04/07/2022 RAP/RCha/BIH/12 (2022)

EUROPEAN SOCIAL CHARTER

12th National Report on the implementation
of the European Social Charter

submitted by

THE GOVERNMENT OF BOSNIA AND HERZEGOVINA

Articles 2, 4, 5, 6, 21, 22 and 28

for the period 01/01/2017 – 31/12/2020

Report registered by the Secretariat

on 04 July 2022

CYCLE 2022

BOSNIA AND HERZEGOVINA

MINISTRY OF HUMAN RIGHTS AND REFUGEES

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

GROUP III: LABOUR RIGHTS

ARTICLES: 2, 4, 5, 6, 21, 22 AND 28

Reporting period

JANUARY 2017 – DECEMBER 2020

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I. INTRODUCTION

Bosnia and Herzegovina ratified the Social Charter /Revised/ on 7 October 2008[1] 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 2017 – December 2020.

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/,[2]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.

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.

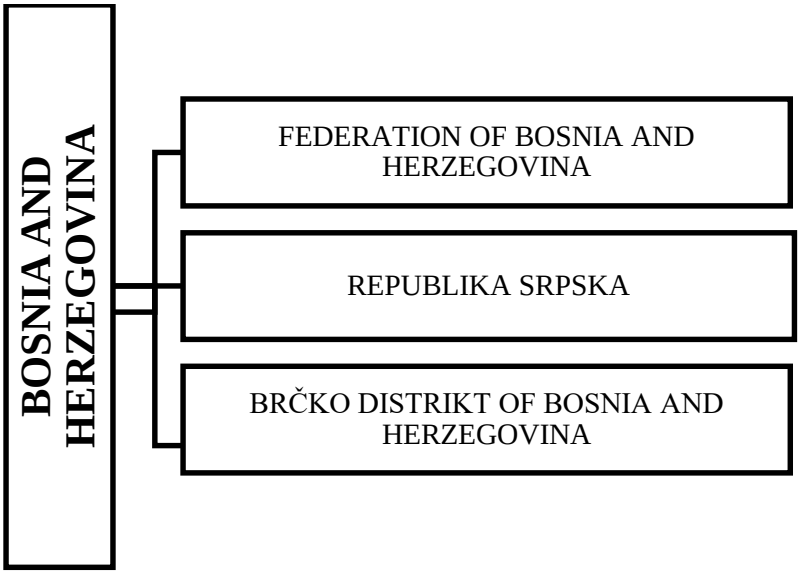
Twelfth Report of Bosnia and Herzegovina for the Thematic Group III /labour rights/ includes updated information on legislation framework from the previous reports, as well as adequate explanations, i.e. information on the situation development in practice during the reporting period.

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 B&H,
- 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 B&H.

[1] At its 42nd session held on 16 July 2008, the Presidency of Bosnia and Herzegovina adopted the Decision on Ratification of the European Social Charter (revised) ("Official Gazette of B&H - International Agreements" No. 8/08);
[2] Adopted at the session of the CoE Committee of Ministers, on 26 March 2008;

II. ADMINISTRATIVE DIVISION OF BOSNIA AND HERZEGOVINA [3]



The administrative division of Bosnia and Herzegovina was established by the Dayton Peace Agreement, and according to it, Bosnia and Herzegovina is administratively divided into two Entities: the Federation of Bosnia and Herzegovina (51% of the state territory), Republic of Srpska (49% of the total territory of Bosnia and Herzegovina) and the Brčko District, which does not belong to either of the Entities, but represents a separate administrative unit over which the Institutions of Bosnia and Herzegovina have sovereignty.

The Federation of Bosnia and Herzegovina and Republic of Srpska are the Entities that have their own constitutions, which must be in conformity with the Constitution of Bosnia and Herzegovina, as well as their governments, the legislature and the judiciary. The territory of Brĉko, which was under arbitration, did not belong to either Entity, but was decided by the International Arbitration Commission for Brĉko to be placed under the administration of the State of Bosnia and Herzegovina as a separate district on 08 March 2000. Brčko District has its own multi-ethnic government with an elected assembly, executive committee, judiciary and police forces.

The Federation of Bosnia and Herzegovina consists of 10 cantons[4] which are further administratively divided into municipalities.

The division of competences between the different levels of government in Bosnia and Herzegovina for all areas, including the area of labour legislation and social rights, is based on the Constitution of Bosnia and Herzegovina, the Constitution of the Federation of Bosnia and Herzegovina, the Constitution of Republic of Srpska, the Statute of the Brčko District of Bosnia and Herzegovina and the constitutions of the ten cantons.

[3] At the 136th session of the Council of Europe's Committee on Social Rights, the Committee representatives required from Bosnia and Herzegovina that all subsequent reports contain a scheme of administrative division of Bosnia and Herzegovina, in order to facilitate understanding of the application of ratified provisions of the European Social Charter /revised/ in Bosnia and Herzegovina.

[4] 10 Cantons in Federation of Bosnia and Herzegovina: Una-Sana; 2. Posavina; 3. Tuzla; 4. Zenica-Doboj; 5. Bosnian-Podrinje; 6. Central-Bosnian; 7. Herzegovina-Neretva; 8. West Herzegovina; 9. Sarajevo and 10. Livno;

In that sense, the legislative bodies of both Entities - the Federation of Bosnia and Herzegovina and Republic of Srpska, as well as the Brčko District of Bosnia and Herzegovina and the cantons, are competent to pass laws and by-laws in the field of labour legislation. An exception are the laws governing the work of civil servants and employees of the Institutions of Bosnia and Herzegovina, enacted by the Parliamentary Assembly of Bosnia and Herzegovina.

III. GENERAL LEGAL FRAMEWORK

1. Bosnia and Herzegovina

- Law on Work in the Institutions of B&H ("Official Gazette of B&H", numbers: 26/04, 7/05, 48/05, 60/10, 32/13 and 93/17);
- Law on Salaries and Remunerations in the Institutions of B&H "Official Gazette of B&H", numbers: 50/08, 35/09, 75/09, 32/12, 42/12, 50/12, 32/13, 87/13, 75/15, 88/15, 16/16, 94/16 and 72/17);
- Law on Associations and Foundations of B&H ("Official Gazette of B&H" numbers 32/01, 42/03, 63/08, 76/11 and 94/16);
- Law on Police Officers of B&H ("Official Gazette of B&H" numbers 27/04, 63/04, 5/06, 58/06, 15/08, 63/08, 35/09 and 07/12);
- Law on Service in the Armed Forces of B&H ("Official Gazette of B&H" numbers 88/05, 53/07, 59/09, 74/10, 42/12 and 41/16);
- Law on Strike of Employees in B&H Institutions ("Official Gazette of B&H" No. 41/16);
- Law on Associations and Foundations of B&H ("Official Gazette of B&H" numbers 32/01, 42/03, 63/08, 76/11 and 94/16);
- Law on Misdemeanors of B&H ("Official Gazette of B&H" numbers: 41/07, 18/12, 36/14, 81/15 and 65/20);
- Rulebook on the manner of keeping the Register of Associations and Foundations of B&H and foreign international associations and foundations and other non-profit organizations ("Official Gazette of B&H" No. 68/18);
- Rules for consultations in drafting legal regulations ("Official Gazette of B&H" No. 5/17);
- Decision on the conditions, criteria and manner of using the annual leave for employees and other budget users in the institutions of B&H ("Official Gazette of B&H", numbers: 65/19 and 12/20);
- Decision on the establishment of a working group for social dialogue with trade unions in the Institutions of B&H ("Official Gazette of B&H" No. 23/21);
- Methodology for assigning employees within the pay grade ("Official Gazette of B&H" numbers 6/12 and 76/20).

2. The Federation of Bosnia and Herzegovina

- Labor Law ("Official Gazette of FB&H", numbers: 26/16 and 89/18);
- Rulebook on the Procedure for Submitting and Keeping Records of Collective Agreements ("Official Gazette of the FB&H", No. 76/16);
- Law on Peaceful Settlement of Labor Disputes ("Official Gazette of FB&H", No. 49/21);
- Law on the Council of Employees ("Official Gazette of the Federation of B&H", No. 38/04);
- Law on Associations and Foundations ("Official Gazette of FB&H", No. 45/02);
- Law on Salaries and Remunerations in FB&H Authorities ("Official Gazette of FB&H" Nos. 45/10, 111/12 and 20/17);
- Law on Employment of Foreigners ("Official Gazette of FB&H", No. 111/12);
- Law on Strike ("Official Gazette of FB&H", No. 14/00);

- Law on Occupational Safety (“Official Gazette of FB&H”, No. 79/20), and by-laws adopted on the basis of that law:
- Rules on risk assessment (“Official Gazette of FB&H”, No. 23/21);
- Rulebook on conditions that must be met by authorized organizations for performing professional activities in the field of occupational safety ("Official Gazette of FB&H", No. 23/21);
- Rulebook on the manner, procedure and deadlines for performing periodic inspections and tests in the field of occupational safety ("Official Gazette of FB&H", No. 23/21);
- Rulebook on the procedure for shortening working hours on jobs with increased risk (“Official Gazette of FB&H”, No. 24/21);
- Rulebook on the manner and conditions of performing occupational safety activities with employers ("Official Gazette of FB&H", No. 34/21);
- Agreement on the Economic and Social Council for the territory of the Federation of B&H (“Official Gazette of the FB&H”, No. 47/02, 42/03 and 8/08);
- Rulebook on the content and manner of keeping records on workers and other persons engaged in work ("Official Gazette of FB&H", No. 92/16).

3. Republic of Srpska

- Law on Occupational Safety ("Official Gazette of RS", numbers: 01/08 and 13/10);
- Law on Peaceful Settlement of Labor Disputes ("Official Gazette of RS", No. 91/16);
- Law on Civil Servants ("Official Gazette of RS", No. 118/08, 117/11, 37/12 and 57/16);
- Rulebook on risk assessment at the workplace and in the work environment ("Official Gazette of RS", number: 66/08);
- Law on Police and Internal Rules ("Official Gazette of RS", No. 57/16, 110/16, 58/19 and 82/19);
- Law on Civil Servants and Employees in Branches of Local Self-Government Units ("Official Gazette of RS", No. 97/16);
- Law on Workers' Councils ("Official Gazette of RS", No. 26/01);
- Rulebook on the procedure and deadlines for preventive and periodic inspections and testing of work equipment and preventive and periodic testing of working environment conditions ("Official Gazette of RS", numbers: 66/08, 52/09 and 107/09);
- Rulebook on the content and manner of issuing the form of reports on injuries at work, occupational diseases and diseases related to work ("Official Gazette of RS", number: 66/08);
- Rulebook on previous and periodic medical examinations of workers at workplaces with increased risk ("Official Gazette of RS", number: 68/08);
- Rulebook on the amount of costs for issuing licenses ("Official Gazette of RS", numbers: 68/08, 28/12 and 52/12);
- Rulebook on the professional exam in the field of occupational safety ("Official Gazette of RS", number: 70/08 and 78/15);
- Rulebook on the procedure for determining the fulfillment of the prescribed conditions in the field of protection and health at work ("Official Gazette of RS", numbers: 70/08 and 58/11);
- Rulebook on the manner of keeping records ("Official Gazette of RS", number: 63/09);
- Rulebook on the manner and procedure of training workers for safe and healthy work ("Official Gazette of RS", number: 42/11);
- Rulebook on preventive measures for safe and healthy work in areas endangered by explosive atmospheres ("Official Gazette of RS", No. 79/11);
- Rulebook on preventive measures for safe and healthy work at the workplace ("Official Gazette of RS", number: 30/12);
- Rulebook on preventive measures for safe and healthy work when using means and equipment for personal protection at work ("Official Gazette of RS", number: 23/13);
- Rulebook on preventive measures for safe and healthy work during manual transfer of cargo ("Official Gazette of RS", number: 79/13);

- Rulebook on preventive measures for safe and healthy work when using equipment for work with the screen ("Official Gazette of RS", number: 112/13);
- Rulebook on preventive measures for safe and healthy work during noise exposure ("Official Gazette of RS", number: 56/16);
- Rulebook on preventive measures for safe and healthy work during exposure to vibrations ("Official Gazette of RS", number: 03/18);
- Rulebook on jobs to which a younger worker cannot be assigned ("Official Gazette of RS", number: 86/16);
- Rulebook on preventive measures for safe and healthy work during exposure to chemical substances ("Official Gazette of RS", number: 4/20);
- Rulebook on preventive measures for safe and healthy work during exposure to carcinogens or mutagens ("Official Gazette of RS", numbers: 48/20 and 100/21);
Regulations in the field of occupational safety applicable on the basis of Article 78 of the Law on Occupational Safety and Article 12 of the Constitutional Law on the Implementation of the Constitution of the Republic of Srpska ("Official Gazette of RS", No. 21/92):
- General Rulebook on hygienic and technical protective measures at work - except for Art. 26-32, 50-75, 78-86, 88-99, 104-151 and 184-186 ("Official Gazette of the FPRY", numbers: 16/47, 18/47 and 36/50);
- Rulebook on hygienic and technical measures when working in hemp mills ("Official Gazette of the FPRY", No. 46/47);
- Rulebook on hygienic and technical measures when working in graphic companies (Official Gazette of SFRY, No. 56/47);
- Rulebook on hygienic and technical protective measures when working in glass factories - glassworks ("Official Gazette of SFRY", numbers: 14/48 and 18/48);
- Ordinance on hygienic and technical measures when working in quarries and brickyards as well as in the management of clay, sand and gravel - except for Art. 58-61 ("Official Gazette of the FPRY", No. 69/48);
- Rulebook on technical and health-technical measures for works in chemical-technical processes - Annex 9 - except for provision 86. ("Official Gazette of the FPRY", number: 55/50 and "Official Gazette of the SFRY", numbers: 15/65 and 48 / 65);
- Rulebook on technical and health-technical measures when working in ferrous metallurgy ("Official Gazette of SFRY", number: 07/55);
- Rulebook on hygienic and technical measures for diving works ("Official Gazette of SFRY", No. 36/58);
- Rulebook on safety at work during heat treatment of light metal alloys in bathrooms with nitrate salts ("Official Gazette of SFRY", number: 48/65);
- Rulebook on safety at work when loading cargo into cargo motor vehicles and unloading cargo from such vehicles ("Official Gazette of SFRY", number: 17/66);
- Rulebook on hygienic and technical measures in port and transport work ("Official Gazette of the SFRY", No. 14/64);
- Rulebook on safety at work during maintenance of motor vehicles and transport by motor vehicles ("Official Gazette of SFRY", number: 55/65);
- Rulebook on measures and norms of safety at work on work tools ("Official Gazette of SFRY", number: 18/91);
- Rulebook on safety at work in agriculture ("Official Gazette of SFRY", number: 34/67);
- Rulebook on safety at work in construction ("Official Gazette of the SFRY, numbers: 42/68 and 45/68);
- Rulebook on technical norms for handling explosive devices and mining in mining ("Official Gazette of SFRY", numbers: 26/88 and 63/88);
- Rulebook on safety at work on railways ("Official Gazette of SRB&H", numbers: 42/86 and 3/87);

