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Eleventh sitting, 9 June 2023, 11.50 a.m. (cont.)**Onzième séance, 9 juin 2023, 11 h 50 (suite)****Undécima sesión, 9 de junio de 2023, 11.50 horas (cont.)**

Chairperson: Mr Mackay
Président: Monsieur Mackay
Presidente: Sr. Mackay

Discussion of individual cases (cont.)**Discussion des cas individuels (suite)****Discusión de los casos individuales (cont.)****North Macedonia (ratification: 1991)****Right to Organise and Collective Bargaining Convention, 1949 (No. 98)****Convention (n° 98) sur le droit d'organisation et de négociation collective, 1949****Convenio sobre el derecho de sindicación y de negociación colectiva, 1949 (núm. 98)**

Chairperson – We will now start the second case on our agenda, which is North Macedonia on the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). I now invite the Government representative of North Macedonia, participating remotely, Ms Maya

Papatolevska, the Deputy Head of the Department of the Ministry of Labour and Social Policy, to take the floor.

Government representative (Ms PAPATOLEVSK) – After a long period of preparation of the new law on labour relations and after ten public debates that have been carried out across the country, it is now in the final phase. Before entering the governmental procedure the draft law will be placed on the electronic national register of regulations where the public as well as all the stakeholders will be able to give their last remarks and comments on it.

The text was prepared in line with the technical memorandum of the ILO, including the area of collective bargaining and conclusion of collective agreements. I would like to point out that for the drafting of the law, a broad working group was formed that included representatives from all trade unions regardless of their representativeness. All of them, in this five-year period, were able to contribute to the concept of the law as well as to the conformity of the provisions of the new law depending of course on their interests. For this process to go as smoothly as possible we have received technical assistance from the ILO Office.

We realize that some public enterprises do not act in accordance with the law on labour relations regarding collective bargaining and especially with respect to the legally established protection of trade union representatives and in this direction, we plan to further sensitize the appropriate structures at public enterprises and legal entities from the public sector. According to the planned activities the Government plans – until the end of 2025 – to work on improvement of the legal framework of the peaceful resolution of labour disputes because the self-assessment tool from the ILO, designed for this purpose, highlighted certain weaknesses in several segments of this part of our legislation. At the same time special attention will be paid to the part of individual labour disputes but also to further raising awareness about the

advantages that both workers and employers will have by applying this mechanism, taking into account the dismissals of union representatives that can take place.

Also, with the adoption of the new law on labour relations, we plan to have training on its application for labour inspectors and judges because we consider them as significant factors in the protection of collective bargaining rights and in the treatment of protection of trade union representatives. For this, we will again rely on the technical assistance of the ILO that can be obtained.

Finally, in relation to the allegations of the complainant, regarding the Commission for Representatives and its functioning, the Government's procedure and information – in fact the document – will enable the formation of a new commission for representativeness and the adoption of our procedure would make impossible for a member of the commission to block the functioning of this commission.

Worker members – The Convention is at the heart of social dialogue in that it enshrines the right to organize and bargain collectively. This Convention recalls the fundamental principle of the need for workers to enjoy adequate protection against all acts of discrimination aimed at undermining freedom of association. It also provides that workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration. However, it has come to our attention that acts of interference in the activities of trade unions have been observed in certain companies. Consisting of encouraging certain workers and trade unionists to join another trade union in contravention of the Convention. Article 4 of the Convention provides that measures appropriate to national conditions shall be taken where necessary, to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or employers' and workers' organizations, with a

view to the regulation of terms and conditions of employment by means of collective agreements. North Macedonia ratified the Convention in 1991. However, we have to note several shortcomings in North Macedonia with regard to the principles enshrined in the Convention, thus raising serious questions as to the conformity of legislation and practice in North Macedonia with the Convention. The Committee of Experts has in the past made 13 observations to the Macedonian Government concerning the application of the Convention, indicating the persistence of the Committee of Experts' questions about the situation in the country.

