



EXTERNAL ASSESSMENT

SOCOTAB DOOEL BITOLA
Oriental Prilep farmers in Prilep,
Mogila and Krivogashtani



Agricultural Labor Practices Program

July, 2017

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EXECUTIVE SUMMARY



EXTERNAL ASSESSMENT

Oriental Prilep farmers in Prilep, Mogila and Krivogashtani

In July 2017 Philip Morris International (PMI) requested Control Union (CU) to conduct an external assessment of the Oriental Prilep growing operations of its supplier Socotab DOOEL Bitola in the Pelagonia region (Prilep, Mogila and Krivogashtani districts), Republic of Macedonia. The assessment evaluated the labor practices at contracted farms, and whether these were meeting the standards of the Agricultural Labor Practices (ALP) Code.¹ CU also evaluated Socotab DOOEL Bitola's internal capacity to implement the ALP Program, their understanding of farm practices, and how they identified, recorded and addressed ALP-related issues.

For this assessment CU interviewed 24 Socotab DOOEL Bitola employees and three employees from the Macedonian Centre for International Cooperation, the stakeholder in charge of running the support mechanism restricted to the Krivogashtani municipality and surrounding villages. Over a two-week period CU visited 60 farms throughout Pelagonia², interviewing a total of 60 farmers, 73 family members, five contracted workers and one hired worker (agricultural contractor). All farm visits were unannounced.

An information triangulation methodology was used to evaluate farm practices. The three sources included interviews, documentation, and observation, together with a "Five Whys Analysis" problem analysis. The "Plan, Do, Check, Act" cycle was adopted for analyzing Socotab DOOEL Bitola's management approach.

Socotab DOOEL Bitola started with the ALP Program in 2012. Most of their farmers were smallholders and mainly grew tobacco on an average of 0.6 hectares. In most cases the farm land was owned. As a supplier to PMI, Socotab DOOEL Bitola had incorporated the ALP Program in its processes and procedures. Socotab DOOEL Bitola's international partner company, Universal

Leaf Tobacco (ULT) had global policies on ALP and Corporate Social Responsibility, to which Socotab DOOEL Bitola was also committed. Commitment of Socotab DOOEL Bitola staff to ALP was high among all the levels of the company. Whereas some interviewees considered ALP as a client requirement that had to be met, others also showed personal involvement and interest in the topic.

A risk assessment conducted by Socotab DOOEL Bitola and PMI in 2012 considering small tobacco farm size, also the fact that mostly family members are involved while farms employing hired labor is less than 5%. Following that assessment Socotab DOOEL Bitola focused, but not limited, its communication and reporting efforts on two ALP Code Principles: elimination of child labor, and safe work environment (reducing exposure to chemicals and green tobacco, in particular). As a result of these efforts, knowledge among Socotab DOOEL Bitola employees as well as farmers was relatively good for these two topics. Nonetheless, CU found that both the farmers and the Leaf Tobacco Specialists (Socotab DOOEL Bitola's field staff) were not fully aware of the hazardous nature of handling green tobacco.

Legal knowledge, particularly with regard to workers' rights and benefits, was found to be very limited. Furthermore, some gaps in the knowledge of labor law were found as it was not clear for Socotab DOOEL Bitola which type of legal requirements were needed to constitute an employment relationship³. This had a direct impact in the implementation of the income and working hour's principle.

Socotab DOOEL Bitola adjusted its organizational structure in several steps to better integrate ALP in their daily business practice and achieve ALP objectives. ALP Coordinator and ALP Assistant positions were created as well as a Steering Committee and an ALP Country Team. The organizational structure appeared solid

1. The main goal of the ALP Code is to eliminate child labor and other labor abuses progressively where they are found, and to achieve safe and fair working conditions on all farms from which PMI sources tobacco ([see link](#)). For more information on the background of the ALP Program ([see link](#)).
2. The minimum sample size was 60 farms, which is the square root of the total number of farms within the scope (3,647 at the time of the assessment). See Appendix II for further details.
3. Please see Annex III – Legal information for more details about Employment Contract and Contract for Work

and all employees were aware of their roles and responsibilities. New employees received training and were assisted during their normal duties by already experienced colleagues.

Prompt Actions were understood by all employees as a breach of the ALP Code. Socotab DOOEL Bitola had developed an escalation process in which each situation considered a Prompt Action would be addressed by different levels within the organization. However, even if Socotab DOOEL Bitola had specific instructions and procedures in place for solving individual Prompt Action situations, no defined time frames for follow-up were defined.

Regular meetings were held between all teams involved in ALP, and ALP-related issues were discussed on a weekly basis. Socotab DOOEL Bitola's Leaf Tobacco Specialists generally had a good understanding of the working conditions on the farms and also regularly reported on situations not meeting the standards. However, no root causes were investigated when an issue was found, and the common strategy for solving an issue was to simply refer the farmer in question to one of the ALP-related initiatives run by the company. Hence, root cause analysis is an important area for improvement within Socotab DOOEL Bitola. The software used by the field staff did not allow reporting of farmers' feedback and observations during monitoring and follow-up periods.

Farmers were informed about the ALP Code during farm visits conducted by the Leaf Tobacco Specialists. In addition, yearly orientation meetings were organized for farmers at the beginning of the crop season to provide training on the ALP Code. Furthermore, several written communication materials on ALP were distributed among the farmers. In general, farmers and their family members were well aware of the ALP Code Principles regarding child labor and safe work environment, reflecting the efforts invested by Socotab DOOEL Bitola. However, their knowledge of the other ALP

principles was low. Similarly, none of the external workers were aware of any other ALP principles except for child labor and safe working environment.

Socio-economic data for Farm Profiles was collected once a year at the time when farmers were contracted for the new season, and updated after each monitoring visit if needed. All information was collected with a tablet computer using tailor-made software. This system had been introduced in 2015, and the field staff were fully accustomed to working with it. CU found that the Farm Profiles were generally accurate, except that information on the use of so-called "service providers"⁴ was missing.

Most of the ALP team members had extensive experience in the tobacco sector, and used this experience to address issues. Based on the information gathered during monitoring and Prompt Action issuances and the experience of ALP team members and leaf technicians, Socotab DOOEL Bitola had developed four initiatives to address widespread and systemic issues. Three of these initiatives addressed the ALP Principle of safe working environment, by providing personal protection equipment (PPE) for the application of crop protection agents (CPA), metal boxes with locks for CPA storage, and first-aid kits. The fourth initiative focused on the ALP Principle of elimination of child labor, by distributing machines for stringing to reduce labor needs for this activity (which traditionally involves children). CU's assessment shows that most of these initiatives had a positive impact on the farms: most farmers had a first-aid kit and PPE for CPA application, and only one child was found performing stringing activities. However, almost half of the farmers did not store their CPA in a safe and locked storage, and more than a quarter did not use a complete set of PPE when applying CPA.

The main issues identified during CU's farm visits were related to the ALP Code Principles of safe work environment, compliance with the law, and fair treatment:

4. Commonly known as agricultural contractors

1. As for safe work environment, CU observed many instances of empty CPA containers being discarded in an unsafe manner⁵, of farmers lacking a safe and locked place for CPA storage, and of people handling green tobacco without wearing the appropriate clothing for this activity.
2. As for compliance with the law, none of the farmers provided to their workers with written contracts, and on top of wages in compliance/exceeding the minimum wage, appropriate workhours and resting days, none of the farmers provided their workers with the additional benefits required by the labor law. The main reason was that both farmers and workers were completely unaware of all legal entitlements applicable for workers working under “employment contract” agreements. The law provides an additional option which is the “contract for work” which can be verbal. In perspective of “contract for work” arrangements, only the amount of work and compensation are defined by the parties, while other labor law institutes (e.g. minimum wage, annual leave, maternity leave, sick leave, overtime payment rate, etc.) would formally not exist in such arrangements.
3. As for fair treatment, a support mechanism pilot was available in the Krivogashtani area, excluding contracted farmers in the other districts.
4. As for child labor, CU observed one case where one child was helping its parents with stringing, demonstrating that Socotab DOOEL Bitola’s efforts in this area (e.g., verbal communication during regular visits) were having an effect.

Feedback received by CU from farmers and workers showed that fewer children were involved in tobacco production since the start of the ALP Program and that work safety with regard to the use and storage of CPA had improved. However, some resistance among farmers to the ALP program was identified, mainly with regard to the required use of protective clothing when handling green tobacco. A common belief in the region is that the Oriental Prilep variety does not cause GTS.

Several farmers made use of service providers (agricultural contractors) for land preparation and CPA application. However, this was not registered in Farm Profiles or assessed during monitoring activities, and therefore the service providers were invisible to the ALP program.

The outcome of this assessment can be used as a tool to facilitate management with continuous improvement. CU acknowledges Socotab DOOEL Bitola’s commitment to addressing the issues identified and defining areas of improvement through the implementation of an action plan (see Appendix I).

5. See 2.5.2 for more details

MARKET AND COMPANY BACKGROUND



EXTERNAL ASSESSMENT

Oriental Prilep farmers in Prilep, Mogila and Krivogashtani

The main types of tobacco grown in the Republic of Macedonia are Oriental Prilep and Yaka. The present assessment focuses on Oriental Prilep. This variety is mainly grown in the Pelagonia valley, where the highest concentration of tobacco farmers is found in the Prilep district.

Over the last nine crop seasons, tobacco production in the country ranged from 16,000 to 31,000 tons (all varieties), with an average yield of 1,820 kg/ha. Tobacco growing in the Republic Macedonia is dominated by small-scale farmers (average tobacco farm size in 2017: 0.63 ha), with 25,000 to 30,000 family-based tobacco farms.

Tobacco production in the Republic of Macedonia is supported by sector-specific legislation⁶. For example, the law prescribes that contracts between tobacco farmers and buyers must be based on fixed prices. It also includes provisions on government financial support for tobacco farmers.

In 1996 Socotab purchased subsidiaries in Macedonia and named the company Sokomak AD Bitola. In 1998 Socotab combined the Oriental tobacco operations in a partnership with Universal Leaf Tobacco under name of Socotab Group LLC. In 2010 Socotab DOO Bitola opened its new processing facility in Dragozhani. Finally in 2016 when Socotab Frana SA headquartered in Geneva, Switzerland became 100% shareholder name was changed to “Socotab DOOEL Bitola”.

For the 2017 Oriental Prilep crop season Socotab DOOEL Bitola had direct growing contracts with over 3,647 farmers in the areas of Prilep, Mogila and Krivogashtani where the ALP assessment took place. Most of them had been engaged with Socotab DOOEL Bitola for several years already. In 2017, total Socotab DOOEL Bitola’s farmers were supported by 42 Leaf Tobacco Specialists, 2 area managers, one chief agronomist and one leaf manager.

6. Collective Agreement for Employees in the Tobacco Industry

Chapter 1

IMPLEMENTATION OF THE ALP PROGRAM



EXTERNAL ASSESSMENT

Oriental Prilep farmers in Prilep, Mogila and Krivogashtani

1.1. Commitment to the ALP Program

Socotab DOOEL Bitola is a subsidiary of Socotab Frana SA which is owned by Socotab Group L.L.C. On the global website the Group have committed publicly to working in a socially responsible manner. Similarly, Universal Leaf Tobacco (ULT), the partner company of the Socotab Group⁷ for the Oriental tobacco operations, committed publicly to the elimination of child labor and the improvement of working conditions in tobacco crop production. The ULT website provided information about the company's policy on sustainability, supply chain integrity,⁸ their commitment to the ALP Code,⁹ and their membership of the ECLT foundation, which advocates the elimination of child labor.¹⁰ In addition, since 2009 Socotab has supported school development work in the Republic of Macedonia through different projects, including the improvement of school infrastructure and the provision of classroom equipment.

Commitment of Socotab DOOEL Bitola's staff to the ALP Program was high among all levels of the company; most of the interviewees showed personal involvement and interest in the program. However, some mainly regarded ALP as a client requirement that had to be fulfilled. Nevertheless, all considered the ALP Program a valid program for continuously improving labor conditions on tobacco farms. Additional reasons given included eliminating child labor, improving working conditions on the farms, and increasing awareness among farmers and workers.

1.2. Strategy and objectives

Socotab DOOEL Bitola started with the ALP Program in 2012. Initial steps for setting the strategy and objectives for ALP implementation were taken during internal meetings that involved the Steering committee, Agronomy team, as well as PMI regional.

At the time of the assessment, Socotab DOOEL Bitola focused its efforts on two ALP Code Principles: elimination of child labor, and safe work environment. The selection of these two principles as priority areas was based on the field experience of the Agronomy team and on the results derived from monitoring activities and Prompt Action reports.

In early 2017, Socotab DOOEL Bitola revised the risk assessment of the issues identified, based on guidelines provided by ab.sustain¹¹, as well as the information gathered in the monitoring activities during the previous years and the experience of several members of the Agronomy team. In early 2017, Socotab DOOEL Bitola revised the risk assessment of the issues identified, based on guidelines provided by ab.sustain and monitoring results from the previous years and the experience of several members of the Agronomy team. Taking into account the probability that certain situation occurs and the level of severity associated, a score will be given for each of these situations. The score will determine the risk classification.

Risks were either classified as "unacceptable" (highest probability and highest severity) or "tolerable" (highest probability, second highest severity).¹²

7. <http://www.socotab.com/html/home.html>

8. http://www.universalcorp.com/Resources/Policies/Sustainability_and_Supply_Chain_Integrity_Policy.pdf

9. http://www.universalcorp.com/Resources/Policies/ULT_ALP_CODE.pdf

10. http://www.universalcorp.com/Resources/Policies/ECLT_Foundation_Members_Pledge.pdf

11. An agricultural supply chain data specialist, conducting supply chain assessments for different industries.

12. Each year before start of the new crop season, ALP Country Coordinator updates risk assessment document according to lessons learned from the previous year. Main objective they use while scoring their risks are given on the template prepared by the instructions of ab.sustain: Probability: 5-Very Likely, 4-Likely, 3- Fairly Likely, 2-Unlikely, 1-Very unlikely and Severity: 5 – Catastrophic, 4 – Major, 3 – Moderate, 2 – Minor, 1 – Insignificant. Score received from the multiplication of Level of Probability with Level of Severity gives the risk level. Risk level should be interpreted as follow: Unacceptable: stop activity and make immediate improvements, Tolerable: Look to improve within specified timescale, Adequate: Look to improve at next review and Acceptable: No further action, but ensure controls are maintained.

Socotab DOOEL Bitola's strategy for implementing the ALP Code at the farm level focused on continuous training and reminding the farmers of the correct labor practices. The objectives set were as follows:

- Elimination of child labor
- Improvement of farm work safety, ensuring a safe working environment
- Monitoring and reporting on all ALP Code Principles
- Keeping Socotab DOOEL Bitola's Agronomy team trained on ALP Code Principles

A future objective is to assist farmers to train farm workers on the ALP Code Principles, but no strategy towards achieving this objective had been developed yet.

Despite the fact that child labor and safety issues had been identified and prioritized through the abovementioned strategies, no formal root cause analysis had been conducted to understand the underlying factors involved in these issues.

Socotab DOOEL Bitola response:

"CU did not find formal root cause analysis to understand underlying factors involved in child labor and safety issues, as prioritized issues by Socotab. The training materials received from PMI are in use to make root cause analysis. The company tries to decrease document load of the LTS as much as possible (by finding easy to use reporting options on own data collection system), in order to increase the quality of the work. However, ALP Country Coordinator will support this manner of operating by composing formal root-cause analysis for the major and re-occurring issues on the field"

1.3. Internal capacity

1.3.1. Dedicated organizational structure

Socotab DOOEL Bitola had set up an ALP team involving all departments of the company (see graph below). In 2012 the position of ALP Coordinator was

specifically created to address the ALP objectives and ensure proper implementation of the ALP Code. In 2016 the position of ALP Assistant was created to support the ALP Coordinator on ALP-related matters. The Leaf Tobacco Specialists, who served as the link between the management and the farmers, were also part of the internal structure to implement the ALP Program. Socotab DOOEL Bitola worked in close contact with PMI Regional, receiving regular guidance and financial support for the implementation of the ALP Program.

Internal structure for ALP implementation



The current ALP Coordinator was appointed in 2012. He participated in the first ALP training in 2012 and was therefore selected as a successor to the previous ALP Coordinator.

1.3.2. Roles and responsibilities

The steering committee, consisting of the upper management team located in the Republic of Macedonia, was responsible for communicating ALP updates and projects to PMI, and approving and supporting local projects for ALP implementation.

In addition to his tasks for the Agronomy department, the ALP Coordinator was responsible for the implementation and continuous development of the ALP Program. His first tasks were to develop a strategy to train Socotab employees and farmers on ALP-related issues, to develop a toolbox for Leaf Tobacco Specialists for collecting relevant information at the farm level, and to develop communication materials. Furthermore, he was involved in conducting the risk assessment, drafting the quarterly reports for PMI Regional, preparing, conducting, and evaluating training of the field staff,¹³ keeping track of reported Prompt Actions¹⁴ and their follow-up, and keeping Socotab DOOEL Bitola staff up-to-date on developments within the ALP Program. All of the Socotab DOOEL Bitola staff had job descriptions that included specific responsibilities related to the Good Agricultural Practices program (GAP), including ALP-related tasks.

The ALP Country team consisted of several members with different tasks (see Figure above). Overall responsibilities included:

- Developing ALP communication strategies;
- Revising and designing strategies to address ALP, at least on a yearly basis;
- Creating and analyzing documentation for farm monitoring, including the creation and implementation of action plans where necessary;
- Updating the risk assessment at least annually;
- Implementing and/or supporting projects and initiatives approved by the management team.

Senior Leaf Tobacco Specialists and Leaf Tobacco Specialists shared some responsibilities. Both were in charge of training the farmers (which mostly took place during farm visits) and both were responsible for visiting and monitoring the farms throughout the season. In addition, Senior Leaf Tobacco Specialists were also responsible for the internal training of Leaf Tobacco Specialists and providing logistic support to Leaf Tobacco Specialists for the implementation of the ALP code.

1.3.3. Training and knowledge of the ALP Program

Members of the Management Team and Country Team received regular guidance on ALP from PMI Regional. One formal training session by PMI Regional had been provided to Socotab DOOEL Bitola's management staff in 2011. In 2012, trainings were also provided to personnel located in the growing regions. In the years since then, the ALP Coordinator provided field personnel with annual refresher trainings, in addition to organizing weekly discussion meetings (including short exams) during each crop season. Field staff knowledge was also tested before each crop season through written exams. The results of these exams were used to identify weak points and design upcoming trainings. Management staff had sufficient understanding of the main purpose and content of the ALP Program.

13. The concept used was "train the trainers" – the ALP Coordinator trained the staff that would then train the farmers in the field.

14. A Prompt Action is a situation in which workers' physical or mental well-being might be at risk, where children or a vulnerable group – pregnant women, the elderly – are in danger, or where workers might not be free to leave their job.

All field staff defined Prompt Actions as situations happening at the farm that contravened one of the seven ALP principles. When a Prompt Action was identified, the Leaf Tobacco Specialist was expected to follow an escalation process to address and report the situation. Socotab DOOEL Bitola had specific instructions and procedures in place for solving individual Prompt Action situations, however there were no defined time frames for follow-up (see 1.5.3).

All Leaf Tobacco Specialists had been trained by the ALP Coordinator and Senior Leaf Tobacco Specialists, and all had been accompanied to the field and shadowed by their supervisor at least twice a year.

Assessment of Leaf Tobacco Specialists' knowledge of ALP Code Principles:¹⁵

1. **Child labor:** All Leaf Tobacco Specialists were aware of the meaning of this ALP Code Principle; all knew that 15 was the legal minimum working age in tobacco-related activities and were able to give accurate examples of the light work activities allowed for family members between 13 and 18 year of age¹⁶. All Leaf Tobacco Specialists had an overall understanding of hazardous work and could provide several examples.
2. **Income and work hours:** None of the Leaf Tobacco Specialists have the legal expertise and therefore they did not emphasize the fact that hired workers can be engaged by the farmers by two types of working contract agreements¹⁷ according to the local law – “employment contract” and “contract for work”. In perspective of the “employment contract” arrangements, Leaf Tobacco Specialists had a good understanding of this ALP Code Principle, and knew the legal minimum wage¹⁸ and required payment frequency; eleven of them (73%) knew the legal overtime payment rate. Fourteen (93%) Leaf Tobacco Specialists were able to name the maximum legal working hours and eleven (73%) the maximum legal overtime hours. When asked about legal benefits, eight (53%) referred to the workers' entitlement to receive at least two resting day per week. However, none of the interviewees mentioned legal benefits such as social security, health insurance, salary compensations, or yearly salary increase. In perspective of “contract for work” arrangements, only the amount of work and compensation are defined by the parties, while other labor law institutes (e.g. minimum wage, annual leave, maternity leave, sick leave, overtime payment rate, etc.) would formally not exists in such arrangements. 16
3. **Fair treatment:** All Leaf Tobacco Specialists could provide an explanation of this ALP Code Principle; namely, that workers should be treated fairly, and be free from discrimination and harassment (verbal or sexual).
4. **Forced labor:** All Leaf Tobacco Specialists were fully clear on the meaning of this ALP Code Principle, explaining that workers should not be forced to work and should have the freedom to leave the farm at any time with reasonable notice. Retention of farm workers' identity documents and labor under threat or bond were given as examples of unacceptable situations.
5. **Safe work environment:** Leaf Tobacco Specialists had good knowledge of this principle. All of them understood that working conditions at the farm should be safe and that

15. For this assessment 15 Leaf Tobacco Specialists were interviewed.

16. E.g. feeding farm animals or helping the farmer to prepare breakfast for the workers.

17. See Annex III – Legal information

18. At the time of the assessment, according to Article 59 para (1) of the CATI (a branch-level collective agreement applicable to the employees and employers in the tobacco industry), minimum legal wage for working in tobacco in Macedonia was 10,650 MKD (Macedonian denar) per month. No minimum salary per hour was given by the Ministry of Labor and Social Policy. However, as the law refers to an annual average of 174 hours per month, hourly salary has been calculated using the following formula; 10,650 MKD / 174 hours = 61.20 MKD/hour

the farmer should provide methods to control safety risks. When asked, all of them could give valid examples of hazardous activities at the farm level and the measures to be taken to reduce the risk of harm¹⁹. However, when it came to describing the dangers associated with stringing activities, all Leaf Tobacco Specialists mentioned only the use of sharp tools, not the risks of GTS.

6. **Freedom of association:** All Leaf Tobacco Specialists had an adequate understanding of this ALP Code Principle.
7. **Compliance with the law:** All Leaf Tobacco Specialists said that the national law should be followed when hiring workers, and that workers should be informed about their legal rights and employment conditions prior to starting their job. When asked about the need for a written contract between farmers and workers, nine (60%) Leaf Tobacco Specialists were aware of the legal requirement for a written contract while none of them knew about the two possible working agreements according to the local law²⁰.

Based on this assessment, CU concludes that the knowledge of Leaf Tobacco Specialists on ALP Code Principles is good, which can be attributed to the intensive field staff trainings conducted on a weekly basis by the ALP Coordinator. However, there is still room for improvement, particularly with regard to the ALP Code Principle on income and working hours as it is not clear for the Leaf Tobacco Specialists the different type of working agreements according to the local law, but also with regard to understanding the risks related to green tobacco exposure during stringing.

Socotab DOOEL Bitola response:

"..in March/April 2018 Socotab will develop ALP training program for LTSs that will focus more on country-related legal requirements. The program will be developed by country's ALP Coordinator and will aim to increase LTS's awareness on local law related to ALP principles. In April 2018, Leaf Tobacco Specialists will be trained on local law related to ALP principles and their understanding will be cross-checked via tests before start of field visits. Every year, the training program will be revised and updated, if necessary, and LTSs knowledge on local law will be refreshed once per season or whenever changes in respective laws occur."

1.3.4. Internal communication

Throughout the crop season the ALP Coordinator held weekly meetings with the field team, in which ALP-related topics were discussed and documented. Furthermore, the ALP Team held bi-weekly meetings where topics related to GAP, including ALP, were discussed. Informal communication among colleagues took place on a frequent basis.

The Steering Committee and ALP Country team held four²¹ meetings during the tobacco season, where topics related to GAP were being discussed and reviewed. After each of these meetings the ALP Coordinator, supported by the ALP Assistant, would write a report including an analysis of the progress on ALP implementation, which was sent to PMI Regional after approval by the management.

1.4. Communication of the ALP Code requirements to farmers

1.4.1. Communication strategy and tactics

In 2012 Socotab DOOEL Bitola started to communicate the seven ALP Code Principles to farmers, using different communication methods. Farmer group meetings were held at the beginning

19. E.g. the use of complete set of PPE when handling CPA, or skin protection when harvesting green tobacco.

20. See Annex III – Legal Information, Principle 7

21. First meeting to be held in February and the last one in November.

of each season to communicate about GAP practices. On average, the last 20 minutes of these meetings were dedicated to ALP topics. In practice, the farmers did not always attend these meetings, and according to LTS experience, the attention levels of those present tended to drop towards the end of the meeting (when ALP topics were discussed). As a second (and more successful) method, the ALP code was communicated to the farmers by the Leaf Tobacco Specialists during their regular farm visits. At the time of the assessment, the average ratio of Leaf Tobacco Specialists to farmers was 1 to 270 (ranging from 1:140 to 1:386). Each Leaf Tobacco Specialist had to visit all the farmers under his or her responsibility at least four times a year. The Leaf Tobacco Specialists interviewed by CU declared to spend between 30 and 60 minutes of each visit (depending on the time of the season) to teach about ALP; none of the interviewees complained about lack of time to communicate ALP.

In addition to the group meetings and farm visits, Socotab DOOEL Bitola used written communication materials to communicate with farmers about ALP. Firstly, the growing contract, which all farmers

had to sign at the beginning of each crop season, included provisions on the farmer's commitment to the GAP principles. Secondly, Socotab DOOEL Bitola attached a leaflet to each contract describing all seven ALP principles and their corresponding measurable standards. Lastly, an oriental tobacco production manual including all GAP production guidelines was distributed among farmers at the beginning of each season. However, during the assessment CU found that many farmers had only read the first chapters of this manual (which dealt with agricultural and quality recommendations), overlooking the information on GAP and ALP²².

The following table shows the level of awareness among the interviewed farmers, family members and external workers with regard to the ALP Code Principles. In line with Socotab DOOEL Bitola's focused communication efforts, the highest levels of awareness among all groups were found for the topics of child labor and safe work environment. Especially among family members and workers, awareness of other ALP-related topics was poor, or completely absent. In 12 cases farmers were not able to name all seven ALP principles.

Level of awareness of ALP Code Principles²³

	Farmers (60)	Family members (73)	External workers (5)
Child labor	46 (76%)	61 (83%)	3 (60%)
Income and work hours	4 (6%)	6 (8%)	0
Fair treatment	6 (10%)	5 (8%)	0
Forced labor	4 (6%)	4 (5%)	0
Safe work environment	48 (80%)	58 (80%)	4 (80%)
Freedom of association	6 (10%)	4 (5%)	0
Compliance with the law	7 (12%)	3 (4%)	0
None of the principles	12 (20%)	3 (4%)	0

22. There were two cases in which the farmer "discovered" the ALP chapter while the CU auditor was conducting the interview.

23. Note that these data only show whether the interviewees remembered the principles, and not whether they fully understood their meaning

Interviewees who were aware of (at least some aspects of) the ALP code were also asked how they learned about it. As the table below shows, verbal communication efforts – in particular, the farm visits by Leaf Tobacco Specialists – were significantly more effective than written materials.

Means of communication through which the ALP Code was received²⁴

	Farmers (48)	Family members (63)	Workers (5)
Group meetings/trainings	2 (5%)	0	0
During regular visit by LTS	44 (92%)	54 (85%)	3 (60%)
Tobacco Production Manual	10 (21%)	0	0
ALP Leaflet	19 (40%)	26 (41%)	0
Contract	7 (15%)	1 (2%)	0
Other ²⁵	1 (2%)	0	0
Verbally from the farmer	-	18 (28%)	2 (40%)

In its ALP communication efforts, Socotab DOOEL Bitola did not take into account the so-called service providers. These are individuals working as an agricultural contractor (some in addition to being a farmer or employed worker), who own machines and provide services such as plowing and land preparation. Eight farmers (13%) hired these service providers for transplanting, cultivation, CPA spraying and land preparation services. CU interviewed one service provider, and this person demonstrated to be fully aware of the seven ALP principles. He had been trained on ALP by Socotab DOOEL Bitola in the past, when he, as a farmer, had a growing contract with Socotab.

1.4.2. Farmers' responsibilities

At the beginning of each crop season farmers signed a growing contract with Socotab DOOEL Bitola, which explicitly stated all seven ALP Code Principles. A breach of those principles could lead to an immediate termination of the contract, making compliance with the ALP Code part of the farmers'

responsibility. However, both farmers and Leaf Tobacco Specialists commented that farmers barely read the terms of the contract. Socotab DOOEL Bitola did not provide any incentives to farmers to encourage good performance in relation to the ALP Code. In practice, there had never been a case in which a contract had been terminated because of a farmer's poor ALP performance.

1.5. Internal monitoring: data collection, accuracy, and addressing issues

At the time of the assessment, Socotab DOOEL Bitola was collecting three types of ALP-related data from the farms: socio-economic information (Farm Profiles), monitoring data, and Prompt Actions. This information was collected by the Leaf Tobacco Specialists using a tablet computer and tailor-made software. When the device was connected to the internet, the software would automatically feed newly collected information into Socotab DOOEL Bitola's database system. The ALP Coordinator regularly generated reports from this system

24. Note that these data only show whether the interviewees remembered any mean of communication

25. One farmer declared to have been informed about ALP by a field technician from another tobacco company in the area, which also supplied to PMI.

to evaluate ALP-related issues. Furthermore, the collected data was compiled and added to a quarterly report shared with PMI Regional. Each Leaf Tobacco Specialist had to visit all the farmers under his or her responsibility at least four times a year.

1.5.1. Socio-economic data: Farm Profiles

The socio-economic information for Farm Profiles was collected by the Leaf Tobacco Specialists once a year during the contracting period and updated if necessary during the regular farm visits. In the past, all data was gathered on paper and delivered to the ALP Coordinator who would digitalize all the information. At present, all information is collected using a tablet computer and software specifically designed for this purpose. When asked, Leaf Tobacco Specialists explained they were very satisfied with the digital system as they had fewer documents to carry when visiting the farms and had more time left for communicating ALP, rather than filling out paper forms. The 60 Farm Profiles reviewed by CU were found to be accurate, except that eight (13%) of them did not report that the farmer in question made use of hired workers.

1.5.2. Systematic monitoring: situations not meeting the ALP Code standards

At the time of the assessment Socotab DOOEL Bitola monitored and reported on all ALP principles. Their software for farm monitoring included. For each ALP Code Principle, the possible answer was either “yes” or “no”; if “yes” was entered, a window would appear for adding comments on the issue identified. The system also allowed adding other comments or explaining any other situation occurring during the farm visit which could be used as a valid feedback for the ALP implementation system; however this was not used by the LTS in the practice.

