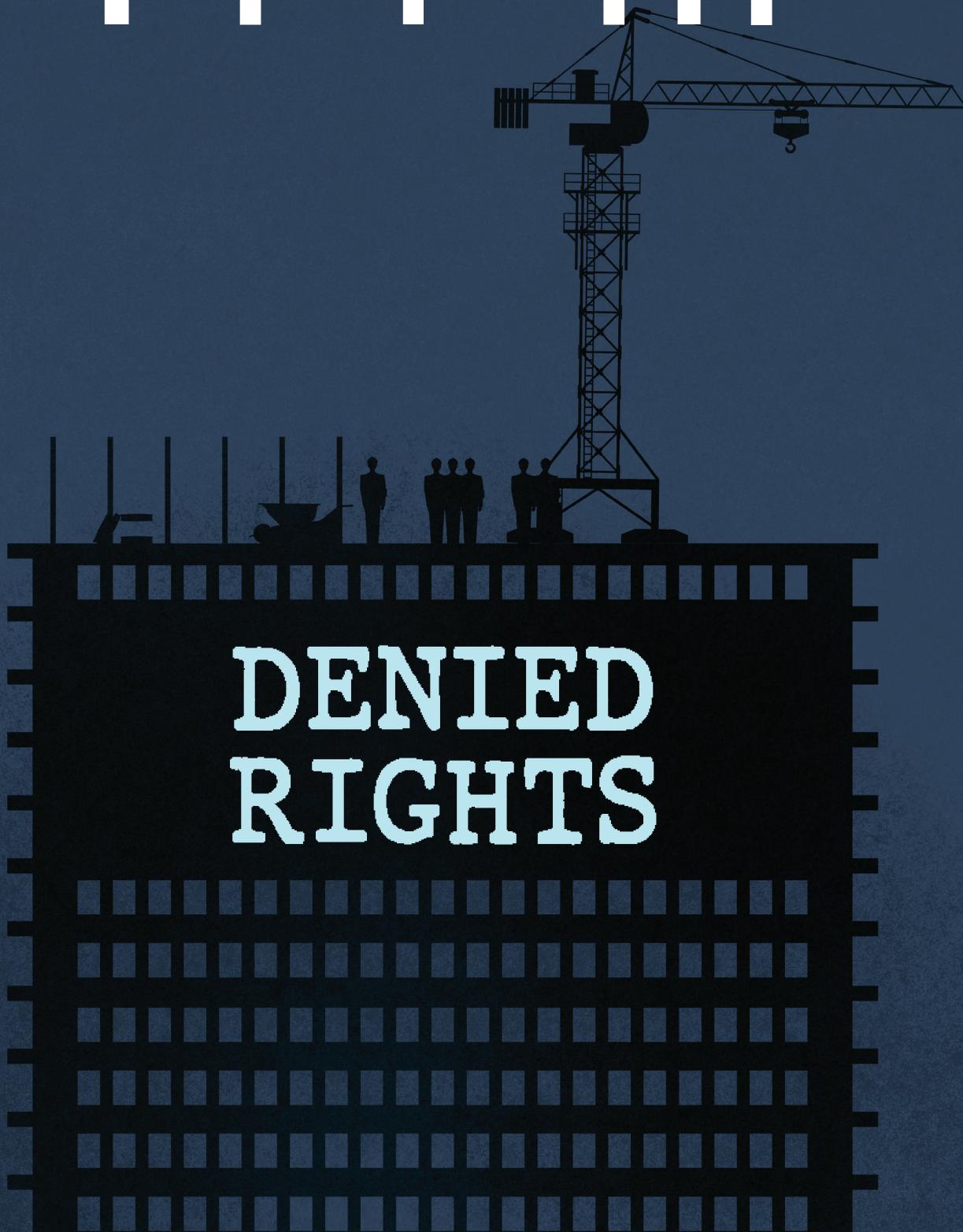


Preportr



DENIED
RIGHTS

Private sector workers continue to be deprived of many of the rights guaranteed by the relevant laws. Jobs without contracts, low wages, long working hours, lack of job security are some of the problems that private sector workers in Kosovo are constantly faced with. Although there is a legal framework for the protection of workers' rights, the violations of their rights is not always treated or addressed properly by the competent authorities.

