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"The Handling of Workers' Rights Cases by the Labour Inspectorate and the Judiciary"



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Failures in the implementation of standards by the Labour Inspectorate

	Standard	Implementation
1.	Gender equality and non-discrimination within the Labour Inspectorate	×
2.	Use of records and databases for documenting violations	×
3.	Increased reporting by employees in the private sector	×
4.	Professional standards in handling complaints	×
5.	Settlement of cases in accordance with court instructions	×
6.	Reduction in the number of accidents at work	×
7.	Requirement to enforce the Law on Safety and Health at Work	×

Failures in the implementation of standards by the Justice System

	Standard	Implementation
1.	Development of principles for handling competencies	×
2.	Implementation of the strategic commitment to case prioritisation	×
3.	Investigation of workplace injury cases	×
4.	Timely handling of criminal reports	×
5.	Timely trial of indictments	×
6.	Implementation of time standards for trials	×
7.	Implementation of sentencing policy	×

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Introduction

As the youngest country in the region, Kosovo is committed to implementing European standards and the values of human rights and freedoms, including workers' rights.

The right to work and freely choose a profession is a fundamental right and freedom guaranteed by Kosovo's Constitution. Special laws envisage preventive measures aimed at improving working conditions, protecting the health of workers, improving the working environment, and ensuring the physical and psychological protection of employees and others who engage in work.

Despite these commitments in the Constitution and relevant laws, statistics show that workplace safety remains a challenge in Kosovo.

Between 2011 and the middle of 2022, 141 workers died due to accidents at work. Data shows that institutional actions have failed to influence a decrease in deaths, with the numbers in fact having increased over the years.

The state of legal enforcement is best highlighted by the extent to which workplace risk assessments are conducted. Only 1.55% of the country's registered businesses have fulfilled this basic safety at work requirement.

Kosovo continues to have a significant informal economy and a high level of unemployment.

Data shows that one third of Kosovo's economy is informal, with the percentage of informality in employment being similar.¹ The sectors with the highest degree of informality are construction and agriculture.

Despite a lack of national statistics on the number of unregistered workers, Labour Inspectorate data indicates that 1,459 workers without employment contracts and 433 workers who were not declared to the Tax Administration of Kosovo (TAK) were discovered in 2021, through 10,162 inspections.

Challenges remain with the legal framework governing workers' rights. The Law on Labour, adopted in December 2010, has not been amended despite legal gaps having long been identified at the point of implementation.

Justice institutions have also created challenges with their interpretations of the law. There have been many cases where the Supreme Court and regular courts have found Inspectorate decisions to have violated the independence of the judiciary, ruling in parallel with the courts.

There have also been significant challenges in implementation of the law. The Labour Inspectorate has limited inspection capacities, while court cases involving incidents and injuries at work take years to resolve.

Although the law stipulates that the courts must prioritise labour disputes, the data shows that, in practice, it can take more than two years for a case to be resolved at the court of first instance. The procedure can take even longer where an appeal is made to the court of second instance, the Court of Appeal.

The situation is similar with decisions in criminal cases, which can last for years, while few decisions go against businesses.

The performance of inspection institutions is also poor. The Labour Inspectorate continues to receive a low number of reports, and the quality of handling those reports is poor, as appealed decisions are annulled or returned for review in 93.3% of cases.

Civil society studies show that hundreds of workers work in difficult conditions but are forced to remain silent or risk losing their jobs.²

In the private sector, where there are more violations, Kosovo has failed to establish trade union mechanisms for the protection of workers' rights.

¹ Economic informality in Kosovo, according to the Kosovo Chamber of Commerce and the Tax Administration of Kosovo: <https://www.monitor.al/informaliteti-ne-kosove-shume-i-larte-vetem-36-mije-biznese-te-fiskalizuara/>

² Report by the Kosovar Stability Initiative (IKS), titled "To Be Silent and Patient or Be Fired", published in April 2022. Available at: <https://iksweb.org/wp-content/uploads/2022/04/To-be-Silent-or-be-fired.pdf>

A U.S. Department of State report says that the government has failed to effectively implement labour laws, including regulations and administrative instructions on employment relations, and the right to freedom of association and collective bargaining.³

The report finds that the government's safeguards were insufficient to ensure enforcement of the law, identify and protect victims, or investigate allegations of forced labour. It also criticises work beyond working hours and the non-implementation of the Law on Safety and Health at Work, as well as the sanctions for violations, which the U.S. State Department says are not in line with other similar laws.⁴

A poor situation in the rights of workers was also found by the European Commission's 2021 Progress Report. This report found that the number of non-formalised workers remains high in Kosovo, even though there has been an increasing trend of registering workers following government-provided financial measures.

The European Commission report states that there has been progress in aligning labour legislation with EU directives, although implementation has been weak, particularly in the private sector. It further states that the Labour Inspectorate has carried out a higher number of inspections with very little impact on the ground, and that an increasing number of workplace accidents remains a concern.⁵

Civil society reports on the state of the Law on Labour indicate delays in implementation, and frequent violations of workers' rights.⁶

The number of complaints from private sector workers remains low, despite the sector having the highest rate of irregularities and Law on Labour violations.

³ The U.S. Department of State's "Kosovo 2021 Human Rights Report", published in 2022. Available at: https://www.state.gov/wp-content/uploads/2022/02/313615_KOSOVO-2021-HUMAN-RIGHTS-REPORT.pdf

⁴ The U.S. Department of State's "Kosovo 2021 Human Rights Report", published in 2022. Available at: https://www.state.gov/wp-content/uploads/2022/02/313615_KOSOVO-2021-HUMAN-RIGHTS-REPORT.pdf

⁵ The European Commission's [Report on Kosovo](#), published in 2021. Available at: <https://neighbourhood-enlargement.ec.europa.eu/system/files/2021-10/Kosovo%202021%20report.PDF>

⁶ IKS report on the implementation of the Law on Labour in Kosovo, published in 2020. Available (in Albanian) at: <https://iksweb.org/wp-content/uploads/2020/10/report-labour-law-implementation-FINAL-Shqip.pdf>

Executive summary

There are major challenges in the process of handling workers' complaints relating to labour rights, safety at work violations and issues connected to employment. These challenges prevent the creation of a favourable environment to protect workers. The data gathered for this report indicates the following:

- Kosovo's institutions have failed to build effective communication mechanisms that would allow for the identification of Law on Labour violations and injuries at work.
- Institutional workers, including doctors, have no mechanism to report injuries sustained by workers in workplace accidents. TAK and the Labour Inspectorate have no communication mechanism to address the violations submitted to these institutions.
- The Labour Inspectorate does not report criminal violations to the prosecution, and the court has no access to the Inspectorate's database.
- Other issues include legal uncertainties and a lack of technical infrastructure for reporting and documenting violations of workers' rights.
- The justice system continues to obstruct and neglect the handling of criminal and civil workers' rights cases.

The research by Balkan Investigative Reporting Network (BIRN) has identified serious weaknesses in the way complaints and lawsuit mechanisms function and in how they are handled by the Labour Inspectorate and the justice system. The problems can be broadly grouped into the categories of legislation, professional capacities and technical deficiencies on the ground.

With regards to the legislation, the Labour Inspectorate — and the system as a whole — is hampered by uncertainty following a Supreme Court decision to ask the Constitutional Court for an interpretation of the Labour Inspectorate's mandate to discipline, sanction and reinstate workers. As a result of this legal uncertainty, the courts have annulled dozens of Labour Inspectorate decisions.

One year and nine months later, the Constitutional Court has yet to address the Supreme Court's referral, while dozens of Inspectorate decisions have been annulled by regular courts on the grounds that the Inspectorate exceeded its powers.

The lack of a review of the Law on Labour also presents a challenge when it comes to legislation on the Inspectorate. Issues surrounding the Inspectorate's mandate could be clarified with a review of the law.

After nearly 2 years, the Constitutional Court has addressed the Supreme Court referral and found that the Labor Inspectorate unlawfully exceeded its powers and assumed the role of the court when deciding on various cases. The Constitutional Court found that inspectorates cannot exercise judicial functions, and that only the court can decide on reinstatements to work, salary claims, and legality of decisions.

The professional capacities of the Labour Inspectorate are limited and do not correspond to the needs in the field. An inspector is responsible for supervising an average of 3,000 businesses, with less than 10% of businesses visited by inspectors each year.

In addition to the lack of staff, the professional performance of the staff is poor. More than 93% of first instance decisions issued by inspectors were annulled or returned for review by the complaints committee.

Looking into these decisions reveals a lack of professionalism, with no first-instance decisions including a reasoning for the fine and its amount.

The data shows that, despite around 10,000 inspections having taken place, their impact on the ground has been low, as instructions are not followed by businesses.

