

# OSH PROFILE AND DECENT WORK IN KOSOVO

## Gender Equality Perspective



OSH PROFILE AND  
DECENT WORK IN KOSOVO

GENDER  
EQUALITY  
PERSPECTIVE



Dace Kavasa, June 2021

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# 1 ACRONYMS

AGE	Agency for Gender Equality
CEDAW	Convention on Elimination of Discrimination against Women
ECHR	The Convention for the Protection of Human Rights and Fundamental Freedoms)
EU	European Union
GE	Gender Equality
GM	Gender Mainstreaming
ILO	International Labour Organization
KCGS	Kosovar Centre for Gender Studies
KAS	Kosovo Agency for Statistics
KPGE	Kosovo programme for gender equality
KSI	Kosovo Stability Initiative
KWN	Kosovo Women's Network
LFTUS	Labour Force and Time Use Study
LI	Labour Inspection
LGE	Law on Gender Equality
LL	Law on Labour
LPD	Law on Protection from Discrimination
MS	Member State
MLSW	Ministry of Labour and Social Welfare
NDS	National Development Strategy
OSH	Occupational Safety and Health
SME	Small and Medium Enterprises
TFEU	The Treaty of the Functioning of the European Union
TU	Trade Union
EU OSHA	The European Union Occupational Safety and Health Agency
CoE	Council of Europe
CLA	Collective Labour Agreement
MoH	Ministry of Health
MED	Ministry of Economic Development



## 2 EXECUTIVE SUMMARY

Gender equality review of the OSH Profile<sup>1</sup> during its drafting process lead to integration of recommendations in the profile, or requirement to maintain those as a separate document for the considerations during process of elaboration of sector strategies and action plans, normative documents – laws, regulations. Some of the recommendations therefore are not directly linked to the specific law and its gender analysis, but to the impact of the law through expected action, for example, in designing the OSH training and certification programmes and assessing the content of these.

This report is designed to match the OSH profile key components and serves the purpose to highlight gender mainstreaming issues in occupational safety and health in general. While it cannot provide detailed, in depth assessment of each OSH aspect, it key references on what types of questions to be asked to understand gender mainstreaming requirements in the safety, health, education, management and enforcement aspects. Further research and preparation will be required for policy makers, employers and employees to understand the specific industry, company or organization needs for ensuring gender mainstreaming.

Kosovo\* data on OSH system issues indicates the following key issues: occupational segregation by industry, public/private sectors, entrepreneurship. Surveys on time use also demonstrate strong impact of socio-cultural aspects on inequality with regard to gender roles of women in domestic work and care work. Challenges with regard to coverage of certain professional groups by OSH measures are also linked to the understanding and conceptual definition of worker, employee, employment relations. Some of the issues can be solved by minor adjustments in the laws, while other require political decision on the scope of OSH coverage. Report demonstrates that OSH measures can be designed to foster gender equality in the mentioned areas.

Report concludes that existing tools provided by Agency for Gender Equality, when used in policy and OSH system development, will Foster gender equality goals and better gender mainstreaming. Particular attention to gender mainstreaming needs to be paid in designing the occupational health system – from defining risk industries and recognizing the different types of risks as equally severe (e.g. health care, education and not just construction or mining), to defining the occupational disease lists and principles of social protection in cases of occupational health or safety injuries. Furthermore, all elements of OSH education – health professionals, safety professionals, accreditation principles and licencing training – should build in gender perspective, as these will determine assessment of risks, assessment of injuries and health damage and thus individual protection and compensation levels, as well as work methods and results of Labour Inspectorate.

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<sup>1</sup> OSH Profile Kosovo, 2021, prepared by ILO. References made to the draft OSH Profile in this document, final document to be requested from ILO Kosovo upon availability.

\*For the European Union, this designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence. For UN Women, references to Kosovo shall be understood to be in the context of UN Security Council Resolution 1244 (1999).





# 3 DECENT WORK AND OSH SYSTEM:

## GENDER MAINSTREAMING

### PRINCIPLES

International Labour Organization (ILO) and EU OSHA<sup>2</sup> recognize the importance of gender mainstreaming (GM) in the world of work, to identify where gender differences should be considered in the development of labour sector policies and prevention strategies. Gender planning pays particular attention to unequal gender relations and structural inequalities. It aims to transform unequal gender relations in different [policy areas](#) by responding to the needs of women and men and through a more even distribution of resources, actions, responsibilities and power.<sup>3</sup> Facing comprehensive restructuring of the Labour system – new and modern Labour law, redesign of OSH system, GM offers the opportunity to acknowledge and showcase the different situations that men and women workers experience, highlight structural inequalities, change the language to minimise stereotypes, in order to identify and implement effective solutions.

More technical issues are often perceived **gender-neutral**. The term means that something is not associated with either women or men. It may refer to various aspects such as concepts or style of language<sup>4</sup>. However, what is often perceived to be gender-neutral, for example OHS standards for technical equipment, often reflects gender blindness in practice (a failure to

recognise gender specificities). Historically the average male has been taken as reference for design of equipment, medicine, environment as a standard<sup>5</sup>.

A **gender-sensitive approach** takes the different working situations of women and men as well as gender relations in companies into account, considers the variety and differences within the groups of male and female employees and questions role stereotypes in the workplace.<sup>6</sup>

The **basic feature of gender mainstreaming** is the systematic consideration of the differences between the conditions, situations and needs of women and men in policies and actions, considered at design, implementation, monitoring and evaluation stages of the policies. It includes context issues, like occupational division of labour by professions, sectors; biological differences, including pregnancy; employment patterns, social roles and social structures, including gender roles, time use, care functions in society. All these aspects contribute to gender-specific patterns of occupational hazards and risks women and men may be exposed to at the workplace, thus requiring differing control measures.<sup>7</sup> For OSH policies and prevention strategies to be effective for both women and men GM analysis is required also because of very technical issues of ergonomics, chemical toxicity and the impact on reproductive function.

2 European Agency for Safety and Health at Work; Mainstreaming gender into occupational safety and health practice; 2014; available at <https://osha.europa.eu/en/publications/reports/mainstreaming-gender-into-occupational-safety-and-health-practice>

3 EIGE summary of GM tools available at <https://eige.europa.eu/gender-mainstreaming/methods-tools/gender-planning> with reference to Moser, C., 'Gender planning in the third world: Meeting practical and strategic gender needs', World Development, Vol. 17, No 11, 1989, pp. 1799-1825; and Levy, C., 'The process of institutionalising gender in policy and planning: The 'web' of institutionalisation', Working Paper No 74, University College London, London, 1996.

4 <https://eige.europa.eu/thesaurus/terms/1190>

5 Caroline Criado Perez in her book *Invisible Women : Exposing Data Bias in a World Designed for Men* describes the gender impact of design of things, technical standards and systems.

6 European Agency for Safety and Health at Work; Mainstreaming gender into occupational safety and health practice; 2014; available at <https://osha.europa.eu/en/publications/reports/mainstreaming-gender-into-occupational-safety-and-health-practice>

7 [Gender and Occupational Safety and Health \(Occupational Safety and Health\) \(ilo.org\)](#)

### 3.1. OCCUPATIONAL SEGREGATION

In the world of work systemic inequalities impact the opportunities of men and women. It requires benchmarking for the key systemic issues. Among those, there is **vertical segregation**, or concentration of women and men in different grades, levels of responsibility or positions within the workplace<sup>8</sup>. Another systemic issue is the **segregation within the labour market or occupational gender segregation** meaning actual dominance of one sex in a particular occupation or industry or the higher share of one sex relative to the expected share.<sup>9</sup> Occupational segregation derives from stereotypes and assigned gender roles, cultural context and gender biased system determining opportunities and choices of education, professions, professional development. Segregation will impact labour relations, including OSH preventive measures, risk assessment and coping measures, since “unequal distribution of jobs is one of the key factors on gender differences when observing exposure to occupational hazards, accidents and disease”<sup>10</sup>.

Kosovo faces gender inequality and segregation at a systemic level, like many of the EU Member States (MS).

**Segregation of labour market**, Employment rate for women is only at 14% (2019) in Kosovo and the majority (79.4%) are salaried employees, entrepreneurs being only 9%<sup>11</sup>. Women are employed mainly in the sectors of education, trade and healthcare, while men are mainly employed in the sectors of trade, construction and manufacturing<sup>12</sup>. LFTUS 2018 data corresponds with trends in Kosovo as analysed in KGEP of the AGE. Female entrepreneurship was quite low, with the aggregate entrepreneurship rate for women reported at 3.2% compared to 14.1% for men. The most number of female businesses were in agriculture (35.6%), other service activities (24.8%), wholesale and retail trade (12.6%),

manufacturing (10.9%) and accommodation and food services (7.2%). While the most number of male businesses were in agriculture (31.8%), wholesale and retail trade (19.7%), other service activities (14.3%), manufacturing (10.2%) and construction (7.8%)<sup>13</sup>. This data demonstrates that employers attribute to this segregation

**Segregation and discrimination within the workplace** and profession, when men and women either within the same work place are assigned gender stereotypical roles, or perform different tasks within the same profession assigned because of the gender roles. The odds of experiencing gender-based discrimination at work in Kosovo are 2.8 times greater for women than for men. Moreover, the chances of experiencing gender-based discrimination are two times higher if you work in the private sector (compared to the public sector)<sup>14</sup>

**Segregation of unpaid work and social, cultural aspects** outside employment relations, that contribute to the continuity of the health and safety risks and therefore have effects on the risks at work. Women tend to spend more time on family care activities and men on hobbies. Kosovo **Time use survey** (LFTUS) registered a substantial difference of the use of time for household and family care among the two genders. Women spend 3.1 times more time (or 7.2 hours/day) than men on household and family care, with men dedicating an average of 2.5 hours per day to cleaning and child care. Instead, men spend more time on hobbies and computing (0.1 hours), mass media consumption (2.0 hours), and travel/transportation (0.7 hours) than women, who spend 0.0 hours, 1.2 hours, and 0.3 hours on these activities, respectively. Men also spend more time on voluntary work and meetings, social life and entertainment, and sports and outdoor activities<sup>15</sup>. This leads to a triple burden for women in employment, an impact on their productivity and causes higher risks of fatigue.

8 <https://eige.europa.eu/thesaurus/terms/1423>

9 <https://eige.europa.eu/thesaurus/terms/1247> and <https://eige.europa.eu/thesaurus/terms/1304>

10 E.Sorrentino, R.Vona, D.Monterosso, A.M.Giammarioli; Gender issues on occupational safety and health; 2016; Annali dell'Istituto superiore di sanita 52(2):190-197, downloaded from [https://www.researchgate.net/publication/306172643\\_Gender\\_issues\\_on\\_occupational\\_safety\\_and\\_health](https://www.researchgate.net/publication/306172643_Gender_issues_on_occupational_safety_and_health)

11 World Bank Group, policy note, Promoting Women's Access to

12 Detailed data [https://askdata.rks-gov.net/PXWeb/px-web/en/askdata/askdata\\_Labour%20market\\_02%20Annual%20labour%20market\\_Pun%3%absimi/lfs05.px/table/tableViewLayout1/?rxid=c3e44c2e-1aff-4e4a-b55b-2ca64a485a50](https://askdata.rks-gov.net/PXWeb/px-web/en/askdata/askdata_Labour%20market_02%20Annual%20labour%20market_Pun%3%absimi/lfs05.px/table/tableViewLayout1/?rxid=c3e44c2e-1aff-4e4a-b55b-2ca64a485a50)

13 LFTUS, Tables 46 and 47

14 Kosovo Women's Network, GENDER-BASED DISCRIMINATION AND LABOUR IN KOSOVO, 2019

15 LFTUS, Page 96, Time Use

## 3.2. ATYPICAL OR VULNERABLE EMPLOYMENT SITUATIONS

Work arrangements that fall outside the realm of the standard employment relationship are understood as work that is full-time and of indefinite duration, as well as part of a subordinate, but bilateral, employment relationship.<sup>16</sup> Labour statistics are generally weak in identifying and describing 'atypical' forms of employment. Women are more likely than men to be found in such 'atypical' work situations, and, as a result, their situation is often underestimated and less well-described than that of men.

