

## Resilience in Labor Regulation: Evaluating Serbia's Post-Pandemic Occupational Safety and Health Reform

Sanja Zlatanović

PhD, Senior Research Fellow, Institute of Social Sciences, Belgrade, Serbia; correspondence address: Kraljice Natalije 45, Belgrade, Serbia; e-mail: sanjazlatanovic1@gmail.com

 <https://orcid.org/0000-0001-7753-0876>

Andelija Stevanović

LLM, Research Assistant, Institute of Social Sciences, Belgrade, Serbia & Junior Researcher, Central European Academy, Budapest, Hungary; correspondence address: Kraljice Natalije 45, Belgrade, Serbia; e-mail: andjelija.stevanovic21@gmail.com

 <https://orcid.org/0009-0002-3157-515X>

**Abstract:** The COVID-19 pandemic exposed fundamental weaknesses in labor law systems worldwide, revealing their limited capacity to manage public health crises. In Serbia, it highlighted longstanding gaps in regulations on remote work, occupational safety and health (OSH), and the continuity of labor rights during emergencies. This paper examines the post-pandemic evolution of Serbian labor law, focusing on the 2023 Occupational Safety and Health Act, and evaluates its effectiveness in addressing lessons from the crisis. Although the 2023 OSH Act updated certain safety standards, it largely neglects mental health protection and the systematic management of psychosocial risks – issues increasingly recognized as central to occupational safety internationally. The law remains focused on physical risks, offering limited provisions for stress prevention, psychosocial well-being, or emergency support mechanisms. Temporary pandemic measures, such as flexible work arrangements, were not codified, leaving gaps in social dialogue, employer obligations, and protections for workers' rights. The study concludes that Serbia's labor law remains structurally unprepared for future public health emergencies. Enhancing resilience requires integrating psychosocial risk management into OSH regulations, formally recognizing mental health as a core aspect of workplace safety and establishing robust legal mechanisms for emergency labor governance. These reforms are essential to safeguard workers' rights and ensure safe, inclusive, and adaptable work environments during societal disruptions.

**Keywords:** labor law, OSH, mental health, resilience, Serbia normative framework

### 1. Introduction

The COVID-19 pandemic exposed persistent regulatory fragilities within labor law systems across jurisdictions, while simultaneously revealing the structural vulnerabilities of health care systems that were unprepared to manage systemic public health risks. From a critical theoretical perspective, these parallel failures underscore the limits of labor law's traditionally fragmented and reactive regulatory model, which continues to treat occupational safety and health (OSH) risks as isolated (potential) workplace hazards rather than as manifestations of broader social, organizational, and institutional risk structures. In conditions characteristic of late modern “risk societies,” the pandemic demonstrated how the inadequate integration of labor law, OSH regulation, and public health governance exacerbated workers' exposure to both physical and psychosocial harms. This

disjunction was particularly visible in the insufficient legal recognition of emerging and cumulative risks – such as mental health strain, moral injury, and precariousness intensified by crisis management measures – thereby highlighting labor law’s diminished capacity to function as an effective instrument of collective risk prevention and social protection in the face of systemic shocks.

Additionally, these regulatory shortcomings directly challenge the normative foundations of decent work, which presuppose not only safe and healthy working conditions, but also institutional coherence capable of safeguarding workers’ dignity and well-being in times of systemic crisis. The pandemic revealed that fragmented labor and health governance undermine social sustainability by shifting the costs of social risk onto workers, particularly those in precarious or essential roles. In this sense, strengthening the integration between labor law, OSH, and public health systems emerges as a precondition for realizing decent work as a sustainable social objective rather than a merely aspirational standard.

In Serbia, pre-existing labor regulations were unprepared to address challenges arising from remote work, continuity of labor rights, and psychosocial well-being during prolonged crises. These shortcomings prompted legislative reform, culminating in the Law on Occupational Safety and Health (35/2023) (“OSH Act 2023”), which seeks to modernize workplace safety standards and align domestic law with European and international frameworks. While the Act strengthens procedural aspects of occupational safety, critiques highlight its continued emphasis on physical hazards and the marginalization of mental health and psychosocial risk management, despite growing recognition that mental well-being is a central component of decent work and sustainable labor governance.<sup>1</sup>

This paper evaluates Serbia’s post-pandemic OSH reforms using legal-theoretical and normative methods, combining doctrinal legal analysis with a critical assessment of comparative best-practice approaches. It examines the conceptualization of psychosocial risks within OSH law through an interdisciplinary lens that integrates resilience management theory with legal analysis, assesses Serbia’s alignment with European standards, and critically evaluates the resilience of the national OSH regulatory framework – specifically, its capacity to anticipate, absorb, adapt to, and recover from systemic disruptions, including pandemics and rapid digitalization.

