



21/08/2025

RAP/ RCha /BIH/14(2024)

EUROPEAN SOCIAL CHARTER

Answers to additional questions related to

**14th National Report on the implementation of
the European Social Charter**

submitted by

THE GOVERNMENT OF BOSNIA AND HERZEGOVINA
Articles 2, 4, 5, 6, and 20

CYCLE 2024

RESPONSE

of the authorities of Bosnia and Herzegovina to the letter of the Executive Secretary of the European Committee of Social Rights

In July 2025, the Ministry of Human Rights and Refugees of Bosnia and Herzegovina received a letter from the Executive Secretary of the European Committee of Social Rights, requesting the submission of additional information from the competent authorities.

For the purpose of providing a comprehensive response, this Ministry requested inputs from relevant institutions at all levels of government in Bosnia and Herzegovina, and in this respect, we submit the following responses:

Article 2.1

Please provide information on whether inactive on-call periods when no actual work is carried out are considered as working or rest time and how are they remunerated (especially for inactive on-call periods outside the employers' premises).

In accordance with Article 46, paragraph (2) of the Labour Law of the Brčko District of BiH, it is stipulated that on-call duty (working hours being defined as the time during which a worker is obliged to perform tasks, upon the call and instructions of the employer, at the place where these tasks are performed or another place designated by the employer) shall not be considered as working time. Article 46, paragraph (3) of the same Law stipulates that the duration of on-call duty and the amount of compensation for the period of on-call duty shall be regulated by a general act and an employment contract.

Article 35 of the Labour Law ("Official Gazette of the Federation of BiH", nos. 26/16, 89/18, 4/22 and 39/24) prescribes that working time is the period during which a worker, under the employment contract, is obliged to perform tasks for the employer. On-call time, during which a worker is required to respond to the employer's call to perform tasks if the need arises, shall not be considered working time. Accordingly, on-call duty is considered a specific form of work, during which the worker is not obliged to be present at the workplace or on the employer's premises, but must respond to the employer's call if the need arises. The duration of on-call duty and the amount of compensation for on-call duty are regulated by the collective agreement, work regulations and the employment contract.

Article 56, paragraph 2 of the Labour Law ("Official Gazette of the Republika Srpska", nos. 1/16, 66/18, 91/21 – Decision of the Constitutional Court of the Republika Srpska, 119/21, 112/23 and 39/24) stipulates that working time does not include the period during which a worker is on call to respond to the employer's request to perform tasks if necessary,

provided that the worker is not at the workplace or another location designated by the employer. Paragraph 3 of the same Article prescribes that the duration of on-call duty and the amount of compensation are regulated by a special regulation, a general act or an employment contract.

Article 6.2

Please provide information on measures guaranteeing the right to collective bargaining for self-employed workers.

The Labour Law of the Brčko District of BiH regulates in detail collective bargaining, as well as the rights and obligations concerning all employees and employers. Chapter 3 of this Law concerns freedom of association, Chapter 17 regulates organizations of workers and employers, Chapter 18 determines the conditions for establishing the representativeness of trade unions and employers' associations, Chapter 19 regulates the procedure for concluding collective agreements, and Chapter 20 regulates the peaceful resolution of collective disputes.

Chapter XVI – Collective Agreements, Articles 137-149 of the Labour Law ("Official Gazette of the Federation of BiH", nos. 26/16, 89/18, 4/22 and 39/24), prescribes the types of collective agreements, parties in collective bargaining, the procedure of negotiation, the form and duration of the agreement, its content, application and other issues of importance for collective bargaining and conclusion of collective agreements. Specifically, Article 137, paragraph 1 of this Law prescribes that a collective agreement may be concluded as general, branch, or individual. Article 138 prescribes that a general collective agreement is concluded by the Government of the Federation, the representative employers' association, and the representative trade union established in the territory of the Federation. A branch collective agreement is concluded by a representative employers' association and a representative trade union of one or more sectors of activity established in the territory of the Federation or in the territory of one or more cantons. Branch collective agreements for employees in the state administration, judiciary, public institutions, and other budget users are concluded by competent ministries, the Government of the Federation, and competent ministries and governments of the cantons on one side, and representative trade unions of civil servants, employees of public institutions, and other budget users on the other side. An individual collective agreement is concluded by a representative trade union at the employer and the employer, and where the owner is the Federation, canton, city or municipality, prior consent must be obtained. During negotiations for the conclusion of collective agreements under paragraphs (1), (2) and (3) of this Article, the representative trade union is obliged to cooperate with other trade unions with fewer members, in order to represent the interests of employees who are members of that union.