The forms of atypical work identifiable through statistics are "self-employed" and this is a prominent feature in all European legal systems, built around the concepts of 'subordination' and 'autonomy' to assist in identifying false and true self-employment<sup>17</sup>.

### 3.2.1. Self employment

Certain occupations are historically or by nature self-employment domains. Professions such as lawyers, auditors, tax advisors, notaries, dentists, pharmacists and medical specialists can be referred to as 'liberal professions'. Often self-employment is abused to avoid employment relationships.

*Bogus self-employment* results in a situation of factual subordination and dependence, which is not recognised legally or institutionally in terms of employment and social rights, nor in terms of employers' liability and responsibility towards their employees. Thus, workers must comply with the employers' working methods, but are deprived of the various rights associated with employee status (such as severance pay in the case of dismissal, access to unemployment benefits, and health and safety protection) and therefore suffer negative consequences.<sup>18</sup>

Impact of fraudulent practices:

- For the state: employers are not contributing to the sick leave, pension benefits and these costs are partially transferred to the state
- Workers have limited social security benefits: unemployment benefits, pensions, sickness
- Workers have limited rights: protection from dismissal, regulation of working time, collective bargaining coverage, holiday pay, or are exempt from labour laws at all.
- "While all rural workers endure long hours, low incomes, and exposure to occupational safety and health hazards, women often bear the brunt of these conditions because of their greater concentration in occasional and seasonal work"<sup>19</sup>

KAS data indicates that more men are registering as self-employed with and without employees at around 25% of employment share vs around 10% for women,<sup>20</sup> while women's employment is predominantly as employees at 83% vs men at 69%. Through the rise of the gig economy and through freedom of movement of services in the EU it is observed that bogus forms of employment increase as contracting work is used to replace employees, thus changing employee protection levels. Men will be exposed to higher risks of bogus self-employment compared to women. On the other hand, women carry the burden and risks of unpaid family work. Segregation of the labour market is demonstrated through employment of women in education, the service sector, health care and social work, and men in services, construction work, administration and catering and agriculture or fisheries. Moreover, segregation continues in vulnerable employment. Unpaid share of work by women is highest in agriculture (43%) and for men in services and sales (20%). In informal employment (undeclared work, domestic work), the unpaid share of work is strongly gendered.

<sup>16</sup> <https://eige.europa.eu/thesaurus/terms/1044>

<sup>17</sup> <https://www.eurofound.europa.eu/publications/information-sheet/2017/fraudulent-contracting-of-work-bogus-self-employment-czech-republic-spain-and-uk>

<sup>18</sup> P.2; <https://www.eurofound.europa.eu/publications/information-sheet/2017/fraudulent-contracting-of-work-bogus-self-employment-czech-republic-spain-and-uk>

<sup>19</sup> ABC of women workers' rights and gender equality, Geneva, International Labour Office, 2000, P. 19

<sup>20</sup> Data on: Employment status by gender by employment status, year, period and gender. Q3, 2020 [https://askdata.rks.gov.net/PXWeb/pxweb/en/askdata/askdata\\_Labour%20market\\_Q1%20Quarterly%20labour%20market\\_Pun%3%absimil%tab1.4.px/table/tableViewLayout1/?rxid=c3e44c2e-1aff-4e4a-b55b-2ca64a485a50](https://askdata.rks.gov.net/PXWeb/pxweb/en/askdata/askdata_Labour%20market_Q1%20Quarterly%20labour%20market_Pun%3%absimil%tab1.4.px/table/tableViewLayout1/?rxid=c3e44c2e-1aff-4e4a-b55b-2ca64a485a50)

### 3.2.2. Undeclared And Unpaid Work: Care Work And Agriculture

Unpaid family work statistics are related not to the time share of women spending more time on care work at home, and as unpaid workers in family businesses.

By embedding domestic care work in the Law on Gender Equality, Article 18 recognizes unpaid care work of women as a contribution to social wellbeing, but it also mentions dealing with agriculture and family economy (Point 1.4). Thus, LGE mandates creating systems where *“Subjects specified in paragraph 1 of this Article shall benefit from community services, labour policies and employment, and vocational training based on the legislation in force.”* Law review<sup>21</sup> concludes that these aspects are not integrated into the OSH system or Labour law.

For labour system purposes it has to be established whether unpaid family workers are to be considered as workers and how are they may benefit from protection of labour law and established national social security systems. Labour law defines the *employment relationship as an agreement or contractual arrangement between an employer and an employee for the performance of specified functions or tasks by the employee under the supervision of the employer in return for an agreed remuneration, normally in the form of money.* By fulfilling the criteria of the employment relationship: agreement, clear tasks under guidance, for remuneration, these types of employment should be considered as covered by the Labour Law and the Law on Health and Safety at work.

### 3.2.3. Domestic service workers

During reform and review of labour law and the OSH system, policy makers have an opportunity to integrate latest EU developments. The new [Directive 2019/1152 on Transparent and Predictable Working Conditions](#) is a direct follow-up to the [proclamation of the European Pillar of Social Rights](#). This Directive defines essential working conditions and will apply to every paid employee having a contract or employment relationship defined by the law in force in a MS and/or governed by the law in force in a MS

21 D.Kavasa, Law Review, Gender Mainstreaming: a Normative Framework for Decent Work and Occupational Health and Safety, June 2021, UN Women Kosovo, report available upon request from UN Women Kosovo.

in the EU. Domestic workers, on-demand workers, intermittent workers, voucher-based workers, platform workers, trainees and apprentices could come within scope of this Directive, if they fulfil the criteria for determining the status of a worker.<sup>22</sup> Genuine self-employed persons are excluded. However, bogus self-employed occurs when a person is declared to be self-employed while fulfilling the conditions characteristic of an employment relationship, in order to avoid certain legal or fiscal obligations. As recital 8 of the Directive proposes, these persons should fall within the scope of the Directive. Determining the existence of an employment relationship should be guided by the facts relating to actual performance of work and not by the parties' description of the relationship.<sup>23</sup> The European Commission Directive 89/391, on introducing measures to encourage improvements in the safety and health of workers at work (Frame Directive) excludes domestic servants from the general scope of this directive.

The draft OSH Law (April 2021) presumes blanket exclusion of domestic service workers from its application and it is recommended to determine the conceptual framework for understanding the concept of worker, and its application to employment relations. The minimum standards of the law should be no less favourable than to workers in general, but any exemptions should be defined in line with the Constitution Article 55 – defining objective reasons for exclusion, setting clear limits on what is not applied to this category of workers, and with what aim.

Laws and policies, however, should take into account the peculiarities of domestic work linked to live-in arrangements, including the need to ensure decent living conditions, transparent and fair working time arrangements, and freedom of movement and communication. The physical proximity of domestic workers to household members poses a heightened risk of abuse and harassment. This risk is further heightened for live-in domestic workers, present in the household all the time, and for migrant domestic

22 Judgments of the Court of Justice of 3 July 1986, *Deborah Lawrie-Blum v Land Baden-Württemberg*, C-66/85, ECLI:EU:C:1986:284; 14 October 2010, *Union Syndicale Solidaires Isère v Premier ministre and Others*, C-428/09, ECLI:EU:C:2010:612; 9 July 2015, *Ender Balkaya v Kiesel Abbruch- und Recycling Technik GmbH*, C-229/14, ECLI:EU:C:2015:455; 4 December 2014, *FNV Kunsten Informatie en Media v Staat der Nederlanden*, C-413/13, ECLI:EU:C:2014:2411; and 17 November 2016, *Betriebsrat der Ruhrlandklinik gGmbH v Ruhrlandklinik gGmbH*, C-216/15, ECLI:EU:C:2016:883.

23 <https://eur-lex.europa.eu/legal-content/EN/TEXT/PDF/?uri=CELEX:31989L0391&from=EN>



workers, whose legal status of residence is often inextricable from the employment relationship and who are therefore highly dependent on their employer.”<sup>24</sup>

### 3.3. DECENT WORK FRAMEWORK

For this review **decent work concept** is constructed by taking the reference in the ILO framework for Decent Work Agenda<sup>25</sup>, set within the framework of the Resolution on Advancing Social Justice through Decent Work<sup>26</sup>; and European Social Pillar<sup>27</sup> principles.

To assess gender impact in labour related **social security issues**, one has to consider the impact of essential working conditions regulation<sup>28</sup> impact on beneficiaries of the law from social security perspective – sick leave, vacation pay, unemployment benefit payments, pension contributions, pregnancy related regulation and parental leave conditions. The review will not assess the Social security system in Kosovo.

Here is a compilation of **essential working conditions**<sup>29</sup> in line with the EU Social Pillar and ILO fundamental rights principles. As detailed below [OSH issues](#) and decent working conditions, [violence at work](#), core labour contract issues of pay, working time, rest time, and fundamental rights of workers’ representation – collective bargaining, freedom of association.

**Equal pay**<sup>30</sup> elements constituting pay include **basic salary** and **complementary components of pay** - but also complementary components, whether in cash or in kind that workers receive directly or indirectly from their employers. These components include bonuses, overtime compensation, travel facilities (including cars provided by the employer and travel cards), housing allowances, compensation for attending training courses, payments in case of dismissal, overtime supplements, gratuities paid at the discretion of the employer, statutory sick pay, statutory required compensation, and occupational pensions. **Value of pay** in turn should be assessed and compared based on **objective criteria**, such as educational, professional and training requirements, skills, effort and responsibility, work undertaken and the nature of tasks involved. For the purposes of non-discrimination and burden of proof in discrimination cases, right to information for employees shall be embedded in the understanding and application of equal pay. Equal pay criteria should be applied to all types of workers: full time, part time, fixed term, or workers posted through temporary agencies. Question on other atypical workers – domestic work, on demand, platform, trainees has also been raised at the EU level;<sup>31</sup>

**Contracting and dismissal conditions**<sup>32</sup> to include protected groups, protection of pregnant women from dismissal and non-discrimination during hiring phase. Non-discriminatory criteria for hiring, linked to privacy of individuals, including family status, reproductive rights.