The Confederation of Free Trade Unions of Macedonia (KSS), reported a large number of acts of anti-union discrimination in 2021. Numerous dismissals of trade union representatives have been recorded in many sectors. For instance, we were informed of interference by management of a number of companies in mainly state-owned sectors, by pressing workers to change trade union affiliation, to create a new union, or to stop being active in a trade union. Managers were questioning outcomes of elections and refusing to recognize leaders authorized by trade unions to represent their organization. Check-off facilities of trade union dues were sometimes withdrawn, KSS leaders and members were dismissed or forcibly transferred to other regions far from home.

The court procedures to contest unlawful dismissals of trade union leaders are lengthy and cumbersome, but even when courts rule in favour, the implementation of its decision is not streamlined. However, under the Convention, member states are under the obligation to take specific measures to ensure the adequate protection of workers against any acts of anti-union discrimination, both at the time of taking up employment and in the course of employment. Including at the time of termination of the employment relationship. Such adequate protection is particularly necessary for trade unionists.

The unions also inform about the non-application of collective agreements. The results of collective bargaining do not receive the support of the Government, which does not take the budgetary measures needed to implement these agreements for the public sector. In fact, violating the minimal salary act. In this context, we think it is worth pointing out that the Convention covers all workers and employers and their respective organizations in both the private and public sectors. In true collective bargaining on wages, the parties find the best solutions to mitigate consequences of the Covid, energy and cost of living crisis.

Finally, the KSS pointed to the inability of the Commission for Representativeness to rule on its representativeness in the public sector. Although the application was lodged in 2018, the KSS is still faced with the Government's refusal to recognise its representativeness in the public sector, therefore obstructing the KSS's full participation in social dialogue and its members' right to organize collectively, in contravention of the Convention.

The Committee of Experts' observation also raises the question of the coverage of Macedonian workers by collective bargaining. It appears that the coverage rate is 68.7% in the private sector, 31.35 in the public sector. While not the panacea, the rate of coverage by collective bargaining, is a good indicator of the quality of the collective bargaining system applicable in the country. We can only encourage the Government to continue efforts and to take all useful measures to increase the rate of coverage of workers by collective bargaining.

The European Union (EU) recently adopted a new directive on the promotion of collective bargaining and the adequacy of minimum wages. The directive sets a target of 80 per cent collective bargaining coverage. Below this threshold new member states will have to put in place an action plan to increase their collective bargaining coverage. As northern Macedonia is currently in the process of negotiating its accession to the EU, we can only encourage the Macedonian Government to work as of now, to increase the rate of collective bargaining

coverage in the country, in accordance with the European legislation and thus promote development of collective bargaining, as provided for in Article 4 of the Convention. We hope that the European Union will support the Government's efforts to rapidly reach the 80 per cent threshold for collective bargaining coverage.

Research has indicated that countries with highly coordinated collective bargaining, tend to have less inequality in wages, lower and less persistent unemployment and fewer and shorter strikes, than countries where collective bargaining is less established. The low wage exploitative model promoted by North Macedonia has already led to a massive outflow of workers. Nonetheless, instead of improving working conditions, promoting decent salaries and encouraging collective bargaining, the Government is looking to legalise exploitative working environments by moving dangerous labour law changes, bypassing national social dialogue mechanisms under pressure of foreign companies. That is not what is expected from the country that adheres to international and European standards. We can therefore, only encourage the Government to further promote collective bargaining in the country in full compliance with the Convention.

Employer members – We thank the Government of North Macedonia for the oral information provided, of which we have fully taken note.

The Employer members stress the importance of States' compliance with the Convention, which is one of the ten ILO core Conventions. More specifically, we believe that this case is about the essential nurturing of social dialogue, independence of social partners and their ability to exercise the rights provided for in the Convention without interference by the State. This is the first time the case of North Macedonia's compliance with the Convention is discussed by this Committee. North Macedonia ratified the Convention in 1991. Since then, 13 observations have been issued by the Committee of Experts. This indicates the existence of

persistent compliance issues with the obligations set forth in the Convention by the country. The Employers would like to highlight that the Government has received ILO technical assistance regarding the adoption of the new draft Labour Law and a special Law on Workers' and Employers' Organizations and Collective Bargaining. On both the Office has provided comments.

