

## HOW DO THE WORKING TIME REGULATIONS INFLUENCE GENDER INEQUALITIES

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### ABSTRACT

The attempt to detect the causes of the economic recession in the EU is a complex process. The viewpoints in the academic debates determine that the main reason for the crises is the continuing inequality between people, particularly the income inequality. Hence, the way out of the crises is the promotion of policies towards increasing the equality, including gender equality.

In this paper, the authors investigate the working time regulation as a possible factor contributing to the decision of females not to participate in the labour market and propose policies for increasing the gender equality.

Female part-time work has become a dominant working pattern in a number of industrialized countries. However, labour rights, payments, access to social security and career opportunities are still a limiting factor to full gender equality. These elements highlight the precariousness of part-time work. With regard to family and household responsibilities which occur as a limiting factor to women's participation in the labour markets, working time policies can provide certain mechanisms for encouraging work-life balance. In the last couple of years there is a growing literature and evidence suggesting that flex-time schemes, emergency family leave, legal rights to transform the working time according to the needs of individual employees, alignment to various community time arrangements such as the working hours of preschool and school facilities can promote greater female participation on the labour market (Lee, McCann and Messenger, 2007).

This paper is composed of the following sections. Section 1 introduces the subject of the research. Section 2 discusses the key challenges of female employees in the labour markets and the fundamental working time policies aimed at promoting gender equalities

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between men and women with particular attention to the gender distribution of working hours highlighting the necessity of collective reduction of working time. Section 3 analyzes the legislation and practices on the organization of working time in the Republic of Macedonia with a special emphasis on the existence of “flexible” working time arrangements oriented towards the needs and preferences of the social partners and particularly employees. Finally, Section 4 sets out the key findings and outlines the main conclusions and recommendations of the paper.

The paper is based on a qualitative research strategy through in-depth literature review, review of the legal regulations and face-to-face interviews with the representatives of trade unions, employers’ associations and different companies.

## Table of Contents

<b>1. INTRODUCTION</b> .....	3
<b>2. Global and comparative overview of the working time policies and gender inequalities</b> .....	5
2.1 Gender inequality and the position of women in the labour markets (conditions and empirical experiences) .....	5
<b>2.1 Working time policies that promote gender equality between men and women</b> .....	7
2.1.1 Policy goals of the working time regulations and measures to reduce gender inequalities... 8	
2.1.1.1 The collective working time reduction as a possible measure to decrease the gender inequality .....	10
<b>3. Analysis of the legislation and practices on the organization of working time in the Republic of Macedonia (finding the level of employees’ and employers’ preferences for a “flexible” working time)</b> .....	16
3.1 Research Methodology.....	17
3.2 Review of the National situation in the Republic of Macedonia .....	17
3.2.1 Working time in the labour legislation of the Republic of Macedonia.....	17
3.2.2 Working time arrangements (practices, desires and opinions of the social partners) – analysis of the conducted interviews .....	24
3.2.3 Determining the role of the social partners in the implementation of the innovative models of working time .....	26
<b>4. Conclusions and recommendations</b> .....	28

## 1. INTRODUCTION

The tendency to reduce social inequalities becomes an existential need of the countries in the process of shaping their economic and social policies. The growth of inequality enlarges the social imbalances and leads to a lack of social cohesion among the people. The social inequality contains multiple and varying forms. Income inequality is one of the primary forms of social inequality. The growing inequality in the income distribution can disturb the social peace by provoking a feeling of social injustice and generating social conflicts.

Therefore, the countries direct their regulations towards establishing a more equitable and redistributive policies aimed at achieving better protection of people from social risks. Contemporary theoretical debates which gravitate around the analysis of the causes and consequences of social inequalities often emphasize the adverse effects which erode the human capital and threaten the rise of productivity. The social marginalization of certain categories of persons and their separation from the productive allocation of physical and intellectual capital narrows the space of the employers for recruiting the best employees (ETUI Benchmarking Working Europe, 2012).

In this regard, we can conclude that income inequality is a dominant, but not the only form of social inequality. The practices and the empirical experiences in different countries have pointed to the existence of gender inequality which *inter alia* may result from the unequal distribution and organization of the working time and the so-called “time poverty”. Certain theorists find a causal relationship between the increased income inequality and the organization and distribution of the working time (Schultz and Hoffman, 2006). The labour markets’ deregulation and employment relations’ flexibility affect the polarization of working hours and the unequal distribution of work, resulting from the concentration of working hours on the margins of the working time. It means that the working time organization is based on either excessively long working hours (that produce negative implications to the occupational health and safety and the reconciliation of workers’ professional commitments and family life time), or very short working hours (that generate “underemployment” and push the workers and particularly women towards precarious employment). Hence, it can be ascertained that deregulated labour markets may generate inequalities in the distribution of working hours that deepen the gender inequalities between male and female workers.

A traditional goal of the Labour Law is the correction of market failures and the improvement of living and working conditions of people that are found in an unequal social condition. This goal perpetuates in modern circumstances as well, but its main priority is to protect workers who have commenced a “precarious” employment relationship and to increase gender equality in terms of segmented labour markets. The scope of personal protection by labour regulation and the legal framework that regulates labour market institutions had been moving with an exponential growth experiencing their expansion in the period after World War II. Since the World War II, industrial relations and individual employment relations in the European countries are characterized by stability and social protectionism. The average growth rate of Western European countries in the period between years 1950 – 1973<sup>3</sup> amounted to 4.8% (Temin, 2002). The most of the individual

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<sup>3</sup> This period is known as “The golden age of capitalism”, a term used by the French economist and sociologist J. Fourastié, in the essay “*Les Trente Glorieuses*”(Paris, les Editions Fayard, 1979)

employment relations were based on the conclusion of permanent and full-time employment contracts, while the industrial relations were characterized by a relatively high trade union density ranging from 40 – 50 % (Lensch, 2004).

The structure and the dominant characteristics of employment relations in the aftermath of World War II, led to the establishment of a “standard employment” model that shaped the gender relations, i.e. the relations between men and women in the labour markets and beyond them. The archetypal model of the post-war employment can be depicted through several different examples. The first example can be displayed through the existence of a “*full - time worker (working from 9.00 to 17.00, five days a week from Monday to Friday), under a contract of indefinite duration, who is engaged in a bipartite relationship with an employer and works on the employer’s premises*” (McCann, 2008). The archetypal employment model resumes illustrating that the “*standard workers perform well-determined tasks in a large production unit in a subordinate position to the employer or representative of the employer*” (Bronstein, 2009). Finally, the last example arising from the archetypal standard employment model refers to the gender equality of men and women, classifying *men as “family breadwinners” and women as “family caregivers”* (Messenger, 2009). It means that the standard employment model reflects the need to protect the interests and lifestyles of male workers who work in the age of heavy industrial production. The period of industrial revolution and the period after World War II (although with a weaker intensity) were dominated by the homogeneity of the labour force and a homogenous division of the working age population composed of men (as heads of families and breadwinners of households) and women (as caregivers of families and persons in charge of the household duties). Such a division of labour influenced the establishment of the so-called “gender contract”. The gender contract is a normative framework that underlines the gender division of paid work in the labour markets and unpaid work in the households (Rubery, 1998). This contract is founded on the assumption that men have gained the role of family breadwinners with a need to commence a standard employment relationship that will enable them to obtain a sufficiently large “family wage” in order to take care for the whole family. On the other hand, the gender contract envisages legal and social norms that cause a withdrawal of women from the labour markets and assume that their main social role is the one related to family care and unpaid family work. Hence, we conclude that the archetypal policies for labour division and the standard employment relations are directing women towards achieving the traditional objectives for biological and social reproduction, reducing their employment opportunities and jeopardizing their right to equal participation in the labour markets.

“The golden age of capitalism” was ended by the occurrence of the oil crises in 1974, which *inter alia* spelled the end of the chip energy era. Such a situation initiated the changes in the course of the orthodox economic ideology which directed the theoretical debate in the developed countries towards deregulation of the labour regulations.

The new economic environment was the cause of multiple changes in the system of regulation (or deregulation) of labor market institutions and industrial relations. These changes have occurred as a consequence of: globalization, changes in the structure of the economic activities, technological changes, changes within the organization of production and the growth of unemployment rate (Bagič, 2008). Additionally, changes in the industrial relations are characterized by a rapid decline in the level of trade union density and collective

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bargaining coverage.<sup>4</sup> All that, influenced the establishment of some specific processes such as the labour market “flexibility”, “deregulation” and “individualization”, having led to an increase of the non-standard employment relations at the expense of the standard employment relations.

The non-standard employment relations<sup>5</sup> have become the antipode of the standard employment relations. They differ from the standard employment relations along one or more axis that include: the “employment status” of the employees, the duration and organization of working time and the length and location of the employment.

Finally, contemporary employment relations have caused transformation of the classical structure of the gender contract and the traditional labour division in the families. The introduction of the possibility to establish a “non-standard employment relationship” (as the part time employment) and the incorporation of gender – sensitive policies and measures (such as the right to reconcile professional responsibilities with family duties and the right to equal pay) can contribute to an increased labour market participation of women and expanded inclusiveness of labour legislation. The policies for gender equality and equal treatment between men and women can cause a transformation of the standard employment relations leading to a higher flexibility and adaptability to different conditions and needs of the households and labour markets. The traditional “*male – family breadwinner / female – family caregiver*” model is being transformed in a “*male and female – family breadwinners (dual breadwinners) / female – family caregiver*” model, with a tendency to evolve into “*dual breadwinners / dual caregivers*” model. Besides the evident progress in reducing gender inequalities in the labour markets, labour law and employment legislation have not yet achieved the goal for gender equality between men and women in the households, i.e. beyond the labour markets. Hence, female workers often opt for less quality forms of employment (such as part time employment) in order to reconcile their professional obligations with the family commitments.

## **2. Global and comparative overview of the working time policies and gender inequalities**

### **2.1 Gender inequality and the position of women in the labour markets (conditions and empirical experiences)**

The gender inequality produces negative implications in terms of workers’ labour market productivity, and influences the uneven distribution of resources between men and women. Such a situation has an impact on non-monetary aspects of poverty line causing a lack of confidence and employment prospects for women.

Theory and empirical indicators find five essential conditions through which the status of women in the global labour markets can be displayed. Such conditions are:

- women’s increased participation in the labour force
- the modest earnings of women and the income gender inequality

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<sup>4</sup> According to the statistical database of [www.worker-participation.eu](http://www.worker-participation.eu), the average union density in the EU is estimated at 23%.

<sup>5</sup> Theory establishes several different synonyms that can define this term. Those include: “atypical” employment relations, “flexible” employment relations, “precarious” employment relations and the like.

