

**Standard Summary Project Fiche – IPA centralised programmes**  
**Project Fiche: 11**

**1. Basic information**

- 1.1 CRIS Number: 2009/021-170
- 1.2 Title: **Harmonization and implementation of the regulations of Labour Inspection and Safety at Work**
- 1.3 ELARG Statistical code: 03.19
- 1.4 Location: Montenegro

**Implementing arrangements:**

- 1.5 Contracting Authority: Delegation of the European Commission to Montenegro
- 1.6 Implementing Agency: N/A
- 1.7 Beneficiary (including details of project manager):

Ministry of Health, Labour and Social Welfare  
Department of Labour Inspection and Safety at Work Inspection  
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**Financing:**

- 1.8 Overall cost: 1,360,000 EUR
- 1.9 EU contribution: 1,180,000 EUR
- 1.10 Final date for contracting: Two years from the date of the conclusion of the Financing Agreement

- 1.11 Final date for execution of contracts: Two years from the final date for contracting
- 1.12 Final date for disbursements: One year from the final date for execution of contracts.

## 2. Overall Objective and Project Purpose

### 2.1 Overall Objective:

Improved labour relations and working conditions for Montenegro citizens in line with the EU acquis

### 2.2 Project purpose:

To provide conditions for implementation of European standards related to safety and health of employees through harmonization of legislation and improvement of human and technical capacities of governmental institutions in the area of labour inspection and safety at work inspection.

### 2.3 Link with AP/NPAA / EP/ SAA

**European partnership** document pays special attention to the process of institutional building as well as public administration capacity building. Significant attention is also given to design and policy management which are to provide the required conditions for increase in employment, and creation of employee friendly business environment. This approach underlines the importance of controlling institutions in the area, especially Labour inspection and Safety at Work Inspection but at the same time it also points out the significance of participation of other social partners in the activities.

**Action Plan for implementation of the European Partnership** dated May 17, 2007 in its *chapter 1. Internal market, point 1.8. Employment and social policy, part 2* anticipates the improvement of the labour inspectorates in order to ensure health and safety conditions at work through the following:

- normative regulations for the Safety at Work Agency, and
- passing of the appropriate bylaws for the safety at work area

**Progress report 2007** emphasizes the importance of continuing the efforts and activities relating to strengthening the Labour Inspection and Safety at Work Inspection as well as ensuring appropriate support targeting. Particular attention should be given to advanced training of labour and safety at work inspectors as well as to the improvement of technical equipment of the inspection services.

**National programme for integration of Montenegro (NPI)** for 2008-2012 in its *point 3. Ability to comply with the obligations of the EU membership* anticipates the following elements in the process:

- 3.1.3 New approach directives
- 3.19. Social and employment policy
  - 3.19.1. Labour legislation
  - 3.19.2. Health and safety related conditions at work

### 3.19.3. Social dialogue

It also defines the need to continue with (i) the strengthening of the safety and health at work policy within the framework of state provided assistance, and (ii) the process of setting up control over state provided assistance in accordance with the demands of the Stabilisation and Association Agreement.

## 2.4 Link with MIPD

The Multi-annual Indicative Planning Document (MIPD) 2009–2011 provides contexts and identifies main intervention areas and key planning priorities for the preparation of annual action programmes. Support to institutional building in the control area of Labour Inspection and Safety at Work Inspection is a part of the overall strengthening of both human and technical capacities in the public administration which is a significant element in the accomplishment of the European partnership. The sub-chapter 2.2.2.2 *Expected results and indicators of MIPD* states: “The national labour market policy reform is aligned with the standards and requirements of EES; this would include improved regulations, good governance, equal opportunities in the employment field; appropriate development of social dialogue; existence of investments in human capital development; active labour market measures in place; **harmonized national legislation in particular with respect to labour law, health and safety at work**, social inclusion and anti-discrimination; enhanced access to employment and labour market re-integration.”

## 2.5 Link with National Development Plan

Not applicable

## 2.6 Link with national/ sectoral investment plans

Not applicable

## 3. Description of project

### 3.1 Background and justification:

EU membership is recognized as the most significant goal for future security and prosperity of Montenegro. Objective and all encompassing overview of the current processes in Montenegro thus points out the fact that all segments of life and work require a lot of effort to reach the goal of EU membership, but it also indicates that significant activities have been initiated in all of the previously mentioned segments, while the processes themselves are accelerating. One of the important processes that Montenegro has to complete in its pre-accession activities is the harmonisation of laws with EU legislation and institutional building that would ensure adoption and implementation of laws. Article 72 of the SAA document (April 2007) obligates the country to comply.

Based on the SAA the Government has accepted the obligation to undertake concrete steps to create and build institutional infrastructure, develop human resources and by doing so prepare the public administration for the first phase of the complex process of harmonisation and

subsequent implementation of the new legislation. The process of legislative harmonisation, apart from its coordination and institutional function, also includes the preparation of the new or adaptation of the existing regulations and sub-regulations.

A minor part of directives is already incorporated in the Montenegrin legislation while the remaining major part is still to be incorporated in the legislation through bylaws (rulebooks, instructions etc.).

In accordance with the approach defined in MIPD, this Project therefore aims to provide preconditions for the implementation of European standards related to the safety and the health of employees through harmonisation of legislative regulations and improvement of human and technical capacities of governmental institutions in the area of labour inspections and safety at work inspections.

This will lead to full harmonisation of the legislation with the *acquis* and efficient implementation of the rules through state offices, ensuring the strict application of measures and norms of safety at work, and allowing increased employment as well as the reduction of mortal, collective and grave injuries at work, occupational diseases and conditions endangering safety and health of employees.

The harmonisation of the legislation with regard to labour inspection and safety at work inspection with the EU legislation requires the:

- Preparation and drafting of the Law on Labour Inspection and Safety at Work Inspection that regulates the status of the institution, internal organisational units, directors' authorities, inspection affairs and authorities
- Harmonisation of the existing requirements on content and form of the Labour Inspection and preparation of a new Rulebook on content and form of the reports of Labour inspection and Safety at Work Inspection.
- Harmonisation of the existing requirements on record keeping of the inspections performed by the governmental labour inspectors, and drafting of a new Rulebook on record keeping of the inspections performed by the governmental labour inspectors and safety at work inspectors.

