

Republic of Croatia
Ministry of Justice and Public Administration

JUSTICE FOR BUSINESS PROJECT

ENERGY RENEWAL, RENOVATION, ADAPTATION, AND UPGRADE OF SELECTED JUDICIAL BUILDINGS:

County Court in Varaždin, Municipal Courts in Kutina, Vinkovci, and Zagreb

LABOR MANAGEMENT PROCEDURES (FINAL DRAFT)

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ABBREVIATIONS AND ACRONYMS

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| ESCP | Environmental and Social Commitment Plan |
| ESF | Environmental and Social Framework |
| ESRS | Environmental and Social Review summary |
| ESS | Environmental and Social Standards |
| EU | European Union |
| GRM | Grievance Redress Mechanism |
| ILO | International Labor Organization |
| JUST-B | Justice for Business Project |
| LMP | Labor Management Procedure |
| MoC | Ministry of Culture of the Republic of Croatia |
| MoJ | Ministry of Justice and Public Administration of the Republic of Croatia |
| MoI | Ministry of the Interior of the Republic of Croatia |
| MoLPS | Ministry of Labor and Pension System of the Republic of Croatia |
| OG | Official Gazette |
| OHS | Occupational Health and Safety |
| PIN | Personal Identification Number |
| PIS | Project Implementation Service |
| PM | Project Manager |
| PPS | Project Preparation Service |
| WB | World Bank |

INTRODUCTION

The objective of this project is to support the improvement of justice services along its service delivery chain, resulting in more effective services and better user experience for businesses and the citizens.

The project includes four main subcomponents: (a) expanding the use of electronic services in the justice sector, (b) accelerating the resolution of commercial disputes, (c) strengthening of MoJ's investment management and M&E capacity, and (d) rehabilitation and upgrading of selected court facilities. Together, these four subcomponents will contribute to a systemic approach to improving court performance to provide more expedite administration of justice by optimizing business processes, speeding up service delivery taking advantage of existing ICT support systems, unlogging the case management system, and enhancing quality of the services through better and agile physical facilities. To this aim, the first component will reimburse relevant government expenditures associated with the achievement of agreed targets in results areas under the first two subcomponents and will provide direct financing to support technical assistance activities, monitoring and evaluation and the rehabilitation of court buildings under the latter two subcomponents.

Rehabilitation of selected court facilities subcomponent will finance the physical rehabilitation of four courts to meet international standards of service allowing for better court performance and user experience. Improved conditions of the judicial facilities will enhance business experience with and confidence in the judiciary and will reduce the cost for businesses of accessing judicial services (both in terms of money and in time). The court facilities that will benefit from renovation, rehabilitation and upgrading under this component are the Zagreb Municipal Court and the judicial facilities in Vinkovci, Kutina and Varazdin. These courts were selected based on their level of caseload, their focus on business activities, as well as the need to reach remote areas. The upgrade will focus on improving the internal workflow in court registries and archives; enhancing the user interface and accessibility (including for disabled persons); refurbishing of judges' chambers and courtrooms; and improving energy efficiency to comply with EU standards.

1. OVERVIEW OF LABOR USE ON THE PROJECT

Number and characteristics of project workers

ESS2 categorizes the workers into: direct workers, contracted workers, community workers and primary supply workers. The LMP applies to all project workers in the following manner:

- People employed or engaged directly to work specifically in relation to the Project;

- People employed or engaged by contractors to perform work related to core function of the project, regardless of location;
- People employed or engaged by the primary suppliers.

Project workers will include the MoJ staff, consultants, and contracted /subcontracted workers. In addition to civil servants from the Directorate for Strategic Development, Informatization and Capital Investments, the project is expected to deploy direct and contracted workers. The project footprint is relatively small and does not entail a significant amount of labor as the interior rehabilitation works will be small scale, so it is unlikely that a large number of workers would be needed. As currently envisioned, the project will be implemented by the MoJ staff (mainly from sectors of judicial infrastructure and strategic planning), who are civil servants and will remain subject to the terms and conditions of their existing public-sector employment agreement. The project will deploy contractors and subcontractors for rehabilitation of judicial facilities.

Direct Workers: The number of MoJ staff, who are civil servants involved in project activities is likely to vary between 5-15. In addition, potential institutional capacity strengthening may be required through the hiring of a few consultants (exact number and composition is still not known but will be defined by negotiations scheduled for mid-January 2020) to perform specialized tasks such as procurement, financial management, civil engineer/safeguards functions. These consultants would be part of project implementing unit (PIU) and paid through the loan funds. The timeline of their engagement will be specified in the Environmental and Social Commitment Plan (ESCP) to be disclosed before project appraisal.

Contracted Workers: The civil works under the project are expected to be conducted by authorised contractors for varying durations depending on the works requirements. It is not known at this time whether the contractor will engage any subcontractors to carry out some aspects of the work. Contracted workers will be those working under the civil works contractors. According to the Building Act (OG 153/13, 20/17, 39/19) the Contractor shall execute construction in conformity with the building permit, the Building Act, technical regulations, special regulations, code of practice, etc. The Contractor must perform and ensure work and workers related to the core function of the project. Such functions of a project constitute those production and/or service processes essential for a specific project activity or activities without which the project cannot continue. Contracted and subcontracted workers will have access to a grievance mechanism described afterward.

At this stage the exact number of workers is not known, and it depends on square footage of actual judicial facility site and scope of planned adaptation and renovation activities.

