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Management of Workers Without Procedures



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Executive Summary

Working conditions and legal protection for workers remains a serious challenge for the labor market in Kosovo. As a result, the country faces a high number of accidents at work and a low level of compliance with labor regulations.

The Labor Inspectorate data indicate that from 2016 to June 2023, 1072 accidents occurred, in which 102 workers died.

In the first six months of 2023, the Labor Inspectorate inspected 23,524 employees. The data show that around 20% of the workers had no medical check-ups and around 5% had no employment contracts.

According to the official data of the Kosovo Agency of Statistics, there are around 403 thousand employees in around 81 thousand active businesses in the country.

In 2022, BIRN published a report identifying serious deficiencies in state institutions in guaranteeing a safe environment for workers. It was ascertained that justice and government institutions face serious delays in fulfilling their obligations.

The duty of ensuring professional management of employees and safety and health at work lies with businesses/employers.

From the beginning of 2023, BIRN Kosovo started collecting data from 50 businesses and 20 workers in Kosovo, with the aim of analyzing the implementation of the Labor Law, including compliance with the requirement to have contractual agreements in place, employment regulations, employment of persons with disabilities and knowledge on safety rules at work, among others.

The following conclusions are drawn from the analysis of the data:

- The surveyed businesses, especially smaller businesses, face limited organizational and professional capacities and are thus unable to guarantee the implementation of the Labor Law, and the Law on Safety and Health at Work
- The surveyed businesses continue to face deficiencies in the drafting internal organizational documents. As a result, disciplinary and promotion procedures are conducted in an autocratic manner.
- The surveyed businesses have failed to put in place regulations for addressing sexual harassment and protection of whistleblowers.
- A concerning number of these businesses continue their operations without conducting essential occupational risk assessments.
- Alarming, many of these businesses have fallen short in their duty for the placement of signs and establishment of comprehensive safety guidelines for their staff.
- Surveyed businesses do not provide induction training for new workers during their initial days on the job.
- The surveyed businesses have failed to ensure that all workers are trained for safety and health at work.
- Some businesses continue to operate without ensuring that their employees are adequately trained in fire safety and occupational health.
- Some of the surveyed businesses were found to have had issues with fire extinguishers and health equipment such, as first aid kits.
- An alarming number of businesses continue to employ workers without health certificates.

- The Labor Inspectorate is seen only as a repressive mechanism, only issuing sanctions rather than also used for consultation.
- Human resource management is performed by non-professionals.
- Businesses fail to create conditions for employment and development of persons with disabilities
- Workers are dismissed with no regard for grievance procedures.

These findings lead to the conclusion that a significant portion of the surveyed businesses fail to meet the minimum standards required to ensure the legality and implementation of safety and health regulations for their employees.

Methodology

The implementation of the Labor Law and the Law on Health and Safety at Work requires resources and professional training within businesses.

BIRN has published reports analyzing the implementation of obligations and legal requirements by the country's institutions, including governmental and judicial.

Considering that the successful implementation of the Law requires knowledge and resources from businesses, BIRN has developed a methodology designed to not only collect concrete data from businesses but also to reach out to workers who may have left their employment.

The findings presented in this report are the result of a survey conducted with 50 businesses and 20 workers across various sectors in all regions of Kosovo.

The names of businesses and workers have been kept confidential to protect personal data.

Businesses are divided by region, and include construction, services and manufacturing, and are divided by size into:

- Small businesses (1-5 employees)
- Medium businesses (5-50 employees)
- Large businesses (over 50 employees)



Legend - Geographical distribution of businesses

Data were collected through structured interviews, designed for all businesses according to specifications to specifications and focusing on three main pillars:

1. Staffing and internal regulations in businesses
2. Trained staff for safety and health at work
3. Inclusion of people with disabilities in employment and workers' health.

In addition to reaching out to businesses, BIRN has also interviewed 20 workers from different sectors to obtain data on compliance with the Labor Law and the Law on Health and Safety at Work. To ensure real data, BIRN has interviewed 20 workers who quit their jobs in various businesses. Workers have been surveyed to provide data on the level of compliance with the Labor Law and the Law on Safety and Health at Work.

Anonymous interviews included:

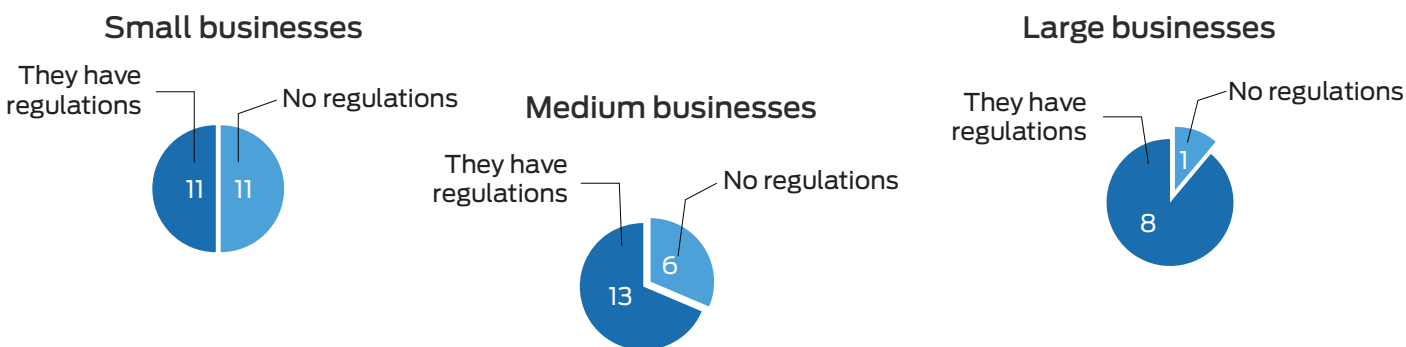
- 10 employees from the construction and services sectors,
- 5 employees from the Roma, Ashkali and Egyptian communities,
- 5 employees with disabilities.