The project will also address the need of improving the efficiency and effectiveness of the two Inspectorates. Vital requirement in this respect is to improve the working conditions, by the provision of IT equipment and software that will connect all units of the two Inspectorates in the country. The project will also facilitate adequate and on time field work through purchase of vehicles for the inspectors.

### **3.2 Assessment of project impact, catalytic effect, sustainability and cross border impact**

For employees and employers alike one of the project **impacts** will be the availability of a clear framework for working conditions, health and safety at work issues. For employees the impact will be that legal requirements concerning working conditions, health and safety at work issues are appropriate and actually met, thus reducing occupational diseases and accidents and contributing to a rise in life expectancy. For employers standardized inspections provide security regarding the requirements to be met and thus provisions and/or investments to be made. In addition, standardized and regular inspections will promote fair competition by establishing the basis for a fair labour market.

This fair competition will not be limited to within Montenegro alone, but could affect **cross border** cooperation: parallel to Montenegro's efforts to prepare for EU accession, its neighbours are preparing their accession as well, including the harmonization of laws. This could be a basis for a broader regional harmonization of laws and institutional capacities and a foundation for further cooperation. Furthermore, this process could provide compatibility of monitoring and evaluation indicators and could permit cross border comparisons, initially on regional level only, but, once the harmonization with the *acquis* is implemented, also on EU level, where Montenegro could benefit from the exchange of experience with other member states for further development.

### **3.3 Results and measurable indicators:**

The project will achieve the following results

#### ***Result 1: Improved and strengthened human and technical capacities of the beneficiary institution to implement the legislation***

##### **Indicators:**

- Necessary hardware and software (incl. maintenance) purchased and installed;
- Staff operating hardware and software trained.
- Up to 15 vehicles available to inspectors for their field work.

#### ***Result 2: Completed process of legal harmonisation in the field of labour and safety at work legislation***

##### **Indicators:**

- At least two laws and 30 sub-laws harmonized with *acquis*;
- At least 40 trained staff,

#### ***Result 3: Developed normative system of minimum standards in safety at work.***

##### **Indicators:**

- At least 30 Documents on Risk Assessments prepared to set up the system of minimum standards in safety

### **3.4 Activities:**

#### **Activity 1: Capacity building**

- 1.1 Provision and instalment of the IT equipment for Labour Inspection and Safety at Work Inspection;
- 1.2 Provision and instalment of the software
- 1.3 Provision of transport equipment (up to 15 vehicles, 8 vehicles funded by IPA and 7 vehicles funded by NC) for inspectors for their terrain;
- 1.4 Training for using IT equipment;
- 1.5 Assessment of the institutional and administrative needs with view to enforcing the labour and safety at work legislation;
- 1.6 Providing recommendations for the improvement of institutional and administrative capacities in the field of labour and safety at work.

#### **Activity 2: Legal harmonisation**

- 2.1 Assessment of existing legislation in the area of labour and safety at work;
- 2.2 Training on relevant EU legislation;
- 2.3 Identification of priorities for harmonization of legislation with *acquis*;
- 2.4 Drafting the new laws and sub-laws and amendments of existing laws and sub-laws;
- 2.5 Public presentations and other promotional activities;
- 2.6 Organisation of trainings and workshops for social partners on implementation of new legislation;
- 2.7 Organisation of public awareness of novelties in relevant legislation;
- 2.8 Organization of study visit to EU member state.

#### **Activity 3: Establishing minimum standards for safety at work**

- 3.1 Provide assessment on present Documents of Risk Assessment;
- 3.2 Develop the Register of Documents of Risk Assessment;
- 3.3 Training for relevant stakeholders (Licensed Safety at Work Organizations and social partners) regarding methodologies for preparation of Documents of Risk Assessments;
- 3.4 Organisation of study visit to EU member state;

These activities will be implemented through 4 contracts:

Contract 1 Twinning - EU contribution - will cover activities 1.5,1.6, 2 and 3

Contract 2 Supply – EU contribution – will cover activities 1.1, 1.3, 1.4

Contract 3 Service - National contribution – will cover activity 1.2

Contract 4 Supply – National contribution – will cover activity 1.3 and will have two lots: one for the procurement of IT equipment and second for procurement of transport equipment (See annex V)

### **3.5 Conditionality and sequencing:**

The project success depends on the following conditions:

- Political will to improve the working conditions and to harmonize the labour legislation with the *acquis*
- Access of the business to credits and loans for improving their equipment and technologies
- Continuous commitment and cooperation of stakeholders.
- Motivation of existing human resources.
- Availability of adequate technical expertise in the area of harmonization of existing regulations with EU regulations
- Commitment of social partners for participation on the project activities

The project will be implemented through 4 contracts, two of them funded by IPA (one twinning contract and one supply contract for the IT equipment and part of the vehicles) and two contracts funded by the national contribution (one service contract for software and one supply contract to cover the purchase of additional 7 vehicles). The twinning (IPA) and the service (national contribution) contracts will be launched first in order to ensure some support for the identification of the needs related to the IT equipment, which is a subject of Contract 2.

The beneficiary will provide adequate office space and staff to work with the twinning partner.

### **3.6 Linked activities**

Several institution building projects have been completed successfully in the form of twinning with the assistance of Member States experts. Experience shows that this type of assistance has been particularly useful to meet the needs in the accession process and the proper harmonisation of EU *acquis*. This IPA project provides Montenegro with sufficient funds and Twinning support experts to be able to fulfil tasks related to further strengthening the administrative capacity required for the full implementation of the *acquis* related to the field of Health and Safety at Work.

### **3.7 Lessons learned**

The main lesson learned so far refers to the absorption capacity of the assistance which is dependent on the resources allocated by the beneficiaries to the project. Often project implementation is hampered by either insufficient staff or high human turnover. Therefore sufficient operational funds should be made available in the institutional budget to motivate the inspectors and ensure their participation in the project activities.

