

INSTITUTE FOR ADVANCED STUDIES



Policy brief #11

Regulating employment in Kosovo

- Labour law and its implementation

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I. Introduction

On April 30, 2010 the Government of Kosovo passed the Labour Draft Law. This is the third time, after 2006 and 2008, that the Government has passed this Draft Law, each time with some changes in the content. The Parliamentary Commission on Health, Labour and Social Welfare will discuss this Draft Law for the third time, will create working groups, will call for public hearings, will propose amendments, etc. We have to wait and see if the Government will withdraw it for the third time or this time they will allow it to proceed and become a law.

The justification for not passing the Labour Law was its high financial cost. Besides, a number of companies in Kosovo have been against some parts of the Labour Draft Law, claiming that it could financially encumber businesses and discourage foreign investments. On the other hand, there is a firm request from labour unions to have the Labour Law as well as other similar laws like the Law on Freedom to Syndical Organization, Law on Strikes, etc.

In this analysis by the GAP Institute, we begin with a review of employment regulations since the end of the war. In the following section of this analysis, we have made a summary of the most important Articles of the actual Labour Draft Law. Next, we have provided some of the comments and requests of employees' representatives, after interviewing them and looking at collective contractual documents. Similarly, we have provided the opinions and demands of the employers' organizations.

One of the most debated issues was the maternity leave. In this analysis we have provided an analysis on regulating maternity leave, while taking into consideration the financial capacities of the Kosovo Government, private companies and other data on women's employment.

Another significant issue discussed in the last section of this analysis is the issue of implementing the Labour Law. What will follow once the law is passed? Which institutions will implement the law and with what capacities do they operate? What is the financial cost, which might appear to be an obstacle of the full implementation of this law? And, will the Social-Economic Council overcome long-standing disagreements on the minimum salary debate? We conclude by giving recommendations to the decision makers on how to proceed with the draft law.

This analysis contains two annexes. In the first annex we have made a comparison of the essential acts between the UNMIK Regulation on the Essential Labour Law and three Draft Laws that have been presented to the Assembly since 2006. The second annex contains a comparative table among Labour Draft Law, ILO Conventions, European standards and region's standards.

Throughout this analysis you may find the term "Labour Draft Law" and "Labour Law". This change of terms has been done from time to time according to the time of discussion. Right now the document that regulates the employment is on the drafting phase, until it passes the second hearing at the Assembly of Kosovo.

II. The history of regulating employment in Kosovo

Until the early 1990s the law that regulated employment in Kosovo, which was part of former Republic of Yugoslavia, was called the Law on Essential Labour Relationship. In the 1990s, Kosovo's citizens were deprived from any rights, including the right of entering labour relationships. After UNMIK took over the administration of Kosovo, it passed Regulation 2001/27. This is the only UNMIK regulation that relates to the Essential Labour Law. ¹

This Regulation prohibits discrimination at work, describes the minimum labour age; prohibits forced labour; guarantees the right to syndical organization or other forms of collective organization and agreement; defines the labour relationship; labour contract and the form of contracts; termination of contract; method of payment; working hours; annual leave; official holidays; maternity leave, sick leave, unpaid leave or other cases on family issue leave; inspection by authorities and fines in case the employer does not follow this Regulation.

This regulation was approved in October 2001, before the provisional institutions of self-government (PISG) were established. After the establishment of PISG, the Government and the Assembly tried to pass a more advanced labour law, but failed to do so. Among the justifications for not passing that law was the high financial cost of the law, country's undeveloped economy, lack of foreign investments, pressure from the IMF, etc.

III. The content of the Labour draft law

Since 2006, the Labour Draft Law has been presented three times at the Kosovo Assembly. The content of Draft Law has continuously changed. The Draft Law presented in 2006 contained 124 articles, the 2008 Draft Law contained 20 articles less, while the third draft presented at the Assembly on June 4 2010, contained 97 articles. However, it is not only the number of articles that has changed; the content of the various Draft Laws has been continuously changing too. In the following table we will highlight some of the most essential issues regulated by 2010 Labour Draft Law.

Article	Issue	Content
9	Labour contract	A contract of employment may be written or oral, in mutual accordance with employee and employer.
14	Trial Period	The trial period cannot last more than six (6) months in compliance with the present law, Collective Contract and Employer's Internal Act. During trial period, both the employer and employee may terminate the work relationship with a prior notification of two (2) days.
15	Interns	An employee, in the status of an intern, who has signed a contract with the employer, enjoys all rights and obligations like the other employees.

¹ By coincidence, when this regulation was passed, SRSG was directed by a Danish – whose country is known for the high level of social protection and labour relationship – Hans Haekkerup

		<p>Interns with a graduate and postgraduate degree can work for a maximum period of one (1) year, while interns with high school diploma can work for a maximum of six (6) months.</p> <p>The employer in agreement with the interested person can hire unpaid interns, except that he has to offer protection and security at workplace.</p>
19	Setting working hours	<p>Full time working hours shall be forty (40) hours per week.</p> <p>Full time working hours for an employee, under 18 years of age, shall not exceed 35 hours per week.</p>
22	Working overtime	<p>On request of the employer, an employee shall work overtime for a maximum of eight (8) hours per week.</p>
27	Break during working hours	<p>An employee working full time is entitled to a break of at least 30 minutes, which cannot be taken at the beginning or at the end of working hours.</p> <p>Break time under paragraph 1 and 2 of the present article shall be considered as working time.</p>
31	Annual leave	<p>An employee is entitled to a paid annual leave for at least twenty (20) working days during a calendar year.</p> <p>The extension of annual leave shall be defined on the basis of work experience, whereby one day shall be added for every five years of service.</p> <p>Mother with children up to three (3) years of age and single parents as well as persons with disabilities are entitled to additional 2 days off.</p>
38	Paid absence	<p>An employee is entitled to a paid absence from work up to:</p> <ul style="list-style-type: none"> - 2 days in case of his/her marriage - 3 days in case of the death of a close family member
48	Maternity leave	<p>An employed woman is entitled to 12 weeks of paid maternity leave. This period shall include a period of 6 weeks compulsory leave from the day of childbirth.</p> <p>The woman is entitled to extend her maternity leave with 12 weeks of unpaid absence from work.</p> <p>Maternity leave benefits according to paragraphs 1, 2 and 3 of the present article constitute 70% of gross salary of the employee in her latest year of employment.</p>
55	Allowances	<p>For labour performed in extended working hours during the days of national holidays as well as night shifts, an employee is entitled to</p>

		<p>allowances in compliance with the present law, Collective Contract and Labour Law;</p> <p>An employee shall be entitled to allowances calculated in the following percentage of basic salary:</p> <ul style="list-style-type: none"> - 20% per hour for extra shifts - 30% per hour for night shifts - 30% per hour for extended working hours - 50% per hour for work in national holidays, and - 50% per hour for work in weekends
58	Compensation of medical leave	<p>An employee is entitled to compensation for ordinary sick leave up to 10 working days in a year with 70% salary compensation.</p> <p>Payment for compensation for medical leave falls on the employer.</p> <p>The provisions of this article will be valid until a new law on health care is passed.</p>

IV. Labour unions demand changes on the content of Labour Law

The main request of labour syndicates is to, first of all, have the Labour Law. After the Labour Draft Law was passed by the Government of Kosovo² and its first hearing at the Assembly³, labour syndicates have come up with comments and suggestions on the content of this draft law. Since the private sector employees do not have proper organization, comments on the content of the Draft Law were mainly made by syndicates that represent and protect the rights of public sector employees. None of the employees of private companies contacted have syndical organization.

In 2004, Kosovo Government, Kosovo Chamber of Commerce (KCC) and the Union of Independent Trade Unions of Kosova, which make the Threefold Consultative Council, reached an agreement on General Collective Contract.⁴ But this Contract and its 2005 Annex were never implemented.⁵ According to Article 3 of General Collective Contract, employee's syndicates of non-economic activities (civil service, public service and public enterprises) can make their own specific contracts with their employers according to their specifications. Based on this, there have been other collective contracts signed in other levels. One such example is the Health

² Labour draft-law was passed at the Government meeting on 30 April 2010

³ Labour draft law was passed the first hearing in Assembly on 4 June 2010

⁴ Collective Contract is an agreement among the employers' organizations and employees' organizations (unions) which regulates the rights, duties and responsibilities that come out of labour relationship agreements.

⁵ The General Collective Contract entered into force on January 1, 2005, but its Annex says that its implementation starts on July 1, 2005. According to UNMIK Regulation on Basic Labour Law, collective contracts cannot be longer than three years. Therefore, the General Collective Contract, although was never implemented, officially expired on July 1, 2008.

