Promoting Decent Work and Quality Jobs in the Western Balkans

Summary analysis of the protection of social and labour rights in Serbia, Kosovo and Bosnia & Herzegovina
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SOLIDAR is a European network of 52 NGOs working to advance social justice in Europe and worldwide.

SOLIDAR lobbies the EU and international institutions in three primary areas: social affairs, international cooperation and education.

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FOREWORD

This publication is an advocacy tool to promote access to labour and socio-economic rights in the Balkan countries, in particular, in Serbia, Kosovo and Bosnia & Herzegovina. In addition, it should make civil society, trade unions and local, national and European institutions aware of the need for an adequate regulatory framework to guarantee the development and protection of these fundamental rights.

This publication is based on three legal studies carried out by the Spanish organisation MPDL-Movement for Peace through its local partners in Serbia (IDC), Kosovo (CLARD) and Bosnia & Herzegovina (IDC). They have created these three studies under the framework of the projects “Access to Labour Rights in Balkans from a Regional Perspective” and “Restitution of Rights for Peace Building in Balkans”; with each study focusing on one country: Serbia, Kosovo or Bosnia & Herzegovina.

In addition to the production of these legal studies, the above-mentioned projects also included activities related to the provision of free legal aid services to vulnerable citizens aimed at facilitating their access to justice, with particular attention paid to rights of an economic and social nature.

This publication is addressed to national and international organisations, researchers, legal professionals, trade unions and public authorities. The study may also be of interest for the general public, as it enables one to develop a more complete picture of the current situation of labour and socio-economic rights in three Balkan countries.

Let’s work together to ensure that the European Enlargement strategy promotes decent work and quality jobs in the Western Balkans!

Conny Reuter
SOLIDAR Secretary General
ABOUT THE ORGANISATIONS

Initiative for Development and Cooperation (IDC) Serbia

IDC Serbia was created in 2007 and is involved in the provision of free legal and social assistance to vulnerable groups in countries of the Former SFR Yugoslavia (especially to refugees and Internally Displaced Persons). Furthermore, IDC is one of the partners of the National Employment Office in informal education of vulnerable groups, with a high percentage of success in their search for employment. IDC’s professional workshops are widely recognised with IDCs “certificates of competencies” guarantee a high level of professional knowledge. IDC Serbia is actively working on the promotion of the concept of social entrepreneurship in Serbia, together with four other NGOs: EMINS, Group 484, BCIF and SMART kolektiv.

The legal advisers of IDC Serbia have knowledge in all parts of the law, knowledge about the legal system in surrounding countries (Croatia, Bosnia & Herzegovina, Montenegro), knowledge about the procedures which are in use in the territory of Kosovo (UNMIK administration), and knowledge in human rights issues and labour law. IDC Serbia was one of last NGOs in the territory of Central Serbia that was dealing with personal documents for Internally Displaced People (IDPs) from Kosovo and Metohija. For the moment, most of IDPs (around 200.000) do not have access to their personal documents, and because of it, they cannot achieve their basic human rights (employment, pension, studying, marriage).

Find out more: www.idcserbia.org

Center for legal aid and regional development (CLARD) Kosovo

CLARD was founded with the purpose of contributing to the promotion and protection of human rights, with a particular view to facilitating vulnerable individuals with better access to justice, to the establishment of Rule of Law, and to foster the social and economic inclusion of marginalised segments of the population towards achieving a future feasible achievement of European standards of development and welfare.

CLARD staff presents a multiethnic profile with a deep understanding of Kosovo society and its legal and economical framework and has been committed for more than 8 years to the implementation of projects that have been and will continue to be primarily focused on the following activities:

- Providing legal and social assistance and counseling to internally displaced persons, refugees, returnees, minorities and vulnerable groups.
- Permanently follow activities and develop the legal system especially in stage of implementation of different laws.
- Organise public campaigns and trainings to raise the awareness of population especially on law and social issues.
- Prepare strategic documents and operative programmes related with rule of law and civil and administrative legal issues.
- Advising and supporting the development of small and medium enterprises through productive aid grants, and boost an enabling environment for private sector development.
- Support the access to labour market of socially and economically vulnerable groups through vocational training workshops.
- Cooperate with relevant organisations and institutions inside and outside of country, to implement projects on local and regional level.

Find out more: www.clardkosovo.org

Initiative for Development and Cooperation (IDC) Bosnia and Herzegovina

See “Initiative for Development and Cooperation (IDC) Serbia”, but for Bosnia and Herzegovina
Unemployment rates in Serbia, Kosovo and Bosnia & Herzegovina are generally high, the informal economy is growing and a strong increase in informal labour employment (employees working for an undetermined period without a labour contract) can be witnessed. In the words of Commissioner Füle, European Commissioner for Enlargement and Neighbourhood Policy, EU candidate countries need to be able to achieve real change, real reform and real results. This briefing paper outlines several practical tools for national and European stakeholders to counter these developments and work towards decent work and quality jobs in the Western Balkans.

RECOMMENDATIONS FOR NATIONAL STAKEHOLDERS

1. Strengthen efforts in fighting unemployment through specially targeted programmes, including programmes directed towards the reduction of unemployment among youth people and women, and specific measures aimed at socially including vulnerable and marginalised groups.

2. Promote the introduction of mechanisms for adequate protection of employees and work in non-standard forms of contractual arrangement and engagement according to the international conventions.

3. Actively reduce the drastic shapes of labour right violations in the informal economy and in informal labour employment. Strengthen the administrative agencies and local institutions, in particular labour inspections, charged with the implementation and protection of rights resulting from international mechanisms.

4. Monitor the implementation of the International Covenant on Economic, Social and Cultural Rights, the Revised European Social Charter and the ILO Conventions and assure a greater degree of harmonisation of the regulations with the adopted conventions.

RECOMMENDATIONS FOR EUROPEAN STAKEHOLDERS

1. The EU civil society instrument (under the Instrument for Pre-Accession - IPA) should be modelled to promote partnerships between NGOs, think tanks and social partners, in the shape of social observatories, to monitor the application of international policies and monitor the EU integration process.

2. Social observatories could contribute to the empowerment of social partners to deal more effectively with problems such as the health and safety or indecent work and could for instance organise training and education programmes answering the needs of the partners in order to increase their effectiveness.

3. The EU enlargement process should ensure that more is invested in tri-partite social dialogue in which all parties (employers, employees, government) are involved. Only by means of a genuinely open, constructive dialogue and building a culture of negotiation, can we create socio-economic progress and fulfil the interests of workers and employers.
INTRODUCTION

Labour and socio-economic rights are categories of rights that must be addressed collectively. These rights have been important through history and continue to play a significant role today. Though they are important for all countries, these rights are particularly salient for countries in transition such as Serbia, Kosovo and Bosnia & Herzegovina.

The problems related to these labour and socio-economic rights are one of the most urgent topics in the Southeastern European countries. Frequent workers’ strikes, pensioners’ problems, protest of various groups in order to realise their labour and socio-economic rights are the markers in this publication.

In the first part of this report, information will be provided about the existing shortcomings at the state level with regard to the assurance and protection of labour and socio-economic rights. In this context, the most frequent implementation problems will be identified, illustrated by field experiences and case studies from the respective countries: Serbia, Kosovo and Bosnia & Herzegovina.