1. Failure of businesses to draft internal regulations

The Labor Law and the Law on Safety and Health at Work outline opportunities for employers to adopt internal bylaws in the form of regulations or instructions, defining the rules of operation, disciplinary procedures, prevention of sexual harassment, etc.

Bylaws drafted in line with the laws allow for better management opportunities and an easier understanding of everyone's obligations and responsibilities.

The data obtained from the field indicate that small businesses are more non-compliant, as half of them do not have any written bylaw, in the form of a regulation or instruction, for workers. Of the 22 surveyed businesses, 50% said that they do not have any internal regulation. Medium-sized businesses fare better, with 68% stating they have regulations on operating rules, disciplinary rules, or even norms on the prevention of sexual harassment. Large businesses are in the best position, as 89% of them have regulations in place.



*Staff management regulation

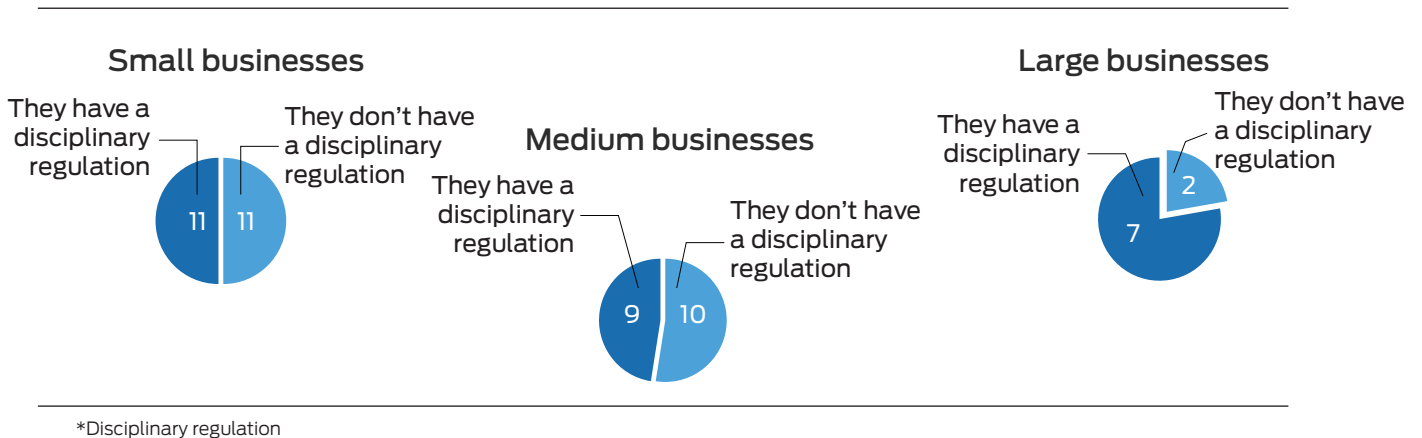
1.1 Discipline without written procedures

The labor law envisages the obligation of the employer to develop a disciplinary procedure for the dismissal of the employee. The law establishes the fundamental principles of this procedure, while employers may adopt bylaws, outlining disciplinary rules within the organization.

These regulations delineate the individuals within the company responsible for developing the procedure, outline everyone's responsibilities regarding discipline, and specify behaviors classified as disciplinary violations. Depending on the needs, these internal documents can envisage the establishment of disciplinary committees and outline the rules for initiating disciplinary procedures.

According to Article 85 of the Labor Law, disciplinary measures, such as verbal reprimands, notes to the file, demotions, temporary suspension and termination of employment, can be issued based on the employer's internal regulations.

Nevertheless, the findings of this report reveal that nearly half of the surveyed businesses lack the disciplinary regulations governing this aspect. In the absence of these regulations and procedures, the removal and disciplining of workers occur without adherence to predetermined standards.



Data from surveyed employees indicates that 6 out of 20 workers were dismissed without the possibility of appeal through disciplinary procedures. Of the 16 workers who had the chance to file complaints, 9 chose not to exercise this right.

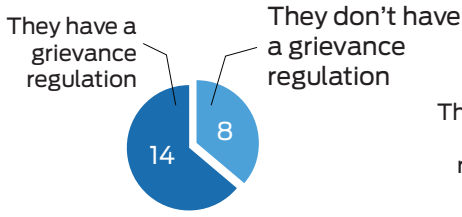
1.2 Lack of regulations on the complaints procedure

In the absence of internal acts and disciplinary regulations, businesses fail to develop procedures for normal complaints. According to the Article 78 of the Labor Law, "an employee considering that the employer has violated labor rights may submit a request to the employer or relevant bodies of the employer, if they exist, for the exercise of rights violated."

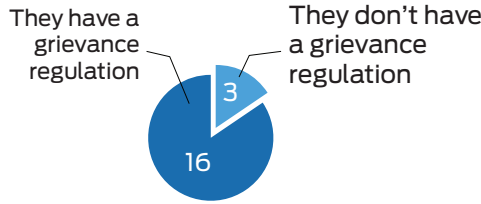
Such complaints can be filed on issues such as remarks in promotion or even dissatisfaction with the sanctions. According to the Law, the employer is obliged to decide on the request of the employee within fifteen (15) days from the day the request was submitted.