Tirana Bytyqi, Rina Koliqi

Private sector workers in Kosovo continue to be among the most discriminated against in the labor market. They face many problems in terms of working conditions and working relationship with employers. There are many of them who work without contracts, work overtime without being paid for extra work and many of them are even fired without warning. Among other problems faced by this sector are wage arrears, lack of using the right to annual, monthly or weekly leave, and similar problems that they may encounter in their every day of work.

These problems have been identified by various local and international reports, by unions, but the same have been confirmed over the years by various research conducted on this issue by the Preportr.

Most workers in this sector are not informed about their labor rights, while even those who are more informed do not report the violations that are done to them in their workplace, due to fear of the different consequences that they may face.

According to the statistical report of the Kosovo Agency of Statistics for 2020, the number of employees in Kosovo is 347,071, while the private sector alone numbers around 260 thousand employees. According to these data, this sector has the largest number of employees in our country. The average salary in Kosovo is 350 euros per month, while the minimum wage varies from 130 to 170 euros per month, depending on the age of the employees.

The rights which derive from the employer-employee relationship are regulated in various forms by the legislation. These rights are initially guaranteed by the Constitution of our country, by applicable laws which guarantee employment rights, followed by other by-laws and contracts.

Based on the fact that many rights of this nature are realized through civil law, because the same are of a contractual relationship, through the right for access to official documents, Preportr has requested from

From the data provided by the KJC, it results that in the basic courts of Kosovo for the years 2017, 2018, and 2019, there were a total of:

10717 cases

of labor disputes, out of which

6727 cases

were resolved by the following: judgment based on the assertion, judgment based on absence, judgment based on the main trial, with court agreement, with withdrawal of the lawsuit, with termination of the procedure and

564 cases

of them have been resolved in other ways.



the Kosovo Judicial Council statistics of labor dispute cases for the years 2016, 2017, 2018, 2019, 2020 and 2021, but for the last two years, despite the requests, we have not received the data. These statistics include all basic courts in the Republic of Kosovo

From the data provided by the KJC, it results that in the basic courts of Kosovo for the years 2016, 2017 2018, and 2019, there were a total of 10,717 cases of labor disputes, out of which 6,727 cases were resolved

by the following: judgment based on the assertion, judgment based on absence, judgment based on the main trial, with court agreement, with withdrawal of the lawsuit, with termination of the procedure and 564 cases of them have been resolved in other ways.

While unresolved labor dispute cases at the end of 2019, in the basic courts of Prishtina, Prizren, Mitrovica, Peja, Gjakova, Gjilan and Ferizaj, are in total 4068.

Dealing with multiple discrimination

Preportr has talked to some private sector workers about their labor rights, but only some of them have agreed to speak out, asking not to have their identities published, as they endanger the job they have.

E.G receives a payment of 250 euros per month, travels on daily bases from the village to the city in order to go to work, thus paying for a bus ticket about 80 cents just in one direction.

So far she has changed several jobs, where she has mainly worked as a sector worker in various stores but always had to travel and has never been provided transportation by any employer.

In the job she now does as a cashier in a sales shop in the city of Malisheva, she says that she has an employment contract and her contributions to the Pension Savings Fund is paid. She says that within the working hours, she is obliged to perform the work of sector manager, cleaner and many other jobs within the company.

In the previous works she has carried out, she says she has never had a contract. Asked whether she has ever requested for an employment contract or if she has complained to any institution about not being provided with an employment contract, she said that she has never made a complain. The reason she has never complained to any institution according to her was the fear of losing her job.

According to the Labor Law, every employer is obliged to enter into a contract with the employee, which regulates the rights, obligations and responsibilities of both contracting parties.

According to Article 60 of the same law, among other things, the employer is obliged to provide to the employee, insurance for the compensation of expenses in case of injuries caused during performance at work.

