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Victims of Injustice

Analysis of Workers' Rights
Implementation by the
Institutions of Kosovo

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Introduction

At the start of 2022, Advocacy Training and Resources Center (ATRC) and Balkan Investigative Reporting Network – BIRN Kosovo began the implementation of the “Protecting and Promoting Labor Rights of Vulnerable Groups in the Labor Market” Project supported by the European Union Office in Kosovo.

The purpose of this intervention was to improve the working conditions for vulnerable categories of workers, particularly in the private sector, including health and safety in the workplace for women and men, through the promotion of a social dialog between workers and relevant labor stakeholders.

Other goals of the project are: 1) increasing the capacities of NGOs, unions and other stakeholders in addressing labor rights, 2) provision of specific analyses on the issue, and 3) increasing citizens' reporting of violations of labor relationship rules.

In the framework of this project, BIRN has carried out awareness campaigns as well as a reporting campaign to encourage citizens to report violations of labor rights at the workplace. This was done initially through the creation of a platform at KALLXO.com, where citizens can report violations of workers' rights, titled “Violations of labor rights”.¹

Over the past two years, BIRN has received more than 300 reports from workers and whistleblowers exposing violations of workers' rights. Thanks to our campaign and a combined methodology, the cases investigated by BIRN have been forwarded to the Labor Inspectorate. In the span of two years, over 40 joint operations were carried out with the Labor Inspectorate, resulting in numerous fines and the discovery of serious irregularities in the implementation of both the Labor Law and the Law on Safety and Health at Work. BIRN implemented awareness campaigns through educational messages, TV stories, debates, infographics, trainings and research for journalists, reaching an audience of over 1 million people on social networks.

The surge in citizen reporting on irregularities is reflected in the increased number of received reports, whereas businesses subjected to inspections have demonstrated significant improvements in working conditions, particularly safety and health at work.

Data indicates that increased activities of NGOs and trade unions in recent years have contributed to public pressure for reforms in labor relations.

The government has observed an increase in the number of registered workers in Kosovo. However, public discourse and criticism highlight concerns of underperformance of the Labor Inspectorate and the justice system.

Inspectorate data over the years indicate an increasing trend in inspections. In 2020 there were 3,832 inspections, 3,022 in 2021, 6,316 in 2022, and from January until October 2023 a total of 6,347 inspections took place.

¹ <https://kallxo.com/shkeljet-e-te-drejtave-te-punes/>

The increase also means an increase in fines. According to the data, only 115 fines were issued in 2020, 281 in 2021, and 359 in 2022. In the past 10 months of 2023, the Inspectorate issued a total of 820 fines.

The European Commission Country Report for Kosovo² 2023 identifies challenges in ensuring a conducive environment for workers. The report finds that women and marginalized groups of the Roma, Ashkali and Egyptian communities are discriminated against in the labor market. Legislatively, the European Commission's Report underscores the need to align the Labor Law with the EU Directive on balancing work and life. However, this crucial law is yet to be approved.

The Law on Minimum Wage, adopted in the Assembly on July 13, 2023, continues to await the decision of the Constitutional Court, after it was sent for constitutional review by the opposition party AAK in July³. According to this Law, the minimum wage will be 264 Euro and, contrary to 2022 when Kosovo had a two-tiered minimum wage, wages will be adjusted by age. For people up to the age of 35, the wage was 135 Euro per month, and 170 Euro for those over the age of 35.

As a result of the suspension of the Law on Minimum Wage, workers continue to suffer a lack of a safe and suitable workplace environment where compliance with the law is guaranteed.

² https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/S&D_2023_692%20Kosovo%20report.pdf

³ <https://kallxo.com/lajm/presidentia-nuk-do-ta-dekretose-law-per-pagen-minimale-deri-ne-vendimin-e-kushtetuese/>. The President will not decree the Law on the Minimum Wage until a decision of the Constitutional Court. Kallxo.com. Accessed on November 8, 2023

Executive Summary

Data from the BIRN Kosovo monitoring document indicates that the executive and the judiciary have made some development in addressing issues related to the labor relationship.

The research reveals that the number of workers that died or were injured in the workplace continues to be high. Moreover, serious findings have been identified in business inspections.

In the period 2021 - 2023, 33 workers have died from 763 accidents at work. Alarming, the statistics for the first half of 2023 alone reveal 9 worker fatalities. This indicates an increase in cases of worker fatalities as a result of workplace accidents.

In a situation where legal reforms are slow and institutional capacities to enforce compliance with such reforms are limited, Kosovo struggles to prevent workplace fatalities and accidents or to guarantee criminal prosecution for those who violate the law.

The government is gradually addressing the need for legal reform and allocating more resources to inspection bodies. Nevertheless, the Labor Law is yet to be aligned with European Union standards, and the Law on Minimum Wage is currently held up at the Constitutional Court.

Data from BIRN's research show that:

- Between 2016 and June 2023, there were 1,072 accidents, including 102 fatalities, indicating a persistent high trend in deaths.
- The country continues to undergo the consequences of slow implementation of the legal reforms.
- Compliance with the Law on Safety and Health at Work is low and frequently neglected by employers.
- Only a handful of businesses carry out the obligations of the Law on Safety and Health at Work, carry out risk assessments and require health certificates for their staff.
- The country continues to see a high number of workers without employment contracts and failure to fulfill other obligations by employers.
- The Labor Inspectorate lacks full operational capacities to fulfill its legal obligations.
- The Labor Inspectorate faces challenges in terms of implementation of the law, particularly in regard to the frequency of inspections.
- The Labor Inspectorate lacks a register of repeat offenders among businesses.
- There is no risk-based strategic planning for inspections in the working methodology of the Labor Inspectorate's.
- The Labor Inspectorate has not filed criminal reports after inspecting businesses which have committed legal violations.
- Fines against businesses issued by the Labor Inspectorate are carried out without following a procedure to determine the consideration of mitigating or aggravating circumstances of the case.

- Institutions addressing labor issues still struggle in communication and have no exchange of crucial information.
- Medical checks of workers at the national level are notably scarce.
- Justice institutions continue to underperform in resolving labor disputes, often resulting in significant delays.
- The actions by justice institutions are associated with numerous delays in addressing criminal labor issues.
- The country's courts blatantly disregard the principle of prioritizing labor cases.
- Only 20% of civil cases reach conclusive resolution in court.
- When not handling criminal labor issues, justice institutions inadvertently grant businesses amnesty for violating labor and safety regulations.
- The State Prosecutor's Office falls short of completing criminal cases, and in offices like the one in Mitrovicë/Mitrovica, no indictment was filed on labor matters.
- Criminal investigations of work accidents are insubstantial, delayed, and lack detailed evidence to substantiate the cases.
- In cases of work accidents, courts continue to issue negligible punishments against businesses, and such penalties often carry no legal consequences against the business, just fines and suspended sentences.
- Courts exhibit leniency towards employers who jeopardize the lives and health of workers in the workplace.
- The number of filed indictments for violations of safety provisions at work has exhibited a declining trend throughout 2021, 2022, and the first half of 2023.
- The performance of courts in resolving criminal cases is low, with less than 50% of criminal cases being resolved.