24 <https://www.itcilo.org/sites/default/files/media/documents/DW-Training%20module%20IV%20for%20print%20low%20res.pdf>

25 <https://www.ilo.org/global/topics/decent-work/lang--en/index.htm>

26 Resolution on Advancing Social Justice through Decent Work, Adopted on 9 June 2016 at the The General Conference of the International Labour Organization, meeting at its 105th Session, Principles of decent work agenda are set in Article 13; available at [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_497583.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_497583.pdf)

27 <https://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=9003&furtherNews=yes>

28 in Law on Labour (LL) and Law on Safety and Health at Work (OSH Law)

29 Also through the EU developments on transparent and predictable working conditions, Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union, general information available at <https://ec.europa.eu/social/main.jsp?langId=en&catId=1313>, directive text available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32019L1152> and the new proposal on

30 DIRECTIVE 2006/54/EC, Case C-400/93, Royal Copenhagen; Case C-309/97, Angestelltenbetriebsrat der Wiener Gebietskrankenkasse; Case C-381/99, Brunnhofer; Case C-427/11 Margaret Kenny and Others v Minister for Justice, Equality and Law Reform and Others; proposal for Transparent pay provisions, and COMMISSION RECOMMENDATION of 7 March 2014 on strengthening the principle of equal pay between men and women through transparency (Text with EEA relevance) (2014/124/EU) <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014H0124&from=EN>

31 For more see case C-66/85 Lawrie-Blum; case C-216/15 Ruhr-landklinik

32 DIRECTIVE 2006/54/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast)

**Working time and rest time**<sup>33</sup> require assessment of application of normal working time, conditions for shift work or aggregated work; night work and overtime, determination of minimum rest and maximum working time per day, week or running 7 day periods, including additional limits for specific professions. This is linked to safety issues for example for drivers, airline and air traffic employees; night and overtime work; vacations according to EU minimum criteria include 4 weeks of paid leave<sup>34</sup>.

**Collective rights of employees** to include both the representation issue by and of a diverse workforce, but also collective rights to Social dialogue *collective bargaining, right to strike, collective rights to protect interests and rights as an identifiable group of employees, or through Trade Unions without identification of individual members*. Kosovo Criminal law presumes criminal liability for violations of the right to strike and for dismissing participating employees.

### 3.3.1. OSH Framework

More specifically, OSH related gender aspects include stages of risk assessment and context issues; in this review violence at work is considered in more details.

**Hazard identification and risk assessment**<sup>35</sup>: Gender perspective in physiological and psychological risks, short and long term impact of incidents, addressing the “visible” or perceived more dangerous risks vs “invisible” and therefore perceived as non-existing or less serious risks in the broader labour relations and labour markets context of segregation and cultural differences.

33 EU law references include Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organization of working time; Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organization of the working time of persons performing mobile road transport activities and Council Directive 2000/79/EC of 27 November 2000 concerning the European Agreement on the Organization of Working Time of Mobile Workers in Civil Aviation concluded by the Association of European Airlines (AEA), the European Transport Workers' Federation (ETF), the European Cockpit Association (ECA), the European Regions Airline Association (ERA) and the International Air Carrier Association (IACA) (Text with EEA relevance)

34 Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time OJ L 299, 18.11.2

35 For more information: see [Factsheet 43 - Including gender issues in risk assessment - Safety and health at work - EU-OSHA \(europa.eu\)](#)

**Different hazards:** Job and task segregation by gender means that women and men are generally exposed to different work-related hazards. For instance, in their jobs in construction, mining and transport, men are exposed to risks such as falls, explosions, electrocution, chemicals, noise, vibration, heat and solar radiation. In the European Union, men constitute 90% of the workforce exposed to solar radiation at least 75% of their working time. On the other hand, in their jobs in low-wage manufacturing, education, retail and health care, women are exposed to organizational risks such as monotony, high demands and limited authority (which have been linked to fatigue, depression, and unhealthy behaviours), biological and chemical hazards such as infections and solvents, and musculoskeletal and cardiovascular demands such as repetitive movements and awkward, static and standing postures.<sup>36</sup>

**Injury or occupational disease:** As a result of occupational segregation, men experience more lethal or non-lethal injuries and women experience more issues with occupational diseases. Accessibility to an accident investigation mechanism and compensation mechanisms, as well as systems for the protection and compensation in case of occupational diseases becomes a potentially sex segregated issue and question of availability of assigned resources for one or another issue may lead to unwillingly increased gender inequality.

**Gender stereotypes and perceptions about the severity of impact** may further impede OSH measures. For example, the work of a sewing machine operator may be characterized by an outside observer as “light”. Yet, over an 8-hour day, some sewing machine operators exert thousands of kilograms of cumulative pressure on their lower and upper limbs. Similarly, exposure to chemical risks found in women’s jobs is often chronic and involves mixed and low-level exposures. Working as a cleaner or hairdresser may not seem dangerous but substances that are found in some common products can cause a range of health problems, some sex-specific, like cancers of the female reproductive organs and adverse pregnancy outcomes<sup>37</sup>

36 Protecting Workers' Health Series No. 11 - Building Healthy and Equitable Workplaces for Women and Men: A Resource for Employers and Worker Representatives, available at [9789241501736\\_eng.pdf \(who.int\)](#)

37 [9789241501736\\_eng.pdf \(who.int\)](#)

**Violence at work:** In all sectors, women and men are exposed to physical, psychological and sexual violence (including harassment, bullying, threats, etc.) that may or may not be motivated by discriminatory attitudes relating to gender. Violence impacts safety at work, physical and mental health, and creates an environment of sex discrimination. Specifically applying to gender equality cases, harassment and sexual harassment is considered a discrimination<sup>38</sup> for the purposes of, as well as less favourable treatment based on a person's rejection of or submission to such conduct. 'Harassment' is unwanted conduct related to the sex of a person, the purpose being to violate the dignity of a person, and to create an intimidating, hostile, degrading, humiliating or offensive environment; and 'sexual harassment': where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment;

The factors that impact exposure to violence include: higher degree of interaction with people (students, patients, customers), violence experienced to and from workplace, different types of violence experienced within workplace - women are more likely to be victims of psychological and sexual violence and men of physical assault<sup>39</sup>. KSI report on women employment post Covid of January 2021<sup>40</sup> surveyed incidents of sexual harassment at work and around 30% of women reported different degrees of sexual harassment at work, and only 18% reported it to the employer. LFTUS also demonstrates that women do not recognize many of the discrimination factors, internalizing the discrimination as a norm, therefore a combination of survey data and understanding of the forms of violence at work have to be taken into account in designing decent work and OSH measures. Sexual harassment and other forms of violence can be both a discrimination issue, and safety and health issue, impacting men and women differently.

- **Impact on reproductive health:** workplace exposures can affect reproductive health in various ways: sexual functioning, menstrual health, fertility (for women and men), pregnancy, breastfeeding, certain cancers (e.g. prostate, breast, cervix), menopause and children's development.<sup>41</sup>
- **Gender roles and unpaid work in organizational aspects of work:** care work/household work will impact the health and safety at work because of the extended "working hours". Thus, when rules and regulations permit maximum working hours and minimum rest times, the potential impact on women may be greater because of insufficient rest due to unpaid care work at home or in the community. Various aspects of the work organization can complicate work-family balance. Some of the most problematic arrangements include extended work hours (mostly affecting men), variable / irregular / unpredictable schedules (mostly affecting women) and lack of flexibility to leave the workplace for family emergencies.

**Access to OSH measures:** when women do experience a work-related health problem, they are less likely than men to be diagnosed, recognized, compensated or be offered rehabilitation, which is linked to the systemic nature of recognizing and addressing workplace injury and chronic exposures leaving long-term impacts health and classification of occupational diseases.

**Participation in OSH processes,** requires representation of diversity of employees in social dialogue, institutional capacity and functions to address gender segregation and equality aspects.

Based on the hazard identification, assessment and awareness on different impact on men and women, different age groups, the respective policies, laws, strategies for action and action plans at all levels have to be defined, reviewed, adjusted.

38 EU Equal treatment directive 2006/54/EC, and Kosovo Law on Protection from Discrimination.

39 [9789241501736\\_eng.pdf \(who.int\)](#)

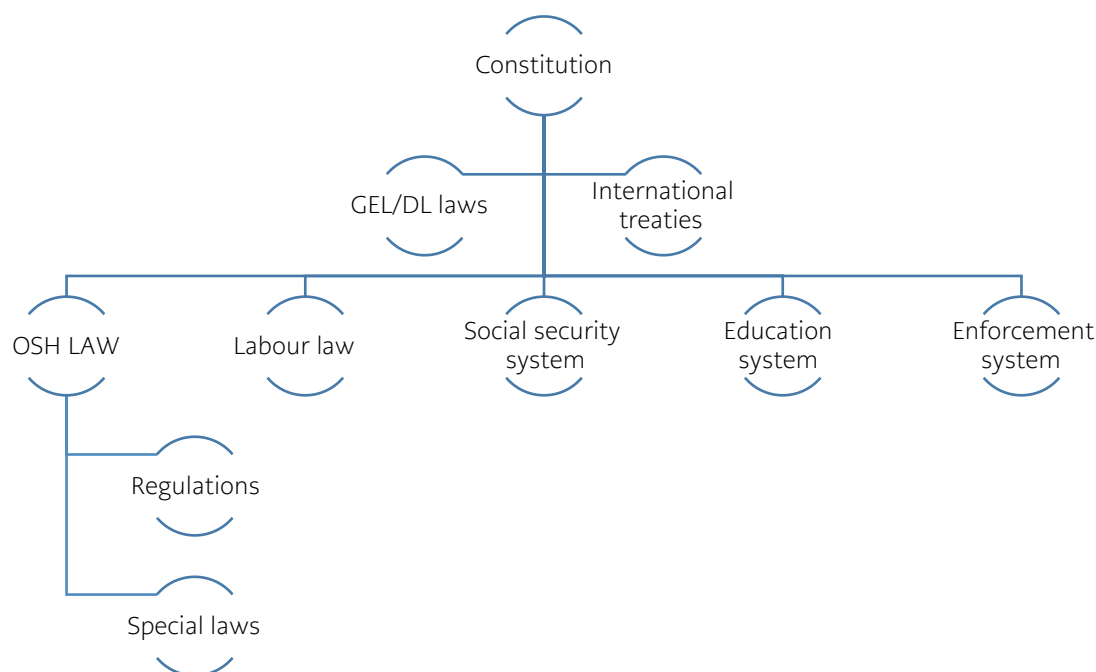
40 Kosovo Stability Initiative, Research report: Women Employment in Post Covid Kosovo (Draft title), January 2021 (available from IKS)

41 [9789241501736\\_eng.pdf \(who.int\)](#)





## 4 LAWS AND REGULATIONS



### 4.1. LABOUR RELATIONS AND DECENT WORK<sup>42</sup>

This report reviews the vertical integration of the decent work legal documents. While Social security system, education, and health care systems are clearly linked to the decent work and OSH, only the elements of social security, health and education within labour relations and OSH are assessed. Law review report presents a more detailed analysis of the laws and regulations, while summary of conclusions is included here.

The **Kosovo Constitution** that came into effect on June 15, 2008 has the highest legal authority in The Republic of Kosovo and laws and other legal acts shall be in accordance with the Constitution<sup>43</sup>. The Constitution mandates direct ap-

plication of listed international treaties, among those CEDAW, ECHR. For this purpose, the equality provisions of the Constitution and of respective international treaties have to be part of each gender review of a given legal act.

Namely, the Article 28 prohibits forced labour, while Article 51 ensures basic rights to health-care and social insurance, including insurance against unemployment, disease, disability and old age. Another important article in terms of OSH is Article 49 regarding rights to work and free choice for profession and place of work.

