

**Anti-discrimination protection in the workplace for
minority workers in Macedonia**

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Research analysis: Anti-discrimination protection in the workplace for minority workers in Macedonia

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Introduction

The job market of Macedonia has reflected the economic status of the nation since the collapse of Yugoslavia in 1993¹. The unemployment rate of the country has yet to dip below 20%, and the economy has struggled to rebound from economic crisis after economic crisis. Over the past ten years, the unemployment rate has been on a steady decline, reaching an all-time low of 21.6% in June of 2018². It is in this market that the context of workers' rights is set.

According to the Universal Declaration of Human Rights, adopted by the UN General Counsel in 1948, Article 23, "Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment"³. In declaring this a universal human right, the responsibility then falls on the member states to ensure that their citizens are treated with the utmost equality in the workplace. Article 2 of the resolution also bars discrimination on the basis of "race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status"⁴. In this idyllic society, all citizens have equal access to the job market and are equals in the eyes of potential employers. However, the execution of this vision is not always consistent with the spirit of the resolution.

This paper aims to examine the environment in which employees of the private sector work in. Unlike the public sector, the private sector enjoys larger autonomy and more freedom on the basis of hiring and payment practices. Although the private sector is responsible for ensuring all employees are paid and treated equally, it is not necessarily followed as precisely as intended. As Macedonia seeks to shed its socialistic shell and move to a more open and free market, encroachment on the private sector by the government are often avoided. It then becomes the responsibility for other organizations to investigate and ensure that fair practices are taking place.

Investigations into the employment practices of private businesses are rare, if not completely obsolete, in Macedonia, which makes the matter all the more pressing. These 20 businesses generated a gross revenue of 4,032,445,258 euros⁵. With a 2016 GDP estimated at 9,434,945,000 euros, these businesses make up roughly 42.7% of the nation's GDP⁶. Steps must be taken to assure the way in which employees are treated is fair across all businesses nationwide.

The ultimate purpose of this paper is to determine what policies are in place within private businesses to ensure the equal and fair protection of minority groups of Macedonia. Research and analysis has been conducted to determine the protection of minority groups in Macedonia within the private business sector, including Roma workers, women, children, LGBT workers, and disabled workers.

Research Methodology

The business analyzed were based on a third-party ranking of businesses within Macedonia. The Euro Business Center – Skopje releases an annual list of the 200 largest companies in Macedonia, ranked according to total revenue brought in by the company ⁷. Companies that generate a large amount of the revenue in the country become desirable companies to work for; these companies thus become critical for analysis. The scope of this analysis was then limited to the top 20 companies based off total revenue, and then further limited to the top 20 companies within the Skopje city limits.

These limits were imposed for several reasons, with the most prominent two being time and transportation restraints. With less than three months to implement all research and analysis, coupled with a lack of adequate transportation to more remote parts of the country, included companies were limited to only those within Skopje. Additionally, as roughly the capitol city and primary residence of over 500,000 residents ⁸, Skopje is the best starting point for employment protection analysis. It is thus more accurate to say that the top 20 companies in Skopje were included in this analysis. The twenty companies in Skopje, with the number of employees in 2017, were:

- Johnson Matthey DOOEL – 675 employees
- EVN Makedonija AD – 1977 employees
- OKTA AD – 419 employees
- Makpetrol AD – 1716 employees
- AD Elektrani na Makedonija – 4810 employees
- Makedonski Telekom AD – 1162 employees
- Van Hool Makedonija DOOEL – 672 employees

- One VIP DOO – 851
- Alkaloid AD – 1359
- JP Za Drzavni Patista – 291
- KAM DOO – 735
- Arcelormittal Skopje (CRM) AD – 455
- Tinex-MT DOOEL – 1264
- Lukoil Makedonija DOOEL – 402
- Euro Tabak DOO - 155
- Mepso AD – 574
- Energy Delivery Solutions EDS DOO – 33
- Granit AD – 2010
- USJE AD – 291
- Sport-Laif Trejdo DOO – 766

In total, these companies represent 20,617 individual employees, which is just shy of 4% of all residents of Skopje⁹. In addition to these twenty companies, the Federation of Trade Unions of Macedonia was contacted using the same email, in an effort to reach more workers and gain insight on what power trade unions have within Macedonia. The hope was that, by contacting a trade union who represented workers, and who helped workers with legal disputes, that the office would have information pertaining to the anti-discrimination practices of these companies.

