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The National Assembly of the Republic of Serbia adopted the new Law on Occupational Safety and Health at the end of April this year. With the adoption of this regulation, the Law on Occupational Safety and Health from 2005, which had been in force for 18 years with certain amendments, ceased to be valid¹. The new Law contains a total of 113 articles, divided into seventeen parts, which is significantly more than the previous Law on Occupational Safety and Health.

The newly adopted regulation contains a whole series of novelties regulating the field of occupational safety and health, an area that represents one of the fundamental parts of labour law. Also, the adoption of the Law implies the continuation of harmonization of the regulations of the Republic of Serbia with the standards of the International Labour Organization and the European Union, organizations that pay special attention to the implementation of safety and health measures at work for persons participating in work processes.

As one of the main reasons for the adoption of the new Law on Occupational Safety and Health, it is particularly emphasized that it is necessary to increase the level of compliance of domestic legislation with the framework Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of employees at work, the implementation of which into domestic legislation started with the adoption of the Law from 2005².

As the law makers state, « the adoption and implementation of this law will ensure the conditions for a higher level of safety and health at work and better working conditions in order to prevent injuries at work, occupational diseases and work-related diseases »³.

- 1 The most significant amendments to the Law on Occupational Safety and Health from 2005 were adopted in 2015. F. Bojić, « Actualités juridiques internationales : République de Serbie », *Revue de Droit Comparé du Travail et de la Sécurité Sociale*, no. 2017-1, p. 198.
- 2 Proposal for the Law on Occupational Safety and Health, explanation, p. 52: <http://www.parlament.gov.rs/upload/archive/files/cir/pdf/predlozizakona/13saziv/295-23.pdf>
- 3 Proposal for the Law on Occupational Safety and Health, explanation, p. 54.

At the very beginning, it is important to note that this regulation precisely establishes that the Law applies to state bodies, bodies of autonomous provinces, bodies of local self-government units, companies, as well as other legal and natural persons, in all activities.

Bearing in mind that this Law governs a number of important issues, we will analyze only certain segments of this regulation, which mostly represent novelties in the legislation of the Republic of Serbia, and when it comes to the field of occupational safety and health.

Among other things, the Law specifies certain terms used in the regulation, and, for example, compared to the previous Law, the concept of a workplace with increased risk is regulated in much more detail, which according to the new Law is defined as « a workplace at a height, a workplace in depth, a workplace in the management of vehicles and internal transport (forklifts, cranes, transporters, construction and agricultural machines) and another workplaces established by the employer's risk assessment act where, despite the fully implemented measures in accordance with the Law, there are circumstances that can endanger the safety and health of the employee »⁴.

Also, the Law defines certain important concepts, which until now have not even been regulated by the regulations governing labour relations. So, for example, the Law defines the concept of working from home and remote work. Working from home is defined as work that the employee performs using information and communication technologies for the employer from the place of residence, i.e. residence or other place of residence, which is not under the direct control of the employer⁵. In contrast, remote work is seen as work that the employee performs using information and communication technologies from a space that is not the employer's space and that is not under the immediate control of the employer⁶.

In this regard, it should be noted that in a separate part of the Law, for the first time, the protection of employees who work from home and who work remotely is regulated. It is established that when working from home and working remotely, the employer is obliged to ensure safety and health at work in cooperation with the employee, whereby the employer's obligation is to determine the conditions for safe and healthy work, the means for work issued by the employer, as well as to define the work process related to the execution of tasks for which the employee is in charge and to prescribe preventive measures for safe and healthy work⁷.

Also, the employer can pass an act on risk assessment for working from home and remote work in written form with the participation of the employee. There is also an obligation for the employee, which is reflected in the duty to notify the employer of the fulfillment of the conditions required for safe and healthy work in accordance

4 Law on Occupational Safety and Health, *Official Gazette of RS*, no. 35/2023, art. 4, point 21.

5 Law on Occupational Safety and Health, art. 4, point 22.

6 Law on Occupational Safety and Health, art. 4, point 23.

7 Law on Occupational Safety and Health, art. 44.

with the act on risk assessment, as well as to inform the employer in a timely manner of any subsequent change in conditions⁸.

The law also introduces some new entities, which were not foreseen by the previously valid regulations. Instead of a person for occupational safety and health, the legislator introduces an adviser for occupational safety and health and an associate for occupational safety and health. The main difference is reflected in the fact that the advisor performs tasks for the employer in high-risk activities, while the associate performs tasks in less risky activities. As explained in the proposal of the Law, this name change was made in order to further raise the level of competence of professionals who perform occupational safety and health tasks⁹.

Another novelty is that the new Law, compared to the Law from 2005, expands the range of rights holders, who are guaranteed the right to safety and health at work, and that this right is not only provided to employees and pupils and students who are on professional practice or practical teaching, professional rehabilitation, professional training, retraining or re-qualification, but also persons engaged outside of employment, persons who are self-employed, persons who perform volunteer work in accordance with the law, as well as persons who, in accordance with the law, perform temporary and occasional jobs through the youth or student cooperative¹⁰.

When it comes to self-employed persons, their obligations regarding occupational safety and health are determined in a separate part of the work. It is foreseen that a self-employed person is responsible for his safety and the health of other persons, who are affected by his work and failures in the application of safety and health measures at work. Also, self-employed persons are obliged to apply regulations in the field of safety and health at work during their work, as well as to cooperate with other employers and employees in the application of appropriate measures, when the performance of work is related to them¹¹.