Research findings reveal a concerning lack of complaints procedures within the management of numerous businesses. Large businesses have rules that guarantee the employees the right to appeal. However, the situation is different in small or medium-sized businesses. 57% of small businesses do not have complaints rules. The percentage is lower among medium-sized businesses, as only 18% of them have no rules.

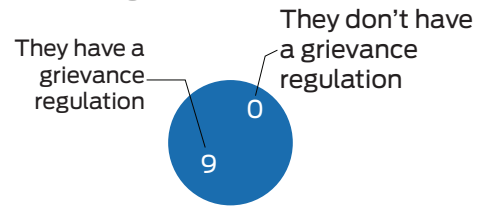
Small businesses



Medium businesses



Large businesses



*Staff grievance procedure

Data from a survey of 20 workers by BIRN show that six had no right to complain.

According to the data from the field, 88% of the surveyed businesses were visited by the Labor Inspectorate and 26% were fined.

Most of the surveyed businesses do not see the Inspectorate as a body from which to obtain advice and opinions on staff management.

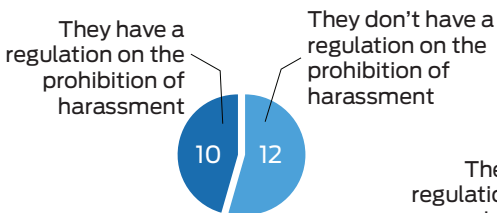
The survey shows that 70% of businesses have never sought opinions or advice from the Labor Inspectorate.

1.3 Treatment of sexual harassment

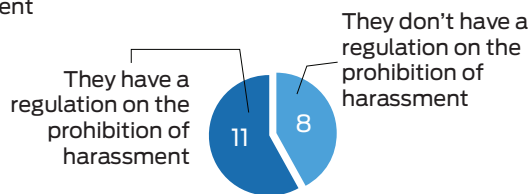
Prevention and treatment of sexual harassment in the workplace are important components to creating a friendly environment in the workplace. According to the Criminal Code of Kosovo, sexual harassment is a criminal offense, and sexual harassment in businesses can be addressed through disciplinary procedures.

Survey data indicate a neglect of the treatment of sexual harassment. 25 of the 56 surveyed businesses confirmed they do not have regulations and procedures to address sexual harassment.

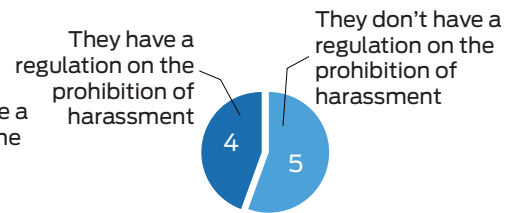
Small businesses



Medium businesses



Large businesses



*Regulation on the prohibition of harassment and sexual harassment

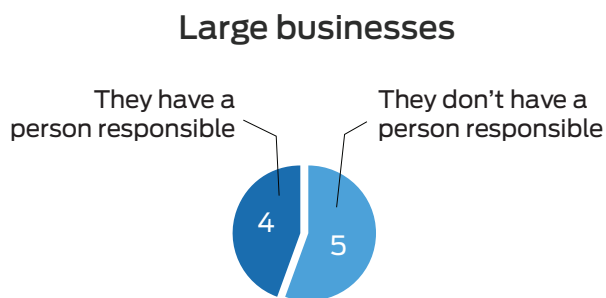
1.4 Lack of procedures on whistleblowers

The Law on Protection of Whistleblowers requires large businesses to appoint a person responsible for whistleblowing.

According to the Law, all private and public institutions must have a person responsible for receiving and addressing whistleblower claims.

This legal requirement applies for public institutions with more than 15 employees, private companies with more than 50 employees.

However, based on this research, more than half of large businesses have no a person responsible for whistleblowers. As a result, the businesses in question cannot implement whistleblower protection within their organizations.

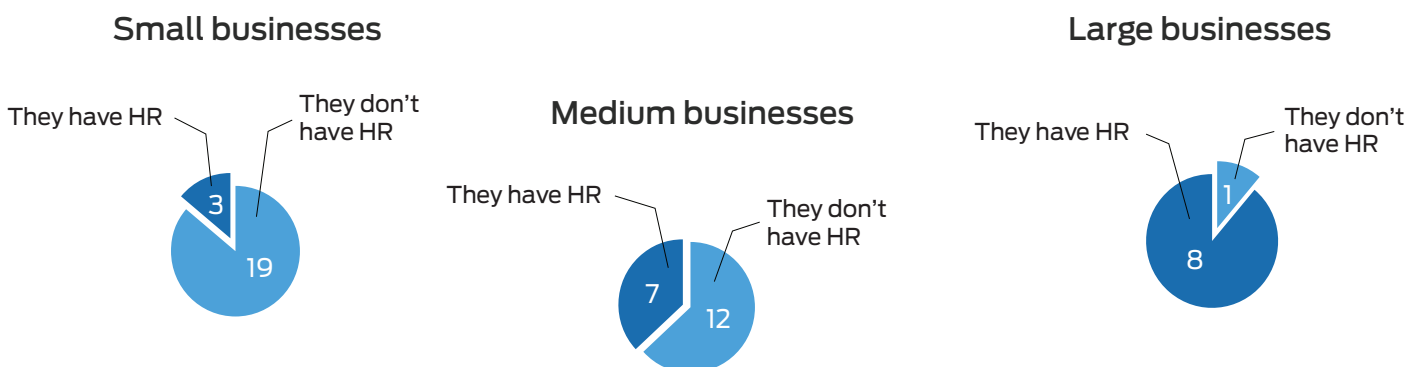


*Person responsible for whistleblowing

1.5 Limited capacities in human resource management

The surveyed businesses, especially smaller businesses, face limited organizational and professional capacities and are thus unable to guarantee the implementation of the Labor Law, and the Law on Safety and Health at Work.