Another important issue relates to the coordination with all relevant beneficiaries and stakeholders at national and local levels. This project envisages measures to involve them in project activities thus raising the commitment at various levels to the governmental policy on health and safety at work.

The provision of technical assistance for capacity building remains a very high priority. However, technical assistance (twinning) will not be effective if the working environment of the counterparts is not up to standards. Therefore, a balanced approach with both technical advisory support and material support is essential to achieve the expected impact of the projects.

#### 4. Indicative Budget (amounts in €)

|                             |    |     | SOURCES OF FUNDING     |                            |            |                              |            |                    |                               |                 |                      |   |
|-----------------------------|----|-----|------------------------|----------------------------|------------|------------------------------|------------|--------------------|-------------------------------|-----------------|----------------------|---|
|                             |    |     | TOTAL EXP.RE           | IPA COMMUNITY CONTRIBUTION |            | NATIONAL CONTRIBUTION        |            |                    |                               |                 | PRIVATE CONTRIBUTION |   |
| ACTIVITIES                  | IB | INV | EUR<br>(a)=(b)+(c)+(d) | EUR<br>(b)                 | %          | Total EUR<br>(c)=(x)+(y)+(z) | %          | Central EUR<br>(x) | Regional/<br>Local EUR<br>(y) | IFIs EUR<br>(z) | EUR<br>(d)           | % |
| Activity 1.5, 1.6., 2 and 3 |    |     |                        |                            |            |                              |            |                    |                               |                 |                      |   |
| Contract 1<br>Twinning      | X  |     | 1,000,000              | 1,000,000                  | 100%       |                              |            |                    |                               |                 |                      |   |
| Activity 1.1. and 1.3.      |    |     |                        |                            |            |                              |            |                    |                               |                 |                      |   |
| Contract 2<br>Supply        |    | X   | 180,000                | 180,000                    | 100%       |                              |            |                    |                               |                 |                      |   |
| Activity 1.2.               |    |     |                        |                            |            |                              |            |                    |                               |                 |                      |   |
| Contract 3<br>Service       | x  |     | 100,000                |                            |            | 100,000                      | 100%       | 100,000            |                               |                 |                      |   |
| Activities 1.3              |    |     |                        |                            |            |                              |            |                    |                               |                 |                      |   |
| Contract 4<br>Supply        |    | x   | 80,000                 |                            |            | 80,000                       | 100%       | 80,000             |                               |                 |                      |   |
| TOTAL IB                    |    |     | 1,100,000              | 1,000,000                  | 91%        | 100,000                      | 9%         | 100,000            |                               |                 |                      |   |
| TOTAL INV                   |    |     | 260,000                | 180,000                    | 69%        | 80,000                       | 31%        | 80,000             |                               |                 |                      |   |
| <b>TOTAL PROJECT</b>        |    |     | <b>1,360,000</b>       | <b>1,180,000</b>           | <b>87%</b> | <b>180,000</b>               | <b>13%</b> |                    |                               |                 |                      |   |

Amounts net of VAT

## 5. Indicative Implementation Schedule (periods broken down per quarter)

| Contracts                    | Start of Tendering | Signature of contract | Project Completion |
|------------------------------|--------------------|-----------------------|--------------------|
| Contract 1<br>Twinning (IPA) | Q3 2009            | Q1 2010               | Q4 2011            |
| Contract 2<br>Supply (IPA)   | Q2 2010            | Q4 2010               | Q4 2011            |

The national contribution will be managed following the table below

| Contracts             | Start of Tendering | Signature of contract | Project Completion |
|-----------------------|--------------------|-----------------------|--------------------|
| Contract 3<br>Service | Q2 2009            | Q3 2009               | Q3 2010            |
| Contract 4<br>Supply  | Q4 2009            | Q2 2010               | Q4 2010            |

## 6. Cross cutting issues

### 6.1 Equal Opportunity

Montenegro is determined to apply the principle of equal opportunities and gender equity. This approach is already recognizable in existing laws. Harmonisation of legislation with the *acquis*, modernisation and reform of the inspections of labour and safety at work should only underline this approach and ensure its full implementation.

Considering the fact that a significant part of the activities on the project will be devoted to training and capacity building, women should be encouraged to be equally involved in the education process and to participate in the process that will be supported during the project implementation.

As proof of application of the principle of equal opportunities in practice it is necessary to emphasize that even now women are part of management and other structures in the labour inspection and safety at work inspection.

### 6.2 Environment

Inspections of labour and safety at work by nature of their activities address irregularities in the area of labour and safety at work and initiate appropriate measures for their elimination. These irregularities may include also shortcomings affecting the working and living environment. Project activities therefore have a significant link to environmental protection.

### 6.3 Minorities

Montenegro has legislation pertaining to protection of minority rights. The proposed project will ensure that internal policy, structures and operative procedures are in compliance with and are promoting minority rights.

## **ANNEXES**

**Annex 1- Log frame in Standard Format**

**Annex 2- Amounts contracted and Disbursed per Quarter over the full duration of Programme**

**Annex 3 - Reference to laws, regulations and strategic documents:**

**Annex 4- Description of the Institutional framework**

**Annex 5- Details per EU funded contract**

### Annex 1- Log frame in Standard Format

|   |   |  |
|---|---|--|
| <b>LOGFRAME PLANNING MATRIX<br/>FOR Project Fiche</b> | <b>Programme name and number:</b> Harmonization and implementation of the regulations of Labour Inspection and Safety at Work Inspection in accordance with EU <i>acquis</i> (2009/021-170) |  |
|   | <b>Contracting period expires</b> two years from the date of the conclusion of the Financing Agreement  | <b>Disbursement period expires</b> one year from the final date for execution of contracts |
|   | Total budget 1.360.000,00 €   | IPA budget: 1.180.000 €  |

