

Lazar Jovevski, PhD*

THE SYSTEM OF SAFETY AND HEALTH AT WORK IN WESTERN BALKAN COUNTRIES

This paper presents information regarding countries in the Western Balkan region, including Macedonia, Serbia, and Montenegro, when it comes to work safety and health systems at work. The purpose of this research is to link and benchmark the systems of occupational safety and health, comparing national characteristics, positive benefits, and existing deficiencies. Relevant information can be obtained on the national characteristics of the Western Balkan countries and therefore can be compared which of the countries indicated, implemented, and to what extent, international and European occupational safety and health standards and thus created a preventive culture in the workplace. By analysing and unifying the conclusions and recommendations of the national systems, this paper provides an overview of what has been achieved so far and in which direction the region is moving in terms of safety and health at work, bearing in mind the European Union 89/391 Framework Directive on safety and health at work. In this way, for the first time in the region, it is possible to create a complete picture of the situation, problems and challenges of the OSH system, but also to pave the path for the future development in the field of occupational safety and health.

Key words: *Safety. – Health. – Occupation. – Work place.*

1. FRAMEWORK COMMON POINTS

Each of the national occupational safety and health systems of Western Balkan countries¹ included in this research has certain com-

* The autor is associate professor at the Faculty of Law “Iustunianus Primus” University “Sants Cyril and Methodius” Skopje, l.jovevski@pf.ukim.edu.mk (Severna Makedonija)

1 This scientific work is result of working on regional project which included countries of the Western Balkans, which means Macedonia, Serbia, Montenegro and Albania.

mon characteristics. Countries from the region can be grouped in several groups, depending on different criteria that are taken, like Legal framework and policy framework, Compliance with international standards, Organizational frameworks and enforcement mechanisms, role of social partners in occupational safety and health, current activities related to occupational safety and health, records in the field of occupational safety and health etc. Thus, if we take the criterion set in “Legal framework and policy framework”, we will see that countries such as Macedonia, Serbia and Montenegro have partially developed a normative system for occupational safety and health in whose structure are included general Labour Law, special law relating the OSH system, as well as a number of by-laws in the form of rulebooks. However, following submitted studies, there is a serious lack of implementation of occupational safety and health standards. On the other hand, regarding the implementation of international standards in normative acts, the general impression is that in all countries in the Western Balkan region there is a moderate to a high degree of harmonization and compliance with the European Union framework 89/391 and International Labour Organization Convention No. 155.²

It is noticeable that EU Occupational Safety and Health Directive 89/391 is the basis of the existing national law on safety and health at work³ in all countries where the survey was conducted. This is a general directive that gives the framework for safety and health at work and which after its adoption became the most important act in the field of occupational safety and health and many other directives were adopted based on it. The Content of this Directive applies to employers and workers in almost all branches and industries, both in the private and public sectors. Derogations exist only in relation to non-application in certain activities, unless a special regulation regulates this matter, such as the armed forces, the police, in some special activities of the protection and rescue forces, where safety and health at work need to be provided as much as far as possible according to the objectives of the Law on Safety and Health.⁴

2 L. Jovevski, *Regional occupational safety and health study of the Western Balkan countries*, Skopje 2018, 9.

3 The term “occupational safety and health” is not used in all countries where survey is conducted. In Montenegro, it is used term “health and safety at work”.

4 There are derogations regarding the protection of persons performing temporary work as well as the housekeeping in relation to the protection of health

On the other hand, the ILO Occupational Safety and Health Convention 155, is a basic and framework convention, covering the protection of occupational safety and health for all employees and all workplaces. It is developing and upgrading the overall modern system of occupational safety and health in new ILO normative system. It should be noted that prior to this convention there were other acts that regulated some special areas or services of occupational safety and health. The Convention and Recommendation No. 164 were adopted in 1981, in the same area complementing the Convention.

Regarding the third issue, “Organizational frameworks and enforcement mechanisms” in some countries such as Macedonia, Serbia and Montenegro, there is a relatively branched system of bodies and institutions that service the system.

What is common to all countries is that there is a challenge of staffing, expertise and education regarding the application of the acts and measures for safety and protection at work, which is a continuous process and it must be conceptualized as an Archimedes’ principle moving progressively.

Regarding the issue of social partners’ role in development and application of OSH system, one regional characteristic can be drawn and that is no satisfactory union activism and a level of proactive affirmation of problems and issues of safety and health at work. Trade unions, although with possibility to participate in creation of rules and normative framework for safety and health in all countries, still have not achieved the aforementioned. Often, in practice, the provisions of the Law on Labour, in the field of occupational safety and health in collective agreements are simply transferred. On the other hand, there is a lack of elaboration as well as the lack of amendments of provisions of Law on Occupational Safety and Health in specific parts of collective agreements, and in that way a valuable opportunity to underline certain issues related to safety and health, through the social dialogue expressed in collective agreements is lost.

The need to raise public awareness of safety and health issues at work is an activity that can and must be focus in each of the countries separately. However in some countries such as Macedonia, Serbia and Montenegro there is moderate media coverage and activities that are

and safety at work. This is regulated by Directive 91/383/EEC and amended by Directive 2007/30/EC, forming the Framework Directive.

aimed at promoting health and safety at work. The situation in Albania indicates that it is necessary to undertake bigger communication strategies for promotion of OSH programs and activities.

The most common denominator of all countries in which the research is conducted is the data related to occupational safety and health. It is evident that all countries face a real challenge in terms of presenting unique real data for recording injuries, occupational diseases and fatal accidents on workplace. According to certain authors, there is a lack of records system that needs to be networked creating a single database at national level. It should be unique and unified, compatible with the EU statistics and should help to accurately measure the number of injuries, deaths at work, and occupational diseases so that the State can take right steps in dealing with workplace risks, thereby reducing the causes that lead to a disruption of personal health and loss of life.

