



European  
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COUNCIL  
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18/05/2012

RAP/RCha/BiH/II(2011)Add2

## **EUROPEAN SOCIAL CHARTER**

Observations from the Government of Bosnia & Herzegovina  
on the comments from the  
Union of Association of Employers of Republic of Srpska  
on the  
2<sup>nd</sup> National Report on the implementation of  
the European Social Charter

submitted by

**THE GOVERNMENT OF BOSNIA & HERZEGOVINA**

(Articles 1, 9 and 20  
for the period 01/12/2008 – 31/12/2010)

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Report registered by the Secretariat on 17 May 2012

**CYCLE 2012**



**BOSNA I HERCEGOVINA**



*Ministarstvo za ljudska prava i izbjeglice  
Ministry for Human Rights and Refugees*

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No: 07-02-37-333/12  
Sarajevo, 7. May 2012.

**COUNCIL OF EUROPE**

**DIRECTORATE GENERAL  
HUMAN RIGHTS AND RULE OF LAW**

**DIRECTORATE OF HUMAN RIGHTS**

**HEAD OF THE DEPARTMENT OF THE EUROPEAN SOCIAL CHARTER  
AND THE EUROPEAN CODE OF SOCIAL SECURITY**

**EXECUTIVE SECRETARY OF THE EUROPEAN COMMITTEE OF SOCIAL RIGHTS**

**Attn. Mr. Regis Brillat, Head of Department**

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**SUBJECT: Answers to Comments of the Union of Association of Employers of Republika Srpska on  
Second Report from the Governmental of Bosnia and Herzegovina on the  
Implementation of the European Social Charter**

Pursuant to Article 23 of European Social Charter, the Union of Association of Employers of the Republika Srpska submitted its comments on the Second Report of Bosnia and Herzegovina on the Implementation of the European Social Charter /revised/ to the Secretary General of the Council of Europe. The Ministry of Human Rights and Refugees of Bosnia and Herzegovina, as the competent authority for making reports on the implementation of the European Social Charter in Bosnia and Herzegovina, submitted the comments above to the Ministry of Civil Affairs of Bosnia and Herzegovina, Association of Employers of Bosnia and Herzegovina, the Association of Employers of the Federation Bosnia and Herzegovina and the Association of Employers of the Brčko District Bosnia and Herzegovina for comments and they gave comments as follows.

**MINISTRY OF CIVIL AFFAIRS OF B&H**

„The Association of Employers of Bosnia and Herzegovina consists of employers' organizations on the territory of the Federation of Bosnia and Herzegovina and the Brčko District of Bosnia and Herzegovina and as such, has certain forms of communication and cooperation with the international employers' organizations.

The Union of Association of Employers of the Republika Srpska, which is a representative employers' organization on the territory of the Republika Srpska, is not a member of the Association of Employers of Bosnia and Herzegovina, the only such organization registered at the state level.



Considering the above, the Minister of Civil Affairs of Bosnia and Herzegovina two years ago initiated and held two meetings to which the representatives of the Association of Employers of Bosnia and Herzegovina and the Union of Associations of Employers of the Republika Srpska were invited, with the aim of establishing a representative employers' organization at the state level, but to date there has been no information or knowledge that these organizations have reached an agreement.

The tripartite social dialogue and collective bargaining in the entities and Brčko District of Bosnia and Herzegovina are conducted between representatives of trade unions and employers with the participation of the governments of the entities and the Brčko District of Bosnia and Herzegovina. However, the tripartite social dialogue and collective bargaining are not conducted through the formal state institutions because the Association of Employers of BiH is not representative and the Confederation of Trade Unions of Bosnia and Herzegovina is not registered at the state level.

We recall that Bosnia and Herzegovina ratified the Convention 144 of the ILO in 2006, which provides for the mechanisms for social dialogue in the ILO Member States. This international legal instrument is accepted as a legal source by its ratification, which in this case is the legal basis for the establishment of social dialogue at the state level in Bosnia and Herzegovina.

As for the Union of Associations of Employers comments related to the "Improvement and Development of Capacities for Social Dialogue and Social Partners" project, the Ministry of Civil Affairs of Bosnia and Herzegovina, in agreement with the Delegation of the European Union in Bosnia and Herzegovina, drew the attention of the Project contractors to involve the representative employers from the Republika Srpska in its implementation, taking into account the above-mentioned situation. Trainings organized in the framework of this project were also attended by the representatives of the Union of Associations of Employers of the Republika Srpska.

In relation to comments on two other mentioned projects, the social partners include, among others, representative employers' organizations in the entities".

## **ASSOCIATION OF EMPLOYERS OF B&H**

"The Association of Employers of Bosnia and Herzegovina was established on 7 July 2004. On the Constituent Assembly and that its founders are Association of Employers of Federation of B&H, Union of Employers of Republika Srpska, Association of Private Entrepreneurs of Republika Srpska and Association of Employers of District Brčko. The Association of Employers of Bosnia and Herzegovina was registered by the Ministry of Justice of Bosnia and Herzegovina under number RU-194, Register book I, on 3 September 2004 in accordance with the Law on Associations and Foundations of Bosnia and Herzegovina.