| Overall objective  | Objectively verifiable indicators  | Sources of Verification  | Assumption  |
|--|--|--|---|
| Improved labour relations and working conditions for Montenegro citizens in line with the EU <i>acquis</i>   | Decrease of the percentage of accidents at work in relation to the number of employed people<br><br>Decreased costs for medical treatment and rehabilitation of employees who have been injured at work or acquired occupational diseases (medical treatment, lost working time, sick leave and disability rate) | MHLSW/MONSTAT data and data from the social and health security systems<br><br>Reports of the Health Fund<br><br>Reports of the Pension Insurance Fund     |   |
| Project purpose  | Objectively verifiable indicators  | Sources of Verification  | Assumptions   |
| To provide conditions for implementation of European standards related to safety and health of employees through harmonization of legislation and improvement of human and technical capacities of governmental institutions in the area of labour inspection and safety at work inspection. | Relevant labour and safety at work legislation harmonized with <i>acquis</i> .<br><br>Number of inspections carried out, number of protocols and recommendations made by the inspectors  | - Labour legislation/Official Gazette<br><br>-Reports on implementation of NPI<br><br>-Regular progress report<br><br>-Annual reports of the Inspectorates | - Political will to improve the working conditions and to harmonize the labour legislation with the <i>acquis</i><br><br>- Access of the business to credits and loans for improving their equipment and technologies |

| Results   | Objectively verifiable indicators   | Sources of Verification   | Assumptions   |
|---|---|---|---|
| <p>1. Improved and strengthened human and technical capacities of the beneficiary institution in order to ensure the implementation of the legislation.</p> <p>2. Completed process of legal harmonisation in the field of labour and safety at work legislation</p> <p>3. Developed normative system of minimum standards in safety at work.</p> | <ul style="list-style-type: none"> <li>- Hardware and software installed and used;</li> <li>- Improved mobility of the inspectors (visit rate increase)</li> <li>- At least two laws and 30 sub-laws harmonized with <i>acquis</i></li> <li>- At least 40 trained staff,</li> <li>- At least 30 Documents on Risk Assessments prepared to set up the system of minimum standards in safety</li> </ul> | <ul style="list-style-type: none"> <li>- Inspectorate Annual Reports</li> <li>- Acceptance protocols</li> <li>- Official Gazette</li> <li>- Documents on risk assessment</li> </ul> | <p>Continuous commitment and cooperation of stakeholders.</p> <p>Motivation of existing human resources.</p> <p>Availability of adequate technical expertise in the area of harmonization of existing regulations with EU regulations</p> |

| Activities   | Means  | Costs  | Assumptions  |
|--|--|--|--|
| <p><b>Activity 1:</b><br/> 1.1 instalment of the IT equipment for Labour inspection and Safety at work inspection;<br/> 1.2 Provision of software<br/> 1.3 Provision of the transport equipment (up to 15 vehicles) for inspectors<br/> 1.4 Training for using IT equipment;<br/> 1.5 Assessment of institutional and administrative capacities<br/> 1.6 Recommendations for improving the institutional and administrative capacities in field of labour and safety at work.</p> <p><b>Activity 2:</b><br/> 2.1 Assessment of existing legislation<br/> 2.2 Training on relevant EU legislation;<br/> 2.3 Identification of priorities for harmonization of legislation with <i>acquis</i>;<br/> 2.4 Drafting the new laws and sub-laws;<br/> 2.5 Public presentations and promotion<br/> 2.6 Trainings for social partners<br/> 2.7 public awareness activities<br/> 2.8 study visit to EU member state.</p> <p><b>Activity 3:</b><br/> 3.1 assessment on present Documents of Risk Assessment;<br/> 3.2 Develop a Register of Documents of Risk Assessment;<br/> 3.3 Training for relevant stakeholders regarding methodologies for preparation of Documents of Risk Assessments;<br/> 3.4 Study visit.</p> | <p>1. Twinning contract funded by EU: 1.000.000,00 €;</p> <p>2. Supply contract funded by EU: 180.000,00 €, of which<br/> Lot one - 60.000,00 €<br/> Lot two - 120.000,00 €</p> <p>3. Service contract funded by national contribution: 100.000 €</p> <p>4. Supply contract funded by national contribution: 80.000,00 €</p> | <p>IPA funding – 1.180.000 EUR<br/> National funding – 180.000 EUR</p> | <p>- Commitment of the Government for continuing reform processes and harmonization with EU practices in the field of labour and safety at work</p> <p>- Commitment of social partners for participation on the project activities</p> |

**Annex 2- Amounts in EUR contracted and disbursed per Quarter over the full duration of Programme**

| <b>Contracted</b> | <b>Q1 2010</b>   | <b>Q2 2010</b> | <b>Q3 2010</b> | <b>Q4 2010</b>   | <b>Q1 2011</b> | <b>Q2 2011</b> | <b>Q3 2011</b>   | <b>Q4 2011</b>   |
|-------------------|------------------|----------------|----------------|------------------|----------------|----------------|------------------|------------------|
| Contract 1        | 1,000,000        |                |                |                  |                |                |                  |                  |
| Contract 2        |                  |                |                | 180,000          |                |                |                  |                  |
| <b>Cumulated</b>  | <b>1,000,000</b> | <b>0</b>       | <b>0</b>       | <b>1,180,000</b> | <b>0</b>       | <b>0</b>       | <b>0</b>         | <b>0</b>         |
| <b>Disbursed</b>  | <b>Q1 2010</b>   | <b>Q2 2010</b> | <b>Q3 2010</b> | <b>Q4 2010</b>   | <b>Q1 2011</b> | <b>Q2 2011</b> | <b>Q3 2011</b>   | <b>Q4 2011</b>   |
| Contract 1        | 400,000          |                | 150,000        |                  | 150,000        | 50,000         | 150,000          | 100,000          |
| Contract 2        |                  |                |                | 108,000          |                |                |                  | 72,000           |
| <b>Cumulated</b>  | <b>400,000</b>   | <b>400,000</b> | <b>550,000</b> | <b>658,000</b>   | <b>808,000</b> | <b>858,000</b> | <b>1,008,000</b> | <b>1,180,000</b> |

### **Annex 3 - Reference to laws, regulations and strategic documents:**

#### **Legal framework**

Constitutional ground: Everybody has the right to work, free choice of profession and employment, fair and human working conditions and protection during unemployment (article 62), forced labour is forbidden (article 63)

Changes and amendments to the Labour Law were adopted in 2006 (Official Gazette of Montenegro no. 25/06) and became effective as of April 26, 2006. These changes and amendments were made to the text of the Labour Law that was adopted in 2003 (Official Gazette of Montenegro no. 43/03), which took effect on July 29, 2003. The law was revised in areas related to free associations of unions and employer organisations, as well as in the section related to determination of a broader scope of protection for disabled persons. This law, at the time it was passed, was based on new concepts and with a completely different approach to the management of labour relations. Its concept is suitable for application in labour market economy. Institutional solutions are adjusted to the process of property transformation and privatisation, and in that sense it discarded the old self-management system by defining the rights and obligations of both the employees and employers, through employment contracts.

