

THE RIGHTS ON PAPER

MARCH 2019

Work contract



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LIST OF ABBREVIATIONS

KDI	→ Kosova Democratic Institute
LI	→ Labour Inspectorate of Kosovo
IOB	→ Independent Oversight Board
LL	→ Law on Labour
UCCK	→ University Clinical Centre of Kosovo
HUCSK	→ Hospital and University Clinical Service of Kosovo
TI	→ Transparency International
CC	→ Constitutional Court
BC	→ Basic Court



EXECUTIVE SUMMARY

In 2015, the Kosova Democratic Institute, through the Unit for Legal Advice for Victims, Witnesses and Denouncers of Corruption published the "Corruption: What is your story?" Report which explicitly summarizes the cases reported by citizens on delays and inefficiency of courts in handling cases and in citizens realization of their rights. During 2016, KDI has continued to receive new cases that revealed the poor performance of judiciary and non-execution of court decisions. These cases were published in the following "Waiting for Justice" Report. However, not all cases reported to KDI lead to the doors of the court. In the last three years, the Unit for Free Legal Advice received several complaints from citizens related to the right to work in both the private and public sector. Only during 2018, KDI received more than 500 phone calls, while provided free legal aid to 60 cases related to employment relationship, mainly in the private sector.



In 2018, 20 cases of deaths at the workplace were registered as a consequence of the lack of working conditions and safety at work, as well as the lack of inefficient oversight of employers by the Labour Inspectorate.

According to the official statistics, only 28% of active citizens have a job and the number of those who are able to work or are jobseekers is 686,486. The year 2018 has not been a good year in terms of workers' rights and safety at work. There were 20 deaths at the workplace in Kosovo from January to December, most of them due to the lack of workplace safety measures especially in the construction sector.¹ Also during this year, 80 injuries in the workplace were registered in all sectors.² In the last five years, according to reports of local organizations dealing with the sector of safety at work, 99 workers lost their lives at different workplaces.³

¹ [Silent Deaths, December 2018 Kosovar Stability Initiative KSI](#), page, 2 accessed on 28.01.2019

² [Kosovo 2.0 A bloody year for workers](#), accessed on 13.10.2018

³ [Silent Deaths, December 2018 Kosovar Stability Initiative KSI](#), page 6, accessed on 28.01.2019

When trying to secure a job, citizens face injustices and violations of hiring procedures. They report on manipulated vacancies, unfinished court proceedings, changes of official positions at work place if they were critical of their management, 24-hour work without interruption with 12-hour work on the following day, non-payment of pension contributions by the employer, non-payment of salaries for up to 8 months, deprivation from annual leave and medical leave, no daily breaks, no weekly days off, non-payment for overtime work, reduction of salary without notice, salaries below the minimum salary level, and so on.

The array of new cases related to the workers' rights mobilized KDI this year to address, as part of its Transparency and Anti-Corruption Programme, the "workers' rights" issue, including various segments of this area starting with the salaries, annual leaves, recruitment process in public institutions, nepotism, corruption, fraud, tax evasion etc. at the expense of workers and citizens with a right to work.

Each of the cases presented in this report reveal elements of violations of workers' rights on their work place but they also show the lack of state influence in regulating and enforcing legality and the impact of politics on public vacancies. KDI also noted that denouncers suffer from the lack of sufficient knowledge on the complaint bodies for submittal of cases of violations that they were subject to at the workplace, both in the private and public sectors.

Lack of reinforcement of the Law on Labour and the Law on protection and safety at work and the failure of businesses and institutions to respect the rights of workers resulted in more frequent violations, and there were cases when workers paid with their lives the cost of having a job. In 2018, 20 cases of deaths at the workplace were registered as a consequence of the lack of working conditions and safety at work, as well as the lack of inefficient oversight of employers by the Labour Inspectorate.

Strengthening the Labour Inspectorate through the continuous increase of the number of inspectors would help to prevent the violation of workers' rights and

reduce the number of fatalities in the workplace as well as to punish employers who violate or neglect the rights envisaged by the Law on Labour.



Establishment of workers' unions in the private sector would create opportunities for structured dialogue between businesses, workers' unions and the state in favour of guaranteeing and advancing workers' rights.