Before delving into the key issues of this case, let me provide some information on the country's context. On the political context, presidential elections were held in North Macedonia in spring 2019 and early parliamentary elections in July 2020, which saw the ruling Party securing a narrow victory over the main opposition party. Regarding the freedom of association and assembly, such rights are guaranteed in law by the constitution. Moreover, the law for citizens' associations and foundations, which was adopted in 1998 and amended in 2007 and 2009, enables citizens to form and join independent political or civic groups.

Let me now turn to the key issues of this case. The Committee of Experts, in its 2022 observations, identified two main elements of concern regarding North Macedonia's compliance with the Convention. These issues concern compliance with Article 4 of the Convention.

The Employers would like to point out that, since 2018, social dialogue is being nurtured and developed. However, the Law on Labour Relations is still not fully harmonized and completed despite six years of negotiations and formal dialogue. Concerning this Law, according to Government's information, it was finally decided to include the sections relating to the organization of workers and employers as well as collective bargaining within its framework.

We also take note that, according to the Government, the process of preparing such Law will be soon finalized. However, we believe that it would be advisable that the process of

adoption of the new Law on Labour Relations should be accelerated and concluded without undue delay.

We ask the Government to take due account of the comments made by the Office and that the new Labour Law is developed in line with the Convention. We further request the Government to provide information on any progress made in this regard. On the promotion of collective bargaining in practice, the Employers take note of the sharp rise in the collective bargaining covered between 2019 and 2021. Notably, for the first quarter of 2021, the State Statistical Office report that the General Collective Agreement in the private sector covered nearly 450,000 employees, that is 68.7 per cent of the employees in the country. Furthermore, the General Collective Agreement in the public sector covered almost 205,000 employees, corresponding to 31.3 per cent of the total number of employees in the country.

In light of this information, we request the Government to:

- First, indicate the factors that have led to this increase.
- Second, provide information on the provisions regulating the relationship between general and specific collective agreements in private and public sectors, and
- Third, to continue providing information on the application of the Convention in practice, including statistical data concerning the number of collective agreements concluded in both public and private sectors and the number of workers covered.

Finally, we take note that, according to the Committee of Experts' observations, the Government is not responding to a series of allegations made by the KSS in 2021 concerning:

- acts of anti-union discrimination including dismissal, against trade union representatives;
- the non-application of collective agreements by the Ministry of Education, as well as;

- the inability of the Commission for representativeness to decide on the representativeness of the KSS in the public sector.

We request the Government to provide its comments on these allegations.

Worker member, North Macedonia (Mr DEANOSKI) –The implementation of the Convention is very problematic and under attack by the Government and members of Parliament of the ruling majority because with fast-track amendments to the labour law we now have a 72-hour working week in North Macedonia. The Confederation of Macedonia as the only representative trade union and national social partner was not consulted during the adoption of the special law on determining public interest and nominating a strategic partner for implementation of the project for the construction of the pan-European corridors VIII and X, although it is an obligation according to the ILO Convention on labour clauses. And it is also an obligation of the Government to consult the representatives of the Workers and the Employers. The Federation of Trade Unions of Macedonia (SSM), NSGIP have not been consulted or familiarized with the new proposed amendments and additions to the law on labour relations. These amendments were submitted by to the Parliament in a fast-track procedure even though a new law on labour relations has been under negotiating for more than five years. During this five years negotiations, these proposals and fast-track amendments were not considered, were not mentioned by the Government.

This only indicates to us that the entire negotiation process is fractured and is not conducted on honest and correct grounds. But the views of the involved unions in the civil sector and the scientific community in the country are not respected at all with one goal to satisfy a foreign consortium to determine not only the Workers but the entire state. We want to inform you that last year SSM together with the construction union SJB launched an initiative

regarding the provisions of 72 hours week right now. For the construction of corridor VIII this provision was ruled as unconstitutional and illegal by the Constitutional Court of Macedonia.