## 2. Towards Integration of Psychosocial Risk Management and Resilience in OSH Law – Conceptual Issues

According to the prevailing view, psychosocial risks constitute a category of occupational hazards stemming from the design, organization, and social context of work, with

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<sup>1</sup> Ryan D. Duffy et al., “Linking Decent Work with Physical and Mental Health: A Psychology of Working Perspective,” *Journal of Vocational Behavior* 112 (2019): 384–95, <https://doi.org/10.1016/j.jvb.2019.05.002>; “Mental Health at Work: Policy Brief,” International Labor Organization and World Health Organization, 2022, accessed December 10, 2025, [https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40ed\\_protect/%40protrav/%40safework/documents/publication/wcms\\_856976.pdf](https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40ed_protect/%40protrav/%40safework/documents/publication/wcms_856976.pdf).

significant consequences for both psychological and physical health.<sup>2</sup> In line with this understanding, the European Agency for Safety and Health at Work (EU-OSHA) has emphasized that the COVID-19 pandemic significantly exacerbated psychosocial risks, intensifying pre-existing challenges and bringing workplace mental health to the forefront of occupational safety debates.<sup>3</sup> Psychosocial risks predominantly include excessive workload, role ambiguity, lack of autonomy, inadequate social support, and workplace harassment, reflecting systemic conditions rather than isolated incidents. When left unaddressed, psychosocial hazards can undermine organizational functioning, reduce productivity, and compromise overall workforce health and well-being.<sup>4</sup>

Although the terms “psychosocial risks,” “psychosocial factors,” and “psychosocial hazards” are often used interchangeably in the literature, Leka and Cox clarify that “psychosocial hazards” refer to the psychosocial factors, i.e., risks defined by the ILO, all of which are intrinsically tied to work organization and management.<sup>5</sup> Recognizing this distinction is essential for labor law and occupational safety, as it underscores employers’ responsibility to address organizational factors that affect employees’ mental health. In a narrower sense, psychosocial risks may be understood as organizational and managerial factors inherent in work design and organization. In contrast, psychosocial hazards represent their concrete manifestations and adverse consequences, which are addressed through the application of OSH standards and labor law protections.

Addressing both risks and hazards thus aligns with the ILO’s concept of “decent work” and EU soft law on workplace mental health, emphasizing the integration of psychosocial risk assessment and management into legal and organizational frameworks. Additionally, recognizing this distinction is crucial for labor law and occupational safety frameworks, as it underscores the need for employers to address organizational and management-related factors that can affect employees’ mental health and well-being. From a labor law perspective, the recognition of psychosocial risks imposes clear obligations on employers to identify, prevent, and mitigate these hazards, thereby ensuring compliance with the duty of care principle and reducing potential legal liability for employee harm.

Psychosocial risks are primarily examined within organizational management and occupational psychology, where they are analyzed in terms of work design, organizational structures, and social relationships at work, and their impacts on employee well-being are subsequently linked to broader working conditions and occupational health outcomes.<sup>6</sup>

<sup>2</sup> “Psychosocial Risks,” European Foundation for the Improvement of Living and Working Conditions (Eurofound), 2025, accessed December 5, 2025, <https://www.eurofound.europa.eu/en/topics/psychosocial-risks>.

<sup>3</sup> “Strategies and Legislation on Psychosocial Risks in Six European Countries: Policy Brief,” European Agency for Safety and Health at Work (EU-OSHA), 2025, accessed January 8, 2026, <https://osha.europa.eu/en/publications/strategies-and-legislation-psychosocial-risks-six-european-countries>.

<sup>4</sup> Paul A. Schulte et al., “An Urgent Call to Address Work-Related Psychosocial Hazards and Improve Worker Well-Being,” *American Journal of Industrial Medicine* 67, no. 6 (2024): 499–514, <https://doi.org/10.1002/ajim.23583>.

<sup>5</sup> Stavroula Leka and Tom Cox, eds., *The European Framework for Psychosocial Risk management (PRIMA-EF)* (Nottingham: Institute of Work, Health and Organization, 2008), 5.

<sup>6</sup> Eurofound and EU-OSHA, *Psychosocial Risks in Europe: Prevalence and Strategies for Prevention* (Luxembourg: Publications Office of the European Union, 2014).

In contrast, labor law is still grappling with the concept, which remains vague in both legal definition and in employers' practical application. This lack of precise legal recognition means that obligations to prevent or mitigate psychosocial risks are often unclear, leaving gaps in enforcement and compliance. As a result, while organizations may implement management-driven interventions to address stressors and promote well-being, the absence of robust legal frameworks can limit accountability, weaken employee protections, and hinder the integration of psychosocial risk management into formal OSH systems. Clarifying the legal status of psychosocial risks is therefore essential to align organizational practices with enforceable labor law duties and to ensure comprehensive protection of workers' mental health and well-being.

