

# Social Dialogue as a Form of Participation of Employees in Decision-Making and Management of the Companies with Emphasis on Social Dialogue in the Republic of Macedonia

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## Abstract

Social dialogue is one of the forms of participation of employees in matters referring to the field of labor or on matters of mutual interest for economic and social policy. Employees in the process of the social dialogue are represented through their union. Social dialogue is a form of communication involving social partners (unions and employers/ employer bodies) intended to affect the contracts and the development of labor issues. This context includes issues relating to participation in various types of negotiations, consultations, exchange of information between representatives of governments, employers and employees on issues of common interest and related to the economic and social policy. Social dialogue is also one of the forms through which employees can participate in decision-making, information and operations of the companies. The main aim of this paper is to clarify the social dialogue as one of the forms of participation of employees in decision making and managing with the companies, and to provide the legal basis for the practical realization.

**Keywords:** social dialogue, participation, employees, company information, counseling

## 1. Introduction

Participation of employees in decision making and management of the company has its roots from the past. Historically, in many countries it appears in various forms and depending on the level of regulation of relations related to this issue. Employee participation in decision-making and management at various levels in the company (company) as well as social, legal and terminological category is present in all countries, of course in the form and content of the legal system of the country and forms of companies which were present.

Social dialogue nowadays is inevitable in the European vocabulary which emphasizes the importance of this relatively young phenomenon that comes from the European continent. As a phenomenon of the 20th century, along with the establishment of the International Labor Organization (ILO / ILO), facilitate the development of the idea of social dialogue and its expansion worldwide.

Social dialogue, which is one of the foundations of the welfare state provides active employee participation in decision-making, information and operation of enterprises since

they are considered as human resources. Without them the working process can't be managed and they have the right to be involved in mutual exchange of information and open discussions ongoing dialogue between stakeholders, exchange of opinions, consultations and negotiations.<sup>1</sup> The main goal of social dialogue is to promote consensus building and democratic involvement among the main participants in the area of labor. The existence of a successful structure of social dialogue and social themes which develops and creates an opportunity for resolving the substantial economic and social problems as well as encouraging good governance and the existence of social and industrial peace and stability and a fast growing economy and development.<sup>2</sup>

Through participation as a phenomenon of social dialogue would enable the social partners and other participants to actually co - decide about their future. Thereby the participation will facilitate bargaining and would set an acceptable social level and thus promote prosperity, there will be economic and social development, social security, stability and equality. Through social dialogue as an effective means will be dealt with collective challenges that will allow you to create a structured and adequate environment for more efficient problem solving. In other words, participation as a phenomenon of social dialogue is a tool that should allow constructive interaction in order to achieve social consensus.<sup>3</sup>

In literature, social dialogue is defined as any form of communication which involved the social partners (unions and employers / bodies of employers) intended to affect the contracts and the development of the and labor issues.

According to the International Labor Organization, social dialogue is defined as including all types of negotiation, consultation or simple exchange of information between or among representatives of governments, employers and employees on issues of common interest related to economic and social policy. Thus, ILO has a tripartite vision of the concept of social dialogue, which comprises various degrees of dialogue as information, consultation or negotiation, and as such is synonymous with a complete system of industrial relations.

Tripartite task of the International Labor Organization is to promote consultation and joint resolutions between labor, management and government in shaping social and economic policies. Its roots are in peacekeeping functions embedded in the Constitution of the International Labor Organization, which is part of the Versailles Treaty of 1919. Through the years, its services included setting labor standards and provided technical assistance in order to promote good relations and social peace.<sup>4</sup>

The process of social dialogue shouldn't be considered as process which only expose ideas and opinions without any opportunity for discussion and open opinions and attitudes towards the end of the process will result in concrete decision on an issue. According to the broad

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<sup>1</sup> Co-determination of employees in the economy of Germany; Slavko Jurisa, Zagreb 1991: 1-2 str.