The aforementioned data reveal that Kosovo continues to face serious delays in the implementation of the law and rules of safety and health at work.

Methodology

This report provides insights drawn from the direct monitoring of workplace accidents and an analysis of records archived in both the Labor Inspectorate and the country's courts.

For the purposes of this report, BIRN collected data through in-depth interviews and analyses of statistical information.

The primary data in the report stems from an analysis of completed cases, offering a comprehensive overview of the progression of workplace accidents.

BIRN conducted an in-depth analysis of court records to extract insights and lessons regarding institutional shortcomings, from initiation of cases at the Police and the Inspectorate all the way to their resolution in court.

The selection of cases for court research was random, encompassing a timeframe of 2021, 2022, and the first six months of 2023. Cases randomly selected by the Labor Inspectorate also include the period between January 1, 2022, and June 30, 2023. From these cases, six second instance rulings were examined, and the analysis supported the fines levied by the first instance.

The following is the total number of research files that have been handled in court:



In addition to analyzing the files, this report presents comparative data from the statistical reports of the Labor Inspectorate, the State Prosecutor's Office and the Judicial Council of Kosovo.

The statistical comparisons were subjected to a qualitative analysis process from which conclusions about trends were drawn.

In addition to statistical data, BIRN collected data using interviews and requests for access to public documents.

The report also includes data from surveys with companies certified to carry out safety checks at work, as well as statistical data from health institutions.

1. Legal challenges of regulating labor relations

The Labor Law provides the basis for the regulation of labor relations in Kosovo. Since 2010, the institutions of Kosovo have failed to amend this law and deal with the issues it causes in practice, despite persistent criticisms and calls for changes.

The Constitution, which includes norms that prohibit forced labor and ensure the freedom to choose one's career and place of employment, is the first source of legal protection for employees in the workplace.⁴

The Law on Safety and Health at Work⁵, which requires employers to put in place practical safety measures so that employees can work without endangering their health or lives, is one piece of legislation that attempts to address safety and health. However, the data indicates that this Law is not being implemented in practice, particularly in the hazardous construction industries. There is little doubt that the Labor Law presents legal challenges.

This law, adopted in December 2010, is not entirely compliant with EU standards. The government is in the process of reforming the standards of this Law, which is currently under revision. The concept-document on labor relation regulation states that the new law should cover issues like working hours, support for young people in the workforce, equal pay for men and women, prevention of discrimination in hiring practices, protection of women during pregnancy and breastfeeding, parental leave, etc.

BIRN has found that the issues that are current in the labor market but are not envisaged by the current Labor Law are: “housework, mobbing⁶, temporary employment agencies, protection of workers in cases of bankruptcy of employers, information and consultation of workers, advice of workers, prohibition of competition, etc.”⁷

The current legal regulation does not provide for the coverage of sick leave compensation after the end of 20 working days, neither by the employer nor by the Health Insurance Fund⁸. BIRN found that other laws, including the Law on Public Procurement, do not provide specific sanctions or requirements for businesses benefiting from public funds to strictly comply with occupational health and safety rules. As a result, workers who are paid from public funds continue to be at risk, including from unsafe public construction sites.

Criminal offenses committed during the employment relationship are covered in a specific chapter under the Criminal Code. Unpaid wages, the right to leave, and other workplace rights that belong to employees are punishable by fines, or up to one year in jail if they are not upheld. However, if someone is denied or restricted the right to employment or equal conditions, the penalty is up to 2 years of imprisonment or a fine.

The Code also stipulates severe penalties in cases where major physical injuries at work endanger the lives and health of employees. Employers can be sentenced to a maximum of 10 years in prison, or up to 5 years if their negligence resulted in an injury. Maximum sentence is 12 years of imprisonment in case of death.

According to BIRN, there is no legal requirement for the country's institutions to inform one another of criminal offenses that are found in places of employment.

BIRN found that work cases in the system are considered to be a priority, but the data reveal that courts have neglected this priority, leaving citizens to wait for years for a solution.

There are no special judges assigned to handle labor disputes in the basic courts' civil divisions, within the general departments of the court⁹.

⁴ Constitution of the Republic of Kosovo, Article 28 and 49.

⁵ Law on Safety and Health at Work, No. 04/L-161, adopted in June 2013

⁶ Mobbing - continuous ridicule and humiliation in the workplace, giving humiliating obligations and/or constant shouting and insults, which directly attack the dignity of the worker

⁷ Initial Draft of the Concept Document for the Regulation of the Labor Relationship, 2018

⁸ Initial Draft of the Concept Document for the Regulation of the Labor Relationship, 2018

⁹ Concept-Documents on the Administrative and Labor Court, pg. 23, Ministry of Justice, August 2023

According to the MOJ's concept-document, approved by the Government in August this year, the establishment of a special Labor Court is envisaged as one of the sub-options for labor disputes.

This Court would be established by a new law, with its headquarters in Prishtinë/Prishtina, would function in two instances, and handle all labor disputes, regardless of the employer's status, public or private.

This would create a distinct department within the Labor Court to handle disputes pertaining to occupational health and safety. This Court would include powers of Civil Divisions of the Basic Courts and the Court of Appeal.

Legal initiatives are in the initial stages and their implementation requires changes on the ground, including special regulations and procedures.

2. Limited capacities of the Labor Inspectorate

The only organization designated to oversee the application of labor relations and workplace safety and health laws is the Labor Inspectorate.¹⁰

Kosovo has over 400,000 employees in over 85,000 active businesses. Only 82 labor inspectors are trusted with the supervision of the implementation of the law in all the territories.

The role of the Labor Inspectorate is only to “supervise the implementation of the rules of the Labor Law and the Law on Safety and Health at Work.”¹¹

Statistical data reveal that in 2023 inspection trends have increased compared to 2022.

	Total inspections
2021	3.022
2022	6.316
January - October 2023	6.347

Legend: The number of inspections carried out over the years

¹⁰ https://ip.rks-gov.net/?page_id=2556

¹¹ Judgment of the Constitutional Court, KO27/21, pg. 19.

According to the data, the Labor Inspectorate visited around 10% of the businesses operating in Kosovo.

In 2022, BIRN identified that the Labor Inspectorate had neglected to forward cases involving criminal offenses discovered by inspectors to the police and prosecutor's office¹². BIRN discovered that the Labor Inspectorate's practice remained unchanged in 2023, focusing solely on fining companies that violate the law, despite these violations also constituting criminal offenses. In addition, data from interviews with Inspectorate officials reveal that inspections were carried out in free controls without implementing a risk-based strategic plan.

Risk-based inspection is a mechanism applied by institutions such as the Tax Administration of Kosovo and Kosovo Customs, in which audits of businesses are carried out after obtaining prior information and analyzing business data.

BIRN's research indicates that inspectors are currently facing a lack of vehicles and adequate space to work.¹³

Staff recruitment and internal reforms in the inspectorate are also priorities in the strategy of the Labor Inspectorate. It lists objectives like restructuring the Labor Inspectorate's organizational structure, developing an information system, planning facts-based labor inspections, enhancing inspector skills, raising awareness and enhancing communication within the Labor Inspectorate, and upgrading the organization's physical infrastructure.

