LABOUR RIGHTS OF JOURNALISTS
AND MEDIA WORKERS

NORTH MACEDONIA'S LEGAL FRAMEWORK



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1. Relevance of the topic and purpose of the analysis

The protection and exercising of labour rights in any field or profession is an issue of permanent relevance, because despite the set of rules and norms established in the legal regulations, in practice, the violations of labour (employment) rights happen frequently, and go hand in hand with attempts to completely circumvent the formally established employment contracts and outsource the work through contracts governed under the Law on Obligations (Law on Contracts and Torts).

The Law on Media of the Republic of North Macedonia governs the relationship between the media organizations and newsrooms, i.e. journalists, from the aspect of guaranteeing and protecting the autonomy of journalism as a profession, while the rights and obligations pertinent to media outlets as employers, and journalists and media workers as employees, are governed by the Law on Labour Relations.

Taking into account the importance of journalism, which upholds the constitutionally guaranteed right to public information, the exercising of the protection of employment-related rights, that is, the paid work of journalists, both within and outside the performance of professional tasks, undoubtedly requires a special approach. The Code of Journalists[1] determines the basic task of the journalist: to respect the truth and the right of the public to be informed in accordance with Article 16 of the Constitution, as well as to act in accordance with the ethical principles and values. The Code lays down a serious obligation for journalists (and media workers) not to publish or conceal anything that is in conflict with the public interest. Undoubtedly, the role of journalists and media workers is particularly important when it comes to discovering and notifying the public about topics of interest and consequently shaping the public opinion. Hence, the basic protection of their employment as laid down in the Law on Labour Relations is not sufficient, meaning that it does not fully correspond to the needs to protect and guarantee the freedom of journalists and media workers.

The specificity of journalism as a profession, which is also made evident in the provisions of the Law on Media, is that journalists are treated as persons who do not have to necessarily be fully employed by the media outlet, meaning that they may be contracted by the media outlet to perform a specific activity, or as a so-called freelance journalist. However, in the absence of regulated employment, the protections stipulated in the Law on Labour Relations do not extend to this this category of journalists. Journalists only occur as contractors undertaking certain tasks, as service providers or authors of a certain assignment, based on the type of contract they have, and the only protection they are entitled to is the guarantee of payment of the compensation due by the media outlet for the work they have done. This category also includes self-employed journalists, as their employment is regulated differently, and they occur as external contractors in their contractual relationship with the media outlet, who are not permanently employed.

This trending practice has been observed on an international scale, which is why in 2018, the European Federation of Journalists adopted a Charter on Journalists' Working Conditions, which requires guaranteeing the implementation of the existing minimum standards for labour rights and dignity of journalists and media workers.

The purpose of this Analysis is, by upholding the spirit and text of the Charter, to identify the mechanisms for protection of the labour rights of journalists and media workers in the domestic legislation, and to highlight the areas that require further improvement in the protection and exercising of rights.

1 https://znm.org.mk/en/code-of-ethics-of-journalists/

2. Charter on Journalists' Working Conditions

This part of the analysis briefly outlines the content of the Charter on Journalists' Working Conditions by the European Federation of Journalists (EFJ), which is a strategic document based on which journalists' unions in the region act in their struggle to improve the labour rights of journalists and media workers.

The Charter was signed on February 12, 2019, in Belgrade, by 14 EFJ member-journalists' organizations from the countries from the Western Balkans and Turkey, including the Independent Union of Journalists and Media Workers. This Charter is a document that is open for signature not only by journalists' organizations, but also by all other entities (public and private media outlets, authorities, regulatory bodies, etc.) who thereby show their willingness to respect the labour rights of journalists and media workers, to fight against censorship and promote free access to information and sources.[2]

The Charter consist of 10 articles where the main principles and rules are elaborated, based on which the relations between journalists, their employers, and the public, (readers, viewers, and listeners) as end users of their work, should be organised. The text that follows delves into the substance of these principles and their significance for the freedoms of journalists and media workers and their labour rights.

Principle 1 – Freedom of association

Based on the international documents that guarantee the basic human rights, the Charter on Journalists' Working Conditions, as a first principle, reaffirms the right of journalists to join their guild organisations or associations, including the right to establish and join their own union organizations striving to protect their labour rights and interests. This right is guaranteed to journalists pursuant to Article 11 of the European Convention on Human Rights.

This right also includes the freedom of unionisation within the media organizations where journalists are employed (editorial councils, labour commissions, trade union groups, etc.), the right to discuss their labour and journalists' rights with the management, as well as the right of access to documents and information that promote the employment in media editorial offices.

Principle 2 – Right to a Written contract

Every journalist and media worker has the right to receive a written employment contract and the right to be treated as an equal partner in the negotiations regarding the working conditions with the employer. The employment contract must contain the following basic standards set forth by the International Labour Organization:

- The capacity in which the journalist shall be employed in the media organization.
- The remuneration, method of calculation and periodicity of payment.
- The normal working hours and daily and weekly rest periods.
- The amount of paid annual leave.
- The provision of authors' rights, food, and accommodation, if applicable.

2 Charter on Journalists' Working Conditions, European Federation of Journalists, Belgrade 2019. Available at :https://europeanjournalists.org/blog/2019/02/12/the-charter-on-journalists-working-conditions-full-document/

- The terms and conditions relating to the termination of employment, including any period of notice by either the worker or the employer.
- The health, safety and social security protection benefits to be provided to the journalists

Principle 3 – Right to collective bargaining

Any journalist or media worker has the right to bargain freely with their employers, and the exercising of this right is an essential element of the freedom of association. Collective bargaining is a voluntary process through which employers and workers discuss and negotiate their relations, in particular the terms and conditions of work.