<sup>2</sup> For more information see on : [www.europa.eu.int/employment\\_social/soc-dial/csr/csr\\_index.htm](http://www.europa.eu.int/employment_social/soc-dial/csr/csr_index.htm);

<sup>3</sup> Ibid;

<sup>4</sup> Katie Quan and Greig Guthey, State of the Art of Social Dialogue – USA, Center for Labor Research and Education - Institute of Industrial Relations, University of California, Berkeley, March 14, 2000, page 2;

definition of social dialogue given by the International Labor Organization, as examples of social dialogue can be specified mutual exchange of information and open discussions, permanent tripartite dialogue between the parties involved, exchange of views, consultation and negotiation, and etc.

In the European Union, European social dialogue is provided by the agreement that formed the Union.<sup>5</sup> Promoter of European social dialogue is the European Commission as a tool for better management and promotion of social and economic reforms. The European Union and the Member States, taking into account the fundamental social rights as laid down in the European Social Charter signed in Torino on 18 October 1961 and in the Community Charter of Fundamental Social Rights of Workers of 1989, aimed at promoting employment, improved living and working conditions in order to enable their compliance and at the same time to keep improving, genuine social protection, dialogue between the social partners, development of human resources to a higher, long-term employment and dealing with exclusion.<sup>6</sup> European Union recognizes and promotes the role of the social partners at its level, taking into account the diversity of national systems. It facilitates dialogue between the social partners, respecting their autonomy. Tripartite Social Summit for Development and Employment contributes to social dialogue.<sup>7</sup>

The European Commission has a special task in the promotion of social and economic reforms at the level of the European Union. The Commission's task is to promote consultation between the social partners at EU level and take all relevant measures to facilitate their dialogue ensuring balanced support of the parties. For this purpose, before submitting proposals in the social policy field, the Commission shall consult the social partners on the possible direction of action of the Union. If, after such consultation, the Commission recommends action of the Union, it shall consult the social partners on the content of the estimated proposal.<sup>8</sup> The social partners submitted to the Commission an opinion or, where appropriate, a recommendation. The dialogue between the social partners at Union level may lead to contractual relations, including agreements, if they so desire. Agreements concluded at Union level are implemented in accordance with the procedures and practices specific to the social partners and Member States.<sup>9</sup>

European dialogue is a fundamental element of the European social model and covers all discussions, negotiations and joint actions undertaken by the European social partners. On the level of the European Union and the International Labor Organization (ILO) special attention is paid to social dialogue as a fast-growing phenomenon that is considered part of good governance, whether at national or at the level of the companies.

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<sup>5</sup> European Union Act (Lisbon Treaty), Chapter 10, Social Policy, Articles 151 to 161;

<sup>6</sup> Ibid, Article 151, Paragraph 1;

<sup>7</sup> Ibid, Article 152;

<sup>8</sup> Ibid, Article 154;

<sup>9</sup> Ibid, Article 155, Paragraphs 1 and 2;

## 2. The Need for Existence of Social Dialogue and Its Benefits

One of the questions most often asked is "Why the existence of social dialogue?" Because it can't be said that social dialogue carries potential risks. The answer has two forms:<sup>10</sup>

- Social dialogue only works, and this can be seen from numerous examples in many countries where through social dialogue has enabled the prosperity and industrial peace and stability as one of the real benefits to society.
- Alternatives are quite ineffective. At a time of global economy, the different industrial relations systems do not produce long-term economic and social benefits.

As one of the possible benefits of social dialogue are:<sup>11</sup>

A) Democratization of economic and social policy;

Social dialogue represents a form of full and democratic decision-making. It can be said that social dialogue in its explicit and implicit form increasingly becoming part of the approach for economic growth and development;

B) Increases legitimacy in decision making;

In democratic societies, any unilateral decision by the state without prior consultation with workers and trade unions could lead to protests and opposition.

C) Reduces social conflicts and helps in resolving problems;

Social dialogue has the ability to minimize the various relationships through team work and partnership. Through it can develop a common understanding of problems, facilitates the understanding of policies and possible alternatives and consequences, and the possibility of any compromise and reaching common decisions.

D) Ease the economic tensions in cases of economic hardship and transition periods;

Social dialogue can be a very effective tool in periods of economic problems and crises or periods of transition. But to be able to function effectively in such conditions must be used in terms of prosperity and economic growth.