Collective Contract, reached in 2005 between Health Syndicate Federation and Ministry of Health.⁶ Other contracts among public enterprises were signed too, such as the PTK Collective Contract, reached between employee's syndicate and PTK management. Some private companies too have written regulations for the regulation of the labour relationship according to their business specifics. The following table shows some of the essential articles on labour relationship, according to general Collective Contract, Health Collective Contract, PTK Collective Contract and two private companies (IPKO and BUÇAJ), as two successful companies in Kosova that have a large number of employees.⁷

	General Collective Contract	Health Collective Contract	PTK Collective Contract	I. Private company: IPKO	II. Private company: BUÇAJ
Trial period	3 months. Termination with 7 days prior notification.	-	3 months. Termination with 15 days prior notification.	3 months	3 months
Interns	Paid	-	Interns are recruited. The method of compensation is not specified.	Paid	Paid
Setting working hours	40 hours per week. The week contains 5 working days.	-	40 hours per week. The week contains 5 working days.	40 hours per week. The week contains 5 working days.	48 hours per week. The week, for most of employees is 6 days.
Overtime work	20 hours per week (40 hours per month).	10 hours per week	-	Work overtime is compensated with days off at the end of the month.	-
Daily break	30 minutes	1 hour	30 minutes	1 hour	1 hour
Annual leave	18 days. 1 day added in every 5 years of work experience.	18 days. 1 day added in every 5 years of work experience.	18 days. 1 day added in every 5 years of work experience.	18 days	First year 12 days. Other years 18 days.
Paid absence	Maximum 7 days per year.	-	-	-	-
Maternity leave	6 months paid leave, no less than 70% compensation.	6 months. First 3 months with 100% compensation.	Employed woman is entitled to 6 months maternity leave,	3 months paid leave and 3 months unpaid leave	3 months paid leave and 3 months unpaid leave

⁶ Health Collective Contract was signed for a period from 14.10.2005 till 14.10.2008. It was extended with an executive order of the Minister of Health.

⁷ We have chosen IPKO and Buçaj among private companies, based on interviews with officials on Personnel Management in these companies.

			paid leave with 100% of salary		
Allowances	Employee is entitled to allowances for overtime work	-	Employee is entitled to allowances for overtime work	-	-
Compensation of medical leave	1 month. Minimum 80% paid.	-	1 month with full salary	1month paid	According to occasions.

In the case of General Collective Contract and Health Collective Contract, the Kosovo Government as a signing member of these agreements, has not respected these contracts. Once the Labour Law is passed, the Social-Economic Council should draft a new collective contract. Also, the Federation of Health Syndicate will renegotiate its collective contract with Ministry of Health.

V. The impact of Labour Law on Kosovo businesses

According to the statistics from Statistical Office of Kosovo, from the 2.2 million overall population of Kosovo, 61% or 1.3 million are between 15-64 years of age, which is considered as labour force. By the end of 2008 in Kosovo Labour Centers there were 335,942 job seekers.⁸

The largest employer in Kosovo is still the public sector. There are 70,159 people employed in the public sector. According to the statistics from Kosovo Pension Savings Trust (Trust), the number of people saving in Trust is 233,493.⁹ Knowing that all employees in the public sector are at the same time paying contributors of Trust, then from the total number of 233,493 contributors, 30% of them are employed in public sector, while the rest of them 70% or 163,334 employees are in the private (formal) sector.

According to statistics from Business Registration Agency, there are 99,647 businesses registered in Kosovo.¹⁰ However, not all of these are functioning businesses. According to statistics from Kosova Tax Administration (ATK), the number of businesses owning a fiscal number is 48,000. Informality in Kosovo is still high, hence there is no accurate number on the number of actual businesses operating in Kosovo and the number of employees.

Businesses in Kosovo face problems of different natures. The World Bank publication “Doing Business”, rates Kosovo in the 113 place from 183 preferred countries in which to do business. However, when it comes to the point of hiring and firing, Kosovo is in the 34 place.¹¹ The followings were taken into consideration in this study: minimum salary, working hours, employer’s obligations, massive firing of employees, etc.

⁸ Statistical Office of Kosovo. <http://www.ks-gov.net/ESK/dmddocuments/Kosova%20ne%20shifra%202009.pdf>

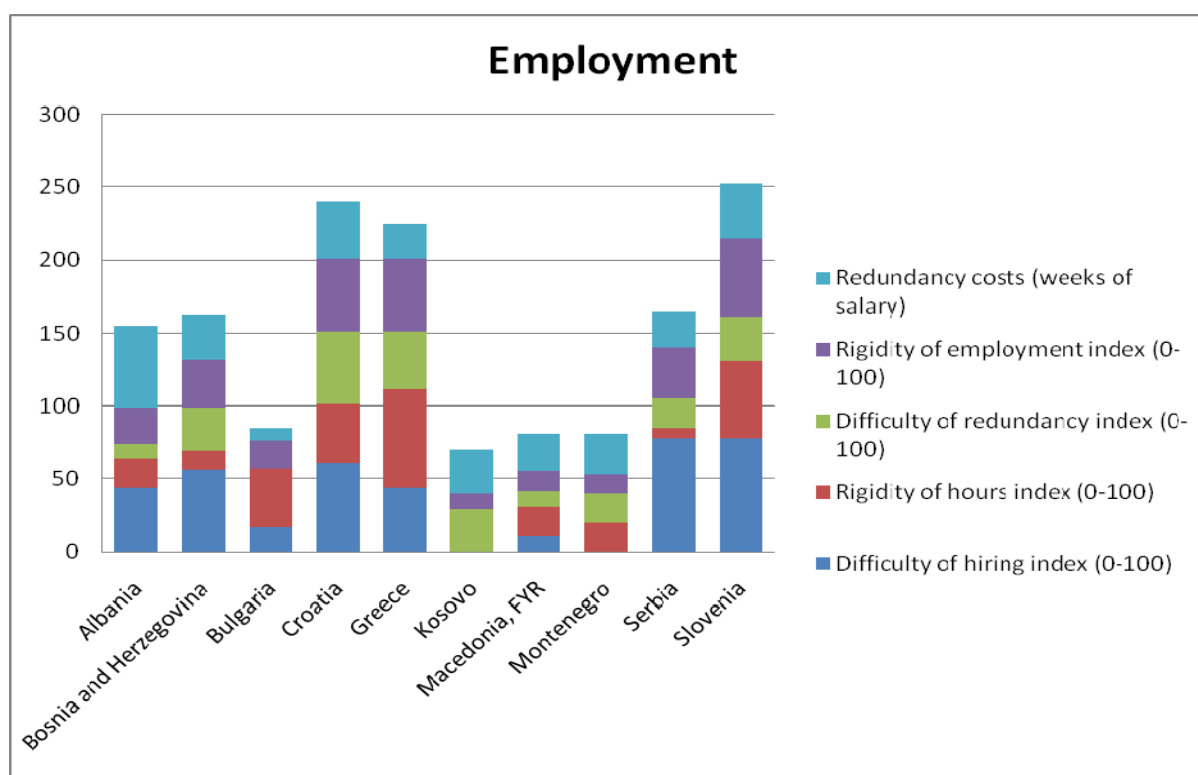
⁹ Kosovo Pension Savings Trust. Annual Report 2009

¹⁰ Kosovo Business Registration Agency, statistics published on 6 may 2010

¹¹World Bank. Doing Business 2010 - Kosovo

Country	Employment Difficulty Index ¹² (0-100) *	Rigid working hours	Difficulties in firing excessive employees due to economical difficulties (0-100)	Rigidity of employment index (0-100)	Firing cost (payment on firing employees) (0-100)
Albania	44	20	10	25	56
Bosnia	56	13	30	33	31
Bulgaria	17	40	0	19	9
Croatia	61	40	50	50	39
Greece	44	67	40	50	24
Kosova	0	0	30	10	30
Macedonia	11	20	10	14	26
Montenegro	0	20	20	13	28
Serbia	78	7	20	35	25
Slovenia	78	53	30	54	37

* Higher scores means better regulations



Now, as the Labour Draft Law is being discussed in Assembly, employers' organizations have made no comments on the content of Labour Draft Law. In 2006, when the Labour Draft Law with a more advanced content on employees' rights was being discussed in the Assembly, some employers' organizations were critical of its content and provided suggestions on what the

¹² According to World Bank, Employment Difficulty Index is measured according to these indicators: fixed contracts, minimum salary, legislation; rigid working hours: paid leave, flexible working hours;

Labour law should look like, in order that businesses could be in line with the law afterwards.¹³ These employers' organizations proposed:

- The maximum working days should be 6 days per week;
- Maximum working days should be 45 hours per week;
- Working overtime, night shifts and work during weekends to be regulated between employer and employee. The only restriction should be that working overtime should not exceed 20 hours per week and 40 hours per month;
- Part time work, temporary employment, internship should be regulated between employer and employee as long as it is not against the present law;
- Trial period should be 6 months;
- Employed women are entitled to 12 weeks paid leave since the moment of delivery. First six weeks should be paid by the employer not less than 70% of salary, while the next 6 week payment should be made by the Kosovo Government Fund with no less than 70% of salary;
- Annual leave should be regulated as follow: a) employee may ask for annual leave six months after employment; b) based on mutual agreement, employee can ask for leave before the stipulated date; c) six month after employment, based on mutual agreement, employee may take annual leave any time during the year in proportion with the work experience; d) based on mutual agreement, annual leave may be taken in different shifts;
- There is no additional days off for employees who work for a long time in that institution;
- There should be no rules regulating day break. This should be regulated between employer and employees;
- Provisions that regulate employees appeal commissions with more than 5 employees should be removed;
- Disciplinary measures for breaking essential rules should include firing and conditional suspension from work for a year;
- Provisions that regulate "employment brochure" should be removed since they do not bring any benefits;
- On the article on termination of contract by the employer should be added: failing to accomplish duties as agreed on the contract;
- Provisions should be added allowing the employer to change employee's position when this is necessary.