The designer is responsible for ensuring that the designs comply with the prescribed requirements and in particular that the designed construction work is in conformity with the location permit or the requirements

for construction works prescribed by the spatial plan, and that it complies with requirements prescribed for the energy efficiency performance of buildings. The principal supervising engineer shall be responsible for the completeness and coordination of the building surveillance and for drawing up a final report thereof. The design auditor shall be responsible that a design or part of a design that he audited and gave a favourable report thereon, complies with the requirements of the Building Act, special acts and regulations adopted on the basis of those acts, technical specifications and the code of practice regarding a characteristic audited. The work in a safe manner is drafted and signed by the occupational health and safety specialist.

Migrant Workers: Given the current shortage of workers in the construction sector, migrant workers (either domestic or international) might be deployed to work on the project. Contractors may engage migrant workers subject to meeting national requirements for work permits. Any person who is not a Croatian citizen (does not have Croatian citizenship) is considered a foreigner. Conditions for the residence and work of third-country citizens in the Republic of Croatia are governed by the provisions of the Foreigners Act (OG 130/11, 74/13, 69/17, 46/18) and the Ordinance on the Status and Work of the Foreigners in the Republic of Croatia (OG 52/12, 81/13, 38/15, 100/17).

A non-EU worker (third-country workers) may work for a Croatian employer under one of the following conditions:

1. Residence and work permits (within or outside the annual quota);
2. Certificates of registration of work (up to 90, 60 and 30 days in one calendar year);
3. Without a residence and work certificate or a certificate of registration of work (in exceptional cases enumerated in the Foreigners Act).

A third-country national may only work in the Republic of Croatia in those jobs for which he or she has been issued a work and residence permit or a certificate of registration. In addition, he can work only with the employer with whom he has started an employment relationship.

Third-country nationals will only be granted temporary residence and work in the Republic of Croatia if they fulfil certain conditions. That is, if:

- prove the purpose of temporary residence;
- has a valid travel document;
- has means of subsistence;
- has health insurance;
- there is no ban on entry and stay in the Republic of Croatia;
- does not pose a threat to public policy, national security or public health¹.

¹ The afore-mentioned conditions must be fulfilled throughout the whole period of residence of the third-country national in the Republic of Croatia. The quota for the employment of foreigners is set by the Decision of Government of the Republic of Croatia (through the *Decision on the Establishment of the Annual Quota of Foreign Workers Permits for the Calendar Year 2019* (OG 116/18) until 31 October of the current year for the following year. On that occasion, a quota for extension of already issued

2. ASSESSMENT OF KEY POTENTIAL LABOR RISKS

Given the small-scale nature of rehabilitation works, no major labor risks are envisaged. It is expected that most contracted workers will be hired locally. All contractors will be required to have a written contract with their workers materially consistent with objectives of ESS2, in particular about child and forced labor. No instances of child or forced labor are likely to happen under the project as legislation on employment and labor are fully harmonized with the International Labor Organization (ILO) conventions (particularly ILO Forced Labor Convention No. 29 ratified by the Republic of Croatia) and the European Union (EU) Directives inclusive of convention on forced labor and convention on elimination of child labor and protection of children and young persons. The Republic of Croatia as an EU Member State, but also as a member state of the ILO since 1992, must ensure that all acts and regulations related to social dialogue/tripartite consultations; employment and labor (inclusive of elimination of forced and child labor); equality of opportunity and treatment; collective bargaining; grievance redress and labor dispute settlement; sustainable social security system, freedom of association; etc., are in compliance with International Labor Standards. International labor standards and directives as well as national acts, regulations and directives are enforced well in Croatia.

According to the 2018 Country Reports on Human Rights Practices on Croatia by US Department of State, the chapter on Acceptable Conditions of Work states that the Government of Croatia effectively enforced wage laws, and penalties were sufficient to deter violations. Minimum wage was slightly above official poverty income level. The law limits overtime to 10 hours per week and 180 hours annually. The government set health and safety standards to harmonize with EU laws and regulations. Responsibility for identifying unsafe situations remains with occupational safety and health experts and not the worker.

Project activities are neither complex nor large, do not involve activities that have a high potential for harming people or the environment, and all of the project sites are located away from environmentally or socially sensitive areas. As such, the potential risks and impacts are (i) predictable and expected to be temporary and/or reversible; (ii) low in magnitude; (iii) site-specific, without likelihood of impacts beyond the actual footprint of the Project; and have (iv) low probability of serious adverse effects to human health and/or the environment.

These impacts most commonly include: a) dust and noise due to excavation, demolition, and construction; b) management of demolition/construction wastes and accidental spillage of machine oil, lubricants, etc., c) possible management of small amounts of hazardous materials like asbestos or paints and varnishes; d) traffic disturbance; e) small scale surface or groundwater pollution; f) soil pollution or erosion; g) workers,

residence and work permits and new employment (issuing of new permits) is set. Statistical reports on the status of annual quota utilization are regularly published by the Ministry of the Interior of the Republic of Croatia (MoI) on its website. According to the available data, employers can see how many licenses for individual activities and occupations have been used and how many are.

vendors and employers safety. Besides, special attention to the safety of employees, other users of the building and visitors will be put through mitigation measures as some of the works might go in parallel with the regular courts' operation. Since the rehabilitation works are of small-scale, there are no risks related to gender-based violence (GBV) and deployment of security forces. No other risks are considered to be relevant for the project activities. However, in case they arise, the MoJ will revise these procedures to prevent further any negative impact.