Thus, despite growing recognition of workplace mental health, labor law theory, legislation, and practice still lack clear definitions of psychosocial risks and hazards. This ambiguity often leads employers to overlook their integration into OSH systems. On the other hand, international bodies, notably the WHO and ILO, emphasize that mental health deserves protection equal to that of physical health under the right to health. In the post-pandemic era, rigorous legal and theoretical clarification of psychosocial risks has become indispensable for the effectiveness of OSH frameworks and for advancing broader public health objectives. The pandemic demonstrated that intensified workloads, extended working hours, and emergency forms of work organization during crises had a disproportionate impact on workers' mental health and well-being, revealing higher levels of depression among women, younger employees, and individuals whose quality of life was adversely affected by the coronavirus.<sup>7</sup> Consistent with evidence that intensified workloads, extended hours, and emergency work organization during the pandemic disproportionately harmed workers' mental health, the systematic review by Rossi *et al.* (2023) found that burnout was widespread among workers – especially in predominantly female healthcare samples – and that maladaptive coping styles, which may exacerbate stress under high job demands, were associated with higher burnout levels, while adaptive coping was protective, with some coping outcomes varying by gender,<sup>8</sup> suggesting that pandemic work conditions and individual coping strategies jointly influenced psychological distress. Overall, these findings expose structural limitations in existing regulatory frameworks and underscore the need to reconceptualize psychosocial risk prevention as an integral component of resilient labor law and the promotion of decent work to mitigate psychosocial hazards effectively.

In response, scholars have increasingly sought to distinguish between mental health at work as a labor law issue and psychosocial risk management as a traditional organizational management concern. Accordingly, Lerouge argues that legal discussions on workplace mental health and psychosocial risks require a clear conceptual separation, as these terms are often conflated despite their distinct legal and practical implications.

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<sup>7</sup> Didem Rodoplu Şahin et al., "The Effect of COVID-19 on Employees' Mental Health," *Scientific Reports* 12, 15067, (2022), <https://doi.org/10.1038/s41598-022-18692-w>.

<sup>8</sup> Maria Francesca Rossi et al., "Coping with Burnout and the Impact of the COVID-19 Pandemic on Workers' Mental Health: A Systematic Review," *Frontiers in Psychiatry* 14, 1139260 (2023), <https://doi.org/10.3389/fpsy.2023.1139260>.

The author emphasizes that “mental health in the workplace” broadly refers to the overall psychological well-being of workers. In contrast, psychosocial risks denote specific, work-related conditions – such as stressors arising from job design or organizational structure – that can undermine well-being.<sup>9</sup> Clarifying these concepts is essential for effective legal regulation and policy-making, as it helps protect workers, delineate employers’ responsibilities, and guide targeted labor law interventions. The author situates this discussion within the context of recent EU-level initiatives and pressures to develop legal frameworks to address these issues.

As a continuation of recent legal developments and scholarly discussions within a legal-theoretical framework, on the other side, the integration of psychosocial risks management practice into the workplace represents a paradigmatic shift from traditional, reactive approaches – centered on physical safety and hazard elimination – toward proactive, principles-based governance that aligns with the broader “concept of resilience.” While the prevailing view in the organization science literature holds that there is no universally agreed-upon definition of resilience, it is often described as multifactorial, multilevel, and multidimensional, encompassing principles of anticipation, response, learning, adaptation and recovery.<sup>10</sup> In legal terms, resilience thus refers to the capacity of regulatory systems to anticipate, absorb, adapt to, and recover from disruptive events, while maintaining core protections and safeguarding fundamental workers’ rights.

While resilience has traditionally been studied in psychology as an individual mechanism, it is important, in this context, to highlight the work of Calado, Capucha, and Wódz, who offer a critical “conceptualization of social resilience” that extends beyond individual coping. Their analysis demonstrates how systemic shocks – such as the financial crisis and, similarly, “public health crises like pandemics” – can trigger structural reconfigurations of labor relations in Europe, reshaping labor market institutions, power dynamics, and the distribution of resources across national contexts.<sup>11</sup> The authors’ comparative analysis of Portugal, Poland, and Ireland demonstrates that resilience is not merely a passive recovery to pre-crisis conditions, but a dynamic process in which labor relations are transformed and, in some cases, liberalized, highlighting the centrality of institutional rules and power dynamics in shaping post-crisis labor regimes.<sup>12</sup>

This institutional perspective aligns with broader theoretical work on social resilience that emphasizes the importance of rules, resources, and power relations in understanding how social systems adapt to shocks, suggesting that resilience cannot be abstracted from the socio-economic and legal frameworks within which labor markets

<sup>9</sup> Loïc Lerouge, “The Concepts of ‘Mental Health in the Workplace’ and ‘Psychosocial Risks’: A Clarification from a Legal Perspective,” *European Labour Law Journal* 16, no. 3 (2025): 377–83, <https://doi.org/10.1177/20319525251336018>.