The constitution presumes direct applicability of international treaties mentioned in the text, above. This means, every law and policy document should be assessed with regard to compliance to the 8 instruments mentioned in the Constitution.

As of May 2021 Kosovo has not ratified any of the ILO conventions. However, requirements from at least few of ILO Conventions are in practice

<sup>42</sup> D.Kavasa, Law Review, Gender Mainstreaming: a Normative Framework for Decent Work and Occupational Health and Safety, June 2021, UN Women Kosovo, report available upon request from UN Women Kosovo

<sup>43</sup> Article 16, the Constitution

covered in national legislation (e.g., C155 - Occupational Safety and Health Convention, 1981 (No. 155), C047 - Forty-Hour Week Convention, 1935 (No. 47), C187 - Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)).

As informed by OSH profile, some parts of the ILO Occupational safety and health codes are expected to be partly introduced when drafting LI guidelines on selected legislation on working conditions.<sup>44</sup> Similarly checklists on risk factors should confirm with ILO conventions and guidelines.

## 4.2. RECOMMENDATIONS ON NORMATIVE FRAMEWORK

Since 2011 reports by Kosovo Women's Network, Kosovo Stability Initiative, Solidar, LFTUS and specific project reports have indicated same key gender inequality aspects that affect OSH system:

- **Unpaid family work** Segregation of unpaid work and social, cultural aspects outside employment relations that contribute to the continuity of the health and safety risks and therefore have effects on the OSH risks at work. Differences between the needs of men and those of women
- **Segregation of labour market**, Unequal distribution of jobs is one of the key factors on gender differences when observing exposure to occupational hazards, accidents and disease<sup>45</sup>. It affects OSH preventive measures, risk assessment and coping measures; "Segregation by occupation leads to exposure to health risks and hazards peculiar to those occupations, which affects the over-represented sex more than the other<sup>46</sup>. Segregation at - - workplace is another aspect of assigning specific roles to men and women;

- **Representation** of men and women at different levels of company or organization, in OSH bodies and institutions
- **Pregnancy and maternity** related discrimination which is linked to social security aspects of national policy and LL.

Use of National criteria for gender impact assessment<sup>47,48</sup> will improve further policy documents. Based on the Legal review conclusions, opportunity to improve further the draft OSH and Labour laws remains.

### 4.2.1. Constitutional framework and OSH law

With regard to Constitution and non-discrimination laws, every Decent work and OSH regulation requires clearer cross reference to the Constitution and "horizontal laws" - Law no. 05/L-020 on Gender Equality (LGE)<sup>49</sup> and Law no. 05/L-021 on the Protection from Discrimination (LPD)<sup>50</sup>. As horizontal legal provisions, these laws set principles to be followed and included in the subsequent specialized OSH laws and related employment and health laws. While in terms of legal hierarchy these laws are at the same level as Law on Labour or OSH Law, their provisions do provide a more general equality perspective, with direct references to labour relations and OSH, applicable to employers in all sectors. Maintaining the presence of these principal references in OSH profile, gender equality principles will be visible and support GM practice.

**The Constitution** is the highest legal authority in The Republic of Kosovo and laws and other legal acts shall be in accordance with the Constitution<sup>51</sup>. Equality before the law and respect for international human rights treaties is among the principles to be secured by any subsequent law and system, including OSH system. The Constitution also makes clear references to international human rights treaties, including [UN Con-](#)

44 within the project "Support to Labour Inspectorate for fighting against undeclared work" (EuropeAid/138633/DH/SER/XK) as part of the activity 2.1.

45 E.Sorrentino, R.Vona, D.Monterosio, A.M.Giammaroli; Gender issues on occupational safety and health; 2016; Annali dell'Istituto superiore di sanità 52(2):190-197, downloaded from [https://www.researchgate.net/publication/306172643\\_Gender\\_issues\\_on\\_occupational\\_safety\\_and\\_health](https://www.researchgate.net/publication/306172643_Gender_issues_on_occupational_safety_and_health)

46 [https://www.ilo.org/wcmsp5/groups/public/-/dgreports/-/gender/documents/publication/wcms\\_087314.pdf](https://www.ilo.org/wcmsp5/groups/public/-/dgreports/-/gender/documents/publication/wcms_087314.pdf)

47 [https://kryeministri-ks.net/wp-content/uploads/2018/06/Ud-hezuesi-dhe-Doracaku-per-Hartimin-e-Koncept-Dokumenteve-ENG-24-05-18\\_Publish.pdf](https://kryeministri-ks.net/wp-content/uploads/2018/06/Ud-hezuesi-dhe-Doracaku-per-Hartimin-e-Koncept-Dokumenteve-ENG-24-05-18_Publish.pdf)

48 Manual for Gender Impact Assessment, <https://abgj.rks-gov.net/assets/cms/uploads/files/Publikimet%20ABGJ/Gender%20Equality%20Impact%20Assessment%20Manual.pdf>

49 [https://equineteurope.org/wp-content/uploads/2019/10/Annex-LAW\\_NO\\_05\\_L-020\\_ON\\_GENDER\\_EQUALITY.pdf](https://equineteurope.org/wp-content/uploads/2019/10/Annex-LAW_NO_05_L-020_ON_GENDER_EQUALITY.pdf)

50 [https://equineteurope.org/wp-content/uploads/2019/10/Annex-LAW\\_NO\\_05\\_L-021\\_ON\\_THE\\_PROTECTION\\_FROM\\_DISCRIMINATION.pdf](https://equineteurope.org/wp-content/uploads/2019/10/Annex-LAW_NO_05_L-021_ON_THE_PROTECTION_FROM_DISCRIMINATION.pdf)

51 Article 16, the Constitution

[vention on the Elimination of Discrimination Against Women \(CEDAW\)](#)<sup>52</sup> and more specifically for OSH systems – Articles 11 that include (f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction; and Article 12 on Health.

LGE sets out some basic GE rules, and is a tool for interpreting key GE concepts. Applying LGE in labour relations includes:

- Gender mainstreaming obligation for institutions in developing policies and laws;
- Defined core concepts have to be used in interpreting the same concepts in the labour relations laws and regulations;
- Gives a clear essential working conditions content with regard to gender discrimination: equal pay, access to employment and decent work and dismissal; freedom of association and related collective labour agreement and protection measures.
- Specific rules defined by labour law have to be synchronised with the GLE or cross references made for uniform application and interpretation.

Similarly, LPD provides definitions of discrimination, including harassment that will be part of health and safety in labour relations, and specific decent work provisions applicable to all employers.

GE can be strengthened through cross referencing LGE and LPD in labour system laws and regulations and including clear assessments of the conformity with the Constitution and the specific international treaties it mentions, because of their direct effect with regard to individual rights.

#### 4.2.2. Recommendations: osh Law and Law on Labour

As Legal Review report<sup>53</sup> of June 2021 identifies, **conceptual agreement on concept of worker, employer, employment relations** is required to ensure clarity over in which situations and who

<sup>52</sup><https://www.ohchr.org/documents/professionalinterest/cedaw.pdf>

<sup>53</sup> For full review of laws in force and draft laws see Law review report (FULL TITLE, by Dace Kavasa, June 2021, available from UN WOMEN Kosovo)

is protected by or who is exempt from OSH provisions in full or in part.

With regard to **employment relations**, clarity is required on concepts and scope of coverage of self-employed, domestic workers, and scope of limitations to these groups. **Simple, blanket exemptions may lead to disproportionate impact on men and women** both in setting obligations for employers as self-employed, and negative implications on women by not covering the domestic service workers.

#### 4.2.3. OSH Law and regulations

Legal review considered gender equality aspects in the context of the laws, constitutionality and relation to LGE and LPD, definitions of purpose and scope, assessing beneficiaries and the core elements of the decent work and OSH and the effective enforcement elements.

Recommend to include that full scope of the impact on men and women of the new OSH policies (Strategy, laws, secondary legal acts) is documented understood, the aspect of clear structure of gender segregation in the labour market, status of exempted services and self-employed.

**Purpose of the law:** An improved purpose of the law **could reflect gender equality goals** of defining OSH measures to take into account segregations within the labour market, unequal time distribution between men and women and different impact OSH measures may have. OSH law relates to work processes where men and women should have equally prominent place to participate and express their needs and perspectives. Prevention that takes into account gender aspects, actual working environment that is a safe place for all employees and takes gendered aspects of violence at work into account, and protection of mental health where different cultural expectations and stereotypes, attitudes at work may create different mental wellbeing consequences for men and women.

The proposed approach by the draft OSH Law presumes application of minimum OSH standards for all workers. Therefore, analysis on **beneficiaries** of the OSH law assessed different affected groups. With the approach of the minimum standards for all, any exemptions should be formulated with clear use of principles of objective reasons in the context of segregated

labour market; and more precise scope of the limitations. Blanket exemptions of certain professions or sectors should not be practiced, or if practiced are clearly linked to more favourable and special provisions in the given industry without undermining some minimum OSH standards of the general law. Draft law (as of April 2021) does improve the limitations, however analysis identified need to define more precisely OSH application towards vulnerable employment situations of self-employed, domestic service workers, unpaid family work and undeclared work. As suggested for the OSH profile, additional clarification on the exemptions with regard to Kosovo Security Forces, police, firefighter services and protection and rescue services and cross reference to the specific OSH requirements in these fields and respective access to more specific health and safety protection mechanisms.

State responsibility to design a system whereby unpaid family workers and undeclared workers are guaranteed some minimum protection in case of accidents and acquired occupational diseases should be clarified, as it impacts health and wellbeing of men and women in different sectors and thus their exposure to different type of harm.

**Labour law draft** (April 2021) requires employers to provide yearly updates on gender equality measures at the enterprise, and cross reference with LL or repeated information provision clause in OSH law may support increased gender awareness on OSH issues at workplace.

Further gender equality goals can be supported through gendered language and requirement for gender analysis at the specific components of hazard identification, risk assessment, implementation measures and prevention measures.

Preventive measures strongly depend on gendered risk assessment, therefore use of gender specific language in points of risk assessment may improve the outcomes of health and safety for men and women. This can be streamlined through definitions to implementation measures in specific articles. Alternatively, more explicit mentioning of human factors / human centred approach, providing a definition of the approach that includes gender equality considerations may be used.

Injury compensation is a duty of employer. This shall be linked with “equal pay” principles to ensure that compensation mechanisms and criteria established by employer do not discriminate men or women. This includes access to compensation mechanisms, criteria for determining scope of coverage and compensation, conditions of payment.

A balanced use of explicit gender references in the law will lead to better design and implementation of OSH measures. More explicit gender equality analysis presence can be required through clear language within the risk assessment part of the law and employer obligation to decide on prevention measures.

- OSH law should make gender and diversity principles for risk assessment more explicit. It can be achieved through including representative participation as one of the principles to ensure participation and representation of need and perspectives of all people affected by OSH measures at the enterprise, at all levels of enterprise. Chosen definition of worker or affected persons and the definition of employment or working relationships will affect the OSH Law scope. Likewise, all testing carried out during the risk assessment has to reflect the results of diverse group of employees representing men, women, different age groups, abilities – defining the diversity principle in each step of risk assessment process.
- Include more explicit references to gender equality obligations, when determining measures for the prevention of accidents at work and professional illnesses, for example article 12 obliges employer to develop certain OSH action documents and explicit references to needs assessment taking into account diversity of employees and structural discrimination issues is a minor adjustment that will lead to potentially extensive impact on OSH professionals and employers.