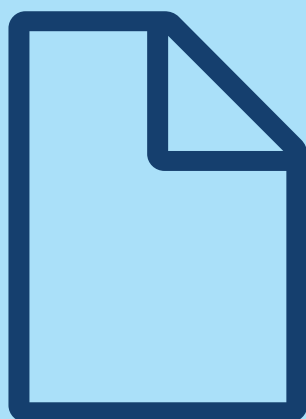
INTRODUCTION

According to International Labour Organization (ILO) definition, decent work means: dignity, equity, decent financial income and safe working conditions. Decent work puts people at the centre of development, empowers women, men and young people, gives them the right to be protected from exploitation and provides them with an inclusive and sustainable future.⁴ Article 49 of the Constitution of Kosovo guarantees the right to work and the right to choose the profession but also the occupation.⁵ Law on Labour and Law on Civil Service are two basic laws that regulate labour issues, including rights and obligations for workers, namely civil servants. The difference between these two laws is that: the Law on Labour regulates both the private sector and a part of the public sector, while the Law on Civil Service regulates, inter alia, the employment relationship between civil servant and public institutions of the country.

According to the Kosovo Agency of Statistics, in 2016, there were 81,629 people employed in the public sector, while the total number of people employed in Kosovo according to the Statistical Yearbook of 2017 was 331,761.⁶

Working conditions, poor treatment of workers, contract terminations without prior notice, extension of working hours, work for up to 24 hours with 12 hours of work on the following day, non-payment of pension contributions and taxes, payment in cash, injuries at work, working during holidays, pre-arranged (fixed) vacancies etc. were among the cases received by KDI from the citizens through the free-of-charge phone line (0800 77777) or from face-to-face meetings. This report is a summary of all these cases and aims to point out the denial and violation of workers' rights by employers, with emphasis on private sector workers.

Over the years, reporting cases and legal aid by KDI have resulted in the cancellation of several public vacancies, the prevention of many violations, the resolution of some disputes and the workers' education on their rights under the employment relationship.



ARTICLE

49

OF THE CONSTITUTION OF KOSOVO

guarantees the right to work and the right to choose the profession but also the occupation.

⁴ [ILO International Labour Organization](#)

⁵ [Constitution of the Republic of Kosovo, Article 49 \[Right to Work and Exercise Profession\]](#)

⁶ [Statistical Yearbook of the Republic of Kosovo, page 15](#)

REPORTED CASES

Since 2016, KDI has continuously received calls and has met workers whose rights have been violated in both the private and public sector. Given the large number of violations and the lack of information on workers' rights, KDI has undertaken an advocacy campaign to inform workers on their rights.

On 1 May 2018, more than 100,000 SMS were sent to different numbers in Kosovo, whose holders are from 18 to 65 years old, while they were asked to report in case their rights have been violated in the workplace.

More than 300 calls have been received in the first few days, and the reporting of cases of the labour rights violations has continued in the coming months. Most of the calls have requested basic information on their rights under the Law on Labour as they were from the private sector, but 60 of these calls have been initiated as open cases for legal aid by KDI.

From continuous communication since 2016 with the stakeholders and also from the latest campaign, we have noticed that employees have limited knowledge of their rights and obligations. From the reporting of cases, it turns out that the most uninformed ones are those who do not have regular employment contracts and are paid in cash, avoiding tax and pension contributions.

Payment delays, injuries at work, non-compliance with public vacancy criteria, non-payment of monthly salary, non-payment of pension contributions, non-payment of overtime, work for up to 24 hours without interruption with 12 hours of work on the following day, not allowed promotion, threats at work, announcing vacancies only to meet the legal requirement, whistleblowing for abuse

at the workplace are the cases that KDI has dealt with and has provided free legal aid to persons or groups of persons related to their work issues.

Only initials of the workers' name will be presented in the report and their identity will be protected, as agreed by the parties in advance.



THEY PROTECT STATE BUILDINGS BUT NOT THEIR RIGHTS

In the majority of the local institutions, various private companies selected through bidding process provide physical security to the facilities where these institutions operate. KK Company is one such company⁷. According to the report of the worker AA⁸, who, at the time of reporting, provided security services to a public institution, had not received the monthly salary for two months, whereas for more than six months the pension contributions were not paid, even though the contributions were withheld from the payment. The company is contracted by several municipal and central institutions in Kosovo to provide security services for the buildings of these institutions. AA⁹ says that once a week they have to work 24 hours without interruption, as there are only two workers in that facility and one of them works 24 hours on Saturdays and the other one works 24 hours on Sundays. On weekdays, he explains, they work 12 hours a day without interruption. The salary that AA received from the KK was 250 euros gross per month, as it was stipulated by the contract. However,

⁷ KDI has the name of the company, but only the initials will be shown in the report while their identity will be protected, as agreed by the parties in advance.