Data regarding demographic aspects, economic statistics, as well as health statistics aim to present the demographic and social structure of the population, in order to plan future activities according to current socio-economic and demographic characteristics and potentials. In the end, each of the national OSH-systems contains concluding observations and several recommendations for future steps and activities.

A common conclusion that can be drawn for all countries is there is a need to follow given European standards and positive experiences regarding the occupational health and safety system. In doing so, each country affirms its own view of the things given its national needs and opportunities. Safety and health at work present a significant issue in the European Union. Consideration of the issue in its entirety by the Council and the Commission only confirms the Union's determination through the Directives (and through other acts) as well as through social dialogue to address the existing and upcoming issues in this area with the aim of an intelligent and proactive way to create a culture of prevention of accidents at work, occupational diseases and consequences that directly have devastating financial effects on the companies themselves. By following the guidelines given in the framework and in the individual safety and health directives, realistic bases for minimum standards for safe and healthy jobs in the European Union are created, creating a community that is a desirable destination for the pre-accession countries of the Balkans.

In addition, the aspect of the safety and health at work is developed and adopted in a prism of dignity at work⁵. The dignity at work encompasses the protection of the very person in her spiritual, ethical and moral phenomenon, and not only the protection of the *physique*. This is best seen in the development of consciousness, but also the norm for the protection of the “beauty of the human person”.⁶ It is directly related to the protection against harassment or blackmail at work, as well as the protection of the right to privacy at the workplace.⁷ The European Court of Justice is particularly active in these fields, especially regarding the protection of privacy. These new trends, in addition to their actuality in the European Union, are developing internationally in the ILO, the UN, and the Council of Europe, forming a part of the accepted content of the *acquis communautaire*.

Here, it can be said that the OSH system as a fundamental source of the labour legislation in Europe evolves paralely with the so-called third generation of human rights. Today’s occupational safety and health is multifaceted and applies to different professions, for both cathogories– all employees as well as for special categories of workers. In the EU and in the Council of Europe by developing a safety and health at work and nurture its core value, which forms an integral part in the protection of man himself as an employee, his life, health and dignity. It protects the man – employee, the worker – citizen as a person in the physical and spiritual sense.

2. LEGISLATIVE FRAMEWORK AND POLICIES IN THE FIELD OF OSH

Considering the space we are given first of all we will focused on comparative analyses of Macedonian, Serbian and Montenegro Osh-a systems.

2.1. Macedonian case

Consequently, in the analysis done in the Study for safety at work for the Republic of Macedonia, it is provided in Constitution of

5 L. Jovevski, *Sistem zaštita zdravlja u bezbednosti na radu i zastita ratione personae /pravni aspekti*, Skopje 2016, 268.

6 B. Lubarda, *Evropsko radno pravo*, CID, Podgorica 2004, 264.

7 *Ibid.*, 268.

the Republic of Macedonia, more precisely in the Article 32 paragraph 1, as following: “Everyone has the right to work, free choice of employment, and protection during work and material security during the temporary unemployment”. In R. Macedonia as a result of the process of harmonization of domestic legislation with European, national legislation transposed the framework directive for Safety and Health at Work 89/391/EEC (Council Directive of 12 June 1989). Directive 89/391/EEC set the basic standards, while each country can introduce higher standards and provisions for the protection of workers.⁸ The Framework Directive applies to all working sectors, both public and private. The implementation of this Directive at national level also changes the name of the whole area from “safety at work” to “Safety and health at work”. The Law on Occupational Safety and Health in the Republic of Macedonia was adopted on 01.08.2007 and is fully harmonized with European Framework Directive on Safety and Health at Work 89/391/EEC. The basic principle, according to the Law, is “the principle of prevention of work injuries, occupational diseases and work-related illnesses”. In the Law on Safety and Health at Work, the institute “risk assessment” is introduced for the first time, thus introducing a new approach in preventive action towards raising the preventive approach for creating safe and healthy working conditions with the goal of protecting workers’ health.⁹ The Ministry of Labour and Social Policy and the Ministry of Health are responsible for the Occupational Safety and Health Policy, which is guided by the objectives related to EU accession. Since the entry into force of the Law in 2007, until September 2010, the implementation of this Law is at a relatively low level, waiting for the first 12 legal entities that are authorized to carry out risk assessment and implementation of other provisions of the law.

According to the latest data (January 2018), their number has grown to 47 authorized legal entities performing work in the field of OSH in the Republic of Macedonia. In addition to the Law on OSH, there are other regulations that are issued by the competent ministries and directly regulate the OSH matters: Law on health care – on the principle of equality, solidarity and reciprocity; Law on Pension and

8 See: L. Jovevski, *op. cit.* fn. 5, 147–152.

9 L. Jovevski, “The Concept of Prevention Versus Reparation in the System of Protection of Health and Safety at Work (Labour Law-Social Law)”, *Зборник на тиругови* (eds. Angel Ristov, Lazar Jovevski), Ohrid 2013.

Disability Insurance – with this law, in the field of OSH prescribes and defines what is Immediate danger of disability; Disability pension; Family pension and Physical damage; Law on Labour Relations – contains general provisions that indicate the obligations and responsibilities of employers, as well as the rights and obligations of OSH workers; Labour Inspection Law – regulates the organization and work of the State Labour Inspectorate that carries out supervision of inspection over the application of laws and regulations prescribed for labour relations, which include the application of the Law on Safety and Health at Work, i.e. acts related to this area. These acts include labour relations, employment, occupational safety, collective agreements, employment contracts and other acts governing the rights, obligations and responsibilities of workers and employers in the areas of labour relations, employment and occupational safety. In addition to these laws in the Republic of Macedonia several strategies for safety and health at work were adopted: *Occupational Safety and Health Strategy 2020*; *Strategy for Promoting Safety and Health at Work in the Republic of Macedonia through the active participation of CSOs (2015–2019)*; *Strategy for Occupational Safety and Health of the Republic of Macedonia (2011–2015)*; *Community Health and Safety at Work (2007–2012)*.