These solutions were based on international standards in labour relations, especially the regulations of the ratified MOR conventions, as well as EC Social Charter text and basic rights of the workers.

The law on peaceful resolution of labour disputes was adopted by the Montenegro Parliament on December 18, 2007 and published in the Official Gazette of Montenegro no.16/07.

This law introduces “out of court” settlements for disputes for the first time in Montenegro. The basic concept and content of the law on peaceful resolution of labour disputes are directed to determine the basic principles of peaceful resolution procedure for both individual and collective labour disputes in cases where parties have or have not yet initiated court proceedings, as well as to determine the rights and obligations of the reconciled and arbitrators. The introduction of a peaceful solution to labour disputes (both individual and collective) is significant for the reduction of the court caseloads in this area, because there is a large number of labour legal disputes that are taking a lot of time to resolve and parties are justifiably unhappy.

The following international documents were taken into account during the preparation of the law:

- European Convention on Human Rights and Basic Liberties
- Social Charter of the European Community and Basic Social Rights
- Recommendation R (86) 2 on measures for prevention and reduction of caseloads
- Commission recommendation 200/310/EEC on principles for out of court engaged bodies in agreement resolution of consumer disputes.
- Commission recommendation 28/257/EEC on principles applicable on bodies responsible for out of court resolution of consumer disputes
- Council Directive 2002/8/EEC on improvement of access to justice and disputes with international elements by determining minimum of common rules related to legal assistance in such cases

By-laws passed by the Ministry of Labour, Health and Social Welfare are:

- Rulebook on method and procedure of registration of general and branch related collective contracts (Official gazette of Montenegro no.10/04)
- Rulebook on method and procedure of record keeping in employer associations and more specific criteria for determination of representation of the authorised employer associations (Official gazette of Montenegro no. 34/05)

The issue of working hours is regulated in the Labour Law as a 40-hour full time in the week. The Law itself is harmonised with Directive 32003L0088 which relates to specific methods of determination of working hours.

### **Reference to AP /NPAA / EP / SAA**

**Article 72. of SAA** defines that contracting parties confirm the significance of harmonisation of the existing legislation in Montenegro with the legislation of the Community, and its efficient implementation. Montenegro will strive to ensure gradual harmonisation of all existing laws and future legislation with legal regulations of the Community-*Acquis*. Montenegro will ensure adequate implementation and application. Harmonisation will be conducted in accordance with the programme agreed between Montenegro and the European Commission. In its early phase, harmonisation will be focusing on the basic elements of the *Acquis* relating to internal market, including legislation in the area of finance, judiciary, liberty and security, as well as other forms of trade. In the later phase, Montenegro will focus on the other parts of the *Acquis*.

Issues related to labour and labour relations area are indicated in the Stabilisation and Accession Agreement in Chapter VI (Harmonisation of legislation, law implementation and rules on competitiveness) i.e. article 79 (Working conditions and equal opportunities).

The **Action plan for implementation of the recommendations from the European Partnership** in its section on Human Rights and Protection of Minorities contains recommendation no.1 "Adopt all-encompassing anti-discriminatory legislation".

The new Labour Law was passed in the third quarter of 2008. Regulations for its implementation will be passed by the Ministry authorised for labour affairs within a year as of the date it has taken effect. The new Labour Law introduces and precisely defines the following: prohibition of discrimination, equal treatment in employment of men and women as well as in selection of profession. The law is in accordance with (i) the SAA signed between the European Union and its member countries and Montenegro, as well as with (ii) the European Convention on Human Rights and Basic Liberties Protection, Protocol no.12 with the Convention on Human Rights and Basic Liberties Protection and General Declaration on the Rights of Men. This Law will also ensure consistent application of ratified conventions and recommendations of MOR

Montenegro will also work on the ratification of the European Social Charter. Apart from that the following bylaws will be passed in the upcoming period:

- Rulebook on method and procedure of registration of general and collective contracts

- Rulebook on method and procedure of record keeping for the employer associations, and specific criteria determining representation of the authorised employer association,
- Rulebook on worker's employment booklet
- Bylaws determining specific conditions in terms of mutual communication of the participants in peaceful resolution of disputes and the rules of procedure itself
- Instruction on the method of record keeping on conducted inspections performed by safety at work inspectors
- Rulebook on content and form of reports for the safety at work inspection
- Instruction on the method of record keeping on conducted inspections performed by labour inspectors.
- Rulebook on content and form of reports for labour inspection

Starting point or in this case directive in the safety at work area was the **General Directive of the European Community no. 89/391/EEC**, on the introduction of measures to encourage improved safety and health at work. The Directive allows assurance of a higher level of safety at work that the one envisaged as basic. The directive was used while drafting the Law on Safety at Work.

Apart from the General Directive, which is contained in the Law on Safety at Work, the EU to this date has passed many others that relate to issues of safety and health of the employees at work in certain areas. Some minor parts have already been included in the Montenegrin legislation but the majority still has to be incorporated in terms of bylaws (rulebooks, instructions etc.), which is the subject of the changes to the Law on Safety at Work and the planned harmonisation with the EU directives and standards.

Bylaws establish more specific measures to ensure full protection of employees at work and provide more details on particular issues contained in the general Directive of the Council 89/391/EEC dated June 12, 1989 related to introduction of measures for encouragement to improve safety and health of the employees at work and Individual Directives (passed in accordance with the article 16 of the Directive 89/391/EEC).