However, BIRN data indicates that a lack of support has prevented some of these reforms from being implemented thus far.

Hiring new employees has been the Inspectorate's first obstacle. The information demonstrates that the Inspectorate is still operating within the limits of its resources.

From 2022, the Inspectorate has recruited 38 new inspectors, increasing the number of inspectors to 60.

The data from the Labor Inspectorate reveal that employment is not equal in terms of gender, as there are more men than women employed.

There are issues with even the inspectors' geographic distribution. In comparison to smaller municipalities like Gjilan/Gnjilane and Mitrovicë/Mitrovica, the distribution map indicates that larger municipalities, such as Prizren, have fewer inspectors.

The data show that in 2023 the number of inspectors has increased to 60 inspectors, from 37 in 2022. The increase in the number of inspectors should also reflect in an increase of inspections, and an improvement of the general situation on the ground.

In addition to the number of inspectors, the staff capacities of the Inspectorate are also challenged by a lack of expertise in certain areas. In the strategic documents, the Inspectorate states that it lacks technical experts trained to carry out accident investigations and detailed inspections in special cases.¹⁴

¹² https://birn.eu.com/wp-content/uploads/2023/01/Raporti_ALB-BIRN-Kosovo-1.pdf

¹³ Discussion with the Deputy Chief Inspector for labor relations, Mr. Murat Vokshi, 05.10.2023

¹⁴ Development strategy of the Inspectorate 2023-2027, page. 9

3. Decision-making and complaints in the Labor Inspectorate

In 2022 BIRN published a Report addressing the decision-making and sanctions of the Labor Inspectorate in cases of violations of workers' rights. In this report, BIRN found that a high number of cases decided in the first instance were dismissed or rejected by the second instance of the Labor Inspectorate.

Findings of the report revealed that 1,633 appeals were filed against first-instance decisions in 2021, of which 83 appeals were rejected as unfounded, 798 upheld, and 161 were returned to the first instance for review.¹⁵

Statistical data show that in 2023 the Labor Inspectorate had an increase in professionalism in the first instance. This is ascertained by the small number of cases rejected and the low number of cases returned for decision.

According to data from the Labor Inspectorate, there were 217 complaints received at the second instance for the period January-June 2023. Of them, 203 were rejected and 14 were returned for review in the first instance.

In the 2022 report, BIRN also found delays in handling cases. The Law on Administrative Procedure stipulated that cases must be decided within 30 days, but a significant portion of cases were not decided in time. BIRN observes that there are still issues with the Labor Inspectorate's compliance with deadlines in its analysis of the 2023 cases.

3.1 Analysis of cases handled by the Labor Inspectorate

BIRN has analyzed 6 cases involving accidents at work, as well as cases of violations of labor relations, handled by the second instance in this institution. The data reveal an increase in the fines issued, as well as businesses repeating the offences.

¹⁵ Annual report of the Labor Inspectorate 2021, <https://ip.rks.gov.net/wp-content/uploads/RAPORTI-VJETOR-2021.pdf>

Case 1

The first case BIRN analyzed is a case of the death of a worker in the region of Mitrovicë/Mitrovica. BIRN analyzed the sentencing of the employer for the violations committed by the Labor Inspectorate.

The critical event	04.11.2022
Consequence: Fatality	The chain of the crane carrying concrete fell on the workers head
Violations ascertained and the fine imposed for each violation	Law on Safety and Health at Work- Violations Article 6 - 3,000 Euro Article 7 - 3,500 Euro Article 13 - 3,000 Euro Article 14 - 3,000 Euro Article 16 - 2,500 Euro Article 20, par.1, 20 - 3,000 Euro Article 22, paragraph 2 - 2,000 Euro
Total	10.000€
The prescribed fine according to the Law on Safety and Health at Work for each point found by the Labor Inspectorate	Violation of Article 6 of the Law on Safety and Health at Work (500 to 10 thousand Euro) Violation of Article 7 of the Law on Safety and Health at Work (500 to 35 thousand Euro) Violation of Article 13 of the Law on Safety and Health at Work (500 to 35 thousand Euro) Violation of Article 14 of the Law on Safety and Health at Work (500 to 25 thousand Euro) Violation of Article 16 of the Law on Safety and Health at Work (500 to 25 thousand Euro) Violation of Article 20 of the Law on Safety and Health at Work (500 to 20 thousand Euro) Violation of Article 22 of the Law on Safety and Health at Work (500 to 20 thousand Euro)
Employer appealed the fine	Decision of the second instance of the Labor Inspectorate
22.03.2023	31.05.2023

The analysis of this case reveals that the worker who died at the workplace was not trained in the field of safety at work, was not skilled for the work he performed, and had no medical certificate. The employer failed to maintain the work tools and did not check their condition. The employer had failed to carry out a risk assessment, and the worker had no helmet or work uniform. *Within the last 5 years, there were 3 fatal accidents at this employer.

The file ascertains that the subject in each of the business points was punished over the minimum fine envisaged by the Inspectorate Guidelines. This fine of 20,000 Euro was confirmed by the second instance, almost two months after the appeal.

Case 2

The second case that BIRN analyzed is that of a workplace accident in which a worker broke his leg. BIRN analyzed the sentencing of the employer for the violations committed.

Inspection date	03.03.2022
Violations found by the Labor Inspectorate	1.Article 6 of the Law on Safety and Health at Work 2.Article 10 of the Labor Law
Total	1.200€
The fine envisaged with the administrative instruction	Violation of Article 10 of the Labor Law (100 to 6.000 Euros) Violation of Article 6 of the Law on Safety and Health at Work (500 to 10 thousand Euro)
Employer appealed the fine	Decision of the second instance of the Labor Inspectorate
It is clear from the file that the appeal was filed within the legal deadline	17.10.2022

In this case, the employer violated the provisions related to the employment contract and general obligations for safety and health at work.

The Labor Inspectorate issued fines above the minimum under the administrative instruction. The second instance committee confirmed the decision.

Case 3

The third case addressed by the second instance concerns a subject who had violated the rules for safety and health at work in the region of Malishevë/Malisevo. The labor inspector suspended the operations of the company due to the risks posed for workers in the workplace

Inspection date	26.03.2022
Violations found by the Labor Inspectorate	1.Article 14 of the Law on Safety and Health at Work Article 23 of the Law on Safety and Health at Work
Penalty issued	Temporary suspension
The prescribed fine according to the Law on Safety and Health at Work	Violation of Article 14 of the Law on Safety and Health at Work (500 to 25.0000 Euro)
Employer appealed the fine	Decision of the second instance of the Labor Inspectorate
It is clear from the file that the appeal was filed within the legal deadline	21.11.2022

The Labor Inspectorate has temporarily suspended the operation of the company as the employer failed to secure personal protective equipment, no risk assessment was in place, and workers had no training completed. There is no data whether the company was issued any other measure from temporary suspension of works.

