

Law on Safety and Health at Work*

I. GENERAL PROVISIONS

The content of the law

Article 1

Safety and health at work is ensured and implemented using modern technological, organizational, medical, social and other measures and means of protection in accordance with the present Law, other regulations, ratified and published international treaties.

The definition of Safety and health at work

Article 2

Safety and health at work involves providing working conditions not posing a risk of injury at work, occupational and work-related diseases, while also creating conditions for full physical and psychological safety of employees.

The public interest

Article 3

Safety and health at work is an activity of public interest.
Public interest in the field of Safety and health at work is carried out in a manner and under conditions prescribed by the law.

Application

Article 4

The provisions of this Law shall apply to all persons employed in the territory of Montenegro with legal entities and entrepreneurs in all sectors of activity, government bodies, state administration and local self-government units, employees who were sent to work abroad if the regulations of the receiving State provide less favourable measures of safety and health at work (hereinafter referred to as protective measures) than those provided for in this Law, unless otherwise regulated by a special law.

The employee referred to in paragraph 1 of this Article is a person who has been employed by, or has concluded an employment contract with the employer, a person who has undergone training work with the employer as well as a person who performs work for the employer under any legal basis.

The provisions of this Law shall apply to all persons involved in the working process of the employer under any legal ground.

The provisions of this Law shall not apply to persons for whom the employer has organized work at home under the law, or with whom it contracted the housework employment.

Education

Article 5

Education in the field of health and safety is an integral part of general and professional training in all types and levels of education of employees.

Employer shall promote the Safety and health at work.

Costs of protective measures

Article 6

Protective measures shall not bear any cost to the employee.

The use of gender-sensitive language

Article 7

Expressions used in this Law referring to a natural person in the masculine gender imply the same terms in feminine gender.

Definition of terms

Article 8

Terms used herein shall have the following meanings:

- **Employer** is a legal person or an entrepreneur who employs persons under contracts of employment or engages persons on any other legal basis;
- **Workplace with an increased risk** is the job determined by the risk assessment act, where, despite the completely or partly applied measures in accordance with this law, there are such risks that could jeopardize the safety and health of employees;
- **Working environment or the surrounding** is an area in which the work is performed and includes workstations, working conditions, work procedures, relations in the work process and other environmental influences;
- **Work equipment** is any plant, machinery, equipment, installation, and other tool used in the work process;
- **Dangerous and noxious substances** are explosive, flammable, oxidizing, poisonous, repulsive, infectious, corrosive, carcinogenic and radioactive substances determined by standards and other regulations, which are being produced, used or stored in the work process, as well as materials which contain these substances and may be dangerous to life and health of employees;

- **Protective measures** represent all the steps, preventive and other measures taken or planned at all stages of work with the employer, with the view of prevention or reduction of risks for life or health of the employees;

- **Risk** is the probability of danger causing injury at work, occupational or work-related disease;
- **Risk assessment** is the systematic recording and evaluation of all the factors in the process of work, according to the nature of activities of the company, i.e.

entrepreneur, with the aim to identify the possible causes of injury, occupational or work-related disease and to identify opportunities and ways to prevent, eliminate or reduce the risk.

II. GENERAL TERMS AND MEASURES OF PROTECTION

The obligations of the designer and investor

Article 9

The designer who in accordance with the regulations governing the zoning and construction of structures, develops project documentation for new, reconstructed or renovated facilities designed as working and auxiliary premises and facilities where technological process is carried out in the open, shall in the preparation of technical documentation and in accordance with this law develop prescribed protective measures in line with technological terms of reference.

The investor is required to obtain audit (assessment) from an authorized legal entity or entrepreneur proving that the technical documentation has been prepared in accordance with the regulations governing the Safety and health at work, technical regulations and standards, that the protection of employees in establishments for which technical documentation was made has been provided in the work process that will be carried out in them, or that the conditions of the technological terms of reference have been met.

Technological Processes

Article 10

The employer shall ensure that employees perform work in a safe manner, through the design, construction of new and reconstruction of existing, use and maintenance of the technological work processes with the accompanying facilities and work equipment, whereas chemical, physical (except for ionizing and non-ionizing radiation) and biological hazards, microclimate and lighting at the workplace and the working and auxiliary premises shall comply with the prescribed protective measures and regulations for the activity taking place in these workplaces and in these premises.

In changing the technological process, the employer shall, before commencement of work, adjust the investment facility with the accompanying work equipment to the new technological process.

During the construction, reconstruction or demolition of the structure, an employer who performs work is required to develop a plan of protective measures and study on the construction site in accordance with the law.

An employer who intends to work for longer than 30 working days, and at the same time employ more than 20 employees, or whose planned scope of work encompasses more than 500 employees or plans works to last longer than 500 days, shall, not later than five days prior to the commencement of works, submit a report on the beginning of the construction to the administrative authority in charge of the

inspection (hereinafter referred to as the Labour Inspectorate) in accordance with the special law.

Previous and periodic inspections

Article 11

Previous and periodic inspection and testing of facilities, technological processes and the work equipment shall be carried in order to ensure quality of works performed and work in the manner prescribed in the course of the execution of the work process.

The employer is obliged to provide employees the work equipment for use only if he possesses expert finding i.e. report on tests and checks carried, with the opinion that the equipment is in line with the prescribed protective measures.

Commissioning

Article 12

During technical inspection of the constructed, reconstructed or adapted building, technical inspector shall determine whether protective measures stipulated in the technical documentation have been met, as well as prescribed working conditions for the process of work being done at the facility.

Protective measures

Article 13

Protective measures are planned and provided in all of the work processes with the employer to prevent or reduce risks to life and health of employees, in the process of:

- 1) design, construction, operation and maintenance of facilities intended as the working and auxiliary facilities, and facilities for the work in the open, in order to secure safe work processes;
- 2) design, construction, operation and maintenance of technological work processes with all the accompanying work equipment in order to secure safe work for employees, as well as harmonization of chemical, physical and biological hazards, microclimate and lighting at the workplace and the working and auxiliary premises with the prescribed measures and standards for the activity performed in these workplaces and in these work premises;
- 3) design, manufacturing, operation and maintenance of the work equipment, constructions and facilities for collective protection and health at work, ancillary structures and facilities and other resources used in the work process or in any way associated with the process of work, so that in the course of their use injury or damage to the health of employees shall be prevented;
- 4) production, packaging, transport, storage, use and destruction of dangerous substances in the manner and under the regulations and rules that prevent injuries or damage to the health of employees;

5) design, manufacture and use of personal protective equipment at work, use of which eliminates the risks or dangers that could not be eliminated by appropriate protective measures;

6) education and training in the field of Safety and health at work.

The measures referred to in paragraph 1 of this Article shall be prescribed through by-laws in the field of Safety and health at work and through other regulations.

By-laws referred to in paragraph 2 of this Article shall be prescribed by the state government body in charge of labour.

III. RIGHTS, OBLIGATIONS AND RESPONSIBILITIES OF EMPLOYER

Providing protective measures

Article 14

The employer shall take protective measures by preventing, controlling and eliminating risks at work, informing and training employees, as well as by providing the necessary organization and means.

The employer is obliged to provide special protection and health of women at work during pregnancy, of persons under 18 years of age, and persons with disabilities, in accordance with this and other laws.

The employer shall, taking into account the changes in the working environment, implement protective measures and select those working and production methods which will improve the existing situation or provide a higher level of Safety and health at work.

The employer shall ensure that the planning and introduction of new technologies is the subject of consultations with the employees or their representatives in charge of safety and health at work (hereinafter referred to as the employees' representative) about the choice of work equipment, the working conditions, the working environment and their implications for the safety and health at work.

The employer is obliged, when assigning employee to a workplace with special conditions of work or increased risk, to take into consideration the employee's capabilities, which may affect the safety and health of the employee.

Implementation of protective measures

Article 15

The employer shall implement the protective measures by respecting the following principles:

- Avoiding risk;
- Evaluating the risk;
- Eliminating the risk at source;
- Adapting the work and workplace to employee, especially in terms of design of the workplaces, the choice of work equipment, the choice of working and production methods with a particular emphasis on the alleviation of monotonous work and work at a predetermined work-rate and to reducing their effect on health;
- Adapting to technical progress;

- Replacing the dangerous by the non- dangerous or less dangerous;
- Developing a comprehensive policy for the Safety and health at work, which includes technology, organization of work, working conditions, interpersonal relations, and working environment factors;
- Giving advantage to collective protective measures over individual protective measures;
- Giving appropriate instructions and information to employees.

General act or employment contract

Article 16

The employer, in accordance with the nature of business, number of employees, organization and manner of work shall regulate the rights, obligations and responsibilities of Safety and health at work through an act or employment contract concluded with the employee.