Principle 4 – Non-discrimination in employment

Discrimination in the workplace on any grounds is prohibited. No journalist or media worker may be exposed to discrimination based on gender, religious or national affiliation, race, skin colour or sexual orientation in the workplace. For the same work, in the same workplace, journalists and media workers should receive the same remuneration, and the same benefits. Affirmative actions (positive discrimination) may be used to promote the education and employment of members of groups that are known to have previously suffered from discrimination.

Members of unions may not be discriminated against due to their union membership and activities.

Principle 5 – Right to rest and disconnect

Any journalist or media worker has the right to rest and leisure, including reasonable limitation of working hours during working days, days-off, and paid periodic holidays. The journalist has the right to disconnect from professional engagement (emails, internet, social media...) after the contractual working hours.

Principle 6 – Right to protection of sources in journalism

No journalist or media worker may be pressured to reveal the identity of an anonymous source in a news article, except in exceptional circumstances established by law. This right includes the protection of whistle-blowers' employment and the protection of data and documents that would endanger them. A journalist has the right and duty to protect their source and may only reveal their identity if it is proven that the source has lied to them or has manipulated them.

Principle 7 – Journalist's right to refuse to sign content

Any journalist or media worker has the right to reject an editor's order to sign content that has been substantially altered without their approval. A journalist or media worker may not be held responsible in court in cases where the content of their production has been substantially changed by the editor. A journalist or media worker may not be laid off or have their contract terminated or be demoted to a worse position when exercising this right.

Principle 8 – Right to safety and protection

Any journalist and media worker has the right to additional training on reporting from hostile or danger zones and first-aid training in case of an accident. This includes special trainings designed for the protection of women journalists. Journalists and media workers have the right to request the employer to take action to monitor and combat online attacks, abuses, and pressures on its employees and to establish internal mechanisms for notifying about and reporting of all forms of violence, threats, and harassment in the course of the performance of work (including sexual harassment).

Journalists have the right not to be constrained in expressing or endorsing opinions or pressured into performing professional duties contrary to their conscience, nor may they be subject to disciplinary action by virtue of such refusal. In the event they are subjected to such constrictions or pressures, journalists also have the right to terminate the employment with a just cause, and to be entitled to an adquate compensation, in accordance with the applicable labour legislation.

Principle 9 – Good governance and ethical standards

Any journalist or media worker commits to adhere to the company's mission statement, to follow the codes of conduct and ethical standards applying to journalists, all staff, and editorial sections, to accept the governance rules (transparency, protection of editorial independence), to engage with external regulators and self-regulators and to promote integrity through cooperation between colleagues.

Principle 10 – Decent working conditions

Any journalist or media worker has the right to demand decent working conditions in order to be able to fulfil their professional obligations. Employers in the media sphere are obliged by the (employment) legislation on labour relations to regularly fulfil the decent working conditions of journalists and media workers.

The following text provides an analysis of the existing solutions in the Macedonian legislation and their compliance with the provisions of the Charter.

3. Law on Labour Relations

The Law on Labour Relations[3] (LLR) is the basic law that stipulates the rights and obligations of the employee (in this particular case, a journalist, or a media worker) and the media publisher, as an employer.

LLR is a comprehensive law that regulates both the individual and the collective rights[4] arising from employment.

From the viewpoint of regulating the rights of journalists and media workers, several key aspects are of particular significance:

- Despite the fact that the Law on Media allows contracting journalists through other types of contracts, only journalists/media workers who have signed a permanent employment contract and have entered full-fledged employment shall be considered employees;
- Despite the fact that in accordance with the Law on Media online media or electronic publications are not treated as potential employers of journalists and media workers, they can be treated as employers in accordance with the LLR.

According to the LLR, any legal entity or natural person may act as an employer, along with other types of entities (state government bodies, local self-government units, subsidiaries of foreign companies, diplomatic and consular representative offices), who employ staff based on an employment contract[5].

Consequently, it could be concluded that online media outlets, although they are not treated as employers according to the Law on Media, do have the legal option to employ persons who would have all the rights and obligations stipulated in the LLR, but would not be entitled to the protection of their specific rights as determined by the Law on Media[6]. On the other hand, any online media outlet that has endorsed the Code of Journalists is recognized as a media outlet by the Association of Journalists of Macedonia, and consequently its employees are recognized as journalists, i.e. media workers. Considering the number of online media outlets in the Republic of North Macedonia[7], there is an indisputable and urgent need to regulate online media and to determine the protection of the rights and needs arising from the nature of practicing journalism of the journalists or media workers working there.

3 Law on Labour Relations, Official Gazette of R.M. no.62/05, 106/08, 161/08, 114/09, 130/09, 50/10, 52/10, 124/10, 47/11, 11/12, 39/12, 13/13, 25/ 13, 170/13, 187/13, 113/14, 20/15, 33/15, 72/15, 129/15, 27/16, 120/18 and Official Gazette of R.S.M. no. 110/19, 267/20, 151/21, 288/21 and 111/23

4 When it comes to individual rights, it includes the publishing of an employment advertisement, the selection of a candidate, the form and content of the employment contract, the course of the employment, the procedure for dismissal or termination of employment. The right to join a union and collective bargaining constitute the collective rights established by this law.