## 3. Conditions for the Existence of Social Dialogue

Basic conditions for the existence of social dialogue are:

- Strong and independent workers' and labor union organizations that are technically trained and have access to all relevant information in order to participate in social dialogue;
- Political will and commitment to be involved in social dialogue in behalf of all parties involved in the process;

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<sup>10</sup> Jana Cvetkoska, Master's thesis, Forms of employee participation in the management of companies as an opportunity for continuous social dialogue, Skopje, 2008, page 39;

<sup>11</sup> Ibid, pages 39 and 40;

- Respect for the fundamental rights of freedom of association and collective bargaining, and adequate institutional support.

In the process of social dialogue, in order to be successful and functioning properly, an important role play countries that can't have a passive attitude. The state is the one that is responsible for creating a stable political and civil climate that will enable workers and labor unions to operate freely without fear of any sanctions and etc. The state is the one that needs to create the basic conditions to support the process by creating a legal and institutional framework that will allow participants in the process to operate efficiently.<sup>12</sup>

The theory doesn't mention anything about a universal model of social dialogue. The concept of social dialogue is so flexible, that it can be adapted to different situations. Social dialogue can be found in the following forms:<sup>13</sup> bipartite - as a direct relationship between the social partners (employers and workers) and tripartite - like relationship between government authorities and the social partners.

At European level, the involvement of the social partners has a similar division in three types of activities:

- Tripartite consultation - which explains the exchange between social partners and European public authorities;

- Consultation of the social partners covering the activities of advisory committees and official consultations in the spirit of Article 153 of the Act for the European Union (former Article 137 of the Act for the European Unity). The Commission has a duty to promote consultation between the social partners at EU level and take all relevant measures to facilitate their dialogue ensuring balanced support to the parties in order to submit proposals in the social policy field, the Commission shall consult the social partners on the possible course of action of the Union;<sup>14</sup>

- Bilateral dialogue between European employers and trade unions;

The European Commission sees social dialogue as a joint coverage of bilateral and triple processes between the social partners themselves and between the two sides of industry and the Commission. These processes are based on Articles 154 and 155 of the EU Act and may lead to legal (statutory) contractual or binding agreements.

Legal basis of European social dialogue has gained in his formal recognition through insertion into the EC Treaty with Individual European Act of 1986 and the new Article 118 B EC. Negotiations in Maastricht (1991) and Amsterdam (1997) also helped to further establish the legal significance of the European social partners. In Maastricht the Act on European Union include the Protocol for incorporating the Agreement on Social Policy which was the result of negotiations between the European social partners. Agreement was accepted by all 11 member states except the UK. The signing of the Act of Amsterdam in June 1997, resulted

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<sup>12</sup> For more information see on: [www.europa.eu.int/employment\\_social/soc-dial/csr/csr\\_index.htm](http://www.europa.eu.int/employment_social/soc-dial/csr/csr_index.htm)

<sup>13</sup> For more information see on: [www.uc.edu/CCL/Soact/pdf](http://www.uc.edu/CCL/Soact/pdf)

<sup>14</sup> European Union Act (Lisbon Treaty), Article 154, paragraphs 1 and 2;

with the Agreement on social policy who has been incorporated in the revised Social Chapter in the EU Act.<sup>15</sup>

#### 4. Social Dialogue in the Republic of Macedonia

Social dialogue in Republic of Macedonia, is a modern process who aimed at the promotion and development of the overall social policy. Structurally, the social dialogue in the country, as in most modern countries, is in place and is functioning on tripartite and bipartite level.<sup>16</sup> Constitution in Republic of Macedonia<sup>17</sup> in its provisions also gives bases for social dialogue. According to the Constitution, citizens are guaranteed freedom of association to complete and protect their political, economic, social, cultural and other rights and beliefs.<sup>18</sup> In order to complete their economic and social rights, citizens have the right to establish unions. Unions can constitute confederations and become members of international union organizations.<sup>19</sup>