Through the act referred to in paragraph 1 of this Article, the employer shall specify: protective measures and the manner of their enforcement, especially the rights, obligations and responsibilities of all employees, the manner for performing specialized activities to protect Safety and health at work (hereinafter referred to as professional jobs), the way to diagnose and make health checks of employees who work in jobs with special conditions and other employees, the manner of training and testing capabilities of employees for safe work, the use of personal protective equipment, and other issues of importance for Safety and health at work.

An integral part of the act or contract referred to in paragraph 1 of this Article, is the regulation on personal protective equipment belonging to the employee, developed in compliance with regulations, standards and risk assessment act at the workplace.

Risk Assessment

Article 17

The employer is obliged to issue a risk assessment act for all workplaces, to determine the methods and measures to eliminate risk and ensure their implementation.

Through the risk assessment act the employer shall determine workplaces at increased risk, the health requirements for specific work to be met by an employee in the work process, or the use of certain work equipment based on the expert assessment of the authorized institution for health protection of employees.

The act referred to in paragraph 1 of this Article shall stipulate:

- Identification i.e. detection of danger;
- Jobs exposed to the identified danger;
- The probability of injury, occupational or work-related disease;
- Whether the risk is acceptable;
- The introduction of measures to reduce unacceptable risks.

The employer is required to amend the risk assessment act in the event:

- of appearance of any new risk and changes in the level of risk in the work process;
- the existing measures of protection are not sufficient or are inappropriate;
- of adaptation, reconstruction, disaster, overhaul;

- of serious, collective and fatal injuries at work;
- the risk assessment is based on data that do not correspond to the actual situation;
- of changes in activity.

The employer shall familiarize the employee with the risk assessment act in a transparent manner.

Organization of work and working process

Article 18

The employer is obliged to ensure protective measures in compliance with this law through work organization and work process.

The employer shall take appropriate steps to ensure that only employees who are trained for safe operation and who have received adequate instructions for work at such a place, may have access to workplace in a work area threatened by a risk of serious and/or specific danger of injury or damage to health, and who are equipped with the right tools and personal safety equipment.

The employer is obliged to warn any person who finds himself for any reason at the workstation, employer's ground or within the site, about places of danger or health hazards occurring in the production process, the protective measures that must be applied and instruct him on the safe range areas.

The employer is obliged to put labels and warnings in the official language and languages in official use and signs of safety and health at work at workstations and on the work equipment in accordance with the act of the state authority in charge of labour.

Medical examinations of employees

Article 19

Medical examinations of employees are taken for identifying and removing the causes of diseases and health damages in connection with the work.

The employer shall provide medical examination of employees who are assigned to jobs with special conditions of work or at increased risk and in case of re-engagement of employee who was absent from work for over a year.

At the request of employee the employer shall provide medical examination appropriate for risks to safety and health at work, as well as in cases not covered by paragraph 2 of this Article, at least once every three years.

The type, scope, volume and terms of medical examinations under paragraphs 2 and 3 of this Article shall be prescribed by the state authority in charge of health, with the consent of the state authority in charge of labour.

The employer is required to instruct the employee who performs work with special conditions or at increased risk to take a medical examination prior to the deadline set forth in paragraph 4 of this Article, when deemed necessary so by an authorized institution for health protection of employees.

If during the medical examination it is determined that the employee does not meet specific health requirements for carrying out the work with special conditions or at

increased risk, the employer shall assign him to another position that suits his health capabilities, in accordance with the Act on systematization of jobs.

If the employee cannot be transferred pursuant to paragraph 6 of this Article, the employer shall provide him with other rights under the law.

Training and testing of employees' capabilities **Article 20**

The employer is obliged to provide training for the safe operation to the employee when concluding employment, assigning him to another position, introducing new technology, introducing new or replacement of work equipment, changes in work processes and re-assigning him to work after absence that lasted for more than a year.

The training referred to in paragraph 1 of this Article shall be made under the program of training for the safe operation of employees, to be issued by the employer.

Training of employees shall be adapted to new and changing risks, and if necessary, it shall be repeated at regular intervals in accordance with the program referred to in paragraph 2 above.

The training shall be conducted under a training program during working hours and training costs shall be borne by the employer.

The employer is obliged to familiarize the employee in the course of training for safe work with all kinds of hazards at jobs assigned and specific protective measures that are necessary to prevent danger to life or damage to health.

An employer engaging employee of another employer under a contract or other legal basis is obliged to give him adequate instructions regarding life and health risks and to introduce him with the measures for safe operation during the performance of such activities.

An employer shall provide training to employees for the safe operation in theory and in practice.

An employer shall perform testing of theoretical and practical capability for safe operation in the workplace.

Periodic review of theoretical and practical capability in the safe operation of employee shall be determined by the employer through the program of training referred to in paragraph 2 above.

Jobs with special conditions of work **Article 21**

Jobs with special conditions of work are posts to which may only be assigned and perform related tasks employees who in addition to the general requirements for employment also meet special requirements in terms of sex, age, level of education, vocational training, health and mental abilities.

The state authority in charge of labour, with the consent of the state authority in charge of health, prescribes jobs that are considered jobs with special conditions of

work, as well as special requirements to be met by an employee to be able to work at such jobs.

An employer may not assign an employee to work at a place with special conditions of work, if not previously determined that the employee meets the specific prescribed requirements.

The employee working on job with special conditions of work shall promptly notify the employer if he considers that he is not capable of doing such work, or to carry out a health check that employer instructed him to do.

Work for more employers Article 22

When two or more employers concurrently work on the same or the common construction site or worksite, each of them shall organize work so that employees of one employer while conducting works do not compromise the safety and health of employees of other employers.

In the case referred to in paragraph 1 of this Article, all employers who perform work shall, prior to the commencement of works, conclude a special agreement on the organization and implementation of protective measures and mutual rights, obligations and responsibilities.

The agreement referred to in paragraph 2 of this Article shall be submitted to the Labour Inspectorate, not later than five days before the commencement of works.

Information of employees and their participation in matters relating to the Safety and health at work Article 23

The employer is obliged to inform employees or employees' representative in writing about:

- Risks related to the safety and health at work, protective measures and activities in relation to each type of workstation and/or job;
- The manner of organization and provision of first aid, fire-fighting, evacuation procedure for employees in cases of serious and immediate danger and the persons responsible for implementing these measures.

The employer is obliged to adequately inform other employer whose employees he hired to work for him on any grounds, about the issues specified in paragraph 1 of this Article, and the persons responsible for their implementation.

The employer is obliged to inform the employees' representative on rights and obligations relating to the Safety and health at work, and also allow him access to:

- Risk assessment and protective measures, including the risks faced by a group of employees who are exposed to particular risks;
- Decisions on protective measures to be taken, and if necessary, on personal protective equipment to be used;
- Records and reports on occupational injuries resulting in the employee's absence from work for more than three working days;
- Reports on accidents at work of its employees;

- Data arising from the measures and actions of inspection and other bodies responsible for the protection and health at work.

The employees' representative is a person designated by the employees to represent them in the issues of Safety and health at work.

Cooperation with employee, representative of employees and trade union

Article 24

The employer, employee, representative of employees and trade union shall cooperate in determining their rights, obligations and responsibilities pertaining to the Safety and health at work in accordance with this law, particularly in relation to:

- any measure that could significantly affect the Safety and health at work;
- listing qualified person for the Safety and health at work (hereinafter referred to a qualified person), by assigning person responsible for the implementation of first aid, fire fighting and evacuation of employees and activities in relation to Safety and health at work;
- data on the risk assessment and protective measures, including risks faced by a group of employees who are exposed to particular risks;
- decisions on protective measures to be taken, and if necessary, on the personal protective equipment to be used;
- records and reports on occupational injuries resulting in the absence of employee from work for more than three working days;
- reports on accidents at work of its employees;
- measures and actions of inspections and other authorities responsible for the Safety and health at work;
- hiring legal entity or entrepreneur for professional jobs;
- planning and organizing training and verification of capacities for the safety and health at work.

The employer shall enable employees' representative and union send their remarks concerning the Safety and health at work to the competent inspector in the exercise of the inspection control.

Training of representative of employees

Article 25

The employer shall provide representative of employees with appropriate forms of training.

The training referred to in paragraph 1 of this Article shall be conducted during business hours with or outside of the employer's establishment.

Status of employees or representative of employees

Article 26

The employees and representatives of employees are not to be put at a

disadvantage because of their respective activities referred to in Article 24 of the present Law.

The employer shall provide adequate time off work to the representative of employees, without loss of pay, and provide him with the necessary means to carry out tasks related to safety and health at work.

Work equipment and personal protective equipment

Article 27

The design, manufacture and use of work equipment and personal protective equipment, use of which eliminates the risks or dangers that could not be removed by applying appropriate protective measures, shall be applied in the manner and in accordance with the implemented technological procedure.