- Rulebook on special measures and norms of safety at work during processing and treatment of leather, fur and leather waste ("Official Gazette of SFRY", number: 47/70);
- Rulebook on safety at work and on technical measures for developers of acetylene and acetylene stations ("Official Gazette of SRB&H", number: 32/87);
- Rulebook on safety at work in forestry ("Official Gazette of SRB&H", number: 20/85);
- Rulebook on safety at work during mechanical processing and treatment of wood and similar materials ("Official Gazette of SRB&H", number: 05/86);
- Rulebook on safety at work when using electricity ("Official Gazette of SRB&H", number: 34/88);
- Rulebook on providing first aid in case of injuries and illnesses of workers at work ("Official Gazette of SRB&H", number: 38/86);
- Rulebook on safety at work with devices for loading and unloading cargo on seagoing ships and inland waterway vessels ("Official Gazette of the SFRY, No. 32/66");
- Rulebook on technical and health-technical measures on inland waterway vessels ("Official Gazette of SFRY", number: 20/50);
- Ordinance on hygienic and technical measures on seagoing ships ("Official Gazette of SFRY", numbers: 06/50 and 32/58);
- Rulebook on hygienic and technical measures when working on metal processing and treatment ("Official Gazette of SFRY", number: 40/61);
- Rulebook on providing accommodation and food for workers, ie their transportation from the place of residence to the place of work and back (Official Gazette of the SFRY, number: 41/68);
- Rulebook on the procedure for shortening working hours at workplaces with increased risk ("Official Gazette of SRB&H", No. 2/91);
- Order on mandatory supply of workers with carbonated salt water in departments with high temperatures ("Official Gazette of SFRY", number: 40/47);
- Order on determining part-time work for certain jobs in the printing industry ("Official Gazette of SFRY", No. 98/48);
- Order on Determining Part-Time Work for Certain Mining Jobs ("Official Gazette of SFRY", No. 31/49);
- Order on Determining Part-Time Work in Organizations for the Production of Electrodes and Ferroalloys ("Official Gazette of SFRY", No. 26/57);
- Order on determining reduced working hours in the production of lacquer wire ("Official Gazette of SFRY", number: 24/59);
- Decision on determining part-time work in construction for jobs performed in caissons ("Official Gazette of SFRY", No. 29/55);
- Instruction on supervision of compliance with regulations on occupational safety in companies producing for certain military needs ("Official Gazette of the SFRY", No. 23/66);
- Instruction on data in the field of occupational safety that labor inspection bodies are obliged to obtain and on reports that they are obliged to submit ("Official Gazette of the SFRY", number: 04/67);
- Instruction on the procedure for supervising the application of regulations in the field of occupational safety during the construction of tunnels ("Official Gazette of SRB&H", No. 28/88);
- Instruction on the manner of supervising compliance with regulations on occupational safety in internal affairs bodies and institutions of internal affairs bodies ("Official Gazette of the SFRY", No. 55/65);
- Order prohibiting the use of motor gasoline for degreasing, washing or cleaning metal parts and objects of other materials ("Official Gazette of the SFRY", No. 23/67);
- Rulebook on technical norms for cranes ("Official Gazette of SFRY", number: 65/91).

4. Brčko District of Bosnia and Herzegovina

- Labor Law of the Brčko District of B&H ("Official Gazette of the BD B&H": 19/06 - Consolidated text, numbers: 19/07, 25/08, 20/13, 31/14 and 1/15);
- Law on Labor of the Brčko District of B&H ("Official Gazette of the BD B&H", numbers: 34/19 and 2/21);
- Law on Holidays of the Brčko District of B&H ("Official Gazette of the BD B&H", No. 19/02);
- Law on Associations and Foundations of the Brčko District of B&H ("Official Gazette of the BD B&H" No. 41/2020);
- Law on Strike ("Official Gazette of BD B&H" No. 03/06);
- Law on Safety and Health Protection of Workers at Work ("Official Gazette of BD B&H", No. 20/13).

IV. APPLICATION OF THE RATIFIED PROVISIONS OF THE EUROPEAN SOCIAL CHARTER /REVISED/ IN BOSNIA AND HERZEGOVINA

1. Article 2 – The right to just conditions of work

1.1 Article 2 Paragraph 1 - Reasonable working time

(Pending receipt of the information requested, the Committee defers its conclusion.)

1. **The Committee asked information about the length of the reference period for averaging working hours and about whether the flexible working time arrangements laid down any limits;**

The Labour Law **in the Institutions of B&H** stipulates average working time of an employee is 40 hours per week. There are no limits for an individual working week in the context of flexible working time arrangements, prescribed by the above mentioned Law.

The new Labour Law of **the Federation of Bosnia and Herzegovina** came into force on 14 April 2016 and regulates provisions on working time more precisely as we reported in detail in the previous Report of Bosnia and Herzegovina on the application of this group of rights (2017).
Employment contract may be concluded for full-time or part-time work. 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. Full-time for minors cannot exceed 35 hours a week. Full-time may be distributed between five, that is, six working days, in accordance with the collective agreement and Rulebook on labor. Part-time shall be considered working hours shorter than full-time.
In accordance with the above mentioned, the Labour Law stipulates full-time job is still 40 hours a week which may be distributed between five, that is, six working days. An employee shall be entitled to a break between two consecutive working days (daily break) lasting at least 12 hours without any interruptions. In case of force majeure (fire, earthquake, flood) or 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), however up to eight hours a week. No overtime work is allowed for minor employees, pregnant women, mothers and/or adoptive parents of children under three years of age, as well as for single parents, single adoptive parents and a person entrusted with childcare pursuant to a decision issued by the competent authority, until the child has turned six years of age may work overtime provided they gave their approval in writing on voluntary consent to such a work.
Other provisions on overtime and shortening of working hours remained the same as in the previous Report (2017). It is explicitly prescribed that in the exercise of rights to salary and other rights arising

from labor relations and in relation to labor relations, reduced working hours in terms of this Article shall be equal to full-time working hours.

In Republic of Srpska, if the work with a particular employer is organized in shifts or required by the organization of work, full or part-time work do not have to be distributed equally by weeks, but is determined as average working time per week on a monthly basis. In this case, the employee can work a maximum 12 hours a day, and a maximum 48 hours a week, including overtime.

In Brčko District of B&H, the Labour Code stipulates that weekly working time of an employee is 40 hours. In case of force majeur, 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 52 hours, employees can work up to 10 hours of overtime per week and up to 300 hours per calendar year at their employer's request, subject to the written agreement of the employee concerned.
If the nature and necessity of the work require this, weekly working hours may be increased for a certain period, up to a maximum of 52 hours weekly. However, the weekly working hours for another period must then be reduced, so that the average weekly working hours for a calendar year are no more than 40 hours. Seasonal workers may work for up to 60 hours a week for a certain period.

2. The Committee asks for information in the next report on the actual number of violations – fines for employers for violating reasonable working hours prescribed by law, or if there are no records of daily attendance of workers, and information on the number of fines imposed in the reference period;

We do not have information on the number of offences and penalties imposed for violations of working hours prescribed in the Law on Labor in the Institutions of **Bosnia and Herzegovina**.

When it comes to obligation to keep records, the Labour Law of **Federation of B&H** stipulates that an employer shall keep records on a daily basis on employees and other persons engaged to perform work and records contain data on the beginning and end of working hours, shifts, and other data on the presence of employees at work and keep personal records on employees employed by him – master records.
The employer is obliged to keep special data on working hours on which depends exercise of rights and obligations arising from employment (night work, overtime work, shift work, double work, work on holidays or non-working days determined by special regulations, etc.).
When it comes to supervision over the implementation of labour legislation, the Labour Law stipulates that the Federation and/or Canton labor Inspector shall perform supervision over the implementation of this Law and the regulations.
In this regard, and given that the supervision over the implementation of the Labor Law is the responsibility of the Federal and/or Cantonal labor inspections, the Federal Ministry of Labor and Social Policy does not have data on the number of offences - fines to employers (legal entities) for violating reasonable working hours prescribed by law, nor on the number of sentences imposed during the reference period.

One of the most common violations of the Labor Law by employers in the **Republic of Srpska** is in terms of working hours that employees spend at work. The Labour Law stipulates that the full-time is 40 hours per week, length of the overtime work and the manner of payment for overtime work, work at night and or any other day which is in the law determined to be a non-working day.
Although the Law provides for obligations of the employer (also, provides for penalties for offences) and also the Rulebook on keeping records was adopted which provides for schedule working hours for at least 30 days in advance and announce the schedule in the way accessible to all employees and

the employer must supply the employee with a written calculation of the salary at the occasion of salary payment, still a great number of employees work longer that full-time work and are not paid for it.
In addition to the fact that employees work longer than required by law, there is also a frequent double keeping records on working hours, one for control bodies and the other for the needs of the employer, then work on Saturdays which is not recorded unless determined by the inspector on the spot then, a shorter annual leave than prescribed by the law etc.
Employees usually declare to the labor inspector that everything is in the best order, that their salaries have been calculated and paid with the corresponding increases and the time spent at work.
However, in cases when the employee's employment contract was terminated, the situation begins to be completely different, then employees say that part of the salary was received in an "envelope", that they worked longer than prescribed in the law, that the records on annual leave were recorded in days when they were present at work etc.
RS Labour Inspectorate is organized on a dual system, namely, labor inspection is performed by labor inspectors within the RS Inspectorate (republic level) and labor inspectors within the local self-government units (municipal / city level).
In 2017, the RS Labour Inspectorate conducted 5.620 inspection surveillance of which 3.464 were related to labor relations and employment. When we analyze the imposed fines in the amount of 968,850.00 BAM, it were imposed to 110 legal entities (43 legal entities or 40% of cases in regular inspection surveillance and 67 legal entities or 60% of cases in extraordinary inspection surveillance), 107 of responsible persons in the legal entity were fined in the total amount of 58,250.00 BAM and 258 of natural persons were fined in the total amount of 486,100.00 BAM.
In 2018, the republic labor inspectors conducted a total of 5.627 inspection surveillance, of which 3,250 were inspection surveillance in the field of labor relations. When we analyze the imposed fines in the field of labor relations by misdemeanor orders of inspectors of 718,150.00 BAM, 83 were imposed to legal entities, 84 to responsible persons in legal entities and 201 to natural persons, 83 responsible persons in the legal entity were fined in the total amount of 42,150.00 BAM, while natural persons were fined in the total amount of 387,500.00 BAM.
In 2019, the republic labor inspectors conducted a total of 5,369 inspection surveillances which is 95.70% of the mathematically planned number of inspection surveillances in 2019. Out of that number, 3,606 inspection surveillances were in the field of labor relations. The total of imposed fines by misdemeanor orders amounts to 991,250.00 BAM, of which 520,500.00 BAM was imposed to legal entities, 71,250.00 BAM to responsible persons in the legal entity and 399,500.00 BAM to natural person who independently perform a certain activity.
In 2020, labor inspectors conducted 3,444 inspection surveillances, of which 2,023 were in the field of labor relations. The total amount of the imposed fines by misdemeanor orders was 442,750.00 BAM which is significantly lower when compared to previous years. However, this is not a reflection of the better situation in these areas, but the result of less inspection surveillances due to epidemiological measures to combat Covid-19.

In the reference period, the Basic Court of the **Brčko District of B&H** has no records of misdemeanor proceedings on this basis. When it comes to the Labour Inspectorate and Employment Relationship of the Brčko District in the reference period, they initiated three misdemeanor proceedings, ie imposed three misdemeanor penalties against employers for violating the provisions of the Labor Law of the Brčko District of B&H relating to working hours, ie overtime work.

3. Regarding the lack of effective work, the Committee asked what rules applied to on-call service and whether inactive periods of on-call duty were considered as rest periods or not; whether the time spent on duty is included in working hours; how long it may take and what are the fees for such work;

The Labour Law in the Institutions of **Bosnia and Herzegovina** stipulates overtime work in case of force majeure, a sudden workload increase, as well as in other similar cases of emergency. The same Law stipulates that the work in the period between 22:00 and 6:00 of the following day is considered a night work. the Labour Law in the Institutions of B&H 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 of the Law on Salaries and Benefits in Institutions of B&H stipulates the right of employees to compensations in to amount from 25% to 30% of the base salary.

The Labour Code of **Federation of Bosnia and Herzegovina** defines working hours as the period of time when employees, based on their employment contacts, are required to perform tasks for their employers. Periods when employees are on standby to report for duty, if needed, are not considered to be working hours. The length of such periods and the compensation payable are governed by collective agreements, internal company regulations or the relevant contract of employment.

In the **Republic of Srpska**, working time is the time during which the employee is obliged to perform work, according to the instructions of the employer, at the place where his work is performed or at another place determined by the employer. Working time is not considered to be the time in which the employee is ready to respond to the employer's invitation to perform work if such a need arises, where the employee is not at the place where his work is performed nor at another place specified by the employer. The on-call service is considered as full time work and on-call duty is not. The term on-call duty defines working time which employee must spend at work or in the place specified by employer.

On-call duty in the **Brčko District of Bosnia and Herzegovina** is not regulated by the provisions of the Labor Law of the Brčko District of B&H. The current Labor Law of the Brčko District of B&H stipulates that overtime work is also considered to be on duty at the workplace, unless it is regulated by a special regulation.

1.2 Article 2 Paragraph 2 – The right to public holidays with pay

(The Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 2§2 of the Charter on the ground that work performed on a public holiday is not adequately compensated.)

4. The Committee also asked whether work was, in principle, prohibited on public holidays, what exceptions, if any, were set by the law and how the authorities controlled the respect of the relevant provisions;
5. The Committee also asked whether the law in the Federation of Bosnia and Herzegovina provided for restrictive criteria defining the circumstances under which work on public holidays may be allowed and how the authorities controlled the implementation of such criteria;
6. The Committee considers that a compensation amounting to the basic salary plus 40-50% does not constitute an adequate recompense for work carried out on public holidays and asks is it changed in Republic of Srpska;
7. Regarding the Brčko District of B&H, the Committee requests detailed information on compensation for work on public holidays, including employees in the private sector;

In the institutions of **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 B&H. 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 B&H. 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%.

Since Bosnia and Herzegovina has still not passed legislation regulating public holidays at national level, in the **Federation of Bosnia and Herzegovina**, public holidays are defined and regulated by several different laws.

Namely, the Law on Holidays ("Official Gazette of the SFRY", No. 6/73), the Law on the Proclamation of March 1 as the Independence Day of Bosnia and Herzegovina ("Official Gazette of RB&H", No. 9/95) and Law on Declaration of 25 November the Statehood Day of B&H ("Official Gazette of RB&H", No. 9/95), which are applied as federal laws, sets dates and events that are marked as public holidays, and stipulates that on the days of celebrations state bodies, companies and other legal entities do not work.

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. 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. So, the 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.