In the case of 14 (23%) farms, monitoring results did not match with CU’s findings: more specifically, seven farmers (12%) had no adequate CPA storage; five (8%) farmers lacked proper PPE for handling

green tobacco; and two farmers (3%) lacked a first-aid kit. In addition, while the Leaf Tobacco Specialists had reported the absence of written contracts between farmers and their workers, the quarterly reports did not present this information as a possible situation not meeting the standard.

Socotab DOOEL Bitola response:

“Taking into consideration that at 23% of the farms monitoring results did not match with CU findings, Socotab plans to increase the accuracy of the collected data by enhancing the cross-checks of monitoring results during unannounced visits, cross-checking data once per month and informing LTSs on detected miss-match 5 times during monitoring season. Also the ALP Coordinator will update LTSs handbook in February 2018.”

1.5.3. Prompt Actions

Socotab DOOEL Bitola had developed an escalation procedure to identify, register and follow up on Prompt Action situations. After identifying a Prompt Action situation, the Leaf Tobacco Specialist would ensure that the situation was solved, talk with the farmer to explain the danger and risks of the Prompt Action situation in question, and register in the reporting software which of the measurable standards had been contravened. The software allowed the Leaf Tobacco Specialist to add more details in a comment box (see 1.5.2).

Once the Prompt Action was registered in the system, it was up to the individual Leaf Tobacco Specialist to decide how to solve the situation in question and how to plan the follow-up²⁶. In other words, Socotab DOOEL Bitola had no specific instructions and procedures in place for the follow up of individual Prompt Action situations. In the case that the Prompt Action could not be solved by the Leaf Tobacco Specialists, they would escalate the procedure to a higher level and communicate the situation to the ALP Coordinator who would discuss the next steps to be taken with the ALP

26. Before the Leaf Tobacco Specialist could start entering data into the software for collecting farm information, the software would inform the Leaf Tobacco Specialist if a farm had a pending Prompt Action.

Country Team and the Steering Committee, if needed. Prompt Actions would be closed at the time of the last farm visit of the season.

CU verified 23 Prompt Actions during the assessment. Eleven of these were related to insufficient PPE for CPA application, ten were related to lack of proper CPA storage, and two were related to farmer children being involved in stringing activities. Seven of the farmers were not aware that a Prompt Action had been reported for their farm, and one incident occurred again²⁷ during the farm visits by CU.

1.5.4. Data management and analysis

Leaf Tobacco Specialists were responsible for completing the monitoring reports, Farm Profiles and Prompt Action reports during each visit. As soon as the tablet device was connected to the internet, the software would automatically feed the data into Socotab's database. This way, the ALP Coordinator had access to all information collected, and could use it to develop strategies for further ALP implementation.

1.5.5. Improvement plans for individual farms

Socotab DOOEL Bitola did not have specific improvement plans for individual farms. Once a Prompt Action situation was identified, the main action was to remind and re-educate the farmer about the correct practices. In case the Prompt Action was addressed by one of the company's operational initiatives (see 1.6), the farmer would be invited to participate.

1.6. Address systemic and/or widespread issues

Based on the risks and issues identified (see 1.2), PMI's leaf tobacco suppliers are expected to address systemic and/or widespread issues through

operational initiatives, community programs (which may be supported by a financial contribution from PMI) and engagement with key stakeholders.

At the time of the assessment, Socotab DOOEL Bitola had implemented the following operational initiatives:

- Personal Protective Equipment (PPE) distribution:** Gloves, masks and goggles were offered to farmers lacking proper protective equipment²⁸. Of the farmers visited by CU, 28 (46%) declared to have received PPE for CPA application from Socotab DOOEL Bitola. All were satisfied with the initiative because it improved safety conditions at the farm and allowed them to replace old or damaged equipment. However, 19 farmers (31%) were not aware of this initiative and declared they would like to participate in it. In 2017 Socotab DOOEL Bitola distributed 1000 PPE sets among its farmers.
- CPA storage box distribution:** CPA storage boxes with locks were distributed among farmers lacking proper storage for CPA. During CU's assessment, 25 (41%) farmers declared to have received CPA storage boxes and found this initiative useful. Between the launch of the program in 2015 and CU's assessment in July 2017, 732 CPA storage boxes had been distributed among the farmers.
- Stringing machine distribution:** In 2009 Socotab DOOEL Bitola started to offer stringing machines to its contracted farmers. At the time of CU's visit, 23 farmers (38%) declared to have participated in this initiative and were satisfied with it, as it reduced work force needs and working time. Eight (13%) farmers were not aware of this initiative and declared they would like to participate in this initiative. Between 2009 and 2016 Socotab DOOEL Bitola had distributed 5241 stringing machines.

27. A farmer's child (8 years old) was found stringing tobacco.

28. Socotab's HSE Manager researched different types of PPE to select suitable equipment for the farmers. Proper goggles, gloves and masks were identified, but no apron could be found that was both affordable and meeting the safety standards. Therefore the company decided not to include an apron in the PPE package handed out to the farmers.

- **First-aid kit distribution:** In 2015 Socotab DOOEL Bitola started to distribute first-aid kits to the farmers. At the time of CU's visit, 1400 first-aid kits had been distributed. Among the visited farmers, eight (13%) declared to have received a first-aid kit from Socotab, while 17 (28%) were not aware of this initiative and would like to participate in it.

Socotab DOOEL Bitola response:

"Socotab gives a considerable budget to ALP program mainly as workforce as well as initiatives supplied to farmers. As a priority, we expect from our farmers to understand the need to protect their own family, their workers and even themselves. During 2018 700 set of PPEs, 200 First aid kits and 100 CPA lockers will be distributed to farmers."

Chapter 2

FARM-LEVEL ASSESSMENT OF WORKING CONDITIONS REGARDING THE ALP CODE STANDARDS



EXTERNAL ASSESSMENT

Oriental Prilep farmers in Prilep, Mogila and Krivogashtani

This chapter describes CU's assessment of the working conditions on the farms with regard to the ALP Code Principles and Measurable Standards. ALP Code Principles are short statements designed to guide farmers on specific practices, resulting in safe and fair working conditions. A Measurable Standard defines a good practice and over time can be objectively monitored to determine whether, and to what extent, the labor conditions and practices on a tobacco farm are in line with each ALP Code Principle.²⁹

2.1. ALP Code Principle 1: Child labor

There shall be no child labor.

Main findings and challenges

2.1.1. Children working and activities performed

No evidence was found of children below 15 years of age being employed at the farms.³⁰ CU did observe one child family member aged 8 who was helping with stringing, which is not permitted as this is a hazardous activity. A Prompt Action had been issued for this farm regarding the same situation.

Two (3%) farmers were unaware of the minimum working age, and five (8%) farmers did not fully understand the meaning of hazardous work.

Underlying factors that increase risk

CU identified three underlying factors that increased the risk of child labor:

1. In the specific case where CU found a child helping with stringing activities, the farmer in question explained that he did not agree with the ALP Principles and that he himself used to work as a child; furthermore, he did not agree that stringing was a hazardous activity.
2. In general, farmers were unaware of the risk of getting GTS when stringing tobacco, and hence were unaware of the need to wear protective clothing during this activity.
3. Most of the farmers who were unaware of the minimum working age did not hire workers themselves.

Analysis and priorities

Socotab DOOEL Bitola has been taking great effort to eliminate child labor at the farm level. CU's findings confirm that these efforts are paying off, as only one case was found where a child was involved in tobacco-related activities. Taking into account the history of the region, where it used to be common that children actively participated in tobacco production, Socotab DOOEL Bitola deserves credit for this positive development. However, challenges remain: CU found some farmers to be unaware – or even reluctant – to comply with certain measurable standards of the Child Labor principle, which in both cases represents a risk that child family members are still being involved in tasks not suitable for their age group. Additional efforts are required from Socotab DOOEL Bitola to address this issue.

Socotab DOOEL Bitola response:

"Socotab will continue to increase farmers' awareness on this subject by considering new methods and tools of training. For example, in April 2018 stickers will be created with hazardous tasks in tobacco production, field staff will distribute these stickers to farmers and they will advise them to put the stickers on visible and available work places such as tractor, CPA locker etc. The idea is to distribute 3.000 stickers every year. They will be distributed to farmers with children in June - July 2018. Additionally, in April 2018 ALP Coordinator will create posters with striking messages that will contain country's minimum employment age and slogans that will put emphasis on all hazardous activities in tobacco cultivation. Leaf Tobacco Specialists will distribute these posters to 150

29. The scope and methodology of the assessment are described in Appendix II.

30. In the Republic of Macedonia the legal minimum age for employment in tobacco is 15 (See Appendix III for more detailed legal information).

villages in the country by the end of June 2018, so that they can attract farmers' attention during peak of the season. Refreshment trainings of farmers with the help of distributed ALP leaflets will also continue."

2.2. ALP Code Principle 2: Income and work hours

Income earned during a pay period or growing season shall always be enough to meet workers' basic needs and shall be of a sufficient level to enable the generation of discretionary income. Workers shall not work excessive or illegal work hours.

Main findings and challenges

Assessing presupposition before the farm visits was that all farm working relations were subject to "employment contracts" while the Macedonian legislation also recognizes "contract for work" as a valid working agreement. As a result of that presupposition and because the type of working

arrangement also determines the applicable law³¹, insufficient information was gathered during the visits and interviews to determine under which type of working agreements workers were employed in each farm and thus in which cases labor law applies. For the purpose of this report it has been decided to use the labor rights as a benchmark for the farm findings, as it is the most common practices to use them as a reference to define if basic working conditions are met at the farms, and because labor law set of rules is wider in scope and more strict compared to what is allowed for the parties to agree under contract for work³².

2.2.1. Payment of workers

All farmers with hired labor (10 of the 60 farmers interviewed) paid their workers more than the legal minimum wage (10,650 MKD/month or 61 MKD/hour) which would be applicable in case of employment contract, but not in contract for work. They were all aware of the minimum salary for tobacco farming applicable for employment contracts but none of them knew the corresponding overtime rates; the same was found for the workers interviewed about this topic. All farmers provided breakfast to their workers, which was additional to their salary.

Salary Range			
Amount	120 MKD/hour	130 MKD/hour	35 MKD/string ³³
Workers earning on an hourly basis	9 (90%)	1 (10%)	
Workers earning per piece rate			1 (100%)

Eight farmers (13%) occasionally employ so called "hired workers", paying them between 150 and 300 MKD/decare³⁴ for land preparation (10 minutes per decare) and CPA application (20 minutes per decare including CPA preparation).

31. Both types of arrangements are recognized by the local legislations; "employment contract" agreements provide to the workers a set of laws framed in the labor law legislation while workers under "contract for work" arrangements are not subject to any specific labor law but whatever agreement has been made between employer and employee prior the beginning of the working activities. For more details in regards to the differences between "Employment Contract" and "Working of contract" in Annex III – Legal Information

32. Socotab also used the labor law applicable to "employment contract" in their communication materials.

33. Workers estimated that they made 4 to 6 strings per hour.

34. One decare is equal to 10 ares or 1000 square meters (hence 10 decares is equal to 1 hectare). The decare is a common measure of land area in the Balkans.

Payment schedule

All of the farmers paid their workers on a daily basis or per piece in accordance with the labor law applicable for workers under an “employment contract” arrangement.

2.2.3. Work hours

No evidence was found of farmers disrespecting the legal work hours on a regular basis applicable for workers under an “employment contract” arrangement. When asked, none of the farmers hiring labor and none of the workers interviewed knew the legal maximum amount of working hours applicable for workers under an “employment contract” arrangement, which would not be applicable in case of “contract for work”. However, none of the workers were employed for more than 5 hours per day. At all farms, workers received at least one resting day per week, also during peak seasons.

2.2.4. Legal benefits

Apart from resting days, none of the farmers provided their workers with the additional benefits required by labor law.³⁵ The main reason for this was that workers had verbal contracts only, and that both farmers and workers were unaware of the legal requirements regarding workers’ benefits, which would be applicable in employment contract arrangement, but not applicable under “contract for work”.

Underlying factors that increase risk

The level of awareness among farmers and workers regarding the legal minimum wage was generally high. The risk of workers being paid below the legal overtime rate is low as overtime work seems to be uncommon in the region.

Analysis and priorities

CU’s findings show that wage rates and working hours in the region are in compliance with the labor law applicable for workers under an “employment contract” arrangement. Awareness of the legal minimum salary applicable for workers under an “employment contract” arrangement was high among both workers and farmers. However, their awareness of workers’ legal rights and benefits applicable for workers under an “employment contract” arrangement was very limited.

Socotab DOOEL Bitola response:

“...the company’s field staff will conduct individual trainings to farmers regarding income, work hours and benefits. The workers of those farmers will be also included at these trainings. Trainings will be done during labor-intensive period in 2018 when there is high tendency of hiring seasonal workers. Every year all farmers will be trained on all applicable laws regarding hiring labor.”

2.3. ALP Code Principle 3: Fair treatment

Farmers shall ensure fair treatment of workers. There shall be no harassment, discrimination, physical or mental punishment, or any other forms of abuse.

Main findings and challenges

2.3.1. Treatment of workers

No evidence was found of verbal, sexual, or physical abuse on the farms.³⁶ In addition, CU did not identify any discriminatory practices.

35. Applicable only for “employment contract”, in addition to two resting days per week, workers employed under “employment contract” are entitled to receive social security, health insurance, holiday pay, parental leave, and several other benefits (see Appendix III for more detailed legal information).

36. According to regulations, CPA containers must be collected separately by a recycling company certified for this type of hazardous waste. However, there is still not in Macedonia an appropriate collection system nor a treatment plant to treat the refer waste according to the national law.

In some areas the workers were extended family, friends or neighbor farmers who worked on one another's farms, which reduced the risk of unfair treatment. Also, in some other areas, there was a scarcity of workers, which meant that farmers had to treat their workers well to ensure that they would keep working for them.

2.3.2. Support mechanism

Support mechanisms facilitate workers' access to information, assist workers in difficult situations, and mediate disputes between farmers and workers. PMI's leaf tobacco suppliers are expected to ensure that farmers and workers have access to such mechanism.

In October 2013 Socotab DOOEL Bitola launched a support mechanism pilot in Krivogashtani and 7 neighboring villages. The support mechanism is run by the NGO Macedonia Center for International Cooperation (MCIC), which assists farmers and workers in ALP-related issues and provides legal advice to farmers and workers. Farmers and workers may access the mechanism via an anonymous hotline, by visiting the MCIC offices in Krivogashtani, or during MCIC's regular field visits. In addition, MCIC and Socotab DOOEL Bitola developed several communication materials³⁷ that address child labor and promote the hotline telephone number. On a yearly basis, MCIC shares a report with Socotab DOOEL Bitola, presenting, among other things, information on the amount and type of questions received and the level of participation among workers and farmers.

Among the 35 farms visited by CU in the areas where the support mechanism was being run, 14 (40%) farmers were not aware of the support mechanism. Two of these farmers made use of hired labor, and their workers were also not aware of the support mechanism.

In addition to a formal support mechanism, the ALP Code requires that farmers should make themselves available to their workers to discuss potential

grievances before they escalate. No cases were identified where farmers were unavailable to their workers, as most of the workers were relatives, friends or neighbors.

Analysis and priorities

No issues were found with regard to the Fair Treatment principle, however, attention should be paid to the fact that MCIC conducts its farm visits together with the Leaf Tobacco Specialists. This could make farmers and workers link MCIC directly to Socotab DOOEL Bitola, and make them feel uncomfortable to use the support mechanism and speak freely. Furthermore, the support mechanism pilot is only available in the Krivogashtani area, which excludes contracted farmers in other districts from support.

Socotab DOOEL Bitola response:

"...for better and more comprehensive informing of farmers, group presentations will be organized by SL Operators with the help and support of Socotab field staff. These presentations will be organized at the start of the new season and will include farmers from the new villages that were included in this project in the last 3 years and farmers from villages neighboring Krivogashtani Municipality. Furthermore, radio commercial will be broadcasted during summer months in order to raise farmers' awareness about the Support Mechanism and its function."

2.4. ALP Code Principle 4: Forced labor

All farm labor must be voluntary. There shall be no forced labor.

Main findings and challenges

2.4.1. Involuntary labor

No evidence was found of workers being unable to leave their employment or working against their

37. Year calendars, leaflets with hotline numbers, a book about child labor, mugs with the hotline numbers, etc. The leaflets and books were made available in both the Macedonian and Albanian language.

will, or of contracted prison labor. Also, no evidence was found of workers being obliged to hand over their original identity documents or pay a financial deposit.

2.4.2. Direct payment

No evidence was found of workers not being paid directly by the farmer.

Analysis and priorities

CU did not find evidence for widespread issues related to this ALP Code Principle. This is mainly due to the fact that most workers were relatives, friends, or neighbors, or workers with a long employment relationship with the farmers.

2.5. ALP Code Principle 5: Safe work environment

Farmers shall provide a safe work environment to prevent accidents and injury and to minimize health risks. Accommodation, where provided, shall be clean, safe and meet the basic needs of the workers.

Main findings and challenges

2.5.1. Training and awareness of GTS

Nine (15%) farmers could not remember whether they had been trained on the avoidance of GTS and were not aware of the risks involved in handling green tobacco without using proper protection. As a result, these farmers either did not think it necessary to train their workers and family members, or were unable to train them. However, all of the “hired workers” interviewed had been trained by their farmer on GTS avoidance.

Furthermore, 17 (28%) farmers did not wear the complete set of required clothes when harvesting green tobacco (long sleeves, long pants, shoes and gloves). Most farmers understood the need to use protective clothing when harvesting, but generally did not believe it necessary to protect their skin during stringing. The common belief among farmers, family members and workers was that Oriental Prilep tobacco would not cause GTS, and hence that it was not necessary to cover the skin when handling green tobacco of this variety.

Use of protective clothing when handling green tobacco	Number of farms
All protective clothing (Long sleeves, long pants, gloves, and shoes)	43 (72%)
Long sleeves, long pants and shoes	12 (20%)
Long pants and gloves	5 (8%)

2.5.2. Training and handling of CPA

Safe handling of CPA proved to be a challenge on all farms visited. On 24 farms (40%), farmers did not store their CPA safely. In this group, 21 farmers had a CPA storage area that could not be locked, while the three other farmers had no designated storage area at all. None of the farmers discarded the empty CPA containers in a safe way as required by the law, because no such collection system was available³⁸. As a result, 48 (80%) farmers threw the containers in the regular waste containers. Sixteen farmers (27%) washed and pierced the empty CPA containers prior to disposal, while ten (17%) farmers burned the empty CPA containers on their farms. Two farmers (3%) declared to not handle empty CPA containers as the CPA application at their farms was performed by hired workers who would afterwards deal with the empty CPA containers disposal.

38. According to regulations, CPA containers must be collected separately by a recycling company certified for this type of hazardous waste. However, there is still not in Macedonia an appropriate collection system nor a treatment plant to treat the refer waste according to the national law.

At 3 farms (5%) CU found that some people handling CPA were not properly trained on PPE usage; in all cases, these were family members who applied CPA according to their own experience. However, on all farms visited, the CPA application equipment was in good condition and free from leaks. The one hired workers provider interviewed by CU was able to show certificates of attended trainings on the use of proper PPE when applying CPA, and on the calibration and maintenance of CPA application equipment.

At 17 farms (28%) people responsible for CPA application did not use the complete set of PPE. In ten of these cases people did not use an apron, and in the other seven cases they failed to use masks. The main reason identified by CU was that PPE (aprons, in particular) was considered uncomfortable to wear in the field. In addition, farmers had some difficulty to find good quality aprons in the agro stores selling protective equipment.

The majority of the farmers (58, or 97%) did not take any measures to ensure that no one would enter their fields after recent CPA application.

2.5.3. Clean drinking and washing water

No evidence was found of farmers not providing clean drinking water, soap and washing water to family members and workers. However, eleven farmers (18%) did not have sanitary facilities close to the fields or barns.

2.5.4. Workers accommodation

All workers went back to their homes after the working day.

Underlying factors that increase risk

At eleven farms (18%) farming tools were lying around or were not stored properly, posing a safety risk. In addition, the lack of a proper collection system for disposal of empty CPA containers with toxic residues constitutes a health risk to farmers, family members and workers.

Analysis and priorities

Safe work environment, in particular the use of PPE for CPA application, is one of the two ALP Code Principles focused on by Socotab DOOEL Bitola. The company had developed an initiative specifically aimed at PPE distribution among famers. However, CU's findings suggest that there is stillroom for improvement, particularly with regard to the actual use of PPE. Furthermore, the awareness among farmers, family members and workers of the risks of GTS is low, particularly in relation to exposure during stringing activities.

2.6. ALP Code Principle 6: Freedom of association

Farmers shall recognize and respect workers' rights to freedom of association bargain collectively.

Main findings and challenges

2.6.1. Workers' right to freedom of association

No evidence was found of farmers disrespecting their workers' right to freedom of association³⁹. There were no active labor unions in the region of the assessment. Farmers allowed their workers to discuss common work goals and interests.

Analysis and priorities

This ALP Code Principle was not a focus area for Socotab DOOEL Bitola as Socotab DOOEL Bitola understood that the risk of violation of workers' right to freedom of association was low. Additionally, Leaf Tobacco Specialists had an adequate knowledge of this topic.

39. The Macedonian Constitution protects the freedom of workers to form and join unions for purposes which are not contrary to law. See Appendix III for more detailed legal information.

2.7. ALP Code Principle 7: Compliance with the law

Farmers shall comply with all laws of their country relating to employment.

Main findings and challenges

2.7.1. Information on legal rights

Typically, farmers informed their workers about the basic employment conditions at their farm, such as the wage they would receive, the hours they needed to work, their tasks, and payment conditions. However, none of the farmers fully informed their workers about their rights in terms of legal benefits, the legal minimum wage or the legal minimum rate for overtime hours which are applicable in case of “employment contract” agreements. This was found to be due to three reasons: (1) farmers lacked the legal knowledge about labor law legal employment agreement to inform their workers; (2) farmers were unaware of their responsibility to provide this information to their workers; and (3) farmers had no written contracts with their workers which are applicable in case of “contracts for work” agreements⁴⁰ (see 2.2.4).

Analysis and priorities

While Leaf Tobacco Specialists showed a limited understanding of this topic and where not able to describe the possible types of agreements at the farm level, farmers were even less aware of the legal labor rights of workers. They did not know that in case workers are hired under “employment contracts” agreements it was their responsibility to inform workers about their legal rights. Socotab DOOEL Bitola also did not provide information on legal aspects to farmers neither assessed which type of agreement applied at the farm level (see Chapter 1.4.1). Clearly, the knowledge of Leaf Tobacco Specialists and farmers on this ALP Code Principle and the applicable law needs to be improved. In particular, more attention should be given to the type of working agreements present on the field and on the farmer’s obligation to inform his or her workers of their legal rights.

40. Written employment contracts are only required when labor law applies. (See Appendix III for more detailed legal information).

Chapter 3

ALP PROGRAM: FEEDBACK FROM FARMERS, WORKERS, AND OTHER STAKEHOLDERS



EXTERNAL ASSESSMENT

Oriental Prilep farmers in Prilep, Mogila and Krivogashtani

Control Union asked farmers, family members and workers what had changed on their farms since the start of the ALP Program. The general feeling was that the number of children working in tobacco production had decreased and that farmers and workers were better protected when working with chemicals. One farmer reported that he was not motivated to implement ALP, because the price for his tobacco did not increase if he followed the standard. Some farmers also reported that they were not aware of some of the initiatives implemented by Socotab DOOEL Bitola and that they would like to be included in these projects.

The general belief among farmers, family members and workers was that Oriental Prilep tobacco would not cause GTS, and hence that it was not necessary to cover the skin when handling green tobacco of this variety.

Leaf Tobacco Specialists received feedback from farmers as well as workers and family members during their farm visits. They would discuss their

findings during meetings with their supervisors. All findings are recorded digitally and Statistical analysis of these findings are shared regularly with ALP team to find solutions as well as to receive resource for the new initiatives. However, there was no structured process for reporting each of these findings to the ALP team. Meeting minutes only reflected the topics that had been discussed, but did not record any feedback from the field or details about the discussions.

There was also no formalized way in which farmers could send feedback directly to Socotab DOOEL Bitola. The company would get some insight into farmers' opinions and concerns regarding ALP through the annual reports of the Macedonian Center of Innovation, which was in charge of conducting the support mechanism. However, this mechanism was not available to farmers outside the Krivogashtani district.

Chapter 4

APPENDICES



EXTERNAL ASSESSMENT

Oriental Prilep farmers in Prilep, Mogila and Krivogashtani

Appendix I – SOCOTAB Action Plan

Socotab DOOEL Bitola welcomes Control Union's report from their assessment of the implementation of Agriculture Labor Practices Program in Macedonia and acknowledges it as valuable confirmation of company's efforts and progress in the promotion of ALP practices in Macedonia. At the same time, the findings and insights provided in the report will serve Socotab as valid guidelines in its plans and endeavors for implementation and strengthening of ALP Program in Macedonia.

Many of the gaps and issues identified by Control Union are in line with the problems Socotab has faced over the years in achieving comprehensive implementation of ALP practices by farmers. While it takes time, resources and stakeholder's engagement to resolve some issues, Socotab is fully committed to face these challenges by proposing achievable solutions that can give results over time.

Below you can find the action plans for the findings and gaps detected by Control Union during the assessment, that Socotab engages itself to implement in the following years.

Implementation of the ALP Program

1.2. Strategy and objectives

While Control Union recognizes the high commitment to the ALP Program of all Socotab levels and employees' personal involvement and interest in program's implementation, it proposes some improvements in the formalization and better defining of some aspects such as risk assessment, root-cause analyses and training strategies.

During the assessment, CU noticed lack of formal and easily accessible structure that will help to understand better the prioritization of issues and evaluation of risks done by SMK ALP Team. Socotab realizes that the existence of such formal document can contribute in having clear and constant approach in the evaluation of issues, which everybody can refer to. As a result, before start of the new crop season in April 2018, LTS and Country ALP Coordinator will come together for a brainstorming session, and will create a formal root cause analysis and the file will be updated at beginning of each year.

Control Union identified that in the implementation of the ALP Code, Socotab concentrates on continuous training of farmers, while farm workers were the focus of the company's strategy. Farmers are expected to pass on their ALP knowledge to their workers, as they are employer of their own business. Realizing the importance of wider implementation of ALP practices by all parties involved in tobacco production, Socotab is monitoring/recording data regarding workers' trainings in company's system since the beginning of 2017. Strategy is already in place as per which LTSs together with Support Mechanism team will start checking farm workers' ALP training status in 2018.

1.3. Internal Capacity

1.3.3. Training and knowledge of the ALP Program

Since 2012, Socotab has had ALP team involving all departments of the company. The members of the team have well-defined responsibilities in the implementation of the ALP Program. They regularly receive trainings and guidance on ALP. The ALP Coordinator provides field personnel with annual refresher trainings in addition to organizing weekly discussion meetings.

Even though Leaf Tobacco Specialists demonstrated very good knowledge of ALP Principles, Control Union identified some room for improvement in the Income and Work Hours Principle and Safe Work Principle. None of the Leaf Tobacco Specialists have the legal expertise and therefore did not emphasize the fact that named hired workers can be engaged by the farmers by two existing types of working contract agreements according to the local legal law – “employment contract” and “contract for work”.

Leaf Tobacco Specialists know the legal requirement for regular employment. However, since the practice in the agricultural sector between the farmer and worker is based on a verbal agreement (legally binding) and it is not an employment contract but more of a service provision, it could be the reason for not being fully aware of the details related to this relationship to date. Nonetheless, in March 2018 Socotab will develop ALP training program for LTSs that will focus more on country-related legal requirements. The program will be developed by the country’s ALP Coordinator and will aim to increase LTS’s awareness on local law related to ALP principles. In April 2018, Leaf Tobacco Specialists will be trained on local law related to ALP principles and their understanding will be cross-checked via tests before start of field visits. Every year, the training program will be revised and updated, if necessary, and LTSs knowledge on local law will be refreshed once per season or whenever changes in respective laws occur.

Also CU noticed that LTSs do not associate GTS as one of the risks from stringing activities. Therefore, Socotab commits to continue informing LTSs and farmers about GTS and emphasizing the hazardous conditions when handling green tobacco during LTSs trainings.

Additionally, despite the existence of specific instructions and procedures for solving individual PAI situations, Control Union noticed lack of defined time frames for follow-up visits after agreed action plans with the farmers. The defined deadline for follow-up visit is the next field visit, which is maximum 3 - 4 weeks after the visit when PAI was observed. All personnel are familiar with this time frame. However, Socotab country ALP Coordinator together with Socotab ALP Group Coordinator will update PAI Procedure and will put this information in writing by decreasing related dead line to 3 weeks maximum.

1.4. Communication of the ALP Code requirements to farmers

1.4.1. Communication strategy and tactics

Farmers trainings on ALP Code and practices started early May 2012. Throughout 2012 and part of 2013 the company organized group trainings for the farmers. As of 2014 company’s strategy of training is face-to-face training during individual visits on the farms as the company perceived these face-to-face trainings as more beneficial. In addition to the group meetings and farm visits, Socotab DOOEL Bitola used written communication materials to communicate with farmers about ALP, such as provisions included in the Tobacco Cultivation and Purchase Contracts, leaflets attached to each contract describing all seven ALP principles and their corresponding measurable standards and Oriental Tobacco Production Manual. However, during the assessment CU found that 12 farmers were not able to name all seven ALP principles and they had only read the first chapters of the distributed manual (which dealt with agricultural and quality recommendations), overlooking the information on GAP and ALP. As Socotab we believe the effectiveness of face-to-face trainings and will continue to hold these during our field visits. Socotab will continue to update and distribute ALP leaflets to farmers during contracting period as they have done in the past.

Furthermore, Control Union observed that in Socotab’s ALP communication efforts, the company did not take into account the so-called hired workers (individuals working as an agricultural contractor, who in addition to being a farmer or employed worker, own machines and provide services such as plowing and land preparation). Socotab accepts this observation but for the purpose of clarification, it should be noted

that most of these hired workers are also tobacco farmers so they are familiar with ALP Code. During 2018, we will include related group of service providers as workers in our data capture system.

1.4.2. Farmers' responsibilities

CU noted that Socotab DOOEL Bitola did not provide any incentives to farmers to encourage good performance in relation to the ALP Code (e.g. termination of cultivation contract). In this respect, Socotab regularly updates and distributes to all farmers ALP related materials as part of the contract. Additionally, during all four visits, farmers are directly informed and reminded about ALP code, what they should do in order to follow the code and what are the benefits for them.

One of Socotab significant initiatives is the implementation of digital system for data collection, so that when LTSs visit the farms they have more time left for communicating ALP code and observing areas of improvement for the farmer.

In the following years, the company will increase the supply of safety materials and equipment to farmers, which will help farmers to better implement ALP best practices regarding safety of people on tobacco farms as described below in section 2.5.

