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## **EUROPEAN SOCIAL CHARTER**

8<sup>th</sup> National Report on the implementation of the European  
Social Charter

submitted by

**THE GOVERNMENT OF BOSNIA AND  
HERZEGOVINA**

- Article 2, 4, 5, 6, 21, 22 and 28 for the period 01/01/2013 - 31/12/2016
- Complementary information on Article 1§4 and 9 (Conclusions 2016)

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**CYCLE 2018**





**BOSNIA AND HERZEGOVINA**  
**MINISTRY OF HUMAN RIGHTS AND REFUGEES**

**EIGHTH REPORT OF BOSNIA AND HERZEGOVINA ON  
IMPLEMENTATION OF THE EUROPEAN SOCIAL CHARTER /REVISED/**

**A R T I C L E S 2, 4, 5, 6, 21, 22 AND 28**  
**( GROUP III: LABOUR RIGHTS)**

**REPORTING PERIOD:**  
**January 2012 - December 2016**

**SARAJEVO, OCTOBER 2017**

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## INTRODUCTION

Bosnia and Herzegovina ratified the Social Charter /Revised/ on 7 October 2008 and now submits its Eighth Report on Implementation of the Social Charter /Revised/ in compliance with Article 21 of the aforementioned charter.

This Report includes The European Social Charter /Revised/ provisions which belong to a Thematic Group III /labour rights/, for articles 2, 4, 5, 6, 21, 22 and 28, for the reporting period January 2012 – December 2016.

The Report has been prepared based on the new reporting system, accepted by the Council of Ministers of the Council of Europe, which came into force on 31 October 2007, and the Reporting Format on the implementation of adopted provisions of The European Social Charter /Revised/,<sup>1</sup> for all relevant information on adopted measures necessary for its implementation, particularly:

- 1) legal framework – for all the Laws and regulations, collective agreements and other provisions supporting their application;
- 2) measures (administrative arrangements, programmes, action plans, projects, etc.) undertaken with the purpose of the legal framework implementation;
- 3) numbers, statistical data or other relevant information on which to estimate the extent to which these provisions apply.
- 4) The instructions from the interpretation of the articles from the Charter of the European Committee of Social Rights, were taken into consideration and summarized in the Judicial Practice Summary (precedent), in order to make the subject matter completely clear.

Eighth Report of Bosnia and Herzegovina for the Thematic Group III /labour rights/ includes updated information on legislation framework from the previous reports, as well as adequate explanations, i.e. information on the situation development in practice during the reporting period.

Pursuant to Article 23 of the European Social Charter /Revised/, a copy of this Report shall be submitted to relevant employers' and trade unions' organisations, and to:

- Confederation of Independent Trade Unions of Bosnia and Herzegovina,
- Confederation of Trade Unions of the Republika Srpska,
- Trade Union of the Brčko District of BiH,
- Association of Employers of Bosnia and Herzegovina,
- Association of Employers of the Federation of Bosnia and Herzegovina,
- Union of Employers' Associations of the Republika Srpska,
- Association of Employers of the Brčko District of BiH.

1 Adopted at the session of the Committee of Ministers of the Council of Europe on 26 March 2008;

## **Article 2 – The right to just conditions of work**

In order to ensure effective exercise of the right to just conditions of work, State Parties undertake:

- to provide for reasonable daily and weekly working hours, the working week to be progressively reduced to the extent that the increase of productivity and other relevant factors permit;
- to provide paid public transport;
- to provide for a minimum of four weeks' annual holiday with pay;
- to eliminate risks in inherently dangerous or unhealthy occupations, and where it has not yet been possible to eliminate or sufficiently reduce these risks, to provide for either a reduction of working hours or additional paid holidays for workers engaged in such occupations;
- to ensure a weekly rest period which shall, as possible, coincide with the day recognised by tradition or custom in the country or region concerned as a day of rest;
- to ensure that workers are informed in written form, as soon as possible, and in any event not later than two months after the date of commencing their employment, of the essential aspects of the contract or employment relationship;
- to ensure that workers performing night work benefit from measures which take account of the special nature of the work.

### **BOSNIA AND HERZEGOVINA**

International instruments ratified by Bosnia and Herzegovina under Article 2 of the European Social Charter /Revised/ are the following:

- ILO Convention No. 13 on the Use of White Lead in Painting, 1921,
- ILO Convention No. 14 on the Application of the Weekly Rest in Industrial Undertakings, 1921,
- ILO Convention No. 89 on Night Work of Women Employed in Industry (revised), 1948,
- ILO Convention No. 90 on the Night Work of Young Persons Employed in Industry (Revised), 1948,
- ILO Convention No. 91 on Vacation Holidays with Pay for Seafarers (Revised), 1949,
- ILO Convention No. 94 on Labour Clauses in Public Contracts, 1949,
- ILO Convention No. 97 on Migration for Employment (Revised), 1949,
- ILO Convention No. 106 on Weekly Rest in Commerce and Offices, 1957,
- ILO Convention No. 109 on Wages, Hours of Work on Board Ship and Manning (Revised), 1958,
- ILO Convention No. 119 on the Guarding of Machinery, 1963,
- ILO Convention No. 132 on Annual Holidays with Pay (Revised), 1970,
- ILO Convention No. 136 on Protection against Hazards of Poisoning Arising from Benzene, 1971,
- ILO Convention No. 139 on Prevention and Control of Occupational Hazards caused by

- Carcinogenic Substances and Agents, 1974,
- ILO Convention No. 148 on the Protection of Workers against Occupational Hazards in the Working Environment Due to Air Pollution, Noise and Vibration, 1977,
- ILO Convention No. 155 on Occupational Safety and Health and the Working Environment, 1981,
- ILO Convention No. 162 on Safety in the Use of Asbestos 1986,
- ILO Convention No. 175 on Part-Time Work, 1994,
- ILO Convention No. 176 on Safety and Health in Mines, 1995,
- ILO Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999,
- ILO Convention No. 184 on Safety and Health in Agriculture 2001,
- MLC Convention, 2006, and
- ILO Convention No. 188 on Work in the Fishing sector 2007.

## **FEDERATION BIH**

In the Federation of Bosnia and Herzegovina, primary Laws and by-Laws under which Article 2 of the European Social Charter /Revised/ is implemented are the following:

- the Labour Law of FBiH<sup>2</sup>;
- the Law on Civil Service of FBiH<sup>3</sup>;
- General Collective Agreement for the Territory of FBiH<sup>4</sup>;
- Collective Agreement for Employees in Administrative Bodies and Judicial Authorities in FBiH<sup>5</sup>.

## **REPUBLIKA SRPSKA**

In the Republika Srpska, Article 2 of the European Social Charter /Revised/, regarding the just conditions to work, is implemented under the Labour Law<sup>6</sup>, the Law on Workers' Council<sup>7</sup>, the Law on Inspection<sup>8</sup>, the Law on Holidays of RS<sup>9</sup> and General Collective Agreement<sup>10</sup>.

- 2 "Official Gazette of FBiH" No. 26/16;
- 3 "Official Gazette of FBiH" No. 29/03, 23/04, 39/04, 54/04, 67/05, 08/06 and 04/12;
- 4 "Official Gazette of FBiH" No .48/16 and 62/16;
- 5 "Official Gazette of FBiH" No. 23/00, 50/00, 97/13 and 89/16;
- 6 "Official Gazette of RS" No. 1/16;
- 7 "Official Gazette of RS" No. 26/01;
- 8 "Official Gazette of RS" No. 74/10; 109/12; 117/12 and 44/16;
- 9 "Official Gazette of RS" No. 43/07;
- 10 "Official Gazette of RS" No. 40/10; 35/16 and 43/16;

## **BRČKO DISTRICT BIH**

In the Brčko District of Bosnia and Herzegovina, Article 2 of the European Social Charter /Revised/ is implemented under the following laws:

- Statute of the Brčko District of BiH /consolidated text/<sup>11</sup>;
- The Labour Law of the Brčko District /consolidated text/<sup>12</sup>;
- The Law on Civil Service in Administrative Bodies of Brčko District<sup>13</sup>
- The Law on Civil Service in Administrative Bodies of Brčko District
- The Law on Police Officers of the Brčko District<sup>14</sup>;
- The Law on Safety and Health at Work in the Brčko District<sup>15</sup>;
- The Law on Holidays of the Brčko District<sup>16</sup>;
- The Law on Salaries in the BD Public Administrative Bodies<sup>17</sup>; and
- Rulebook on the Employment in Public Administrative Bodies of the Brčko District<sup>18</sup>.

### **Article 2 paragraph 1 - Reasonable daily and weekly working hours**

## **BOSNIA AND HERZEGOVINA**

In Bosnia and Herzegovina, Article 2 of the European Social Charter /Revised/, regarding reasonable daily and weekly working hours is implemented under the Law on Police Officials<sup>19</sup>, the Labour Law in the Institutions of BiH<sup>20</sup>, and the Decision on Working Hours in the Council of Ministers of BiH, Ministries of BiH, and other bodies of the Council of Ministers of BiH<sup>21</sup>.

Article 96 of the Law on Police Official of Bosnia and Herzegovina regulates working time as follows:

1. The average duration of work of police officers is 40 hours per week;
2. The normal duration of duty hours shall be eight hours per day. In the following cases the Head may decide to provide for different working hours:

11 "Official Gazette of BD" No. 2/10;

12 "Official Gazette of BD" No. 19/06, 19/07, 25/08, 20/13, 31/15 and 1/15;

13 "Official Gazette of BD" No. 9/14, 37/15, 48/16 and 9/17;

14 "Official Gazette of BD" No. 41/07, 4/08, 36/09, 60/10;

15 "Official Gazette of BD" No. 20/13;

16 "Official Gazette of BD" No. 19/02;

17 "Official Gazette of BD" No. 14/06, 41/06 and 3/13;

18 "Official Gazette of BD" No. 17/15 and 12/17;

19 "Official Gazette of BiH" No. 27/04, 63/04, 5/06, 58/06, 15/08, 63/08, 5/09 and 07/12;

20 "Official Gazette of BiH" No. 26/04, 07/05, 48/05, 60/10 and 32/13;

21 Decision of the Council of Ministers BiH No. 38/98;



- a) in case it is necessary to continue working without interruption;
- b) in case that certain tasks are carried out within certain deadlines or within planned time frame.

Article 23 of the Labour Law in the Institutions of BiH regulates daily working hours as follows:

1. An employee who works for longer than six hours a day shall be entitled to a break during a working day, for not less than 30 minutes.
2. A break during a working day shall be stated in the employment contract, it cannot be either at the beginning or at the end of the working day,
3. A break between two consecutive working days shall be at least 12 hours.

Article 24 of the Labour Law in the Institutions of BiH stipulates the right to a weekly break, and it states: *An employee shall be entitled to a weekly break of at least 24 uninterrupted hours, and if it necessary that he/she works on the day of his weekly break, as in the case of redistribution referred to in Article 22 of this Law, he/she shall be provided with one day in the period agreed between the employer and the employee.*

Article 1 of the Decision on working hours for Employees in the Border Police of BiH, from 28 March 2011, stipulates that *"weekly working time for all employees in the Border Police of BiH is 40 hours, and is ordinarily divided into 5 working days, eight hours per day"*.

Article 19 of the Labour Law in the Institutions of BiH stipulates *„average working time of an employee is 40 hours per week“*.

Article 21 paragraph 1 of the aforementioned Law stipulates that in case of force majeure (fire, earthquake, flood, etc.), a sudden workload increase, as well as in other similar cases of emergency, at the request of employer an employee shall be obliged to work longer hours than his full-time hours (overtime work), up to 10 hours a week. The Law does not prescribe maximum weekly working time.

Further restrictions on the overtime work institute are stipulated by the same provision, referring to the duration of overtime work which is limited to three consecutive weeks, i.e. 10 weeks during a calendar year, with the obligation of submitting a written notification to the Administrative Inspectorate of the Ministry of Justice of BiH. Furthermore, this article stipulates that pregnant women cannot work overtime, and mothers with a child of up to three years of age and a single parent with a child of six years of age can work overtime only provided that they give a written consent for such work. These provisions aim to protect pregnant women, as well as mothers with children up to three years of age, or single parents. The Labour Law in the Institutions of BiH allows the possibility of redistribution of time, in such a manner that working hours can be longer in one and shorter in another period than full working hours, whereby the average working hours may not exceed 40 hours a week. The Labour Law in the Institutions of BiH stipulates that the work in the period between 22:00 and 6:00 of the following day is considered a night work. Working time of the employees in the institutions of BiH is 40 hours per week, and is distributed over 5 workdays, i.e. daily working time is 8 hours.

Articles 21 and 22 of the the Labour Law in the Institutions of BiH stipulate the obligations of the employee and provides for cases when the employee is obliged to work longer than full time (overtime) and up to 10 hours a week, as well as redistribution of working hours. Since

the working time of civil servants is not regulated by the Law on Civil Service in the Institutions of BiH, the Labour Law in the Institutions of BiH is applied here.

The obligation to define the weekly working time in employment contracts presents a measure for applying the aforementioned legal frameworks. Furthermore, the employer is obliged to notify the Administrative Inspectorate of the Ministry of Justice of BiH in writing of overtime work, who then takes appropriate measures in the event of non-compliance with the legal provisions related to working hours.

Article 20 of the aforementioned Law stipulates that an employment contract may be concluded part-time, but in this case all rights arising from full-time employment are exercised, except for the rights that depend on the length of working hours. Overtime work in violation of the aforementioned legal regulations shall be prohibited by the administrative inspection.

The manner and procedure for exercising the right to compensation for overtime work are determined by the Decision of the Council of Ministers of BiH No. 234/08, from 29 December 2008.

## **FEDERATION BIH**

The Labour Law of FBiH<sup>22</sup> came into force on 14 April 2016 and regulates provisions on working time more precisely. The new Law still includes a provision stipulating that the employment contract may be concluded for full-time or part-time work (Article 36 paragraph 1).

Article 35 provides a definition of working time where working hours is a period of time in which an employee, based on employment contract, is obliged to perform tasks for the employer. Working hours is not a period of time in which an employee is on stand-by to report for duty, in case there is such a need.

Stand-by to report to duty and compensation for the time spent in stand-by shall be governed by collective agreement, Rules of Procedure, and employment contract.

Pursuant to Article 36 paragraph 2 of the Labour Law, full-time job is still 40 hours a week, unless otherwise defined to be shorter in accordance with the law, collective agreements, Rules of Procedure, or employment contract. Paragraph 5 of the same Article states that part-time is considered as working hours shorter than full-time.

A break during a working day, of a minimum duration of 30 to which only employees working more than 6 hours are entitled to, is not included in working time, and neither is an hour-long break for one day over the working week which the employer is obliged to ensure at the employee's request (Article 44 paragraph 3).

Full-time work may be distributed over five days, or six working days, in accordance with the collective agreement and Rules of Procedure.

Provisions on overtime work under the new Labour Law of FBiH have principally remained the same, with the difference that overtime work can last up to eight hours per week. The Labour Inspectorate shall prohibit overtime work imposed contrary to legal provisions.

Provisions on reduced working hours are additionally stipulated, and in that regard it is envisaged that working hours shall be reduced due to harmful effect of the working conditions on the health of employees, and duration of working hours is determined by the Rulebook on occupational and health safety, in compliance with the Law on Health and Safety at Work. Reduction of working hours in this sense is decided by the competent Federal or Cantonal Ministry and on request of the employer, labour inspector or the union, and based on the expert analysis conducted by an authorised organisation, in compliance with the Law.

Penal provisions have also been corrected, and a fine ranging from BAM 1,000.00 to BAM 3,000.00 is imposed, as well as a fine ranging from BAM 5,000.00 to BAM 10,000.00 in case of repeated offence for employer – legal entity if the employer demands from employee to work longer than part-time on jobs hazardous or harmful to the health of employees; or to work longer than full-time (overtime) contrary to the Law; fails to inform the competent Labour Inspectorate on overtime, as obliged; orders a minor employee to work overtime; a pregnant woman, a mother and/or adoptive parent of a child up to 3 years of age, or a single parent, single adoptive parent and a person who has been entrusted with childcare by virtue of a decision by the competent authority, a child up to the age of 6, without their written consent, to work redistributed working hours; or fails to comply with the Labour Inspectorate prohibition that prohibits overtime work.

If the aforementioned offence is committed against a minor employee, the lowest and highest amount of the fine is doubled. Penalty for the employer - a natural person, as well as a person responsible within a legal entity (employer), ranges from BAM 2.000,00 to BAM 5.000,00.

## **REPUBLIKA SRPSKA**

Article 57 of the Labour Law<sup>23</sup> stipulates that the full-time is 40 hours per week. An employee can conclude a full-time employment contract with only one employer, indicating he/she shall work full-time for only one employer. The Law stipulates that daily working time is 8 hours. It depends on work redistribution by the employer over the working week. An employer shall schedule working hours for at least 30 days in advance and announce the schedule in the way accessible to all employees, as well as keep daily record on employees' attendance, where weekly working time may not exceed 40 hours. If the work with an employer is organised in shifts, the shift rotation shall be made in timely manner and in the way specified under the collective agreement, Rules of Procedure, and employment contract.

The Law allows part-time work (reduced working hours) (Article 59) for employees in jobs where, regardless of compliance with health and safety regulations, it is not possible to protect employees from harmful effects. The working hours shall be reduced in proportion to the harmful effects of the working conditions, but not exceeding 10 hours a week (jobs under special working conditions). Duration of the working hours shall be decided on by the

competent ministry, at the request of the employer, the employee concerned, a labour inspector or the trade union, based on the analysis by recognised scientific or expert organisation. These reduced working hours are considered equal to working full-time. So, this does not count as reducing the working week in order to increase productivity, but as working in places under special conditions of work.

Regarding the General Collective Agreement (repealed on 30 June 2016, while the new one had not been concluded before the completion of this Report), it contains only one provision regarding working time (Article 13), which stipulates that when the work with an employer is organised in shifts, the shift rotation shall be made in timely manner and in the way specified under the sectoral and individual collective agreement, Rules of Procedure, and employment contract. Only two general collective agreements,<sup>24</sup> out of 16, and special collective agreements for employees in the area of education and culture<sup>25</sup>, include provisions regarding working time and they generally refer to distribution of working hours over 5-day working week. Regulating working hours distribution, shift work, as well as daily and weekly breaks is covered by the Rules of Procedure.

Labour Law prescribes penalties for violations done by employer ‘ordering working hours longer than the working hours under Article 35 paragraph 1 of this Law’ (work exceeding 40 hours per week), if the employer fails to distribute working hours of the employee and to keep daily records on the attendance of the employee in compliance with Article 67 paragraph 4 of this Law. Fines are imposed for the acts of violations by a person responsible within a legal entity (employer) in the amount of BAM 200.00 to BAM 1,200.00. If these offences are committed against a minor, a pregnant woman regarding pregnancy, a woman regarding maternity leave or a disabled worker, the fine shall be minimum BAM 3,000.00, and for a person responsible BAM 500. No special measures, such as programmes, action plans, projects, etc., have been undertaken for the implementation of legal framework. Article 263 of the Labour Law stipulates that supervision over implementation of provisions of this Law, regulating daily and weekly working time, shall be conducted by the Republic Inspection Body by conducting inspection in compliance with the Law on Inspection.

#### **Average weekly hours of work on main job by occupations**

		<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
ARMED FORCES	0	42.0	40.5	40.0	41.0	40.0

24 Sectoral Collective Agreement in the Energy Sector of the Republika Srpska, “Official Gazette of the RS” No. 31/08 and 28/15;

25 “Official Gazette of the RS” No. 70/16;

MANAGERS	1	42.6	40.5	41.5	41.8	42.4
PROFESSIONALS	2	39.7	39.0	39.2	39.3	39.6
TECHNICIANS AND ASSOCIATE PROFESSIONALS	3	41.9	40.6	41.4	41.7	41.6
CLERICAL SUPPORT	4	41.3	41.6	41.8	40.9	40.8
SERVICE AND SALES WORKERS	5	45.0	42.7	43.7	43.3	43.2
SKILLED AGRICULTURAL, FORESTRY AND FISHERY WORKERS	6	43.9	42.9	44.3	43.5	43.0
CRAFT AND RELATED TRADES WORKERS	7	43.6	41.8	43.4	44.2	43.6
PLANT AND MACHINE OPERATORS AND ASSEMBLERS	8	44.5	44.2	44.3	43.8	43.2

*Data on average working hours are published based on the Survey on Workforce conducted annually. Methodology of the Survey is based on the recommendations and definitions of International Labour Organisation – ILO, and the requirements of the European Statistical Office – EUROSTAT, allowing to compare the data at the international level in the field of labour statistics.*

## **BRČKO DISTRICT BIH**

The right of employees to fair working conditions in the Brčko District are envisaged by the Labour Law of the BD BiH – consolidated text,<sup>26</sup> and the Law on Civil Service in the Institutions of the BD BiH<sup>27</sup> (hereinafter: The Law on Civil Service).

Article 22 of the Labour Law of the BD stipulates that weekly working time of an employee is 40 hours. Employees may sign a part-time employment contract. Such employee is entitled to sign a part-time employment contract with more than one employer in order to achieve full-time work.

Supervision over implementation of aforementioned provisions is conducted by the Labour Inspectorate and Employment Relationship of the Brčko District.

Article 25 paragraph 3 prescribes that an employee may, at the request of the employer, with the employee's written consent, work up to 10 hours overtime, not exceeding 300 hours over a calendar year.

In the period from 2008 to 2012, the Labour Inspectorate determined 23 cases of irregularities and took necessary measures and activities in order to remove them.

26 "Official Gazette of BD" No. 19/06, 19/07, 25/08, 20/13, 31/15 and 1/15;

27 "Official Gazette of BD" No. 9/14, 37/15, 48/16 and 9/17;

The Inspection determined irregularities related to working hours of the employees. Upon determining irregularities the inspectors issued a decision to remove shortcomings, and in cases of drastic irregularities, they filed requests for misdemeanour proceedings or issued misdemeanour warrants in compliance with the law.

Article 67 of the Law on Civil Service stipulates that the full-time work of a civil servant or an employee is 40 hours per week, however for specific jobs a mayor may issue a decision determining shorter working hours in compliance with the special law, under which an employee may conclude a part-time employment contract and exercise all the rights as under a full-time employment contract, apart from the rights arising from the duration of working hours (salary, reimbursements, etc.), in which case these rights can be exercised proportionally.

Article 68 of the Law on Civil Service stipulates longer hours than full-time (overtime).

Article 68 paragraph 1 stipulates that in case of force majeure, a sudden increase in the scope of the work, or in extraordinary circumstances, a mayor or a head of the administrative body may demand an employer to work not more than 12 extra hours per week which may increase total working time to 54 hours. This provision also prohibits enforcing this on pregnant women, single mothers and persons with a disability.

Article 68 paragraph 2 stipulates that in case that work longer than working hours of civil servants and employees (overtime) exceeds 3 consecutive weeks, or 10 weeks over a calendar year, the administrative body shall inform the administrative inspector in advance.

Paragraph 3 stipulates that work longer than full-time work is compensated by days off, in a manner and following the procedure set out in the Rules of Procedure.

Paragraph 4 stipulates that a head of administrative body, in bodies authorised for protection and rescue, immediate senior officer may order civil servants and employees to work longer than prescribed working time, without time limitation in cases of protecting and rescuing people and assets.

Paragraph 5 defines that the officials or employees referred to in paragraph 4 of this Article shall not be referred to in paragraph 3 of this Article.

Paragraph 6 stipulates that the civil servants or employees referred to in paragraph 4 of this Article are entitled to compensation for work longer than full-time work, and the manner of payment of remuneration is regulated by a special regulation.

Article 44 paragraph 1 point b) of the Law on Police Officers of the Brčko District<sup>28</sup> stipulates that a police officer is entitled to leave in compliance with the Law.

Article 109 of the same Law stipulates that an average weekly working time is 40 hours; a break of 30 minutes is not counted in working hours; the usual daily working time is 8 hours; police officers work in shifts due to the fact that the job police officer perform requires 24-hour presence.

Article 110 stipulates that limitation of working overtime, in special circumstances and when required within the service, may be up to 4 hours per day, not exceeding 20 hours a week. Instructions on shift work of the BD Police No: 05-2576/05 from 21 December 2005 defines in detail shift work of police officers.

Articles 61 – 66 of the Law on Police Officers of the BD stipulate the rights and obligations of the police officers, civil servants and employees of the BD Police. These provisions stipulate competences, the basics of employment, education and professional development of the police officers. Rights and obligations of civil servants and employees in the Police are subsidiary stipulated by the Law on Civil Service in Administrative Bodies of the BD.

Appropriate articles of the Law on Civil service of the BD regulating this area and prescribing working time of civil servants, working overtime, daily and weekly break, are applied both on civil servants and employees in the Police.

Rules of Procedure of the Administrative Bodies of the BD<sup>29</sup> prescribe in detail:

- the right of employees arisen from the employment;
- the right of conduct of civil servants and employees;
- the right to work in adequate work conditions;
- the right to salary and other material rights;
- the right on equal treatment and equal opportunities of advancement and reimbursement;
- legal protection and professional development;
- the right to protection against unfair transfer or removal from the job;
- the right to claim;
- the right to organise a trade union;
- the right to permanent employment;
- the right to limited working hours and breaks;
- the right to severance pay;
- the right to sick leave;
- the right to protection of physical and moral integrity; and
- the right to strike.

## **Article 2 paragraph 2 – The right to public holidays with pay**

### **BOSNIA AND HERZEGOVINA**

Employees have the right not to work on public holidays. Employees exercise this right under entity laws on holidays, since a law regulating this issue is still non-existent.

The right to compensation for work on public holidays is determined by the provisions of the Article 36 of the Law on Salaries and Benefits in the Institutions of BiH.<sup>30</sup>

The method and procedure for the exercise of the right to compensation for work on public holidays are determined by the Decision of the Council of Ministers of BiH, No. 234/08 from 29 December 2008. For the time spent at work on public holidays, an employee is entitled to reimbursement of base salary in proportion to the duration of the work, increased by 35%.

29 “Official Gazette of BD” No. 17/15 and 12/17;

30 “Official Gazette of BiH” No. 50/08, 35/09, 75/09, 32/12, 42/12, 50/12, 32/13, 87/13, 75/15, 88/15, 16/16 and 94/16;

## **FEDERATION BIH**

In the FBiH, there is still no single law on public holidays, hence public holidays are celebrated on the grounds of separate laws, as well as the laws taken over from the former legal system, as it has been the case so far.

During the reporting period, the Collective Agreement on Amendments of the Collective Agreements for Employees of Administrative Bodies and Judicial Authorities of FBiH entered into force.<sup>31</sup> In accordance with the amended Article 27, a base salary shall be increased by the work on public holiday for minimum 40% of net hourly rate.

Article 76 of the Labour Law stipulates the right of employees to a salary increase for difficult working conditions, overtime, and night work, as well as for work on days of weekly rest and on public holidays, in accordance with the collective agreement, Rules of Procedure, and employment contract. Pursuant to Article 81 of this Law, an employee shall be entitled to compensation of salary for the period of his absence from work due to justified reasons as provided for in the law, Canton regulation, collective agreement, and Rules of Procedure. Pursuant to this provision, employees exercise their right to salary even on public holiday days for which the Law stipulates that are non-working days.