The employer shall procure and provide to the employee for use the work equipment and personal protective equipment required for his job, only if he possesses the appropriate documentation in the official language and languages in official use, in which the manufacturer or supplier stated all security and technical data relevant for risk assessment in working with them, and ensuring all protective measures prescribed in the documentation in accordance with the regulations on Safety and health at work.

In exceptional cases, where the employer is unable to provide adequate documentation referred to in paragraph 2 of this Article, he is allowed to acquire it from legal entities or entrepreneurs registered for such work.

The employer shall ensure that employees use the work equipment and personal protective equipment in accordance with their intended use and apply all the protective measures in their use.

First aid, fire-fighting and evacuation of employees

Article 28

The employer shall take the necessary measures and designate employees to provide the first aid, fire fighting and evacuation of employees, depending on the type of job and activities, and the number of employees and the involvement of other persons in accordance with this law and the regulations governing this area.

For the application of measures referred to in paragraph 1 of this Article connection with services inside and outside employer shall be provided, particularly in terms of first aid, emergency medical care, rescue and fire fighting.

Number of employees referred to in paragraph 1 of this Article, their training and equipment available depends on the size and/or specific hazards with the employer.

Serious, imminent and unavoidable danger

Article 29

The employer shall inform all employees who are or may be exposed to a serious or imminent danger on the type of risk and protective measures involved.

The employer is obliged to enable employees stop work in the event of serious, imminent and unavoidable danger and proceed to a place of safety, through measures and instructions.

The employer cannot require from employees to resume work in a working situation where there is still a serious and imminent danger, unless in case of saving lives.

Collective insurance

Article 30

The employer is required to provide compulsory insurance to employees against industrial accidents, occupational and work-related diseases.

Insurance premiums referred to in paragraph 1 of this Article shall be borne by the employer, depending on the level of risk from injury, occupational and work-related diseases.

Exclusion of responsibility

Article 31

If the employer has been subject to unusual and unforeseeable circumstances beyond the control of employer, or exceptional events, the consequences of which could not have been avoided despite the measures of protection exercised, the employer shall be relieved of responsibility.

IV. RIGHTS, OBLIGATIONS AND RESPONSIBILITIES OF EMPLOYEES

The rights and obligations of employees

Article 32

The employee has the right and obligation to get acquainted with the protective measures prior to commencing his work at the workstation to which he was assigned, and to be trained in their implementation.

The employee has the right and obligation to give suggestions, comments and information on issues of Safety and health at work to his employer.

The employee has the right and obligation to perform health checks appropriate for the risk to safety and health in the workstation, to which instructed by an employer, in accordance with regulations on Safety and health at work and regulations in the field of health care.

The right to refuse to work

Article 33

The employee has the right to refuse to work if:

- not previously familiarized with the dangers or hazards and risks at work, or if the employer did not provide the prescribed medical examination;
- there is an immediate threat to life and health because the prescribed protective measures have not been applied, for as long as those measures are not secured;

- the protective measures have not been provided on the work equipment, and so it poses immediate threat to life and health.

When employee refuses to work he shall address the employer in writing in order for the employer to take measures that in the opinion of the employee have not been implemented.

In the event the employee refused to work and the employer considers the employee's request to be ungrounded, the employer shall inform the Labour Inspectorate.

The right to leave the workplace

Article 34

In the event of serious and imminent threat to life and health, employee may take appropriate measures in accordance with his knowledge and technical means at his disposal, and in case of unavoidable danger he has the right to leave the dangerous workplace, work processes or work environment.

In the cases referred to in paragraph 1 of this Article, the employee shall not be liable for any damage that may occur through his activity, unless the employee acted in careless or negligent way.

Employees' obligations

Article 35

The employee is required in line with his capabilities and the instructions received from the employer:

- to apply protective measures while working, take care of his and Safety and health at work of other employees who are affected by his work or actions while on duty, use work equipment in purposeful manner, as well as dangerous materials, personal protective equipment and security devices, cooperate with the employer and the qualified person in order to implement stipulated protective measures at jobs he does;

- in accordance with his findings to immediately notify the employer in writing or orally, or through employees' representative, on the irregularities, defects, hazards, dangers or other occurrence at the workplace that could jeopardize his health and safety or health and safety of other employees;

- cooperate with the employer and the qualified person for as long as it takes for the employer to provide safe working conditions.

If the employer, after having received the notification referred to in paragraph 1, item 2 of this Article fails to eliminate irregularities, hazards or other occurrences within three days, or if the employee believes that adequate measures of protection have not implemented to eliminate the phenomenon, he may request the intervention of the Labour Inspectorate and notify the qualified person.

The employees' obligations in the field of Safety and health at work shall not affect the principle of responsibility of the employer.

Prohibition of use of psychoactive substances

Article 36

The employee may not commence and carry out work under the influence of psychoactive substances (alcohol, drugs, etc.).

An employee shall submit to the check of whether he is affected by addictive substances in the manner and procedure prescribed by the act of the employer.

Responsibilities of employees

Article 37

The employee is subject to responsibility in the event of non-compliance with prescribed protective measures and default on his obligations stipulated by laws and regulations of the employer.

V. ORGANIZATION OF SAFETY AND HEALTH AT WORK JOBS WITH THE EMPLOYER

Performance of professional activities

Article 38

The employer is obliged to organize and carry out professional activities depending on the organization, the nature and extent of the work process, the number of employees involved in the process, number of shifts, the estimated risks and number of separate units.

Employer, in order to carry out the activities under paragraph 1 of this Article, may:

- designate a qualified person;
- organize professional service for the Safety and health at work (hereinafter referred to as the professional service);
- hire a legal person or entrepreneur who is authorized to perform professional activities.

Professional service may not perform professional services for other employers.

The employer is responsible for the safety and health at work of employees regardless of the manner of organizing and carrying out these tasks.

Rights of qualified persons, i.e. professional services

Article 39

The employer is required to enable the qualified persons to independently and autonomously perform tasks in accordance with this law, as well as access all information relevant to the Safety and health at work.

The employer is obliged to provide skills training to qualified persons who work with him and with the professional service.

Qualified persons are directly responsible to the employer and may not be placed at a disadvantage because of their activities related to the Safety and health at work.

The employer shall provide a qualified person the adequate absence from work, without loss of pay, and all necessary means to carry out tasks related to safety and health at work.

A qualified person, prior to the assignment to this position is obliged to pass the professional exam intended for people who are engaged in the jobs related to Safety and health at work.

Persons who have been engaged at the jobs dealing with Safety and health at work for at least five years are not required to take the professional exam if they:

- have completed college of safety at work,
- have the degree of Master of Science and Doctor of Technical Sciences;
- are specialists in occupational medicine;
- are inspectors who supervised occupational safety and health at work.

Conditions, program and the way of taking professional exam for qualified person shall be regulated by the state authority in charge of labour.

The obligations of qualified persons and professional services

Article 40

Qualified persons or professional service shall perform the following tasks:

- 1) advise the employer in the planning, selection and maintenance of work equipment and personal protective equipment;
- 2) advise the employer on furnishing and equipping the workplace, taking into account the conditions of the working environment;
- 3) participate in the development of professional foundations for an act on risk assessment;
- 4) organize preliminary and periodic testing of the working environment (chemical, physical and biological hazards, microclimate and lighting);
- 5) organize periodic inspection and testing of work equipment, electrical and other installations;
- 6) propose measures to improve working conditions, particularly in workplaces with special conditions and increased risks;
- 7) monitor the implementation of the measures of protection and maintenance of work equipment and personal protective equipment in good working condition at all jobs with the employer;
- 8) provide guidance for the safe operation and control their implementation;
- 9) monitor the situation in relation to industrial accidents and occupational diseases as well as diseases related to work, participate in determining their causes and prepare reports with suggested measures for the employer;
- 10) prepare and participate in the training of employees for safe work;
- 11) propose a ban in the workplace or use of work equipment, if they establish an immediate danger to the life or health of the employee, of which to immediately inform the employer and employee's representatives;
- 12) cooperate and coordinate all issues related to Safety and health at work with authorized institution for health protection of employees;
- 13) keep and take care of the records of safety and health at work;
- 14) perform other tasks assigned by the employer.

In the case where the employer permits further work regardless of the measures taken pursuant to paragraph 1, item 11 of this Article, a qualified person shall be obliged to inform the Labour Inspectorate thereof.

**Authorization of legal entities or entrepreneurs to perform
professional activities
Article 41**

Professional tasks may be performed by a legal entity or entrepreneur who meets the requirements in terms of personnel, organization, technical and other requirements imposed by the state authority responsible for labour affairs.

Legal entity or entrepreneur shall submit the application with the required documentation for authorization to conduct safety and health at work jobs to the state authority in charge of labour affairs.