In determining what policies these companies would be questioned about, it became imperative to determine who constituted a minority group in the country. Minority groups were assessed by determining what groups of people have traditionally faced increased barriers in accessing equal employment. The determined minority groups were:

- Roma workers
- Women
- Children
- LGBT workers
- Disabled workers

- Physically disabled
- Mentally disabled

Children have been included in this list to assess what policies companies have on file that prevent underage children from being unfairly exploited in the workplace. Current laws restrict the minimum age to work at 15, while 18 is the age for hazardous work¹⁰. Child employment is a prevalent issue in Macedonia, both within the private business sector and more informally¹¹. Slight advancements have been made in preventing child labor and protect children in labor contracts, but these have yet to form a comprehensive set of laws that actively protects children. It is then the responsibility of individual companies to prevent child labor at their institutions.

Racism against Roma citizens is well-documented within Macedonia, on all fronts, including education, housing, and employment¹². As most Roma citizens reside in communities outside of the city, private businesses in Skopje have not traditionally had to work with many Roma applicants. However, as Macedonia corrects its discriminatory ways against Roma people and moves towards a more western economy, it is likely that a new generation of Roma workers will be ushered into the city. It is therefore imperative to evaluate ways in which companies treat Roma workers.

Women represent roughly over a third of the work force in Macedonia¹³, even though over half of all employed women have university degrees, in comparison to just under half of men¹⁴. Traditionally, women have been pushed towards a domesticated lifestyle, which includes staying at home for work and being focused on family needs rather than career-oriented goals and advancement. Women are typically paid less for the same work as their male counterparts¹⁵, a trend displayed in countries around the world.

Macedonia also faces one of the worst track records for LGBT acceptance in Europe, and particularly in the Balkan region. Recent additions to anti-discrimination laws in the past twelve months have been made to include sexual orientation as a protected ground against discrimination in employment; however, controversies have arisen over the interpretation of “sexual orientation” to be “sex orientation” instead¹⁶. Many have commented that these changes were done to appease negotiators trying to get the nation into the EU, who has been a vocal advocate of LGBT rights in past years. Continued animosity towards queer-centered events, such

as the annual Skopje Pride Parade, make it a tumultuous and at times unsafe country to be queer in, especially in the workplace ¹⁷.

People with disabilities do not represent a large percentage of workers in Macedonia, as is common in other countries in the region and worldwide ¹⁸. Out of any of the groups analyzed, people with disabilities more often require the most assistance and modification in the workplace, whether it be in the form of accommodating workspaces or additional assistance with tasks. It is important to distinguish that there are different types of discrimination faced by those who are physically disabled in comparison to those who are mentally disabled. While neither face more or less challenges in securing fair and equal employment, the challenges faced are different and are thus better to separate.

The twenty companies were emailed with the following message in both Macedonian and English, as copied below.

Почитувани,

Моето име е Александер Џонсон, и во моментов работам на истражување во Институтот за човекови права (ИЧП) на истражување во врска со заштитата на човековите права на малцинските групи во градот Скопје. Групите кои се во фокус на оваа анализа се:

- Роми
- Жени
- Деца
- Припадници на ЛГБТ заедницата
- Лица со попреченост (физичка и ментална).

За таа цел во корист на истражувањето би ни значел Ваш одговор на прашањето: Дали во Вашата компанија постојат официјални политики и/или документи кои се однесуваат на забрана на дискриминација и заштита на човековите права на овие малцински групи?