Case 4

In this case, the employer had 15 female employees, who were not citizens of Kosovo, and neither the Law on Foreigners nor the Law on Safety and Health at Work was respected.

Inspection date	15.06.2022
Violations found	1.Article 13, par. 1 and 1.6 of the Law on Safety and Health at Work Articles 67 and 47 of the Law on Foreigners
Total	10.000€
The fine envisaged with the administrative instruction	Violation of Article 13 of the Law on Safety and Health at Work (500 to 35 thousand Euro)
Employer appealed the fine	Decision of the second instance of the Labor Inspectorate
N/A	20.02.2023

In addition to hiring foreign employees with no residence permit, which is a requirement to work in Kosovo, the employer also failed to provide medical examinations for the work they performed.

Case 5

In the fifth case, BIRN analyzed a work accident that occurred in February 2023 in the Ferizaj/Urosevac region. The employer had committed a violation of the Law on Safety and Health at Work, and a fine of 1,099 Euro was issued, and confirmed by the second instance committee.

Inspection date	25.02.2023
Violations found	1.Article 11 of the Labor Law 2.Article 22 of the Law on Safety and Health at Work 3.Article 20 of the Law on Safety and Health at Work Article 6 of the Law on Safety and Health at Work

Total	1,099 Euro
The fine envisaged with the administrative instruction	Violation of Article 20 of the Law on Safety and Health at Work- 500 to 20.0000 Euro Violation of Article 23 of the Law on Safety and Health at Work- 500 to 20.0000 Euro
Employer appealed the fine	Decision of the second instance of the Labor Inspectorate
19.05.2023	27.09.2023

In case V, the inspection by the Labor Inspectorate was of an extraordinary nature - after an accident. The inspectors issued a fine in the amount of 1,900 Euro after finding violations of the labor contract and rules for safety and health at work. The employer had failed to take measures to secure a safe workplace.

1. For violations of the employment contract, under the administrative instruction, the Inspectorate issued a minimum fine (100 Euros) as provided by the administrative instruction 07/2012.
2. For violations of the Law on Safety and Health at Work, the Inspectorate in this case issued one minimum fine (500 Euro), and in 2 cases fines of 600 and 700 Euros).

Case 6

In the final case, BIRN reviewed an accident at the workplace in the region of Skenderaj/Srbica, in which a worker suffered bodily injuries. In this case, the employer presented the worker's training certificates the day after the accident occurred.

Inspection date	06.04.2022
Violations found	1. Article 20 of the Law on Safety and Health at Work 2. Article 23 of the Law on Safety and Health at Work
Total	2,000 euro
The fine envisaged with the administrative instruction	Violation of Article 20 of the Law on Safety and Health at Work- 500 to 20.0000 Euro Violation of Article 23 of the Law on Safety and Health at Work- 500 to 20.0000 Euro
Employer appealed the fine	Decision of the second instance of the Labor Inspectorate
07.06.2022	09.12.2022

Labor inspectors have imposed fines over the minimum limit (500 Euro), issuing fines from 1,000 Euro for failure to ensure prior trainings to the injured workers and failure to report the accident.

According to the Law on the Labor Inspectorate 2002/9, an appeal can be filed against the decision of the inspector within 8 days from the day of the decision, to the second instance. The Labor Inspectorate is required to issue a decision within 60.

Of the 6 analyzed decisions, the Labor Inspectorate has only issued one decision within the deadline of 60 days.

In all the decisions analyzed, the appeals of the entities were rejected and decisions of the first instance were upheld. No increase or change in the fine was issued.

A lack of consistency was also observed in fines issued against entities for the same violations. BIRN data reveal that the Labor Inspectorate has no guidelines defining the calculation and evaluation of violations.

In the lack of such a document, the Labor Inspectorate issues fines without a common standard. The second instance, which mainly upheld decisions of the first instance, has failed to secure consistency of the sentencing policy, lowering or increasing the fines for similar situations.

4. Performance of the judiciary in dealing with civil cases

In order to provide a clearer picture of the volume of cases in courts and the gravity of those cases, BIRN examined the statistical data of civil cases during the report's drafting.

The most thorough analysis was conducted on criminal cases, where BIRN audited cases that were also handled by courts, in addition to analyzing statistics, in order to assess how well the justice institutions performed in the investigation and trial of workplace accidents.

4.1 Delays in handling civil cases

Labor disputes are resolved in court at the final stage. According to the law, the resolution of labor disputes is a priority for courts. However, BIRN data show that courts have completely ignored this principle.

Kosovo Judicial Council has provided BIRN with data for 2022 showing the number of criminal and civil cases in its register.

The data show that throughout the country the courts have managed to resolve only 20% of labor dispute cases. In 2022, there were a total of 463 labor disputes in courts, of which only 88 cases were resolved within the year, and 375 cases remained unresolved. The table shows that some courts have resolved less 10% of labor dispute cases.

Court	Number of civil cases (Return to work)	Cases resolved	Case not resolved
Prishtinë/Pristina	268	47	221
Podujevë/Podujevo	8	1	7
Graçanica/Graçanicë	5	1	4
Lipjan/Ljipjan	15	2	13
Drenas/Glogovac	10	1	9
Gjilan/Gnjilane	6	4	2
Kamenicë/Kamenica	3	1	2
Viti/Vitina	3	0	3
Novobrdë/Novobërdë	3	2	1
Prizren	23	2	1
Suharekë/Suva Reka	5	4	1
Dragash/Drigas	2	1	1
Mitrovicë/Mitrovica	22	8	14
Leposavi /Leposaviq	1	0	1
Vushtrri/Vucitrn	1	0	1
Zubin Potok	1	0	1
Skenderaj/Srbica	4	2	2
Gjakovë/Djakovica	9	1	8
Malishevë/Malisevo	25	0	25
Rahovec/Orahovac	1	0	1
Pejë/Pec	11	2	9
Istog/Istok	5	3	2
Klinë/Klina	3	2	1
Deçan/Decane	2	0	2
Ferizaj/Urosevac	24	3	21
Kaçanik/Kacanik	1	0	1
Strpce/Shtërpçë	2	1	1

Table 4.1.1. Handling of civil cases by courts

4.2 Delays in handling criminal cases

Kosovo Judicial Council provided BIRN with data on criminal cases handled in 2022 by all Kosovo courts for the criminal offense of “Destruction, damage or removal of protective equipment and jeopardizing safety in the workplace”. A total of 105 cases were addressed in the country level.

There was a criminal underperformance of the justice system as well, with less than 50% of cases completed. According to the data, of a total of 105 cases, only 43 were resolved.

In addition to the underperformance in completing cases, the courts have also failed to issue prison sentences for the offenders. According to the data, less than 10% of sentences were with effective imprisonment. Out of 43 resolved cases, 6 were with imprisonment, 21 fines, and 7 suspended sentences, and 3 cases were acquitted.