Fulfilment of requirements for the performance of safety and health at work is determined by the state authority in charge of labour affairs.

The state authority responsible for the labour affairs shall issue a decision by which to authorize a legal entity or entrepreneur (hereinafter referred to as the authorized organization) to perform specific tasks of safety and health at work.

The decision referred to in paragraph 4 of this Article shall be issued for a term of three years and may be renewed under the same conditions.

The state authority responsible for the labour affairs shall maintain register of issued decisions referred to in paragraph 4 of this Article.

The authorized organization shall bear the actual costs incurred in determining the fulfilment of conditions for the performance of safety and health at work jobs.

Amount of the costs referred to in paragraph 7 of this Article shall be determined by the state authority in charge of the labour affairs.

**Revocation of Authorization
Article 42**

The state authority in charge of labour affairs shall revoke the authorization to perform professional activities and remove from the register the authorized organization provided it ceases to meet the requirements for professional activities or in the event it fails to perform professional services for which the license was issued. Method of entry and removal from the register of authorized organizations shall be regulated by the state authority in charge of the labour affairs.

**Performing other professional activities
Article 43**

In addition to activities under Article 40 of this Law, the authorized organization or professional service shall perform, in particular:

- 1) preparation of the risk assessment act with the proposed measures for their elimination;
- 2) periodic inspection and testing of work equipment, electrical and other installations and facilities and equipment for personal safety;

- 3) examination of the working conditions (chemical, physical and biological hazards, lighting and microclimate);
- 4) audit (assessment) of technical documentation in terms of applicability of measures of protection, technical regulations and standards, establishing provision of protection to employees in facilities for which technical documentation was developed, for the work processes to be performed by them;
- 5) training and capability test for employees for safe work.

Appropriate application
Article 44

The provisions of Articles 41 and 42 of this Law shall apply to professional services.

Availability of data
Article 45

When an employer engages the authorized organization for all or some specific activities it shall be obliged to previously familiarize the organization with the technology process, risks in the work process, the measures taken to eliminate the risk, and enable free access to relevant data on protective measures, as well as employees.

Expert finding and accountability
Article 46

The authorized organization shall, no later than 30 days from the date of completed inspection and/or testing, make expert finding or report, including an assessment of whether prescribed protective measures have been provided, and submit it to the employer that required inspection and/or testing.

The authorized organization is responsible for taking care that the assessment from the expert opinion or report responds to the applicability of protective measures at the time of inspection and/or testing.

Contract between employers and authorized organizations
Article 47

If the employer has engaged authorized organization to conduct safety and health at work jobs, mutual rights, duties and responsibilities shall be governed by the contract.

Price for the services referred to in paragraph 1 of this Article shall be determined by the state authority responsible for the labour affairs at the proposal of the representative association of employers.

Application of other regulations

Article 48

The procedures of obtaining authorization to perform professional activities shall be governed by the provisions of the Law on General Administrative Procedure, unless the present law provided for otherwise.

Authorized institutions for health care of employees

Article 49

Government authority responsible for public health, with the prior approval of the administrative body in charge of labour affairs shall prescribe and issue the authorization to legal person registered in accordance with law, if fulfilling the necessary personnel, organizational, technical and other requirements, especially to perform the following tasks:

- 1) participate in the risk assessment at work places and working environment and the preparation of documents on risk assessment;
- 2) inform employees about the health risks associated with their work and provide the health education to employees;
- 3) determine and examine the causes of occupational and work-related diseases;
- 4) evaluate and determine the specific health conditions that must be met by an employee to perform certain tasks in the workplace, in the work process or in the use or handling of certain work equipment;
- 5) carry out preliminary and periodic medical examinations of employees in accordance with safety and health at work regulations;
- 6) issue a report on the medical examination on the fulfilment of health conditions in the workplace with increased risk;
- 7) implement health protection of employees with occupational diseases;
- 8) organize first aid, rescue and evacuation in case of employee's injury or damages;
- 9) determine the cause of the disability of employees and suggest remedial action, participate in the vocational rehabilitation and provide advice on the selection of another adequate job based on the remaining working capacity;
- 10) propose the employer measures to improve the health of employees, especially those at high risk of injuries or damage to health;
- 11) advise employers on the selection and testing of new work equipment and personal protective equipment in terms of health protection of the personnel;
- 12) participate in the analysis of occupational accidents, occupational and work-related diseases, and keep adequate records;
- 13) cooperate and coordinate on issues of Safety and health at work, with a qualified person or professional services.

The data collected in connection with employees' health checks are confidential and under supervision of authorized institutions for the health and safety of employees i.e. the selected doctor who keeps records of medical examinations.

Data referred to in paragraph 1 of this Article may be submitted to third parties only with the prior written consent of the employee.

Report of medical examination of employee on the medical ability to perform certain tasks shall be submitted to the employer in a way that would not violate the principle of confidentiality of personal data.

The use of data collected from the medical examinations of employees contrary to the purpose or for the purposes of discrimination of employees shall be prohibited. Detailed requirements regarding personnel, organization, technical and other requirements shall be prescribed by the state government in charge of health.

VI. RECORDS, REPORTS, COOPERATION

Documentation and Records

Article 50

The employer is required to keep and maintain detailed records of:

- 1) jobs with special conditions or increased risk;
- 2) employees assigned to positions, especially the employees assigned to jobs with special conditions of work or increased risk;
- 3) injuries, occupational and work-related diseases;
- 4) employees trained for safe operation;
- 5) dangerous substances used at work;
- 6) performed tests of working environment;
- 7) examination and testing of work equipment and personal protective equipment;
- 8) reports referred to in Article 51 of this Law;
- 9) previous and periodical medical examinations;
- 10) technical documentation (major projects);
- 11) documentation of safety and health at work (attestation, report of the expert finding, the instructions for handling and maintenance of work equipment and the like).

Reports

Article 51

The employer is obliged, at least once a year, to make a report on Safety and health at work of employees, which is to be considered by the authorities that perform management tasks, together with business reports.

The employer shall, at the request of the competent inspector, provide a report on the state of Safety and health at work of employees, as well as the measures conducted in this field with the employer.

The employer shall immediately and not later than 24 hours from onset, report in writing to the Labour Inspectorate on every death, collective, serious and other injury at work resulting in employee's absence from work for more than three days, and dangerous phenomena that could jeopardize the safety and health of employees.

The employer is obliged to issue to injured employee and the medical facility where the medical examination of the employee was taken, a report of the injury of the employee at work, in deadline and on a form prescribed by the act of the state authority responsible for health.

Cooperation

Article 52

Health Insurance Fund, the Pension and Disability Insurance Fund of Montenegro, authorized medical institutions for health care of employees and other health care facilities are required to, in connection with the submission of data on occupational injuries, occupational and work related diseases and disabled employees, cooperate with the state authority in charge of labour and provide the information at the request and on monthly basis, and for each calendar year no later than 28th February next year.

VII. SUPERVISION

Supervision body

Article 53

The supervision of the implementation of this law, regulations adopted thereunder, and technical and other measures relating to the Safety and health at work shall be performed by the Labour inspection, through inspectors working in the field of safety and health at work, unless the law stipulates that supervision in the implementation of these regulations in certain activities shall be carried out by other bodies.

Supervision of professional work

Article 54

Supervision of professional work of authorized organizations shall be performed by the Labour Inspectorate, in accordance with this Law.

Within the supervision of professional work it shall be determined whether the conditions are met in terms of personnel, organization, technical and other requirements imposed by the government body responsible for labour affairs, as well as in relation to the quality of the performance of professional duties on the basis of the documentation and insight into the process of provision and the effects of services.

Upon completion of the supervision of the professional work of authorized organizations a record shall be made which is submitted to the state authority in charge of labour affairs.

Duties and powers of labour inspectors in the field of Safety and health at work

Article 55

In the inspection the inspector in the field of safety and health at work, in addition to the duties and powers defined by law, shall have the obligation and authority to conduct the investigation of serious, collective and fatal injuries at work.