In the event that due to the need of the work process employees work on public holidays, they are entitled to increased salaries in accordance with the provisions of the General Collective Agreement for the territory of the Federation of Bosnia and Herzegovina<sup>32</sup> by a minimum of 40% of the net daily-rate.

Article 78 paragraph 4 of the Labour Law stipulates that an employer may not pay to an employee a salary lower than the one determined by the collective agreement and Rules of Procedures. The employer who acts contrary to this provision is liable to a fine ranging from BAM 1,000.00 to BAM 3,000.00, and in the event of repeated violation to fine from BAM 5.000,00 to BAM 10.000,00.

Pursuant to Article 54 of the Labour Law, employees have the right not to work on religious holidays and employer shall grant an employee leave of absence for up to four days over a calendar year, to meet his/her religious and/or tradition-related needs, of which the absence of two days shall be used with compensation – a paid leave of absence.

There are no penalties provided for possible violations of the right, however an employee can seek protection of the right in accordance with Article 114 of the Labour Law.

## **REPUBLIKA SRPSKA**

31 "Official Gazette of the FBiH" No.97/13 and 89/16;

32 "Official Gazette of FBiH" No.48/16 No. 62/16;



Article 131 of the Law on Holidays of the RS stipulates the right of an employee to compensation, *inter alia*, for public holiday by 100% of average salary the employee earned in the relevant period, or the salary he/she would have received had he/she been at work.

Article 7 of the Law on Holidays of the RS<sup>33</sup> determines religious holidays in the Republika Srpska. Furthermore, Article 8 of the same Law stipulates that an employee is entitled to a paid leave of absence, by his own choice, up to 2 days over a calendar year, on date of religious holidays he celebrates. Employees are entitled to compensation for republic holidays in compliance with the provisions of the Labour Law:

- a) New Year,
- b) Republic Day,
- c) International Labour Day,
- d) Victory Day and
- e) The day of the Establishment of the General Framework Agreement for Peace in Bosnia and Herzegovina.

Furthermore, employees exercise the right to salary on religious holidays in the Republika Srpska, celebrated based on their religious affiliation:

- a) Orthodox Christmas;
- b) Catholic Christmas,
- c) Eid al-Adha,
- d) Orthodox Good Friday,
- e) Orthodox Easter,
- f) Catholic Good Friday,
- g) Catholic Easter, and
- h) Eid al-Fitr.

General Collective Agreement and Sectoral Collective Agreement contain provisions stipulating salary for Republic holidays in compliance with the Law on Holidays.

However, Article 28 of the General Collective Agreement stipulated that the base salary of employees is increased by 50% *inter alia* for work on public holidays and other days which are non-working days. By the termination of the General Collective Agreement, on June 30 2016, the Government of the Republika Srpska passed the Decision on determining the increase in salaries, the amount of income based on work and the amount of assistance to the employee,<sup>34</sup> according to which the base salary of employees is minimally increased for work on public holidays and other non-working days by 40% of salary. Based on sectoral collective agreements and Rules of Procedures, employees may increase salaries by more than determined by the General Collective Agreement, i.e. the Decision of the Government of the Republika Srpska.

The Labour Law provides for fines to be imposed on an employer who perpetrates

33 "Official Gazette of RS" No. 43/07;

34 "Official Gazette of RS" No. 53/16;

misdemeanours if „he denies or pays salary or compensation in the amount lower than the one determined by law, the collective agreement, Rules of Procedure, or employment contract or if he/she fails to pay salary within statutory time lines (Article 120 and 126 of this Law).

These misdemeanours carry a fine from BAM 2,000.00 to BAM 12,000.00. A responsible person with the employer is fined for the misdemeanours in an amount from BAM 200.00 to BAM 1,200.00. If these misdemeanours are against a minor employee, a woman during pregnancy, childbirth or maternity leave, or an employee with disabilities, a fine imposed on a legal entity is minimum BAM 3,000.00 and a fine imposed on a responsible person is minimum BAM 500.00.

No special measures, such as programmes, action plans, projects, etc., have been undertaken, for the implementation of legal framework. Article 263 of the Labour Law, stipulates that supervision over implementation of provisions of this Law, regulating daily and weekly working time, shall be conducted by the The Republican Administration for Inspection Affairs through the Labour Inspectorate, in compliance with the Law on Inspection.

There are five public holidays in the Republika Srpska celebrated within 7 days, however, if the second day of a two-day public holiday falls on Sunday, it is transferred to Monday. There are 8 two-day public holidays, including religious holidays, which is a total of 14 days.

Apart from the General Collective Agreement in the Republika Srpska, there are 17 Sectoral (Special) Collective Agreements regulating the issue of salary increase for work on public holidays.

## **BRČKO DISTRIKT BIH**

Law on Holidays of the Brčko District<sup>35</sup> stipulates holidays in the Brčko District as follows:

- New Year (1 and 2 January);
- Day of the Establishment of the District (8 March);
- Labour Day (1 and 2 May).

If any of the public holidays falls on Sunday, the first day after the holiday is a non-working day. Non-working days for religious holidays are determined by the Decision of the District Assembly for every calendar year.

Article 60 of the Labour Law of the Brčko District stipulates the right to salary increase for work on Sundays or public holidays, overtime and night work, while Article 61 of the Law stipulates that an employee is entitled to compensation for the period in which he/she does not work for justified reasons defined by law, cantonal regulations, collective agreement and Rules of Procedure. Article 111 stipulates a fine in an amount from BAM 1,000.00 to BAM 7,000.00 for violations of Articles 60 and 61 of the Law.

Article 8 of the Law on Salaries of Employees in the Administrative Bodies of the BD<sup>36</sup> stipulates that employees are entitled to base salary during public and religious holidays, while Article 9 stipulates salary increment for night work, work on weekends and during the holidays (base salary of employees is increased for the time spent at night by 30%, for work on Saturdays and Sundays by 20%, for work on holidays by 35%; the salary increments above are not mutually exclusive).

Police officers are not entitled to salary increments for night work and work on Saturdays and Sundays.

Besides the Law on Public Holidays of the BD, the BD Assembly adopts the Decision on the establishment of non-working days during important religious holidays, while Article 81 of the Law on Civil Service stipulates that a civil servant or employee is entitled to a paid leave of absence on religious holidays for one day over a calendar year.

Article 95 paragraph 5 of the Law on Police Officers of the BD, stipulates salary increments for work on public holidays, the base salary is increased for work on public holidays by 35%.

### **Article 2 paragraph 3 – The right to a minimum of 4 weeks (or 20 calendar days) of holiday with pay**

#### **BOSNIA AND HERZEGOVINA**

Articles 25 – 29 of the Labour Law in Institutions of BiH, as well as Article 46 of the Law on Civil Service<sup>37</sup>, regulates the right of employees to a holiday.

For each calendar year, an employee is entitled to paid annual leave in the duration of at least 18 working days and 30 working days at the most, which is provided for in Article 25 of the Labour Law in the Institutions of BiH.

An employee is entitled to an annual leave after working for a minimum of six (6) months (Article 26 paragraph 1), i.e. a proportional number of working days for each month of work, if he/she fails to meet the previous requirement (Article 26 paragraph 2). Paragraph 3 of this Article stipulates that absence from work due to temporary incapacity, maternity leave, military training, or absence for other reasons not of employee's own accord are not to be considered an interruption of service, so they may not be deemed an interruption nor may the employee be denied the right to full annual leave if this period is counted as a period of six months of uninterrupted employment.

The Law stipulates a minimum annual leave and thereby guarantees an annual leave of a minimum four weeks within a year, provided that the number of days is increased in proportion to the criteria set out by the Decision on Terms and Conditions of the Annual Leave for Civil Servants and Employees in Ministries and Other Public Administrative

36 "Official Gazette of BD" No. 14/06, 41/06 and 3/13;

37 "Official Gazette of BiH" No. 19/02, 35/03, 4/04, 17/04, 26/04, 37/04, 48/05, 2/06, 32/07, 43/09, 8/10 and 40/12

Bodies of Bosnia and Herzegovina, Services, Bodies and Institutions of the Council of Ministers.

In addition to the statutory minimum number of days of annual leave, the Law also stipulates the maximum number of days of annual leave and that is 30 working days. The Law determines what days are included in the annual leave days, excludes weekends/non-working days, as well as public holidays, and other days recognised as pensionable period of service.

The legislator leaves the option of using annual leave in one or two parts, with the first part of annual leave to be taken for at least 10 consecutive days and the remainder of the leave until 30 June of the following year.

The head of the institution approves the annual leave to employees by issuing a Decision on Annual Leave (Article 28 paragraph 4 of the Labour Law in the Institutions of BiH). The legislator prescribes that an employee is entitled to a day of leave of absence whenever he/she requires so, with an obligation to inform the employer three days in advance.

Article 29 of the Labour Law stipulates that an employee may not waive the right to paid leave of absence, nor may he/she be denied that right, and may not be compensated financially for the unused portion of the annual leave. An employee may use the annual leave in one or two parts, provided that he or she uses the first part for at least 10 consecutive working days during one calendar year and the other part no later than 30 June of the following year (Article 28 paragraph 1).

Article 30 of the Labour Law in the Institutions of BiH stipulates that an employee is entitled to paid leave of absence of 7 working days during a calendar year in the event of marriage, wife's birth-giving, serious illness or death of a close family or household member, or to meet his/her religious or traditional or other needs determined by the rules of the employer. The request for paid leave is decided upon by the employer at the written request of the employee.

Article 46 of the Law on Civil Service in the Institutions of BiH regulates the right of civil servants to annual leave. Pursuant to this Article, civil servants take annual leave depending on the position in which they are employed in accordance to the Rulebook on the Internal Structure or a Decision on Appointment. Therefore, civil servants in the position of an officer, senior officer or expert advisor are entitled to annual leave of minimum 20 working days. The civil servants appointed heads of internal organisational units and managerial positions (assistant ministers and chief inspector) are entitled to annual leave of minimum 25 working days.

The Decision on Terms and Conditions of the Annual Leave for Civil Servants and Employees in Ministries and Other Public Administrative Bodies of Bosnia and Herzegovina, Services, Bodies and Institutions of the BiH Council of Ministers No. 124/04 from 27 May 2004 determines terms and conditions of the annual leave for civil servants and employees in ministries and other administrative bodies of Bosnia and Herzegovina, services, bodies and institutions of BiH. The total length of annual leave for civil servants and employees, with all the criteria met, may not exceed 30 working days (paragraph 4 of the Decision). In accordance with this Decision, the civil servants and employees who have at least 6 months of uninterrupted service can exercise this right. If the employment is interrupted for more than eight days, employees and civil servants are entitled to three days of paid leave for each full month of employment.

The Decision on Terms and Conditions of the Annual Leave for High Officials and Their Counsellors in the Council of Ministers and the Ministries of BiH No. 10/03 regulates the right to annual leave of ministers, deputy ministers, and their counsellors. In accordance with the Decision, a minister and a deputy minister are entitled to annual leave of minimum 27 working days. In accordance with this Decision, the number of working days of annual leave is increased depending on the length of service, but will not exceed 30 working days.

## **FEDERATION BIH**

In order to harmonise annual leave with the provisions of the European Social Charter, the new Labour Law<sup>38</sup> stipulates the right to paid annual leave of minimum 20 working days, with the possibility of increasing it in accordance with the criteria of collective agreement, rules of procedure, or employment contracts.

An employee employed for the first time or with an interruption of employment exceeding 15 days shall be entitled to annual leave after six months of uninterrupted work.

Other requirements for the use of annual leave are determined by the provisions of articles 47 – 52 of the Labour Law, and remained generally the same as in the former regulation, with the addition of provisions on protection of the right to annual leave and the manner of its use. Pursuant to Article 51 of this Law, an employee may not waive the right to annual leave. The employee may not be denied the right to annual leave, nor financially compensated instead of using the annual leave, except in the case referred to in Article 52 paragraph 4 of this Law (the employer's obligation to pay compensation instead of using annual leave in the amount that he/she would have received if he/she used an annual leave in the event of termination of the employment contract).

Article 52 of this Law stipulates that the plan of annual leave is determined by the employer, with the prior consultation with the employees or their representatives in compliance with the Law, taking into account the needs of the work, as well as the justified reasons for the employees.

The employer shall inform the employee in written form on the duration of the annual leave and the period of its use minimum seven days prior to the use of the annual leave. Paragraph 4 of this Article stipulates that in case of termination of the employment contract, the employer shall financially compensate a worker who has not used the whole or a part of the annual leave, in the amount that he/she would have received in case he/she used the whole, or the rest of the annual leave, if the annual leave could not be used due to the employer's fault.

During the use of the annual leave, the employee is entitled to compensation in the amount of the salary that he/she would have earned, pursuant to Article 52 paragraph 3 of the Labour Law.

The right to an annual leave is no longer the subject of the new General Collective Agreement for the territory of the Federation of Bosnia and Herzegovina<sup>39</sup>, it is now included in branch collective agreements and rules of procedure of the employer.

Penal provisions stipulate fine ranging from BAM 1,000.00 to BAM 3,000.00, and in case of repeated offence, a from BAM 5,000.00 to BAM 10,000.00, for denying the right to a minimum annual leave under the law; i.e. payment of compensation instead of using the annual leave; and denying the right of an employee to compensation during the annual leave or compensation instead the use of annual leave.

## **REPUBLIKA SRPSKA**

Articles 78 and 80 of the Labour Law stipulate that an employee is entitled to annual leave after six months of uninterrupted work with duration of minimum 20 working days, while a minor worker is entitled to a minimum of 24 working days. An employee who works under special working conditions is entitled to a minimum of 30 working days.

Annual leave is regulated by Collective Agreements as well. Pursuant to Article 15 of the General Collective Agreement the annual leave is stipulated by the Labour Law (20 working days) and increased by one day for each three pensionable years of service. After the General Collective Agreement had been repealed, the issue of increasing the annual leave is regulated by branch (special) collective agreements and general rules of the employer.

The Labour Law provides for a fine for a violation by an employer „if the employer denies the right to annual leave (Article 63 of the Law) who is liable to a fine ranging from BAM 1,000.00 to BAM 10,000.00. A responsible person with the employer is fined for the misdemeanours in an amount from BAM 200.00 to BAM 1,000.00. If these misdemeanours are perpetrated against a minor employee, a woman during pregnancy, childbirth or maternity leave or an employee with disabilities, a fine imposed on a legal person may not be under BAM 3,000.00 and a fine imposed on a responsible person may not be under BAM 500.00.

No special measures, such as programmes, action plans, projects, etc., have been undertaken, for implementation of legal framework. Article 263 of the Labour Law, stipulates that supervision over implementation of provisions of this Law, regulating daily and weekly working time, shall be conducted by the Republic Inspection Body by conducting inspection in compliance with the Law on Inspection. Activities on the preparation of the new Labour Law are underway, and the new law shall envisage increasing the minimum annual leave to 4 working weeks.

In the Labour Inspectorate Report for 2016, no control has been specifically mentioned regarding the violation of the right to annual leave.

## **BRČKO DISTRICT BIH**

<sup>39</sup> “Official Gazette of FBiH“ No.48/16 and 62/16;

Article 32 of the Labour Law of the BD stipulates the right of an employee to annual leave for every calendar year in duration of minimum 18 working days. Paragraph 2 of this Article stipulates that a minor employee is entitled to a minimum of 24 working days.

If the employee works in a place where he/she cannot be protected by the employer from the harmful effects, this employee is entitled to an annual leave in duration of minimum 30 working days.

For violations of Article 32 of the Labour Law of the BD /amended/, effective legal remedies (Article 110 paragraph 1), and a fine ranging from BAM 1,000.00 to BAM 7,000.00 to be imposed on the legal entity and responsible person, as well as judicial protection under Article 88 paragraph 4 of this Law are envisaged.

Article 113 paragraph 1 of the Law on Police Officers stipulates the right to paid annual leave, where the police officers are entitled to an annual leave of a minimum 18 and maximum of 30 working days.

The length of the annual leave is determined in accordance with the total pensionable years of service as a police officer:

- from 6 months to 3 years of effective length of service – 18 working days;
- from 3 to 5 years of effective length of service – 20 working days;
- from 5 to 7 years of effective length of service – 22 working days;
- from 7 to 10 years of effective length of service – 23 working days;
- from 10 to 12 years of effective length of service – 24 working days;
- from 12 to 15 years of effective length of service – 25 working days;
- from 15 to 20 years of effective length of service – 27 working days;
- from 20 to 25 years of effective length of service – 29 working days;
- over 25 years of effective length of service – 30 working days.

Articles 71-76 of the Law on Civil Service in the BD stipulates a minimum of 20 days of annual leave for civil servants and employees.

The statutory basic 20 working days of annual leave are increased by a number of working days depending on pensionable years of service (for every 3 full years of service - 1 day); depending on the social welfare and health criteria (parent or a legal guardian of a child under age of 7 - 2 days for every child; a single parent or a legal guardian with a child with special needs - 2 days; a person with disabilities (more than 70% disability) - 2 days);

An annual leave is used in its entirety or in two parts, employees propose an annual leave schedule based on which they get a Decision on Annual Leave for every year; The following is not included in the annual leave: a period of temporary incapacity for work, holidays that are non-working days, other reasons for absence from work counted as pensionable years of service.

Article 71 paragraph 2 stipulates that civil servants and employees working in a place with harmful effect, or with poisons, categories I – III, or on protection from natural disasters and catastrophes are entitled to an annual leave of a minimum thirty (30) days.

Paragraph 3 of this Article stipulates that an employee who is employed in administrative bodies for the first time or has an interruption of employment longer than 5 days is entitled to annual leave after six months of uninterrupted employment in the administrative bodies

Paragraph 4 stipulates that an employee who has not obtained the rights from the paragraph 3

is entitled to a minimum one day of annual leave for every full month of work.

Article 8 of the Law on Salaries in the Public Administrative Bodies of the BD stipulates the right to the base salary for absence from work (annual leave, paid leave).

Employees are entitled to base salary for leave of absence in a case of annual leave, paid leave, public holidays, religious holidays, downtime that occurred due to circumstances that are beyond control of employees;

Implementation of the legal provisions above is supervised by the Labour Inspectorate of the Brčko District.

## **Article 2 paragraph 4 – The right to elimination of the risk**

### **BOSNIA AND HERZEGOVINA**

Article 39 of the Law on Police Officials in BiH stipulates that police officials have the right to:

1. A permanent tenure of office until such time as the requirements for retirement are met, unless otherwise provided in this Law;
2. Leave of absence as established by this Law;
3. To be rewarded for duties and performance as established by this Law and relevant regulations;
4. Receive fair and equitable treatment without regard to gender, race, ethnic or social origin, religion, entity citizenship, residency, political or other opinion, age, property, marital or other status;
5. Be treated by superiors and subordinates with respect for human dignity and not to be placed in unnecessary physical peril.

Article 40 of the Law on Police Officials in BiH stipulates that unjust termination of employment or reduction of rights is prohibited:

1. The police body shall not dismiss a police official based on his/her temporary inability to work following a work related injury or disease. An injury which occurs on the way to or from work is considered as a work related injury;
2. The realization of the rights of police officials shall not be affected by a temporary inability to work following a work related injury or disease.

Article 102 of the Law on Police Officials in BiH stipulates that police officials shall be entitled to an accelerated retirement plan, whereby each twelve months spent on duty shall be calculated as sixteen months of service.

Article 32 paragraph 1 of the Labour Law in the Institutions of BiH stipulates that an employer is required to give an employee an opportunity to familiarize himself with the labour regulations and safety at work regulations within 30 days from the day of the employee's start of employment. Article 32 paragraph 2 stipulates that an employer is required to equip an employee for work in the manner safeguarding life and health of the employee and preventing accidents. Paragraph 3 of this Article provides that an employer is required to provide safe working conditions to safeguarding of life and health of employees, as well as any other person with whom the employer comes into contact,



in accordance with the law. Article 32 paragraph 4 stipulates that an employer may provide employees with group insurance in accordance with the general conditions of insurance in case of an accident. The premium amount is determined for the employees of BiH institutions by the Council of Ministers and for other employees, i.e. by the employers for other employees.

Article 33 of the Labour Law in the Institutions of BiH provides that an employee is entitled to refuse to work if his/her life or health is under immediate threat due to the fact that the statutory safety at work measures have not been enforced and is required to report this immediately to the Administrative Inspectorate and the employer. In that case the employer may place the employee to another job, until it has been confirmed that the safety at work measures are of satisfactory standard. The Law on Safety at Work has been passed at the level of BiH.

## **FEDERATION BIH**

In the FBiH the Law on Safety at Work adopted in 1990 is still in force, therefore all the provisions we have informed you about are still in force.

The new Labour Law<sup>40</sup> includes a similar provision on reducing working hours as in the former regulation. Namely, Article 37 of the Labour Law stipulates that for employees in jobs where, regardless of compliance with health and safety regulations, it is not possible to protect employees from harmful effects working hours shall be reduced in proportion to the harmful effects of the working conditions on health and working ability of the employee. These jobs and duration of working time are determined by the Rulebook on Safety and the Law on Safety at Work. Duration of the working hours, shall be decided on by the competent cantonal ministry, at the request of the employer, a labour inspector or the trade union, based on the analysis by recognised scientific or expert organisation, and in compliance with the Law. These reduced working hours are considered as equalled to working full-time.

General Collective Agreement for the Territory of FBiH<sup>41</sup> unlike the former valid general collective agreement, no longer regulates the right of employees to increase in salary for difficult working conditions. Namely, now it is left to sectoral collective agreements to regulate the method and amount of salary increment based on difficult working conditions.

## **REPUBLIKA SRPSKA**

The Law allows part-time work (reduced working hours) (Article 59) for employees in jobs where, regardless of compliance with health and safety regulations, it is not possible to protect employees from harmful effects. The working hours shall be reduced in proportion to the harmful effects of the working conditions, but not exceeding 10 hours a week (jobs under

<sup>40</sup> "Official Gazette of FBiH" No. 26/16;

<sup>41</sup> "Official Gazette of FBiH" No.48/16 and 62/16;

special working conditions). Duration of the working hours, shall be decided on by the competent ministry, at the request of the employer, the employee concerned, a labour inspector or the trade union, based on the analysis by recognised scientific or expert organisation. These reduced working hours are considered as equalled to working full-time. It is not considered as reducing the working week for increasing productivity, but for the working in places under special conditions of work.

No special measures, such as programmes, action plans, projects, etc., have been undertaken, for implementation of legal framework. Article 263 of the Labour Law, stipulates that supervision over implementation of provisions of this Law, regulating daily and weekly working time, shall be conducted by the Republic Inspection Body by conducting inspection in compliance with the Law on Inspection.

In the Labour Inspectorate Report for 2016, no control has been specifically mentioned regarding the violation of the right to annual leave.

## **BRČKO DISTRICT BIH**

This issue is regulated by the provisions of the Chapter VI (Safety of Employee) of the Labour Law of the BD, and under articles 39 - 56, and Article 24 of the same Law, regarding working time, more specifically, this issue is regulated by the provisions of the Law on Safety and Health of Workers at Work<sup>42</sup>.

For violations of Article 42 of the Labour Law of the BD, effective legal remedies are envisaged. Article 110 paragraph 1 stipulates a fine for the legal entity and person responsible, as well as judicial protection under Article 88 paragraph 4 of this Law are envisaged.

The Law on Safety at Work of the BD currently in force defines measures that encourage improvement of safety and protection of health of workers at work, carriers of implementation and improvement of safety and protection of health of workers at work, their rights, obligations and responsibilities, preventive measures, as well as other issues regarding safety and health protection of workers at work.

The Draft Law on Safety and Health at Work, is in line with the Directive EU 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work, from 123 June 1989.

The Directive EU 89/391/EEC defines professional risk as a possibility of injuries and occupational illnesses, i.e. all steps or measures planned at all levels of work in the enterprise to maximally reduce risk.

Administrative proceeding conducted by the Inspection supervision on the application of the Law on Safety and Health Protection of Workers at Work in Enterprises, initiated activities

<sup>42</sup> "Official Gazette of BD" No. 20/13;

for improvement of work conditions regarding safety at work, and implementation of the legal frameworks

Supervision over implementation of these provisions is conducted by the labour inspectorate.

Article 95 of the Law on Police Officers of the BD stipulates that:

- salary increment for special conditions of work is up to 30%;
- given the risk and complexity of the work, difficult working conditions and authorisations vested in police officers, they are entitled to increment for special conditions up to 30% of the base salary;
- in addition to 30%, particular jobs (depending on the risk) are entitled to a higher permanent increase in salary by 10% of the base salary;
- special conditions increment are paid to police officers during paid leave, annual leave and sick leave;
- due to the nature of work and the difficult working conditions, pensionable years are calculated at an increased rate, so that every 12 months effectively spent at work are counted as 16 months of pensionable service (Article 112 of the Law on Police Officers of the BD).

Article 95 paragraph 4 of The Law on Police officers of the BD stipulates higher permanent increment for some jobs of 10%, for police offices. Police officers are entitled to a salary increment of 30% even during paid leave, annual leave and sick leave.

Article 110 of the Law on Police Officers of the BD stipulates the limitation of overtime work, which is one form of risk elimination, considering the complexity and difficulty of police work.

The Decision on Determining Positions in the Police of the BD<sup>43</sup> ("Official Gazette of BD" 26/10), which determines which positions are entitled to permanent increments. These are the police officers who are assigned to positions within the Unit for the Investigation of War Crimes (investigating the most serious war crimes) and Operational Support Unit (carries out short notice arrests and incident responses).

Article 112 of the Law on Police Officers of the BD stipulates that police officers are entitled to pensionable years of service calculated at an increased rate, i.e. to special early retirement, where 12 months of work are counted as 16 months of pensionable service. Additional contributions are paid into the Pension and Disability Fund for the special early retirement of police officers. Additional contributions allow police officers to exercise their right to early retirement, in compliance with the special regulations under the Law on Pension and Disability Insurance.

Articles 61 – 66 of the Law on Police Officers of the BD<sup>44</sup> stipulate rights and obligations of police officers, civil servants and employees within the Police of the BD.

<sup>43</sup> "Official Gazette of BD" No. 26/10;

<sup>44</sup> "Official Gazette of BD" No. 31/09, 60/10, 31/11;

Article 66 provides for *inter alia* bonuses for civil servants and employees who are assigned to such jobs are entitled to a special increment of 5%, 10% or 20% of the base salary.

The Rulebook on the Criteria for Determining the Amount of Bonuses Paid to Civil Servants and Employees in BD Police<sup>45</sup> determines the amount of increment for these jobs. The increments ranges from 5%, 10%, 15% to 20% of the base salary, depending on the criteria and specificity of the job;

The Annual Plan of Actions to Prevent, Eliminate and Reduce Risks in Police of the BD provides guidelines for actions to be taken to reduce risks in the performance of duties.

In the 2012 – 2016 period, the labour inspectorate determined irregularities in 21 cases and taken appropriate measures to remove them.

## **Article 2 paragraph 5 – Weekly rest period**

### **BOSNIA AND HERZEGOVINA**

Article 24 of the Labour Law in the Institutions of BiH stipulates the right to a weekly rest period of at least 24 uninterrupted hours. This article stipulates limitation and in the event of redistribution of working hours the duty to ensure one day off in accordance to agreement between the employer and employee.