The basics for establishment and functioning of the social dialogue in Macedonia are the Law for labor relations;<sup>20</sup> Agreement on the establishment of the Economic and Social Council in 1997,<sup>21</sup> Convention No. 87 on freedom of association and protection of the right to organize from the International Labor Organization,<sup>22</sup> Convention No. 98 on the right to organize and collective bargaining from the International Labor Organization (ILO 1949),<sup>23</sup> and Convention No. 144 on tripartite consultations at the International Labor Organization.<sup>24</sup>

##### 4.1 Bipartite Social Dialogue

Bipartite social dialogue, indicating his linguistic explication signifies involvement in social consultations, negotiations, discussions and signing of collective contracts by two of the three established representatives of contemporary industrial democracy. Workers' organizations as part of social dialogue, are constant and always part of the bipartite negotiations. In this type of negotiation, are other variable factors of modern industrial democracy (government and employers). Depending on the area, which fosters bipartite social dialogue are in (public sector or private sector), on the other side of the negotiating table appear the government or

<sup>15</sup> For more information see on: [www.europa.eu.int/employment\\_social/soc-dial/csr/csr\\_index.htm](http://www.europa.eu.int/employment_social/soc-dial/csr/csr_index.htm);

<sup>16</sup> Ph.D. Todor Kalamatiev and MA Aleksandar Ristovski Pluralization of syndicalism in the Republic of Macedonia - Modern solution for labor legislation or rude way of circumventing workers' rights, Anthology in honor of Prof. Ph.D.-Branco Zelenkov, page 170;

<sup>17</sup> Constitution of Republic of Macedonia from November 17, 1991 and Amendments to the Constitution of Republic of Macedonia;

<sup>18</sup> Ibid, Article 20, Paragraph 1;

<sup>19</sup> Ibid, Article 37, Paragraph 1;

<sup>20</sup> Law on Labor Relations ("Official Gazette of Republic of Macedonia" No.62/05, 106/2008, 161/2008, 114/2009, 130/2009, 50/2010, 52/2010, 124/2010, 47/2011, 11/2012, 39/2012, 13/13, 25/13, 170/13 and 187/13);

<sup>21</sup> Agreement for the Establishment of the Economic and Social Council ("Official Gazette of Republic of Macedonia" No.7/1997);

<sup>22</sup> Convention No. 87 of ILO ratified by the Republic of Macedonia on 17.11.1991;

<sup>23</sup> Convention No.98 of ILO ratified by the Republic of Macedonia on 17.11.1991;

<sup>24</sup> Convention number 144 of the ILO, ratified by the Republic of Macedonia on 08.12.2005;



employers' organization as a subject of social dialogue. In the public sector, social partners are the government and the employees, and the private sector: employees and employers.<sup>25</sup>

Bipartite social dialogue, according to its level may be different and may lead to the conclusion of collective agreements at the national level, as a general collective agreement at branch level as a separate collective agreement at the level of the employer, or as individual collective agreement.<sup>26</sup> In accordance with legislation, collective agreements, as a finishing process of the collective bargaining, may be made in two areas (in the private sector in the economy and in the public sector).<sup>27</sup>

#### 4.1.1 Bipartite Social Dialogue in the Private Sector

Labor Law (Law on Labor Relations) regulates the issue of the parties at the conclusion of a collective agreement in the private sector.

The General collective agreement for the private sector is concluded by the representative employers' association and labor union representative for the private sector of the economy,<sup>28</sup> and the special collective agreement for the branch or department is concluded by the representative labor union and the representative association of employers at branch or department.<sup>29</sup> A single collective agreement is concluded by the representative labor union at the employer and the person authorized by the employer.<sup>30</sup>

#### 4.1.2 Bipartite Social Dialogue in the Public Sector

Bipartite social dialogue in the public sector is among representative union in the public sector and the government and authorized representatives of the Government.<sup>31</sup> This solution is a logical consequence of the fact that the country is concerned to be the employer, and on its behalf the authorization is performed by the Government, which may delegate its authority to a member, or its right as originally or specifically provided by law.