Добиените информации ќе бидат единствено користени за потребите на ова истражување и би биле користени за предлагање на препораки во насока на подобрување на човековите права на овие лица. Нема да биде направена директна референца на Вашата компанија со добиените податоци.

Би биле благодарни доколку ни ги испратите бараната информација со одговор на овој емаил.

Иако јас сум примарен контакт и истражувач за овој проект, во прилог ви доставувам и контакт од мојот супервизор за истражување, Кристина Дода (емаил: kristina.doda@ihr.org.mk и телефон: 02 324 3331).

За дополнителни информации слободно контактирајте не.

Со почит,

Александер Џонсон

Dear _____ Company Representatives,

My name is Alexander Johnson, and I am currently working with the Institute for Human Rights (IHR) here in Skopje on a policy paper regarding the protection of minority groups in the city. The groups I am looking at for analysis are:

- Roma workers
- Women
- Children
- LGBT workers
- Disabled workers
 - o Physically
 - o Mentally

I am officially requesting information regarding your company's policies for discrimination and protection for these minority groups be made available to further advance this field of research. This information will solely be used for research; I will only be using the gained information for proposing general recommendations and conclusions. Direct references will not be made to the name of your company.

Information regarding your policies on workplace discrimination would be best sent through email. Although I am the primary contact and researcher for this project, I have also attached contact information for my research supervisor, Kristina Doda (kristina.doda@ihr.org.mk or by phone at 02 324 3331).

Thank you for your cooperation

Sincerely,

The primary objective was to coordinate a meeting between the Institute for Human Rights and these businesses to discuss the policies of these companies. The door was also left open for the companies to email information regarding their anti-discrimination policies with full assurance that the information would only be used to perform an analysis on, and that the names of the companies would not be attached to the individual policies.

Legal and Institutional Framework

Macedonia has adopted a variety of laws that protects workers and specific groups from unfair employment discrimination in both hiring and payment practices. In addition, worldwide

organizations, such as the United Nations and the European Union, have adopted resolutions that aim to protect groups that have traditionally become discriminated against in all aspects of life, especially in the workplace.

The Universal Declaration of Human Rights (UDHR), adopted on December 10, 1948, sets out to proclaim, “fundamental human rights to be universally protected”¹⁹. This became a stepping stone towards the International Bill of Human Rights, a Magna Carta of sorts that aims to enumerate the rights that give humanity fair and equal treatment²⁰. Article 23 of the UDHR specifically lays out basic, fundamental rights guaranteed to workers, including the right to work, free choice of employment, work without discrimination, and the right to form trade unions²¹.

The UDHR is not a binding international law; rather, it is a set of goals that countries strive to obtain. Rulings in various countries have ever affirmed that the UDHR cannot be enforced as international law²²; however, members of the United Nations, such as Macedonia, that have serious human rights transgressions that go against the spirit of these resolutions may run the risk of having their membership reconsidered or revoked. It is therefore in the best interest for member states to adopt these resolutions and change their own laws to match that of these supranational organizations.

The European Union also has several of its own resolutions aimed to protect human rights for member states, including resolutions dedicated to workers’ rights. Unlike the United Nations, the European Union has the ability to make law that has jurisdiction in member states. Citizens of these member states can appeal to the Court of Justice of the European Union, which is set up to ensure that the usage and application of the Treaties of the European Union is followed in the member states. Nations hoping to join the European Union, such as Macedonia, who has been a candidate state since 2005²³, must conform to the laws of the European Union.

No member of the European Union has successfully joined the European Union before first being a member of the Council of Europe²⁴, which itself has its own set of regulations and accords. Founded in 1949 by leaders of Western Europe, the Council of Europe has goals to uphold democracy, human rights, and the rule of law in Europe²⁵. One of the fundamental pillars of the Council of Europe is the European Court of Human Rights (ECHR), which has offices in its member states. The ECHR has had a profound effect on the human rights landscape of member states, providing guidance and rulings for their incorporated states.