2.2. Serbian conditions

Safety and health at work is a right that is envisaged in the Constitution of the Republic of Serbia, according to which everyone has the right to be respected at work, protection at work and no one has the right to waive these rights.¹⁰ The specific law that regulates occupational safety and health is the Law on Safety and Health at Work, and it was adopted in the Republic of Serbia in November 2005.¹¹ The same, ten years later, receives its amendments and additions, published in the Law on Changes and Amendments to the Law on Safety and Health at Work, adopted in 2015. It comes into force on November 13 of the same year.¹²

The Law on Occupational Safety and Health is largely in line with the Council Directive 89/391 / EEC, but the European Commission's

10 See: P. Bulat, *OSH Study of Serbia*, Skopje 2018.

11 Law on Safety and Health at Work, *Official Gazette of the RS*, No. 101/05.

12 Law on Changes and Amendments to the Law on Safety and Health at Work, *Official Gazette of the RS*, No. 91/15,

progress reports on candidate status indicates the obligation for further harmonization with European practice, not to mention that rulebooks from the time of the former FNRJ are in force and still used, thus challenging the harmonization of certain provisions of this Law with European innovations. In Serbia, a Strategy for occupational safety and health for the period 2013–2017 had been adopted.¹³

In addition to the Law on Health and Safety at Work as well in accordance with the fact that measures for safety and health at work are applied in all spheres (that is, all employees with employers on any basis) a series of by-laws are brought and they are divided into several groups:

1. Bylaws that closely regulate certain issues of the law¹⁴
2. By-laws incorporating EU directives into national legislation¹⁵

13 Strategy for occupational safety and health for the period 2013–2017, *Official Gazette of the RS*, No. 100/13.

14 They are few rulebook until 2018, among which: Rulebook on the program, the manner and amount of the expenses for taking the professional exam in performing safety and health at work and the work of responsible persons; Rulebook on the conditions and amount of the costs for issuing licenses for work in the field of occupational safety and health; Rulebook on the procedure for determining fulfilment of the prescribed conditions in the field of safety and health at work; Rulebook on the manner and procedure for risk assessment at the workplace and in work environment; Rulebook on the content and manner of issuing forms for the reports on injuries at work and occupational diseases; Rulebook on the procedure for reviewing and checking the equipment for working and checking the conditions in the work environment; Rulebook on the records in the field of safety and health at work; Rulebook on previous and periodical medical examinations of employees at high-risk workplaces; Rulebook on the program, manner and amount of expenses, preparation and taking the professional exam for performing the work coordinator for preparation of projects and professional examination for carrying out work coordinator for performing works; Rulebook on the content of the elaborate on arrangement of construction sites; Rulebook on the program for knowledge improvement and other issues related to the improvement of the knowledge of occupational safety and health, P. Bulat, *op. cit.* fn 10.

15 This system until 2018 includes a large number of acts among which: Decree on safety and health at work of temporary and mobile construction sites; Rulebook on preventive measures for safe and healthy work with the use of personal protective equipment and equipment; Rulebook on Preventive Measures for Safe and Healthy Work at the Workplace; Rulebook on preventive measures for safe and healthy workplace when using equipment for work; Rulebook on safe and healthy work with manual transmission of loads; Rulebook on

In addition to these, there are other bylaws that regulate the OSH matter, which are aimed at the establishment of a closed system for protection at work in Serbia. However, it seems that in the future some normative acts need to be upgraded and improved, in order to increase the practical penetration of the system.

2.3. Montenegro's legal system

Occupational health and safety as constitutional principle is stipulated in the Constitution of Montenegro in accordance with Article 64, paragraphs 3 and 4. In accordance with these constitutional provisions, a system of safety and health at work in Montenegro is developed. In that direction, the Assembly of Montenegro on the session of 25 July 2014 adopted the Law on Occupational Health and Safety, whereby the Law on Occupational Safety and Health is put outside the force. The new Law is fully in line with the Council of Europe Directive 89/391/EEC of June 12, 1989 to introduce measures to encourage improvements in the safety and health of employees at the workplace. The Law envisages the obligations that employer must undertake to implement protective measures, workplaces with special working conditions, protection measures. The Law anticipates and regulates the health inspection of workers, protection against fires, evacuation and rescue, as well as serious or immediate danger, informing employees, employee representatives, qualifying professional work, and professional training. The rights and responsibilities of workers are also foreseen.

On the other hand, the Government of Montenegro in July 2016 adopted the Strategy for the Promotion of Health and Safety at Work in Montenegro 2016–2020 with an action plan for implementation. This strategy starts with the legislation in this field and is based on the principles of social dialogue at all levels between employers, workers' representatives and employees and trade union, who are obliged to co-

preventive measures for safe and healthy work in the use of crane equipment; Decree on preventive measures for safe and healthy work in contact with asbestos; Rulebook on preventive measures for safe and healthy work in contact with chemical substances; Decree on preventive measures for safe and healthy work in exploitation of mineral resources with deep drilling; Decree on preventive measures for safe and healthy work in underground and surface exploitation of mineral resources; Decree on preventive measures for safe and healthy work of ships engaged in fishing, P. Bulat, *op. cit.* fn. 10.

operate in the procedure for determining their rights obligations and responsibilities related to protection at work.