According to the findings, more than $\frac{2}{3}$ of businesses have no person employed in the position of human resources, while resource management is carried out by people with no experience in management.



*Human resource management person hired

According to the data, human resource management is left in the hands of accountants, in five cases with lawyers, in one case in the hands of traffic engineers, and in 10 cases the person in charge of human resources was an economist, trained in human resources by professional companies.

Human resource managers have significant responsibilities in managing personnel files and the promotion process, as well as the disciplinary procedures.

In addition to the surveyed businesses having weaknesses with human resources, they also use templates for employment contracts, in 16 cases, and contracts drafted by non-professionals.

In the process of managing employees and dealing with problems, the Labor Law has envisaged that the Labor Inspectorate acts a supervisor of regularity, but also providing advice.

The data provided by businesses indicate that Inspectorate is not perceived as a advisory mechanism when companies grapple with legal uncertainties 70% of surveyed businesses admitted to never having sought interpretation or assistance from the Inspectorate to address legal and procedural ambiguities.

2. Delays in Compliance with the Law on Safety and Health at Work

The law on safety and health at work envisages a multitude of regulations that companies must adhere to in order to ensure the safety and health of their employees. In addition to the employers' obligations, the Law also specifies the employees' obligations. However, the data from the surveyed businesses reveal that the minimum standards of safety and health at work are not respected at a number of businesses.

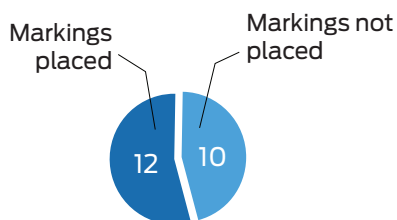
Within the surveyed businesses, significant issues have been identified, including:

- Placement or signs on hazards at work
- Failure to comply the obligation for risk assessment
- Provision of induction training for new employees
- Lack of fire extinguishing equipment
- Lack of first aid kits
- Lack of personal protective equipment
- Failure to obtain health certificates
- Training on safety and health at work
- Fire safety training
- Lack of trained staff for health at work.

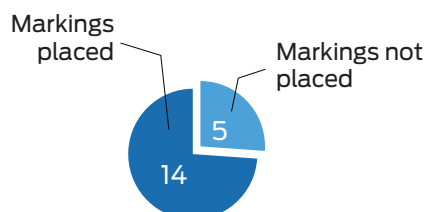
2.1 Failure to place signs on hazards at work

According to the Law on Safety and Health at Work, Article 13, par. 1.2, employers have an obligation to place adequate signs on safety, including posters, fliers, films, and videos related to safety and health at work. Around one-third of the businesses surveyed in this report do not have posted signs warning of danger or providing safety instructions at the workplace.

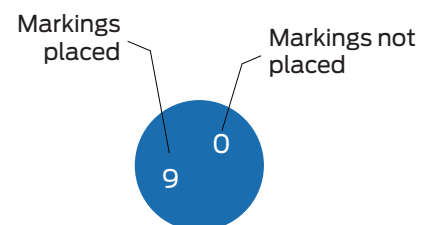
Small businesses



Medium businesses



Large businesses



*Signs marking workplace hazards

Occupational safety protocols dictate that signs should encompass elements such as emergency evacuation maps, visible emergency exit signs, and markings identifying hazardous areas, including fall or electrical hazards. Maps and markings of fire extinguishers and first aid kits are also part of the signing requirements. Additionally, markings indicating radioactivity and hazardous materials, are also imperative.

The failure to implement such markings poses a severe risk to the health and safety of workers.

2.2 Failure to Assess Workplace Risks

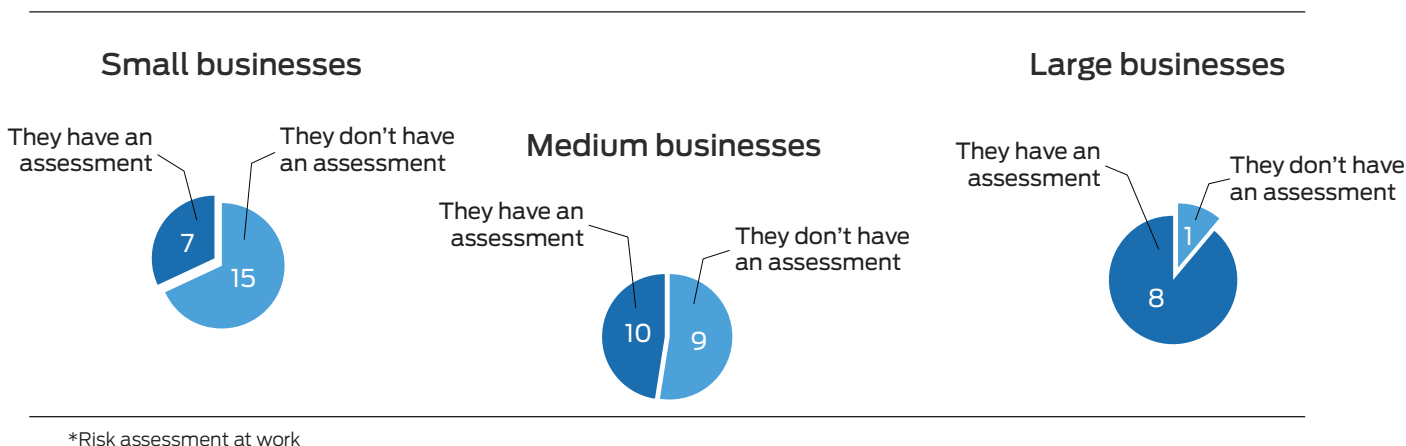
The survey conducted by BIRN has revealed a concerning high number of businesses which have neglected the process of conducting risk assessments in the workplace.