VIII. PENALTY PROVISIONS

Fines for offense of the legal person, responsible person or entrepreneur

Article 56

A fine of EUR 500 to EUR 15,000 shall be imposed on a legal entity, if:

1) as an investor it does not obtain an audit (assessment) from an authorized legal entity or entrepreneur that the technical documentation is prepared in accordance with the regulations relating to the safety and health at work, technical regulations and standards (Article 9 , paragraph 2);

2) in the design, construction of new and reconstruction of existing, use and maintenance of the technological processes with the accompanying facilities and work equipment it failed to provide employees to perform work in a safe manner, while the chemical, physical (except for ionizing and non-ionizing radiation) and biological hazards, microclimate and lighting in the workplace and working and auxiliary premises do not comply with the prescribed measures and standards for the activity performed in these workplaces and premises (Article 10, paragraph 1)

3) in the construction, reconstruction or demolition of the structures, the employer doing the work fails to make a plan of protective measures, i.e. study of construction site (Article 10 , paragraph 3)

4) provides the means to the employee to work, and does not possess expert finding and report on tests and checks carried out on them, with the assessment that they meet the required measures of protection (article 11, paragraph 2);

5) the rights, obligations and responsibilities of Safety and health at work of employees are not defined within an act or contract entered into with the employee (Article 16 paragraph 1);

6) it does not issue an act on the risk assessment of all workplaces, fails to establish the methods and measures to eliminate risk and fails to ensure their implementation (Article 17 paragraph 1);

7) it fails to change the risk assessment act in the case of adaptation, reconstruction, disaster, overhaul, serious, collective and fatal injuries at work and change of activities (Article 7, paragraph 1, items, 3, 4 and 5);

8) it fails to provide access to the place of work in a work environment threatened by a risk of serious and/or specific risk of injury or damage to health only to those persons who are capable of safe operation in this workplace, who received adequate instructions for working in such a place and are equipped with the appropriate tools and personal protective equipment (Article 18, paragraph 2);

9) it fails to provide medical examination to employees who are assigned to jobs with special conditions or at increased risk in cases of reengagement of employee who was absent from work in this job for more than one year (Article 19, paragraph 2).

10) at the request of the employee it fails to provide medical examination at least once every three years (Article 19, paragraph 3);

11) the employee is not assigned to another job that suits his medical abilities (Article 19, paragraph 6);

12) it fails to train employees for the safe operation (Article 20, paragraph 1).

- 13) it fails to develop a program of training for the safe operation of employees (Article 20, paragraph 2);
- 14) it fails to conclude a separate agreement on the organization and implementation of protective measures and mutual rights, obligations and responsibilities prior to the commencement of the works, in case two or more employers are executing works concurrently and fails to submit the same to the Labour Inspectorate no later than five days prior to the commencement of works (Article 22);
- 15) it fails to notify the employee or employee's representative in writing about issues related to the Safety and health at work, or fails to allow access to the data referred to in Article 23, Paragraph 3 of this Law (Article 23 paragraph 1);
- 16) it fails to cooperate with the employee, representative of employees and the union in determining the rights, duties and responsibilities pertaining to the Safety and health at work (Article 24 paragraph 1);
- 17) it places employees or representative of employees in a less favourable position because of their respective activities referred to in Article 24 of this Law (Article 26, paragraph 1)
- 18) it fails to grant adequate absence from work, without loss of pay, and does not provide all the necessary means to carry out tasks related to safety and health at work (Article 26, paragraph 2);
- 19) it fails to procure, issue for use and fails to ensure that employees use the work equipment and personal protective equipment necessary for their work in accordance with their purpose (Article 27, paragraphs 2 and 4);
- 20) it fails to take necessary measures and designate persons to provide first aid, fire fighting and evacuation of employees (Article 28 paragraph 1);
- 21) it fails to inform all employees who are or might be exposed to a serious or imminent danger on the type of risk and the measures of protection, and on that occasion through measures and instructions fails to allow employees to suspend work and proceed to a place of safety (Article 29 paragraphs 1 and 2);
- 22) fails to insure employees against industrial accidents, occupational and work-related diseases (Article 30 paragraph 1);
- 23) for the purpose of organizing and carrying out technical activities under Article 38, paragraph 1 of this Law fails to appoint expert or organize professional service or hire a legal person or entrepreneur who is authorized to perform professional activities (Article 38, paragraph 2);
- 24) fails to provide to the qualified person or professional services rights under Article 39 of this Law;
- 25) fails to familiarize authorized organization about technological process, the risks in the work process, the measures taken to avoid any risk, and fails to allow it free access to the relevant data on the protective measures, and the employees (Article 45)
- 26) as an authorized organization within 30 days of the completed inspection and/or testing, fails to make expert finding or report, including an assessment of whether protective measures have been provided, and fails to deliver it to the employer that required inspection and/or test (Article 46, paragraph 1);

27) fails to inform the Labour Inspectorate in writing immediately and not later than 24 hours of occurrence of the death, collective, and other serious injury at work which causes the employee's absence from work for more than three days, and of the dangerous occurrence that could jeopardize safety and health of employees (Article 51, paragraph 3);

28) fails to issue employee who is injured and medical facility where the examination of the employee was taken a report on the injury of the employee at work (Article 51, paragraph 4).

For the offense referred to in paragraph 1 of this Article, the responsible person of a legal entity shall be fined with a fine of 30 Euros to 1,000 Euros.

For the offense referred to in paragraph 1 of this Article, the entrepreneur shall be fined with a fine of 250 Euros to 10,000 Euros.

Fines for minor offense of the legal person or responsible person **Article 57**

A fine of EUR 200 shall be imposed on a legal person if it:

1) fails to submit to the authority in charge of the inspection report on the commencement of work at least five days before works begins, if planning works to last for longer than 30 working days, while employing more than 20 employees, or if the planned scope of work includes more than 500 employees i.e. works are planned to last longer than 500 days (Article 10, paragraph 4);

2) as the technical reviewer for technical inspection of the constructed, reconstructed or adapted buildings, it fails to establish whether the protective measures in the technical documentation are provided and prescribed conditions for the process to be conducted at the facility (Article 12);

3) fails to label the place of work and work equipment with labels, warnings in the official language and languages in official use, and signs of Safety and health at work (Article 18, paragraph 4);

4) fails to provide appropriate employees' representative adequate forms of training (Article 25 paragraph 1);

5) fails to maintain and keep detailed records of safety and health at work (Article 50);

For the offense referred to in paragraph 1 of this Article, the responsible person of a legal entity shall be fined with 50 Euros.

For the offense referred to in paragraph 1 of this Article contractor shall be fined 150 Euros.

Fines for offense of the employee **Article 58**

A fine of 30 Euros to 1,000 Euros shall be imposed on employee if:

1) he refuses to perform health checks appropriate for the risk to safety and health at workplace, that the employer instructs him to do (Article 32, paragraph 3);

2) during operation he fails to implement protective measures, does not take care about his and health and safety of other employees who are affected by his work or actions while on duty, does not use work equipment or hazardous materials properly, and personal protective equipment and protective devices, fails to cooperate with the employer and the qualified person in order to implement protective measures at jobs he performs (Article 35, paragraph 1, line 1);

3) in accordance with his findings, fails to immediately notify the employer in writing or orally, or through employees' representative of irregularities, deficiencies, hazards, dangers or other occurrence that could jeopardize his health at the workplace or health and safety of other employees and fails to cooperate with the employer and the qualified person for as long as the employer manages to provide safe working conditions (Article 35, paragraphs 1, items 2 and 3);

4) he initiates and carries out work under the influence of psychoactive substances (alcohol, drugs, etc.) and fails to undergo a check of whether he is under the influence of psychoactive substances (Article 36).

IX. TRANSITIONAL AND FINAL PROVISIONS

Harmonization

Article 59

Existing authorized organizations are required to bring their business in line with the provisions of this Law within six months from the date of enactment of this Law.

If an authorized organization fails to comply with the terms of paragraph 1 of this Article it shall be erased from the register of authorized organizations.

Adoption of bylaws

Article 60

The act referred to in Article 47 of this Law shall be passed within six months from the date of entry into force of this Law.

The bylaws for implementation of this Law shall be adopted within two years from the date of entry into force of this Law.

Application of regulations

Article 61

Until the regulations consistent with this Law are passed, the regulations referred to in Article 48 and Article 49, paragraph 1 of the Law on Protection at Work ("Official Gazette of RM", No. 79/04 and "Official Gazette of Montenegro", No. 26/10) shall apply.

Until the regulations on protective measures in accordance with Article 13 of this Law are passed, protective measures (rules) prescribed by by-laws referred to in Article 69 of the Law on Protection at Work ("Official Gazette of Montenegro", No. 35/ 98) shall be effective.

Deferred Application

Article 62

The provisions of Article 19, paragraph 3 of this Article shall apply from the date of accession to the European Union.

Termination

Article 63

Upon the entry into force of this Law, the Law on Protection at Work ("Official Gazette of RM", No. 79/04 and "Official Gazette of Montenegro", No. 26 /10) and Article 172 of the Law on amendments to the law prescribing fines ("Official Gazette of Montenegro", No. 40/ 11) shall cease to be valid.

Entry into force

Article 64

This Law shall enter into force on the day following its publication in the "Official Gazette of Montenegro".

