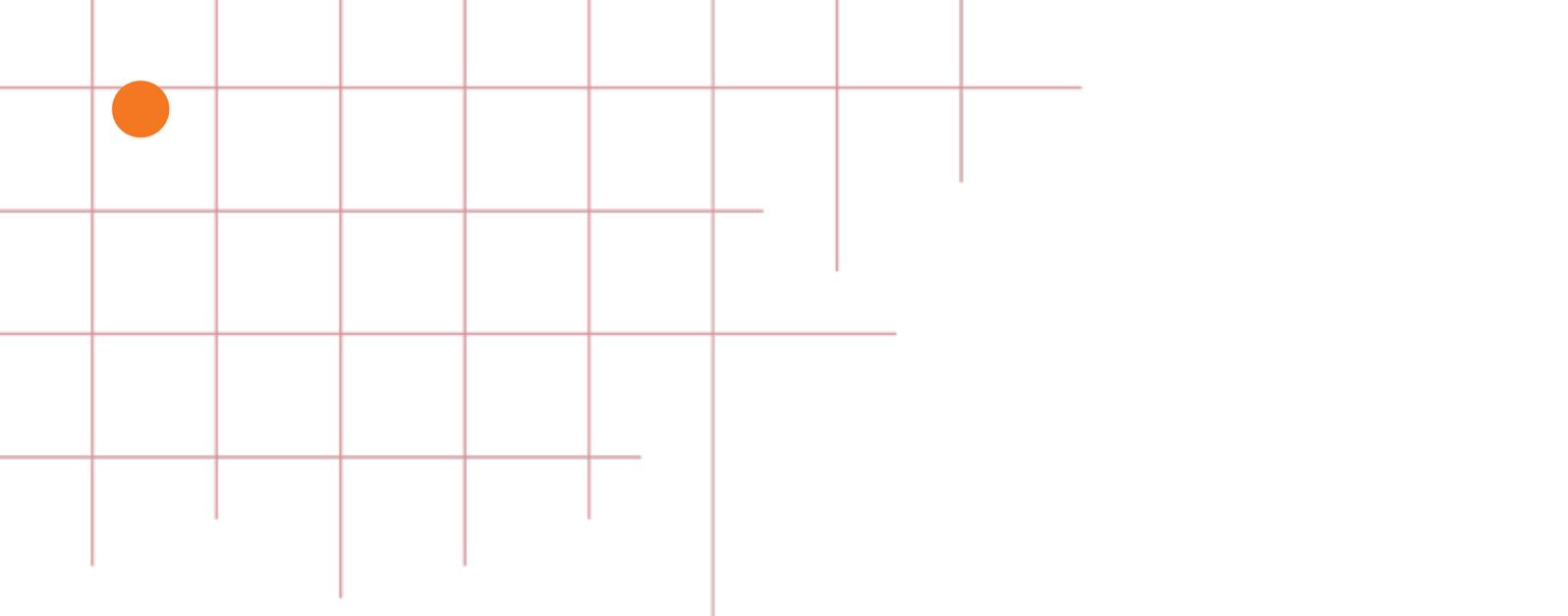
many of the requirements are familiar to workers working in the same branch/industry, in the same country, and even globally. That is why it is [necessary] gradual association of trade unions at the level of branch/industry, state trade unions, regional (con)federations of trade unions, and even global.<sup>168</sup>

The larger trade unions can focus on responding to new challenges, characteristic of the neoliberalism if they become relatively relieved of the obligation to exercise the protection of workers' rights directly before employers and competent institutions. The "relieved" responsibility will primarily belong to the trade unions at the level of the employer, which, thoroughly enjoying their legal subjectivity, will be able to smoothly, autonomously, and independently achieve the goal for which they were established.

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167 Ibid. Page 34-35.

168 Visible from the interview with the workers' trade union of ERIDEN DOOEL - Bitola, representative: Gorast Muratovski - Member of the Executive board.



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# CONCLUDING OBSERVATIONS

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As the desired first protection mechanism, trade unions do not enjoy trust and do not instil hope among workers. Still, it is indisputable that a functioning trade union organisation is the only long-term guarantee for protecting workers' rights. Workers who are dissatisfied with the work of the trade unions because they consider them inefficient, corrupt and /or associated with bosses and parties, expect and hope to see changes and shifts in the trade union circles. A significant shift in that direction can be offered by the solution that envisages legal subjectivity for each trade union, whether it is a union at the level of employer, profession, branch or general trade union. The data collected from interviews with representatives of 17 trade unions from all levels offered a solid argument for such a change. Although the

danger of disintegration of the trade union organisation, the opportunities for influence in the election of trade union representatives, the instability of membership and the work of trade unions were cited as problems that would occur in such a change, it was ignored that these phenomena are present in the status-quo situation. The motive for uniting at a higher level is usually formal, the employers easily create opportunities for the appointment of trade union representatives, and the stability of the membership and the work of the unions is constantly uncertain. In such circumstances, it is necessary to intervene in the root of the problem, the legal subjectivity of the unions. The vast majority of the total number of respondents, as many as fourteen trade unions, clearly stated that legal entities would not negatively affect trade unions' association at a

higher level, which further strengthens the argument for a new approach.