⁸ Only initials of the workers will be shown in the report while their identity will be protected, as agreed by the parties in advance.

⁹ AA reported the case on 04.05.2018.

|||||

during the conversation with KDI, the party told us that neither him nor his colleague had been granted the annual leave. The parties themselves have stated that they do not dare to report the case openly to the Labour Inspectorate, since they risk losing their jobs. According to them, any objection or question regarding working conditions or salary payments may result in warning for dismissal or termination of the contract.

A similar event but only with another physical security company RN¹⁰ was also reported by BB¹¹ who told us about the working conditions and the violation of the rights he and his colleagues are constantly suffering from. Physical security company RN also has public contracts with municipal and central institutions. BB¹² tells us that it has been 3 months since neither him nor his colleagues have received salaries in their bank accounts. The same practice of working 24 hours without interruption is also present in the company where BB works, and the weekly working time of 12 hours each working day. BB, same as AA, was not granted the annual leave, nor could require it since it results in dismissal.

The other case is BK¹³ from Prishtina, who reported that he has been working for seven years in various physical security companies and every time, in each company he has worked, there were delays in payments of salaries. BK confirms all statements of AA and BB for working for up to 12 hours during week days and for up to 24 hours during weekend.

Last year, KDI reported cases where the rights of the security workers were violated as a result of non-payment of pension contributions and of monthly salaries.¹⁴ That the phenomenon of non-payment of physical security workers is widespread and continues to this day is shown by the fact that KDI has contacted the two cases of 2017¹⁵,

¹⁰ KDI has the name of the company, but only the initials will be shown in the report while their identity will be protected, as agreed by the parties in advance.

¹¹ Only initials of the workers will be shown in the report while their identity will be protected, as agreed by the parties in advance.

¹² BB reported the case on 03.05.2018.

¹³ Only initials of the workers will be shown in the report while their identity will be protected, as agreed by the parties in advance. BK reported the case on 03.05.2018.

¹⁴ [Employees who have \(no\) rights, November 2017](#)

¹⁵ Phone conversation on 12.11.2018

|||||



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60 OF THESE CALLS

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who have told us again that despite the fact that the case was anonymously reported to the Labour Inspectorate, no action has been undertaken. They keep facing delays regarding the payment of their salaries and continue to get paid under the minimum salary. The salary of EUR 130.00 is below the minimum salary for employees over the age of 35, which according to the decision of the Kosovo Government in 2011, Article 1, paragraph 1.2, it should be at least EUR 170.00, while for persons under 35 years old it should be EUR 130.00. Article 2 of this Decision states that this salary may be negotiated but however it may not be less than the amount determined. The obligation to implement this Decision is left to the authority of the Labour Inspectorate with Article 3 of the same Decision.¹⁶

Another case very similar to the aforementioned cases is that of BT and his son AT,¹⁷ who work in a private company. Their job is to secure the company MShC in the Municipality of Vitia, but for more than 5 years now BT has not been granted his annual leave and the same is happening to this son AT for more than 2 years now. BT says that neither he nor his son dare to mention the issue of leave because they would be dismissed from their jobs and in the absence of occupation, they would be left without a source of income.

SEVEN (7) MONTHS WITHOUT SALARY

AS¹⁸, a worker at the factory VI¹⁹ in the Municipality of Klina, reports that it has been 7 months since he had received his last salary for the work he had carried out and that even when he was paid he received salaries with delays. According to AS, in factory VI, there are workers who get paid in cash, as many of them are veterans and the owner has given them the opportunity to be paid in cash.

Pursuant to the Law on Pension Funds in Kosovo, Article 6 paragraph 1 states that: “each Employer shall be obligated to contribute on behalf of its Employees to the Savings Pension”. Article 6, paragraph 2, of the same Law, states that: “each Employer shall pay an amount equal to five percent (5%) of the total wages of all Employees²⁰.”

KDI provided legal advice, informing them on where to complain about the violations made by the employer and assisted them in compiling the complaint.