Article 12 of the law on determining public interest in nominating a strategic partner for the implementation of the projects of the construction of the infrastructure corridor VIII was denied by the Constitutional court. SSM and SJP submitted an amendment request to the Minister of Parliament who rejected such proposed amendments to the law which were extremely unfair to the workers and the fact that a certain group of MP's worrying about the decision of the constitutional court in order to avoid the position of the constitutional court proposed the arrangement of such a provision in the labour law relation by which workers will now work 72 hours on average per week, which is a 50 per cent increase in working time with overtime compared to the current law working hours of 40 hours per week, 8 hours per day. This discredits the constitution, the laws, collective agreements, decisions of the constitutional court, international labour standards, the working time convention, EU directives and other international documents and directly violates decent working hours and decent jobs as one of the greatest benefits of our civilization. At the same time, we use the opportunity to inform you that the constitutional court reached a decision N4/2022. It did not initiate a procedure for violating the constitutionality of the law, amendments and supplements of the world labour relations.

In relation to the initiative of the chamber of commerce of North Macedonia concerning Sunday non-working day, the unions provided as a right for the workers from January 2002 and the constitutional court to put it that the law on labour relations prescribes a favourable solution with a significant impact on the material and social position in their realization of rights of workers.

In relation to the non-working days in the week and the compensations for work on Sundays and holidays the Government and Members of Parliament want to please one employer foreign consortium for business interest against the lives and health of the workers which for the unions is illogical, inhumane and extremely unprincipled and contrary to the interests of workers. We pointed out to the Government and the MPs that 1 May is marked precisely as a sign of respect for the victims of the strike that took place from 1 May to 4 May in 1886 in Chicago which was organized in order to introduce an eight-hour working day. With the proposals for the law amendments and supplements to the law on labour relation after a short procedure without social dialogue, without consultation, a small group of MPs managed to trample the fundamental rights to decent working hours and decent work which dated back to 1886 and bring the Macedonian workers 157 years back.

In the name of solidarity and humanity, we must not allow these amendments to the law on labour relations to prevail. This inhuman provision will take human lives and we have no lives to spare. This is also contrary to our constitution because according to the constitution the workers cannot waive their rights to daily, weekly and annual rest days because this is a fundamental constitutional right workers must enjoy.

To put salt on an open wound, these amendments to the labour legislation passed in Parliament in a fast-track procedure and the Government put an EU flag to the amendments of the law to ensure its passing even though the EU commission and the EU delegation in North Macedonia openly criticized the Government and were against the EU flag to be on the amendments because they are no European values in the provisions of the law.

We must not allow anyone to play with the lives and health of the workers so SSM and the construction union JIP will use all the mechanisms at their disposal to preserve decent working

time, which is a pillar of workers' rights that has to apply to the Macedonia workers as it applies to the European workers.

At the same time our Government and Ministry of Labour enacted the regulation that bans signing of collective agreements with the public sector without an exclusive written consent from the Minister of Finance. This is contrary to the provision of the labour law, the constitution of North Macedonia and the ILO Conventions enacted in Macedonia.

Regarding the wage agreements through the collective agreement we are in open negotiations for four years to find a new collective agreement for the workers in the public sector and while we are negotiating the Government increased the salary of every public official in the country by 78 per cent or to be precise more than 1,000 euros per month for public official and they still refused to increase the salaries of the workers in the public sector.

As Mr Postma already stated in his opening statements, we are facing an exodus of workers from the public sector which are going to the private sector and into the EU countries.

*Interpretation from German: **Worker member, Germany (Ms KUHL)*** – With a distinct sense of unease, we have been monitoring a number of recent events taking place in the Republic of North Macedonia, including the freedom of association and the right to collective bargaining. In the Committee of Experts' report, the Committee quite rightly calls for the new law on labour to be adapted in line with the Convention, and it must enshrine these rights. After five years without any significant progress being made in the reform process, at the end of last month, all of a sudden, profound changes were introduced to labour legislation, which went in the wrong direction and have caused us grave concerns.