The risk assessment document, compiled by experts, delineates the characteristics of the work process, identifies sources of risk, determines who may be at risk and how, assesses safety and health risks, and prescribes the necessary measures.

According to 16 to be the Law on Safety and Health at Work, the employer is obliged to carry out risk assessment at work in order to mitigate the risk, including exposure of employees to elements harmful and hazardous to health at work". Only half of the businesses in Kosovo have risk assessment at work.

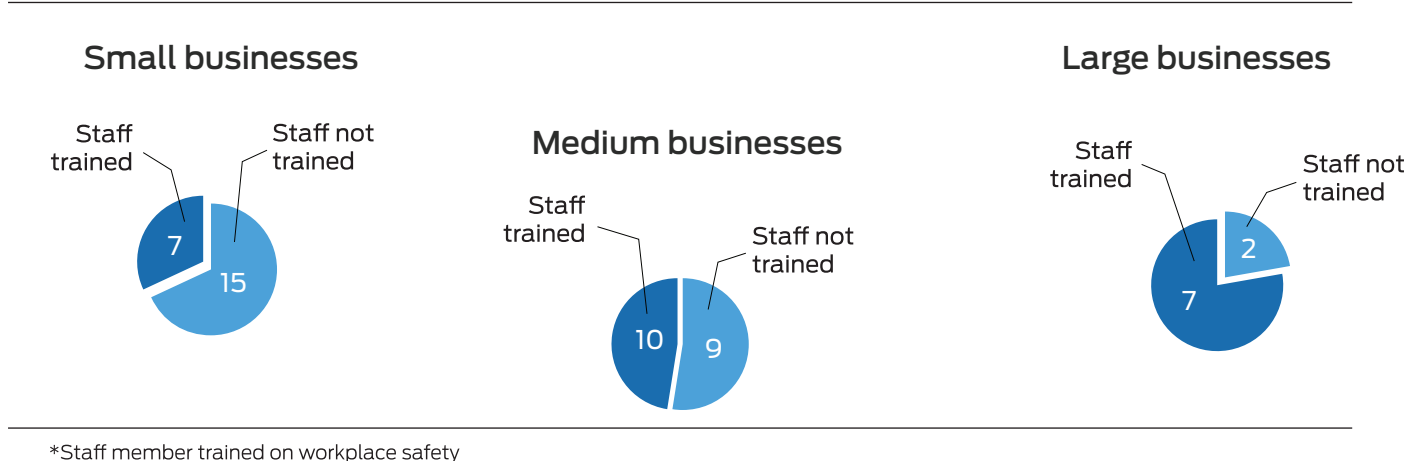
According the data from the Labor Inspectorate, only in the period January-June 2023, out of 3,731 inspections performed, 610 entities had no risk assessment document.

The data collected by BIRN through the survey also reveal a negligence of the process by the businesses. 50% of businesses answered that they have no risk at work. Small businesses have most issues with this requirement, and only 7 businesses stated they have risk assessments.



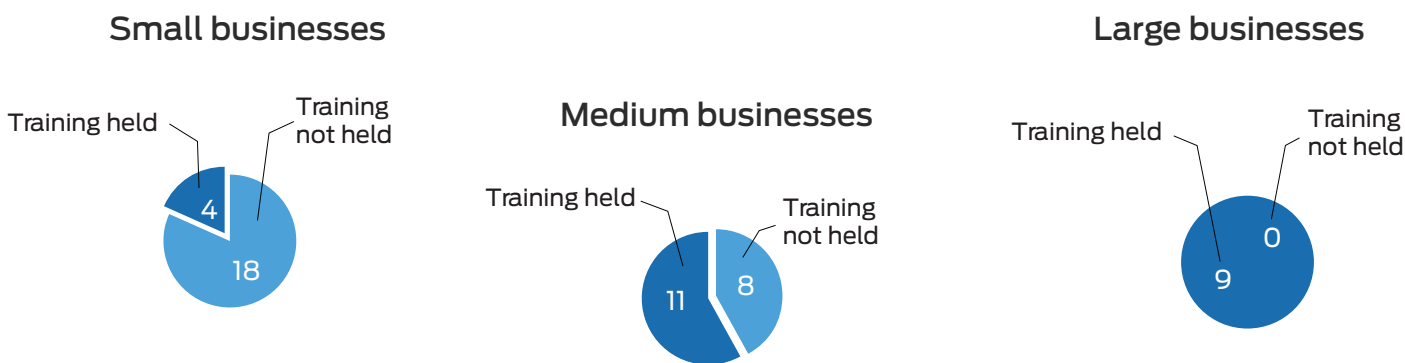
In addition, according to the Law on Safety and Health at Work, Article 20, employers are required to train workers on occupational safety and health issues. Data from the survey reveal that 16 of the 50 surveyed businesses do not provide trainings for new workers.