The above mentioned points are suggestions of the largest businesses in country, like banks, which all together employ 3796 employees; and 70 other companies, members of American Chamber of Commerce, which all together employ 10,000 employees.¹⁴ According to Kosovo Banks Association, their opinions on the content of 2008 Labour Draft Law reflect their clients/companies preoccupation too.¹⁵

¹³ The Commission on Health, Labour and Social Welfare had received written comments from Kosovo Banks Organization (which consists of seven banks) and the American Chamber of Commerce (which has a membership of 70 businesses)

¹⁴ It should be mentioned that none of the employers' associations like Kosovo Chamber of Commerce, American Chamber of Commerce and Kosovo Business Alliance, did not want to make public the number of employees for each of their members, even though according to membership rules to these associations, companies should tell their employees number. Largest companies have requested from us not to make public their exact number of employees.

¹⁵ Interview with ms Diturie Hoxha – Executive director of Kosovo Banks Association, 16.2.2010

VI. Maternity leave

Once the Labour Draft Law was made public, one of the most contested articles was article 48, which covered maternity leave. According to the Labour Draft Law, an employed woman has the right to 12 weeks of paid maternity leave. This leave can be extended for an additional 4 weeks with pay, if there is medical proof that verifies illness or complications that have resulted from pregnancy. An employed woman has the right to extend her maternity leave for an additional 12 weeks without pay. Maternity leave benefits according to paragraphs 1, 2, and 3 of this article make up 70% of the pay earned in the previous year.

12 weeks does not amount to 3 months, but 2 months and 23 days (84 days leave).¹⁶ . Out of 84 of these days, 28 of them need to be used before birth and 56 after birth. According to this article, an employee that gives birth needs to return to work in less than two months after the delivery. This time frame is medically contestable, as no doctor can professionally recommend that a mother return to work 2 months after giving birth. This is to the detriment of both the mother and child's health. This is also in contradiction with the Law of the Assembly of Kosovo for the Promotion and Protection of Breastfeeding, according to which medical institutions should promote and protect breastfeeding.¹⁷ This is also in contradiction with the UNICEF declaration on the "Ten Steps of Successful Breastfeeding".¹⁸ The Innocenti Declaration, which is supported by the Law of the Assembly of Kosovo for the Promotion and Protection of Breastfeeding, recommends breastfeeding, particularly in the 4-6 months after birth.¹⁹ This situation is worsened by the fact that in Kosovo daycare for infants is not available, daycare centers only accept children from the age of 1.²⁰

From the health perspective, the regulation of maternity leave in this manner is disputable also due to the demographic factor of natality rates. According to the supporters of this position, natality is on decline, and with this law it could decrease even more.²¹ According to the Statistical Office of Kosovo, the number births has fluctuated from year to year.²² In general a decline in natality has been noticed.

¹⁶ Calculating the first month as 30 days, the second month as 31 and the third as 30 days.

¹⁷ Article 3.1 of law nr.02/L-81 for the Promotion and Protection of Breastfeeding.

¹⁸ <http://www.unicef.org/newsline/tensteps.htm>

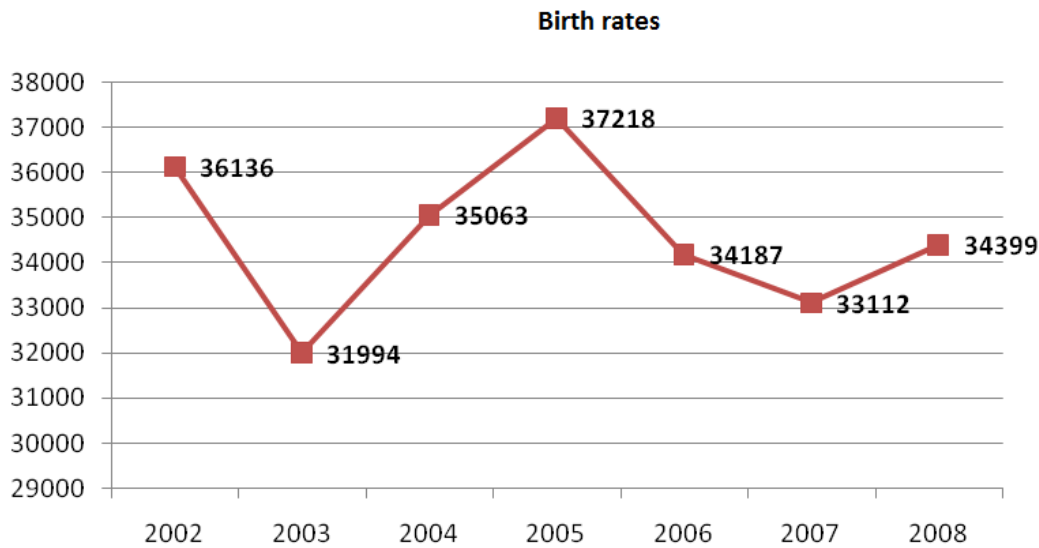
¹⁹ <http://www.unicef.org/programme/breastfeeding/innocenti.htm>

²⁰ Public daycares do not accept children under the age of 1, whereas private daycare centres apply different regulations, according to which children under 1 year can also be accepted.

²¹ These concerns were also presented by representatives of the Assembly of Kosovo in the plenary seance of June 4, 2010. Read a transcript of this seance

at: http://kuvendikosoves.org/common/docs/proc/trans_s_2010_06_04_10_al.pdf

²² Statistical Office fo Kosovo. Birth Statistics in Kosovo 2008.



However, despite this decline, at 16% Kosovo still has the highest natality rate in the region. However in terms of economic development, Kosovo remains one of the most underdeveloped countries in the region. This contradiction is presenting a problem for Kosovo in the short term.

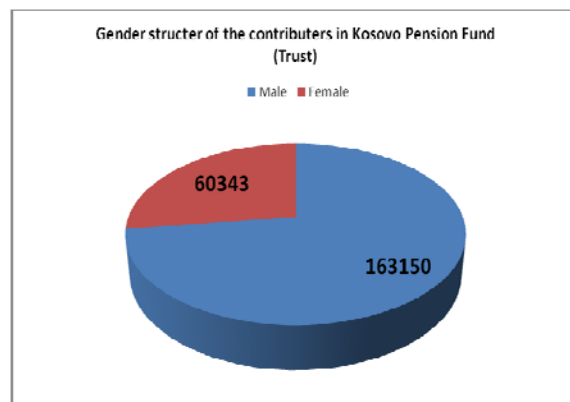
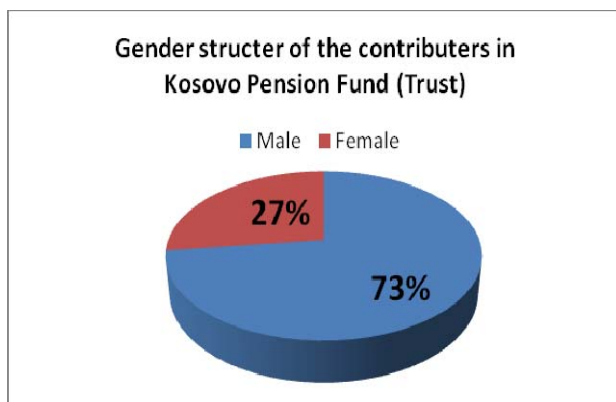
Upon contacting employers' organizations and individual businesses, we can state that businesses are aware of the short time period which has been given to women for maternity leave. Businesses support an increase on maternity leave only if the Government of Kosovo helps them by paying a part of it. Otherwise private businesses can't afford to pay for a maternity leave that is longer than 3 months with 100% reimbursement. The rest of the cost of maternity leave should be covered by the Government of Kosovo, through the creation of a special fund set aside for this purpose. Every maternity leave payment longer than three months will push businesses to accept a smaller number of female employees, to only hire women of a certain age, or to employ women informally in order to avoid their legal obligations.