### **FEDERATION BIH**

The new Labour Law ensures the right of employees to a weekly rest period. Article 46 of this Law stipulates that an employee is entitled to a weekly rest period of minimum 24 uninterrupted hours, and if necessary that he works on the day of his weekly break, as in the case of redistribution referred to in Article 22 of this Law, he shall be provided with one day in the period agreed between the employer and the employee, not longer than two weeks. The new Law continues to guarantee the right to a weekly rest period.

Employee may be required to work on a day of his/her weekly rest period only in the event of *force majeure*, sudden workload increase, if the employer cannot take other measures, preventing the loss of perishable goods as and in other cases determined by a collective agreement or rules of procedure. An employee may not be deprived of the right to a rest period during the work, a daily or weekly break.

General Collective Agreement for the Territory of the FBiH<sup>46</sup>, stipulates the right of an employee to an increase in salary for the work on a day of a weekly rest period by minimum 15% of the net daily. A higher rate can be determined by sectoral collective agreements and rules of procedure.

An employer depriving the employee of a weekly rest period is in violation of Article 171 of the Labour Law and is liable to a fine ranging from BAM 1,000.000 to BAM 3,000.00, and in

<sup>45</sup> “Official Gazette of BD” No. 59/10, 7/11;

<sup>46</sup> “Official Gazette of FBiH”, No. 48/16 and 62/16;

case of repeated violation to a fine ranging from BAM 5,000.00 to BAM 10,000.00. If the aforementioned offence is committed against a minor employee, the lowest and highest amount of the fine is doubled. Penalty for the employer - a natural person as well as a person responsible within a legal entity (employer) from 2.000,00 KM to 5.000,00 KM.

## **REPUBLIKA SRPSKA**

Article 78 of the Labour Law stipulates that an employee is entitled to a weekly break in the duration of at least 24 hours without interruption, followed by a minimum 8-hour daily rest period between two consecutive working days by prior defined schedule, and if necessary that he works on the day of his weekly break, the employer shall, in agreement with the employee, determine when the employee is entitled to use a day off.

The Labour Law stipulates penalty for the offence by the employer if he 'fails to ensure weekly rest period for an employee (Article 78 of this Law). A fine from BAM 2,000.00 to BAM 12,000.00 may be imposed for this offence. A responsible person with the employer is fined for the misdemeanours in an amount from BAM 200.00 to BAM 1,200.00. If these offences are against a minor employee, a woman during pregnancy, childbirth or maternity leave or an employee with disabilities, a fine imposed on a legal entity is minimum BAM 3,000.00 and a fine imposed on a responsible person is minimum BAM 500.00.

No special measures, such as programmes, action plans, projects, etc., have been undertaken, for implementation of legal framework. Article 263 of the Labour Law, stipulates that supervision over implementation of provisions of this Law, regulating daily and weekly working time, shall be conducted by the Republic Inspection Body by conducting inspection in compliance with the Law on Inspection.

In the Labour Inspectorate Report for 2016, no control has been specifically mentioned regarding the violation of the right to annual leave.

## **BRČKO DISTRICT BIH**

Article 31 of the Labour Law of BD defines weekly rest period and, if it does not fall on the day which is traditionally or customarily recognized as a rest day in our country, Article 60 of the Law provides a salary increment for work on Sunday.

For violations of Article 31 of the Labour Law of the BD, effective legal remedies (Article 110 paragraph 1 of the Labour Law of BD envisages a fine for a legal entity and responsible person, as well as judicial protection under Article 88 paragraph 4 of this Law) are envisaged. The amount of the fine ranges from BAM 1,000.00 to BAM 7,000.00.

Supervision over implementation of provisions of this Law is conducted by the labour inspectorate of BD.

Paragraph 2 stipulates that if the employee is required to work on a day of his/her weekly break, the employee is entitled to a day off in the specially determined period, by agreeing with the immediate superior.

Article 70 of the Law on Civil Service in the Administrative Bodies of BD stipulates daily and weekly rest period. The daily break between the two consecutive working days is 12 hours uninterrupted, and for weekly rest period is a 24-hour break without interruptions. If an employee needs to work on the day of his weekly holiday, he is provided with a day of rest during the period of a specially specified agreement by the immediate superior and the employee.

If an employee is required to work on a day of his/her weekly break, the employee is entitled to a day off in the specially determined period, by agreeing with the immediate superior. Article 110 of the Law on Police Officers of BD stipulates the limitation of overtime work.

In the 2012 – 2016 period, the labour inspectorate determined irregularities in 5 cases in regards with irregularities related to weekly rest period and took appropriate measures to remove them.

## **Article 2 paragraph 6 – The right to be informed in written form**

### **FEDERATION BIH**

Provisions of the Labour Law stipulate that employment starts upon conclusion of the employment contract between employee and employer.

The employment contract is concluded in written form and contains information on the employer (name and address); name and surname, place of residence of the employee, duration of the employment contract; the day of commencement of work; place of work; the position to which the worker is employed and a brief job description; length distribution of working hours; salary, reimbursement, and payment periods; compensation; duration of annual leave; notice period; other information regarding the working conditions established by the collective agreement.

Given the written form of an employment contract is a two-sided legal business, a copy of this contract is handed to the employee, which ensures that he/she is familiar with its content. The new Labour Law does not provide for an oral form of employment contract, but if the employer fails to conclude a written employment contract with an employee, and the employee performs work for the employer for remuneration, it is considered that the employment relationship is for an indefinite period if the employer does not prove otherwise. An employer who fails to conclude a written employment contract or if he/she concludes an employment contract that does not contain information prescribed by this law, he/she commits pursuant to Article 171 of the Labour Law for which is liable to a fine in the amount ranging from BAM 1,000.00 to BAM 3,000.00, and in case of repeated offence a fine ranging from BAM 5,000.00 to BAM 10,000.00. If the said offence is committed against a minor worker, the lowest and maximum amount of the fine is doubled. The fine for the employer-natural person as well as the responsible person with the employer who is a legal entity is from BAM 2,000.00 to BAM 5,000.00.

Article 55 of the Labour Law stipulates that an employer is required to give an employee an opportunity to familiarize himself with the labour regulations and safety and health regulations as well as the work organization.

Informing employees on their rights and obligations arising from employment contract is ensured through the procedure of adopting the rules of procedure, which, according to Article 118 of the Law on Labour, is done with obligatory consultation with the trade union or the

employee council if they are formed. The Rules of Procedure is published on the notice board of the employer, which additionally enables the familiarization of the employee with the content.

The provisions of the Law on Employees' Council we reported on has not changed during the reporting period.

## **REPUBLIKA SRPSKA**

The Labour Law does not provide for an employer's obligation to inform employees in writing on the most important aspects of a contract or employment. However, Article 96 of the Labour Law stipulates that the employer shall enable the employee to be informed, within 30 days from the date of commencing the work, to the regulations on employment and the regulations on protection at work, including rights and obligations arising from the collective agreement and the rules of procedure. Furthermore, the employer shall, if the worker should handle the cleaning products/means which use could endanger the life or health of people and the environment, check prior to beginning of work of the employee whether the he/she is qualified of handling and using these means.

Article 26 of the Law on Employees' Council stipulates obligations of the employer toward to the Employees' Council regarding information on employment, where 'the Council is entitled to give opinion and proposals to the employer in order to improve the working conditions of employees and safety at work, ensure daily meal for workers, organize transport of workers to and from work, provide material assistance to workers with a lower income, as well as in case of termination of employment contracts for older and disabled persons, introduce overtime work, night work and shift work, and other issues that the council regards as important for the exercise and protection of employees' rights.

The council monitors the implementation of the employer's legal obligations regarding the employees' health and retirement and disability insurance and the regular payment of contributions, and in case the Council notices that the employer has failed to fulfill his obligations, it can take the necessary measures to protect the rights of the employees (addressing the competent labour inspectorate, etc.). The Council may consider individual requests and proposals of workers regarding the exercise of their rights, which will give their opinion to the employer and to inform the applicant thereof. The Council may consider individual requests and suggestions of employees regarding the exercise of their rights, on which it gives its opinion to the employer and inform the applicants thereof.'

Article 29 of the Law on Employees' Council stipulates that the employer shall inform the Council on the state of safety at work and working conditions, the change of salaries and other issues of importance for the material and social position of employees, which also represents aspects of employment.

The Labour Law stipulates a penalty for a violation committed by the employer "if he fails enable the employee to familiarize with work regulations and occupational safety regulations, pursuant to Article 96 of the Labour Law and if, prior to the commencement of the work of the employee, and if he/she fails to check his/her qualification to handle and use the means of work and means of safety at work (Article 97 of the Law).

For this violation, a fine ranging from BAM 2,000.00 to BAM 12,000.00 is foreseen. For this violation a responsible person with the employer will be fined in the amount ranging from BAM 200.00 to BAM 1,200.00. If these violations are committed against a minor, a woman in connection with pregnancy, childbirth and maternity or a disabled employee, the fine shall be a

minimum of BAM 3,000.00 for the legal entity, and for a responsible person a minimum of BAM 500.00.

No special measures, such as programmes, action plans, projects, etc., have been undertaken, for implementation of legal framework. Article 263 of the Labour Law, stipulates that supervision over implementation of provisions of this Law, regulating daily and weekly working time, shall be conducted by the Republic Inspection Body by conducting inspection in compliance with the Law on Inspection

We do not have statistical data and relevant information on informing employees by employers or violation of that right.

## **BRČKO DISTRICT BIH**

Articles 17 and 18 of the Statute of Brčko District – consolidated text<sup>47</sup> stipulate the right to be informed and the obligation of institutions to upon a request of an interested party provide information in a timely manner, stipulated by the Law.

Article 39 paragraph 5 of the Labour Law of Brčko District stipulates stipulates that an employer is required to give an employee opportunity to familiarize himself with the labour regulations and safety at work regulations within 30 days from the day of the employee's start of employment.

When commencing the employment, employees are informed by the employer on the most important aspects of the employment contract and then they sign it. Article 14 of the Labour Law of Brčko District prescribes the content of the employment contract, which must be in written form and must contain information on the rights of workers arising from employment. In addition, employees are given the possibility to form the Employees' Council, which shall represent them with the employer in the protection of their rights and interests. If the Employees' Council is not formed within an employer, the obligations of the employees' council may be taken over by the trade union in accordance with the law, as stipulated in the provisions of Articles 93 - 95 of the Labour Law of Brčko District.

For violations of Article 14 of the Labour Law of the BD, effective legal remedies (Article 110 paragraph 1 of the Labour Law of BD envisages a fine for a legal entity and responsible person, as well as judicial protection under Article 88 paragraph 4 of this Law) are envisaged. The amount of the fine ranges from BAM 1,000.00 to BAM 7,000.00.

Supervision over implementation of provisions of this Law is conducted by the labour inspectorate of BD.

Article 44 of the Law on Civil Service stipulates that the mayor issues a Decision on Appointment of the Civil Servants.

During the reporting period, the labour inspectorate found 1,087 employees without employment contract and appropriate registration with the retirement and disability insurance funds.

<sup>47</sup> "Official Gazette of BD", No. 2/10;



## **Article 2 paragraph 7 – Compensatory measures for persons performing night work**

### **BOSNIA AND HERZEGOVINA**

Article 97 of the Law on Police Officials of BiH stipulates work under special conditions as follows:

1. Police officials are required to work under special conditions when such conditions are necessary for carrying out the tasks of the police body;
2. Special conditions are considered to be: working on an irregular work schedule, working on a split schedule, working in shifts, working on Saturdays, Sundays, holidays and other free days, working at night and working at particular locations.

Article 50 paragraph 4 of the Labour Law in the Institutions of BiH stipulates that an employee is entitled to a compensation for „*overtime work, work on non-working days, night work and work on public holidays*“.

Article 30 paragraph 1 of the Law on Salaries and Benefits in Institutions of BiH<sup>48</sup> stipulates the right of employees to compensations for „*overtime, work on non-working days, night work and work on state holidays*“, while Article 36 of the same Law regulates the right of employees on compensation for overtime work, work on non-working days, night-time or work on public holidays, and:

In case of overtime work, work on non-working days, night work or work on days of public holidays, employees of the institutions of Bosnia and Herzegovina are entitled to a base salary compensation, proportionate to time duration of that work, increased by the increments listed below:

- a) overtime work 25%;
- b) work on non-working days 25%;
- c) night work 30%;
- d) work on Sunday and on public holidays 35%“.

The decision of the Council of Ministers of BiH on the manner and procedure for exercising the right to compensation for overtime work, work on non-working days and night work and work on days of public holidays in the institutions of Bosnia and Herzegovina, Article 4 regulates the night work:

1. The work in the period between 22:00 and 6:00 of the following day is considered a night work in compliance with the Article 22 paragraph 4 of the Labour Law in Institutions of BiH.
2. Time spent in night work, in accordance with paragraph 1 of this Article, the employee shall be entitled to compensation of the base salary in proportion to the duration of that work, increased by 30%, and the calculation and payment of the salary shall be done according to the procedures of monthly calculation and payment to the employee.

<sup>48</sup> “Official Gazette of BiH” No. 50/08, 35/09, 75/09, 32/12, 42/12, 50/12, 32/13, 87/13, 75/15, 88/15, 16/16 and 94/16;

Article 22 paragraph 4 of the Labour Law in Institutions of BiH stipulates that the work in the period between 22:00 and 6:00 of the following day is considered a night work. Article 48 of this Law stipulates that the employee is entitled increment of the base salary for overtime and night work. These provisions are applied to police officers and civil servants.

Article 102 of the Labour Law in Institutions of BiH provides for a fine for an employer in the amount ranging from BAM 800.00 to BAM 3,000.00 in case of non-compliance with these provisions. The said Labour Law stipulates the right of the employee to compensation for night work pursuant to Article 50 paragraph 4.

Regarding the aforementioned remuneration, they are prescribed by the Law on Salaries and Benefits in Institutions of BiH<sup>49</sup> and by-laws passed under this Law. For whose control and application the Ministry of Finance and Treasury of BiH is responsible for its control and implementation.

The manner and procedure for exercising the right to a night work compensation is determined by the Decision of the Council of Ministers of BiH No: 234/08 from 29 December 2008. For the time spent at night work an employee is entitled to base salary proportional to the duration of that work, and increment of 30%.

## **FEDERATION BIH**

The new Labour Law regulates night work. Article 40 of this Law stipulates that the work in the period between 22:00 and 6:00 of the following day, and between 22:00 and 5:00 for agriculture is considered a night work, unless otherwise provided for regarding a specific case by the law, Canton regulations, or a collective agreement. If work is performed in shifts, which include night work, the shift rotation shall be organized so as to ensure that an employee does not work consecutive night shifts for more than one week.

The Law also regulates special protection of employees working at night, and Article 41 stipulates that when organizing work during night or in shifts, an employer shall pay special attention to the organization of work adjusted to employees, and to safety and health conditions in line with the nature of the job performed during night or in shifts. The employer shall provide safety and health care to night and shift workers, in line with the nature of the job they perform, as well as protective and preventive means, appropriate and applicable to all other workers, which are available at any time. The employer shall secure periodical medical check-ups for workers who work at night at least once in every two years. If it has been determined in a medical check-up that the employee is subjected to a threat of disability caused by work at night, the employer shall offer to him to conclude a labour contract for the performance of same or similar tasks outside of night shifts, if applicable, or a possibility for reassignment to other jobs provided that the employee undergoes a re-qualification or additional training for that other potential job.

<sup>49</sup> "Official Gazette of BiH" No: 50/08, 35/09, 75/09, 32/12, 42/12, 50/12, 32/13, 87/13, 75/15, 88/15, 16/16 and 94/16;

Night work by pregnant women as of the sixth month of pregnancy, mothers and adoptive parents, as well as a person entrusted with childcare pursuant to a decision issued by the competent authority, until the child has turned two years of age, shall be prohibited. Furthermore, Article 42 prohibits night work for minors, however, work in the period between 19:00 and 7:00 of the following day, shall be considered night work is considered a night work for minors working in the industry, while the period between 20:00 and 6:00 of the following day is considered a night work.

Exceptionally, minor employees may temporarily be exempted from the prohibition of night work in case of major breakdowns, *force majeure* and protection of interests of the Federation based on the approval by the Canton labour inspectorate.

Provisions of the Law on Safety at Work and the Law on Employees' Council we reported on were not amended during the reporting period.

General Collective Agreement for the territory of FBiH<sup>50</sup>, and pursuant to Article 76 of the Labour Law, stipulates that an employee is entitled to an increment for night work for a minimum of 24% of net hourly wage.

Collective Agreement on Amendment of the Collective Agreement for Employees of Administrative Bodies and Judicial Authority in<sup>51</sup>, stipulates that salary for night work is increased for a minimum of 25% of net hourly wage.

## **REPUBLIKA SRPSKA**

Article 70 of the Labour Law stipulates that the work in the period between 22:00 and 6:00 of the following day is considered a night work. For employees under the age of 18, the work in the period between 20:00 and 6:00 of the following day is considered a night work, and if they work in industry the night work is in between 19:00 and 7:00 of the following day. Exceptionally, employees under the age of 18 may temporarily be exempted from the prohibition of night work in case of major breakdowns, *force majeure* and protection of the Republika, based on the consent of a competent labour inspectorate. Night work by pregnant women as of the sixth month of pregnancy, mothers with a child under the age of 1.

Article 28 of the General Collective Agreement stipulates that the base salary of employees is increased by 35% for night work. The General Collective Agreement was repealed on 30 June 2016, and the Government of the Republika Srpska passed a Decision on determining the increment, the amount of income based on work and the amount of assistance to the worker, which envisages that the base salary is increased for night work by at least 30%.

The Labour Law provides for a penalty for a violation committed by the employer "if he requests a woman to work at night in violation of Article 73 of the Labour Law". For this violation a fine ranging from BAM 2,000.00 to BAM 12,000.00 is envisaged. For this violation a responsible person within the employer shall be fined in the amount ranging from

<sup>50</sup> "Official Gazette of FBiH" No. 48/16 and 62/16;

<sup>51</sup> "Official Gazette of FBiH" No. 89/16;

BAM 200.00 to BAM 1,200.00. If these offences are committed against a minor, a woman in connection with pregnancy, childbirth and maternity or a disabled worker, a legal entity shall be fined with a minimum of BAM 3,000.00, and a responsible person with a minimum of BAM 500.00. However, a fine in the amount from BAM 5,000.00 to BAM 20,000.00 shall be imposed on the employer if the minor employee is requested to work at night, contrary to Article 72 of this Law.

No special measures, such as programmes, action plans, projects, etc., have been undertaken, for implementation of legal framework. Article 263 of the Labour Law, stipulates that supervision over implementation of provisions of this Law, regulating daily and weekly working time, shall be conducted by the Republic Inspection Body by conducting inspection in compliance with the Law on Inspection.

## **BRČKO DISTRICT BIH**

Article 27 of the Labour Law of BD stipulates that that the work in the period between 22:00 and 6:00 of the following day is considered a night work. This is regulated by the employment contract of rules of procedure. Article 60 of the Labour Law of BD stipulates the right to an increment for night work.

Supervision over the implementation of the legal provisions is conducted by the Labour Inspectorate.

The Law on Safety and Health Protection of the Workers of Brčko District stipulates that the employer must perform risk assessment for each job, and based on this assessment, a doctor of occupational medicine prescribes initial and periodical medical examination of employees, on the basis of night work. The opinion of the Doctor of Occupational Medicine is an integral part of the risk assessment document. Penal provisions from Article 67 paragraph 1 point j), stipulates a fine in the amount ranging between BAM 1,000.00 and BAM 7,000.00 for an employer who upon the risk assessment and assessment of the authorized health-care institution, fails to provide, medical examination of the employees in compliance with this Law.

Article 9 of the Law on Salaries of Employees in the Administrative Bodies of Brčko District stipulates a salary increment for night work, work on Saturdays and Sundays and work on holidays (related to civil servants and employees in the Police). The base salaries of employees is increased for night work by 30%, work on Saturdays and Sundays by 20%, work during the holidays by 35%.

Police officers are not entitled to increment for night work and work on Saturdays and Sundays. Considering the fact that police officers have other compensations and benefits, the law stipulates that they are not entitled to increment for night work, in contrast to civil servants and employees entitled to that right in accordance with the aforementioned law.

### **Article 4 – The right to a fair remuneration**

<p>With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake:</p>
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to recognise the right of men and women workers to equal pay for work of equal value.

The exercise of these rights shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions.

## **BOSNIA AND HERZEGOVINA**

International tools ratified by Bosnia and Herzegovina pursuant to Article 4 paragraph 3 of the European Social Charter /Revised/ are the following:

- ILO Convention No. 97 on Migration for Employment (Revised), 1949;
- ILO Convention No. 100 on Equal Remuneration, 1951;
- ILO Convention No. 111 on Discrimination in Respect of Employment and Occupation, 1958;
- ILO Convention No. 131 on Minimum Wage Fixing, 1970, and
- ILO Convention No. 156 on Workers with Family Responsibilities, 1981.

Pursuant to Article 84 of the Law on Police Official of BiH, remunerations for police officials are regulated in the following manner:

1. The remuneration of a police official comprises his/her salary, increments and benefits as established by the Law on Police Official of BiH;
2. The salary of a police official is linked to his/her rank.

Article 89 of this Law regulates paid leave of absence in the manner that *„the police official shall be entitled to full salary and increments over the period of annual leave, paid annual leave and for the first period of absence from work due to sickness or disability in the period of up to 30 days which according to the Health Insurance regulations has to be paid by the police body.“*

Article 90 of the Law on Police Official of BiH regulates compensations for temporary internal transfer as follows:

1. A police official, who, in accordance with Article 64 of this Law, is transferred to a different job which is 80 or more kilometres away from his/her current work place shall be entitled to compensation for temporary internal transfer;
2. Besides the base salary in accordance with the rank of police official, the compensation referred to in paragraph 1 of this Article shall include:
  - a) The compensation for separate life;
  - b) The compensation for accommodation.
3. The police official, who is transferred at his/her own request, shall not be entitled to the compensation for internal transfer;
4. The provision of paragraph 1 of this Article does not apply to police official on his/her first assignment.

In case of redundancy, pursuant to Article 91 of the Law on Police Officials of BiH, the rights of police officials are the following:

1. In case of dismissal due to redundancies as provided under this Law, the dismissed police official shall be entitled to a severance package in the amount of at least six months' salary;

2. The amount of severance package referred to in paragraph 1 of this Article shall be extended to twelve months for police officials, who have at least fifteen years of working experience.

In the event of the death of a police officer, pursuant to Article 92 of the Law on Police Officials of BiH:

1. A police official who loses his/her life on duty shall be buried in the place determined by the family referred to in Paragraph 3 of Article 38 of this Law at the expense of the police body;

A police body shall cover the following burial expenses:

- a) Expenses for the transportation of the corpse to the place of burial;
  - b) Travel expenses for two escorting persons;
  - c) Cost of the grave unless one is secured otherwise;
  - d) Other usual expenses, the amount of which shall be determined by the Minister;
2. The family supported by the deceased police official shall be entitled to a single financial assistance of six times the amount of the last net salary received by the deceased official.

Pursuant to Article 94 of the Law on Police Officials of BiH, the Council of Ministers defines the criteria, requirements and amounts of covering the cost referred to in this paragraph of the Law by passing a by-law.

Regarding the work in special conditions, Article 97 of this Law stipulates the following:

1. Police officials are required to work under special conditions when such conditions are necessary for carrying out the tasks of the police body;
2. Special conditions are considered to be: working on an irregular work schedule, working on a split schedule, working in shifts, working on Saturdays, Sundays, holidays and other free days, working at night and working at particular locations.;
3. Other forms of work under special conditions may be ordered if security circumstances so require, or if they are the only way to complete certain assignments that may not be postponed or must be completed in an established deadline.
4. The Head defines the reasons for which the forms of work referred to in Paragraph 3 of this Article may be ordered and may authorise other supervisors to order them.
5. For the work referred to in paragraph 2 of this Article, police officials are entitled to reimbursement in money or time. The Minister, upon proposal of the Head shall define in a by-law the manner and amount for the said reimbursement.
6. A high-ranking police official shall specify in more detail when the reasons for other forms of work in the special conditions referred to in paragraph 3 of this Article may be determined, and may also authorize other police officers working in managerial positions to do so;
7. For tasks referred to in paragraph 2 of this Article, police officials shall be entitled to compensation or free time. At the proposal of the high-ranking police official, a Minister shall determine the method of payment and the amount of these fees by a by-law.

Article 98 of the Law on Police Officials of BiH stipulates limitation of overtime work as follows:

1. In case it is needed to complete an urgent job or task till a set deadline or within a certain period of time, an order shall be issued to oblige the police official to work overtime;
2. Overtime work referred to in paragraph 1 of this Article may last up to four hours per day and shall not exceed 20 hours per week.

Pursuant to Article 99 of the Law on Police Officials of BiH, regarding paid annual leave, „Police officials are entitled up to 30 days and not less than 18 days of paid annual leave, depending on the length of service“.

Paid leave is regulated pursuant to Article 100 of the Law on Police Officials of BiH, in the following manner:

1. A police official has the right to be absent from work up to five working days in one calendar year with payment, in following cases:
  - death of a close family member: up to 3 working days;
  - death of relatives: up to 1 working day;
  - nursing close family member: up to 3 working days;
  - wife giving birth: up to 3 working days;
  - marriage: up to 5 working days;
  - moving away: up to 2 working days.
2. The paid leave referred to in paragraph 1 of this Article shall be approved by the Head.

Unpaid leave is regulated pursuant to Article 101 of the Law on Police Officials of BiH which stipulates that „Upon request of the police official, the Head may approve leave without pay for no longer than 30 days in one calendar year.“

Pursuant to Article 102 of the Law on Police Officials of BiH, police officials are entitled to an accelerated retirement plan, whereby each twelve months spent on duty shall be calculated as sixteen months of service.

Awards, and the remuneration for work under special conditions and permanent increments are regulated by the provisions of the Rulebook on Remunerations in the Police of BiH, the Decision on the addition of a personal transferral sum to the police officer, the Decision on the manner and the amount of compensation for work under special conditions and the Decision on the permanent increment for special working conditions with changes.

Law on Salaries and Benefits in the Institutions of BiH<sup>52</sup> stipulates salaries and reimbursements for police officers as follows:

- articles 4 – 7 Determining Salary;
- articles 17 – 20 Salary of police Officials;
- articles 26 - 49. Increment to salary, reimbursement and compensation.

Reimbursements and awards are additionally regulated by the following regulations:

- Decision on Reimbursement for Maternity Leave 65/10;
- Decision on Transport Compensation;
- Decision on how to exercise the right to a bonus;
- Decision on Annual and Paid Leave 58/09;
- Decision on Payment of the First Part of Bonus 70/09;
- Decision on Remuneration for Performing Other Jobs 58/09;
- Decision on Compensation in Case of Serious Injury or Death 67/09;
- Decision on Reimbursement 31/10;

- Decision on Compensation - food 42/12;
- Decision on Severance Pay 58/09;
- Decision of the Council of Ministers from 2002 on payroll;
- Decision on Sick Leave 58/09;
- Decision on Jubilee Award 58/09 and 65/10;
- Decision on overtime work 04/09;
- Decision in the Event of Death of an Employee in the Institutions of BiH.

The aforementioned laws and by-laws regulate the right to a fair remuneration for police officers from which the difference in the salaries is not visible for both men and women.