There are several laws that directly apply to the basic aspects of the health and safety at work. Among these laws are the following Law on protection and health at work; Law on work; Law on Health Care; Health Insurance Law; Law on pension and health insurance; Law on Labour Inspection; Law on the Army of Montenegro; Decision on Montenegrin standards and related documents; Law on safety of maritime navigation; Law on protection against ionized and radioactive safety; Law on Mining; Law on the Social Council.

Apart from the laws in Montenegro that make the skeleton of the OSH system, there are also several by-laws, a total of 52, which regulate this area such a few rulebooks.¹⁶

There are also laws that regulate labour inspection, then labour relations and employment, branch collective agreements, laws and by-laws that cover the aspects of the ZZDP but are issued by other ministries.

Regarding the Strategy of Montenegro for Occupational Health and Safety 2016–2020, the objectives that are to be achieved are as follows:

- 1) Strengthen policies that address occupational health and safety, including the integration of occupational health and safety at work in other sectoral policies and finding new solutions;
- 2) Reducing the number of workplace injuries and the relationship between the workplace and the environment;
- 3) Reducing the number of occupational diseases and work-related illnesses;
- 4) Reducing the number of work-related injuries that are associated with the fulfilment of work tasks;
- 5) Improving the health status of employees;
- 6) Reduce work-related illnesses, occupational diseases and work-related illnesses.

16 Rulebook on measures for protection of work from the risk of exposure to biological materials, Rulebook on measures for protection against exposure to explosive atmospheres, Rulebook on taking an expert exam for persons who are engaged in occupational safety activities, Rulebook on special measures for protection at work in forestry, Rulebook on hygienic and technical protection measures in quarry and brickwork.

In Montenegro, the following institutions and organizations undertake activities in the field of occupational health and safety, namely Government, responsible ministries, Inspectorate, Health Insurance Fund, Pension and Health Insurance Fund, Institute for Development and Research in the area, and the Economic Chamber of Montenegro, Social partners, a Social Council composed of representatives of the social partners, 36 authorized health and occupational safety and health organizations, Association for protection of work in Montenegro and insurance companies.

The national policy for protection of health at work is based on certain goals that need to be met in the years to follow. Among others, these are:

- 1) Adoption of laws and by-laws and other general acts on occupational health and safety in line with the regulations of the EU and the ILO, as well as their implementation, and at the same time encouraging all social partners to regulate issues in this area through the system of collective bargaining;
- 2) Further development and adoption of mechanisms and procedures for implementation of occupational health and safety regulations;
- 3) Raising awareness of the importance and gradual introduction of health and safety at work in the educational system of Montenegro;
- 4) Promotion of culture and examples of good practice in this field at all levels of organization of employers, workers and the state as a whole;
- 5) Improve the collection of statistical data and develop a database;
- 6) Connecting with international organizations in this area;
- 7) Promoting social dialogue;
- 8) Informing employees and their involvement in issues related to this area.

3. COMPLIANCE WITH INTERNATIONAL STANDARDS

3.1. *Harmonization in Macedonia*

In Macedonian framework, we can say that there is a high degree of harmonization and implementation of inter-state OSH standards in the national legal system and public policies. What is lacking is practical relevance of the norms and the implementation of the policies. On the other hand, the occupational safety and health policy is based on relevant international regulations and documents such as ILO Conventions (Republic of Macedonia has ratified 74 ILO Conventions), EU Directives and EU Strategy: Improving the quality and productivity of the work, the Community Strategy for Safety and Health at Work 2007–2012, as well WHO Global Action Plan for the Health of Workers 2008–2017.

If we look at the national study,¹⁷ it is undoubtedly that the Macedonian legislation in the field of OSH, to a large extent, has quantitatively and qualitatively incorporated the European standards and standards of the International Labour Organization. However, there is a lack of practical application of the aforementioned and the lack of their modification of the Macedonian needs and conditions, both in the labour market and in the institutional capacity of the OSH sector (these include state bodies as well as companies and civil society organizations). This means that certain changes in the legal framework, as well as in the by-laws for the purpose of filling in the gaps, as well as the introduction of OSH standards will be required in the future, which will be at the level of the needs of the Macedonian system for safety and health at work.

3.2. *Serbian experience*

The Republic of Serbia is an ILO member since creation in 1919. So far in the field of occupational safety and health, Serbia has ratified a few ILO conventions in the form of a law whose norms are directly implemented in national legislation in the field of occupational health and safety and as such they are directly applicable. The following conventions have been ratified:

17 T. Velinovski, *OSH Study of Macedonia*, Skopje 2018.

- 1) Convention no. 12 for compensation of damage in case of an accident at work in agriculture;
- 2) Convention no. 13 – to ban the use of leaded white in colouring industry;
- 3) Convention no. 17 – for compensation paid to workers in the event of an accident at work;
- 4) Convention no. 18 – for compensation paid to workers for occupational diseases;
- 5) Convention rev. 19 – for equal treatment of foreign and domestic workers in respect of accident compensation at work;
- 6) Convention no. 81 for inspection of work in industry and trade from 11. 07. 1947;
- 7) Convention no. 87 – on trade union freedom and protection of trade union rights (1948);
- 8) Convention no. 89 for the night work of women employed in the industry;
- 9) Convention no. 90 for children’s night work in the industry – revised;
- 10) Convention no. 98 – on the application of the principles of organizing and collective bargaining;
- 11) Convention no. 103 protection of motherhood.
- 12) Convention no. 119 for the protection of machinery;
- 13) Convention no. 121 for benefits in case of accident at work and occupational disease;
- 14) Convention no. 126 for the accounting of the crew of fishing vessels;
- 15) Convention no. 129 for inspection of work in agriculture;
- 16) Convention no. 135 the protection and relief granted to workers’ representatives in the enterprise;
- 17) Convention no. 136 to protect against the danger of benzene poisoning;
- 18) Convention no. 139 for the prevention and control of occupational risks caused by carcinogens and agents;
- 19) Convention 144 for tripartite consultations since 1976, as well as Recommendation 152 on Tripartite Consultations of 1976 and Recommendation 113 on Negotiations of 1960 relating to this issue.