On 25 May 2023, a legislative amendment was adopted by the Parliament which allowed for derogations from the national legislation on maximum working time. As far as it did not affect the national interest, no further definition was provided. The timing and the rushed

nature of this reform, suggest that this is to accelerate the completion of the motorway project by a US-Turkish joint-venture. These construction projects are a key element in the planning of the transport community between the EU and the western Balkan countries. The north Macedonian infrastructure project aims to bring closer the regions between the Black Sea and the Adriatic Sea.

During the legislative process, the trade unions were not substantially involved. The well-established system of tripartite social dialogue, through the Economic and Social Council, has been circumvented by the Government. This is all the more serious because of the fundamental interference in labour law. Because, after new legislation, this would make possible in theory a 72-hour working week, which affects workers in the construction sector. This would call into question the 170-year-old eight-hour working day. We also see that the EU has a responsibility here with these infrastructure problems. They must ensure that there is fair trade union participation. These projects must, under no circumstances, lead to a weakening of fundamental labour laws.

In the case at hand, we see the consequences of the omni-present shortage of skilled labour. In the Republic of North Macedonia there is a shortage of 10,000 skilled labourers every year. This has to do with the largescale emigration to the EU Member States and the unsatisfactory working conditions are often pinpointed as a reason for the emigration. A weakening of the rules on the maximum working time, also represents a further weakening of labour law.

Furthermore, the EU and its Member States as well as the Republic of North Macedonia, have a duty to develop a socially responsible workforce policy. We fully support the trade unions in North Macedonia, so that they can enjoy their rights in full.

Membre travailleuse, Belgique (M^{me} DOYEN) – En tant que représentante des travailleurs d'un pays où coexistent différentes organisations syndicales, je voudrais faire part de mes préoccupations concernant la discrimination syndicale exercée par les agents de l'État et les institutions publiques de Macédoine du Nord, en violation de la convention.

La demande de représentativité de la KSS est toujours pendante devant les autorités depuis plusieurs années. De facto, la demande de la KSS a été rejetée. Le syndicat s'est donc vu refuser la pleine participation au dialogue social national, empêché de participer au processus d'élaboration de la politique économique et sociale, et privé de la possibilité de représenter les intérêts, et de promouvoir les droits de ses membres au sein des organes tripartites nationaux.

En outre, il est clairement établi que la direction d'un certain nombre d'entreprises appartenant essentiellement à l'État a fait pression sur les travailleurs pour qu'ils changent d'affiliation syndicale, créent un nouveau syndicat, ou cessent d'être actifs au sein d'un syndicat. Les managers ont remis en question les résultats des élections. Ils ont refusé de reconnaître les dirigeants autorisés par les syndicats à représenter leurs organisations. Les facilités de prélèvement des cotisations syndicales ont parfois été supprimées. Des dirigeants et des membres de la KSS ont été licenciés ou transférés de force dans d'autres régions, loin de leur domicile. Ces mesures ont entraîné une réduction massive du nombre des membres de la KSS.

Il est très inquiétant que cela se produise avec la bénédiction du gouvernement, car cela concerne principalement des entreprises publiques. La soumission de la KSS aux experts contient des exemples très clairs de toutes ces ingérences.

Nous attendons du gouvernement qu'il crée les conditions du libre choix des travailleurs d'être ou de ne pas être membres d'un syndicat ou d'un autre, sans exercer de contrainte, sans établir de conditions préférentielles.

Nous attendons également que les cas d'ingérence et de discrimination fassent l'objet d'enquêtes appropriées, et que les sanctions prises à l'encontre des auteurs de ces ingérences permettent de dissuader de tels comportements dans le secteur public ou privé.

Nous attendons finalement du gouvernement qu'il n'entrave pas la participation de la KSS au dialogue social au niveau national en manipulant les procédures de certification de la représentativité.