- continuing occupational segregation between male and female workers
- women's continuing struggle to reconcile employment and family responsibilities and
- women's concentration in the informal economy (Cornish, Faraday and Verma, 2006)

The contemporary labour markets have identified an *increased participation of women in productive labour activities*. The inactivity rate of the working age population in the EU-28 countries has declined from 31.4 % to 28.3 % (approximately 3%) in the period between years 2002 – 2013. The main cause for the decline in the inactivity rate of the population is the growing participation of women in the labour markets, i.e. the lowering of the inactivity rate of women from 39.6% to 34.5%. These parameters also affected the reduction of the average gender employment gap, which amounted to 16.4 % in 2002 while in 2012 it was 12.4 % (Source: <http://epp.eurostat.ec.europa.eu>)

*The modest earnings of women and the gender inequality* in the distribution of income is the second condition faced by women within the contemporary labour markets. The statistical data in the EU-28 countries indicates that the average income gap between men and women in 2012 was estimated at 16.4% (Source: <http://epp.eurostat.ec.europa.eu>)

Empirical experiences have identified multiple different reasons due to which there is an income gap between male and female workers. Such reasons are: direct and indirect discrimination practices against female workers; women's occupational engagement in jobs and economic activities which are paid relatively lower compared to wages which are paid for the jobs and economic activities dominated by male workers; limited access to trainings and career opportunities in the workplace which affect the structure and system of the payment of women; under representation of women in managerial jobs and need to reconcile the professional responsibilities with family duties.

Part of the causes that influence the gender pay gap can be analyzed independently from the category "gender income inequality". Thus the *gender segregation in labour markets* encompasses occupational and sectoral division of employment and activities of male and female workers which affect their level of gender equality in the labour markets. The gender segregation may occur in several different forms, including: horizontal, vertical and hierarchical segregation. Statistical data from 2007 illustrates that the average level of occupational segregation between men and women in the EU-27 was amounted to 25.3%, while the average level of sectoral segregation accounted for 18.3% (Bettio and Verashchagina, 2009). The theory and practice have identified numerous different causes that shape the gender segregation and prove the existing statistical indicators. Such causes are: comparative "biological" advantages between male and female workers for the employment in particular occupations or sectors; unequally deployed investments in human capital (education and training) between men and women; different preferences of men and women; the existence of prejudices, stereotypes and different levels of socialization; labour market entry barriers and the obstacles deriving from the inadequate organizational practices.

The policies for reducing gender inequalities are in a direct correlation to the need of improved reconciliation between professional obligations and family life of employees. The main reasons for the introduction of policies for enhanced work-family balance are: the increased labour market participation of women, the rise of non-standard employment relationships, the intensification of work, the aging of people and the changes in the



archetypal types of families. The reconciliation of professional obligations with the family commitments of workers could be implemented through numerous measures and policies that can be found in comparative legislations and practices. Those measures and policies include the establishment of: appropriate leave policies which will be flexible enough to meet the needs of workers with family responsibilities; various facilities and social security benefits; workers oriented forms of working time flexibility; improved social care services and better social infrastructure and measures to reduce the unpaid work. (International Labour Office, 2011).

Finally, the position of women in contemporary labour markets can be illustrated through their engagement in the *informal economy*. There are two dominant theories that attempt to explain the reasons which lie behind the need of workers to orient towards self-employment (Messenger, 2007). The “career”, or “pull” theory asserts that workers are pulled into self-employment because of their skills and capabilities as well as their needs for improved autonomy and flexibility in the work. Conversely, the “default”, or “push” theory holds that the workers are oriented towards self-employment when they are faced with a deficiency of decent opportunities for commencing a “subordinated” employment relationship within the formal labour market.

The “pull” theory refers to the highly qualified workers who work excessively long hours in order to maximize the returns to their human capital. On the other hand, the “push” theory refers to the category of low skilled and low paid workers who work with extremely variable working hours depending on the volume of work in different periods of time. Studies have shown that these workers usually work less working hours.

Besides traditional theories that determine the self-employment and predominantly concern male employees, the literature refers to the so-called “gender theory” which focuses on the conditions of women in self-employment. Presuming that the legal nature of self-employment differs from the legal nature of “subordinated employment relationship” which is covered by the labour legislation, the “gender theory” is built on the principles of flexibility in the regulation of working conditions. It means that self-employed persons are independent in setting their working hours and the period in which they will perform their working activities. Therefore, this theory is particularly applicable to women with children who require an improved reconciliation of their professional activities with the family duties.

## 2.1 Working time policies that promote gender equality between men and women

Time is a unit of measurement in life and professional cycles of people. The working time (as one of the main institutes of the Labour Law) is a mechanism for quantifying the number of hours in which employees perform their duties. Modern Labour Law theory faces a difficulty in defining this institute, because of the more flexible dichotomy between the boundaries of “working time and time for rest” (Kovačević, 2013). Between these boundaries, there is the incidence of the “on call” and “standby” arrangements that make the definition of working time and its separation from the time for rest more difficult.

Working time issues are at the heart of the labour law debate since the early start of the industrial revolution. The development of working time policies can be illustrated through three historical and evolutionary phases.

The *first phase* in the regulation of working time had occurred as a direct consequence of the “laissez faire” model and the unlimited number of working hours that generated numerous workplace accidents. Hence, the period immediately after World War I was marked by the universal regulation of the working time within the frames of the international and national labour legislations. This period is characterized by the adoption of the International Labour Organization (ILO) *Hours of work Convention*, No.1 of 1919, which limited the hours of work in industrial undertakings to eight in the day and forty-eight in the week. An identical standard in terms of the duration of working time was established for the workers in commerce and offices. This standard was set by the ILO *Hours of work (Commerce and Offices) Convention*, No.30 of 1930.

The *second phase* includes the period of time beginning shortly before the World War II and lasting until the onset of the economic crises triggered by the oil shocks that occurred in the seventies of the twentieth century. The main feature of this phase is the further reduction of working hours that were institutionalized in the ILO *Forty hour week Convention*, No.47 of 1935 and the *Reduction of hours of work Recommendation*, No.116 of 1962. These labour international standards are aimed at stimulating the employment and promoting advanced work-life balance of employees.

The *third phase* in the regulation of working time occurs in the seventies of the twentieth century and lasts until today. This period has been marked by the tendency for further reduction of the working hours, introduction of flexible forms in the organization of working time and strengthening the work-life balance policies. The international labour standards that regulate the working time consist of two basic legal acts such as the *Workers with family responsibilities Convention*, No.156 of 1981 and the *Part time work Convention*, No.175 of 1994. These regulations reaffirm the ILO’s commitment to promote mechanisms for improved work-life balance and increased inclusiveness of labour markets through the provision of quality part-time work.

The working time is one of the most significant instruments aimed at reducing gender inequalities between men and women. It contains a multidimensional mechanism which affects women’s conditions of work in the labour market and it focuses particularly on: increasing the participation of women; reducing the gender pay gap; decreasing the occupational and structural gender segregation between men and women; improving the reconciliation between the professional responsibilities and family commitments of workers and reducing the concentration of women in the informal economy.

### 2.1.1 Policy goals of the working time regulations and measures to reduce gender inequalities

In theory, there can be encountered several key objectives arising from the working time policies. These objectives are in a favor of increased gender equalities among men and women inside the labour markets and beyond them.



**Table 1:** Policy goals of the working time regulations (*Fagan, 2009*)

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**FIRST GOAL** – minimizing any obstacles deriving from the working time regulations and organization, in order to increase women’s participation in labour markets and their employment rates

**SECOND GOAL** – reducing the constraints arising from the working time regulations and organization, which are related to the possibility of women to access to managerial positions and other professions and sectors that are predominately represented by men

**THIRD GOAL** – developing working time schedules that can improve the quality of the work-life balance and reconciliation between professional obligations and family commitments of employees

**FOURTH GOAL** – equal treatment of full time and part time workers, including the possibility to transform the full time work into part time work in different phases of the life courses of workers

**FIFTH GOAL** – adjusting the working time schedules of men to the needs of the family and increasing the participation of men in family responsibilities or redefining the gender division of labour within the family

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The basic goals that determine the working time policies can be implemented by several different measures and activities. Common denominator of all these measures and activities is the need to reduce the gender inequalities between men and women.

*First two goals* of the working time policies refer to the need to increase female integration in the labour markets. These goals can be implemented through the following measures: *collective working time reduction* and *increased possibilities for quality part time work*. The *third goal* of the working time policies include the creation of appropriate working time schedules aimed at establishing and deepening the work-family balance. Such a goal can be realized using the following measures: *incorporation of autonomous and flexible working time arrangements*; *introduction of leave policies* (such as parental leave, paternity leave and other leaves related to the care of children); *efforts to synchronize the operating hours of child care services* (kindergartens, elementary schools) *with the working time arrangements of workers with family responsibilities* and etc. The *fourth goal* is an extension of the previous three goals and it concerns the introduction of the principle of equal treatment between full time and part time workers, including the possibility of a transformation of the working time in different life stages. Finally, the last goal refers to the need to adjust the working hours of men in order to increase their presence within the family and their share in the family responsibilities. The realization of this goal presupposes special incentives directed

towards male employees in order to reconcile the professional responsibilities with their family life. Such a measure is the *non transferable right to paternity leave* (Messenger, Fagan, 2009).

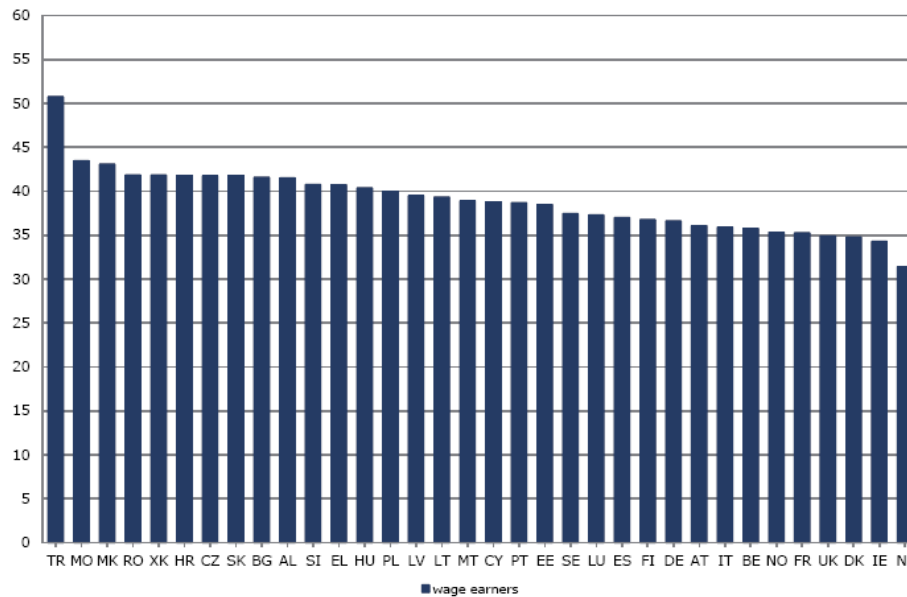
The basic goals of the working time policies and the measures and activities directed towards the implementation of these goals, establish a very narrow connection among themselves and they are found in a causal relationships. In the following section, we pay a particular attention to the collective reduction of working hours as a possible measure for overcoming the gender inequalities.