In addition to the previously mentioned conventions with an older date and some of them are no longer applicable, Serbia has ratified the following especially important ILO acts, among which are the following:

- 1) Convention no. 148 to protect workers from occupational risks in the working environment caused by polluted air, noise and vibration;
- 2) Convention no. 155 for safety and health in the desktop;
- 3) Convention no. 159 for the professional rehabilitation and employment of disabled persons;
- 4) Convention no. 161 for medical services;
- 5) Convention no. 162 for the safety of asbestos use;
- 6) Convention no. 167 on safety and health in construction;
- 7) Convention number 181 for private employment agencies;
- 8) Convention no. 182 for the worst forms of child labour and ILO Recommendations No. 190 on Prohibition and Urgent Action for the Abolition of the Worst Forms of Child Labour.

Pursuant to the law on the confirmation of the Stabilization and Association Agreement concluded between Serbia and the European Communities and their members, Serbia is committed to harmonising domestic legislation with the EU's, in other areas as well as in the field of occupational safety and health. In this area, Serbia introduced the following European directives into domestic legislation:

- 1) Freamvork Directive 89/391/EC;
- 2) Council Directive 92/57/EEC;
- 3) Council Directive 89/656/EEC;
- 4) Council Directive 89/654/EEC;
- 5) Council Directive 89/655/EEC;
- 6) Council Directive 90/269/EEC;
- 7) Council Directive 90/270/EEC;
- 8) Directive of the European Parliament and of the Council number 2009/148/EEC;
- 9) Council Directive number 98/24/EC;
- 10) Council Directive number 92/91/EEC;
- 11) Directive 92/104/EEC;

- 12) Directive 93/103/EC;
- 13) Council Directive no. 92/58/EEC;
- 14) Directive no. 2000/54/EC;
- 15) Directive no. 2002/44/EC;
- 16) Directive no. 2003/10/EC;
- 17) Directive of the European Parliament and of the Council 2004/37/EC;
- 18) Directive no. 1999/92/EC;
- 19) Directive 2013/35/EU;
- 20) Directive of the European Parliament and of the Council 2006/25/EC.

These European directives should be fully transposed into the Serbian national legislation in the following period thus harmonizing the national OSH with European. From the data obtained from the national study, it can be concluded that most of the already existing national legislation in Serbia is in line with European standards.

3.3. Montenegros' OSH legal system

Harmonization and implementation with international standards and national legislation is a priority for Montenegro.¹⁸ From 2015, 39 new laws have been adopted in accordance with the EU directives, as well as 68 conventions, which after independence have been taken over by succession.

- 1) Degree of Compliance with ILO Conventions: On July 14, 2006, Montenegro became a full member of the ILO and 68 conventions have been taken, after independence, as well as Convention No. 183, 167, 187, and the Convention on the Operation of the Sailors of 2006.
- 2) Degree of compliance with the EU directives: Under the Stabilization and Association Agreement between the European Communities and their member states on the one hand and Montenegro, on the other hand, the agreement was signed on 15 October 2007. With Montenegro's EU accession program for the period 2018–2020 under Chapter 19– Social

18 Z. Popovic, *OSH Study of Montenegro*, Skopje 2018.

policy and employment harmonization with EU legislation in this area is envisaged. In this program in the field of occupational health and safety, 3 laws are harmonized with the EU directives:

- 3) Law on Occupational Health and Safety;
- 4) Law on Safety, Organization and Efficiency of Railway Transport;
- 5) Law on protection against ionized radiation.

4. THE ROLE OF THE SOCIAL PARTNERS IN THE OSH

4.1. Macedonia

4.1.1. Employers' organizations

Organization of Employers of Macedonia (OEM) is the only representative organization of employers that has legitimacy to conclude general collective agreements and participate in tripartite social bodies. The mission of this body is the creation of measures and policies through the active participation of employers and the promotion of social dialogue with all stakeholders. They point out to the need for further training and training in the field of OSH in order to achieve the desired effect.

4.1.2. Workers' organizations

There are many organizations in the Republic of Macedonia that represent the interests of the workers. The most common legal form that is encountered is trade union organization, but there is a possibility for informal association of employees on a level without legal subjectivity, who, for the realization of their rights stipulated by the Law on Labor Relations, nominate their representatives and collectively agree with the employer on certain issues¹⁹. However, a more stable and legally regulated form is, of course, trade union associations which, according to previously defined qualification norms for representativeness, are the official authorities in the tripartite bargaining/negotiation.

19 See: L. Jovevski, *Legal aspects of collective bargaining in Republic of Macedonia*, QUASTI, Macedonia 2015.

Some of the most representative and oldest trade union organizations in the Republic of Macedonia are presented.

4.1.2.1. *Union of Trade Unions of Macedonia (TUM/SSM)*

Independent, representative union on national level exists in the private and in the public sector. General, strategic goal of TUM is to provide healthy and safe working conditions, which will preserve the human dignity and its health at the workplace. For TUM, there is an important place for raising awareness among the employees, but also for the working dialogue with the relevant subjects in the state, i.e. with the social partners, scientific and professional organizations and institutions, experts, professionals and the non-governmental sector regarding issues in the field of safety and health at work. They continuously organize seminars, trainings, OSH conferences in order to inform all stakeholders about the rights and obligations of the OSH. SSM undertakes the following activities for the development and promotion of OSH:

- 1) discuss and require the employer and management staff to consistently apply the regulations and take appropriate OSH measures;
- 2) negotiate with the employer for exercising the right to work in conditions that do not pose a risk to life and health;
- 3) participate in the Council for Safety and Health at the national level;
- 4) cooperate with employers' organizations, specialized scientific and professional organizations and institutions, the labor inspector, international trade union organizations, the ILO and other organizations;
- 5) provides free legal aid and represents the employees, members of TUM, in front of the court.