5 Article 1 paragraph 5 item 6 of the Law on Labour Relations.

6 From January 2023, a process of media reforms began in the country within the framework of the "EU Freedom of Expression: Harmonization of National Media Legislation with EU Law and European Media Standards" Project, which was supported by the European Commission. At the final workshop held in October 2023, within the second phase of the project, it was concluded that online media outlets should be included in the Law on Media, in order to regulate the manner of their establishment, registration, transparency of ownership and the other minimum obligations. One of the results of this project is the drafting of a new text of the Law on Media that will be submitted to the competent Ministry of Information Society and Administration. The conclusions of the workshop are available at: https://www.resis.mk/en/news-and-events/124-key-point-of-the-media-reforms-in-the-country-support-and-development-of-a-pluralistic-and-inclusive-media-system

7 Report from the mission assessing the situation with the media, AJM, Skopje, 05-07.06.2023, page 16 and 17. The document is available at: https://shorturl.at/nBK39

3.1. Individual rights

3.1.1 Right to non-discrimination in employment

The protection against discrimination in the Journalists' Working Conditions Charter is covered by Article 4, which guarantees:

- prohibition of workplace discrimination based on gender, religion, nationality, race, colour or sexual orientation;
- an obligation for journalists, employers, and trade unions to be especially sensitive to potential discrimination based on their affiliation, physical or cultural characteristics, their perceptions or their associations;
- obligation to follow the principle of equal pay for equal work;
- prohibition of discrimination on the basis of membership or activity in a union;
- the possibility of affirmative action for labour market inclusion of persons or groups who are, or have been, subject to discrimination.

LLR includes and, to an extent, even exceeds the elements of protection and prevention against discrimination in labour relations specified in the Charter. The provision on protected grounds (against discrimination) in the LLR is much broader[8]. In addition, LLR is sensitive to the protection required by members of vulnerable categories – pregnant women, nursing mothers and mothers of small children and children with disabilities, as well as elderly people and people with disabilities. This sensitivity to potential discrimination is reflected in the provisions on direct and indirect discrimination, as well as those on harassment as a form of discrimination. Naturally, the general character of LLR does not allow for it to go into more detail the area of employee conduct. It is supplemented by Article 10 of the Code of Journalists of Macedonia[9], where journalists are required to take special care not to commit or incite discrimination.

The obligation to pay equal pay for equal work is a principle directly upheld in LLR (Article 108 paragraph 1) and reinforced through the provisions of the Law on Equal Opportunities for Women and Men[10] and the Law on Prevention and Protection against Discrimination.[11]

Furthermore, the Law on Labour Relations stipulates that in discrimination proceedings, the plaintiff shall have the right to seek compensation for damages in accordance with the Law on Obligations. After the adoption of the Law on Labour Relations in 2005, the domestic legislation was fortified by a special Law on Protection against Discrimination, which regulates these procedures.[12]

8 Article 6 paragraph 1 of the Law on Labour Relations: racial or ethnic origin, skin colour, gender, age, state of health, i.e. disability, religious, political, or other conviction, membership in trade unions, national or social origin, marital status, property status, sexual orientation or any other personal circumstances.

9 Article 10: The journalist shall not knowingly create or process information that threatens human rights or freedoms, shall not speak with the language of hatred, and shall not incite violence and discrimination on any grounds (national, religious, racial, gender, social, linguistic, sexual orientation, political...).

10 Law on Equal Opportunities for Women and Men, "Official Gazette of the Republic of Macedonia" no. 6/12, 30/13, 166/14 and 150/15 and "Official Gazette of the Republic of North Macedonia" no. 53/21

11 Law on Prevention and Protection against Discrimination, "Official Gazette of the Republic of North Macedonia" no. 258/2020

12 The first Law on Prevention and Protection against Discrimination was adopted in 2010 *("Official Gazette of the Republic of Macedonia" number 50/10, 44/14, 150/15, 31/16 and 21/18), and the law that is currently in force is the Law on Prevention and Protection against Discrimination from 2020, Official Gazette of the Republic of North Macedonia. no. 258/2020*

The prohibition of discrimination based on membership or union activity is fully included and expanded in the LLR (Article 198). The worker is free to independently choose whether and which union (Article 184 paragraph 1 and Article 185), that is, unionized organization, they would be a member of, whether they would be involved in the activities of the organization and whether they would participate in organized strikes (Article 239 paragraph 4). Special protection is also extended to union representatives (Article 200), whose dismissal on any grounds requires the consent of the union, i.e. the union organization that appointed him/her, and in the absence thereof, any dismissal of a trade union representative shall be a decision of the court.

Journalists whose employment contracts are not regulated under the scope of the Law on Labour Relations may not invoke the provision for protection against discrimination in employment. However, their rights are protected in accordance with the Law on Prevention and Protection against Discrimination, and they may invoke the provisions of that law when submitting a petition to the Commission for Prevention and Protection against Discrimination and/or when filing a lawsuit before a competent court.

3.1.2 Right to safety and protection

Article 8 of the Charter covers the obligation to guarantee the safety and protection of journalists and media workers in the workplace. In the domestic legislation, this is regulated by the Law on Occupational Health and Safety, the Law on Protection against Workplace Harassment and, indeed, through the Law on Labour Relations. In this way, the obligation to be informed about the hazards at the workplace[13], the mechanisms for protection against harassment[14], in particular sexual harassment and workplace harassment (mobbing)[15], are included.