In the second part, this publication looks at the broader context of international agreements and their harmonisation with national legislation as they are crucial to the establishment of a legal framework, the development of institutional capacity for application and protection of social rights, as well as to the social dialogue. The most significant and numerous acts of international labour law are the International Covenant on Social, Economic and Cultural Rights, the Revised European Social Charter and International Labour Organisation (ILO) conventions.

The failure to implement these agreements at national and international level prevents the adequate treatment of the rights of employees and normal working conditions, and does nothing to advance democracy and economic development. There is need for an appropriate and comprehensive approach by the countries’ public institutions which would create more favourable conditions for these rights to be respected.

The long-term goal is that the countries’ laws and legal systems are made compatible with the provisions of relevant international instruments that regulate labour and socio-economic rights, with such an approach citizens would have access to the aforementioned rights.
I. LABOUR RIGHTS

Labour law implies primarily the rights of a person who is in a labour relationship with his employer or has signed contracts with a specific employer or company. Workers with a contract are bound to an employer and can exercise their labour rights. Workers who work illicitly or have not been declared by their employer have no access to these rights and are therefore denied their basic rights regarding pensioners’ and health insurance, right to paid vacation, right to paid sick leave etc.

Contemporary legislation in the area of labour law faces a number of challenges. On the global scale, challenges include globalisation, an ageing population, privatisation and the economic crisis. Further, there are challenges specific to Southeastern Europe comprising economies in transition and significant brain drain.

These challenges bring along positive and negative consequences, including the development of information technologies, the outsourcing of industrial production and employment flexibility, which all reflect on the labour legislations. These aspects are also evident in practice: the protection of these rights and the ability to exercise these rights, as guaranteed by legislation.

Increasing flexibility in the labour market has led to a rise in non-standard types of employment contracts and working engagements, including labour contracts for temporary or occasional work, work outside business premises, telework and working at home. However, this increasingly flexible labour market and the process of transition have also taken a toll on the security of employment.

1. HIGH UNEMPLOYMENT RATES AND THE GROWING INFORMAL ECONOMY

Unemployment rates in Serbia, Kosovo and Bosnia & Herzegovina are generally high. Serbia for instance is affected by low employment rates/high unemployment rates – the official unemployment rate in July 2009 was 26.72% - and a large informal economy. In practice, it is often the case that employers hire individuals for an undetermined period of time without a labour contract. This is also known as informal labour employment or persons that are not registered to social security funds. Domestic and foreign employers often resist in providing their employees with such contracts. From their point of view, it would adversely affect profits. According to statistical data from labour inspections in 2008, some 7913 individuals were discovered to be working without a labour contract, in black market conditions. The informal economy is usually prevalent in industries like trade/commerce, catering, construction work, hairdressers and cosmetic salons.1

In Bosnia & Herzegovina, due to problems caused by war destruction, economic transition, disputable and inefficient privatisation, the country has a very low employment rate and a huge number of officially unemployed workers which the formal economy is incapable of absorbing. In numbers: only 36% of the estimated number of working age population in Republika Srpska is employed while in the Bosnia & Herzegovina Federation this percentage is only 22%.2

Aside from the low employment rate, Bosnia & Herzegovina has a very low rate of population activity, which is around 49% in the Bosnia & Herzegovina Federation and 55% in Republika Srpska. Low activity rate is one of the indicators of a high employment rate in the grey economy. Workers who are employed in the informal or grey economy are denied basic labour rights, and are mostly exposed to exploitation and bad work conditions. All research conducted in this area states an extremely high level of informal economy and illicit work in Bosnia & Herzegovina.

It is not therefore surprising that employees have a great deal of trouble on an everyday basis when it comes to the protection and exercise of their rights stemming from their labour relationships.

2. PROBLEMS RELATED TO LABOUR CONTRACTS

1 See Figure 1 (Number of employees in the work of ‘Informal Economy’ by the field of activity in Serbia) in Annexes for additional figures.
2 Bosnia & Herzegovina is a complex country that was divided into two entities by the Dayton Peace Agreement: Federation of Bosnia & Herzegovina and Republika Srpska and Brcko District. According to this Agreement, which is also the constitution of Bosnia & Herzegovina, social policy and labour legislation are entity matters. In the Bosnia & Herzegovina Federation, according to its constitution, this area is in the joint jurisdiction of the entity and cantonal levels or authority. Therefore the area of labour legislation has been defined by the entity regulations.
In some cases where labour contracts are provided by the employers to their employees, other problems occur which deprive the employees of several labour rights. The main problems in this area are the disregard of a labour contract, random termination of a labour contract and the misuse of temporary labour contracts.

**Disregard of a labour contract**

One of the frequent problems regarding employers working in both the public and private sector is the frequent failure to provide employees with a labour contract. This is highly problematic in **Serbia, Kosovo and Bosnia & Herzegovina**. In reality, often an employee agrees to work for an employer without a labour contract or based only on an oral contract. Frequently, the employee does not remember whether the labour contract has been signed or not or they have not received their copy of the contract, so they do not know the content (i.e. what their rights and obligations are).

For fear of losing their job, the employee often does not dare to ask about this document. However, without a labour contract, an employee cannot be registered for social insurance which means they are being deprived of their basic rights stemming from the labour relationship guaranteed by law. Also, not paying social insurance contributions includes no contributions to pensioners’ and disability insurance.

**Random termination of the contract**

The decision to terminate a labour contract in the three countries being discussed is often conveyed orally to the employee or the employer announces the termination of a labour contract more as an announcement than a decision. The text of the decision often states no clear reasons or grounds on which the decision for the termination of the contract was based. It does not state if the employee is entitled to a severance pay and is either given without or with a misrepresented instruction of legal remedy.

In **Bosnia & Herzegovina** the law prescribes that the decision on terminating a contract is to be given in a written form with a detailed explanation of the reason for the termination and with an obligatory delivery of the decision to the employee. Failure to deliver the decision on terminating the contract in a written form harms the employee for he/she cannot start certain procedures nor can he/she exercise certain rights. In this country it is for example regular practice for a high number of, mostly private employers, is that when they give an employee a contract to sign, they simultaneously give him/her a blank ‘termination of employment by consent’ to sign. This means that an employer is able to use and terminate the labour contract with an employee at any time, without the employee’s knowing.

In **Serbia** the law also prescribes that if the employer initiates termination of a labour contract, there must be a legitimate reason specific to work performance, employee conduct or operational needs for the employer (economic constraints, technology advances). In case of an illegal or unlawful termination by the employer, the **Law on Labour** calls for a reintegration of the illegally or unlawfully fired employee on the basis of a court decision, or satisfactory damage compensation for the employee (up to 18 salaries if the employee chooses not to be reinstalled with the former employer), or sufficiently deterred for the employer (up to 36 salaries if the employer does not want the employee to continue work).

According to data from labour inspections in Serbia, omission in procedures for termination of labour contracts by employers often include the following: the employer fails to issue a warning letter to the employee that contains the reasons for his or her lay-off, the employer does not define a legally prescribed deadline for the employee to respond to an employer's warning, a warning letter was not distributed to the union to which the employee belongs, and finally, a warning of decision before lay-off does not contain the elements required by law.