“I have been injured many times during work but I have never received any additional payment for the expenses for medical visits and expenses for medicaments, while in terms of medical leave, I have never had it from any employer. In case I was ill and I was given a leave of absence by the doctor, my per diems were removed as long as I did not go to work”, she says.

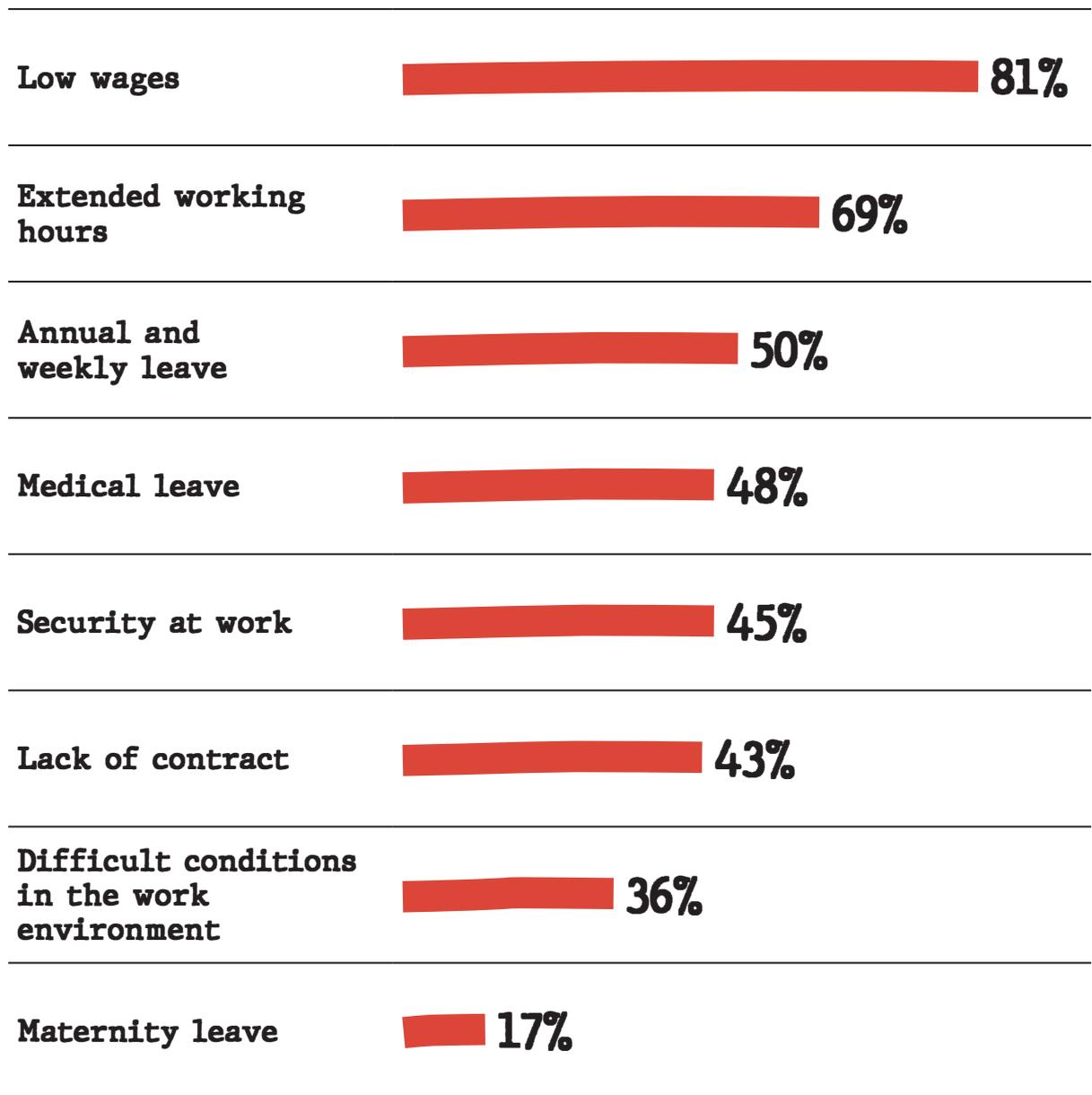
In terms of compensation for overtime work, she confesses that she has worked many times overtime and has been paid insufficient, not as much as she should have been paid for overtime. For her experience in many jobs she says she has always been followed by ill-treatment at work starting from the way the employer has communicated and behaved with her as well as with most other employees. Moreover, she says that this treatment has also affected her mental health.