*This Law includes Council Directive 89/391/EEC of 12 June in 1989 on the introduction of measures to encourage improvements in the safety and health of employees at work (OJ No L 183 of 29 June 1989, p.1), as amended by Regulation (EC) no. 1137/2008 of the European Parliament and of the Council of 22 October 2008 on the adaptation of certain acts involving the use of the procedure provided for in Article 251 of the Treaty, Council Decision 1999/468/ES related to the regulatory procedure with the review- Customizing the regulatory procedure with the review - the first part (OJ L no. 311 of 21 November 2008, page 1)

RATIONALE

I Constitutional basis for adopting the Law

The constitutional basis for the adoption of this Law is contained in the provisions of Article 16, paragraph 1, item 5 of the Constitution of Montenegro, which stipulates that, in accordance with the Constitution, the law regulates other matters of interest to Montenegro, in conjunction with Article 64 of the Constitution Montenegro, which provides that employees are entitled to safety at work.

II Reasons for adopting the Law

The Law on Safety at Work (Official Gazette of the Republic of Montenegro 79/04 and Official Gazette of Montenegro 26/10) regulates the rights and obligations of employers and employees in relation to the safety at work, as well as the system of measures and procedures for ensuring Safety and health at work.

As a fundamental social right of employees, the right to Safety and health at work is provided and implemented in all sectors and activities, regardless of professional, organisational and ownership form of the entities that are holders of these obligations, as well as to all employees or persons who, under any legal basis, perform work for the employer or who perform work with the employer for professional development purposes.

The overall transition process in Montenegro has a strategy of harmonizing legislation in the field of Safety and health at work with the EU acquis, the Constitution of Montenegro and the Labour Law. Thus, conditions have been created for the adoption of the new Law on Safety and health at work, which, inter alia, creates a legal basis for the adoption of a number of by-laws in this area, regulating technical issues, measures and regulations in Safety and health at work.

The main reasons for adopting the new Law include the following:

- Requirements and the need for harmonisation of national legislation with the legislation of the International Labour Organisation and the European Union, as a condition for joining, i.e. accession to the European Union; fulfilment of requirements in terms of quality and competitiveness for business operations and appearance on the international labour market and the expectation (vision) that more effective Safety and health at work would be provided to employees.

In addition to technical safety measures, the new concept that is being introduced through the Bill relates to the introduction of the component of health of employees, the expansion of the obligations and accountability of the relevant entities in the work environment, all with a view to raise the level of Safety and health at work, including the following:

- Compliance with the general principles of Safety and health at work;

- Risk assessment for all workplaces, establishing manners and measures for risk elimination and ensuring their implementation;
- Broader and more precise determination of the obligations and responsibilities of employers;
- Participation of employees and their representatives in activities regarding Safety and health at work;
- Broader rights of professionals and representatives of employees for Safety and health at work and trade unions;
- Defining the tasks of professionals, professional services or the authorised organisations for Safety and health at work;
- Possibilities for the employer to carry out professional tasks in the field of Safety and health at work, under the same conditions as the authorised organisation;
- The relief of taking the professional exam for tasks of safety and health at work for certain categories of persons who spent more than five years in these jobs;
- Greater opportunities of employees to refuse to work because of the non-observance of safety measures;
- The relief of the accountability for Safety and health at work in the event of incidents arising as a consequence of unusual and unpredictable circumstances beyond the control of employers or special events the consequences of which could not be avoided despite the measures of Safety and health at work that were implemented;
- Better information to employees about the risks at the workplace and other matters of importance to their health;
- Insurance for compensation in case of injury at work, occupational diseases and work-related diseases, which is not subject to separate regulations;
- Stricter penal policy for violations due to non-compliance with laws and other regulations in this area.

III Compliance with European legislation and ratified International Conventions

Compliance of the Bill with the provisions of the Stabilisation and Association Agreement between the European Union and its Member States of the one part, and Montenegro of the other part (SAA)

a) The provisions of the SAA with which the regulation is harmonised:

Title VI, Approximation of Laws, Law Enforcement and Competition Rules, Article 79, Working conditions and equal opportunities.

Title VIII, Cooperation Policies, Article 101, Social Cooperation.

Compliance of the Bill with the EU acquis

Compliance with the primary sources of the European Union law:

TFEU, Part Three, Union Policies and Internal Actions, Title X, Social Policy, Article 151, Article 153, paragraph 1, item 1 and 2, Article 156, paragraph 1, item 2, 5 and 7
Fully harmonised

Charter of Fundamental Rights of the European Union, Title II Solidarity, Article 31, paragraph 1, Fair and just working conditions

Fully harmonised

Compliance with the secondary sources of the European Union law:

31989L0391

Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (OJ L No. 183 of 29.6.1989)

Fully harmonised

Compliance with other sources of international law:

European Social Charter, I Preamble, Part I, paragraph 1 item 3 and 22, Part II, Article 3, The right to safe and healthy working conditions, and Article 22, The right to take part in the determination and improvement of the working conditions and working environment;

Universal Declaration of Human Rights, Article 23;

International Covenant on Economic, Social and Cultural Rights (Article 7, paragraph 1, item b)

IV Explanation of proposed legislative provisions

I Basic provisions (Articles 1 to 8)

The basic provisions (Articles 1 and 2 of the Bill) determine the content of this Law, envisaging that Safety and health at work is provided and implemented by applying modern technical and technological, organisational, health, social and other measures and personal protective equipment in accordance with this Law, other regulations, ratified and published international agreements and which has the character of an activity of public interest.

The provisions of this Law apply to employees who work in the territory of Montenegro, with legal entities and entrepreneurs in all industries, state authorities, public administration bodies and local self-government units, as well as to employees who were sent to work abroad, if the regulations of the receiving country provide for less favourable measures of Safety and health at work compared to those provided for in this Law, unless otherwise provided by a separate law.

The provisions of this Law apply to all persons present in the working process with the employer on any legal grounds.

The provisions of this Law do not apply to persons for whom, pursuant to the law, the employer organised work at home, or who entered into a contract of employment for work in the household (Article 3 of the Bill).

In order to promote Safety and health at work, education and training in this area is becoming an integral part of general and professional training and development in all types and levels of education of employees, and therefore

measures relating to Safety and health at work cannot incur any expenses to the employee (Article 4 and 5 of the Bill).

Provisions of Article 7 and 8 of the Bill define the meaning of terms that are used in this Law, as well as the basis for the adoption of a number of by-laws in this area for its implementation.

II General conditions of safety and health at work (Articles 9 to 12)

Article 9 of the Bill provides for obligations of the designers and investors. The designer, who creates technical documentation for the construction, reconstruction or renovation of facilities designed for working and auxiliary premises and facilities where the technological process is performed in the open air, under this Law has an obligation to elaborate, in the preparation of technical documentation, the prescribed measures of Safety and health at work, in accordance with technological terms of reference. In this regard, the investor is required to provide for an audit (assessment) by the authorised organisation, confirming that the technical documentation was prepared in accordance with the regulations relating to Safety and health at work, technical regulations and standards, and that the protection of employees is provided in facilities for which the technical documentation was developed.

Thus, under Article 10 of the Bill, the use and maintenance of technological work processes with relevant facilities and equipment provides that the work of employees is performed in a safe manner, and that chemical, physical (apart from ionizing and non-ionizing radiation) and biological hazards, microclimate and lighting at workplaces and in work and auxiliary facilities are harmonised with the prescribed measures and norms in the industry performed in these workplaces and these work facilities.

However, if there is a change in the technological process, the employer is obliged to, before commencing the work, adapt the investment facility with associated equipment to the new technological process. The employer who plans for work to last longer than 30 working days and for the engagement of more than 20 employees at the same time, or if the planned scope of work provides for plan to engage more than 500 employees, is obliged to, not later than five days prior to the commencement of works, submit to the inspection authority responsible for the supervision of Safety and health at work a report on the commencement of work, in accordance with a separate law.

Article 11 and 12 of the Bill provide for preliminary and periodic inspections and examination of facilities, technological processes and equipment, in order to ensure the quality of work that is carried out, whereas the employer is obliged to have an expert opinion or report on the examination and tests of the equipment that are provided to employees for use, prior to the commencement of work, together with an assessment confirming that prescribed measures of safety and health at work were applied to them.

III Rights, obligations and responsibilities of employers (Articles 13 to 31)

The employer is obliged to provide for measures of safety and health at work to all employees, by preventing, eliminating and controlling risks at work, informing and training employees, and with proper organisation and the necessary means, while being obliged to provide special safety and health at work to women during pregnancy, persons under 18 years of age, and persons with disabilities, in accordance with this Law and a separate law.

When planning and introducing new technologies, the employer is also obliged to consult with employees or their representatives when it comes to Safety and health at work, the choice of equipment, working conditions, and work environment, as well as to take into account employee's abilities which may affect his/her health and safety, when allocating an employee to a workplace with special working conditions or with increased risk (Article 13 of the Bill).