Energy renewal and renovation of the Municipal Court in Kutina

At present, most of the buildings within the judicial network don't meet the requirements defined and set by the Technical Regulation on Rational Use of Energy and Thermal Protection in Buildings (OG 128/15, 70/18, 73/18). The Kutina Municipal Court building is one of the facilities in the judiciary that is characterized by unreasonable and high energy consumption. The goal of implementing measures and conducting works defined by the energy renovation project (ZOP eNu_2018-006) is to influence the energy



efficiency gains of the court building by improving their working conditions². Currently, construction works on the Municipal Court in Kutina are underway and complete interior furnishing of the building is planned. There is also existing lifting platform and toilet for people with physical disabilities.

The target group of the planned energy renewal and renovation works are 48 judicial officials and civil servants of the Municipal Court in Kutina – judges, state attorneys and deputies of state attorneys, civil servants and other employees in judicial bodies of the MoJ and residents of Kutina town regardless of their age, gender, nationality, religion, physical disabilities, sexual orientation, race or ethnicity.

² According to the existing Law on Areas and Seats of the Courts (OG 67/2018) and available data on the population of the Central Bureau of Statistics (Census 2011), the Municipal Court in Kutina covers 52,260 inhabitants. Until the end of June 2019, the Municipal Court received 6,053 cases.

Renovation, adaptation and building upgrade of the County Court in Varaždin

After the rationalization and merger process, the County Court in Varaždin became the fourth largest court in the Republic of Croatia³. The court building was built in 1963, and as such, it does not meet the increased needs for the workspace and is technologically outdated. Since the Court building is in the historic city centre, the Ministry of Justice and Public Administration - in cooperation with the architect who designed the building - initiated the process of changing the Urban Design Plan of the historic center of the city of Varaždin and, new building extension of the County Court is allowed. The Conservation Office approved the proposed design solution.



In light of these facts, an upgrade of the floor of the existing building of the County Court in Varaždin will be undertaken. Also, a complete renovation, which includes the installation of an elevator, restored toilets for the disabled people, and an intervention volume of approximately 10 thousand square meters, will be undertaken.

Renovation and adaptation of the Municipal Court in Vinkovci⁴

Court building of the Municipal Court in Vinkovci is built over 150 years ago. It is protected as a cultural



heritage monument and subject to fulfilling of conservatory requirements. The objective of the project is to preserve the cultural heritage, increase office space to accommodate more judges' chambers⁵, streamline court registries and records for better work organization and access by users, and improve energy efficiency and access for people with reduced mobility.

³ According to the existing Law on Areas and Seats of the Courts (OG 67/2018) and available data on the population of the Central Bureau of Statistics (Census 2011), the County Court in Varaždin covers 371,282 inhabitants. 58 officials and civil servants work in the County Court in Varaždin daily. Until the end of June 2019, the County Court received 3,574 cases.

⁴ The building of the Municipal Court is located within zone "A" of the protected cultural and historical unit of the city of Vinkovci and within zone "A" of the protected Archaeological zone Vinkovci (reg. No. Z-447) which are registered in the Register of Cultural Property - List of Protected Cultural Property of the Ministry of Culture of the Republic of Croatia (MoC).

⁵ According to the existing Law on Areas and Seats of the Courts (OG 67/2018) and available data on the population of the Central Bureau of Statistics (Census 2011), the Municipal Court in Vinkovci covers 125,466 inhabitants. 100 officials and civil servants work in the Municipal Court in Vinkovci daily. Until the end of June 2019, the Municipal Court received 12,248 cases.

For the Municipal Court in Vinkovci, project documentation is under development along with the permits that will be obtained. A complete renovation of the existing building is planned with a focus on the attic,



which is currently not operational. Also, the installation of an elevator will be undertaken.

Renovation and adaptation of the Municipal Court in Zagreb⁶

The building of the "Palace of Justice" in Zagreb is located in a wider city area, and it is protected cultural good. All actions on it can be undertaken only under special conditions and prior approval of the conservative profession (Conservation Guidelines, Class: 612-08 / 17-005 / 771, Reg. No: 251-18-02-17-2 of 16 January 2017). All required conservation permits have been duly obtained.

The facade is in poor condition. Part of the wooden elements that carry the limestone lining has been torn; the sheets have rippled, the steel rolled profiles in the verticals have corroded. All reinforced-concrete parts of the structure (thermal bridges) are coated with stone. The windows are tilting H windows, flaps and frames are covered with aluminium profiles. The roof is evenly finished with bitumen foam. Thermal protection does not meet the necessary standards of the Technical Regulation on Rational Use of Energy and Thermal Protection in Buildings (OG 128/15, 70/18, 73/18).

In line with the mentioned, a complete renovation of the existing building is planned. It includes the restoration of the facades of the building, the roof, the boulders, and the joinery. In its current condition, the Municipal Court in Zagreb has an elevator.

⁶ According to the existing Law on Areas and Seats of the Courts (OG 67/2018) and available data on the population of the Central Bureau of Statistics (Census 2011), the Municipal Court in Zagreb covers 590,820 inhabitants. 626 officials and civil servants work in the Municipal Court in Zagreb daily. Until the end of June 2019, the Municipal Court received 70,688 cases.