As part of this research, Preportr through the ECR platform has published a questionnaire through which it has received answers from private sector employees regarding employment contracts and other problems they face in their workplace.

According to the answers received through this questionnaire, extended hours, non-payment of overtime, weekly and annual leave as well as delays in salaries are among the most common violations in their contracts.

According to the respondents' perception, the three main problems faced by private sector workers are: Low wages, overtime work and lack of weekly and annual leave.

In your opinion, what are the problems faced by private sector workers in their workplace?*



* Respondents had the opportunity to choose more than one option.

An employee who works in a vehicle service in the city of Istog said that he has been working there for three years and that he has never had an employment contract.

Asked if he had asked for an employment contract, he said his request had never been approved.

"I have never complained to the inspectorate, while I have complained to the chief many times. But the answer has always been that they will provide me the contract after a month, so they postponed it and I have never been able to get the contract", he said.

He has indicated that he has never had annual leave, and that his employer's reasoning has been that work during the seasons increases and annual leave cannot be taken.

Even in cases where he was injured at work, he was not given medical leave.

"I injured my right hand, the boss sent me to the doctor, I did the check-up, he paid for the medicine, and I went back to work again," he said.

He said that he also works overtime but is not paid enough for the overtime work and that he has had to do other works sometimes within the company.

According to data from the Kosovo Agency of Statistics (KAS) for 2020, the workforce numbers 468,451 people, of which 347,071 are employed in the public and private sector, while the number of young people aged 15-24 who are not employed as well as not attending school or training is about 112,936. According to KAS in 2020 in Kosovo there were 121,379 people aged 15-64, who were unemployed.

Compared to previous years in Kosovo, the unemployment rate has increased.



"I injured my right hand, the boss sent me to the doctor, I did the check-up, he paid for the medicine, and I went back to work again"

Many irregularities identified by the Labor Inspectorate

The Labor Inspectorate is an important mechanism that oversees the implementation of the Labor Law, as well as the implementation of the Law on Health and Safety at Work, but also other bylaws that regulate the employment relationship between the employee and the employer. Inspection data for the years 2020 and 2021 show that numerous cases of workers without

employment contracts have been identified. These data also show the number of fatal accidents and injuries in the workplace. In terms of injuries, not all injuries are reported to inspectorates. An earlier Preporfr investigation showed that there were significantly more workers injured in the construction sector than the data possessed by the inspectorate.

Inspectorate findings for the period 2020-2021

	2020	2021
Workers without employment contracts	460	1192
Accidents at the workplace	176	188
Accidents with fatality	16	9

Even according to the questionnaire conducted by Preportr, only 55% of employees' state that they have employment contracts, but 74% of them said that employment contracts are not respected by their employers.

The Acting Chief Inspector of the Labor Inspectorate, Agim Millaku says that this inspectorate currently has 36 inspectors and that this number is not enough to fulfill the duties of this institution. "With this volume of work, even those who work, face difficulties. Meanwhile, some inspectors have passed away, some have retired, but their vacancy has not been filled with new inspectors", stressed out Millaku.

According to the reports of the Labor Inspectorate for the years 2020 and 2021, the main obstacle for the realization of as many inspections as possible has been the small number of inspectors. According to the report of 2020 in Kosovo there were over 50,000 active entities, while for 2021 over 75,000 active entities which have declared employees and according to these reports to inspect each working entity at least once a year, the number of inspectors versus the number of working entities is extremely small.

Millaku said that the Labor Inspectorate had a Strategic Development Plan from 2017 to 2021, but that this plan has already expired. According to him, this development plan was not successful because the number of inspectors was not increased as planned.