A working group of the Ministry of Health, Labour and Social Welfare of Montenegro with assistance of international experts will work on the harmonisation of the legislation. Individual Directives, which will be applied, along with the previously mentioned General Directive in the drafting of the following rulebooks, will also be incorporated in the national legislation as bylaws:

- Rulebook on procedure and deadline of early and periodical medical examinations of those employed at work posts exposed to risks (Commission recommendations dated July 7, 1966 that were sent to member countries and related to medical examination of the workers exposed to certain risks)
- Rulebook on types of facilities, content and method of drafting safety at work projects
- Rulebook on conditions that the authorised health facility has to comply with, and about the procedure for establishment of compliance with the conditions (Commission recommendations dated July 7, 1966 that were sent to member countries and related to medical examination of the workers exposed to certain risks)
- Rulebook on safety and health of the employees exposed to carcinogenic or mutagenic material at work (Directive 2004/37/EEC of the European Parliament and Council

- dated April 29, 2004 and related to protection of workers exposed to carcinogenic and mutagenic material at work)
- Rulebook on safety and health at work for the employees exposed to physical harmfulness (Directive 2003/10/EEC of the European Parliament and Council dated February 6, 2003 and related to the determined minimum of health and safety demands with regards to physical harmfulness (noise), Council Directive 80/1107/EEC related to protection of workers exposed to chemical, physical and biological harmfulness at work)
  - Rulebook on safety and health at work for the employees exposed to chemical harmfulness (Council Directive 98/24/ EEC related to health and safety of workers exposed to chemical harmfulness Council Directive 80/1107/EEC related to protection of workers exposed to chemical, physical and biological harmfulness at work)
  - Rulebook on established minimum of conditions for safety and health of the employees working at temporary working sites (Council Directive 92/57/EEC dated June 24, 1992 on application of the established minimum of safety and health demands on temporary working sites)
  - Rulebook on safety of the employees exposed to asbestos at working post (Council Directive 83/477/EEC related to protection of workers exposed to asbestos at work, Council Conclusions dated April 7, 1998 and related to protection of employees exposed to asbestos at work (amended version)
  - Rulebook on established minimum of demands for the usage of danger signs at work (Council Directive 92/58/EEC dated June 24, 1992 about the established minimum of demands for the danger signs at work)
  - Rulebook on the established minimum of demands for safety and health at work of the employees while using means for work (Directive 2001/45/ EEC of the European Parliament and Council dated June 27, 2001 related to improvement of the Council Directive 89/655/EEC on established minimum of demands for the usage of danger signs at work)
  - Rulebook on application of protective measures related to safety at work of the employees working with screens/monitors (Council Directive 90/270/EEC dated May 29 1990 about the minimum of established safety and health demands for those working with screens/monitors)
  - Rulebook on minimum of established demands for safety and health at work for employees working at fishing boats (Council Directive 93/103/ EEC dated November 23, 1993 related to minimum of established demands for safety and health at work for employees working at fishing boats)
  - Rulebook on organisation of first aid on fishing boats
  - Rulebook on safety and health of employees while handling dangerous material (Council Directive 96/82/ EEC for control of major risks in terms of accidents caused by dangerous material)
  - Rulebook on safety and health at work for the employees exposed to biological harmfulness (Directive 2000/54/ EEC of the European Parliament and Council dated September 18, 2000 and related to safety and health of employees exposed biological harmfulness at work)
  - Rulebook on safety and health at work for the employees exposed to explosive environment (Directive 1999/92/ EEC of the European Parliament and Council dated December 16, 1999 related to the minimum of established demands related to improvement of safety and health at work for the employees exposed to explosive environment)

- Rulebook on usage of means and equipment for personal protection at work (Council Directive 89/656/EEC dated November 30, 1989 related to the established minimum of safety and health at work demands in terms of usage of means and equipment for personal protection at work)
- Rulebook on established minimum of safety and health at work demands related to employees exposed to risks from electromagnetic field (Directive 2004/40/ EEC of the European Parliament and Council dated April 29, 2004 related to established minimum of safety and health at work demands related to employees exposed to risks from increased physical harmfulness (electromagnetic)).

#### **Annex 4 - Description of the Institutional framework**

The project will be implemented by the Ministry of Health, Labour and Social Welfare of Montenegro which is tasked with legislation of labour policy.

Organisational structure of the Ministry of Health, Labour and Social Welfare of Montenegro includes seven sectors and Common and Legal Affairs Service. Sector for labour relations has the following structure:

- Department for labour relations (5 employees)
- Department for labour inspection and safety at work inspection (2 employees in the Ministry, regional units of labour inspection - 31 labour inspectors and regional units of safety at work inspection - 12 safety at work inspectors)
- Department for first instance offence procedure (3 employees)

Sector for labour relations conducts affairs relating to monitoring and improvement of labour legislation, normative and legal affairs in labour area, monitoring and application of ratified conventions and EU directives on labour, providing expert opinions on application of the law, cooperating with employer associations and union in preparation of collective contracts and participation in social dialogue, affairs related to first instance offence procedures in labour and employment area, inspection control, second instance administrative procedure in terms of response to appeals on labour inspectors as well as other affairs in accordance with the regulations.

Control of application of procedures is conducted by labour inspection and safety at work inspection, Labour and safety at work inspectors have gone through (and are continuously doing so) a training within the international cooperation programme.

**Social policy and employment** document in its section related to **Labour Legislation** defined that for upholding the Law on Peaceful Resolution of Labour Disputes it is necessary to form an Agency for peaceful resolution of labour disputes, as a separate organisation that will deal exclusively with expert affairs within the peaceful resolution of the above-mentioned disputes. The funding for formation of the Agency will be provided from the Budget of the Republic and other sources (article 10-12).

The Labour Inspection and Safety at Work Inspection also require harmonisation of the legislative regulations as well as human and technical capacity building. These activities will be supported by realisation of this project.

The overview of the situation clearly indicates that it is necessary to continue the strengthening of the safety at work system, including its functionality, by determining priority goals which when achieved will provide conditions for a continuous improvement of safety and health at work, working abilities of the employees as well as adjustment of the safety and health at work system to the social and economic changes.