3. BRIEF OVERVIEW OF LABOR LEGISLATION: TERMS AND CONDITIONS

As noted, there are no gaps between national legislation and the ESS2 prescriptions related to the following:

- To promote safety and health at work.
- To promote the fair treatment, non-discrimination and equal opportunity of project workers.
- To protect project workers, including vulnerable workers such as women, persons with disabilities, children (of working age, in accordance with this ESS), and migrant workers, contracted workers, community workers and primary supply workers, as appropriate.
- To prevent the use of all forms of forced labor and, child labor.
- To support the principles of freedom of association and collective bargaining of project workers in a manner consistent with national law.
- To provide project workers with accessible means to raise workplace concerns.

Based on the due diligence done, the national legislation meets objectives, requirements, and prescriptions of ESS2 on Working Conditions and Management of Workers Relationships and on Protecting the Workforce and Occupational Health and Safety (OHS issues and grievance mechanism).

In the Republic of Croatia, fundamental obligations and rights arising from employment relationships are stipulated by the Article 7 of the Labor Act (OG 93/14, 127/17). The mentioned article defines that the employer shall be obliged to ensure work for an employed worker and pay remuneration for the work performed, and the worker shall be obliged to complete the work following the instructions provided by the employer in line with the nature and type of work. Furthermore, according to paragraph 2, the employer shall be entitled to determine the place and the manner of performing the work and shall respect the workers' rights and dignity. Paragraph 3 outlines that the employer shall be obliged to ensure safe working conditions with no detrimental effects on the health of the worker, following a special law and other regulations.

Working hours

The Labor Act in part 8 defines the working time, starting with the definition of working time (Article 60), while Article 61 stipulates that full-time work shall not exceed 40 hours a week. Article 66 defines the flexibility of working time. Thus, the duration of workers' working time may be evenly or unevenly distributed over days, weeks, or months. Therefore, where working time is unevenly distributed, its duration may in one period be longer than full-time work or part-time work, and shorter in another. Laws and

regulations define the patterns of working time, collective agreement, agreement between the works council and the employer, working rules, or employment contract.

Rest breaks

Daily break (rest) is defined by the Articles 73 and 74, while Article 75 regulates a weekly break period. According to the Labor Act (OG 93/14, 127/17; Articles 73, 74, and 75), the worker who works at least six hours a day is entitled to a daily period of rest (a break) of a minimum of 30 minutes. The part-time worker or two or more employers with total daily working hours at all employers of at least 6 or 4.5 hours is entitled to a break at each employer proportionate to his contracted part-time work. The rest period is counted in working time. The worker is entitled to a minimum daily rest period of 12 consecutive hours per 24-hour period; a weekly minimum uninterrupted rest period of 24 hours plus the hours of regular rest; and the minor is entitled to a weekly minimum continuous rest period of 48 hours. The rest must be used by the worker on Sundays or the day before or day after Sunday.

Where the worker is not in a position to use the rest period as previously mentioned, he or she must be afforded equivalent periods of compensatory weekly rest right after his working time with no weekly rest, or with a shorter period of rest. As an exception, the shift workers or workers who due to objective reasons or organization of work cannot use the rest period must be afforded a weekly minimum uninterrupted rest period of 24 hours, without counting the daily rest. Remuneration and compensation are regulated by Article 90-97 of the Labor Act. According to Article 90, the employer is obliged to calculate and pay remuneration to the worker in the amount provided through law, collective agreement, working regulations, or employment contract. The Article 91 regulates equal pay for women and men, while the Article 94 stipulates that the worker has a right to an increased remuneration for arduous working conditions, overtime and night work, and for work on Sundays, holidays, and on other days that are not working days according to the law.

Non-discrimination

The Labor Act in Article 7 in paragraph 4 prohibits any direct or indirect discrimination in the area of labor and working conditions, including the selection criteria and requirements for employment, advance in employment, professional guidance, education, training, and retraining. The employer is also obliged to protect the workers' dignity during the work in case of acts, uncalled for and contrary to the Labor Act and special legal provisions, of superiors, collaborators, and persons with whom the worker contacts regularly while performing his tasks. The Articles 31-32 define prohibition of discrimination of pregnant workers, women who have recently given birth or are breastfeeding, while the Article 39 vetoes discrimination regards advance in employment or the exercise of other rights. Some other forms of discrimination are any not allowed by the Labor Act: prohibition of discrimination of the members of the works council (the Article

157-158); and discrimination on the ground of membership or non-membership in an association or participation or non-participation in various activities (the Article 166).

Information disclosure

Regarding the demands on information and documentation, the Labor Act in Article 8 prescribes that before the worker starts working, the employer shall be obliged to enable the worker to acquaint himself with the employment-related regulations and inform the worker about the organization of work as well as health and safety protection at work. Furthermore, the rules on safety and health at work, collective agreements, and working regulations must appropriately be made available to the workers⁷.

Freedom of association and Collective Bargaining

The right to organize is set by the Constitution (Article 43 and 60), the Labor Act, ILO Conventions No 98 and 87, and other international treaties to which the Republic of Croatia is a party. All employees, except active military staff, have the right to establish and join trade unions. According to the Labor Act (OG 93/14, 127/17), Article 165, workers have the right, according to their own free choice, to establish and join a trade union, subject to only such requirements which may be prescribed by the statute or internal rules of this trade union. Article 186 explains the prohibition of discrimination on the ground of membership in a trade union or participation in trade union activities. The Labor Act, in many articles, stresses the importance of regular and timely payment of salaries and wages as well as social contributions. The prohibition of child labor and stipulated minimum age for work (paragraphs 17 and 18 of the ESF) are fully incorporated in Croatian legislation, particularly in the Labor Act. In the same way, Article 122 of the Labor Act determines the minimum notice period from two weeks to three months, depending on the duration of tenure with the same employer.