#### 2.1.1.1 The collective working time reduction as a possible measure to decrease the gender inequality

The tendency for a continuous reduction of the normal working time is one of the basic measures of the countries aimed at stimulating a higher level of social equality which includes the gender components of the working hours (Schultz and Hoffman, 2006). The regulations on collective reduction of working hours have a positive impact on both the occupational safety and the health of people that work shorter but more productive working hours and the reconciliation between professional obligations and family life. A comparative review of different national labour legislations may lead us to a variety of working time systems aimed at limiting the duration of working hours. In most of the countries, the legislation determines the normal weekly working time (Blainpain et al, 1995). The findings from the analyses of the European countries' national legislations regulating normal working hours demonstrate an increased level of convergence in setting the weekly limitations on the number of hours of work. The scope of working hours which is determined by the statutory normal working time ranges from 35 hours per week in France to 45 hours per week in Switzerland and Turkey. The majority of the European countries stipulate a normal (full) weekly working time that extends to a maximum of 40 hours. Belgium envisages a normal (full) weekly working time of 38 hours, while five other European countries (Cyprus, Germany, Ireland, Malta and Great Britain) have established a normal weekly working time of 48 hours which includes overtime (Source: <http://www.ilo.org/travail/lang--en/index.htm>). The establishment of the upper ceiling and the maximal limitations to restrict the duration of working hours are the initial basis for ensuring a healthy, safe and socially acceptable working time. Still, more appropriate indicators illustrating the gender dimensions of working time are the *average working time* (which comprises the actual hours of full time and part time work) and the *distribution of working hours* (which displays the gender classification of workers who work with different hours of work).

The average working time is based on the working hours of full time and part time workers. This analysis takes into account the average working hours of the "wage employees" solely, and it does not take into account the employment rates in different countries. In other words, some countries might have long working hours for currently employed persons but a low participation rate, while other countries might have shorter working time but higher employment rates.

**Graph No.1** (Average weekly working hours of male and female wage earners in Europe)

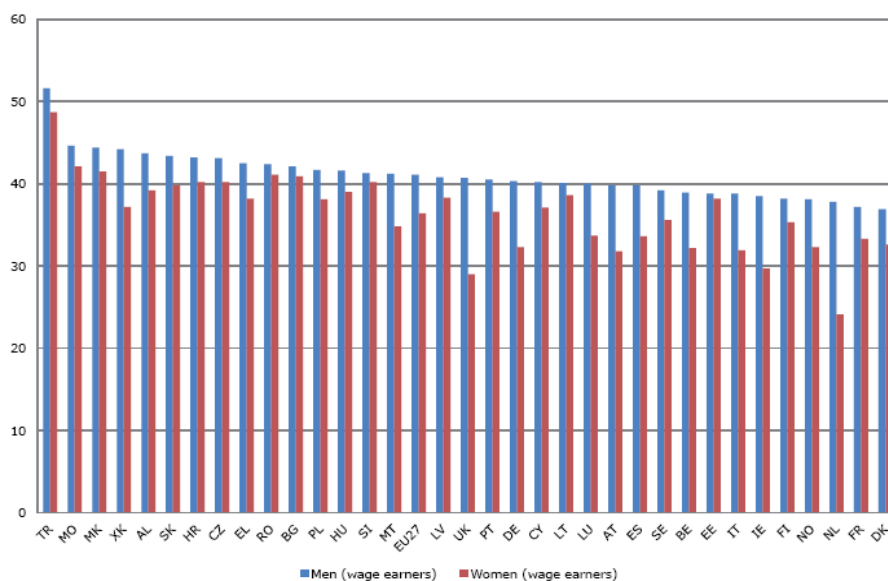


Source: EWCS 2010, own calculations

Source: (Eurofond, Working time and work – life balance in a life course perspective, 2012).

*Graph No.1 illustrates the average weekly working time for female and male wage earners in 34 European countries. The basic conclusion that can be drawn from the analyses of the data is that there is an evident gap between the average working hours of south-east and north-west European countries.*

**Graph No.2** (Average weekly working hours of male and female wage earners in Europe, by gender)



Source: EWCS 2010, own calculations

Source: (Eurofond, Working time and work – life balance in a life course perspective, 2012).

*Graph No.2 displays the average working hours of women and men in Europe. The basic conclusion that can be drawn from the analyses of the data depicted in Figure No. 2 is that on average men work longer working hours than their female counterparts in all European countries. However, the extent of the gender time gap differs across European countries.*

The analyses of the distribution of working hours enables us to determine the organization of working time and concentration of working hours among male and female workers. The distribution of working hours does not have a unified pattern. Therefore, we are frequently witnessing a mismatch between the standard working hours (displayed through the legal structure of normal working time) and the actual working hours of workers. The mismatch results from the gap between the excessively long working hours and the short working hours that frequently create the so-called “underemployment”. The gap between standard and actual working hours has gender implications affecting the gender equality between men and women in the labour markets and beyond them. In theory, the binary division of the working time on a “very long working hours” and “very short working hours” is known as a bifurcation of working time. The bifurcation of working time usually results from “a new *occupational divide* between jobs that demand excessively long days and jobs that provide neither sufficient time nor money to meet workers’ needs” (Schultz, 2000). Such a situation leads to a concentration of working hours at the margins of the working time, contributing to the occurrence of the so-called “overemployment” and “underemployment” of workers. Starting from the “gender contract” and the still prevailing “dual earners / female caregiver” model, we have come to the conclusion that the “overemployment” is more common for male employees, unlike the “underemployment” which is more common for female employees. The “overemployment” presupposes long working hours for one of the spouses (usually the husband) while pressuring the other spouse (usually the wife) to reduce the number of working hours in order to take care of the family and the household. Conversely, the “underemployment” reduces the economic power of one of the spouses (mostly women) due to the insufficient number of hours of work, while pushing the other spouse (usually the husband) to work excessively long working hours in order to satisfy the material and financial needs of the family. So, in both of the instances (“overemployment” and “underemployment”) the sacrifice of certain preferences of the spouses is quite evident because on the one hand (mostly among women) there is a reduction of the professional perspectives, and on the other hand (mostly among men) there is a reduction of the time spent with the family. Hence, we can conclude that the bifurcation of working time usually produces adverse implications on the equality of the distribution of working hours between men and women affecting the gender equality in the labour markets and beyond them.

The theory identifies several different typologies of working time regimes based on the extent of the gender equality in the distribution of working hours between men and women (Conaghan, 2006). Identifying the historical and evolutionary models of working time in countries with a liberal orientation, Deborah Figart and Ellen Mutari have identified the following working time models:

- the male breadwinner model
- liberal flexibilization
- high-road flexibilization and
- solidaristic gender equity model

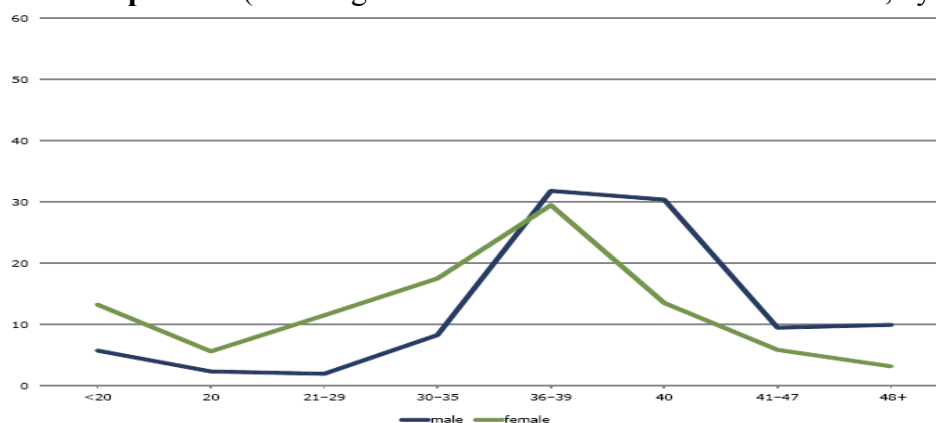
The *first model* occurs during the industrial revolution. This model is characterized by the excessively long working hours performed by the male employees who work in the factories and the industry of heavy production. The *second model* corresponds to the market deregulation policies that were intensified between the eighties and the nineties of the last century. This model is characterized by a reduction in the gender segmentation of labour enabling an increased access of women in the labour markets. Yet, women are commonly subjected to a marginal part time work and they are exposed to “underemployment”. The *male breadwinner model* and the *liberal flexibilization model* are classified as models with low gender equality in the organization of working time and distribution of working hours. The *third model* is based on the assumption that workers and employers have increased control over the organization of working time and production processes. This model can be classified as a model with high gender equality and it tends to strengthen the reconciliation between the needs and preferences of workers and employers regarding the organization and distribution of the working hours. Yet, the relatively weak regulatory framework and the poor legislation on protection of workers who are faced with “overemployment” or “underemployment” can limit the level of gender equality between men and women. Finally, the *solidaristic gender equity model* is founded on the concept of equal distribution of working hours between male and female employees. This model can be classified as a “high road” gender equality model.

The theoretical basis of the aforementioned working time models and their levels of gender equality are set by the regulatory systems with a dominant liberal tradition. The attempt to make an integral typology of the working time distribution systems and their gender features, would lead us to the classification of five working time clusters such as:

- Northern cluster
- Liberal-market oriented cluster
- Continental and southern cluster
- Central and eastern European cluster
- Residual cluster

These clusters are based on the grouping of European countries that share similar or identical characteristics in terms of gender distribution of working time. Below, we illustrate the three clusters of working time distribution through which we display the most significant differences in the gender dimensions of the distribution of working time among the countries.

**Graph No.3** (Working time distribution in the Northern cluster, by gender)

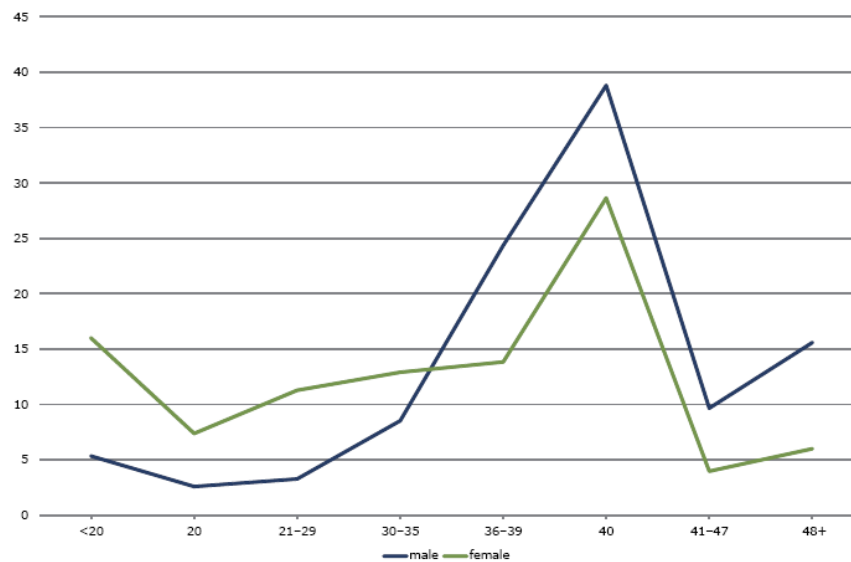


Source: EWCS 2010, own calculations

Source: (Eurofond, Working time and work – life balance in a life course perspective, 2012).