Court (General department)	Number of cases	Solved	Unsolved	Punishment
Prishtinë/Pristina	18	5	13	2 suspended sentences 1 fine, 1 fine and 1 imprisonment
Podujevë/Podujevo	4	3	1	2 fines 1 imprisonment
Gracanica/Graçanicë	1	0	1	/
Lipjan/Lipjan	3	2	1	1 suspended sentence 1 fine
Drenas/Glogovac	4	3	1	/
Gjilan/Gnjilane	8	5	3	1 imprisonment, 1 N/A, 1 fine 2 fine and suspended sentences
Kamenicë/Kamenica	0	0	0	0
Viti/Vitina	3	1	2	1 fine
Novobrdë/Novobërdë	0	0	0	0
Prizren	14	4	10	2 fines 1 suspended sentence, 1 N/A
Suharekë/Suva Reka	1	0	1	/
Dragash/Dragas	1	1	0	1 was acquitted
Mitrovicë/Mitrovica	0	0	0	/
Leposavic/Leposaviq	0	0	0	/
Vushtrri/Vucitrn	2	1	1	1 imprisonment
Zubin Potok		0	0	/
Skenderaj/Srbica	0	0	0	/
Gjakovë/Djakovica	6	5	1	4 fines 1 suspended sentence
Malishevë/Malisevo	6	3	3	2 fines 1 imprisonment
Rahovec/Orahovac	7	2	5	1 suspended sentence 1 fine
Pejë/Pec	8	2	6	1 acquittal 1 N/A
Istog/Istok	3	1	2	1 fine
Klinë/Klina	1	0	1	/
Deçan/Decane	3	2	1	1 fine, 1 N/A
Ferizaj/Uroševac	11	4	7	4 fines
Kaçanik/Kacanik	5	1	4	N/A
Strpce/Shtërpcë	0	0	0	/

Court (Serious Crimes Department)	Number of cases	Solved	Unsolved	Punishment
Prishtinë/Pristina	3	3	0	1 case – 4 convicted, 2 with prison, 2 fines 1 case – 4 sentenced to prison 1 case – 1 imprisonment and 1 fine
Gjilan/Gnjilane	1	1	0	2 fines 1 imprisonment

Ten persons have been found guilty in four completed cases in the Serious Crimes Department. Data from the Kosovo Judicial Council indicate that this department has issued three fine sentences and seven prison sentences.

4.3 Performance of the Prosecution in dealing with cases

There were 237 criminal reports received by the country's basic prosecutions in 2021 and 2022, as well as from January through June 2023. Out of this total, indictments were filed in only 131 cases, and 25% were closed for lack of evidence.

The aforementioned data indicate an increasing trend in the number of criminal reports received in 2021, 2022, and 2023.

At the national level, there were 53 indictments filed in 2021, 46 in 2022, and 32 between January and June of 2023. However, these data show that, over the last three years, there has been a decline in the trend of criminal reports filed, in contrast to the increased number of criminal reports from the basic prosecution offices.

No indictment was filed by the Basic Prosecutor's Office in Mitrovicë/Mitrovica, in the period (2021, 2022, January - June 2023).

The region with the highest number of criminal reports received for 2021, 2022 and the half year of 2023 is Prishtinë/Pristina, with 66 reports, of which indictments were filed in 39

Pejë/Pec	Basic Prosecution	Criminal reports received	Dismissed	Suspension of investigations	Indictments filed	Investigations ongoing
	2021	1	1	0	0	0
	2022	7	3	0	2	2
	Half-year 2023	5	0	0	3	2

Prishtinë/ Pristina	Basic Prosecution	Criminal reports received	Dismissed	Suspension of investigations	Indictments filed	Investigations ongoing
	2021	21	2	3	16	0
	2022	21	0	1	12	0
	Half-year 2023	24	1	1	11	0

Gjilan/ Gnjilane	Basic Prosecution	Criminal reports received	Dismissed	Suspension of investigations	Indictments filed	Investigations ongoing
	2021	5	0	0	5	0
	2022	5	0	2	3	0
	Half-year 2023	8	0	3	4	1

Prizren	Basic Prosecution	Criminal reports received	Dismissed	Suspension of investigations	Indictments filed	Investigations ongoing
	2021	15	2	2	13	0
	2022	13	5	1	7	0
	Half-year 2023	12	2	3	8	0

Ferizaj/ Urosevac	Basic Prosecution	Criminal reports received	Dismissed	Suspension of investigations	Indictments filed	Investigations ongoing
	2021	10	0	1	9	0
	2022	14	1	1	10	2
	Half-year 2023	8	2	0	3	3

Mitrovicë/ Mitrovica	Basic Prosecution	Criminal reports received	Dismissed	Suspension of investigations	Indictments filed	Investigations ongoing
		11	7	0	13	4

Gjakovë/ Djakovica	Basic Prosecution	Criminal reports received	Dismissed	Suspension of investigations	Indictments filed	Investigations ongoing
	2021	16	4	2	10	0
	2022	27	13	0	12	0
	Half-year 2023	14	10	0	4	0

Table 4.3. Criminal reports in the State Prosecutor's Office

4.3.1 Handling of cases in the Gjakovë/Djakovica region

Data from the analysis in Gjakovë/Djakovica reveal that the criminal reports in two cases were not submitted on time, while the investigation in some cases started with delays of up to a year.

Basic Court Gjakovë/Djakovica	Case 1	Case 2	Case 3	Case 4	Case 5
Accident date	31.05.2020	9.11.2022	22.11.2019	03.10.2020	02.04.2020
Police / Prosecution	Witnesses - Site inspection - Forensics - Forensic expertise				
Timely criminal reporting	NO	YES	NO	YES	YES
Initiation of investigations	19.10.2020	21.01.2023	18.06.2020	Within the month	04.11.2020
Indictment	04.11.2020	20.04.2023	18.09.2020	16.10.2020	16.11.2020
Criminal offense	Article 358, paragraphs 5, 3 and 2.	Article 358, paragraph 5, 3 and 2.	Article 358, paragraph 5, 3 and 2.	Article 358, paragraph 5, 3 and 2.	Article 358, paragraph 5, 3 and 2.
Sentence foreseen	Up to 5 years	Up to 5 years	Up to 5 years	Up to 5 years	Up to 5 years
Sentence issued	12.3.2021 10 months of suspended sentence	08.06.2023 180 days imprisonment and replacement with a 2,500 fine	24.02.2021 8 months of suspended sentence	08.12.20 7 months of suspended sentence	20.04.21 180 days of imprisonment, replaced with fine of 3,000 Euro
Mitigating circumstances	3	3	2	2	3
Aggravating circumstances	2	None found	None found	2	1
Inspectorate	500 EUR fine	900 EUR	N/A	N/A	500 EUR fine

Table 4.3.1. Handling of cases in the Gjakovë/Djakovica region

According to the data, the decision to start investigations was issued within a month only in one case. In contrast, in other cases, the delays for creating investigations ranged from 4 months to 1 year. In such situations where the prosecution delays starting investigations, important evidence may disappear, or witnesses may change their statements. In the researched cases, the punishments are low and do not coincide with the situation presented in the indictment.

In 2 cases in Gjakovë/Djakovica, the workers requested compensation for their injuries and joined the criminal prosecution of the employers.