3.1.3 Right to a contract and right to rest and disconnect

Article 2 of the Charter requires that any journalist and media worker should have the right to a written contract, in accordance with the standards of the International Labour Organization. Taking into account the different contracting options when hiring journalists according to the Law on Media, it is undeniable that this provision is of great importance for journalists themselves and that it directly affects their right to safety and security while doing their professional duties. What is particularly significant in this context is that it refers to the basic standards set by the International Labour Organization and that it regulates any engagement of a journalist or a media worker as a form of employment.

The employment contract is the foundation of any kind of employment. Through this contract, the employee and the employer accept their rights and obligations within the framework of their cooperation. For these reasons, it is necessary for the employee to fully familiarize him/herself with the content of the contract before signing it, and to ensure that the contract genuinely represents the essence of what was agreed upon when negotiating for and accepting the job.

The LLR contains particularly rigorous provisions in relation to this issue and it fully and comprehensively elaborates on each of the essential elements of the employment contract.[16]

13 Law Occupational Safety and Health, Official Gazette of the Republic of Macedonia no. 92/07, 136/11, 23/13, 25/13, 137/13 164/13, 158/14, 15/15, 129/15, 192/15 and 30/16 and "Official Gazette of the Republic of North Macedonia" no. 18/20

14 Law on Prevention and Protection against Discrimination, Official Gazette of the Republic of North Macedonia no. 258/2020

15 Law on Protection against Workplace Harassment, Official Gazette of the Republic of Macedonia no. 79/13 and 147/15 and Official Gazette of the Republic of North Macedonia no. 103/21

16 The elements constituting the employment contract are listed in Article 28 of the Law on Labour Relations.

According to the LLR, every journalist and media worker who signs an employment contract with a media outlet should receive a contract that:

1. is drawn up based on their right to negotiate for the salary, the duties and any other benefits in accordance with the Law and the Collective Agreement;
2. contains provisions that accurately specify the workplace, duties, working hours, rest and salary;
3. contains a provision specifying the employer's internal acts and work rules; and
4. accurately establishes the terms and conditions for termination of the employment to be fulfilled by both parties.

Taking into account the nature of this type of employment, the employment contract may also regulate the obligation to keep a trade secret, the ownership of moral and material copyrights, as well as other provisions arising from the nature of employment in the media sphere.

Taking into account the guarantees embedded in a legally regulated employment contract, the need to insist on regulating any engagement of journalists and media workers in accordance with the Law on Labour Relations is understandable.

Abiding by these terms would constitute an obligation of the employer to organise the duties and assignments within the stipulated working hours (Article 116), to organize the work process so that the workers can use breaks, as well as a daily, weekly and annual leave[17], to organize operations in a way that would minimize or completely eradicate overtime work (Article 164) and the obligation to provide adequate protection to the employees, according to their needs[18]. However, an even more significant element is the obligation to specify the salary (Article 105) in the contract itself and pay the contributions for pension, disability, and health insurance.

Article 5 of the Charter - the Right to Rest and Disconnect, which is fully incorporated into the provisions of the Law on Labour Relations that refer to the right to breaks, as well as daily, weekly, and annual leave, is also embedded here.

This right is inaccessible to those employees who work based on temporary service contracts (so-called freelancers). Their contracts are drafted in accordance with the Law on Obligations, whereby the employer is exempt from any obligations related to the protection of the labour rights of the contracted persons. Persons working under these contracts, regardless of the type and scope of the work they perform, are not treated as employees, and do not enjoy any of the benefits that they would be entitled to under a formal employment contract.

3.1.4 Right to protection and decent working conditions

The provisions in the LLR protect workers by imposing several guarantees that enable work/life balance, preserve the reputation and dignity of workers, and provide them with a suitable, pleasant working environment.

- ***The employer must provide the employee with work.*** The law is decisive in that the employer has the obligation to provide work to the employee, so that the employee can do his/her work and earn his/her salary in accordance with the contract (Article 40). The employer should provide the employee with adequate conditions and means to carry out the work assignments, unless otherwise specified in the employment contract, an annex to the contract or another contract.

17 Article 132, 133, 134, 137, 138 of the Law on Labour Relations

18 The Labour Law contains provisions regulating the rights of pregnant women, nursing mothers, mothers of children up to 1 and 3 years of age, single parents, parents of children with special educational needs, persons with disabilities and adult workers, as well as minors who they are allowed to do certain jobs.

- ***The worker must not waive the rights that he/she is entitled to by law***. LLR stipulates the minimum standards for the rights that workers are entitled to. Consequently, any action that leads to an employee being deprived of his/her right, or his/her right being restricted, or any action that leads to an employee willingly waive a right (e.g. the right to vacation or the right to a salary) shall be null and void.

- ***The worker must be paid a salary for the work he/she has done.*** The obligation to pay a salary is guaranteed in several provisions, the most significant and effective being the one which enables the employee to terminate the employment and initiate an employment termination procedure if the employer has not paid his/her salaries and contributions for three consecutive months (Article 67).

- ***The worker must have safe working conditions.*** LLR imposes an obligation on the employer to provide each employee with training adequate to the specificities of the position, taking into account his/her previous professional background and experience. The employer shall conduct risk assessment including a systematic examination of all the aspects of the operation, in order to identify the possible causes of injuries or damage to the health of the workers, or what would constitute safe working conditions (Article 42).

- ***The personality and dignity of the worker shall be respected and protected.*** The employer is obliged to provide an environment where the employee would feel safe, comfortable and protected. The employer shall ensure that no worker is a victim of harassment or any other form of discrimination in the workplace (Article 43).