According to Article 10 of the Law, an employer with more than 50 employees is required to have person responsible to perform tasks in the field of safety at work. Medium and small businesses are required to have persons trained on safety at work. The data indicate that a very small number of businesses have people trained in safety at work.



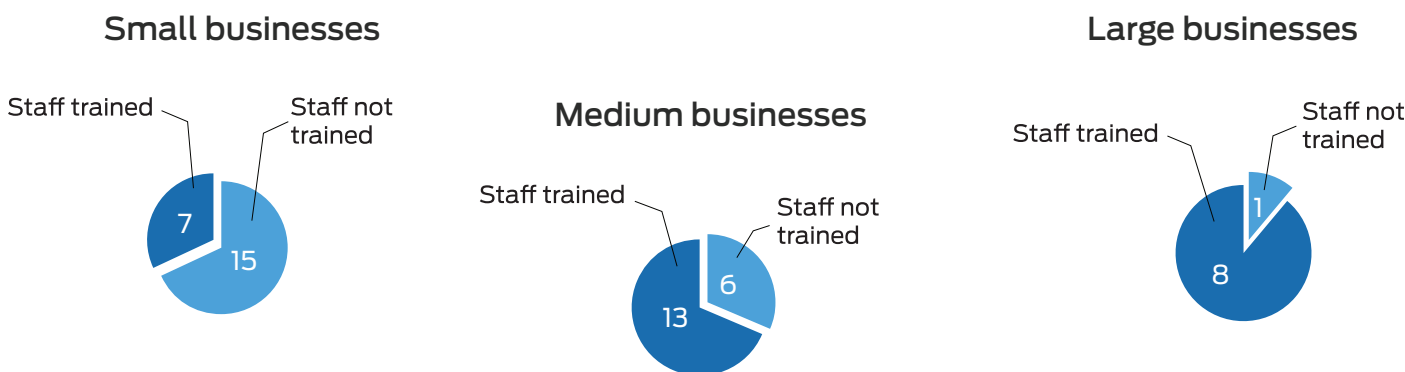
2.3 Occupational safety and fire safety at work training is neglected

The data show that the majority of businesses lack any evidence of conducting safety at work training, as mandated by the Law on Safety and Health at Work. Article 19 of the Law states that “Employer should consult with employees and their representatives, allowing them, to participate in discussions regarding the safety and health at work issues, including the plan and organizing of training for employees on safety and health at work”.



*Trainings on workplace safety

In addition to the deficiencies in safety training, nearly half of the businesses lack a designated individual trained in fire safety. Article 11, point 3, of the Law specifies the employer’s responsibility to train personnel on evacuation, rescue, fire extinguishing, and first aid.



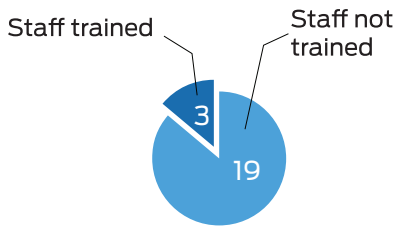
*Staff member trained on fire safety

More than half of businesses with trained fire safety officers have not extended this training to their general staff.

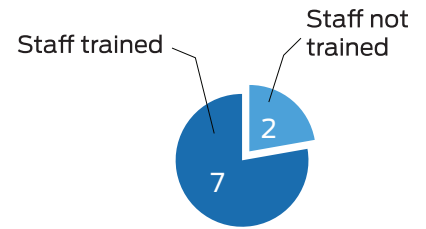
The absence of occupational safety and fire safety training poses a significant challenge in workplaces, particularly during crises and emergencies, risking the well-being of workers.

Most of the Kosovo businesses do not have a person trained for health at work. The Law on Safety and Health at Work allows employers to take over this responsibility when the number of workers is less than 50. The employer must have at least a basic certification or license for the health and safety at work.

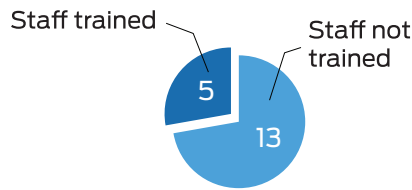
Small businesses



Large businesses



Medium businesses



Person responsible for workplace health

The majority of businesses stated that they have no difficulty in obtaining fire extinguishers, in line with the legal obligation to possess such equipment, under Article 13, par. 1.10, of the Law on Safety and Health at Work.

46 businesses were equipped with first aid kits (under Article 15, par. 1.5, of the Law, the employer is required to secure the necessary equipment for first aid and an appropriate space).

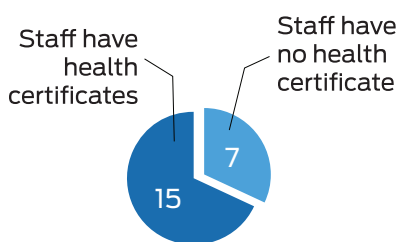
Only three of the 49 businesses which have fire extinguishers and first aid kits stated that the equipment are not maintained. Maintenance of equipment is an obligation of the employer under Article 13 of the Law on Safety and Health at Work, par. 1.16.

2.4 Failure to secure health certificates for employees

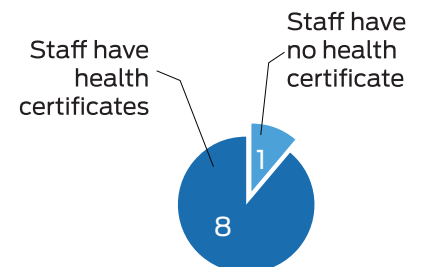
After starting employment, all workers are required to complete comprehensive medical examination, substantiated by the issuance of a health certificate. This certificate serves as evidence affirming the individual's physical fitness for the job. The Law stipulates that medical examinations must be conducted every three years, with more frequent examinations required for certain professions. Article 22 expressly mandates employers to arrange for their workers to undergo a medical examination at least once every three years.