It is also interesting that the legislator, due to the frequent accidents at work on construction sites, or work sites, dedicated a special article of the Law to the work performed on the construction site, or work site, while a special article is dedicated to the performance of emergency works. It is foreseen that the employer who performs works on the construction of the building in accordance with the regulations on occupational safety and health on temporary or mobile construction sites, as well as the employer who performs works on the site in accordance with the regulations on safety and health at work, has the obligation to report on before the start of work, submit it to the competent labour inspection, at least eight days before the start of the work¹².

In addition to the above, he is also obliged to prepare a special report on the arrangement of the construction site, if the works last more than three days continuously, and a prescribed report on the arrangement of the work site, which

8 Law on Occupational Safety and Health, art. 45.

9 Proposal for the Law on Occupational Safety and Health, explanation, p. 55.

10 Law on Occupational Safety and Health, art. 5, § 1.

11 Law on Occupational Safety and Health, art. 43.

12 Law on Occupational Safety and Health, art. 22, § 1.

he submits to the competent labour inspectorate with the notification of the start of work, at least eight days before the start of the works. The employer can also submit the application electronically. It should be noted that protection at construction sites was previously regulated by the Regulation on occupational safety and health at temporary or mobile construction sites, which ceased to be valid upon the entry into force of this law.

When it comes to performing emergency works on infrastructure facilities in order to eliminate malfunctions or a sudden and uncontrolled event on the facility, there is an obligation for the employer to report the performance of emergency works to the competent labour inspectorate immediately, from the moment of occurrence, verbally and in writing, for emergency works and rehabilitation as well as to apply measures in accordance with the act on risk assessment¹³.

Another significant novelty is the more detailed regulation of employee training, the implementation of which represents one of the basic obligations for the employer, when it comes to ensuring healthy and safe working conditions. The legislator paid special attention to the training program for safe and healthy work, and it is foreseen that the program must contain a general and a special part.

The general part of the program includes familiarizing employees with the rights, obligations and responsibilities in the field of occupational health and safety from the law and by-laws, as well as familiarization with the employer's general acts in the field of occupational health and safety, while a special part of the training program includes familiarization with all potential hazards and harms in the workplace, assessed risks and measures for safe and healthy work¹⁴.

Bearing in mind the growing number of migrant workers on the territory of the Republic of Serbia, it is also foreseen that employers must provide training for safe and healthy work in a language that the employee understands. It is important to note that in the part of the Law regulating the training of employees, it is particularly emphasized that training costs are provided from the employer's funds, which represents a kind of supplement to the provisions of the Law from 2005, which stipulated that the employer provides training during working hours and that the costs cannot be borne by the employee.

As another legal novelty, the introduction of the Register of Work Injuries, which is kept in electronic form, and which is established and whose work is organized by the Administration, stands out, with the technical assistance of the Government of the Republic of Serbia department for safety and health at work¹⁵. The register contains accurate and up-to-date data on work-related injuries and enables data users to enter and retrieve data in order to determine the facts necessary to exercise health insurance rights.

Data is entered into the register by the employer, and after entering the data into the Register, the selected doctor, using the integrated health information system of the Republic of Serbia, enters the findings and opinion of the doctor who

13 Law on Occupational Safety and Health, art. 23.

14 Law on Occupational Safety and Health, art. 34.

15 Law on Occupational Safety and Health, art. 68.

first examined the injured person, so that after entering the data, the organization responsible for health insurance, using the information system, enters the assessment of the injury at work¹⁶. It is clearly established that the employer, the selected doctor and the organization responsible for health insurance are responsible for the accuracy of the data entered and downloaded in the Register.

It is noted in relation to the earlier regulation that the new Law regulates in more detail the inspection supervision over the implementation of the Law, which is carried out by the ministry responsible for labour affairs through the labour inspector. A special article is devoted to the supervision of the work of temporary or mobile construction sites and the competences of the labour inspector, who is obliged to prohibit further work for the duration of the circumstances that lead to endangering the safety and health of the employee at work, when, among other things, it is determined that an employee who is working on the construction site is not trained for safe and healthy work, that an employee who has not undergone a medical examination within the prescribed period is working on the construction site, at a workplace with increased risk, that the prescribed temporary constructions and facilities for the work and movement of employees, such as tunnel substructures, are not provided on the construction site or structures to prevent landslides when digging deep trenches¹⁷. The aforementioned bans are imposed on the investor, i.e. the investor's representative, and the ban lasts as long as the circumstances that lead to endangering occupational safety and health on the construction site last, for at least three days from the day of the ban, and if the circumstances that lead to endangering safety and health at work on the construction site established for the first time¹⁸.

Finally, within the penultimate part of the Law, penal provisions are prescribed, which foresee 76 different offenses for violating the Law on Occupational Safety and Health¹⁹. Also, the new thing is the prescription of fines in a fixed amount and the tightening of the penal policy, all with the aim, as the law makers state, of «improving the situation in the field of safety and health at work»²⁰.

16 Law on Occupational Safety and Health, art. 69.

17 Law on Occupational Safety and Health, art. 97, § 1.

18 Special rules are applied when the stated circumstances are established for the second or third time. In the first case, the ban lasts at least 15 days, while in the second case, the ban lasts at least 30 days. Law on Occupational Safety and Health, art. 97, § 3-5.

19 Proposal for the Law on Occupational Safety and Health, explanation, p. 69.

20 *Ibid.*