## **FEDERATION BIH**

In the Federation of BiH, Article 4 of the European Social Charter /Revised/ is implemented by the following regulations:

- Labour Law of FBiH<sup>53</sup>;
- Law on Civil Service in FBiH<sup>54</sup>;
- Law on Salaries and Benefits in BiH Institutions FBiH<sup>55</sup>;
- General Collective Agreement for the territory of FBiH<sup>56</sup>; and
- Collective Agreement for Employees of Public Administrative Bodies and Judicial Authorities of FBiH<sup>57</sup>.

## **REPUBLIKA SRPSKA**

In the Republika Srpska Article 4 of the European Social Charter /Revised/, regarding a fair remuneration is implemented through the Labour Law, Law on Inspection and General Collective Agreement.

## **BRČKO DISTRICT BIH**

In the Brčko District of BiH, Article 4 of the European Social Charter /Revised/ is implemented through the following regulations:

- Labour Law of Brčko District – consolidated text<sup>58</sup>;

<sup>53</sup> “Official Gazette of FBiH“ No.26/16;

<sup>54</sup> “Official Gazette of FBiH“ No.29/03, 23/04, 39/04, 54/04, 67/05, 08/06 and 04/12;

<sup>55</sup> “Official Gazette of FBiH“ No.45/10, 111/12 and 20/17;

<sup>56</sup> “Official Gazette of FBiH“ No.48/16 and 62/16;

<sup>57</sup> “Official Gazette of FBiH“ No.23/00, 50/00, 97/13 and 89/16;

<sup>58</sup> “Official Gazette of BD“ No. 19/06, 19/07, 25/08, 20/13, 31/15 and 1/15;



- Law on Civil Service in Administrative Bodies of BD<sup>59</sup>;
- Law on Police Officers of BD<sup>60</sup>; and
- Law on Salaries in the BD administrative Bodies<sup>61</sup>.

### **Article 4 paragraph 3 – The right to equal salary**

#### **BOSNIA AND HERZEGOVINA**

Article 6 of the Labour Law in Institutions of BiH stipulates that a person seeking employment with an employer as well as an employee may not be discriminated against based on race, colour, gender, language, religion, political or other opinion or affiliation, national or social origin, sexual orientation, property status, birth or other circumstances, membership or non-membership in a political party, physical disability or other reasons contrary to fundamental human rights and freedoms as stipulated by the BiH Constitution and the law.

The prohibition of discrimination is stipulated by Articles 86(a) – 86(f) of the Labour Law, and Article 86(c) of the Labour Law in paragraph 1 item b) prohibits discrimination related to working conditions and all the rights of employees arising from the employment.

Pursuant to provisions of Article 12 of the Law on Gender Equality in BiH<sup>62</sup> they are all equal in the employment process based on gender. Gender based discrimination at work and in employment is prohibited. Gender based discrimination, as follows:

- failure to pay equal wages and other benefits for the same work or work of equal value;
- failure to ensure promotion at work on equal terms;
- failure to provide equal opportunities for education, training and professional qualifications.

Article 13 of the Law on Gender Equality in BiH, as a *lex specialis* law regulates prohibition of discrimination in the area of gender equality, and stipulates that discrimination at work exists in case of non-equal salary and other benefits for equal value work. Pursuant to this provision, every person any person who believes that he or she is a victim of discrimination due to a difference in salary for the equal work or work equal value work may file a complaint before relevant competent court.

The Law on Gender Equality in BiH and The Law on Prohibition of discrimination in BiH<sup>63</sup> are mutually aligned in the part in which victims of discrimination are directed to a possibility of using legal mechanisms for the protection of the rights provided for by aforementioned

<sup>59</sup> “Official Gazette of BD” No. 9/14, 37/15, 48/16 and 9/17;

<sup>60</sup> “Official Gazette of BD” No. 41/07, 4/08, 36/09, 60/10;

<sup>61</sup> “Official Gazette of BD” No. 14/06, 41/06 and 3/13;

<sup>62</sup> “Official Gazette of BiH” No. 16/03 and 102/09;

<sup>63</sup> “Official Gazette of BiH” No. 59/09 and 66/16;

laws (types of complaints, competences, time frame, burden of proof, victimisation, etc.). This helped to establish a legal protection mechanism which allows protection of the rights guaranteed by the Law on Gender Equality in BiH before competent courts.

The Law on Salaries and RBenefits in Institutions of BiH<sup>64</sup> does not recognize gender based discrimination of employees, and Article 3 stipulates the principles for determining the reimbursement and other benefits for employees in BiH institutions, where the basic principle is the "same salary for the same or similar job"

Every person who considers to be victim of discrimination or finds that a certain right has been violated due to discrimination shall be able to seek for protection of that right in the procedure in which this right shall be decided as a main issue, and shall be able to seek for protection in a special proceedings for protection from discrimination in compliance with the Law on Prohibition of Discrimination in BiH.

Victims of discrimination are entitled to a compensation in compliance with the regulations, which regulate obligatory relation. A fine ranging from BAM 1,000.00 to BAM 30,000.00 shall be imposed on a juristic person for failing to undertake appropriate steps and use effective protective mechanisms against discrimination on the grounds of gender at work and in employment, pursuant to Article 12 of the Law on Gender Equality in BiH.

Provisions the Law on Gender Equality in BiH<sup>65</sup>, as *lex specialis* law regulates prohibition of discrimination based on gender, and stipulates that discrimination at work and in employment would be caused by non-equal salary and other benefits for equal value work

According to the data provided by the Agency for Statistics for BiH from 2017, regarding employees divided by areas, a greater presence of women is visible in comparison to men in the fields of wholesale and retail, education, health and social protection, professional, scientific and technical activities, financial activities and insurance, art, entertainment and recreation, as well as in other parts of service industry. It is evident that agriculture, forestry and fishing, mining and quarrying, manufacturing, production and supply of electricity, gas, steam and air-conditioning, water supply, sewage disposal, waste management and environmental conservation, construction, transport and storage, administrative and additional service, are dominated by men.

The highest number of men are employed in the manufacturing industry, and the highest number of women in the wholesale and retail.

According to the data provided by the Agency for Statistics for BiH from 2017, regarding the average gross monthly salary in water and electric energy supply, gas, steam and air-conditioning where there is extremely low representation of women, as well as in finance and insurance, both in the area of information and communication where the representation of

<sup>64</sup> "Official Gazette of BiH" No. 50/08, 35/09, 75/09, 32/12, 42/12, 50/12, 32/13, 87/13, 75/15, 88/15, 16/16 and 94/16;

<sup>65</sup> "Official Gazette BiH" No. 16/03, 102/09, 32/10;

women is higher, but the percentage of representation in top management positions is much lower than the percentage of men.

The lowest salaries are in the sector of providing accommodation, food preparation and catering (hotel management and catering) where there is the highest number of women employed. Unfortunately, and in the sector of civil engineering, where the highest number of men employed, salaries are also extremely low.

In cooperation with the World Bank, the Agency for Statistics for Bosnia and Herzegovina, the Federal Bureau for Statistics and the Republic Bureau for Statistics of the RS in May 2015, conducted the research "Gender Differences in Exercising the Rights and Opportunities offered by Society, Access to Economic Opportunities and Representation in Bosnia and Herzegovina". It was concluded that there are visible gender based differences in favour of men, noticeable at all levels of education, age groups, occupations and industries.

Taking into consideration the population working for salary or daily wages, and limiting age between 15 and 64 years of age due to homogeneity, gender differences in the hourly rate are estimated to be 9% of the average hourly rate of male workers (3.9 KM for men and 3.5 KM for women). This gender gap remains and only slightly differs in relation to the youngest and oldest age groups taken into consideration (15 - 24 and 55 - 64). In all economy sectors and occupations, the same phenomenon is repeated in favour of men, with nuances. Although, according to professions, men always earn more per hour than women, certain exceptions occur in some economy sectors, such as agriculture and mining, real estate and, to a significant extent, in administrative services.

## **FEDERATION BIH**

There is a general provision under Article 8 of the Labour Law on prohibition of gender based and any other discrimination of employees regarding conditions of employment, choice of candidate, work conditions and all the rights arising from employment, education, professional training and development, promotion and termination of employment contract. Provisions of the employment contract proved to be discriminatory on any basis under Article 8 of this Law are annulled.

The law recognizes direct or indirect discrimination. Direct discrimination is any act on some of the legal grounds on which a worker, as well as a person seeking employment, has been or has been placed in a less favourable position than other persons in the same or similar situation. Indirect discrimination, for the purpose of this law, exists when a certain seemingly neutral provision, rule, criterion or practice puts or would put in a less favourable position an employee as well as the person seeking employment due to a certain property, status, commitment, belief or value system that forms the basis for prohibition of discrimination in relation to other employees, as well as persons seeking employment.

Article 12 of the Labour Law stipulates that in cases of discrimination pursuant to the provisions of this law, a worker as well as a person seeking employment may request protection from the employer within 15 days from the day of finding out about the discrimination. If the employer fails to comply with this request within 15 days from the date of submission of the request referred to in the previous paragraph, the employee may file a lawsuit to the competent court within a further period of 30 days. If an employee or a person

seeking employment in the event of a dispute presents facts justifying a suspicion that employer actions were in violation of the provisions of this law prohibiting discrimination, the employer has the burden of proof that there was no discrimination, that is, the existing difference is not directed at discrimination but has its own objective justification. If the court determines that a lawsuit pursuant to this Article is reasonable, the employer shall enable the employee to exercise the denied rights and compensate the employee for the damage arisen from the discrimination.

In cases of discrimination, harassment, sexual harassment, gender-based violence, and mobbing at work or in connection with work, no provision of this law can be interpreted as limiting or diminishing the right to conduct criminal or civil proceedings.

The Labour Law stipulates that the salaries of employees are determined by the collective agreement, the rules of procedure and the employment contract.

Article 77 of the Labour Law guarantees equality of salaries regarding employer's obligation to pay employees equally for equal value work, regardless of their national, religious, sexual, political and trade union affiliation, as well as any other discriminatory grounds under Article 8 paragraph 1 of this law. The law clarifies that the work of equal value implies work requiring the same level of professional skills, the same working capacity, responsibility, physical and intellectual work, skills, working conditions and results of work.

## **REPUBLIKA SRPSKA**

Article 120 of the Labour Law stipulates that the employee is entitled to a salary in accordance with the collective agreement, the rules of procedure and the employment contract. Employees are guaranteed equal pay for the same work or equal value work they perform with the employer. The equal value under the Law is work for which the same degree of professional qualifications, the same working capacity, responsibility and physical and intellectual work are required. The Law also stipulates that a decision by the employer or an agreement with an employee which does not provide equal pay is annulled. In the event of a violation of rights, the employee has the right to initiate a proceedings for compensation of damages. The law stipulates that the employer may not pay an employee a lower salary than the one determined in accordance with the collective agreement, the rules of procedure and the employment contract.

The Labour Law stipulates a penalty for a violation by the employer if he denies an employee or reduces his or her salary or reimbursement, which he/she is entitled to in accordance to the law, collective agreement, rules of procedure and employment contract, or fails to pay them within the prescribed deadlines (Articles 120 -126 of this Law). For this violation, a fine ranging from BAM 2,000.00 to BAM 12,000.00 is envisaged. For this violation, a responsible person with the employer shall be fined in the amount ranging from BAM 200.00 to BAM 1,200.00. If these offences are committed against a minor, a woman in connection with pregnancy, childbirth and maternity or a disabled worker, the fine against a legal entity shall be a minimum of BAM 3,000.00, and for a responsible person a minimum of BAM 500.00.

No special measures, such as programmes, action plans, projects, etc., have been undertaken, for implementation of legal framework. Article 263 of the Labour Law, stipulates that supervision over implementation of provisions of this Law, regulating daily and weekly working time, shall be conducted by the Republic Inspection Body by conducting inspection

in compliance with the Law on Inspection.

In 2016 154 supervision were conducted with the purpose of control of salaries and reimbursements, there were 53 irregular controls. 39 administrative measures were passed, 23 misdemeanor orders and 6 request to initiate misdemeanor proceeding. 5 regular and 149 extraordinary supervisions were conducted.

The controls found that employers are late with paying salaries, reimbursements and maternity compensations. In addition to direct controls, the salaries and reimbursement were checked in other check lists so that the number of controls in the area is much higher. The percentage of extraordinary inspection controls of 96.7% and the percentage of 35% mismanagement controls indicate a high number of employees whose rights have been violated.

No	Indicator	2015	2016
1.	Total number of controls	210	154
2.	Irregular control	93	53
3.	Administrative measures	66	39
4.	Misdemeanour proceedings	60	29

Note: *it is important to note that the irregularities in this segment were mainly in regards with the following: salary regularity, salary level, delivery of payroll and compensations - maternity leave, etc.*<sup>66</sup>

## **BRČKO DISTRIKT**

In the Brčko District of BiH, Article 4 of the European Social Charter /Revised/ is implemented by the following regulations:

- Labour Law of BD – consolidated text;
- Law on Civil Service in Administrative Bodies of BD;
- Law on Police Officers of BD; and
- Law on Salaries in the BD administrative Bodies.

All employees are entitled to an equal salary pursuant to the Law on Salaries in the BD administrative Bodies.

Article 4 paragraph 1 of the Labour Law of BD stipulates *inter alia* that an employee may not be discriminated based on gender, and in case of violation of the provision under Article 3 of the same Law, it is envisaged that a person whose rights are allegedly violated can file a lawsuit for violation of the rights before a relevant competent court. If the claimant proves, providing relevant evidence, the existence of any activity prohibited by this article, the respondent is shall prove that such a difference was not created on the basis of discrimination.

Article 1a of the Law on Salaries of Employees in the Administrative Bodies of the Brčko District stipulates *inter alia* that when determining the amount of salaries and other remunerations for employees in the BD administrative bodies, the principle of "equal salary for the same or similar work" will be respected, and that, in accordance with this principle, employees of the BD administration who perform the same or similar tasks receive the same base salary.

Labour Inspectorate, Inspector and Internal Audit shall conduct supervision and control of the aforementioned legal frameworks.

For violations of Article 4 of the Labour Law of the BD, effective legal remedies (Article 110 paragraph 1 of the Labour Law of BD envisages a fine for a legal entity and responsible person, as well as judicial protection under Article 88 paragraph 4 of this Law) are envisaged

The Law on Salaries of Employees in the Administrative Bodies of BD, the Law on Police Officers of BD and the Law on Civil Service in the Administrative Bodies of BD do not separate the employees on any basis.

The Law on Gender Equality in BiH is also implemented in the Brčko District. Members of the Brčko District Police participate in the work of the Association 'Women Police Officers Network'.

## **Article 5 – The right to organize**

With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations, the Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom. The extent to which the guarantees provided for in this article shall apply to the police shall be determined by national laws or regulations. The principle governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations.

## **BOSNIA AND HERZEGOVINA**

International instruments ratified by Bosnia and Herzegovina pursuant to Article 5 of the European Social Charter /Revised/ are:

- ILO Convention No. 11 on the Rights of Association and Combination of Agricultural Workers, 1921,
- ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organise, 1948,
- ILO Convention No. 97 on Migration for Employment (Revised), 1949,
- ILO Convention No. 98 on the Right to Organize and Collective Bargaining, 1949,

- ILO Convention No. 135 on Protection and Facilities to be Afforded to Workers' Representatives in the Undertaking, 1971,
- ILO Convention No. 143 on Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (additional provisions), 1975,
- ILO Convention No. 151 on Protection of the Right to Organise and Procedures for Determining Conditions of Employment in the Public Service, 1978,
- ILO Convention No. 158 on Termination of Employment at the Initiative of the Employer, 1982,
- ILO Convention No. 175 on Part-Time Work, 1994,
- ILO Convention No. 176 on Safety and Health in Mines, 1995,
- ILO Convention No. 177 on Home Work, 1996; and
- Maritime Labour Convention, 2006.

Articles 3 - 5 of the Labour Law in the Institutions of Bosnia and Herzegovina<sup>67</sup>, stipulates the right of police officers to organize, i.e. employees are entitled to organize their trade unions, and elect their representative bodies in accordance with the law or the rules of that trade union.

It also envisages that the trade union may be established without any prior approval and the employee may not be placed in a less favourable position due to membership or non-membership in the union. It is also envisaged that employers acting on their behalf or through another person, a member or representative may forbid establishing, operating or managing a trade union and advocating or assisting a trade union with a view to its control, and that legitimate trade union activities may not permanently or temporarily banned.

The provisions on the right to organize in trade unions are far more specific and detailed in the sectoral collective agreements and collective agreements. In addition to the Labour Law there is still a number of laws that directly or indirectly relate to individual and collective labor rights. The Labour Law in the Institutions of BiH and the Law on Civil Service in Institutions of BiH guarantee the organization of civil servants in trade unions in accordance with the law. The Labour Law in Institutions of BiH regulates this issue in almost the same way as in the entity labor laws and Labour Law of BD.

At the level of the BiH institutions, employees and employers are entitled, without any difference and without prior approval, to establishing organizations of their choice and to access such organizations. Article 3 of the Labour in Institutions of BiH stipulates that employees are entitled to free choice, to organize trade unions, to join in or to join in more complex forms, to elect their representative bodies in accordance with the law, statute or rules of that trade union. Article 4 of this Law stipulates that the employer is prohibited to interfere with the establishment, operation or management of the union; advocating and assisting the union with the aim of controlling it, while Article 5 stipulates that the legitimate trade union activity may not be permanently or temporarily banned.

The penal provisions of the Labour Law in the Institutions BiH do not foresee a punishment for non-compliance with the provisions of Article 3, Article 4 and Article 5 of the said Law. Unions may be established without a prior approval. An employee may not be placed in a less favourable position due to membership or non-membership in a trade union. Trade unions, as

well as other associations may be established by at least three natural persons, citizens of BiH and a party residing in BiH, or legal entities registered in BiH in any combination, provided that a state of BiH, cantons, cities, municipalities, local communities, state bodies, state-owned enterprises and funds may not be founders. A founding act is mandatory for the establishment of an association fulfilling the conditions for registration. In order for the association to acquire registration conditions, the founding assembly of the association is obliged to adopt the founding act, the statute of the association and appoint the management bodies in accordance with this law. The founding act of the association shall include: name, surname and address, name and abbreviated name and seat of the founder, name, headquarters and address of the association, objectives and activities of the association, name and surname of the person authorized to carry out business registration in the register of associations, signatures of the founder or persons authorized for representation, and the unique number of citizens if the founders are citizens of BiH. Accordingly, there is no specific provision of the law regarding the right to establish organizations of certain categories of workers, civil servants and employees in public companies in relation to all other associations as well as other forms of organization. Workers' Associations and Employers have the right to adopt their statutes and rules, freely choose their representatives, organize their management or activities, or formulate their programs.

Pursuant to Article 12 of the Law on Associations and Foundations of BiH<sup>68</sup> the statute of an association shall include:

- a) Full name of the association, its abbreviated name (if there is any), and its address;
- b) The goals and objectives of the association;
- c) The procedure for admission and dismissal of members;
- d) The organs of the association, the method of their election, their competencies, their quorum and voting rules, the duration of their mandates, the person authorized to convene sessions of the assembly, the conditions and modalities of dissolution or cessation of operation;
- e) The rules for obtaining, use and disposal of assets of the association, as well as the body authorized to supervise the use of these assets;
- f) The publicity of operations;
- g) The procedure for amending the statute, competency and method of enactment of other general acts;
- h) A description of the shape of the seal and its contents;
- i) The representation of the association;
- j) The conditions and procedures for merger, separation, transformation or dissolution of the association, or the cessation of its operations, including any specific rules on quorum or qualified majority in the voting procedures;
- k) The procedure for disposition of remaining property and any other assets in the case of dissolution of the association or cessation of its operations.

A registered association or foundation may be voluntarily dissolved by decision of association assembly, and exceptionally in compliance with the Article 51 b) of the Law on Associations and Foundations in BiH, the Court of BiH may prohibit the work of such organizations. In practice, there has never been a case of imposing a prohibition on work or suspending or



dissolving an association by the Court of BiH to any association, i.e. organization of workers and employers. All organizations have the right to establish and access federations and confederations, as well as to join international organizations of workers and employers.

Article 2 of the Law on Associations and Foundations of BiH stipulates:

- An association is created by a common agreement in which a group of three or more physical or legal persons, in any combination, voluntarily associates to further a common interest or public interest, and who do not intend to gain profit. An association becomes a legal person when it is registered as provided in this Law;
- Associations may establish their own alliances or other forms of associations in which their interests are connected at a higher level (higher level associations), unless otherwise provided by a special law;
- Higher level associations enjoy all rights and freedoms guaranteed to associations;
- Associations and higher level associations have the right to freely associate and cooperate with international organizations established to promote the same rights and interests.

Acquiring a status of a legal entity is stipulated in Article 8 paragraph 3 of the Law on Associations and Foundations of BiH. Pursuant to this article the association acquires the status of legal person on the day of registration. Thus, acquisition of the status of a legal entity is compulsory and the Law does not prescribe an alternative in this respect.

The Labour Law in the Institutions of BiH, regarding the organization of employees and civil servants, entitles employees to conclude a collective agreement (Article 90), and to organize a representative trade union (Article 92) as well as to strike (Article 95).

Police officers, in compliance with Article 39 point f) have a right to form or join a trade union or a professional association in accordance with the Law.

The Law on Civil Service in the Institutions BiH has guaranteed the right of civil servants to establish or join but not to be required to join a trade union or a professional association in accordance with the law and the right to strike in accordance with the law (Article 15 paragraph 1) items h) and i)). The trade union is free to form alliances and join national and international organizations.

Workers have absolute freedom to join or leave a trade union, and the independence of the union is manifested through the provisional membership and representatives. Police officers have the right to negotiate their pay and working conditions and freedom of association and to participate in the development of a law regulating their rights. Compulsory membership is not regulated by the union trade acts. Within the State Investigation and Protection Agency there is a Trade Union of the Agency as an Association established by the Decision Establishing the Agency's Trade Union, which was passed by the Founding Assembly on 26 September 2012. The trade union is an independent, non-political, independent, voluntary, stakeholder association of the Agency, established to address issues of common interest of its members with the aim of overall improvement of the status, working and living conditions of the members of the Union. The objectives and the activities of this trade union are: influencing the adoption and implementation of legal regulations relevant to the labour, economic and social security of trade unions and their legal protection, the provision of adequate work condition, humanization of work and the introduction of modern means of work and technologies, a realistic labour cost price that enables an employee to meet basic economic,

social, cultural, educational and other needs, improve working conditions, occupational safety, employee health, consistent implementation of conventions and international treaties, declarations, charter rights protecting human rights, freedom and the principles of citizens in BiH.

Suspension of work may not be carried out if the security of the state and citizens is significantly jeopardized or it causes a greater damage to the work of the Agency. Membership in the union is voluntary and any police officer, civil servant and employee, or a retired employee of the Agency may join the trade union. Every member of the trade union is free to leave the trade union on the basis of a written statement. Based on the status of official records in the Register of Associations at the Ministry of Justice of BiH are registered trade unions of police organizations.

Article 92 of the Labour Law in Institutions of BiH, a representative trade union means a trade union registered at the level of BiH, or two or more joint trade unions, whose membership makes up most of the employees of one employer at the headquarters of the employer. The Council of Ministers confirms the representative trade union at the proposal of the Ministry of Justice of BiH, and against the confirmation or refusal of the certificate of the representative trade union can appeal to the Court of BiH (Article 93 of the Law).

The representative employee union, in accordance with the law, has the right to:

- be consulted prior to the adoption of a general act concerning the status and salaries of its members;
- verifies whether the employer is acting in accordance with this Law and other employment-related regulations;
- report any breach of the regulations to the administrative inspectorate,
- assists and represents an employee at his/her request in cases of violation of his rights or disciplinary proceedings or proceedings for damages.

The Federation of Independent Trade Unions of Bosnia and Herzegovina (hereinafter: FITU) submitted the application on 24 May 2002 for entry into the Register of the Association of BiH. The competent BiH institutions, in accordance with the legislative procedure and within their competencies, have not solved this case. Meanwhile, the Central Service Office of BiH contacted the International Labour Organization (ILO) for violating Convention No. 87, Freedom of Association and Protection of the Right to Organize and Convention No. 98 on the Right to Organized and Collective Bargaining. The Committee of Experts on the Application of the Convention and Recommendations of the ILO has repeatedly requested from the BiH Council of Ministers to make a statement on this issue for violating the provisions of the said Conventions. The Ministry of Justice, while respecting the requirements of the Committee for the Implementation of Conventions and the recommendations of the MOF, has taken steps to amend the existing legislation, ie to amend the Law on Associations and Foundations of BiH. Amendments to this Law have been adopted and published in the Official Gazette no. 63/08 after the parliamentary procedure and which entered into force on August 13, 2008. years. Following the dismissal of the Appeal by the BiH Council of Appeals Commission, the Central Elections Commission of BiH (BiHSR) was brought before the Court of BiH. By the BiH Court judgement from 20 April 2012 the SRS complaint was admissible, after which 05 May 2012 FITU based in Sarajevo, registered in the Register of Associations and Foundations of BiH, at the Ministry of Justice. The aforementioned judgment replaces the act of the competent administrative body, i.e. the decision on registration with the Ministry of Justice. The Ministry of Justice made the entry of the Alliance of Independent Believers of BiH into the Register of Associations under Registry

No. 1253, Book and Register and informed the Alliance of Independent Trade Unions of BiH on the Verdict of the Court of BiH. The Association of Employers of BiH was formed on July 7, 2004 at the Founding Assembly and its founders; Federation of Employers FBH, Federation of Employers of RS, Federation of Private Employers of RS and Employers Association of BD. The Association of Employers of BiH is on 3.09.2004. registered in the Register of the Association and foundations under the ordinal number RU-194, the register book and is registered in accordance with the Law on Associations and Foundations of BiH. Since its inception in 2004, the Association of Employers of BiH is actively working with and cooperating with ILO, IOE, Business Europe and employers' organizations in Europe and with EUROMED countries (European Mediterranean Association of Employers) and is a member of the AREC organization of the employers of the Adriatic Region .

## **FEDERATION BIH**

Article 5 of the European Social Charter / Revised /, which refers to the right to organize, was implemented in the Federation of Bosnia and Herzegovina through the aforementioned primary and secondary legislation.

The provisions of the new Labour Law continue to guarantee the freedom of association. Article 14 of this Law stipulates that workers have the right, by their free choice, to organize a trade union and to join it in accordance with the statute or rules of the said trade union. Employers also have the right, by their free choice, to form an association of employers, and join it in accordance with the statute or rules of that association. Trade unions and employers' associations can be established without any prior approval. Article 15 guarantees the voluntariness of membership, so workers or employers freely decide on their joining or leaving the trade unions or associations of employers. A worker or an employer can not be placed in an unfavorable position due to membership or non-membership in the trade union or the association of employers.

Prohibition of interference in the functioning of the association is stipulated by the Article 16 of the Labour Law in such a way that it is forbidden for employers or associations of employers acting in their own name or through any other person, member or representative to interfere with the establishment, functioning or management of the trade union or provide assistance to the union in order to be able to gain control. A trade union acting in its own name or through another person, member or representative shall be prohibited from interfering with the establishing, functioning or management of association of employers.