The northern cluster sets a fairly egalitarian concentration of working hours of men and women within the zone between 36 and 39 hours. While men are represented by 32%, women comprise 30% of the total number of employees within this block. This can lead to the conclusion that the working time in the Nordic countries has a tendency towards a collective reduction of standard working hours and increased gender equality in the distribution of working time. Still, the distribution of working hours at the margins of the working time (up to 20 hours and over 40 hours) underlines the gender differences between male and female employees, i.e. the greater representation of women within the “marginal part – time work” and the greater representation of men within the “longer working hours” section.

**Graph No.4** (Working time distribution in the liberal market – oriented cluster, by gender)

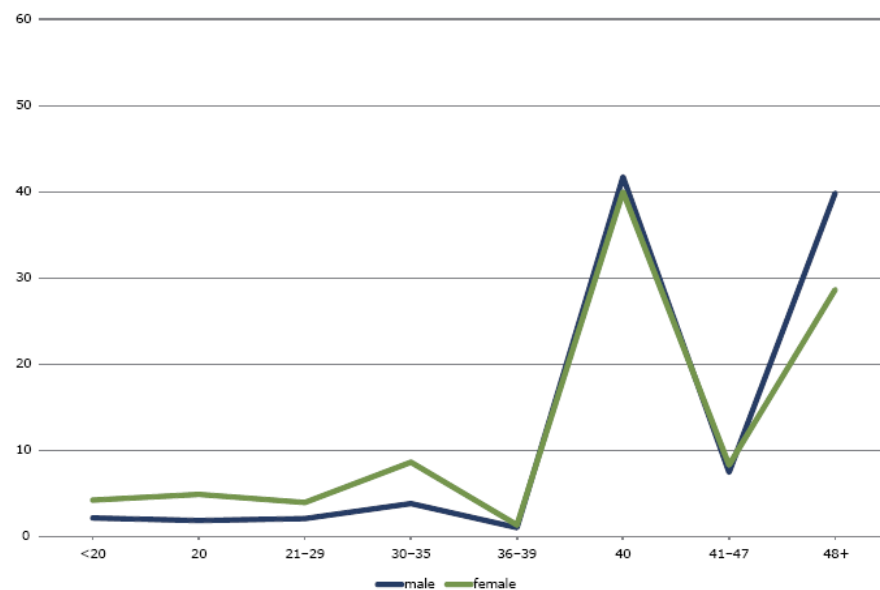


Source: EWCS 2010, own calculations

Source: (Eurofond, Working time and work – life balance in a life course perspective, 2012).

The liberal market-oriented cluster displays a greater gender inequality in the distribution of working hours between men and women. The gender disparities within the standard working hours (40 hours per week) extends to 10 percentage points (39 % of men compared to 29% of women work standard working hours). The unequal distribution of working hours can be perceived within the margins of the working time as well. Thus, nearly 25% of the women are working very short hours, compared to only 8% of men. Conversely, remarkable is the high incidence of men working extremely long hours (48 hours or more per week) compared to women. It means that 16% of male work extremely long working hours compared to 6% of female workers. Similar data can be identified in the continental and southern cluster, where 44% of women work less than 35 hours of work, while over 80% of men work longer than 35 hours of work per week.



**Graph No.5** (Working time distribution in the residual cluster, by gender)

Source: EWCS 2010, own calculations

Source: (Eurofond, Working time and work – life balance in a life course perspective, 2012).

Both continental and southern clusters, as well as the residual cluster (composed of the non EU member countries) have displayed similar conditions. The main feature of these clusters is the high concentration of male and female working hours within the standard working time (which equals to 40 hours) and the low distribution of working hours within the lower margin, i.e. short working hours. The data analyses of the residual cluster indicates that 42% of men and 40% of women are engaged in a standard (full) time work unlike the continental and southern cluster where men and women (with more than 50%) are identically engaged in the standard (full) time work. Still, the main feature that distinguishes the residual cluster from all other clusters (including the continental and southern cluster) is the large concentration of the working hours in the zone of excessively long working time. *Data show that 40% of men and nearly 30% of women report that they work at least 48 hours per week.* The data analyses of the residual cluster lead us to the conclusion that there are no large gender gaps in the distribution of working hours within this cluster unlike some other clusters. Yet, this situation is not a benchmark for the “gender equality” of the residual cluster countries, but it is a result of the low labour market participation and employment rate of women. The part time work incidence in nearly all ex-communist countries is at a low level, ranging from 2.6% in Bulgaria to 10.4% in Slovenia. The residual cluster displays other adverse conditions that generate negative implications in terms of both the occupational health and safety of workers and the reconciliation of professional obligations and family life. The practice of working extremely long hours of work confirms the adverse impact of the long working time on the occupational health and safety and the work-family balance of workers, regardless of the gender belonging.

The conclusions arising from the overall analysis of the average working time and the distribution of working hours among workers, determine that the countries are facing a gap between the standard (normal) working time stipulated by the labour legislation and the

actual working time which is implemented in the practice. This gap is widening in terms of the gender dimensions of working time that display the concentration of women's working hours in the bottom margin while men's working hours are concentrated in the upper margin of the working time. Countries that have the most evenly distribution of working hours in the standard working hours zone (40 hours) are countries with a relatively lower employment rate of women.

Additionally, these countries record an increased participation of workers in the "excessively long working hours" zone, which is contradictory to the tendency of collective reduction of working hours. We believe that the legal interventions for reducing the normal working time and the countries' measures and policies aimed at stimulating more equitable distribution of working hours would inevitably lead to increased gender equality in the organization of working time. The collective working time reduction accompanied by a re-regulation aimed at improving the quality of the part time work will contribute to an enlarged concentration of both men and women in the decent working time zone. Such a situation will level their preferences and will improve their possibilities to obtain better financial prosperity and enhanced dedication to the families.

### **3. Analysis of the legislation and practices on the organization of working time in the Republic of Macedonia (finding the level of employees' and employers' preferences for a "flexible" working time)**

The gender inequalities in Macedonian labour market can be noticed by a simple overview on the basic statistical indicators.

The employment rate of the Republic of Macedonia in 2012 was estimated to 48.2 % which is far below the EU 28 average employment rate of 68.4%. Besides the gap in the rate of employment, there is an evident gender employment gap at the same time. Gender dimensions of the employment rates identify a gap among men (employment rate estimated at 57.5%) and women (employment rate estimated at 38.7%), compared to the EU 28 where the average employment rate of men is 74.5% while the employment rate of women is 62.3% (Source: <http://epp.eurostat.ec.europa.eu>)

It is notable that the Macedonian labour market is characterized by a lower total employment rate, lower employment rate of women and a more significant gender employment gap compared to the EU 28 countries.

The introduction of the innovative, "flexible" organization of working time and the measures aimed at enlarging the work-family balance may facilitate the increase of the women participation on the labor market and contribute to reducing the gender employment gaps.. The employee oriented working time flexibility enables the approximation of the desired working hours to the individual needs and preferences of workers. Still, such a situation correlates to the existence of a proper legal and institutional framework.

The institutionalisation and implementation of the policies for enhancement of work – family balance in the Republic of Macedonia are in their initial phase. At the same time, insignificant is the scope of research and analyses that pertain to the flexible organization and the alternative forms of working time distribution in the Republic of Macedonia.

### 3.1 Research methodology

This research entails overview of the existing regulations and practices that regulate the working time in the Republic of Macedonia. The analysis of the existing regulations governing the working time shall cover: Labour Relations Act (*lex generalis*), the specific laws in the public and private sector (*lex specialis*), secondary legislation and collective agreements. Primary focus of the analysis is labour legislation (i.e Labour Relations Act) and statistical overview of particular working time schedules, while provisions concerning the flexible working time which are stipulated in specific laws in the public and private sector, secondary legislation and collective agreements form an integral part of the final conclusions and recommendations of the paper.

The analysis of the current practices for working time arrangement, on the other hand, is based on a number of key interviews. These are the ground for identification of the level of knowledge, understanding and willingness for introduction and implementation of innovative, i.e. “flexible” forms of working time arrangements. The key interviews are made with several representatives of the social partners (trade unions and associations of employers), as well as representatives of certain state bodies and institutions. The key interviews with representatives of the trade unions cover: Dr. Živko Mitrevski, President of the Federation of Trade Unions of Macedonia (SSM); mr. Pavel Trendafilov, President of the Trade Union for Construction, Industry and Planning of the Republic of Macedonia (SGIP); Mr. Angelko Angelkovski, President of the Trade Union for Textile, Lather and Shoes Industry of the Republic of Macedonia (STKC); Mr. Goce Selovski, President of the Financial Activities Trade Union of the Republic of Macedonia (SFDM) and Mr. Ljubisha Karanfilovski, President of the Autonomous Trade Union for Health, Pharmacy and Social Protection of the Republic of Macedonia (SSZFSZ). As regards the key interviews with representatives from associations of employers, we analyze the interview with Mr. Angel Dimitrov, President of the Organization of Employers of Macedonia (ORM). The research entails interviews with representatives of human resources sectors of several companies. These interviews were made with the representatives of the following companies: Telekom AD Skopje – telecommunication services company; Centralna Kooperativna Banka AD Skopje; Construction Company Beton AD Skopje; EVN Macedonia – electricity distribution company in the Republic of Macedonia; Osiguruvanje Makedonija – insurance company and Komercijalna Banka AD Skopje. Integral part of the research constitute the interviews with Mr. Vlatko Popovski, Manager of the Employment Service Agency of the Republic of Macedonia (ESA) and Mr. Zlate Stojanovski, Manager of the Employment Department within the State Labour Inspectorate (SLI).

### 3.2 Review of the National situation in the Republic of Macedonia

#### 3.2.1 Working time in the labour legislation of the Republic of Macedonia

Working time in the Republic of Macedonia is governed by several regulations.

The Constitution of the Republic of Macedonia<sup>6</sup>, as the highest legal act does not contain explicit provision governing working time. It establishes a provision regarding the need to limit working time by guaranteeing the right to daily, weekly and annual leave.