But, there is no National Strategy in the safety at work area nor is there an office that deals with safety at work affairs (safety and health conditions at work) in terms of an independent Council or Agency for Safety at Work, instead the Safety at Work Inspection is handling the affairs as a part of the Sector for Labour Inspection and Safety at Work Inspection Affairs.

Non-existence of a National Strategy in the safety at work area as well as non-existence of a particular department that deals with safety at work affairs, which were supposed to define strategic development direction, has required certain pre-activities in order to be able to define project goals. A SWOT Analysis was made for the purpose of overview of the existing situation in the control area of Labour inspection and Safety at Work Inspection and its comparison to EU regulations. The method and conditions for adjustment of legislation and its implementation have various strengths, weaknesses, opportunities and threats in this concrete case. SWOT Analysis indicates the following basic:

### **Strengths**

- Human potential which is, along with international technical assistance, able to accomplish,
- European development in the control area of Labour inspection and Safety at Work Inspection,
- Determination on European integration and readiness to comply with the pre-accession requests in the nearest future.

### **Weaknesses**

- Low personal income of the employees in public administration,
- Personnel fluctuation and abandonment,
- Insufficient technical equipment of the Labour inspection and Safety at Work Inspection,
- Insufficient staffing

### **Opportunities**

- Existing international cooperation of Labour Inspection and Safety at Work Inspection,
- Action Plan and National Programme of the Montenegro Government,
- EU passed a Decision on funding institutional strengthening projects in the pre-accession countries.

### **Threats**

- Insufficient compliance with the constitutional law,
- Existing system of values among the Montenegrin employers and their obligations to employees,
- Insufficient funds in the budget for accomplishment of reform processes and lack of financial and technical support.

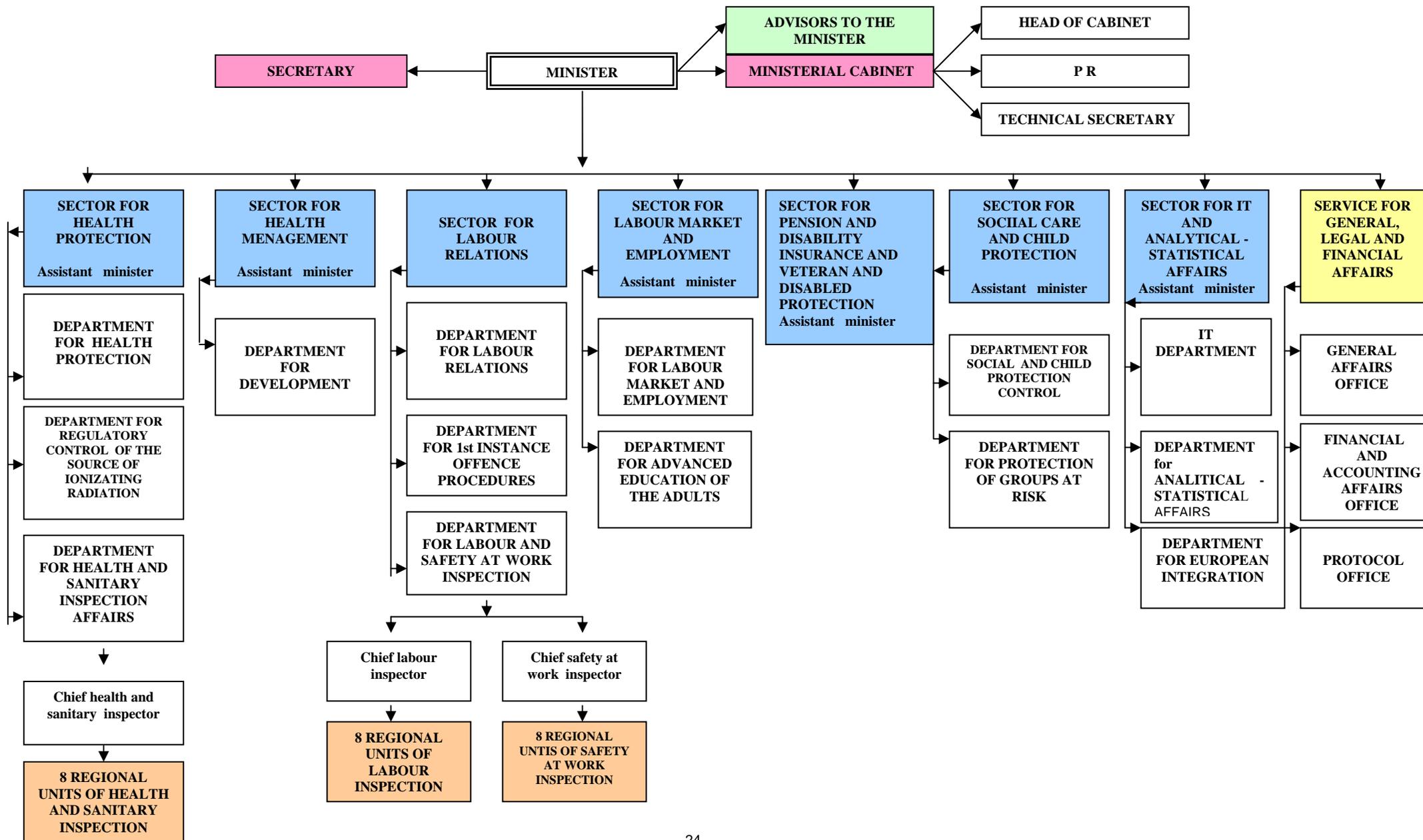
Apart from the previously listed key elements listed in the SWOT analysis the current situation in Montenegro in the area of labour and safety at work indicates the following facts:

- there is no centralised office in charge of creation and data base maintenance in the labour and safety at work area,
- labour sector does not have a separate office drafting normative regulations in the safety at work regulations,
- sector for Labour Inspection and Safety at Work Inspection affairs that is tasked with control in the area of labour and protection at work is under staffed (total of 43, which means 0,3 inspectors on 1000 employees),
- negative ratio of labour inspectors and safety at work inspectors (31 labour inspectors vs. 12 safety at work inspectors),

- personnel fluctuation (4 inspectors left the sector in the last two years, and 9 inspectors in the last 5 years),
- low income of employees (average inspectors income is below the level of average income in Montenegro),
- negative housing situation of the employee (only 2 inspectors have solved their housing issue in the past 15 years),
- average age structure among inspectors is 45 years,
- bad working conditions for inspectors (all premises in which inspectors work are under lease, are old buildings with bad electrical installations, no central heating or air condition etc.),
- insufficient no. of vehicles (4,77 inspectors on one automobile, therefore the inspectors use their own vehicles with fuel cost compensation),
- insufficient no. of computers (1 computer on 3,07 inspectors),
- no access to internet (none of the computers in regional units of the labour inspection and safety at work inspection have internet connection),
- no electronic link of regional units of the labour inspection and safety at work inspection with the headquarters,
- no access to databases of other offices which are necessary for a successful control, etc.