<sup>10</sup> Royce Francis and Behailu Bekera, “A Metric and Frameworks for Resilience Analysis of Engineered and Infrastructure Systems,” *Reliability Engineering & System Safety* 121 (2014): 91, <https://doi.org/10.1016/j.res.2013.07.004>.

<sup>11</sup> Alexandre Calado, Luís Capucha, and Kazimiera Maria Wódz, “Labour Relations under Duress in Europe: Contributions for Social Resilience Theory,” *Sociologia – Problemas e Práticas*, no. 103 (2023): 11.

<sup>12</sup> *Ibid.*

operate.<sup>13</sup> Furthermore, contemporary resilience research increasingly challenges individualistic and heroic framings of resilience, instead foregrounding collective, institutional, and policy dimensions that bear directly on labor law and workplace governance, as highlighted by Calado *et al.* and Dagdeviren *et al.* Empirical and conceptual studies in related fields further stress that fostering resilience in labor markets – and, by extension, in labor law contexts – requires addressing structural inequalities that shape workers’ capacity to adapt to and recover from risks.<sup>14</sup> This involves interventions through organizational practices, supportive policies, and institutional or legal reforms. Such considerations align with emerging EU policy discussions on labor market resilience and social protection frameworks, particularly in the context of digitalization, labor market deregulation, and demographic change.<sup>15</sup> Such an integrated, critical resilience lens has significant implications for labor law and OSH governance, as it foregrounds the need for systemic reforms that enhance worker protection, equitable resource distribution, and institutional adaptability in the face of economic and technological changes.

Therefore, embedding psychosocial risk management within OSH law operationalizes resilience, both at the individual level – supporting workers’ capacity to cope with stress and mental health-related factors – and at the structural level – strengthening organizational and legal systems to absorb and adapt to shocks, such as pandemics, digitalization, or rapid organizational change, thereby fostering sustainable and resilient organizational functioning. Unlike conventional occupational safety measures, which are largely prescriptive, this approach emphasizes anticipatory strategies, continuous monitoring, and systemic interventions to safeguard workers’ mental health. In doing so, it bridges the standard organizational management perspective with the labor law approach, contributing to the “holistic, interdisciplinary framework” increasingly advocated in academic and policy discussions.

European legal frameworks, particularly the Framework Directive on Safety and Health at Work (89/391/EEC),<sup>16</sup> impose on employers a general duty to prevent “all risks” to the safety and health of workers, which has been interpreted to encompass psychosocial hazards and mental health risks in the workplace. Under Article 5 of this Directive, employers must ensure the safety and health of workers in all aspects of work, and the general principles of prevention – including risk assessment, risk elimination or reduction, and worker participation – apply to psychosocial hazards as well as physical ones. Complementing these binding obligations, EU soft law and social dialogue instruments – notably the European Framework Agreement on Work-Related Stress (2004)<sup>17</sup>

<sup>13</sup> Hulya Dagdeviren *et al.*, “Structural Foundations of Social Resilience,” *Social Policy and Society* 19, no. 4 (2020): 539–52, <https://doi.org/10.1017/S1474746420000032>.

<sup>14</sup> Rense Nieuwenhuis *et al.*, “The Need and Capacity for Resilience in European Labor Markets: An Inequalities in Resilience Framework,” rEUsilience Working Paper, Series 19, accessed January 11, 2026, [https://osf.io/k8x2v\\_v2/](https://osf.io/k8x2v_v2/).

<sup>15</sup> *Ibid.*

<sup>16</sup> Council Directive 89/391/EEC of 12 June 1989 on the Introduction of Measures to Encourage Improvements in the Safety and Health of Workers at Work (OJ L 183, 29 June 1989).

<sup>17</sup> European Social Partners (ETUC, UNICE/BUSINESSEUROPE, UEAPME and CEEP), *Framework Agreement on Work-Related Stress*, October 8, 2004.

and the European Pact for Mental Health and Well-Being at Work (2008)<sup>18</sup> – provide non-binding guidance for the assessment, prevention, and management of psychosocial risks and work-related stress, reinforcing the normative expectation that psychosocial well-being is central to decent work, sustainable organizational governance, and institutional resilience.