In the research of these cases handled by the court, where the employers were punished for accidents and injuries at work, 3 punishments were suspended sentences, and in the other 2 imprisonment was replaced by a fine.

None of the employers admitted the criminal offense during the investigation phase by the Police, or when they were interrogated by the prosecutor. However, this changed in court. There, the employers declared guilty and apologized for the actions (the failed to take).

Regarding the investigative actions of the Police, witnesses were called, including the labor inspector, family members, and forensic experts, to ascertain the serious bodily injuries that the workers had suffered at their workplace.

The first witnesses called and interviewed were the work colleagues, who described moments when they saw the accident or heard the screams of their colleagues at the scene. Even the forensics unit, in all cases, went to the crime-scene, finding evidence such as blood stains.

4.3.2 Handling of cases in the Ferizaj/Urosevac region

Findings in the cases in Ferizaj/Urosevac reveal that the criminal reports from the Police were filed late to the State Prosecutor's Office.

Investigations by the Prosecutor's Office failed to start immediately after the events in all cases, but with serious delays up to 1 year after the incident.

Basic Court of Ferizaj/Urosevac	Case 1	Case 2	Case 3	Case 4
Accident date	09.12.2020	04.10.2021	22.11.2020	03.10.2020
Police / Prosecution	Witnesses - Site inspection Forensics - Forensic expertise			
Was the criminal report filed on time?	NO	NO	NO	YES
Initiation of investigations	01.04.2021	06.09.2022	Shkurt, 2021	Mars, 2021
Indictment	22.04.2021	21.09.2022	04.03.2021	13.04.2022
Hearings	21.09.2021	08.03.2023	19.05.2021	18.05.2021
Sentence issued	6 months of imprisonment (replaced with an 800 Euro fine)	31.03.2023 Fine of 2000 Euro	3 months of imprisonment, replaced with a 1,000 Euro fine.	4 months of imprisonment, replaced with a 1,500 Euro fine
Mitigating circumstances	3	3	4	4
Aggravating circumstances	2	2	2	3
Inspectorate	N/A	N/A	N/A	N/A

Table 4.3.2. Handling of cases in the Ferizaj/Urosevac region

The employers in Ferizaj/Urosevac only got away with fines, despite the fact that the four injured workers lacked employment contracts.

The indictments in Ferizaj/Urosevac are swift, and prosecutors filed them within a month of finalizing their investigations.

All of Ferizaj/Urosevac cases ended with fines and suspended sentences, despite their crimes being punishable by up to 10 years of imprisonment.

In 3 cases from the Ferizaj/Urosevac Court, the prison sentence was replaced by a fine, and one was a fine in the amount of 2.000 Euro.

In the case where the Court issued a prison sentence of 3 months and replaced it with a fine, the Court took as a mitigating circumstance the fact that the perpetrator of the criminal offense was not married. “Celibacy” is not listed as a mitigating circumstance in the Sentencing Guide.¹⁶

In one case, the employer made an out-of-court settlement with the worker for the payment of 5,000 Euro as compensation, which the Court, when rendering the sentence, used as a mitigating circumstance.

The Inspectorate ascertained violations in all cases, but there is no evidence in the cases regarding the fine.

4.3.3 Handling of cases in the Prizren region

Cases handled by this Court were associated with delays on the part of the Prosecution, from the critical event and until the filing of the indictment. However, the Police has only submitted the criminal reports to the Prosecutor's Office in two cases.

Basic Court Prizren	Case 1	Case 2	Case 3	Case 4	Case 4
The critical event	18.06.2022	17.09.2020	25.11.2020	19.08.2019	10.10.2022
Police / Prosecution	Witnesses - Site inspection Forensics - Forensic expertise				
Was the criminal report filed on time?	YES	NO	NO	NO	YES
Initiation of investigations	04.08.2022	11.02.2021	01.03.2021	14.02.2020	27.12.2022
Indictment	30.08.2022	17.03.2021	02.04.2021	26.02.2020	24.01.2023
Vepra penale	Article 358, par. 2 and 3	Article 358, par. 2 and 3	Article 358, par. 5 and 2	Article 358, par. 5 and 2	Article 358, par. 5, 3 and 2
Sentence foreseen	Up to 3 years	Up to 5 years	Up to 5 years	Up to 5 years	Up to 5 years
Sentence issued	05.12.22 Suspended sentence of 1 year of imprisonment (2 verification)	03.02.23 Effective imprisonment of one year	11.06.22 Fine of 1,500 Euro	30.7.21. 2,000 Euro 2.6 months of imprisonment (replaced with a fine of 1,300 Euro)	20.3.23 460 Euro fine
Mitigating circumstances	3	2	4	Plea agreement	6
Aggravating circumstances	None found	4	1	Plea agreement	1
Inspectorate	500	/	/	500	1200

Table 4.3.3. Handling of cases in the Prizren region

¹⁶ https://supreme.gjvqesori-rks.org/ep-content/uploads/legalOpinions/Udhezues%20per%20Politiken%20ndeshkimore_Shkurt%202018.pdf

Out of the 5 cases analyzed, handled by the Basic Court in Prizren, 1 case is in retrial, in which the effective prison sentence of 1 year was issued after the Appeal upheld the appeal of the convicted person.

In only one case the worker joined the criminal prosecution and requested compensation for the injuries incurred.

The Basic Court of Prizren had issued the lowest fine, taking into consideration six mitigating factors and just one aggravating factor.

In a case in which the worker had severe physical injuries at work, including tearing off his right thumb, the Court found no aggravating circumstances.

The prosecution in a court case objected to the accused's admission of guilt as it did not match the factual situation outlined in the indictment.

The plea agreement in this case was not approved by the Court until the Prosecution changed the enacting clause of the indictment.

In all cases, the Court has considered the personal circumstances of the accused as mitigating circumstances, including the fact that they were parents, the admission of guilt, the care they showed during the recovery of the injured person and their correct behavior in Court.

In one case, the accused employer told the Court that he had no knowledge that workers should be equipped with health certificates. In another case, the Prosecutor's Office reached a plea agreement with the accused, which was accepted by the Court 10 days after the beginning of the investigations and 2 days after the indictment was filed.

4.3.4 Handling of cases in the Gjilan/Gnjilane region

Delays of judicial processes is a frequent occurrence. In the Basic Court of Gjilan/Gnjilane, a case was delayed for 2 years, in violation of the Criminal Procedure Code in force at the time of the commission of the criminal offense, according to which the main trial cannot last more than 90 days. There is no evidence in the case file that the judge issued a decision to continue the main trial, as per Article 314 of this Code

Basic Court Gjilan/Gnjilane	Case 1	Case 2	Case 3
Accident date	26.12.2016	20.11.2018	09.05.2015
Police / Prosecution	Witnesses - Site inspection Forensics - Forensic expertise		
Was the criminal report filed on time?	NO	NO	NO
Initiation of investigations	28.04.2017	N/A	10.02.2017
Indictment	28.04.2017	13.02.2019	19.04.2017
Criminal offense	Article 367, paragraph 5 and 3	Article 367 par. 2	Article 367, paragraphs 2, 5 and 3
Sentence foreseen	Up to 5 years	6 months 5 years	Up to 5 years
Sentence issued	12.2.20 600 Euro fine	14.1.21 3.000 Euro fine	20.2.20 2,000 Euro fine The owner 6 months in prison, replaced with a fine of 2,000 Euro
Mitigating circumstances	1	7	2
Aggravating circumstances	2	1	3
Inspectorate	N/A	Violations were ascertained	Violations were ascertained

Table 4.3.4. Handling of cases in the Gjilan/Gnjilane region

Of the 3 files analyzed in the Basic Court of Gjilan/Gnjilane, in one case, a fine was issued and appealed by the Prosecutor's Office, and the appeal was rejected and the fine was confirmed.