SHE PAYS THE TRUST, YET THERE IS NO EVIDENCE OF THAT

SS²¹, a cleaning worker at Gymnasium LL²² in the Municipality of Prizren, receives her salary in cash instead of receiving it through her bank account. According to SS, the amount for taxes and pension contributions is usually extracted from her salary, but when she required the report from the Pension Trust, she found that there are no payments made from the company. The party did not know whether she had a contract directly with the school or with a cleaning company since, according to SS, her contracts are often changed and she does not pay much attention.

¹⁶ (Decisions of the 33th meeting of the Government, p. 4 Article 1, paragraph 1.2, Article 2 and Article 3)

¹⁷ BT and AT reported their case on 25.05.2018.

¹⁸ Only initials of the workers will be shown in the report while their identity will be protected, as agreed by the parties in advance. AS reported the case on 06.07.2018.

¹⁹ KDI has the name of the company, but only the initials will be shown in the report while their identity will be protected, as agreed by the parties in advance.

²⁰ (Law No. 04/L-101 on Pension Funds of Kosovo, Article 6 paragraph 1 and 2)

²¹ Only initials of the workers will be shown in the report while their identity will be protected, as agreed by the parties in advance. SS reported the case on 11.05.2018.

²² KDI has the name of the company, but only the initials will be shown in the report while their identity will be protected, as agreed by the parties in advance.

170.00 euro



COURT'S DELAY, A CONSEQUENCE FOR THE INJURED WORKER

BH²⁶, worked, for more than a year, in company LG²⁷ a foreign construction company, sub-contractor in constructing roads in Kosovo. BH tells us that he was injured at work and his injury was ascertained by LI and the case was submitted to the Basic Court in Viti with a lawsuit for compensation of work injury damages. Regarding this case, the Basic Prosecution in Ferizaj initiated investigations in the LG company.

The concern of the party was that the company he worked for will leave Kosovo after few months and that the Branch of the Basic Court in Viti did not take any procedural action to conclude the case.

Regarding working conditions, BH told us that he has always received his salary partly in the bank and another portion in cash. He worked for 2.20 €/hour. According to him, everything was good until the day of injury.

DISMISSAL AFTER INJURY

FP²⁸, worked, for more than a year, as a cook at company J.²⁹ in its branch in Peja. Few days before 2018, while in work, she slipped and was injured at work. After being injured, the doctor recommended medical leave for a few days.

FP disregarded the advice of the doctor, and in order to not lag behind in her work, she returned to her workplace after two days. She was initially stopped from entering the workplace and then contacted the manager of the branch and he explained to her that the contract was terminated. She tried to clarify the situation but she had no success. On 12 January 2018, she submitted the case to the Labour Inspectorate.

Few days later, the same person received a call from the manager of J, where she was offered her job back, provided that the case is withdrawn from the Labour Inspectorate (LI). However, she did not remove her request from LI and although more than 5 months had gone by, she did not receive a response from LI.

At the reporting time, the party was recommended to go again to the LI office in Peja, and in case there is no decision, to go once again. KDI has also tried several times to reach the party but had no success.

FORCED UNPAID LEAVE

MB³⁰, a worker in road construction, from the Municipality of Ferizaj tells us that he has worked for several years in the company BE³¹, but in September 2018, he was forced to take unpaid leave by his manager.

According to MB, the manager and persons close to him have implemented a fraud scheme, where they force the current workers to take unpaid leave and hire other people in need of jobs in those positions for monthly salaries ranging from 300 to 400 €.

MB had no knowledge of his rights and accidentally got informed of KDI and their free legal advice and therefore

26 Only initials of the workers will be shown in the report while their identity will be protected, as agreed by the parties in advance. BH reported the case on 18.12.2018.

27 KDI has the name of the company, but only the initials will be shown in the report while their identity will be protected, as agreed by the parties in advance.

28 Only initials of the workers will be shown in the report while their identity will be protected, as agreed by the parties in advance. FP reported the case on 23.05.2018.

29 KDI has the name of the company, but only the initials will be shown in the report while their identity will be protected, as agreed by the parties in advance.

30 Only initials of the workers will be shown in the report while their identity will be protected, as agreed by the parties in advance. MB reported the case on 27.09.2018.

31 KDI has the name of the company, but only the initials will be shown in the report while their identity will be protected, as agreed by the parties in advance.



contacted them. KDI recommended that the party contacts the Labour Inspectorate to inform them of his employment contract and the failure of its fulfilment by the management of the company.

in the city. The party is expecting the Court to conduct accelerated procedures since the case is related to her employment.