While there is currently no dedicated EU “special directive” specifically on psychosocial risks, ongoing policy initiatives – including Commission communications on comprehensive approaches to mental health (2023) and peer reviews of legislative and enforcement practices in Member States – signal a continuing push at the EU level to strengthen protections for mental health and psychosocial risk prevention in OSH law and practice.<sup>19</sup>

The inclusion of “psychosocial risk in OSH law” thus integrates two domains: the legal domain, where enforceable obligations safeguard workers’ mental health, and the organizational domain, where management practices, workplace culture, and structural design determine the realization of these protections. Normatively, integrating psychosocial risk management reflects the evolution of labor law toward safeguarding mental health as a core dimension of workplace rights. Practically, it equips organizations with mechanisms to identify, monitor, and mitigate risks that threaten workforce resilience and institutional functionality.<sup>20</sup> Within institutional and governance theory, the concept of resilience – which, as mentioned above, emphasizes a system’s capacity to anticipate, absorb, adapt to, and recover from shocks while maintaining core functions and values<sup>21</sup> – implies, in the labor law context, that both legal frameworks and organizational structures must be equipped to safeguard workers’ rights and protections amid uncertainty, crises, or rapid transformations. Thus, “institutional capacity” – encompassing regulatory standards, enforcement mechanisms, and organizational adaptability – becomes a critical determinant of whether labor rights, including psychosocial and mental well-being, are effectively safeguarded. By embedding resilience, i.e., psychosocial assessment and management, into governance, labor law moves beyond a reactive compliance model, fostering anticipatory mechanisms that simultaneously promote worker protection, organizational adaptability, and systemic stability. In doing so, it aligns the legal duty to protect with the normative goal of decent work. This approach is particularly important, given that empirical studies show conventional OSH regimes – historically focused on physical hazards – often overlook psychosocial dimensions, leaving both

<sup>18</sup> European Commission, Directorate-General for Health and Food Safety, *European Pact for Mental Health and Well-Being*, adopted at the EU High-Level Conference “Together for Mental Health and Well-Being,” Brussels, June 12–13, 2008.

<sup>19</sup> European Commission, *Communication from the European Commission on a Comprehensive Approach to Mental Health and Psychosocial Risk Prevention in the EU* (Brussels, June 7, 2023).

<sup>20</sup> Stephanie Duchek, “Organizational Resilience: A Capability-Based Conceptualization,” *Business Research* 13, no. 1 (2020): 215–46, <https://doi.org/10.1007/s40685-019-0085-7>.

<sup>21</sup> Małgorzata Peçiłło, “The Concept of Resilience in OSH Management: A Review of Approaches,” *International Journal of Occupational Safety and Ergonomics* 22, no. 2 (2016): 291–300, <https://doi.org/10.1080/10803548.2015.1126142>.

workers and institutions vulnerable to stress-related disorders, burnout, and diminished organizational performance.<sup>22</sup>

From a broader normative and legal-theoretical standpoint, “embedding resilience within OSH law” reflects a shift from narrowly prescriptive rules toward principles-based governance, where the law not only mandates hazard prevention, but also cultivates the capacity of organizations and institutions to anticipate, absorb, and adapt to systemic disruptions. This approach positions psychosocial risk management as a central component of legal duties, reinforcing the normative expectation that employers and regulatory bodies safeguard workers’ physical and mental integrity, even in conditions of uncertainty or crisis. Critically, “the resilience paradigm” exposes the limitations of traditional OSH regimes that focus on discrete, observable hazards, highlighting the need for legal frameworks capable of sustaining functional, rights-respecting workplaces through complex, socio-technical transformations, such as digitalization, pandemics, or economic shocks. In this sense, resilience is not merely an operational strategy, but a “normative principle” that integrates organizational adaptability, worker well-being, and systemic stability into the core purpose of labor law, thus advancing both decent work and social sustainability.

### 3. Serbia’s Post-Pandemic OSH Legal Framework: Limits and Opportunities for Resilience

Serbia’s OSH Act 2023<sup>23</sup> constitutes a significant legislative milestone, representing the first comprehensive reform of the national OSH framework in nearly two decades. Adopted by the National Assembly on April 28, 2023 – symbolically coinciding with the International Day for Safety and Health at Work – and promulgated in the Official Gazette of the Republic of Serbia No. 35/2023, the Act entered into force on May 7, 2023, formally replacing the long-standing 2005 OSH regime. The legislative impetus for this reform reflected profound transformations in work, including digitalization, the expansion of remote and home-based work, and the increasing flexibilization of employment relationships, as well as the need for closer alignment with European Union standards. These developments prompted the introduction of updated employer obligations, clearer regulation of non-standard work arrangements in relation to OSH protection, and a more explicit delineation of employers’ responsibilities, including the duty to ensure occupational safety and health for employees working from home or remotely, in cooperation with employees, alongside revised conceptualizations of workplace safety. Nevertheless, despite signaling political commitment and regulatory modernization, the OSH Act 2023 remains limited in both normative depth and legal precision when assessed against contemporary international and European OSH standards.