When it comes to collective agreements which, among other things, determine the percentage increase in wages based on work on holidays, we emphasize that the Federal Ministry of Labor and Social Policy, in accordance with the Rulebook on the procedure for submitting and keeping records of collective agreements "Official Gazette of the Federation B&H" , number: 76/16), keeps records of collective agreements concluded in the territory of the Federation of Bosnia and Herzegovina or in the territory of two or more cantons. In this regard, the issue of increasing the salary for work on holidays for the collective agreements concluded in the territory of the Federation of Bosnia and Herzegovina or in the territory of two or more cantons, and which are currently in force, is regulated as follows:

- Collective agreement on the rights and obligations of employers and workers for the production and processing of metals in the Federation of Bosnia and Herzegovina ("Official Gazette of the Federation of B&H", No. 61/18) - the worker is entitled to increased salary for work on public holidays by law not working at least 40% of the net hourly rate,
- Collective Agreement for Employees of Public Administrative Bodies and Judicial Authorities in FB&H ("Official Gazette of the Federation of B&H", Nos. 6/20 and 11/21) - basic salary will be increased- at least 40% - for work on public holidays
- Collective Agreement on the Rights and Obligations of Employers and Workers in the Field of Mining in the Federation of Bosnia and Herzegovina ("Official Gazette of the Federation of B&H", No. 17/20) - basic salary of workers is increased for work on non-working holidays - 50 % net hourly rate,
- Collective Agreement for Telecommunications in the Federation of Bosnia and Herzegovina ("Official Gazette of the Federation of B&H", No. 8/21) - this right is not regulated, but in relation to it is referred to individual collective agreements with employers and / or agreements between employers and unions and regulations on work with the employer,
- Branch Collective Agreement of the Electric Power Industry in the FB&H ("Official Gazette of the Federation of B&H", No. 12/21) - the basic salary of workers is increased 50% for work on holidays

- Branch Collective Agreement for Employees of Administrative Bodies and Judicial Authorities of the Federation of Bosnia and Herzegovina ("Official Gazette of the Federation of B&H", No. 32/21) - basic salary will be increased at least 40% for work on public holidays,
- Collective Agreement for the field of postal traffic ("Official Gazette of the Federation of B&H", No. 33/21) - the basic salary of workers will be increased for 60% for work on public holidays.

Penal provisions of the Labour Law of in Article 171. para.1 stipulates a fines ranging from 1.000,00 BAM to 3.000,00 BAM and a fine ranging from KM 5,000.00 to KM 10,000.00 for a misdemeanor shall be imposed on an employer – legal person if: denies to an employee the right to increased salary in cases referred to in Article 76 of this Law.
Article 159 of the Labour Law stipulates that the Federation and/or Canton labor Inspector shall perform supervision over the implementation of this Law and the regulations passed pursuant to it. In this regard, and given that the supervision over the implementation of the Labor Law is the responsibility of the Federal and/or Cantonal labor Inspections, the Federal Ministry of Labor and Social Policy does not have data on the supervision performed in this regard.

In **Republic of Srpska**, in accordance with the Labour Law and Decision on determining the increase in salaries, the amount of income based on work and the amount of assistance to the employee 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. In the Branch Collective Agreements and employees' work rules, employers may increase the salary by higher percentage than the one set forth in the General Collective Agreement.

In **Brčko District of B&H**, the Law on Public Holidays of BD stipulates that all institutions of the Brčko District, companies and other legal entities will not work during the holidays, with the exception of institutions dealing with vital public services, such as police, fire service, district judiciary, health care sector or which are required to maintain a minimum of functional capacity during the holidays in District. The Mayor and the President of the Judicial Commission are obliged to issue instructions on maintaining the minimum functional capacity of institutions dealing with the provision of vital public services during the holidays of the District.
Labor inspectors of the Brčko District of B&H do not supervise the mentioned provisions, but they control the implementation of the provisions set forth in the Article 60 of the Labour Law of the Brčko District which provides for the right to salary increments for work on Sundays or public holidays, overtime work or night work or work on any other day marked as non-working day in accordance with Collective Agreement, Rulebook or Employee Contract. The increased salary cannot be less than 30% in relation to the salary for the same number of working hours in regular working time.
Labor inspectors of the Brčko District of B&H control the implementation of the provisions set forth in the Labour Law of the Brčko District related to which stipulates that employee has the right to salary increase for difficult working conditions, overtime and night work, as well as work on weekly rest or any other day which is marked as non-working day in accordance with by-laws and the employment contract. The salary increase in this sense cannot be less than 30% in relation to the salary for the same number of hours in regular working hours. The increased salary cannot be less than 30% in relation to the salary for the same number of working hours in regular working time.

1.3 Article 2 Paragraph 3 - Annual holiday with pay

(The Committee concludes in the Conclusions 2018 that the situation in Bosnia and Herzegovina is not in conformity with Article 2§3 of the Charter on the ground that the minimum period of paid annual leave is less than four weeks or 20 working days.)

8. The Committee asked whether the law was consistent with the Charter, in particular, whether the law provides for at least two weeks uninterrupted annual holidays to be taken during the year the holidays were due; under what circumstances and within what deadlines annual holidays can be postponed; whether workers who suffer from illness or injury during their annual leave are entitled to take the days lost at another time;

In the institutions of **Bosnia and Herzegovina**, in accordance with the Labour Law in the Institutions of B&H and in accordance with 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 the head of institution may, exceptionally, amend the Decision on Annual Leave in order to terminate the use of annual leave in justified cases, such as force majeure or other urgent need. Employee can also ask to amend Decision on Annual Leave and explain the reasons of such amendment.
In accordance with the Labour Law in the Institutions of B&H and in accordance with the Decision the days of temporary incapacity for work (sick leave), maternity and parental leave, military exercises and other leaves which are not conditioned by the will of the employee are not included in the days of annual leave. Employees have the right to use annual leave in the second period or after the cessation of circumstances that were the reason for termination of the use of annual leave.

In **Federation of Bosnia and Herzegovina**, FB&H Labour Law provides that the duration of an annual leave does not include the period of temporary incapacity for work, holidays which are non-working days, other absences from work that are included in pensionable service. Accordingly, employee who would start using sick leave during the annual leave due to injury or illness, would be entitled to use the remaining annual leave in another period, in accordance with the plan for the use of annual leave, given that above mentioned provision explicitly stipulates that the duration of annual leave, among other things, does not include the time of temporary incapacity for work.
Article 50 stipulates that annual leave may be used in two segments. If an employee uses annual leave in segments, the first part shall be used without interruption in duration of at least 12 working days in course of a calendar year, and the second part shall be used by no later than 30 June next year. Employee who fails to use a part of his annual leave referred to in paragraph 2 of this Article shall not be entitled to transfer his annual leave to the next year. Therefore, the use of the second part of the annual leave may be postponed in such a way that it can be used no later than June 30 of the following year in relation to the year for which the annual leave is determined.
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.
An employee may not waive the right to annual leave and the employee may not be denied the right to annual leave, nor financially compensated instead of using the annual leave, except in the event of termination of the employment contract when 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.

In **Republic of Srpska** the annual leave can be used in two or more parts. If an employee use the annual leave in one or two parts, he or she uses the first part for at least two weeks during one calendar year and the other part no later than 30 June of the following year.
An employee who has not fully used the annual leave in the current calendar year due to absence from work with compensation, has the right to use the remaining part of the annual leave no later than June 30 of the following year.

Periods of use of leave on other grounds are not included in the annual leave, so during that time the use of annual leave is interrupted, and in case of interruption of annual leave, in accordance with the above mentioned, the employee, in agreement with the employer, uses the remaining annual leave.

9. In accordance with the applicable legislation that paid annual leave lasts at least 18 working days, the Committee considers that this is not in accordance with article 2, paragraph 2, of the Charter, which provides for 20 days, and asks whether amendments to the current legislation in this regard;

10. The Committee again asks for the following information in the next report:

- **whether the law guarantees that employees cannot waive their right to annual leave or replace it by financial compensation;**
- **whether the law provides for at least two weeks' uninterrupted annual holidays to be taken during the year the holidays were due;**
- **under what circumstances and within what deadlines annual holidays can be postponed;**
- **whether employees who suffer from illness or injury during their annual leave are entitled to take the days lost at another time.**

The Law on Work in the Institutions of **Bosnia and Herzegovina** has been amended regarding the minimum duration of annual leave and it has been harmonized with the Charter, so, in a calendar year, an employee is entitled to annual leave in the duration of at least 20 working days and 30 working days.

In **Federation of B&H**, during the reference period January 2012-December 2016 is mentioned that in order to harmonise annual leave with the provisions of the European Social Charter, the new Labour Law 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.
Also, 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.
For each calendar year, an employee shall be entitled to paid annual leave lasting at least 20 working days, however no longer than 30 working days.
So the Law 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. The Law also stipulates that a minor employee is entitled to annual leave of at least 24 working days. 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. If an employee has not acquired the right to annual leave, he/she shall be entitled to at least one day of annual leave for each completed month of work, in accordance with the collective agreement, Rulebook on labor, and labor contract.
Absence from work due to temporary inability to work, maternity or another type of leave of absence not depending on the will of an employee, shall not be considered to be an interruption of work.

In Republic of Srpska, in each calendar year, an employee is entitled to annual leave after with duration of minimum 20 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 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 was repealed, the issue of increasing the annual leave is regulated by branch (special) collective agreements and by-laws of the employer. As answered in

the previous question, the annual leave without interruption may be used in two or more segments. Periods of use of leave on other grounds are not included in the annual leave, so during that time the use of annual leave is interrupted, and in case of interruption of annual leave, in accordance with the above mentioned, the employee, in agreement with the employer, uses the remaining annual leave.
The Labour Law of the Brčko District stipulates the right of an employee to paid annual leave for every calendar year in duration of minimum 20 working days.
The employee may not be denied the right to annual leave, nor financially compensated instead of using the annual leave. If an employee use annual leave in parts, the first part of annual leave is used for, at least, 10 consecutive days and the remainder of the leave until 30 June of the following year.
The Law provides that an employee is entitled to remuneration of salary during temporary inability to work caused by sickness or injury or for other reasons. The question of whether employees who are sick or injured during annual leave have the right to use the days of annual leave on other occasions is not specifically regulated. The Law does not regulate the postponement of annual leave.

The Labor Law of the **Brčko District of B&H** stipulates that employees may not waive their right to use annual leave. An employee may not be denied the right to annual leave, nor be paid compensation instead of using annual leave. Exceptionally, in the event of termination of the employment contract, the employer may pay the employee compensation for the days of unused annual leave if the employer and the employee agree.

1.4 Article 2 Paragraph 4 – Elimination of risk in dangerous or unhealthy occupations

(The Committee concludes in the Conclusions 2018 that the situation in Bosnia and Herzegovina is not in conformity with Article 2§4 of the Charter on the ground that there is no adequate prevention policy, covering the whole country, for the risks in inherently dangerous or unhealthy occupations.)

11. The Committee asks whether the situation in the domestic legislation has changed in terms of risk elimination and reduction risks in dangerous or unhealthy occupations (for the territory of B&H, the entities and the Brčko District of B&H);
12. The Committee asks whether there is an adequate prevention policy, covering the whole country from risks in inherently dangerous or unhealthy occupations. The Committee asked for comprehensive and up-to-date information on risk elimination and reduction at all levels of government;

In institutions of **Bosnia and Herzegovina**, the Labour Law in the Institutions of B&H stipulates that an employer is required to give an employee an opportunity to familiarize himself with the labour regulations and safety at work regulations, the manner safeguarding life and health of the employee and preventing accidents, 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. Also, the Labour Law in the Institutions of B&H 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.

In the **Federation of B&H** is adopted the Law on Safety at Work which stipulates rights, obligations and responsibilities of employer related to health and safety regulations and general provisions, security and health system whose implementation provides the prevention of injuries at

work, occupational diseases and other diseases related to work, as well as the protection of the working environment, and other issues related to safety and health at work. The above mentioned Law stipulates special protection of psychological and physical capacities of minors, protection of women of risk which may jeopardize maternity, protection of persons with disabilities and persons with occupational disease from further damage of health, reduction of their working ability and preservation of working ability of older workers within the limits appropriate to their age.

The Law includes general health and safety regulations, so in this regard it is prescribed that occupational safety, as a systemically organized activity, is an integral part of the organization and performance of work, so employers are required to equip an employee for work in the manner securing protection of life and health of the employee and preventing accident occurrence. Namely, the provisions of the above mentioned Law are based on prevention.

The employer is obliged to provide preventive measures to protect the lives and health of employees, as well as the necessary material resources for their implementation when organizing work and work process. The employer is obliged to ensure preventive measures before the start of work, during work, as well as at any change in technological procedure, by choosing working and production methods which ensure maximum safety and health at work, based on the application of safety and health regulations at work, labor relations, technical regulations and standards, regulations in the field of health care, etc.

The employer implements occupational safety measures in compliance with the following general principles of prevention: risk assessments; risk avoidance; risk prevention; elimination of risk in the source; adapting the workplace, in particular as regards the choice of work equipment and working methods, as well as the choice of technological procedure in order to avoid uniformity in work in order to reduce their impact on workers' health; adaptations to technical progress; replacement of hazardous technological processes or methods of work with harmless or less hazardous ones; replacement of hazardous substances with harmless ones; establishing unique preventive measures with the aim of interconnecting technology, work organization, working conditions, social relations and the impact of factors related to the working environment; giving priority to joint protection measures over individual ones and to appropriate training and information for workers.

The Law on Occupational Safety contains special provisions or obligations of employers when it comes to work with increased risk. It is prescribed that jobs with increased risk are: jobs with increased risk of injuries, occupational diseases and damage to workers' health; jobs with specific requirements that, in order to work safely and successfully, require special health and psychophysical abilities of workers in those work places and work where is a residual risk for some workers after applying all technically recognized risk reduction methods. Jobs with increased risk are determined by the internal act of the employer, based on the Risk Assessment Act. Namely, the basis for drafting an internal act on occupational safety is an risk assessment act at the workplace which contains a description of the work process with an assessment of the risk of injuries or damage to health at the workplace and measures to eliminate or reduce risks to a minimum in order to improve safety and health at work.

In this regard, and given that the risk assessment in this regard will be required of all employers, the application of the Law on Occupational Safety in the Federation of Bosnia and Herzegovina in the framework of these actions will be a prevention procedure to record and identify or to prevent and reduce the risks at work. Namely, the risk assessment act will, among other things, contain a part related to determining the manner and measures for elimination, reduction or prevention of risk. The content of the risk assessment act is prescribed in the Rules on Risk Assessment, which, among other things, stipulates that the responsible person is obliged to sign a statement with the employer obliging him to apply all established measures for safe and healthy work of employees. In accordance with the Law on Occupational Safety, employers with high-risk jobs will be obliged to designate one or more employees for occupational safety who will perform actions for the prevention of occupational risk and protection of workers' health. 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 equaled to working full-time. The Law also stipulates that on the jobs where, irrespective of the occupational safety and health measures applied, it is not possible to protect employees against harmful effects, the working hours shall be reduced in proportion to the harmful effect of the working conditions on the health and working ability of employees. Working hours shall be governed by the Rulebook on occupational and health safety, in accordance with the law.

The Federation and/or Canton ministry in charge of labor shall decide on the decrease in the number of working hours in terms of paragraph 1 of this Article, at the request of employer, labor inspector or trade union, on the basis of a technical analysis issued by an authorized professional organization, in accordance with the law. In the exercise of rights to salary and other rights arising from labor relations and in relation to labor relations, reduced working hours in terms of this Article shall be equal to full-time working hours.

In addition, difficult working conditions can be recognized as one of the grounds for increasing the duration of annual leave in relation to the minimum duration of annual leave of 20 working days prescribed by law. According to the Labor Law, the duration of annual leave longer than the shortest prescribed by this law is determined by a collective agreement, rulebook or employment contract.