General Collective Agreement for the territory of the Federation of BiH established that the employer is obliged to provide for and ensure through the Rulebook, the conditions for work and operation of trade unions in accordance with collective agreements. Opinions, proposals, appeals and all misunderstandings about labor rights and labor are dealt with by direct negotiations between the employer and the union. Trade union representatives who are not employed by the employer, whose union has members with the employer, have access to the employer as necessary for performing of trade union activities, in accordance with the law and sectoral collective agreement. The employer is obliged to calculate and, from the workers' salary, deduct the union membership based on a written consent of the employee, and pay regularly to the trade union account. The General Collective Agreement also provides for the protection of the trade union commissioner, so that during his term of office and six months upon his term, the trade union commissioner has the right to protection in accordance with the Labour Law and international conventions which make an integral part of the domestic legal

system. The Labour Act also provides for protection of the trade union commissioner from dismissal. Namely, Article 103 stipulates that, during his terms of office and six months upon his term, the employer cannot, without the prior consent of the federal ministry in charge of labor, terminate the employment contract or otherwise put the aforementioned in an unfavorable manner, in relation to the position before being appointed a trade union commissioner. For the purpose of this Article, the trade union commissioner is a worker who is an authorized representative of a trade union organized with the employer in accordance with the regulations detailing organization and functioning of trade unions. Shall the competent ministry deny such consent, the employer may, within 30 days from the date of delivery of such a decision, request that the consent is replaced by a court decision.

The Collective Agreement on Amendments to the Collective Agreement for Civil Servants and Judicial Authorities in FBiH<sup>69</sup> stipulates that the head of a civil service body is obliged to provide paid leave from work to the trade union commissioner or other trade union representative to perform trade union activities and attend trade union meetings, congresses, conferences, seminars, trade union schools, trade union meetings and other trainings in the country and abroad for up to three days a month. Also, the head of the civil service body and the representative of the trade unions are obliged, at the request of one of the parties, to discuss with the other side and consider all issues pertaining to the trade union activity, material and other issues of civil servants or state employees, as well as planned obligations of the administrative authorities in this respect.

The Law on Associations and Foundations <sup>70</sup> has not changed over the reporting period.

The new Labour Law defines and regulates the representativeness of trade unions and associations of employers by provisions of Articles 122-236..

In accordance with the Labour Law of the Federation BiH, the Federal Ministry of Labour and Social Policy adopted Decision on representativeness of CITUBiH in the territory of the Federation of BiH, no. UP I 03-34 / 13-15 / 15, dated 28 September 2015 and published in the Official Gazette of the Federation BiH No. 42/16..

The Confederation of Independent Trade Unions of BiH consists of 24 sectoral trade unions, that is, unions. At the same time there are 7 cantonal committees of CITUBiH, which operate in the area of 9 cantons in the Federation of Bosnia and Herzegovina. The Union also includes the Women's Forum and a Youth Section. Sectoral unions are as follows:

- [Trade Union of Workers in the Metal Industry of the Federation BiH](#)
- [Independent Trade Union of Mineworkers of FBiH](#)
- [Independent Trade Union of Forestry, Wood Processing and Paper of BiH](#)
- Independent Trade Union of Chemistry and Non-Metal Workers of FBiH
- Trade Union of Construction and Civil Engineering Industry of BiH
- [Trade Union of Textile, Leather, Footwear and Rubber Industry of FBiH](#)
- Trade Union of Workers in the Electric Power Industry of FBiH
- Independent Trade Union of [workers of Elektroprivreda HZHB Mostar](#)
- Trade Union of BH [Poste Sarajevo](#)

<sup>69</sup> "Official Gazette of FBiH" No.: 89/16

<sup>70</sup> „ The Official Gazette of FBiH “ number: 45/02

- Independent [Trade Union of Traffic and Communications of BiH](#)
- Trade Union of [BH Telecom](#)
- Independent Trade Union [of Workers in the Communal Economy of FBiH](#)
- [Independent Trade union of Workers in Oil and Petrochemistry Industry of FBiH](#)
- [Independent Trade Union of Workers in Financial Organizations of BiH](#)
- Independent Trade Union of Railway Workers of BiH
- Trade union of Croatian Telecommunications Mostar
- [Trade Union of Hrvatske poste Mostar](#)
- [Trade union of PPDIVUT BiH](#)
- Trade Union [of Civil Servants and Employees of FBiH](#)
- [Independent Trade Union of Elementary Education and Upbringing of FBiH](#)
- [Union of independent Police Trade unions of FBiH](#)
- Trade Union of Secondary and Higher Education, Upbringing, Science and Culture of BiH
- Independent Trade Union of Healthcare Workers in FBiH
- [Trade Union of Retired Workers of BiH](#)

CITUBiH was recognized as a relevant social partner to the Government of the Federation of BiH and the Federation of Employers of FBiH, participating in the work of the Economic and Social Council for the territory of the FBiH, being in charge of:

- monitoring, discussing and evaluating the impact of economic and social policy and measures of economic and social policy on development and social stability;
- considering, encouraging concluding and evaluating the application of collective agreements and, in so doing, providing information and explanations to the competent ministry;
- encouraging the peaceful resolution of collective labor disputes;
- proposing to the Government, employers and trade unions implementation of a harmonized price and salary policy;
- encouraging the idea of tripartite, bipartite and other forms of social dialogue at all levels in solving economic and social issues and problems;
- monitoring, considering and proposing possible changes of the law from the impact on economic and social development and, in this context, position of workers and employers;
- discussing draft laws, by-laws, programs and other documents from the scope of their work, submitting their views on these documents to the Government of the Federation of Bosnia and Herzegovina and the Parliament of the Federation of Bosnia and Herzegovina;
- monitoring the application of laws and exercise of rights in the field of labor and social security, proposing to competent bodies and institutions measures for implementation and promotion of these rights;
- dealing with problems of implementation of privatization process, proposing to competent institutions the possible amendments to the laws and by-laws expected to contribute to higher financial effects and employment;
- monitoring situation in the field of employment, pension and disability and health insurance and in that context leads to activities to reduce the black labor market;
- encouraging activities to increase efficiency of system of competent institutions in preventing corruption, with the aim of turning it into high risk and low - profit activity.

In 2005, the Federation of Independent Trade Unions of BiH established, together with the Federation of Trade Unions of the Republic of Srpska and the Brčko District Trade Union, the Confederation of Trade Unions of Bosnia and Herzegovina, which is a full member of the International Confederation of Trade Unions, and has the status of an observer in the European Confederation of Trade Unions.

## REPUBLIKA SRPSKA

Article 5 of the European Social Charter / Revised /, which refers to the right to organize, has been implemented in Republika Srpska through the Labour Law<sup>71</sup>, the Law on Associations and Foundations<sup>72</sup>, the Law on Inspections<sup>73</sup>, the General Collective Agreement<sup>74</sup> and the Special Collective Agreement Employees in the Field of Internal Affairs of Republika Srpska<sup>75</sup>.

Provisions of Articles 208 to 212 of the Labour Law regulate the organization of workers and employers. Under these provisions, workers have the right to organize in the trade union in their free choice, in accordance with the union's statute and rules. Also, employers have the right to organize, by their own free choice, appropriate associations of employers and join them, in accordance with the statutes and rules of those associations. These associations are established without any prior consent of any state authority. Workers or employers, freely decide on their leaving of trade unions, or employers' associations. The law prohibits employers and employers' associations when acting on their own behalf or through another person, member or representative, to interfere with the organization and work of the trade unions or to, by giving material or other support to the trade union, they control its work. Also, when acting in its own name or through another person, member or representative, it is forbidden to interfere with the organization, operation and management of the employers' association. The provision of the Article 263 of the Labour Law stipulates that supervision of application of provisions of this law, regulations adopted pursuant to this law, collective agreements and rules of procedure shall be performed by labor inspection in accordance with the law. The legal activity of trade unions and associations of employers cannot be permanently or temporarily banned.

Provisions of Articles 217-237 of the Labour Law regulate the representativeness of trade unions and employers' associations. Established representativity doesn't constitute restriction on the freedom of organization and activity of trade union and employers' associations, regardless of the fact that representative workers' and employers' associations have greater responsibilities in relation to associations which haven't achieved this status in terms of number of members and other criteria providing basis for representativeness. Criteria for representativeness are clear, legally defined and open to judicial review. Once established representativeness can be questioned after one year, if conditions are met, or criteria change.

According to provisions of Article 237 of the Labour Law, a representative trade union and a

<sup>71</sup> „The Official Gazette of Republika Srpska“ number 1/16;

<sup>72</sup> „The Official Gazette of Republika Srpska“ number 52/01 and 42/05;

<sup>73</sup> „The Official Gazette of Republika Srpska“ number 74/10; 109/12; 117/12 and 44/16;

<sup>74</sup> „The Official Gazette of Republika Srpska“ number 40/10; 35/16 and 43/16;

<sup>75</sup> „The Official Gazette of Republika Srpska“ number 66/16;

representative association of employers participate in the process of collective bargaining, peaceful resolution of labor disputes and work of tripartite bodies, its organization and action. Established representativeness neither represents restriction of the right nor an obstacle to establishing of trade unions and employers' associations. Also, the established representativeness does not limit the scope of activities of representative trade unions or other unions that did not acquire this status. Pursuant to the Article 240 of the Labour Law, the General Collective Agreement is concluded by the Government of Republika Srpska, a representative association of employers and a representative trade union established for the territory of RS. A special collective agreement for a particular area, field or sectoral is concluded by a representative association of employers and a representative trade union established for an area, field or sectoral within the territory of RS. Special collective agreements for republic administration, social activities and public services are concluded by the Government of Republika Srpska and representative trade unions for sectors and activities. Collective agreement with the employer is concluded by the employer and representative trade unions registered with the employer. Furthermore, provision of Article 241 stipulates that "If none of the trade unions or any of the employers' associations fulfill conditions of representativeness as specified by this law, trade unions or associations of employers may conclude a written agreement on association in order to fulfill conditions of representativeness, as specified by this Law and participation in concluding of collective agreement. When negotiating and concluding collective agreements, more than one trade union may appear and this has been resolved by the provision of Article 242. "(1) If conclusion of a collective agreement involves several representative trade unions or representative associations of the employer, or trade unions or associations of employers who have concluded the agreement on the association referred to in Article 241 of this Law, a committee for negotiations is formed. (2) Members of the committees referred to in paragraph 1 of this Article, shall be determined by trade unions or associations of employers, in proportion to the number of members. (3) A collective agreement involving the committee in the sense of paragraph 1 of this Article, shall be concluded by the persons authorized by that committee.

Also, the provision of Article 243 stipulates: "In the process of negotiation for the purpose of concluding a collective agreement with employer, a representative trade union is obliged to cooperate with a trade union with at least 10% members of the employees working with employer to advocate the interests of employees who are members of that trade union. When it comes to negotiating and concluding collective agreements, provision of Article 244 stipulates that "Representatives of trade unions and employers, or associations of employers, who participate in negotiations on concluding a collective agreement and, subsequently conclude a collective agreement, must be authorized by their bodies to do so.

Trade unions are registered in the trade union registry, which is prescribed and managed by the ministry in charge of labor affairs. Based on provisions of the Labour Law, workers 'and employers' organizations do not acquire legal personality, but only trade union organizations are registered with the competent ministry after their registration in the court register. Legal personality is acquired in accordance with the Law on Associations and Foundations regulating the establishment, registration, internal organization and termination of the work of associations and foundations. According to Article 2, Paragraph 1 of this Law, the association is, within the meaning of this Law, any form of voluntary association of several natural or legal persons for the purpose of preventing or for the achievement of a common or general goal, in accordance with the Constitution and law, without the purpose of attaining a profit. According to Article 9, paragraph 1, and Article 14, paragraph 1 of this Law, the association may be established by at least three natural or legal persons, and a member of association may be any natural or legal person, voluntarily acceding in the manner prescribed by the statute.

The Labour Law stipulates the penalty for misdemeanor committed by an employer if it disables or obstructs the organization of trade unions (Article 208 of the Labour Law). This offence envisages a fine of 2.000 to 12.000 convertible marks. Responsible person with the employer shall be fined in the amount of 200 to 1.200 convertible marks.

The Art. 14, 26, 56 and 60 of the Law on Inspections in Republika Srpska foresee that the inspection bodies cooperate directly with the Ministry of the Interior of Republika Srpska in accordance with the law, and that compulsory direct cooperation implies undertaking of the measures by authorized officials of the Ministry, thus enabling the inspector prevented or disabled from the exercise of supervision an unhindered inspection supervision; providing that the labor inspection undertakes tasks complying with the regulations related to: employment, work and labor relations, safety and health at work and other areas determined by regulations; providing that the inspector, based facts and circumstances established during inspection, undertakes administrative measures and actions and that, simultaneously, he may undertake several measures foreseen by this and other laws.

There are no special measures taken, such as programs, action plans, projects, etc. for implementation of legislative framework. Pursuant to provisions of Article 263 of the Labour Law, supervision over the application of legislative framework regulating the issues of organization of workers and employers is performed by the Republic Administration for Inspection Affairs through the Labour Inspectorate, in accordance with the Law on Inspections.

The trade union registry kept with the Ministry of Labour, War Veterans and Disabled Persons' Protection registers two trade union associations at the level of Republika Srpska:

- Federation of Trade Unions of Republika Srpska, and
- Confederation of Trade Unions of Republika Srpska.

The Federation of Trade Unions of Republika Srpska has 14 sectoral unions as follows:

1. Trade Union of Workers in the Metal Industry and Mineworks of Republika Srpska;
2. Trade Union of Forestry, Wood Processing and Paper of Republika Srpska,
3. Trade Union of Construction and Housing-Communal Affairs of Republika Srpska;
4. Trade Union of Textile, Leather and Footwear Industry of Republika Srpska;
5. Trade Union of Agriculture and Food Industry of Republika Srpska;
6. Trade union of trading, catering, tourism and service activities of Republika Srpska;
7. Trade Union of transport and Communications of Republic of Srpska;
8. Trade Union of workers in financial organizations of Republika Srpska;
9. Trade Union of Media and Graphic Artists of Republika Srpska;
10. Trade Union of Health and Social Protection of Republika Srpska;
11. Trade Union of Education, Science and Culture of Republika Srpska;
12. Trade Union of Internal Affairs Workers of Republika Srpska;
13. Trade Union of Judiciary Workers of Republika Srpska;
14. Trade Union of Employees of Administration Bodies of Republika Srpska.

Out of the total of 14 sectoral unions, nine sectoral trade unions are organized in the field of economy, and five in the administration and social activities.

Within the Confederation of Trade Unions of Republika Srpska there are two sectoral trade unions:

1. Trade Union of Workers in the Metal Industry and Mineworks of Republika Srpska and



2. rade Union of Workers in the Energy Sector of Republika Srpska.

Independent trade unions operating outside the two republic trade union associations, which are:

1. Independent Trade Union of Workers in Health and Social Protection Sector of RS;
2. Independent Trade Union of Infrastructure Workers Banja Luka Railways of RS Doboj;
3. Trade Association of Medical Doctors of RS Banja Luka;
4. Independent Trade Union of Secondary School Workers of RS;
5. Trade Union of Telecommunication Workers of Republika Srpska;;
6. Professional Association of Nurses and Technicians of Republika Srpska.

In addition to these trade union organizations, 1860 trade union organizations were registered in the register of the ministry.

## **BRČKO DISTRICT**

Article 5 of the European Social Charter / Revised / in Brčko District is regulated by following regulations:

- Statute of the Brčko District of BiH - consolidated text;<sup>76</sup>;
- The Brčko District Labour Law - consolidated text<sup>77</sup>;
- Law on Civil Service in the authorities of the Brčko District<sup>78</sup>;
- Law on Police Officials of Brčko District<sup>79</sup>;
- Law on safety at work and health protection in Brčko District<sup>80</sup>;
- Law on Holidays of Brčko District<sup>81</sup>;
- The Law on Salaries of Employees in the Bodies of the Brčko District Administration<sup>82</sup>;
- Rulebook on Work in Administration Bodies of Brčko District<sup>83</sup>.

### **Article 6 – The right to bargain collectively**

With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake:  
To promote joint consultation between workers and employers;  
To promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements;  
To promote the establishment and use of appropriate machinery for conciliation and voluntary

<sup>76</sup> “Official Gazette of BD” No. 2/10;

<sup>77</sup> “Official Gazette of BD” No. 19/06, 19/07, 25/08, 20/13, 31/15 and 1/15;

<sup>78</sup> “Official Gazette of BD” No. 9/14, 37/15, 48/16 and 9/17;

<sup>79</sup> “Official Gazette of BD” No. 41/07, 4/08, 36/09, 60/10;

<sup>80</sup> “Official Gazette of BD” No. 20/13;

<sup>81</sup> “Official Gazette of BD” No. 19/02;

<sup>82</sup> “Official Gazette of BD” No. 14/06, 41/06 and 3/13;

<sup>83</sup> “Official Gazette of BD” No. 17/15 and 12/17;

arbitration for the settlement of labour disputes;  
and recognise:

The right of workers and employers to collective action in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into..

## **BOSNIA AND HERZEGOVINA**

International instruments ratified by Bosnia and Herzegovina within the meaning of Article 6 of the European Social Charter / revised are:

- ILO 98 Right to Organise and Collective Bargaining Convention, 1949
- ILO 87 Freedom of Association and Protection of the Right to Organise Convention, 1948
- ILO 94 Labour Clauses (Public Contracts) Convention, 1949
- ILO 91 Paid Vacations (Seafarers) Convention (Revised), 1949
- ILO 97 Migration for Employment Convention (Revised), 1949
- ILO 135 Workers' Representatives Convention, 1971
- ILO 143 Migrant Workers (Supplementary Provisions) Convention, 1975
- ILO 144 Tripartite Consultation (International Labour Standards) Convention 1976,
- ILO 148 Working Environment (Air Pollution, Noise and Vibration) Convention, 1977
- ILO 151 Labour Relations (Public Service) Convention, 1978
- ILO 154 Collective Bargaining Convention, 1981
- ILO 155 Occupational Safety and Health Convention, 1981
- ILO 158 Termination of Employment Convention, 1982
- ILO 161 Occupational Health Services Convention, 1985
- ILO 162 Asbestos Convention, 1986
- ILO 174 Prevention of Major Industrial Accidents Convention, 1993
- ILO 175 Part-Time Work Convention, 1994
- ILO 176 Safety and Health in Mines Convention, 1995
- ILO 177 Home Work Convention 1996
- ILO 183 Maternity Protection Convention, 2000
- ILO 184 Safety and Health in Agriculture Convention, 2001
- Maritime Labour Convention, 2006, and
- ILO 187 Promotional Framework for Occupational Safety and Health Convention 2006.

The Collective Agreement has not been signed at the state level ( BiH). The Labour Law in BiH Institutions did not provide for penalties for non-compliance with provisions related to concluding of collective agreement.

## **FEDERATION BIH**

In the Federation of Bosnia and Herzegovina, Article 6 of the European Social Charter / Revised / is regulated by laws and bylaws, as follows:

- FBiH Labour Law <sup>84</sup>;
- FBiH Civil Service Law<sup>85</sup>;
- Law on salaries and compensations in the authorities of FBiH<sup>86</sup>;

<sup>84</sup> "Official Gazette of FBiH" No. 26/16;

<sup>85</sup> "Official Gazette of FBiH" No. 29/03, 23/04, 39/04, 54/04, 67/05, 08/06 and 04/12;

<sup>86</sup> "Official Gazette of FBiH" No. 45/10, 111/12 and 20/17;

- General Collective Agreement for the territory of FBiH;<sup>87</sup>;
- Collective agreement for officials of administrative bodies and judicial authorities in FBiH;<sup>88</sup>; and
- Rulebook on Procedure of Submitting and Keeping Records of Collective Agreements in FBiH<sup>89</sup>.

## **REPUBLIKA SRPSKA**

Article 6 of the European Social Charter / Revised /, which refers to the worker's right of collective bargaining, has been implemented in Republika Srpska through the Labour Law, Law on Inspections, the Law on the Peaceful Settlement of Labour Disputes<sup>90</sup>, the Law on the Strike,<sup>91</sup> General Collective Agreement and Guidelines for Republic Administration bodies on Public Participation and Consultations in Drafting Laws<sup>92</sup>, The law on Police Officials and Internal Affairs<sup>93</sup>.

## **BRČKO DISTRICT**

Article 6 of the European Social Charter / Revised / on the right to collective bargaining, in Brčko District is defined by following regulations:

- Brčko District Labour Law – consolidated text<sup>94</sup>;
- Law on Civil Service in the Authorities of the Brčko District Administration<sup>95</sup>;
- Law on Police Officials of Brčko District<sup>96</sup>;
- Law on Safety at Work and Health Protection in Brčko District<sup>97</sup>;
- The Law on Salaries of Employees in the Bodies of the Brčko District Administration<sup>98</sup>;
- Law on Strike in Brčko District<sup>99</sup>;

<sup>87</sup> „The Official Gazette of FBiH ” number 48/16 and 62/16;

<sup>88</sup> „The Official Gazette of FBiH " number 23/00, 50/00, 97/13 and 89/16;

<sup>89</sup> “Official Gazette of FBiH“ No. 76/16;

<sup>90</sup> “Official Gazette of RS” No. 91/16;

<sup>91</sup> “Official Gazette of RS” No. 111/08;

<sup>92</sup> “Official Gazette of RS” No. 123/08 and 73/12;

<sup>93</sup> “Official Gazette of RS” No 57/16 and 110/16;

<sup>94</sup> “Official Gazette of BD” No. 19/06, 19/07, 25/08, 20/13, 31/15 and 1/15;

<sup>95</sup> “Official Gazette of BD” No. 9/14, 37/15, 48/16 and 9/17;

<sup>96</sup> “Official Gazette of BD” No. 41/07, 4/08, 36/09, 60/10;

<sup>97</sup> “Official Gazette of BD” No. 20/13;

<sup>98</sup> “Official Gazette of BD” No. 14/06, 41/06 and 3/13;

<sup>99</sup> “Official Gazette of BD” No. number 3/06;

- Law on Employment and Rights during Unemployment<sup>100</sup>;
- Rulebook on Work in Administration Bodies of Brčko District 101.

The Brčko District Labour Law regulates the issue of trade union organization in Articles 5 through 8. Article 78 of the Labour Law of Brčko District prohibits dismissal of a trade union commissioner three months after his termination of office.

The Labour Law of Brčko District in Article 111 sets out the penal provisions for non-compliance with the Article 28, with the fine ranging from 1.000 to 7.000 KM.

Besides, the Labour Law of Brčko District, in addition to the trade unions, provides for organization of workers in Employee Council, enabling them to protect their labour rights. In accordance with Article 93. In accordance with the Article 93 of the Brčko District Labour Law, they can be established with employers who employ at least 15 employees.

Article 6, paragraph 1, item f) of the Law on Civil Service in Administrative Bodies of Brčko District prescribes the right of civil servants and employees to organize in trade unions. Collective agreements also represent a source of rights in the field of labour. The General Collective Agreement has not been adopted in Brčko District.

Article 44 paragraph 1 of the Law on Police Officials of Brčko District prescribes the right of a police officer to establish and become a member of the trade union or professional association in accordance with the law.

Members of the Brčko District Police participate in the work of the Association “Women Police Network”, the Brčko District Police Trade Union and IPA (International Police Association).

### **Article 6, paragraph 1 - Joint consultations between workers and employers / tripartite bodies based on equal grounds**

## **BOSNIA AND HERZEGOVINA**

Article 89 of the Labour Law in BiH institutions stipulates that the employer issues the Staff Regulations, to regulate organization of work and other issues important for both employees and the employer, in accordance with the law. Paragraph 2 of this Article explicitly stipulates that the employer shall consult the trade union on adoption of the Staff Regulations, and that visibility of this document shall be provided by its publication on the notice board of the employer, which is expressly provided for in paragraph 3 of Article 89 thereof.

## **FEDERATION BIH**

As provided earlier, the new Labour Law continues promoting the right to voluntary collective bargaining and concluding of collective agreements. Articles 137-149 deal with collective agreements, regulating these issues in a detailed and comprehensive manner.

<sup>100</sup> “Official Gazette of BD” No. 33/04, 19/07 and 25/08;

<sup>101</sup> “Official Gazette of BD” No. 17/15 and 12/17;

The novelty is the definition and regulation of representativeness of trade unions and associations of employers, as provided by provisions of Articles 122-136 of the Labour Law Zakona o radu.

Pursuant to Article 141 of the Labour Law, the collective agreement specifies rights and obligations of the parties concluding such agreement, and rights and obligations arising from employment or in connection with employment, in accordance with the law and other regulations. The Collective Agreement also regulates rules on the collective bargaining procedure, procedure of cancellation of collective agreement and the reasons and deadlines behind it, composition and activities of bodies authorized to peacefully resolve collective labour disputes.

The new Labour Law foresees establishing and functioning of Economic and Social Council for the territory of the FFBiH i.e. Cantons. In accordance with the new regulation and the existing Agreement on the Establishment of the Economic and Social Council<sup>102</sup>, the ESC FBiH has continued its work successfully, representing the most important institutionalized form of social dialogue.

In 2016, the Economic and Social Council for the territory of FBiH, held total of 10 regular sessions, 2 being continuation of already started sessions, 5 extraordinary sessions, as well as 10 college sessions. During 2016, total of 49 items on the agenda were discussed.

The laws discussed during sessions of the ESC FBiH during 2016 are as follows:

- Preliminary draft Law on Pension and Disability Insurance (with particular reference to the bases for calculating pensions and the interdependence of other laws and the one mentioned thereof);
- Preliminary draft Law on Assuming Unpaid Contributions to Pension and Disability Insurance Fund for Insured Employees of Companies with Majority State Capital, Public Enterprises and Institutions in FbiH, in the period 1 April, 1992 – 31 December 2014;
- Draft Law on Health and Safety at Work;
- Preliminary Draft Law on Forests;
- Draft Law on Amendments to the Law on Waste Management
- Draft Law on Assuming Unpaid Contributions to Pension and Disability Insurance Fund with prepared simulation;
- Preliminary Draft Law on Bankruptcy;
- Draft Law on Pension and Disability Insurance;;
- Draft Law on Amendments to the Labour Law;
- Preliminary Draft Law on Strike;
- Working darft of the Income Tax Act;
- Working draft of the Law on Contributions;;
- Amendments and Cahnges to the Income Tax Act;
- Amendments and Changes to the Law on Contributions;
- Draft Law on Amendments and Changes to the Labour Law.

Collective agreements that were discussed at the sessions of the ESC FBiH during 2016 are:

- Discussion on the General Collective Agreement for the territory of the FBiH (initialing);
- Discussing dynamics of negotiations and signing of collective bargaining agreements;
- Information related to the General Collective Agreement;

<sup>102</sup>

„Službene novine FBiH” broj 47/02, 42/03, 8/08, 13/08, 51/08;

- Agreement on adoption of the Decision on Extending the General Collective Agreement for the territory of the FBiHD; and
- Discussion on initiative to extend application of collective agreements.

Other acts that were discussed include:

- Report on the work of ESC for 2015 and implementation of ESC conclusions;
- Adoption of the 2015 Report on Financial Operations of ESC and 2016 Financial Plan of ESC; and
- Discussion on the Rulebook on Amendments to the Rulebook on Application of the Income Tax Act.

The Economic and Social Council for the territory of the FBiH held in 2015 total 4 regular sessions, 7 urgent sessions and 6 ESC Colleges. In the current year, total 22 agenda items were discussed.