"We have planned to hire 20 inspectors every year until the sufficient number is met, but this has not happened, on the contrary we have a reduction in the number of inspectors," he said.

Millaku says that the increase in the number of inspectors was not done due to procedures and competitions, which are taking time.

"We are trying to increase the number of labor inspectors so as to sufficiently cover the oversight of the implementation of laws and bylaws that regulate labor relations, safety and health at work," he added.

The Government of Kosovo in its governing plan has given priority to the protection of workers' rights and the improvement of working conditions as well as the increase in the number of inspectors. Even in the program, which was presented during the election campaign, the current Prime Minister of Kosovo Albin Kurti said that the number of labor inspectors will increase fivefold, in order to prevent discrimination of workers and prevent risks at work.

Preportr has sent questions to the Ministry of Labor, Finance and Transfers to get answers about plans and strategy for improving working conditions for private sector workers, but despite insistence, we have not received a response.

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Thousands of private sector workers without employment contracts

The Head of the Independent Union of the Private Sector, Jusuf Azemi said that the rights of workers in the private sector have been continuously violated for many years and that there is no improvement in this regard, but only deterioration.

Azemi thinks that the Labor Inspectorate bears the greatest responsibility that the rights of workers in the private sector have not improved. Furthermore, he says that they are not satisfied with the official reports of this institution.

“If the Labor Inspectorate had done its job well, we would certainly not have over 50% of workers today without employment contracts, and without fulfilling the obligations of employers to workers in the pension trust,” he said.

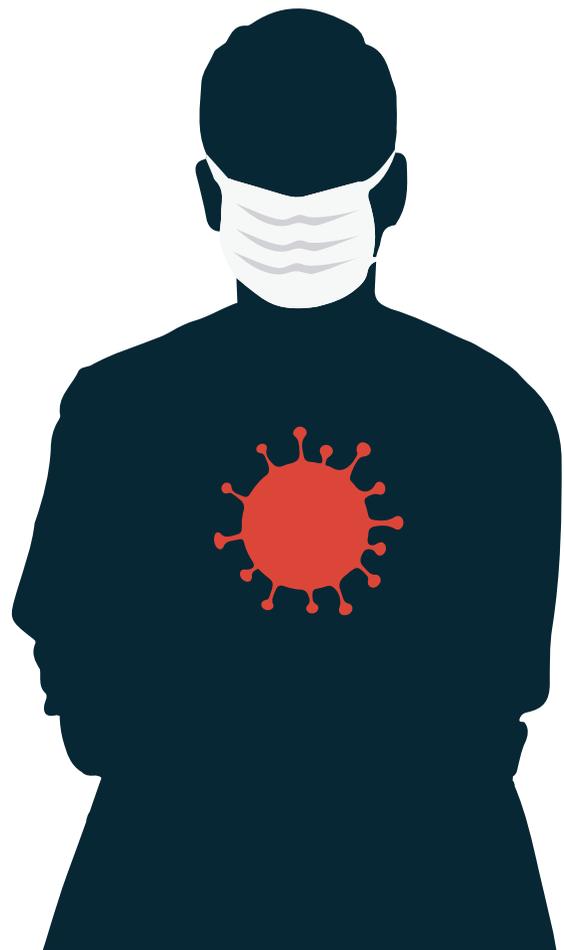
From the data of the questionnaire conducted by Preporfr, the private sector workers said that although they complained about the violation of their rights in the relevant institutions or their employers, their working conditions did not improve even after the complaints were made.

Azemi points out that even during the Covid-19 pandemic, there were numerous violations because workers were forced to work even though they had been infected with the virus, and many of those who had been infected with the virus were fired.

“We also had serious violations when the owner confirmed that the worker had the virus. In these cases, he terminated his employment, and at the moment that the worker recovered, in most cases the owners did not return them to work “, says Azemi, adding that there have been cases when for private sector workers, although the state with last year’s emergency package, has dedicated financial means to workers, they were received by the owners of companies for themselves.