Also, the Law on Occupational Safety and Health contains provisions related to special safety and health protection at work, which relates to the protection of groups particularly sensitive to risks, and the prohibition of work of groups particularly sensitive to risks in certain workplaces. Namely, the Law prescribes that the employer is obliged to organize the workplace in a manner to take into account the presence of groups sensitive to certain risks. Groups particularly sensitive to risks, such as pregnant women, mothers or nursing mothers, minors, persons with disabilities, as well as workers with altered working capacity in terms of pension and disability insurance regulations, must be protected from the dangers that particularly affect them, in accordance with this law, other regulations, the collective agreement and the by-law of the employer. It is also prescribed that pregnant women, mothers and nursing mothers are prohibited from working in jobs where there is a risk of exposure to hazardous substances, chemical, physical and biological agents, harmful radiation and microclimatic influences, or in jobs with difficult working conditions, as well as particularly difficult and dangerous jobs where there is a risk to their physical and mental health. Also, minors are prohibited from working in jobs that may endanger their health and development, while a worker with a changed working ability may not perform work where there is a danger of reducing the remaining working ability.

In the **Republic of Srpska** are conducted the activities on the development of the Occupational Health and Safety Strategy for the period 2021-2024. The Strategy is in the draft stage, and public hearings are currently underway. The Law on Occupational Safety and Health is a systemic law which is applied in a subsidiary manner to all areas that have not explicitly prescribed special rules for occupational safety and health, and it ensures a minimum of rights in the field of occupational safety and health. Occupational health and safety in the Republic of Srpska is regulated by the relevant provisions of the Law on Mining Industry, the Law on Fire Protection, the Law on Ionizing Radiation Protection, the Law on Chemicals and numerous bylaws passed on the basis of these laws.

In the Republic of Srpska, in addition to the Law on Occupational Safety and Bylaws adopted on the basis of this Law, in the field of occupational safety, are also applied regulations and were introduced into the legal system of the Republic of Srpska on the basis of Article 12 of the Constitutional Law ", No. 21/92) and on the basis of Art. 76 and 77 of the Law on Occupational Safety ("Official Gazette of RS", numbers: 26/93, 14/94, 21/96 and 10/98). The provision of Article 78 of the Law on Occupational Safety stipulates that the adopted regulations shall be applied if they are not in conflict with the mentioned Law (the list of regulations is given in Section III of the General Legislative Framework).

In **Brčko District of B&H** is applied the Law on Safety and Health at Work which 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. Ordinances that follow the mentioned law have not been adopted, yet such as: Rulebook prescribing the procedure and deadlines for preventive and periodic inspections and testing of work equipment as well as preventive and periodic examinations of working environment conditions, ie chemical, biological, physical hazards, microclimate, electrical and lightning protection installations, other than ionizing radiation; Rulebook on the manner and procedure of risk assessment at the workplace and in the work environment; Rulebook on the content of the study on the arrangement of construction sites and work sites; Rulebook on the manner of taking the professional exam in safety and health protection; Rulebook on the manner of keeping records in the field of safety and health protection; Rulebook on conditions for issuing licenses for safety and health protection; Rulebook defining occupational injuries, occupational diseases, as well as the content and manner of issuing the form on reporting occupational injuries, occupational and occupational diseases and the Rulebook on previous and periodic medical examinations of workers at high-risk workplaces.

1.5 Article 2 Paragraph 5 - Weekly rest period

(Pending receipt of the information requested, the Committee defers its conclusion.)

13. The Committee deferred its previous conclusion and asked, in connection with all the entities, whether the law ensured that the weekly rest period could not be deferred for more than 12 consecutive working days, and whether it guaranteed that workers could not waive their right to weekly rest or have it replaced by financial compensation. The Committee repeats its requests;
14. The Committee asks for information on the length of this rest period, under the relevant provisions at both entities and level of Brčko District of B&H;
15. Did the labour inspectorate identified violations of the right to a weekly rest period during the reference period;

In the institutions of **Bosnia and Herzegovina** are not recorded the violations of the right to weekly leave.

The Labour Code of the **Federation of Bosnia and Herzegovina** entitles employees to a weekly uninterrupted rest period of at least 24 hours and if necessary that he works on the day of his weekly break, he shall be provided with one day in the period agreed between the employer and the employee, not longer than two weeks. Employee may be required to work on a day of his/her weekly rest period only in the event of force majeur, 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. So, in accordance with the above mentioned, 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 only in the event of force majeur in

accordance with the Law. If employee is required to work on a day of his/her rest, he/she shall be provided with one day in the period agreed between the employer and the employee, not longer than two weeks.
Therefore, the specified period is determined according to calendar days, and not working days, which means that the calendar period of two weeks includes 10 or 12 working days, depending on whether the working time is divided into five or six working days per week. Also, in accordance with the above mentioned Law, stipulates the right of an employee to an increase in salary for the work on a day of a weekly rest period to a rate which is determined by sectoral collective agreements and rules of procedure. An employer depriving the employee of a weekly rest period is an violation of the Labour Law and is liable to a fine ranging from BAM 1,000.000 to BAM 3,000.00, and in case of repeated violation to a fine ranging from BAM 5,000.00 to BAM 10,000.00- Penalty for the employer - a natural person as well as a person responsible within a legal entity (employer).
The Labor Law stipulates that the supervision over the application of this law and the regulations adopted on the basis thereof shall be performed by the Federal or Cantonal Labor Inspector. In this regard, and given that the supervision over the application of the Labor Law is the responsibility of the Federal and Cantonal Labor Inspections, the Federal Ministry of Labor and Social Policy does not have data on recorded violations of the right to weekly rest.

In **Republic of Srpska**, 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.
When it comes to daily break, breaks between two working days and annual vacations of workers, some violations were reported. Namely, daily break or meal break is generally provided but at certain employers do not include it in the regular working hours. Daily rest period between two consecutive working days and weekly rest are often violated. Namely, the largest number of employers have organized their work in a six-day working week, while they keep daily records, and even weekly ones, as work in a five-day working week.
When it comes to annual leaves, to which employees are entitled to, especially in the real sector, there are problems in exercising this right and in cases where employees are provided with the use of annual leave, it is used in a smaller number of days than the one provided in the Law.

In **Brčko District of B&H** the Labour Law stipulates that 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.
In the referent period were not determined irregularities related to weekly rest period.

1.6 Article 2 Paragraph 6 – Information on the employment contract

(The Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 2§6 of the Charter on the ground that the Labour Code of the Republic of Srpska does not require employers to inform employees in writing of the key aspects of the employment relationship or of the employment contract.)

16. The Committee asked whether, in Bosnia and Herzegovina, all the elements of information required by Article 2§6 of the Charter were provided in writing to workers when starting employment (identity of the parties; place of work; date of commencement of the employment contract and expected duration; amount of paid leave; period of notice or employment; compensation; length of normal working day or week of the employee and reference to collective agreements which define the working conditions of employees);

In institutions of **Bosnia and Herzegovina**, the provisions of the Labour Law in B&H Institutions stipulate that the employment contract 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.
Therefore, at the level of the institutions of Bosnia and Herzegovina, the employment contract contains all elements prescribed by the Charter.

In **Federation of B&H**, 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. Therefore, the Law stipulates the written form of an employment contract is obligatory and if an employer fails to conclude in writing a labor contract with an employee, and the employee performs tasks for the employer for remuneration, it shall be considered that labor relations for unlimited duration have been established, unless proven otherwise by the employer.
Penal provisions of the above mentioned Law stipulates a fine ranging from 1.000,00 BAM to 3.000,00 BAM and a fine ranging from KM 5,000.00 to KM 10,000.00 in case of repeated offense shall be imposed on an employer – legal person, for every employee with whom he fails to conclude labor contract in accordance with this Law.
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.
Further, an employer employing more than 30 employees shall adopt and publish Rulebook on labor regulating salaries, organization of work, job classification, special requirements for employment and other issues of relevance to employees and the employer, in accordance with the law and collective agreement. An employer is under an obligation to consult with the trade union and/or Council of employees, if they are established, regarding the adoption of Rulebook on labor. The Rulebook on labor must be posted on the notice board of the employer, and shall enter into force on the eighth day from the day of its publication.

The Labour Law in **Republic of Srpska** stipulates that the employment contract is made in writing form and include the following particulars: Name and seat of the employer; Name, surname, qualification, domicile or temporary place of residence of the employee; Date of employee's starting work; Placement of the employee and the location of working place; duration and schedule of working hours; Salaries or wages, bonuses, benefits and other perquisites deriving from employment; Duration of annual leave; Duration of the employment contract, if it is for a specified time; Dismissal notice period to be complied with by both the employee and the employer in case

of employment contract for unspecified time; Jobs under special working conditions, if there are some. Employment contract may include other information the employer and the employee believe to be important to the regulation of the employment relationship. The listed data listed may be replaced by a citation of relevant provisions of laws, collective agreement or rule book governing those issues.
Appropriate provisions of the Law and the by-law shall apply to rights and obligations which are not determined by the employment contract. The employer is obliged to deliver a copy of the employment contract to the employee before the employee starts working. The Minister in charge of labor affairs shall prescribe the forms of employment contracts by an ordinance.

In **Brčko District of B&H**, the Labor Law stipulates that an employment contract must include the following: name and address of the employer; name, surname and address of the employee; duration of employment (if employment is for a fixed-term); place of work; employment position the employee is assigned to and short job description; duration and schedule of working hours; salary and other types of remuneration; holiday entitlement; term of notice for open-ended employment contracts; and other information the parties consider as relevant to regulate the employment relationship. The Law also stipulates that employment contract contain date of commencement of employment and that the employer is obliged to submit to the employee a written employment contract containing the above information no later than on the day the employee starts to work. The employer is obliged to submit photocopies of applications for compulsory health and pension insurance to the employee no later than fifteen (15) days from the day of concluding the employment contract or the beginning of the employee's work, as well as any change in insurance concerning the employee.

1.7 Article 2 Paragraph 7 - Night work

(The Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 2§7 of the Charter on the ground that a free compulsory medical examination was not provided by law to all workers about to take up night work.)

17. The Committee requests information on whether compensatory measures have been harmonized for night workers (for both entities and the Brčko District), which must include the following:

- compulsory medical examination to all workers about to take up night work
- under what circumstances employers are required to consider and study the possibilities of a transfer to day work
- Ongoing consultations with the representatives of the workers on the presentation of night work, on the conditions of night work and the measures taken to harmonize the needs of workers with the special needs with night work;

When it comes to the institutions of **Bosnia and Herzegovina**, according to the Labour Law in the Institutions of Bosnia and Herzegovina, the institute of night work is not known, given the nature of the work of civil servants.
Information on the Denunciation of the Night Work (Women) Convention 1948 -No. 89 (Revised), 1948 -ILO:
In accordance with Article 15 of the Convention and notice of the International Committee of Experts on denunciation of the Convention, the Ministry of Civil Affairs of Bosnia and Herzegovina has launched an initiative to denounce Night Work (Women) Convention (Revised), 1948 (No. 89).
In its comments, the International Committee of Experts on the Application of Conventions and Recommendations noted that the Convention was no longer applied in legislation or practice in the Federation of Bosnia and Herzegovina or the Republic of Srpska.

In a direct request from the International Committee of Experts, adopted at the 103rd session of the International Labor Conference held in 2014, the Committee noted the government's statement that both the Federation of B&H and Republic of Srpska agree that the Convention no longer applies and, therefore, the steps towards its denunciation should be taken. The Committee recalled that Convention no. 89 will be open for denunciation as of February 27, 2021.
In connection with the above, we obtained opinions on the justification of initiating the procedure for denunciation of the Convention from the competent entity institutions, the Government of Brčko District of B&H and competent cantonal institutions, noting that the conditions for amending labor legislation will be met only after denunciation of the above mentioned Convention. The procedure for denunciation of the Convention, prescribed by Law on the Procedure for the Conclusion and Execution of International Treaties of Bosnia and Herzegovina ("Official Gazette of B&H", No. 29/00 and 32/13), is underway.

In **Federation of B&H**, the Labour Law regulates night work or period considered as night work and, in order to provide special protection of employee, 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 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.
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, is also prohibited. Furthermore, the Law 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 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 majeur and protection of interests of the Federation based on the approval by the Canton labour inspectorate.

In **Republic of Srpska**, 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 betweenn19:00 and 7:00 of the following day. Working at night is not allowed to employees of less than 18 years of age. Exceptionally, employees under the age of 18 may temporarily be exempted from the prohibition of night work in case of major breakdowns, force majeur 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 2 is not allowed. An employee who works at night for at least three hours every working day or one third of full working time during one week, the employer is obliged to provide work during the day if, in the opinion of the competent health authority, such work would worsen his/her health. A parent of a child who works part-time for the purpose of enhanced care and attention for a child with disabilities may not, without his or her consent, be ordered to work overtime or at night, nor may his or her place of work be changed without his or her consent. When assessing workplace risk, dangers related to the organization of work are especially taken into account, such as: work longer (overtime work), work in shifts, part-time work, night work, field work etc. Based on the assessed risks in the workplace and in the work environment and on the basis of the Risk Assessment Act, the employer determines the manner and measures for their prevention, elimination or reduction to a minimum. Preliminary and periodic medical examinations of night workers are determined by the Risk Assessment Act and the Rulebook on previous and periodic medical examinations of workers at workplaces with increased risk.

In **Brčko District of B&H**, the Labour Law of BD stipulates that the work in the period between 22:00 and 6:00 of the following day is considered a night work unless otherwise is provided by law, collective agreement or employment contract.
For minor employees working in industry, the night work is considered a work between 7 pm and 7 am the next day, and for all other minor employees, work between 8 pm and 6 am the next day is considered as night work. Work in agriculture between 10 pm and 5 am the next day is considered as night work unless otherwise provided by law, collective agreement or employment contract. An employee who works in the night shift is considered to be an employee who regularly spends 3 hours of his/her working time performing night work, ie an employee who spends at least 1/3 of his/her working time performing night work during 12 months. A shift worker is an employee who works in different shifts during one week or one month based on the working time schedule. An employee can work the night shift for a maximum of one week in a row. Exceptionally, an employee may work at night for more than one working week continuously only with his/her written consent.

18. The Committee request information on who is considered to be a night worker in accordance with all applicable labor laws and request information on new legislation and how this is in line with the requirements of this Article in terms of medical examinations and the possibility of switching to day work;

In **Federation of B&H**, 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. Special protection of an employees working at night is also stipulated in the Law, namely, 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 is obliged to 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 employees, which are available at any time. Also, the employer shall secure periodical medical check-ups for employees 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 labor contract for the performance of same or similar tasks outside of night shifts, if applicable, or a possibility for redeployment to other jobs provided that the employee undergoes a requalification or additional training for that other potential job.

In **Republic of Srpska**, an employee who works at night for at least three hours every working day or one third of full working time during one week, the employer is obliged to provide work during the day if, in the opinion of the competent health authority, such work would worsen his/her health.
If the employer organize work in shifts, the replacement of shifts is conducted within the deadlines and in the manner determined by the by-law and the employment contract, so that the employee does not work continuously for more than one working week at night. An employee may work at night for more than one working week continuously only with his/her written consent. An employee is entitled to a salary increase for night work.