When it comes to the provision of preventive measures by the employer, in accordance with Article 14 of the Bill, the employer is obliged to implement measures of Safety and health at work, while respecting a number of principles under the Framework Directive No. 391/89 EEC on the introduction of measures to encourage improvements in the safety and health of workers at work, such as: avoiding risks; evaluating the risks; combating the risks at source; adapting the work and workplace to the individual, particularly with regard to designing the workplace; selecting equipment, working and production methods with particular emphasis on avoiding monotonous work; adapting to technical progress; replacing the dangerous by the non- or the less dangerous circumstances; developing a coherent overall Safety and health at work policy, including technology, organisation of work, working conditions, interpersonal relations, and working environment factors; prioritizing collective protective measures over individual protective measures and giving appropriate instructions to the workers.

Article 15 of the Bill provides that the employer, depending on the nature of business, number of employees, the organisation and methods of work, regulates the rights, obligations and responsibilities of safety and health at work of employees through a general act or contract of employment concluded with the employee, regulating the following in more details: measures of safety at work and the manner of their implementation, and in particular the rights, obligations and responsibilities of all employees, the manner of performance of professional tasks of Safety and health at work, the method of determining and checking the health status of employees who work in jobs with special conditions of work as well as of other employees, the manner of training and testing capabilities of employees for safe work, use of personal protective equipment and other issues of importance to the safety and health at work. Therefore, an integral part of the general act or contract of employment is the personal protective equipment normative belonging to an employee, which is prepared in accordance with regulations, standards and the risk assessment act in the workplace.

According to Article 16 and 17 of the Bill, the employer is obliged to adopt the risk assessment act for all workplaces, as well as to determine the manner and measures to eliminate risks and ensure their implementation. The risk assessment act identifies the workplaces with increased risk, the health conditions that are necessary for work and which must be met by an employee in the work process or for use of certain means based on expert assessment of the authorised institution for health care. This means that the risk assessment act determines: identification and detection of hazard; the workplaces exposed to hazards; the likelihood of injury at work, occupational disease or disease related to work and whether the risk is acceptable; the introduction of measures to reduce unacceptable risks.

In addition, the employer is required to amend the risk assessment act in case any new risks occur and changes in the level of risk in the process of work; when the existing preventive measures are not sufficient or are not appropriate; in the case of adaptation, reconstruction, damage, general overhaul; in the case of severe, collective and fatal injury at work; when the risk assessment is based on data that do not correspond to the real situation and in the event of a change of business activity, about which employees must be informed.

When organizing work and working process, the employer is obliged to provide safe access to the workplace in a work environment in which there is a certain risk of injury or damage to health, and these workplaces can be accessed only by those persons who are qualified to work safely in such a workplace, and who received special instructions and are equipped with the appropriate personal protective equipment.

The employer is obliged to warn any person who for any reason is present in the work facility, within the employer's facilities or construction site, of the dangerous places of work, as well as to place the labels, warnings in the official language and languages in official use, and signs of safety and health at work.

Articles 18 and 19 of the Bill stipulate that the employer is obliged to provide medical examination for employees who are assigned to workplaces with special conditions of work or with increased risk in addition to regular engagement and in cases of re-engagement of the employee who was absent from work in this workplace for more than a year.

At the request of an employee, the employer provides a medical examination appropriate to the risks to safety and health at work, and for other cases once in a three-year period.

The type, scope and deadlines for performing medical examinations, including the obligatory and facultative ones, is prescribed by the public administration body responsible for health affairs, with the consent of the public administration body responsible for labour affairs.

If in the process of medical examination it is determined that an employee does not meet the specific health requirements for performing the job at the workplace with special conditions of work or with increased risk, the employer is obliged to assign him/her to another workplace that suits his/her health capabilities, in accordance with the Act on organisation and jobs description, and if the employee cannot be assigned, as described above, the employer is obliged to provide him/her with the other rights in accordance with the law.

The employer is also required to carry out the training for safe work of an employee when employing him/her, assigning him/her to another workplace, introducing new technologies, introducing new or replacing equipment, changes in the work processes and re-assignment to work after absence that lasted more than a year. The training for safe work is theoretically and practically implemented under the training programme during working hours, and training costs are borne by the employer.

An employer engaging, under contract on employment or any other legal basis, an employee of another employer to perform work, is obliged to give him/her adequate instructions about the potential risks to life and health and to introduce him/her to measures for safe work during the performance of such duties.

Articles 20 and 21 of the Bill define the workplace with special conditions of work within the meaning of this Law. Only those employees who, in addition to general conditions for employment, meet special requirements in terms of gender, years of age, education, vocational training, health condition and mental abilities can be assigned to such workplaces and perform duties.

With the consent of the public administration body responsible for health affairs, the public administration body in charge of labour affairs defines the jobs that are considered jobs with special conditions of work, as well as the special requirements to be met by an employee to work in such jobs. For these reasons, the employer cannot assign an employee to work at a workplace with special conditions of work, without previously determining that the employee meets the prescribed special conditions. The employee who works at the workplace with special conditions

of work is required to promptly notify the employer, if he/she finds himself/herself not capable of performing such work, as well as to undergo a medical examination to which he/she is referred by the employer in accordance with a separate regulation.

When two or more employers carry out works on the same or common construction site or working site at the same time, each of them is obliged to organise work performance in such a manner that employees of one employer do not compromise Safety and health at work of employees of the other employers when performing work. All employers performing works are required to conclude, before the commencement of work, a separate contract on the organisation and implementation of measures of safety and health at work, as well as on the mutual rights, obligations and responsibilities. This contract is submitted to the inspection authority responsible for the supervision of Safety and health at work, at least five days before the commencement of works.

The employer is also required, in accordance to Article 22 and 23 of the Bill, to inform the employee or his/her representatives for Safety and health at work, as well as the employer whose employees he/she hired to work for him/her, and persons responsible for the implementation of measures about the risks to safety and health, protection and prevention measures and activities with respect to any type of workplaces and / or jobs, the manner of organising and administering first aid, fire protection, evacuation procedures for employees in the case of severe and immediate danger, and about the persons responsible for the implementation of these measures.

Employers and representatives of employees are required to cooperate in the process of establishing their rights, obligations and responsibilities relating to Safety and health at work in accordance with this Law.

Rights of representatives of employees for Safety and health at work and the rights of trade unions, as well as their position and training, are governed by Articles 24, 25 and 26 of the Bill.

Article 27 of the Bill prescribes that the design, manufacture and use of working equipment and personal protective equipment, the use of which eliminates the risks or hazards that could not be eliminated by applying appropriate preventive measures will be carried out in a manner and in accordance with applied technological procedure.

In this regard, the employer is required to purchase and issue to the employee for use the working equipment and personal protective equipment that is necessary for his/her workplace, only if he/she possesses prescribed documents for these purposes, in the official language and the languages in official use, in which manufacturer or supplier, stated all security and technical information that is relevant for assessing the risk at work, as well as to ensure their use in accordance with the intended purpose.

In accordance with Articles 28, 29, 30 and 31 of the Bill, the employer is required to take the necessary measures and designate employees for providing first aid, fire protection and evacuation of employees depending on the type of workplace and activities, as well as on the number of employees and the presence of other persons, in accordance with this Law and regulations governing this area.

For the implementation of these measures, connection must also be provided with services outside of the employer, particularly in terms of first aid, emergency medical assistance, and rescue and fire protection. There is also an obligation to inform all employees who are or could be exposed to a serious or imminent danger about the type of risk and protective measures.

The employer is required to provide for insurance of employees against injuries at work, occupational diseases and work-related diseases, while the insurance premiums are borne by the employer.

An employer may be relieved of accountability for safety and health at work in the event of unpredictable circumstances beyond the control of the employer and despite the measures of Safety and health at work that were implemented.

IV Rights, obligations and responsibilities of employees (Articles 32 to 37)

In addition to the rights, obligations and responsibilities of the employer, provisions of Articles 32, 33 and 34 of the Bill prescribe solutions related to rights and obligations of employees when it comes to safety and health at work. Thus, the employee has the right and obligation to get familiar, before starting to work, with measures of safety and health at work in the workplace to which he/she is assigned, as well as to be trained for their implementation, and to give the employer suggestions, objections and information about the issues of safety and health at work. An employee has the right and obligation to undergo a medical examination appropriate to the risk to safety and health at work in the workplace, to which he/she is referred by the employer, in accordance with the regulations on the safety at work and regulations in the field of health care.

An employee may refuse to work if: he/she is not previously introduced to all the dangers or hazards and risks at work, or if the employer failed to provide the prescribed medical examination; if he/she is exposed to an immediate danger to life and health because of the lack of implementation of measures of safety and health at work in the workplace to which he/she was assigned, for as long until those measures are provided; and if the working equipment were not subjected to the prescribed measures of safety and health at work which directly endangers his/her life and health. In the event of serious and immediate danger to life and health, an employee may take appropriate measures in accordance with his/her knowledge and technical resources that are available to him/her, or can leave the workplace.