NOT ALLOWED TO CHANGE THE PLACE OF WORK

ShD³², from Peja has been serving, for more than 21 years, in the education system in this municipality. In 2017, after one of her colleagues, who worked in a school in the city, retired, there was an opportunity for her to be transferred there as she had travelled for 21 years to the village where she worked. In order to complete the norm, ShD had to teach, from time to time, extra classes at the school she wanted to be transferred for many years now, as she could not meet the norm in one school only. In some cases, ShD had to even teach other subjects that were not related to her field.

This opportunity to work at the school in the city pushed ShD to address the Municipal Directorate of Education (MDE) in Peja and require the transfer to that school, but she had not received a response by the MED of Peja. The party expected a response under legal deadlines and then sent another submission to the municipality, which resulted unsuccessful. She had to inform the Education Inspectorate in order to avoid the irregularity she claimed was being done to her. The response she received from this Inspectorate was disappointing to ShD, but she continued with requests to other institutions. ShD addressed the Labour Inspectorate for her right, but no institution gave her that. At the time of application, ShD was more qualified than the candidate who got the job. Since there was no solution for her case, she addressed the Basic Court in Peja, where she is awaiting a response from the Court regarding the request for transfer to the school

REDUCTION OF CLASSES FOR PERSONAL INTERESTS

HH³³, from Mitrovica has been working for more than 23 years in the education system in this municipality. Her main job has been teaching subjects of social nature, for which she has a university degree. In 2015, problems with the Directorate of Education in the Municipality of Mitrovica had begun, when the latter had halved the classes from her norm, where the 20-classes norm was reduced to only 10 classes per week.

By the decision of the MED and with the approval of the school principal, MU got her job. She, according to the party, had a kinship with one of the school principals in Mitrovica and was a relative of a prosecutor of the Basic Prosecution in Mitrovica. According to HH, this was preventing her from exercising her right in all places she was trying to do so.

KDI recommended her to report at the Labour Inspectorate the reduction of classes and the unequal treatment being done by the MED in Mitrovica. It is also advisable to prepare the lawsuit for submission to the Court if there is no final epilogue on the case.

THREATS AT THE WORKPLACE

ML³⁴, is a teacher in one of Prishtina's high schools where he and many of his colleagues face many difficulties

32 Only initials of the workers will be shown in the report while their identity will be protected, as agreed by the parties in advance. ShD reported the case on 20.06.2018.

33 Only initials of the workers will be shown in the report while their identity will be protected, as agreed by the parties in advance. HH reported the case on 16.05.2018.

34 Only initials of the workers will be shown in the report while their identity will be protected, as agreed by the parties in advance. ML reported the case on 06.09.2018.

during the teaching process. ML has yet another obstacle. Often, while performing his work, he is hindered by the school principal and his deputy. Threatening dismissal, taking his gradebook, not allowing him to teach the classes, are some of the problems ML faces almost every day.

According to him, the director, his deputy and some teachers have formed an alliance with each other and use the school for personal gain. ML tells us that their school holds night classes, where people who have not completed secondary education have the opportunity to do so. ML says that exams that are held by school teachers are paid by students, but not all the money ends in the pockets of teachers, some of them are taken by the director or other persons allied with him.

Another problem is that ML has received constant threats regarding the manner of grading the students in the learning process, and often the directorate has invited inspectors to monitor ML in the teaching process. Final grading in the gradebook has always been followed with the intervention on his grading manner and falsification of grades by the director, his deputy or persons close to them.

The biggest concern of ML was the provocation for not extending his contract for the coming years. Fortunately, in November 2018, ML received the decision on the extension of the contract.

With the help of KDI, ML filed a criminal report with the Basic Prosecution Office in Prishtina, requesting investigation of the criminal offenses that the director, his deputy and other persons related to them have continuously committed. KDI, along with ML, will closely follow the investigation process and, in the event of charges, the trial of the responsible persons.

NON-PROMOTION AT WORK WITHOUT ANY REASON

The whistle-blower PS³⁵, is a worker at the Prishtina Fire-Fighting Department. He is amongst many workers who could not get promoted despite the fact that he has the right educational qualification and that there are many leadership position vacancies in the service. According to the whistle-blower, the main leader refused his request for promotion initially with the reasoning of the lack of adequate education and then did not respond to his requests at all.