- ***The employee must feel secure regarding the protection of his/her personal data.*** The employer is obliged to handle the employee's personal data with extreme care, and to use them only for the necessary purposes. When dealing with personal data, the employer shall be obliged to ensure that the provisions of the Law on the Protection of Personal Data are complied with, and in particular that each of the workers has provided their consent for their personal data to be processed for a specific purpose, with a separate statement of consent.

- ***The worker must receive special care and protection in case of pregnancy, maternity leave, parental leave and care for children and frail family members.*** The law provides for special guarantees for the protection of pregnant women, women on maternity leave, nursing mothers, single parents, fathers using parental leave and parents who take care of children with disabilities or frail family members. Thus, a pregnant worker is protected against working longer than the specified working hours (Article 120), against rearrangement of working hours (Article 124), against performing work that might be harmful to her or to the foetus (Article 162), against overtime work and night shift work (Article 164). Over the course of pregnancy, childbirth and parenthood, a worker has the right to a paid leave for a period of nine consecutive months, and in case she gives birth to several children at once (twins, triplets and more) 15 months (Article 165). The mother may return to work earlier than the foreseen time, but not earlier than 45 days, and in case she returns earlier, then the father, i.e. the adoptive father, has the right to use the remaining time (Article 167). Until the child reaches one year of age, the nursing mother has the right to a paid break for breastfeeding in a duration of one and a half hours within the working hours (Article 171). After completing the leave from work due to pregnancy, birth and parenthood, the worker has the right to unpaid parental leave for up to three months in the period until the child reaches three years of age, divided in a maximum of three parts, for the purpose

of taking care of the child (Article 171a). Single parents and older workers are also protected against overtime work and work in shifts (Article 120).

A particularly significant element is the provision offering the possibility of part-time work for a parent of a child with developmental issues and special educational needs, according to which one of the parents has the right to work half-time if both parents are employed, or in case it is a single parent family, based on a finding by a competent medical committee, unless the child is placed under the care and protection of an institution (Article 129).

Finally, the guarantee for protection against discrimination is of particularly great importance - in addition to the basic provision from Article 6, the Law also has a special provision for protection against discrimination due to pregnancy, birth and parenthood, as well as specific prohibitions against dismissal due to the use of any of the rights specified in the law.

- ***The worker must be protected against arbitrary dismissal.*** When it comes to employment and job security, protection against arbitrary dismissal is among the most important safeguards. LLR has a precisely determined structure and procedures for termination of employment.

  Resignations, as a way of termination of employment can be handed in by the employee, or by the employer. Termination can occur with or without a notice period, and the law offers an exhaustive list of all the terms and conditions for termination with or without a notice period. According to the Law, the notice period is one month, although the contracting parties may determine a longer notice period, but not exceeding 3 months. The employer must have valid grounds for dismissal, adequately supported by evidence established in a procedure that the employee him/herself has had the right to participate in, along with the right to testify and defend him/herself, including the right to protection against the decision (Articles 73, 79, 81, 82 and 97). Employees in the process of dismissal for business reasons are particularly protected19.

- ***Termination of the employment contract through mutual agreement*** – Termination through mutual agreement indicates that both contracting parties have agreed to terminate the employment on the same date and under the same conditions (Article 69). The agreement may include additional rights for the employee such as the payment of a bonus, keeping some of the equipment and similar terms, or may contain a provision stipulating the return of the equipment or work-related materials to the employer. The agreement has a precisely determined form that must be complied with, otherwise it shall be null and void.

  The agreement, as a way of terminating the employment at the will of the employee, excludes the possibility of the employee using the benefits that unemployed persons are entitled to according to the Law on Employment and Insurance in case of unemployment.

19 Article 97 of the LLR and provisions of the Law on Employment and Insurance in case of Unemployment.

3.2 Collective Rights

The Charter on Journalists' Working Conditions recognizes the importance of association and collective bargaining to ensure respect for the existing or reinforcing the economic and social rights of journalists and media workers, as well as their other rights arising from, or related to employment.

In Article 1, the Charter requires the guarantee of freedom of association, while in Article 3 – the right to collective bargaining.

Freedom of association is a fundamental human right, guaranteed by the Universal Declaration of Human Rights and the Constitution of the Republic of North Macedonia. Therefore, it is indisputable that the Law on Labour Relations upholds this right. The freedom of association in the provisions of the LLR is articulated as: (1) the freedom to establish a trade union/unionize; (2) the freedom of the worker to decide whether to join a union or not; (3) the freedom of the worker to choose which organization to join; (4) freedom to conduct union activities; and (5) the worker's freedom to decide whether or not to join a strike.

Collective bargaining as a mechanism for the promotion of workers' rights is also provided for and regulated by the LLR. Collective bargaining leads to the signing of collective agreements that contain specific rights arising from and in connection with the employment of special groups of workers, which may be greater than those regulated by the LLR. The Law on Labour Relations sets the minimum labour rights that must be respected in each particular area, and these rights can be deepened or strengthened by means of collective agreements. As an example, we can point out the right to a compensation for an annual leave - K-15 which is outlined in the General Collective Agreement for the private sector in the field of economy - a right that is not regulated by the Law on Labour Relations.

LLR also regulates the right to a strike within the requirements for protection of collective rights, as well as the workers' right to participate in a strike without consequences to their employment.