Since its establishment in 2004, the Association of Employers of Bosnia and Herzegovina has been working and cooperating with ILO, IOE, BUSINESS EUROPE and employers' organizations in Europe and EUROMED countries (European Mediterranean Association of Employers) and is a member of the AREC (Adriatic Region Employers' Centre).

The Association of Employers of BiH successfully represents employers in all these organizations.

As for the Union of Associations of Employers of RS, this organization is not our member and we already spent several years trying to integrate them into the Association of Employers of Bosnia and Herzegovina. This is an organization that operates within the Chamber of Commerce of RS, in which membership is compulsory and it is contrary to the ILO conventions. We are trying to include them in the Association (Asocijacija) of Employers of Bosnia and Herzegovina and negotiations are ongoing.

It is obvious that, in accordance with the political platform of Republika Srpska, the Union of Employers of Republika Srpska obstructs all institutions at the state level and attempt to become a member



of international organizations, although the ILO and the European Union BusinessEurope require that activities of these organizations are conducted only with organizations that are formed and registered at the state level.

The process of establishing the Economic and Social Council at the level of Bosnia and Herzegovina, which is what the representatives of legislative and executive authorities of Bosnia and Herzegovina committed to by signature and ratification of the Stabilization and Association Agreement in June 2008 year, is obstructed in the same way as the Union of Associations of RS operates.

## **ASSOCIATION OF EMPLOYERS OF THE FEDERATION OF B&H**

“The founders of the Association of Employers of BiH are the Association of Employers of the Federation of Bosnia and Herzegovina based in Sarajevo, the Union of Employers of Republika Srpska, based in Banja Luka and the Association of Employers of District Brčko. So the allegation that in APBiH there are no employers from RS is not true; even more, in APBiH there are dozens of companies from RS as individual or collective members.

It is true that the Union of Associations of Employers of RS is the largest employers' association in the RS, but not the only. Currently negotiations are underway, with the mediation of the ILO, about joining the Union of Associations of Employers of RS to the Association of Employers of BiH. The negotiations are going in the right direction and we hope that a positive outcome can be expected by July, as agreed at the last meeting. We are sorry to have qualified the Association of Employers of BiH in this way, especially as it was agreed to stop disputes about representativeness and free membership between themselves and public attacking each other until the completion of negotiations. We in the Association of Employers of BiH sincerely wish that Union of Employers' Associations of RS, as an equal founder, joins the other founders of the Association of Employers of BiH, and to strengthen our position towards BH institutions of government and Confederation of Trade Unions of Bosnia and Herzegovina.

Also the assertion that at the level on BiH there is no social dialogue and that it is not foreseen by the Constitution is strange. Actually, the Constitution does not say anything directly about this matter. However, at the state level the Labor Law and the Labor and Employment Agency are in place, there is a need for conclusion of collective agreements for the employees in BiH institutions and agencies, the Council of Ministers has decided to adopt the basis of a qualification framework in BiH, in terms of horizontal and vertical mobility of labor force in the labor market etc.

Employers of the Federation of BiH and Brčko District, as well as trade union representatives from both entities and Brčko District, and authorities at all levels have recognized the need and importance of establishing and building the social dialogue at national level and publicly advocated the formation of Economic and Social Council at the state level. Because the employers from RS have the same attitudes we believe that the Union of Employers' Associations of RS in the future will more precisely formulate the interests of the majority of employers in the RS.

Finally we would like to emphasize that the views expressed in this way are a result of bad relationships of these two associations and the desire of the Union of Employers' Associations of RS to fight for exclusive representation and representation of employers in the RS in the domestic and international institutions. However, we are sure that the conflicting period is behind us and that employers from both entities and Brčko District wish to have a strong association that will protect their interests in the tripartite dialogue with the government and trade union”.

EMPLOYERS' ASSOCIATION OF THE BRČKO DISTRICT OF B&H

"The Employers' Association of the Brčko District of Bosnia and Herzegovina is a member and one of the founders of the Association (Asocijacija) of Employers of Bosnia and Herzegovina. This membership is a sign of our respect for their work and existence.

On several occasions, the Employers' Association of Brčko District, together with representatives of the Association of Employers of BiH and representatives of the Employers Association of FBiH negotiated with the Union of Employers of the RS. This was done in order to join the Union of Employers of the RS with the employers' association at the state level. In this way we all together would represent employers of Bosnia and Herzegovina with dignity.

We believe that in this way [the Union of Associations of Employers of the Republika Srpska sending the letter], establishing of the Economic and Social Council at the state level is being obstructed. We all know that this is one of preconditions in order for Bosnia and Herzegovina to finally begin its journey towards the European Union".

Yours sincerely,

Enclosures as cites above