4.1.2.2. Confederation of Free Trade Unions (CFTU/KSS)

The Confederation of Free Trade Unions is a voluntary union organization that brings together public and private sector unions in the Republic of Macedonia, which form two federations: the Federation of Public Sector and the Federation for the Private Sector.

KSS is an autonomous organization, independent from the government, political parties, employers and other organizations and interest groups, established in order to strengthen the active role of working people as a social partner in the country. One of the basic tasks of CFTU is to contribute to creating healthier and safer jobs, as well as improving the health of workers. The basic goals of CFTU are: economic and social security of workers, protection and promotion of labor rights, decent living standards, timely and dignified wages and pensions, guaranteeing the minimum wage, healthier and safer jobs, health care for all citizens, development of democracy, social justice and solidarity.²⁰

4.1.2.3. Union of Independent and Autonomous Trade Unions of Macedonia (UNASM)

The Union of Independent and Autonomous Trade Unions of Macedonia is a Macedonian trade union center on a national level that advocates the application of international standards, conventions and recommendations. In the Macedonian society, it takes concrete actions in order to promote and promote workers' rights. Established in 1991, the pluralism of the trade union movement in Macedonia began.

4.1.3. Economic and Social Council

The Economic and Social Council is a tripartite body composed of government officials and representative representatives of the trade union and employers' associations. It has the following competencies:

1. To monitor, study and evaluate the impact of economic policy and measures of the economic policy of social stability and development;
2. It monitors, studies and assesses the impact of social policy and social policy measures on economic stability and development;
3. It monitors, studies and assesses the impact of changes in prices and wages of economic stability and development;
4. Provides a reasoned opinion of the Minister of Labor on issues and problems related to the conclusion and application of collective agreements;

20 L. Jovevski, *Functional Analysis of KSS Needs and Opportunities*, ILO, Skopje, 2019.

5. Proposes to the Government, employers and trade unions, ie their associations at a higher level, to conduct a harmonized price and salary policy;
6. Gives opinions on proposals for laws in the field of labor and social security;
7. It promotes and encourages the idea of three-way cooperation (tripartite social dialogue) between social partners to address economic and social issues and problems;
8. Encourages the peaceful resolution of collective labor disputes;
9. Gives opinions and suggestions to the Minister of Labor in relation to the other issues determined by this Law.

4.1.4. Bipartite boards

It can be said that the bipartite boards are poorly or not at all developed in the Macedonian OSH system.

4.1.5. Professional person for safety at work

According to the Law on Occupational Safety and Health, “Professional for Safety at Work” employs an expert with the employer appointed by him to perform professional tasks related to safety at work. If the employer is unable or does not have adequate professional employees and technical equipment to perform such duties and obligations independently, he may entrust these obligations to authorized legal or natural persons.

4.1.6. Participation of a trade union representative in risk assessment at the workplace

Following the implementation of the Law on OSH in practice, TUM assessed that it is necessary to involve the trade union representative more actively in all procedures for improving healthy and safe working conditions in companies. As a result, TUM CCM in 2014 realized the campaign “For Sustainable Jobs”, within which an initiative for amendments to the OSH Law was initiated, in order to actively participate the trade union representative besides the representative of the employees for safety and health at work in the creation of healthy and safe conditions in working environments.

4.1.7. Collective bargaining (OSH)

With the publication in the Official Gazette of the Republic of Macedonia, No. 115 on the 01. of August 2014, a general collective agreement for the private sector in the field of economy was passed. Collective agreements are generally negotiated at sector level and they cover employees from different industries. R. Macedonia does not have a separate collective agreement for OSH, but within the general collective agreement there are certain members that cover this field.²¹

On the other hand, the Law on Occupational Safety and Health clearly specifies the responsibilities the employer has in the field of NRW, as well as the rights and obligations of workers as well as OSH workers. Article 12 of the same law emphasises: “the employer is obliged, in a collective agreement, to secure the exercise of the right to employees directly or through the president of the trade union organization, that is, the union representative of the representative trade union or the representative of the employees where there is no union and the representative of the employees for safety and health at work, to participate in the identification of the shortcomings and in improving the working conditions and working environment with the employer, which will include all the activities of the enterprise or institution and at all levels of the organization”. This legal provision in practice is almost non-existent.

4.2. Serbia

4.2.1. Employers’ organizations

In Serbia there are several employers organizations aimed at protecting labor rights, including protecting and promoting occupational safety and health.

4.2.1.1. Union of Employers of Serbia

UPS is the only representative association of employers who actively participates in the procedures of adoption of the Law, by-laws of strategic documents related to safety and health at work, as well as

21 Л. Јовевски, “Системот на колективно договарање во Македонија и идните предизвици – нужност од реформи”, *Зборник на меѓународни илудови* 2015.

within the framework of social dialogue. Within its framework, a preventive engineering sector has been set up which advocates the interests of employers by creating a sustainable development of a safety and health system at work.

4.2.1.2. Economic Chamber of Serbia

It plays a significant role in the implementation of the policies for safety and health at work, i.e. in creating a pleasant ambience for creating and consistent application of the regulations in this field.

4.2.1.3. National Alliance for Local Economic Development

National Alliance is an independent, non-profit and over party association formed by companies and formed by municipalities and organizations from the civil sector that work together to create better conditions for living and working in Serbia.