Finally, also in **Kosovo** in most cases employers do not give notice to the employee or state the reasons for termination of the contract either orally or in written form as is foreseen by the law, this while local legal provisions, especially **UNMIK Regulations**³, do prescribe several regulations regarding contract terminations. In 2008 there were 112 cases (or 28.24% of all claims filed to the IOBK⁴) related to contract terminations.

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³ UNMIK is the United Nations Interim Administration Mission in Kosovo, which was established in 1999 by the Security Council. Today, it still exists, however it does so in a minor role following the creation of the European Union Rule of Law Mission in Kosovo (EULEX)

⁴ The Independent Oversight Board of Kosovo (IOBK) - Annual Report of IOBK for the year 2008, page 17, on http://www.ksgov.net/kpmk/english/publications.htm
Misuse of temporary contracts

The increasing flexibility in the labour market has facilitated the conclusions of non-standard types of employment contracts and working engagement, such as the introduction of temporary contracts. However, temporary contracts are only considered an advantage in certain situations, as it must be acknowledged that they have also taken a toll on the security of employment, especially when employers misuse them.

In Bosnia & Herzegovina there is a situation that temporary employment contracts are the rule, especially in the private sector, but even in state institutions. Although Labour Law in this country specifies that a temporary employment contract which is made consecutively with the same employer for a period longer than 2 years is to be considered a permanent employment contract, the practice is completely reversed and employers frequently violate this provision.

Case: Misuse of a temporary labour contract in Bosnia & Herzegovina

A beneficiary worked for a private company for 7 years based on a temporary labour contract. The company would de-register this person from the Pensioners' Insurance Fund (PFI) periodically, or after every 2 years, and then register him again after a couple of days without this person ever knowing about it. Only after the last temporary labour contract expired and when his employment stopped, did the beneficiary realise how manipulated his labour contracts were. This is a case in which the employer misused the provision because of the severance pay and this is how he avoided paying it.

In Serbia, Kosovo and Bosnia & Herzegovina, the problem of unpaid overtime work is widespread. In Bosnia & Herzegovina many employees who are active in the private sector work over 40 hours a week against their will and their overtime is not paid. This while according to the legal acts in force, the employee is obliged to work overtime up to 10 hours a week at most in case of force majeure and a sudden increase of the amount of work, with the right to an increased salary. However, although the employee is entitled to an increased salary for the overtime equivalent to at least 30% of the gross hourly rate, for work at night at least 30%, for work during work at least 20% and work state holidays at least 50%, it is almost never applied in practice.

In Serbia, it is often the case that employers avoid paying for overtime and prevent employees from taking time off during their legally prescribed minimum of 20 days.

In Kosovo, in the private sector the working hours are not in compliance with the provisions of international conventions nor with the local provisions related to the working hours. Employees in this sector have no regular working hours since most of them are forced to work 12 hours per day, 6 days per week with only one day off during the week, and very often with no annual leave at all. This phenomenon confirms the violation of their rights to working hours laid down by the law. Finally, in Kosovo, where night work is foreseen and regulated by local legislation, payments for night work are regularly not made on time.

3. UNPAID OVERTIME WORK & NIGHT WORK

Case: Not paying overtime work in Kosovo

A.J. has been working as a supermarket for 18 months in 2008-2009. Reportedly, she worked extra working hours on a regular basis, with an average of 13 hours per day, without being entitled to receive any compensation. She claims not to have been given the choice to know the schedule of working hours in advance. In this case, international and local provisions are violated, not recognising the employee's right to work in accordance with hours of work as regulated by the law and the mentioned convention.
4. SOCIAL DIALOGUE, TRADE UNIONS AND THE RIGHT TO STRIKE

Regarding social dialogue or tri-partite negotiations (employer – employee – government) all three countries receive very low grades. The legal acts in force in these countries generally regulate conditions for the work of trade unions, but the implementation remains very problematic.

In Bosnia & Herzegovina provisions of the labour law state that employees, who work for an employer employing at least 15 workers, are entitled to form an employees’ council which is to represent them in front of the employer in order to protect their rights and interests. These legal acts also define employees’ rights to organise a trade union, to freely become its members, to step out of it, and not to be in any less favourable position with the employer as a result. The purpose of this is to protect and represent the interests of their members as well as all employees working for an employer. Unfortunately, in Bosnia & Herzegovina there is no real culture of trade union negotiation. The main characteristics of trade unions in the country are their bureaucratic nature and lack of active members, additionally they have no 'base' in companies so it is not surprising that they rarely succeed in protecting their members’ and other workers’ interests.

In Serbia, social dialogue is in deep crisis. The private sector’s influence has not grown and trade unions have negotiated few collective agreements at the sectoral level. Further, collective bargaining is becoming relatively rare in small and medium-sized enterprises. Regarding the freedom of association, Serbian law envisions minimum requirements for the establishment and registration of Trade unions. As Serbia has undergone privatisation and transition, there has been a significant decrease in people joining trade unions, particularly in small and medium-sized enterprises. The enrollment rate is higher for the public sector – where collective agreements have been terminated more frequently. However, there is no reliable data on the number of employees’ member of a trade union. Social partners estimate that only 35% of all employees are currently part of a trade union.

In Kosovo, the situation is probably worse regarding this issue. Within public administrations, employees are not fully free to express their concerns on working conditions because of pressure from their hierarchy to fire them or to change their position. In the private sector the situation is even worse. This is all due to a lack of a law on unions which if enforced would protect the rights of employees to the freedom of association, thus recognising employees’ rights to express their concerns. Some unions exist, however they lack the full capacities to protect the rights of their members. Their role has been and continues to be passive, in particular due to the lack of will to fully implement the collective contract.

Regarding the general concept of the right to strike - this concept defines this right as an employee’s right – the decision to organise a strike can be taken by a majority of employees who work for a particular employer and any trade union has the right to organise a strike. Usually, the concept of the right to strike includes the legitimate aim to strike not just as a resolution of interest and legal collective labour dispute, but also to protect socio-economic collective interests.

According to 2009 statistics on Serbia, a significant number of employees have participated in a strike. Most of the time, reasons for striking include non-payment of salaries for several months, non-payment of severance pays, and problems originating from inappropriate privatisations, disrespect of collective agreements and contracts on transfer of undertaking. This demonstrates that employees are often forced to use this form of collective action in order to realise and protect their acquired rights in the labour contract. This contrasts with the practice in developed states where reasons for striking are rooted in a struggle to secure future rights. In Serbia, there is neither sufficient dialogue with social partners nor a selection of alternative ways to resolve disputes. Though strikes are becoming more commonplace and more extreme (hunger strikes, self-injury), there is little solidarity amongst the general public.

In Bosnia & Herzegovina there are numerous examples of strikes, such as hunger strikes and blocking of roads by workers, which directly indicate the absence of a real dialogue and culture of negotiation between workers’ representatives, employers and the state as well as the inadequate protection of workers by trade unions.