Criminal reports have not been filed and submitted on time in these cases.

In one case, the Court found no aggravating circumstances.

In 2 cases in the region of Gjilan/Gnjilane, workers joined the criminal prosecution and requested compensation.

One case was reported by the accident victim's wife 1 year later. The court rendered a decision after 5 years.

9 hearings were held in the Court, on one case, from August 2018 to February 2020.

4.3.5 Handling of cases in the Prishtinë/Pristina region

BIRN has analyzed 3 files of the Basic Court of Prishtinë/Pristina in which only suspended sentences were issued and imprisonment was replaced by a fine for the two accused.

The data show that the duration of investigations at the prosecutor's office is high and there are delays in filing indictments for accidents at work.

Basic Court Prishtinë/Pristina	Case 1	Case 2	Case 3
The critical event	26.02.2021	23.12.2020	14.10.2022
Police / Prosecution	Forensic expertise		
Indictment	14.02.2022	28.06.2021	02.11.2022
Criminal offense	Article 358 paragraphs 2 and 4	Article 358 paragraph 2	Article 358 paragraphs 5, 3 and 2.
Sentence foreseen	1 to 10 years	6 months 5 years	Up to 5 years
Sentence issued	19.12.2022 1 year suspended sentence	10.10. 22 Men 6 months in prison replaced with 2,000 Euro	23.12.2022 6 months in prison replaced with 2 thousand Euro
Mitigating circumstances	4	5	4
Aggravating circumstances	None found	2	2
Inspectorate	Violations were ascertained	Violations were ascertained	Violations were ascertained

Table 4.3.5. Handling of cases in the Prishtinë/Pristina region

In one case, the Prosecutor's Office reached a plea agreement with the accused 9 months after the indictment was filed. The court found no aggravating circumstances in this case.

In the cases handled by this court, there have been delays in holding the hearings since the indictments were filed. There is no evidence of whether the criminal reports were filed and submitted on time, as only the judgments issued by the Court were analyzed.

Mitigating circumstances considered by the Court are mostly the admission of guilt, personal circumstances, the promise that they will not commit the criminal offense again, and repentance.

The aggravating circumstance considered was usually the degree of risk and criminal responsibility.

4.3.6 Handling of cases in the Pejë/Peć region

In the region of Pejë/Peć, 5 cases were analyzed in which no effective prison sentence was issued. Sentences in these cases were with fines.

Basic Court Pejë/Peć	Case 1	Case 2	Case 3	Case 4	Case 5
The critical event	14.03.22	26.11.19	02.06.20	10.06.21	28.08.20
Police / Prosecution	Forensic expertise - Photo from the scene				
Indictment	28.04.22	08.12.20	22.02.21	28.09.21	18.12.20
Criminal offense	Article 358, paragraph 5 and 2	Article 358, paragraph 5 and 2	Article 358 paragraph 3 and 5	Article 358 paragraph 2	Article 358, paragraph 5.3 and 1
Sentence foreseen	Up to 5 years	Up to 5 years	Up to 5 years	6 months to 5 years	Up to 5 years
Sentence issued	19.9.23 6 months in prison replaced with 1,200 Euro fine	25.5.23 5,000 Euro against the owner Person responsible 2.500 Eur	20.12.21 Legal entity 1,000 Euro Person responsible 6 months in prison replaced with 500 Euro.	01.6.23 1. 6 months in prison, replaced with a 600 euro fine 2. 6 months in prison, replaced with a 600 euro fine	29.1.21 6 month suspended sentence
Mitigating circumstances	2	4	4 each	3 each	5
Aggravating circumstances	1	None found	None found	None found	3
Inspectorate	N/A	Violations were ascertained	Violations were ascertained	Violations were ascertained	N/A

Table 4.3.6. Handling of cases in the Pejë/Peć region

In 3 of 5 cases, the Court found no aggravating circumstance when handling cases of accidents at work. The data show that in these cases the Inspectorate found a violation of the provisions of the Law on Safety and Health at Work, but this was not taken as an aggravating circumstance.

In one case, the Court decided to replace a prison sentence with a fine against the owner of a business that was completely closed due to high safety risks in the workplace.

In these cases, the Prosecutor's Office of Pejë/Peć, has been relatively quick in initiating investigations and filing quick indictments following the critical events.

4.3.7 Handling of cases in the Mitrovicë/Mitrovica region

In the region of Mitrovicë/Mitrovica, two cases handled by the Court have been analyzed. In the first case, the Court addressed a repeat offender sentenced with prison. The judicial procedure as a whole, from the critical event to the second instance decision, lasted almost 6 years.

In the two analyzed cases, the Court found aggravating circumstances for the accused, assessing the criminal responsibility and the consequences of severe bodily injuries, including the loss of limbs.

Basic Court Mitrovicë/ Mitrovica	Case 1	Case 2
Critical Event	22.09.14	22.05.14
Police / Prosecution	Witnesses - Site inspection Forensics - Forensic expertise	
Indictment	20.12.2016	11.06.2020
Criminal offense	Article 367 par.5 and 2	Article 358 paragraph 5 and 2
Sentence foreseen	Up to 5 years	Up to 5 years
Sentence issued	10.10.2022 7 months of effective imprisonment (retrial)	18.8.2021 6 month of imprisonment, replaced with fine of 3,600 Euro
Mitigating circumstances	4	3
Aggravating circumstances	3	2
Inspectorate	7 Violations were ascertained	Violations were ascertained

Table 4.3.7. Handling of cases in the Mitrovicë/Mitrovica region

In both analyzed cases, the prosecution asked the Court to consider the mitigating circumstances for the accused.

In both cases, owners of the companies failed to undertake appropriate measures for safety and health at work, while the official reports of violations by them were attached to the evidence that the prosecution possessed.

4.4 General findings in the judicial review

From the cases explored, out of 32 sentences issued, only 2 sentences were effective imprisonment. In 5 out of 27 cases, sentences were issued against the owner of the company and the person responsible for security.