In **Brčko District**, the Labour Law of BD stipulates that work in shifts is the organization of work with the employer according to which employees in the same jobs are changed according to the established schedule, whereby the shift of workers can be continuous or intermittent during a certain period of a day or week.
The Law prohibits night work for minor workers, pregnant women from 6 months of age and mothers with children up to three years of age. In case of elimination of *force majeure*, accidents

and protection of general interests, minor workers may be exempted from the ban on night work with the consent of the labor inspector. An employee during the night work has the right to a salary increase in accordance with the by-law.

19. The Committee calls for a broader interpretation of current legislation as to whether medical examinations are provided only at the request of employees or a contract for occupational health and services, and whether night workers are entitled to free medical assessments before transferred to night after regular work and under which circumstances they can transfer work to daily work;

In the **Federation of Bosnia and Herzegovina**, the Law on Occupational Safety stipulates that the employer is obliged, to provide working conditions and requirements regarding health and psychophysical abilities of an employee. An employee cannot conclude employment contract if his/her health condition and psychophysical abilities do not correspond to the working conditions and requirements of the workplace in question. The health condition and psychophysical abilities of an employee are determined on the basis of a medical certificate issued by the Department of Occupational Medicine and Health Protection of the Workers of the authorized health institution. Also, the employer is obliged to provide employee who performs work with increased risk, before the start of work, a preliminary medical examination, as well as periodic medical examination during work. The employer shall, also, secure periodical medical check-ups for workers who work at night at least once in every two years.
This part of the Law which regulates health protection, also, stipulates that the worker has the right to health care appropriate to the risks to safety and health to which he/she is exposed at work, in accordance with special regulations governing health care measures related to work.

In **Republic of Srpska**, medical examinations for night workers, previous and periodic medical examinations as well as other issues related to the protection of night workers are determined by the Risk Assessment Act and the Ordinance on prior and periodic medical examinations of workers at increased risk work and deadlines for performing previous and periodic medical examinations of workers at increased risk work. For work at night is prescribed the content of the targeted anamnesis for preliminary examination which includes examination of adaptation to darkness and periodic examination of visual functions: visual acuity at near and far, depth vision and examination of adaptation to darkness, tonal liminal audiometry. This periodic inspection is performed every 18 months.
Preliminary medical examination is performed in order to determine and assess whether the employee has the necessary health ability to work in a workplace with increased risk, or the ability to work in a workplace with increased risk or to use or operate certain equipment in relation to the risk factors determined by the Risk Assessment Act.
Preliminary medical examination of employee is performed: before starting of work at a workplace with increased risk, before transferring an employee to a workplace with increased risk, during each determination of new risks in a workplace with increased risk, if the worker is assigned to work with increased risk, and had a break in the performance of work in that position for more than 12 months and when changing the work technology.
Periodic medical examination is performed in order to monitor and assess health status and determine whether there is a damage to health caused by increased occupational risks and whether there are diseases that are contraindicated for work in conditions of increased occupational risk, or the ability of employees to work on a place with increased risk when handling certain work equipment in relation to the risk factors of that kind of a workplace.
Beside the above mentioned cases, the employer refers the worker to periodic medical examinations in the following cases: after temporary incapacity for work due to a serious injury at work, after illness or non-work-related injury, if there is a suspicion of reduced working capacity, after serious accidents during the working process, if a large number of diseases with the same or similar

symptoms appear or if there is a danger of an epidemic and at the personal request of the worker when he/she feels that he/she is not medically fit to perform the tasks to which he/she is assigned. The costs of periodic medical examinations are borne by the employer. An employee who works at night for at least three hours every working day or one third of full working time during one week, the employer is obliged to provide work during the day if, in the opinion of the competent health authority, such work would worsen his/her health.

In **Brčko District of B&H**, the Rulebook on Preliminary and Periodic Medical Examinations of Workers in High-Risk Workplaces has not been adopted yet. The Law on Safety and Health Protection of Workers of Brčko District of B&H stipulates that a worker has the right to refuse to work longer than full-time and at night if, according to the authorized health institution, such work could worsen his/her health.

20. The Committee asks whether the law provides for ongoing consultation with workers 'representatives on the introduction of night work, on night work conditions and on measures taken to bring workers' needs into line with the special nature of night work;

When it comes to the obligation to consult with workers in the **Federation of Bosnia and Herzegovina** we emphasize that the Law on Occupational Safety stipulates that the employer consults with workers and / or their representatives and allows them to participate in discussions on all safety and health issues at work.
In particular, it enables them to participate in: discussions and approval of all measures regarding safety and health at work; any measure that may significantly affect occupational safety and health; appointment of workers who will perform tasks related to ensuring healthy and safe working conditions, first aid, firefighting and evacuation of workers; engaging, where necessary, of authorized organizations for safety at work; planning and organizing training of workers in the field of occupational safety.
Also, the Law on the Employees 'Council of FB&H stipulates that before making a decisions related to the rights and interests of employees, the employer must consult the Employees' Council, especially when it comes to night work.

In **Republic of Srpska**, consultations regarding the application of measures for protection and health at work are most often conducted with a representative of occupational health services through the Committee for Protection and Health at Work and the Central Committee for Protection and Health at Work.
The workers' representative is a person chosen to represent employees in the field of occupational health and safety at the employer. The task of the workers' representative is to act in the interest of employees in the field of protection and health at work, and to monitor the application of regulations and protection measures in the work environment in which he was elected. The workers' representatives for protection and health at work are: Committee for Safety and Health at work (fifty or more workers), Central Committee for protection and health at work (more than 250 workers), Trade Union within employers where the union is organized, and workers' commissioner for protection and health at work at employers who employ 15 or more workers or when required by working conditions, regardless of the number of employed workers, and when a trade union is not organized. Where a trade union is organized, the trade union performs the duties of a commissioner for occupational safety and health, and in the case of an employer who does not have a trade union, the workers elect a commissioner for occupational safety and health. The commissioner will be elected or appointed, regardless of the number of workers, if required by working conditions (increased danger to the safety and health of workers, work in isolated places, etc.).

The task of the commissioner is to act in the interest of workers in the field of protection and health at work, and to monitor the application of regulations and ordered protection measures in the work environment in which he was elected.
The Commissioner also has the following rights and duties: to participate in planning the improvement of working conditions, monitor the introduction of new technology and introduction of new materials in the work and production process and to encourage the employer to implement occupational safety measures; has the right to inspect and use documentation related to the protection and health of workers; to be informed of any changes affecting the protection and health of workers; to receive comments from employees on the application of regulations and the implementation of measures for protection and health at work; to inform the workers about protection and health at work, the employer, and, if necessary, the inspector, about the state of protection and health of the workers; to attend inspections and actively participate in establishing the factual situation; to call the labor inspector when he assesses that the life and health of the workers are endangered, and in case if the employer fails or refuses to do so; to be educated to perform all tasks, to expand and improve knowledge, to monitor and to collect communications relevant to his work; to object to the inspection finding and opinion, if the inspection was carried out at his request; to encourage other workers to work safely; to inform workers about the measures taken by the employer to ensure their protection and health at work.

21. Regarding the Brčko District, the occupational health and safety legislation passed in 2013, the Committee requests information on whether the Law prescribes constant consultations with workers' representatives on the introduction of night work, night work conditions and measures taken in order to meet the needs of workers working at night;

The Law on Safety and Health Protection of the Workers of **Brčko District** stipulates that workers have the right to elect a representative for safety and protection at work. It is also stipulates that the employee's representative acts in the interest of workers in the field of safety and health protection, gives proposals to the employer on all issues related to safety and health at work, proposes to the employer to take appropriate measures to eliminate or reduce risks related to safety and health at work, and to request supervision by the labor inspection, if considers that the employer has not implemented appropriate measures for safety and health at work. The Law also regulates the establishment of the Board for Safety and Health Protection. The employer is obliged to consider the proposals of the Board related to the safety and health. The Board considers, inter alia, overall activities on safety and health protection and proposes measures to improve them. It is also prescribed that the trade union has the right to participate in arranging, undertaking and improving safety and health protection.

22. The Committee requests information on when exactly the systematic medical examination of night workers is carried out, whether the examination is performed immediately before night work begins or whether the practice is different;

In the **Federation of Bosnia and Herzegovina** in envisaged the obligation to ensure periodic medical examination of night workers, which is performed at least once every two years**.** When it comes to the preliminary medical examination, which is performed before the employment, it is in accordance with the Law on Occupational Safety and mandatory for all workers, including workers who are assigned to work at night.

In **Republic of Srpska**, the preliminary medical examination of a worker is preformed: before starting to work at a high-risk workplace, before transferring an employee to a high-risk workplace, each time new risks are identified, if the worker assigned to job with increased risk or had a break

in the performance of work in that kind of job for more than 12 months and when changing work technology.

In **Brčko District of Bosnia and Herzegovina**, the Labor Law stipulates that when organizing night work or work in shifts, the employer is obliged to take special care of the organization of work adapted to the worker, safety and health conditions in accordance with the nature of night or shift work; ensure the safety and health of the worker in accordance with the nature of the performed work, the means of protection and prevention which are appropriate and applicable to all other workers and are available at all times. In accordance with a special regulation, the employer is obliged, at his own expense, to provide the worker who works at night with a health examination before the start of work and regular and periodic health examinations during work.

2. Article 4 - Right to a fair remuneration

2.1 Article 2 Paragraph 3 - Non-discrimination between women and men with respect to remuneration

(Pending receipt of the information requested, the Committee defers its conclusion.)

23. The Committee asks the next report to provide more detailed information as regards the definition of equal work, as well as if both – direct and indirect pay discrimination is prohibited. Provide updated information on existing regulations in this area;

In institutions of **Bosnia and Herzegovina**, the prohibition of discrimination is prescribed in the Labour Law in Institutions of B&H and it is also prescribed that unequal treatment based on sex during the procedure of recruitment, employment and termination of employment is not allowed. Therefore, direct and indirect discrimination in terms of salaries is prohibited, and the amount of salaries is determined in accordance with the provisions of the Law on Salaries and Remunerations in the Institutions of Bosnia and Herzegovina.

In **Federation of B&H**, the Labour Law stipulates that discrimination of employees and job seekers is prohibited based on gender, sexual orientation, marital status, family obligations, age, disability, pregnancy, language, religion, political and other opinion, nationality, social background, financial standing, birth, race, skin color, membership or non-membership in political parties and trade unions, health status, or any other personal characteristic. Discrimination may be direct or indirect.
Direct discrimination in terms of this Law shall mean any conduct caused by any of the grounds by which the employee, as well job seeker, is placed in unfavorable position compared to other individuals in same or similar situation. Indirect discrimination in terms of this Law shall occur if a seemingly neutral provision, rule, criterion, or practice places or would place an employee, or job seeker, in an unfavorable position due to a certain characteristics, status, determination, belief, or system of values, which falls under grounds of prohibition of discrimination compared to another employee or job seeker.
There is a general provision 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 of this Law are annulled.
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. Provisions of this Law, collective agreement and labor contract providing for special protection of certain categories of employees in accordance with the law shall not be considered discrimination.
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.

In **Republic of Srpska**, 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 file an action for 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.

In the **Brčko District of B&H**, the Labour Law of BD stipulates that all employees are entitled to an equal salary pursuant to the Law on Salaries in the BD administrative Bodies. 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.

24. Committee asks whether there are the ceilings to the amount of compensation that may be awarded in pay discrimination cases (in court proceedings);

In **Federation of B&H**, the Labour Law stipulates that employees' salaries shall be determined in collective agreement, the Rule Book or employment contract.
Salary for work and time spent at work consists of: basic salary; part of the salary for work and increased salaries in accordance with the collective agreement and the Rule Book and employment contract. Collective agreement, the Rule Book or employment contract determine the elements for the basic salary and the part of the salary based on work. An employee is entitled to increased

salary for difficult work conditions, overtime work or night work, and for work on Sundays or holidays or any other day which is in the law determines to be a non-working day, in accordance with the collective agreement, the Rule Book, or employment contract.

The Labour Law in **Republic of Srpska** 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 file an action for damages. There are no legal limitations on the amount of damages.

In **Brčko District of Bosnia and Herzegovina**, the Basic Court of the BD B&H did not record any cases related to this topic, so there are no limitations.

25. The Committee asks whether the laws prohibit discriminatory pay in statutory regulations or collective agreements, as well as whether the pay comparison is possible outside one company, for example, where such company is a part of a holding and the remuneration is set centrally;

In **Federation of B&H**, the Labour Law stipulates prohibition of any discrimination based on gender with regard to all aspects connected with employment and Law provides for employer's obligation to pay employees equally for equal value work, regardless of various non-discrimination grounds, including gender. Labour Law guarantees equality of salaries regarding employer's obligation to pay employees equally for equal value work. Also, valid collective agreements concluded in the territory of the Federation of Bosnia and Herzegovina, ie for the territory of two or more cantons, do not allow such a possibility.

In **Republic of Srpska**, the Labour Law stipulates that 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. Equal pay for equal work is a criterion which applies to a particular employer.

26. The Committee also asks the next report to provide information concerning the criteria according to which equal value of different works is evaluated;
27. The Committee asks the next report to provide detailed information regarding the percentage difference between hourly earnings of men and women, in all occupations;
28. The Committee also asks the next report to provide information on the measures implemented with a view to promoting gender equality and reducing the gender pay gap in all entities;

At the level of the institutions of **Bosnia and Herzegovina**, there are no differences in the hourly rate between men and women, and everyone has the same salaries for the same jobs.

In **Federation of B&H**, 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 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.

In **Republic of Srpska**, 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. This means that in the Republic of Srpska there are no differences in salaries between the sexes, so we do not have data on that either. Attached to this Report, we submit the publication / bulletin of the Republic Bureau of Statistics entitled "Wages, Employment and Unemployment from 2021" with relevant data.

In **Brčko District** the equal value is work for which the same degree of professional qualifications, the same working capacity, responsibility and physical and intellectual work are required. Decision by the employer or an agreement with an employee which does not provide equal pay is annulled. BD Labour Law does not prescribe criteria for determining the value of various jobs. The same Law prescribes the possibility of reviewing the representativeness of trade unions and employers' associations after the expiration of 1 year from the date of delivery of the decision on representativeness.

3. Article 5 – The right to organise

(Pending receipt of the information requested, the Committee defers its conclusion.)

29. The Committee asks the next report to provide information on the conditions for registration of a trade union and employers association, as well as information on any cases of refusal to register a trade union or employers association and any registration fees in respect of B&H, FB&H, RS and Brčko District;

At the level of the institutions of **Bosnia and Herzegovina**, in accordance with the Labour in Institutions of B&H, 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. Trade unions, as well as other associations may be established without any prior approval. The employee may not be placed in a less favourable position due to membership or non-membership in the union. 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. Trade unions are registered as citizens' associations in accordance with the Law on Associations and Foundations of B&H. 45 trade unions have been registered in the Register of Associations within the Ministry of Justice of Bosnia and Herzegovina which is kept in accordance with the provisions of the above mentioned Law.