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<sup>6</sup>Constitution of the Republic of Macedonia, Official Gazette of RM № 52 of 22.11.1991

According to the Constitution, each employee is entitled to a paid daily, weekly and annual leave. These rights of the employees are inalienable and they cannot renounce them.<sup>7</sup>

The primary source, which governs working time in the Republic of Macedonia, is the Labour Relations Act.<sup>8</sup> It is a general law functioning as a codifying regulation in the area of labour relations. Working time is a section of Chapter IX, titled “Working time”, and the following chapter (Chapter X) serves the same purpose and is titled “Rests and Leaves”.

Working time is analyzed using two basic criteria: *duration of working time* and *period of day/night when the working hours take place*.

For the purpose of this paper we focus solely to the criterion *duration of working time*, which relates to the maximum allowed duration of working time and the legal limitations related to its organisation. In this context, the Labour Relations Act sets forth the full-time (normal) work and a possibility of overtime or reduced working time.

**The full-time working time** relates to the weekly limitation of the working time duration and it shall not exceed 40 hours per week.<sup>9</sup> If working time is not determined by law or collective agreement, there is a presumption of full-time work. The law allows the possibility to reduce full-time work determined with the 40-hour limit in the course of one week. The lowest limit for reducing full-time work according to law or collective agreement is 36 hours a week.<sup>10</sup> Full-time work can be reduced under the lower limit (36 hours) as well, solely in the cases laid down by law, other regulations in accordance with a law or collective agreement and solely for the jobs with higher risk of injuries or health hazards.<sup>11</sup>

Apart from the full-time work, the Labour Relations Act also stipulates the shorter working time. The modifications and amendments to the Act from 2013 introduce the concept “part-time work”, which finally led to differentiating between the concepts of “reduced working time” and “part-time work”. The former refers to the reduction, shortening of the full-time work in order to protect occupational safety and health of the employees who work hard and strenuous jobs, i.e. employees with special needs. The latter, on the other hand, refers to making a flexible employment contract, where the employees exercise their rights (primarily payment) based on the principle *pro rata temporis*.

**Part-time work** refers to shorter than full-time work at the workplace.<sup>12</sup> The act equates the rights and duties of employees who entered into part-time employment contract time and those who entered into full-time employment contract. Part-time employees exercise the agreed rights and duties proportionally to the time period from the contract, except for those that are otherwise governed by law.<sup>13</sup> Nevertheless, regarding the annual leave, the act provides a minimum threshold of no less than ten working days in case of part-time employment. Finally, the act prohibits work longer than the agreed working hours, except in case of natural or other disasters.

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<sup>7</sup> Constitution of the Republic of Macedonia, article 32, paragraph 4

<sup>8</sup> Labour Relations Act, Official Gazette of RM № 62/05 of 28.07.2005

<sup>9</sup> Labour Relations Act, article 116, paragraph 1

<sup>10</sup> Labour Relations Act, article 116, paragraph 2

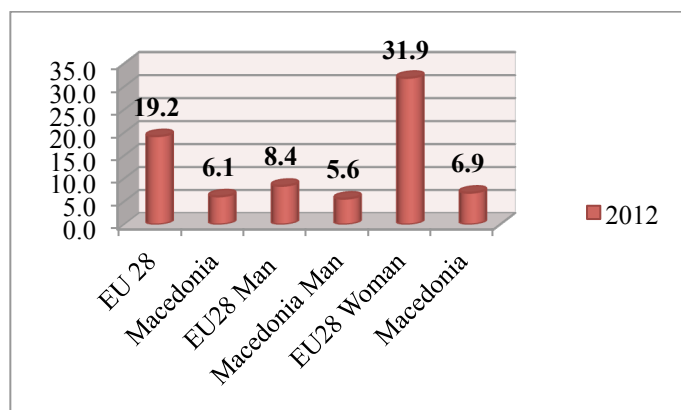
<sup>11</sup> Labour Relations Act, article 116, paragraph 3

<sup>12</sup> Labour Relations Act, article 48, paragraph 2

<sup>13</sup> Labour Relations Act, article 48, paragraph 3

Data taken from the Labour Force Survey conducted by the State Statistical Office of the Republic of Macedonia in 2012, show that 93,9% of the total number of employees work on a full-time basis, compared to 6,1% of the total number of employees that work on a part-time basis. The indicators for part-time work show significantly lower average in this form of work than it is the case with the EU28 average, at the level of 19, 2%. The gender dimension of the part-time employees shows that 6, 9% of the total number of employed women work on a part-time basis, compared to 5, 6% of the total number of employed men. This proportion follows the EU-28 trend, where the participation of part-time female employees is higher than the participation of part-time male employees. Still, the average share of part-time female employees is significantly lower than the average share of this category of women in EU-28 reaching 31, 9% of the total number of women, compared to 8,4% of the total number of employed men.

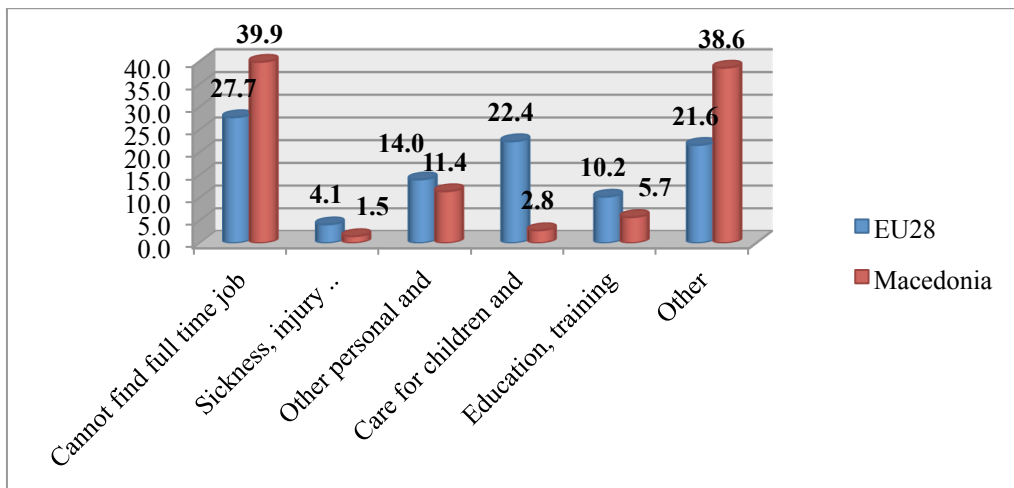
**Graph 6: (Part-time employees in Macedonia and EU-28)**



Source: Eurostat, <http://epp.eurostat.ec.europa.eu>

In terms of the educational attainment, 73% of the part-time employees in the Republic of Macedonia are with elementary and three- or four- years secondary education. The gender analysis of the part-time basis employment, in terms of the same criterion – educational attainment, points to an approximately balanced share of men and women at all different levels of education.

As regards the economic status, 27% of the total number of part-time employees belongs to the category paid employees, 35.5% are self-employed, 35.5% are unpaid family employees and 2% are employers. The distribution of the part-time employment per sectors shows dominant share of the part-time employees in Agriculture, Forestry and Mining, anticipating 55% of the total number of part-time employees. Further on we will analyze the reasons for part-time employment. A dominant reason for part-time employment is the “impossibility of finding full-time employment”, with a share of 39, 9%. This datum shows that the majority of the part-time employees in the Republic of Macedonia, “involuntarily” entered into such employment. For comparison, the “involuntary” part-time employment in EU-27 totals 27, 7%. Moreover, we ascertain a huge gap in the indicator – child care or elderly care, as a reason for part-time employment. While in the Republic of Macedonia, only 2, 8% of the total number of employees state this ground as a dominant reason for part-time employment, child care and/or elderly care in EU-28 reaches 22.4% and is the second most significant reason for part-time employment.

**Graph 6: (Reasons for part-time employment in Macedonia and EU-28)**

Source: Eurostat, <http://epp.eurostat.ec.europa.eu>

The data provided by the State Statistical Office also show segmentation of the working time in terms of the usual number of working hours. The usual number of working hours is divided in three categories: up to 20 working hours, from 20 to 40 working hours and 40 and more working hours. Approximately 59% of the employees work at 21 to 40 hours/weekly basis, 37.7% at 40 and more basis and 3.3% to 20 hours per week. The gender dimension points to non-existence of significant discrepancies between male and female in these categories, except for the category up to 20 working hours where the share of women is higher than the share of men.

Working time may be longer than the full-time hours. In that case, the act sets forth provisions pertaining to overtime work, extra working hours in cases of natural or other disasters and extra work with part-time work for another employer with a prior consent of the employers where the employee works full-time. Working time which may be longer than the full-time work applies also in the cases of redistribution of working time and shift work. These forms of distribution, i.e. working time arrangement are analyzed in the respective section of this study.

The provisions on **overtime work** in the act define the maximum duration of working time. The act defines the reasons due to which overtime work can be organized, as follows: exceptional increase of the volume of work; need for continuation of business or production process; eliminating damages of the work equipment, which would otherwise result in suspension of the operations; safety of people and property, and the security of turnover, as well as in other instances laid down by law or collective agreement<sup>14</sup> Employees are bound to work overtime upon request of the employer; however, the employer is obligated prior to each introduction of overtime work to notify the regional state labour inspector in writing. Labour Relations Act stipulates restriction of overtime work. It can be applicable on a weekly or annual basis. The restriction of overtime work is forty hours per week at the most. The restriction of overtime work annually is set at 190 hours at most, except for the jobs which due to the specific working process cannot be interrupted or which do not allow for organisation of work in shifts. Labour Relations Act provides restrictive provisions on the compensation of overtime work. Material indemnification of employees through raised salary

<sup>14</sup> LRA, article 117, paragraph 1



is the sole way of compensating overtime work, with no possibility of transforming overtime hours in days off. The act lays down the right to supplement to the salary for special work conditions due to scheduling of working time. The supplement to the salary is paid in cases of prolonged work (overtime work). The amount of the supplement for overtime work is laid down in the collective agreements.

Apart from the general restriction of overtime work which relates to all employees, the Labour Relations Act provides special restrictions that relate to special categories of employees.<sup>15</sup> The special restrictions are classified as absolute and relative ban of overtime work. The absolute ban of overtime work refers to several categories of employees, as follows: employees with reduced working time in special cases and special conditions; women, i.e. parents (during pregnancy, female employees with children under the age of one and fathers who look after children under the age of one in cases when the mother has died, abandoned the child or is incapable of independent life and work) and younger employees. The relative ban of overtime work refers to the following category of employees: women, i.e. parents female employees with children under the age of three; fathers who look after children from one to three years of age, in cases when the mother has died, abandoned the child or is incapable of independent life and work or one of the parents who lives with a child younger than the age of seven is seriously ill or is physically or intellectually disabled) and elderly employees. Unlike the absolute ban, the relative ban enables overtime work for the former category of employees, solely with prior written consent.