Macedonia has a number of laws that work to prevent discrimination in the workplace. One of the most notable laws is the Law on Labor Relations, which describes the relationships between employers and employees. Within it is a clause that prohibits discrimination on a variety of cases, namely: race, ethnic origin, color, age, health condition, gender, disability, religious, political or other beliefs, national or social origin, sexual orientation, and other circumstances ²⁶. The law works to extend comprehensive discrimination coverage for members of these groups, but there are discussions about whether it is enforced.

One additional noteworthy component of the law is the inclusion of sexual orientation as a protected status for workers, seen as a positive step forward. However, groups have criticized the law as being deceptive in protection: only the English version of the law includes the words “sexual orientation”, while the Macedonian version contains the phrase sexual “inclination”, which does not protection orientation ²⁷. This same issue is present in the Law on Volunteering, which, in Article 9, protects the same groups as the Law on Labor Relations. The discrepancy between “sexual orientation” and “sexual inclination” is again present in the law ²⁸.

The Law on Equal Opportunities for Women and Men again prohibits discrimination in accordance to gender, while also going further to prohibit discrimination on the basis of family status, marital status, union activity, skin color, and other previously protected statuses ²⁹. Seen by some to be a step forward in the fight for true equality between men and women, the continual need to clarify the rules for equality prompts discussion about the state of equality in Macedonia.

The Law on Prevention of and Protection Against Discrimination bars discrimination on many of the same grounds as the previously stated laws, going further to prohibit it in the most areas of life, including education, housing, access to goods and services, and social security. Recent proposed amendments to the law would include sexual orientation as a protected status against discrimination. Doing so would extend this further than any law currently, ensuring that, on paper, LGBT individuals are equal to all other citizens. At time of publication, the amendment is still pending, with a decision set to be made by the end of 2018.

Company Responses

Of the twenty companies and one trade union contacted, no office returned any emails for request of information pertaining to the anti-discrimination policies of their companies. A number of these companies were contacted by phone as well to find information regarding these policies; however, no companies responded to these requests by phone, and phone calls were never returned to our office.

These companies were emailed on the morning of July 12, 2018, and the Federation of Trade Unions of Macedonia were emailed on the morning of July 13, 2018. At the time of writing this report, these companies have been given over three weeks for response, with no sign that any company intends to respond to these requests.

There are several reasons that may explain the lack of enthusiasm in returning the requests for anti-discrimination information. While these reasons may provide insight as to why companies have not responded, it is not an excuse or a reason for private businesses to avoid relinquishing information, but rather an educated speculation as to why difficulties and roadblocks have been encountered.

Macedonia has a process for open access to information held by the public sector, stating that responses must occur within a set number of days of the initial request³¹. However, these requests do not necessarily extend to the private sector. In addition, summer months are traditionally slower in offices in Macedonia, and abroad, as employees engage in summer vacations.

The lack of response from these companies is particularly troubling in the current political and socioeconomic situation of the nation. With Macedonia facing a daggering unemployment rate topping twenty percent³², companies have an upper hand with employees. With less jobs than there are qualified candidates, employers do not have to offer particularly incentivizing benefits and company cultures to attract employees away from the competition – rather, employees in the non-skilled labor sector, of which these twenty companies largely participate in, do not have much say or choice in where they work. Rather, the primary focus is working for pay, not jeopardizing the job because of discrimination.

At the moment, it may be too early to call whether these companies have purposefully avoided answering questions regarding their anti-discrimination policies, but it does raise questions about the lack of transparency seen within the private business sector of Macedonia. The Macedonian economy is on the rebound and is expected to keep growing³³; as the economy continues to grow, and new investors and companies alike enter the market, it will become increasingly important for the companies who control the most revenue of the nation to also be the ones promoting a safe and equal workplace. This is especially true if western companies, who already have stringent anti-discrimination rules on the books, move into the country and provide serious competition.

There are, however, some components of this study, on the fault of the author, that made it unnecessarily difficult to have a solid analysis. Should this study be repeated in the future, it would be crucial that these modifications be seriously considered and implemented, in the hope that more accurate, substantial, and compelling information be collected regarding this crucial set of data.