Socotab regularly updates and distributes to all farmers ALP related materials as part of the contract. Additionally, during all 4 visits, farmers are directly informed and reminded about ALP code, what they should do in order to follow the code and what are the benefits for them. However, the company will further study and consider forms of incentives that are practical for implementation. Repeating issues that has been classified as unacceptable will cause termination of the contract for next growing season"

1.5. Internal monitoring: data collection, accuracy, and addressing issues

Leaf Tobacco Specialists collect three types of ALP-related data from farmers: socio-economic data, monitoring data and prompt action issues. All information is collected using a tablet computer and software specifically designed for monitoring purpose and information are collected during regular farm visits.

1.5.1. Socio-economic data: Farm Profiles

All 60 Farm Profiles reviewed by CU were found to be accurate, except that eight (13%) of them did not report that the farmer in question made use of hired workers. However, we must bear in mind that monitoring process is open during the whole season. This specific case could be a situation when an auditor visited the farmer between the second and third visits (July and August), so LTS entered data for the second visit (transplanting period), and the farmer was audited and visited during harvesting period when he hired workers.

1.5.2. Systematic monitoring: situations not meeting the ALP Code standards

Socotab's software for farm monitoring includes several sections: PAI section and ALP farm profile section where all 32 measurable standards are also integrated and can be answered in the system as Yes, No and Not applicable. In PAI section, LTS can directly write non-conformity that has been detected and related follow up according to follow up visit. Whereas in ALP farm profile section both non-conformities and positive feedbacks can be inserted under the "notes" section provided below each of the seven principles.

Taking into consideration that at 23% of the farms monitoring results did not match with CU findings, Socotab plans to increase the accuracy of the collected data by enhancing the cross-checks of monitoring results by increasing the unannounced visits from 1% to 2 % of the contracted farmers, cross-checking

data once per month and informing LTSs on detected miss-match during monitoring season. In addition, the ALP Coordinator will update LTSs handbook with instructions on how to enter various monitoring data in March 2018.

1.5.3. Prompt Actions

Socotab had developed an escalation procedure to identify, register and follow up on Prompt Action situations. Training material of PMI is in use to train LTS, which gives examples from all seven principles on how to take action in case PAI is seen in related principle. Following CU observation, the escalation procedure will be updated with time frames for follow-up visits. Required deadline to make follow up visit is the next field visit which is generally max. 3 weeks later than PAI is initially detected. In March 2018, ALP Coordinator together with Group Coordinator will update PAI Procedure with the time period for follow-up. LTSs will be refreshed with the updated PAI Procedure in April 2018, before start of the new monitoring season and trainings will be organized for LTSs to emphasize them to be clearer to farmers about detected PAIs.

Having in mind CU's finding that seven of the farmers were not aware that a Prompt Action had been reported for their farm, Socotab's ALP Coordinator undertakes to constantly remind LTSs during trainings and weekly meetings, to inform farmers on detected PAIs during their visits. The obligation of the Leaf Tobacco Specialists is to inform the farmer about the action farmer is doing against company's recommendations and remind the farmer what he/she should do to eliminate the non-conformity with ALP Code. The aim of this reminder is farmers to be more aware about their actions against ALP code. The unannounced visits by SMK personnel and regular cross-checks of PAI electronic data will be means of verification to verify whether LTSs are informing the farmers properly.

1.5.4. Improvement plans for individual farms

In line with CU's recommendation for specific improvement plans for individual farms, in order to monitor and manage all issues from the operational (management) part, in-house software system is getting updates according to needs identified. For example, the ALP coordinator is able to see all PAIs regarding not possessing PPE, thus he can decide the number of PPEs to be requested from the management for distribution. Same is applicable for all different issues in the system. Any defectiveness could be determined via reporting section of t-expert system during regular checks for reporting, in case LTS had not already informed his upper level. Socotab's main goal is to fix as many issues as possible before the end of related season. With the purpose of achieving wider implementation of ALP practices by tobacco farmers, Socotab continues with its plan to supply farmers with useful safety materials, tools, equipment and solutions that will help them and workers follow ALP practices better. LTSs are supporting farmers with these materials throughout the growing season.

1.6. Address systematic and/or widespread issues

At the time of the assessment, Control Union identified the following operational initiatives implemented by Socotab DOOEL Bitola:

- Distribution of gloves, masks and goggles to farmers lacking proper protective equipment for CPA application;
- Distribution of CPA storage boxes with locks to farmers lacking proper storage for CPA;
- Distribution of stringing machines
- Distribution of first-aid kits

However, not all visited farmers declared to be aware of these initiatives. While Socotab's initiatives are ongoing and will aim to cover more farmers with issues throughout the years, based on an evaluation plan of priority risk areas ALP Coordinator and Steering Committee plan these initiatives at beginning of each season for specific farmers and all farmers are not covered by the initiative in one season. Socotab gives a considerable budget to ALP program mainly as workforce as well as initiatives supplied to farmers. As a priority, we expect from our farmers to understand the need to protect their own family, their workers and even themselves. During 2018 700 set of PPEs, 200 First aid kits and 100 CPA lockers will be distributed to farmers.

Farm-level assessment of the implementation of ALP Code Principles and Standards

2.1. ALP Code Principle 1: Child Labor

Even though Control Union acknowledged Socotab's great efforts in changing farmers' traditional habits and noticed significant progress in the elimination of child labor at the farm level, some challenges remain. Some farmers seem to be unaware, or even reluctant, to comply with certain measurable standards of the Child Labor principle, such as involvement of children in stringing and small percentage of farmers not hiring workers were not aware of the minimum employment age.

In Macedonia children are simply involved in some tasks when not going to school as part of the house chores and part of the regular family life, not being aware of the potential hazards. However, Socotab will continue to increase farmers' awareness on this subject by considering new methods and tools of training. For example, in April 2018 stickers will be created with hazardous tasks in tobacco production, field staff will distribute these stickers to farmers and they will advise them to put the stickers on visible and available work places such as tractor, CPA locker etc. The target is to distribute 3.000 stickers every year. They will be distributed to farmers with children in June - July 2018. Additionally, in April 2018 ALP Coordinator will create posters with striking messages that will contain country's minimum employment age and slogans that will put emphasis on all hazardous activities in tobacco cultivation. Leaf Tobacco Specialists will distribute these posters to 150 villages in the country by the end of June 2018, so that they can attract farmers' attention during peak of the season. Refreshment trainings of farmers with the help of distributed ALP leaflets will also continue, promoting usage of mechanization and implementing Child Labor Remediation Project by Support Mechanism partner will continue to be held.

2.2. ALP Code Principle 2: Income and work hours

Less than 5% of the tobacco farmers in Macedonia hire labor, mostly for harvesting and stringing activities. All workers are seasonal and they are hired on temporary basis. Farmer-worker relations are arranged with verbal mutual agreements. Workers usually work around 5 hours per day and they are paid hourly or daily. All farmers paid their workers more than the legal minimum wage which is 10,650mkd/month or 61 mkd/hour. Accommodation has not been provided to hired workers since they are all locals coming from the same or nearby villages. However, transport and regular breaks are provided to seasonal workers.

Even though no breach of local laws and violation of workers' rights has been noticed historically in Macedonia, Control Union identified certain lack of awareness among few farmers in terms of overtime rates and legal maximum amount of working hours on daily/weekly basis. Also, CU noticed that none of the visited farmers provided their workers with the additional benefits required by labor law.

In Macedonia, tobacco seasonal field workers work 5 hours per day and they never exceed the regular working hours limit. Therefore, overtime rates are not in the focus of farmer-worker dealings, even though they are all aware that overtime should be paid more.

Nonetheless, company's field staff will conduct individual trainings to farmers regarding income, work hours and benefits. The workers of those farmers will be also included at these trainings. Trainings will be done during labor-intensive period in 2018 when there is high tendency of hiring seasonal workers. Every year all farmers will be trained on all applicable laws regarding hiring labor.

Regarding the benefits provided to hired labor, for better understanding of the situation in the country, it should be noted that aside from the labor law, there is an option in the country to make dealings and offer services under the law on obligations. The farmers and legal entities have opted for the verbal agreement that is in line with the law on obligations which does not necessarily impose obligation to provide benefits. As per this law, in the service contract we have two parties, party that orders and pays the service and party that provides the service.

In terms of above mentioned items the ALP brochure with current worker law will be updated and distributed at the beginning of each year to 100% of the farmers.

2.3. ALP Code Principle 3: Fair treatment

No evidence was found of verbal, sexual, or physical abuse on the farms. In addition, CU did not identify any discriminatory practices. Additionally, Socotab participates in support mechanism pilot project that was launched in October 2013 and currently covers Krivogashtani Municipality and seven neighboring villages. The support mechanism is run by local NGO Macedonia Center for International Cooperation (MCIC), which assists farmers and workers in ALP-related issues and provides legal advice to farmers and workers. Farmers and workers may access the mechanism via an anonymous hotline, by visiting the MCIC offices in Krivogashtani, or during MCIC's regular field visits. Moreover, MCIC and Socotab DOOEL Bitola developed several communication materials that address child labor and promote the hotline telephone number. On yearly basis, MCIC shares a report with Socotab DOOEL Bitola, presenting, among other things, information on the amount and type of questions received and the level of participation among workers and farmers.

However, 40% of the farmers assessed by CU were not aware of the support mechanism. The reason for this can be the fact that in the last three years, operators visited farms with children and workers and it is possible farmers who were visited by auditors were not in the target group or area of this mechanism (farmers with children up to 18 years and hired labor). It is a characteristic for the country that most of the workers are relatives, friends or neighbors, so there is possibility the farmers who were visited by auditors, not to have reported that they are using workers. However, for better and more comprehensive informing of farmers, group presentations will be organized by SL Operators with the help and support of Socotab field staff. These presentations will be organized at the start of the new season and will include farmers from the new villages that were included in this project in the last 3 years and farmers from villages neighboring Krivogashtani Municipality. Furthermore, radio commercial will be broadcasted during summer months in order to raise farmers' awareness about the Support Mechanism and its function,

bulk SMS notifications by Socotab will be sent to farmers in the project area.

2.4. ALP Code Principle 4: Forced labor

No issues were observed under this principle during the years and no findings were identified by CU either. Nonetheless, LTSs will continue to promote and monitor the best practices recommended by this ALP principle at tobacco farms.

2.5. ALP Code Principle 5: Safe work environment

Farm safety is one of the areas where most issues are detected and reported by Leaf Tobacco Specialists during farm visits. In order to address the re-occurring issues, Socotab has undertaken many activities and initiatives throughout the years, such as constant trainings, distribution of leaflets and written materials, supply of safety materials. The efforts resulted in positive changes, mainly with regard to the use and storage of CPAs, as it was also noticed by Control Union. However, there are many areas where the planned progress is still not achieved. Control Union identified some findings under this principle, which Socotab intends to use as starting point in the development of action plans for the following years. Below are the activities that Socotab plans to undertake for achieving positive results.

- Since 15% of the visited farmers could not remember whether they had been trained on GTS avoidance and were not aware of the risks involved in handling green tobacco without using proper protection, in April 2018, SMK ALP Coordinator will create posters with striking messages and pictures emphasizing the need for GTS knowledge. LTSs will distribute and display the posters to 150 villages by the end of June 2018. In the next 3 years, 200 posters will be printed per year and displayed in 150 village. Different villages will be selected every year. With this activity Socotab expects to significantly raise farmers' awareness and knowledge on GTS.
- 28% of the assessed farmers did not wear the complete set of required clothes when harvesting green tobacco (long sleeves, long pants, shoes and gloves). Most farmers understood the need to use protective clothing when harvesting, but generally did not believe it necessary to protect their skin during stringing, because a common belief among farmers is that Oriental Prilep tobacco would not cause GTS. Even though Socotab recognizes this situation, one must know that the reason why farmers find it unnecessary to cover their skin during stringing is that most of them use stringing machines and they string tobacco in field immediately after harvesting. Moreover, the numbers presented in the above table show rather high percentage of farmers using complete set of protective clothing. Nonetheless, before start of 2018 season, the company will update farmers' training materials with photos demonstrating proper protection from GTS during harvesting and stringing. Also, STP Steering Committee decided to develop a long-term plan to provide farmers gloves during harvesting and stringing period initial plan is to distribute 500 box of gloves to 500 farmer each year.
- All visited farms faced challenges in safe handling and disposing of CPAs. Therefore, Socotab will intensify its training program for farmers regarding safe storage of CPAs. Trainings will be performed by Leaf Tobacco Specialists during individual farm visits as verbal reminders and via leaflets. Additionally, the company will continue supplying farmers with CPA lockers as part of the measures to spread safe CPA storage practices. In the next 3 years, 100 CPA lockers will be distributed per year to farmers who have pending PAI for unsafe CPA storage from the current and previous crop. With the help of local authorities, in 2018 the companies will develop joint-industry pilot project for collection of hazardous waste and try to find applicable methods for safe disposal of empty CPA containers by farmers. ALP Training program will be develop to promote this method among farmers. In 2019 and 2020, farmers will be trained by LTSs during farm visits. The proper usage of the lockers

and proper disposal of empty CPA containers (as recommended by the company) will be carefully monitored during farm visits and checked during unannounced visits.

- At 5% of the farms CU found that some people handling CPA were not properly trained on PPE usage. For that reason, before the start of 2018 monitoring season, ALP Coordinator will create posters with striking messages and visuals emphasizing the proper handling and use of CPAs. LTSs will distribute these posters to 150 villages by the end of June 2018. In the next 3 years, 200 posters per year will be distributed to 150 different villages. At the same time, refreshment trainings will be provided to farmers by our field staff.
- Even though at all farms the CPA application equipment was in good condition and free from leaks, at 28% farms people responsible for CPA application did not use the complete set of PPE. In order to improve this situation, Socotab plans to intensify its training program for farmers regarding proper use of PPEs for CPA applications. Trainings will be performed by Leaf Tobacco Specialists during individual farm visits as verbal reminders and via leaflets. Additionally, the company will continue supplying farmers with PPE sets for CPA application as part of the measures to spread safe CPA usage. In 2018 700 PPE sets will be distributed to farmers who have pending PAI for not using or possessing PPEs from the current and previous crop.
- The majority of the farmers (97%) did not take any measures to ensure that no one would enter their fields after recent CPA application. Consequently, during farm visits, LTSs will emphasize to farmers the need to mark the sprayed fields, mostly for the sake of their own safety and protection, and to read manufacturer's instructions before CPA use, focusing not only on the dosage but also on the recommended re-entry period. Additionally, before start of 2018 monitoring season, ALP Coordinator will update ALP leaflets with information about recommended re-entry period (2-3 days) after CPA application. These leaflets will be distributed to 100% of the contracted farmers additionally 700 warning signs will be distributed each year starting from 2018.
- At eleven farms (18%) farming tools were lying around or were not stored properly, posing a safety risk. In addition, the lack of a proper collection system for disposal of empty CPA containers with toxic residues constitutes a health risk to farmers, family members and workers. Socotab will strive to change farmers' traditional habits by emphasizing to farmers the need to store equipment and tools safely, for their own protection and safety of all people on the farm. This will be done by LTS during farm visits. The purpose will be to continue to train all farmers on farm safety every year.
- Even though CU did not identified lack of clean drinking water, soap and washing water to family members and workers at any of the visited farmers they pointed out that 18% of the farms did not have sanitary facilities close to the fields or barns. While Socotab appreciates this observation, it should be taken into consideration that it is specific for Macedonia curing barns to be placed in farmers' yards / homes where everyone has access to sanitary facilities. As for the access to sanitary facilities on all tobacco fields, we believe that this cannot be available at the moment and in the future as well, because of practical point of view.

2.6. ALP Code Principle 6: Freedom of Association

Leaf Tobacco Specialists demonstrated adequate knowledge on this tobacco. Moreover, no issues were observed under this principle during the years and no findings were identified by CU either. Nonetheless, LTSs will continue to monitor the implementation of these standards at tobacco farms.

2.7. ALP Code Principle 7: Compliance with the law

Control Union noticed that farmers informed their workers about the basic employment conditions at their farm, such as the wage they would receive, the hours they needed to work, their tasks, and payment conditions. However, none of the farmers fully informed their workers about their rights in terms of legal benefits or the legal minimum rate for overtime hours. CU identified three reasons behind this situation: (1) farmers lacked the legal knowledge about labor law legal employment agreement to inform their workers; (2) farmers were unaware of their responsibility to provide this information to their workers; and (3) farmers had no written contracts with their workers which are applicable in case of “employment contract” agreements.

For better clarification, it should be taken into consideration that the verbal agreement is an assignment agreement and not an employment contract ruled by the labor law. Therefore, the parties agree on the service to be carried out and the fee for the service. Neither party is dissatisfied and that is why the form of agreement continues uninterrupted over the years and additionally it is totally legal. However, continuous efforts are made by the company to remind the farmers that they should satisfy the basic needs of their employment taking in to consideration of labor law and need to educate their workers about their legal rights as per the local law.

Rulebooks who are published in Official gazette (for example No. 34 from 1968 during former Socialist Federal Republic of Yugoslavia) will require legal expert opinion to define whether these rulebooks are still in force.

Even in case that rulebooks still are in force (for example No. 34 from 1968 article 112 is in direct collision with restrictions regarding incineration of hazardous waste that are published in article 57 (paragraph 3) of Law on waste management (Official gazette of RM No. 68/2004).

ALP Program: feedback from farmers, workers, and other stakeholders

Leaf Tobacco Specialists received feedback from farmers as well as workers and family members during their farm visits. They would discuss their findings during meetings with their supervisors. All findings are recorded by the help of in house developed software. Statistical analysis of these findings are shared regularly with ALP team (consisting of managers) to find solutions as well as to receive resource for the new initiatives. However, there was no structured process for reporting these findings to the ALP team. Meeting minutes only reflected the topics that had been discussed but did not record any feedback from the field or details about the discussions. Socotab appreciates the observation, but kindly requests rephrasing of this paragraph, since during regular weekly meetings LTSs share verbally with ALP team re-occurring concerns and topics which are raised and discussed with farmers during their farm visits. Every feedback is significant for the company and taken into consideration. However, it is not feasible to put in writing all shared feedbacks. The weekly meetings are dynamic meetings where concerns are raised and immediate solutions are provided, when possible.

Appendix II – Scope and methodology

Assessment team

The team responsible for conducting this assessment consisted of three auditors (two from Serbia and one from the Republic of Macedonia) and two CU coordinators (one from Argentina and one from the Netherlands).⁴¹ The three auditors conducted farm assessments and interviewed Leaf Tobacco Specialists. The two coordinators interviewed Socotab DOOEL Bitola management and external stakeholders. The auditors as well as the coordinators were trained by Verité and Control Union. This qualification process consisted of the following stages:

- Selection of candidates by CU;
- Webinars organized by CU to verify suitability of candidates;
- Completion of online training provided by Verité;
- Full week classroom training conducted by Verité with CU;
- Two-day refresher training by the CU coordinator prior to starting the field visits; and
- Shadowing during farm visits by CU coordinators.

Desk review

Prior to this assessment Socotab DOOEL Bitola was requested to send documentation to CU to give the assessment team a better idea about the market characteristics and the management systems that were in place. Polenak Law Firm provided the legal information that was relevant to the ALP Code (See Appendix III for more detailed legal information). This was important to ensure a thorough preparation of the assessment.

Opening meeting

On 13 July 2017, CU started the assessment with a meeting at Socotab DOOEL Bitola's head office in

Dragozhani, Republic of Macedonia. This meeting was attended by Socotab DOOEL Bitola's ALP Steering Committee and ALP Country Team, as well as PMI Regional. CU presented the objectives and approach of the assessment, while Socotab DOOEL Bitola provided a brief overview of the market and company background.

Methodology for ALP implementation system review

The methodology used for evaluating Socotab DOOEL Bitola's implementation of the ALP Program was based on the widely used PDCA⁴² cycle, which is a management method for the continuous improvement of processes and products. As part of this evaluation, CU spent two days (13 and 14 July 2017) at Socotab DOOEL Bitola's head office to interview members of the Steering Committee and ALP Country Team. CU interviewed management staff, analyzed documentation, and evaluated Socotab DOOEL Bitola's systems, to better understand how the implementation of the ALP Program was organized. In total, CU interviewed seven management personnel and 15 field personnel (Tobacco Leaf Specialists) of Socotab DOOEL Bitola, and two staff members of PMI Regional. Additionally, CU interviewed three employees of one stakeholder: the NGO Macedonia Center for International Cooperation (MCIC), which was in charge of running the support mechanism in the Krivogashtani district. All interviews were conducted individually, so that interviewees felt comfortable to speak freely and raise any issues.

Scope and farm sampling

Oriental Prilep tobacco production in the Republic of Macedonia mainly takes place in three regions: Pelagonia, East Macedonia and Povardarie. CU was requested to conduct the assessment in the Pelagonia region, which consists of the municipalities of Mogila, Prilep and Krivogashtani.

41. The coordinator from Netherlands did not stay for the entire assessment, but only for the management assessment and two field days.

42. Plan, Do, Check, Act



Socotab DOOEL Bitola Tobacco production in Pelagonia

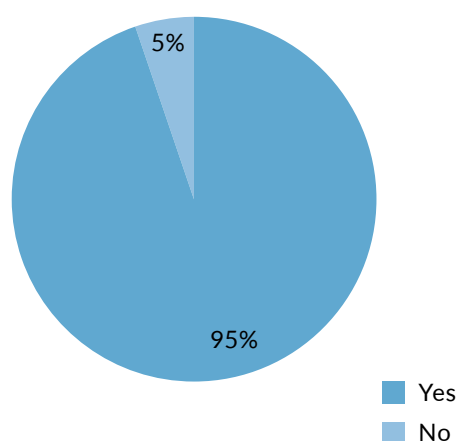
The majority of the farmers in the scope of this assessment (60%) grew tobacco on an area of less than one hectare, while 33% grew an area of 1-2 hectares and 7% grew more than two hectares.

In 2017, Socotab DOOEL Bitola had contracts with 3,647 Oriental Prilep farmers in the Pelagonia region which was also the total number of farmers in the scope of this assessment. These farmers were supported by four Senior Leaf Tobacco Specialists and 22 Leaf Tobacco Specialists. To constitute a meaningful sample, CU needed to visit at least 60 farms, the square root of the total population of farmers within the scope. In total, CU visited 60 farmers, which were sampled randomly or selected based on geographical spread. Additionally, one hired worker (agricultural contractor hired by some of the farmers) was interviewed. This interview was shorter and focused only on understanding the service provider's activities on the different farms and his knowledge of ALP principles.

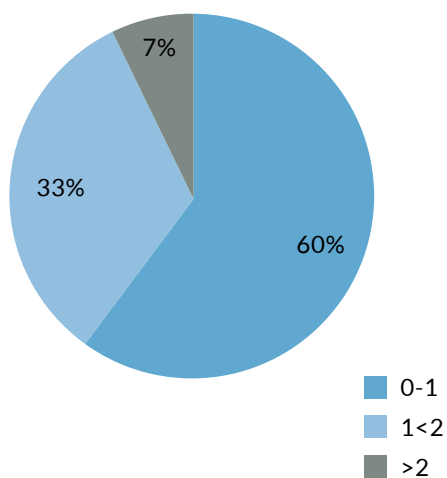
Over a period of two weeks CU visited 12 farms per day, where each field day was followed by a reporting day.

The graphs below provide demographic information about the farms visited.

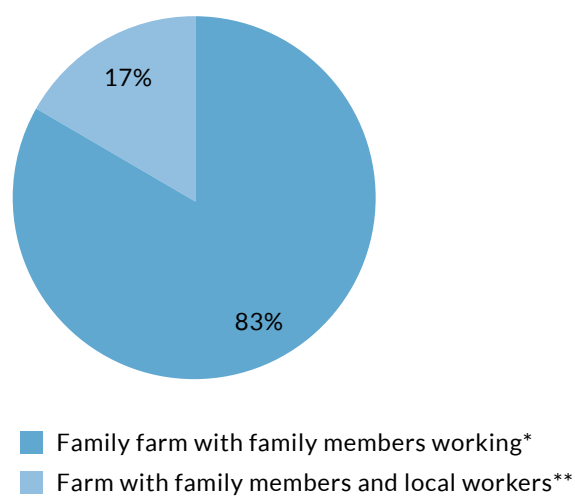
Previously contracted by Socotab DOOEL Bitola



Farm size (ha contracted by Socotab DOOEL Bitola)



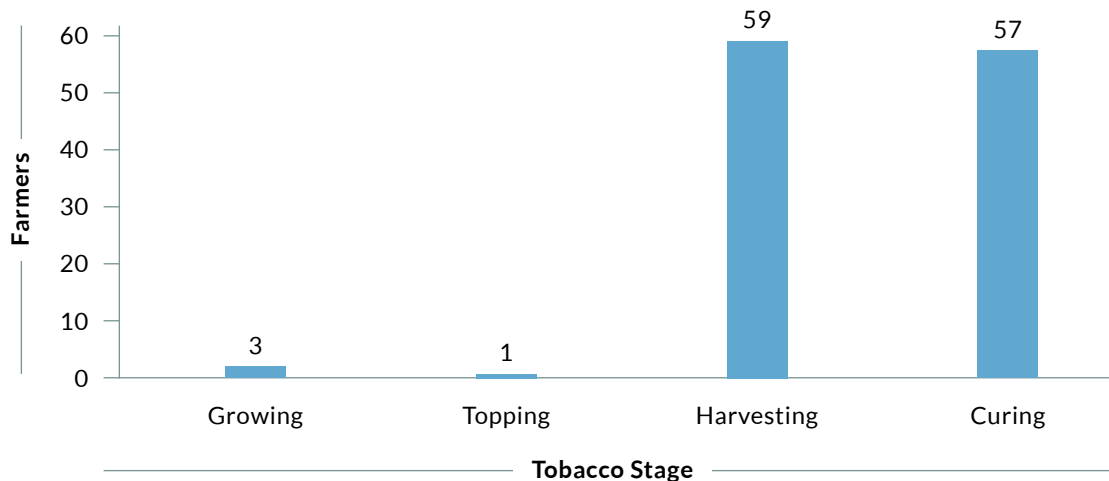
Type of farm



*Seven (7) farmers declared to employ hired workers (Land preparation, Planting and CPA related activities)

**Three (3) farmers declared to employ hired workers (Land preparation, Planting and CPA related activities)

Stage of tobacco production



Thanks to the openness and collaboration of Socotab DOOEL Bitola, CU managed to conduct all of the farm visits unannounced. This meant that the farmers had not been informed about the visit and its objectives prior to CU's arrival. Socotab DOOEL Bitola did inform farmers in the weeks before the assessment that a visit could take place within a certain period, but said nothing in the days prior to the visits. The day before each field visit CU informed Socotab DOOEL Bitola about the names of the selected Leaf Tobacco Specialists to join the farm visits the next day. The names of the farmers were provided on the day of the visit itself, while in the car, and only for the next farmer to be visited that day. The reason for this procedure is that CU wanted to obtain a realistic picture of the farm practices, which was most likely to be seen when arriving unannounced.

Methodology for ALP farm practices review

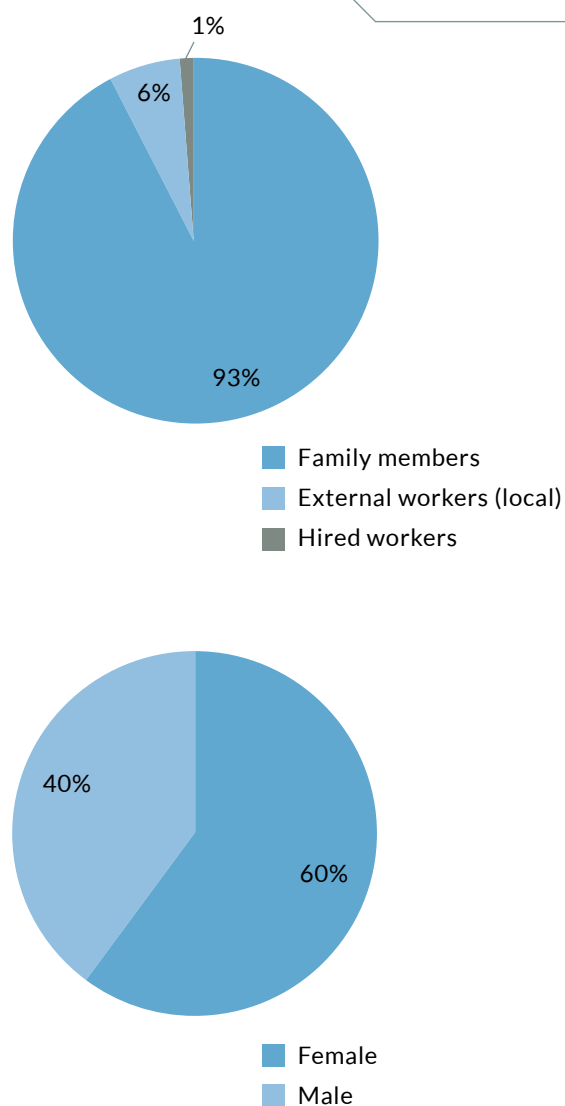
The methodology used during the farm visits was based on triangulation of information. Auditors were instructed to seek at least two, preferably three, sources of information. They used their findings to draw conclusions about whether farm practices were meeting the standard of the ALP Code. These sources could be interviews with farmers, family members, or workers. Sources could also include documentation and visual observation of the farm area, field, storage facility, and curing barns. This methodology was also used to investigate the underlying factors that increase the risk of not meeting the standard. In addition to information triangulation CU also used the "Five Whys" methodology, a commonly used technique to obtain an understanding of problems and to investigate the reasons behind certain issues. Before every interview CU explained the objective of the assessment and assured interviewees that all information would be kept completely anonymous. Next to assessing labor practices, CU also verified how the impact of Socotab DOOEL Bitola's management systems and ALP Program was perceived by Leaf Tobacco Specialists, farmers, family members, and workers.

People interviewed

Whenever possible, interviews with workers and family members were conducted individually and without the farmer, to avoid undue bias. For the same reason, all interviews with farmers were conducted without the Leaf Tobacco Specialists. In total, 139 people were interviewed by CU (60 farmers, 73 family members, five contracted workers and one hired worker).

Demographic information on the family members (73), external workers (5) and hired workers (1) interviewed:

People interviewed



Only one family member interviewed was a child; all others (including the external worker) were adults. All external workers interviewed had been employed for less than one month with their current employer for this season. All contracts were for several days a week but none were full-time.

Closing meeting

On 31 August 2017 a closing meeting was held at Socotab DOOEL Bitola's head office in Dragozhani, Republic of Macedonia. Similar to the opening meeting, this meeting was attended by Socotab DOOEL Bitola's Steering Committee and ALP Country Team, and PMI Regional. The Verité consultant for Europe was also present. After CU presented their initial findings, Socotab DOOEL Bitola requested clarification of some items, which was followed by a constructive discussion on several topics. Overall, CU's findings were considered a useful base for taking action to improve Socotab DOOEL Bitola's implementation of the ALP Program.