The whistle-blower tells us that he and his colleagues in the same positions actually carry out the duties of leaders of fire-fighting teams and often face difficulties during the work.

His reporting is also related to misuses committed by certain individuals in fuel, tires, and regulation of tankers in the event of a breakdown.

There are cases when despite failing the fire-fighter skills test, the fire-fighting department, due to preferences towards certain people, turn a blind eye for them and take care of everything. Also, the same people, now with the decision of the general commander, have been sent for training at the Police Academy in Vushtrri, which resulted in the service having 13 people less. Consequently, current workers will be forced to work more and often have their right to be promoted violated.

DELAY IN THE EXECUTION OF THE DECISION

TH³⁶, from Gjiilan devoted all his life to the education and retired last year. At the time of retirement, TH obtains the

35 Only initials of the workers will be shown in the report while their identity will be protected, as agreed by the parties in advance. PS reported the case on 13.06.2018.

36 Only initials of the workers will be shown in the report while their identity will be protected, as agreed by the parties in advance. TH reported the case on 03.05.2018.

information that the Law on Labour allows retired persons to receive 3 additional salaries. However, this right was not executed by the Directorate of Education in Gjilan, and TH was obliged to sue the Municipality at the Basic Court, for non-compensation of 3 additional salaries.

The court, by a decision, had recognized the right of the party for 3 additional salaries after retirement. After the decision on 3 salaries became final, TH has still failed to resolve the case and receive the compensation of the salaries recognized by the Court, and consequently, the non-implemented decision by the Municipality of Gjilan has returned to court, now with a new claim for execution of court decision.

TH complains that his case proceedings have been prolonged, so he asked for the assistance of KDI on whether the case can be executed by private enforcement agents. After analysing the enforcement law, it appears that the execution of labour issues is an exclusive competence of the court. Therefore, TH should wait until the Court decides on the execution of its decision, and assisted the party in writing an urgent submission to the Court.



FIXED VACANCIES

AN³⁷, told us that in 2018 he had seen in the media a public enterprise vacancy for the region of Ferizaj more precisely the Municipality of Kaçanik, where he is from. Since he fulfilled the employment criteria, AN had submitted the documents to initiate the employment procedures.

He was invited and participated in the tests, but he found out from the beginning that the vacancy was manipulated, as the applicants indicated who would be admitted to work in each of the 17 positions. And so it turned out that the person who had previously been rumoured to be admitted in his position got the job.

AN had filed a complaint on the decision on employee admission, but the board of the enterprise had rejected his

complaint. An additional complaint was made to the board regarding the vacancy, where he noted that the vacancy was in Albanian only and there were no fixed term of employment for positions. Complaints on these issues had been sent to the board and then to the Labour Inspectorate, but they were all rejected.

The party will soon file a complaint for the decision of the Inspectorate to the Basic Court in Prishtina, the Administrative Department, for opening a dispute with the Labour Inspectorate.



There are cases when despite failing the fire-fighter skills test, the fire-fighting department, due to preferences towards certain people, turn a blind eye for them and take care of everything. Also, the same people, now with the decision of the general commander, have been sent for training at the Police Academy in Vushtrri, which resulted in the service having 13 people less. Consequently, current workers will be forced to work more and often have their right to be promoted violated.

37 Only initials of the workers will be shown in the report while their identity will be protected, as agreed by the parties in advance. AN reported the case on 23.11.2018.

DISCRIMINATORY AND POLITICALLY-INFLUENCED VACANCIES

One of the key ministries in the Government of Kosovo had opened a vacancy in early 2018 for hiring an official. FH³⁸ from Prishtina had applied and had held the oral and written exam, but she was not hired although she was the best, according to her. The Ministry hired AZ, who was an activist of the political entity leading with that ministry. FH had filed a complaint to human resources, but her complaint was rejected without any explanation.

FH had not sent the case to other instances because she had no information that she could do that.

A few months later, the Ministry had opened another vacancy for a new position, and FH immediately applied. After written and oral exam, she was expecting a positive result, seeing that the other competitors had not been better than her. After several days of waiting, the Ministry announced the cancellation of the vacancy.

Even in earlier cases, KDI has heard such practices from the parties, where there is no agreement by the parties for a political person, then the commission cancels the vacancy to re-announce it with criteria tailored to certain persons.