However, the survey data indicate that 24% of businesses fail to ensure that their employees possess the requisite health certificates.

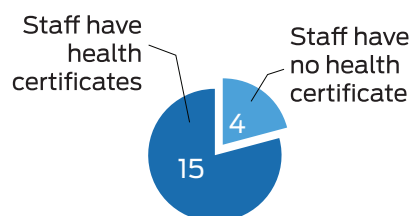
Small businesses



Large businesses



Medium businesses



*Staff provided with health certification

Some of the businesses have not secured health certificates for their workers.

During the survey, BIRN asked businesses what are the reasons for not fulfilling this legal obligation. 22 businesses stated that the certificate is too costly for them. The fact that cost is the reason for not complying with this requirement shows that businesses voluntarily decide not to comply.

11 of the 20 surveyed workers stated that they were not provided with a health certificate.

3. Discrimination of people with disabilities

Businesses have a high responsibility to employ and professionally train persons with disabilities and, according to the Law on the vocational ability, rehabilitation and employment of people with disabilities, businesses must guarantee a conducive employment environment for these categories.

In addition, every business with over 50 employees is required to employ a person with disabilities.

An employer who fails fulfill the requirement under paragraph 1 and 2 of this Article is obliged to pay monthly contributions in the amount of one percent (1%) of the minimum salary to the budget of Kosovo, to encourage the employment of persons with disabilities.

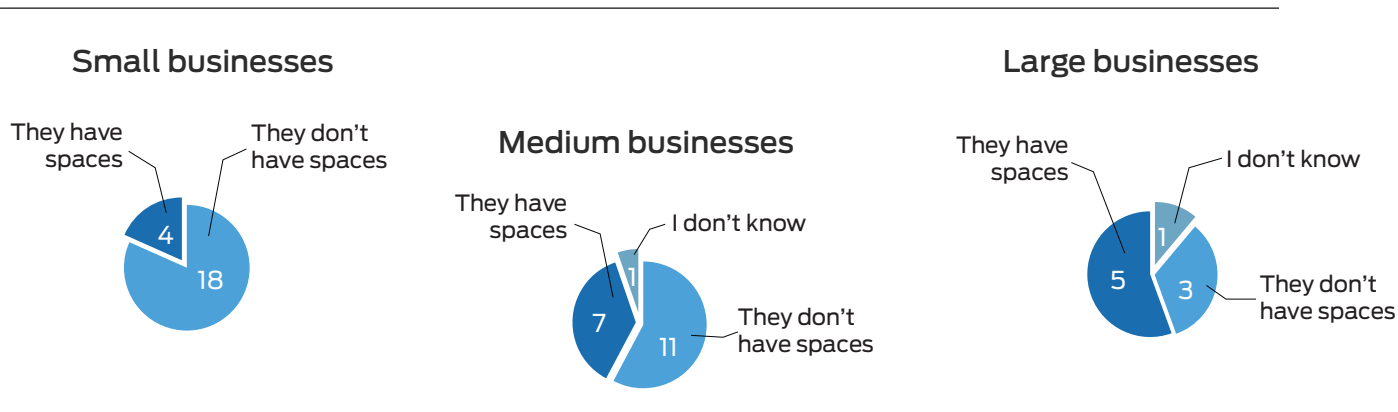
The BIRN survey of businesses came across 9 businesses that were required to employ people with disabilities. Only 3 employed people with disabilities. To have an overview of the general situation, BIRN asked all businesses if they employed people with disabilities. Only 4 of the 50 businesses surveyed stated that they have disabled workers.

3.1 Businesses have no work space for people with disabilities

In addition to employment, businesses seeking to promote the employment of persons with disabilities must secure facilities and spaces that allow for such employment.

Construction of ramps, working stations, bathrooms and signs for persons with disabilities makes the workplace more suitable for them.

70% of businesses have confirmed they do not have spaces in their businesses adapted for people with disabilities. The data indicate that even larger businesses do not have suitable work space for people with disabilities.



*Work spaces for persons with disabilities

In addition to suitable spaces, businesses are obliged to provide trainings and enhance the professional capacities of persons with disabilities. However, the survey data show that only 2 out of 50 businesses have provided trainings for these categories.

3.2 Wage discrimination for persons with disabilities and workers from non-majority communities

BIRN has surveyed five workers with disabilities who left their jobs.

Some individuals quit due to the disability, while others struggled to adapt to extended working hours, were dissatisfied with their salary and working conditions, or even with their employer's conduct.

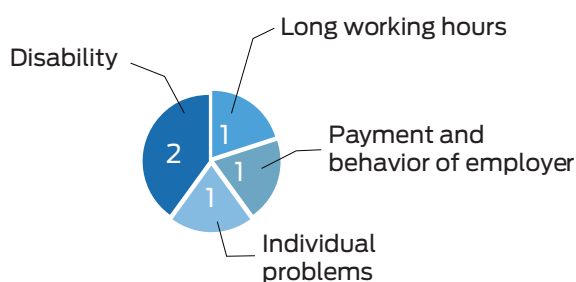
Four construction workers cited the wage as the primary reason for leaving their previous jobs. Additional reasons for construction workers leaving their jobs include a lack of personal protective equipment, absence of rules, travel requirements, and a reduction in workforce.