Although the OSH Act 2023 strengthens procedural elements of risk assessment and introduces provisions on remote work and periodic medical examinations, it fails to incorporate psychosocial risk management and mental health protection as explicit, enforceable

<sup>22</sup> Agnieszka Krol et al. “Enhancing Workplace Safety: Addressing Psychosocial Hazards in Modern Organizations,” *European Research Studies Journal* 28, no. 1 (2025): 696–706, <https://doi.org/10.35808/ersj/3930>.

<sup>23</sup> Serbia, *Occupational Safety and Health Act*, Official Gazette of the Republic of Serbia, No. 35/2023 (2023).

legal obligations. This omission constrains the resilience of Serbia's OSH system and reflects a broader continuity with conventional OSH regimes, which have historically prioritized physical hazards while marginalizing psychosocial risks. Such an approach persists, despite mounting evidence that psychosocial risks – stemming from inadequate work design, organizational practices, and adverse social relations at work – constitute major determinants of stress, anxiety, depression, burnout, and declining organizational performance.<sup>24</sup> The absence of a clear legal framework for psychosocial risk prevention thus represents a central deficiency of the new legislation. It underscores the need to reposition psychosocial risk management as a core component of Serbia's OSH regime.

Empirical and policy research consistently demonstrate that effective governance in this field requires clearly defined legal duties, including mandatory and continuous psychosocial risk assessments, structured methodologies, the involvement of social partners, and organizational measures aimed at preventing harm and promoting worker well-being, in line with EU and international best practices, particularly in the post-pandemic period.<sup>25</sup> As an example of good policy practice, the Spanish experience illustrates how the pandemic served as a catalyst for strengthening mental health governance within OSH frameworks. The COVID-19 pandemic in Spain was associated with a marked increase in mental health-related temporary work disabilities during the strict lockdown in 2020, generating substantial economic costs and exposing persistent gender disparities and sector-specific risks in relapse rates and absence durations.<sup>26</sup> Although both incidence and associated costs declined in 2021–2022, women continued to experience higher relapse rates and longer periods of work absence, underscoring the enduring mental health impact of the pandemic on workers.<sup>27</sup> In response, the crisis catalyzed a transformative policy shift, reviving the long-neglected national mental health strategy framework and leading to the adoption of the Spanish Strategy for Safety and Health at Work 2023–2027, which combined significant public investment with targeted, workplace-oriented measures. The Strategy emphasizes the equal protection of workers' physical and mental health. It sets out strategic objectives aimed at strengthening safeguards for vulnerable workers, including those with health vulnerabilities, integrating a gender-sensitive approach into OSH standards, and, notably, reinforcing the national OSH system to ensure effective preparedness and response to future crises.<sup>28</sup> According to the 2025 Report on Mental Health at Work in Spain, work-related psychological distress is conceptualized as a continuum ranging from normal, non-pathological suffering to mental health problems, such as burnout and clinically diagnosable mental disorders, underscoring

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<sup>24</sup> European Agency for Safety and Health at Work (EU-OSHA), "Strategies and Legislation on Psychosocial Risks in Six European Countries: Policy Brief."

<sup>25</sup> Ibid.

<sup>26</sup> Eva María Gutiérrez Naharro et al., "The Economic and Occupational Impact of Mental Health-Related Temporary Work Disabilities in Spanish Workers During and After the COVID-19 Pandemic: A Longitudinal Study," *Healthcare (Basel)* 13, no. 6 (2025): 618, <https://doi.org/10.3390/healthcare13060618>.

<sup>27</sup> Ibid.

<sup>28</sup> "The Spanish Strategy for Safety and Health at Work 2023–2027 Has Been Approved," International Labor Organization, 2023, accessed January 13, 2026, <https://www.ilo.org/resource/news/spanish-strategy-safety-and-health-work-2023-2027-has-been-approved>.

that not all work-related suffering should be medicalized or addressed primarily within the healthcare system. The 2025 Report emphasizes that effective protection of workers' mental health requires a "mental health in all policies" approach, prioritizing structural improvements in working conditions and coordinated preventive action across labor, social, and health systems, rather than an overreliance on individual diagnosis and pharmacological treatment.<sup>29</sup>

On the other hand, the Serbian OSH Act 2023 formally adheres to a proactive, preventive regulatory paradigm, consistent with prevailing trends in international, European, and comparative law. It establishes a comprehensive framework for preventing occupational injuries, occupational diseases, and work-related illnesses, while delineating the rights and obligations of employers and workers, and emphasizing information, consultation, cooperation, and training. However, notwithstanding this preventive orientation, the statutory text entirely omits any explicit reference to "psychosocial risks at work or to specific threats to mental health" arising from the interaction between work organization, social relations, and individual worker characteristics. Nor does it address the cumulative impact of organizational and social factors on mental and, consequently, physical health and overall workplace well-being. This normative silence reveals a structural limitation of the Act. It suggests that the legislator has not fully internalized the regulatory significance of emerging occupational risks shaped by technological change, organizational restructuring, and evolving social dynamics in the world of work, nor has it embraced the globally recognized (mental) "Health in All Policies" agenda.