4. Law on Media

The Law on Media[20] (LM) is a particularly significant law for the functioning of the media and in guaranteeing the freedoms and rights of journalists and media workers. With the first version of the Law on Media adopted in November 2013, minimum rules for the functioning of print media and electronic publications (online portals) were introduced for the first time in the country. However, one month after its adoption, due to the criticism and fears coming from the journalists' associations and the international community that the freedom of expression of journalists on the Internet might be under a threat, amendments were adopted that excluded electronic publications from the scope of this Law[21]. This is important to emphasize because in the process of these amendments, provisions important for the protection of the position of journalists in newsrooms (editorial offices) were also erased.

The Law contains provisions that define what a media outlet is, but also what a journalist is. According to this Law, media are means of public information, i.e. any type of communication such as newspapers, magazines, radio and television programs, teletext and other means for daily or periodic publication of editorially reviewed content, regardless of whether it is in writing, auditory or visual, in order to inform and meet the cultural, educational and other needs of the general public. Bulletins, catalogues and other forms of publications, regardless of the means of publication, intended exclusively for advertising, shall not be treated as media outlets, along with the educational system or materials for business correspondence, for the work of holding companies, institutions, associations, political parties, state and judicial bodies, public enterprises, legal entities with public authorisations and religious organizations. Newspapers and bulletins of the educational institutions, the "Official Gazette of the Republic of Macedonia", the publications of local self-government units, posters, leaflets, prospectuses and banners shall not be considered media.[22]

Regarding labour relations, the Law on Media contains a provision that makes a reference to the Law on Labour Relations. In addition to this, the Law on Media contains a provision that ensures the protection of the independence, professional ethics and dignity of the journalist, through the protection of the journalist's right to express his/her opinion and position and refuse to carry out an order, that is, a task from the editor, in situations where it is in contradiction with the ethical norms regulated by the Code of Journalists. Furthermore, an aspect of the journalist's professional autonomy and independence is the provision that guarantees the journalist the right not to reveal the source of information.

When it comes to labour relations, this law is significant from two aspects:

- it follows from its provisions that the media outlet may, but is not obliged to employ journalists, meaning that it may work with journalists hired through temporary service contracts or with so-called self-employed (freelance) journalists;
- although from the definition of what a media outlet is, it follows that the Law on Media recognizes and imposes an obligation on all media outlets to apply its provisions, with the amendments adopted on 23.01.2014, electronic publications were excluded from this definition, i.e., these media outlets were excluded as possible employers of journalists and media workers.

20 Law on Media, "Official Gazette of R.M." no. 184/13 and 13/14

21 Public Policy Brief: Strengthening Professional Standards or Eroding Free Speech: Regulation of Online Media, Institute for Communication Studies, 2017, page 13-14. The document is available at: https://iks.edu.mk/attach/Regulacija-na-onlajn-mediumi-rezime.pdf

22 Article 2 paragraph 1 item 1 of the Law on Media

The first version of the Law on Media also contained an additional provision that defined electronic publications as a special type of media. Nevertheless, with the amendments from January 2014, this distinction was removed by deleting the provision that further specified the scope and meaning of electronic publications.[23]

In spite of this, the definition remains broad enough to cover all types of media, stating that a media outlet is "... any form of communication such as newspapers, magazines, radio and television programs, teletext and other means for daily or periodic publication of editorially reviewed content, regardless of whether it is in writing, auditory or visual, in order to inform and satisfy the cultural, educational and other needs of the general public". Hence, all media, including electronic communications or media in the online space, which fulfil the conditions as stipulated in the definition, are in practice treated as media by the competent authorities and the self-regulatory body.[24]

The fact remains that the Law on Media does not recognize the electronic publications or online media outlets that regularly publish informative and/or other types of content as possible employers of journalists and media workers. If our starting point is the definition according to which every person who performs the activities of collecting, analysing, processing, shaping and/or classifying information that is published in the media and *who is employed by a media publisher or has concluded a contract with a publisher is a journalist, along with any person who practices journalism as an independent occupation (freelance journalist)*[25], then it clearly follows that the exclusion of electronic publications from the scope of the Law on Media in fact means exclusion of a large group of journalists from the protections and rights stipulated in this law. This shortcoming also includes the definition of "media publisher" as "a natural or legal person who carries out the activity of publishing print media, or broadcasting radio and television programs (radio broadcasters)".[26]. With this, a distinction is undeniably made between traditional and online media, to the detriment of online media and the people employed in them.

Moreover, this does not at all affect the right of electronic media outlets to be registered as legal entities performing a specific activity, nor to exercise their role as employers. This definition only means that workers – those journalists employed in electronic media outlets, although they do enjoy full protection under the provisions of the Law on Labour Relations, shall not have the specific protections that are directly related to the nature of their work, and are regulated by - the Law on Media.

23 Article 2, paragraph 1 item 3 of the Law on Media (Official Gazette of R.M. No. 184/13): Electronic publications are electronic versions of newspapers/magazines which, notwithstanding their size, are available to the general public through internet websites.

24 For example, the Council of xv handles complaints against electronic media. Statistically, the largest number of procedures of the Council for Ethics in the Media refers to procedures following complaints against Internet portals - https://semm.mk/komisija-za-zhalbi/statistichki-pregledi/1049-2022. The trend of recognizing electronic publications as media outlets according to the Law on Media can also be seen from the opinions adopted by the Commission for Prevention and Protection from Discrimination (https://kszd.mk).

25 Article 2 paragraph 1 item 4 of the Law on Media

26 Article 2 paragraph 1 point. 3 of the Law on Media

This is particularly relevant when it comes to protecting the journalists' rights to express their opinion and position, to refuse to execute an order[27], to protect the source of information[28] and to refuse to sign content that has been altered during the editorial process[29]. In fact, it is about the possibility of protecting the professional independence, reputation and dignity of the journalist.