According to Articles 35 and 36 of the Bill, an employee has an obligation to: apply the prescribed measures of safety and health at work during his/her work; take care of his/her safety and health at work and the safety and health at work of other employees he/she affects by his/her work or actions while performing work; use the working equipment, dangerous substances, personal protective equipment and protection devices in line with their intended purpose; cooperate with the employer and the professional person for safety and health at work with a view to implementation of prescribed measures of safety and health at work in jobs in which he/she works; inform the employer, in writing or verbally, or through his/her representatives for safety and health at work, about the irregularities, defects, hazards, dangers or other occurrences that could jeopardise his/her or other employees' safety and health at work in the workplace, and cooperate with the employer and the professional person for safety and health at work until the employer provides safe working conditions.

Employees are subject to accountability and cannot begin performing work under the influence of psychoactive substances (alcohol, drugs, etc.), and are therefore obliged to undergo testing to check whether they are under the influence of psychoactive substances, in accordance with the act of the employer.

V Organisation of Safety and health at work activities with the employer (Articles 38 to 46)

Article 38 of the Bill stipulates that the employer organises and performs professional activities of safety and health at work depending on the organisation, the nature and extent of the work process, the number of employees who participate in the work process, number of shifts, the estimated risks and the number of units separated in terms of location. In order to perform professional tasks, the employer may: designate a professional person for safety and health at work; organise a professional service for safety and health at work; hire legal entity or entrepreneur for carrying out these tasks as the authorised organisation. Thus, the employer may entrust the performance of all certain tasks of safety and health at work to an authorised organisation, when unable to perform these tasks with their professional persons for safety and health at work or professional services for safety and health at work.

Under Article 39 of the Bill, an authorised organisation is required to prepare, no later than 30 days from the date of completed inspection and/or testing, an expert finding or report, including an assessment of whether the prescribed measures of safety and health at work are provided, and to submit it to the applicant. The authorised organisation is responsible that assessments from the expert finding correspond to the degree of applicability of measures of safety and health at work at the time of inspection.

Articles 40 and 41 of the Bill stipulate the obligation of the employer to enable professional persons for safety and health at work that he/she designated, independent and autonomous performance of their tasks, as well as professional development, in accordance with this Law, and to enable them access to all information relevant to safety and health at work.

The employer is required to enable the professional person for safety and health at work proper absence from work, with the same fringe benefits as if he/she were working, as well as to provide all necessary means for conduct of activities related to Safety and health at work.

Before assignment to these activities, a professional person in the above sense is required to pass the professional exam for persons engaged in safety and health at work.

It is also envisaged in which cases these persons are not required to take a professional exam. The conditions, programme and manner of taking professional exam for the professional person for safety and health at work is prescribed by the public administration body in charge of labour affairs.

Article 41 of the Bill stipulates the tasks that a professional person for safety and health at work or professional services for safety and health at work are required to perform. Inter alia, the professional person for safety and health at work can propose a measure banning the workplace or the use of working equipment, in the case when he/she finds an immediate danger to the life or health of the employee, upon which he/she immediately informs the employer and the representative of employees for Safety and health at work, and is required to inform the inspection authority responsible for the supervision of Safety and health at work thereof.

Article 42 of the Bill stipulates that professional tasks of Safety and health at work can be performed by a professional service for Safety and health at work with the employer and an authorised organisation, which meet the requirements in terms of personnel, organisation, technical and other requirements prescribed by the public administration body in charge of labour affairs, in particular the following:

- 1) Preparation of the risk assessment act, with proposed measures for their elimination;

2) Periodic inspection and testing of working equipment, electrical and other installations and personal protective equipment;

3) Examination of the conditions in the working environment (chemical, physical and biological hazards, light and microclimate);

4) Audit (assessment) of the technical documentation in terms of application of preventive measures of Safety and health at work, technical regulations and standards, with a view to determine the provision of protection to employees in facilities for which technical documentation was prepared, for the work processes to be performed in them;

5) Training and testing capabilities for the safe work of the employees.

Article 43 provides for the procedure for obtaining authorisation, the amount of the costs of this process, that the public administration body responsible for labour affairs authorises a legal person or an entrepreneur to perform specific tasks in the field of Safety and health at work by a decision in accordance with the law, as well as that it keeps a register of authorised organisations in accordance with this Article, and that the decision is issued for a period of three years, as well as that it may be renewed under the same conditions.

Article 44 of the Bill prescribes that the process of obtaining authorisation for performing professional services of expert service for Safety and health at work with the employer is subject to the provisions of Article 43 of this Law, while Article 45 provides that if the employer hires an authorised organisation for performing the tasks of Safety and health at work, the mutual rights, obligations and responsibilities will be specified by a contract. It is also provided that the fee is established with regard to services by authorised organisations, and that this is performed by the public administration body responsible for labour affairs.

Article 46 of the Bill provides that the public administration body responsible for health affairs issues a legal entity registered in accordance with the law, with the prior consent of the public administration body responsible for labour affairs, an authorisation on whether the necessary personnel, organisational, technical, and other conditions have been met for the legal entity to perform the affairs related to employee health care, while Article 47 refers to records that the employer is required to keep and maintain.

Article 48 of the Bill stipulates that the employer is required to prepare, at least once a year, a report on Safety and health at work of employees, which is considered by the bodies that perform management operations along with business reports, as well as that following the request of the competent inspector, the employer provides a report on the state of Safety and health at work of employees, as well as on the measures taken in this area with the employer.

Also, the employer is required to immediately, but no later than 24 hours from the occurrence, submit a written report to inspection authority responsible for the supervision of safety and health at work on any cases of death, collective, severe and other injuries at work that causes the absence of the employee from work for more than three working days, as well as any dangerous phenomenon that could threaten the health and safety of employees, while also being required to issue the injured employee and medical institution in which the examination of the employee

was conducted a report on the injury at work within the deadline and on the form regulated by an act of the public administration body responsible for health affairs.

Article 49 of the Bill envisages that the Health Insurance Fund of Montenegro, the Pension and Disability Insurance Fund of Montenegro, licensed health care institutions for employee health care and other health care institutions are required to cooperate with the public administration body responsible for labour affairs in connection with the submission of data on injuries, occupational diseases, work-related diseases and persons with work-related disabilities and provide such data on request, and on a monthly basis, as well as for each calendar year, no later than 28 February of the following year.

Articles 50 and 51 envisage that the supervision of the enforcement of this Law, regulations adopted on the basis of the Law and technical and other measures relating to Safety and health at work shall be exercised by the public administration body responsible for the inspection supervision affairs, through labour inspectors for the field of Safety and health at work, unless the provided by law that the supervision of the implementation of these regulations in certain activities is carried out by other bodies as well. In addition, supervision of professional work of authorised organisations is performed by administration body responsible for inspection supervision, through Labour Inspection, in accordance with this Law. Within the supervision of professional work, it is determined whether the requirements regarding personnel, organisational, technical and other requirements prescribed by the administration body responsible for labour affairs have been met, and so is the quality of the performance of professional tasks, based on the review of the documentation and insight into the process of providing services and their effects. Upon completion of the supervision of professional work of authorised organisations, a record is prepared and submitted to the administration body responsible for labour affairs. Article 52 stipulates obligations and powers of labour inspectors in the field of Safety and health at work.

Chapter III of the Rationale will be processed once the opinion of the Ministry responsible for European Integration is received.

VI Transitional and final provisions

Article 56 of the Bill stipulates that the public administration body responsible for labour affairs shall establish the fees for the provision of services by authorised organisations within 6 months from the date of entry into force of this Law, and until then the contractual clauses on contracts for the performance of activities of authorised organisations remain valid. Article 57 prescribes that existing authorised organisations for conducting tasks of safety and health at work are required to bring their operations into line with the provisions of this Law within six months from the date of entry into force of this Law.

Article 58 provides that the by-laws for the implementation of this Law shall be adopted within two years from the date of entry into force of this Law, while Article 59 envisages that the application of Article 18, paragraph 3 is postponed until the accession of Montenegro to the European Union.

Articles 60 and 61 are relating to the expiry of the Law on Safety at Work (Official Gazette of the Republic of Montenegro 79/04 and Official Gazette of Montenegro 26/10), as well as to entry into force of the new Law on the eighth day following its publication in the Official Gazette of Montenegro.

V Funds required

This Law is based on the principles and objectives of EU legislation and the full implementation and enforcement of its provisions requires appropriate conditions and in accordance with the requirements and practices of the EU.

For the implementation of this Law it is not necessary to provide special funds in the Budget of Montenegro.