Draft law proposals to eliminate obligations of employer. Such change should be considered in a way to allow the opportunity of explicit obligations to ensure gendered measures in corresponding articles of the new law. The purpose should be to make gender analysis and consideration inclusion an explicit part of employer obligations.

## Violence at work

LGE and LPD define harassment at work. While a cross reference to LPD is made in OSH Law, considering transfer of definition or a clear cross reference to LGE and LPD, as well as definition of psychological health and harassment types in OSH system, could be included in OSH. This will ensure health and safety aspects of violence at work and sexual harassment becomes more present.

### 4.2.4. Labour law

From the perspective of the law drafting a clearer **purpose of the law** that includes reference to the values of the employment relationship may improve the later application and interpretation of LL. Currently the scope and purpose is defined in terms of harmonization of EU law and to what part of labour relations the law applies. A purpose reflecting equality values in employment relations, power positions of parties could improve the protection of the rights.

Labour law provides **definition of discrimination**. Law in force in May 2021 is rather general, however, *draft law* overall is well developed and up to date with regard to harmonization with EU law. LL in its definition of grounds for discrimination limits its scope, it at the same time cross-references LPD with a non-exclusive list of grounds. To avoid need for legal arguments over application of one or another law, the definitions between LGE, LPD and LL on discrimination should be harmonised.

It could be acceptable to have certain areas where the list of different treatment grounds is limited, however this remains then a political decision and should appear under discussion in the core concept and policy documents, to ensure any exclusion is constitutional, objective and justified.

**Essential working conditions** are formulated by using his/her pronouns (in English text), making the language neutral where possible and therefore the overall design is intended to be gender neutral. Binary references to his/her may be replaced by gender neutral terms or other pronouns where no specific reference to men/women is required.

Exemptions and special groups affected by the *night work, overtime work* rules demonstrate the *protective attitude, rather than full assessment of gender impact on women*: prohibition of work while pregnant (last two weeks of pregnancy prior to due date), rights of fathers or children under age 3 are restricted, and indirectly the care responsibility is transferred to women as parents, not allowing men to use the rights. These measures are to be reconsidered from the perspective of:

- **Interests of the child** are at the centre of social measures for night work, overtime work, dismissal measures. When considering such measures, Child rights convention and encouragement of the bond with parents, or in certain cases caregivers, not just mothers, is essential for the wellbeing of the child. Therefore, adjusting formulation to *parents of children under age of 3* will make the positive gender equality impact, allowing men and women to be part of child life in the essential first years of their lives.
- **Protective prohibition** of work last two weeks of pregnancy prior to expected due date can be formulated as a right rather than prohibition, and it will prevent unnecessary requirements to share personal data (like due date of birth) with employer, if the person does not want to use the right. It is recommended to consider how such measures will diminish gender stereotypes that otherwise will be reinforced. Care work as women's prerogative will is a gender stereotype that limits rights of fathers and changes to labour rights to increase parent – men and women – rights will increase the use of these rights, if accompanied by policy measures and cooperation with employers on execution of employer duty to foster gender equality.



**Violence at work** is mostly defined through LPD and cross reference in the Labour law Article 5. It is recommended to consider a more specific cross reference to harassment provisions, to ensure it is an unquestionable part of the labour relations and under the monitoring and supervision of the Labour inspectorate.

**Collective rights** are addressed in a gender neutral way and provide equal access to employee representation and protection. Positive observation is the protection of trade union members from dismissal, requirements to negotiate working conditions, and right to collective labour agreement talks.

Draft law sets limits to the validity of a collective labour agreement and this may be considered infringement of the right to collective labour agreement (CLA). The purpose should be to protect employee representatives and thus the law can be formulated in a way that provides minimum guarantees, f.ex. if there is no date for the validity of the CLA in the document, it is presumed to be valid until the conclusion of a new CLA, or similar neutral provision.

#### 4.2.5. Enforcement

Enforcement of the law allows to solve conflicts through internal company mechanisms involving trade unions and employer responsibilities to review internal complaints, and external out of court settlement systems, like mediation. These were not analyzed in detail in this review.

Main labour and OSH monitoring and control institution is Labour inspectorate. LI has extensive mandate to monitor labour relations with regard to Labour law and deriving from LL cross reference to other laws – also LPD and less clearly – LGE. With clearer cross-references LI mandate in reviewing labour law conditions in line with LGE and LPD will be improved, to avoid referral of labour cases mentioned these laws to respective institutions and ensure monitoring and control at LI and through appropriate penalties.

#### 4.2.6. Access to court

Main challenges in Labour relations for the employees are short timeframes defined in the LL for claims in court. In light of international treaties, this may be considered violation of fair trial – or access to court. This may be particularly relevant in cases of discrimination and mobbing or negative consequences. Certain events are not singular, but will take place in a continuity of actions of employer and this has to be reflected in the labour law provisions on right to bring complaints to court.

Disciplinary action resolution with LI and prevention of legal claim in competent court has to be considered unconstitutional. Adequate changes have to be made to ensure individual right to solve disputes through Courts and not only through administrative proceedings.

#### 4.2.7. Criminal code<sup>54</sup> and responsibility

Criminal liability is foreseen only for those actions that infringe and violate freedoms, human rights and other rights and social values guaranteed and protected by the Constitution of the Republic of Kosovo and international law to the extent that is not possible to protect these values without criminal sanctions of the state of Law. It applies to two core violations:

- Right of employment under equal conditions; and
- Right to strike

Right to strike and protection from negative consequences derives from international human rights treaties, but the content on “equal working conditions” requires further specification, potentially in the Labour law. It is obvious, that criminal liability is the harshest consequence for violating employment rights, and it may have limited applicability considering need for burden of proof in criminal cases, nevertheless this sends a very strong message that there are employment situations that may lead to criminal liability for the perpetrators.

<sup>54</sup> CODE NO. 06/L-074 CRIMINAL CODE OF THE REPUBLIC OF KOSOVO, <https://md.rks-gov.net/desk/inc/media/A5713395-507E-4538-BED6-2FA2510F3FCD.pdf>

#### 4.2.8. Special groups

**Special norms** of protection of employees in vulnerable situations are mostly covered within the scope of non-discrimination principles, however discussion under the Labour law analysis on application of special measures to pregnant women and breastfeeding women should be reviewed, clarifying the purpose of the provisions.

**Pregnancy protection** provisions should be considered from the perspective of the rights of the woman to maintain security in employment, rather than simplified protection measure because of her perceived weakness. There are objective reasons to protect pregnant women because of the impact of certain OSH aspects on the health during pregnancy and the foetus.

**Breastfeeding protection** includes two goals: the health of the employee and specific conditions of her reproductive function, that make her needs unique at workplace; and interests of the child who is breastfed. All laws should consider the duality of the goals and avoid overprotective approach, that leads to reinforcement of stereotypes.

**Vulnerability of atypical employees** in enjoying essential labour rights and OSH protection requires conceptual discussion of policy makers and is linked to the definition of core concepts, exemptions and recognition of strong gender segregation in the labour market and relations. Status of self-employed and determination of such status requires clarification to avoid bogus self-employment as an abuse of employee rights. A criteria for the distinguishing status of “employee” and “self-employed” may be included in the Labour law with deriving rights of affected employees.<sup>55</sup> Status and rights of other workers in vulnerable employment situation – undeclared work, family work, domestic service workers - will also require clarification based on discussion and agreement on core concepts or worker, employment relations and afforded protection through labour laws and OSH laws.

Finally, OSH measures are also closely linked to Health laws and systems, especially provisions on occupational health and diseases. Occupational health services are part of the health care system through the Law No. 04/L-125 on Health

(adopted on 2012). The *purpose* of this law is to provide the legal basis for the health care system aiming at preservation and improvement of Kosovo citizens through the promotion of health, prevention activities and the provision of comprehensive and quality healthcare services. Article 12 on measures and activities specifically mentions prevention and early treatment of injuries in workplace and occupational illnesses as one of such activities.

### 4.3. TECHNICAL STANDARDS, REQUIREMENTS AND CONFORMITY ASSESSMENTS

Technical standards for products, personal protective equipment, use of chemicals and other hazardous substances are presumably designed in a gender neutral way, with the focus of the minimum standards for the placement of products into market, or use of the equipment and substances. While at the outset, the neutral formulation provides seemingly no gender impact, as it relies on the standardization and testing for products in the market; the related policy documents and subsidiary acts can define specific references with regard to the gender impact assessment requirement.

COVID-19 has increased awareness on gendered nature of the PPE. Women represent the majority of Kosovo health care workers and other segregated professions – nursing being a female profession, while men are majority of doctors<sup>56</sup>. At the same time, UN has indicated that as pandemic unfolds, it becomes clear that PPE does not protect workers equally because of the design failure to recognize needs of men and women, often taking male body as a standard reference.<sup>57</sup> If PPE does not fit, is uncomfortable, or causes health problems, then women often will not use it, leading to injury and other health consequences.

For example, Law No. 06/L-041, Article 6 defines elements of technical regulation, and consider-

<sup>55</sup> Example of Spain, Labour code article 43, used in the March 2021 cases against Ryanair can be used as example. Sentencia No 40/2021, Date 17.03.2021, Collective complaint, Audiencia Nacional, Sala de lo Social, Madrid.

<sup>56</sup> See. Tab.3: Chambers of health workers in the Republic of Kosovo <https://ask.rks-gov.net/media/5189/health-statistics-2018-anglisht.pdf>

<sup>57</sup> <https://www.unwomen.org/en/news/stories/2020/6/op-ed-eca-alia-el-yassir-ppe-standards-must-respond-to-womens-needs>



ations for conformity assessment procedures, which also require a gender assessment of technical (e.g. health and safety) requirements. It can set subsequent conditions of approval and reference to gender impact in documents, instructions and safety information that accompanying the product, likewise marketing and other information activities can be defined more gender sensitive. While this is already a requirement by GM principles set in LGE, nevertheless mainstreaming in certain areas still needs to be improved.

OSH profile provides a statement of situation at the time of its preparation. Recommendations in this report are directed at the measures deriving from the new OSH system action plans and expected changed of the regulations and related normative standards.

OSH profile therefore can indicate the need for clear gender needs assessment also in technical fields, designing the solutions that address policy makers in setting the gender aware standards; employer obligation to accommodate the employee needs; and design of preventive measures that consider the different impact of seemingly gender neutral technical criteria. Special conditions can be regulated through the OSH law and be related to secondary legal acts to ensure the obligation of employer to accommodate gender needs, for example in provision of protective equipment. Technical standards and [risk assessment](#) will require thorough gender analysis performed, as these have multiplying effect and will determine all other OSH processes in place.

Potential gender risks remain in the military, police and emergency service sectors that are exempt from the current OSH Law and will acquire minimum protection and special regulations in the new system. Change in the industry through higher participation of women, further highlights gender risks for health and safety due to the use of standard equipment that is designed for men. The few women who are thus entering the male dominated field will be further subject to discrimination and risks at work, if gender impact is not assessed at a technical regulation level and later through organizational processes by the employer.

