

Универзитет „Гоце Делчев“ - Штип, Правен факултет
Штип, Република Македонија



ЧЕТВРТА МЕЃУНАРОДНА НАУЧНА КОНФЕРЕНЦИЈА



**ОПШТЕСТВЕНИТЕ ПРОМЕНИ ВО
ГЛОБАЛНИОТ СВЕТ**

ЗБОРНИК НА ТРУДОВИ

Штип, 2017

Печати / Print 2-ри Август-Штип / 2-ri Avgust- Shtip
Уредник: Елена Максимова

CIP - Каталогизација во публикација
Национална и универзитетска библиотека "Св. Климент Охридски",
Скопје

3(082)

МЕЃУНАРОДНА научна конференција Општествените промени во
глобалниот свет (4 ; Штип)

Општествените промени во глобалниот свет : зборник на трудови
/ Четврта меѓународна научна конференција = Social change in the
global world : proceedings / 4 th international scientific conference =
Социальные изменения в глобальном мире : сборник материалов /
Четвертый международная научная конференция. - Штип :
Универзитет Гоце Делчев = Shtip = Goce Delcev University = Штип =
Универзитет Гоце Делчева, 2017. - [1210] стр. : табели ; 25 см

Трудови на мак., англ. и рус. јазик. - Фусноти кон текстот. -
Библиографија кон трудовите

ISBN 978-608-244-423-9

а) Општествени науки - Зборници
COBISS.MK-ID [103854858](https://nbn-resolving.org/urn:nbn:mk:COBISS:103854858)

Goce Delcev University in Shtip, Faculty of Law
Shtip, Republic of Macedonia



FOURTH INTERNATIONAL SCIENTIFIC CONFERENCE



PROCEEDINGS

Shtip, 2017

Университет им. Гоце Делчева, Юридический факультет
Штип, Республика Македония



ЧЕТВЕРТЫЙ МЕЖДУНАРОДНАЯ НАУЧНАЯ КОНФЕРЕНЦИЯ



**СОЦИАЛЬНЫЕ ИЗМЕНЕНИЯ В
ГЛОБАЛЬНОМ МИРЕ**

СБОРНИК МАТЕРИАЛОВ

Штип, 2017

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**EMPLOYEES' PARTICIPATION IN THE MANAGEMENT AND
DECISION MAKING IN PUBLIC ENTERPRISES AND INSTITUTIONS –
THE CASE OF THE REPUBLIC OF MACEDONIA**

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Abstract

Institutions represent a complex social organism for meeting a broader public interest through performing public service which is not classified under commercial activity determined by law (non-economic activity) and which can be determined by law as an activity of public interest. It includes public services provided through institutions in the fields of education, science, culture, health care, social welfare, child protection, protection of persons with intellectual and body disability, as well as other activities which are determined by law as public service.

On the other hand, the public enterprises are entities which are established for performing activities of public interest (performing various public works and alike) and basically they represent traders which regarding their operation are not different from the traders (trade companies) which are established and operate according to the Company Law. Those differences refer only to the establishment (founders), specifics of the performance of the activity of public interest, as well as in the part which refers to the organization of the management of those enterprises.

Regarding the institutions and public enterprises we cannot speak about classical contradiction of the relations between the labor and the capital as in the companies due to the fact that these entities are established with financial and other resources from the state or municipal budget, that is, with resources collected on various grounds from the citizens and other legal entities.

In order to perform the public activity of the public enterprises and institutions there is a need for the employees to synchronize and subordinate their own interests to the interests of those entities. Starting from this argument, there is inevitable need of employees' participation in the decision making and governing the institutions and public enterprises, through which they would be able to enjoy and protect their economic and social rights and interests.

The primary goal of this paper is to present and elaborate the legal grounds of practical realization of the employees' right to participate in the governing and decision making in the public enterprises and institutions in the Republic of Macedonia.

Keywords: *participation, public enterprise, institution, information, consultation, managing organs*

Introduction

The issue of employees' participation in the management and decision making in the institutions and public enterprises is a part of the broader concept of organization of the issue related to the management and decision making within the enterprise. It is executed through various forms and at various levels. The different systems, that is, states, have different solutions. In some states the participation is regulated by law, in other it is regulated by collective agreement and alike. Accordingly, their levels of participation are also differing from system to system.

Regardless the differently defined and legally regulated ways of participation in the different systems of the states, the fundamental and ultimate goal of the participation is the integration of the employees as important participants in the enterprise, first of all, in the informing, participation in the management, workers' shareholding, running the social dialogue etc.

The realization of the business venture of the enterprise (company) enjoins the need for the employees to synchronize with and subordinate their own interests to the interests of the enterprise, and consequently, the enterprise would also articulate their interests. This argument confirms the need of employees' participation in the enterprise's decision making through which the employees will protect their economic and social rights and interests.