The laws discussed at sessions of the ESC FBiH in 2015 are:

- Draft Labour Law;
- Preliminary Draft Law on Execution of the Budget of FBiH for 2016;
- Preliminary Draft Law on Pension and Disability Insurance;
- Preliminary Draft Law on Organizing Pension and Disability Insurance in the FBiH;
- Preliminary draft Law on Assuming Unpaid Contributions to Pension and Disability Insurance Fund for Insured Employees of Companies with Majority State Capital, Public Enterprises and Institutions in FbiH, in the period 1 April, 1992 – 31 December 2014;
- Draft Law on Safety and Health; and
- Discussion on the Draft Law on Income Tax.

The information and discussions held at sessions of the ESC FBiH in 2015 are:

- Employers' Initiative:
  - a) Request for amendment of the Regulation on the amount of annual public road fee payable on registration of motor vehicles in FBiH;
  - b) Request for amendment of Article 94, paragraph 4 of the Law on Pension and Disability Insurance and Rulebook on determining positions for which insurance period is calculated with prolonged reference period;
  - c) Initiative for amendments and changes to the Law on Accounting and Auditing in FBiH;
- Information on the negotiations on General Collective Agreement for FBiH.

The 2015 ESC financial plan was discussed among other acts.

In 2014, the Economic and Social Council for the FBiH held 4 regular sessions, 2 urgent sessions, 1 thematic session between the Government of FBiH and social partners, and 4 ESC Collegiums. During this year, total 17 agenda items were discussed.

The laws that were discussed at the sessions of the ESC of FBiH during 2014 are:

1. Draft Occupational Safety and Health Law;
2. Draft Law on Strike;
3. Draft Law on Amendments and Changes to the Law on Internal Trade;
4. Draft Law on Amendments and Changes to the Law on Public Revenue in the FBiH;
5. Law on Amendments and Changes to the Law on Tourist Associations and Promotion of Tourism in the FBiH;
6. Draft Law on Income Tax;
7. Proposal of the Law on Business Companies..

Information reviewed and discussions held during 2014 sessions of the FBiH ESC:

- Information on current state of play in economic, social and security sectors, and proposal of measures to overcome the current situation in the FBiH;
- Review of the current state of play pertaining to natural disasters in the FBiH;
- Request for participation of social partners in governance structures of social security system;
- Request for review of constitutionality of certain provisions of the Cantonal Law on Forests;
- Project Work Plan on Formalization of the Informal Economy (ILO).

Other acts that were considered include:

- 2013 ESC Activity Report and implementation of ESC conclusions;
- Adoption of the 2013 ESC Financial Report and ESC financial plan for 2014;
- Records on the presence at ESC sessions;
- Report from the 107th thematic session of the Government of the Federation of BiH;
- Reaction to Supplementary Letter of Intent to IMF, dated 13 June 2014.

## **REPUBLIKA SRPSKA**

Provisions of Articles 238 to 256 of the Labour Law regulate the issue of collective agreements relating to the following: the content and form of collective agreements; types of collective agreements; stakeholders in process of concluding of collective agreements, process of negotiation and concluding of collective agreements, application of collective agreements; the validity and termination of collective agreements, dispute resolution and registration, and public disclosure.

The law does not contain provisions specifying rights of workers (individual and collective rights) to collective bargaining, but implies this, by giving importance to collective agreements and regulating issues related to their conclusion and the application of the Labour Law. Joint consultations between workers and employers are not covered by the Labour Law but are applied in practice, when it comes to passing regulations and resolving some economic and social issues.

The Law on the peaceful resolution of labor disputes regulates the manner and procedure of peaceful resolution of individual and collective labor disputes, as peaceful resolution of labor disputes is an alternative way of resolving labor disputes between parties in dispute with participation of third parties, and includes conciliation and arbitration: in the sense of this law, a party in individual labor dispute are considered to be a worker and an employer, and the individual labor dispute is considered to be a dispute on the termination of a labor contract, etc .; the party in the collective labor dispute are considered to be the stakeholders in process of concluding of collective agreements, and collective labor dispute is considered a dispute on the conclusion, amendment, termination or application of the collective agreement, exercising of the right to trade union organization, the right to strike and other collective rights; in the sense of this law the labor disputes are considered to be individual and collective labor disputes; stakeholders in process of concluding of collective agreements may submit a proposal, jointly or individually, to the Agency for Participation of Conciliators in Collective Bargaining, with a view to providing assistance and preventing dispute.

Provision of Article 64 of the Law on Police and Home Affairs stipulates that police officers

have the right to strike, except in a state of war, a state of emergency, an emergency situation or a state of increased risk or a large-scale public danger, violent threat to democratic and constitutional order of Republika Srpska and BiH, natural disaster or imminent danger of disasters or mishaps jeopardizing the safety of people and property in the territory of Republika Srpska.

The Law on the Strike regulates the procedure of organized interruption of work in which workers can obtain protection of professional, economic and social rights. The right to strike by sectors or activities of general social interest may be exercised under special conditions prescribed thereof; in activities of special general interest or in activities termination of which could, due to the nature of the work, endanger the life and health of people or cause a large-scale damage. The right to a strike of a worker can be achieved if the special conditions determined by this law are fulfilled; of general interest within the meaning of this Law are also activities of importance for the functioning of the public administration system and the security of the Republic in accordance with the law, as well as the tasks necessary for the fulfillment of obligations established by international treaties. Workers who perform tasks within the activities referred to in Article 11 of this Law may strike if a minimum work process is provided which ensures the safety of people and property or represents indispensable condition for the lives and work of citizens. Organizing strike or participating in a strike under conditions set forth in this Law does not constitute violation of working discipline, and thus can neither provide grounds for starting a procedure for determining the disciplinary and material responsibility of the worker; nor be the basis for dismissing the worker from work and can not result in the termination of the employment contract.

Inspection supervision over the application of this law is performed by the Labour Inspectorate in accordance with the Law on Inspections in the Republic of Srpska.

The special collective agreement for employees in the field of internal affairs of Republika Srpska, in the provision of Article 60, determines that the Ministry and the trade union are obliged to take all measures in order to eliminate the causes leading to the strike, and if, in addition to the undertaken actions, a strike occurs, the employees of the Ministry of Justice exercise their right in accordance with the Law on Police and Internal Affairs, the Law on Strike and other regulations. Being general acts, the general collective agreement and collective bargaining agreements also do not contain provisions stipulating rights of workers to collective bargaining.

There are no special measures taken, such as programs, action plans, projects, and the rest for the implementation of the legislative framework. In accordance with the Law on Inspections and pursuant to provisions of Article 263 of the Labour Law, supervision over the application of legislative framework, regulating the issues of organization of workers and employers, is the task of the Republic Administration for Inspection Activities, through the Labour Inspectorate.

In Republika Srpska, Collective Agreement Register registered the General Collective Agreement, 16 sectoral and 49 individual collective agreements.

## **BRČKO DISTRICT**

Brčko District hasn't signed the General Collective Agreement for the territory of Brčko District. The Mayor of Brčko District hasn't signed collective agreement with Brčko District Trade Union.



The rights of workers to collective bargaining are guaranteed by the applicable legal regulations:

- Articles 96 to 98 of Brčko District Labour Law; and
- Labour Regulation.

The legislative framework applicable to this area in the public sector are the Civil Service Law and the Brčko District Labour Law. As for cases that are not covered by the Law on Civil Service in the authorities of the Brčko District administration, and in the private sector, provisions of the Labour Law of Brčko District apply.

Provisions of Articles 96, 97 and 98 of the Law on the Work of the Brčko District regulate the issue of concluding collective agreements. Article 98 of the said Law prescribes that the contents of collective agreement and the procedure of concluding and supplementing it, and conditions under which other issues are valid, are determined by an agreement between the parties. The only limitation is laid down in Article 97 of the same Law, which provides that the collective agreement cannot provide less favourable provisions than those provided for by law. Based on the aforesaid, it can be concluded that the Law allows and facilitates the conclusion of collective agreements, or provides for the possibility of free and voluntary collective bargaining.

Employment issues are regulated by the provisions of Brčko District Law on Employment and Rights during Unemployment<sup>103</sup>. The procedure and conditions for employment in the Brčko District administration bodies are regulated by the provisions of the Civil Service Law and the Regulations on Employment in the administration bodies, while employment in private companies, or employers not belonging to an administrative body, is regulated by the Brčko District Labour Law and the Regulations on Employment, adopted by the Employment Office of Brčko District.

Article 15 of the Law on Employment and Rights during Unemployment stipulates that the Brčko District Government shall adopt an active employment policy program in the Brčko District, and inform the Brčko District Assembly on implementation of the program once a year.

The Brčko District Employment Office undertakes all planned measures and activities for the implementation of programs, such as vocational training programs, thus providing real employment opportunities.

The right to strike in companies or bodies of the Brčko District is regulated by the Law on Strike.<sup>104</sup>

From 2012 to the end of 2016, the Labour Inspectorate carried out one control regarding the application of the Law on strike and organizing of strike by the trade union organizations.

## **Article 6, paragraph 2 - Employers 'and workers' organizations regulating their relations with collective agreement**

<sup>103</sup> "Official Gazette of BD" No. 33/04, 19/07 and 25/08;

<sup>104</sup> " The Official Gazette of Brčko District " number 3/06;

## **BOSNIA AND HERZEGOVINA**

Article 90 of the Labour Law in BiH institutions stipulates that a collective agreement may be concluded for a particular activity of one or more employers or associations of employers. When concluding a collective agreement, the employee can be represented by a union or several unions, and the employer by one or more employers or an association of employers. (paragraph 2 of Article 90).

The paragraph 3 below stipulates that if in the negotiation and conclusion of collective agreement there are more than one trade union or more employers or associations of employers, only those unions, that is, employers, who have the power of attorney from each individual trade union, can negotiate the conclusion of collective agreement. Paragraph 4 stipulates that the collective agreement is concluded in writing, and paragraph 5 prescribes the obligation to publish a collective agreement in the "Official Gazette of BiH". This ensures participation of all relevant stakeholders in the process of negotiating and concluding collective agreements, and through the obligation to publish a collective agreement in the Official Gazette of BiH, the public is provided, that is given the opportunity to be all familiar with provisions of collective agreement.

There is no collective agreement between BiH Council of Ministers and employees in institutions, that is, representatives of labor unions in BiH at the level of BiH institutions. Concrete activities were undertaken on this issue, which led to the adoption of the Law on Strike in the institutions of Bosnia and Herzegovina.<sup>105</sup> The Collective Agreement has not been signed at the BiH state level. The Law on Labour in BiH Institutions did not provide for penal measures for non-compliance with provisions stipulating conclusion of collective agreement.

Article 91 of the said Law prescribes that the collective agreement regulates the rights and obligations of signatory parties, and the rights and obligations arising from employment, or in connection with employment in accordance with the law and other regulations. The same article stipulates that the collective agreement regulates the rules on collective bargaining procedure, thus providing that collective agreement is binding on signatory or acceding parties. The collective agreement is submitted to the Council of Ministers of BiH and to the Administrative Inspectorate.

## **FEDERATION BIH**

The new Labour Law regulates the issue of collective agreements and collective bargaining. The principles remained the same, the law provided the basis for collective bargaining, but in a way that the freedom and voluntariness of negotiation were not called into question.

The novelty is the definition and regulation of representativeness of trade unions and associations of employers, as stipulated by provisions of Articles 122-236 of the Labour Law.

In accordance with Article 137 of the Law on Labour, a collective agreement can be concluded as general, sectoral and individual (with the employer). The general collective

<sup>105</sup> „The Official Gazette BiH“ number: 41/16;

agreement is concluded for the territory of the Federation, and sectoral collective agreements for the territory of the Federation or the area of one or more cantons.

In accordance with the law, the general collective agreement is concluded by representative association of employers and a representative trade union established in the territory of the Federation. A sectoral collective agreement is concluded by representative association of employers and a representative trade union of one or more areas of activity established on the territory of the Federation or the territory of one or more cantons. The sectoral collective agreements for employees in civil service bodies, judicial authorities, public institutions and other budget users are concluded by the competent ministries, i.e. the Government of the Federation and the competent ministries and cantonal governments on the one hand and representative trade unions of civil servants and state employees, public institutions and other budget users other parties on the other. The individual collective agreement is concluded between the representative trade union with the employer and the employer personally. In the process of negotiation in order to conclude the said collective agreements, representative trade union is obliged to cooperate with other unions with fewer members to advocate for interests and employees who are members of that trade union.

The Labour Law still provides for the obligation to publish collective agreements in the Official Gazette of the Federation of BiH, that is, the official gazette of cantons, and the obligation to submit collective agreements to the federal ministry responsible for labour issues or to the competent cantonal body.

The procedure for the delivery of collective agreements to the competent federal ministry is prescribed by the Rulebook on Procedure for Submitting and Record Keeping of Collective Agreements ("Official Gazette of the Federation BiH", no: 76/16). The registration of collective agreements is not a requirement for their entry into force, since it is related to its publication in the official gazette.

In accordance with the aforementioned rulebook and since its entry into force, the following collective agreements have been registered in the Federal Ministry of Labour and Social Policy:

- General Collective Agreement for the territory of the Federation of BiH<sup>106</sup>;
- Amendments and Changes to the General Collective Agreement for the territory of FBiH<sup>107</sup>;
- Collective agreement on rights and obligations of employers and workers in the Field of Metalworks in FBiH<sup>108</sup>;
- Collective agreement on rights and obligations of employers and workers in the field of transport for the territory of FBiH<sup>109</sup>;

<sup>106</sup> "Official Gazette of FBiH" No. 48/16;

<sup>107</sup> "Official Gazette of FBiH" No. 62/16;

<sup>108</sup> "Official Gazette of FBiH" No. 78/16;

<sup>109</sup> "Official Gazette of FBiH" No. 78/16;

- Framework collective agreement on rights and obligations of employers and workers in the field of municipal economy for the territory of FBiH<sup>110</sup>;
- Collective Agreement on Amendments and Changes to Collective Agreement for Officials of Administration Bodies and the Judiciary in FBiH<sup>111</sup>;
- Collective Agreement on Rights and Obligations of Employers and Workers in the Forestry Sector FBiH<sup>112</sup>;
- Collective agreement for the wood and paper industry sector in FBiH<sup>113</sup>;
- Collective agreement on rights and obligations of employers and employees in the trade sector in FBiH<sup>114</sup>.

In accordance with Article 140 of the Labour Law, a collective agreement is concluded in writing and may be concluded for a fixed term, not exceeding three years. The collective agreement shall cease to be valid by the expiration of the period for which it has been concluded and shall apply no more than 90 days after its expiration, but may be extended by agreement of the signatory parties concluded not later than 30 days before its expiration. Collective agreement may be canceled for reasons, according to the procedure and within the deadlines set by such collective agreement. Cancellation of collective agreement must be submitted to all contracting parties.

The collective agreement is binding on all signatory and acceding parties. If there is an interest on the Federation side, the Federal Minister may extend the application of the general and sectoral collective agreement to other employers who are not members of association of employers - a foreign collective agreement, deemed to have a legitimate interest in achieving economic and social policy in the Federation, in order to ensure equal conditions work. Until now no decisions have been taken on extending the application of collective agreements.

Law on Amendments to the Law on Salaries and Compensations in the Authorities of FBiH<sup>115</sup> amended Article 5, so it is stipulated that the basis for calculation of salaries is determined by the law, or by decision of municipal and city council on execution of the budget for each budget year or decision on temporary financing, and applies as of 01 January for each subsequent year.

Determining the base and points is done in negotiations with a representative trade union, and before adoption of the law or decision in terms of this Article. Unless an agreement is reached, the Government of the FBiH, the cantonal governments, that is, the city and municipal councils will determine the base and the point, where the amount of the base can not be lower than the one previously agreed, i.e. the one in force.

<sup>110</sup> "Official Gazette of FBiH" No. 79/16;

<sup>111</sup> "Official Gazette of FBiH" No. 89/16;

<sup>112</sup> "Official Gazette of FBiH" No. 93/16;

<sup>113</sup> "Official Gazette of FBiH" No. 99/16;

<sup>114</sup> "Official Gazette of FBiH" No. 54/17;

<sup>115</sup> "Official Gazette of FBiH" No. 20/17;

## **REPUBLIKA SRPSKA**

In accordance with the Guidelines for Republic Administration Bodies on Public Participation in Law Drafting, each proposer is obliged to determine whether the proposed law is of interest to the public. The public or interested parties, in terms of the point 2 of the Guidelines, are primarily considered to be the employers 'associations and workers' associations, that is, trade unions as well as non-governmental organizations established to protect the interests of workers who have suffered abuse. In the preparation and drafting of this law, representatives of the employers 'and trade unions' associations can participate as members of the working group, thus providing consultations with interested parties because their opinions and suggestions are incorporated into the contents, since they advocate the interests and represent employers and workers, as stipulated in point 12 entitled „Guideline as a way of public participation in consultations“. A draft version of the law is available to the public on the proposer's website in order to collect remarks and suggestions on its contents, as made by the citizens and the non-governmental sector.

The general collective agreement and sectoral agreements as general acts also do not constitute provisions stipulating rights of workers to collective bargaining, but contain provisions redefining specific employment conditions that a worker must fulfill when concluding a labor contract.

There are no special measures taken, such as programs, action plans, projects, etc. for implementation of the legislative framework. Pursuant to the provisions of Article 263 of the Labour Law, supervision over the application of legislative framework regulating the issues of organization of workers and employers is performed by the Republic Administration for Inspection Affairs through the Labour Inspectorate, in accordance with the Law on Inspections.

In Republika Srpska, the General Collective Agreement applies to all employees and all employers. Out of the 16 sectoral collective agreements, five collective bargaining agreements are contracts concluded in the public sector. Out of the 49 individual collective agreements, 10 of them refer to the public sector..

## **BRČKO DISTRICT**

The Brčko District Government did not sign a collective agreement with workers' representatives or trade unions..

Brčko District has not signed the General Collective Agreement for the territory of the Brčko District.

### **Article 6, paragraph 3 - Conciliation, mediation and / or arbitration procedures**

## **BOSNIA AND HERZEGOVINA**

The legislative framework for resolving labor disputes through arbitration is ensured by provisions of Article 84 of the Labour Law in the institutions of BiH, which provides the possibility for a particular labor dispute between the employer and the employee to be subject to arbitration. Other issues related to arbitration are not regulated by the mentioned Labour Law, but by special regulations, an enactment of the employer or an agreement regulating the

composition, procedure and other issues important for the work of arbitration, and may be regulated by a special act or enactment of the employer and employees. These enactments regulate the issues of labor disputes that may be subject to arbitration, composition of the arbitration, the procedure, the decision-making method, and all other issues of importance for the formation and operation of arbitration. Some of the issues related to this area have been resolved through provisions of the Law on Strike ("Official Gazette of BiH" No. 41/16), as stated in Articles 9 and 10, respectively: After the strike is announced in accordance with provisions of this law, the organizer of the strike and the employer should try to resolve the dispute amicably.

If in the direct negotiations, in accordance with provisions of Article 9 of this Law, the dispute has not been resolved, the employee and the employer must entrust the resolution of dispute to the special council for peaceful settlement of the dispute.

The Council for Peaceful Resolution of Disputes appoints a strike committee, on the one hand, and the employer, on the other hand, for each individual dispute between the employee and the employer and has an equal number of the employer and the employee representatives.

Within seven days from the date of appointment, the Council for peaceful settlement of the dispute is obliged to submit a motion for peaceful settlement of the dispute to the disputing parties, or state that the peaceful settlement has failed. Within three days from the date of delivery, parties to the dispute shall be obliged to consider whether they accept or do not accept the proposal of the council for peaceful resolution of labour disputes.

If parties to the dispute accept the proposal of the council for peaceful resolution of labour disputes, referred to in paragraph (4) of this Article, it then becomes binding for both employees and employers.

## **FEDERATION BIH**

The new Labour Law continues to retain the institutes of the Peace Council and arbitration as a way of resolving collective labor disputes..

The reconciliation procedure is regulated by the provisions of Articles 150-153. Labour Law, which in principle identifies this institute in an identical manner in relation to the provisions of the previous regulation. The difference is only in the period of validity of the List for the election of members for the Peace Council which, according to the valid regulation is four years, in relation to the previous two year deadline.

Arbitration is regulated by provisions of Articles 154 and 155 of the Labour Law in the same manner as in the previous regulation.

Since the practice did not show often the mentioned institutes of peaceful settlement of disputes, the Labour Law stipulates that these provisions will cease to be valid with the adoption of a special regulation on peaceful resolution of labor disputes. Accordingly, the Draft Law on Peaceful Settlement of Labour Disputes which is now in the procedure of adoption, aims to regulate this area more comprehensively and make the use of peaceful ways of resolving disputes more acceptable to the parties to the dispute, thus reducing the number of litigations..

The Collective Agreement on Amendments to the Collective Agreement for Civil Servants and Judicial Authorities in FBiH envisages an amendment to Article 48 in such a way that the costs of arbitration procedure (compensation for the work of the members of the Arbitration Panel), in the amount agreed jointly by the head of the civil service body and the representatives of the Trade Union, by mutual agreement with the members of the Arbitration Council, are jointly paid out from the funds of the trade union and the budget. The administrative and technical tasks for the Arbitration Council will be provided by the competent labor ministries.

## **REPUBLIKA SRPSKA**

The provision of Article 254 of the Labour Law prescribes that the disputed issues in the application of collective agreements are settled in accordance with the regulation on the peaceful resolution of labor disputes. The Law on the peaceful resolution of labor disputes regulates the manner and procedure for peaceful resolution of individual and collective labor disputes, the choice, rights and obligations of conciliators and arbitrators, as well as the way of establishing of a body for peaceful resolution of labor disputes, and other issues of importance for the peaceful resolution of labor disputes.

According to this Law, labor disputes are considered as individual and collective labor disputes. Individual labor disputes, for the purposes of this Law, are considered to be a dispute on the termination of the employment contract, the offer and conclusion of a contract of employment under changed circumstances, non-payment of wages and compensation for at least three months, pecuniary damage and severance pays. Collective labor dispute, for the purposes of this law, is considered to be a dispute on the conclusion, amendment, termination or application of a collective agreement, the exercise of the right to trade union organization, strike and other collective rights. Peaceful resolution of labor disputes is an alternative way of resolving labor disputes between parties in the labor dispute, with the involvement of third parties, which includes conciliation and arbitration. The parties to the labor dispute voluntarily decide on the approach to a peaceful resolution of the labor dispute, unless otherwise provided by this law. The parties to the labor dispute shall be appointed by the conciliators and arbitrators from the Directory of Conciliators and Arbitrators (hereinafter referred to as the Directory) in order to resolve the labor disputes peacefully. In the process of peaceful resolution of labor dispute, parties to the dispute, conciliators and arbitrators, or bodies for peaceful settlement of collective disputes in accordance with this Law. The Government of Republika Srpska established the Agency for the Peaceful Resolution of Labour Disputes, in order to handle tasks related to a peaceful resolution of labor disputes.

The Agency for the Peaceful Resolution of Labour Disputes shall submit reports on its work and work plans to the Government of Republika Srpska as its founder, for adoption in accordance with the Law on the Public Service System..

Article 5 of the Law on the Peaceful Resolution of Labour Disputes envisages, among other things, that the Agency for peaceful resolution carries out professional tasks related to education and professional development of conciliators and arbiters, and records on the procedures for peaceful settlement of labor disputes..

The Agency for the Peaceful Resolution of Labour Disputes of Republika Srpska became operational on 1 June 2010.

From 01 January 2013 until 31 December 2013, total 190 cases were received, out of which 186 relate to individual and 4 to collective labor disputes. In that year, 186 individual disputes were resolved as follows: 108 agreements, 56 suspensions, 16 rejected and 6 rejected requests due to lack of jurisdiction. Four collective disputes were resolved, with three agreements reached and one dispute suspended.

From 01 January 2014 to 31 December 2014 total 676 cases were received, out of which 664 referred to individual and 12 to collective labor disputes. In the same year, 676 individual disputes were resolved as follows: 564 agreements, 93 suspensions, 1 suspension, 10 rejected and 8 rejected requests due to lack of competence. Twelve collective disputes were resolved, resulting in nine agreements and three suspensions.

From 01 January 2015 to 31 December 2015 total of 1806 cases were received, out of which 1783 referred to individual and 23 to collective labor disputes. In the same year, 1784 individual cases were resolved: 1586 agreements, 193 suspensions, 1 suspension, 2 rejected and 2 rejected requests due to lack of competence. Twenty-three collective agreements were resolved, resulting in nine agreements and fourteen suspensions.

From 01 January 2016 until 31 December 2016 total 6765 cases were received, out of which 6729 referred to individual and 36 to collective labor disputes. In the same year 6549 individual cases were resolved, namely: 1792 agreements, 4593 suspensions, 47 interruptions, 38 rejected and 79 rejected requests due to lack of competence. Thirty-six collective disputes were resolved as follows: twenty-two agreements, thirteen suspensions and one rejected.

## **BRČKO DISTRICT**

Articles 99 to 103 of the Brčko District Labour Law stipulate the mediation and arbitration. When resolving the dispute, the Peace Council is formed, whose decisions can be accepted and binding for both parties to the dispute; shall they not be accepted, solution will be sought before an authorized court..

Disputes can also be resolved by arbitration. When appointing arbitrators and arbitration councils, the arbitration is conditioned by collective contract, which has not been signed in Brčko District.

The peaceful resolution of collective labour disputes is regulated by provisions of Articles 99, 100 and 101 of the Labour Law of Brčko District, whereas the arbitration is regulated by the Articles 102 and 103 thereof.

### **Article 6, paragraph 4 - The right to strike- by law or by case law**

## **BOSNIA AND HERZEGOVINA**

The Law on Strike of Employees in BiH Institutions BiH<sup>116</sup> regulates the right to strike, the

<sup>116</sup> "Official Gazette of BiH" No. 41/16;



procedure, conditions and manner of organizing the strike, as well as the rights and obligations of employees and employers during a strike in the institutions of Bosnia and Herzegovina.

The right to strike is also regulated by the Labour Law in Institutions of BiH.<sup>117</sup>

In BiH, workers are granted the right to strike. This right is regulated by laws that have been adopted at all levels of state organization. The aforementioned laws regulate the rights of employees to strike, the right of the trade unions to call for a strike, the right of an employer to exclude an employee from employment and other issues related to the strike. The union has the right to call for a strike and organize it for the purpose of protecting and exercising economic and social rights and interests of its members. A strike can be organized only in accordance with the applicable legal regulations, the rules of trade union on strike and collective agreements. Employees freely decide on their participation in the strike.

Article 95 of the Labour Law in BiH institutions stipulates that every representative trade union is entitled, in accordance with the law on strike and other regulations in force, to call for strike and implement it with the objectives of protecting and exercising economic and social rights and interests of employees, when:

- the issue in question is addressed to the employer;
- the period of 15 days has elapsed since day the employer was addressed the issue;
- there has been no resolution of the issue to that day;
- the employer was given a written notice on beginning of the strike, no later than 48 hours in advance.

Article 96 of the said law stipulates that, exceptionally from Article 95, an employee can not participate in a strike when:

- it is an employee with whom an agreement has been reached to resolve the dispute with arbitration;
- it is an employee who is employed in basic or maintenance services..