Furthermore, pursuant to Article 138a of the Labour Law, a branch collective agreement for sectors financed from the budget or extra-budgetary funds is concluded by the Government of the Federation, or the competent ministries and cantonal governments, on one side, and representative trade unions of those sectors, on the other. Branch collective agreements for public enterprises and public institutions founded by the Federation, canton, city or municipality are concluded by representative trade unions and the founders. Branch collective agreements for companies in which the Federation, canton, city or municipality holds more than 50% of the total capital are concluded, in addition to the representative trade union, by representatives of state capital holders with the participation of a representative employers' association, unless otherwise agreed by the Government of the Federation, or the cantonal government, mayor or municipal head with the representative employers' association. During negotiations for the conclusion of collective agreements under paragraphs (1), (2) and (3) of this Article, the representative trade union is obliged to cooperate with other trade unions with fewer members in order to represent the interests of employees who are members of that union.

According to Article 139, paragraph 2 of the Labour Law, the procedure for collective bargaining and concluding collective agreements is initiated on the basis of a written initiative by one of the contracting parties.

In addition, the Law on Representativeness of Trade Unions and Employers' Associations ("Official Gazette of the Federation of BiH", no. 103/21) prescribes the conditions, method, and procedure for determining the representativeness of trade unions and employers' associations. Article 22, paragraph 1 of this Law prescribes that a trade union determined to be representative has the right to delegate its representatives to economic and social councils established for the territory of the canton or the Federation, represent its members before employers, public authorities, employers' associations, other institutions or legal entities, collectively bargain and conclude collective agreements, appoint representatives to bipartite and tripartite bodies composed of representatives of public authorities, employers' associations, and trade unions, appoint its representatives to other bodies in which social dialogue is conducted, and other rights in accordance with the law.

It is also important to note that Article 21 of the Law on Workers' Councils ("Official Gazette of the Federation of BiH", no. 38/04) prescribes that the employer is obliged to inform the workers' council about issues relevant to the economic and social position of employees, consult and obtain the prior consent of the workers' council. According to Article 31, paragraph 3 of the same Law, if no workers' council is established at the employer, the trade union assumes the rights and obligations conferred by this Law on the workers' council.

The right to collective bargaining is defined and guaranteed by the Constitution of the Republika Srpska and the relevant provisions of the Labour Law. A worker, as defined by

the Labour Law, is a natural person who works for an employer and has rights and obligations arising from the employment relationship based on an employment contract, decision on employment, decision on election or appointment, or other legal basis regulated by special law, and who is registered in the Unified System of Registration, Control, and Collection of Contributions. Workers have the right, by their free choice, to organize and join trade unions, in accordance with the statutes and rules of the trade union. A trade union, under the Labour Law, is an independent, democratic and autonomous organization of workers, voluntarily formed for the purpose of representation, advancement and protection of their professional, labor, economic, social, cultural, and other individual and collective rights.

Only a representative trade union and a representative employers' association, in accordance with the law, have the right to collective bargaining and conclusion of collective agreements at the appropriate level, the right to participate in resolving collective labor disputes, the right to participate in the work of tripartite and multipartite bodies at the appropriate level, and other rights in accordance with the law.

According to the above-mentioned legal provisions, only a worker – a person who has established an employment relationship with the employer – has the right to trade union organization through representative trade unions of which he or she is a member.

Article 6.4

Army and police

Please, indicate whether armed forces and police have the right to strike or there is a restriction on the right to strike of armed forces and police.