Reporting procedure

During the assessment, auditors reported after each field day to the coordinator. This person monitored the auditors' findings, and provided feedback whenever necessary. The coordinator compiled all findings and combined these with the findings from the management assessment. Public release of CU's assessment report demonstrates PMI's commitment to transparency, which is an important component of the ALP Program. CU authored the final report, which was evaluated by Verité. PMI reviewed the report to ensure consistency of the presentation of CU's findings worldwide. Finally, Socotab DOOEL Bitola reviewed the report to verify that all the information was correct, and to finalize their action plan based on this report.⁴³

43. Leaf tobacco suppliers can start drafting their action plans after the closing meeting, as initial findings usually do not differ much from the final report.

Appendix III – Legal information

The information below has been approved and provided by PMI to CU before the assessment. CU reviewed this information to ensure that it was clear and complete so that it could be used for the assessment.

1. Principle 1 – Child Labor

1.1 Items to be covered by your answer

- Minimum age for employment (in tobacco)
- Requirements applying to farmers' own children or other family members such as nieces and nephews helping on the farm
- Age (or ages) limit for compulsory schooling
- Definitions of hazardous work (incl. agricultural activities that constitute hazardous work) as well as any tasks that workers under 18 are specifically prohibited from participating in by law
- Other restrictions or requirements on the employment of workers under 18 years (e.g. limit on work hours, work permits, etc.)

1.2 Applicable laws

- Constitution of the Republic of Macedonia (*Устав на Република Македонија*) ("Official Gazette of the Republic of Macedonia" no. 52/1991; 1/1992; 1/1992; 31/1998; 91/2001; 84/2003; 107/2005; 3/2009; 49/2011) – hereinafter: the "Constitution";
- Law on Labor Relations (*Закон за работните односи*) ("Official Gazette of the Republic of Macedonia" no. 62/2005; 106/2008; 161/2008; 114/2009; 130/2009; 149/2009; 50/2010; 52/2010; 124/2010; 47/2011; 11/2012; 39/2012; 13/2013; 25/2013; 170/2013; 187/2013; 113/2014; 20/2015; 33/2015; 72/2015; 129/2015 and 27/2016) – hereinafter: the "LLR";
- Family Law (*Закон за семејството*) ("Official Gazette of the Republic of Macedonia" no. 80/1992, 9/1996, 38/2004, 33/2006, 84/2008, 67/2010, 156/2010, 39/2012, 44/2012, 38/2014, 115/2014, 104/2015 and 150/2015);
- Law on Secondary Education (*Закон за средното образование*) ("Official Gazette of the Republic of Macedonia" no. 44/1995, 24/1996, 34/1996, 35/1997, 82/1999, 29/2002, 40/2003, 42/2003, 67/2004, 55/2005, 113/2005, 35/2006, 30/2007, 49/2007, 81/2008, 92/2008, 33/2010, 116/2010, 156/2010, 18/2011, 42/2011, 51/2011, 6/2012, 100/2012, 24/2013, 41/2014, 116/2014, 135/2014, 10/2015, 98/2015, 145/2015, 30/2016 and 127/2016);
- Law on Child Protection (*Закон за заштита на децата*) ("Official Gazette of the Republic of Macedonia" no. 23/2013, 12/2014, 44/2014, 144/2014, 10/2015, 25/2015, 150/2015, 192/2015 and 27/2016).

Note: Legislation cited herein is available online in Macedonian language at: www.pravo.org.mk (free registration required) and <http://www.slvesnik.com.mk/>.

1.3 Your answer

a) Minimum age for employment (in tobacco)

Article 42 para (2) of the Constitution provides that a person under the age of 15 cannot be employed.

Children that are 15 years of age are not subject to this prohibition and they can be employed under special conditions explained further below.

Article 18 para (2) of LLR provides that a child under the age of 15 (children 15 years of age not included), or a child that has not finished compulsory education is not allowed to work, except for participation in activities allowed by law, but not longer than 4 hours a day. No special rules are provided as to how many days a week can such minors take part in these activities.

The LLR does not stipulate another minimum age requirement below the age of 15. Therefore, Article 18 para (2) of LLR applies to children at any age below the age of 15.

Furthermore, the LLR does not provide special limitations concerning how many days a week can a child under the age of 15 be engaged in these activities. However, Article 18 para (3) of the LLR provides that the employer shall be obliged to ensure protection of the young persons against economic exploitation and any type of work that can harm their safety, health, physical, mental, moral or social development or endanger their education.

The activities that children under the age of 15 can part take in are regulated in Article 18 para (4) of LLR, which provides that, as an exception, a child that is younger than 15 years of age can participate, for a compensation, in activities which regarding their scope and nature do not affect their health, safety, development and education, such as: participation in cultural and artistic activities, sports events and advertisement activities.

Para (5) of the same Article provides a further condition for children under the age of 15 to participate in the activities referred to in para (4) of the same Article. Namely, this provisions stipulates that the child can participate in these activities only upon prior consent of the legal guardian of the child and upon approval for carrying out such activities issued by the State Labor Inspectorate, based on a request of the organizer of the activities, to be issued after a conducted inspection by the labor inspection of the place where the activities are to be carried out.

A special minimum age for employment in the tobacco business is not stipulated; therefore, the minimum age defined in the Constitution and LLR will apply as well in the tobacco business.

b) Requirements applying to farmers' own children or other family members such as nieces and nephews helping on the farm

Work done on the family farm by the farmer's own children, or by other family members (nieces and nephews) that are minors living in a common household with the farmer, would generally be deemed as performance of household chores, rather than as employment. Therefore, the provisions from Article 18 paras (2), (3), (4) and (5) of the LLR would not apply to such performance of household chores.

However, please note that the Family Law imposes limitations as to the type of activities that minors can perform as household chores and the way they can be performed, and prescribes deprivation of parental rights as a sanction in case of violation of such limitations.

Namely, Article 90 para (1) of the Family Law provides that a parent who abuses his/her parental rights or grossly neglects parental duties shall, upon prior opinion from the social works center, be fully deprived of his/her parental rights by way of a court decision adopted in a non-litigious civil procedure.

Para (2) of the same Article provides that abuse or gross neglect of parental duties within the meaning in para (1) of this Article shall exist where the parent:

- inflicts physical or emotional violence on the child;
- sexually abuses the child;
- forces the child to do work not suitable for the child's age;
- allows the child to use alcohol, drugs or other psychotropic substances;
- induces the child to panhandling or uses the child for panhandling;
- accustoms the child to socially unacceptable behavior;
- abandons the child and does not take care of the child for more than three months; and
- in any other way grossly violates the rights of the child.

To the extent that the farmer and the farmer's own children, or other family members that are minor, wish to establish an employment relationship, the same minimum age requirements for employment apply for farmer's own children or other family members (nieces and nephews) helping on the farm, as stipulated in the Constitution and LLR.

c) **Age (or ages) limit for compulsory schooling**

Under Article 44 para (3) of the Constitution, primary education is compulsory and free.

Under Article 3 para (1) of Law on Secondary Education, secondary education is compulsory for every citizen, under equal conditions determined by this law.

After finishing primary education, minors are required to continue with secondary education, which they usually finish at the age of 18. Children usually start primary education at the age of 5 or 6. Primary education lasts for 9 years, while secondary education lasts for 4 years.

d) **Definitions of hazardous work (incl. agricultural activities that constitute hazardous work) as well as any tasks that workers under 18 are specifically prohibited from participating in by law**

The LLC does not operate with the term "hazardous work", but it does prohibit the participation of employees under the age of 18 in certain works and tasks.

Namely, under Article 173 para (1) of LLR, employees under the age of 18 cannot perform:

- a. hard manual labor;
- b. works performed underground or underwater;
- c. works connected with sources of ionization radiations; and
- d. other works, which can have a harmful and a dangerous impact on the health condition and development as regarding their physical and mental characteristics.

Para (2) of the same Article provides that the works referred to in para (1) of this Article are to be further specified by the Minister of Labor, in coordination with the Minister of Health. However, to date, the Minister of Labor and the Minister of Health have not adopted such bylaw.

Furthermore, under Article 18 para (3) of LLR, the employer shall be obliged to ensure protection of the young persons against economic exploitation and any type of work that can harm their safety, health, physical, mental, moral or social development or endanger their education.

Para (6) of the same Article provides that any person who can conclude an employment contract for carrying out activities that are not harmful to his health and safety, and is at least 15 years of age, but under 18 years of age, and is not included in the compulsory education, shall be considered as young person.

Furthermore, Law on Child Protection guarantees further rights for the child and provides instruments for protection of children. Under Article 11 para (1) of this Law, any person till the age of 18, as well as persons having impediments in their physical or mental development till the age of 26, shall be deemed as a child.

Article 12 of Law on Child Protection provides the following:

1. All forms of discrimination based upon race, skin color, sex, language, religion, political or other belief, national, ethnic or social origin, cultural or other background, property, disability, birth or other status of the child or of its parent or legal guardian, are prohibited.
2. All forms of sexual exploitation and sexual child abuse (harassment, child pornography, child prostitution), forced procuring, selling or trafficking children, psychological or physical violence and harassment, punishment or other inhuman treatment, all kinds of exploitation, commercial exploitation and abuse of children that violates basic human freedoms and rights and rights of the child, are prohibited.
3. The procuring or offering of drugs, psychotropic substances and precursors to a child under the age of 18 is prohibited and all unlawful activities and abuse of child labor for the production and trade with drugs, psychotropic substances and precursors are also prohibited.
4. The abuse of children for political or religious organizing and agency is prohibited.
5. The involvement of children in armed conflicts and their recruitment in units that take military and other activities is prohibited.
6. The state and institutions of the system are required to take all necessary measures to ensure the rights of the children and prevent any form of discrimination or abuse regardless of the place where they are committed, their severity, intensity and duration.
7. Every citizen is required to report to a competent authority any form of discrimination, abuse or exploitation of a child in the forms listed in paras (1) - (5) of this Article immediately after becoming aware of the occurrence.

e) **Other restrictions or requirements on the employment of workers under 18 years (e.g. limit on work hours, work permits, etc.)**

The following restrictions apply to employees under the age of 18:

1. Workload:

The employer must not use the reward method in order to increase the volume of the work which would endanger the safety and health of the young person (Article 18 para (12) of LLR). The LLR does not stipulate further rules as to the rewards that the employer is not allowed to use for this purpose, which implies that the word “reward” here should be interpreted in its general sense to include any kind of monetary or non-monetary benefit.

2. Working hours, rest period and break:

Article 18 paras (7) – (11) of LLR regulate the working hours of young persons.

The maximum number of working hours for a young person under 16 years of age shall be 30 hours per week, even in the case the young person is employed with more employers at the same time. For avoidance of doubt, this rule applies only to young persons at the age of 15 (until they turn 16 years of age).

The maximum number of working hours for a young person over 16 years of age shall be 37 hours and 45 minutes per week, even in the case the young person is employed with more employers at the same time. For avoidance of doubt, this rule applies only to young persons at the age of 16 and 17 (i.e. from turning 16 till turning 18 years of age).

The working hours of a young person cannot exceed eight hours in a period of 24 hours.

The time that the young person spends in vocational training within the frames of the theoretical and practical education shall be considered as work.

The work done by a young person at the employer for which he receives compensation shall be considered as participation in training.

Article 174 paras (1) – (3) of LLR contain further rules on the working hours and breaks of young persons.

The working hours of the employee under the age of 18 must not exceed eight hours a day and 40 hours a week.

The employee under the age of 18 who works at least four and a half hours a day shall be entitled to a break of at least 30 minutes during the working hours.

The employee under the age of 18 shall be entitled to a rest period of at least 16 consecutive hours in a period of 24 hours.

3. Overtime work:

Under Article 120 item 5) of LLR, the employer cannot order work beyond the full-time hours to an employee under the age of 18.

4. Night work:

Under Article 175 para (1) of LLR, the employee under the age of 18 must not work at night between 22:00 and 06:00 the following day.

By exception, under para (2) of the same Article, it may be provided for the employee under the age of 18 to work at night in case of force majeure, when such work lasts for a determined period of time and must be

carried out immediately and the adult employees are not available. In that case, the employees under the age of 18 must be provided with adequate rest period during the following three days.

During such night work, the employer must provide supervision by an adult employee (para (3) of the same Article).

5. Annual leave:

Under Article 176 of LLR, the employee under the age of 18 shall be entitled to annual leave extended by seven working days.

2. Principle 2 – Income and Work Hours

2.1 Items to be covered by your answer

- Laws on regular and overtime hours (e.g. maximum work hours)
- Requirements that employers must meet to request overtime from workers
- Laws on regular and overtime wages (e.g. minimum wages, minimum wages agreed with unions)
- Laws on basic entitlements to be paid to workers (e.g. social security, health care, holidays, other leave entitlements etc.)
- Wage and hours law specific to piece rate workers, seasonal workers, and migrant workers
- Laws on payment of wages relevant to the frequency of payment in agriculture, for example, laws on whether end-of-season one-time payments are permissible
- Laws on in-kind payment
- Legal requirements for migrant workers to ensure they are legally permitted to work
- Other specific rules applicable to migrant workers

2.2 Applicable laws

- LLR;
- Rulebook on the manner and the keeping of the electronic records of the full-time hours and of the overtime work (*Правилник за начинот и водењето на електронската евиденција на работно време и на прекувремената работа*) (“Official Gazette of the Republic of Macedonia” no.115/2014 and 137/2016) – hereinafter: the “**Rulebook on working time records**”;
- Collective Agreement for Employees in the Tobacco Industry (Consolidated text) (*Колективен договор за вработените од тутунското стопанство (пречистен текст)*) (“Official Gazette of the Republic of Macedonia” no.137/2016) - hereinafter: the “**CATI**”;
- Law on the Minimum Salary in the Republic of Macedonia (*Закон за минималната плата во Република Македонија*) (“Official Gazette of the Republic of Macedonia” no. 11/2012, 30/2014, 180/2014, 81/2015, 129/2015 and 132/2017);

- Agreement on determining the minimum salary for employees in the tobacco business (*Спогодба за утврдување на најниската плата за вработените од тутунското стопанство*) ("Official Gazette of the Republic of Macedonia" no.115/2014);
- General Collective Agreement for the Private Sector in the field of Economy (*Општ колективен договор за приватниот сектор од областа на стопанството*) ("Official Gazette of the Republic of Macedonia" no.115/2014 (consolidated text), 119/2015 and 150/2016) - hereinafter: the "GCAPS";
- Law on Contributions for Mandatory Social Insurance (*Закон за придонеси за задолжително социјално осигурување*) ("Official Gazette of the Republic of Macedonia" no. 42/2008, 64/2009, 156/2009, 166/2010, 53/2011, 185/2011, 44/2012, 15/2013, 91/2013, 170/2013, 97/2014, 113/2014, 180/2014, 188/2014, 20/2015, 48/2015, 129/2015, 217/2015 and 190/2016);
- Law on Foreigners (*Закон за странците*) ("Official Gazette of the Republic of Macedonia" no. 35/2006, 66/2007, 117/2008, 92/2009, 156/2010, 158/2011, 84/2012, 13/2013, 147/2013, 148/2015 and 217/2015);
- Law on Employment and Work of Foreigners (*Закон за вработување и работа на странците*) ("Official Gazette of the Republic of Macedonia" no.217/2015)

2.3 Your answer

The issues discussed here are regulated in the Law, the GCAPS, the CATI – a branch-level collective agreement applicable to the employees and employers in the tobacco industry, as specified in the CATI – and the Agreement on determining the minimum salary for employees in the tobacco business, which was concluded based on the CATI.

Article 2 of the CATI provides that the CATI is binding on all employees and employers in this sector, members of the Agrosyndicate (<http://www.agrosindikat.org.mk/>) and of the Organizations of Employers of Macedonia – Association of employers from the tobacco business (<http://www.orm.org.mk/index.php/mk/>). This is in line with Article 205 para (3) of the Law that provides that the branch, that is, department collective agreement, in accordance with the National Classification of Activities, shall apply directly and shall be obligatory for employers that are members of employers' association, signatories of the collective agreement or those that joined the association additionally.

However, please note that the CATI does not specify in more details the term "tobacco industry". In our view, its scope of application would include tobacco farming as agricultural activity and any employment relations established in such activity, including employment relations with seasonal farm workers.

Furthermore, please note that the Agreement on determining the minimum salary for employees in the tobacco business, which was concluded between the Agrosyndicate and the Organizations of Employers of Macedonia – Association of employers from the tobacco business based on Article 59 para (4) of the CATI, has the same scope of application (in terms of employers and subject-matter) as that of the CATI.

a) Regular working hours and regular working week:

Article 116 paras (1) – (8) of LLR regulate the regular working hours.

The full-time working hours must not exceed 40 hours a week.

As a general rule, the working week shall last five working days.

A law or a collective agreement may define the working hours which is shorter than 40 hours a week, but not shorter than 36 hours a week, as full-time hours. A law or other regulations, or collective agreement, may define the full-time hours for jobs prone to greater danger of injuries or health deterioration to be shorter than 36 hours a week. If the full-time hours are not defined by law or collective agreement, the working hours of 40 hours per week shall be considered as full-time hours.

The employer shall be obliged to keep records of the full-time hours. The employer, who employs over 25 employees and whose operation process is carried out at one or more locations, shall be obliged to keep at each location electronic records of the full-time hours and overtime work. The employer that employs up to 25 employees shall be obliged to keep attendance lists for the employees, which shall contain the data about the start and end of the working hours. The manner and the keeping of the electronic records of the full-time hours and of the overtime work are regulated in the Rulebook on working time records.

Under Article 101 para (1) of the CATI, the regular working hours may not exceed 40 hours a week. However, the para (3) of the same Article provides that by way of a collective agreement adopted at the level of an individual employer, weekly hours shorter than 40 hours may be provided for.

Articles 123, 124-a and 125 of the LLR regulate the scheduling of work hours.

The work schedule is generally determined by the employer. However, the work schedule for jobs in the field of traffic and communications, sale of goods, health care, social and child protection, education and other public institutions, public utility activities, catering, tourism and handicrafts, shall be defined by a decision of the competent state administrative body.

The distribution and conditions for temporary redistribution of working hours may be defined by law, collective agreement or employment contract. The working hours shall be distributed in accordance with the nature or organization of the work, or the needs of the customers. The employer must notify the employee in writing on the temporary redistribution of working hours, at least one day in advance.

The full-time work schedule must comply with the following basic requirements:

1. There must be no less than four working days in a week;
2. The working hours must not exceed 40 hours a week; and
3. There must be no less than four working hours a day.

The employer can also organize the work in shifts. Work in shifts shall mean any method of organizing the work in shifts according to which the employees shift one after another at the same job position, in accordance with a certain plan, and which can also be continuous or with interruptions, including the need of the employees to work in different time for a given period of days or weeks. The plan must be submitted to the union at the employer at least ten working days before its application.

Articles 124 and 126 of the LLR regulate the rescheduling of work hours.

The working hours may be redistributed (rescheduled) when required so by the nature of the activities, that is, works and duties. In such case, the redistribution of working hours shall be made in such a way that the average total working hours of the employee do not exceed 40 hours per week during the year.

However, under article 124 para (3) of the LLR, when redistributing (rescheduling) the working hours of seasonal workers, the working hours cannot exceed 12 hours a day or 55 hours a week, for a period not

longer than four months. In such case, the working hours that exceed 40 hours during the working week shall be calculated and compensated as shorter working hours in other working days or as days off during the term of validity of the employment contract.

The redistributed working hours shall not be considered as over-time work for which salary allowance is paid.

Work with redistributed working hours of a younger worker, disabled worker, pregnant worker, worker who continuously takes care of a child up to three-year old, worker - single parent who continuously takes care of a child younger than 15 years shall be prohibited.

The employee who, due to redistribution of the working hours, and who in the time prior to termination of the employment in the calendar year, accumulates more working hours at work than it is determined for a full-time work, may request to have his surplus hours converted into working days with full-time hours. The calculated days shall be included in the employee's years of service, as if he has spent them at work. The total period of service in the calendar year must not exceed 12 months.

b) Overtime working hours:

Under Article 117 para (2) of LLR, the overtime working hours can last eight hours a week at the most and maximum 190 hours a year, except for works which cannot be terminated due to the specific process of operation or for works for which there are no conditions and possibilities to be organized in shifts. The overtime work for a period of three months cannot be more than eight hours a week in average.

Furthermore, Article 104 para (1) of the CATI, the daily working time, including the overtime work, may not last more than 10 hours daily, and no more than 190 hours a year.

c) Requirements for overtime work:

Under Article 120 of LLR, the employer cannot order beyond the full-time hours:

1. if the work may be carried out by appropriate organization or distribution of duties, by organization of the working hours or introduction of new shifts;
2. to a female employee, in accordance with the provisions of this Law, for the purpose of protecting pregnancy, childbirth and parenthood;
3. to a mother with a child under the age of three and self-supporting parent with a child under the age of six, except if the employee gives a written statement declaring that she voluntarily agrees to work overtime;
4. to an older employee without his consent;
5. to an employee under the age of 18;
6. to the employee whose health condition is going to deteriorate due to such work, according to a medical commission opinion;
7. to the employee with full-time hours shorter than 36 hours a week, due to work at position which includes higher risks of injuries or health deterioration; and
8. to the employee who works shorter than the full-time hours, (part-time work) in compliance with the provisions on pension and disability insurance (disability), the provisions on health insurance (medical rehabilitation) or other regulations (parental responsibilities).

The employer may order overtime work to employees not covered under Article 120 of LLR under the conditions stipulated in Article 117 of LLR.

Namely, on request of the employer, the employee shall be obliged to carry out work exceeding the full-time hours (overtime work):

1. in cases of exceptional increase of the volume of work;
2. in case the business or production process needs to be extended;
3. if it is necessary to eliminate the damage of the work equipment which would result in suspension of work;
4. if it is necessary to provide safety of persons and property, and to secure the turnover; and
5. in other cases determined by law or collective agreement.

The employer shall be obliged to keep special records of the overtime work and to show separately the hours of overtime work in the monthly calculation of the employee's salary.

The employer shall be obliged to inform in advance, in writing, the regional state labor inspector about each introduction of overtime work. For the avoidance of doubt, please note that the employee's consent is not required for the employer to introduce overtime work.

If the employer introduces overtime work longer than 190 hours a year, it shall be obliged to reorganize the working hours or to introduce new shifts.

d) Regular wages:

Articles 105 and 106 of LLR regulate the regular wages of employees.

The employee shall be entitled to payment of earnings – salary, in accordance with the law, collective agreement and employment contract.

The salary shall be composed of (i) basic salary, (ii) part of the salary for job performance and (iii) allowances, unless otherwise defined by another law.

- (i) The basic salary shall be determined taking into account the requirements of the job position for which the employee has concluded the employment contract. By way of clarification, the concept of “basic salary” is comparable to the concept of “net salary”.
- (ii) The job performance of the employee shall be determined taking into account the economical conduct, quality and volume of the performed work, for which the employee has concluded the employment contract.
- (iii) The allowances shall be determined for special working conditions, arising from the distribution of working hours, such as work in shifts, split time work, night work, work on duty introduced in accordance with law, overtime work, work on a weekly rest day, work on holidays determined by law, and years of service allowance.

The employer can also pay the employee 13th salary, provided that the employer has the resources to pay it. The LLR does not specify when the 13th salary should be paid by the employer, once the employer decides to pay out such a salary.

e) **Minimum wages:**

Article 107 of LLR prescribes that the salary of a full-time employee cannot be lower than the minimum salary determined by law and collective agreement.

Under Article 2 of Law on the Minimum Salary in the Republic of Macedonia, the minimum salary shall be the lowest monthly amount of the basic salary which the employer is obliged to pay to the employee for a work done during full-time hours and achieved predefined work results. The predefined work results shall be determined by the employer, every year, in February, on the basis of production process efficiency criteria, determined by the employer in cooperation with the employees, and such criteria must be the same for each technical and technological whole at the employer. The predefined work results should be achievable for at least 80% of the employees in each technical and technological whole separately. The employer is obliged, at the end of every month, to issue a certificate to the employee about the predefined work results that are achieved together with the written calculation of the salary.

Article 3 of the same Law provides that all employees shall have the right to a minimum salary under the provisions of the on the minimum salary in the Republic of Macedonia, in the amount determined in accordance with the mentioned Law. The amount of the minimum salary of a part-time employee or an employee who works less hours than the full-time hours shall be calculated proportionally to the time spent at work. The provisions of this Law shall not apply to self-employed persons.

Under Article 4 of this Law, the amount of the minimum salary paid in gross amount in the previous year shall be harmonized in March every year with:

- one third of the increase of the average salary paid in the Republic of Macedonia,
- one third of the increase of the costs of living index, and
- one third of the actual increase of the gross domestic product for the previous year, according to the data of the State Statistical Office.

The minister of labor and social policy, upon a previous opinion of the Economic and Social Council, shall publish the amount of the minimum salary in the gross amount harmonized as described above in the “Official Gazette of the Republic of Macedonia” in March every year, which shall be paid starting from the salary paid in the April in the current year.

The gross amount of the minimum salary for the salary to be paid in September 2017, up to and including the salary to be paid in June 2018, shall amount MKD 17,130 (app. EUR 278). The amount of the minimum salary applicable since 1 January 2016 until 1 September 2017 was 10,080 Macedonian Denars (ten thousand and eighty Macedonian Denars) (app. 164 Euros) in the net amount. .

On the other hand, please note that, in accordance with Article 59 para (1) of the CATI, and in accordance with the Agreement on determining the minimum salary for employees in the tobacco business, the minimum salary for the employees in the tobacco business is 10,650 Macedonian Denars (ten thousand six hundred and fifty Macedonian Denars) (app. 173 Euros) in net amount for a 100% achieved norm determined in the branch or full time work out of the annual average of 174 hours per month. For avoidance of doubt, this minimum amount refers to the minimum net salary per month.

CATI may currently not be harmonized with the Law on the Minimum Salary in the Republic of Macedonia, as amended. In such case, the Law on the Minimum Salary in the Republic of Macedonia will take precedence.

f) **Overtime wages:**

Under Article 24 of the GCAPS, applicable to all employers and employees in the private sector, in case of overtime work the basic salary of the employee shall be increased for a minimum of 35% per hour.

Under Article 117 para (4) of LLR, the employer shall be obliged to pay, except the salary allowance, a bonus in the amount of one average salary in the Republic to the employee who has worked over 150 hours longer than the full-time hours, and has not been absent from work for more than 21 days during the year with the same employer in which the days spent on a holiday are not calculated.

g) **Social Security Contributions:**

The Law on Contributions for Mandatory Social Insurance defines the types of social security contributions and their applicable rates, which are as follows:

Type of Social Security Contribution	Applicable Rate	
	For 2017 and till end of June 2018	As of July 2018
Mandatory pension and disability insurance	18%	17.6%
Contribution for disability and physical impairment caused by injury at work or professional disease	4%	4%
Mandatory health insurance	7.3% (except for certain categories of taxpayers for which the rate is 10% or 5.4% or 13%, accordingly)	7.3% (except for certain categories of taxpayers for which the rate is 10% or 5.4% or 13%, accordingly)
Additional contribution for mandatory health insurance in case of injury at work and professional disease	0.5%	0.5%
Mandatory contribution for insurance in the event of unemployment	1.2%	1.2%

The minimum base for calculating and paying social security contributions for the current year equals 50% of the average national salary published in January of the current year by the State Statistics Office of the Republic of Macedonia. The average national salary in 2017 is MKD 32,877 [approx. EUR 534].

The maximum base for calculating and paying social security contributions equals 12 times the average national salary (for 2017, this would amount to MKD 394,524 [approx. EUR 6,415]).

By exception, for self-employed individuals, the maximum base equals eight times the average national salary (for 2017, this would amount to MKD 263,016 [approx. EUR 4,276]).

h) Salary allowances:

The employee is entitled to the following types of salary allowances under conditions stipulated in LLR, the GCAPS and the CATI:

- Allowance for work in shifts,
- Allowance for split time work,
- Allowance for night work,
- Allowance for work on duty introduced in accordance with law,
- Allowance for overtime work,
- Allowance for work on a weekly rest day,
- Allowance for work on holidays determined by law, and
- Allowance for years of service allowance.

Under Article 24 of the GCAPS, the basic salary (i.e. the net salary) of the employee shall be increased per hour at least for:

- (i) overtime work – by 35%;
- (ii) night work – by 35%;
- (iii) work in three shifts – by 5%; and
- (iv) work in a day of weekly holiday – by 50%.

For work done on holidays and non-working days determined by law, the employee is entitled to a compensation of the salary that would be due on those days that the employee is not working and to a salary for hours spent on work increased by 50%.

The salary allowances are not mutually exclusive of each other.

The right to an increased compensation for work in three shifts shall be exercised by the employee for the time actually spent working on shift.

Under Article 25 of the GCAPS, the basic salary (i.e. the net salary) of the employee shall increase by 0.5% for each year of service.

i) Salary Compensation:

Article 112 of LLR provides the following:

1. The employee shall be entitled to salary compensation for the whole period of absence in the cases and duration defined by law, as well as in the cases when he does not work due to employer-related reasons.
2. The employer shall be obliged to pay salary compensation in cases of absence from work due to use of annual leave, paid extraordinary leave, additional training, holidays determined by law and days off and in the cases when the employee does not work due to employer-related reasons.

3. The employer shall also pay salary compensation in the cases of employee's incapability to work due to illness or injury for a period of up to 30 days, and if the absence lasts more than 30 days, the salary compensation shall be paid by the health insurance. In case of starting a new sick leave within three days after the expiry of the previous sick leave, the employer shall be entitled to request from the first instance medical commission to confirm the new sick leave or to extend the previously expired sick leave.
4. As an exception to para (3) of this Article, in case of incapability of the worker to work due to injuries incurred as a result of not ensuring the measures defined by the regulations pertaining to safety and health at work by the employer, the employer shall pay salary compensation for more than 30 days, on the basis of minutes from the state administration body competent for issues in the field of labor inspection. In the minutes for the completed inspection with the employer, the labor inspector shall be obliged to state whether the particular injury is a result of not securing measures for safety and health at work by the employer, Copy of the minutes shall as well be delivered by the labor inspector to the Health Insurance Fund of Macedonia.
5. In the cases referred to in para (4) of this Article, the salary compensation for the temporary agency workers who by an engagement contract are engaged by an employer-user through the Agency for Temporary Employment, the obligation to pay the salary compensation shall be covered by the employer-user.
6. The employer may also pay salary compensation against the other obligor, if so determined by law or another regulation.
7. If the employee is not able to perform his work due to force majeure, he shall be entitled to half of the salary, which he would receive if he has been working.
8. Unless otherwise defined by this or another law, the employee shall be entitled to salary compensation in the amount of his average salary during the past 12 months. If the employee has not been receiving salary within that period, he shall be entitled to salary compensation in the amount of the minimum salary.
9. The employer shall be obliged to pay salary compensation to the employee for as many days and hours as the duration of the employee's working duty on the day when he does not work due to justified reasons.
10. In case of interruption of the operating process due to business reasons, the employer shall be obliged to hand down the employee a decision and to pay him 70% of the salary for a period of up to three months in the current year.