Government representative (Ms PAPATOLEVSKA) – In fact, I have some additional explanation regarding the procedure of giving the representativeness certification for KSS. In fact, the Commission has ruled in accordance with the procedure of determining the representative unions for the national territory of the Republic of Macedonia including for the public sector. According to the Decision from December 2021, SSM, which is a federation of trade unions, gained the representativeness on the territory of the Republic of Macedonia for the public sector. Previously, KSS had this certificate. So, regarding their certification, in fact they lost it the same year that they submitted their allegations. They can submit a new request when it's time for that according to the law. Regarding the new law, in fact the amendments on the law for Labour Relations mentioned by Mr Deanoski only concern work on projects of strategic national importance established by law. The exceptions from the legally set framework for full working time or weekly working time or overtime, which are allowed, are only for projects of strategic and national importance, which is established by law, which means that these provisions could not be in place when this is not confirmed by law, which you should agree that is really harder to do just in any case. Work over 40-hours per week is

considered as overtime with mandatory consent of the worker and with respect to the provisions for daily and weekly rest according to the law.

Employer members –The Employers thank the various speakers who took the floor, notably the Government of North Macedonia for the interventions and detailed information provided. The Employers reiterate the importance of states' compliance with the Convention, which is one of the ten ILO core Conventions.

In light of today's discussion, the Employers recommend the Government to firstly, provide information on any progress on the new law on labour relations. Secondly, indicate the factors that have led to the rise in the collective bargaining coverage between 2019 and 2021. Thirdly, provide information on the provisions regulating the relationship between general and specific collective agreements in the private and public sector. Finally, the Government should provide further comments as to allegations on acts of anti-union discrimination. The non-application of collective agreements by the Ministry of Education and the inability of the Commission for Representativeness, to decide on the representativeness of the KSS in the public sector.

Worker members – In the first place, I would like to thank the Government of North Macedonia for the information provided. Then, I would also express my appreciation for the fact that the workers' representative from North Macedonia was there to take the floor and, we regret the fact that no employer from North Macedonia has taken opportunity to inform the Committee on their respective views.

The situation in Northern Macedonia continues to be of concern to the Worker members. There are still many indications of serious breaches of the Convention.

Numerous acts of anti-union discrimination have been reported by the KSS. In response to these shortcomings, the Government will have to ensure that workers are adequately

protected against all acts of discrimination aimed at undermining workers' freedom of association. It is also useful to remind the Government that it must ensure the implementation of rapid and effective procedures as well as effective and sufficiently dissuasive sanctions that ensure the practical application of the protections provided against acts of anti-union discrimination.

We have received reports of interference in the organization of trade unions. It is important for the Government to ensure that workers and employers' organizations shall enjoy adequate protection against any acts of interference by each other, or each other's agents or members in their establishment functioning or administration.

We ask the Government to provide all relevant information to the Committee of Experts concerning the provisions relating to the organization of workers and employers as well as to collective bargaining which have been included in the new law on labour relations and to indicate to what extent these provisions resolved the shortcomings discussed and the status of this legislations as well as any other legal acts that were not at the ILO's disposal.

We also invite the Government to actively promote the results of collective bargaining by respecting the agreements reached between social partners in both the private and public sectors and by taking all measures to implement the results for collective bargaining.

The Government should also ensure the procedures for recognizing the representativeness of the KSS in the public sector in accordance with national legislation are activated as soon as possible, in order to ensure the full participation of the KSS as in social dialogue and to guarantee the right of its members to organize collectively.

We also invite the Government to continue its efforts to promote collective bargaining in the country, in particular by adopting measures that will further increase the rate of coverage of workers by collective bargaining. We also invite the Government to communicate to the

Committee of Experts the factors that have led to the increase in the rate of coverage by collective bargaining as well as information on the provisions regulating the relationship between general and specific collective agreements in the private and public sectors.

We also invite the Government to continue to provide to the Committee of Experts with information on the application of the Convention in practice including statistical data on the number of collective agreements concluded in public and private sectors and the number of workers covered.

And finally, in order to implement all these recommendations, we invite the Government of North Macedonia to avail itself of ILO technical assistance and to accept a direct contacts mission in order to give full effect to these recommendations.

Chairperson – We have now concluded the discussion of this case. The conclusions will be adopted on Wednesday, 14 June, in the afternoon. That concludes this morning's session as well. The session is closed.

The sitting closed at 12.55 p.m.

La séance est levée à 12 h 55.

Se levantó la sesión a las 12.55 horas