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Jusuf Azemi, The Head of the Independent Union of the Private Sector



He says that although many workers' rights are violated in various ways, they do not have full confidence in the Labor Inspectorate as in most cases when they have asked for help from the inspectorates, this institution has not been able to help.

Azemi says that they have constantly made requests to state institutions, regarding the non-creation of working conditions for private sector workers, as well as requests regarding the minimum wage that this union has constantly submitted.

"The requests from the union have been addressed for years, the main request has been and is the observance of the laws we have in force regarding employer-employee relations," he said.

Even according to the annual reports of the Labor Inspectorate, one of the most frequent violations is the non-conclusion of employment contracts between the employer and the employee. While other violations identified during these two years are: termination of employment, denial of the right to annual leave, denial of the right to a guaranteed minimum wage, non-payment of overtime work and weekly off days, and other rights of work provided in the Labor Law.

According to the annual reports of the Labor Inspectorate from occupational safety and health, the most frequent irregularities that have been identified have been that employers do not fulfill their obligations set by the legislation in force. Other irregularities identified by the inspectorate are: failure to assess the risk at work, failure to treat workers for first aid, working entities had not performed medical examination of workers in certain periods of time, as well as the lack of other essential conditions provided by the Law on Safety and Health at Work.

Acting Chief Inspector of the Labor Inspectorate, Agim Millaku, says that the most dangerous sector for workers is construction, where during 2020 only in this sector there have been 30 accidents.

"Due to violations of legal provisions in general, the LI has imposed fines on employers in 115 working entities, of which only in the construction sector 45 fines," it is stated in the annual work report.

High levels of informality continue to be a major concern

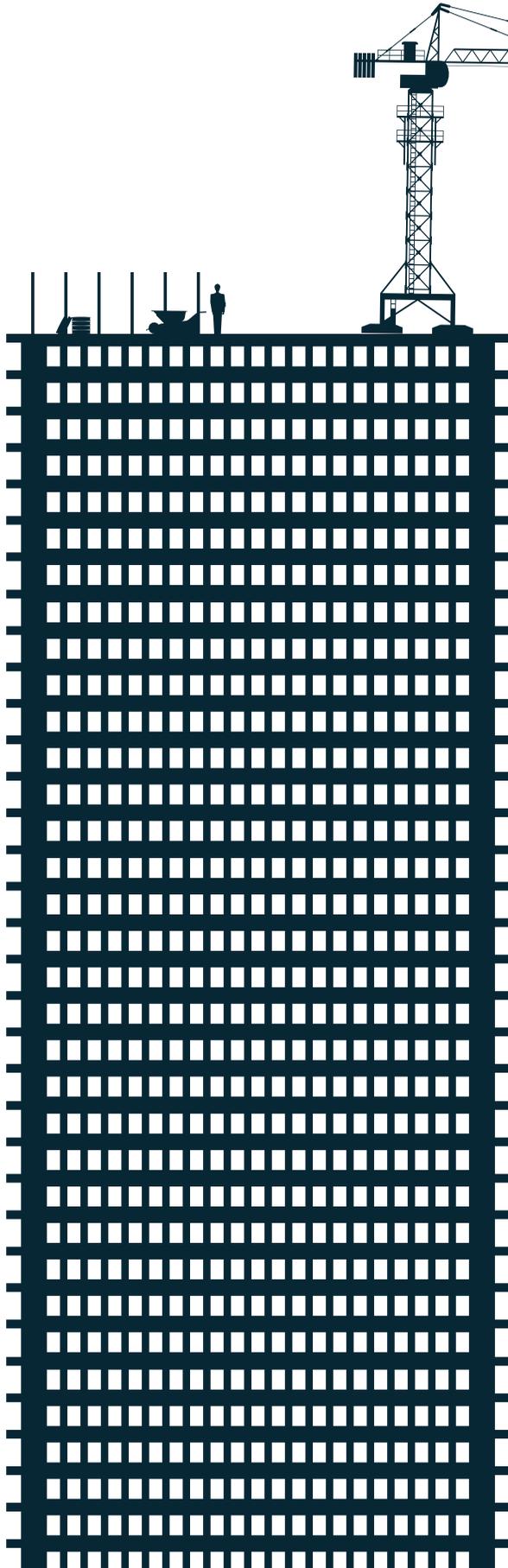
According to the annual reports of the Labor Inspectorate, the impossibility of inspecting working entities creates the possibility of increasing informal work and thus creates inequality and harmful competition between working entities. Informal employment causes extensive damage and the inability of workers to exercise their rights guaranteed by positive legal provisions.