The SWOT analysis and list of facts that indicate the situation support the necessity of reform and strengthening of the safety at work and labour system, through adoption of adequate labour methods, informing the workers and changes in the work organisation that will allow health risk free labour, ensure proper usage of working hours in a manner that will not endanger the health of the employees and would enable the working process to function for the employers, passing of bylaws and awareness rising activities for employees and employers.

## Outline of the organisational chart of the Ministry of Health, Labour and Social Welfare



## **Annex 5- Details per EU funded contract**

The project will have four contracts: Twinning contract funded by EU, Supply contract which will have two lots funded by EU, Supply contract funded by national contribution and one Service contract funded by national contribution.

### ***A. Twinning contract***

The Twinning contract will cover all major Activities: 1.4; 1.5; 2 and 3. The Twinning partner shall ensure the implementation of all planned activities and the achievement of the project goals, along with the technical organisation of the work and reporting. The support staff and backstopping facilities required also have to be put in place to ensure smooth advancement of the project.

A Steering Committee should be established to supervise the programme, coordinate the stakeholders involved, and provide guidance in the implementation of the technical assistance.

### **Profile of the Member State Partner Institution**

- Experience in carrying out Twinning projects in the last three years,
- Ability to establish adequate partnership between Member State (MS) and Beneficiary Country (BC) administration,
- Multi-sectorial experience in the field of technical legislation,
- Experience in transposition of EU *acquis* into national legislation,
- Experience of carrying out projects, with special focus on demand of comparative knowledge of the legal system of the Member State in the respective field,
- Knowledge of the legal system in former Yugoslavia will be considered an asset.

### **Profile and tasks of the Project Leader (18 months)**

- Senior expert in law, public administration or technical science, with excellent understanding of the twinning project practice in European Union,
- Previous experience in the Western Balkans or in transition countries of Central and Eastern Europe,
- Proven capacity to lead a multinational team, and proven capacity to manage contacts with national and international public institutions,
- Excellent command of written and spoken English,
- Knowledge of Montenegrin language will be considered an asset,
- Previous work on Twinning projects and knowledge of its contractual and financial procedures and EU Cycle Project management tools
- Computer literacy (MS Office applications, Excel, E-mail, internet).

## **Profile and tasks of the resident twinning advisor (RTA) (18 months)**

### **Qualifications and skills**

- University degree in law, or public administration,
- Knowledge on safety at work inspection,
- Good understanding of EU labour legislation, namely in the field of EU directives,
- Satisfactory command of English, both spoken and written,
- Knowledge of local language will be considered an important asset,
- Excellent analytical, appraisal and planning skills,
- Excellent communication skills in terms of interpersonal communications, mediation and report writing,
- Knowledge of the legal system in former Yugoslavia will be considered an asset,
- Computer literacy (MS Office applications, Excel, e-mail, internet)

### **General Professional Experience**

- At least 5 years working experience related to safety and health at work,
- Very good organisational, coordination, team building and communication skills,
- Ability to adapt quickly to the local environment and understand constraints and opportunities of it,
- Capacity to lead a multinational team and capacity to manage contacts with public institutions ( national and international ) and build consensus at the highest level,
- Solid track record as a project manager of complex and multi-disciplinary public or private funded actions either in public or private sector.

### **Specific Professional Experience**

- Familiarity with best practices and procedures of harmonization and implementation of EU *acquis* in the field of labour and safety at work inspection,
- Proven ability to organize, coordinate and manage human and financial resources,
- Experience in transposition of EU *acquis* into national legislation
- Knowledge and experience in risk assessment procedures,
- Previous work experience in the country or region will be an important asset.

## **Profiles of the short-term experts**

- Experts on EU technical legislation, BSc level in either law, technical sciences or similar related science, with experience in transposition of EU *acquis* into national legislation,
- Excellent writing skills and fluency in English,
- Knowledge of local language will be considered an asset,
- A proven work experience in the region will be an asset,
- Specific knowledge of EU labour legislation, namely in the field selected EU directives, e.g.: 89/391/EEC, 89/686/EEC, 93/103/EEC, 2003/10/EEC

## ***B. Supply contracts***

The Supply contract funded by EU will be connected with activity 1 and this contract will consist of 2 lots: one related to IT equipment and second related to transport equipment. For the first lot (IT equipment) budget will be 60,000 €, and for the second lot (transport equipment-eight vehicles) 120,000 €. This contract will provide purchase of the necessary technical equipment for the institutions, responsible for the proper implementation and surveillance.

### Specification of IT Equipment:

|  |           |          |
|--|-----------|----------|
| 16 printers (with scanner, copier, fax, on line) | 16 x 300E | 4,800 E  |
| 42 laptops                                       |           | 40,000 E |
| 1 server   |           | 3,000 E  |
| Storage (permanent data archive)                 |           | 12,000 E |

Laptops are necessary for field work and will enable head of units to follow on line minutes taking. This will prevent misuse of official position of inspectors and potential corruption. The purpose is to have facts from the field work, which can not be changed later through destroying minutes created on spot and creating a new one.

The second lot of the Supply contract funded by EU will be used for purchasing of 8 vehicles.

The Supply contract funded by national contribution will be used for purchasing of up to 7 vehicles.

## ***C. Service Contract***

Service Contract funded by national contribution will be used for software that will support work of the Inspections and their supervision role, applying legislation which is harmonized with *Acquis*. The software will also enable on line communication with Tax Administration.