There is a similar case with teacher AV³⁹ who had applied in October 2018 for a position for teaching vocational subjects in a secondary school in the municipality of Drenas.

She claims to have met all the conditions and that her education level was higher than the education level one of all other candidates, but in the end, according to the results, she did not get the job. AV says that another person, who might be affiliated with politics, got the job and that

at the time of the vacancy the person hired was working under a temporary employment contract.

KDI offered legal assistance in drafting a complaint against the decision of the committee for selection of teachers. The complaint was addressed to the Appeals Commission in the Municipality of Drenas.

The violations in her case were numerous, and from the subject matter we realized that the Directorate of Education did not publish the full results with scores but only the names of the people who got the job. The fact that she had worked with a temporary contract, and was subsequently admitted to work by recognizing that time as working experience, was considered by us as discrimination in work, which is forbidden by Article 5 of the Law on Labour. The claim addressed to the Appeals Commission was to annul the vacancy and to make a new announcement and provide equal opportunities to all.

In December, the Appeals Commission had taken the decision to accept the complaint of AV and annul the announcement of vacancy for her position.

ONLY ONE WAS LEFT OUTSIDE THE 20%

As an agricultural engineer, a long time before the war, he was employed in one of the socially-owned enterprises of that time in the Municipality of Drenas, AB⁴⁰ from Drenas had returned to work after the end of the war in 1999 where, together with other workers, they worked until 2004. Earlier in 2003, he had a problem with the

38 Only initials of the workers will be shown in the report while their identity will be protected, as agreed by the parties in advance. FH reported the case on 24.05.2018.

39 Only initials of the workers will be shown in the report while their identity will be protected, as agreed by the parties in advance. AV reported the case on 10.10.2018.

40 Only initials of the workers will be shown in the report while their identity will be protected, as agreed by the parties in advance. AB reported the case on 11.04.2018.

enterprise's managing director, and all this after AB had refused to sign an alienation of the property between the enterprise and a private person.

The Director had warned him that there would consequences from this action, and it turned out like that. When the enterprise was privatized, AB was the only one whose name was not on the 20% list.

He immediately submitted the case to former KTA (Kosovo Trust Agency) but without any success, although he had all the evidence that he was on the payroll before and after the war.

RTK and other private televisions, without any compensation for the employees or RTP. According to Mjeku, in 2000, the union managed to register RTP as a legal entity, and then in 2001, the union filed a claim with the Court for the restitution of its property.

The leader of the union also points out at the loss or alienation of some properties worth millions in the centre of Prishtina, which by state decision were allocated to RTP in the 80s for constructing new facilities for TV and Radio. He points out that RTP has properties throughout Kosovo and none of them is currently under its possession.

There is no final epilogue on the case No. 601/01 and most of RTP employees expect compensation for the lost years of work.

Finally, he sent his case to the Special Chamber of the Supreme Court of Kosovo, from which he is seeking justice.

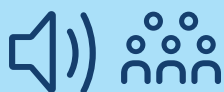
KDI has provided the possibility of cooperation and free-of-charge legal assistance for the workers' union to realize their rights.



FORMER RTP EMPLOYEES, WITHOUT A PROPERTY AND SALARY

LM is the leader of the union of former employees of the Radio Television of Prishtina (RTP), which at the time of closing had approximately 900 employees. Most of the employees were left without a job, as the establishment of the Radio Television of Kosovo (RTK) made it impossible for them to get back to work and it was not declared as a successor of former RTP.

According to the union leader, Mjeku, all the properties and archives of the former RTP are in continuous use by



Three protests were organized during 2018, together with the group of employees, seeking investigation for

the loss of 20% 450 EMPLOYEES



FORMER “RAMIZ SADIKU” EMPLOYEES AND THE FRAUD WITH THE 20%

The other case is related to the Socially-Owned Enterprise “Ramiz Sadiku”, which was privatized by the former Kosovo Trust Agency - KTA, and after the privatization of this enterprise, some of the employees remained outside the 20% payment list.

KDI has reported on the same case in the previous report on workers' rights.

According to the parties which reported to the KDI, they were not informed about the process of privatization of the enterprise and consequently lost the right to seek the 20%. The parties claim to be a group of 450 people who have been denied the right to 20%.