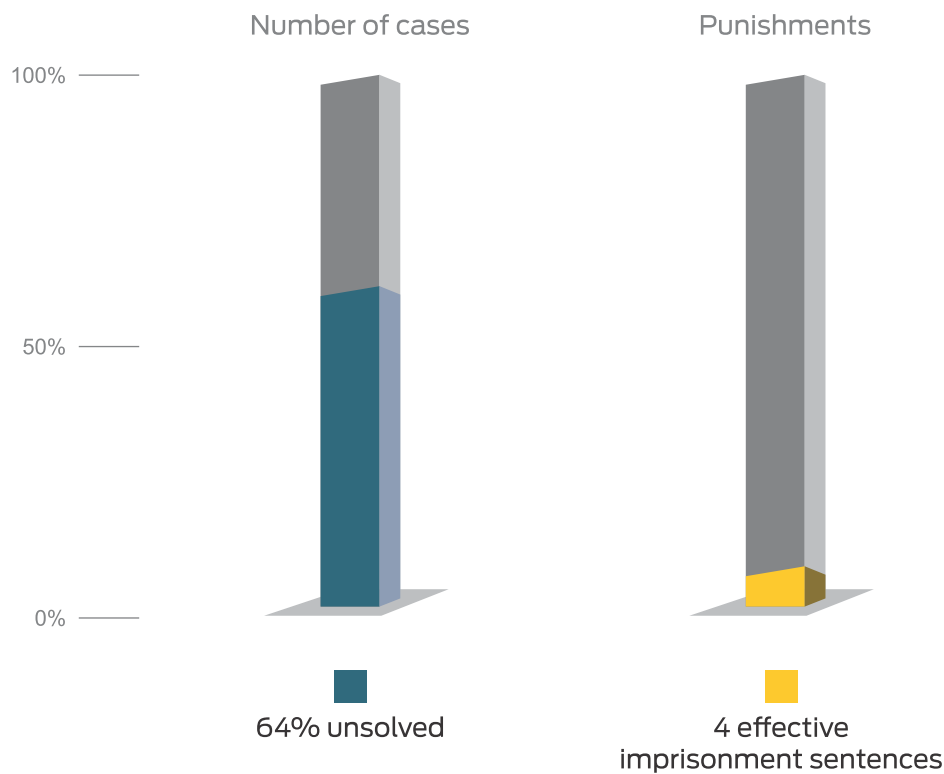
A basic safety at work requirement is a workplace risk assessment. Although there are 112,000 businesses active in Kosovo, only 1,740 have fulfilled this obligation.

Inspectors are also failing in their obligation to file criminal reports to the prosecution against businesses that are found to have committed criminal violations. The inspectorate has not filed a single criminal report to the prosecution for the businesses it has inspected.

From a technical and managerial perspective, the Inspectorate has not developed a platform to report cases or a platform to check workers' data remotely.

The Labour Inspectorate has no database or record of fines issued or businesses sanctioned, making it impossible for inspectors to know which businesses are repeat offenders. This means that fines remain unchanged, even when a business is a repeat offender.

The justice system is also a weak link when it comes to addressing labour and workplace safety issues. Sixty-four per cent of labour dispute cases in the court remained unresolved each year. Statistically, the court finds in favour of workers in 72% of cases.



Delays by the courts were found in 88% of the cases reviewed for this report, while delays by the State Prosecutor were found in 37% of cases.

The justice system also issued lenient sentences against offenders in workplace safety cases. Of the 20 criminal judgments reviewed for this report, fines were issued in 11 cases, suspended sentences in five cases, and four cases resulted in a prison sentence.

The data shows that, in these cases, the courts considered 111 mitigating circumstances and only 21 aggravating circumstances.

In 14 of the 20 criminal judgments reviewed, sentencing guidelines were not implemented. Overall, this data shows that the justice system applies a highly lenient approach to businesses that have violated workplace safety rules and are responsible for accidents at work.

Methodology

The report contains data collected from direct interviews, analysis of statistical reports and in-depth analysis of case files.

For Chapter 1 of this report, 23 first two cases of instance Labour Inspectorate decisions were analysed. The selection of decisions was made based on the period when they were handled, specifically the first cases handled by each Labour Inspectorate region in 2020 and 2021, and the first decisions issued by the institution's Complaints Committee in 2019, 2020 and 2021.

Data on workplace safety was collected through direct interviews and analysis of statistical data.

Chapter 2, dealing with the performance of the justice system, was compiled following a review of files from 27 court cases handled by Kosovo's courts. The reviewed files were selected based on the period when they were handled, specifically the first case handled by each Basic Court in 2018, 2019, 2020 and 2021.⁷

1. Inspectorate challenges

The Labour Inspectorate is an independent executive body whose task is to monitor implementation of the legal provisions governing contractual relations, and the rights and obligations of parties in legal employment relations. The Inspectorate is authorised to carry out inspections in both the public and private sectors.⁸

In addition to monitoring implementation of the Law on Labour and the Law on Safety and Health at Work, the Labour Inspectorate also oversees implementation of a number of other laws, including the Law on Tobacco Control, Law on Strikes, Law on Vocational Ability, Rehabilitation and Employment of People with Disabilities, Law on Foreigners, Law for Organising Trade Union, Law on the Protection of Breastfeeding and Law on Protection of Whistleblowers.

BIRN's research has identified issues and challenges with the following:

- Human resources and gender discrimination at the Labour Inspectorate
- Lack of a database and data
- Neglecting the obligation to report cases to the prosecution
- High prevalence of complaints by public servants
- Inconsistent standards in handling first-instance complaints
- Second-instance irregularities and delays
- Legal uncertainty in decision making between the Inspectorate and the courts
- Failure to reduce the number of workplace accidents
- Poor implementation of the Law on Safety and Health at Work

⁷ Four cases (one per year) were analysed from each Basic Court, with the exception of Ferizaj, where only three relevant cases were identified.

⁸ Law on Labour Inspectorate. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3252>

1.1 Human resources and gender discrimination at the Labour Inspectorate

Despite having a mandate to guarantee equality and equal treatment in employment, the Labour Inspectorate is itself an institution that violates the Law on Gender Equality in its human resources. Only six women work at the institution, which is dominated by men. Of the 13 management positions in the institution, only three are held by women.

In addition, the Labour Inspectorate has significant challenges in recruiting staff and achieving the goals for which it was established.

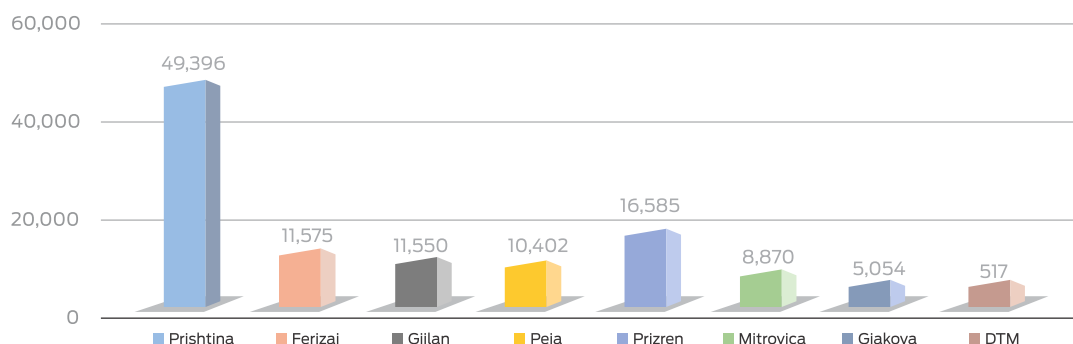
Number of labour inspectors by year

Year 2020		Year 2021		Year 2021	
39		37		37	
Men	Women	Men	Women	Men	Women
33	6	33	6	33	6

As shown in the table above, in 2020 there were 39 labour inspectors across the whole of Kosovo. That number dropped to 37 in 2021, while in 2022 there were 38 labour inspectors.

According to official data, it is estimated there are 112,000 active businesses in Kosovo. Dividing the number of businesses by the number of inspectors, each inspector is responsible for around 3,000 businesses each year. With 260 working days in a year, each inspector would have to carry out visits to 12 businesses per day to ensure that each business was visited once. Visiting three businesses per day would mean that each business would be visited by inspectors once every four years.¹⁰

Businesses By Region



⁸ Të dhënat e nxjerra nga raporti vjetor i Inspektoratit të Punës, <https://ip.rks-gov.net/wp-content/uploads/RAPORTI-VJETOR-2021.pdf>

⁹ Data extracted from the Labour Inspectorate's annual work report for 2021. Available (in Albanian) at: <https://ip.rks-gov.net/wp-content/uploads/RAPORTI-VJETOR-2021.pdf>

¹⁰ Data extracted from the responses of the Tax Administration of Kosovo.

Looking at the figures by region, in the last three years, each labour inspector in Prishtina was responsible for 4,490 businesses, given that there are almost 50,000 businesses operating in the capital and only 11 inspectors assigned for the region.

1.2 Lack of a database and data

The Labour Inspectorate operates without an electronic database. As a result, the registration of complaints and decisions is still carried out manually.¹¹

The lack of a database makes the Inspectorate's work difficult, both in terms of drawing up annual reports and handling inspections.

In the absence of a database, inspectors find it hard to verify whether a business is a repeat offender, something that should affect the severity of the sanction. In the 14 cases analysed for this report, there is no information as to whether the inspectors checked whether the businesses were repeat offenders prior to issuing their decisions.

Repeat violations is considered a circumstance that warrants a stronger sanction against the offender, as set out in the Administrative Instruction for Determination of Fines and Specific Amounts for Violation of the Provisions of Law on Labour. However, it is difficult to apply the terms of this instruction given the lack of a database.¹²

1.3 Neglecting the obligation to report cases to the prosecution

The Criminal Code assigns particular importance to the rights of workers. A chapter of the code is dedicated to criminal offences against labour relation rights.¹³ The easiest way of identifying such criminal offences is through inspections by labour inspectors.

Offences that are easy for inspections to find include 'Violating rights in labour relations', 'Violating rights of employment and unemployment' and 'Violation of the right to strike'.

Many inspections find violations of labour relation rights; however, no criminal reports have been filed on this basis. The Inspectorate has also inspected various recruitment procedures, often finding irregularities, but still not filing any criminal charges.

Although the Inspectorate carries out an average of 10,000 inspections per year, it has never reported a suspicion of a criminal offence to the prosecution.

It is the legal obligation of every public institution and every official to inform the State Prosecutor if they come across suspicions of criminal offences, through the submission of a criminal report.

The failure to report a criminal offence itself constitutes a criminal offence, and the person who fails to report it should be prosecuted.¹⁴

¹¹ Reply from the Labour Inspectorate, November 2, 2022.

¹² Article 9 of the Administrative Instruction for Determination of Fines and Specific Amounts for Violation of the Provisions of Law on Labour states that the repetition of a violation constitutes grounds for the maximum penalty. Administrative Instruction available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=8160>

¹³ Chapter XIX of the Criminal Code of the Republic of Kosovo. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18413>

¹⁴ Article 378.2 of the Criminal Code of the Republic of Kosovo states the following: "An official person or a responsible person who fails to report a criminal offense he or she has discovered in the exercise of his or her duties shall be punished as provided for in paragraph 1. of this Article, if such offense is punishable by imprisonment of at least three (3) years." Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18413>

The lack of criminal reports has exempted businesspeople and managers from liability for violating workers' rights.