According to the Labor Law of the Republic Macedonia, the General Collective Act for the public sector, is concluded by the representative union in the public sector and the Minister responsible for the affairs of labor after prior authorization from the Government.<sup>32</sup> Special collective act for public enterprises and public institutions is concluded by the founder or body whom he will authorize and the representative labor union. A single collective act for

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<sup>25</sup> Ph.D. Todor Kalamatiev and MA Aleksandar Ristovski Pluralization of syndicalism in the Republic of Macedonia - Modern solution for labor legislation or rude way of circumventing workers' rights, Anthology in honor of Prof. Ph.D.-Branco Zelenkov, page 171;

<sup>26</sup> Law on Labor Relations ("Official Newsletter of Republic Macedonia", no.62 / 05, 106/08, 161/08, 114/09, 130/09, 149/09, 50/10, 52/10, 124/10, 47/11, 11/12, 39/12, 13/13, 25/13, 170/13, 187/13, 106/14, 113/14, 20/15, 33/15, 72/15, 129 / 15, 27/16 and 134/2016), Article 203;

<sup>27</sup> Ibid, Article 204, Paragraph 1;

<sup>28</sup> Ibid, Article 216, Paragraph 1;

<sup>29</sup> Ibid, Article 217

<sup>30</sup> Ibid, Article 219, Paragraph 1

<sup>31</sup> Ibid, Article 216, Paragraph 2

<sup>32</sup> Ibid, Article 218, Paragraph 1



public enterprises and public institutions is concluded by the founder or body authorized by the representative labor union and the employer.<sup>33</sup> According to the Law on Institutions<sup>34</sup> and the Law on Public Enterprises<sup>35</sup> in the Republic of Macedonia, as a founder can occur either the state or the local government. Since the founding act also regulates the issue of the participants who will take side will side in the collective bargaining or in the process of social dialogue witch subject will appear as a partner of the workers employed in the establishment or the enterprise.

#### *4.2 Tripartite Social Dialogue*

Presumption of starting and operation of the tripartite social dialogue is the existence and operation of three independent entities of tripartite social dialogue: the organization of workers, employers, as opposed to the authorities, regarding the state. In addition, tripartite social dialogue or its holders through a particular activity should offer solutions to a number of economic and social life problems. With this delegated task, the subjects of tripartite social dialogue, especially unions and employers' organization are considered as fundamental social forces and those together with the authorities should be a guarantee for political and social stability of society.<sup>36</sup>

### **5. Economic and Social Council in Macedonia**

Labor Law regulates the issue of the establishment and jurisdiction of the Economic and Social Council.<sup>37</sup> Economic and Social Council was created with the tripartite act (Agreement) between the Government of the Republic of Macedonia, the Macedonian Chamber of Commerce and the Federation of Labor Unions in 1996.<sup>38</sup> The agreement for establishing the Economic and Social Council, determines the main constituent issues related to the organization and functioning of this body. Its main objectives are: achieving the fundamental values of the Republic of Macedonia's Constitution for a democratic and social state and ensuring social justice, achieving a harmonious development of social processes, promotion of social dialogue, tripartite social dialogue and implementation of international conventions and recommendations.<sup>39</sup>

Labor Law of the Republic of Macedonia, chapter XXI legally regulates the powers and composition of the Economic and Social Council. According to the Law, the functions of the

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<sup>33</sup> Ibid, Article 220

<sup>34</sup> Law on Institutions ("Official Gazette of Republic of Macedonia" No.32/05, 120/05 и 51/11);

<sup>35</sup> Law on Public Enterprises (" Official Gazette of Republic of Macedonia" No. 38/1996, 6/2002, 19/2002, 40/2003, 49/2006, 22/2007, 83/2009, 97/2010, 6 / 2012, 119/13, 41/14, 138/14, 25/15, 65/16 and 39/16);

<sup>36</sup> Ph.D. Todor Kalamatiev and MA Aleksandar Ristovski Pluralization of syndicalism in the Republic of Macedonia - Modern solution for labor legislation or rude way of circumventing workers' rights, Anthology in honor of Prof. Ph.D.-Branco Zelenkov, pages 172 and 173