Worker's organization

Workplace representation in Croatia is provided both through trade unions and works councils, although if no works council has been set up, the union representative can take on almost all its duties and responsibilities. The Labor Act (OG 93/14), in Article 192, stipulates (1) A collective agreement shall regulate the rights and obligations of the parties to the agreement. It may also contain legal rules governing the conclusion, contents, and termination of employment, social security issues, and other issues arising from or related to employment. (2) The legal rules contained in a collective agreement shall be directly applicable and binding on all persons who are subject to the collective agreement, following the provisions of this Act. (3) A collective agreement may contain rules related to the composition and methods of work of the bodies authorized for amicable collective labor dispute resolution. The Act on Representativeness of

⁷ For furthermore information on safety and health at work in the Republic of Croatia, see *Occupational Health and Safety* chapter.

Employers' Associations and Trade Unions (OG 93/14, 26/15) in Article 25 defines Parties to collective agreement. Parties to a collective agreement may be on the trade union side, one or more trade unions that have the representative status following this Act. Parties to a collective agreement may be on the trade union side, the unions that are represented in the negotiating committee. Unions are free to operate at the workplace and, according to the Labor Act, they have "the right to promote the rights and interests of trade union members in respect of their relations with the employer." This can be done either through external union officials or through union representatives who are also employees of the organization. In practice, as only ten individuals are required to set up a union and because there are a large number of unions, in many cases union representation will be through a union or unions, all of whose members work for the same employer. In other cases, the union members will belong to a larger union with members spread across several employers, or even the whole country. In companies and other organizations with at least 20 employees (bodies which are part of the state administration are an exception), the employees have the right to be represented through a works council. Its role is that it "protects and promotes the interests of employees." In practice, unions, which have the right to nominate candidates, are vital in initiating the process of setting up a works council. If no works council has been set up, its rights and duties are taken on by a union representative working at the company. If there are several unions present in the workplace and they cannot reach agreement, as to which union representative should exercise these rights, the choice is made through an election, following the same rules as apply for the election of works council members.

Right for Grievance

The Labor Act includes provisions that allow workers to resolve disputes in cases where there is a disagreement between the employer and the employee over the essential terms of conditions of a labor agreement and other aspects of work. Such disagreement will be resolved in compliance with the procedures. Reference Collective Agreement for Construction (OG 115/15, 26/18) in the section on protection of workers (Article 70) stipulates that a worker who believes that an employer has violated his right from employment may, within 15 days from the delivery of the decision violating his right, or from the day of finding out about the violation of the right, demand the right to be consumed. Written decisions on the consummation of the rights and obligations of the worker are delivered directly to the worker or delivered by registered mail to the last address reported by the worker to the employer. The employee is obliged to inform the employer immediately in case of change of address. If the Employer's letter addressed to the worker at the address reported to the employer by the employee is returned undeliverable due to the refusal of receipt or the unknown or incorrectly reported address, it shall be posted in writing on the notice board at the premises of the employer, and the contracting parties agree that this is considered to be a proper delivery to the worker performed. Furthermore, notwithstanding the procedure for the protection of rights

referred to in Article 70 of the Collective Agreement, an employee who considers that he or she has been unfairly treated by other worker, associate or management of the company may appeal on him or her to a superior employee or management of the company and may apply for mediation and the works council.

Role of the Labor Inspectorate

The Labor Inspectorate has a remit to monitor the compliance of labor laws and regulations for national and foreign workers, with the exception of certain categories of state officials, educational entities and air traffic employees. The inspectorate also has a remit to monitor the compliance with health and safety which includes monitoring compliance with health and safety standards at the workplace and the protection of the health and safety of workers. It is organized in five field offices in Zagreb, Osijek, Rijeka, Split and Varaždin, with 252 labor inspectors in 39 branch offices. The Labor Inspectors perform inspections at worksites to check the compliance with the provisions of the laws under their remit. These can either be scheduled inspections or responses to complaints. In reference to migrant workers, the main focus of their inspection is the legality of employment, i.e. whether the worker has a regulated status in Croatia⁸.

As noted, the Office of the Labor Inspectorate enforced the labor law through on-site inspections. According to the 2017 Labor Inspectorate Annual Report, there were 236 inspectors, sufficient to enforce compliance. The inspectorate conducted 32,393 workplace inspections in 2017 (up 10 percent from 2016) and reported 6,211 violations of labor laws (up 6 percent from 2016). The inspectorate referred 2,547 of these violations (up 8 percent from 2016) to misdemeanor courts for further action, and it temporarily closed 308 companies (up 6 percent from 2016) during the first six months of the year for labor law violations. The inspectorate issued fines for labor violations, which it deemed sufficient to deter future violations. The law allows employees to sue employers for wage nonpayment and provides a penalty of up to three years in prison for convicted employers, although the law exempts employers who fail to pay wages due to economic duress. Workers may sue employers who do not issue pay slips to their employees to bypass mandatory employer contributions to social insurance programs.

Following the introduction of the *State Inspectorate Act* in 2018, as of April 2019, the State Inspectorate has taken over the inspection tasks in the field of labor and occupational safety from the MoLPS/Labor Inspectorate.

