

SAFETY AND HEALTH AT WORK IN THE REPUBLIC OF KOSOVO

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Abstract

Safety and health at work is a complex process for improving the working conditions and working environment, prevention of injuries, occupational diseases and work-related diseases and the protection and promotion of workers' health.

Safety and health at work are integral parts of work process and in general are key elements of the quality of work.

According to the International Labour Organisation (ILO), every day, 6300 persons lose life as a result of accidents at work or occupational diseases related to work conditions and environment. Who represent 2. 3 million fatal cases during the year. For one year 317 million accidents occur while work performing. Most of these cases occur as a result of prolonged working hours. The price of these expenses is very high, which gets impaired with 4%, from Gross domestic product.

Safety and health conditions at work, differ very much between the states, economic sectors and social groups. Accidents and fatal accidents with death consequences at work, specially are expressed in the sector of agriculture, fishing and mining industry. In the global frame, the poor population is the group that is the most exposed to these fatalities (in lots of cases children, women and emigrants).

Safety and health at work in the Republic of Kosovo, considering the recent past of this country, the situation in this field is not very appropriate and with a low level of health and safety preventive measures. Although here is no institutionalized form of records related to accidents at work and occupational diseases, but according to the annual report of Labour Inspectorate of the Republic of Kosovo, in 2012 there were 16 serious injuries resulting in death, from which the largest number occurred in the construction industry. But this number is questionable, while the number of occupational there is no data available.

1. Socio-economic situation in Kosovo

Following almost ten years of United Nations Interim Administration in

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Kosovo (UNMIK), on 17th February 2008, Kosovo declared its independence and is now in a transition phase to a newly independent and sovereign state. In April 2010, the Medium-Term Expenditure Framework (MTEF) was adopted for 2011–2013. A Stand-By Arrangement of €109 million was signed with the International Monetary Fund (IMF) for an 18-month programme. It is recognized that, as a priority, conditions should be established for ‘a rapid sustainable economic growth for the benefits of all citizens of Kosovo’. At the same time, the current socio-economic situation is as such that rapid economic growth will be a real development challenge for the country. The National Development Strategy, drafted in 2006, appears to have been replaced by the MTEF as the main strategic planning document in Kosovo.

For Kosovo, 2013 has been a historic year as it has opened its path towards EU accession. The June decision of the European Council to authorise the opening of negotiations for a Stabilisation and Association Agreement (SAA) represent the start of a significant new phase in EU-Kosovo relations. In support of this process, the Kosovo government and the European Commission are currently preparing a comprehensive Country Strategy Paper for the period 2014-2020.¹ In the meantime, however, Kosovo continues to be plagued by a weak economy and high unemployment rates. The general economic situation remains challenging with very high unemployment. Kosovo’s GDP growth came down from 4.4% in 2011 to 3.8% in 2012, meanwhile GDP per capita has reached €2721 in 2012 (€1795 per capita in 2009) that is equal to the 11% of the EU-27 average, almost unchanged over its level in 2011. In regards to employment, 63.1% of Kosovo’s working age are not economically active. Of the 36.9% population that is economically active, 30.9% are unemployed.² In early 2012, the unemployment registry was digitalised and launched. As a result, the number of people officially registered as unemployed decreased by about 22%. This sharp reduction, however, mainly reflects changes in the registration system, rather than an improvement in the labour market situation. The functioning of the links between education/training and the labour market are fragile and the increased number of the unemployed university graduates is signalling this message; most of the unemployed are unskilled (60%) and the number of unemployed persons with university education has steadily increased. The current structure of the labour market signals a mismatch between the skills needed on the labour market and those provided by the education system. As such, the high unemployment rate can be attributed to the significant structural weaknesses and skill gaps in the labour market. There are few job opportunities, especially for new young entrants.

*1*EU Progress Report on Kosovo, April 2013

*2*Labour Force Survey 2012. Published September 2013

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2. Labour inspection

The right to life is the most fundamental human rights. Globally, however, millions of women and men are deprived of this right due to occupational accidents and work-related disease. The case is no different in Kosovo. In 2012, there were 17 work-related deaths and 45 work-related injuries reported in Kosovo, excluding non-severe accidents which are unknown due to lack of accident reporting.³

Occupational diseases are also difficult to find reports on due to the partial coverage with health services of the enterprises in Kosovo, the deficient specialization of doctors engaged full-time on health services in enterprises and due to the deficiency of cabinets for occupational disease in Kosovo⁴

The prevention of work related accidents and deaths are in direct proportion with the efficiency and organization of a functional LI. Effective and efficient labour inspection is an essential paradigm of any civilized government and of any successful economy. Labour inspection services have a pivotal role in giving advice, providing information, and promoting compliance with labour standards in the workplace. A globalization unfold, strengthening labour and health inspection, it is now more crucial than ever for ensuring a high standard in labour protection and health promotion, thus contributing to the promotion of decent work for all and to overall economic stability. According to ILO, decent work requires:

- ✓ The existence of productive work;
- ✓ An employer's fair and consistent relationship with his/her employees;
- ✓ A safe and healthy working environment;
- ✓ The protection of workers' and their families' social rights;
- ✓ The best possible conditions for an employee's personal development and social integration; and
- ✓ Workers' freedom to express their needs, organise themselves and actively take part in decision-making processes (when decisions directly influence their work, life and gender equality, i. e. equality between men and women).