The employer determines his basic and maintenance services after consulting with representative trade unions. Participating in a strike, an employee does not breach official duty, nor can he be placed in a more unfavorable position than other employees for organizing or participating in a strike. An employee can not be compelled to participate in a strike in any way (Article 97).

Paragraph 4 of Article 97 stipulates that if an employee behaves contrary to Article 96, paragraph 1, which implies he is taking part in a strike, although an agreement has been reached with him to settle the issue in arbitration, or it is an employee employed in a basic or maintenance services and so, deliberately or by gross negligence, inflicts damage on the employer, constitutes a serious violation of official duty based on which can the contract of employment be terminated, without respect for the termination notice period in accordance with this law, and is obliged to settle the the total amount of damage caused to the employer.

## **FEDERATION BIH**

The new Labour Law still guarantees the right of workers to strike Article 156 which stipulates that the Trade Union has the right to call a strike and implement it for the purpose of protecting and exercising economic and social rights and the interests of its members. A strike can be organized only in accordance with the Law on Strike, the union's strike rules and the collective agreement..

Article 157 of this law provides for the protection of the workers, participants in the strike, in a manner prohibiting the placing of workers in a more unfavorable position than other workers for organizing or participating in it. Penal provisions foresee a fine of BAM 1,000.00 to 3,000.00 and, in a repeated offence, a fine of BAM 5,000.00 to 10,000.00 for an employer-legal entity if placed in an unfavorable position of the employee for organizing or participating in the strike. Penalty for the employer-natural person as well as the responsible person with the employer in the capacity of legal entity, ranging between BAM 2.000,00 KM and BAM 5.000,00.

Provisions of the Law on the Strike<sup>118</sup> did not change over the reporting period, so the conditions for organizing and conducting the strike are still the same. However, the Draft Law on the Strike is currently in the procedure and, upon consultations with social partners, it aims to adopt a regulation that will further specify the area in question and eliminate all possible obstacles for the lawful organization of the strike, as well as to encourage trade unions and employers to peacefully resolve the dispute and avoid the organization of a strike.

## **REPUBLIKA SRPSKA**

The right to collective action of workers is guaranteed by the Constitution of Republika Srpska. Article 258 of the Labour Law stipulates that workers have the right to strike in accordance with a special law. This law is the Law on the Strike, which regulates the process of organized interruption of work, in which workers can realize protection of professional, economic and social rights. This law defines a strike as an organized interruption of work, which can be organized in the company, also established with another legal and natural person. A strike can be organized in a sector or activity, or as a general strike for the territory of Republika Srpska. A strike can also be organized as a warning strike, which can last no longer than one hour.

Furthermore, the Law regulates that workers freely decide on participation in the strike. The employer can not prevent workers from organizing a strike and participating in it, nor use threats and coercion to end the strike, and allow higher wages or other more favorable working conditions for workers who do not participate in the strike on grounds of non-participation. However, the workers in sectors or specific activities of general interest, can exercise the right to strike under specially prescribed conditions.

Article 11 of the Law on Strike regulates the issue of strikes in activities of general interest. According to this provision in activities of general interest or in an activity whose termination

<sup>118</sup> "Official Gazette of FBiH" No. 14/00;

could endanger the life and health of people or cause a large scale damage, the right to strike may be exercised if the special conditions laid down by this Law are fulfilled..

Activities in the sense of paragraph 1 of this Article are activities performed by the employer in the field of: electric power; water supply; railway traffic; air traffic and air traffic control; public radio broadcasting services; postal traffic; communal activities; fire protection; health and veterinary protection and social care for children and social protection. For the purpose of this Law, the activities of importance for the functioning of the public administration system and the security of the Republic in accordance with the law, as well as the activities necessary for the fulfillment of obligations established by international agreements in the abovementioned activities, are of general interest.

The labor legislation of Republika Srpska does not regulate the issue of collective action by employers..

There are no special measures taken, such as programs, action plans, projects, etc. for implementation of the legislative framework. Pursuant to the provisions of Article 263 of the Labour Law, supervision over the application of the legislative framework regulating the issues of organizing a strike is carried out in accordance with the Law on Inspections by the Republic Administration for Inspection Affairs through the Labour Inspectorate.

In the beginning of 2013, four RS trade unions in the field of public administration went on strike in Republika Srpska: education; judiciary; administration and internal affairs. The union of Republika Srpska's syndicates organized a strike regarding the adoption of the new Labour Law December in 2015.

## **BRČKO DISTRICT**

The right to strike of employees in companies or bodies of the Brčko District is regulated by the Law on Strike<sup>119</sup>, which prescribes the rights of employees to exercise their constitutional right to strike in Brčko District in order to protect their economic and social rights.

From 2012 throughout the end of 2016, the Labour Inspectorate performed one control of application of the Law on strike and organization of strike by the trade union organization.

There were no strikes in the Brčko District Police for the reference period covered by this report.

## **Article 21 – The right to information and consultation**

With a view to ensuring the effective exercise of the right of workers to be informed and consulted within the undertaking, the Parties undertake to adopt or encourage measures
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enabling workers or their representatives, in accordance with national legislation and practice:

To be informed regularly or at the appropriate time and in a comprehensible way about the economic and financial situation of the undertaking employing them, on the understanding that the disclosure of certain information which could be prejudicial to the undertaking may be refused or subject to confidentiality; and

To be consulted in good time on proposed decisions which could substantially affect the interests of workers, particularly on those decisions which could have an important impact on the employment situation in the undertaking.

## **BOSNIA AND HERZEGOVINA**

International instruments ratified by Bosnia and Herzegovina within the meaning of Article 21 of the European Social Charter / revised are as follows:

- ILO Convention No. 98 on the Right to Organize and Collective Bargaining, 1949,
- ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organize, 1948,
- ILO Convention No. 158 on Termination of Employment, 1982,
- ILO Convention No. 161 on Occupational Health Services, 1985,
- ILO Convention No. 174 on the Prevention of Major Industrial Accidents, 1993,
- ILO Convention No. 175 on part-time work, from 1994,
- ILO Convention No. 176 on Safety and Health in Mines, 1995, and
- ILO Convention No. 184 on Safety and Health in Agriculture, 2001..

Article 4 of the Law on Freedom of Access to Information in BiH<sup>120</sup>, regulates the right of access to information, stating that a natural and legal person have the right to access information that is under control of a public authority, whereas each public authority has a corresponding obligation to publish such information.

Article 19 of the Labour Law in the Institutions of BiH stipulates that each public authority shall appoint an information officer to processes requests made in accordance with the respective law.

Article 89, paragraph 2 of the Labour Law in BiH institutions provides for the right on consultation between the employer and a trade union, when adopting a work regulations.

Article 94, paragraph (1), item a) of the Labour Law in the Institutions of BiH provides for the right of a representative of the trade union to be consulted prior to adoption of a general act on the working status and salaries of its members..

Article 20 of the Rulebooks on Conduct and Disciplinary Policy of Police Officers regulates the lawfulness of the police officers' remarks, stating that the police officer has the right to be temporarily informed of the charge of violation of his official duty and evidence as well as the right to respond in writing to the charge or to have his or her statement in writing.

Article 4 of the Law on Freedom of Access to Information<sup>121</sup> stipulates that every natural or legal person has the right to access information that is under the control of public authority, whereas each public authority has a corresponding obligation to publish such information. The competent public authority will determine the exceptions under which it is reasonably established that the requested information includes personal interests related to the privacy of a third party (Article 8).

Article 23 of the said Law stipulates that every applicant has the right to file an appeal in the administrative procedure on any decision made in terms of the Law on Freedom of Access to Information, to the head of the public body that made the decision. This right should be considered and appreciated solely through the application of the Labour Law in BiH institutions, that is, through the fact that this law is applied to institutions and bodies of BiH, employees in institutions that are explicitly excluded from the Civil Service Law in BiH institutions, employees who are employed in public enterprises of BiH, legal entities founded by BiH institutions, associations and foundations of BiH, inter-entity corporations and other institutions for exercising additional competencies in BiH, unless otherwise determined by other law, as well as for civil servants, unless it is contrary to the Law on State services in the institutions of BiH, as stipulated by the Article 1 of the Labour Law in BiH institutions.

The right of workers to information and consultation in the enterprise is provided in institutions in different ways. One of the basic principles of work of all institutions is transparency, which is provided not only through the application of the Labour Law, but through the series of other laws and bylaws. All acts adopted by the BiH Council of Ministers are public and being published in the "Official Gazette of BiH", as official means of communication, including the web portals of institutions. This also applies to economic indicators, as well as through reports on the operation of institutions that are available on the web. old members of the institution, and audit reports on the website of the Audit Office of institutions.

Timely consultation is ensured through series of laws and by-laws, so that, for example, through the application of the Rules for consultation in the drafting of legal regulations, all stakeholders, employees, as well as all interested parties, can give their suggestions and objections to legal acts that are in the process of public consultations, which are binding for all institutions. Also, Decisions on the interests of workers shall be published on the Ministry's notice board, or forwarded to the organizational units for further action in terms of communicating them to employees, whereas each decision contains a legal remedz clause, thus protecting the right of workers from inadvertent or deliberate abuses.

## **FEDERATION OF BOSNIA AND HERZEGOVINA**

Article 21 of the European Social Charter / Revised /, in the Federation of Bosnia and Herzegovina is regulated by the Labour Law, the Civil Service Law in FBiH and the General Collective Agreement for the territory of the Federation of Bosnia and Herzegovina.

The new Labour Law regulates the participation of workers in decision-making through the Employee Council. Article 119 of the same law establishes the right of an employee, working with an employer sponsoring at least 30 workers, to form an employee council, to represent

<sup>121</sup> "Official Gazette of BiH" No. 28/00 45/06, 102/09, 62/11 and 100/13;

them in protection of their rights and interests. If the Employee Council has not been formed with the employer, the trade union has obligations and powers relating to the powers of the Employee Council thereof. In accordance with Article 120 of the Labour Law, the Employee Council is formed on the proposal of a representative trade union or at least 20% of employees employed by the employer. The manner and procedure for establishing of the Employee Council, as well as other issues related to the work and activities of the Employee Council, are regulated by a separate Law on Employees' Council.

The Labour Law provides that an employer who has more than 30 workers employed and who intends to cancel a contract of employment for at least five workers, over a period of three months, for economic, technical or organizational reasons, such employer is obliged to consult the Employee Council and the Trade Union. Also, the law provides for the obligation to consult with the trade union or the employee council, when adopting a labour regulations.

The Labour Law stipulates the duty of the employer to enable the worker to become familiar with regulations related to employment and occupational safety and health, and regulations defining the organization of work..

The Law on Employees' Councils did not change over the reporting period.

## **REPUBLIKA SRPSKA**

Article 21 of the European Social Charter / revised /, which relates to the right to information consultation, has been implemented in Republika Srpska through the Labour Law, the Inspection Act, the Law on Workers' Advice, the Occupational Safety and Health Act<sup>122</sup> and the General Collective Agreement.

The Labour Law does not contain provisions that stipulate the obligation to inform and consult workers. There is only the obligation to consult the unions when it comes to the adoption of the labour regulations and the redundancy of workers (Article 3, paragraph 5 and Article 163). A number of provisions contain the Law on Workers' Advice, which regulates the manner and procedure for the establishment of workers' councils with the employer, which the employer is obliged to inform about the state of protection at work and working conditions, the movement of salaries and other issues of importance for the material and social position of workers). When making decisions, the employer is obliged to consider the opinions and suggestions of the council, and if not accepting them, he is obliged to inform the council in a timely manner about the reasons for non-acceptance.

Pursuant to Article 15, paragraph 1, item v) of the Law on Protection at Work, the employer is obliged, inter alia, to: inform workers and their representatives about the introduction of new technologies and means of work, as well as the dangers of injury and damage to health resulting from their introduction or, in such cases, issue appropriate safe work instructions.

In Article 26, The Law on Council of Workers records the obligations of the employer regarding the workers' councils in terms of certain information on employment, where "the Council has the right to give opinion and suggestions to the employer in order to improve the

working conditions and safety at work, daily meals, transport and work, providing of material assistance to workers with a weaker material condition, as well as in cases of termination of employment contracts for older and disabled persons, introducing overtime work, night work and shift work, eliminating blackmail and other issues that advice is considered important for the exercise and protection of workers' rights. The council monitors fulfillment of legal obligations of the employer in relation to the registration of workers for health, pension and disability insurance and regular payment of contributions on those grounds, and if identifies that the employer fails to execute such obligations, it may undertake necessary measures to protect the rights of the worker (address the issue to the competent Labour Inspectorate, etc.). The Council may consider individual requests and proposals of workers regarding the exercise of their rights, on which they will give their opinion to the employer and inform the applicants thereof.“

Article 29 of the Law on Councils stipulates that the employer is obliged to inform the council about the state of protection at work and working conditions, the movement of salaries and other issues of importance for material and social position of workers, also representing aspects of employment.

In the Article 55, The General Collective Agreement stipulates that the employer is obliged to inform the employees, i.e. their representatives about the rights, duties and responsibilities, in particular from the Labour Law and Collective Agreement, wages, working conditions, the manner of protection of workers' rights, general situation and prospects and activities of the employer, as well as plans for future development, employment perspectives, working conditions and job safety. Furthermore, the employer is obliged to inform the employee about all activities related to determining of cessation of the need for workers, and inform each employee personally about the possibilities for solving his employment status. However, the trade union has the right to require from the employer additional information significant for exercise of employee rights, other than the information representing the business secret of the employer.

There are no special measures taken, such as programs, action plans, projects, and the rest for the implementation of the legislative framework. Pursuant to the provisions of Article 263 of the Labour Law, supervision over the application of the legislative framework regulating information and consultation issues is performed in accordance with the Law on Inspections by the Republic Administration for Inspection Affairs through the Labour Inspectorate.

All employees in Republika Srpska have the right to information and consultation provided for by the Labour Law, the Law on Protection and the General Collective Agreement. However, the information that employees receive through employee advice can not have employees in the police, judiciary and administration, because they have no right to establish a worker's advice.

## **BRČKO DISTRICT BIH**

In Brčko District, Article 21 of the European Social Charter / Revised / is regulated by the following regulations:

- Statute of the Brčko District of BiH - consolidated text;<sup>123</sup>;
- Brčko District Labour Law - consolidated text<sup>124</sup>;
- Law on Civil Service in the Authorities of the Brčko District<sup>125</sup>;
- Law on Police Officials of Brčko District<sup>126</sup>;
- The Law on Occupational Safety and Health Protection of Workers at Deployed in the Brčko District<sup>127</sup>;
- Law on Salaries of Employees in the Bodies of the Brčko District Administration 128;
- Labour Regulation for the Employed with Authorities of Brčko District administration 129.

Articles 17 and 18 of the Brčko District Statute have established the principle of the right to information and the obligation of the institution to respond to the request of a person for providing information in accordance with the law. In order to implement this principle, appropriate legal and subordinate solutions and provisions from the acts of private legal entities are envisaged.

Article 92, paragraphs 1 and 4 of the Law on the Work of the Brčko District, stipulate the duty of an employer sponsoring more than 15 employees to issue and publish on the billboard of the employer a rulebook regulating salaries, organization of work and other issues important for the relationship between employees and the employer, in accordance with the law and collective agreement, which enters into force on the eighth day from the date of publication.

Regarding the issue related to the obligation to inform the employees, we note that Article 39, paragraph 5 of the Law on the Work of the Brčko District, establishes the duty of the employer to enable the employee to become familiar with the regulations on labour relations and regulations in the field of occupational protection within 30 days from the day the employee starts the employment.

Articles 78, 83, 84, 92, paragraphs 2 and 4, Article 93, Article 94 and Article 95 thereof, determine the duty of the employer to consult with the trade union (in case of termination of the employment contract of the trade union commissioner) , The Employee Council (in case of dismissal of employees due to economic, technical or organizational reasons), and the obligation to form a Council of employees, to represent them before the employer in protection of their rights and interests.

Articles 44, 45, 46, 47, 48, the Law on Safety and Health Protection of Workers at the Brčko District define the obligations of the employer.

<sup>123</sup> "Official Gazette of BD" No. 2/10;

<sup>124</sup> "Official Gazette of BD" No. 19/06, 19/07, 25/08, 20/13, 31/15 and 1/15;

<sup>125</sup> "Official Gazette of BD" No. 9/14, 37/15, 48/16 and 9/17;

<sup>126</sup> "Official Gazette of BD" No. 41/07, 4/08, 36/09, 60/10;

<sup>127</sup> "Official Gazette of BD" No. 20/13;

<sup>128</sup> "Official Gazette of BD" No. 14/06, 41/06 and 3/13;

<sup>129</sup> "Official Gazette of BD" No. 17/15 and 12/17;



The Rulebook on Internal Organization and Systematization of the Policies of the Brčko District, prescribes the entire organizational structure of the Brčko District Police, all working positions, job descriptions, all duties and responsibilities, and also relates to ongoing cooperation between organizational units and employees within the organizational units.

### **Article 22 - Right of workers to take part in the determination and improvement of the working conditions and working environment**

With a view to ensuring the effective exercise of the right of workers to take part in the determination and improvement of the working conditions and working environment in the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice, to contribute:

- To determination and the improvement of the working conditions, work organisation and working environment;
- To protection of health and safety within the undertaking;
- To organisation of social and socio-cultural services and facilities within the undertaking;
- To supervision of the observance of regulations on these matters.

### **BOSNIA AND HERZEGOVINA**

International instruments ratified by Bosnia and Herzegovina in terms of the Article 22 of the European Social Charter / revised are as follows:

- ILO 13 White Led (Painting Convention), 1921
- ILO 14 Weekly Rest (Industry) Convention, 1921
- ILO 81 Labour Inspectorate Convention, 1947
- ILO 106 Weekly Rest (Commerce and Offices) Convention, 1957,
- ILO 119 Guarding of Machinery Convention, 1963
- ILO 129 Labour Inspectorate (Agriculture) Convention, 1969
- ILO 131 Minimum Wage Fixing, 1970
- ILO 132 Holidays with Pay Convention (Revised), 1970
- ILO 135 Workers' Representatives Convention, 1971
- ILO 136 Benzene Convention, 1971
- ILO 139 Occupational Cancer Convention, 1974
- ILO 144 Tripartite Consultation (International Labour Standards) Convention 1976,
- ILO 151 Labour Relations (Public Service) Convention, 1978,
- ILO 154 Collective Bargaining Convention, 1981
- ILO 155 Occupational Safety and Health Convention, 1981
- ILO 158 Termination of Employment Convention, 1982
- ILO 161 Occupational Health Services Convention, 1985
- ILO 162 Asbestos Convention, 1986
- ILO 174 Prevention of Major Industrial Accidents Convention, 1993
- ILO 175 Part-Time Work Convention, 1994
- ILO 176 Safety and Health in Mines Convention, 1995

- ILO 177 Home Work Convention 1996
- ILO 183 Maternity Protection Convention, 2000
- ILO 184 Safety and Health in Agriculture Convention, 2001
- ILO 187 Promotional Framework for Occupational Safety and Health Convention 2006.,
- Maritime Labour Convention, 2006, and
- ILO 188 Work in Fishing Convention 2007

The Law on Police Officials of BiH<sup>130</sup>, more precisely, its Article 97 defines the work under the special conditions, as follows:

1. A police officer is obliged to work under special conditions in cases where such conditions are necessary for the execution of the tasks of the police authority;
2. Special conditions shall be deemed as follows: work on an emergency schedule, two-hour shift work, shift work, work on Saturdays, Sundays and holidays and other days of free time, work at night and work in certain locations;
3. Other modes of operation under special conditions may be determined if a security situation requires it or if it is the only way to perform certain tasks that can not be delayed or must be completed within a specified time limit;
4. The responsible manager shall specify in more detail the reasons from which other modes of operation under the special conditions referred to in paragraph 3 of this Article may be determined, and may authorize other police officers working in managerial positions to do so;
5. For the tasks referred to in paragraph (2) of this Article, police officers shall be entitled to compensation in cash or in free time. At the proposal of the manager, the Minister will determine the method of payment and the amount of these fees by a by-law.

- The specific working conditions and the manner of exercising certain rights of police officers are also regulated by the Law on Work in the Institutions of BiH, as follows:
  - Article 30 to Article 31, Absence from work;
  - Article 32 to Article 33, Protection of employees;
  - Article 34 to Article 43, Protection of motherhood;
  - Article 44 to 48, Protection of employees temporarily or permanently incapable of work..

Provisions of the Labour Law in the institutions of BiH (Article 89), stipulate that the employer adopts a labor regulations that specify organization of work and other issues important for the employee and the employer, in accordance with the law, and the employees are allowed to participate in the determination and improvement of working conditions and work environment in, a way that in the process of adopting regulations defining the organization of work and other issues of importance to employees, they are adopted in consultation with the trade union. Additionally, participation in determining and improving the working conditions and work environment is provided through informing employees of the contents of all acts in adoption procedure, as well as the adopted acts by publicizing them on the company's, i.e. employer's notice boards, web pages or the official gazette, in accordance with the law. As for the issues regarding the health protection and occupational safety within institutions, i.e. enterprises, as well as organization of social and socio-cultural services, and the supervision over the compliance with regulations in these matters, the entity's regulations are applied, according to the place of residence of the employee. In the

part relating to the penal provisions, The Labour Law in Institutions of BiH does not provide for penalties for non-adoption of the Labour Regulations.

## **FEDERATION BIH**

In the FBiH, the Law on Protection at Work is still in force. The Law on Occupational Safety and Protection at Work is still in the form of Draft, so there were no changes over the reporting period in terms of this legal regulation.

Article 68 of the Collective Agreement for Civil Servants and Judicial Authorities of the FBiH provides that, in implementation of occupational safety measures and protection of the rights of civil servants and employees, the Trade Union has the right and obligation in respect of:

- participation in the planning of measures for improvement of working conditions,
- information on changes relevant to the safety and health of employees,
- training and education for performing work related to occupational safety,
- invitations of occupational safety inspectors when there are reasons for this,
- requiring employees to comply with occupational safety measures.

Article 103 of the Labour Law stipulates the necessary consent of the competent federal labour ministry for dismissal of the union commissioner during his terms of office and six months after its termination. The Trade Union Commissioner is protected against dismissal, but also from other ways of placing him in an unfavourable manner, in relation to the position before being appointed a trade union commissioner. For the purpose of this Article, the trade union commissioner is a worker who is an authorized representative of a trade union organized with the employer in accordance with the regulations detailing organization and functioning of trade unions. Shall the competent ministry deny such consent, the employer may, within 30 days from the date of delivery of such a decision, request that the consent is replaced by a court decision.

The Collective Agreement on Amendments to the Collective Agreement for Civil Servants and Judicial Authorities in FBiH stipulates that a trade union commissioner or another person who professionally performs a duty in the Trade Union has the right after the expiry of the mandate, if not reappointed, to return to the state body service, to the his or her place of work or other position for which he/she meets the requirements in terms of professional qualifications..

## **REPUBLIKA SRPSKA**

Article 22 of the European Social Charter / revised /, which refers to the right to participate in determining and improving working conditions and working environment, has been implemented in Republika Srpska through the Occupational Safety and Health Protection Law and the General Collective Agreement.

The job Safety Law stipulates the duties of the employee in relation to his participation in determining and improving the working conditions and working environment. The right and duty of the worker is to familiarize himself with the occupational health and safety measures at work or at the job that he/she has been assigned to before starting work, as well as to be trained in their implementation. Worker has the right to make suggestions, remarks and notices on occupational health and safety issues to the employer and to control his / her health

according to job risks, in accordance with the health care regulations. The right and duty of a worker occupying position with at an increased risk, is to perform a medical examination, as requested by the employer. The worker is obliged to work in risk job with an increased , based on the report of relevant occupational medicine service, in charge of determining his physical fitness to perform those duties (Article 32).

Pursuant to Article 56 of the Law on Occupational Safety, employers, trade unions, insurance companies, organizations responsible for health and pension and disability insurance are obliged to cooperate and participate in sharing the common stance towards issues of improving health and safety at work, and to take care of them on the development and improvement of a general culture of health and safety at work, in accordance with this Law. Organizations in charge of health, pension and disability insurance are obliged to submit to the Ministry data on injuries at work, occupational diseases, diseases related to work and persons with disabilities at least once a year, not later than 31 January of the following year for the previous year, and upon request ministries and in the short term.

The Economic and Social Council is established by the Committee for Protection and Health at Work of Republika Srpska, from representatives of social partners, which has three members. The Occupational Health and Safety Committee, systematically monitors health and safety at work, establishes, proposes, conducts and periodically reviews occupational health and safety policies and encourages work on harmonization of legislation in order to promote health and safety at work. The Committee shall periodically submit to the Economic and Social Council and other competent bodies a report on the state of health and safety at work.

Very important for the application of the law is the obligation of the employer to provide in the framework of the business plan or special plan on occupational health and safety measures, the funds required for implementation and improvement of safety at work policies, providing the deadlines for their implementation. The application of occupational health and safety measures, for the purposes of this law, must not create costs for workers..

The Law on Protection at Work and by-laws are applicable to all employees and employers in the territory of Republika Srpska and there is no exemption from employers and workers from the application of this law. The law entered into force on January 1, 2008. Since August of that year, records of injuries at work have been established in accordance with this law. In 2013, there were 1094 injuries, in 2014 1098, in 2015 1085, and in 2016, 1232 injuries at work.

## **BRČKO DISTRICT BIH**

Provisions of the Articles 24, 39, 40 and 41 of the Labour Law of the Brčko District provide to workers the occupational safety and health protection. In that sense, adequate legal protection (inspection supervision, judicial protection) is envisaged for proper implementation of this legislative framework,

The Law on Protection at Work of the Brčko District did not regulate the selection of workers' representatives for occupational safety.

The Draft Law on Occupational Safety and Health Protection of Workers, which is harmonized with the EU Directive 89/391 / EEC, fully applied the Article 3, point (c) of the Directive..

Article 8 of the Law on Occupational Safety and Health Protection of Workers of the Brčko District stipulates the duty of the employer to provide workers the job and the work environment with proper health and occupational safety measures in place, and is deemed responsible for the non-application of these measures. If these rights are not respected, a penalty is stipulated in Article 67 paragraph 1 a) of this Law, ranging between BAM 1,000 and BAM 7,000 for the employer, and a fine for the responsible person ranging from BAM 300 to BAM 1,500.

Article 47 of the Law on Police Officials of Brčko District stipulates the following:

- medical examination of police officers;
- allows control of the medical fitness of police officers, when the expenses borne by the Brčko District Police, and enabling police officers to control their health;
- the right to join a trade union representing workers in the exercise of their rights.

Police of the Brčko District of BiH provide police officers with uniforms, official vehicles, office and other materials for work.

All employees are entitled to one-time financial assistance or financial assistance in the event of the death of parents, children, employees, if they are on sick leave for more than six months continuously, retirement benefits on retirement (Articles 100, 101, 102 of the Law on Police Officials of the Brčko District, Articles 12, 13, 14, 15, and the Law on Salaries of Brčko District for Civil Servants and Employees).

#### **Article 28 – The right of workers' representatives to protection in the undertaking and facilities to be accorded to them**

With a view to ensuring the effective exercise of the right of workers' representatives to carry out their functions, the Parties undertake to ensure that in the undertaking:  
They enjoy effective protection against acts prejudicial to them, including dismissal, based on their status or activities as workers' representatives within the undertaking;  
They are afforded such facilities as may be appropriate in order to enable them to carry out their functions promptly and efficiently, account being taken of the industrial relations system of the country and the needs, size and capabilities of the undertaking concerned.