1.4 High prevalence of complaints by public servants

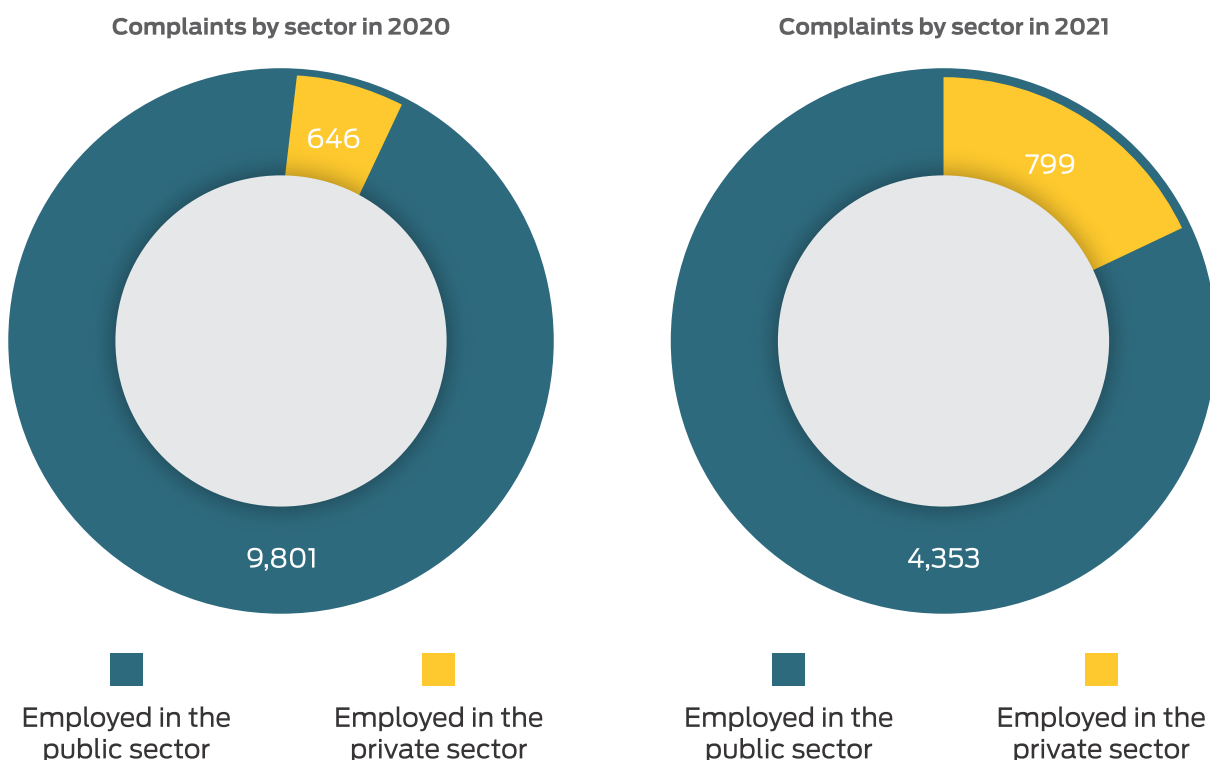
The number of workers' complaints to the Labour Inspectorate is increasing year on year. According to the Inspectorate's work reports, in 2020 and 2021, 15,584 inspections were carried out following complaints.

The number of inspections might seem high, however the number of complaints from private sector workers remains low, with most complaints coming from public sector workers.

In 2020 and 2021, private sector workers throughout Kosovo submitted an average of 60 complaints per month. When these are divided by the number of regions that have a Labour Inspectorate office, seven, private sector workers submit an average of just 8.5 complaints per month per region, despite constituting the majority of Kosovo's workforce.

The number of complaints from public sector workers is many times higher. In 2020 and 2021, public sector workers submitted 14,154 complaints, or an average of 589 complaints per month.

According to official data from the Kosovo Agency of Statistics, there are around 354,000 workers in Kosovo.¹⁵ Of these, 286,000 are employed in the private sector.¹⁶



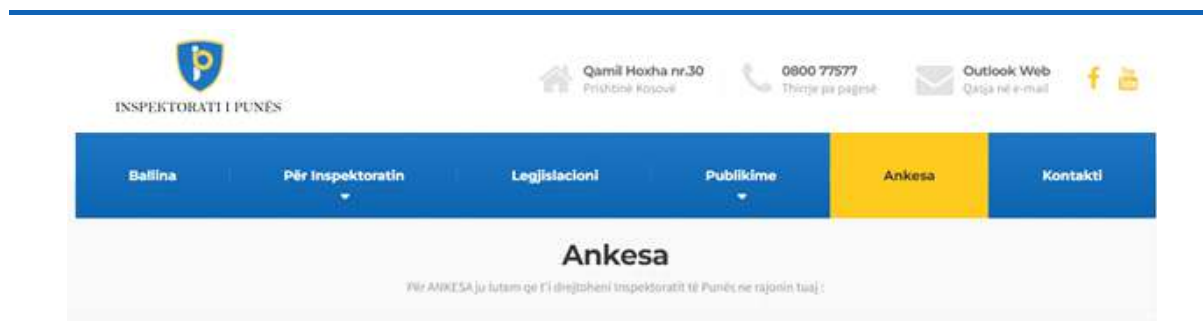
¹⁵ Kosovo Agency of Statistics' "Labour Force Survey: Q1, 2020". Available at: <https://ask.rks-gov.net/media/5610/afp-tm1-2020-anglisht.pdf>

¹⁶ Article published by Radio Free Europe in March 2022 on the number of workers in the private sector. Available at: <https://www.evropaelire.org/a/vende-te-reja-punc-punetore/31770786.html>

According to official data from the Kosovo Agency of Statistics, there are around 354,000 workers in Kosovo.¹⁵

One reason for the low number of complaints from private sector workers is the lack of a mechanism to report to the Labour Inspectorate.

Currently, complaints must be submitted physically to the Labour Inspectorate in one of the regions.



Most institutions in Kosovo have already created mechanisms and processes for reporting violations. However, this is still not available for the Labour Inspectorate, and citizens consequently remain uninformed about their right to file a complaint.

1.5 Inconsistent standards in handling first-instance complaints

Through field work, BIRN has analysed the Labour Inspectorate's handling of formal first instance complaints submitted by workers to the institution.

Of the 14 decisions analysed, 11 were addressed within the legal deadline of 30 days.

BIRN found inconsistencies in the level of sanction applied. In several cases, inspectors issued different levels of fine for the same violation, while in other cases they issued no fine at all.

Inspectorate	Nature of the complaint	Fidings of the Inspectorate	Penalty foreseen	Penalty Issued	Has the complaint been addressed in time?	Is the penalty reasoned?
Peja	Non-payment of wages	Violation of Article 55, par 1 and 2, and Article 78, par 2 and 3, of the Law on Labour	Violation 1: 100 - 7,000 Violation 2: 100 - 7,000	1000€	Yes	No
Peja	Unlawful termination of employment	Violation of Article 70, par 1.3 and Article 95, par 1 of the Law on Labour	Violation 1: 100 - 7,000 Violation 2: 100 - 7,000	No fine	Yes	N/A
Gjakova	Unlawful termination of employment	Violation of Article 7, par 4 and Article 10 of the Law on Labour	Violation 1: 100 - 7,000 Violation 2: 100 - 7,000	400 EUR	Yes	No
Gjakova	Death at the workplace	Violation of Article 7, par 4 and Article 10 of the Law on Labour including Article 6, par.1, 15 par. 1 and 20 par 1 of the Law on Safety at Work	In two cases: 100 - 7,000 One case 500 - 10,000 Two cases 500 - 20,000	4,800 EUR	Yes	No
Gjilan	Unlawful termination of employment	Violation of Article 71, par 1.1, Article 32, par 1, Article 37, par 4, Article 38, par 1 and Article 56 par 2 of the Law on Labour	In three cases of 100 - 7,000 and two cases of 100 - 10,000	6,500 EUR	No	No
Gjilan	Unlawful termination of employment	Violation of Article 70 par 1.6 of the Law on Labour	Violation 1: 100 - 8,000	2,500 EUR	Yes	No

Inspectorate	Nature of the complaint	Fidings of the Inspectorate	Penalty foreseen	Penalty Issued	Has the complaint been addressed in time?	Is the penalty reasoned?
Prizren	Worker without employment contract, 5 cases	Violation of Article 10 of the Labor Law	Violation 1: 100	1000 EUR	Yes	No
Prizren	Accident at work	Violation of Article 7, par 1, and Article 20, par 1, of the Law on Safety and Health at Work	Violation 1: 500 -35,000 Violation 2: 500 - 20.000	500 EUR	Yes	No
Ferizaj	Worker without employment contract, 5 cases	Complaint rejected as time-barred	N/A	N/A	Yes	N/A
Ferizaj	Accident at work	Complaint rejected as time-barred	N/A	N/A	Yes	N/A
Mitrovica	Worker without employment contract, 5 cases	Complaint rejected as time-barred	N/A	Vërejtje	Yes	N/A
Mitrovica	Accident at work	Violation of Article 7, par 4, Article 10, Article 20, Article 27 par 3, 32 par 1, and 55 of LL as well as Article 22 par 2 of LSHW	N/A	10000 EUR	Yes	No

Violations of the Law on Labour and the Law on Safety and Health at Work are sanctioned with high administrative fines.

Fines for violating the Law on Labour are regulated by the Administrative Instruction for Determination of Fines and Specific Amounts for Violation of the Provisions of Law on Labour.