If there is a restriction on the right to strike, please indicate if the restriction is established by law, and why is it necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health or morals (Article G of the Charter).

In addition, please indicate whether the members of armed forces have other means through which they can effectively negotiate the terms and conditions of employment, including remuneration.

By the time of submission of this response, information was collected from the Armed Forces of Bosnia and Herzegovina, the Federal Ministry of Interior and the Government of the Brčko District of Bosnia and Herzegovina, while the competent institutions of the Republika Srpska did not provide the requested responses within the prescribed deadline.

Professional military personnel of the Armed Forces of Bosnia and Herzegovina are prohibited from trade union and political organization. In accordance with Article 26 of the Law on Service in the Armed Forces of Bosnia and Herzegovina ("Official Gazette of BiH", nos. 88/05, 53/07, 59/09, 74/10, 42/12 and 41/16) and the provisions of the Rules of Service of the Armed Forces of Bosnia and Herzegovina no. 026-02-3-4958/12 of 28.12.2012, professional military personnel are prohibited from trade union and political organization. Professional military personnel in the Armed Forces of Bosnia and Herzegovina have the right to submit complaints, appeals, requests, petitions, and other submissions. All such submissions are filed through the regular chain of command and control. In addition, members of the Armed Forces of Bosnia and Herzegovina may lodge complaints or seek assistance from the Inspector General of Bosnia and Herzegovina and from the Parliamentary Military Commissioner of Bosnia and Herzegovina.

According to the provisions of the Labour Law of the Federation of Bosnia and Herzegovina, the Law on Strike of the Federation of BiH, and the Collective Agreement for employees of the Federal Ministry of Interior – Federal Ministry of Interior and the Federal Police Administration, employees of the Federal Police Administration have the right to strike under the conditions explicitly determined in these documents.

The right to strike is not restricted for members of the Federal Police Administration, provided that the minimum work process is ensured, property is protected, and the safety of citizens' lives and personal security are not endangered.

The Statute of the Brčko District of BiH does not contain a special provision on strikes, but guarantees fundamental human rights and freedoms, including those set out in the European Convention on Human Rights and the European Social Charter, which foresee the right to collective bargaining and collective actions.

Special legislation (*lex specialis*) such as the Law on Police and the Law on Police Officers also do not contain explicit provisions regulating the right to strike. Police service, according to international and domestic standards, is considered a service of particular importance for public safety, which implies the possibility of statutory restrictions on the right to strike.

The Labour Law of the Brčko District of BiH recognizes the right to strike, but it may be restricted in activities of special significance, with the obligation to secure a minimum work process and in accordance with special regulations and collective agreements.

Union organization is carried out within trade unions, as independent, democratic and autonomous organizations of workers, established to protect their rights and interests.

The Law on Strike, as *lex specialis* in this area, guarantees the right to strike without exception, but stipulates that it must be exercised in accordance with the law and collective agreements.

The Code of Conduct for Police Officers does not contain provisions on strikes, but only rules of professional conduct and ethical standards.

Since, pursuant to the Labour Law of the Brčko District of BiH, the Brčko District Trade Union was established as an umbrella institution comprising trade union organizations represented in both public and private sector collectives, a trade union organization of the Brčko District Police was established at the very beginning. This organization continues to exist today and works on protecting the rights of all employees.

The trade union organization of the Brčko District Police does not have the legal status of an independent trade union but exercises its rights and interests indirectly, through a higher-level body – the president of the city trade union and the union presidency. This means that in negotiations with the employer, it negotiates indirectly, through the authorized representatives of the higher trade union body.

Taking into account the above, although the Labour Law and the Law on Strike of the Brčko District of BiH, in both cases, recognize the right to strike, police officers cannot implement it without a special regulation or a collective agreement that precisely regulates the manner of limited work stoppage and the securing of minimum work processes. In the absence of such a regulation, members of the Brčko District Police do not have the possibility of legally organizing a strike, even through a trade union, and all negotiations on rights and interests are conducted through authorized representatives of the higher trade union body.