⁸ Records are kept of each inspection. These investigations are carried out in close collaboration with the police. The police often notify the Inspectorate if they have suspicions about the irregular status of workers on a worksite, which as a rule results in joint visits. Also, if labor inspectors identify irregular workers at a site, they invite the police to collaborate, as only the police have the authority to carry out some of the mandated steps in those cases (e.g. taking the worker into the station for an interview).

4. BRIEF OVERVIEW OF LABOR LEGISLATION: OCCUPATIONAL HEALTH AND SAFETY

Based on the screening, no gaps have been identified in national labor legislation concerning occupational health and safety issues stipulated in ESS2. In 2014 a new Occupational Safety and Health Act (OG 71/14, 118/14, 154/14, 94/18, 96/18) entered into force. The Act introduces measures to protect workers from psycho-social risks (stress) and psycho-physiological effort at work, with the aim of prevention and education of all stakeholders. The Act sets out the general principles of risk prevention at work and protection of health, rules to eliminate risk factors, methods of training of workers and procedures of information and consultation of employees, and their representative with employers and their authorized persons.

The intention is to raise awareness and encourage preventive action not only by employers but also by employees. The employer is obliged to implement occupational health and safety measures based on the general principles of prevention. These include: risk avoidance, risk assessment, prevention of risks at their source, adjustment of work to the employees concerning the design of the workplace, the choice of work equipment, and the mode of operation and work processes to relieve monotonous work. Employers must consider issues such as adaptation to technical progress, replacing hazardous substances, or processes with the non-hazardous or less hazardous. They are also required to develop a consistent, comprehensive prevention policy by connecting technology, organization of work, working conditions, human relationships, and the influence of work environment. They must give preference to collective protective measures over individual ones, appropriately train and inform employees, and make all protective equipment available free of charge. The Ministry of Labor and Pension System of the Republic of Croatia (MoLPS) is the central administrative body for labor, safety, and health at work in the Republic of Croatia.

5. RESPONSIBLE STAFF

In accordance with the Regulation on the Internal Organization of the MoJ, the Department for Strategic Development and Projects within the Directorate for Strategic Development, Informatization and Capital Investments in the Judiciary performs, inter alia, professional tasks related to the preparation, elaboration, implementation, supervision and coordination of projects financed by programs of the EU, bilateral projects and projects funded by the funds of international organizations, international financial institutions and the budget of the Republic of Croatia.

The Project Preparation Service (PPS) performs many expert and complex activities related to the use of funds and the preparation of projects funded by the EU, international financial institutions, and bilateral sources. The PPS of the MoJ (among other things):

- coordinates the preparation, proposal, and drafting of project summaries;
- participates in the development of tender documents, announcements, and tenders for the procurement of works, goods, and services;
- coordinates the work of the units of the MoJ and other judicial bodies involved in the preparation of projects; etc.

The Project Implementation Service (PIS) carries out activities related to the implementation and monitoring of project activities funded by the EU, international financial institutions, and bilateral sources (including the WB loan).

The MoJ has experience in managing, coordinating and planning project activities, solving problems, making decisions, managing risks and human resources and reporting on the project. In addition to the project leader, a project administrator, accounting and finance officer, and a public procurement expert will be appointed.

Given the context above, the MoJs' responsibility will include the following activities:

- supervise the implementation of the Checklist ESMP and report on the same.
- supervise the work performed by engineering/design companies, supervisors and contractors to ensure that they are applying adequate standards and are following agreed procedures, as well as the approved environmental plan.
- organize tendering procedures, review tender evaluation performed by the architectural/engineering firms, and arrange for the contracts to be signed in accordance with agreed procedures.
- designate a team for the construction and environmental issues in the Directorate for Strategic Planning, Informatization, and Capital Investments within the MoJ.

According to the Building Act (OG 153/13, 20/17, 39/19), the MoJ is obliged to contract supervision of works to ensure technical and professional control of the project for the whole time of the execution of all planned infrastructure works.

The composition of the PIU and the number of consultants has not been defined yet and it is expected that by negotiations currently scheduled for mid-January 2020 this will be defined and agreed upon. It is envisaged that the s PIU will conduct on-the-spot checks in all stages of the project implementation. Either Project Manager or PIU civil engineer/safeguard coordinator will participate in regular monthly meetings of Contractor, supervising engineer, designer, MoJ representatives and representatives of the end beneficiary (Municipal Court in Zagreb, Kutina and Vinkovci and County Court in Varaždin) in which

progress of the works in the past month will be monitored, potential difficulties in implementation and any deviations from the timetables discussed (in reference to the planned works in the future).

During the implementation of the contract, it is possible to hold additional ad hoc meetings (regardless of the party organizing it) at which the MoJ's PIU is required to participate depending on the assessment, to monitor the implementation and to resolve possible difficulties related to the implementation of the contract.

The supervising engineer has a contractual obligation to submit reports informing the MOJ's PIU and the affiliate institution (i.e. Municipal Courts in Zagreb, Kutina and Vinkovci and County Court in Varaždin) of the status and all elements of the implementation of the works contract, including potential difficulties. The reports to which the Supervising Engineer directly provides information on the implementation of public works contracts are

- a) Initial report
- b) Monthly reports

The initial report shall be submitted to the MOJ's PIU and the affiliate institutions (i.e. Municipal Courts in Zagreb, Kutina and Vinkovci and County Court in Varaždin) within one month after the start of the implementation of the professional supervision contract and shall include analysis and comments on the project documentation and the public works contract, identification of possible problems, assessment and proposal of the organization of the professional supervision implementation and various other information as needed. Upon receiving the consent of the End Users MoJ's PIU will issue a formal approval of the report submitted.