Article 8 of the Administrative Instruction asserts that separate fines must be issued for each legal violation found, aggregated to constitute a single fine.¹⁷

There is high discretion for inspectors in issuing fines. According to this instruction, fines are divided into five categories, as follows:

- From €100 to €6,000
- From €100 to €7,000
- From €100 to €8,000
- From €100 to €9,000
- From €100 to €10,000

Fines for violating the Law on Safety and Health at Work are higher than those for violating the Law on Labour. Unlike the Law on Labour, for which the levels of fines are provided by the separate Administrative Instruction, fines for violations of the Law on Safety and Health at Work are defined within the law itself.

There are seven categories of fines envisaged, as follows:

- From €100 to €5,000
- From €500 to €10,000
- From €500 to €15,000
- From €500 to €20,000
- From €500 to €25,000
- From €500 to €35,000
- From €5,000 to €35,000

None of the eight decisions where a fine was issued includes a reasoning for the level of the fine. The second decision issued in Prizren, for two legal violations of the Law on Safety and Health at Work, a fine of €500 was imposed, despite a fine of €500 to €35,000 being envisaged for each violation.

Inspectorate	Nature of the complaint	Fidings of the Inspectorate	Penalty foreseen	Penalty Issued	Has the complaint been addressed in time?	Is the penalty reasoned?
Prizren	Accident at the workplace	Violation of Article 7, par 1, and Article 20, par 1, of the Law on Safety and Health at Work	Violation 1:500-35,000 Violation 2:500-20,000	500€	No	No

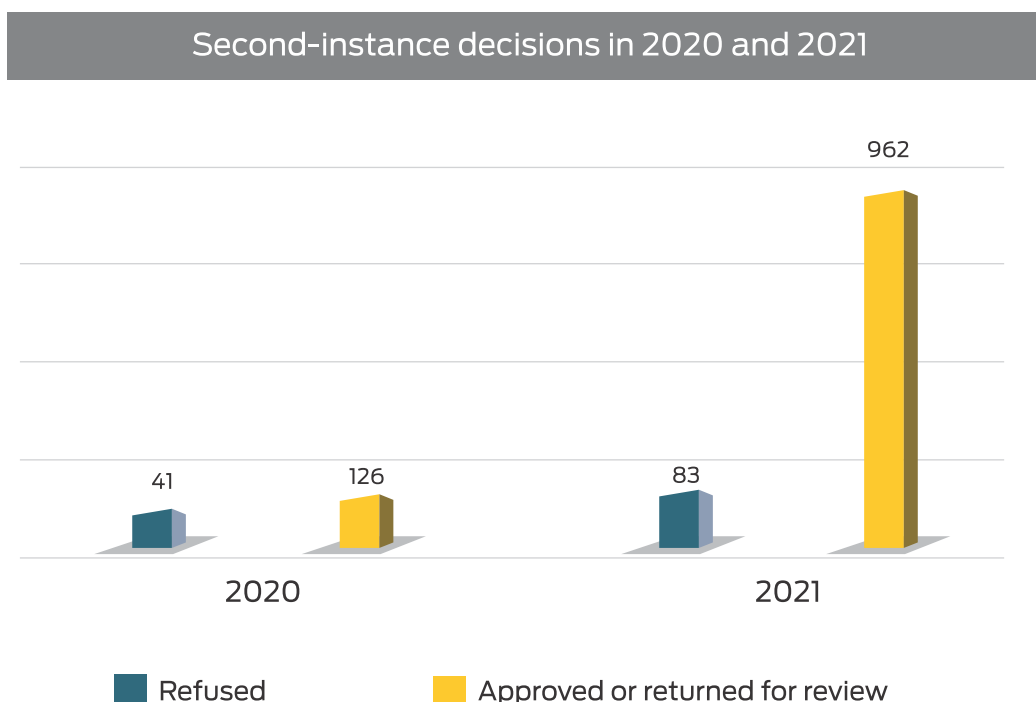
The level of fine issued for violations of the law is at the discretion of inspectors and is not regulated. Alongside there being such a broad range, this allows the potential for labour inspectors to abuse their power.

The lack of regulation and definitions for fines indicates a high inconsistency in the way the Inspectorate treats cases.

¹⁷Article 8 of the Administrative Instruction for Determination of Fines and Specific Amounts for Violation of the Provisions of Law on Labour. Available at: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=8160>

1.6 Second-instance irregularities and delays

BIRN has already presented data that indicates serious procedural violations in the issuing of sanctions by the Labour Inspectorate at the first instance level of handling complaints. The second-instance level data shows that only 6.7% of first-instance decisions were procedurally compliant, with 93.3% of decisions annulled or returned for review.



In 2020, 218 appeals were filed at the second-instance level, of which 95 were upheld, 31 were returned for review, and only 41 were rejected. This means that only 41 of the Inspectorate's first-instance decisions were in accordance with the law.¹⁸

In 2021, 1,633 appeals were filed against first-instance decisions, of which 83 were rejected as unfounded, 798 were upheld, and 161 were returned to the first-instance level for review.¹⁹

BIRN also found issues in the handling of appeals at the second-instance level.

For the purposes of this report, nine cases handled at the second-instance level were analysed, and violations of deadlines and procedural issues were found.²⁰

The analysis shows that complaints are not handled within the deadline set by the Law on General Administrative Procedure. The data indicates that second-instance cases are resolved between two and three months after submission of the appeal, while Article 133 of the Law on General Administrative Procedure states that an appeal must be addressed within 30 days.

In addition, the analysis of second-instance decisions shows that their introductory sections are not in accordance with the Law on General Administrative Procedure. In fact, none of the nine decisions analysed include the date of the decision in their introductory section.

¹⁸ The Labour Inspectorate's annual work report for 2020. Available (in Albanian) at: <https://ip.rks-gov.net/wp-content/uploads/RAP-NARRATIV-I-IP-sc-2020-002-compressed.pdf>

¹⁹ The Labour Inspectorate's annual work report for 2021. Available (in Albanian) at: <https://ip.rks-gov.net/wp-content/uploads/RAPORTI-VJETOR-2021.pdf>

²⁰ Results from the analysis of second-instance decisions by the Labour Inspectorate.

Article 47 of the Law on General Administrative Procedure clearly stipulates that every administrative act must contain: "the introductory part, which indicates the name of the issuing public organ, legal basis, the name of the addressee, a brief note on the subject of the proceeding and date of issuance".²¹

Hence, including the date of issuance on the decision is not optional for the administrative body but a legal obligation that cannot be avoided. The lack of a date of issuance on a decision may be a reason for the decision to be returned for review, as the court, in an administrative conflict review, cannot verify whether the appeal was submitted within the legal deadline.

1.7 Legal uncertainty in decision making between the Inspectorate and the Courts

Although thousands of cases have been handled both in the Labor Inspectorate and the judicial system level, powers of the Inspectorate in the supervision of the Labor Law were unclear until end-2022.

Thousands of cases decided by the Labor Inspectorate have been annulled by the courts on grounds of exceeding powers.

The judiciary considered that it is the only authority to decide with regards to the demands of workers for wages, disciplinary decisions, legality of decisions, reinstatement to work, and other material requirements, as defined in the Labor Law.

For this reason, in a high number of decisions the courts had concluded that the Labor Inspectorate is deciding on the merits of the case in parallel with the courts on issues related to rights from the labor relations, thus exceeding their jurisdiction.

Considering that a large number of citizens who are waiting for a decision of the Labor Inspectorate are missing out on the legal deadlines to file a lawsuit in court, the Supreme Court of Kosovo, on February 4, 2021, referred the matter of the powers of the Labor Inspectorate to the Constitutional Court.²²

The highest instance of the judiciary has requested the Constitutional Court to clarify whether the Labor Inspectorate has the right to decide on the demands of workers regarding wages, the legality of decisions and the reinstatement of workers.

The Supreme Court referral to the Constitutional Court seeks clarification of the legal powers of the Labor Inspectorate, in order to unify the judicial practice in cases of labor disputes.

Only in 2022, in the 16 cases decided by regular courts, 11 lawsuits were upheld, annulling the decision of the Labor Inspectorate or returning the matter for review, and only 5 were rejected as unfounded.

The Constitutional Court took a final decision on this matter in the last week of 2022.

The Constitutional Court conclusively gave the right to the Supreme Court, finding that the Labor Inspectorate had unlawfully enforced the law by interfering with the powers of the court.

In addition, the Constitutional Court found that no inspectorate can exercise functions of a judicial nature, and that only the court can decide on the reinstatement to work, salary claims, and legality of the decisions.