Article 13 of the Serbian OSH Act 2023 defines the principles of prevention and, in paragraph 7, provides for the "development of a coherent prevention policy covering technology, work organization, working conditions, social relationships in the work process, and the influence of factors related to the working environment." This provision is a verbatim transposition of the relevant clause of Directive 89/391/EEC. While a purposive interpretation of this principle could lead to it being construed as encompassing psychosocial risks and other emerging occupational mental health hazards – mirroring the interpretative approach adopted at the EU level – the absence of explicit legal recognition significantly weakens its practical effectiveness.<sup>30</sup> Given that psychosocial risks remain insufficiently institutionalized, even in many advanced labor law systems, it is realistic to expect that, without further normative concretization, this provision will remain largely inoperative. For this reason, effective implementation would require regulatory "support" through secondary legislation, notably the adoption of a dedicated by-law specifically addressing psychosocial risks at work.<sup>31</sup>

Such a regulatory instrument should, at a minimum, provide a clear and legally precise definition of psychosocial risks and/or explicitly address specific psychosocial risks,

<sup>29</sup> "Trabajo y salud mental: hoja de ruta para las administraciones sanitarias en España," Ministerio De Sanidad España, 2025, accessed January 14, 2026, [https://www.sanidad.gob.es/gabinetePrensa/notaPrensa/pdf/Hoja\\_250625184030855.pdf](https://www.sanidad.gob.es/gabinetePrensa/notaPrensa/pdf/Hoja_250625184030855.pdf).

<sup>30</sup> Sanja Zlatanović and Anđelija Stevanović, "Upravljanje psihosocijalnim rizicima i izazovi zaštite mentalnog zdravlja u savremenom radnom pravu," *Radno i socijalno pravo: časopis za teoriju i praksu radnog i socijalnog prava* 27, no. 1 (2023): 227–49.

<sup>31</sup> Ibid.

encompassing a broader spectrum of work-related psychosocial hazards beyond the traditionally regulated categories of harassment and workplace violence, which in Serbia are governed by separate, specialized legislation. In addition, it should explicitly incorporate a holistic approach, aligned with the “Health in All Policies” framework, with specific reference to mental health protection. In this regard, valuable guidance can be drawn from comparative legal frameworks. In addition to the above-mentioned Spanish example, the Belgian legal framework, as articulated in the Well-Being at Work Code, explicitly defines specific psychosocial hazards – including work-related stress, burn-out, harassment, and workplace violence – within a proactive, collective, and preventive conceptualization of psychosocial risks that places strong emphasis on organizational responsibility.<sup>32</sup> Furthermore, Swedish legislation, notably the Work Environment Act, originally enacted in 1977, adopts a holistic and integrative approach that closely links organizational conditions, work organization, and worker well-being, with particular emphasis on mental health, even though it does not provide an explicit statutory definition of psychosocial risks as such;<sup>33</sup> and French law has, since 2010, contained a general list of occupational risks, yet it has not explicitly identified psychosocial risks as a distinct regulatory category.<sup>34</sup> Nevertheless, subsequent legislative developments have progressively strengthened the prevention of work-related mental health risks. In particular, Law No. 2021–1018 reinforced the prevention of occupational mental health harms by emphasizing employers’ responsibility for controlling workloads, especially in the context of telework.<sup>35</sup> When combined with the statutory right to disconnect introduced in 2017, these measures broaden the proactive and preventive approach to mental health at work in France, extending beyond individualized risk responses towards organizational and structural regulation of working conditions. These comparative models demonstrate how psychosocial risk regulation can be systematically integrated into OSH frameworks, enhancing proactive and preventive capacities, while strengthening legal certainty by explicitly including mental health protection within traditionally physical-risk-oriented OSH systems, thereby contributing to greater systemic resilience holistically.

The seriousness of this normative gap in the Serbian OSH Act 2023 is further underscored by comparative empirical evidence. Despite persistent shortcomings, the majority of EU Member States have, to varying degrees, explicitly addressed psychosocial risks and their implications for mental health within their general OSH legislation. In particular, factors such as excessive working time, shift and night work, workplace discrimination and harassment, and permanent digital availability have been legally recognized as occupational health risks. A comparative study conducted between December 2017 and February 2018 revealed that 82.3% of EU Member States and 16.6% of developed non-EU countries include provisions targeting specific psychosocial risks within their

<sup>32</sup> Aude Cefaliello, “Psychosocial Risks in Europe – National Examples as Inspiration for a Future Directive,” ETUI Policy Brief, 2021, accessed January 18, 2026, [https://www.etui.org/sites/default/files/2021-12/Psychosocial%20risks%20in%20Europe\\_2021\\_1.pdf](https://www.etui.org/sites/default/files/2021-12/Psychosocial%20risks%20in%20Europe_2021_1.pdf).