The relations between the labor and capital have been always contradicted and they are the cause of possible conflict between them. All modern societies approach to finding legal solutions which will provide for the holders of the business venture in the enterprise a stability of the relations between the labor and capital, that is, conditions of avoiding possible conflict and unwanted consequences. If we take into account the indisputable fact that the capital and the labor participate in the creation of the company's profit, it is expected that the employees should also have the possibility (legal, institutional and alike) by which they would be able to oppose the power of the owners and managers, not in order to be the opposed power, but to represent and to be a part of the complete power of relations in the process of making decisions of importance for the company.

When we talk about the institutions and public enterprises we cannot say that there is classical contradiction of the relations between the labor and the capital due to the fact that in essence, as founders of the institutions and public enterprises appear the state (Government) or the municipalities, depending on the type of the institution or public enterprise that are established. Regarding the institutions, there is a possibility to be established as public, mixed or private, but the basic fact is that they perform activity of public interest which is determined by law and which activity is not commercial activity. On the other hand, the public enterprises perform

Final considerations

The participation of the employees in the management and decision making in the enterprise is a democratic achievement. Through the participation the employees become a significant factor in the execution of their social and economic rights.

Subject matter of the employees' participation in the management of the enterprise are the basic interests of the employees, safety of the job, right to a salary, acceptable working conditions and protection at work etc. In this direction the employees' interests are conflicted to the interests of the employers regarding the increase of the profit, decrease of the operational costs, need of flexible working relations etc. The interests of the employees also depend on the economic elements that are imposed by the market economy and the logic of the capital – relation. Due to all of above, the issue of employees' participation in the decision making encircles a totality of issues related to the economics and the social position of the employees in the realization of their rights and interests.

When we speak about participation of the employees in the decision making and management of the public enterprises and institution, basically we cannot speak about a classical conflict in the relations between the labor and capital. This is due to the fact that basically as founders of these entities appear the state or the municipalities, which financing, in turn, is made by all citizens in the state, that is, the municipality. The basic element is the performance of the activity that is of public interest. The same situation would also apply to all entities to which performance of activity of public interest is transferred.

The Republic of Macedonia is a state which builds its social, political and economic organization of the relations in accordance with the known civilization and democratic values. In this direction the issue of employees' participation in the management of the enterprise is also posted. The Constitution of the Republic of Macedonia, in Article 58, presents all the assumptions for regulation of the issue of employees' participation in the management and decision making in the enterprise, and in this concrete case, in the public enterprises and institutions in the Republic of Macedonia, as well.

The amendments to the Law on Labor Relations of 2010 introduced the basic standard of participation of the employees in the decision making in the enterprise through information and consultation. According to these amendments the obligations for information and consultation refer to public enterprises having at least 50 employees and institutions having at least 20 employees. The Constitution of the Republic of Macedonia and the Law on Labor Relations give the legal grounds

for regulation of the issue of employees' participation in the decision making and management of the public enterprises and institutions.

The issue of employees' participation in the decision making and management of the public enterprises and institution through information, consultation, giving consent in deciding on issues that refer to the execution of the employees' economic and social rights and interests, the issue of institutionalization of a special body of the workers (workers' council), its competence, establishment, conducting procedure of election, the issue of elective board and its operation, the issue of legality of the procedure for election of workers' board and the consequences of infringements of the procedure for election that are of importance for the election results, the relations with the trade union, obligations for informing the workers and the trade union on the operation of the workers' council, the issue of participation of the employees in the managing organs, as well as other issues related to the issue of employees' participation in the decision making and management are issues that should be a subject matter of regulation in the laws that regulate the relations in the public enterprises and institutions. This means that there is a need of regulating the issue of participation in the decision making and management of the public enterprises and institutions with material- legal, process -legal and organizational norms and which solutions should be in accordance with the solutions contained in the Law on Labor Relations and the solutions that are already known in many states in Europe and worldwide, as well as with the solutions referred to in Article 94-a of the Law on Labor Relations with material-legal, process-legal and organizational norms, the issue of employees' participation in the decision making and management of the public enterprises and institutions will practically become inapplicable. In this direction the policy (Government) should initiate activities for regulating the above cited issues.

We hope that with this paper we managed to underline the key aspects related to the issue of participation of the employees in the management and decision making in the public enterprises and institutions in the Republic of Macedonia, to present the legal grounds for its realization in the Republic of Macedonia, as well as to point out the need and the legal gaps in this issue that should be additionally regulated. We expect that this paper will cause additional motivation for further consideration of this issue by the expert and scientific public.

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