5. DISCRIMINATION IN EMPLOYMENT
Discrimination on the basis of ethnicity, gender or age is one of the most frequent types of discrimination in the workplace in Balkan countries. However, there are several national and international regulations and conventions in force that prohibit discrimination related to employment and occupation; implementation remains the main problem. Discrimination in the workplace is mostly defined as "any distinction, based on race, colour, sexual orientation, religion, political opinion, national or social origin, which negates or diminishes equal treatment in employment and occupation". Discrimination against the Roma ethnic minority group needs particular attention. There is an urgent need to train Roma people for jobs available on the labour market and to provide incentives to employers to hire them.

In Bosnia & Herzegovina ethnic discrimination is deeply rooted from the times of conflict and is present both in the private and public sector, this despite the fact that today several regulations have been made in the Dayton Peace Agreement and labour law to fight against discrimination in the workplace. In some cases, discrimination is a result of premeditated politics, in other cases, it is due to a lack of interest by authorities to place a public job announcement advertising a vacancy and adequately informing members of all ethnic groups about the job opening. In many reports it is often stated that returnees are the most violated group when it comes to ethnic discrimination especially when it comes to their employment in public institutions. The problem of ethnic-based discrimination is less present in the private sector.

Gender and age discrimination in Bosnia & Herzegovina are more present in the private sector. Women are an especially vulnerable group in the labour market. They are often discriminated against based on their ethnicity and age. Still today, the gender-based discrimination of employees remains widespread as there are still too few women in politics and their salaries are generally lower than those of men. Despite explicit legal provisions prohibiting the termination of a labour contract with a woman during pregnancy and discrimination during employment, a pregnant woman is rarely hired and it is not uncommon that employers fire women during pregnancy.

In Serbia, in the process of hiring it is often the case that individuals are subject to various types of discrimination based on gender and age. In job interviews, they face questions from potential employers that represent a violation of their privacy, such as questions addressing family planning or responsibilities. Women face more age discrimination compared to men and employees avoid hiring women older than 40. Women more than men often work without a labour contract, without a set period of labour, without paid contributions for pensions, disability benefits and health insurance. They also lack benefits like absence from work and paid holidays, and a lack of representation in top management.

Local legislation and special strategies in Kosovo regulate the rights of persons with disabilities with regard to vocational ability, rehabilitation and social integration. However, in reality, it seems that the issue of the integration of people with disabilities into society through employment in conformity with their educational background remains a ‘black point’. In many cases disabled people are subjected to discrimination and not equally treated, particularly in the field of labour.

**Case: Law on disabled persons in Kosovo**

E.S. is a disabled person with reduced mobility. She worked for the Municipal Health Care Center Health House in Pristina as Operator Assistant following a contract signed for the period 1 October 2005 – 31 December 2006. The working relationship was prolonged at the end of the said period, but no other contract was offered despite being requested by the claimant to the manager on several occasions. In April 2008, she was dismissed without prior written notification, without indicating the reasons on which the decision was based. She was reportedly during the whole period of work often subject to psychological pressure and humiliating treatment by fellow employees and supervisory bodies.

Finally, in all three countries, refugees and internally displaced persons (IDPs) are an especially vulnerable group in terms of exposure to poverty and all other types of discrimination. Amongst these an even more vulnerable group are women, single mothers and the elderly. In Serbia for instance, the government has created a unique programme of temporary compensation and salary compensation for individuals who were employed in the territory of Kosovo in 1999. Despite the best intentions, the implementation of temporary compensation has not produced
satisfactory results. Firstly, a monthly amount of temporary compensation is insufficient for basic existence, which forces large numbers of IDPs to earn additional income in the informal or ‘grey economy’. Secondly, temporary compensation does little to encourage an active employment policy.

Gender and age-based discrimination as well as ethnic discrimination and disability-based discrimination are consequences of rooted prejudice and a lack of adequate politics from authorities to sensitize society about these problems. The lack of adequate inspection control and rare sanctioning of employers for discrimination consequently leaves the implementation of anti-discrimination provisions only to the employer’s conscience.

6. POOR SAFETY AT WORK

As national and international legal acts, conventions and agreements in the three countries prescribe, the employer should ensure the necessary conditions for safety at work to ensure employees’ lives and health and to familiarise employees with provisions for safety at work. They should also train the employee in such a way as to ensure his/her safety and health and prevent from accidents.

Safety at work is important because accidents are frequent and some of them can be fatal. Both employers’ and employees’ awareness about risks in the workplace is low, and because of the crisis, employees take up work in dangerous conditions without adequate protection only to secure pay for them and their family. In addition, employees who have more dangerous jobs often work illegally and are not insured against accidents, so after the accident happen, they and their families face additional problems as to how to get compensation from an insurance company or damage compensation from the employer.

In the case of Serbia there are several challenges related to the implementation of the Occupational and Safety Law. People active in the construction industry in Serbia endure the highest rate of injuries in the workplace. These workers are mostly low-qualified seasonal workers and workers hired for a definite period of time who are inadequately dressed to work on construction sites and lack the proper knowledge of working conditions. The main reason for this is their insufficient professional training – 70% hold a 3rd or 4th grade vocational certificate. Other causes include a failure to apply the basic principles of work organisation, deviation from the prescribed and predetermined work procedures, working at unsecured heights and unprotected edges of buildings, working on improperly mounted scaffolding, failure to use prescribed personal protection equipment and the improper use of working equipment. 70% of occupational injuries occur in the industrial area: the metal industry and construction work. Other injuries occur mainly in the transportation sector. The number of serious injuries in the country was 1034 and the number of minor injuries was 177, whereas the number of collective industrial accidents was 32.5

In Kosovo, laws are present however the reality shows the situation to be totally different as the employer does not cover the medical expenses of the workers in healthy working conditions. On the contrary, people who were injured at work could easily be fired without the real reason being stated.

Case: Safety at work in Kosovo

49 former employees of a public company have been receiving a monthly compensation as they stopped working after being hurt during the exercise of their functions. For instance V.A. has been burnt by a fire provoked by electrical equipment belonging to the company. In some other cases, the claimants have lost physical abilities due to their daily working conditions. The claimants have been examined and declared partially invalid by the medical commission of the company. The company proposed that they stop working and receive a monthly compensation. The claimants were entitled to compensation of their salary from the time they stopped working after an agreement signed with the company, stipulating that they would receive the money until the establishment of the National Fund for Invalidity Insurance. The company decided to unilaterally and without prior notification to interrupt the compensation although the Fund is not established yet in Kosovo. At the moment there is no ongoing protection for the employees in the above-mentioned scenario.

5 See Figure 2 (The number of serious injuries during activities in Serbia) and Figure 3 (Collective injuries by activity in Serbia) in Annexes for additional information.
II. SOCIO-ECONOMIC RIGHTS

Socio-economic rights guarantee access to resources, services, and possibilities necessary for a dignified life. They are fundamental categories of human rights, including the right to work, the right to education, right to housing, healthcare and social protection. The implementation of these rights does not depend only on the goodwill of the state authorities but also on the legal and economic system of the country and its level of economic development. The current socio-economic situation in all three countries studied is reflected by an increased unemployment rate, with a tendency for further increases.

In Serbia, for instance, though the legal framework has been strengthened and institutional capacities have been built to secure the protection of social-economic rights, the extent to which these rights have been realised remain quite low, especially in the area of labour rights. This results from a lack of a tradition of democratic industrial relations under market economy and political pluralism, and the absence of a developed culture of social dialogue and social rights culture, particularly where, due to transition and an undeveloped culture of socially responsible company practices, there has been a lack of efficiency and pluralism as a method of social rights protection.