²¹ Article 47 of the Law on General Administrative Procedure. Available at: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=12559>

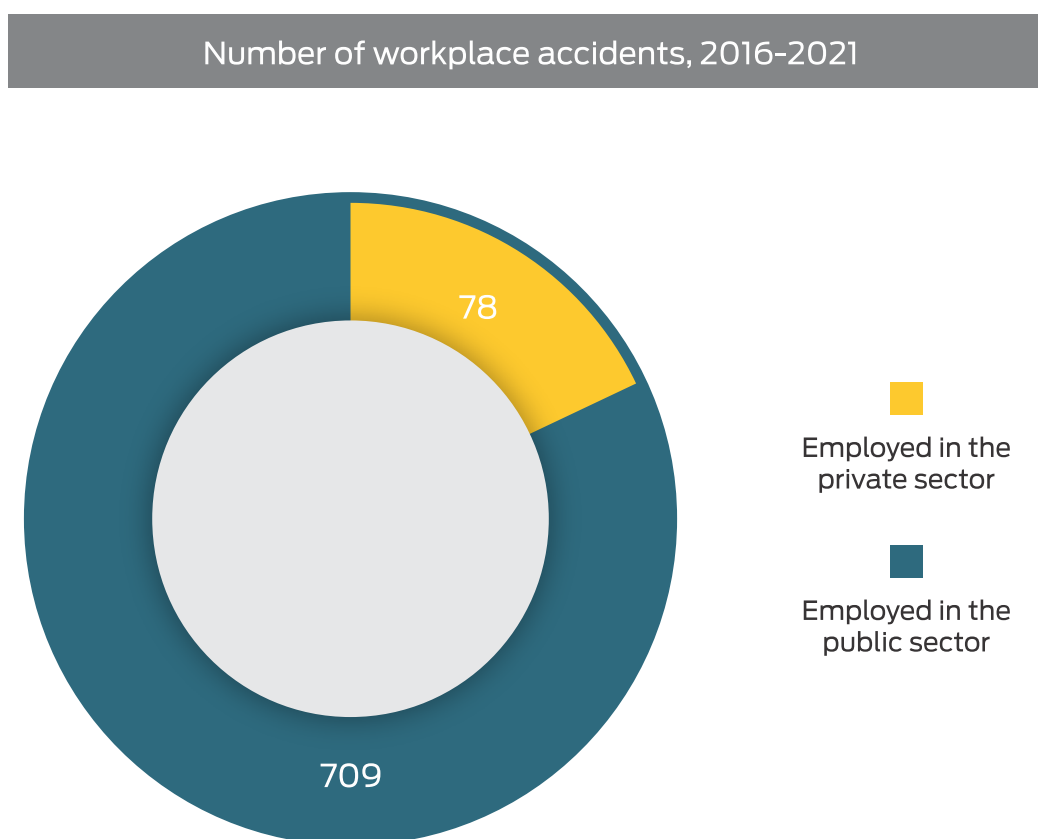
²² Supreme Court referral to the Constitutional Court, dated February 4, 2021.

1.8 Failure to reduce the number of workplace accidents

Workplace safety is one of the most important areas overseen by the Labour Inspectorate. The issue is regulated in Kosovo by the Law on Safety and Health at Work. This Law defines the rules and obligations for the prevention of occupational risks, elimination of risk and accident factors, information, consultation, balanced participation in improving the level of safety and health at work, and the treatment of employees and their representatives.²³

While the law clearly defines the obligations of employers and employees, the situation surrounding workplace accidents in Kosovo remains dire.

Based on official data from the Labour Inspectorate, between 2016 and 2021, 787 workplace accidents were reported, of which 78 resulted in the death of workers.²⁴



A large number of fatal accidents were also recorded in the first half of 2022. From January to July 2022, 11 people were killed in workplace accidents.

Data from the Labour Inspectorate shows that instead of the situation improving over the years, it has gotten worse. The table below shows that the number of accidents at work has tended to increase year on year.²⁵

²³ Law on Safety and Health at Work. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=8689>

²⁴ The Labour Inspectorate's annual work report for 2021. Available (in Albanian) at: <https://ip.rks-gov.net/wp-content/uploads/RAPORTI-VJETOR-2021.pdf>

²⁵ Table published in the Labour Inspectorate's annual work report for 2021. Available (in Albanian) at: <https://ip.rks-gov.net/wp-content/uploads/RAPORTI-VJETOR-2021.pdf>



However, the number of workplace accidents reported over the years is far from the real number of accidents that occur

Every day, Kosovo's hospitals and medical centres receive new injury cases, but the lack of a mechanism for recording and reporting the type of accident means that not every occurrence of a workplace injury is declared.

Currently, only serious workplace injuries and deaths are reported, hence the number of workplace accidents that go unreported is many times higher than the number of cases that end up in the Labour Inspectorate's statistics.

The International Labour Office (ILO) considers the under-reporting of accidents one of the main problems in the field of health and safety at work, as emphasised in its Occupational Safety and Health Profile for Kosovo, 2021.²⁶

The serious state of workplace safety, especially in the construction sector, is highlighted by the Labour Inspectorate's latest action, which took place in September 2022.

Throughout September, the Inspectorate undertook actions to monitor workplace safety in construction businesses in the Prishtina region. Following an order by the chief labour inspector, Hekuran Nikçi, 106 construction sites in the Prishtina region were inspected. As a result, works were immediately stopped due to health and safety deficiencies at 40 sites, reprimands were issued at 33 sites and two fines were issued. This means that irregularities and lack of safety at work were encountered in 69% of the inspected cases and, until September, more than 1,000 construction workers in the Prishtina region were working on sites that did not meet legal working conditions.

²⁶ The International Labour Office's "Occupational Safety and Health Profile" for Kosovo, first published in 2021. Available (in Albanian) at: https://www.ilo.org/wcmsp5/groups/public/-europe/-ro-geneva/-sro-budapest/documents/publication/wcms_797477.pdf

1.9 Poor implementation of the Law on Safety and Health at Work

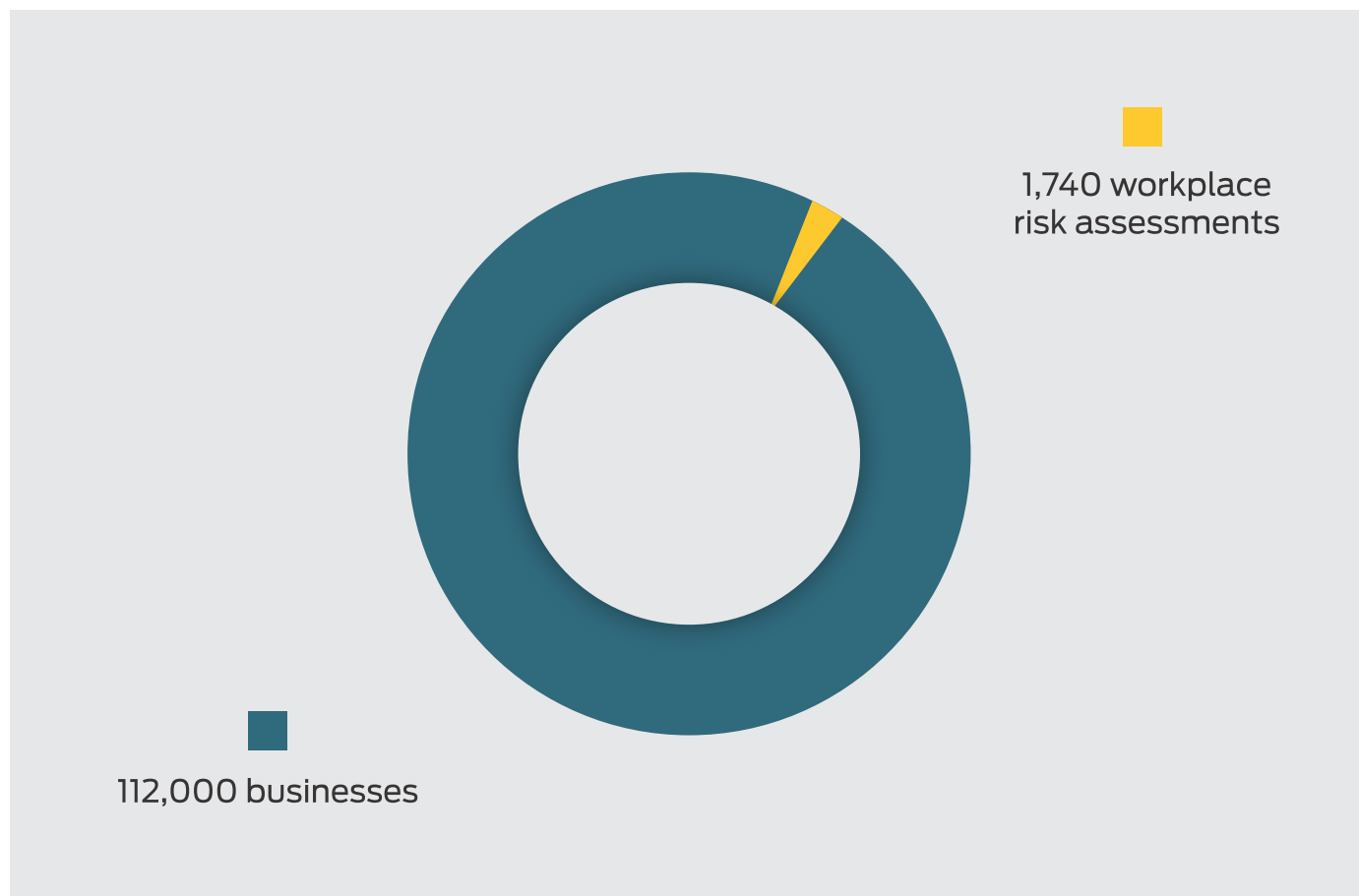
The Labour Inspectorate has failed to ensure businesses carry out workplace risk assessments or to ensure staff are qualified to provide such services. It has also failed to enforce the legal obligation of medical checks for employees.

To mitigate risks at work, employers are obliged to carry out a risk assessment. This is an obligation under Article 16 of the Law on Safety and Health at Work.²⁷

According to this law, the assessment must be conducted by certified occupational health and safety professionals. After the risk assessment is carried out, employers are obliged to draft an assessment report and address the required safeguards for the occupational health and safety of its employees. In addition to the risk assessment report, the employer is obliged to keep records of workplace injuries and occupational diseases and provide injured people with a workplace injury sheet.

Penalties for businesses that fail to carry out risk assessments are high, with fines ranging from €500 to €25,000, and in some cases, as high as €35,000.