In **Federation of B&H**, freedom of association is regulated, partially, in the Labor Law and in the Law on Associations and Foundations. An association may be established by at least three physical or legal persons who are either citizens of Bosnia and Herzegovina, or foreigners, who are permanently or at least one year residing in the territory of Bosnia and Herzegovina, alone or together with the citizens of the Federation. An association is established by a memorandum of incorporation of the founding assembly of an association and have the status of a legal person from the date it is entered into the registry. The founding assembly of an association adopts the memorandum of incorporation and the statute, and appoints the managing bodies. A member of an association may be a citizen of Bosnia and Herzegovina, a foreign citizen permanently or temporarily resident in Bosnia and Herzegovina, or a legal person who voluntary joins the association in compliance with the conditions set out in the statute. The statute of an association may envisage honorary membership. The information on the total number of unions was provided in the previous report (2017).

In **Republic of Srpska**, workers have the right to organize in the trade union in their free choice, in accordance with the union's statute and rules and these associations are established without any prior consent of any state authority. Workers freely decide on their leaving of trade unions, or employers' associations. The legal activity of trade unions and associations of employers cannot be permanently or temporarily banned and trade unions are registered in the trade union registry, which is prescribed and managed by the ministry in charge of labor affairs.
Having in mind the fact that each trade union organization keeps records of its members in accordance with its Statutes and rules of operation, this Ministry does not have data on the number of their members. However, having in mind that this Ministry makes a decision on determining the representativeness of trade unions at the level of Republic of Srpska, sections and groups, we enclose herewith a list of trade unions and employers' associations whose representativeness has been determined at the level of Republic of Srpska.

30. The Committee asks to provide information on the following:

- the conditions that may have been laid down for registering a trade union or an employer organisation and the cases in which registration may be refused or cancelled;
- which political or administrative authority takes decisions relating to registration;
- what criteria are applied in the decision-making process and what margin of discretion is left to the authority in question;
- what administrative and/or legal remedies are available for challenging decisions concerning registration;

In institutions of **Bosnia and Herzegovina**, 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 the Law on Associations and Foundations of B&H.
In cases when registration can be rejected or delayed are prescribed by the Law on Associations and Foundations, so that the Ministry of Justice of B&H, in accordance with the Law, in case two or more associations or foundations register with essentially the same name or sign, at the request of a party or *ex officio*, may issue a decision ordering the association or foundation, that is later registered, to: within thirty days from the date of receipt of the decision, submit a request to change the name, abbreviated name or sign in the register and that if not for changing the name, abbreviated name or mark in the register and that, if the request is not submitted within the specified period, they will be deleted from the register of associations or foundations.
Also, if B&H Ministry of Justice, in accordance with Law on Associations and Foundations B&H, during the procedure establish that, based on submitted documents, union or association do not fulfill conditions set forth in this Law or that the submitted application is not complete, it will notify the applicant about the reasons why the registration process in not completed. The applicant will be able to correct or supplement the application within 30 days from the date of receipt of the notification. If the applicant does not eliminate these deficiencies within the prescribed period, the Ministry shall reject the application for entry in the register, stating the reasons for issuing such a decision.
The Law on Associations and Foundations of B&H stipulates the following conditions: Associations and foundations shall independently determine their goals and activities, in compliance with the Constitution and the law; the goals and activities of an association or foundation may not be contrary to the constitutional order of Bosnia and Herzegovina; or directed at its violent destruction, nor may they be aimed at disseminating ethnic, racial, religious or any other hatred or discrimination; the goals and activities of an association or foundation shall not include engagement in pre-election campaigns of political parties and candidates, fundraising for political parties and their candidates and financing of candidates and political parties; in order to

that the association and the foundation submit an annual and financial report, in accordance with the Law, other regulations and the statute and that the association and the foundation are obliged to submit a financial report to the competent authority according to the headquarters/seat of the association or foundation and also to the B&H Ministry of Justice, for publication on the web site of the Ministry, no later than April 30 of the current year for the previous business year. B&H Ministry of Justice Issue a decision on entry into the registry. Criteria for registration are prescribed by the Law on Associations and Foundations of Bosnia and Herzegovina and bylaws adopted pursuant to this Law, ie the Rulebook on the Manner of Keeping the Register of Associations and Foundations of B&H and Foreign International Associations and Foundations and Other Non-Profit Organizations. Available remedies are: appeal and lawsuit to the competent Court of B&H.

In **Federation of B&H**, FB&H Labour 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. The Law 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 cannot be placed in an unfavorable position due to membership or non-membership in the trade union or the association of employers.

In **Republic of Srpska**, trade unions are registered in the trade union registry, which is prescribed and managed by the ministry in charge of labor affairs. The procedure for registration of a trade union organization in the Register of competent Ministry is prescribed by the Rulebook on Registration of Trade Union Organizations and Employers' Associations in the Register. The decision on entry, changes and deletion from the Register is made by the Ministry of Labor and Veterans' and Disabled Person Protection. According to Rulebook on registration of trade union organizations and employers' associations in the Register of the Republic of Srpska, the Ministry enters the Register on the basis of an application submitted to the Ministry by an authorized person of a trade union organization or association of employers. The application for registration of a trade union organization and association of employers in the Register shall be accompanied by: a request for registration of a trade union organization and association of employers in the Register; decision on the establishment of a trade union organization and employers' association; authorization to submit an application for registration of trade unions and employers 'associations in the Register, issued by the competent body of trade unions and employers' associations within which the trade union organization or employers 'association operates and a statement on the level of organization and scope of trade unions and employers' associations.
In case that the trade union organization and the employers 'association act independently and are not members of a higher form of association of trade unions and employers' associations, instead of the authorization to submit an application for registration, the application shall be accompanied by a statement on independent action. In addition to the above-mentioned documents, trade unions of higher levels of organization and employers' associations shall enclose a copy of the statute with the application for registration. Along with the application for entry in the Register of Trade Unions founded with the employer, a certificate from the employer that the person is authorized to represent and represent the trade union organization in the employment relationship with the employer shall be attached. In the event that the employer refuses to issue a certificate, the person authorized to represent the trade union organization shall submit an employment contract or statement that he/she is employed by the employer with whom the trade union organization was established. Based on the appropriate application and documents prescribed by this Rulebook, the

Ministry enters trade unions and employers 'associations into the Register, ie enters data changes in the Register or deletes trade unions and employers' associations from the Register, within 15 days after submitting the application which is delivered to the applicant within the same deadline. If it determines that the conditions for entry in the Register have not been met, the Ministry shall issue a decision to that effect, which shall be submitted to the applicant within 15 days from the day of submission of the application. Decisions are final and an administrative dispute may be initiated against it with the competent district court within 30 days from the day of delivery of the decision.

In the **Brčko District of Bosnia and Herzegovina**, a trade union and an association of employers are entered in the court register as citizens' associations in accordance with the Law on Associations and Foundations of the Brčko District of B&H. If a party submits an irregular application for entry into the court register, in the sense that it has not submitted all necessary documents or fulfilled other prescribed conditions, the Court will send a Conclusion ordering it to supplement or correct the application within a certain period. If the applicant does not act according to the Conclusion, the Court will reject the application, ie it will reject the registration of a trade union or other association.
Decisions on registration into the trade union register are made by the Basic Court of the Brčko District of B&H. Criteria or rules for trade union registration are prescribed by the Law on Associations and Foundations of the Brčko District of B&H.
An appeal against the Decision of the Court on the registration of a trade union in the court register or the decision rejecting the application for registration of a trade union may be filed within 8 days from the date of receipt of the Decision. Appellate Court of Brčko District of Bosnia and Herzegovina decides on the appeal. The Trade Union of the Brčko District of B&H is registered in the Brčko District of B&H, as well as several branch trade unions.

31. Committee also wished to be informed of the grounds for any refusals or cancellations of registration in practice and of any legal decisions on this matter. Furthermore, the Committee wished to know whether registration fees are charged;

Fees are charged in accordance with applicable regulations, as well as for all other associations registered at the level of **Bosnia and Herzegovina**.

In the **Federation of Bosnia and Herzegovina**, prohibition of interference in the functioning of the association is stipulated by 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. Lawful activity of trade union or association of employers may not be forbidden, either permanently or temporarily. An employer shall ensure appropriate conditions for trade union activities in accordance with a collective agreement.

In **Republic of Srpska**, registration, changes and deletion from the Register are exempted from fees and charges. Reasons for rejecting the registration may be a procedural or when the subject of registration does not submit the necessary documentation in accordance with the Rulebook on Registration of Trade Unions and Employers' Associations in the Register.

In **Brčko District of Bosnia and Herzegovina**, in practice, is possible to reject an application for registration as irregular (as already explained), however, the Law does not prescribe the possibility of postponing the registration.

Regarding the registration of trade unions or employers' associations, so far, no application has been rejected. Court fee for registration is paid in the amount of 150.00 BAM and court fee for changing the data is paid in the amount of 50.00 BAM.

32. The Committee asks that the next report provide information on protection against discrimination on grounds of trade union membership, including relevant case law in B&H, the FB&H, RS and the Brčko District;

At the level of **Bosnia and Herzegovina**, an employee may not be placed in a less favourable position due to membership or non-membership in a trade union. The B&H Ministry of Justice does not have data on protection against discrimination based on trade union membership.

In its answers to the previous article, **Federation of B&H** has answered that in accordance with the Labour Law discrimination is prohibited, among other, discrimination based on conditions of the employment, work conditions and all the rights arising from employment, on the basis of nationality, which means that foreigners can also be members of a trade union.
Also, the provision of Article 6 of the Law on Employment of Foreigners stipulates that foreigners employed by domestic legal and natural persons have the same rights, obligations and responsibilities as employed citizens of the Federation of Bosnia and Herzegovina in accordance with labor and employment regulations, collective agreement and regulations on labor, unless otherwise provided by international agreements.

In **Republic of Srpska**, the Labour Law stipulates that an employee as well as an individual seeking employment cannot be put in less favourable position due to membership or non-membership in a trade union. In cases of discrimination on any of the grounds employee as well as individual seeking employment, in accordance with the Law, is entitled to file a complaint against the employer with the competent court. If an employee or a job seeker presents facts in case of dispute, which corroborate the suspicion that an employer acted contrary to the anti-discrimination provisions of this Law, the burden of proof shall be on the employer to demonstrate that there was no discrimination.
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, trade union is forbidden to interfere with the organization, operation and management of the employers' association. However, there is no misdemeanor sanction for violation of this provision, in terms of the provisions of the Labor Law.

In **Brčko District**, the Labour Law of BD stipulates that any employer is obliged to enable the trade union to act in accordance with its tasks and role.
The same Law stipulates that an employer may not, without the prior consent of the trade union, terminate the employment contract of an authorized trade union representative or put him at a disadvantage in relation to the position he/she held before he/she was appointed to office and three months after performing this function.
The current Labor Law of the Brčko District of B&H stipulates that trade unions and employers' associations are registered in the appropriate register kept by the competent authority, and that a worker cannot be placed in an unequal position due to union membership or non-membership. The lawful operation of a trade union cannot be permanently or temporarily banned.

33. The Committee asked what the prerogatives of both trade unions and employees' councils are;

The Law on Labor in the Institutions of **Bosnia and Herzegovina** does not contain special provisions prescribing the rights or prerogatives of a non-representative trade union.

When it comes to non-representative trade union, in **Federation of B&H**, we emphasize that the Labour Law stipulates the that all trade unions have the right to represent their members before the employer in accordance with the rules on the organization and operation of trade unions. Therefore, all trade unions, regardless of the representativeness, have the right to represent their members, and non-representative trade unions only do not have rights related the powers belonging to representative trade unions and which, in accordance with the Law, are related to: collective bargaining, concluding collective agreements and participation in bipartite and tripartite bodies composed of representatives of government bodies, employers' associations and trade unions.

In **Republic of Srpska**, in accordance with the Labour Law, a representative trade union and a representative association of employers have the right to participate in the process of collective bargaining, peaceful resolution of labor disputes and work of tripartite and multipartite bodies at the appropriate level and other rights in accordance with the law.
Although most of the rights are reserved for representative unions, in terms of the provisions of the Labor Law, the conditions for the work of trade unions are provided regardless of their representativeness.
The employer is obliged to enable the trade union to act in accordance with its role and tasks, statute, program and international labor conventions, as follows: to initiate and to submit requests and proposals and to take positions relevant to the material, economic and social position of workers; to consider the opinions and proposals of the trade union before making a decision relevant to the material, economic and social position of workers and to decide on them.
The employer is obliged to provide the trade union with technical and spatial conditions for its activities, in accordance with the spatial and financial possibilities, as well as to provide it with access to data and information necessary for performing trade union activities. Trade union representatives must be allowed to be absent from work to attend trade union meetings, conferences, sessions and congresses, and to receive training in courses and seminars.
When necessary, trade union representatives are provided with access to all jobs with the employer for the performance of their function, except for jobs under a special protection regime in accordance with a special regulation. In case of the need to collect solidarity funds, the representatives of the workers, authorized by the trade union, have the right to perform this activity in the appropriate premises or facilities of the employer. Trade union representatives are allowed to display union notices at the employer's premises in places which are accessible to workers. Trade union representatives are allowed to use at least two hours per month during working hours for company meetings and two hours per week for other union activities.
The employer is obliged to allow the trade union representatives to provide the workers with information, bulletins, publications, leaflets and other union documents. Free access of external trade union representatives into the trade union organization organized by the employer is also allowed but these activities and visits must be announced to the employer in advance. The activities of the trade union are carried out in such a way that they do not harm the regular functioning of the employer and work discipline.
At the written request of the trade union, the employer is obliged to ensure the calculation and payment of trade union membership fees by suspending the membership fee from the salaries of workers – trade union members during each salary payment based on a written statement or signed trade union application form.

In **Brčko District of Bosnia and Herzegovina**, the Labor Law stipulates that a representative trade union is considered to be a trade union representing at least 20% of employees working for the employer. A representative trade union, for one or more fields of activity, is considered to be a trade union that has at least 30% of the total number of employees in that field of activity. A representative trade union for the territory of the District is considered to be a trade union that has at least 30% of members in at least 3 filed of activities in relation to the total number of employees in the District according to the data of the Agency for Statistics of B&H. The Law stipulates that the employer determines the representativeness of the trade union. If the employer does not determine it within 15 days from the day of submitting the request on the representativeness of the trade union then the competent body may decide on the request of the trade union.

34. The Committee asks for further information on the actual criteria for determining representativeness (establishment of representativeness, judicial review etc.);

In accordance with the Law on Labour in the Institutions **of Bosnia and Herzegovina**, a representative trade union means a trade union registered at the level of Bosnia and Herzegovina, or two or more unions acting together, whose membership consists of a majority of employees of one employer at employer's headquarters. Pursuant to the Law on Labour in the Institutions of B&H, the Council of Ministers confirms the status of representative trade union at the proposal of the Ministry of Justice of Bosnia and Herzegovina, and an appeal may be lodged against the confirmation or refusal of the representative trade union status to the Court of Bosnia and Herzegovina.