Effective prison sentences	2
Suspended sentence	6
Imprisonment replaced with a fine	14
Fine	10

Table 4.4.1. The number and type of sentences issued by the courts

- In 7 cases, courts found no aggravating circumstance
- The lowest fine issued by the Court was 460 Euro, with 1 aggravating circumstance - the degree of damage
- The highest fine was 3,600 Euro, commuting a 6-month prison sentence
- House arrest was issued in only case, until the issuance of the judgement
- The report of the Labor Inspectorate was used as evidence of the Prosecution in 9 criminal cases, with the violations found in the area of safety and health at work
- In 7 criminal cases, the Inspectorate issued sanctions - 1 suspension of works and 6 fines
- No data were found in 11 criminal cases on the completion of the inspection
- In all criminal cases, there was forensic expertise on the injuries of the workers
- Of 31 cases in total, only 7 injured workers filed a lawsuit claiming compensation related to the damages caused

According to the criminal code, the legal consequences of the punishment cannot be created where a fine, suspended sentence or judicial admonition is imposed on the perpetrator or when the perpetrator is exempt from punishment.

Mitigating circumstances mainly considered by the Court were: admission of guilt, remorse for committing the criminal offense, personal circumstances of the accused (family provider, parenthood and medical expenses for injured workers).

The time within which the main trial should be completed is defined in the Criminal Procedure Code. The main trial must be completed within 90 days if the main trial is held before a single trial judge or 120 days when the case is handled by a panel of judges.¹⁷ The main trial can be extended if the Court issued a reasoned decision.

According to the Criminal Code, Article 131, The effect of replacing fines with prison sentence: “The convicted person, whose fine was replaced by imprisonment, is treated as a person serving a prison sentence.”

¹⁷ Criminal Procedure Code 08/L-032, Article 310

Issues with the justice system in handling labor issues are also ascertained by the Ombudsperson's institution. The number of complaints received by this institution regarding violations of the right to work and exercise the profession is:

Year	Number of complaints
2021	138
2022	128
2023 (janar-tetor)	207

Table 4.4.2: The number of complaints received by the Ombudsperson

According to the Ombudsperson, violations found in the labor relations are:

- Unlawful termination of the contract;
- Violation of working hours;
- Violation related to overtime compensation;
- Denial of the right to annual leave;
- Denial of the right to maternity leave;
- Denial of the right to salary.

The Ombudsperson has constantly drawn attention to **delays of court proceedings**.¹⁸

As for safety and health at work, this institution is expected to publish a report on this matter soon after the investigations are carried out.

The Ombudsperson chairs a task force on gender, safety and health standards at work and decent work, including maternity leave, discrimination, and working conditions for women and men.

5. Issues with risk assessment and health controls

The legislation on safety and health at work has stipulated several requirements that employers must fulfill to ensure the well-being of their workforce.

Safety at the workplace, training of workers on safety at work, placement of signs, provision of first aid kits, equipment for workers, fire safety, etc. are some of the elements provided under the Law. However, it has been systematically found the Law is not being implemented by businesses.

Based on data from the Labor Inspectorate for 2017, 16 licensed companies in Kosovo provide workplace safety and health training.¹⁹

The Ministry of Labor and Social Welfare has been asked to provide BIRN with an updated list containing these details. BIRN is yet to receive a response. Answers are also missing on the number and names of businesses that have complied the obligation to assess risk and safety at work.

Risk assessment at work is a process that is carried out by experts. safety and the work environment are regulated following a control process.

¹⁸ Answer by the Office for Communication, Ombudsperson's Institution, 05.12.2023

¹⁹ <https://mpms.rks-gov.net/epdm-package/kompanite-e-licencuara-per-siguri-dhe-shendet-ne-pune/>

Risk assessment is a document listing the characteristics of work process, identifying the sources of risk, defining who may be at risk, what and how they are at risk, as well as the necessary measures.

The data show that there is no national database that identifies businesses that have carried out this assessment. There is still a high number of businesses that lack risk assessments.

2021	2022	January- June 2023
530	N/A	610

Number of businesses without risk assessment according to inspections carried out by the Labor Inspectorate

Similar to this database, there is also a registry for the number of workers equipped with health certificates. In the statistical reports of the Labor Inspectorate, nearly 20% of the inspected workers had not performed health checks prior to signing the contracts.

Year	Inspected workers	No contract	No medical checks
2023 (January - June)	23,524	1,115	4,578
2022	51,058	356	N/A
2021	38,035	1,459	2,129

Research findings reveal that only a small number of businesses in 2022-2023 have completed risk assessments.

BIRN has received information from 5 companies that provide this service and trainings in the field of safety and health at work. Less than 20,000 employees attended their trainings. Others continue to work without trainings and risk assessments.

Company 1	Around 243 companies and 5,000 workers were trained
Company 2	1 company with 1,450 workers was trained
Company 3	5,358 trainings on safety and health at work were provided (2022)
Company 4	Provided 106 trainings on safety and health at work
Company 5	182 companies with 7,730 workers were trained

Table 5.1. Provision of trainings in the field of safety and health at work

6. Tax Administration of Kosovo fines against businesses that violated the law

BIRN submitted a request to the Tax Administration for data regarding the fines issued against businesses for non-payment of pension savings in the Kosovo Pension Savings Fund (KPST) for workers and non-payment of payroll tax for the time period 2022 and January-October 2023. According to TAK, the tax legislation does not envisage fines for informal workers.

According to Article 55 of the Law on Tax Administration, “any person who is required to submit a statement of information to TAK and fails to do so by the due date, or who submits an incorrect or incomplete statement will be subject to a fee of 125 Euro for each undelivered, incorrect or incomplete report.”

The data received are as follows:

Year	2020	2021	2022	2023
Number of fines issued	2,787	3,924	5,334	4,474
Value of fines	1,504,250	2,154,625	3,183,525	2,335,625

Table 6.1. ATK fines against businesses

7. Recommendations

- The Government of Kosovo to align its labor legislation with European Union standards;
- The Government of Kosovo to establish standards for companies that benefit from public funds to comply with the requirements of the Labor Law and the Law on Safety and Health at Work;
- The Government of Kosovo to provide support in increasing the staffing structure of the Labor Inspectorate, with a special emphasis on increasing the number of inspectors;
- The Ministry of Justice and the Kosovo Judicial Council to add clarity the handling of labor disputes with priority;
- The Ministry of Labor and Social Welfare to develop a database of employees who have completed risk assessments;
- The Ministry of Health must establish a database of health certificates issued for employers;
- To enhance staff capacities of the Inspectorate, including both genders;
- The Labor Inspectorate to invest in technological equipment to affirm the reporting and management of cases handled;
- The Labor Inspectorate to file criminal reports if the inspections find criminal element;
- Design specific training programs to enhance the professional capacities of the Labor Inspectorate;
- The Labor Inspectorate to develop a database and methodology for risk assessments;
- The Labor Inspectorate to develop procedures for calculating and determining penalties;
- The second instance of the Labor Inspectorate to establish unified standards for fines and punishments issued;
- The State Prosecutor's Office to increase its performance in the investigation of occupational accidents;
- Investigations to be completed on time and within the legal deadlines;
- The Kosovo Judicial Council to address, with priority, issues that cause delays in the handling of civil cases;
- Ensure that judges apply the sentencing policy guidelines for labor disputes.



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