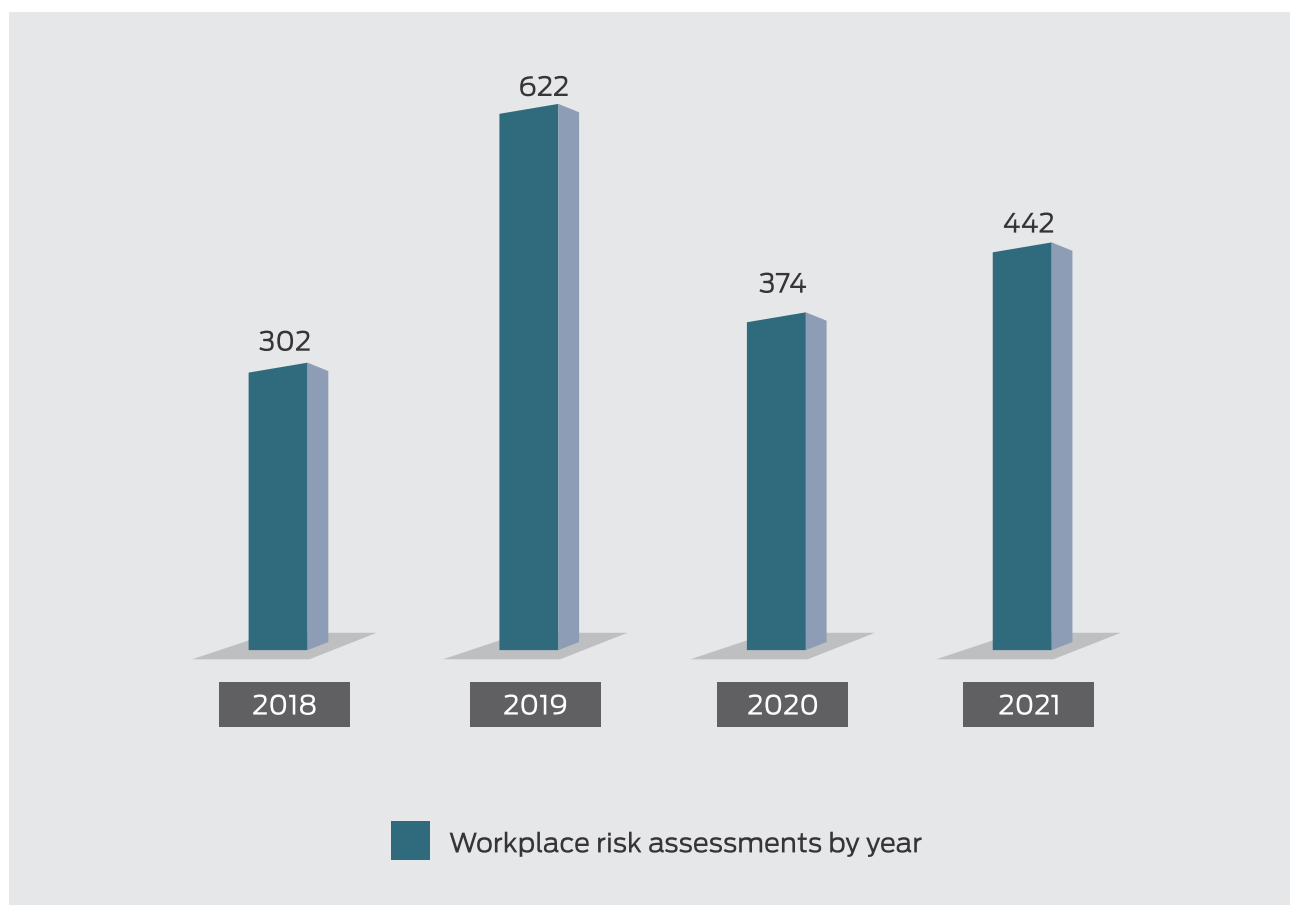
Data collected by the secretariat of the Occupational Safety and Health Commission indicates the number of businesses that carried out workplace risk assessments is low. Only 1,740 businesses in Kosovo have conducted workplace risk assessments, from an estimated total of over 112,000 businesses.²⁸



²⁷ Article 16.1 of the Law on Safety and Health at Work states: "Employer is obliged to carry out risk assessment at workplaces, in order to prevent the risk, including exposure of employees to elements harmful and hazardous of safety and health at work during the working process". Law available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=8689>

²⁸ Statistics taken from answers provided by the Occupational Safety and Health Commission's secretariat.

Workplace risk assessments by year



The data shows a decreasing trend in the number of businesses fulfilling this obligation. In 2019, the Inspectorate enforced this rule in 622 cases, with the number decreasing to 442 in 2021.

The lack of a workplace risk assessment means an unsafe working environment, which can result in a higher number of accidents at work.

1.9.1 Lack of occupational health specialists and experts

To ensure a safer and healthier work environment, the law foresees the assignment of professionals as focal points, or the engagement of experts or companies specialised in such services.

Article 10 of the Law on Safety and Health at Work stipulates that employers must assign a focal point who is certified in occupational health and safety.

According to the law, an employer with up to 50 employees can take responsibility for the implementation of occupational safety measures, if they are certified. An employer with more than 50 and less than 250 employees is obliged to assign an expert for these duties, while an employer with more than 250 employees must engage one or more experts.²⁹

In Kosovo, a total of 150 basic specialists in occupational health and safety have been certified to date, as well as 60 qualified experts and 87 advanced specialists. Meanwhile, only 37 trainers are licensed to provide training in occupational health and safety.³⁰

In addition to experts certified in the provision of occupational health and safety services, 20 companies are also licensed to provide services of this nature to businesses.³¹

Their number remains low compared to the number of businesses throughout the country. In the municipality of Prishtina alone, there are estimated to be over 50,000 active businesses, and most are obliged to assign focal points for occupational health and safety. However, this is difficult to achieve without an increase in the number of workplace health and safety inspections.

1.9.2 Lack of medical checks

Another legal obligation for employers is medical checks for employees. According to the Law on Safety and Health at Work, employers are obliged to provide workers with medical checks at licensed occupational medicine institutions. Such checks must be carried out at least every three years.

To carry out their work, employees must be provided with a medical certificate determining that they are able to work. The decision as to whether a worker is fit or unfit for a particular job must be made by a doctor who specialises in occupational medicine and holds an occupational doctor's certificate.

However, this obligation is not being adequately implemented. The ILO report for Kosovo found that, in practice, the system of medical monitoring of workers is ineffective.³² The report states that the Labour Inspectorate is not conducting adequate monitoring of healthcare implementation oversight at a business level.

The ILO report also notes that the low number of occupational doctors is a concern. According to the ILO, if Kosovo does not train new occupational doctors, the country will not have enough occupational doctors to perform medical checks for all workers.

In practice, workplace health monitoring is carried out by two occupational medicine institutions, the Institute of Occupational Medicine in Obiliq and the Institute of Occupational Medicine in Gjakova, as well as by private medical institutions. Currently, there is no data on the level of occupational health in Kosovo, as no institution collects data on how many medical certificates assessing workers' health are issued each year.

²⁹ Article 10 of the Law on Safety and Health at Work. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=8689>

³⁰ Statistics taken from answers provided by the Occupational Safety and Health Commission's secretariat.

³¹ Statistics taken from answers provided by the Occupational Safety and Health Commission's secretariat.

³² The International Labour Office's "Occupational Safety and Health Profile" for Kosovo, first published in 2021. Available (in Albanian) at: https://www.ilo.org/cm5/groups/public/-/ro-geneva/-/sro-budapest/documents/publication/wcms_797502.pdf

The Institute of Occupational Medicine in Gjakova has issued just 44 medical certificates for workers this year, and it issued just 69 in 2021.

In addition to the low number of certificates issued by the Institute in Gjakova, the lack of occupational doctors is also worrying. This institute currently only has one doctor, who has reached retirement age, and in the absence of specialised doctors, he has been hired as a part-time external expert.³³

2. Judicial handling of labour cases

The justice system is an important mechanism for ensuring justice for victims of workplace violations and discrimination and that offenders are punished.

Courts deal with administrative, civil and criminal labour cases, while the State Prosecutor plays a fundamental role in investigating criminal offences related to labour disputes.

BIRN's research found unreasonable delays in the justice system in the implementation of legal obligations, a lack of procedural standards, lenient sentences and double standards in the handling of cases. BIRN also found that the justice system has failed to meet standards in:

- implementing the requirement for a trial within a reasonable time
- timely investigations of reports of workers' rights violations.

2.1 Failure of courts to apply the requirement for trial within a reasonable time

Labour relations disputes are raised by workers or businesses in cases where there is disagreement about the implementation of labour contracts or dismissals.

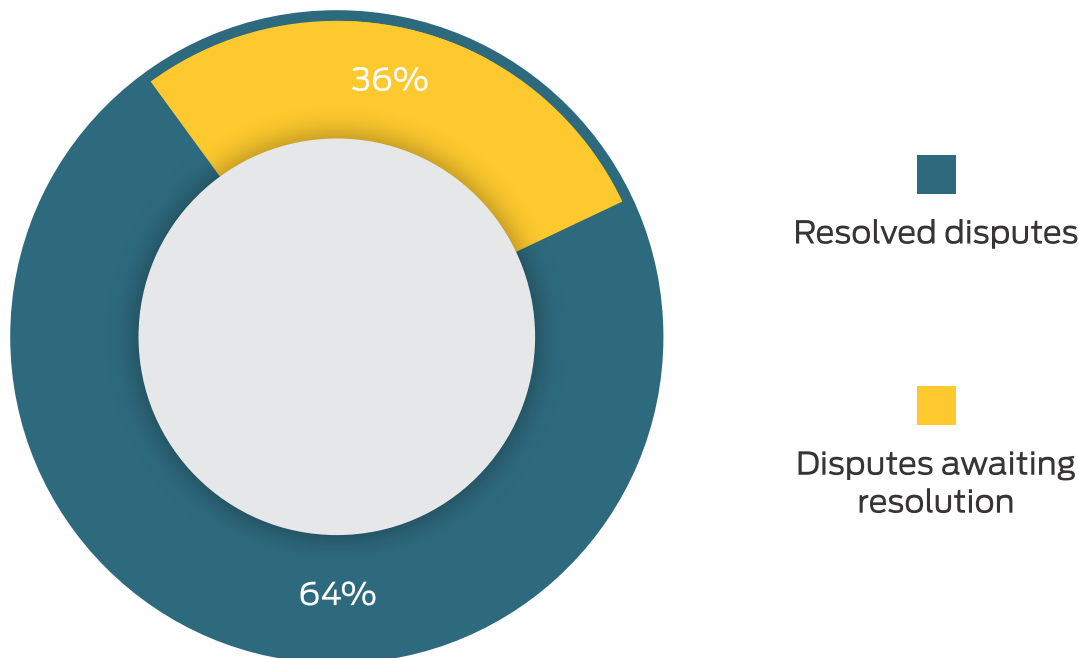
According to the law, these cases should be treated with priority by Kosovo's courts.