Of the 70,159 employees in the public sector, 38% of them are women.²³ For female employees in the public sector, the Government has set aside a maternity leave fund of 300,000 euro. In the Post Telecom of Kosovo (PTK) females make up 25% of all employees. The percentage of female employees in some private sectors is larger than that of the public sector. The male-female ratio in commercial banks in Kosovo is 47% women and 53% men.²⁴ According to the Trust data, 73% of the contributors to this fond are men and 27% are women.²⁵

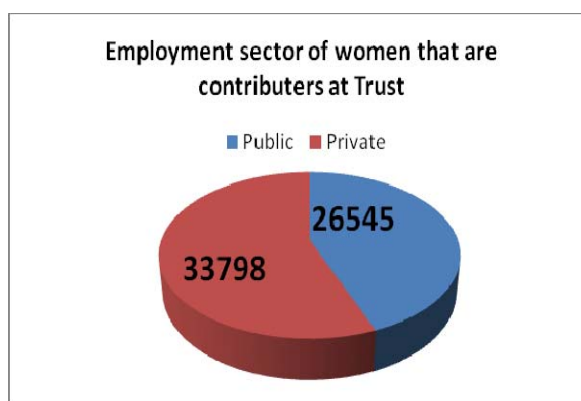
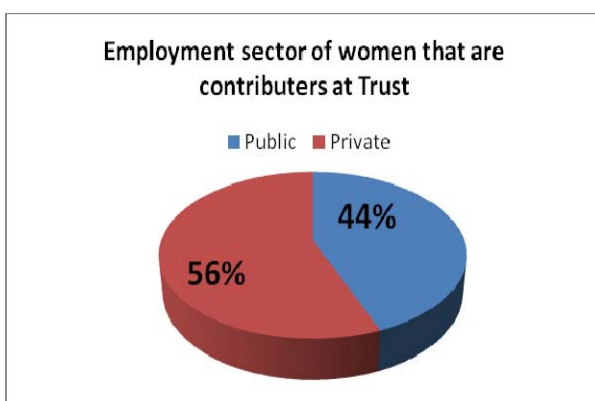
²³ According to the Law on Gender Equality of the Assembly of Kosovo, public institutions need to make efforts to achieve a 40% level of female employees.

²⁴ At IPKO the total number of female employees is 58%, at ELKOS group 45% are women, at Devolli Company 221% are women, etc.

²⁵ The Trust of Pension Savings, Annual Report 2009.



As mentioned earlier, if we take it as a given that employees in the public sector are contributing payers in the Trust, and if from the total number of employees in the public sector the percentage of women is 38% or 26,545 women, then we can make an approximate estimate as to how many female contributors to the Trust are employed in the private and public sector. According to this formula, from the total number of 60,343 female paying contributors to the Trust, 26,545 are employed in the public sector and 33,798 in the private sector.



From the total number of female contributing payers to the Trust, 33% are under the age of 30, 21% are women between the ages of 50-59, and 12% of women are above the age of 60. Female contributors to the Trust are mostly in the 20-29 age range at 32.5%.

As we will see further on in this study, the Government of Kosovo has set aside 300,000 euro for maternity leave. This amount is only for public sector employees. According to the Labour Draft Law maternity leave is 12 weeks. If the Assembly of Kosovo decides to raise maternity leave with pay to 6, 9 or 12 months, the cost will also progressively rise.

If this formula were to be applied to the 33,798 women employed in the private sector, a three month maternity leave would cost much more than in the public sector.²⁶ This is due to the large amount of employees in the private sector and because the median wage in the private sector is higher than that of the public sector.

²⁶ Always calculating official statistics of those who are paying contributors. The informal sector is very large and cannot be measured in this manner.

VII. The Labour Contract

According to the Labour Draft Law “the work contract can be in written or verbal form, if both the employer and the employee are in agreement.”²⁷ Legally allowing contracts to be in verbal form is a step backward when compared to the UNMIK Regulation on Essential Labour Law, according to which “a labour contract shall be concluded in writing and in an official language used in Kosovo.”²⁸

This also contradicts article 10 of the Labour Draft Law, which defines what the labour contract should contain. The labour contract needs to contain: information about the employer (the name, office, the registration number of the business); information about the employee (name, last name, qualifications and home address); the title, nature and type of work, the type of services and a description of work responsibilities, the work location and notice if employment shall be carried out in different locations; hours and the work schedule; the start date of employment, the time frame of the Employment Contract, the amount of the basic salary, the time frame of breaks, etc.

All of these contract elements are impossible to achieve through verbal agreements. Also, in case of a disagreement between employers and employees it would be impossible to argue before a competent court. Therefore, to eliminate all ambiguities, contracts need to be concluded only in a written form.

VIII. Working hours

Despite the UNMIK Regulation for the Essential Labour Law, according to which the regular hours of work cannot extend longer than 40 hours per week, this regulation has not been respected in many private businesses. Even according to the Labour Draft Law, the full hours of work are 40 hours a week.²⁹ With the request of the employer, the employee can work outside the regulars of work for no more than 8 hours per week. However, work outside the regular hours of work cannot last for long periods, but only for as long as is needed. Businesses have requested that the regular hours of work be extended to 45 hours. The Draft Law has not changed in regards to this point and has remained 40 hours. The working days has not been defined by the Draft Law, it will be left to businesses to organize their working days according to the nature of the work. Regardless, an employee has the right to an uninterrupted 24 hour break.

The Government of Kosovo has set aside 300,000 euro from its budget per year to pay for overtime work. If the law is respected in regards to regular working hours, this is expected to have a huge effect on private businesses. The majority of businesses in Kosovo have regular working hours during a week that last longer than 40 hours. Overtime work at the majority of businesses in Kosovo is regular working time. Therefore, the correct application of the Labour

²⁷ Article 9.1. of the Labour Draft-law, ratified by the Government of Kosovo on April 30 2010.

²⁸ Article 10.2 of the UNMIK Regulation nr. 2001/27 for the Essential Labour Law.

²⁹ Article 19 of the Labour Draft-law

Law will have these effects: 1. Businesses can take on more employees to cover work that surpasses the regular work schedule and 2. Businesses can lower the basic wage and pay for every hour that exceeds the regular hours of work. The second option cannot be applied to those businesses that have regular working hours that exceed 40 hours throughout the entire year. They will need to employ additional staff. In general, this action could raise the number of employed individuals, but could also lower the basic wage in the majority of private businesses.

According to Article 27 of the Labour Draft Law, employees working full uninterrupted hours of regular work have the right to a break during the work day of at least 30 minutes, which cannot be set at the beginning or at the end of the time of work. This break time is considered time spent at work.

The calculation of breaks during the working day as time spent at work can influence a lot of businesses to adjust their internal regulations so as not to increase breaks to a period longer than 30 minutes. For example, if an ordinary business has regular business hours from 8:00 until 17:00, with a one hour break in the middle, then it is calculated that employees have worked for 9 hours within that day. A 30 minute break is considered very short and is damaging for the body's metabolism. A break of this length can also be turned into a reason for conflict between employers and employees in cases of lateness.

Therefore, this point of the Draft Law needs to be changed in order to allow for a break during the work day with a minimum of 1 hour in length, which will not be counted as time spent at work.

IX. Probationary work and engagement of interns

According to Article 14 of the Labour Draft-law, probationary work can last for a maximum of six months. During the probationary period of work, the employer and the employees can discontinue the employment relationship with a prior warning of 2 days. The length of the probationary period from 3 to 6 months was also requested from private businesses.³⁰ However, no justification was given for the extension of the probationary period. The employment relationship during the trial period can be terminated with a 2 day prior notification. It isn't specified in the Draft-law if the 2 day prior notice should be 2 working days or if this also includes non-working days. In the most extreme case, an employer can notify an employee on Friday not to come to work on Monday, and this would be within the employer's legal rights, if the Labour Draft Law is ratified with its current content.

The probationary period should not be longer than 3 months, and the prior notification for the termination of a contract during a probationary period should be longer than 2 days. 3 months is enough time for any business and any kind of work to evaluate the ability and dedication of a new employee.

³⁰Banks and the American Chamber of Commerce

The Labour Draft Law is unfavorable for interns. Interns can be hired for an entire year without pay and without all of the rights that emerge from the employment relationship. According to article 15, point 2 of the Labour Draft Law says that the employed intern who has an employment contract with the employer has the same rights and responsibilities as the other employees. But in the same article, point 5 states that in the case of an agreement between the employer and the applicant, an intern can be hired without monetary compensation and without the rights that emerge from the employment relationship, except that the employer guarantees protection and security at the workplace as stated by law. While point 2 of article 15 guarantees the intern the same rights from the employment relationship as other employees, point 5 of the same article states that interns can also be hired without these rights. The way in which the intern is professionally trained is left up to the collective agreement and the decision-making process of the employer.

Interns who do specific work should receive a portion of the pay, or have their daily expenses met (the cost of travel and food).

X. The Application of the Labour Law

Even though the ratification of Labour Law has been long expected, its ratification will not be the first time that labour laws are regulated in Kosovo. The UNMIK Regulation for Essential Labour Law has been in power since October 2001. The institution responsible for the application of labour legislation – the Labour Inspectorate, has been functioning since 2002. The Law for Safety at Work, the Protection of Employee Health and the Workplace has been in place since 2003. Apart from these laws, statutes have also been passed, such as: Regulation nr. 2004/01 for Hygienic and Technical Measures for Safety at Work; Regulation nr.2005/02 for the Evaluation of Work and Work-related Risk, etc. Therefore, there is currently a good legal base for the regulation of work conditions in Kosovo. However, the problem until now has been the lack of application of these laws.