In the past Bosnia & Herzegovina had a very well developed social protection system which guaranteed and secured most socio-economic rights. However, the current social insurance system, which insured against risks, old age, disability, unemployment and health care, has been defined by specific provisions for everyone of these areas. As provisions from the social policy area are in the entities’ competence, different entity provisions define it.

Kosovo is worse off in this area as the country has neither special provisions nor national strategies which determine policies for the protection of the population living in poverty and social exclusion. As legal acts are missing, one can understand that the materialisation of these rights as well the protection of the socio-economic rights of the people is completely inadequate.

In this section the following socio-economic rights will be discussed: pensions, right to housing, right to education and right to a health.

1. INADEQUATE PENSIONS

A specific socio-economic right is the protection of elderly people, in particular regulation regarding their pensions. Unfortunately, an overall study in the three countries shows that none of them has an adequate regulation for this issue. In countries where there is a mention, it is marked by insufficient implementation.

In Bosnia & Herzegovina pension funds and expenses are financed primarily from the pensioner contributions by the working population, as a result the low number of formally employed, or a low number of insurance holders, is the main cause of low contributions which results in low pensions in the country. In the country, a minimum pension is received by 51% of all retirees and most of them live on the verge of poverty. Women are even worse off: a smaller amount of women receive pension in comparison to men.

Additionally, many employers in Bosnia & Herzegovina do not pay pension insurance contributions for their employees. This can result in an individual's failure to exercise their rights to a pension at all, or, due to the small number of contribution periods, these employees only have the right for the lowest or minimum pension, which is barely sufficient to cover the basic needs. All this is happening in a context where the obligation of registering an employee for health, pension and disability insurance has been defined as mandatory according to labour law.

In Kosovo, a basic pension is also foreseen by regulations. Each employer is obligated to contribute an amount of 5% of the total wages

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6 See Table 1 (Relationship between pensioners and insurance holders in Bosnia & Herzegovina Federation and Republika Srpska) in Annexes for further statistics of pensioners in Bosnia & Herzegovina.
of all employees to Saving Pensions and each employee has to pay an amount of 5% of his/her total wage to Saving Pensions. However, the current pension of 45 Euros does not guarantee that the elderly people enjoy their basic rights or can be active in public, social and cultural life. Moreover, this amount is more social assistance than an essential pension. Also the Government’s decision to give an extra 40 Euros does not seem to be the right one as it does not increase the pensions in proportion with the contributions given by the elderly people.

2. THE RIGHT TO HEALTH

The Right to Health states that everyone has the right to a standard of living adequate for the health and wellbeing of himself and his family. Further, this right is one of the fundamental rights of every human being, to enjoy the highest attainable standard of health. Inherent in the right to health is the right to medical care.

In Bosnia & Herzegovina, a significant number of people do not have health insurance and they have to pay healthcare out of their own pocket. Given that in this country the right to work is denied to many, often people find it difficult to secure a minimum existence and paying for healthcare is a luxury most of them cannot afford. Thus, people who are not employed have no social insurance, which means they have no health insurance nor will they have the necessary conditions for retirement when they grow old.

In this context, it is important to mention that according to the entities’ healthcare laws, urgent medical assistance is free and everyone is entitled to it. However, according to 2005 estimates, only 54% of the Republika Srpska population had health insurance while at the same time in the Bosnia & Herzegovina Federation, this amount was slightly higher at 80%.

An additional obstacle in Bosnia & Herzegovina regarding healthcare is that it falls under the cantonal competence, which means that there are 11 of Ministries of Health and 11 pension funds in this entity. The biggest problem is the non-transferrability, meaning that a person working in one canton with a place of residence in another does not have health insurance, which means that he/she has to pay for healthcare services as if he/she was completely without insurance.

In Kosovo, studies state that citizens are not offered the correct treatment as laid down by the legal provisions. The responsible institutions are to take appropriate measures to ensure that people in need benefit from social assistance and that this right is guaranteed to them as foreseen by the law.

Regarding the existing situation of medical assistance, the main problem arises from the management of the distribution of medicines which are included in the essential list of medicines.

Case: Access to medication in Kosovo

M.G. and S.G. live in Fushe, Kosovo municipality, both are over 65 years old, they benefit from social assistance schemes and belong to Ashkali community. Reportedly these individuals were denied medicines which are included in the “Essential Drugs List” and were told by the local health center to apply for the needed medicines in the neighbouring municipality of Pristina or in private pharmacies. According to Article 22.1 of the Kosovo Health Law No 2004/4, citizens over 65 are described as special groups of the population and therefore are eligible to receive drugs from the ‘essential list’ free of charge.

3. RIGHT TO EDUCATION

The right to education is a fundamental human right. Every individual, irrespective of race, gender, nationality, ethnic or social origin, religion or political preference, age or disability, is entitled to a free primary school education. In the countries discussed, an adequate legislation on education does not exist. The problem lies not so much in the legislative part, but in the field of the implementation and materialisation of these rights.

In Bosnia & Herzegovina the percentage of literacy was estimated at 96.7%, which is a fairly high percentage attributed to the legacy of a well-developed system of education in place before the war. However, there is a negative tendency of students who finish primary school to give up on education too early, which has negative consequences for their future position on the job market and may result in poverty. The net rate of high school enrolment is 76.2%, and only 54% of students finish their high school education within the given time period. The higher education enrolment is 24% and only 11% of all enrolled
students finish higher education (college, university).

In the education system of the country, there are meaningful indicators of an unequal approach and no equal opportunity for all. Also, there are meaningful differences in enrolment rates of children from families of different income levels, where a lower rate of children enrolled from poorer families was observed. Furthermore, children with special needs have a problem of access to education and there is limited access to education for certain ethnic groups. International organisations dealing with Roma issues estimate that less than 15% of Roma children have been integrated in the education system of Bosnia & Herzegovina, although recently, there has been an increase in the number of Roma children in schools. Factors limiting Roma children's access to education are an extremely high rate of poverty, inability of parents to pay for education costs, using children to work, their maltreatment at school, and language barriers.

In Kosovo, legislation in the sphere of right to education stands at a good level but problems with implementation are frequent. This affects children coming from the families in need in particular. In many cases they are forced to abandon their schooling either because of poor economic conditions or due to the distance to their schools. There is, for example, a lack of competent teaching staff as well as other support staff such as psychologists. Further, there are significant problems which could be emphasised in the sphere of higher education, especially regarding access to education for minorities.

4. RIGHT TO HOUSING

Everyone shares the right to a decent standard of living. Essential to the achievement of this standard and therefore to the fulfillment of human life, beyond simple survival, is access to adequate housing. Housing fulfills physical needs by providing security and shelter from the weather and climate. It fulfills psychological needs by providing a sense of personal space and privacy. It fulfills social needs by providing a gathering area and communal space for a family, the basic unit of society. In many societies, it also fulfills economic needs by functioning as a centre for commercial production. Generally in all three countries there is no specific law regulating the right to housing. Especially those with lower income, the poor and marginalised groups suffer from this.