Statistics indicate that the justice system has failed in the handling of these cases. Between 2018 and 2021, a total of 11,834 labour disputes were handled by the courts, but only 4,215 — or 35.6% — were resolved.³⁴

³³ Data taken from response provided by the Institute of Occupational Medicine in Gjakova.

³⁴ Data extracted from the "Transparency and Accountability in the Justice System" database. Available (in Albanian) at: <https://no-fakenews.com/kallxo-com/>

Handling 11,834 labor disputes in the period 2016-2018



The data shows that workers have not managed to address their lawsuits.

BIRN also analysed how the cases were handled.

The data shows that workers were largely in the right in their cases that were taken to court.

Of the 4,215 cases that received a decision based on their merits, 2,612 cases were decided in favour of workers, while 1,005 lawsuits were rejected, and in 598 cases an extra-judicial settlement or alternative solution was found.

The data shows a high number of cases where the court found a violation of workers' rights.

2.2 Negligence in handling criminal cases

Cases of discrimination at work, violation of workers' rights and workplace injuries are handled by the country's criminal justice system. Inspectors, police officers, doctors, prosecutors, victims' advocates, lawyers and judges all have a duty to professionally investigate and judge punishable violations of workers' rights.

BIRN has analysed 27 criminal cases tried in Kosovo's seven basic courts.³⁵

Findings from this analysis indicate the following:

- Unreasonable delays in handling criminal reports
- Delays in investigations
- Delays in processing charges
- Lenient punishments for perpetrators of criminal offences
- Inadequate consideration of the circumstances surrounding the commission of the offence

A criminal report, the means of initiating an investigative procedure, must be addressed by the State Prosecutor within 30 days. In 10 of the 27 cases analysed, a delay in the handling of criminal reports was found. In most cases, the delay was between two and four months, but Case 2 in Mitrovica was delayed by two years, while Case 4 in Mitrovica and Case 2 in Prishtina both saw delays of one year.

In the other 17 cases, the 30-day deadline specified in the Criminal Procedure Code for handling criminal reports was respected.

From the analysis of the 27 court decisions, delays were also found in the handling of indictments by the courts.

According to the Criminal Procedure Code, the initial hearing must be held within 30 days of the indictment being filed. However, data extracted during the analysis indicates that this deadline was only respected in three of the 27 cases. This means that delays at this stage of the procedure were found in the vast majority of cases.

In seven cases, the scheduling of the initial hearing of the indictment was delayed for over two years, and in six cases the delay was longer than a year. A delay of more than a year was therefore found in 13 of the 27 cases analysed.

The court issues a decision after a review of the indictment and an evaluation of material and non-material evidence. This stage includes the trial of the person accused of having committed the criminal offence. The accused is then either found guilty or acquitted. If there is a guilty verdict, the judge or trial panel decides on the sentence.

An important stage prior to the sentencing decision is the assessment of mitigating and aggravating circumstances, which help to determine the level of the sentence.

Mitigating and aggravating circumstances are defined by the Criminal Procedure Code. The Supreme Court has issued General Sentencing Guidelines, which judges must use to reason the level of punishment issued.

BIRN analysed 20 sentencing decisions issued by regular courts to check if they were in accordance with the General Sentencing Guidelines.

The data shows that in the 20 sentencing judgments, a total of 111 mitigating circumstances were applied and only 21 aggravating circumstances

The analysis found that in 14 of the 20 judgments, the General Sentencing Guidelines were not implemented, as the circumstances were not reasoned and the sentences issued were not in line with the policy provisions.

³⁵ Data extracted from the analysis of 27 criminal case files handled by the basic courts.

³⁶ The Supreme Court's "General Sentencing Guidelines", published in February 2018. Available (in Albanian) at: https://supreme.gjyqesori-rks.org/wp-content/uploads/legalOpinions/Udhezues%20per%20Politiken%20ndeshkimore_Shkurt%202018.pdf

Court decisions



Of the cases included in the analysis, four were with charges involving the death of a worker due to lack of workplace safety.

Although a prison sentence of between one and 10 years is envisaged for this offence, the analysis indicates that in two cases, perpetrators were issued suspended sentences, and in two other cases they were sentenced to effective imprisonment.

A sentence of detention on remand was only issued in one case.

BIRN's analysis also identified other issues and inconsistencies between courts.

2.2.1 Handling of cases by the Basic Court and Prosecutor's office in Peja

Four cases were analysed in the judicial region of Peja. Two cases were tried, with one resulting in a suspended one-year prison sentence and the other settled through mediation. The other two cases are not in trial, and no decision has yet been issued.

Delays in addressing criminal reports are evident in the cases handled by the Basic Court in Peja, as are delays in hearing indictments. Moreover, in the two cases that reached trial, the initial hearing of the indictment was scheduled with a delay of one year. The analysis of the data indicates that only one of the four victims had a signed employment contract.

Basic Court PEJA		When did the event occur	Nature of the offense	Sentence foreseen	Mitigating circumstances	Aggravating circumstances	Sentence issued	Is it in line with the Supreme Court guidelines	Has a forensic expertise been done?	Was the report drafted in time by LI?	Has the Criminal Report been submitted in time?	Has the criminal report been addressed in time?	When was the indictment filed	Is the indictment review scheduled in time?	Was there detention?	Worker with employment contract
1	Pnr. 843/18	12 February 2017	Article 367, par 4, related to par. 2	1-10 years	6	1	1 year of suspended prison sentence	No	Yes	Yes	10 months after the event	No (10 months late)	5 November 2018	No (2 months late)	No	No
2	P,nr,889/20	7 May 2019	Article 358 par. 3	Up to 3 years	N/A	N/A	Mediation	N/A	Yes	NO (2 months after the event)	11 days after the event	No (5 months late)	4 December 2020	No (2 months late)	No	No
3	PP.11052/20	26 November 2019	Article 358, par 5, related to par. 3	Up to 5 years	N/A	N/A	N/A	N/A	Yes	NO (2 months after the event)	8 months after the event	No (2 months late)	8 December 2020	1 year and 10 months late	No	No
4	P,nr,251/20	30 November 2019	Article 358 par. 4	1-10 years	N/A	N/A	N/A	N/A	Yes	Yes (within the month)	15 days after the event	No (2 months late)	28 February 2020	Not scheduled yet	No	No

2.2.2. Handling of cases by the Basic Court and Prosecutor's office in Gjakova

Four cases were analysed in the judicial region of Gjakova. Fines were issued by the court in all four cases, after a six-month prison sentence was converted to a fine through a provision of the Criminal Code.

Delays in addressing criminal reports are evident in the cases handled by the Basic Court in Gjakova, as are delays with hearing indictments. None of the decisions were in accordance with the General Sentencing Guidelines. In two of these cases, the victims were workers, one of whom had no employment contract.

Basic Court GJAKOVA		When did the event occur	Nature of the offense	Sentence foreseen	Mitigating circumst ances	Aggravating circumstances	Sentence issued	Is it in line with the Supreme Court guidelines	Has a forensic expertise been done?	Was the report drafted in time by LI?	Has the Criminal Report been submitted in time?	Has the criminal report been addressed in time?	When was the indictment filed	Is the indictment review scheduled in time?	Was there detention?	Worker with employment contract
1	P.nr.87/19	3 October 2020	Article 367, par 2, related to par. 3	Up to 3 years	10	0	700€	No	Yes	Yes, within 8 days	3 months after the event	Yes	17 prill 2019	Jo (8 muaj me vonese)	Jo	N/A
2	P.nr.597/21	24 August 2020	Article 358, par 5, related to par. 3	Up to 5 years	13	0	1000€	No	Yes	Yes, within 3 weeks	8 months after the event	Po	18 maj 2021	Jo (2 muaj me vonese)	Jo	Po
3	P.nr.185/19	5 February 2019	Article 367, par 4, related to par. 3	1-10 years of imprisonment	10	0	3000€	No	Yes	Yes, within 2 days	4 months after the event	Jo (3 muaj pas kalximit penal)	23 gusht 2019	Jo (14 muaj me vonese)	Jo	N/A
4	P.nr.594/21	31 March 2021	Article 358, par 5, related to par. 3	Up to 5 years	13	0	700€	No	Yes	Yes, within 3 weeks	3 months after the event	3 muaj pasi ka ndodhe rasti	22 nentor 2021	Jo (2 muaj me vonese)	Jo	Jo

2.2.3 Handling of cases by the Basic Court and Prosecutor's office in Prishtina

Four cases were analysed in the judicial region of Prishtina. The data shows that in this court, the trial was concluded in two cases, while two cases are still pending. One of the concluded cases resulted in a fine for the perpetrator and the other in a suspended prison sentence.

Criminal reports were addressed on time in three of the cases, while in the fourth it took more than a year for the case to be addressed. Unlike the prosecution, the court in all four cases violated the legal deadlines as there was at least a one-year delay in scheduling the hearings of the indictments.

Victims in two of the four cases had employment contracts, while in the other two they did not.