#### **BOSNIA AND HERZEGOVINA**

International instruments ratified by Bosnia and Herzegovina in terms of the Article 28 of the European Social Charter / revised:

- ILO 12 Workmen's Compensation (Agriculture) Convention, 1921
- ILO 87 Freedom of Association and Protection of the Right to Organise Convention, 1948
- ILO 97 Migration for Employment Convention (Revised), 1949
- ILO 135 Workers' Representatives Convention, 1971
- ILO 151 Labour Relations (Public Service) Convention, 1978,
- ILO 154 Collective Bargaining Convention, 1981
- ILO 155 Occupational Safety and Health Convention, 1981
- ILO 158 Termination of Employment Convention, 1982
- ILO 162 Asbestos Convention, 1986
- ILO 174 Prevention of Major Industrial Accidents Convention, 1993
- ILO 176 Safety and Health in Mines Convention, 1995

- ILO 187 Promotional Framework for Occupational Safety and Health Convention 2006.,
- ILO 188 Work in Fishing Convention 2007.

The Law on Strike in BiH Institutions BiH<sup>131</sup> stipulates that employees, including representatives of police officers, who participate in a strike organized in accordance with the Law on Strike in the institutions of BiH, can not be placed in a more unfavorable position than other employees for organizing or participating in the strike and do not violate working or official nor may be held accountable for their participation in the strike..

Articles 92 to 94 of the Law on Labour in the Institutions of BiH and the Law Strike prescribe the Representative Trade Union, and the rights and obligations, the nomination, the election, the mandate and dismissal of the representatives of the trade unions, etc. shall be regulated by the acts of the competent body of representative trade union.

The provisions of the Labour Law in the BiH institutions stipulate prohibition negative consequences for workers' representatives for participating in the strike in such a way that participation in a strike cannot be considered a violation of official duty, and that an employee can not be disadvantaged due to participation in a strike, as opposed to those employees who did not participate in the strike. This also ensures that employees are allowed to exercise their rights from employment, when other means are not available, through a strike.

The provisions of Article 7 of the Law on Strike stipulate the protection of an employee for participating in a strike in such a way that an employee who participates in a strike organized in accordance with the law, cannot be placed in an unfavourable position as compared to other employees, and that by organizing or participating in a strike, he / she does not violate official or working duties nor can be called to account for his / her participation in the strike..

## **FEDERATION OF BOSNIA AND HERZEGOVINE**

The Labour Law continues to provide protection to the trade union commissioner from dismissal and placement in an unfavourable position in a different way in relation to a post before being appointed to the function of a trade union commissioner..

The provisions of the Law on Council of Employees, which we reported on, in a part on the rights and appropriate protection of members of the Employee Council, did not undergo changes during the reporting period.

Also, in the FBiH, the Law on Protection at Work is still in force. The Law on Safety and Protection at Work is in the form of the Draft, so there were no changes in the reporting period in terms of this legal regulation.

The Collective Agreement on Amendments to the Collective Agreement for Civil Servants and Judicial Authorities in FBiH<sup>132</sup>, stipulates that the head of the civil service body is obliged to provide paid leave from work to the trade union commissioner and other trade union representative for the purpose of performing trade union activities and due to the presence of trade union meetings, congresses, conferences, seminars, trade union schools,

<sup>131</sup> "Official Gazette of BiH" No. 41/16;

<sup>132</sup> "Official Gazette of FBiH" No. 89/16.

trade union meetings and other forms of training in the country and abroad for up to three days a month. Also, the head of the civil service body and the representative of the trade unions are obliged, at the request of one of the parties, to hold the conversation on the other side, and to consider all issues of trade union activity, material and other issues of civil servants or state employees, as well as the planned obligations of the administrative authorities in this respect..

FBiH does not have data on violations of the rights of workers' representatives.

## **REPUBLIKA SRPSKA**

Article 28 of the European Social Charter /Revised/, referring to the right of workers' representatives to protection in the undertaking and facilities to be accorded to them, has been implemented in Republika Srpska through the provisions of the Labour Law, the Occupational Safety and Health Code and the General Collective Agreement.

Labour legislation in Republika Srpska defines the term "employee representative". The Law on Occupational Safety in Article 2, defines the employee representative as a person selected to represent workers in the field of occupational health and safety with the employer. The Labour Law is familiar with the term "union representative", which provides union immunity from the cancellation of the employment contract during the duration of the function. The provisions of Article 215 regulate the rights of trade union representatives and it reads as follows:

1. Trade union representatives must be allowed to leave work to attend trade union meetings, conferences, sessions and congresses, and training courses and seminars;
2. Trade union representatives shall be provided with access to all jobs with the employer, as necessary for the performance of their functions, except for work places under a special protection regime in accordance with a special regulation;
3. In the event of the need to mobilize means of solidarity, representatives of workers authorized by the trade union have the right to perform this activity in appropriate premises or facilities of the employer;
4. Trade union representatives are allowed to point out trade union notices in the employer's premises in places that are accessible to workers;
5. Trade union representatives are allowed to use at least two hours per month during regular working hours to attend company meetings and two hours a week for other union activities;
6. The employer is obliged to allow trade union representatives to provide workers with information, bulletins, publications, leaflets and other trade union documents;
7. Free access to external trade union representatives is allowed in the organization of trade unions organized with the employer, with these activities and visits being announced to the employer earlier;
8. Activities of trade unions shall be carried out in such a way that they do not detriment regular functioning of the employer and work discipline.

There are no special measures taken, such as programs, action plans, projects, and the rest for the implementation of the legislative framework. Pursuant to the provisions of Article 263 of the Labour Law, supervision over the application of the legislative framework regulating the issues of the rights of employees' representatives for protection in the enterprise and the allocation of adequate funds has been implemented in Republika Srpska and performed in accordance with the Law on inspections by the Republic Administration for Inspection Affairs through the Labour Inspectorate.

## **BRČKO DISTRICT BIH**

Article 78 of the Labour Law of Brčko District provides the trade union commissioners effective legal protection from actions that are harmful, including dismissal, as it is only with prior consultation with the trade union that the employer can terminate employment contract during the term of his office or within 3 months after the termination of his duties. For the implementation of this legislative framework, adequate legal protection (inspection supervision, judicial protection) is envisaged thereof.

The legislative framework of Brčko District, does not provide definition of the term "labor representative", but according to provisions of the Labour Law of Brčko District, workers can be represented before the employer by the Council of Employees (Article 93 of the Law), or the trade union commissioner respectively (Article 92, paragraph 4).

Articles 44, 45, 46, 47 and 48 of the Law on Occupational Safety and Health Protection of Workers define the obligations of the employer. The Law on Occupational Safety of Brčko District did not regulate the selection of workers' representatives for occupational safety.

The Draft Law on Occupational Safety and Health Protection of Workers, which is harmonized with the EU Directive 89/391 / EEC, fully applied Article 3, point (c) of the Directive.

## **CONCLUSION**

A draft text of the Eighth Report on the Application of the European Social Charter / Revised / for BiH for Group III / Working Rights / and Articles 2, 4, 5, 6, 21, 22 and 28 was prepared by the Inter-Ministerial Working Group composed of appointed experts from following institutions, in accordance with the Decision on the formation of the Inter-ministerial Working Group for preparation of the mentioned report number: 01-37-1-3843-14 / 16 dated 20 February 2017, issued by the Minister of Human Rights and Refugees:

1. Amela Hasić, coordinator of the Interdepartmental Working Group, Ministry of Human Rights and Refugees of BiH;
2. Ljiljana Šantić, Member, Ministry of Human Rights and Refugees of BiH;
3. Vanja Vujadin, Member, Ministry of Human Rights and Refugees of BiH;
4. Branislava Crncevic Čulić, Member, Gender Equality Agency of BiH;
5. Svjetlana Kezunović, Member, Agency for Statistics of BiH;
6. Amra Fetahović, Member, Directorate for Economic Planning;
7. Sanela Željковиć, Member, Agency for Labour and Employment of BiH;
8. Slavica Vucic Vojinovic, Member, Ministry of Civil Affairs of BiH;
9. Adina Purkovic-Podumljak, Member, Ministry of Security of BiH;
10. Tanja Mojsilović, Member, Ministry of Justice of BiH;;
11. Ismira Kalkan, member, Federal Ministry of Labour and Social Policy;
12. Rajko Klickovic, member, Ministry of Labour and Veterans Disability Protection of Republika Srpska;
13. Luka Semizović, Member, Department of Health and Other Services, Government of the Brčko District of BiH.

In order to fulfil the obligations of Bosnia and Herzegovina as international subject submitting report on application of the European Social Charter /Revised/, the Ministry of Human Rights



and Refugees of Bosnia and Herzegovina proposes that the Council of Ministers of Bosnia and Herzegovina, after considering the proposal of the said Report, shall adopt the following:

## **C O N C L U S I O N S**

The Eighth BiH Report on Application of the European Social Charter /Revised/ belonging to the third thematic group /labour rights/ is adopted, for Articles 2, 4, 5, 6, 21, 22 and 28, covering the reference period January 2012 - December 2016;

The Ministry of Human Rights and Refugees is obliged to issue the Eighth BiH Report on Application of the European Social Charter /Revised/ belonging to the third thematic group /labour rights/, for articles 2, 4, 5, 6, 21, 22 and 28, covering the reference period January 2012 - December 2016, and submit it through the Ministry of Foreign Affairs of BiH to the Secretary General of the Council of Europe in Strasbourg, as well as to Associations of Employers and Trade Unions in Bosnia and Herzegovina, in accordance with Articles 21 and 23 of the European Social Charter, dated 31 October 2017.



**BOSNIA AND HERZEGOVINA**

**MINISTRY OF HUMAN RIGHTS AND REFUGEES**

**ADDITIONAL ANSWERS TO 2016 CONCLUSIONS OF THE  
EUROPEAN COMMITTEE OF SOCIAL RIGHTS ON THE SIXTH  
REPORT  
OF BOSNIA AND HERZEGOVINA ON THE IMPLEMENTATION OF  
THE EUROPEAN SOCIAL CHARTER  
( REVISED )**

**ARTICLES 1§4 i 9  
GROUP I ( EMPLOYMENT, TRAINING AND EQUAL OPPORTUNITIES )**

**REPORTING PERIOD:  
January 2011. -December 2014.**

## INTRODUCTION

Pursuant to Article 21 of the European Social Charter ( revised ), Bosnia and Herzegovina submitted in a timely fashion its sixth Report on the Implementation of Accepted Provisions of the Charter to the Committee on Social Rights. The sixth Report of Bosnia and Herzegovina on the Implementation of the European Social Charter ( revised ) refers to the I group of rights ( employment, training and equal opportunities ), Articles 1, 9 and 20 of the Charter for reporting period January 2011 – December 2014.

In accordance with the 2016 Conclusions of the Committee on Social Rights and complying with follow-up request of the Committee for clarifications of individual articles of the Charter discussed in the sixth Report, the following answers are provided on the follow-up questions respecting the articles the Committee needed clarification of (1§4 and 9 ).

### **Article 1 paragraph 4 – Vocational guidance, training and rehabilitation**

According to the Law on Labour in the Institutions of B&H ( „Official Gazette of B&H“ no 26/04, 7/05, 48/05, 60/10 and 32/13 ), an employer may provide an employee with education, training and in-service training, in accordance with the needs of employment.

In accordance with his abilities and the needs of employment, an employee is obliged to undergo education, training, and in-service training in a way the employer seems appropriate for the employee to be able to perform jobs in a satisfactory manner. Further, when introducing changes or new methods or organization of work, the employer is obliged to provide to the employee education, training and in-service training which the employer shall seem necessary for the employee's performance of tasks in a satisfactory manner.

The terms and method of education, training and in-service training, duration, compensation and responsibilities of employees shall be regulated by an employer's by-law.

In relation to an employee who has sustained an injury at work or occupational disease, the Law on Labour in the Institutions of B&H provides that there shall be additional and comprehensive evaluation of the capabilities of an employee who has suffered a work-related injury or occupational disease, in terms of appropriate forms of education, training and development programme, which would enable the employee to regain his/her working capabilities.

The Labour Law also regulates work of people employed for the first time in the field in which they have received their education, with the purpose of professional training or independent work, i.e. work of trainees.

In accordance with the regulations of the Law on Salaries and Allowances in the Institutions of B&H ( „Official Gazette of B&H“ no 88/15 ) the employee is entitled to compensation for the costs of in-service training and training in the particular job standards.

The Law on Civil Service in the Institutions of B&H ( „Official Gazette of B&H“ no 19/2, 35/03, 4/04, 17/04, 26/04, 37/04, 48/05, 2/06, 32/07, 43/09, 8/10, 40/12 ) provides the right of civil servants to be encouraged and supported in advancing career and professional development through training and other means.

Further, the civil servants shall be entitled and obligated to participate in training and educational seminars, upon a decision by his/her supervising civil servant or a person designated under the by-laws. These activities are organized by the Civil Service Agency of B&H.

With regard to the question of The Committee whether continuing vocational training is available both for employed and unemployed workers, the answer is that the vocational training is available for both, employed and unemployed persons according to the Framework Law on Vocational Education and Training ( „Official Gazette of B&H“ no 63/08 ), Standards and Principles of Adult Education of B&H ( „Official Gazette of B&H“ no 39/14 ) and Strategic Development Platform of Adult Education in the Context of Lifelong Learning in B&H 2014-2020 ( „Official Gazette of B&H“ no 96/14 ).

In the sub-state levels of governance, namely in both entities of Bosnia and Herzegovina, i.e. the Federation of Bosnia and Herzegovina and the Republic of Srpska, new Labor Laws were adopted in 2016, defining the rights and responsibilities of the persons engaged in continuing vocational guidance and training.

With regard to continuing vocational training, in accordance with their competencies, entity employment centres and cantonal employment services create and implement appropriate measures of active employment policies targeted at persons registered as unemployed in the register of unemployed persons.

Training, retraining and professional development are focused on new methods and technologies in the economy sector, and especially for unemployed persons without the necessary knowledge and skills.

In 2016, 387 unemployed persons in the Federation of Bosnia and Herzegovina applied for such programmes, of which 308 remained in employment for the next 6 months. In addition, the Federation Employment Agency provided financial support for the joint projects aimed at training and recruiting persons from the records of unemployed persons in the Federation of Bosnia and Herzegovina, such as:

- Integration, Training and Economic Strengthening of Persons with Down Syndrome and Work Integration of Women Victims of Domestic Violence ( 5 persons );
- Training and recruitment of candidates for woodworking ( 15 persons );
- Registration, start-up and recruitment of the independent agricultural producers and School for entrepreneurs in agricultural production and other projects related to training, retraining and professional development ( 1087 persons ).

In the entity of The Republic of Srpska, the adult education is defined in the Plan of Adult Education adopted by the Republic of Srpska's Government for a period of one year at the recommendation of the Institute of Adult Education.

Adult Education can be implemented as formal – carried out in educational institutions of primary and secondary education; non formal – organized process of learning and education focused on training, specialization and complementing of knowledge; and informal – self-education, professional development and acquisition of knowledge and skills outside educational institutions and specialized organizations of adult education.

In the District of Brčko, education, training and development are regulated by the Labour Law of Brčko District. The Employment Institute of Brčko District, in accordance with its capacities, conducts vocational trainings and retrainings each year.

The sixth Report of Bosnia and Herzegovina on the Implementation of the European Social Charter ( revised ) provides detailed information on all the projects of vocational guidance, training and rehabilitation in the reporting period.

### ***Persons with disabilities***

All the measures for vocational guidance, training and rehabilitation are available to everyone on the territory of Bosnia and Herzegovina, including the persons with disabilities, who even may receive higher financial support within the active employment policy measures, than other categories of unemployed persons.

The amended Law on Prohibition of Discrimination in Bosnia and Herzegovina ( „Official Gazette of B&H“ no. 66/16 ) expressly prohibits discrimination towards any person or group of persons on grounds of their race, skin colour, language, religion, ethnic affiliation, national or social origin, age, **disability**, education, social status, sex, sexual expression or sexual orientation, gender identity, sexual characteristics and every other circumstance with a purpose or a consequence to disable or endanger recognition, enjoyment or realization of rights and freedoms in all areas of public life.

### ***Foreign nationals***

With regard to the question of The Committee whether the laws in Bosnia and Herzegovina provide for equal access of foreign nationals, lawfully resident or working regularly in the country, to vocational guidance and training in all parts of the country, the answer is that the legislation of Bosnia and Herzegovina, including the legislation of the both entities and the District of Brčko applies to the whole country, and that includes the nationals and foreign nationals who legally reside or work regularly in the entire territory of Bosnia and Herzegovina.

Further, in the Federation of Bosnia and Herzegovina, based on the Law on Employment of Foreigners ( „Official gazette of FB&H“ no 8/99 ), foreigners employed by domestic legal and nationals have the same rights, obligations and responsibilities as employees of the Federation of Bosnia and Herzegovina, in accordance with labor and employment and labor regulations, unless otherwise stipulated in international agreements. Foreign nationals registered as unemployed persons in the records of employment services in the Federation of Bosnia and Herzegovina have the same rights as citizens of Bosnia and Herzegovina.

There is the same provision in the Law on Employment of Foreign Citizens and Stateless Persons of the Republic of Srpska ( „Official Gazette of RS“ no 97/04. 96/05 and 123/06 ) and the Law on Employment of Foreigners of the Brčko District of Bosnia and Herzegovina ( „Official Gazette of BD“ no 17/08 ), which indicates that the provision is valid on the whole territory of Bosnia and Herzegovina.

All the registered foreign nationals have the right to be informed about the possibilities and conditions of employment, employment mediation, vocational trainings, under the same legal provisions as the residents of Bosnia and Herzegovina.

## Article 9 – The right to vocational guidance

The sixth Report of Bosnia and Herzegovina on the Implementation of the European Social Charter ( revised ) provides the information on the rights and obligation to vocational guidance and training of active military personnel accordint to the Law on Service in the Armed Forces of B&H ( „Official Gazette of B&H,, no 88/05, 53/07, 59/09, 74/10, 42/12 ), as well as the information on the various types of education and trainings on the entity level, according to the labor laws of both entities and the District of Brčko. Therefore, the right to vocational guidance in Bosnia and Herzegovina is regulated primarily by labor laws, the Law on Mediation in Employment and Social Security of Unemployed Persons ( „Official Gazette of FB&H“ no 55/00, 41/01, 22/05, 9/08 ), as well as the strategic documents, as described in the previos reports.

With regard to the question of The Committee on the vocational guidance in the labour market in general, with the systematically updated figures for each part of the country, the informations is as follows:

In 2013 there were 541 employees in the cantonal employment services in the Federation of Bosnia and Herzegovina, of which 243 employees were in the administration ( headquarters ), while 298 of them worked in municipal offices. Only about 50% of the total employees in the cantonal employment services are employed in jobs dealing with the unemployed. Therefore, the employment services focus on enabling necessary capacities for mediation in employment and provision of individual counselling services, which is its primary function.

### *Detailed measures and information on vocational guidance*

With regard to the question of The Committee on the detailed information on measures, expediture, staffing and the number of beneficiaries of vocational guidance in the labour market, the information is as follows:

In the reporting period, within the projects funded by international institutions ( as described in the sixth report ) the cantonal employment services established 10 „Information, Counselling and Training Centres“ ( ICTC/CISO ) in 10 cities in Bosnia and Herzegovina, as well as 13 job clubs to assist young job seekers. The goal of CISOs and job clubs is to provide information, individual counselling and training for active job-seekers up to 30 years old and in special cases up to 35 years old in order to build competencies for employment. The table below present data on the number of users of group information and workshops on active job search during the reporting period.

<b>Number of organizational units of public employment services in charge of information, counselling and training</b>				
	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
<b>Municipal Offices</b>	78	78	78	78
<b>CISO</b>	9	10	10	6
<b>Job Clubs</b>	1	7	8	13

In the period from 2011 to 2014, the CISOs and job clubs provided 13,564 and 1,737 unemployed people with training for active job search. Also, in the reporting period, 44,060 unemployed persons attended sessions of group information about the rights and obligations arising from unemployment and 8,762 persons attended sessions of information about active job searching and counselling in municipal employment offices.

It is very important to point out that these activities are carried out every year by the employment services, mostly in employment offices, CISOs and job clubs.

In 2014, in municipal employment offices in the Federation of Bosnia and Herzegovina, 9,758 unemployed persons attended sessions of group information about the rights and obligations arising from unemployment, while 3,063 people attended sessions of information about the techniques of active job seeking, writing resumes and cover letter, preparation for the labour market and interviews with employers.

<b>An overview of the number of users of group information in municipal employment offices in the Federation of Bosnia and Herzegovina</b>			
	<b>Canton</b>	<b>Group information – general ( number of users )</b>	<b>Group information about active job searching ( number of users )</b>
1.	Una-Sana Canton	446	351
2.	Posavina Canton	n/a	n/a
3.	Tuzla Canton	1.251	280
4.	Zenica-Doboj Canton	2.012	1.784
5.	Bosnia-Drina Canton	23	20
6.	Middle Bosnia Canton	5.210	520
7.	Herzegovina-Neretva Canton	328	-
8.	Western Herzegovina Canton	0	0
9.	Sarajevo Canton	488	108
10.	Canton 10	0	0
<b>TOTAL</b>		<b>9.758</b>	<b>3.063</b>

The CISOs information sessions were attended by 2,177 people, workshops for writing resumes and cover letter were attended by 962, workshops preparing for the interview with the employer were attended by 931, while 731 people used individual counselling and drafting of individual employment plan. The information about regular migrations was given to 1,966 people. 181 users of CISOs services got a job.

<b>The number of users of CISOs services</b>							
	<b>Canton ( town )</b>	<b>Information session</b>	<b>Workshops for writing resumes and cover letter</b>	<b>Workshops for interview with the employer</b>	<b>Individual counselling/ employment plan</b>	<b>Information on regular migrations</b>	<b>Recruited people</b>
1.	Una - Sana ( Bihać )	260	225	225	73	258	37
2.	Posavina ( Odžak )	172	124	50	58	-	103
3.	Zenica - Doboj ( Zenica )	548	474	408	369	221	52
4.	Tuzla ( Tuzla )	353	116	116	104	353	157
5.	Middle Bosnia ( Vitez )	0	64	0	39	19	4

6.	Bosnia - Drina ( Goražde )	109	84	77	-	-	30
7.	Herzegovina - Neretva ( Mostar )	68	68	68	38	-	n/a
8.	Sarajevo Canton ( Sarajevo )	890	887	401	221	890	115
9.	Western Herzegovina ( Grude )	n/a	n/a	n/a	n/a	n/a	n/a
10.	Canton 10 ( Livno )	18	18	18	107	19	30
<b>TOTAL</b>		<b>2.218</b>	<b>2.060</b>	<b>1.363</b>	<b>1.009</b>	<b>1.706</b>	<b>528</b>

Employment services carry out activities aimed at schoolchildren and education system.

The Federation Employment Institute, in cooperation with the cantonal employment services, established a system of regular vocational information in primary and secondary schools in the Federation in order to inform schoolchildren about the importance of choice of further education and labour market inclusion.

In 2014, the activities of vocational information included 288 primary schools with 10,984 students and 151 secondary schools with 10,192 students. In some cantons professional information was organized at universities.

<b>Users of career information</b>					
	Canton ( town )	The total of primary schools covered	The total of students informed	The total of secondary schools covered	The total of students informed
1.	Una-Sana ( Bihać )	49	2.986	23	2.786
2.	Posavina ( Odžak )	n/a	n/a	n/a	n/a
3.	Zenica-Doboj ( Zenica )	66	-	35	-
4.	Tuzla ( Tuzla )	6	618	5	516
5.	Middle Bosnia ( Vitez )	43	2.895	24	3.187
6.	Bosnia-Drina ( Goražde )	6	281	3	295
7.	Herzegovina - Neretva ( Mostar )	45	593	27	261
8.	Sarajevo Canton ( Sarajevo )	61	3.433	26	2.933
9.	Canton 10 ( Livno )	12	178	8	214
10.	Western Herzegovina ( Grude )	0	0	0	0
<b>TOTAL</b>		<b>288</b>	<b>10.984</b>	<b>151</b>	<b>10.192</b>

In the entity of Republic of Srpska, matter of vocational guidance is regulated by the Adult Education Law, because of the specific characteristics of certain branches of economy and enterprises and needs for education and training in accordance with the needs of employers. The learners do not pay a fee for education and the funds for their education are appropriated in the budget of the Republic of Srpska.

The Law on Mediation in Employment and Unemployment Rights regulates the possibility of professional training of unemployed persons. It includes vocational rehabilitation and training



under general conditions ( organized and carried out in the mainstream education system ) and under special conditions ( in vocational rehabilitation institutions according to custom-made or special programs if necessary due to the type and severity of disability or the outcome of the rehabilitation process ).

The Employment Institute, in cooperation with the Ministry of Education and Culture of the Republic of Srpska, is carrying out activities on career information of students in primary and secondary schools, as well as university students. In school year 2013/2014 this activity covered around 4,200 students in 192 classes throughout the Republic of Srpska.

### ***Persons with disabilities***

When it comes to the implementation of specific programs of vocational guidance for people with disabilities, the public employment services in the Federation of Bosnia and Herzegovina did not carry out these activities in the reporting period. It is very important to point out that the persons with disabilities had access to regular programs and measured. The Federation Employment Institute annually appropriates 10% of funds planned for active employment policy for funding activities of the Fund for Vocational Rehabilitation and Employment of Persons with Disabilities.

In the entity of Republic of Srpska, its Government established the Centre for Vocational Rehabilitation and Employment of Disabled Holding Company in 2011. There is one unified Employment Strategy which identifies persons with disabilities as a target category.

In the period of 2011-2014, the Fund for Vocational Rehabilitation and Employment of Disabled Persons funded hiring of 801 disabled people, with a total of BAM 2,245,665.17 for employment, self-employment and economic support, which means informal employment of disabled persons in agricultural activities in rural areas.

<b>People with disabilities who got a job in the period 2011-2014 by types of disability</b>					
<b>TYPES OF DISABILITY</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>TOTAL</b>
<b>Wartime veterans with disabilities</b>	188	170	133	88	579
<b>Blind and visually impaired persons</b>	4	4	4	8	20
<b>Deaf persons and persons with hearing impairments</b>	6	2	0	13	21
<b>Civilian victims of war</b>	0	9	0	9	18
<b>Persons with mental retardation</b>	22	15	4	11	52
<b>People having dystrophy</b>	0	39	3	1	43
<b>Amputees</b>	1	9	0	21	31
<b>Paraplegics</b>	2	12	1	11	26
<b>People disabled at work</b>	0	3	0	8	11
<b>Others</b>	0	0	0	0	0

<b>TOTAL</b>	223	263	145	170	801
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In the District of Brčko in Bosnia and Herzegovina, the right to vocational guidance is regulated with the Law on Employment of the District of Brčko. The Employment Institute provides mediation in employment; information about employment conditions and opportunities; vocational guidance and counselling in choosing an occupation; organization of occupational development, training and preparation for employment; as well as the implementation of programmes and measures of active employment policy.