## 4.4. OSH RISK ASSESSMENT AND GENDER

New Regulation<sup>58</sup> (MLSW) No.02/2021 on **Workplace Risk Assessment** entered into force on April 1, 2021. The OSH legislation is based on the EU Framework Directive and its secondary legislation - Individual Directives, providing supplementary detailed requirements for each particular aspect of OSH.

Gender aspects in OSH Risk assessment are extensive and current regulation does not provide targeted requirements. Taking ILO guidelines<sup>59</sup> as reference point, the following steps are important:

- **Step 1: Identify the hazards:** Hazard identification leads to acknowledgement that the hazard exists and the descriptions of characteristics are available; information flows influencing hazard identification and role and impact of men and women in these information flows. Essential element is to identify previous incidents, consult with different workers and their representatives as they will provide a range of perspectives. Diversity of opinion will lead to better hazard identification and reflect on the perception of the same situations by men and women, and the short and long term impact on them. To assess gender impact on particular issues, latest scientific findings need to be consulted, sex segregated data collection secured. And notice to be taken on the fact that many incidents remain unreported.
- **Step 2: Who is at risk?** Clarify more precisely to what degree in similar situations men and women perceive and experience the risk. Even when women and men perform exactly the same tasks they may still be exposed to different risks. Differences in shape and average body dimensions between the sexes mean that work equipment and tools that are designed for men's bodies are often unsuitable for women. For example, Hand tools and workstation heights are often uncomfortable for workers who are smaller or taller and larger than

<sup>58</sup> <https://gzk.rks-gov.net/ActDetail.aspx?ActID=37746>

<sup>59</sup> A 5 STEP GUIDE for employers, workers and their representatives on conducting workplace risk assessments, 2014, [https://www.ilo.org/legacy/english/osh/en/story\\_content/external\\_files/wcms\\_232886.pdf](https://www.ilo.org/legacy/english/osh/en/story_content/external_files/wcms_232886.pdf)

the 'standard' worker. For instance, the average woman has a hand length about 2cm shorter than a man's, so tools such as pliers can have too thick a grip, inappropriate placement and loss of functionality.<sup>60</sup> Likewise, awareness on other aspects, like temperature in the offices, impacts health. Most offices, we learn, are five degrees too cold for women, because the formula to determine their temperature was developed in the 1960s based on the metabolic resting rate of a 40-year-old, 70kg man; women's metabolisms are slower.<sup>61</sup> Some of these standards are continuously set and thus gender inequality and negative impact on men or women health and safety continues.

- **Step 3: Evaluate the risk:** Identify and decide on the safety and health risk control measures. This includes to assess the probability of the risk, severity of the impact if it occurs, to include gender aspects of the causes of the risk (f.ex. social context of not wearing safety equipment) and different impact on health of men and women. Systems should be in place that guide risk assessment specialists explicitly towards industry/enterprise/sector specific gender risks. Policy documents should therefore include gender impact assessments to identify hazards and reflect on the perceptions on how we perceive risk and what is taken as reference point to determine severity of the risk. Different perceptions of risks and their impact may lead to underreporting, and once reported – refusal to recognize the impact.
- **Step 4: Systems in place to assign responsibility for health and safety and data collection:** include representation of men and women in OSH systems and securing accountability and traceability of incidents for the analysis and evaluation.
- **Step 5: Action and procedures to minimize the risks and monitor and evaluate progress.** The twofold approach to consider the representation of men and women in the systems and decision making; and the content of the actions and functions – how and

where gender aspects are considered in the design, implementation and monitoring of the action and systems.

Related to specific OSH system reform issues, a new RLSW) no. 01/2021 on Qualification of Persons Responsible for Occupational Safety and Health, licensing of Occupational Safety and Health services and Training Companies<sup>62</sup> entered into force on 1 April 2021. The new regulation is intended as the technical roadmap for certification of specialists, training programs, minimum licensing or qualification requirements for OSH specialists and services, and therefore is an important element in the system to integrate gender equality concerns. Every document, criteria and requirement developed within this new system has to have detailed gender analysis as part of its preparation and thereafter implementation.

The OSH system requires not only minimum legal standards that recognize gender equality goals in the system, but risk assessment has to consider different needs and the impact on men and women; any certification or licencing activity has to build in minimum requirements for professionals and services providers requiring gender equality awareness and ability and skill set to implement these requirements; and any related educational programme to embed gender equality and generate the competence and skill set for these professionals.

New Regulation (MLSW) No. 01/2021 on qualification of persons responsible for occupational safety and health, licensing of occupational safety and health services and training companies sets the scope of training, licencing, obligations of employers, as well as well as defining high risk economic activities related to OSH. Based on the gender aspects assessed above, it is clear that this particular area of the new regulation, along with the training and licencing activities, has to follow thorough gender analysis, ensuring that perceived risks and real risks are identified and addressed, as well as designing the OSH system that considers occupational segregation aspects.

<sup>60</sup> Page 6; <https://www.tuc.org.uk/sites/default/files/PPEandwomenguidance.pdf>

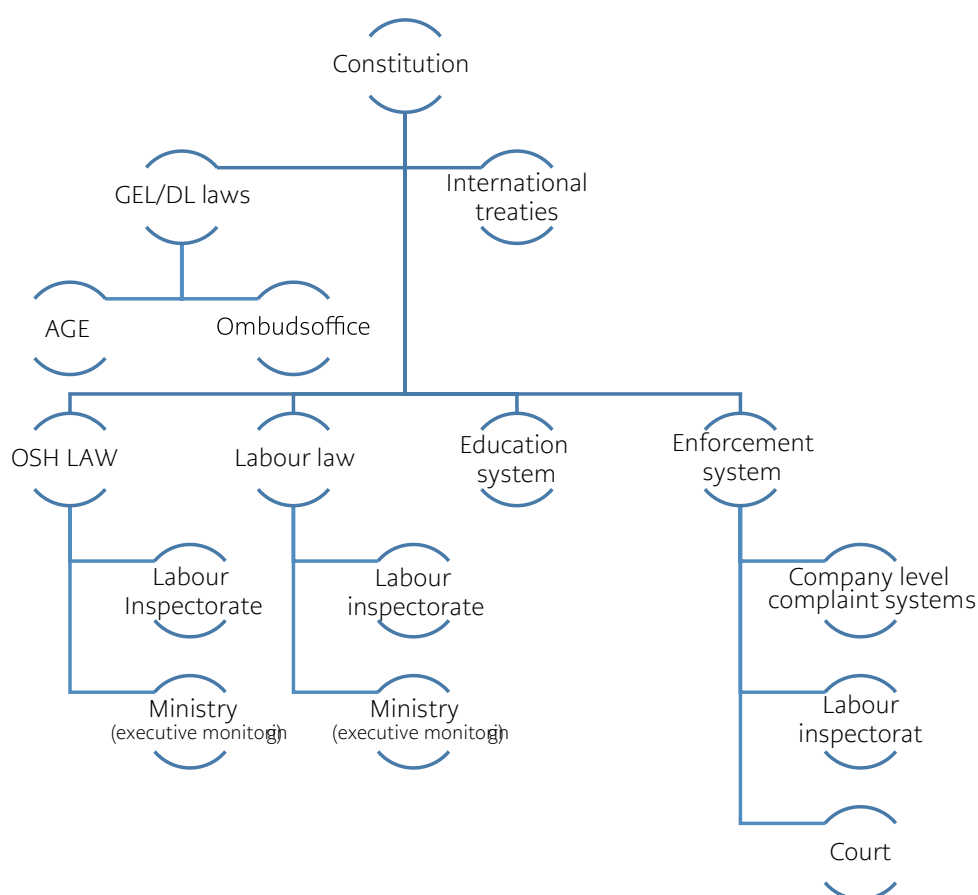
<sup>61</sup> Example from article about Caroline Criado Perez, Invisible women, <https://www.theguardian.com/books/2019/feb/28/invisible-women-by-caroline-criado-perez-review>

<sup>62</sup> <https://gzk.rks-gov.net/ActDetail.aspx?ActID=37745>



## 5 OSH SUPERVISION AND ADMINISTRATION

Generally, the main responsibilities are clearly defined for the major stakeholders – the responsible ministry and Labour Inspectorate (LI). LI is established and working as independent body under the responsible ministry.



### 5.1. FUNCTIONS OF THE EXECUTIVE MONITORING BODY

Function also includes supervision and control of the OSH system, or evaluation of the work of LI on annual basis. This means that Ministry may have strong impact on the functioning of the Labour Inspectorate and implementation of gender mainstreaming principles – in represen-

tation, securing competence and capacity, and supporting the strategic development of the institution.

In practice, effective monitoring of labour system requires also cooperation with other ministries and their institutions:

- Health system: with regard to clear gender mainstreaming in the design of occupational health competence, education system, data monitoring and preventive measures;

- Economy or trade: with regard to industry data, sector specific needs and gender segregation in labour market, as well as in business environment.

Collaboration with employee and employer representatives also falls within the function of ministry – for effective functioning of social dialogue system.

Role of the Agency for Gender Equality (PM office) and gender equality officers in design of the policies

Gender Equality action plan envisaged one specific occupation health and safety objective - Preparation of a regulatory impact assessment for insurances in cases of accidents at work and occupational diseases to be carried out by MSWL as part of the OSH system improvement. Agency for Gender Equality (AGE) and the network of gender equality officers through the government institutions has its purpose to ensure and coordinate that the impact assessments are carried out and included in the policy development process.

**The Ministry of Health (MoH)** is responsible for health policy and legislation, coordination of health care, monitoring, strategic planning, licensing and certification and other activities in the area of health care. Occupational health is a part of tertiary level education. As identified through OSH profile 2021, although within the Health Sector Strategy 2017-2020 the reorganization to improve accessibility of the citizens to health services is mentioned, health surveillance of employees is in practice not happening.

Role of MoH in ensuring gender mainstreaming in labour relations and occupational health includes required inputs in the following areas for equitable OSH system:

- Responsibility for policy development with regard to health at work and the respective gender impact assessments;
- Organizing the occupational health surveillance systems and access for employees to the system. Access to health is gendered and in Kosovo it is demonstrated through occupational segregation and related health check requirements, accessibility of those; likewise, omission of health checks or un available free health surveillance for undeclared workers, domestic workers and

some atypical employment workers. Policy for accessible Occupational health system requires to be aligned with the political choices to be made in the developing OSH Law and Labour law system;

- Drawing up the list of occupational diseases: caution with regard to recognition and acceptance of male/female specific diseases and their acknowledgement as occupational diseases with deriving support and social protection systems. As mentioned earlier, average “male” works also as a standard in health care system, therefore risks of gendered occupational disease lists are present;
- Responsibility for the system health care for injuries and occupational diseases is closely linked to gender equality in health care system as such. Competence of policy makers to ensure recognition of male/female differences in reporting injuries, recognition of these injuries and treatment is required.
- Together with Ministry of Education, training of health care personnel.

**The Ministry of Economic Development (MED)** is responsible for overall development of economic activities in Kosovo and therefore plays a certain role also in the OSH system. MED is therefore particularly well equipped to ensure that data is collected and available on systemic segregation of men and women in economic development activities, providing a clear picture on the ownership of businesses, representing in business by men and women, including true and pro-forma ownership, managerial levels, by sectors, scope of undeclared work and shadow economy and its impact on men and women.