4.2.2. Employee organizations

4.2.2.1. Union of Independent Trade Unions of Serbia

The oldest trade union organization in Serbia that pays special attention to health and safety at work, adopts the Safety and Health at Work legislation with other social partners. An example of the Collective Agreement on Safety and Health at Work has been prepared, which serves as a help to the representatives of trade unions, but also to the employers, and also gives direction in for what it should be done in this area.

4.2.2.2. United branch unions "Independence"

One of the most important activities is continuous improvement of the occupational health and safety and therefore a Program Board for the protection of the environment and the working environment has been established. They undertake a range of activities to promote safety and health at work.

4.2.2.3. Confederation of Free Trade Unions

Confederation of Free Trade Unions is an organization of Associated Trade Unions at the level of R. Serbia by regional and regional principle.

The social dialogue in Serbia has numerous fluctuations and the issue of occupational safety and health has been recognized as an important issue in the system of collective bargaining, but also important for other priorities such as salary and job security. However it still does not have its real meaning.

4.3. Montenegro

The social dialogue in Montenegro is above all bipartisan, where the participants are trade unions and employers' organizations, as well as the state in the public sector.

4.3.1. Organization of employers

4.3.1.1. Union of Employers

The Union of Employers of Montenegro is a representative organization of employers that cooperates with the International Labor Organization. It actively participates in social dialogue and working groups for adopting the Law on Occupational Health and Safety, campaigns, conferences, workshops, seminars, round tables.

4.3.1.2. Chamber of Commerce of Montenegro

The Montenegro Chamber of Commerce unites the business sector in the country and as its main objective, it has the promotion and protection of the interests of businessmen, as well as the national and international representation of the country's economy. The main goals and tasks are as follows:

- 1) Provides the realization and promotion of the common interests of its members;
- 2) Creates an environment for the development of market conditions;
- 3) Participates in the construction of an EU accession program;
- 4) Works on educating and educating personnel for special jobs;
- 5) Provides information to its members in order to find potential partners in foreign markets, etc.

4.3.1.3. *Montenegro Business Alliance and Mission MBA*

These organizations of employers are actively involved in all activities when enacting a law or creating a policy in the field of LPDP. In fact, they are the main subjects in the process of social dialogue by the employers and parties that actively participate in the system of creating health protection at work, as well as in the cooperation with the state bodies and institutions, as well as with the trade unions in the country.

4.3.2. Workers' organizations

In Montenegro, there are two unions representing the interests of workers in general, as well as in relation to the OSH system. The union movement in Montenegro has a long tradition, but as far as focusing on the health protection system is concerned, trade unions still need to be further engaged and involved in the processes. Trade unions at the national level are the following:

- 1) Union of Trade Unions of Montenegro,
- 2) Union of free trade unions of Montenegro.

At the national level, Montenegro has not established a National Body or Board for Occupational Health and Safety, but the Social Council addresses the most important issues in this area.

4.3.3. Bipartite boards

They are carried out at the branch level, so according to the Law on OSH no obligation to form Council or Board for Occupational Health and Safety is foreseen, but collective bargaining takes place at the level of the sector that results in sector collective agreements.

4.3.4. Participation at the enterprise level

Pursuant to the Law on occupational health and safety, the employer is obliged to inform the employee or his representative in writing about all issues related to health and safety at work.

The employer, the employees and the representatives of the employees as well as the trade union are obliged to cooperate in relation to their rights, obligations and responsibilities related to the occupational health and safety in accordance with the Law on OSH.

The Law on OSH of Montenegro is precisely foreseen and defined regarding the rights and obligations of both the employer and the workers in terms of health and safety at work.

5. RECORDS IN THE FIELD OF HEALTH AND SAFETY AT WORK

5.1. Macedonia

In Macedonia, in accordance with the Law on Health Records,²² the Public Health Institute of the Republic of Macedonia (IPH) is a national health statistics center responsible for keeping health registers including occupational diseases and occupational diseases registers.

5.1.1. Reporting accidents at work

In accordance with the legal regulations, the employer is obliged to notify the state administrative body in charge of the labor inspection in writing within 48 hours of any serious injury causing sick leave for more than three days, any collective accident and any death caused by an injury at work. The employer has an obligation to keep records and keep records of any injury, occupational disease or accident at work.

The data on reported/registered work injuries are recorded in the State Labor Inspectorate, since the duty of the employer is within 48 hours after the event, to notify in writing the state administrative body competent for labor inspection work.

5.1.2. Occupational diseases

Official data on the incidence and prevalence of occupational diseases in the Republic of Macedonia compared to the European average of the number of employees and the number of occupational diseases is incomplete. However, an important step was made with the publication of the List of Occupational Diseases of the Republic of Macedonia with criteria for their diagnosis and verification²³ in

22 Law on Health Records, *Official Gazette of the Republic of Macedonia*, No. 20/09, 53/11 and 164/13.

23 List of Occupational Diseases of the Republic of Macedonia with criteria for their diagnosis and verification, *Official Gazette of the Republic of Macedonia*, No. 88/04.

which the following recommendations by the European Union for the List of Professional diseases (Commission Recommendations from 19/09/2003 concern about occupational diseases) were followed.

5.1.3. The Register of Occupational Diseases

The Register is, according to the Law on Health Records, the obligation of the Public Health Institute of the Republic of Macedonia (IPH RM) as a national health statistics center.

5.1.4. Defining the accident at the workplace

There are many definitions of international workplace injuries (ILO, EUROSTAT), but in Macedonia, workplace injuries are defined according to the Law on Pension and Disability Insurance of the Republic of Macedonia. According to the Law, a work injury is a violation caused by immediate and short-term mechanical, physical or chemical action, as well as an injury caused by sudden changes in the position of the body, sudden burden on the body or other changes in the physiological state of the body the organism, if such a violation is causally related to the performance of the work at the workplace.