Basic Court PRISHTINA		When did the event occur	Nature of the offense	Sentence foreseen	Mitigating circumstances	Aggravating circumstances	Sentence issued	Is it in line with the Supreme Court guidelines	Has a forensic expertise been done?	Was the report drafted in time by LI?	Has the Criminal Report been submitted in time?	Has the criminal report been addressed in time?	When was the indictment filed	Is the indictment review scheduled in time?	Was there detention?	Worker with employment contract
1	P.ni.101/20	18 June 2012	Article 358, par 5, related to par. 3	Up to 5 years	5	1	1500€	No	Yes	No, it wasn't invited	Yes	Yes	29 October 2020	No (Over 2 years late)	Jo	N/A
2	PP/115642/18	14 July 2018	Article 367, par 5, related to par. 3	Up to 5 years	N/A	N/A	N/A	N/A	Yes	Yes, within 15 days	2 months after the event	No (1 year late)	20 February 2020	No (2 years and 9 months have passed)	Jo	Yes
3	PRJ13891/2018	3 February 2018	Article 367 par. 3	Up to 3 years	N/A	N/A	N/A	N/A	Yes	Yes, within the month	4 months after the event	Yes	10 November 2020	No (2 years have passed)	Jo	N/A
4	P.ni.5494/2017	6 March 2017	Article 367, par 2, related to par. 7	1-8 years	1	0	2 year of suspended sentence	No	Yes	No, it wasn't invited	Yes, within the day	Yes	17 November 2017	No (1 year and 4 months late)	Jo	Yes

2.2.4 Handling of cases by the Basic Court and Prosecutor's office in Mitrovica

Four cases were analysed in the judicial region of Mitrovica. The Basic Court in Mitrovica is one of the only courts that issued an effective prison sentence, and also one of the only courts to issue sentences in accordance with the General Sentencing Guidelines. Prison sentences were issued in two cases, a fine was issued in one case and a suspended sentence in another.

The handling of criminal reports by the prosecution in Mitrovica was delayed in two cases, where the legal deadline was exceeded by a year. The victims in two of Mitrovica's workplace injury cases had employment contracts and those in the other two did not.

Basic Court MITROVICA		When did the event occur	Nature of the offense	Sentence foreseen	Mitigating circums tances	Aggravating circumstances	Sentence issued	Is it in line with the Supreme Court guidelines	Has a forensic expertise been done?	Was the report drafted in time by LI?	Has the Criminal Report been submitted in time?	Has the criminal report been addressed in time?	When was the indictment filed	Is the indictment review scheduled in time?	Was there detention?	Worker with employment contract
1	P.ni.668/2020	8 July 2018	Article 367 par. 5	1-5 years	3	2	10 months of suspended prison sentence	Yes	Yes	No	2 months after the event	Yes	3 November 2020	No (2 months late)	No	No
2	P.ni.860/2016	22 September 2014	Article 365 par. 6	Up to 3 years	3	3	9 months of imprisonment	Yes	Yes	No (2 and a half months after the event)	4 months after the event	No (2 and a half months after the event)	19 December 2016	Yes	No	Yes
3	P.ni.647/2017	11 December 2014	Article 368 par. 5	1 to 5 years	5	3	1 year and 6 months of imprisonment	Yes	Yes	Yes	8 months after the event	Yes	23 November 2017	No (about 2 years late)	No	Yes
4	P.ni.499/2016	9 March 2013	Article 367 par. 5	1-5 years	6	1	6 months converted into 2000 EUR	Yes	Yes	Yes	3 months after the event	No (1 year late)	20 June 2016	No (about 2 years late)	No	No

2.2.5 Handling of cases by the Basic Court and Prosecutor's office in Ferizaj

Three cases were analysed from the judicial region of Ferizaj. One case involved a workplace death where the accused was the company owner. In the case of the fatality, a sentence of 10 months of effective imprisonment was issued. In the other two cases, one resulted in a fine and the other with a suspended sentence.

Criminal reports were not addressed in a timely fashion by the prosecution, and the courts were late in addressing the indictment in two of the three cases. The data shows that the sentence was in line with the General Sentencing Guidelines in one case. The victim had an employment contract in only one case.

Basic Court FERIZAJ		When did the event occur	Nature of the offense	Sentence foreseen	Mitigating circumstances	Aggravating circumstances	Sentence issued	Is it in line with the Supreme Court guidelines	Has a forensic expertise been done?	Was the report drafted in time by LI?	Has the Criminal Report been submitted in time?	Has the criminal report been addressed in time?	When was the indictment filed	Is the indictment review scheduled in time?	Was there detention?	Worker with employment contract
1	Pnr.298/2019	29 November 2014	Article 367, par 7, related to par. 3	1-8 years	5	3	10 months of imprisonment	No	Yes	Yes	3 weeks after the event	No (3 months late)	3 December 2015	No (1 year and 3 months late)	No	Yes
2	Pnr.89/2018	13 May 2016	Article 367, par 5, related to par. 3	Up to 5 years	4	4	2500 eur	No	Yes	Yes	5 months after the event	Yes	17 January 2018	No (5 months late)	No	No
3	Pnr.121/2019	10 October 2020	Article 367, par 2, related to par. 3	Up to 3 years	6	0	4 months of suspended prison sentence	Yes	Yes	Yes	1 months after the event	Yes	25 January 2019	Yes	No	N/A

2.2.6 Handling of cases by the Basic Court and Prosecutor's office in Prizren

Four cases were analysed in the judicial region of Prizren. According to the data, a prison sentence was issued in one case, a fine was issued in one case, and a suspended sentence in the other, while the fourth case was dismissed after exceeding the statute of limitations. Two of the sentences issued were in line with the General Sentencing Guidelines.

The prosecution in Prizren handled all four criminal reports in a timely manner, while in three cases the court violated the legal deadlines, exceeding them by more than a year. In the two analysed cases where the victims were workers, one worker had no employment contract.

G.J.T.H. PRIZREN		When did the event occur	Nature of the offense	Sentence foreseen	Mitigating circumstances	Aggravating circumstances	Sentence issued	Is it in line with the Supreme Court guidelines	Has a forensic expertise been done?	Was the report drafted in time by LI?	Has the Criminal Report been submitted in time?	Has the criminal report been addressed in time?	When was the indictment filed	Is the indictment review scheduled in time?	Was there detention?	Worker with employment contract
1	Pnr.268/2021	05.02.2020	219 of par.1 the CCRK.	Fine or imprisonment up to 2 years	1	0	500 EUR fine	Yes	No need	No need	Criminal report filed by the party	Yes	17/11/2021	No, 9 months late	No	N/A
2	Pnr.454/2019	19/07/2018	367 par. 7 related to par.3	1 to 8 years of imprisonment	N/A	N/A	1 year of suspended prison sentence	Yes	Yes	No need	6 months after the event	Yes	4/12/2019	No, almost 2 months after the indictment was filed	No	No
3	Pnr./469/2019	29/05/2012	367 par.2 related to pars. 3 and 4	Up to 3 years	N/A	N/A	N/A	N/A	Yes	No need	8 months after the event	Yes	24/03/2014	No (Over 2 years late)	No	Yes
4	Pnr.585/18	12/10/2017	367 par.7 related to par.3	1-8 years	1	0	2 years of imprisonment	No	Yes	Yes (within the week)	Yes (within 24 hours	Yes	16/04/2018	Yes	No	N/A

2.2.7 Handling of cases by the court and prosecutor's office in Gjilan

Four cases were analysed in the judicial region of Gjilan. Fines were issued in all four cases, after a six-month prison sentence was converted to a fine through a provision of the Criminal Code. Delays in addressing criminal reports are evident in the cases handled by the Basic Court in Gjilan, as are delays with hearing indictments.

In three of the cases in the Basic Court in Gjilan, the General Sentencing Guidelines were not applied, while the victims had employment contracts in two of the cases.

Basic Court GJILAN	When did the event occur	Nature of the offense	Sentence foreseen	Mitigating circumstances	Aggravating circumstances	Sentence issued	Is it in line with the Supreme Court guidelines	Has a forensic expertise been done?	Was the report drafted in time by LI?	Has the Criminal Report been submitted in time?	Has the criminal report been addressed in time?	When was the indictment filed	Is the indictment review scheduled in time?	Was there detention?	Worker with employment contract
1	Pnr.998/2019	367 par. 5 related to par.3	Up to 5 years	6	0	600 EUR fine	No	Yes	Yes within 2 weeks	2 months and 9 days after the event	Yes within 24 hours	4/28/2017	No available data	No	N/A
2	Pnr.899/18	367 par. 2 related to par.3 and 7	1 to 8 years of imprisonment	3	2	1800 EUR fine	Yes	Yes	Yes	2 months after the event	Yes within 30 days	2/10/2018	No (1 year late)	No	Po
3	Pnr.162/19	367 par. 2	6 months to 5 years	6	0	1300 EUR fine	No	N/A	Yes	2 months after the event	Yes within 30 days	13 February 2019	No (1 year and 5 months late)	No	N/A
4	Pnr.392/2019	367 par. 7 related to par.3 and 5	Up to 5 years	4	1	2000 EUR fine	No	Po	No	No (1 year and 9 months after the event)	No	4/19/2019	No (9 months late)	No	Po

The justice system data analysed shows inconsistencies in decision making and the observance of deadlines, as well as in the implementation of sentencing policies.

3. Recommendations

- The Government of Kosovo should complete the drafting process of the new Law on Labour
- The Government of Kosovo should provide support to increase staffing capacity at the Labour Inspectorate, with special emphasis on increasing the number of inspectors
- Increasing the Labour Inspectorate's staffing capacities should be carried out in compliance with gender standards
- The Labour Inspectorate should invest in technological equipment to support the reporting and management of cases
- The Labour Inspectorate should address the quality of first-instance decisions and take measures to ensure that violations identified by the second-instance level are not repeated
- The Labour Inspectorate should establish a standardised procedure for the issuance of fines and sentences
- The Labour Inspectorate should increase its commitment to the implementation of the Law on Safety and Health at Work
- The Labour Inspectorate should reform its procedures and start sending criminal reports to the State Prosecutor
- The Labour Inspectorate should increase the number of workplace health and safety inspections
- The Kosovo Judicial Council should take urgent measures to improve the performance of courts in handling workers' rights cases
- When adjudicating cases, judges should apply the General Sentencing Guidelines
- The State Prosecutor should promptly investigate cases involving workplace accidents
- Trials in criminal cases should be completed within legal deadlines



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