In the Federation of Bosnia and Herzegovina, when it comes to the conditions for determining the representativeness of the union, we emphasize that the Labour Law provides that the union is considered representative: if it is registered with the competent authority, in accordance with the law; if it is financed mainly from membership fees and other own sources; if there is a required percentage of employees who are members in accordance with the law. The possibility of determining the representativeness of trade unions at the level of the employer, for the branch or activity in the cantons/the territory of the Federation of Bosnia and Herzegovina, and for the territory of the Federation of Bosnia and Herzegovina.
The procedure for determining the representativeness of a trade union with an employer is prescribed by the Labour Law. The representativeness of the trade union with the employer is determined by the employer at the request of the trade union acting with the employer in the presence of the representatives of the interested trade unions, in accordance with this Law. The request is to be accompanied by evidence of compliance with the conditions of representativeness established by law and a statement of the person authorized to represent and act for the trade union. If a trade union with the employer is a part of a trade union registered with the competent body in accordance with the law, the trade union submits a request for determining representativeness, accompanied with the decision on registration of that trade union in the register of associations and a certificate of its being part of that trade union issued by that trade union. The employer decides on the request by a decision on the basis of the submitted evidence of meeting the conditions of representativeness, within 15 days of submission of the request. If the employer fails to determine the representativeness of the trade union within the deadline referred to in paragraph 4 of this Article or if the trade union considers that its representativeness is not determined in accordance with this Law, the Federation or cantonal ministry responsible for labour may decide on the representativeness of the trade union.
The procedure for determining the representativeness of trade unions and employers' associations on the territory of the Federation or cantons is prescribed by the same Law. The representativeness of trade unions or employers' associations in the territory of the Federation, i.e. the territory of the

canton, at the request of interested parties is to be determined by the Federation or cantonal ministry in charge of labour. The number of employees is determined on the basis of data from the competent institutions, which the competent ministry obtains officially. The employer is obliged to issue a certificate on the number of employees at the request of the union. Within 15 days of submitting the request, the Federation or cantonal ministry responsible for labour issues a decision on determining the representativeness of trade unions or employers' associations if the conditions set out in this Law are met. An administrative dispute may be initiated against the decision.

The trade union or association of employers whose representativeness has been determined in accordance with this Law has the right to: represent its members before the employer, government bodies; employers' associations, other institutions or legal entities; collectively negotiate and conclude collective agreements; participate in bipartite and tripartite bodies composed of representatives of government bodies, employers' associations and trade unions and on other issues in accordance with the law.

The Labour Law regulates the review of established representativeness; the procedure for reviewing the representativeness of the trade union with the employer; the procedure for reviewing the representativeness of trade unions and employers' associations for the territory of the Federation or cantons, and the application of the Law on Administrative Procedure.

It is prescribed that the trade union and employers, i.e. their associations, may submit a request for review of the determined representativeness, if they consider that the facts on the basis of which the representativeness has been determined have changed after one year from the delivery of the decision on determining representativeness.

A request for a review of the representativeness of a trade union established with an employer is submitted to the employer with which the trade union is established. The request states the name of the trade union, the number of the decision on registration, the reasons for which a review of representativeness is required and the evidence to that effect. The employer is obliged to submit the request to the trade union whose representativeness is being reviewed within eight days of receipt of the request. Within 15 days of receipt of the request, the trade union is obliged to submit to the employer evidence of fulfilment of the conditions of representativeness. An appeal against the decision of the employer on the determined representativeness may be sent to the Federation or cantonal ministry responsible for labour within 15 days of receipt of the decision.

The request for reviewing the representativeness of trade unions or employers' associations for the territory of the Federation or the territory of the canton is submitted to the Federation or cantonal ministry responsible for labour and contains the number of decision on registration, reasons for requesting review of representativeness and evidence. The competent ministry is obliged to submit the request to the trade union or association of employers whose representativeness is being reviewed within 15 days of receipt of the request, in order to prove the existing representativeness, in accordance with this Law. The trade union or association of employers is obliged to submit evidence of meeting the conditions of representativeness within 30 days of receipt of the request.

The decision on the representativeness and loss of representativeness of trade unions and employers' associations for the territory of the Federation is published in Official Gazette of the Federation of B&H.

In this regard, and given that the Federation Ministry of Labour and Social Policy is responsible for determining the representativeness of trade unions and employers' associations for the territory of the Federation of Bosnia and Herzegovina, we emphasize that the following unions are representative at this level of government:

- Trade Union of Metalworkers of the Federation of B&H - Determined representativeness for production, processing of metals and related activities in the Federation of B&H,
- Independent Trade Union of Primary Education of the Federation of B&H - Determined representativeness for primary education in the territory of the Federation of B&H,

- Trade Union of Electric Power Workers of the Federation of B&H - Determined representativeness for electric power activity on the territory of the Federation of B&H,
- Trade Union of Secondary and Higher Education, Education, Science and Culture of Bosnia and Herzegovina - Determined representativeness for the field of secondary and higher education, education, science and culture in the Federation of B&H,
- Independent Trade Union of Health Care Workers in the FB&H - Determined representativeness for the field of health care in the Federation of Bosnia and Herzegovina,
- Federation of Independent Trade Unions of Bosnia and Herzegovina - Determined representativeness for the territory of the Federation of B&H,
- Independent Trade Union of Chemical and Non-Metal Workers in FB&H - Determined representativeness for chemical industry and non-metal production in the Federation of B&H,
- Independent Trade Union of Civil Servants and Non-Civil Servants in Civil Service Bodies, Judiciary and Public Institutions - Determined representativeness for public administration activities on the territory of the Federation of B&H,
- Independent Trade Union of Mining Workers of the Federation of B&H - Determined representativeness for mining activities in the territory of the Federation of B&H,
- Union of Textiles, Leather, Footwear and Rubber of the Federation of B&H - Determined representativeness for textile, leather, footwear and rubber production in the Federation of B&H,
- Trade Union of Construction and Construction Material Industry of Bosnia and Herzegovina - Determined representativeness for construction in the territory of the Federation of B&H,
- Independent Trade Union of Communal Workers in the Federation of B&H - Representativeness for communal activities in the territory of the Federation of B&H has been determined,
- Independent Trade Union of Forestry, Wood and Paper Processing of Bosnia and Herzegovina - Established representativeness for forestry and logging, wood and cork processing of wood and products, production of straw and wickerwork, paper production and furniture production in the Federation of B&H,
- BH Telekom Trade Union - Determined representativeness for telecommunications activities in the territory of the Federation of B&H,
- Independent Trade Union of Oil and Petrochemical Workers of the Federation of B&H - Established representativeness for refining and trade of petroleum products in the Federation of B&H,
- Trade Union of Trade and Service Workers - Determined representativeness for trade and service activities on the territory of the Federation of B&H,
- Independent Trade Union of Transport and Communications in Bosnia and Herzegovina - Determined representativeness for land and air transport in the Federation of B&H,
- Trade Union of BH Post Office- Determined representativeness for postal traffic,
- Federation of Independent Trade Unions of Police and Employees in the Ministries of the Internal Affairs of the FB&H - Determined representativeness for public order and security in the Federation of B&H,
- Union of Independent Trade Unions of the Police of the Federation of B&H - Determined representativeness for public order and security in the territory of the Federation of B&H,
- Union of Graphic, Publishing and Media Workers of B&H - Determined representativeness for publishing in the territory of the Federation of B&H,
- Independent Trade Union of Railway Workers in Bosnia and Herzegovina - Established representativeness for rail transport of passengers and goods in the Federation of B&H.

In the Republic of Srpska, in accordance with the Labour Law, the representativeness of the trade union is determined at three levels:

1) at the level of the employer (conditions for acquiring the status: to be founded and operating on the principles of trade union organization and operation; to be independent of government and employers; to be registered in the Register of Trade Unions and Employers' Associations; to be financed mainly from membership fees and other own sources and to have not less than 20% members of the total number of employees with the employer)
2) at the level of section, division or group (conditions for acquiring the status: to be founded and operates on the principles of trade union organization and operation; to be independent of government and employers; to be registered in the Register of Trade Unions and Employers' Associations; and other own sources and to have not less than 10% members of the total employees in the section, division or group)
3) at the level of the Republic of Srpska (conditions for acquiring the status: to be established and operate on the principles of trade union organization and operation; to be independent of government bodies and employers; to be registered in the Register of Trade Unions and Employers' Associations; to be financed mainly from membership fees and other own sources and to have not less than 5% members of the total number of employees in the Republic of Srpska in at least three sections, divisions and groups)

The decision on determining representativeness is final in the administrative procedure and no appeal is allowed against it, but an administrative dispute can be initiated with the District Court in Banja Luka within 30 days of receipt of the decision.

In the Brčko District of Bosnia and Herzegovina, the Labour Law prescribes the powers of a representative trade union, i.e. employers' association, and they have the right to represent their members, collectively negotiate and conclude collective agreements, participate in bipartite and tripartite bodies and exercise other rights in accordance with law.

The possibility of reviewing the representativeness of trade unions and employers' associations after the expiration of one year from the day of submitting the decision on representativeness is also prescribed.

35. The Committee asks for further information on the representativeness criteria for trade unions or employers' organizations, i.e. the prerogatives of trade unions and employees' councils, and whether both forms of representation may coexist in undertakings with at least 15 employees and if this is not the case, which form of employees' representation has priority/more privileges in practice;

We do not have information in this regard about the institutions at the level **of Bosnia and Herzegovina.**

In the Federation of Bosnia and Herzegovina, the Labour Law provides that a representative trade union with an employer is considered to be a trade union in which at least 20% of the total number of employees with the employer are members of the trade union. A representative trade union for one or more activities is considered to be a trade union with at least 30% members from the total number of employees in the field of activity (group) in the Federation or canton. A representative trade union in the territory of the Federation is considered to be a trade union that has at least 30% members from the total number of employees in the Federation, according to the Federation Bureau of Statistics.

If the union does not meet the condition regarding the percentage of members in relation to the total number of employees, the representative union is considered to be the union with a largest number of members of the total number of employees.

The Labour Law provides that employers' association is considered representative if it is entered in the register in accordance with the law; if it has the required number of members; if it is financed

mainly from membership fees and other own sources. A representative association of employers in terms of paragraph 1 of this Article is an association of employers whose members employ at least 20% of the total number of employees in the economy in the Federation, or in the canton. If no association of employers meets the above conditions, a representative association of employers is considered to be the association whose members employ the largest number of employees in the economy in the Federation or the canton. If the Cantonal Employers' Association is an organizational part of the Federation Employers' Association, it is considered to meet the requirements.
When it comes to the possibility of coexistence of unions and employees' councils in companies with at least 15 employees, we emphasize that the Law on Employees' Council provides that employees of an employer with at least 15 employees have the right to participate in deciding on their economic issues, social rights and interests in the manner and under the conditions prescribed by this law, while Article 31 of the same Law provides that if the employer does not form an employee council, the union has obligations and powers that apply to the employees' council. Therefore, if an employees' council has not been formed with the employer, the employer will fulfil its obligations towards the trade union with regard to obligations related to informing, consulting and obtaining prior approval in statutorily prescribed cases. This provision is also contained in the Labour Law, which provides that if an employee council is not formed with the employer, the trade union has obligations and powers of employees'' council, in accordance with the law.

In the Republic of Srpska, in accordance with the Labour Law, the representativeness of employers' associations is determined at two levels:

1) at the level of section, division or group (conditions for acquiring status: that it is registered in the Register of Trade Unions and Employers' Associations and that at least 10% of employers from the total number of employers in the section, division or group are members, which employ not less than 10% of total employees in the section, division or group)
2) at the level of the Republic of Srpska (conditions for acquiring the status: that it is registered in the Register of Trade Unions and Employers' Associations and that not less than 10% of employers in the Republic of Srpska are members, employing not less than 10% of employees in the Republic of Srpska)

At the level of the employer, there may be a union and a workers' council at the same time, regardless of whether the employer has at least 15 workers. If there is only one trade union at the appropriate level of organization, it is considered to be representative, regardless of the number of its members.
The Labour Law provides that workers may establish a workers' council with an employer that employs at least 15 workers, in accordance with the law. The workers' council gives an opinion and participates in deciding on the economic and social rights and interests of workers in the manner and under the conditions determined by law and by-laws.
Trade unions have priority in terms of the Labour Law, as well as practical issues regarding social dialogue. The Republic of Srpska legislation clearly and unequivocally distinguishes between trade unions and workers' councils and provides that workers' councils are subordinate to unions - only a union can enter into collective agreements and if there is a statutory obligation to consult workers, workers councils will be consulted only if the union is not established with the employer.
Example of legal provisions:
The Labour Law provides that the employer is obliged to request an opinion from the trade union in cases determined by law, and in case of an employer without a trade union established from the workers' council or a representative appointed by the workers. Article 91, paragraph 1 provides that, in consultations with the workers' council if the trade union was not organized with the employer, the employer can send the worker on paid leave (lay off) in case of unplanned temporary reduction

of workload with the employer, as well as reasons of economic and financial or technical and technological nature.

In the Brčko District of Bosnia and Herzegovina, the Labour Law provides that with an employer with at least 15 employees, workers have the right to form a workers' council. If a workers' council has not been formed with the employer, the trade union will take over this role.
The conditions for the representativeness of the trade union are also prescribed: to be registered with the competent body, to be financed mainly from membership fees and other own sources and to have the required percentage of employees for members.

36. The Committee seeks confirmation that there are no restrictions on the guaranteed rights of members of the police, armed forces and civil servants to organize (for all levels of government);

The right of members of the police, including the right to organize unions at the level of institutions **of Bosnia and Herzegovina**, is regulated by the Law on Police Officers of Bosnia and Herzegovina, while the rights of members of the B&H Armed Forces are prescribed by the Law on Service in B&H Armed Forces. The Ministry of Security of Bosnia and Herzegovina and the Ministry of Defence of Bosnia and Herzegovina are responsible for the implementation and monitoring of the application of these regulations.

In the Federation of Bosnia and Herzegovina, it can be concluded from the data above that there are no restrictions on the guaranteed rights of members of the police and civil servants to organize, given that they are organized in unions that are determined to be representative unions.
Regarding the representative associations of employers for the territory of the Federation of Bosnia and Herzegovina, we emphasize that the Association of Employers in the Federation of B&H is a representative association at this level of government.

With regard to the right to organize **in the Republic of Srpska**, there are no restrictions on the organization of these categories of workers.

4. Article 6 - The right to bargain collectively
4.1 Article 6 Paragraph 1 - Joint consultation

(The European Committee of Social Rights concluded in its Conclusions (2018) that the situation in Bosnia and Herzegovina is not in line with this article on the grounds that it has not been established that joint consultations have been sufficiently promoted in practice.)

37. The Committee asks whether the Economic and Social Council in B&H has been established and detailed information on that body;

At the level of institutions **of Bosnia and Herzegovina**, the Decision on Establishing a Working Group for Social Dialogue with Trade Unions in the Institutions of B&H appointed a working group whose task was to consider issues and propose measures to improve the status of employees in B&H institutions.

In the Federation of Bosnia and Herzegovina, the Labour Law provides that in order to promote and harmonize economic and social policy, i.e. the interests of workers and employers, and encourage the conclusion and implementation of collective agreements and their harmonization with economic and social policy measures, i.e. the interests of workers and employers, an economic

and social council may be established. The economic and social council may be established for the territory of the Federation and for the territory of a canton.

In the Republic of Srpska, the institutionalized tripartite social dialogue takes place primarily through the work of the Republic of Srpska Economic and Social Council (hereinafter: RS ESC). The RS ESC is a tripartite body consisting of representatives of: the Republic of Srpska Government, representatives of representative unions and representative associations of employers at the level of the Republic of Srpska (hereinafter: social partners). The RS ESC was initially established in 1997 by a special agreement of social partners. In accordance with European practice and international obligations, in 2000, the existence of this body was regulated by the Labour Law. After that, in 2008, a special Law on the Economic and Social Council was passed, which regulated the competence, composition, manner of work, financing and other issues related to the work of this body. The Law on Amendments to the Law on Economic and Social Council enables several representative trade unions and employers' associations at the national level to participate in the RS ESC, as well as the possibility of forming economic and social councils at the level of local self-governments.