Service workers stated that they left their previous jobs for reasons such as: waiting work visas and move abroad, seeking career advancement, and experiencing health problems.

Five respondents from the Roma, Ashkali, and Egyptian communities reported leaving their jobs due to a variety of reasons, including inadequate salary, ethnic discrimination, inconvenient working hours, the remoteness of the workplace, desire to pursue education, and business bankruptcy.

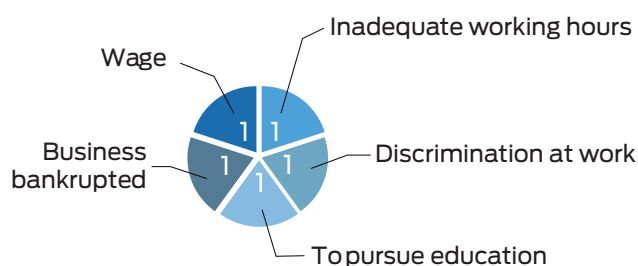
Reasons for leaving the employment according to workers

Employees with disabilities



*Reason for quitting employment

Employees from Roma, Ashkali and Egyptian communities



*Reason for quitting employment

Almost $\frac{1}{3}$ of the workers did not have an employment contracts.

Surveys with construction workers reveal that 3 out of 7 workers had no employment contract at their previous job.

Similarly, one in three service workers said they were not offered a contract by their previous employer.

All surveyed workers from one of the Roma, Ashkali or Egyptian communities say that they had a contract in their previous job.

Data show that out of five workers with disabilities, two had no employment contract with their previous employer.

The employment contract is one of the essential elements of the employment relationship between an employer and an employee. The Labor Law pays significant attention to this issue. According to Article 10, the Contract must be in writing and contain key elements such as: duration, position, working hours, leave, amount of salary, etc., depending on the activity of the employer.

In addition, half of the workers with employment contract stated that the contracts were not realistic. The most prevalent issue with the contract and the actual treatment was with leave and payment. Four workers stated that the salary they received in reality was not the same as the salary written in the contract. A worker who had signed a contract said that he was not paid for overtime work. Four workers said they had no leave or that their annual leave was not paid by their employer.

Most of the workers said they knew their legal rights. However, almost half had not been told their rights by their employers. Four out of five workers with disabilities answered that their employers did not explain their rights to them. Similarly, four out of 10 construction and service workers indicated that the employer never told them their rights.

Workers from the Roma, Ashkali and Egyptian communities said their employer showed them their rights, however two of them said the employer failed to respect their rights.

Most of the surveyed workers stated they knew the person in charge of staff management.

Four of the 20 workers surveyed stated that they do not know the person who managed the staff in their previous employment.

25% of the surveyed workers were not aware of the rules and disciplinary procedures of the business.

More than half of the workers did not have a health certificate.

5 out of 7 construction workers indicate that they did not have a health certificate at their previous workplace.

Similarly, 2 out of 3 service workers said they were not provided with such a certificate.

Three out of five workers with disabilities said they did not have a health certificate in their previous workplace.

Only one of the Roma, Ashkali and Egyptian communities' workers had no such a certificate.

Around one third of the workers had no knowledge of the safety rules at work.

Three out of five workers with disabilities said they did not know the safety rules at work.

Similarly, two out of three service workers had no knowledge of these rules.

Of the 7 construction workers, only one had no knowledge of the safety rules, and of the five community workers only one had no knowledge of these rules.

Every fourth worker said to have been stigmatized at the workplace.

Two out of seven construction workers indicated they were stigmatized in their workplace.

Three out of five workers from the surveyed communities indicated that they also experienced stigmatization at their previous workplace.

None of the workers with disabilities were stigmatized, nor were the three service workers.

Businesses, according to the majority of workers, had no work spaces for people with disabilities.

12 out of 20 surveyed workers said there was no working spaces for people with disabilities in the business where they previously worked.

Five declared there was work space, while three others answered with "I don't know".

Most of the workers stated that the businesses where they worked had no policy of recruiting people with disabilities.

Six out of ten construction and service workers indicated there was no policy of recruiting people with disabilities in the businesses where they worked, and four answered "I don't know".

All workers with disabilities said that the businesses where they worked did not have a policy for recruiting people with disabilities, and only two of the five Roma, Ashkali and Egyptian community workers stated there was such a policy in their previous employment.

Recommendations

- The Labor Inspectorate and business associations to initiate programs to persuade businesses to begin drafting bylaws for the management of workers.
- The Labor Inspectorate to change the perception of businesses and provide advice on procedures.
- The Labor Inspectorate should increase its control and suspend businesses which have no risk assessment at work.
- The Labor Inspectorate to increase controls in the implementation of health rules at work, especially controls regarding health certificates.
- The inspectorate should develop a platform for the registration of health certificates provided by private operators, to ensure that the data are comparable.
- Special inspections should be carried out in companies and businesses that employ people from marginalized groups and non-majority communities, especially Roma, Ashkali and Egyptian.
- Businesses and business associations should draft disciplinary regulations that specify the disciplinary procedures in each business.
- Businesses should draft internal regulations for reporting and addressing sexual harassment.
- Businesses are recommended to take measures to comply with the legal provision on marking hazardous areas at work.
- Businesses are recommended to develop training programs for staff on occupational health and safety topics.
- The government is recommended to increase its support for businesses that employ people with disabilities.
- The Ministry of Finance, Labor and Transfers must launch a professional assistance/ support program for businesses in the drafting of bylaws.
- Develop special programs to increase the capacities of managing workers in businesses.
- University programs must promote human resource management education courses.



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