The present legislation provides legal status only for higher level trade unions, branch level trade unions, and general trade unions, which means that only they can have their transaction account, have a seal and file lawsuits to a competent court. In practice, this is often reflected in the monopolisation of trade union organisation, the estrangement of workers from trade unions at the employer level, and the annexation of lower-level trade unions by the higher form of trade unions. The change in legal subjectivity may initially result in some uncertainty during the adaptation period. However, in the long term, such a change will strengthen the protection of workers' rights and create trade unions close to its members, which care about the needs and problems faced by a Macedonian worker. The broad legal status will continue to enable trade unions to consolidate and form larger alliances, not because they have to, but because they want to and they understand the need for a large and robust alliance of trade unions. This is the standpoint of fourteen out of seventeen consulted trade unions, believing that the legal entity will not adversely affect the trade union association. In addition, the status of a legal entity for all trade unions will provide increased opportunities for the protection of workers, members of a particular trade union. Furthermore, it would enable an increase in the visibility of lower-level trade unions.

The predominantly theoretical character of this discussion before implementing legislation that will enshrine legal subjectivity for each trade union can inevitably bring new challenges for the trade unions. Therefore, a thorough review and comprehensive consultation during the preparation of bylaws related to the law/laws by the Ministry of Labour and Social Policy are essential. This will address several issues, such as how trade unions will be registered and recorded, ensuring a unified and precise application. In the meantime, the trade unions, led by the general ones, will have to work substantially on their internal structures and develop a joint advocacy plan to ensure that workers are united in their negotiations with institutions and employers. In that manner, the Macedonian trade unions can strengthen, but only if the proposed legal amendments are accompanied by a more comprehensive social transformation of the status quo of the trade union association.

Acquiring the status of a legal entity with the moment of registration in the appropriate register for the trade unions will be the first step on the long road to strengthening the alliance, solidarity, and the struggle to achieve common interests and goals. The debate on the democratization of the labour movements and the trade union struggle will be incomplete if legal subjectivity is not followed by the other vital elements of the trade union movement. In that regard, it is necessary further to consider the issue of ecumenical cooperation and cumulative, and thus a qualitative

set of solutions and strategies for participation and pressure in all directions. Particular attention should be paid to social dialogue, presence before employers/bosses, the attitude towards the state which acts as a “supposedly independent instance” in issues between the trade unions and employers, informing workers about the fate of other workers in the country and their impact, and developing a culture of solidarity.<sup>169</sup>

The trade union transformation seems inevitable; it remains to be seen whether the change in the regulation of the legal entity will be a strong influence for initiation of a proper protection of workers’ rights.

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169 This standpoint is taken from the review of the paper done by Mariglen Demiri – researcher.



# LIST OF TARGETED RECOMMENDATIONS

1. Initiation of a parliamentary procedure for the Law on Labour Relations.
  - I. The Government of the Republic of North Macedonia should send the final draft-version of the legal acts to the Assembly of the Republic of North Macedonia as soon as practicable;
  - II. The final draft version of the legal acts, on which the working group at the Ministry of Labour and Social Policy has been working since the summer of 2018, before and after the amendments in the Assembly to be properly communicated to the expert and general public;
  - III. The Assembly of the Republic of North Macedonia should commence the parliamentary procedure to adopt the Law on Labour Relations.
2. Adoption of a legal act that envisages the status of a legal entity and a separate legal subjectivity for each trade union.
  - I. The Assembly to finalize the parliamentary procedure and to adopt the law;
  - II. The Assembly to adopt the legal amendment as a provision of the Law on Labour Relations as currently proposed in the final draft version: gaining legal status at the time of entry in the relevant register.
3. Review and extensive consultation in defining the bylaws that will regulate the new system of placement of trade unions.
  - I. The Ministry of Labour and Social Policy to ensure broad participation of stakeholders in the formulation of provisions in the bylaws that will define the functioning of trade unions.
4. Preparation of a plan for joint representation of

the trade unions which will ensure the workers unity in the negotiations with the institutions and the employers.

- I. General unions to initiate and lead the drafting of this plan;
- II. Leaders of this process to include all trade unions that can be reached, regardless of which of the four levels they represent (employer level trade unions, professional trade unions, branch, and general trade unions);
- III. Trade unions should enable the consultation to be as comprehensive as possible, involving civil society organisations working in the field of labour rights, taking into account their findings.

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ALLIANCE, SOLIDARITY,  
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CONTEMPORARY LABOUR UNIONISM