<sup>37</sup> Law on Labor Relations ("Official Gazette of Republic of Macedonia", No.62 / 05, 106/08, 161/08, 114/09, 130/09, 149/09, 50/10, 52/10, 124/10 , 47/11, 11/12, 39/12, 13/13, 25/13, 170/13, 187/13, 106/14, 113/14, 20/15, 33/15, 72/15, 129 / 15, 27/16 and 134/2016), Articles 246 and 247;

<sup>38</sup> Agreement for the Establishment of the Economic and Social Council ("Official Gazette of Republic of Macedonia" No.7/97);

<sup>39</sup> Ibid, Article 1;

Economic and Social Council are: monitoring, studying and evaluating the impact of the economic policy and the economic policy measures of social stability and development; monitoring, studying and evaluating the impact of social policy and social policy measures of economic stability and development; monitoring, studying and evaluating the impact of changes in prices and wages to economic stability and development; giving a reasoned opinion of the Minister of Labor on issues and problems associated with the application of collective agreements; proposing the Government, employers and labor unions, or their associations on a higher level, running a concerted policy of prices and wages; giving opinions on draft laws in the field of labor and social security; promoting and encouraging the need for tripartite cooperation (tripartite social dialogue) between the social partners to address economic and social issues and problems; encouraging the peaceful resolution of collective labor disputes and providing opinions and suggestions from the Minister of Labor about other issues determined by the Law on Labor Relations.<sup>40</sup>

## 6. Concluding Remarks

The participation of workers in management and decision making with the company is a democratic achievement. Through participation employees become an important factor in achieving their social and economic rights. Subject to employee participation in decision making and management of the company is the interests of employees, job security, the right to wages, acceptable working conditions and safety and more. In this connection, the interests of employees collide with the interests of employers to increase profits, reduce operating costs, the need for flexible working relations etc. The interests of the employees also depend on economic elements imposed by the market economy and the logic of capital - ratio. Because of all this the subject of employee participation in decision-making covers the totality of issues related to economics and social position of workers in realization of their rights and interests.

Participation as a phenomenon of social dialogue enables the social partners and other participants to actually co - decide about their future. It facilitates the agreement point. Its task is to set up a socially acceptable level necessary to promote prosperity, economic and social development, social security, stability and uniformity. On the other side through social dialogue as an effective means will be dealt with collective challenges that will allow you to create a structured and well-organized appropriate environment for more efficient problem solving.

Republic of Macedonia also has set the legal basis for the establishment and functioning of the social dialogue and that is the Law on Labor Relations, the Agreement on establishment of the Economic and Social Council since 1997, Ratified, Convention No. 87 on Freedom of Association and Protection of organizing the International Labor organization since 1948, Convention No. 98 on right to Organize and collective bargaining of the International Labor

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<sup>40</sup> Law on Labor Relations ("Official Gazette of Republic of Macedonia", No.62 / 05, 106/08, 161/08, 114/09, 130/09, 149/09, 50/10, 52/10, 124/10 , 47/11, 11/12, 39/12, 13/13, 25/13, 170/13, 187/13, 106/14, 113/14, 20/15, 33/15, 72/15, 129 / 15, 27/16 and 134/2016), Ibid, Article 246, Paragraph 3;

organization since 1949 and Convention No. 144 on tripartite consultations on International labor organization (ILO) provided the legal framework of social dialogue in the Republic Macedonia. In any case, through good legal framework set through social dialogue, employees can participate in decision-making, information and operation of enterprises and have the right to be involved in the process of mutual exchange of information and open discussions, ongoing dialogue between the parties involved, exchange of views, consultation and negotiation, and the etc. It remains the social partners to take advantage of normative legal framework for deepening relations related to social dialogue as one of the forms of participation of employees in decision making and management of the company. Economic and social peace is a common need and necessity not only for the social partners, but also the whole social community.

We hope that with this paper we were able to highlight key aspects related to the issue of participation of employees in management and decision making with the company (enterprise) through social dialogue in the Republic Macedonia, to present the legal basis for social dialogue and to point out the need from further development. We expect that this work will cause an additional incentive for further considerations of this matter by the professional and scientific community.

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