GCAPS prescribes that the employer should pay compensation to the employees, as follows:

- (i) for sick leave - during the temporary inability to work;
- (ii) for annual vacation;
- (iii) for paid irregular vacation;
- (iv) during interruption of the working process caused by the employer;
- (v) for holidays and non-working days determined by law or other act;
- (vi) for work in days off;

- (vii) for education and qualification, in accordance with the needs of the employer;
- (viii) for trade union training, in agreement with the employer;
- (ix) during notice period; and
- (x) in other case determined by collective agreement on a branch level, or employer's level.

In such cases, the employee is entitled to compensation in amount of his average salary in the last 12 months, unless otherwise prescribed by law.

Article 35-a of the GCAPS prescribes that the employee is entitled to compensation based on the contribution of innovations, rationalizations and other types of works, for the needs of the employer which is determined in the contract between the employee and employer.

Article 35-b of the GCAPS prescribes that for uninterrupted sick leave for more than 6 months due to injury at work or occupational disease, according to collective agreement at a branch level or at an employer's level pursuant to collective agreement at the level of activity or at an employer's level, compensation shall be paid in the amount of the base. The base for calculating of this fee is the average monthly net salary per employee in the Republic of Macedonia paid in the last three months.

Article 35-c of the GCAPS prescribes that the right and the amount of the New Year's compensation may be determined by a collective agreement at the level of activity or at an employer's level. In this regard, under Article 95 of the CATI, the amount of the New Year's compensation during the New Year's holidays is 65% of the average monthly salary in the Republic of Macedonia paid out in the previous three months. The collective agreement at the level of an employer may provide for a higher amount. The New Year's compensation is to be paid out no later than the 31 March of the current year for the previous year.

Article 35-d of the GCAPS prescribes that the employer may pay to the employee compensation in event of severe consequences of natural disasters, at least in amount of one base. The base for calculating of this fee is the average monthly net salary per employee in the Republic of Macedonia paid in the last three months.

j) Compensation for work-related costs:

Article 113 of LLR provides as follows:

1. The employee shall be entitled to compensation for the following costs related to the work:
 - 1) business trip,
 - 2) field allowance,
 - 3) use of private vehicle for business trips,
 - 4) family separation allowance, and
 - 5) death of the employee or a member of his family.
2. The employee shall be entitled to severance pay when retiring, as well as to jubilee awards.
3. The amount, base and period of calculating and paying the compensation for these costs shall be laid down by law and collective agreement.
4. The employer may organize transportation for the employees to and from work, and may provide food during working hours at its own expense.

5. The costs for food referred to in para 4 of this Article may amount up to 20% the most of the average net salary per worker paid in the previous year, and the transportation costs in the amount of the actual public transportation costs.

In this regard, it should be noted that under Article 93 of the CATI, employees for which transportation to and from the place of work is organized by the employer shall be paid a compensation equaling the ticket price for public transportation, provided that the distance between the employee's place of residence and his/her place of work exceeds two (2) kilometers.

Article 35 of GCAPS prescribes that the employee shall be entitled to compensation for the following costs related to the work, determined by law and collective agreement, namely:

1. day-wage for business trips in the country of at least 8% of the base;
2. day-wage for business trips abroad in accordance to the collective agreement at an employer's level, or an act of the employer, but no less than the Regulation on expenses for business trips and moving abroad recognize for the administrative bodies in current costs;
3. fieldwork allowance depending on the provided conditions for fieldwork (accommodation, nutrition, etc.) to the amount determined by a collective contract at a branch level, that is at an employer's level;
4. compensation of life separate from the family, in the amount determined by collective agreement at the level of activity or at the level of an employer, but not less than 60% of the base, the compensation for separate life from the family shall be paid when an employee is deployed, that is sent to work outside the seat of the company or outside of the place of permanent residence;
5. compensation of the costs of use of one's own car for the needs of the employer in the amount of 30% of the price per liter of fuel that the car uses for each kilometer;
6. compensation of the costs of moving to the needs of the employer, in the amount of the actual costs;
7. recourse for annual leave of at least 40% of the base, provided that the employee worked at least 6 months in the calendar year for the same employer.

The collective agreement at a branch level or collective agreement at an employer's level may determine the regress for annual leave in a larger amount than the amount specified in this collective agreement.

The recourse for annual leave is paid once a year. The amount is determined according to the base which is valid on the day of adoption of the resolution for payment. Under Article 94 of the CATI, the amount of the recourse for annual vacation is one average monthly salary in the Republic paid out in the previous three months.

The following compensations shall also be paid:

- 1) in event of death of a worker, his family shall be paid with a compensation in amount of three bases;
- 2) in event of the death of a husband, wife, children and parents living in the same family, the worker shall be paid with a compensation in amount of two bases;
- 3) in the event of jubilee award in the amount of the base – for at least 10 years work at the same employer;
- 4) in the event of retirement at least double of the amount of the base.

The base for calculating of the compensation of employees is the average monthly net salary per employee in the Republic of Macedonia paid in the last three months.

The employer at its own expense may organize transportation for the workers to and from the workplace, as well as the nutrition during work. The nutrition costs may be up to 20% of the average net salary paid in the previous year, and the transportation costs may be in the amount of actual costs in the public traffic.

The employee shall be paid with other fees in accordance to the collective agreement at the branch level that is department or at an employer's level.

k) Wage and hours law specific to piece rate workers, seasonal workers, and migrant workers

1. Wage and Hours law specific to piece rate workers

Piecework is not expressly regulated in LLR. However, Law on Minimum Salary in the Republic of Macedonia requires that all employees, including any piece work employees, are paid by the employer at least the prescribed minimum salary. Furthermore, the general provisions of LLR regulating work hours would also apply to piece rate workers.

2. Wage and Hours law specific to seasonal workers

No special rules apply to wages for seasonal workers. The general rules of the LLR and the Law on Minimum Salary in the Republic of Macedonia shall apply to such issues. For avoidance of doubt, this means that Macedonian employers that employ seasonal workers (either from Macedonia or from abroad) in Macedonia are required to pay such seasonal workers at least the minimum salary and that such salary must be paid in the form (monetary), in the manner and in periods are regulated by the general rules of the LLR described above.

In terms of working hours, the general rules of the LLR shall also apply. However, as explained above, the special rules apply with respect to rescheduling (redistributing) working hours of seasonal workers.

The working hours may be redistributed (rescheduled) when required so by the nature of the activities, that is, works and duties. In such case, the redistribution of working hours shall be made in such a way that the average total working hours of the employee do not exceed 40 hours per week during the year. However, under article 124 para (3) of the LLR, when redistributing (rescheduling) the working hours of seasonal workers, the working hours cannot exceed 12 hours a day or 55 hours a week, for a period not longer than four months. In such case, the working hours that exceed 40 hours during the working week shall be calculated and compensated as shorter working hours in other working days or as days off during the term of validity of the employment contract.

3. Wage and Hours law specific to migrant workers

No special rules apply to working hours and wages for migrant workers (that have migrated either internally, from within Macedonia, or from abroad) employed by Macedonian employers in Macedonia. The general rules of the LLR and the Law on Minimum Salary in the Republic of Macedonia shall apply to such issues.

l) Frequency of payment of wages

Article 109 of LLR provides that the salary is paid in periods, which may not be longer than one month. Therefore, end-of-season one-time payment of salaries is not allowed.

The salary must be paid not later than 15 days upon the expiration of the payment period. If the payment day is a non-working day, the salary shall be paid the following working day, at latest.

The employer is obliged to previously notify the employees in writing for the payment day or change of the payment day.

m) **Laws on in-kind payment**

Article 105 para (2) of LLR provides that the remuneration on the basis of the employment contract must always be paid in money. Making in-kind payments as salary under employment contracts is prohibited.

n) **Legal requirements for migrant workers to ensure they are legally permitted to work**

Foreigners, who in accordance with the provisions of the Law on Employment and Work of Foreigners or other law, may be employed, self-employed, or work in the Republic of Macedonia, must possess a temporary residence permit for work purposes issued by the Ministry of Interior Affairs of the Republic of Macedonia, or a work permit issued by the Employment Service Agency of the Republic of Macedonia and regulated residence on any other ground in the Republic of Macedonia.

Under Articles 48 and 49 of the Law on Foreigners, a foreigner must possess a temporary residence permit if he/she intends to stay in the Republic of Macedonia longer than three months or, inter alia, if he/she intends to work in the Republic of Macedonia. In the latter case, the temporary residence permit shall represent a single permit for work and stay of the foreigner to whom it is issued. The temporary residence permit is issued for a specific purpose and specific period. The foreigner who is granted a temporary residence for a specific purpose can stay in the Republic of Macedonia only for the purpose for which his/her residence is granted.

Under Article 50 of the same Law, a foreigner can be issued a permit for temporary residence in the Republic of Macedonia, provided that he/she:

- possesses subsistence means, that is his/her subsistence is ensured in any other legal way,
- has ensured accommodation or has means for accommodation,
- has a health insurance,
- fulfills the requirements provided for different types of temporary residence permits, and
- there are no grounds for entry denial determined in Article 23 of this Law.

Under Article 23 of this Law, a foreigner can be denied entry into the Republic of Macedonia, if he/she:

- does not fulfill the requirements for entry into the Republic of Macedonia as determined by this Law,
- there is a serious suspicion that his/her stay in the country is to be connected with committing acts of terrorism or other violent acts, criminal acts related to production and trade in narcotic drugs, psychotropic substances and precursors, or committing other criminal acts for which a sentence of at least one-year imprisonment is envisaged,
- has an intention to pass through the territory of the Republic of Macedonia, but does not meet the entry requirements for a third country,

- has not paid the costs incurred by his/her prior temporary detention and forcible return,
- does not act in accordance with the final decision regarding a committed misdemeanor adopted by a competent court, that is a competent misdemeanor body of the territory of the Republic of Macedonia;
- there is a grounded suspicion that he/she is to be employed or work on the territory of the Republic of Macedonia contrary to the regulations on labor relation,
- there is a grounded suspicion that he/she is not to stay in the Republic of Macedonia for the purpose indicated, or
- presents incorrect data for him/herself or the purpose and circumstances of his/her travel and stay, or uses falsified, another person's or invalid travel or other documents.

The entry denial shall be entered in the foreigner's travel document.

Under Article 7 of the Law on Employment and Work of Foreigners, a work permit is a document on the basis of which the domestic or foreign employer concludes an employment contract, in accordance with the provisions of this Law. The work permit is issued for a definite period of time of up to one year or for an indefinite period of time. The foreigner may be issued only one work permit for the same time period.

Under Article 10 of the same Law, a work permit which is issued for a definite period of time of up to one year shall be a renewable or permanent form of a work permit, which allows the foreigner free access to the labor market during its validity period.

3. Principle 3 – Fair Treatment

3.1 Items to be covered by your answer

- Laws defining and prohibiting verbal, psychological, physical punishment, and sexual harassment and abuse
- Laws defining and prohibiting discrimination
- Protection of workers from discrimination (workers' rights and employers' obligations)
- Laws on resource for victimized workers, if applicable

3.2 Applicable laws

- Constitution;
- LLR;
- Law on Prevention of and Protection from Discrimination (*Закон за спречување и заштита од дискриминација*) ("Official Gazette of the Republic of Macedonia" no. 50/2010, 44/2014, 150/2015 and 31/2016) – hereinafter: the "**Anti-Discrimination Law**";
- Law on Protection against Harassment at the Workplace (*Закон за заштита од вознемирување на работно место*) ("Official Gazette of the Republic of Macedonia" no. 79/2013 and 147/2015) – hereinafter: the "**Anti-Harassment Law**";

- Law on Equal Opportunities for Women and Men (*Закон за еднакви можности на жените и мажите*) ("Official Gazette of the Republic of Macedonia" no. 6/2012, 30/2013, 166/2014 and 150/2015);
- Criminal Code of the Republic of Macedonia (*Кривичен законик на Република Македонија*) ("Official Gazette of the Republic of Macedonia" no. 37/1996, 80/1999, 4/2002, 43/2003, 19/2004, 81/2005, 60/2006, 73/2006, 7/2008, 139/2008, 114/2009, 51/2011, 135/2011, 185/2011, 142/2012, 166/2012, 55/2013, 82/2013, 14/2014, 27/2014, 28/2014, 41/2014, 115/2014, 132/2014, 160/2014, 199/2014, 196/2015 and 226/2015) – hereinafter: the "**Criminal Code**";

3.3 Your answer

a) Laws defining and prohibiting verbal, psychological, physical punishment, and sexual harassment and abuse

1. Definitions and prohibitions under the LLR

The LLR prohibits the following forms of behavior at the workplace:

- Direct and indirect discrimination (Articles 6 and 7);
- Harassment (Article 9 para (1));
- Sexual Harassment (Article 9 para (1)); and
- Psychological Harassment (Article 9-a para (1)).

The LLR provides the following definitions of the above terms:

Discrimination – means:

- unequal treatment by the employer of the job candidate or the employee because of racial or ethnic origin, color, gender, age, health condition, that is, disability, religious, political or other belief, membership in unions, national or social origin, family status, property and financial situation, sexual orientation or other personal circumstances (Article 6 para (1)); and/or
- failure to provide equal opportunities and equal treatment of women and men job candidates or employees in connection with: access to employment, including promotion and work-related vocational and professional training; working conditions; equal payment for equal work; occupational social security schemes; absence from work; working hours, and termination of employment contract (Article 6 para (2)).

Direct discrimination - any action conditioned by any of the grounds referred to in the definition for Discrimination by which the person has been, is or could be put in a less favorable position than other persons in comparable circumstances.

Indirect discrimination - when a certain, apparently neutral provision, criterion or practice, places or would place the job candidate or the employee in less favorable position in relation to other persons due to a certain feature, status, orientation or belief referred to in the definition for Discrimination.

Harassment - any unwanted behavior caused by any of the events of Discrimination that aims at or constitutes violation of the dignity of the job candidate or the employee, and which causes fear or creates hostile, humiliating or offensive behavior (Article 9 para (3)).

Sexual harassment - any verbal, non-verbal or physical behavior of a sexual nature that aims at or constitutes violation of the dignity of the job candidate or employee, and which causes fear or creates hostile, humiliating or offensive behavior (Article 9 para (4)).

Psychological harassment - any negative behavior of an individual or group that often repeats (in a period of at least six months), and constitutes violation of the dignity, integrity, reputation and honor of the employees, and causes fear or creates hostile, humiliating or offensive behavior, which may aim at termination of the labor relation or resignation from the job (Article 9-a para (3)); one or several persons displaying such negative behavior, regardless of their status (natural person as an employer, responsible person or worker), may be a perpetrator of psychological harassment in the workplace (Article 9-a para (4)).

Furthermore, the LLR provides that harassment, sexual harassment and psychological harassment shall be deemed to constitute a form of discrimination (Article 9 para (2) and Article 9-a para (2)).

2. Definitions and prohibitions under the Anti-Harassment Law

The Anti-Harassment Law prohibits the following forms of behavior at the workplace:

- Mental Harassment (Article 5 para (1));
- Sexual Harassment (Article 5 para (2));
- Encouraging or inducing mental harassment (Article 5 para 4);
- Encouraging or inducing sexual harassment (Article 5 para 4); and
- Abuse of rights related to harassment at the workplace (Article 4).

The Anti-Harassment Law provides the following definitions of the above terms:

Mental harassment - any negative behavior of an individual or a group which is continuously and systematically repeated, violates the dignity, integrity, reputation, and honor of the employee and evokes the feeling of fear, or causes embarrassment, humiliation, the final goal of which is to damage the physical and mental health, compromise the professional future of the employee, terminate the employment or leave the job; this conduct shall be regarded as mental harassment at the workplace, provided that it has not terminated even upon the written warning by the harassed person that he/she finds the conduct of the harassing person disturbing, and that he/she shall consider it as workplace harassment (Article 5 para (3)).

Sexual harassment - any verbal, non-verbal or physical behavior of a sexual nature, which is aimed at or causes violation of the dignity of the job candidate or the employee, and which evokes the feeling of fear, or causes embarrassment, humiliation; this conduct shall be regarded as sexual harassment at the workplace, provided that it has not terminated even upon the written warning by the harassed person that he/she finds the conduct of the harassing person disturbing, and that he/she shall consider it as workplace harassment (Article 5 para (3)).

Abuse of rights related to harassment at the workplace – any abuse by an employee who knew or must have known that there are no reasons for initiation of a procedure for protection against harassment at the workplace, but he/she has launched or has initiated the launching of such a procedure, with the purpose of obtaining material or non-material benefit for him/herself or for another, or with the purpose of inflicting damage to a third person.

The Anti-Harassment applies to the employers, the employees, the job candidates, as well as to the persons engaged under contracts, who participate in the work of the employer.

An employer shall be a legal entity and a natural person, as well as another entity (state administrative body, body of the local self-government unit, subsidiary of a foreign company, diplomatic and consular mission), which employ workers based on an employment contract. An employer of the persons engaged under a volunteering contract, contract for services, intellectual property contract, and other types of contracts, which participate in the work of the employer, in terms of this Law, shall be the employer where these persons carry out the work.

Person engaged in harassment at a workplace may be one or several persons who conduct negatively, irrespective of their capacity – an employer in the capacity of a natural person, a responsible person at an employer – legal entity, an employee or a group of employees at an employer, or a third person with whom the employee or the employer comes into contact in the performance of tasks at the workplace.

The place of mental and sexual harassment at the workplace shall be considered the workplace where the employee who is subjected to harassment usually works or the place where the employee is posted to work by the employer. The place of mental and sexual harassment at the workplace may also be considered the place/places where the employee who is subjected to harassment usually passes on the way to and from work, only in the cases of mental and sexual harassment made by an employee at the same employer, or another person who works at the same employer who travels or moves together with him/her or is in immediate surrounding of the employee, that is, the other person who works at the same employer with the person who is subjected to harassment.

The time of mental and sexual harassment at the workplace shall be considered the time within the working hours and the time of travel to and from the workplace, when the type and manner of conduct which is regarded as workplace harassment is pursued.

This being said, it is important to note that under Article 8 of the Anti-Harassment Law, the following conduct and activities shall not be considered workplace harassment shall be:

1. individual documents adopted by the employer deciding upon rights, obligations, and responsibilities under employment, against which the employee has the right of protection in a procedure established by law;
2. deprivation and prevention of achievement and exercise of rights established by law, collective agreement and employment contract, the protection of which is achieved in a procedure at the employer and before a competent court;
3. any type of unjustified differentiation during an unequal treatment of an employee on whatever ground of discrimination, which is prohibited and in view of which protection is provided, in accordance with law; and
4. occasional differences in the opinions in view of matters and issues related to the performance of the work and tasks, unless they are aimed at hurting or intentionally insulting the employee.

b) Laws defining and prohibiting discrimination**1. Prohibitions under the Constitution**

Article 9 para (1) of the Constitution provides that citizens of the Republic of Macedonia are equal in their freedoms and rights, regardless of sex, race, color of skin, national and social origin, political and religious beliefs, property and social status.

Under Article 54 of the Constitution, the freedoms and rights of the individual and citizen can be restricted only in cases determined by the Constitution. The restriction of freedoms and rights cannot discriminate on grounds of sex, race, color of skin, language, religion, national or social origin, property or social status.

2. Definitions and prohibitions under the LLR

As mentioned above, the LLR prohibits discrimination by the employer against job candidates and employees.

Article 7 para (4) LLR provides that discrimination at the employer is prohibited in respect to:

- 1) employment requirements, including the criteria and requirements for selection of candidates for carrying out certain work, in any branch, that is, department, in accordance with the National Classification of Activities, and at all levels of the professional hierarchy;
- 2) promotion at work;
- 3) access to all types and levels of professional training, retraining and up skilling;
- 4) working conditions and the work and all rights deriving from the labor relation and the rights pertaining to the labor relation, including pay equity;
- 5) termination of employment contract; and
- 6) rights of the members and the work in the associations of employees and employers or in any other professional organization, including the privileges resulting from that membership.

The provisions of the collective agreements and the employment contracts that set forth discrimination shall be null and void (Article 7 paras (4) and (5)).

In addition, Article 9-b of the LLR expressly prohibits all forms of discrimination of a female employee on grounds of pregnancy, giving birth and parenthood, no matter the duration and the type of employment established in accordance with the law. This prohibition on discrimination shall apply to the access to employment, the working conditions, and all the rights under the employment and the termination of the employment contract of female employees that are pregnant or exercise rights resulting from giving birth and parenthood.

However, under Article 8 of the LLR, the following shall not be considered as infringing upon the prohibition on discrimination stipulated in the LLR:

- 1) Any distinction, exclusion or preference in respect to certain work shall not be considered discrimination when the nature of the work or the conditions in which it is performed are such that the characteristics related to some of the cases referred to in Article 6 of LLR represent real and determining occupational requirement, provided that the goal that is aimed to be accomplished is legitimate and the requirement is proportionate.

- 2) All measures anticipated by LLR or another law, collective agreements and employment contracts referring to special protection and assistance to specific category of employees, especially those for protection of disabled persons, elderly employees, pregnant women and women exercising any of the rights to motherhood protection, as well as the provisions referring to the special rights of parents, adoptive parents and dependents, are neither considered discrimination nor they may be considered a ground of discrimination.
- 3) In regard to employment requirements, the employees employed for a definite period of time shall not be treated less favorably than the employees for an indefinite period of time just because they have an employment contract for a definite period of time, unless the different treatment is justified by objective reasons.
- 4) The period for acquiring qualifications in regard to certain requirements shall be the same when employing workers for an indefinite period of time and workers for a definite period of time, unless the period for acquiring the qualifications is longer than the validity of the employment contract for a definite period of time.

3. Definitions and prohibitions under the Anti-Discrimination Law

The Anti-Discrimination Law prohibits the following forms of conduct:

- Discrimination (Article 5 point 3));
- Direct and indirect discrimination (Articles 6);
- Discrimination of persons with mental and physical impediment – (Article 8);
- Call for and incitement to discrimination (Article 9);
- Victimization (Article 10);
- Discrimination in the provision of goods and service (Article 11); and
- Severe forms of discrimination (Article 12).

The Anti-Discrimination Law provides the following definitions:

Discrimination - any unjustified legal or factual, direct or indirect, differentiation or unequal treatment, i.e. omission (exclusion, limitation or giving priority) with respect to persons or groups based on sex, race, color, gender, belonging to a marginalized group, ethnic origin, language, nationality, social background, religion or religious beliefs, education, political affiliation, personal or social status, mental and physical impediment, age, family or marital status, property status, health condition or any other ground.

Direct discrimination - any unfavorable treatment, differentiation, exclusion or limitation which results or may result in deprivation, violation or limitation of the equal recognition or enjoyment of the human rights and fundamental freedoms, compared to the treatment another person gets or may get in the same or similar situation.

Indirect discrimination - placement of a person or a group in an unfavorable position compared to other persons by adopting apparently neutral provisions, criteria, or by accepting certain practices, unless such provisions, criteria or practices result from a justified aim, while the means for achievement of the referred aim are appropriate and necessary.

Discrimination of persons with mental and physical impediment – means:

- the intentional disabling or hindered access to health protection, i.e. restriction of the rights to health protection, regular medical treatment and medicinal products, rehabilitation means and measures in accordance with their needs, restriction of the right to marry and to create a family, and other marriage and family relations rights, restriction of the right to education, work and labor relation rights;
- failure to undertake measures for removal of the obstacles, i.e. for adjustment of the infrastructure and the space, use of publicly available resources or participation in the public and social life.

Call for and incitement to discrimination - any activity on the basis of which a person directly or indirectly calls for, encourages, gives directions or incites another person to discriminate.

Victimization - unfavorable behavior towards a person, bearing harmful consequences as a result of the activities it undertook in order to protect against discrimination (has reported discrimination, initiated a procedure due to discrimination and testified in the course of the procedure).

Discrimination in the provision of goods and service - hindering or limiting the use of goods and services by a person or group of persons on any of the grounds of discrimination.

Severe forms of discrimination – means:

- 1) the discrimination inflicted on a certain person on multiple discriminatory grounds (multiple discrimination);
- 2) discrimination inflicted several times (repeated discrimination);
- 3) discrimination being inflicted for a longer period (extended discrimination); or
- 4) discrimination the consequences of which severely affect the discriminated person.

The Anti-Discrimination Law shall be applied by all state bodies, bodies of the local self-government units, legal entities with public authorizations, and legal entities and natural persons in the field of:

- 1) labor and labor relations;
- 2) education, science and sport;
- 3) social security, including the area of social protection, pension and disability insurance, health insurance and health protection;
- 4) judiciary and administration;
- 5) housing;
- 6) public information and media;
- 7) access to goods and services;
- 8) membership and activity in unions, political parties, citizens' associations and foundations or other membership-based organizations;
- 9) culture, and
- 10) other areas determined by law.

However, the Anti-Discrimination Law provides exceptions to the prohibition on discrimination.

Namely, under Article 13, the affirmative measures undertaken by state administration bodies, bodies of the local self-government units, other bodies and organizations exercising public authorizations, public institutions, or by natural persons or legal entities shall not be deemed discrimination if they are established as justified in the past, in the present, or in the future and may be undertaken until the complete factual equality is achieved:

- 1) for the benefit of a person, group of persons or community, in order to eliminate or reduce the factual inequalities, if the differentiation is justified and proportional to the aim, and in order to ensure their natural development and effective achievement of their right to equal opportunities compared to other persons, groups of persons or communities, and
- 2) the affirmative measures aimed at protection of marginalized groups, in order to eliminate or reduce the factual inequalities, if the differentiation is justified and proportional to the aim, and in order to ensure their natural development and effective achievement of their right to equal opportunities compared to other persons, groups of persons or communities.

Furthermore, Article 14 expressly provides that the following shall not be deemed discrimination:

- 1) the different treatment of persons that are not nationals of the Republic of Macedonia, pertaining to the freedoms and rights provided for by the Constitution, the laws and the international agreements accessed by the Republic of Macedonia, which directly derive from the nationality of the Republic of Macedonia;
- 2) the different treatment of persons on the basis of characteristics referring to any of the discriminatory grounds, in case when those characteristics, due to the nature of the occupation or the activity, or due to the conditions under which that occupation is carried out, represent an essential and decisive requirement, the aim is legitimate, and the requirement does not exceed the necessary level for its accomplishment;
- 3) the different treatment of persons on the basis of religion, belief, sex or other characteristics related to an occupation carried out in religious institutions or organizations when, according to the nature of the relevant occupation or activity, or due to the requirements under which the religion is exercised, the belief, sex or other characteristics represent an essential and decisive requirement from a point of view of the institution or the organization, when the aim is legitimate, and the requirement does not exceed the necessary level for its accomplishment;
- 4) the different treatment of persons on the basis of religion, belief, sex or other characteristics in regard to education and training for the aims of the occupation related to the relevant religion;
- 5) if the members and bodies of churches and religious communities, citizens' organizations, political parties, unions and other organizations entered in a register in accordance with the Constitution and the laws, act in accordance with their doctrine, convictions or beliefs and/or the aims determined in their statutes, programs and/or regulations;
- 6) the regulation of marriage, unwed partnership and family exclusively as a union of different sexes, i.e. a man and a woman;
- 7) the exercise of the constitutionally guaranteed principle of freedom of speech, public appearance, opinion and public information;
- 8) the establishment of a requirement for minimum age, professional experience or length of service in the processes of selection or granting certain privileges in regard to the operation, provided

it is objectively justified for achieving the legitimate aim, while the extent of this differentiation does not exceed the level necessary for achievement of the aim, and

- 9) the establishment of a requirement for maximum age in the process of employment related to the need for training or due to the needs of rational time limitations related to retirement anticipated by law, when it is objectively justified for achievement of the legitimate aim, and the extent of this differentiation does not exceed the objective level necessary for achievement of the aim.

Also, with respect to the protective mechanisms for particular categories of persons, under Article 15, the following shall not be deemed discrimination:

- 1) the special protection of the pregnant woman and mother, anticipated by law, except when the pregnant woman or mother does not want to exercise this protection and notifies the employer thereof in a written form;
- 2) the measures anticipated by law for employment encouragement;
- 3) the different treatment of persons with impediment in the participation in training and receiving education in order to meet the special educational needs for the purpose of evening the chances;
- 4) the anticipation of minimum and maximum age for access to certain levels of training and education, provided that it is objectively justified for achievement of the legitimate aim, and the extent of this differentiation does not exceed the one necessary related to the nature of the training or education, or the conditions in which they are delivered and the extent of this differentiation does not exceed the level necessary for achievement of the aim;
- 5) the measures aimed at securing balance in the participation of the men and women, until those measures are necessary;
- 6) the special measures beneficial for the persons or groups which are placed in an unfavorable position occurred as a result of any of the discriminatory grounds, for the purpose of evening their opportunities, as long as those measures are necessary;
- 7) the special protection, anticipated by law, for children without parents, juveniles, single parents and people with disability;
- 8) the measures for protection of the specifics and identity of the persons belonging to ethnical, religious or linguistic minorities and their right to cherish and develop their own identity individually or in a community with the other members of their group as well as stimulate conditions for promotion of that identity, and
- 9) the measures in the field of education and training which should ensure participation of the persons of the ethnical minorities, until those measures are necessary.

4. Prohibitions under the Criminal Code

Article 417 of the Criminal Code sanctions the criminal offence of “Racial or Other Discrimination” as follows:

- 1) Whosoever based on the difference in sex, race, skin color, class, membership in a marginalized group, ethnic background, language, nationality, social background, religious belief, other types of beliefs, education, political affiliation, personal or social condition, mental or physical disability, age, family or marital status, property status, health condition, or any other ground foreseen by law or ratified international agreement, violates the basic human rights and freedoms

acknowledged by the international community, shall be sentenced to imprisonment of six months to five years.

- 2) The sentence referred to in paragraph 1 shall also be imposed to whosoever prosecutes organizations or individuals because of their efforts for equality of the people.
- 3) Whosoever spreads ideas about the superiority of one race over another, or who advocates racial hate, or instigates racial discrimination, shall be sentenced to imprisonment of six months to three years.

5. Definitions and prohibitions under the Law on Equal Opportunities for Women and Men.

The Law on Equal Opportunities for Women and Men prohibits:

- Gender based discrimination (Article 4 point 3));
- Direct gender based discrimination (Article 4 point 4));
- Indirect gender based discrimination (Article 4 point 5));

The Law on Equal Opportunities for Women and Men provides the following definitions:

Gender based discrimination - any differentiation, exclusion or limitation on grounds of gender, resulting in endangering or disabling the recognition, achievement or exercise of the human rights and the fundamental freedoms on the grounds of equality of women and men in the political, economic, social, cultural and civil or other sphere, regardless of their race, skin color, gender, belonging to a marginalized group, ethnicity, language, citizenship, social background, religion or religious belief, education, political belonging, personal or social status, mental and physical impediment, material condition, health condition or any other grounds.

Direct gender based discrimination - when a person has been treated, is treated or would be treated worse than another person in a similar situation, on grounds of the gender.