From the point of view of the independence of journalism as a profession, but also from the point of view of the protection of employment-related rights, the provision of Article 11, paragraph 1 is of outmost importance, since it states that a journalist may not have his/her employment contract terminated, his/her salary reduced or his/her position in the editorial office changed, i.e. diminished, i.e. have his/her basic rights in accordance with the Law on Labour Relations undermined, when the journalist works or expresses an opinion that is in accordance with professional standards. This provision establishes special protection of journalists against termination of employment, which is regulated in the Law on Labour Relations only for certain categories of employees. However, over the past decade, the main issue came from the practical implementation of this provision from the Law on Media, because it does not contain provisions that further specify which body would be competent to supervise the implementation of the law, that is, the way in which journalists can exercise their right to protection[30].

Furthermore, it is insufficient to only have one provision that guarantees protection to journalists against dismissal or against having their other employment rights violated – it is necessary to introduce new provisions that would impose an obligation on media employers to guarantee these rights to the journalists within their editorial office.

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27 Article 11 of the Law on Media:
(1) A journalist may not have his/her employment contract terminated, his/her salary reduced or his/her position in the editorial office or newsroom diminished, i.e. have the payment of the agreed compensation, or a part of it, reduced or withheld, as well as have some of the other rights established in the Law on Labour Relations diminished, as a result of him/her expressing his/her opinion and position, if they are in accordance with the professional rules of the journalism.
(2) A journalist has the right to refuse to prepare, write or participate in compiling an article whose content is against the professional rules of the journalism as a profession, for which he/she shall submit a written statement to the responsible editor.
(3) The provisions of this article do not preclude the responsibility of journalists in cases determined in accordance with the Law on Labour Relations.

28 Article 12 of the Law on Media:
(1) A journalist has the right not to reveal the source of the information, that is, the data that may reveal the source in accordance with international law and the Constitution of the Republic of Macedonia.
(2) The right from paragraph (1) of this article is also available to other persons who, due to their professional connection with the journalist, are familiar with the data that can reveal the source, through collection, editorial intervention, or dissemination of the information.
(3) Before publishing information for which he does not disclose the source, the journalist is obliged to meet the editor-in-chief.

29 Article 13 of the Law on Media:
(1) Any content whose meaning has been substantially altered through editorial intervention may not be published under the author's name without his/her consent.
(2) The editor-in-chief is responsible for any content published contrary to paragraph (1) of this article.
(3) If the author considers that his reputation has been damaged with the content published contrary to paragraph (1) of this article, he/she shall have the right to compensation for damages in accordance with the law.

30 Article 29, which refers to the supervision of the application of this Law, states only that the regulatory body (the Agency for Audio and Audiovisual Media Services) performs administrative supervision over the fulfilment of the obligations established in Articles 6, 7, 8, 10, 14 and 15, which refer to the protection of minors, the obligation to publish certain information, the obligation of the media to appoint an editor-in-chief, and adopt an internal act, and the obligation to be transparent.

The first draft of the Law on Media did contain such a provision, according to which the publisher was obliged to adopt a general act that would regulate the mutual rights and obligations between the publisher of the media, the editor-in chief, the editors and the journalists[31].

The protection of these rights is in accordance with Article 7 of the Charter, according to which protection of the journalist's right to refuse an editorial order to sign certain content is required, if the journalist's text is in accordance with the ethical standards or if there have been substantial changes to the text without the author's permission. These rights are outlined in the Code of Journalists of Macedonia[32], according to which acting in accordance with the ethical standards and values serves as the basis to promote the reputation and respect for journalism as a profession, as well as the basis for the credibility of the media outlet that the journalist belongs to, or cooperates with.

If it is scrutinized through the lens of the principles established by the Charter on Journalists' Working Conditions, the Law on Media lacks provisions that could serve as the basis to improve the freedoms and rights of journalists and media workers within the editorial offices. For example, the current version of the Law on Media contains general provisions guaranteeing the freedom of expression and the freedom of the media, but no provisions guaranteeing the right of association of journalists, including the right to establish and join professional associations for the purpose of protecting their interests.

31 Article 10 of the consolidated text of the Law on Media, "Official Gazette" of the Republic of Macedonia no. 184/2013:
(1) The media publisher, which is a legal entity, within 90 days as of the day it starts work, is obliged to adopt a general act which will regulate, in particular: - the structure of the editorial board, - the rights, obligations and responsibilities of the editor-in-chief, the editors and journalists, - the mutual rights and obligations between the media publisher, the editor-in-chief, the editors and the journalists, - the method and procedure for appointing and dismissing the editor-in-chief and any other issues related to the work of the media outlet.
(2) The media publisher is obliged to make the act from paragraph (1) of this article publicly available.
(3) The media publisher shall respect the professional rules of journalism as a profession, established by the journalists' professional organizations.

32 Code of Journalists of Macedonia, items 4, 14 and 16.

5. Other laws governing contracts other than employment

5.1 Law on Obligations

Taking into account the definition of a journalist in accordance with the Law on Media, there are undisputable legal grounds for media outlets to hire journalists to undertake certain tasks without establishing permanent employment. The most common form of this kind of "gigs" are temporary service contracts, regulated under the Law on Obligations[33].

Through a temporary service contract, the person performing the assignment (an entrepreneur, a contractor) agrees to perform a certain task, such as the production or repair of an object or the performance of certain physical or intellectual work, etc., and the customer agrees to pay the compensation.