According to the Institute of Public Health, Information on injuries at work 2014–2015 and 2015–2016, published on the IPH website, in the course of 2016, give a total of 894 work-related injuries were reported, compared to 1,222 injuries in 2015, which means reduction of registered injuries at work by about 27%. In 2014, there were 975 injuries at work. Most of the injuries were reported in the industry and mining, in total 356 injuries or 39.8% of the total number of reported injuries in the Republic of Macedonia in 2016, i.e. 512 injuries or 42.0% in 2015. But it is necessary to stress the unexpected data, which require more detailed analysis, that in construction, which traditionally represents one of the most risky activities for occurrence of work injuries, in 2016, only 10 work injuries were registered, representing 1.1% of the total reported violations in the reporting period, and in the same activity, in 2015, a total of 19 injuries were registered.

According to the Macedonian Occupational Safety and Health Association, which collects data on accidents at work at the end of 2007, the situation drastically differs from those published by state bodies.

Namely, according to the summarized data in the last 10 years, in the Republic of Macedonia the situation regarding accidents at the workplace is alarming. Statistical data differ significantly, which can largely be concluded that the collection of data related to accidents at the workplace, and their analysis by appropriate institutions and experts, is significantly lacking. On the other hand, it gives a vague picture of the situation with accidents at the workplace, the exact number of lost lives due to accidents, the number of occupational diseases, and how much of the funds is spent related to the accidents and its prevention.

5.2. Serbia

In Serbia, there is no single record system that records and processes injuries and accidents at work, as well as workplace deaths.

Pursuant to Articles 50 and 51 of the WIPO, the employer is obliged immediately and, within 24 hours of the event, to report it in writing and in writing to the competent labor inspector and the competent body for internal affairs for any death, collective or severe violation of Workplace. The Rulebook on the content and manner of issuing forms for reports of occupational injuries and occupational diseases are with specified deadlines.

5.3. Montenegro

In Montenegro, as with other countries in the region, there is no unified system of recording and registration of provisional diseases, work accidents and deaths at the workplace. Nevertheless, as in the region, certain institutions and organizations could be distinguished that run their own internal statistics and deliver certain information. Thus, in the period 2011–2017, 82.927 employees are trained in Montenegro for safe work. In the same period according to official data from MOSTAT in Montenegro, there are 30.286 employers, 2.693 acts for risk assessment on a slave place were made, which means that 8.89% of employers passed a risk assessment act that covers 40.722 of workers, which means that 22.32% of the employees in Montenegro were assessed at a slave place. In terms of job injury for 2017, there are: 5 deaths, 22 serious injuries at work and 0 collective.

6. INSTEAD OF A CONCLUSION

Given the previously obtained analytical data in the study and considering the conclusions and recommendations that have been received at the national level, and especially at the regional level, there is undoubtedly the need to take future steps in the countries in the region regarding the analysed topic. Namely, the countries of the Western Balkans, especially Macedonia, Serbia, and Montenegro will in the future have to continue to work on improving the safety and health system work in a normative sense, improving institutional cooperation, adequate practical application of European and international standards, new forms of education and training, as well as on improving relevant and sustainable system of data collection and processing. In order to achieve these goals, it will be necessary to provide financial means, strengthen civil society organizations in the field of OSH, strengthen the institutions responsible for creating and implementing the OSH system, and to develop regional cooperation at several levels.²⁴

It could be concluded that it is particularly important to develop the aforementioned goals in a coordinated and harmonized way at the regional level. That is why it will be necessary to develop a regional strategy and action plan (realization plan) that will unite all or some of the stated goals and will help realize the regional vision of safer and healthier jobs as part of the understanding of labor through the prism the dignity and realization of the human person in material and spiritual terms.

Finally, this study serves as the basis of regional cooperation and exchange of ideas and experiences that should and could help achieve the stated goals and vision and develop a common strategy.

24 L. Jovevski, *Regional occupational safety and health study of the Western Balkan countries*, Skopje 2018, 71.

Dr Lazar Jovevski

*Vanredni profesor Pravnog fakulteta „Justinianus Primus“
Univerziteta Svetog Ćirila i Metodija, Skoplje*

SISTEM ZAŠTITE ZDRAVLJA I BEZBEDNOSTI NA RADU U DRŽAVAMA ZAPADNOG BALKANA

Rezime

Ovaj rad objedinjuje informacije tri zemlje zapadnog Balkana, uključujući Makedoniju, Srbiju i Crnu Goru, o pitanjima koja se odnose na zaštitu na radu. Svrha ovog istraživanja je povezati i uporediti sisteme zaštite na radu, upoređujući nacionalne karakteristike, pozitivne koristi i postojeće nedostatke. Informacije o nacionalnim karakteristikama zemalja zapadnog Balkana mogu se dobiti na jednom mestu, a ujedno može se uporediti koja od zemalja koje su predmet analize je sproveda i primenila međunarodne i evropske standarde zaštite na radu, stvarajući tako preventivnu kulturu na radnom mestu. Analizirajući i integrirajući zaključke i preporuke nacionalnih sistema, ovaj rad pruža jedinstven pregled onoga što je do sada postignuto i u kojem se smeru kreće regija u pogledu zaštite na radu, uzimajući u obzir Okvirnu direktivu Evropske unije o bezbednosti i zdravlju na radu br. 89/391. Na taj način prvi put u regiji moguće je dobiti celovitu sliku stanja tri zemlje na jednom mestu u vezi s problemima i izazovima zdravstvenog sistema, ali i ostvariti viziju budućeg razvoja na području sigurnosti i zdravlja.

Ključne reči: *Sigurnost. – Zdravlje. – Radni odnos. – Radna mesta.*