In Bosnia & Herzegovina, apart from the programmes of reconstruction of returnees' residence areas and housing and programmes for providing housing to veterans, there is no general housing policy. According to estimates for 2004, 82.4% of households in Bosnia & Herzegovina have ownership over a house or a flat, which is a significant increase in relation to 2001, when this percentage was at 70%. However, the quality and living conditions in these housing units is another story. Statistics show that only 24.6% of households have very good living conditions, but together with the percentage of households living in adequate conditions, this makes up a total of 85% of households living in generally adequate housing conditions. Around 15% live in inadequate, partly devastated or devastated conditions.

In Kosovo, the right to housing is not regulated in detail by any particular law, but in general terms, it is determined as a municipal competence. Every year municipalities are working to build collective and individual housing etc. However, an extremely high number of requests make it impossible for all of them to be afforded.
Violations of the above-discussed socio-economic and labour rights can be committed by an employer, but also by a state. The omission of the state to prevent violations of rights makes the state responsible for these omissions. So, states are responsible for establishing mechanisms to protect the rights of its citizens according to the principles and in the spirit of ratified international documents.

The most significant and numerous acts of international labour and socio-economic law are conventions and recommendations from the International Labour Organisation (ILO). Of equal importance are the provisions contained in the International Covenant on Social, Economic and Cultural rights and the Revised European Social Charter. The general foundations of these international law mechanisms have been premised in principles of universal peace, improvement of economic and social development, and the idea of social justice. The standards have influenced recent developments in the countries legislations as signing and ratifying these documents means a commitment to harmonise their national legislation with them.

To influence the states that are not fulfilling internationally undertaken obligations, different control mechanisms have been created. In order to perform that function, international committees receive national reports on the measures that states are undertaking to fulfill the rights contained in the conventions as well as progress made in this respect. However, international mechanisms of supervision are not to be understood as a replacement for national mechanisms, they are rather a useful guideline in respecting labour and socio-economic rights which need to be respected by the states towards their citizens.

1. ILO CONVENTIONS

The International Labour Organization (ILO) is the United Nations agency devoted to advancing opportunities for women and men to obtain decent and productive work in conditions of freedom, equity, security and human dignity. To fulfil its mission the ILO commits itself to projects and programmes to promote workers’ rights, improve working and living conditions and enhance employment opportunities; setting international labour standards which serve as guidelines for national authorities; policy advice and technical cooperation are formulated and implemented in active partnerships with constituents; training, education and research at national and international levels; and publications and dissemination of knowledge and information.

The ILO is the only “tripartite” United Nations agency that brings together representatives of governments, employers and workers to jointly shape policies and programmes. They meet annually in Geneva at the ILO’s International Labour Conference to examine and adopt the broad policies of the ILO and new international labour standards and to approve the biennial programme of the ILO. It also serves as a forum for the discussion of topical social and labour issues during the Regional Meetings. The Governing Body is the executive body, making policies on ILO work, and guides the work of the Organization between the annual sessions of the International Labour Conference.

International labour standards are legal instruments drawn up by the ILO’s constituents (governments, employers and workers) and set out basic principles and rights at work. They are either conventions, which are legally binding international treaties that may be ratified by member states, or recommendations, which serve as non-binding guidelines. In many cases, a convention lays down the basic principles to be implemented by ratifying countries, while a related recommendation supplements the convention by providing more detailed guidelines on how it could be applied.

Bosnia & Herzegovina became a member of the ILO in 1993. The country has ratified a total of 68 ILO conventions and is due to implement them in positive legislation. Further, they have ratified the majority of the ILO conventions relevant for the area of labour, labour relations and safety at work. However, a greater degree of harmonisation of labour regulations is needed with the adopted conventions. Furthermore, general labour acts have not been fully harmonized with the ILO conventions. In cases where the labour legislation leaves possibilities of manipulation and in times of great unemployment or lack of jobs, the employer can easily misuse the provisions and easily justify work outside of official working in front of a labour inspection.
Serbia became a member of ILO in 2000 and has ratified 71 ILO conventions, including eight conventions on fundamental principles and rights of the ILO. The ratified conventions include conventions on unemployment, health and safety at work, employment of women, weekly rest, equality of treatment for national and foreign workers, forced labour, sickness insurance, labour inspection, freedom of association, social security, maternity protection, discrimination etc. Further, the country has regularly fulfilled its periodical reporting obligations and during the last decade, Serbia’s competent state authorities (ministries and government) have strengthened their cooperation with tripartite institutions.

Since Kosovo declared and received its de facto independence in 2008, no ILO Convention has been ratified yet. Various widely accepted and implemented democratic standards from the democratic world remain still uncovered by legislation in Kosovo. However, some ILO conventions are covered under national or some other level. Unfortunately, their implementation remains a crucial problem. This is due to the complexity of the legal structure, and the inefficiency of public mechanisms to implement these norms consequently.

2. REVISED EUROPEAN SOCIAL CHARTER (1996)

The European Social Charter sets out rights and freedoms and establishes a supervisory mechanism guaranteeing their respect by the States Parties (at the moment the Charter has 47 Member States). Following its revision, the 1996 Revised European Social Charter, which came into force in 1999, is gradually replacing the initial 1961 treaty. Rights guaranteed by the Charter concerning housing, health, education, employment, social and legal protection, movement of persons and non-discrimination.

The European Committee of Social Rights ascertains whether countries have honoured the undertakings set out in the Charter. This Committee determines whether or not national law and practice in the States Parties are in conformity with the Charter, through a monitoring procedure based on national reports send by the State Parties every year. The Committee examines these reports and decides whether or not the situations in the countries concerned are in conformity with the Charter. Their decisions, known as conclusions, are published every year. If a state does not take any action on a Committee Decision, the Committee will address a recommendation to that state asking to change the situation in law and/or practice.

Next to this there is a collective complaints procedure, in which certain organisations are entitled to lodge complaints with the Committee. The following organisations can file complaints: (1) The ETUC, BusinessEurope and the IOE (2) NGOs with participative status with the Council of Europe which are on a list drawn up for this purpose by the Governmental Committee. (3) Employers’ organisations and trade unions in the country concerned. (4) National NGOs. Additionally, social partners are encouraged to file complaints directly to the Board of independent experts on their own.

If the complaint gets recognised by the Committee as appropriate, a resolution will get adopted and the Committee may recommend that the state takes specific measures to bring the situation in line with the Charter. As a result of this monitoring system, states make changes to their legislation and/or practice in order to bring the situation into line with the Charter. Through the years, the Charter has demonstrated its importance and influence, and it even became binding over time.

Bosnia & Herzegovina ratified the Revised European Social Charter in 2008 and Serbia in 2009. By signing the Charter it took the obligation of harmonizing the domestic legislation and practice with the standards prescribed by the Charter. It is important to emphasise that the European Social Charter in Article 12 makes it obligatory for the undertaking countries to maintain a system of social protection at a satisfactory level. However, even as they are trying to get protected, social rights are not fundamental human rights so the mechanisms of protection are weaker and less defined.