*Statistical data illustrates that 1.7% of the total number of employees in the Republic of Macedonia work overtime. It also refers to three forms of classification of overtime work: overtime work to 5 hours per week, overtime work from 6 to 10 hours per week and overtime work of 10 and more hours per week. 63% of the total number of employees belongs to the category of 6 to 10 hours of overtime work. 21% of the total number of employees belongs to the category of 10 and more hours of overtime work. 16% of the total number of employees belongs to the category of up to 5 hours of overtime work. The gender discrepancies are in favor of men, and most notable in the category of 10 or more hours.*

**Working time arrangement** is a less clear content of the working time. This conclusion arises from the poor terminological framework and difficulties in the interpretation of the legal norms for working time arrangement. The outcome of this situation is the insufficient degree of inventiveness of the employers for alternative working time arrangement and insufficient degree of motivation of employees to seek adjustment of working time to their individual, family or personal needs. The Labour Relations Act imposes terminological dilemmas concerning the concepts “scheduling” and “schedule” of working time. The interpretation of the legal provisions which govern these notions leads to the conclusion that “the scheduling of working time” includes the key aspects of working time arrangement (daily and weekly working time), whereas the “schedule of working time” is a technical issue in function of the employer in organising the working time.

The normal working time in the Republic of Macedonia, as a rule takes five working days per week.<sup>16</sup> The act explicitly provides for distribution of the normal (full) working time in fewer than five days a week, i.e. fewer than eight hours a day. In this case, the act sets three additional limits. *The first limit* relates to the minimum number of working days per week for distributing the normal working hours and it equals four working days. This limit

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<sup>15</sup> Labour Relations Act, article 120

<sup>16</sup> Labour Relations Act, article 116, paragraph 2

represents the lower limit, under which it is impossible to distribute normal working time. *The second limit* refers to the minimum number of working hours during the working day of the full-time employees. This limit provides that the employee cannot be scheduled for fewer than four hours daily. *The third* is a reaffirmation of the higher limit of the normal working time. This limit determines that during scheduling and temporary rescheduling of normal hours of work, this must not last for more than forty hours per week. The analysis of the previous assumptions of working time arrangement leads to the conclusion that the Labour Relations Act recognises implicit possibility for introduction of compressed working time which will provide for organisation of full-time work in fewer working days. The forms of limitation of full-time work lead also to the hypothetical possibility of introducing working time scheduled *in four working days* (for example from Monday to Thursday), where in the first three days (from Monday to Wednesday) the employees shall work for twelve hours and on the fourth day (ex. Thursday) the employees shall work for *four working hours*. According to this schedule, the remaining days of the week (Friday, Saturday and Sunday) shall be treated as days off.

The Labour relations act does not allow for introducing of “flexi – working time” and “time-banking”, if these models of working time arrangement provide for a transfer of the working time over the full-time hours (maximum of 40 hours per week) in the following week or other reference period. The schedule of working time is determined by the employer.<sup>17</sup> The law does not provide the type of act that sets out the schedule of working time. Moreover, the law does not provide any procedures on participation of the employees (informing, consulting or co-deciding) in the process of determining the schedule of working time. The labour legislation of the Republic of Macedonia also sets forth the notion of rescheduling working time.

Working time arrangement in the Republic of Macedonia may also be implemented by **redistribution of working time**. However, the standardisation of the redistribution of working time is unclear and confusing. Permissible reasons for redistribution of working time are the needs of the nature of the activity, i.e. duties and tasks.<sup>18</sup> We deem it necessary to enlarge and clarify the grounds for implementing redistribution of working time, which will provide differentiation of this model of working time arrangement from the overtime work. The legal qualification of redistribution of working time greatly depends on the legal restrictions associated with the maximum duration of working time and the reference period in which working time are levelled to the amount of the full-time work. Labour Relations Act stipulates that the redistribution of working time is done in a way that the total working time of the employee shall not exceed 40 hours per week in the course of the year.<sup>19</sup> Moreover, the act stipulates that the redistributed working times not considered as overtime work, which requires payment of supplement to the salary.<sup>20</sup> Based on this provision we conclude that the intention of the legislator is to introduce redistribution of working time based on the annual reference period. Nevertheless, it is a surprising fact that the Act does not contain provisions that limit the maximum duration of working time in the course of one working week. Hence, we consider that the provisions for a daily and weekly rest are legal grounds, which limits the duration of the working day, i.e. working week.

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<sup>17</sup> Labour Relations Act, article 125, paragraph 1

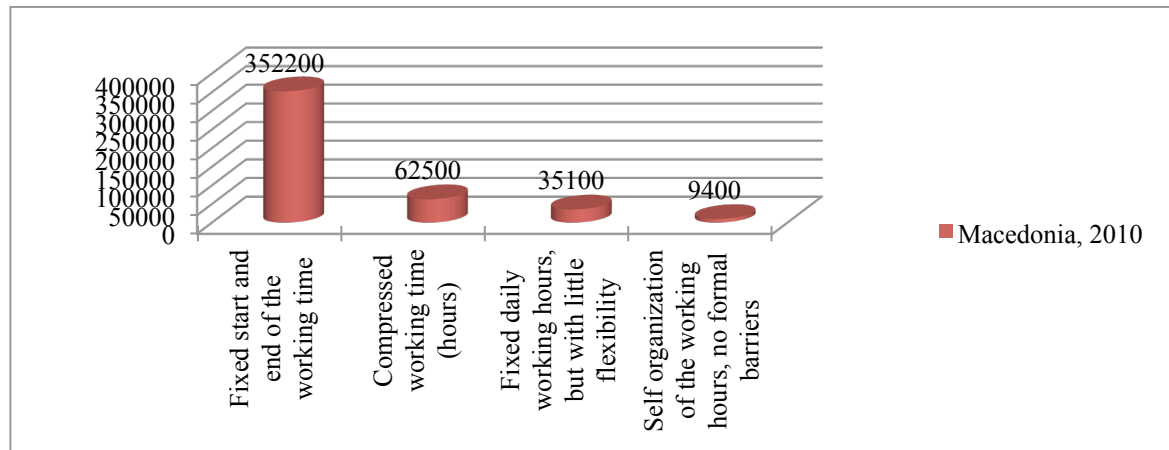
<sup>18</sup> Labour Relations Act, article 124, paragraph 1

<sup>19</sup> Labour Relations Act, article 124, paragraph 2

<sup>20</sup> Labour Relations Act, article 124, paragraph 5

Eurostat data on the Republic of Macedonia show that the “fixed working time” is a dominant form of working time arrangement in the Republic of Macedonia, i.e. working time with no variations in the starting and finishing times. On the other hand, the personal organization of working hours by the employees without formal barriers is the least common form of working time organization.

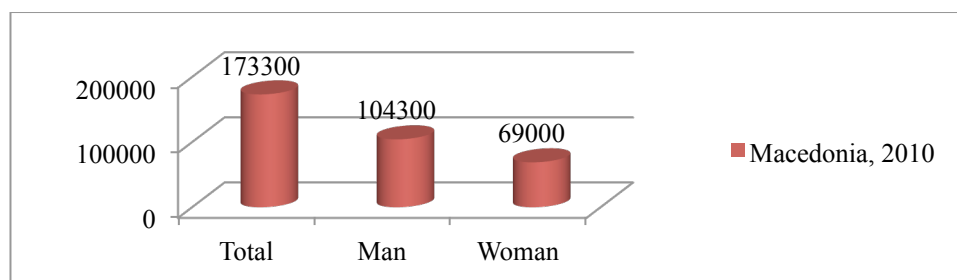
**Graph 7: (Employees according to the flexibility in working time arrangements)**



Source: Eurostat, <http://epp.eurostat.ec.europa.eu>

Data on the perception of the employees on the possibility for variations in the starting and finishing times of the working day show that 26.6% of the total number of employees in the Republic of Macedonia considers it possible, above all, due to family reasons. The analysis of gender participation, based on the preceding criterion, shows no significant discrepancies between the genders in terms of the perception on the variations in the starting and finishing times due to family reasons.

**Graph 8 (Number of employees by their perceived possibility to vary start and/or stop of the working day for family reasons)**



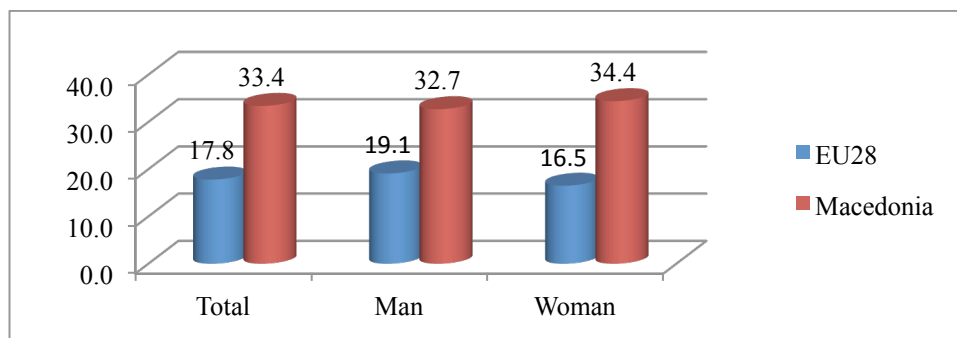
Source: Eurostat, <http://epp.eurostat.ec.europa.eu>

**Shift work** is a legally legitimate opportunity for working time arrangement. The law provides for an obligation for notification of the trade union at the employer level before introducing shift work that is before the implementation of the plan for organization of the work in shifts. Republic of Macedonia has a relatively insignificant trade union density, which covers approximately 1/5, i.e. less than 20% of the total number of employees. The basic trade union association is the trade union organization at branch level. This said, there is a small number of employers with individual trade union organizations. Having in mind the lack of institutional mechanism for participation of the employees in the working process and the insignificant number of individual collective agreements, we regard the method of

immediate notification of the employees or their representatives to be a relevant form of participation of the employees upon matters concerning working time arrangements.

*The analysis of the shift work shows that 33.4% of the total number of employees works at certain shift model basis. 67% of them are employees with three or four years secondary education. This indicator is significantly lower compared to the shift work indicator in EU-28 totaling 17.8%. The gender distribution of shift work in the Republic of Macedonia illustrates a higher participation of women in this type of working time arrangements, compared to men. The proportional share of men and women in the Republic of Macedonia, working in shifts, is almost similar to EU-28.*

**Graph 9 (Shift work - % of total number of employees)**



Source: Eurostat, <http://epp.eurostat.ec.europa.eu>

### 3.2.2 Working time arrangements (practices, desires and opinions of the social partners) – analysis of the conducted interviews

The findings from the interviews conducted represent a useful source of information illustrating the situation of the working time arrangements and the needs of the employees and employers for introduction of a flexible working time.