Indirect gender based discrimination - when apparently neutral provision, criterion or customary law places people of one gender into a particularly unfavorable position compared with persons of the opposite gender, unless that provision, criterion or customary law is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

c) Protection of workers from discrimination (workers' rights and employers' obligations)

1. Protection under the LLR

In case of discrimination, harassment, sexual harassment or psychological harassment, the job candidate or the employee has the right claim damages, under Article 10 LLR.

In such case, the burden of proof rests on the defendant to prove that there has been no discrimination or harassment, i.e. that the defendant has acted in compliance with the provisions related to the prohibition on discrimination and harassment, except if the defendant proves that any different treatment has resulted from the exceptions from the prohibition on discrimination.

The working conditions of the employee cannot be directly or indirectly aggravated, that is, the employee cannot be put in a less favorable position, especially by decreasing the remuneration, transferring to another job or preventing promotion or professional development, because of initiation of a procedure for

legal protection against psychological harassment in the workplace (mobbing), as well as witnessing during the procedure (Article 11 para (3) LLR).

2. Protection under the Anti-Discrimination Law

Under the Anti-Discrimination Law, the person who finds to have suffered discrimination has the following legal recourse:

- 1) Filing a complaint to the Commission for Protection against Discrimination (the “Commission”); and
- 2) Filing a lawsuit to the competent court, and, if necessary, seeking interim measures.

Furthermore, under Article 41 of this Law, associations and foundations, institutions or other organizations from the civil society which have justified interest in the protection of the collective interests of a certain group or within the framework of their activity deal with protection of the rights to equal treatment, may file a lawsuit and act as co-litigants against the person who has violated the right to equal treatment in the procedure with the court, provided that they render probable that the right to equal treatment of greater number of persons has been violated by the treatment of the defendant. However, such lawsuit shall be allowed if the person claiming to be discriminated concurs.

As part of such lawsuit, a request may be raised for the court:

- 1) to determine that the treatment of the defendant has violated the equal treatment in respect to the members of the group;
- 2) to prohibit the undertaking of activities which violate or may violate the equal treatment, i.e. to carry out activities that eliminate the discrimination or its consequences in respect to the members of the group, and
- 3) to announce in the media the verdict whereby violation of the right to equal treatment is determined, at the expense of the defendant.

2.1. Complaint to the Commission

The person who finds to have suffered discrimination shall submit a complaint to the Commission, in writing or orally to the minutes, without an obligation to pay a fee or any other compensation. Together with the complaint, the person shall provide proofs and facts whereby the act or the action of discrimination may be determined.

The complaint may be submitted within three months as of the day the violation has been committed at the latest, or within a year as of finding out about the act of discrimination at the latest. However, the Commission may also initiate a procedure even after this period has expired, if it finds that the case is of such importance that it would be necessary and purposeful to conduct the procedure.

The Commission shall act upon the complaint, if a procedure with the court for the same matter has not been already initiated or completed in a legally valid manner. The Commission shall not act upon the complaint if it is obvious that no violation of the right invoked by the submitter exists, if it has already acted in the same matter and new proofs have not been offered, and if it is determined that it is impossible to achieve the aim of the procedure because of expiry of the period after violation of the right.

The Commission shall deliver the complaint to the person against whom it has been submitted within 15 days as of the day of its receipt. This person may plead to the allegations of the complaint within 15 days as of the day of its receipt.

Upon receipt of the complaint, the Commission shall determine the factual situation by inspecting the documents and taking statements from the person who submits the complaint, the person against whom the complaint has been submitted, as well as from other persons.

The Commission shall give an opinion regarding the alleged discrimination within 90 days as of the day of submitting the complaint and shall notify the person who submits the complaint and the person against whom the complaint has been submitted.

Upon determined discrimination, and by a written opinion, the Commission shall recommend a manner of elimination of the violations of the right. The person to whom the recommendation is directed shall be obliged to act upon the recommendation and to eliminate the violation of the right within 30 days as of the day of receipt of the recommendation, as well as to notify the Commission thereof. If the person, to whom the recommendation is directed fails to act upon the recommendation, i.e. fails to eliminate the violation of the right, the Commission may initiate a procedure with a competent body for determining its liability.

In this regard, please note that the Anti-Discrimination Law sanctions certain conduct as misdemeanors. Regarding the misdemeanors determined by this Law, a misdemeanor procedure shall be conducted and a misdemeanor sanction shall be imposed by the competent court. These misdemeanors are as follows:

- (Article 42) Fine amounting Euro 1.000 in Denar equivalent shall be imposed for the misdemeanor on the legal entity, that is, sole proprietor which calls for or incites discrimination or helps in discriminatory treatment on discriminatory grounds (Article 3). Fine amounting 30% of the determined fine for the legal entity, that is, sole proprietor shall be imposed for such misdemeanor on the responsible person in the legal entity, that is, on the responsible person in the sole proprietor.
- (Article 43) Fine amounting Euro 1.000 in Denar equivalent shall be imposed for the misdemeanor on the legal entity, that is, sole proprietor which violates the dignity of a particular person or creates intimidating, hostile, humiliating or offensive environment, approach or practice (Article 7). Fine amounting 30% of the determined fine for the legal entity, that is, sole proprietor shall be imposed for such misdemeanor on the responsible person in the legal entity, that is, on the responsible person in the sole proprietor.
- (Article 44) Fine amounting Euro 1.000 in Denar equivalent shall be imposed for the misdemeanor on a legal entity, that is, sole proprietor which places in an unfavorable position the person who has reported discrimination or in any other manner has participated in the discrimination procedure (Article 10). Fine amounting 30% of the determined fine for the legal entity, that is, sole proprietor shall be imposed for such misdemeanor on the responsible person in the legal entity, that is, on the responsible person in the sole proprietor.

2.2. Filing a lawsuit at the competent court

A person shall be authorized to file a lawsuit with a competent court should it consider that some of its rights has been violated due to discrimination. Such procedure shall be urgent. The provisions of the Law on Litigation Procedure shall accordingly apply to the procedure.

By way of the lawsuit, the plaintiff may seek from the court:

- 1) to determine that the defendant has violated the right to equal treatment of the plaintiff, i.e. the action that he/she undertook or omitted to undertake may directly cause violation of the rights to equal treatment;
- 2) to prohibit the undertaking of activities which violate or may violate the right of the plaintiff to equal treatment, i.e. to carry out activities that eliminate the discrimination or its consequences;
- 3) to compensate the material and non-material damage caused by violation of the rights protected by the Anti-Discrimination Law; and
- 4) to announce in the media the verdict whereby violation of the right to equal treatment is determined, at the expense of the defendant.

The abovementioned claims may be raised together with the claims for protection of other rights resolved in litigation procedure if all claims are mutually related and if the same court has actual competence, regardless whether decision in general or separate litigation has been prescribed for such claims.

Furthermore, the court may determine measures for securing, on a proposal of the party, prior to the initiation or during the procedure upon the petitions stated with the lawsuit. The following shall also be required when submitting the proposal for measures for securing:

- 1) the person which submits the request to render probable that his/her right to equal treatment has been violated; and
- 2) determination of the measure being necessary for eliminating the risk of irreparable damage, particularly extremely severe violation of the rights to equal treatment or for prevention of violence.

If the party in the court procedure claims that, in accordance with the Anti-discriminatory Law, its right to equal treatment has been violated, it shall be obliged to provide all facts and proofs justifying the claim. The opposite party shall bear the obligation to substantiate that discrimination has not occurred. The burden of proof shall not apply to a misdemeanor and penalty procedure.

The request for announcement of the court decision shall be adopted by the court should the following be determined:

- 1) the right to equal treatment has been violated through the media; or
- 2) the information on the treatment that violates the right to equal treatment has been announced in the media, and such announcement of the verdict is necessary due to full compensation of the caused damage or prevention of unequal treatment in future cases.

If the court adopts the request for announcement of the verdict, for protecting personal data, it shall order full or partial announcement of the verdict. The verdict that orders announcement in the media, shall be binding for the publisher of the media where the verdict is to be announced, regardless whether it has been a party in the procedure.

3. Protection under the Law on Equal Opportunities for Women and Men

Under the Law on Equal Opportunities for Women and Men, the person who finds to have suffered a violation of their rights under this Law has the following legal recourse:

- 1) Filing a complaint to the Ministry of Labor and Social Policy (the “Ministry”); and
- 2) Filing a lawsuit to the competent court.

3.1. Filling of a complaint to the Ministry

The person whose right to equal treatment on the grounds of gender has been violated may file a complaint to the Ministry. The procedure in the Ministry shall be conducted by the representative (a civil servant employed in the Ministry and responsible for conducting a procedure for determination of unequal treatment of women and men).

A complaint may be filed by any legal entity or natural person, personally or through an attorney-in-fact, in writing, orally to the minutes or in another form, by fax, or by e-mail. The complaint filed by phone should be also submitted in writing within a period of eight days. An official note shall be composed for the orally filed complaint. The complaint shall contain personal data on the person filing it, data on the entity (legal or natural) to whom the complaint refers, circumstances and facts on which the complaint is based, data on the legal instruments previously exhausted by the person filing it (if any) and signature of the person filing it. Anonymous complaints shall not be reviewed. The person filing the complaint shall be exempted from payment of administrative fee and another charge. The representative may initiate a procedure upon his/her own initiative.

The complaint shall be filed within a period of six months as of the day of acknowledgement about the act of discrimination or within a period of one year as of the commission of the violation at the latest. If the complaint is incomprehensible and does not contain the necessary facts by which the act or action of discrimination may be confirmed, the representative may require from the person filing the complaint to clarify it and to amend it within a period of 15 days as of the day the amendment is required.

Upon the receipt of the complaint, the representative shall determine the actual condition by inspecting the submitted documents, taking written or oral statements from the person filing the complaint, from the person against whom the complaint is filed, as well as from other persons considered to dispose with information about the case. The filed complaint shall be submitted to the person against whom it is directed within a period of five working days as of the day of initiation of the procedure, for it to declare upon the allegations therein within a period of 15 days as of its receipt.

The legal entities and natural persons shall be obliged, upon a request of the representative, to submit the data they have at their disposal about cases of discrimination, as well as to allow direct inspection in the documentation within a period of 30 days as of the submission of the request.

The representative shall conduct the procedure and prepare an opinion in writing within a period of 90 days as of the receipt of the complaint. The opinion shall contain explanation of the determined unequal treatment on the grounds of gender, and a recommendation for the manner of elimination of the violation of the right. The prepared opinion shall be submitted to the Minister of Labor and Social Policy. The opinion shall also be submitted to the person filing the complaint, the person against whom the complaint is filed and to other legal entities and natural persons included in the procedure within a period of eight days as of the preparation.

The person to whom the recommendation is addressed to shall be obliged to act upon it and to eliminate the violation of the right within a period of 30 days as of the receipt of the opinion and notify the representative thereof. If the person to whom the recommendation is directed to does not act upon it, i.e. does not eliminate the violation of the right, the representative may initiate a procedure with a competent body for determination of its responsibility.

3.2. Filling a lawsuit to the competent court

The person who considers to have been violated the right to equal treatment on the grounds of gender may file a lawsuit with a competent court. Such procedure is urgent. The provisions of the Law on Litigation Procedure shall accordingly apply to the procedure, unless otherwise determined by the Anti-Discrimination Law.

By way of the lawsuit, the plaintiff may seek from the court:

1. to determine if the plaintiff has violated the right to equal treatment on the grounds of gender of the defendant, i.e. the action undertaken or omitted that may directly cause violation of the rights to equality in the acting;
2. to prohibit undertaking of activities that violate or may violate the right to equal treatment of the plaintiff, i.e. to carry out activities for elimination of the unequal treatment or the consequences thereof;
3. to compensate the material and non-material damage caused by the violation of the right to equal treatment, in accordance with the Law on Obligations; and
4. to publish the verdict that confirms the violation of the right to equal treatment in the mass media at the expense of the defendant.

When a person who considers his/herself to be a victim of discrimination states facts whereby it may be supposed that there has been discrimination, the person alleged to have committed an act of discrimination shall be obliged to prove that he/she has not violated the principle of equal treatment. The burden of proof shall not apply to criminal procedures.

d) Laws on resource for victimized workers, if applicable

Under the Anti-Harassment Law, the employee or the person engaged under a contract who participates in the work of the employer and who is deemed to be subjected to harassment at the workplace (the “victimized worker”) has the following legal recourse:

- 1) filling of a written request to the employer for protection against harassment at the workplace to initiate a previous procedure (Article 18 para (1)); and
- 2) filling of a lawsuit to the competent court, including proposing injunctions for preventing violent conduct or for the purpose of eliminating a non-compensable damage (Article 34).

1. Previous procedure

The victimized worker should address, in writing, the person who is deemed to be harassing him/her, and should point out that his/her conduct is inappropriate, unacceptable, and unwanted, with the intention of solving the disputable situation, that is, event without initiating a procedure for protection against harassment at the workplace and should warn him/her that he/she shall seek legal protection if the specific conduct does not terminate immediately.

The victimized worker, before filing a lawsuit before a competent court, shall file a written request for protection against harassment at the workplace to the employer. The victimized worker who finds him/herself subjected to harassment by a managing body in the legal entity or the natural person being an employer may file a lawsuit before the competent court upon a previous written warning to the harassing person, without a previous procedure for protection against harassment at the workplace at the employer.

Such request shall be filed to the responsible person at the employer having the capacity of a legal entity (director or other authorized person), that is, to the employer having the capacity of a natural person or another person who they are to authorize (hereinafter: the authorized person). Such authorization shall be given in writing. Such request may be also filed by a representative of the trade union, a person in charge of matters related to safety and health at work or human resources management, and a representative of the employees, upon a written consent of the employee who finds him/herself subjected to harassment at the workplace.

The request shall include: data on the requesting entity, data on the employee who finds him/herself subjected to harassment at the workplace, if he/she is not the requesting entity, data on the employee who is deemed to be harassing, brief description of the conduct which is justifiably regarded as harassment at the workplace, duration and frequency of the conduct which is regarded as workplace harassment, as well as the date of the last such behavior, and list of fact and proofs.

The request may be submitted within six months as of the day of the last behavior which is regarded as workplace harassment at the latest. The right of initiation of a procedure for protection against harassment at the workplace shall become time barred upon the expiry of the six-month deadline. During the six-month deadline and during the mediation procedure, the statutes of limitation established by law for determination of the liability of the employee for non-observance of the working order and discipline or violation of the working duties shall not run.

The employer, that is, the responsible person at the employer shall be obliged immediately, and no later than eight days as of the day of receipt of the request, to propose mediation to the parties as a manner of solving the dispute and to suggest them to select a person from the list of mediators prepared by the employer. If the parties and the employer, that is, the authorized person at the employer cannot agree on the appointment, that is, selection of a mediator, the employer, that is, the responsible person at the employer shall be obliged, within eight days as of the day of expiry of the eight days deadline, to submit a written notification to the requesting entity and to the employee who finds him/herself subjected to harassment at the workplace, and who is not the requesting entity, that a mediator has not been selected. As of the day of submission or non-submission of the notification, the period of 15 days for filing a lawsuit for protection against harassment at the workplace before a competent court shall begin to run.

The previous procedure for protection against harassment at the workplace at the employer shall not be mandatory and shall not constitute a ground for initiation of a court procedure for protection against harassment.

The mediation procedure at the employer shall be urgent. The mediator shall be obliged to act independently and impartially and in such a manner to help the parties to reach an agreement. The representative of the trade union in which the employee is a member, that is, a representative of the employees may also participate in the mediation procedure, at the request of the parties. The mediation procedure shall be closed for the public. The data collected during the procedure may be disclosed solely to the participants in the procedure. The disclosure of the data obtained during the mediation procedure shall constitute a violation of the working duties.

The parties may reach an agreement regarding the manner in which the mediation procedure shall be conducted. If the parties fail to reach an agreement on the manner of conducting the procedure, the mediator shall conduct a mediation procedure, having into consideration the circumstances of the disputable relation and the interests of the parties, by observing the principle of urgency. The mediator may lead joint or separate conversations with the parties and, with the consent of the one party, may convey and

deliver a proposal and stands on particular issues to the other party. Where needed, the mediator may also, during the procedure, lead conversations with persons which are proposed as witnesses by the parties. The mediator shall prepare a report on each action taken regarding the conversations made with the parties and with the witnesses. The mediator should complete the mediation procedure within a period of 15 days.

If the mediation procedure is successful, that is, if the parties have reached an agreement, the mediator shall, within a period of three days as of the day of completion of the mediation procedure, prepare an agreement which shall contain recommendations for the harassing person at the workplace and for the employer, the cessation of the harassment and the manner of elimination of the possibilities of continuing the harassment at the workplace, the transfer of the employee to another business premises, that is, another location. The agreement shall be signed by the both parties and the mediator. (4) The employer shall be obliged to act in line with the recommendations

If the parties in the mediation procedure fail to reach an agreement for termination of the workplace harassment, the mediator shall be obliged, within a period of three days as of the end of the mediation procedure, to prepare a written notification that an agreement has not been reached, that is, that the mediation is unsuccessful. The written notification regarding the unsuccessful mediation shall be delivered to the both parties and to the employer.

If in the course of the mediation procedure the parties, by means of a written statement, renounce from the further continuation of the procedure, the mediator shall be obliged to adopt a conclusion on termination of the procedure within a period of three days as of the receipt of the statements. The mediator shall deliver the conclusion to the both parties and to the employer.

If the health condition of the victimized worker, according to the opinion of an authorized health institution carrying out the activity of labor medicine, has been impaired due to the workplace harassment, the employer shall be obliged to temporarily transfer the employee into another business premises, that is, working environment, until the completion of the procedure for protection against workplace harassment.

The employer may impose one of the measures for non-observance of the working order and discipline, that is, violation of the working duties, in accordance with law, to the employee who harasses at the workplace or abuses the right to protection against harassment at the workplace. If the employee who has been imposed the measure due to harassment at the workplace, repeats the act of harassment within a period of six months, the employer may terminate his/her employment contract, that is, impose a measure for termination of the employment in accordance with law.

The initiation of a procedure for protection against harassment at the workplace, as well as the participation in that procedure as a witness, cannot constitute a ground for putting the employee in a more unfavorable position in view of exercising the rights and obligations under the employment, initiation of a procedure for establishing disciplinary, material and other liability of the employee, cancellation of the employment contract, that is, termination of the employment of the employee due to business reasons, within two years as of the day of initiation of the procedure for protection against harassment or as of the day when he/she participated as a witness in a procedure for protection against harassment at the workplace.

2. Court protection

The employee who finds him/herself subjected to harassment at the workplace, and who is not satisfied with the outcome of the procedure for protection against harassment at the workplace at the employer

(the “plaintiff”), may file a lawsuit before the competent court. The disputes initiated in accordance with the Anti-Harassment Law shall have the nature of labor disputes. The plaintiff, by means of the lawsuit may seek:

- 1) establishment that he/she has been subjected to harassment at the workplace;
- 2) prohibition against conducts which amount to harassment at the workplace, that is, prohibition against repeating the harassment at the workplace;
- 3) taking measures for eliminating the consequences of harassment at the workplace; and
- 4) compensation of material and non-material damage caused by the harassment at the workplace.

If during the procedure, the plaintiff has made the existence of the harassment at the workplace probable, the burden of proof that there has not been a conduct which amounts to workplace harassment shall be borne by the defendant.

Prior to the commencement or during the procedure, the court may, upon the proposal of the party, grant injunctions for preventing violent conduct or for eliminating a non-compensable damage. The injunctions shall include:

- 1) prohibition on coming near the workplace of the employee; and
- 2) prohibition on telephoning and communicating (verbal or electronic).

The appeal against the decision for granting injunctions shall not postpone the enforcement of the decision.

4. Principle 4 – Forced Labor

4.1 Items to be covered by your answer

- Legislation on forced labor
- Laws on prison labor
- Legislation regulating the operation of labor brokers and other third party recruiters
- Laws relating to limits or prohibitions on recruitment fees and deposits workers may be required to pay

4.2 Applicable laws

- Constitution;
- LLR;
- Criminal Code;
- Law on Enforcement of Sanctions (consolidated text) (“Official Gazette of the Republic of Macedonia” no. 2/2006, 57/2010, 170/2013, 43/2014, 166/2014, 33/2015, 98/2015 and 11/2016);
- Law on Employment and Insurance against Unemployment (consolidated text) (“Official Gazette of the Republic of Macedonia” no. 37/1997; 25/2000; 101/2000; 50/2001; 25/2003; 37/2004;

4/2005; 50/2006; 29/2007; 102/2008; 161/2008; 50/2010; 88/2010; 51/2011; 11/2012; 80/2012; 114/2012; 39/2014; 44/2014; 113/2014; 56/2015; 129/2015; 147/2015; 154/2015; 27/2016 and 119/2016);

- Law on Agencies for Temporary Employment (consolidated text) (“Official Gazette of the Republic of Macedonia” no. 49/2006, 102/2008, 145/2010, 136/2011, 13/2013, 38/2014, 98/2015, 147/2015 and 27/2016);

4.3 Your answer

a) Legislation on forced labor

1. Constitution

Forced labor is prohibited under Article 11 para (3) of the Constitution.

Under Article 32 of the Constitution, everyone has the right to work, to free choice of employment, protection at work and material assistance during temporary unemployment. Every job is open to all under equal conditions. Every employee has a right to appropriate remuneration. Every employee has the right to paid daily, weekly and annual leave. Employees cannot waive this right. The exercise of the rights of employees and their position are regulated by law and collective agreements.

2. Abolition of Forced Labor Convention

The Republic of Macedonia is a party to the ILO Abolition of Forced Labor Convention (No. 105), which is available in English at the following link: http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C105.

3. Criminal Code

Article 418 of the Criminal Code sanctions the criminal offence of “Founding slavery and transportation of persons in slavery”, as follows:

- 1) Whosoever by violating the rules of international law places another in slavery or in some similar relation, or keeps him under such relation, buys, sells, hands him over to another, or mediates in the buying, selling or handing over of such a person, or instigates another to sell his freedom or the freedom of a person he supports or who supports him, shall be sentenced to imprisonment of one to ten years.
- 2) Whosoever transports persons under slavery or similar relation from one country to another shall be sentenced to imprisonment of six months to five years.
- 3) Whosoever commits the crime referred to in paragraphs 1 and 2 against a juvenile, shall be sentenced to imprisonment of at least five years.

Article 418-a of the Criminal Code sanctions the criminal offence of “Human trafficking”, as follows:

- 1) Whosoever by force, serious threat causes delusions or other forms of coercion, by kidnapping, by deceit and abuse of his own position and abusing the pregnancy or the position of weakness of somebody else, or the physical or mental disability of another, or by giving or receiving money or other benefits in order to obtain agreement of the person that has control over another person,

or in any other manner turns, transports, transfers, buys, sells, harbors or accepts persons for the purpose of exploitation through prostitution or other forms of sexual exploitation, pornography, forced labor or servitude, slavery, forced marriages, forced pregnancy, unlawful adoption or similar relations to it, begging or exploitation for purposes forbidden by law, or illicit transplantation of human organs, shall be sentenced to imprisonment of at least four years.

- 2) Whosoever seizes or destroys the ID, passport or other identification document in order to commit the crime from paragraph (1) of this Article, shall be sentenced to imprisonment of at least four years.
- 3) Whosoever uses or makes it available for another to use sexual services or other type of exploitation of persons knowing that they are victims of human trafficking, shall be sentenced to imprisonment from six months to five years.
- 4) If the crime referred to in paragraphs (1), (2) and (3) of this Article is committed by an official person while performing his service, he shall be sentenced to imprisonment of at least eight years.
- 5) The consent of the victim of human trafficking perpetrated with the intent to exploit them, as provided for in paragraph 1, is not significant to the existence of the crime from paragraph 1.
- 6) If the crime referred to in this Article is committed by a legal entity, it shall be fined.
- 7) The immovables and objects and transport means used for the commission of the crime, shall be seized.

Article 418-b of the Criminal Code sanctions the criminal offence of “**Trafficking of migrants**”, as follows:

- 1) Whosoever by force or by serious threat commits an assault on the life and body, by kidnapping, deception, covetousness, by abuse of his official position and the position of weakness of another, illegally transfers migrants over the state border, and the one that makes, procures or possesses a false traveling documents for such purpose shall be sentenced to imprisonment of at least 4 years.
- 2) Whosoever turns, transports, transfers, buys, sells, harbors or accepts migrants shall be sentenced to imprisonment of one to five years.
- 3) If during the commission of the crimes from paragraphs 1 and 2, the life and health of a migrant is threatened, or the migrant is subject to particularly humiliating conduct or brutality, or the migrant is prevented from exercising the rights determined by international law, the offender shall be sentenced to imprisonment of at least eight years.
- 4) If the crime from paragraphs 1 and 2 is committed against a juvenile, the offender shall be sentenced to imprisonment of at least eight years.
- 5) If the crime referred to in paragraphs (1), (2), (3) and (4) of this Article is committed by an official person while performing his service, he shall be sentenced to imprisonment of at least ten years.
- 6) The objects and means of transport used for committing the crime shall be seized.

Article 418-c of the Criminal Code sanctions the criminal offence of “**Organizing a group and instigating performance of crimes of human trafficking, trafficking in juveniles and migrants**”, as follows:

- 1) Whosoever organizes a group, gang or other association for committing the crimes from Articles 418-a, 418-b, 418-d and 418-e, shall be sentenced to imprisonment of at least eight years.

- 2) Whosoever becomes member of the group, gang or other association from paragraph (1), or in some other way helps the group, the gang or the association, shall be sentenced to imprisonment of at least one year.
- 3) A member of the group from paragraph (1), who reveals the group before it commits the crime within it or on its behalf, shall be acquitted from the sentence.
- 4) Whosoever calls for, instigates or supports the commission of the crimes referred to in Articles 418-a, 418-b, 418-d and 418-e, shall be sentenced to imprisonment of one to ten years.

Article 418-d of the Criminal Code sanctions the criminal offence of “Trafficking a child”, as follows:

- 1) Whosoever induces a child to sexual activities or enables sexual activities with a child or persuades, transports, transfers, buys, sells or offers for sale, obtains, supplies, harbors or accepts a child for the purpose of exploiting him in sexual activities for money or other forms of compensation or other forms of sexual exploitation, pornography, forced work or servicing, begging or exploitation for an activity prohibited by law, slavery, forced marriages, forced fertilization, illegal adoption, or forces consent as a mediator for child adoption, illegally transplants human organs, shall be sentenced to imprisonment of at least eight years.
- 2) Whosoever commits the crime of paragraph (1) by use of force, serious threat, delusion or other form of forcing, kidnapping, defraud, abuse of the position or pregnancy, powerlessness or physical or mental disability of another, or by giving and receiving money or other benefit for the purpose of obtaining consent of a person controlling another person, or the act is committed over a child younger than 14 years shall be sentenced to imprisonment of minimum ten years.
- 3) Whosoever uses or enables another to use sexual services or other type of exploitation of a child knowing, or being obliged to know that he is a victim of human trafficking, shall be sentenced to minimum imprisonment of eight years.
- 4) The user of sexual services given by a child younger than 14 years shall be sentenced to imprisonment of at least 12 years.
- 5) Whosoever seizes or destroys an ID, passport or another’s personal identification document, for the purpose of committing the crime referred to in paragraphs 1 and 2, shall be sentenced to imprisonment of minimum four years.
- 6) If the crime referred to in paragraphs (1), (2), (3) and (4) of this Article is committed by an official person while performing his service, he shall be sentenced to at least ten years of imprisonment.
- 7) The consent of the child for the actions provided for in paragraph (1) is not significant to the existence of the crime of paragraph (1).
- 8) If the crime referred to in this Article is committed by a legal entity, it shall be fined.
- 9) The immovables, objects and means of transport used for the commission of the crime, shall be seized.

b) Laws on prison labor

Article 47 of Law on Enforcement of Sanctions provides that inmates (convicted persons) should be provided with work that will be useful and appropriate to the manner it is performed at liberty. Achieving economic benefit cannot be the sole purpose of such work.

The work should enable inmates to gain and develop work habits, to maintain their work skills and gain expert knowledge necessary for work at liberty.

Inmates cannot be required to do works that are dangerous and harmful for their health.

Working hours for the inmates must be appropriate to the working hours at liberty.

c) Legislation regulating the operation of labor brokers and other third party recruiters

The brokerage and intermediation role on the labor market in the Republic of Macedonia is performed by the following entities:

- 1) Employment Service Agency of the Republic of Macedonia (the “Employment Agency”) – a public institution that provides support and assistance, and provides services to the participants in the labor market;
- 2) employment intermediation agencies – private agencies that provide intermediation services for employment in the country and abroad in consideration for a fee; and
- 3) agencies for temporary employment – legal entities which in accordance with the law conclude employment contracts with temporary agency employees for their borrowing to employers-users for doing temporary work under their supervision and management.

The work of the Employment Agency and of employment intermediation agencies is regulated in the Law on Employment and Insurance against Unemployment, while the work of agencies for temporary employment is regulated in the Law on Agencies for Temporary Employment.

1. Employment Agency

The manpower needs of an employer can be met by intermediation of the Employment Agency by submitting an application to the Agency regarding the need of an employee. The employer shall be obliged in the application to indicate the job, the job requirements, the duration of the announcement, and the time when the employer is to make the selection.

The Employment Agency shall be obliged, immediately and free of charge, to announce the application in the Employment Agency for informing the unemployed and the other job-seekers (an economically active or inactive person entered in the records of the Agency, but not seeking a job actively and/or not being prepared to accept a job offer).

The interested unemployed and other job-seekers shall apply to the announcement published in the Employment Agency with the employer, within the period determined in the announcement.

The manpower needs of the employer can be met via intermediation of the Employment Agency by sending a person from among the records of unemployed persons to be employed by the employer. Sending a person entered into the records of unemployed persons shall be performed by screening the files of unemployed persons in the Employment Agency for the purpose of finding unemployed persons according to their professional skills, knowledge and experience, and the activities they can and seek to perform, and the requirements for the indicated manpower needs.

2. Employment Intermediation Agency

The manpower needs of the employer can be met via an employment intermediation agency by charging the employer, in accordance with an agreement concluded between the employer and the agency.

The employment intermediation agency shall perform the intermediation by charging the employer for its intermediation services.

The employment intermediation agency cannot charge the job-seekers for its intermediation services (Article 26-b para (2) of the Law on Employment and Insurance in case of Unemployment).

The employment intermediation agency, based on a previously received approval for performing employment intermediation, shall be entered in the Central Register of the Republic of Macedonia. It cannot commence working prior to its entry in the Central Register of the Republic of Macedonia.

The employment intermediation agency in the country and abroad, may be established by a natural person who:

- holds at least a secondary education degree,
- is not employed,
- has a special, appropriate minimal business premise of at least 30 m2 available, and it meets the requirements in accordance with the regulations on occupational safety and health,
- has at least two persons employed for indefinite period and
- has obtained a license for employment intermediation from the ministry responsible for activities in the field of labor.