6. POLICIES AND PROCEDURES

Most environmental and social impacts of subprojects resulting from activities directly under the control of contractors will be mitigated directly by the same contractors. As a consequence, ensuring that contractors effectively mitigate project activities related impacts is the core of the projects' approach. The MoJ will incorporate standardized environmental and social clauses in the tender documentation and contract documents, for potential bidders to be aware of environmental and social performance requirements that shall be expected from them, are able to reflect that in their bids, and required to implement the clauses for the duration of the contract. The MoJ will enforce compliance by contractors with these clauses. The contractual arrangements with each project worker will be clearly defined in accordance with Croatian and EU law aligned with ESS2 requirements. A full set of contractual requirements related to environmental and social risk and impact management will be provided in the sub-projects' ESMPs. All environmental

and social conditions will be included in the bidding documents and contracts in addition to any additional clauses, which are contained in the projects' environmental and social instruments. The details will be provided in the Contractor's Labor Management Plan (C-LMP) which will be submitted to the MoJ PIU for approval within two months of the contract award.

AGE OF EMPLOYMENT

The Republic of Croatia has ratified both the ILO Minimum of Age Convention (C138) and the ILO Worst Forms of Child Labour Convention (C182). The minimum age of employment for this project shall be 18 years and to ensure compliance, all employees will be required to produce Personal Identification Number (PIN) as proof of their identity and age, which is the national identification document required for employment. Contractors and subcontractors will include in their C-LMPs (to be approved by the MoJ and acceptable by the WB) the specific procedures they will use to verify the ages of job applicants.

7. GRIEVANCE MECHANISM

A grievance mechanism will be provided for all direct workers and contracted workers (and, where relevant, their organizations) to raise workplace concerns. Such workers will be informed of the grievance mechanism at the time of recruitment and the measures put in place to protect them against reprisal for its use. Measure will be put in place to make the grievance mechanism easily accessible to all such project workers. Project workers should be able to raise concerns regarding unsafe or unhealthy work situations through the grievance mechanism. As part of the C-LMP, the contractor will establish and describe the details of an appropriate workplace grievance mechanism consistent with the ESS2 requirements (including a written record, established responsibilities and response time, etc). The MoJ PIU will review the records on a monthly basis and report on the grievances, response time and resolution status in a quarterly report to the WB.

In line with ESS2 requirements and national legislation related to collective agreements clauses, the grievance mechanism established under ESS2 does not replace or override the requirements to provide workplace processes to report work situations that a project worker believes are not safe or healthy referred to in paragraph 27 of ESS2. The Borrower and third parties inform direct and contracted workers, respectively, about the available grievance mechanisms, and how they work. The relevant information should be made available throughout project duration in a manner that is clear, understandable, and accessible to workers, for example, by including it in workers' handbooks, on notice boards, or through similar communication mechanisms.

The LMP include reasonable measures so that direct and contracted workers are not subjected to any form of retaliation as a result of any grievance raised. Such measures may include the need for confidentiality. The grievance mechanism will not impede access to other judicial or administrative remedies that might be available under the law or through existing arbitration procedures, or substitute for grievance mechanisms provided through collective agreements. The Labor Act articles 133; 134; 135 and 136 stipulate grievance redress procedure in detail. These are provided in Annex 1 of the LMP.

8. CONTRACTOR MANAGEMENT

Contractor selection will follow the procedures consistent with the WB Procurement Policy. The MoJ PIU will have the responsibility of monitoring contractors' and subcontractors' adherence to the approved C-LMPs, including adherence to provision of wages, working hours, non-discrimination and other ESS2 requirements which are aligned with national legislation.

In the MoJ, within the General Secretariat, the Public Procurement Service is responsible for the public procurement including development, improvement, and coordination of the entire public procurement sector; issuing opinions, instructions and provision of legal assistance relating to the application of the Public Procurement Act and other regulations in the field of public procurement. The Public Procurement Directorate is divided into two departments, the Public Procurement and the Public Procurement Monitoring. The proposed procurement staff is composed of 10 members with at least five years of experience in procurement. Most of the employees have a master's degree in economics. They are found to be experienced and well-organized. This staff is very familiar with procurement, with several of them having between 10-15 years' experience in project procurement, including in contract management. They have attended several trainings, and four employees have a certificate from public procurement. Procedures are assigned randomly to the one who can then make a new request.

The Public Procurement Act regulates procedures for the award of public contracts and framework agreements for the procurement of supplies, works or services, legal protection concerning those procedures, and the competences of the central state administration body competent for the public procurement system.

Contract management capability and capacity

The contract management business process already is and will be performed in a satisfactory manner and compliance with current Croatian regulations which meet ESS2 requirements. Since the Public Procurement Act doesn't define obligation to use standard Contract forms, procurement documentation must contain as much relevant information as possible, to be able to make Contracts compatible with procurement documentation.

Contractual relations in Croatia are regulated according to the Mandatory Relations Act.

Public Procurement Department within the MoJ is familiar with changes that could take place in the contract's implementation, for example, with annexes regarding deadline prolongations, procurement of additional goods, services, or work, all according to Public Procurement Act articles 314.-321.

Public Procurement Department isn't authorized to deal with appeals incurred in the process of public procurement.

9. COMMUNITY WORKERS

Project activities will not require the hiring of community workers.