Considering dominant employment of men in mining sector, OSH measures have to bear particular awareness on the specific mining industry risk assessment, psychological considerations of men and preventive health measures, importance of the psycho emotional health.

Opportunities for the role of the “Social and Economic Council” in securing gender mainstreaming need to be used. Council was established in 2016 as tripartite body to develop and promote social dialogue and to serve as mechanism for dialogue between government institutions, the private sector and social partners. In practice it works very little, and primarily on issues of minimum pay.

**Social and economic council** is a social dialogue format that could be supportive of GM in OSH. Its current role is weak, however as with all cross sectoral platforms its efficiency depends on competence of the participating institutions. In Councils case, the role of respective Ministry responsible for OSH and involvement of AGE may considerably change opportunities for GM. For effective functioning of the platform for social dialogue, GM capacities of participating institutions, including Trade Unions, require to be assessed and strengthened.

## 5.2. LABOUR INSPECTORATE

Recommendation to highlight the role of LI in securing collection of sex segregated data and publishing information in a way that it reduces OSH related gender stereotypes, need for increased competence on gendered hazard identification and recognition and GM competence for policy development. Representation of men and women at LI remains an issue

The main stakeholder in monitoring employment relations and OSH is the Labour Inspectorate (<https://ip.rks-gov.net>). LI was established in accordance with Law No. 2002/09 on Labour Inspectorate of Kosovo<sup>63</sup>. The LI has the following main tasks and functions that include responsibility for gender mainstreaming:

- Inspections and enforcement of legal requirements in the areas of employment relationship, occupational safety and health and other areas defined in specific laws and complaint handling; the horizontal laws on gender equality and protection from discrimination include clear employment relations provisions. Those are cross referenced in LL and therefore subject to LIS competence to apply and interpret through its enforcement work;
- Consultations and advise (free of charge) for employers and employees and promotion of the preventive culture with the purpose of creating safer working environment and increasing quality of work life, thus a clear gender equality and non-discrimination mandate is already given to LI.

- Data collection: Collection, processing, analysing and publishing information in the area of employment relationship and occupational safety and health gathered at national, regional, activity sector and company and workplace level. All the data has to be sex segregated, and the improved data collection system will secure that. Data provides insight into gender specific issues and gives scope for LI to act through its annual work plan. For example, there are no registered harassment cases with LI, or first quarter of 2021 demonstrated that only men suffered at workplace accidents. Any area with stark absence of numbers from men or women indicates potential problem and risks, and scope for gender specific preventive actions. The data should lead to better LI strategy and action plans that include gender equality goals in occupational segregation environment.
- Legislative and policy drafting: Preparation of annual work plans defining priority areas for action and participation in legislative drafting process. LI is in a position to identify gaps in the existing systems and propose solutions both through policy measures and legislative initiatives. Targeted work plan actions and choice of equality subjects is entirely within the decision power of the LI leadership. Considering that there are 0 registered complaints on harassment at workplace, while it is reported relatively high in KSI report of 2021<sup>64</sup>.
- Accident investigations: Carrying out the investigation of accidents at work and participation in the investigation of cases of occupational diseases requires high awareness of gender equality.
- Equipment control: Control of work equipment at the workplaces, use of individual and collective protection equipment by employees as well as use of chemical substances.
- Cooperation with other governmental authorities, local authorities, representative organizations of employers and employees as well as international organizations.

Gender equality aspects also concern **Representation** of men and women at the LI. While over-

63 <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2581>

64 KSI report, 2021



all, the last recruitment processes have led to more women joining LI, there is still opportunity to both increase capacity of LI (as identified in OSH Profile), and ensure horizontal and vertical representation of men and women within the organization. Gender equality also will have to be considered in all capacity building activities with regard to content competence for application of non-discrimination measures, investigation of harassment and violence at work complaints, risk assessment and all other aspects of OSH.

Operational plans for inspection planning should be based on data of occupational segregation and ensure staff has tools and competence to register gender specific observations (checklists, sector specific notes, etc.), currently not available to LI staff.

**Preventive** work of LI includes requirement for:

- gender sensitive communication is provided through OSH system and to general public
- gender sensitive OSH trainings are provided for safety and health experts

Language plays a critical role in how we interpret the world, including how we think and behave. Language, which plays a central role in human cognition and behaviour, is one of the most common mechanisms by which gender is constructed and reinforced. Word choices often reflect unconscious assumptions about values, gender roles and the abilities of women and men. Gendered language is still common-

place in both the workplace and everyday life. As seen from hazard identification, gender issues in product design and availability, the invisible biases are further reinforced through the way communication is provided. Clear guidelines on gender sensitive communication, especially for the key stakeholders like LI are a prerequisite.

Some of the principles of gender sensitive communication<sup>65</sup> include:

- Ensure that women and men are represented visually, in stories, through different positions, like employees, experts, managers;
- Challenge gender stereotypes
- Choice of language: Avoid exclusionary forms and use equal forms of address for people
- Choice of images: Create a gender balance in who is represented and in which position
- In audio and video communication ensure men and women are represented equally, challenge gender stereotypes with chosen images<sup>66</sup>
- Be aware of the use of language in training and classroom settings.

Challenges in Gender sensitive communication include reinforcing the stereotypes, making men/women invisible, omitting from communication, reinforcing subordination through patronizing.

<sup>65</sup> See UNESCO guidelines <https://unesdoc.unesco.org/ark:/48223/pf0000114950>

<sup>66</sup> Principles of Gender-Sensitive Communication UNDP Gender Equality Seal initiative <https://www.undp.org/content/dam/jamaica/docs/gender/JM-AUG-29-UNDP%20Gender%20Seal-Principles%20of%20gender-sensitive%20communications.pdf>

# 6 PROVISION OF OSH TRAINING AND LICENCING

The training and capacity system is a multiplying channel ensuring GM in OSH as it addresses OSH specialists, certification of OSH trainers, licensing of OSH service providers and OSH training centres. While training content is directly linked to GM in the OSH system – from policy making, to risk assessment and product design – training is the next step where GM has to be explicitly referred to in the design of the training standards and programmes, during the trainings and throughout communication.

New Regulation (MLSW) No. 01/2021 on qualification of persons responsible for occupational safety and health, licensing of occupational safety and health services and training companies and with minor changes it could secure mainstreaming in defining training programmes and licencing criteria: setting cross reference for gender equality and non-discrimination principles applied in OSH Law (draft OSH law provides opportunity to adjust the respective reference sections) and LGE and LPD.

GM competence development through organizations includes:

- **Normative framework** including laws and regulations, as well as internal normative instruments where gender equality is reflected through representation requirements, gender neutral competence criteria at the stage of design of the systems.
- **Human resource development** to enable individuals with the knowledge on OSH and gender equality aspects in it, understanding and skill to apply gender sensitive risk assessments and access to information to perform their gender-mainstreaming responsibilities in their daily work,
- **Organizational development:** This creates management structures, processes and procedures that facilitate gender main-

streaming, both within the organization and in its relationships with different organizations and sectors (public, private and community)

Through licencing system criteria for GM can be built in as prerequisite for applying for licence and demonstrating competence in ensuring GM in the design of the products.

Similarly, through training requirements principles for gender mainstreaming competences can be built into the content of training and certification of experts. Developing training materials can be supported by already existing AGE resources in other fields<sup>67</sup>.

Certification and licencing schemes should define that OSH trainings ensures:

1. thematic focus and coverage of gender equality aspects in OSH and content of the training:
  - a. to ensure that choice of subjects and coverage is reflecting needs of men and women at workplace;
  - b. to ensure that provided training is actively working to counter gender stereotypes at workplace.
2. use of gender analysis data management and use in OSH systems to enable assessment of gender segregation in professions, markets, industries and impact on working life at state
3. Participation and representation: ensuring access to OSH training for men and women and the representation of men and women in the delivery of OSH trainings. Accessibility of trainings have to consider: time, location, tools used.

<sup>67</sup> AGE guide on textbooks to be adjusted for development of new OSH concepts, materials. <https://abgj.rks-gov.net/assets/cms/uploads/files/Anglisht%20mostra.pdf>





# 7 SPECIAL MEASURES AND GENDERED DECENT WORK PERSPECTIVE

## 7.1. VIOLENCE AT WORK

KSI draft report on women in employment post-Covid of January 2021<sup>68</sup> surveyed incidents of sexual harassment at work. Around 30% of women reported different degrees of sexual harassment at work, but only 18% reported it to the employer. LFTUS also demonstrates that women do not recognize many discrimination factors, internalizing discrimination as a norm. Therefore a combination of survey data and an understanding of the forms of violence at work have to be taken into account in designing decent work and OSH measures. Sexual harassment and other forms of violence is both a discrimination issue and a safety and health issue, impacting men and women differently. No surveys on mobbing and other forms of violence have been available.

Specifically applying to gender equality cases, harassment and sexual harassment is considered discrimination for the purposes of the EU Equal Treatment Directive,<sup>69</sup> as well as less favourable treatment based on a person's rejection of or submission to such conduct. 'Harassment' is defined as unwanted conduct related to the sex of a person with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading, humiliating or offensive environment; and 'sexual harassment' as any form of unwanted verbal, non-verbal or physical conduct of a sexual nature with

the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment.

Legally, violence at work is directly defined through LPD and cross reference in Labour law Article 5, and LPD reference in OSH Law. Law review recommends to consider a more specific cross reference to harassment provisions, to ensure it is an unquestionable part of labour relations and under monitoring and supervision of the Labour Inspectorate.

The horizontal laws of LGE and LPD define harassment at work. While a cross references are made in LL and OSH Law, it would be recommended to consider transfer of definitions including of psychological health and harassment types to OSH normative system. This will ensure health and safety aspects of violence at work and sexual harassment become more visible and prominent.

Violence at work includes physical and mental health, among those sexual harassment if clearly gendered. [OSH risks](#) assessment section above elaborates on impact of violence.

## 7.2. SEXISM AT WORK

A less identified mental wellbeing issue is **sexism** in employment relations and derives from cultural context in the national setting, stereotypes and assigned gender roles. It manifests itself through sexist comments, and behaviour

<sup>68</sup> Kosovo Stability Initiative, Research report: Women Employment in Post Covid Kosovo (Draft title), January 2021 (available from IKS)

<sup>69</sup> Directive 2006/54/EC

aimed at an employee or group of employees. As described in recent Council of Europe (CoE) Recommendations<sup>70</sup>, sexism in the workplace includes, among others, derogatory comments, objectification, sexist humour or jokes, overfamiliar remarks, silencing or ignoring people, gratuitous comments about dress and physical appearance, sexist body language, lack of respect and masculine practices which intimidate or exclude women and favour fellow men. It affects dignity at work.

Sexism often will be demonstrated through attitude towards working mothers, deeming them as less reliable; while also diminishing value of fathers who undertake care activities. Considering the proportional care burden laid on women, sexism in this perspective will affect women

more in Kosovo. CoE recommends tools on prevention of sexism are available [here](#).<sup>71</sup> Sexism in principles could be addressed through discrimination clauses in LL, OSH Law, LPD and LGE, however in terms of OSH system, this should be taken up as part of violence at work element, having higher impact on women at work. CoE recommendation suggests to ensure that labour legislation to prohibits sexism and sexist acts at work, and promote good practices such as risk analysis, mitigation and management measures, complaints mechanisms, remedies for victims and disciplinary action through civil or administrative law processes. Ensure that the sexism risks are covered both join public and private sector, as well as within the elected institutions (parliament, regional or local bodies).