Below we will elaborate four of the main problems that question the adequate application of the Labour Law: the capacity of the Labour Inspectorate, the resolution of disputes in court, the financial cost of the law and the regulation of the minimum wage.

X.a. The Labour Inspectorate

One year after the passing of the UNMIK Regulation for Essential Labour Law, the Assembly of Kosovo ratified the Law for the Labour Inspectorate in Kosovo.³¹ The Labour Inspectorate is an executive team within the Ministry of Labour and Social Welfare that is responsible for supervising the application of the Regulation for Essential Labour Law and other legislation in this field.³²

³¹ This law was changed and amended in 2008.

³²The Law for Safety at Work, Protection of Employees' Health and the Work Environment, the Executive Guideline for the distribution of fines to employers for breaking the law, etc.

The Labour Inspectorate is led by the Chief Labour Inspector. The Chief Inspector reports directly to the Ministry of Labour and Social Welfare about the work of the Inspectorate. The Chief Inspector has three deputies who are responsible for different fields. Since its establishment, the Labour Inspectorate has faced functional difficulties. This institution is missing the human and institutional resources necessary for the application of laws and regulations regarding labour as well as safety and health in the workplace. The Labour Inspectorate does not have executive officers but only functioning officials. In total there are 49 inspectors spread out in different municipalities across Kosovo. Due to low pay, 9 inspectors have left their work, thus resulting in the decline of the number of inspectors from 58 to 49. After the process of decentralization, Kosovo has 37 municipalities. Labour inspectors have not yet been assigned to the new municipalities. However, even in the municipalities founded earlier the Labour Inspectorate has no inspectors. These municipalities are: Fushë Kosova, Istogu, Suhareka, Shtërpca, and Novo Bërda. Like many municipalities, even the largest ones are covered by only one inspector, such as Ferizaj and Lipjan. The municipality of Prishtina has the highest number of labour inspectors, a total of 6.

99,647 businesses are registered in Kosovo.³³ According to officials from the Labour Inspectorate, the inspectors are responsible for: the inspection of every business at least once a year, providing their professional opinion on the working location and conditions for every new business, and to investigate cases in which businesses are run without being registered as well as those businesses that are closed but have not been officially unregistered.³⁴ If the labour inspectors need to inspect every business once a year, then the inspection of 99,647 businesses by 49 Labour Inspectorate inspectors requires that each of them inspect 2033 businesses per year. The municipality of Prizren alone has 8914 registered businesses, which 2 labour inspectors are responsible for inspecting. To inspect all the businesses within the municipality, the labour inspectors of Prizren must inspect 20 businesses a day. The municipality of Ferizaj, which is covered by only one inspector, has 7436 registered businesses.

Municipalities	Nr. of registered businesses**	Number of labour inspectors**	Average of businesses to be inspected by each inspector	
			Per year	In a day (220 work days)
Deçan	1492	3	497.3	2.2
Gjakovë	5510	5	1102	5.0
Drenas	2426	1	2426	11.0
Gjilan	6191	3	2063	9.3
Dragash	891	1	891	4.0
Istog	1821	0	-	-
Kaçanik	2049	1	2049	9.3
Klinë	1754	1	1754	7.9
Fushë Kosovë	2464	0	-	-
Kamenicë	1799	2	899.5	4.0
Mitrovicë	4672	4	1168	5.3

³³According to statistics from the Agency for the Registration of Businesses in Kosovo, published on May 6, 2010.

³⁴Interview with the deputy chief inspector at the Labour Inspectorate, Mr. Agim Milaku and Murat Vokshi, June 14, 2010.

Leposaviq*	806	2	403	1.8
Lipjan	2811	1	2811	12.7
Novo Bërdë	109	0	-	-
Obiliq	947	1	947	4.3
Rahovec	1963	1	1963	8.9
Pejë	6277	5	1255	5.7
Podujevë	3195	2	1597	7.2
Prishtinë	23789	6	3965	18.0
Prizren	8914	2	4457	20.2
Skenderaj	1680	1	1680	7.6
Shtime	1151	1	1151	5.2
Shtërpcë	461	0	-	-
Suharekë	1721	0	-	-
Ferizaj	7436	1	7436	33.8
Viti	2328	1	2328	10.5
Vushtrri	2734	1	2734	12.4
Zhubin Potok*	352	1	352	1.6
Zveçan*	430	1	430	1.9
Malishevë	1474	1	1474	6.7

* In the municipalities of Zveçan, Zhubin Potok, Leposaviq and the northern part of Mitrovica, despite the presence of inspectors, they were not able to complete their work. (Source: Annual Report of the Work of the Labour Inspectorate 2009);

** Source: Agency for Business Registration;

*** Source: Labour Inspectorate.

The inspection of businesses by a single inspector carries other risks for the completion of their work according to regulations, such as the intimidation of the inspector, threats/attacks, corruption, etc. Therefore it would be sound to have at least two inspectors at every inspecting institution.

According to the Annual Labour Report of 2009, the Labour Inspectorate has completed 8.225 inspections of employers.³⁵ According to this report, in 2009 this institution has completed more qualitative work than in the preceding years.

Apart from the small number of inspectors, the Labour Inspectorate faces other problems. This institution has a total of 10 cars, only 8 of which are intended for terrain work while the other 2 are for the needs of the central office. The labour inspectors are placed in offices in the municipalities they cover and often these offices are not adequately equipped. The organization of the Labour Inspectorate is in opposition with the International Labour Organization (ILO).³⁶ According to ILO Conventions, responsible authorities need to create optimal conditions for the work of labour inspectors, such as offices, computers, transportation, conditions for the best means of communication, etc.

³⁵ Of these: 5374 regular inspections; 821 reinspections; 639 extraordinary inspections (individual requests for employees for inspections, inspections in cases of work injuries, falls, etc.); 285 inspections in cooperation with other oversight organs, and 1133 inspections for the verification of the minimum technical conditions of work.

³⁶ ILO Convention nr. 81 and its 1995 Protocol.

The Inspectorate operates with an annual budget of 496,355 euro. This amount is predicted for the next two years, 2011-2012. On the other hand, the independent income of this institution for 2009 was 191,691.65 euro which means that the work of the Labour Inspectorate has a negative effect on the budget of Kosovo, since an institution that has the ability to generate income has less income than expenditures.

The requests of the Labour Inspectorate sent to the Ministry of Labour and Social Welfare and the Government are: the completion of legislative infrastructure, to come to an agreement of understanding between the Ministry of Labour and Social Welfare and Ministry of Economy and Finances for the usage of one part of the income generated by the Inspectorate, better working conditions, to have the pay of inspectors be set in accordance to the quantity and responsibility of their work, to be paid for risk at work, to continue with the professional training of inspectors, etc.³⁷

X.b. Resolving Disputes at Competent Courts

According to the Labour Draft-law, labour disputes between employees and employers are to be resolved before competent courts.³⁸ According to the inspectors of the Labour Inspectorate, practice until now has shown that in every legal dispute, the Labour Inspectorate has reviewed cases before they got passed on to the competent court. The opinion of the Labour Inspectorate has also proven to be used as additional evidence in legal disputes.³⁹ According to the Labour Draft-law if an issue is being inspected by the Labour Inspectorate and at the same time is being tried, the Inspectorate should suspend its decision until the court makes its verdict.⁴⁰ The Labour Draft-law also states that complaints can be reviewed or inspected by both the competent court and the Labour Inspectorate. However, if the case is being tried, the decision of the Inspectorate is suspended, and no comment is made as to what decision the courts should make if the case is already under review from the Inspectorate. It is also unclear which decision is taken into account in the case of legal disputes, that of the court or of the Inspectorate, or both.

Apart from the competent court and the Labour Inspectorate, labour disputes can also be solved by the Independent Oversight Board (IOB). The IOB only solves the cases of civil servants. After the ratification of the new Law for Civil Servants, only employees of different ministry administrations, municipalities, the Assembly, the Presidency, embassies, police and legal administrations are considered civil servants, while health and education employees are left out of this category. In the Labour Draft-law, the role of the IOB is not mentioned anywhere. During 2009, the IOB reviewed 288 complaints that dealt with the suspension of labour contracts, failure to continue contracts, suspension from work, demotions, etc.⁴¹

³⁷Annual Working Report of the Labour Inspectorate 2009. 3.2.2010.

³⁸Article 77 of the Labour Draft-law

³⁹Interview with the deputy chiefs of the Labour Inspectorate, Mr. Agim Milaku and Murat Vokshi, 14 June 2010.

⁴⁰Article 80.3 of the Labour Draft-law

⁴¹According to the Annual Report of the Independent Oversight Board 2009. Prishtina, March 2010.