In the work report for 2021 of the Labor Inspectorate, it is said that 345 workers and 29 entities have been legalized. The Tax Administration of Kosovo has recently enabled the citizens of Kosovo to verify whether they are registered or declared by the employer through a tool on the official website of this institution, where it has enabled them to report or denounce the employer in case they are not registered.

ATK told Preportr that from the moment of launching this application until now, over 124 denunciations have been reported, which were made by employees because they were not registered by their employer.

One of the activities of this institution has been the formalization of workers, in the response of ATK it is stated that the number of formalized workers last year was 3829, while only in January of this year 198 workers were formalized. On the other hand, the Kosovo Stability Initiative has conducted a report on monitoring the implementation of labor and employment legislation in the private sector in Kosovo.

According to IKS, the main subject of this report is realized with 80 companies throughout Kosovo, representing the three most economically active sectors in Kosovo, namely, Production / Processing, Retail Trade, and Services.



Regarding the fight against informality, according to this report, 57.5% of respondents' report that they pay their employees entirely in cash, while 15% of companies report partial compensation of employees in cash.

According to a survey conducted by this organization, 76.3% of companies report that they do not have trained staff in the field of health and safety at work, and 63.8% of companies in the sample, reported that they do not have any certified employees in providing first aid or assistance in the emergency response.

The Democratic Institute of Kosovo (KDI), last year launched the platform "Center for Legal Aid and Advocacy", through which it has enabled employees to report on violations of labor rights in the private or public sector. KDI through legal advisors has provided legal assistance to those issues that are reported, to be addressed by the relevant institutions. Regarding these reports, according to a report published by KDI last year, it is said that most of them are anonymous and that during the pandemic period they were mainly related to the violation of labor rights, especially in the private sector.

"With the onset of the pandemic, KDI has received 19 reports of violations of the rights of employees of a media outlet, two of whom pregnant women (journalist, editor, other staff) have had their basic rights violated by being fired without a warning and in contrary to the Labor Law", it is said, among other things, in the KDI report.

On the other hand, Rinore Rexha from the Center for Policy and Advocacy, an organization which monitors the work of the Labor Inspectorate, shows that together with the latter, during 2021 they participated in 60 inspections, where they saw closely how much the Labor Law and the Law on Safety and Health in the Workplace is applied.

“In the construction sector, we have the biggest violation of the Law on Safety and Health at Work, where from 25 companies out of 60 that we inspected, did not have the risk assessment which is a fundamental right, if we turn it into workers it is an extremely large number that are not covered by the risk assessment “, said Rexha.

As for the employment relationship, she says that many workers work without employment contracts, and that workers do not ask for an employment contract because they are happy to have a job and therefore it turns out that informality is very high.

“If we look at the private and public sector, the private sector is the sector that has the largest number of inspections, but if we look at the complaints that are made, the public sector has the largest number, and this raises questions, whether or not employees of the private sector are afraid to claim the rights in the workplace “, added Rexha.

As for safety and health in the workplace, she says that in the construction and manufacturing sector there are major violations of the Law on Safety and Health in the workplace, and within companies there is a lack of officials who should be responsible in this area.

She also pointed out that in the monitoring they have done as an organization, they have encountered employees in some sectors under the age of 18, which poses a high risk to the work they do.

“In the construction sector, we have the biggest violation of the Law on Safety and Health at Work, where from 25 companies out of 60 that we inspected, did not have the risk assessment”

Rinore Rexha,
Center for Policy and Advocacy



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