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70 PREVENTING AND COMBATING SEXISM Recommendation CM/Rec(2019)1 adopted by the Committee of Ministers of the Council of Europe 27 March 2019; available on Agency for gender Equality Website at [https://abgj.rks-gov.net/assets/cms/uploads/files/CM%20Rec\(2019\)1%20on%20preventing%20and%20combating%20sexism%20\(ENG\).pdf](https://abgj.rks-gov.net/assets/cms/uploads/files/CM%20Rec(2019)1%20on%20preventing%20and%20combating%20sexism%20(ENG).pdf)

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71 "Kit to act against sexism – Three tools for the world of work", available at <https://rm.coe.int/16806fbc1e>

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- World Bank Group, policy note, Promoting Women's Access to Economic Opportunities: Kosovo, available at: <https://openknowledge.worldbank.org/handle/10986/29587>

# 9 ANNEX I LIST OF TRANSPOSED EU OSH DIRECTIVES IN KOSOVO

(SITUATION ON 31.12.2020. FROM OSH PROFILE 2021)

	OSH Legal Act/regulation of Kosovo	Transposed EU Directive
1	Law No 04/L-161 on Safety and Health at Work	Framework Directive 89/391/EEC
2	Regulation (MLSW) No. 4/2014 on minimum safety and health requirements for the <b>workplace</b> ;  Amendment:  Regulation (MLSW) No. 01/2020 on amendment on supplement of the regulation (MLSW) No. 04/2014 on minimum safety and health requirements for the workplace	89/654/EEC of 30 November 1989 concerning the minimum safety and health requirements for the workplace (first individual directive)
3	Regulation (MLSW) No.5/2014 on the minimum safety and health requirements for the <b>use of work equipment</b> by workers at workplace;  Amendment:  Regulation (MLSW) No. 02/2020 on amendment on supplement of the regulation (MLSW) No. 05/2014 on minimum safety and health requirements for the use of work equipment by workers at workplace	Directive 2009/104/EC of the European Parliament and of the Council of 16 September 2009 concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive)
4	Regulation (MLSW) No.2/2016 on minimum safety and health requirements for the use of <b>personal protective equipment</b> at the workplace	Directive 89/656/EEC of 30 November 1989 on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace (third individual directive)
5	Regulation (MLSW) No. 3/2016 on minimum safety and health requirements for protection of employees regarding <b>manual handling</b> of loads	Council Directive 90/269/EEC of 29 May 1990 on the minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back injury to workers (fourth individual directive)

	OSH Legal Act/regulation of Kosovo	Transposed EU Directive
6	Regulation (MLSW) No.4/2016 on minimum requirements for the provision of safety and health <b>signs</b> at work	Directive 92/58/EEC of 24 June 1992 on the minimum requirements for the provision of safety and/or health signs at work (ninth individual directive)
7	Regulation (MLSW) No. 6/2016 on minimum safety and health requirements for work with <b>display screen</b> equipment	90/270/EEC of 29 May 1990 on the minimum safety and health requirements for work with display screen equipment (fifth individual directive)
8	Regulation (MLSW) No.5/2016 on minimum requirements regarding occupational safety and health of employees at risk from <b>explosive atmospheres</b>	Directive 1999/92/EC of the European Parliament and of the Council of 16 December 1999 on minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmospheres (fifteenth individual directive)
9	Regulation (MLSW) No.1/2017 on the protection of employees from risks related to <b>vibration</b> at the workplace	Directive 2002/44/EC of the European Parliament and of the Council of 25 June 2002 on the minimum health and safety requirements regarding the exposure of workers to the risk arising from physical agents (vibration) (sixteenth individual directive)
10	Regulation (MLSW) No.2/2017 on the protection of employees from risks related to <b>noise</b> at the workplace	Directive 2003/10/EC of the European Parliament and of the Council of 6 February 2003 on the minimum health and safety requirements regarding the exposure of workers to the risk arising from physical agents (noise) (seventeenth individual directive)
11	Regulation (MLSW) No. 6/2017 on minimum requirements for safety and health protection of workers at temporary or mobile <b>construction sites</b>	Council Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites (eight individual directive)
12	Regulation (MLSW) No. 7/2017 on the protection of employees from risks related to exposure to <b>asbestos</b> at work	Directive 2009/148/EC of the European Parliament and of the Council of 30 November 2009 on the protection of workers from the risks related to exposure to asbestos at work
13	Regulation (MLSW) No. 10/2017 on safety and health protection of employees from risks related to <b>chemical agents</b> at work	Council Directive 98/24/EC of 7 April 1998 on the protection of the health and safety of workers from the risks related to chemical agents at work (fourteenth individual directive)  Directives 91/322/EEC, 2000/39/EC, 2006/15/EC, 2009/161/EU on the lists of indicative exposure limit values
14	Regulation (MLSW) No. 4/2017 on protection of employees from risks concerning <b>carcinogens and mutagens</b> at work	Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (sixth individual directive)

	OSH Legal Act/regulation of Kosovo	Transposed EU Directive
15	Regulation (MLSW) No. 5/2017 on protection of Employees from risks relating to exposure to <b>biological agents</b> at work	Directive 2000/54/EC of the European Parliament and of the Council of 18 September 2000 on the protection of workers from risks related to exposure to biological agents at work (seventh individual directive)
16	Regulation (MLSW) No. 3/2017 on prevention from <b>sharp injuries</b> at workplace in health care and hospitals and healthcare sector	Directive 2010/32/EU of 10 May 2010 implementing the Framework Agreement on prevention from sharp injuries in the hospital and healthcare sector
17	Regulation (MLSW) No. 9/2017 on protection of employees from risk, related to the <b>optical radiation</b>	Directive 2006/25/EC of the European Parliament and of the Council of 5 April 2006 on the minimum health and safety requirements regarding the exposure of workers to risks arising from physical agents (artificial optical radiation) (nineteenth individual Directive)
18	Regulation (MLSW) No. 8/2017 on protection of employees from risk, related to the <b>electromagnetic field</b>	Directive 2004/40/EC of the European Parliament and of the Council of 29 April 2004 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) (eighteenth individual Directive)
19	<b>Draft</b> Regulation on minimum requirements for safety and health protection of workers in <b>surface, underground mining activities</b> , drilling and certain other mining activities.  (expected to be adopted by the Government)	Council Directive 92/91/EEC of 3 November 1992 concerning the minimum requirements for improving the safety and health protection of workers in the mineral-extracting industries through drilling (eleventh individual directive)  Council Directive 92/104/EEC of 3 December 1992 on the minimum requirements for improving the safety and health protection of workers in surface and underground mineral-extracting industries (twelfth individual directive)
20	<b>Draft</b> Regulation on protection of employees and other workers exposed to <b>ionising radiations</b>  (expected to be adopted by the Government)	Directive 2013/59/EURATOM laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom

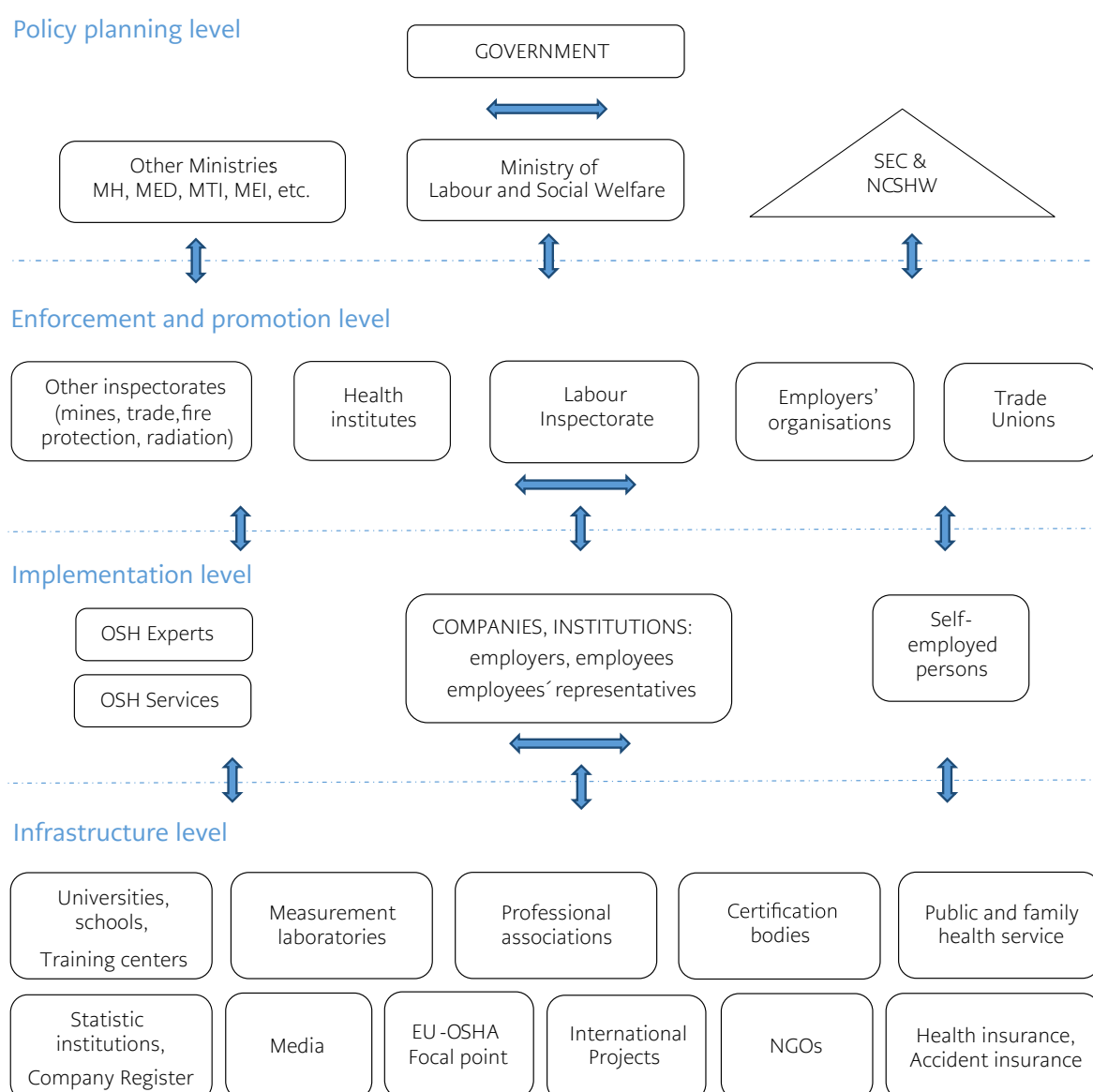




# 10 ANNEX II: OSH

## INSTITUTIONAL FRAMEWORK

Annex taken from the OSH profile Kosovo 2021, as adapted from: “DRAFT Intersectoral Strategy on Safety and Health at Work 2021 – 2026 and Action Plan 2021 – 2023” elaborated by the MLSW and project “Support to Labour Inspectorate for fighting against undeclared work” (EuropeAid/138633/DH/SER/XK) in November 2020.





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