According to the current court structure, the competent court for labour disputes is the Municipal Court.⁴² After the ratification of the Labour Law, there is a chance that the number of labour disputes will increase. From the overall number 217.758 of unsolved cases in the courts of Kosovo, 204.119 or 93.7% of them are still waiting to be dealt with by municipal courts.⁴³ With the ratification of the new Law for Courts, a special department called the Department for Administrative Issues will be created and will function as a part of the Basic Court of Prishtina and will cover the entire territory of Kosovo.

In many parts of the world, specific courts and specialized judges sit on disputed labour cases – Labour Courts.⁴⁴ In our country, in the absence of these specialized courts, efforts must be made by competent institutions to ensure enough resources so that the Department of Administrative Issues can deal with, provide solutions for and come to verdicts in labour dispute cases without having them **drag** on endlessly.

For the purposes of defining the relationship between the Independent Oversight Board, the Labour Inspectorate and the competent courts, chapter IX of the Labour Draft-law needs to be clarified and defined in regards to the procedures which will actualize the labour rights⁴⁵, and to specify the role of each institution so that employees and employers know whom to address.

X.c. The Financial Cost of the Labour Draft-law

According to the Kosovo Government one of the reasons for not ratifying the Labour Draft Law is its high financial cost. In the calculation of the financial cost the burden on the Budget of Kosovo is taken into account, in particular the obligations that the Government of Kosovo would have to fulfill towards employees that are paid from the Budget of Kosovo. Due to the lack of accurate information about employees in the private sector and informality, it was and is impossible to calculate the financial cost that the Draft-law would bring upon private businesses. Because the financial cost of the Labour Draft Law has been widely debated and very few facts are available for the general public, this study has presented the financial cost of the Labour Law based on the Evaluation of Financial Influence (Financial Declarations) that the Ministry of Economy and Finances has completed for the Labour Draft Law.

According to the Financial Declaration that was attached to the Labour Draft Law, it is estimated that the entry of the Labour Draft Law into law will burden the Budget of Kosovo with an additional 1.8 million euro per year. The Financial Declaration of 2010 does not estimate the total cost of the Labour Draft Law, only the additional cost. Two years ago, when the Government sent the Labour Draft Law to the Assembly, it attached the financial declaration that calculated the additional budget cost and the total cost of the Labour Draft Law if it were to

⁴²According to the Draft-law for courts, the current structure of the courts will be changed as of January 2013, where instead of Circuit Courts there will be Basic Courts, whereas instead of Municipal Courts there will be branches of Basic Courts. The practice until present of solving different administrative disputes has been appearing before the Supreme Court of Kosovo, in the absence of specialized courts or departments in the municipalities. The Supreme Court has delegated the cases again to Municipal Courts which dealt with resolving these disputes. (interview with Bardhyl Hasanpapaj (NDI), 23 June, 2010)

⁴³Secretariat of the Kosovo Judicial Council. Initial three months of 2010 – statistics of regular courts.

⁴⁴Examples of labour courts can be found in Slovenia, Austria, Belgium, France, Germany, Ireland, etc.

⁴⁵Articles 77, 78, 79 and 80.

pass into law. According to the Financial Declaration of 2008, the total cost of the Labour Draft Law was calculated to be 5,893,600 euro (3,188,292 allocated euro, plus an additional 2,705,308 euro according to the advances predicted with the Labour Draft Law of 2006). Now that the additional budget cost has been lowered to 1.8 million euro, the total cost of the Labour Law is 4,988,292 euro per year.

Draft-law Article	Additional Cost according to the Financial Declaration of the MEF	Explanation
Article 37: Compensation for the damage of not using one's annual leave.	60,000 Euro	Calculation: 200 paycheques, with each payment being 300 euro.
Article 48: Maternity leave	300,000 Euro	The 300.000 euro fond is already set aside and maternity leave does not present additional budget cost.
Article 51: Leave from work for special care towards a child.	88,560 Euro	Calculation: 60 cases, each 123 euro, for 12 months.
Article 55: additional pay.	300,000 Euro	The police and health sector are expected to have a large influence on the budget.
Article 59: Compensation for injuries sustained at work.	800,000 Euro	Calculation: 80 cases, 10,000 euro per case.
Article 69: The suspension of the labour contract by the employer; and Article 75: Collective termination from work.	550,560 Euro	Calculation: 740 cases with 248 euro per three months.

Source: Chart created by GAP based on the Financial Declaration of the MEF for the Labour Draft-law.

However, according to the Ministry of Economy and Finances these calculations for the cost to the public sector are not accurate. The additional cost of 1.8 million euro is predicted only for the first year of implementation, whereas for the following years a cost increase of 5% every year (or 0.1 million euro) is predicted.

X.d. Minimum wage

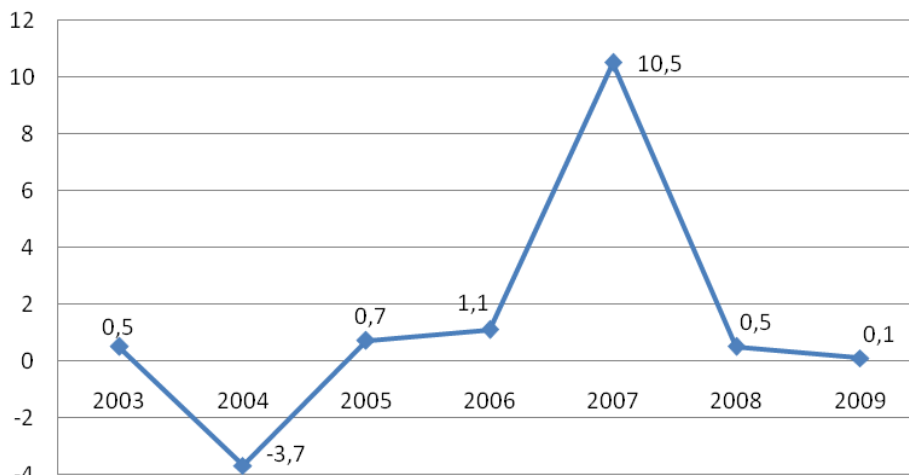
According to the Labour Draft Law, at the end of every calendar year the Kosovo Government must specify the minimum wage according to the proposal of the Social-Economic Committee.⁴⁶ During the specification of the minimum wage these factors need to be taken into account: the cost of living, the percentage of unemployment, and the national level of competition and productivity. The minimum wage is set on the basis of the hours worked.

⁴⁶Article 56 of the Labour Draft-law.

Based on the above factors, in 2005 the Threefold Consulting Committee, the predecessor of the Social-Economic Committee, set the minimum wage for that year. In 2005, the minimum wage was set at 120 euro.⁴⁷ The General Collective Agreement and its Annex were never put into practice. With the passing of the Labour Law, the Economic and Social Council must gather and set the minimum wage.⁴⁸ Since 2005, when for the first and only time the minimum wage was set, there were changes in inflation and employment statistics.

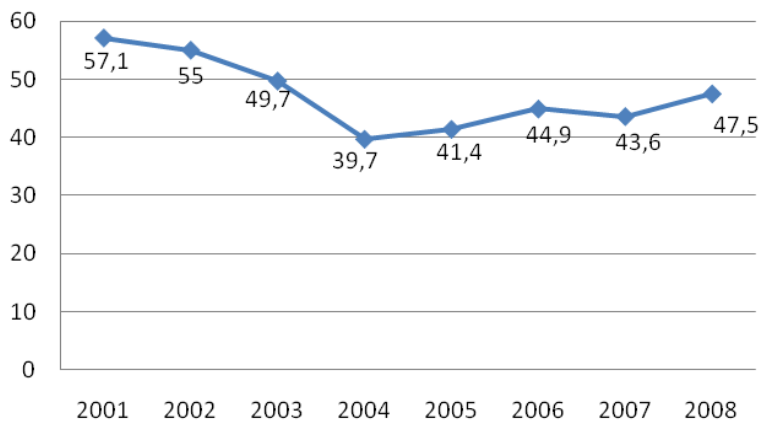
The graphs below reflect the change in the Index of the Price of Consumption, as indicators of inflation and the level of unemployment according to the year.

Consumer Price Index 2003-2009



Source: Statistical Office of Kosovo. Index of the Cost of Consumption for 2002-2008.

Unemployment 2001-2008



Source: Statistical Office of Kosovo. Statistics of the Labour Market 2008.

⁴⁷The Annex of the General Collective Agreement taken from, KKT on July 1, 2005.

⁴⁸If the Labour Draft-law is ratified this year in the Assembly, the Economic and Social Committee needs to set the minimum wage in 2011.

According to these indicators, the Social-Economic Committee needs to set a minimum wage in Kosovo. The IOB has 15 members: members from the Government (5 ministries), 5 from employers' organizations and 5 from employees' organizations. One of the members of this council expressed the view that the minimum wage at this point cannot be below 250 euro.⁴⁹ In the public sector the net average wage in 2008 was 211 euro.⁵⁰

⁴⁹ Interview with Agim Shahini, the President of the Kosovo Business Alliance (KBA), June 21 2010.

⁵⁰Source: MSHP, the Division of Administration of Pay and Payroll. Taken from the Statistical Office of Kosovo.