The persons who work on employment intermediation in the employment intermediation agency shall hold a university degree. The founder of the employment intermediation agency shall also be a responsible person of the employment intermediation agency. A foreigner may be approved fee-charging employment intermediation, only if there is a reciprocal relation with the country of citizenship in terms of fee-charging employment intermediation.

The employment intermediation agency cannot be founded by or an owner of a trade company, sole proprietor or another person carrying out an activity, nor can the employment intermediation agency be founder of a trade company, nor can it carry out another activity except the employment intermediation activity.

3. Agencies for temporary employment

The agency for temporary employment shall provide the temporary employments based on a previously concluded agreement on borrowing of an employee between the agency for temporary employment and another employer-user and an employment contract concluded between the agency for temporary employment and the employee who is borrowed to another employer-user.

The agency for temporary employment, based on an agreement for borrowing an employee between the agency and another employer, may borrow an employee to another employer-user for performing temporary work in the following cases:

- 1) replacement for a temporary absent employee;
- 2) temporary increase in the workload;
- 3) seasonal job;
- 4) work on a project;
- 5) specific non-continuous works that are not part of the predominant business activity of the employer-user; and
- 6) unpredictable short-term activities coming out from performing the predominant business activity of the employer-user.

The agency for temporary employment, based on an agreement for borrowing an employee between the agency and another employer, may also borrow an employee to another employer-user in the cases referred to above for short-term employment.

Agreement on borrowing an employee for performing the same temporary works may be concluded for a period during which the need exists, but not longer than a year.

The agency for temporary employment must not borrow an employee for performance of the same works at the same employer without interruption or with interruption longer than a year.

The agency for temporary employment shall provide the temporary employments by charging a service fee to the employer-user. The agency for temporary employment cannot charge a service fee for temporary employment to the persons it employs or borrows to another employer-user (Article 8 para (2) of the Law on Agency for Temporary Employment).

The provisions of the regulations on labor relation, the regulations on safety and health at work, and the regulations on equal treatment of women and men referring to the protection of women during pregnancy, giving birth, parenthood and child care, protection of children and juveniles, shall also apply to the borrowed agency employees from the agency for temporary employment to the employer-user.

The employer-user shall be obliged to inform the borrowed agency employees about all published announcements for vacancies at the employer-user, by displaying the public announcements on a visible place at the employer-user, to ensure that they have the same opportunity as the other workers to be employed for a definite or indefinite period. The employer-user should provide equal access for the borrowed agency employees to the trainings and the trainings planned for the employees at the employer-user, for improving their knowledge and skills for employment and promotion at work.

Provisions that prohibit or hinder the conclusion of employment contracts between the employer-user and the borrowed agency employee after his/her borrowing cannot be laid down by the employment contracts, and if the contracts contain such provisions, they shall be null and void.

The temporary agency employees shall have the right their representatives to participate in the bodies that represent the employees, which in accordance with the regulations are formed at the employer-user in the same manner as if they are directly employed by the employer for the same period.

An agency for temporary employment may be established by a natural person who:

- has at least a high school degree,
- is not employed,

- has available separate, suitable, minimum working premises based on a proof of ownership or lease, personnel and equipment, in compliance with the law,
- a bank guarantee in the amount determined by law,
- is granted a license for providing temporary employments, in accordance with the Law on Agencies for Temporary Employment,
- has a statement on establishment of an agency for temporary employment;
- has a statement on a founder - responsible person of the agency for temporary employment, and
- a notary verified signature of the founder - responsible person of the agency for temporary employment.

An agency for temporary employment may be also established by a legal entity registered in accordance with the Law on Trade Companies which fulfills the requirements defined by this Law. However, such agency cannot borrow employees for temporary employment at a legal entity that has established the agency and at the companies related by capital with the above-mentioned company.

A foreigner may be approved provision of temporary employment by charging a fee only if there is a reciprocity for intermediation for temporary employment by charging a fee with the state whose national is the foreigner.

The founder of the agency for temporary employment shall in the same time be a responsible person in the agency for temporary employment. The persons that perform employment intermediation related works in the agency for temporary employment should hold a university degree.

o carry out the temporary employment related activities, the agency for temporary employment shall be obliged to provide business premises of at least 60 m² for obtaining an A license, at least 40 m² for a B license, at least 20 m² for a C license which meet the sanitary and the other requirements in accordance with the regulations on safety and health at work. The fulfillment of the spatial and technical requirements defined by this Law shall be established by a labor inspector within a period of 15 days as of the day of entry of the agency of temporary employment in the Central Register of the Republic of Macedonia.

The agency for temporary employment shall be obliged to employ at least six persons for an indefinite period of time for the purpose of obtaining an A license, at least four persons for an indefinite period of time for a B license, at least two persons for an indefinite period of time for a C license.

The agency for temporary employment may carry out activities related to temporary employment only in the country, if these activities are carried out as its only business activity. The agency for temporary employment cannot commence its operation before the issuance of the license for providing temporary employment and before its entry in the Central Registry of the Republic of Macedonia.

The Ministry for Labor and Social Policy shall, upon request by the founder, issue:

- 1) A license for conclusion of more than 250 employment contracts by the agency for temporary employment;
- 2) B license for conclusion of up to 250 employment contracts by the agency for temporary employment; and
- 3) C license for conclusion of up to 100 employment contracts by the agency for temporary employment.

The license for providing temporary employment shall be issued for a two-year period with a possibility for extension at every two years, based on a request of the founder - the responsible person of the agency for temporary employment submitted 90 days before the expiry of the validity period at the latest and upon a previously conducted inspection by the labor inspector of the fulfillment of the requirements for establishment and work of the agency determined by this Law.

The agency for temporary employment must not conclude employment contracts exceeding the number of contracts for which the license has been issued, for establishing temporary employments, nor for a period exceeding the validity period of the license for providing temporary employments and the bank guarantee validity period.

d) Laws relating to limits or prohibitions on recruitment fees and deposits workers may be required to pay

The Employment Agency shall be obliged, immediately and free of charge, to announce the employer's application for the need of an employee in the Employment Agency for informing the unemployed and the other job-seekers (an economically active or inactive person entered in the records of the Agency, but not seeking a job actively and/or not being prepared to accept a job offer) (Article 7 paras (1) and (2) of the Law on Employment and Insurance in case of Unemployment).

The employment intermediation agency cannot charge the job-seekers for its intermediation services (Article 26-b para (2) of the Law on Employment and Insurance in case of Unemployment).

The agency for temporary employment cannot charge a service fee for temporary employment to the persons it employs or borrows to another employer-user (Article 8 para (2) of the Law on Agency for Temporary Employment).

5. Principle 5 – Safe Work Environment

5.1 Items to be covered by your answer

- Requirements for provision of medical protection, such as availability of first aid kit, health & safety training, etc.
- Requirements to report accidents and injuries
- Requirements for personal protective equipment needed for using, handling, storing, or disposing of crop protection agents (CPA). This might vary depending on the CPA in question
- Restrictions on CPA use, handling, storing, or disposing. Most countries will have restrictions on vulnerable populations interacting with CPA (or prohibit this outright), such as persons under 18, pregnant women, nursing mothers, etc.
- Restrictions on farm equipment (such as maintenance and licensing for operators)
- Other legislation related to CPA, such as how and where they may be stored or transported; more explicit restrictions for specific CPA; weather conditions under which CPA may or may not be applied; and any other restrictions limiting contact or exposure with CPA

- Requirements related to providing drinking water and safe housing for workers
- Specific requirements if worker accommodation is provided

5.2 Applicable laws

- Law on Safety and Health at Work (*Закон за безбедност и здравје при работа*) ("Official Gazette of the Republic of Macedonia" no. 92/2007, 136/2011, 23/2013, 25/2013, 137/2013, 164/2013, 158/2014, 15/2015, 129/2015, 192/2015 and 30/2016);
- Law on Health Protection (*Закон за здравствена заштита*) ("Official Gazette of the Republic of Macedonia" no. 43/2012, 145/2012, 87/2013, 164/2013, 39/2014, 43/2014, 132/2014, 188/2014, 10/2015, 61/2015, 154/2015, 192/2015, 17/2016 and 37/2016);
- Law on Plant Protection Products (*Закон за производи за заштита на растенијата*) ("Official Gazette of the Republic of Macedonia" no. 110/2007, 20/2009, 17/2011, 53/2011, 69/2013, 10/2015, 129/2015 and 39/2016);
- Law on Vehicles (*Закон за возила*) ("Official Gazette of the Republic of Macedonia" no. 140/2008; 53/2011; 123/2012; 153/2012; 70/2013; 164/2013; 138/2014; 154/2015; 192/2015 and 39/2016)

5.3 Your answer

a) Requirements for provision of medical protection, such as availability of first aid kit, health & safety training, etc.

The employer is obliged to provide medical protection of the employees from any aspect of the work. Within the scope of its obligations, the employer must take the measures necessary for the employees' safety and health at work, including prevention of occupational risks, provision of information and training, and provision of appropriate organization and necessary means. The employer shall be obliged to introduce such protective measures and to choose such working and production methods that improve the level of safety and health at work and are implemented in all activities of the employer and at all organizational levels.

In accordance with Law on Safety and Health at Work, the employer must organize and provide:

- theoretical and practical first aid training of the employees;
- first aid to the employees in the event of injury at work or unexpected disease until they are taken to a health institution for treatment;
- first aid and evacuation measures in the event of danger;
- at each workplace and working premises where up to 20 employees work simultaneously, at least one of them must be trained and designated for provision of first aid, fire extinction, evacuation and rescue, and if the number of employees is bigger, minimum one employee at every 20 employees;
- first aid, by way of concluding agreements with other legal entities specialized in rendering services, especially in relation to provision of first aid, urgent medical help and activities for evacuation and rescue, and fire protection.

Furthermore, Article 96 para (4) of Law on Health Protection provides that the state bodies, judiciary bodies, as well as trade companies with more than 100 employees shall mandatorily organize a healthcare point as an internal organizational unit. The legal entity may be imposed with a fine in the amount of 2,200 Euros in Denar equivalent, if it fails to organize a healthcare point as an internal organizational unit.

Further applicable measures for safety and health at work may be provided for in the following rulebooks as well:

- Rulebook on protection at work in agriculture ("Official Gazette of the SRM" no.34/1968);
- Rulebook on protection at work in loading and unloading load ("Official Gazette of the SRM" no.11/1988);
- Rulebook on safety and health when using equipment for work ("Official Gazette of the Republic of Macedonia" no.116/2007);
- Rulebook on the personal protective equipment to be used by employees at work ("Official Gazette of the Republic of Macedonia" no.116/2007);
- Rulebook on health and safety at work by manual transfer of loads ("Official Gazette of the Republic of Macedonia" no.135/2007);
- Rulebook on minimal safety and health requirements at work for young workers ("Official Gazette of the Republic of Macedonia" no.127/2012);
- Rulebook on the minimum health and safety at work requirements for employees regarding risks related to exposure of chemical substances ("Official Gazette of the Republic of Macedonia" no.46/2010) etc.

b) Requirements to report accidents and injuries

The employee is obliged to report accidents at work to the employer.

In accordance with Article 42 para (1) of Law on Safety and Health at Work, the employee must immediately inform his/her employer, of any fault, danger to the safety and health or any other incident that may endanger his/her own safety and health and the safety and health of the other employees. If the employer fails to undertake appropriate measures for elimination of such incidents, the employee may request for an intervention by the competent labor inspector.

On the other side, under Article 37 para (1) of Law on Safety and Health at Work, the employer is obliged to keep records, inter alia, for the injuries at work and cases of death at work.

Furthermore, under article 36 of Law on Safety and Health at Work, the employer is obliged immediately and within a period of 48 hours as of the occurrence of the event at the latest, to report in writing to the state administrative body responsible for the activities in the field of labor inspection and the president of the union organization, that is, the union representative of the representative union or the representative of the employees if there is no union and the representative of the employees for safety and health at work about:

- (i) any case of death;
- (ii) collective accident and injuries at work that cause temporary incapacity to work for more than 3 working days; and
- (iii) any situation that poses direct danger and threatens the safety of the employees at work.

c) **Requirements for personal protective equipment needed for using, handling, storing, or disposing of crop protection agents (CPA).**

This might vary depending on the CPA in question

Under the Law on Safety and Health at Work, the employer is required to provide the employees with appropriate personal protective equipment.

The minimum health and safety requirements that apply to personal protective equipment to be used by employees at work, as well as the requirements as to the type of personal protective equipment that is to be provided, are regulated in detail in the Rulebook on safety and health when using equipment for work (*Правилник за личната заштитна опрема која вработените ја употребуваат при работата*) ("Official Gazette of the Republic of Macedonia" no.116/2007) and in the Rulebook on protection at work in agriculture ("Official Gazette of the SRM" no.34/1968).

d) **Restrictions on CPA use, handling, storing, or disposing**

Article 162 of the LLR provides that the female employee must not carry out works during pregnancy and one year following the childbirth if they have increased risk to her health or the health of the child. These works are to be prescribed by the Minister of Labor and Social Policy in concurrence with the Minister of Health.

The pregnant employees working with hazardous chemical materials shall have to be acquainted with the additional risks posed by these substances to them and their unborn children.

In addition to the female employees during pregnancy and one year following the childbirth, the young persons, elderly workers and disabled persons shall be considered as specific and risky groups.

The employer shall be obliged to assess all safety and health risks related to all works and positions connected with specific risk of exposure of the employees from the specific risk groups to harmful effects of physical, chemical and biological factors, influences and processes and, on the basis of a professional assessment of the respective doctor about the health state, the readiness of the employees from the specific risk groups, and to decide on adoption of appropriate measures.

The employer shall be obliged to fulfill these obligations before assigning the working tasks to the employees from the specific risk groups, as well as during substantial change in the working conditions when it shall particularly take into account the equipment and schedule of working position, nature, extent and duration of the exposure to physical, biological and chemical factors and influences, the type, scope and manner of use of the equipment, the procedures and organization of work, the level of vocational training and training of the employer.

Provided that any of the risks referred to above that cannot be eliminated in any other way is determined, the employer shall be obliged to change the working conditions or the working hours, or to offer an

alternative work. If that is also not possible, it shall be necessary for the employee to be exempted from the normal work flow as long as it is needed to protect the health and safety of the pregnant employee and her child.

Further requirements are provided for in the Rulebook on the minimum health and safety at work requirements for employees regarding risks related to exposure of chemical substances (*Правилник за минималните барања за безбедност и здравје при работа на вработени од ризици поврзани со изложување на хемиски супстанции*) ("Official Gazette of the Republic of Macedonia" no.46/2010) and in the Rulebook on protection at work in agriculture ("Official Gazette of the SRM" no.34/1968).

e) **Restrictions on farm equipment**
(such as maintenance and licensing for operators)

Farm equipment (such as tractors, moto cultivators etc.) must meet minimum technical characteristics and is subject to registration requirements as prescribed in the Law on Vehicles. Only authorized persons having an appropriate driver's license can operate in the traffic vehicles that constitute farm equipment.

Health and safety at work requirements applying to farm equipment are further prescribed in the Rulebook on safety and health when using work equipment (*Правилник за безбедност и здравје при употреба на опрема за работа*) ("Official Gazette of the Republic of Macedonia" no.116/2007) and in the Rulebook on protection at work in agriculture ("Official Gazette of the SRM" no.34/1968).

f) **Other legislation related to CPA, such as how and where they may be stored or transported; more explicit restrictions for specific CPA; weather conditions under which CPA may or may not be applied; and any other restrictions limiting contact or exposure with CPA**

Article 36 para (1) of Law on Plant Protection Products, the products for plant protection should be used in accordance with the approval of the Phytosanitary Office (a state body within the Ministry of Agriculture) and in accordance with the data on the product label.

para (2) of the same Article provides that during the use of the products for plants protection, it is important:

- (i) not to exceed the maximum dose;
- (ii) not to shorten the intervals for application which are prescribed in the instructions for use;
- (iii) to respect the principles of good agricultural practice and if possible integrated protection;
- (iv) that the application of the products is done with machines and devices that shall ensure proper use;
- (v) not to deviate from the instructions to protect the health of people and animals, water, bees, aquatic
- (vi) organisms and earth (soil) organisms, referring to the instructions for use;
- (vii) that the plants of the wider environment, beyond the location where the application is made, must not be damaged;
- (viii) that the products which under the authorization are labeled with standard phrases for specific risk:
 - R 50 "very toxic to aquatic organisms";
 - R 51 "toxic to aquatic organisms";

- R 52 “harmful to aquatic organisms”; and
- R 53 “may cause long-term adverse effects in the aquatic environment”, can only be applied at distances of water on surfaces that would exclude the possibility of deposition falling or wind blowing them into the water or later be taken with rain water and

(ix) with the package of the used products, unused products to comply with the regulations governing waste management.

The Phytosanitary Office, as a state body within the Ministry of Agriculture, is obliged to organize education for the users related to the application of the plant protection products. Please note that the users of the plant protection products, are obliged to keep records for every treatment of plants and of plant products. Such records are to be kept for a period of five years.

Furthermore, Article 37 of Law on Plant Protection Products stipulates specific rules intended for the protection of bees and wild life. Namely, persons (individuals and entities) using products to treat plants are not allowed to apply such products:

- 1) that are designated, pursuant to the approval for their use, as being toxic for bees, except where such person has notified thereof the beekeepers or the association of beekeepers or the municipal bodies in charge of taking measures to protect bees and the media at least 48 hours prior to the application, and
- 2) whose use, pursuant to the approval for their use, is hazardous or especially hazardous for land vertebrae, in a surrounding that is part of a hunting ground, except where the user or concessionaire of such hunting ground has been notified thereof no less than three days prior to the start of the application of the product, for protective measures to be taken.

Application by air of products toxic for bees is prohibited.

Any application of plant protection products by air must be notified (on a prescribed form) in advance to the municipal bodies and the media, at least 48 days prior to the start of the application.

The Rulebook on protection at work in agriculture (*Правилник за заштитата при работата во земјоделството*) (“Official Gazette of the SRM” no.34/1968) prescribes rules for transportation, storage, handling and use of chemical agents for the protection of plants from diseases and pests and chemical means for destroying weeds and harmful game, hazardous or toxic to the health and life of people (“chemical agents”), as follows:

(Article 98) Chemical agents must be placed in special warehouses or in special storage space separated from the other premises where materials are located, and, in particular, where food for human consumption or fodder is located. Storage areas for chemical agents must be remote from the living facilities. Gaseous and easily flammable chemicals must be stored outside of settlements in accordance with applicable regulations.

(Article 99) The warehouse for chemical agents must have an antechamber. The entrance door of the warehouse must be firm and open to the outside. The door of the warehouse must have a lock or padlock. The door must have a plaque with the inscription: “Poison”. Microclimatic conditions provided for by the manufacturer’s instructions must be maintained in the warehouse for chemical agents. The concentration of harmful gases and dust in the premises of the warehouse must not exceed the limits of maximum permissible concentrations (MPCs) provided for in the applicable standards.

(Article 100) Access to the warehouse for chemical agents must be prohibited to unauthorized persons. The door of the warehouse for chemical agents must be locked at the time when the warehouse keeper is not in the warehouse. Sleeping, smoking, drinking and eating in the warehouse for chemical agents shall be prohibited. A sign to this effect must be placed at the entrance to the warehouse or on the door of the warehouse.

(Article 101) Chemical agents must be neatly organized in the warehouse and must be placed so that they can be easily taken from the floor or shelves. The warehouse keeper must be aware of the harmful properties of all stored chemicals and, when handling these agents, must strictly adhere to the chemical agent producer's and employer's instructions.

(Article 103) Chemical agent must be stored in original packaging, on which there must be a label (declaration) with prescribed data. If the label (declaration) disappears from the packaging during delivery or in the warehouse, or it becomes unreadable, the chemical agent from such packaging must not be used until its contents are determined. If the content of the chemical agent cannot be determined, such chemical agent must be destroyed. When handling chemicals and using chemicals, the instructions from the manufacturer of chemicals must be complied with.

(Article 104) The protection measures provided for in the provisions of Articles 73 to 80 of this Rulebook shall apply accordingly to the devices for application of chemical agents (sprinklers, sprayers, pressure vessels, pipelines, pumps, atomizers, etc.) and to the operation with such devices. Handling chemicals with bare hands is prohibited.

(Article 105) After each charge of the devices for the use of chemicals, the chemical agent which has been spilled after it must be removed. Vessels in which solutions of chemicals are prepared must not be used for other purposes.

(Article 106) Spraying, dusting, sprinkling, or blurring with chemical agents from an airplane must be carried out only with the help of a special device built for this purpose in the aircraft. The chemicals delivered at the point of departure of the aircraft (airport, etc.) must be stored at a specified place secured from the access by unauthorized persons. The loading of chemical agents on the plane must not be carried out by the pilot of the aircraft. It is forbidden to fly the plane through a fog of chemical agents. After the work with the chemical agents has been completed, the valve of the device for the use of chemicals must be closed.

(Article 107) All moving and rotating parts of cleaning and disinfecting machines for seeds for plant protection must be supplied with suitable protective devices (with armor, wire mesh, etc.). In the work areas where such machines are located, the concentration of harmful gases and dust must not exceed the limits of the maximum allowed concentrations (MACs) provided for in the applicable standards.

(Article 108) Seed treated as a chemical agent must be fed into the packaging directly from the devices for use with chemicals, without the use of manual work. Manual handling of poisonous chemical agents for the protection of seeds is prohibited. The seed seized with mercury preparations, which has remained from sowing or was not used for sowing for any reason, must not be used for human or animal feed, nor may it be released on the market.

(Article 109) The preparation of chemical agents for use must not be carried out at temperatures exceeding 300C. The chemical agent should be prepared in the amount that can be spent during the working day. The remaining solution of the chemical agent should be removed or stored in a marked package and be secured from access by unauthorized persons. The preparation of chemical agents for use, as well as the spillage of the remaining solution of chemical agents, must not be carried out near wells and standing water.

(Article 110) Prior to the use of chemical agents on a larger area of land, measures must be taken to warn of the danger of poisoning, by informing the people working on the adjacent plots, by informing the population of the removal of livestock, bees, etc. The access to the surface of the land that is treated with toxins must include an inscription: "Access denied – Envenomed area", indicating the date of treatment. After the danger ceases, the warning must be removed. The protective measures mentioned above must also be applied when placing poison baits for the destruction of plant pests.

(Article 111) Working with chemical agents must not be carried out in strong wind. Spraying, dusting, sprinkling, or blurring with chemical agents in a weaker wind can only be performed in the direction in which the wind is blowing.

(Article 112) An empty paper or plastic packaging that used to contain toxic chemical agents must be incinerated, and an empty tin or glass packaging should be squeezed or developed and then buried. Destruction or burial of the packaging must not be carried out near wells and standing water. Empty packaging that is to be returned to the manufacturer is kept until dispatch to storage for chemical agents. The packaging and the dispatch of such packaging must be carried out according to the instructions from the manufacturer.

(Article 113) The person in charge of the use of chemical agents must inform the workers of the properties of the chemical agents, the manner of handling and the measures for protection, as well as warn about the danger in case of improper handling.

(Article 114) Persons working with chemical agent (when used) must be provided with personal protective equipment during work, depending on the type of work and the harmful effects of chemicals, such as:

- 1) when opening vessels, diluting, mixing or pressing - with rubber gloves, with rubber boots, with a respirator, that is, with a face shield, with overalls and with a rubber apron, or with an impermeable staple;
- 2) when applying chemical agents in glass gardens, other than aerosols or generators for smoking - with rubber gloves, rubber boots, hood, respirator or facial shield, overalls or impermeable staple;
- 3) when using aerosols indoors - with overalls, with a hood with rubber gloves and with a respirator;
- 4) for working in a work area treated with chemical agents up to 8 days - with rubber gloves;
- 5) when marking the ground for spraying from an airplane - with overalls, rubber gloves, rubber boots, rubber garters, with respirator or with a face shield.

(Article 115) Gloves must be put over the ends of the sleeves of the protective clothing. When using rubber boots, the protective clothing must be pulled over the boots. After completing the work, gloves and boots must be washed with soap in clean water.

(Article 116) Workers handling chemical agents must be provided with clean protective clothing. If during work clothes are usually contaminated by spilling of the solution of the chemical agents, workers must be provided with spare protective clothing. Overalls and hoods must be replaced with clean ones after each use of up to 6 working days.

(Article 117) Damaged personal protective equipment (scattered, torn, pierced, etc.) must be replaced immediately with new ones. The use of damaged personal protective equipment is prohibited.

(Article 118) During work, workers should often rinse their mouth with appropriate disinfectants, especially before eating, drinking and smoking. Exposed parts of the body should be washed more frequently with

clean water and soap. A part of the body where the chemical agent is spilled or which is sprayed with a chemical agent must be immediately washed with clean water and soap. During work with chemical agents, smoking or eating shall be prohibited.

(Article 119) Work with highly toxic chemicals must not last more than 6 hours during the day, and must be performed in two parts. Work with less toxic chemicals must not last less than 7 hours during the day.

(Article 120) Workers who have not previously been subjected to specialist medical examination must not be assigned to work with toxic chemical agents. Workers who work with toxic chemicals must undergo a specialist medical examination once a month. Persons under the age of 18, as well as women, must not be assigned to work with chemical agent.

(Article 121) Workers with open wounds (with burns, wounds, eczemas, fresh acne, etc.), as well as workers in a drunken state must not be allowed to work with chemical agents. A worker who, in the course of working with chemical agents, will feel trouble (weakness, headache, etc.) must be immediately referred to a medical examination.

(Article 122) If chemical agents are applied in places remote from settlements, there must be running water and soap for washing of workers during the work, alcoholic rinsing agents and necessary antidotes. Baths with hot and cold water must also be provided for workers working with chemical agents. Simultaneous or joint bathing of workers working with chemical agents and other workers is prohibited.

(Article 123) Special rooms must be provided for storing work clothes and footwear, as well as other personal protective equipment of workers working with chemical agents.

g) **Requirements related to providing drinking water and safe housing for workers**

Such requirements are prescribed in the Rulebook on protection at work in agriculture (*Правилник за заштитата при работата во земјоделството*) ("Official Gazette of the SRM" no.34/1968) as explained above.

h) **Specific requirements if worker accommodation is provided**

Such requirements are prescribed in the Rulebook on protection at work in agriculture (*Правилник за заштитата при работата во земјоделството*) ("Official Gazette of the SRM" no.34/1968), as explained above.

6. Principle 6 – Freedom of Association

6.1 Items to be covered by your answer

- Laws on organizing unions and their operation (workers' rights and employers' obligations)
- Requirements for collective bargaining
- Prohibitions on union discrimination and employer interference in their operations
- Requirements that worker representatives be in place

6.2 Applicable laws

- LLR;

6.3 Your answer

a) Organizing unions and their operation (workers' rights and employers' obligations)

Article 184 of LLR prescribes the following:

- 1) The employees shall have the right to constitute a trade union and become its members by their own free choice, under the conditions set forth by the statute or by the rules of that trade union.
- 2) The trade union is an autonomous, democratic and independent organization of employees which they join voluntarily for the purpose of representing, presenting, promoting and protecting their economic, social and other individual and collective interests.
- 3) The employers shall have the right to constitute an association and become its members by their own free choice, under the conditions set forth by the statute or by the rules of that association.
- 4) The employers' association is an autonomous, democratic and independent organization which they join voluntarily for the purpose of presenting, promoting and protecting their economic, social and other interests.
- 5) The unions and associations referred to in paragraphs (1) and (3) of this Article may be constituted without any previous approval.

Furthermore, Article 185 para (1) of LLR prescribes that the employee, that is, the employer shall freely decide on his joining and leaving the trade union, that is, employers' association.

Under Article 186 para (2) of LLR, the activity of the union and its representative may not be limited by employer's regulation, if it is in compliance with the law and collective agreement.

Article 195 of LLR provides that the employers and their associations must not supervise the establishment and activity of the unions, that is, their associations at a higher level, nor finance or support the unions, that is, their associations at a higher level in any other manner for the purpose of such supervision.

b) Requirements for collective bargaining

1. Collective agreements

Collective agreement shall be concluded as a general at a national level, as a specific at a branch, that is, department level, in accordance with the National Classification of Activities, and as an individual at an employer level.

The following shall be concluded at the level of the Republic of Macedonia:

- 1) general collective agreement for the private sector in the field of economy; and
- 2) general collective agreement for the public sector.

The general collective agreement for the public sector applies to the bodies of the state authority and other state bodies, the bodies of the local self-government units, institutions, public enterprises, institutes, agencies, funds and other legal entities carrying out activities of public interest.

The general collective agreement for the private sector in the field of economy shall apply directly and shall be obligatory for employers and employees in the private sector.

The general collective agreement for the public sector shall apply directly and shall be obligatory for the employer and the employees in the public sector.

The branch, that is, department collective agreement, in accordance with the National Classification of Activities, shall apply directly and shall be obligatory for employers that are members of employers' association, signatories of the collective agreement or those that joined the association additionally.

2. Subject of collective bargaining

The collective agreements shall regulate the rights and obligations of the parties which have concluded the agreement, and may also include legal rules regulating the conclusion, content and termination of labor relations and other issues arising from or related to labor relations.

Legal standards incorporated in the collective agreement shall apply directly and shall be obligatory for all persons to which the collective agreement is applied to, in accordance with the provisions of this Law.

Persons that, pursuant to this Law, may be parties to the collective agreement shall be obliged to bargain in bona fide for concluding a collective agreement for issues which, under this Law, may be subject of the collective agreement.

The collective agreement shall be binding for all persons that have concluded it and for all persons that at the time of conclusion of the collective agreement have been or have additionally become members of the associations that have concluded the collective agreement.

The collective agreement shall also be binding for all persons that have acceded to it and for all persons that have additionally become members of the associations which have acceded to the collective agreement.

The individual collective agreement shall also be binding – valid for the employees with the employer who are not members of a trade union or of the trade union – signatory of the collective agreement.

The collective agreement shall be concluded in a written form.

3. Parties to collective agreements

The collective agreement shall be concluded between the employer or the representative employers' association and the representative trade union.

The representativeness of a union, that is, employers' association at a level of the Republic of Macedonia, at a public sector level, at a private sector level in the field of economy, and at a branch, that is, department level in accordance with the National Classification of Activities, shall be determined by the Ministry for Labor and Social Policy, on proposal of the Commission for Determining Representativeness.

When a request for determination of representativeness is submitted, but the conditions for representativeness (see below) with regard to percentage of members are not met, a collective agreement shall be concluded by the employer or the employers' association and the union which has the largest number of members, on the basis of a list submitted together with the request for determination of representativeness until fulfillment of the conditions for percentage of the members and determination of the representativeness. Such collective agreement shall be concluded upon receipt of the notification

of the Ministry of Labor and Social Policy to the union, that is, the employers that submit a request for determination of representativeness of the union, that is, the employers that have the largest number of members. If in the course of the bargaining for such agreement, consent for conclusion of a collective agreement is not reached, the participants may establish arbitration to settle the disputable issues.

The participants in conclusion of the collective agreement shall be obliged to bargain.

2.1 Representativeness of a union

The representativeness of a union for the territory of the Republic of Macedonia, that is, for an employers' association for the territory of the Republic of Macedonia shall be determined for the purpose of participating in tripartite bodies for social partnership and tripartite delegations of the social partners.