The LI plays a crucial role in the registration of workplace accidents, reporting to international organizations (ILO, SLIC, Eurostat), and raising public awareness on health and safety at work. Currently, the LI does not sufficient means to collect and report data on work related deaths and accidents. This project will respond to this inefficiency during the implementation of Component 3 activities, which will identify LI information systems needs and design a LIIS model to respond to the needs, in ensuring:

315. 01. 2013. *Telegrafi newspaper*. Also available: <http://www.telegrafi.com/ekonomi/rritetnumri-i-punetoreveqe-humbin-jeten-46-13557.html>

4Zenelaj Rilind and Xhevat Shkodra. *Occupational Health Kosovo*.

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- ✓ Compliance with occupational health and safety regulations;
 - ✓ Health and safety at work.

As illustrated previously, labour inspection is an indisputable element of every labour administration in ensuring that labour laws policies and procedures are implemented and amended as necessary in promoting health and safety at work. While the significance of labour inspection has been promoted and recognized globally, many countries, including Kosovo, continue to be impacted by lack of Law on Safety and Health at Work compliance and inefficient LI organisational setup.

2. 1. Law on Safety and Health at Work

The Law on Safety and Health at Work No. 04/L-161 that was adopted in May 2013, harmonizes with the EU Framework Directive No. 89/391/EEC, of 12 June 1989, on the introduction of measures to encourage improvements in the safety and health of workers at work. With the entry into effect of this Law, the Law No 2003/19 on Safety at Work, Protection of Health of Employees and Working Environment was superseded along with its sub-legal acts.

The purpose of the Law on Safety and Health at Work is to set measures for improving the level of safety and health of employees at work. It contains general principles for: prevention of occupational hazards; elimination of hazardous and accidents factors; information; consultation; participation in improving the level of safety and health at work, treatment of employees, their representatives; and general guidelines for implementing such principles. The LI is responsible to supervise the implementation of provisions by employers set out in this law.

The Law on Safety and Health at Work states that the MLSW: issues sub-legal acts for precise and full implementation of this law during the course of six (6) months; and it is required to continuously draft normative acts for the implementation of policies in conformity with relevant laws in the area of safety and health at work. Until now, there have been no single sub-legal acts issued. The lack of secondary legislation deriving from this new law, impedes the LI to effectively enforce the provisions set out in the Law on Safety and Health at Work.

2. 2 Labour Inspectorate

2. 2. 1. Legislative framework

The LI was established by the UNMIK Regulation on Essential Labour Law by a separate Law on Labour Inspectorate adopted in 2002 and amended in 2008. Since its establishment, the LI has been: unable to function efficiently mainly due to: their inefficient organizational set up; lack of support from central authorities; and the inspectors' abilities to perform their assigned tasks. As such, labour

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inspectors lack the required capacity to monitor work conditions throughout Kosovo. Thus, the LI is unable to fulfil its obligations and functions as foreseen under: domestic legislation, as well as by ILO standards: namely ILO Convention No. 81 and its Protocol from 1995 on optimal working conditions for labour inspectors, and Convention No. 129 on the Labour Inspection in Agriculture.

As a potential EU member candidate, Kosovo needs to align its laws and their implementation with EU best practices in the field of health and safety at work. Also, although not mandatory, the Law on Labour Inspectorate should also reflect “Common Principles for Labour Inspection in relation to Health and Safety at the Workplace” defined by the EU Senior Labour Inspectors Committee (SLIC). Amendments and additions to the law are mainly done as technical changes and less at the substantial part, respectively, regulating the title of the body - LI, naming the legislation in the field of health and safety at work etc.

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2. 2. 3. Reporting

Inspectors compile monthly reports which are submitted (in Excel files) to the regional coordinator, and he/she forwards those reports to the CLI. The CLI reports directly to the Minister. Regarding the LI relation with public opinion, the annual performance report of the LI is announced through the webpage of the MLSW, as the LI does not possess their own webpage.