XI. Conclusion

The Kosovo Government has sent the Draft Law for approval to the Assembly of Kosova which leaves space for many revisions and changes. Despite this, the Assembly cannot change a major part of this Draft Law as the Government might withdraw the Draft Law if it considers that its content is changed significantly and if it believes that it cannot bear the law's financial cost. To avoid the possibility of a third withdrawal, the Government should be present and cooperative during the process when amending the Draft Law in the Assembly of Kosova.





Furthermore, the parliamentary commission should regularly inform employers' and employees' organizations (unions) for changes to be made in the content of this draft law. This is needed for the purpose of a better implementation once the Labour Law is passed by the Assembly. The key articles that should be paid special attention and be cleared and amended further include employment contract (Article 9), probation period (Article 14), engagement of interns (Article 15), working hours (Article 19), overtime work (Article 22), break during working hours (Article 27), annual leave (Article 31), paid leave (Article 38), maternity leave (Article 48), and compensation of sick leave (Article 58).



Institutions that will be implementing the Law on Labour, after it is passed, face major problems and in this situation they will not be able to implement it properly. Despite giving efforts on changes and approval of the Labour Law, the Government and the Assembly should strive to provide the necessary capacities to the implementing institutions. The competent courts responsible on solving labour contests are overloaded with so many cases that they are not able to solve them in an optimal time for both the employer and the employee. Now, and also with the new structure of courts, there will not be a special court for solving the administrative cases but only a department within the Main Court of Prishtina. The independent supervisory body, which also takes decisions on labour contests in civil service, faces shortcomings and has not a clear role. In the Labour Draft Law, the relation between these three institutions is not clearly defined.

After the Labour Law is passed, the Government of Kosova, as a member of Social-Economic Council (SEC), should again establish relationships with business organizations and unions in order to issue General Collective Agreements and other sector contracts. SEC should surpass disagreements interfering in its work since its re-establishment in 2009, as it will be the one that would be more active in issuing the collective agreements, setting the minimum wage, etc. after the work is done from the Assembly of Kosova. The minimum wage has only existed since the war was over. In 2005, the Trilateral Consultative Council (TCC) set the minimum wage of 120 euro. In 2008 the unemployment rate was 6.1%, higher than in 2005. Also inflation was continuously increasing since 2005. Only in 2007, the Consumer Price Index was higher at a rate of 10.5% in comparison to the previous year. According to these data, the minimum wage should double in 2011 in comparison to 2005.



XII. Annex I:





A comparison of key articles of UNMIK Regulation on Labour Law, Draft Law on Labour of 2006, Draft Law on Labour of 2008, and Draft Law on Labour of 2010⁵¹



Employment Contract:	Content:	Progress
UNMIK Regulation on Essential Labour Law	A contract of employment shall be concluded in writing and in an official language used in Kosovo	
Draft Law on Labour (2006)	A contract of employment shall be concluded in writing before the employee starts working. If the employment contract between the employer and employee is not concluded in writing and if the same is not submitted on the day of starting work or its date of expiry, it shall be considered that the employee has concluded permanent employment relationship	
Draft Law on Labour (2008)	A contract of employment shall be concluded in writing before the employee starts working	
Draft Law on Labour (2010)	A contract of employment may be in written or oral form, in accordance with employee and employer	



Maternity Leave:	Content:	Progress
UNMIK Regulation on Essential Labour Law	A female employee shall be entitled to at least 12 weeks paid maternity leave upon the birth of a child This leave shall be considered as a working period and shall be paid by the employer at a rate of no less than two-thirds of the woman's earnings.	
Draft Law on Labour (2006)	A female employee shall be entitled to at least 6 months maternity leave during pregnancy and upon the birth of a child This leave shall be considered as a working period and for the first 3 months shall be paid by the employer at a rate of 70% of the woman's earnings and for the next 3 months shall be paid by Kosova's Government Fund not less than 70% of woman's	





⁵¹ Krahasimi është bërë gjithnjë duke u bazuar në dokumentet më të fundit, andaj progresi apo regresi në një pikë matet me dokumentin që ka ekzistua para tij



	<p>earnings</p> <p>Based on competent health authority, the female employee may commence the maternity leave up to 45 days before the expected date of birth and at most 28 days before that date</p>	
<p>Draft Law on Labour (2008)</p>	<p>A female employee shall be entitled to at least 6 months maternity leave upon the birth of a child</p> <p>This leave shall be considered as a working period and for the first 3 months shall be paid by the employer at a rate of 100% of the woman's earnings and for the next 3 months shall be paid by the Kosovo Government Fund not less than 70% of woman's earnings</p> <p>Based on competent health authority, the female employee may commence the maternity leave up to 45 days before the expected date of birth and at most 28 days before that date</p>	
<p>Draft Law on Labour (2010)</p>	<p>A female employee shall be entitled to 12 weeks paid maternity leave. This period shall include a period of 6 weeks compulsory leave from the day of childbirth.</p> <p>On presentation of a medical certificate the woman may commence the maternity leave up to 45 days before the expected date of birth. In the period from 28 days before expected childbirth, the employer with accord of pregnant women may request that she begins her maternity leave if the employer finds that the woman is not able to perform her functions</p> <p>Upon presentation of a medical certificate indicating illness or complications arising from pregnancy or childbirth, the woman may extend her paid pre- or post-natal maternity leave up to 4 weeks. Maternity leave extended on medical basis shall not be deducted from the woman's annual sick leave.</p> <p>The woman is entitled to extend her maternity leave up to 12 weeks of unpaid absence from work. The woman is obliged to inform the employer of her intention to use the extended maternity leave not later than 15 days before the end of the mandatory paid leave or after using the leave of 4 weeks. Failure to notify the employer in due time may result in proportional reduction of the postnatal leave.</p> <p>Maternity leave benefits according to paragraphs 1, 2 and 3 of the present article constitute 70% of the gross salary of the employee in her latest year of employment.</p>	



Working hours:	Content:	Progress
UNMIK Regulation on Essential Labour Law	<p>Working hours shall not exceed 40 hours per week</p> <p>A working day shall not exceed 12 hours</p> <p>In the mining sector, a working day for employees underground shall not exceed 8 hours</p> <p>In the road transport sector, a working day for drivers shall not exceed 9 hours</p>	
Draft Law on Labour (2006)	<p>Full time working hours shall be forty (40) hours per week, unless otherwise provided for by the present law</p> <p>Full time working hours for an employee, under 18 years of age, shall not exceed 35 hours per week</p>	
Draft Law on Labour (2008)	<p>Full time working hours shall be forty (40) hours per week, unless otherwise provided for by the present law</p> <p>Full time working hours for an employee, under 18 years of age, shall not exceed 35 hours per week</p>	
Draft Law on Labour (2010)	<p>Full time working hours shall be forty (40) hours per week, unless otherwise provided for by the present law</p> <p>Full time working hours for an employee, under 18 years of age, shall not exceed 35 hours per week</p>	





Overtime work:	Content:	Progress
UNMIK Regulation on Essential Labour Law	<p>Overtime may not exceed 20 hours per week and 40 hours per month</p> <p>Overtime shall be paid at a rate of 20% per hour or, at the request of the employee, be compensated with corresponding time off during the following month.</p>	
Draft Law on Labour (2006)	<p>Extended working hours, in compliance with paragraph 1 of the present article, may only last as long as it is necessary, at most 4 hours a day but not more than 20 hours per week; 40 hours per month respectively</p> <p>An employee shall be entitled to 30% per hour of basic salary for overtime work</p>	
Draft Law on Labour (2008)	<p>Extended working hours, in compliance with paragraph 1 of the present article, may only last as long as it is necessary, at most 4</p>	





	<p>hours a day but not more than 20 hours per week; 40 hours per month respectively</p> <p>An employee shall be entitled to 30% per hour of basic salary for overtime work</p>	
Draft Law on Labour (2010)	<p>In extraordinary cases, with an increase in volume of work and other necessary cases, on request of the employer, an employee shall work for extended working hours (overtime) for a maximum of eight (8) hours per week</p> <p>An employee shall be entitled to 30% per hour of basic salary for overtime work</p>	

Working week:	Content:	Progress
UNMIK Regulation on Essential Labour Law	-	
Draft Law on Labour (2006)	A working week is 5 days	
Draft Law on Labour (2008)	A working week is 5 days	
Draft Law on Labour (2010)	The division of working hours during the week shall be defined by the employer	





Break during working hours:	Content:	Progress
UNMIK Regulation on Essential Labour Law	An employee shall be entitled to a 30 minute unpaid rest break during a working day	
Draft Law on Labour (2006)	<p>An employee working full-time working hours is entitled to a break of 30 minutes during the day, which cannot be used at the beginning or at end of working hours</p> <p>An employee working longer than 4 hours and less than 6 hours a day is entitled to a daily break of 15 minutes</p> <p>Break times under paragraph 1 and 2 of the present article shall</p>	

	not be considered as working time	
Draft Law on Labour (2008)	<p>An employee working full-time working hours is entitled to a break of 30 minutes during the day, which cannot be used at the beginning or at end of working hours</p> <p>An employee working longer than 4 hours and less than 6 hours a day is entitled to a daily break of 15 minutes</p> <p>Break times under paragraph 1 and 2 of the present article shall be considered as working time</p>	
Draft Law on Labour (2010)	<p>An employee working full-time working hours is entitled to a break, during the days, of at least 30 minutes, which cannot be taken at the beginning or at the end of working hours.</p> <p>An employee working longer than 4 hours and less than 6 hours a day is entitled to a daily break of 15 minutes.</p> <p>Break times under paragraph 1 and 2 of the present article shall be considered as working time.</p>	





Weekly leave:	Content:	Progress
UNMIK Regulation on Essential Labour Law	An employee shall be entitled to 1 day off during the working week, and where it is necessary for him/her to work during this period he/she shall be entitled to 1 additional day off during the following working week.	
Draft Law on Labour (2006)	An employee is entitled to a weekly rest break for at least twenty four (24) continuous hours.	
Draft Law on Labour (2008)	An employee is entitled to a weekly rest break for at least twenty four (24) continuous hours.	
Draft Law on Labour (2010)	An employee is entitled to a weekly rest break for at least twenty four (24) continuous hours.	