In Kosovo, there is no specific legal basis since the Revised European Social Charter has not been signed nor ratified. However, there are some different legal institutions of this kind which cover to some extent these rights through other local mechanisms. (e.g. family law).
3. INTERNATIONAL COVENANT ON SOCIAL, ECONOMIC AND CULTURAL RIGHTS

The International Covenant on Economic, Social and Cultural Rights (ICESCR) is a multilateral treaty adopted by the United Nations General Assembly in 1966 and in force since 1976. It commits its parties to work toward the granting of economic, social, and cultural rights (ESCR) to individuals, including labour rights and rights to health, education, and an adequate standard of living. As of December, 2008, the Covenant had 160 parties. A further six countries had signed, but not yet ratified the Covenant.

The Covenant covers the right to an individual’s opportunity to earn a living by freely choosing or accepting work and it commits States to take appropriate measures to preserve this right. The Covenant calls on all states to take actionable measures for the full realization of this right, including offering technical and vocational orientation and training programmes, creating policies and methods to achieve continuous economic, and advancing social and cultural development and full productive employment in the conditions that guarantee the fundamental human, political and economic freedoms.

Since 1986, the Covenant is monitored by the UN Committee on Economic, Social and Cultural Rights. This Committee is a United Nations body of 18 experts that meets three times a year to consider the five-yearly reports submitted by UN member states on their compliance with the International Covenant on Economic, Social and Cultural Rights. The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (2008) is a side-agreement to the Covenant which allow its parties to recognise the competence of the Committee to consider complaints from individuals.

Bosnia & Herzegovina ratified the Covenant in 1992, from that moment on it became obliged to gradually realise the rights guaranteed by the pact. However, there is recognition of the fact that full realization of all economic, social and cultural rights will generally not be able to be achieved in a short time of period. Nevertheless, the fact that realization over time is foreseen in the Covenant should not be misinterpreted as depriving the obligation of all meaningful content. On 12 July 2010, the country has ratified the Optional Protocol of the ICESCR.

The Covenant was ratified by Serbia in 2001. If Serbia is to ensure that rights and obligations can be exercised within reasonable time limits, it must strengthen the administrative agencies and local institutions charged with implementation and protection of rights resulting from international mechanisms. The Optional Protocol to the ICESCR, has not yet been ratified. It is important to ensure its ratification.

In Kosovo, there is again no specific legal basis as the International Covenant on Economic, Social and Cultural has not been signed nor ratified. However, there are some different legal institutions of this kind which cover to some extent these rights through other local mechanisms.
Global challenges, such as globalisation, ageing population, privatisation and the economic crisis, together with specific Southeastern challenges, such as economies in transition and brain drain, have severely affected the employment situation in the Southeastern European countries. In Serbia, Kosovo and Bosnia & Herzegovina this was translated into more frequent and different types of labour and socio-economic rights violations. Especially the most vulnerable groups such as youngsters, elderly people, disabled people, ethnic minorities or women, were severely affected by these challenges.

The most frequent violations of labour rights refer to, amongst others, disregard for legislation, disregard of labour contracts, misuse of temporary contracts, violations of workers’ rights by not paying obligatory social insurance contributions, not paying for overtime work, discrimination in employment, poor safety at work etc. To make things worse, employees more often than not are not familiarised with their basic rights: labour contracts are inaccessible to them and they voluntarily agree to poor working conditions or illicit work, where no social insurance contributions for them are paid.

The most drastic labour rights’ violations are in the area of the informal economy, in which more and more people are becoming active. In this case, employers hire individuals for an undetermined period of time without a labour contract. Through these arrangements, employers avoid paying taxes and contributions to social security funds for employee salaries and employees enjoy extra income without losing the status that enables him or her to receive payments from legal entities. The labour market is to be adjusted to these changes and should find a way to include those working in the informal economy into the social insurance system.

In the general system of wage earning, it is important to maintain intact the principle of sovereignty of social partners and to develop a serious social dialogue which would lead to the better protection of labour rights. However, this social dialogue seems to be in deep crisis in all three countries. The legal acts in force of these countries generally regulate conditions for the work of trade unions, but the implementation remains problematic. In all three countries, the role of trade unions should surely be more active when it comes to the protection of labour rights. In regard to this matter, it would be necessary to reorganise trade unions, to build a culture of dialogue, collective representation and negotiation both on the part of workers’ representatives and trade unions, and on the part of employers and the state. Only by means of a genuinely open, constructive dialogue and building a culture of negotiation, can we create economic-social progress and fulfill the interests of workers and employers.

In addition, trade unions should be made more active, less bureaucratic and have a ‘base’ in the (public & private) companies. Serious social dialogue should aim to strike the right to balance between the responsibility of the community (together with strong state interventionism) and that of an individual (the labour market) for upholding the economic and social security of citizens. Dialogue must also address all necessary cost saving measures (budgetary, funding) and an appropriate level of support to socially vulnerable groups.

In the area of socio-economic rights, neither Serbia, Kosovo or Bosnia & Herzegovina do enough to guarantee, protect and fulfill these rights. Bosnia & Herzegovina, for instance, is a country where social inequalities grow bigger every day and where many are deprived of their basic socio-economic rights. Social insurance systems in all three countries cannot ensure adequate protection and cannot encompass larger population categories. The main reason for this lies in the fact that a relatively small number of workable people are employed, which means that they are socially insured.

One good sign: Bosnia & Herzegovina and Serbia ratified the two main international legal instruments in this field, namely the International Convention on Economic, Social and Cultural Rights and the Revised European Social Charter. And they are also a member of the International Labour Organisation (ILO) and ratified the majority of its conventions and recommendations. It is necessary that Serbia and Bosnia & Herzegovina harmonise their national legislation with these international provisions and that they strengthen their administrative agencies and local institutions charged with the implementation and
protection of rights resulting from these international mechanisms.

However, as this study shows, the most worrying part is not so much the insufficient legislation, but rather the bad and random implementation of the adopted legislation at the employee’s expense. This is partly caused by the lack of adequate institutional mechanisms and weak capacities of institutions in charge of enforcing the application of the legal acts, as well as the poor economic situation in the country in general which is becoming worse through the growth of the informal economy. However, in certain periods of time it was also related to political problems and the lack of political will of the authorities to ensure and promote these rights.

Kosovo on the other hand has not ratified either of these two main international legal instruments nor is it a member of the ILO or did it ratify ILO conventions or recommendations. Also, local and other international legal instruments remain ‘suspended’ from full implementation, as well as the collective contract and the new labour law which continues to be inapplicable, due to high costs. Ratification of these two international legal mechanisms in Kosovo and an efficient control over their and other legal norms enforcement would undoubtedly bring a considerably better situation.