The representativeness of a union at a public sector level shall be determined for the purpose of participating in the collective bargaining at a public sector level.

The representativeness of a union, that is, employers' association at a private sector level in the field of economy shall be determined for the purpose of participating in a collective bargaining at a private sector level in the field of economy.

The representativeness of a union, that is, employers' association at a branch, that is, department level, shall be determined for the purpose of participating in collective bargaining at a branch, that is, department level.

The representativeness of a union at a level of employer shall be determined for the purpose of participating in a collective bargaining at a level of employer.

Representative union for the territory of the Republic of Macedonia shall be a union that fulfills the following conditions:

1. to be entered in the register of unions kept by the ministry responsible for issues in the field of labor;
2. to have membership of at least 10% of the total number of employees in the Republic of Macedonia paying union membership fee;
3. to join together at least three unions at a national level from different branches, that is, departments, which are entered in the register of unions kept by the ministry responsible for issues in the field of labor;
4. to be active at a national level and to have members registered in at least 1/5 of the municipalities in the Republic of Macedonia;
5. to act in accordance with its statute and its democratic principles, and
6. to have membership of unions that have signed or acceded to at least three collective agreements at a branch, that is, department level.

Representative union at a public sector level shall be the trade union which has been entered in the register of unions kept by the ministry responsible for issues in the field of labor, where at least 20% of the employees in the public sector are members and pay membership fee.

Representative union at a private sector level in the field of economy shall be the union entered in the register kept by the ministry responsible for issues in the field of labor, where at least 20% of the employees in the private sector in the field of economy are members and pay membership fee.

Representative union at a branch, that is, department level shall be the union entered in the register kept by the ministry responsible for issues in the field of labor, where at least 20% of the employees in the branch, that is, department are members and pay membership fee.

Representative union at a level of an employer shall be the union where at least 20% of the employees at the employer are members and pay membership fee.

2.2 Representativeness of an employer's association

Representative employers' association for the territory of the Republic of Macedonia shall be an association that fulfills the following conditions:

- 1) to be entered in the register of employers' association kept by the ministry responsible for issues in the field of labor;
- 2) at least 5% of the total number of employers in the private sector in the field of economy in the Republic of Macedonia to be members of the association or the employers members of the association to employ at least 5% of the total number of employees in the private sector of the Republic of Macedonia;
- 3) employers of at least three branches, that is, departments to be members of the association;
- 4) to have its members in at least 1/5 of the municipalities in the Republic of Macedonia;
- 5) to have concluded and acceded to at least three collective agreements at a branch, that is, department level, and
- 6) to act in accordance with its statute and the democratic principles.

Representative employers' association at a level of the private sector in the field of economy shall be an association entered in the register kept by the ministry responsible for issues in the field of labor and where at least 10% of the total number of employers in the private sector are members or the employers members of the association employ at least 10% of the total number of employees in the private sector.

Representative employers' association at a branch, that is, department level shall be an association entered in the register kept by the ministry responsible for issues in the field of labor, where at least 10% of the total number of employers in the branch, that is, department are members, or the employers members of the association employ at least 10% of the total number of employees in the branch, that is, department.

c) Prohibitions on union discrimination and employer interference in their operations

Article 185 para (2) of LLR prescribes that no one can be put into any unfavorable situation because of his/her membership or non-membership in the trade union, i.e., participation or non-participation in the activity of the trade union.

d) Requirements that worker representatives be in place

Article 199 para (1) of LLR prescribes that the unions shall independently decide on the manner of their representation at the employer.

Unions that have members employed by a particular employer may appoint or elect one or more worker representatives to represent them at that employer.

Article 199 para (3) of LLR provides that the worker representative(s) shall be entitled to protect and promote the rights and interests of union members at the employer.

The worker representatives may be established only if:

- the employer enables the unions and their representatives timely and efficient to exercise the rights of protection and promotion of the rights and interest of union members at the employer and access to data important for exercising such right;
- the union notifies the employer of the appointment of the worker representative(s);
- the activity of the worker representative is not limited by employer's regulation and if is complied with the law and collective agreement.
- the worker representative(s) is/are protected against dismissal during the whole period of his/her/their term of office, and at least two years after expiry of his/her/their term of office;

7. Principle 7 – Compliance with the law

7.1 Items to be covered by your answer

- Legal requirements to constitute a labor/employment relation
- Laws and regulations on employment contracts (incl. necessity for written employment contracts, and if is not what are the grounds to consider the existence of a verbal employment agreement)
- Required content for written employment contracts
- Deadline for conclusion of the contract (e.g. on the date of hire or within 30 days of hire)
- Requirements for various types of contracts (indefinite term, definite term, temporary workers, probationary workers)
- Requirements for termination of employment (termination with or without cause, wrongful dismissal, notice periods required to end employment)
- Options for farmers to obtain legal assistance about their obligations (e.g. government department, local labor office, farmers association etc.)
- Specific requirements for leaf growing contracts (government imposed templates, government approval of contract, freedom to choose the terms of the contract)

7.2 Applicable laws

- LLR;
- Law on Tobacco and Tobacco Products (*Закон за тутун и тутунски производи*) ("Official Gazette of the Republic of Macedonia" no. 24/2006, 88/2008, 31/2010, 36/2011, 53/2011, 93/2013, 99/2013, 164/2013, 151/2014, 193/2015, 213/2015 and 39/2016) – hereinafter: the "LTTP".

- Law on Conducting Agricultural Activity (*Закон за вршење земјоделска дејност*) ("Official Gazette of the Republic of Macedonia" no. 11/2002; 89/2008; 116/2010; 53/2011 and 39/2016)
- Law on Civil Obligations (*Закон за облигационите односи*) ("Official Gazette of the Republic of Macedonia" no.18/2001, 78/2001, 4/2002, 59/2002, 5/2003, 84/2008, 81/2009, 161/2009, 123/2013);

7.3 Your answer

a) Legal requirements to constitute an employment relationship:

LLR in Article 5 para (1) item 1) defines "employment relationship" as any contractual relationship between the employee and the employer where the employee takes part in the employer's organized working process voluntarily, for salary and other remunerations, personally and continuously carries out the work per the instructions and under the supervision of the employer.

Under Article 13 para (1) of LLR, the employment relationship between the employee and employer shall be established by signing an employment contract.

Article 15 of LLR expressly provides that the employment contract shall be concluded in a written form and shall be kept in the business premises of the headquarters of the employer. Copy of the concluded employment contract shall be handed over to the employee on the day of signing the employment contract.

Where a contractual relationship has been established that meets the criteria described in the statutory definition for "employment relationship", but no written contract has been signed between the contracting parties, the employer becomes liable for a misdemeanor under LLR punishable with a fine in amount of EUR 7,000 (in MKD equivalent) for the legal entity – employer, and 30% of such fine for the responsible person in the legal entity – employer, or a fine in amount from EUR 700 to EUR 1,050 (in MKD equivalent) for the individual – employer.

Employment contract vs. contract for work. Important to note is that, under Macedonian law, workers could be hired not only based on employment contract, but also on so called "contract for work". This institute is regulated by both LLR as labor law institute, and Law on Civil Obligations, as a civil law institute. However, since LLR allows entering into contract for work only for services which are outside the scope of core business of the employer, this definition would not be applicable to situations where farmer engages a hired worker for tobacco growing activities. On the other hand, definition of this institute in the Law on Civil Obligations does not prevent the farmer and hired worker, to enter into an oral, civil agreement, to regulate terms and conditions of services in tobacco farming which will be provided for an agreed fee. In this case, contract for work should not be regarded as labor law contract but as a civil law contract.

The definition of the contract for work is provided in Law on Civil Obligations Article 619 and reads:

"Under a contract for work, the contractor undertakes to carry out certain work, such as make or repair a thing, physical or intellectual work etc., in exchange for a price that the ordering party undertakes to pay."

Non-applicability of labor law institutes to contract of work. All terms and conditions governing contract for work need to be agreed between the parties, as there are no subsidiary norms which would apply to this civil law arrangement. This means that although in practice, maximum work hours per day and week and minimum wage from labor law corpus of regulation are used as a reference when negotiating the terms of contract for work, they are not obligatory. In other words, for relationship based on contract for work,

there are no legal provisions regulation maximum work hours, minimum wage, overtime allowance, annual leave, maternity leave, etc, as these institutes from labor law, formally do not apply to provision of services under contract of work, as a civil contract.

Four types of farmers under Macedonian legislation. According to Law on Conducting Agricultural Activity, Articles 7 and 8, agricultural activity can be conducted by four types of farmers: individual farmer, sole proprietor, legal entity and agricultural cooperative.

Article 7:

- 1) An agricultural activity can be conducted by an individual whose operations do not exceed the agricultural activity of small scale and who is registered in the registry of individual farmers (hereinafter: "individual farmer").
- 2) Agricultural activity can also be conducted by an individual in the capacity of a sole proprietor and a legal entity: a trade company set up as a joint-stock company or a limited liability company (hereinafter: "merchant"), registered in the trade registry.
- 3) Agricultural activity can be conducted by an agricultural cooperative registered in the relevant registry.

Article 8:

- 1) An agricultural activity of a small scale shall denote, within the meaning of this law, the conducting of an agricultural activity personally by the farmer and at most ten employees including family members as well as at most five seasonal workers.
- 2) The individual farmer whose operations exceed that of an agricultural activity of a small scale is required to register as a merchant.

Registration of farmers. Registration of sole proprietor, legal entity and agricultural cooperatives in trade registries, should not be confused with registration of each types of farmers organization (including individual farmer) in special registers of agricultural households kept by the Ministry of agriculture, forestry and water management.

Determining which agreements exist in practice. There are no direct and explicit provisions which would regulate how each of these forms of farmers should hire workers for conducting tobacco farming. However, by interpreting the provisions and spirit of the laws, it could be concluded that individual farmer could freely choose to hire workers based on employment agreement or contract for work, while sole proprietor and legal entities, would probably be expected to enter into employment contracts with the workers they hire.

In order to assess which of the two types of contracts are actually used in practice between the farmers and workers, the following should be assessed:

- Whether the written contract exists
- How was hiring conducted – bilaterally or through employment intermediation service
- What was the actual intention of the parties

While existence of written contract would clear any dilemma as based on the title and content it could be clearly determined what type of contract it actually is, given that employment agreement must be in

written form, non-existence of contract would strongly suggest that the parties did not want to enter into the employment agreement, but rather wanted to regulate their relationship through an oral civil arrangement.

According to LLR (Article 22), all need for workforce needs is to be met by public announcement of vacancies or through employment intermediation agency. If hiring workers was conducted by bilateral negotiations between the farmers and the hired workers, without involvement of employment intermediation agency, it also implies that the parties intended to enter into contract of work.

When assessing which type of contract parties have actually entered, one must try to understand what was their will and understanding of the outcome of their mutual consensus – whether their intention was to establish a more organized relationship from which worker is entitled to salary and other remunerations, or merely a relationship of providing services consisting of physical work for which certain fixed amount of compensation would be paid.

To the best of our knowledge, there have been no challenges by the authorities, primarily labour inspection or agricultural inspection, of the practice that farmers hire workers based on oral contracts.

b) Required content for written employment contracts:

Under Article 28 of LLR, the written employment contract must contain the following: (i) data for the contractual parties, their residence or registered office; (ii) date of entering into employment; (iii) working position with short description of the work; (iv) provision for the obligation of the employer to inform the employee for the risky working positions and necessary qualifications, knowledge or medical examination; (v) place of work; (vi) duration of the employment; (vii) provision stating whether the employment is fixed-term or of an indefinite duration; (viii) provision for the daily and the weekly working time and scheduling of the working hours; (ix) provision for the amount of the basic salary; (x) provision for the other entitlements to which the employee is entitled in accordance with law and collective agreement; and (xi) provision for annual leave, i.e. the manner of scheduling of the annual leave and stating the general acts of the employer in which are determined the working conditions.

The employment contract may contain other rights and obligations determined by law and collective agreement.

c) Deadline for conclusion of the employment contract:

Article 13 of LLR regulates in detail the procedure to be followed by the employer regarding the establishment of an employment relationship, as follows:

- 1) The labor relation between the employee and employer shall be established by signing an employment contract.
- 2) The rights, obligations and responsibilities arising from carrying out the work under the employment and the inclusion in the mandatory social insurance based on the employment, agreed upon in the employment contract, shall begin to be exercised as of the day the employee begins working.
- 3) The employer shall be obliged to file a registration/deregistration form (electronic M1/M2 form printed out from the system of the Employment Service Agency of the Republic of Macedonia) to the mandatory social insurance (pension and disability insurance, health insurance and insurance against unemployment) for the employee, in accordance with the special regulations, to the

Employment Service Agency of the Republic of Macedonia, by electronic means or directly in the Agency, by attaching the PPR form, the authorization for the authorized person along with a list of persons to be registered/deregistered, where the name, surname and PIN are included, as well as the number of the employment contract and the date of conclusion of the employment contract, one day before the employee begins to work, and one hour before the employee begins to work in case of urgent and unpostponable matters. Certified copy of the registration form or a copy from a computer entry from the Agency's information system shall be handed over to the employee within three days, as of the day of beginning of the employment.

- 4) The Employment Service Agency of the Republic of Macedonia, the Pension and Disability Insurance Fund of Macedonia and the Health Insurance Fund of the Republic of Macedonia shall be obliged to maintain and permanently keep the records of the registration and deregistration in the social insurance, and at request of the person, to provide data on the status and the changes related to the social insurance of the employee.
- 5) The Employment Service Agency of the Republic of Macedonia, the Pension and Disability Insurance Fund of Macedonia and the Health Insurance Fund of the Republic of Macedonia shall exchange data related to the social insurance.
- 6) If the date of beginning of the work is not determined in the employment contract, the day following the day of signing the employment contract shall be considered the date of beginning of the work, and the employee shall be registered in the Employment Service Agency of the Republic of Macedonia on the day of signing the employment contract.
- 7) The employee cannot begin work prior to the conclusion of the employment contract and prior to the registration in the mandatory social insurance by the employer.
- 8) The rights, obligations and responsibilities arising from carrying out work under employment and inclusion in the mandatory social insurance based on the employment shall start to be exercised as of the day of beginning of the work even if the employee does not begin to work on that day due to justified reasons.
- 9) In terms of this Law, justified reasons due to which the employee does not begin to work on the day determined under the employment contract shall be the cases when the employee is absent for justified reasons defined by law, collective agreement and employment contract.
- 10) If the employee does not begin to work the first day determined as a day to start working in accordance with para (6) of this Article without any justifiable reason, it shall be considered that he/she is not employed.
- 11) If the employer, upon termination of the employment, within a period of eight days as of the day of termination of the employment, does not deregister the employee from the mandatory social insurance, the employee may be deregistered based on previously submitted minutes from the labor inspector to the Employment Service Agency of the Republic of Macedonia on request of the employee.

d) Requirements for various types of employment contracts:

Note: All types of employment contracts listed below must be concluded in writing.

As elaborated above, contract for work, as type of agreement for engaging workforce, can be oral, i.e. does not need to be in writing.

1. Fixed-term employment contract

A fixed-term employment contract may be concluded for a period of up to five years for carrying out the same activities, with or without interruption.

A fixed-term employment contract concluded for a substitute for a temporarily absent employee may be concluded till the return of such absent employee.

It shall be deemed that a fixed-term employment contract has been transformed into an employment contract of an indefinite duration if the employee continues to work after the expiry of the period of five years, under the conditions and in the manner defined by law.

By exception, a fixed-term employment contract shall be deemed to be transformed into an employment contract of an indefinite duration even prior to the expiration of the five-year period if the employee works for more than two years at the position which has become vacant on pension grounds or other grounds and for which funds are provided, provided that the employer determines that there is a permanent need for the employee, under the conditions and in the manner determined by law.

2. Fixed-term employment contract for seasonal work

This type of contract is concluded for performance of seasonal work, i.e. work which due to the climate or natural conditions is not carried out during the whole year, but in particular periods – seasons. Seasonal work cannot last more than eight months in a period of 12 consecutive months.

A fixed-term employment contract for seasonal work cannot be transformed into an employment contract of an indefinite duration by the employee continuing to work after the term of the contract.

3. Employment contract with a probationary work period

At the time of conclusion of the employment contract, the employee and the employer may agree on probationary work. The employment contract with a probationary work period determines all the rights and obligations arising from employment, the amount of the salary and the duration of the probationary work.

The probationary work may not last more than 6 months. However, the probationary work may be extended in case of justifiable absence from work (illness and the like).

By exception, probationary work for seasonal work may last three working days.

4. Part-time employment contract

An employment contract may also be concluded for working hours that are shorter than the full-time working hours (part-time working hours).

The employee who has concluded a part-time employment contract shall have the same contractual and other rights and obligations arising from employment as the full-time employee, and shall exercise these rights and obligations proportionally to the time for which he has concluded the employment contract, except for those that are otherwise defined by law.

The employee shall be entitled to annual leave with minimum duration of ten working days.

The employer must not order the part-time employee to work longer than the agreed working hours, except in the cases referred to the additional working in events of natural or other type of accidents.

The employer shall be obliged, in the part-time employment contract, to determine the beginning and the end of the part-time daily working hours of the employee and to keep separate records of the part-time employees, and the Employment Service Agency of the Republic of Macedonia shall inform the State Labor Inspectorate about the concluded part-time contracts once a month.

Furthermore, the employee may conclude an employment contract for a part-time work with several employers and thus to achieve the working hours for full-time work defined by LLR.

The employee shall be obliged to agree with the employers upon the working hours, the manner of using the annual leave and the other absences from work. Such obligations of the employer and the employee shall be an integral part of the employment contract for part-time work.

Appendix IV – Communication materials

1. ALP Leaflet



PHILIP MORRIS INTERNATIONAL

Philip Morris International, Inc. (PMI) is committed to progressively eliminate child labor and other labor abuses where they are found and to achieve safe and fair working conditions on all farms from which PMI sources tobacco.

This Agricultural Labor Practices Code supports this objective by defining the labor practices, principles and standards PMI expects to be met on all tobacco farms with which PMI or PMI's suppliers have contracts to grow tobacco for PMI. This Code is based on the labor standards of the International Labor Organization (ILO) Declaration on Fundamental Principles and Rights at Work and other relevant ILO conventions. The principles and standards of this Code must be interpreted and implemented in line with these ILO conventions.

PMI recognizes that labor abuse can often have underlying systemic causes that this Code on its own cannot address. Long term solutions to address these systemic issues will require the serious and lasting commitment from all actors in the supply chain as well as governmental and other stakeholders. PMI is committed to engage with all such actors.

Farmers and suppliers are expected to apply this Code in a diligent and transparent manner, and to work with PMI on continuously improving agricultural labor practices. In all actions concerning children, the best interests of the child shall be the primary consideration.

Gap
Good Agriculture Practices

ALP-Sept 2015



AGRICULTURAL LABOR PRACTICES





Gap
Good Agriculture Practices

CHILD LABOR

There shall be no child labor.

Measurable Standards

- There is no employment or recruitment of child labor. The minimum age for admission to work is not less than the age for the completion of compulsory schooling and, in any case, is not less than 15 years or the minimum age provided by the country's laws, whichever affords greater protection.
- No person below 18 is involved in any type of hazardous work.
- In the case of family farms, a child may only help on his or her family's farm provided that the work is light work and the child is between 13 and 15 years or above the minimum age for light work as defined by the country's laws, whichever affords greater protection.

FAIR TREATMENT

Farmers shall ensure fair treatment of workers. There shall be no harassment, discrimination, physical or mental punishment, or any other form of abuse.

Measurable Standards


- There is no physical abuse, threat of physical abuse, or physical contact with the intent to injure or intimidate.
- There is no sexual abuse or harassment.
- There is no verbal abuse or harassment.
- There is no discrimination on the basis of race, color, caste, gender, religion, political affiliation, union membership, status as a worker representative, ethnicity, pregnancy, social origin, disability, sexual orientation, citizenship, or nationality.
- Workers have access to a fair, transparent and anonymous grievance mechanism.

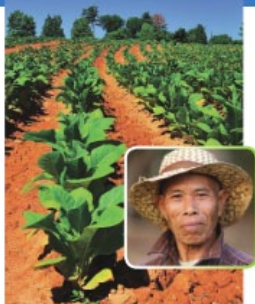
INCOME & WORK HOURS

Income earned during a pay period or growing season shall always be enough to meet workers' basic needs and shall be of a sufficient level to enable the generation of discretionary income. Workers shall not work excessive or illegal work hours.

Measurable Standards

- Wages of all workers (including for temporary, piece rate, seasonal, and migrant workers) meet, at a minimum, national legal standards or agricultural benchmark standards.
- Wages of all workers are paid regularly, at a minimum, in accordance with the country's laws.
- Work hours are in compliance with the country's laws. Excluding overtime, work hours do not exceed, on a regular basis, 48 hours per week.
- Overtime work hours are voluntary.
- Overtime wages are paid at a premium as required by the country's laws or by any applicable collective agreement.
- All workers are provided with the benefits, holidays, and leave to which they are entitled by the country's laws.





FORCED LABOR

All farm labor must be voluntary. There shall be no forced labor.


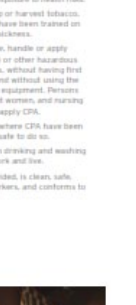

Measurable Standards

- Workers do not work under bond, debt or threat and must receive wages directly from the employer.
- Workers are free to leave their employment at any time with reasonable notice.
- Workers are not required to make financial deposits with employers.
- Wages or income from crops and work done are not withheld beyond the legal and agreed payment conditions.
- Farmers do not retain the original identity documents of any worker.
- The farmer does not employ prison or compulsory labor.





AGRICULTURAL LABOR PRACTICES

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SAFE WORK ENVIRONMENT

Farmers shall provide a safe work environment to prevent accidents and injury and to minimize health risks. Accommodation, where provided, shall be clean, safe and meet the basic needs of the workers.

Measurable Standards

- The farmer provides a safe and sanitary working environment, and takes all reasonable measures to prevent accidents, injury and exposure to health risks.
- No worker is permitted to top or harvest tobacco, or to load farm trailers, they have been trained on avoidance of green tobacco sickness.
- No worker is permitted to use, handle or apply crop protection agents (CPA) or other hazardous substances such as herbicides, without having first received adequate training and without using the required personal protection equipment. Persons under the age of 18, pregnant women, and nursing mothers must not handle or apply CPA.
- Workers do not enter a field where CPA have been applied unless and until it is safe to do so.
- Workers have access to clean drinking and washing water close to where they work and live.
- Accommodation, where provided, is clean, safe, meets the basic needs of workers, and conforms to the country's laws.

FREEDOM OF ASSOCIATION

Farmers shall recognize and respect workers' rights to freedom of association and to bargain collectively.

Measurable Standards


- The farmer does not interfere with workers' right to freedom of association.
- Workers and farmers are free to join or form organizations and unions of their own choosing and to bargain collectively.
- Worker representatives are not discriminated against and have access to carry out their representative functions in the workplace.

COMPLIANCE WITH THE LAW

Farmers shall comply with all laws of their country relating to employment.

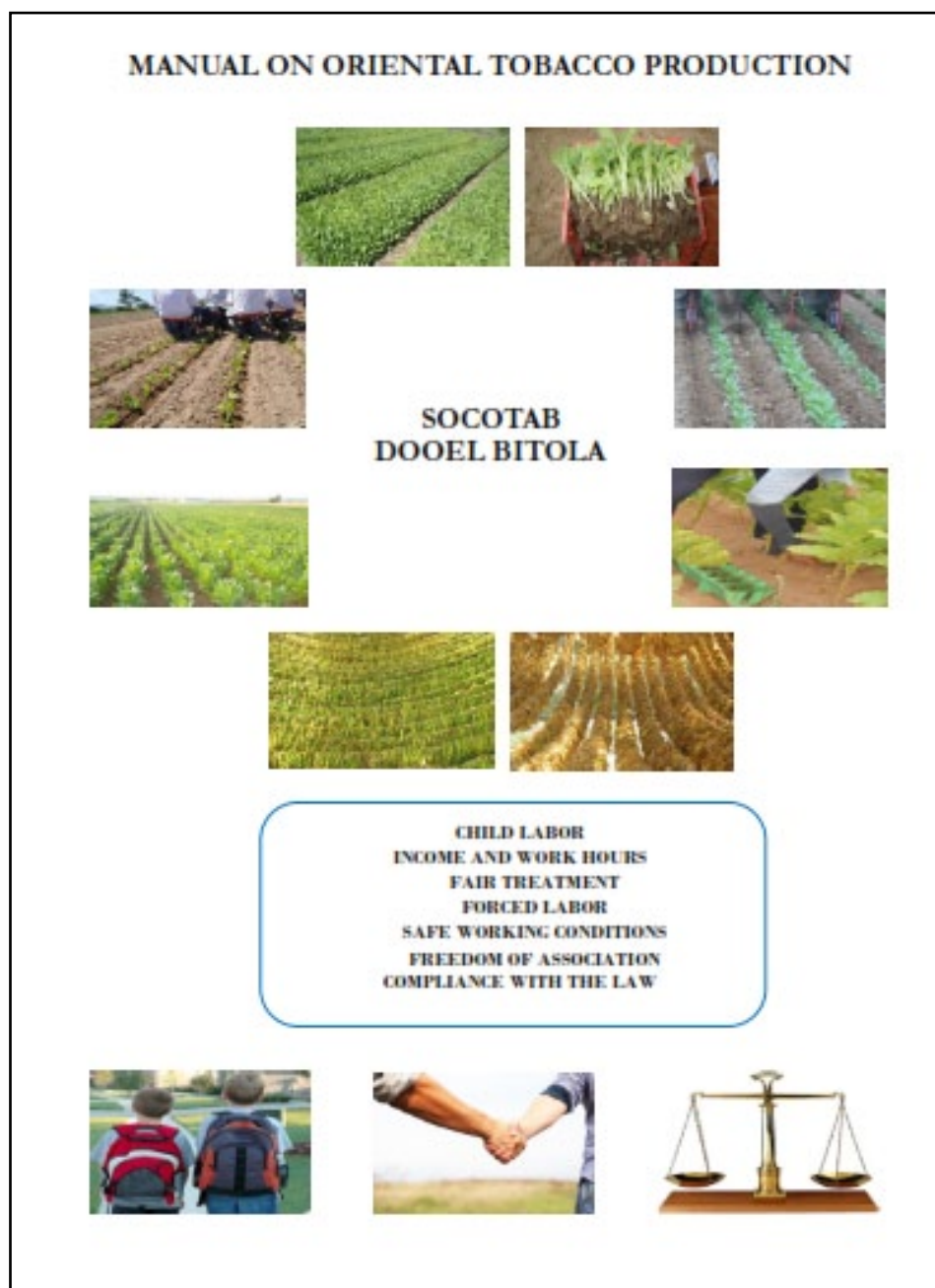
Measurable Standards

- All workers are informed of their legal rights and the conditions of their employment when they start to work.
- Farmers and workers have entered into written employment contracts when required by a country's laws and workers receive a copy of the contract.
- Terms and conditions of employment contracts do not contravene the country's laws.



Farmers and suppliers are expected to apply this Code in a **diligent and transparent** manner, and to work with PMI on **continuously improving** agricultural labor practices.

2. Oriental Tobacco production manual



Serial nr.

TOBACCO CULTIVATION AND PURCHASE CONTRACT № _____ CROP 2017

BETWEEN

Collectively referred as (the "Parties")

WHEREAS

- Now therefore the Parties agreed as follows:

I. SUBJECT MATTER

	Type	Municipality	Place	Cadastré Plots N	Plot Surface in hectares	Number of plants	Quantity in kg
	Total						

Type Prep	Aromatic				Supplementary		Moldy
Grade	I	II	III	IV	I	II	
MKD/ko							

II RIGHTS AND OBLIGATIONS OF THE PRODUCER

Appendix V – Prompt Action Reporting and Verification forms

1. Prompt Action Reporting Software

Forced Labor And Human Trafficking	
Workers are not able to leave the farm due to debt or payments from previous season not settled in full	No <input type="checkbox"/>
Workers deceived or tricked on the terms and conditions of employment	No <input type="checkbox"/>
Workers constantly guarded or watched	No <input type="checkbox"/>
Farmers retaining identification documents of workers	No <input type="checkbox"/>
Safe Working Environment	
Farmer/ family members handling or applying CPA without PPE	Yes <input checked="" type="checkbox"/>
Workers handling or applying CPA without PPE	No <input type="checkbox"/>
Pregnant women/nursing mothers handling or applying CPA	No <input type="checkbox"/>
Farmer/ family members exposed to GTS without protection	No <input type="checkbox"/>
Workers exposed to GTS without protection	No <input type="checkbox"/>
No Drinking water available and/or No water for washing available	No <input type="checkbox"/>
CPA containers being reused for water storage or other domestic use	No <input type="checkbox"/>
CPA are stored in a way that could cause a health and accident risk	No <input type="checkbox"/>
Worker accommodation is not safe or sufficient	No <input type="checkbox"/>
Working at height without safety equipment	No <input type="checkbox"/>

2. Digital Monitoring form

%0
+ ALP / People on the Farm <input type="checkbox"/>
+ ALP / Farm Tasks <input type="checkbox"/>
+ ALP / Farm Description <input type="checkbox"/>
+ ALP / Other Crops <input type="checkbox"/>
+ ALP / ALP Communication to Farmer <input type="checkbox"/>
+ ALP / Additional Comments <input type="checkbox"/>
+ ALP / Living Conditions <input type="checkbox"/>
+ ALP / Employment Conditions <input type="checkbox"/>
ALP <input type="button" value="Save"/>

Appendix VI – Glossary

ALP Code Principle	Short statements that set expectations of how the farmer should manage labor on his/her farm in seven focus areas
ALP Code	PMI's Agricultural Labor Practices Code
ALP Program	Agricultural Labor Practices Program
ALP	Agricultural Labor Practices
CPA	Crop Protection Agents
CU	Control Union
GAP	Good Agricultural Practices
GTS	Green Tobacco Sickness
Hired worker	Agricultural contractor
KPI	Key Performance Indicator
Leaf tobacco supplier	Company that has a contract with PMI to supply tobacco but is not a farmer
MCIC	Macedonia Center for International Cooperation
MKD	Macedonian Denar, Macedonian legal currency
Measurable Standard	A Measurable Standard defines a good labor practice on a tobacco farm and helps determining to what extent the labor conditions and practices on a tobacco farm are in line with the ALP Code Principles
Migrant labor	Labor coming from outside the farm's immediate geographic area
NGO	Non-Governmental Organization
PAV	Prompt Action Verification Report
Piece rate	Payment at a fixed rate per unit of production/work
PMI	Philip Morris International, Inc. or any of its direct or indirect subsidiaries
PPE	Personal Protection Equipment
Prompt Action	A situation in which workers' physical or mental well-being might be at risk, where children or a vulnerable group – pregnant women, the elderly - are in danger, or where workers might not be free to leave their job
ULT	Universal Leaf Tobacco