A potential fatal flaw of the research was the timing, which was beyond the control of the Institute for Human Rights. Due to employment restrictions of the primary author, the summertime months were the only time available for research which, as mentioned above, runs the risk of a lack of response. However, research was delayed in these months due to a need to consolidate and condense the research question; had this been done sooner, it is likely that requests for information would have been sent sooner, and there may have been a better response rate.

Finally, it should be noted that while email is far and away the most convenient method for obtaining information, it is not necessarily the most persuasive. While the option was given for companies to contact the office by phone to further discuss the requested information, the option was not given to meet and conduct an interview regarding the anti-discrimination policies. It is likely that few companies would employ this option, but this method would be the best for asking specific questions regarding anti-discrimination policies and the effects of such policies. In addition, the ability to interview leaders of the Federation of Trade Unions of Macedonia would provide the most valuable insight into past incidents of discrimination.

Recommendations

It is the primary recommendation of the author worker's rights and protections have been improved, and perhaps even exceeds expectations for what one of the weakest economies in the Balkans would have, but there is still vast room for improvement. On many fronts, Macedonia has taken positive steps forward, enumerating rights of women, the disabled, and the LGBT community, there is a difference between writing legislation that bans discrimination on these fronts and implementing it.

The solution to this problem cannot come solely from these companies; a broader cultural shift would be needed to bring Macedonia to an equal playing field as more developed nations where discrimination is less prevalent in the workplace. While it is not possible for these changes to happen overnight, and unlikely to even happen fully in the span of five or ten years, it is a goal that citizens, the government, and these businesses all need to work towards.

One front that Macedonia must tackle is to promote acceptance for LGBT individuals within the country. The talk of adding protection for LGBT workers in the latest legislative changes on the Law on Prevention of and Protection against Discrimination can be seen as being a positive step forward, but the government has not done enough to ensure that LGBT citizens do not face a burden in the workplace. Marriage equality has not been guaranteed in the country³⁴, and many indicators point to the recent protection of LGBT workers as being a potential show for the European Union. Until these citizens are treated equally outside of the workplace, they will not be treated equally within the workplace.

Despite legal framework that works extensively to guarantee equal and fair treatment of women, both within the private and public sphere, women continue to face challenges that prevent them from rising within companies. As recently as 2011, women represent less than 25% of all Board of Directors, Managing Boards, and Supervisory Boards within the country³⁵. This "glass ceiling" prevents women in businesses from achieving true equality, all while being promised that they are equal.

Finally, the nation has a long and troubled history with blatant racism, disrespect, and discriminatory practices against the Roma population³⁶. The exclusion of Roma people from basic pillars of society, including education, healthcare, and employment, makes it increasingly

difficult to see Macedonia as being a breeding ground for human rights. While some steps forward have been taken, including mandatory quotas for Roma students at the university level, there is still a pervasive tendency to discriminate against Roma citizens.

It is therefore the recommendation that additional research must be conducted on this subject and should be pursued with a more dogged perseverance to get a more conclusive analysis. It is unlikely that any of the companies who received emails will respond with information in a reasonable time-period. Pursuing this information will open doors to the public regarding some of the largest employers not only in Skopje, but in the nation.

From the preliminary research of the author, strong research pertaining to these topics could not be found, leaving a wide gap in a crucial area of human rights issues. Without this information, there is a risk that these private companies can continue to skirt under the radar in providing their employees equality. Non-governmental organizations have the ability to put pressure on these companies in providing more open access to the public, especially if the government will not step in and ensure that employees are being treated equally.

Although the non-governmental sector is proactive in investigating these issues, the sole responsibility should not lie with NGOs and other entities outside of the public sector. If the Macedonian government wants to be taken seriously as a contender in the global market, it is imperative that they become more active in ensuring their citizens are being treated fairly and equally at work. Part of this commitment is through making laws and regulations; the other part is doing the field work to make sure what is written on paper is being implemented.

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