Unlike the employment contracts, where the working conditions, the protection of the employee, the amount of the salary and the contributions are important, in a temporary service contract, there are three elements:

- The work/assignment to be performed by the contractor;
- The deadline for delivery; and
- The method of payment for the completed work/assignment.

Temporary service contracts do not contain, nor are they designed to contain, provisions related to the working hours, protection at work, annual leaves, breaks and other special conditions.

These contracts are indeed appropriate for persons occasionally performing certain work or services (for example, periodical translations, specific articles, columns, etc.). However, they must not be used to hire people to undertake certain tasks in continuity (such as presence in the office or availability for a period of several hours during the day and doing assignment which are, by nature, employment tasks, and not one-off engagement). Abusing temporary service contracts for these purposes constitutes a violation of the Law on Labour Relations, and the worker remains unprotected, without registered years of experience, and without paid contributions for health, pension, and disability insurance.

5.2 Volunteering and internships

Volunteering and internships are regulated by separate laws, in order to distinguish them from the concept of employment.

Volunteering represents voluntary provision of personal services, knowledge, and skills and/or performance of other activities for the benefit of other persons, authorities, organizations and other institutions, without compensation[34]. According to the Law on Volunteering, volunteer work may only be organized by citizens' associations/foundations, religious communities and religious groups, public institutions, state government bodies and units of local self-government and the city of Skopje.

33 Law on Obligations, Article 619, Official Gazette of the Republic of Macedonia no. 18/01, 04/02, 05/03, 84/08, 81/09, 161/09 and 123/13 and Official Gazette of the Republic of North Macedonia No. 215/21 and 154/23

34 Article 3, Law on Volunteering, Official Gazette of the Republic of Macedonia no. 85/07, 161/08, 147/15 and Official Gazette of the Republic of North Macedonia no. 124/19 and 103/21

"Internship" is an activity that includes a work component through learning and acquiring practical skills for work, which is undertaken for a limited period of time, with the aim of gaining practical and professional experience, in order to improve the employability and facilitate the transition to regular employment. An intern is a person who is not employed, is younger than 34 years, and has completed at least primary education. Internships may not exceed the duration of six months.

CONCLUSIONS AND RECOMMENDATIONS

Strengthening the position of the journalist, i.e. the media worker on the labour market, requires a solution that would enable the protection of the journalist, i.e. the media worker while performing his/her work, but also after the work has been completed, regardless of whether he/she has the status of an employee in a particular media outlet or not.

In this regard, it is necessary to note that:

A. The Law on Labour Relations is unable to adequately respond to the specific needs arising from the contractual engagements (gigs) of journalists and media workers.

The Law on Labour Relations is a general law that lays down the foundations of employment and it cannot be expected to be burdened with provisions that correspond to the specific needs of each profession separately. However, it is indisputable that in order for journalists and media workers to be able to do their job in a safe and dignified manner, additional regulation of the legal protection of this category of workers is necessary, corresponding to the specific needs of the profession.

The law provides sufficient space to do this individually, through the individual employment contracts, but also collectively, by concluding collective agreements at the level of the employer or at the level of the sector, as well as with two general collective agreements - for the public and for the private sector of the economy. The general collective agreements apply to all the employers in the public or private sector of the economy, but sector-level and employer-level collective agreements may establish an even greater scope of protection of workers' rights.

B. It is necessary to strengthen the provisions of the Law on Media regarding the recognition of the specific needs and the protection of journalists and media workers, in both traditional as well as online media.

Starting from the assumption that basic labour rights are guaranteed by the Law on Labour Relations, the Law on Media only makes a reference to the LLR and does not additionally include any of the rights guaranteed by LLR. However, in this way, the Law leaves those journalists and media workers who are engaged in media on a basis other than regular employment unprotected, along with the journalists and media workers working for online media, who are not yet recognized by the Law on Media.

The Law on Media can be a legal act that would further specify the rights that are related to, or that arise from the engagement of journalists and media workers. There are no obstacles in the Law on Labour Relations to the strengthening of the rights of workers or to providing additional rights to persons engaged by means other than permanent employment. The only obstacle is if, at the expense of the new rights, a limitation occurs to some of the rights already provided for by the Law on Labour Relations or by an existing collective agreement.

Hence, the following recommendations arise in order to strengthen the protection and labour rights of journalists and media workers in the Republic of North Macedonia:

Amendments to the Law on Media, in such a way that:

- It would provide guarantied compliance with the rights established in the Charter on Journalists' Working Conditions, for all journalists and media workers, regardless of the type of contract they have signed and regardless of whether they come from traditional or online media.

- It would provide a legal definition of online media, which need to be regulated in a way that would not affect their free and independent functioning and operation, with the sole purpose - that the persons hired by these media outlets have their rights and dignity adequately protected as journalists and media professionals.
- It would provide special guarantees to the right of association of journalists and media workers, which would further encourage them to act together towards strengthening their employment rights and protecting the honour and dignity of their profession.
- It would provide enhanced protection of the safety and security of journalists and media workers when exercising their profession, especially when reporting during crises, tensions, or other similar circumstances (right to insurance, right to protective equipment, etc.).

To encourage awareness among journalists, media workers, and the media about the importance of collective agreements and in order to build a culture of strengthening the rights by singing collective agreements:

- To organize meetings and discussions with representatives of journalists, media workers and the media, as well as the existing unions and union organizations, where the possibilities for collective protection and advocacy for employment rights would be discussed.

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