<sup>33</sup> Ibid.

<sup>34</sup> Jean-Paul Dautel, “Psychosocial Risks in France,” accessed December 23, 2025, [https://www.etui.org/sites/default/files/2022-02/P3\\_JP\\_Dautel\\_PSR\\_in\\_France\\_2022\\_0.pdf](https://www.etui.org/sites/default/files/2022-02/P3_JP_Dautel_PSR_in_France_2022_0.pdf).

<sup>35</sup> Ibid.

general OSH legislation. In contrast, among developing non-EU countries, only Albania and North Macedonia directly regulate psychosocial risks through OSH law.<sup>36</sup> Against this backdrop, the Serbian legislator's failure to address psychosocial risks and mental health protection clearly and systematically appears particularly difficult to justify.

From a legal-theoretical perspective, this omission also undermines the "normative resilience" of Serbia's OSH system. Regulatory resilience presupposes the capacity of legal frameworks to anticipate emerging risks, adapt to structural changes in work organization, and recover from systemic disruptions while maintaining core protective functions. By neglecting psychosocial risks – arguably among the most significant contemporary occupational hazards – the 2023 OSH Act limits its own ability to function as a resilient and future-oriented regulatory instrument. In an era characterized by digitalization, flexible work arrangements, and recurrent crises, the failure to integrate psychosocial risk governance and mental health protection represents not merely a technical legislative gap, but a structural weakness in the normative architecture of labor protection.

To enhance resilience, the Serbian legislator should explicitly integrate psychosocial risk management, requiring employers to undertake systematic risk assessments, define assessment frequency and methodology, and involve relevant stakeholders and social partners, thus ensuring proactive identification and mitigation of hazards that threaten both worker wellbeing and organizational continuity.<sup>37</sup> Mental health should be formally recognized within the scope of OSH law, with employers having obligations to prevent, monitor, and support employees through counseling, employee assistance programs, and organizational interventions, while providing adequate training for both managers and workers.<sup>38</sup> The inclusion of adaptive governance mechanisms – such as procedures for engaging social partners, task reallocation in crises, and safeguards for continuity of rights – would institutionalize resilience, enabling anticipation, absorption, and recovery from systemic disruptions.

Given the rapid expansion of remote and digitally mediated work, OSH obligations should extend beyond physical ergonomics to encompass psychological and organizational dimensions, ensuring that remote work environments are governed in line with holistic occupational safety and resilience principles. Strengthening labor inspection capacity to monitor compliance with psychosocial requirements, accompanied by specialized training for OSH practitioners and transparent reporting systems, would help translate aspirational resilience principles into enforceable legal practice. Without such reform, the Serbian OSH 2023 Act's omissions regarding psychosocial risk management, mental health protection, and adaptive labor governance will continue to limit its capacity to function as a resilient, future-proof legal system capable of protecting workers and preserving institutional integrity in an increasingly unpredictable world.

<sup>36</sup> Zlatanović and Stevanović, "Upravljanje psihosocijalnim rizicima i izazovi zaštite mentalnog zdravlja u savremenom radnom pravu."

<sup>37</sup> International Labor Organization and World Health Organization, "Mental Health at Work: Policy Brief."

<sup>38</sup> "Mental Health at Work," World Health Organization, accessed December 6, 2025, <https://www.who.int/news-room/fact-sheets/detail/mental-health-at-work>.

## 4. Conclusion

This study demonstrates that the COVID-19 pandemic exposed significant structural vulnerabilities in Serbia's labor law system, particularly its capacity to safeguard OSH and ensure the continuity of workers' rights during public health emergencies. Applying the lens of resilience theory, the findings reveal that Serbia's post-pandemic OSH reforms, including the 2023 OSH Act, have not sufficiently enhanced the system's adaptive, absorptive, or transformative capacities. While temporary measures during the pandemic addressed immediate needs, the absence of integrated mental health protections, psychosocial risk management, and formal mechanisms for emergency labor regulation indicates that the system remains largely reactive rather than resilient.

From a resilience perspective, strengthening the labor law framework requires a shift from a traditional, physically oriented OSH approach to one that incorporates psychosocial well-being, preventive stress management, and structured support for workers during crises. Building normative resilience entails not only codifying emergency measures and flexible work arrangements, but also fostering institutional capacities for social dialogue, enforcement, and adaptive governance. Such reforms are essential to ensure that Serbia's labor system can absorb shocks, maintain continuity of workers' rights, and adapt effectively to future disruptions.

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