Annual Leave:	Content:	Progress
UNMIK Regulation on Essential Labour Law	After 1 year of employment, an employee shall be entitled to 18 working days of paid annual leave during each calendar year	
Draft Law on Labour (2006)	<p>An employee shall be entitled to at least 20 working days of paid annual leave during each calendar year</p> <p>A working week shall be 5 working days when defining the annual leave</p> <p>Holidays that coincide with working days, in accordance with the applicable law, shall not be counted as annual leave days.</p> <p>If an employee during the use of annual leave gets sick, the sick leave shall not compensate for annual leave</p>	
Draft Law on Labour (2008)	<p>An employee is entitled to a paid annual leave for at least eighteen (18) working days during a calendar year.</p> <p>The extension of annual leave shall be defined on the basis of work experience, whereby one day shall be added for every five years of service.</p> <p>The working week is 5 working days when defining the annual leave</p> <p>Holidays that coincide with working days, in accordance with the applicable law, shall not be counted as annual leave days.</p> <p>If an employee during the use of annual leave gets sick, the sick leave shall not compensate for annual leave</p>	
Draft Law on Labour (2010)	<p>An employee is entitled to a paid annual leave for at least twenty (20) working days during a calendar year.</p> <p>The extension of annual leave shall be defined on the basis of work experience, whereby one day shall be added for every five years of service.</p> <p>An employee performing tasks and duties which despite the application of protective measures cannot be protected from its harmful effects, is entitled to an annual leave of at least 30 working days for a calendar year</p> <p>Mothers with children up to three (3) years of age and single parents as well as persons with disabilities are entitled to</p>	




	<p>additional 2 days off.</p> <p>Unused annual leave shall not be compensated in money, unless the employment relationship of an employee is about to expire</p>	
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Sick Leave:	Content:	Progress
UNMIK Regulation on Essential Labour Law	<p>An employee shall notify the employer within 48 hours of taking sick leave</p> <p>Where sick leave is taken as a result of a work-related accident or illness, an employee shall be entitled to his/her salary/wage for such period</p>	
Draft Law on Labour (2006)	-	
Draft Law on Labour (2008)	<p>An employee is entitled to salary compensation during the time of sick leave when he/she is absent from work due to temporary impossibility to work</p> <p>The duration for sick leave is determined according to provisions on Health Insurance of Kosova.</p> <p>An employee shall notify the employer on sick leave within 48 hours of taking sick leave</p> <p>In cases when sick leave is taken due to a work-related accident or illness, an employee shall be entitled to his/her full salary/wage for such period but not longer than three (3) months.</p> <p>An employee shall be entitled to salary compensation in case of work fatalities or related illnesses up to 100% which he/she would otherwise has earned in that month when the work fatality or related illness happened</p>	
Draft Law on Labour (2010)	<p>An employee is entitled to compensation for ordinary sick leave up to 10 workdays in a year with 70% salary compensation</p> <p>An employee is entitled to sick leave without payment in agreement with Article 39 of the present Law.</p> <p>An employee is entitled to compensation for sick leave as a result of documented occupational injury and related illness as a result of performing work or services for the employer at 70% salary compensation.</p>	


	<p>An employee is entitled to compensation for sick leave according to paragraph 3 of this Article after 10 days of absence from work and up to a maximum 90 working days in a year</p> <p>The provisions of this article will be valid until in time of entry into force of the legislation for care and protection health</p>	
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Paid absence:	Content:	Progress
UNMIK Regulation on Essential Labour Law	An employee shall be entitled to compassionate leave for a marriage, birth or death in his/her family. The period of leave and the rate at which it is paid shall be subject to agreement between the employer and the employee.	
Draft Law on Labour (2006)	An employee is entitled to paid absence up to 5 working days during a calendar year with a salary reward in case of: his/her marriage, birth of a child, illness or death of a close family member and in other cases defined by Employer's Internal Act, employment contract, or collective agreement	
Draft Law on Labour (2008)	An employee shall be entitled to paid absence up to 5 working days during a calendar year with a salary compensation in case of: his/her marriage, birth of a child, severe illness or death of a close family member and in other cases defined by Employer's Internal Act, employment contract, or collective agreement	
Draft Law on Labour (2010)	An employee is entitled to a paid absence from work up to: two (2) days in case of his/her marriage; three (3) days in case of the death of a close family member; in other cases defined by Employer's Internal Act, employment contract, or collective agreement	

Probation period:	Content:	Progress
UNMIK Regulation on Essential Labour Law	-	
Draft Law on Labour (2006)	In accordance with employment contract, the probation period cannot be longer than 3 months.	

	During the probation period, the employer and employee may terminate the employment contract through a prior notice of seven (7) days.	
Draft Law on Labour (2008)	In accordance with employment contract, the probation period shall be three (3) months. During the probation period, the employer and employee may terminate the employment contract through a prior notice of seven (7) days.	
Draft Law on Labour (2010)	The probation period can last at most six (6) months in compliance with the present law, collective agreement and Employer's Internal Act. During the probation period, the employer and employee may terminate the employment contract through a prior notice of two (2) days.	

Interns:	Content:	Progress
UNMIK Regulation on Essential Labour Law	-	
Draft Law on Labour (2006)	The practical work of an intern can last at most one (1) year Extension of internship is defined in accordance with General Act based on educational or professional achievement, respectively depending on job duties and tasks for which the intern has to be trained for, the type of training and also the type and time of passing the professional exam The members of commission examining the intern for the professional exam can only be people who have at least the same educational level and at least to members of the commission shall be from the same profession	
Draft Law on Labour (2008)	The practical work of an intern can last at most one (1) year Extension of internship is defined in accordance with Internal Act based on educational or professional achievement, respectively depending on job duties and tasks for which the intern has to be trained for, the type of training and also the type and time of passing the professional exam	

	<p>The members of commission examining the intern for the professional exam can only be people who have at least the same educational level and at least two members of the commission shall have to be working in the same profession</p> <p>An intern who established an internship contract has the right to be paid up to 70% of basic salary.</p>	
<p>Draft Law on Labour (2010)</p>	<p>The practical work of an intern with higher, university and post-graduate qualification shall not last more than one (1) year, whereas the practical work of an intern with secondary education shall last no more than six (6) months.</p> <p>The employer, in agreement with interested parties, may engage interns without pay or any other rights emerging from the employment relation, apart from being obliged to offer occupational safety and protection according to the law</p>	

XIII. Annex II: International standards and a comparison with regional countries

Country/ International standard	Kosova ⁵²	ILO conventions	Macedonia	Montenegro	Albania	Serbia
Contract	Written and verbal	According to international laws/collective agreements	Indefinite	Indefinite	Written and verbal	Indefinite
Working hours	40 hours	40 hours	40 hours	40 hours	40 hours	40 hours
Working Week	Indefinite	n/a	40 hours			
Weekly leave	At least 24 hours	At least 24 hours	24 hours			
Maternity Leave	12 weeks	14 weeks	9 months and 1 year for more than a child	365 days		365 days
Annual Leave	20 days (plus one day added for 5 years of experience)	Not less than 3 weeks for one year of employment	Min. 18 days and max. 26 days	Min. 18 days	Min. 4 weeks	Min. 18 days
Sick Leave	10 paid days	n/a	Indefinite			
Overtime work	8 hours per week	n/a	Max. 10 hours per week	Indefinite	10 hours per week	Max. 20 hours per week
Probation period	6 months			Max. 6 months	3 months	Max. 3 months
Interns	6 months up to 1 year unpaid leave		Max. 1 year	6 months up to 1 year		
Break during working hours	Minimum 30 minutes		30 minutes	30 minutes		
Paid Leave	2-3 days		7 days per year	7 days	5 days	5 days
Compensation for medical leave	70% of salary	60%			80% of salary for 14 days	

⁵² Draft Law on Labour 2010.