10. PRIMARY SUPPLY WORKERS

Primary suppliers are suppliers who provide goods or materials directly to the project. The project requires procurement of a substantial amount of materials, equipment, and etc. It is not expected that primary supply workers will be relevant as the project will unlikely source goods or materials from a single supplier on an on-going basis.

For the substation, the primary suppliers would be companies that manufacture electrical switching equipment, transformers, and other major electrical equipment. The primary suppliers for rehabilitation works on the four judicial facilities shall be reputed, registered in companies in Croatia with valid operating licences. The contractors shall be required to carry out due diligence procedure to identify if there are any risks that the suppliers would exploit child or forced labor or expose worker to serious safety issues.

The Labor Inspectorate is responsible for carrying out periodic inspections to verify that licensed suppliers/enterprises are in compliance with national legislation/regulations relating to OHS and the age of employment and prohibitions against forced labor. If there are any risks related to child and forced labor, and safety identified, the MoJ will prepare the procedures to address these risks.

ANNEX 1 – Steps on handling the workers' disputes/complaints/grievances

Article 133

- (1) The worker who considers that his employer has violated any of his rights arising from employment may require from the employer the exercise of this right within fifteen days following the receipt of a decision violating this right, or following the day when he gained knowledge of such violation.
- (2) If the employer does not meet the worker's request referred to in paragraph 1 of this Article within fifteen days, the worker may within another fifteen days seek judicial protection before the court having jurisdiction in respect of the right that has been violated.
- (3) A worker who has failed to submit a request referred to in paragraph 1 of this Article, may not seek judicial protection before the competent court, except in the case of the worker's claim for indemnification for damages or another financial claim pertaining to the employment.
- (4) When the laws, regulations or administrative provisions, collective agreement or working regulations provide for an amicable dispute resolution, the deadline of fifteen days for filing a request with the court starts as of the date when the procedure for such resolution ended.
- (5) The provisions of this Article shall not apply to the procedure for the protection of workers' dignity referred to in Article 134 of this Act.
- (6) Unless otherwise provided for by this Act or any other law, the competent court within the meaning of this Act shall be the court that has jurisdiction over labour disputes.

The protection of workers' dignity

Article 134

- (1) The procedure and measures for the protection of workers' dignity from harassment or sexual harassment shall be regulated by special legislation, collective agreement, agreement between the works council and the employer or working regulations.
- (2) The employer employing at least 20 workers shall be obliged to appoint a person who would, in addition to him, be authorised to receive and deal with complaints related to the protection of the workers' dignity.
- (3) The employer or person referred to in paragraph 2 of this Article shall, within the time limit prescribed by the collective agreement, the agreement between the works council and the employer or working regulations, and within a maximum of eight days from the day of filing the complaint, examine the complaint and take all the necessary measures appropriate for a particular case, to stop the harassment or sexual harassment, if he has established that harassment has taken place.
- (4) Where the employer fails to take measures for the prevention of harassment or sexual harassment within the time limit referred to in paragraph 3 of this Article, or if the measures taken are clearly inappropriate, the worker who is a victim of harassment or sexual harassment shall have the right to stop working until he is ensured protection, provided that he sought protection in the court that has jurisdiction, within the following eight days.
- (5) If there are circumstances under which it is not reasonable to expect that the employer will protect a worker's dignity, the worker shall not be obliged to file a complaint with the employer and shall have the right to stop working, provided that he sought protection before the competent court and notified the employer thereof, within eight days of the date of work interruption.
- (6) During the period of interruption of work referred to in paragraphs 4 and 5 of this Article, the worker shall be entitled to remuneration in the amount he would have earned if he had actually worked.

- (7) In the event of a valid judicial decision ruling that the worker's dignity was not violated, the employer may request the refund of remuneration referred to in paragraph 6 of this Article.
- (8) All information collected in the procedure for the protection of workers' dignity shall be confidential.
- (9) The worker's behaviour constituting harassment or sexual harassment shall be regarded as the breach of obligations arising from employment.
- (10) The worker's resistance to the behaviour constituting harassment or sexual harassment shall not be regarded as the breach of obligations arising from employment and must not be grounds for discrimination against the worker.

Burden of proof in labour disputes

Article 135

- (1) In the event of an employment-related dispute, the burden of proof shall lie with the person claiming the violation of his rights arising from employment relationship or the person initiating the dispute, unless otherwise provided for by this Act or any other law.
- (2) In the event of a dispute related to the discrimination of the worker on the grounds of the worker's approach to the competent persons or state authorities due to reasonable suspicion of corruption or his report in good faith on the said suspicion, which resulted in the violation of worker's rights arising from employment, and where the worker presents a reasonable case of him being discriminated and of violation of his rights arising from employment, the burden of proof shall lie with the employer, who must prove the non-discrimination of the worker and non-violation of his rights arising from employment.
- (3) In the event of a dispute related to the employment contract termination, the burden of proving justified reasons for the termination shall lie with the employer, where the termination was effected by the employer; the burden of proof shall lie with the worker only where the termination of employment contract was effected by the worker by means of an extraordinary notice of termination.
- (4) In the event of a dispute related to working time, the burden of proof shall lie with the employer, if he fails to keep records referred to in Article 5, paragraph 1 of this Act.

Arbitration and mediation

Article 136

- (1) Parties to an employment contract may, for the purpose of resolving a labour dispute and subject to their mutual consent, use arbitration or mediation services.
- (2) The composition, procedure and other issues relevant for the arbitration or mediation may be laid down by collective agreement.