Three protests were organized during 2018, together with the group of employees, seeking investigation for the loss of 20% that these 450 employees were entitled to. The protests were held at the Privatization Agency of Kosovo (PAK) and the State Prosecution Office.

In the meetings between the leaders of the group of workers and PAK and State Prosecution officials, they were promised that measures will be taken and their case will be investigated, but in reality, former “Ramiz Sadiku” employees continue to not benefit from the 20% and investigations into their case continue to fail.




FINDINGS


Apart from being protected by the Constitution and laws in Kosovo, the workers' rights are also protected by various international conventions, but the violation of these rights in Kosovo is continuous. This is also supported by the 60 cases reported only in 2018, and the most interesting reports were elaborated above.


Citizens reporting on violations of employment relationship rights generally do not have information on their rights as employees.


Violations of workers' rights are widespread in both public and private sector without exception. The nature of public sector violations is related to public vacancies, namely their use for party-based and nepotism-based employment. In the private sector, most of the violations are related to the non-implementation of the Law on Labour and other legal acts that regulate the issue of payment, working hours, overtime, minimum salary, pension contribution payment, etc.


The description of the reports is a real reflection of stories by people claiming that their rights have been violated. On the other hand, their stories also imply the negligence by state institutions, particularly in cases where quick decision-making is expected to eliminate the consequences for the employee or employer. Failure to handle cases efficiently and quickly produces consequences for both the employee and the employer.


 Based on the reporting, the common aspect of the private sector is that violations of rights continue.


 All those who have reported from the private sector do not report cases to institutions due to the fear of losing their jobs despite the fact that they have valid employment contracts.


 Many of the workers, especially in the private sector, have no information of institutions responsible for protecting their rights.


 Some reports from the private sector have shown that workers have not received their salaries regularly, their daily and weekly breaks and annual leaves have been denied to them, and there are additional violations being ascertained all the time.

 These private companies have also managed to win public tenders and perform the services with these workers whose rights are violated. Non-payment of pension contributions or trust is another form often reported to KDI.

 Despite the legal obligations, some private sector companies do not pay the pension contributions to their workers because these workers receive their salaries in cash.

 Private sector workers point out the lack of visits by the Labour Inspectorate or lack of response by the Labour Inspectorate in cases when they appear as anonymous.

 A frequent form of violations during employment procedures is the fixing of vacancies to favour persons affiliated with political entities that are in power.

 Through public procurement, the state is allowing continued violation of workers' rights, especially in cases when certain services are received by these institutions.



RECOMMENDATIONS



The Labour Inspectorate should conduct a field visit to these physical security companies to inspect the working conditions under which the workers operate.



In close cooperation and joint inspection with the Tax Administration of Kosovo and the Pension Trust, the Labour Inspectorate should check whether the taxes and contributions have been paid by these private companies.



When finding a violation by the companies that have won a public tender, the Labour Inspectorate should automatically inform the contracting authority about the violations against the workers.



The Labour Inspectorate should take the initiative to inform all contracting authorities about their legal obligations to protect the rights of workers at work, especially in authorities where their contractors violate the rights.



All contracting authorities in Kosovo should take into account the rights of workers in the contracted company. Careful attention should be paid to workers' salaries.



The Assembly of Kosovo and the Government of Kosovo/Ministry of Labour and Social Welfare should foresee a continuous increase in the number of inspectors through the budget;



The Labour Inspectorate should increase the number of field inspections;



The Labour Inspectorate should continue with awareness campaigns on workers' rights and potential violations for employers and workers;



The Labour Inspectorate should provide an opportunity for workers to submit their complaints anonymously and the same complaints to be taken into account.



The Labour Inspectorate should increase the level of transparency by publishing all decisions on the website;



The Independent Oversight Board and the Labour Inspectorate should unify their decisions on the same cases they treat;



The Independent Oversight Board should provide an opportunity for civil service workers to submit their complaints not only to the centre in Prishtina but also to the regional centres;



The Government of Kosovo, together with the Labour Unions and the private sector, should draft the collective contract and sign it;



The Ministry of Labour and Social Welfare should establish mechanisms that oblige private companies to have trade union bodies.



The courts should adhere to the legal deadlines and they should treat work issues with efficiency and priority;



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KDI is a Non-Governmental Organization (NGO) committed to support the development of democracy through the involvement of citizens in public policy making and strengthening the civil society sector with a view to influencing the increase of transparency and accountability by public institutions.

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