The report includes:

- ✓ Types of discrimination (gender, race and forced labour). Also the LI has identified the work of disabled persons, legalized entities, notifications of strikes and legalized work.
- ✓ Out of the penalty area, there are recorded observations, fines, decisions of the second instance, executed decisions, execution proposals and responses to the lawsuits.
- ✓ Regarding the evidence of workers, there are records kept for their nationality, gender, foreigners as per gender and the total number of workers.
- ✓ Regarding the establishment of employment, records are kept for young workers (15-18 years), vacancies, employed without working contract, ban on the termination of the contracts for women on maternity leave.
- ✓ Regarding the working hours are kept records of the shortened working hours, extended hours and night shift.
- ✓ Regarding leave, the records are kept for annual leave, maternity leave, sick leave, maternity leave for the loss of the child, the peculiarities of the child. There are also evidences of the new employees, as evidence of paternity and payroll records, the minimum and additional wages, sick leave compensation, compensation for injuries at work.
- ✓ At the field of safety and health at working place regarding the obligations of the employer, information about employees trainings, safety specialist/s, risk assessment, personal protective equipment and first aid is recorded.
- ✓ Regarding emergency plan for evacuation and rescue, emergency care for workers, fire protective services, training of a number of workers on the first aid use, rescue and evacuation, emergency exits, lighting and marking of emergency exits, deaths at the working place, injuries at work, representatives of the workers for safety at work, use of PPM and their maintenance, notification of the employer on the danger, the use of working means and PPM in accordance with the instructions for use, toilets and rooms for changing, air pollution, noise, vibration and light, electricity, technical certifications, preliminary controls and regular medical controls, hazardous substances which are produced as well as the technological changes and consequently their risks.

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Regarding the evidences of injuries at work, this record is only kept by the inspectors, and only in cases where an accident at work happens - notified by the employer, or in various forms of media, and especially by the police. However, there are no data available for occupational diseases.

According to the data by the inspectors itself, the records related to the injuries and occupational diseases are not even identified by the legal entities where the injury occurred, except in Kosovo Energy Corporation (KEK), employing over 7000 people, which has monthly data in this regard.

3. Expected results

The decisions of the Council in June 2013 authorising the opening of negotiations for a Stabilisation and Association Agreement (SAA) represent the start of a significant new phase in EU-Kosovo relations. The European Enlargement process demands the harmonization of labour and social laws in the Western Balkans with the EU Social Acquis.⁵

The European Enlargement process is in particular challenging for Kosovo, especially since an efficient LI is essential for economic and social progress and sustainable development. A proficient LI will ensure a sound business climate, productivity, economic growth and comprehensive protection of workers reflecting decent work conditions. As such, Kosovo's LI will integrate EU best practices in the field of labour in order to align country's goal of closes integration with the EU. Drawing from the EU Member States best practices is imperative in increasing the capacity of the LI. Relying on EU best practices will ensure more efficient implementation of legal provisions in the field of health and safety at work:

- ✓ introducing a more efficient organizational setup within the LI;
- ✓ establishing training and staff development system; and
- ✓ developing a LI information system.

4. EU policy

4. 1. Health and safety at work

Health and safety at work is one of the areas where the EU has had the biggest impact – with a solid legal framework covering the maximum number of risks with the minimum number of regulations.

The Framework Directive with its wide scope of application as well as further directives focusing on specific aspects of safety and health at work are the fundamentals of European safety and health legislation. These directives set out minimum requirements and fundamental principles, such as the principle of

⁵ *Making the System Work: Ensuring Decent Work and Quality Jobs In the Western Balkans, SOLIDAR, February 2012*

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prevention and risk assessment, as well as the responsibilities of employers and employees. Moreover, a series of European guidelines aim to facilitate the implementation of European directives as well as European standards, which are adopted by European standards organisations.

4. 2. Occupational diseases

The Commission's strategy 2007 – 2012 on safety and health at work defined a series of measures at European and national level with a view to achieve an overall 25% reduction of occupational accidents and diseases in the EU by improving health and safety protection for workers and as one major contribution to the success of the Growth and Jobs Strategy. ⁶ European growth and competitiveness will always be linked to productivity and quality at work. The Europe 2020 Strategy has set challenging development targets for itself, in areas of employment, innovation, climate change, education and poverty. To improve the overall performance in the EU, the strategy advocates the use of smart, sustainable and inclusive growth, as well as economic governance instruments.

The evaluation of the 2007-2012 strategy confirmed the importance of the European dimension of occupational safety and health policy, in particular as regards the positive trend in work accident reduction and the role of the EU strategy in coordinating efforts and providing a common framework for action. The evaluation proposed the following focus areas:

- ✓ improve the implementation of occupational safety and health provisions in SMEs and micro-enterprises;
- ✓ develop more accurate monitoring and evidence gathering tools;
- ✓ better focus on emerging risks and occupational illness;
- ✓ effectively tackle the occupational safety and health problems linked to the ageing of the working population. ⁷

5. Conclusion

Although the national laws and by-laws, the Constitution, collective agreements, internal regulations and a mix of basic legal institutions such as the LI, courts and Ombudsman have been put in place in Kosovo, the level of decent work protection remains insufficient, as demonstrated by: the data on work related injuries and deaths, the inefficient organizational set up of the LI; lack of

⁶Europe 2020

⁷ EC, *Employment, Social Affairs & Inclusion*, May 31, 2013

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infrastructure for data gathering and monitoring of the legal compliance by companies and law enforcement. The inadequate implementation of existing legislative frameworks is due to the weak enforcement and monitoring mechanisms.

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