*The Federation of Trade Unions of Macedonia (SSM) is the most numerous trade union associations in the Republic of Macedonia acquiring the representativeness status pursuant the existing labour legislation. SSM seeks for compliance with the working time as laid down with the legal provisions. This, in particular, refers to the legal obligation for remuneration of overtime work, where, in practice, most of the problems emerge. The analyses by SSM point to frequent misuses of working time in practice. However, SSM agrees with the argument that the legal framework governing the working time is rigid and that the social partners need greater autonomy in the regulation of the working time. Moreover, SSM ascertains the need for modification of the legal framework in terms of redistribution of working time aimed at clarification of the provisions and setting the maximum number of working hours for limitation of the redistributed working time. Finally, SSM seeks earlier starting times, at least half an hour earlier than the usual practice in the Republic of Macedonia, being 8.30 or 9.00 a.m. According to SSM, the earlier starting times may stimulate better work and family balance, both in terms of arrival to and departure from work.*

*The Organization of Employers (ORM) is a representative association of employers in the Republic of Macedonia. ORM associates the larger corporative enterprises in the*

Republic of Macedonia, as well as a number of small and medium sized companies. ORM seeks for greater flexibility in working time. ORM points to the need for establishment of precise criteria for redistribution of working time. In a number of branches (for instance, textile and leather industry, construction, etc.) there are periods of increased and decreased working activity. Hence, the flexibility in a form of redistribution of working hours would reduce the operational losses. ORM states that the labour legislation and the manner of its interpretation do not allow modification in the number of working hours per day, whereas each additional hour is treated as an overtime work. On the other hand, the rigidity of the labour legislation does not allow compensation of the overtime work with days off, although in practice, a number of the companies apply this mechanism for working time arrangements. ORM states that in certain cases the employees themselves seek for compensation of the overtime work through days off. According to ORM, crucial factors for effective working time arrangements are the specifics of the working process, the location and transport connection of the workplaces to the residence of the employees, the working time of kindergartens and the other social infrastructure and the temperature differences in summer and winter. The positions of ORM on the various models of flexible working time are elaborated below. The position of ORM on flexi working time (basic and flexible working hours) is that this form of flexibility is good solely for the sectors with no significant technological relation and dependence among the employees. Thus, the employees shall have a greater freedom and creativity, yet it can lead to increase of costs for premises maintenance. ORM initially approves the model for compressed working time, mentioning that at the time being, each additional hour beyond full working time of eight hours during the working day shall be treated as overtime work. The time-banking (time saving accounts) is supported by ORM. Still, the rigid legal regulation hinders the introduction of such a model of working time arrangements. ORM points to the practices of “evading” the regulations on part-time work by the unscrupulous employers, paying less taxes and contributions due to employment of employees on such grounds, and at the same time extending the working hours to a full-time work. Finally, ORM ascertains the need for flexibility of working time, further specification of the dubious provisions in the Labour Relations Act and establishment of possibility for innovative working time arrangements by means of special (branch) collective agreements.

The findings from the interviews conducted with the representatives of the individual companies, regarding the practices of working time arrangements imply several general conclusions. The most frequent form of working time arrangements is *the fixed working time* of eight working hours in five working days per week, from Monday to Friday. The starting times in specific companies (Beton A.D. Skopje and EVN Macedonia) is 7.30 – 15.30, whereas in other companies 8.00 – 16.00 (for instance, Makedonski Telekom, Centralna Kooperativna Banka, Osiguruvanje Makedonija and Komercijalna Banka A.D. Skopje). Some of the companies enable *flexible starting and finishing times* or the so called “flexible hours”. Flexible hours can be found in EVN (where employees may start with work from 7.30 – 8.30 and finish work from 15.30 – 16.30), Komercijalna Banka A.D. Skopje (where employees may start with work from 8.00 – 8.30 and finish work from 16.00 – 16.30) and in Osiguruvanje Makedonija (where employees may start with work from 7.45 – 8.00 and finish work from 15.45 – 16.00). *Shift work* is more or less present in all companies. Specific models of shift work are noticed in Makedonski Telekom and EVN. Makedonski Telekom provides for two-shift model of work in sales. Employees from the first shift work from 7.00 to 13.30 (total of 6 hours and 30 minutes), Monday to Friday, and from 8.00 to 15.30 on Saturdays (total of 7 hours and 30 minutes). The second shift works from 13.00 to 21.00 (total of 8 hours), Monday to Friday. Saturdays for the second shift are days off. Working



time arrangements includes rotation of the first and second shift employees on a weekly basis. EVN provides a two-shift model of work in the call centers, the goal of which is to ensure a continual and uninterrupted working process 24/7. The shift model in this sector is 12/24 – 12/48, meaning that the employee with 12-hours daily shift has the right to 24-hours rest and with 12-hours night shift has the right to 48-hours rest. A model enabling certain flexibility in terms of continuation of the operational working time is the *staggered or extended working hours*. Such a model can be found in some of the sectors of Makedonski Telekom. The company appoints three teams with staggered (extended) working hours in two shifts. The first shift starts with work at 8.00, at 9.00 and at 10.00, while the second shift starts with work at 11.00, 12.00 and at 13.00. Employees have in total 8 working hours during the working day, regardless of the starting times. Staggered working hours can be found in some organization units of Komercijalna Banka A.D. Skopje. *Redistribution of working time* is one of the most confusing forms of working time arrangements in the Republic of Macedonia. The companies are not aware how to apply the provisions of the Labour Relations Act regarding the redistribution of working time. Hence, we did not come across an example of redistribution of working time. The individual collective agreement of Beton A.D. Skopje stipulates specific clarifications in terms of redistribution of working time. Thus, depending on the nature of work and working time arrangements, in periods of intensive work the working time can be extended to not more than 10 hours per day, and then proportionally reduced in another period of the year, to reach an average of 40 hours/week. In some companies we noted existence of on-call duty. EVN sets forth adequate remuneration for *on-call duty* to be paid to the employee on duty, even in case of no call and engagement. If during an on-call duty, the employee receives a call and is engaged, apart from the on-call duty remuneration, he/she will be entitled to a remuneration equal to the overtime work remuneration, but only for the hours of engagement. EVN provides for adequate increase of the on-call duty remunerations if the employee is on duty on non-working days. Finally, EVN enables specific forms of work from home. The engagement for *work from home*, at the time being, is applicable for the IT administrators in a form of overtime work, for which this category of employees is entitled to an adequate remuneration to the salary. In the interviews with the representatives of the previous companies, we did not manage to detect a practice of *flexi working time* (with basic and flexible working hours), *time-banking* (with sufficient and deficit of working hours), *compressed working time* and *other forms of innovative working time*. At the same time, there is no *part-time work* in practice.

### 3.2.3 Determining the role of the social partners in the implementation of the innovative models of working time

The flexible working time organization in the Republic of Macedonia is in its initial phase. The social partners and companies are familiar with the possibility and need for introduction of innovative working time, yet their knowledge should be enhanced aiming at more innovative practices. *Trade Unions* are mainly against the flexibility in labour relations. Still, there is a difference in terms of the flexibility in the employment and lay-off process or the so called numerical flexibility and flexibility in working time arrangements, to the benefit of both employees and employers. We consider necessary further information and education of the Trade Unions on the possible forms and manners of flexible organization of the working time. It is worth noting the rigid position of trade unions on the overtime work. They consider the overtime premium to be the most acceptable way of compensation for overtime work. Furthermore, we note inconsistency between the needs of the employees for enhanced professional and family life balance and decent working time and the priority of trade unions in initiating discussions and modifications of labour legislation in this direction. It implies an



inconsistency between the preferences of the employees for improvement of working time quality on one hand and not withdrawing from the existing and inherent rights guaranteed with the labour legislation, on the other hand. In any case, trade unions consider more acceptable most of the flexible forms of working time arrangements that include: flexible hours (flexible starting and finishing times), flexi working time (basic and flexible working hours), time-banking (unequally scheduled working hours with sufficient and deficit in the calculation and leveling of the full-time work in a certain reference period), and similar forms. Trade Unions advocate to redefine the conditions for redistribution of working time aimed at guaranteeing a maximum limit of working hours in the course of the working week which shall not be exceeded.

*Organization of Employers* of Macedonia advocates for introduction of flexible working time arrangements. It is, in particular, interested in several models of working time arrangements, and a part of them are drafted in specific legal proposals. ORM seeks introduction of a mechanism for days off as an alternative to the monetary compensation for overtime work. Besides, ORM requires possibility for increasing the break of the employees and consequently extension of the working time. ORM proposes specific amendments aimed at flexibility in the annual leave use. Finally, the employers accept all the models of flexible working time arrangements that are acceptable for the employees as well. However, there is a lack of consultation mechanisms for greater inclusion of employees in the procedures for working time organization and their involvement in policy creation, concerning working time in the companies.

The implementation of innovative models of working time might be analyzed through the prism of social dialog in general (regarded as a tripartite communication within the Economic and Social Council) and bipartite collective agreement.

The Economic and Social Council (ESC) discusses all initiatives for modification of the existing labour and social legislation. In this light, we note the Notification on the initiative for modification of working time, as of December 2011. The initiative was filed at proposal of the Trade Union of Administration, Judiciary and Civil Associations employees, aiming at modification of working time in the administration and judiciary bodies. The initiative contains a proposal for return to the old working time from 7.00 to 15.00 during the summer period and 7.30 to 15.30 during the winter period or flexible hours with flexible starting times from 7.00 to 7.30 and flexible finishing times from 15.00 to 15.30. Flexible working time is generally acceptable for all involved entities, including the governmental representatives who accept the proposal for flexible starting times for at least 1 hour (from 7.30 to 8.30) and flexible finishing times (15.30 – 16.30).

A basic mechanism in the implementation of the flexible working time should be the bipartite collective agreement that is the General, Special and Individual collective agreements. Collective agreements in the Republic of Macedonia are characterized with little innovation in regulating the working time. Some collective agreements peripherally determine certain flexible forms of working time arrangements. *Collective agreement on agriculture and food industry employees* and *Collective agreement on tobacco industry* provide for authentic provisions for the grounds upon which a redistribution of working time can be introduced. Furthermore, these collective agreements stipulate possibility for introduction of flexible hours. Authentic provisions regulating the redistribution of working time can be found in the *Collective agreement on catering in the Republic of Macedonia*. However, basic reasons for existence of uninventive contents for flexible working time

arrangements in the collective agreements are due to the rigidity of the labour legislation. Hence, what are the competencies of the social partners in the process of collective agreement in case of lack of greater number of provisions in the Labour Relations Act that refer to further regulation of working time by means of collective agreements. The rigid labour legislation is the basic, if not the only restricting factor for the uninventive working time arrangements. The analysis comes across other restricting factors, such as: inadequate electronic platform for working time records; inadequate procedure for reporting overtime work to the State Labour Inspectorate, non-compliant with the acute needs of the employers for establishment of overtime work; risk of worsening the relations among the employees should one organizational unit have the possibility for flexible working time, and others do not have such a possibility; insufficient information of the social partners, including the inspectors from the State Labour Inspectorate on the mechanisms and forms of flexible working time and etc.