Labour and socio-economic rights cannot be fulfilled overnight. Their fulfillment will be gradual and progressive, which has been stipulated by the international conventions. However, every state can immediately undertake a set of measures to establish an adequate system to ensure the rights of wider population categories, and especially of those members who by their work or engagement are unable to provide a minimum for themselves.
V. RECOMMENDATIONS

It is quite clear that this research cannot elaborate upon all aspects of labour or socio-economic rights. However, this publication addresses some of the most important aspects concerning the protection of labour rights, employment relationships and socio-economic rights. The main goal pursued through this research was to increase awareness of civil society as well as public institutions that this field of life/legislation continues to be very problematic and sensitive since there is much work to be done. To complete this publication, recommendations follow for all countries. Obviously, more recommendations could be given than the ones mentioned here, however, in our opinion, these ones are the most important:

General
- Implement the targeted policies of the International Covenant on Economic, Social and Cultural Rights, the Revised European Social Charter and the ILO Conventions and assure a greater degree of harmonisation of the regulations with the adopted conventions.
- Strengthen the administrative agencies and local institutions charged with the implementation and protection of rights resulting from international mechanisms.
- Public institutions must accelerate the process of completing the legal structure with respect to adopting laws and their amendments following factual changes.
- Horizontal and vertical coordination of all levels of authority in charge of any kind of policy is necessary in order to harmonise the policies and provisions in this area with the international conventions, to identify weaknesses and failures and to come up with the most adequate model of guaranteeing, protection, and assurance of socio-economic rights in the country.
- Inform workers, employers and their representatives about their rights and obligations.

Labour Law
- Reintroduce provisions which make it mandatory for every employer to assure necessary conditions for safety at work which assure employees’ lives and health. It is important to state that the obligation of registering an employee for health, pension and disability insurance and the insurance against work-related accidents has been defined as mandatory in the according Labour Laws.
- A special law regulating work-related and occupational injury insurance should be adopted to help define the severity of both workplace injuries and injuries occurring on the way to workplace (employer), as well as contribute to a regular review and update of the national list of occupation diseases.
- Local provisions must guarantee the right of the woman in maternity protection from dismissal and work obligations.
- Establish an independent mechanism at the state level to address discrimination in employment and promotion in the public and private sector of employment/labour.
- Reduce the drastic shapes of labour rights’ violations in the informal economy. Realistically, the informal economy can only be reduced by a growth of economic activities in the country.
- Invest more in tri-partite social dialogue in which all parties (employers, employees and government) contribute to the debate. Only by means of a genuinely open, constructive dialogue and building a culture of negotiation, can we create economic-social progress and fulfill interests of workers and employers.
- Trade unions should be empowered to take greater effort in problems such as the health and safety or indecent work and should be allowed to organize training and education programmes answering to their needs in order to raise their effectiveness.
- Provide mechanisms of adequate protection of employees and work in non-standard forms of contractual arrangement and engagement according to the international conventions.
- Assure that if an employer initiates termination of a contract, there must
be legitimate reason specific to work performance, employee conduct, or operational need for the employer.

Socio-Economic Law

- Undertake immediate measures to establish an adequate system, which is to assure socio-economic rights of wider population categories, and especially of those members who by their work or engagement are unable to provide a minimum of social rights for themselves.
- Strengthen efforts in fighting unemployment through specially targeted programs, including programmes directed towards reduction of unemployment among youth, women, especially home workers, and unemployment among the poor and marginalised groups. Improve employment of ethnic minorities, including Roma people in particular, in the public and private sector, through the implementation of strategies that will train and qualify these people for jobs available on the labour market, and by giving incentive to employers to hire such people.
- With respect to the pension and disability insurance system, there is a need to re-examine the existing solutions to invalidity and reaffirm the rights claimed on the basis of remaining capacity for work as an additional way to meet the principle of professional reintegration.
- Improve the situation of retired people by increasing their pension in proportion with their contributions and their needs.
- Integrate all people – including minorities, poor and vulnerable groups – into the regular system of education. Hire extra staff such as teachers, pedagogues and psychologist as they could help the pupils included in different problems to attend regularly their lessons.
- Undertake adequate measures to establish an adequate housing system. The State should allocate sufficient resources to provide social housing especially for those with lower income, the poor and the marginalised groups.
- Take appropriate measures to ensure that people in need benefit from the social assistance and guarantee this right to them as foreseen by the law.

- Strengthen the social work centers, schools and hospitals through training of staff and material and technical equipment.

Specific to Serbia

- Develop a functional system where the State supports proactive, enterprising temporary compensation beneficiaries and assist compensation beneficiaries who do not have a comparative advantage in the labour system. Changes in the temporary compensation regime are necessary.

Specific to Kosovo

- Ratify the two main international conventions on labour and socio-economic rights, namely the International Convention on Economic, Social and Cultural Rights (ICESCR) and the Revised European Social Charter.
- Become a member of the ILO and ratify its conventions.
- Adopt specific legislations regarding the right to housing and the right to health, so that these rights can be guaranteed towards its citizens.
ANNEXES

Figure 1: Number of employees in the work of ‘Informal Economy’ by the field of activity in Serbia

Source for graphical presentations: jReport on work for 2008 from Labour Inspectorate – Ministry of Labour and Social Policy of Republic of Serbia
Figure 2: The number of serious injuries during activities in Serbia

Figure 3: Collective injuries by activity in Serbia
Table 1: Relationship between pensioners and insurance holders in Bosnia & Herzegovina Federation and Republika Srpska

<table>
<thead>
<tr>
<th>Year</th>
<th>BaH Federation</th>
<th>Republika Srpska</th>
<th>Pensioners</th>
<th>Insurance holders</th>
<th>Pensioners</th>
<th>Insurance holders</th>
<th>Pensioners/Insurance holder</th>
<th>Pensioners</th>
<th>Insurance holders</th>
<th>Pensioners/Insurance holder</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>298.331</td>
<td>432.895</td>
<td>68.9%</td>
<td>186.188</td>
<td>286.984</td>
<td>64.8%</td>
<td>68.9%</td>
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<tr>
<td>2005</td>
<td>306.681</td>
<td>435.658</td>
<td>70.3%</td>
<td>189.741</td>
<td>281.928</td>
<td>67.3%</td>
<td>70.3%</td>
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</tr>
<tr>
<td>2006</td>
<td>314.462</td>
<td>447.562</td>
<td>70.2%</td>
<td>195.069</td>
<td>289.214</td>
<td>67.4%</td>
<td>70.2%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2007</td>
<td>326.359</td>
<td>475.768</td>
<td>68.5%</td>
<td>202.564</td>
<td>304.956</td>
<td>66.4%</td>
<td>68.5%</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>2008</td>
<td>342.653</td>
<td>488.160</td>
<td>70.2%</td>
<td>209.321</td>
<td>311.362</td>
<td>67.2%</td>
<td>70.2%</td>
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</table>

*Source: Federal Institute of Pension Insurance Fund Mostar and the Republika Srpska Pension Insurance Fund*

Table 2: Housing conditions in Bosnia & Herzegovina in 2004

<table>
<thead>
<tr>
<th>Housing conditions</th>
<th>RS (%)</th>
<th>FBaH (%)</th>
<th>BaH (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very good</td>
<td>20.6</td>
<td>28.1</td>
<td>24.6</td>
</tr>
<tr>
<td>Adequate for living</td>
<td>60.5</td>
<td>60.1</td>
<td>60.5</td>
</tr>
<tr>
<td>Inadequate for living</td>
<td>12.9</td>
<td>7.5</td>
<td>10</td>
</tr>
<tr>
<td>Partially devastated</td>
<td>2</td>
<td>1.6</td>
<td>1.8</td>
</tr>
<tr>
<td>Devastated</td>
<td>0.6</td>
<td>0.5</td>
<td>0.6</td>
</tr>
<tr>
<td>In the process of reconstruction</td>
<td>2.9</td>
<td>2.2</td>
<td>2.5</td>
</tr>
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</table>