#### 4. Conclusions and recommendations

The key findings of the analysis of the legislation and practices on the organization of working time in the Republic of Macedonia is that the lack of opportunities for flexible organization of working time contributes to the low activity of women in the labour market and their employment rates. Rigid labour legislations and shortages of workers oriented working time flexibility emerges as one of the reasons for the existing gender inequalities between male and female employees.

The analysis of the existing regulation (Labour Relations Act, the special laws, bylaws and collective agreements) and practices identified from the interviews conducted, lead to several conclusions and recommendations. The conclusions and recommendations shall be classified in several key areas, among which: legal terminology for specific institutes; limitation to the normal (full) working time; shift and night work; on-call duty; flexible working time; short time work and work share; right to modification of working time; overtime work and overtime work compensation.

- The Labour Relations Act sets forth a number of different institutes related to the working time arrangements among which: working time scheduling, working time schedule, working time redistribution, working time reschedule and unequal working time scheduling. These provisions are not logically related and make confusions from terminological and nomotechnical aspect. Labour Relations Act does not define these terms and it largely renders more difficult their application in practice. Moreover, labour legislation does not differentiate between the working time of the employees and general working time, i.e. operational working hours of the enterprises. Based on the previous conclusions, we recommend terminological and nomotechnical intervention in the Labour Relations Act in function of defining and clarification of these terms. We also recommend reorganisation of the provisions that govern the working time and the leaves in function of enhanced articulateness and better application in practice.
- **Limitation to the normal (full) working time** in the Republic of Macedonia shall be determined in the course of the working week. The Labour Relations Act stipulates that the normal working time shall not exceed 40 hours per week. Hence, we conclude that the labour legislation does not limit the normal (full) working time on a daily basis. It enables more flexible approach in the process of establishment of unequal working time in the course of the working week. The interpretation of this provision

by the social partners and the State Labour Inspectorate is in a different direction. The practice points to the fact that any working hour beyond the equally scheduled working time of 8 hours per day is overtime work. Such practice significantly complicated the flexible working time arrangements such as the flexi working time, time-banking, compressed working time and shift work. Furthermore, the majority of the electronic platforms for working time records do not comply with the needs for greater flexibility and individualisation of the working time. The labour legislation does not state clear criteria for establishing redistribution of working time. Dubious are also the criteria for reference periods and maximum limitation to the weekly working time of the employees with redistributed working time. Such definition in the labour legislation largely reduces the role of the social partners in the autonomous arrangement of working time. All previous presumptions affect the insufficient compliance of working time with the personal and family needs of the employees and the business and manufacturing processes of the employers. Trade unions and employers seek for better work – family balance and increased operational productivity through implementation of flexible forms of working time arrangements, yet the difficulties that arise from the interpretation of the existing regulations restrain the social partners from accomplishing these goals. Hence, the basic recommendation is establishment of provisions that shall facilitate the correct interpretation of working time arrangements. Due to the lack of daily limitation of working time, the social partners have greater possibility for innovation in working time, within the framework of the "natural barriers" that result from the daily and weekly rest. Besides, we recommend introduction of possibility for mini-redistribution or smaller reference periods that shall enable innovations in working time on a fortnight basis, monthly basis etc.

- The labour legislation contains several inconsistencies in terms of determination of **shift work and night work**. It provides for definition for shift work. The Labour Relations Act does not contain other provisions that regulate the shift work organization or determine the establishment of a specific shift model. The Labour Relations Act sets forth an obligation for the employers to report to the labour inspection the case of introduction of “regular night work”. Yet, there is no detailed clarification of this institute that might cause difficulties in its interpretation in practice. Furthermore, the labour legislation does not stipulate limitations to the work dynamics and rotation during the night shift. Collective agreements serve as “correctors” to this extensive provision. They usually stipulate limitation of the night shift work for no longer of one week. Finally, practice faces dilemma with regard to the prohibition of night work of women in industry and construction. The prohibition may be interpreted in two ways. The first one implies a partial prohibition of night work for women, with obligation to be exempted from the working process the following day from 22.00 to 05.00 hours. Nevertheless, the second interpretation of the prohibition of night work for women in industry and construction dominates. Practice has shown that there is general prohibition for night shift work for women in industry and construction. The only period allowed for work is from 05.00 to 06.00 hours, insufficient for any distribution of night work for the woman. We conclude that the employers are against the general prohibition for night work of women in industry and construction. The final decision of the legislator on the night work of women should take in consideration the statistical data that out of total of 77,626 employees, 58,949 are male and 18,677 are female. Consequently, women participate in night

shift work. We consider that the legislator should set forth clearer provisions further specifying its policy on defining the term “regular night work”, limitation of night shift work and clarification of the dilemma on night work of women.

- The labour law leaves a legal vacuum relating to the regulation of **on-call work and standby duty**. The Labour Relations Act refers to the possibility of establishing on-call work in the healthcare institutions in the implementing acts in the field of healthcare. However, the Law is understated relating to on-call work and the forms of compensation of on-call work in other activities. On the other hand, the Labour Relations Act has no provisions concerning standby duty. Therefore, this form of organisation of the working time has been left to various interpretations and practical implementations. The absence of clear criteria on the on-call work and standby duty leads to the conclusion that these categories may potentially be abused in practice. We have to note that certain collective agreements in the private sector (for instance, the Collective Agreement of EVN) provide for these categories. It is a good practice that, in the absence of specific provisions in the labour law, would be applicable in other companies, too. The general recommendation in this area is aimed at defining the terms "on-call work" (as a general term which applies to all activities that require such a model of work) and "standby duty". The legal amendments should resolve the dilemma whether the time spent on-call and on standby duty will be included in the working time of the employees and how such employees will be compensated for their work.
- Unlike the greatest number of comparable labour laws in the EU, the Labour Relations Act does not provide expressly for the possibility to establish a **flexible working time**. We can find the possibility to establish certain forms of flexible working time in the provisions on work time scheduling. The absence of explicit provisions regarding the flexible organisation of the working time, the rigidity and the vagueness of the legal provisions limit the leeway to establish an alternative organisation of the working hours. This also reduces the leeway for innovation of the social partners and does not match their needs and preferences. We recommend explicit defining of certain flexible forms of working time arrangement. Such provisions might supplement the provisions on working time arrangement that would clarify the flexibility of the working time during the working week, or the provisions that would introduce the possibility for small-scale rescheduling or for smaller reference periods.
- The labour legislation provides for entering into **part-time employment agreements**. However, these agreements are usually not part of the standard practice and appear as an exception to the rule. The employers do not perceive part-time work as a possibility for increased flexibility of the employment, while the employees are not interested in this form of work due to the lower incomes and the potential for abuse by the employers. We recommend strengthening of the legislation relating to the prohibition of discrimination and to the equal treatment of the part-time employees. Furthermore, we recommend redefining the tax policies and the policies on determining the contributions for part-time employment. They should provide incentives for the employees and the employers and promote this employment mechanism. Finally, we recommend information platforms to raise the awareness of

the social partners about the potential benefits of the introduction of this model of work.

- The labour law of the Republic of Macedonia does not stipulate the possibility for **short-time work or work sharing** as a response to the employers' reduced volume of work, or as a compensation for the potential lay-offs. We conclude that there is no legal barrier to the introduction of these forms of organisation of the working time, despite the absence of the explicit provisions governing such practices. The labour legislation provides for the possibility for interruption of the work process due to business reasons. In such case the employer is obliged to issue a decision to the employee and the employee is entitled to salary compensation in the amount of 70% of the salary during a period of up to 3 months in the current year. In the practice such a possibility is referred to as a "temporary compulsory furlough". The possibility for introduction of a temporary compulsory furlough is found in the General Collective Agreement for the Private Sector in the Field of Economy and in several specific collective agreements. However, one may note two inconsistencies in the practical application of these provisions. The first inconsistency relates to the period of time since the introduction of the temporary compulsory furlough. While the Law is explicit in providing for an interruption of the work process due to business reasons (temporary compulsory furlough) for a period of up to 3 months, the collective agreements extend such a possibility to a longer period of time (up to 6 months). The second inconsistency relates to the grounds for introduction of a temporary compulsory furlough. The collective agreements provide for such an option due to problems in the business processes (lack of raw materials, removal of defects, impaired material-financial performance, measures aiming at the reduction of the operational costs, etc.), but in practice the temporary compulsory furlough is often introduced to compensate for the redistributed working time. This practise makes it possible to reduce the employees' salary within specified periods of time, which is contrary to the principles for redistribution of the working time and levelling an equal pay for the employees within the specified reference period. Therefore, the general recommendation would be to amend the legal provision governing the temporary compulsory furlough and to make a distinction between the temporary compulsory furlough and the redistribution of work.
- The labour legislation does not provide explicitly for **changing the working hours** from full-time to part-time and vice-versa. The Labour Relations Act neither lays down any specific criteria for changes of the working hours of specific categories of employees (elderly employees, employees with family obligations, etc.), nor it refers to providing for such a possibility by virtue of a collective agreement. Thus, a logical recommendation for the direction to be taken by the labour law would be to provide for the possibility to change the working time and to lay down in detail the terms under which such reorganisation of working time would be carried out.
- According to the findings derived from the conducted interviews, **overtime work** is one of the most serious problems and challenges for both the employers and the employees. Trade unions advocate the compliance with the law and compensation for the overtime work, but they do not fully exclude the possibility for introduction of a more flexible treatment of overtime work in view of achieving a better professional and family life balance. This conclusion arises from the willingness of a great number



of employees to get days off work in lieu of overtime pay. The employers oppose the rigidity of the labour legislation, which fails to stipulate a possibility for compensatory time. On the other hand, the practice gives legitimacy to the possibility for compensatory time, notwithstanding the fact that this practice is not in compliance with the labour law. Finally, the Law on Civil Servants and the Law on Public Servants allow compensation overtime pay by days off. This imposes the dilemma about the collision between the provisions treating the rights and obligations arising from employment in the private sector with those in the public sector. We conclude that the Labour Relations Act is a general regulation in the field of labour and, as such, it has to be observed equally by both the private and public sector. Overtime work in the Republic of Macedonia is a subject of weekly and annual limitations. The weekly limitation amounts to 8 working hours at the most, while the annual limitation amounts to 190 hours at the most. We conclude that it is necessary to review the reference periods for the introduction of overtime work, with a recommendation for potential limitations of overtime work at daily, monthly or quarterly level. Most of the comparable legislations give legitimacy to the possibility for combined compensation of overtime work by salary supplements and compulsory days off. The potential forms of compensation of overtime work by days off work are: restricting the overtime work hours that may be cumulated and substituted for days off work by establishing a maximal reference period within which such days off work may be utilised; restricting the overtime work hours that may be cumulated and substituted for days off work for a prolonged leave, etc. The comparable legislation also indicates the possibility for the employee to choose whether to receive pay or a day off work for the overtime work. In such a case, the legislation lays down the maximum number of overtime work hours for which the employee is entitled to receive a supplement to the salary and a written consent by which the employee renounces the day off in favour of the material compensation.

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