In the Brčko District of Bosnia and Herzegovina, the Economic and Social Council of the Brčko District of B&H was established by the Agreement on Establishment on 8 November 2011 as an institutional form of tripartite economic and social dialogue.
On 25 April 2017, a new founding agreement was passed and the 2011 agreement ceased to be valid.
It consists of representatives of the Government of the Brčko District of B&H, representatives of the Association of Employers of the Brčko District of B&H and representatives of the Trade Union of the Brčko District of B&H.
It was established for the joint action of social partners in the field of economy, social and development policy, affirmation and protection of economic and social rights, i.e. the interests of employees and employers and the system of collective bargaining.
The Economic and Social Council of the Brčko District of B&H discusses draft laws, bylaws and other documents within the scope of its work and submits its opinion to the Government of the Brčko District of B&H and other competent bodies.
It considers the application of the law and proposes possible changes to the law that are of special importance for economic and social development, in order to improve the position of employees and employers.
It monitors, considers and evaluates the impact of economic and social policy measures on development and social stability, and proposes appropriate measures in the field of employment, pensions and health insurance and proposes measures to combat the grey economy, illegal trade, corruption and other issues relevant to economic social development.
The Economic and Social Council of the Brčko District of B&H makes decisions in the form of recommendations, conclusions and opinions that are sent to the Government of the Brčko District of B&H for consideration and further action.
The Economic and Social Council of the Brčko District of B&H has twelve members, four members from the public administration, the Association of Employers and the Trade Union each, with each member having a deputy.
Each social partner independently appoints and recalls its representatives and their deputies. The term of office of the members of the Economic and Social Council of the Brčko District of B&H lasts for four years and they can be reappointed.
The Economic and Social Council of the Brčko District of B&H may work and make decisions if more than half of the members are present at the session, provided that members of all three parties must be represented during the decision-making.

The Economic and Social Council of the Brčko District of B&H adopts the Rules of Procedure, which precisely regulate the manner of work.

38. The Committee requests information on whether bipartite joint consultations are being held in Bosnia and Herzegovina at all levels and steps are being taken to encourage them;

The working group for social dialogue with trade unions in the institutions **of Bosnia and Herzegovina** was formed on 25 March 2021, and one of the tasks is to determine the dynamics of its activities, so consultations are expected to be held at the level of B&H institutions.

In the Federation of Bosnia and Herzegovina, the Economic and Social Council is based on tripartite cooperation between the Government of the Federation/ governments of cantons, trade unions and employers' associations. The Economic and Social Council was established by agreement of the social partners, and a special law regulates the composition, competence, powers and other issues of importance for the work of this council.
In this regard, the Economic and Social Council for the territory of the Federation of Bosnia and Herzegovina was established by the Agreement on the Economic and Social Council for the territory of the Federation of B&H, which sets out the principles of Council, composition, decision-making, scope and competences.

In the Republic of Srpska, bipartite consultations are conducted at the level of sections, groups and activities where employers' associations and branch unions negotiate and consult, as well as at the level of the Republic of Srpska, where negotiations and consultations are conducted by competent authorities of the Republic of Srpska as employers with trade unions organized in the sections for which these bodies are responsible.
There are no available data on the issue of consultations at the level of the employer.

39. The Committee requests that the next report provide information on joint consultations between employees and employers and their promotion in practice (for all levels of government);

In Bosnia and Herzegovina, due to the territorial limitations of existing trade unions and employers' associations, and the lack of other preconditions for the adoption of the law on the representativeness of social partners, in cooperation with the International Labour Organization (ILO), it was agreed and planned to conclude the Bosnia and Herzegovina Economic and Social Council Agreement (hereinafter: B&H ESC) with the most numerous and influential associations of employers and trade unions operating in the entire territory of Bosnia and Herzegovina, in order to establish ESC at the state level. This Agreement would regulate the manner of B&H ESC establishing the mandate, composition and structure, the manner of functioning and work, competencies, administrative and institutional arrangements, and other issues of interest to the ESC. To date, the Agreement has not been approved because no agreement has been reached regarding the competencies that the B&H ESC would have, as well as due to the impossibility of determining representative social partners. ESCs in B&H operate at the level of two Entities and the Brčko District of B&H.

In the Federation of Bosnia and Herzegovina, the Economic and Social Council for the territory of the Federation of Bosnia and Herzegovina was established to conduct joint activities of social partners, social development policy, affirmation and protection of economic and social rights, i.e. interests of employees and employers, development of collective bargaining and collective agreements. and in this sense the ESC monitors, considers and evaluates the impact of economic policy and economic and social policy measures on development and social stability; considers, encourages the conclusion and evaluates the application of collective agreements and in this regard

the submission of information and explanations to the competent Ministry of Labour; encourages the peaceful settlement of collective disputes; proposes to the Government, employers and trade unions to pursue a harmonized wage price policy; encourages the idea of tripartite, bipartite and other forms of social dialogue at all levels of government in solving economic and social issues and problems; monitors, considers and proposes possible changes in the law that affect the economic and social development and in that context the position of employees and employers; considers drafts of laws, bylaws, programs and other documents within the scope of its work and submits its opinions on these documents to the Government of the Federation of B&H and the Parliament of the Federation of B&H; monitors the application of laws and the exercise of rights in the field of labour and social security, and proposes to the competent authorities and institutions measures for the exercise and promotion of these rights; deals with the problems of conducting the privatization process and proposes to the competent institutions possible amendments to laws and bylaws that would contribute to greater financial effects and employment; monitors the situation in the field of employment, disability and health insurance and in this context conducts activities to reduce the black labour market; encourages activities to increase the efficiency of the competent institutions of the system in preventing corruption, with the aim of turning it into a high-risk and low-profit practice.
Therefore, in the Federation of Bosnia and Herzegovina, the social partners are equally involved in social dialogue, and they are represented in the work of the ESC for the territory of the Federation of Bosnia and Herzegovina through their representatives.

4.2 Article 6 Paragraph 2 - Negotiating procedures

(Pending receipt of the information requested, the Committee defers its conclusion.)

40. The Committee requests detailed information on the level of salaries at the state, entity and Brčko District levels of Bosnia and Herzegovina;

Salaries and allowances in the institutions **of Bosnia and Herzegovina** are regulated by the Law on Salaries and Allowances in the Institutions of Bosnia and Herzegovina and bylaws adopted on the basis thereof. The law determines the pay grades, which are elaborated in the Methodology for the Assignment of Employees within their Pay Grade. The basis for the calculation of salaries and allowances is determined in a special decision by the Council of Ministers of B&H.

In the Federation of Bosnia and Herzegovina, salaries and allowances of government bodies are regulated by the Law on Salaries and Allowances in Governmental Bodies of the Federation. The amount of the basic salary is calculated by multiplying the base and points for calculating the salary, i.e. the determined salary grade coefficient, and the calculated amount is increased by 0.5% for each year of started pensionable service of elected officials, executive office holders and advisors, civil servants and non-civil servants, judicial police and prison police officers - guards, up to 20%.

In the Republic of Srpska, as Annex 1 of this report, we submit the publication / bulletin of the Republic of Srpska Statistics Office titled: 2021 Wages, Employment and Unemployment containing relevant data in this section.

In the Brčko District of Bosnia and Herzegovina, salaries and allowances in public administration bodies are governed by the Law on Salaries of Employees in Administrative Bodies of the Brčko District of Bosnia and Herzegovina and the Rulebook on the Method of Calculating and Paying Salaries to Budget Users. The mentioned Law regulates salaries, allowances, financial aid and severance pay of employees in the administrative bodies of the Brčko District of Bosnia and

Herzegovina. Administrative bodies in the sense of this Law are administrative bodies defined by the Law on Civil Servants and Non-Civil Servants.
Salary is determined in gross amount. Gross salary consists of the basic salary and increases under the Law together with taxes and contributions. The basic salary is determined by multiplying the base and the salary grade coefficient.
The basic salary of employees is increased during the time spent at work in the following cases: a) night work - by 30%; b) work on Saturdays and Sundays - by 20% and c) work during holidays - by 35%. These additions are not mutually exclusive.
Authorized officials in the Police of the Brčko District of Bosnia and Herzegovina are not entitled to a salary increase based on night work and work on Saturdays and Sundays.
Funds in the budget intended for gross salaries of authorized officials of the Brčko District Police of Bosnia and Herzegovina are increased by 25% and paid to authorized officials on behalf of risk, complexity of work performed, special working conditions and exercise of police powers, all in accordance with a special Rulebook on the Police adopted with approval by mayor.
Funds in the budget intended for the gross salaries of health care employees are increased by up to 8% and are paid in the name of the complexity of the work they perform and special working conditions, in accordance with the Rulebook to be adopted by mayor.
The Rulebook determines the manner of calculation and payment of salary, salary compensation, salary additions and cost refund to the employee, appointed and elected person of the particular budget user. The calculation of gross and net salary and the determination of the basic salary is done in accordance with laws governing salaries and the laws governing taxes and contributions on salaries. Net salary, which consists of the basic salary and salary additions and is calculated before the income tax is deducted, is converted into gross amount by multiplying the amount of net salary by the coefficient of the cumulative rate of statutory contributions. The cumulative contribution rate coefficient is calculated as follows:

$$\text{Coefficient} = \frac{\text{Cumulative contribution rate} \times 100}{100 - \text{cumulative contribution rate}} : 100 + 1$$

The cumulative contribution rate is: a) the sum of pension contribution rates prescribed by the entities and b) the health insurance contribution rates and the unemployment contribution rates prescribed by the Brčko District of Bosnia and Herzegovina.

41. The Committee requests updated information in the next report on the number of collective agreements concluded for all levels (state / entity, branch / sector, company) and on the percentage of employees covered by collective agreements;

At the level of institutions **of Bosnia and Herzegovina**, there is no collective agreement between the Council of Ministers of B&H and employees, i.e. representatives of trade unions of employees in the institutions of B&H. A collective bargaining procedure has been launched but has not been completed yet.

In the Federation of Bosnia and Herzegovina, the Labour Law regulates the issue of collective agreements and collective bargaining. A collective agreement can be concluded as general, branch and individual (with the employer). A general collective agreement is concluded for the territory of the Federation, and branch collective agreements for the territory of the Federation or the territory of one or more cantons.
The general collective agreement is concluded by the Government of the Federation, a representative association of employers and a representative trade union established on the territory of the Federation. The branch collective agreement is concluded by a representative association of

employers and a representative trade union of one or more activities established on the territory of the Federation or the territory of one or more cantons. Branch collective agreements for employees in the civil service, judiciary, public institutions and other budget users are concluded by the competent ministries, i.e. the Federation Government and the competent ministries and governments of the cantons of one side and a representative union of civil servants and non-civil servants, public institutions and other budget users on the other hand. Individual collective agreements are concluded by a representative trade union establish with the employer and the employer, and where the Federation, canton, city or municipality are the owner, their approval must be obtained in advance. In the process of negotiating for the purpose of concluding a collective agreement, the representative trade union is obliged to cooperate with other trade unions with a smaller number of members, in order to represent the interests of the employees who are members of that trade union.

The branch collective agreement for sections financed from the budget or extra-budgetary funds is concluded by the Federation Government, i.e. the competent ministries, and cantonal governments, i.e. the relevant ministries and cantonal governments, i.e. the relevant ministries on the one hand and representative trade unions on the other. Branch collective agreements for public enterprises and public institutions founded by the Federation, canton, city or municipality are concluded by representative unions and founders. Branch collective agreements for companies in which the Federation, canton, city or municipality participates with more than 50% of the total capital are concluded by representatives of state capital holders in addition to the representative union, together with the representative association of employers participating, unless otherwise stipulated in an agreement between the Federation/cantonal government, city mayor or municipality mayor and the representative association of employers. In the process of negotiating for the purpose of concluding collective agreements, the representative trade union is obliged to cooperate with other trade unions with a smaller number of members, in order to represent the interests of employees who are members of that trade union.

All parties to the collective bargaining agreement are obliged to conduct the negotiations in good faith and make reasonable efforts to conclude a collective agreement. The procedure of collective bargaining and concluding collective agreements is instituted on the basis of a written initiative of one of the contracting parties. If no agreement is reached within 45 days for the conclusion of collective agreements during the negotiations, the participants may initiate arbitration to resolve the disputed issues.

The collective agreement is concluded in writing. A collective agreement may be concluded for a definite period of time, which may not exceed three years. The collective agreement ceases to be valid upon the expiry of the period and applies no later than 90 days after the expiry of the term for which it was concluded. A collective agreement may be extended by agreement of the parties that concluded it no later than 30 days before the expiration of that agreement.

The content of the collective agreement, the obligatory nature, the extension of the application of the collective agreement and amendments are prescribed by the Labour Law. Further, the collective agreement and amendments concluded for the territory of the Federation or the territory of two or more cantons are submitted to the Federation Ministry responsible for labour, and all other collective agreements are submitted to the competent authority of the canton. The procedure for submitting collective agreements will be prescribed by a rulebook adopted by the Federation Minister, i.e. the competent cantonal minister.

The collective agreement and amendments concluded for the territory of the Federation or the territory of two or more cantons is to be submitted to the Federation Ministry responsible for labour, and all other collective agreements are to be submitted to the competent cantonal authority. The procedure for submitting collective agreements shall be prescribed by an ordinance of the Federation Minister, i.e. the competent cantonal minister. In this regard, the Federation Ministry of Labour and Social Policy adopted the Rulebook on the Procedure for Submitting and Managing

Collective Agreements, in accordance with which all collective agreements concluded for the territory of the Federation of Bosnia and Herzegovina or two or more cantons are submitted to this ministry for registration. Based on the above, the Register of Collective Agreements concluded for the territory of the Federation of Bosnia and Herzegovina has been established, which is kept by the Federation Ministry of Labour and Social Policy and which is publicly available through the official website of the Ministry.

A collective agreement concluded for the territory of the Federation or the territory of several cantons is published in the Official Gazette of the Federation of B&H and for the territory of one canton in the official gazette of the canton.

According to the Register of Collective Agreements concluded for the entire Federation of Bosnia and Herzegovina or for two or more cantons with the FB&H Ministry of Labour and Social Policy, the following collective agreements are currently in force:

- Collective Agreement on the Rights and Obligations of Employers and Workers in Production and Processing of Metals in the Federation of Bosnia and Herzegovina (Official Gazette of B&H, 61/18),
- Collective Agreement for Administrative and Judicial Officers in the Federation of B&H (Official Gazette of FB&H, 6/20 and 11/21),
- Collective Agreement on the Rights and Obligations of Employers and Workers in Mining in the Federation of Bosnia and Herzegovina (Official Gazette of the FB&H, 17/20),
- Collective Agreement for Telecommunications in the Federation of Bosnia and Herzegovina (Official Gazette of the FB&H, 8/21),
- Branch collective agreement for electric power activity in the FB&H (Official Gazette of FB&H, 12/21),
- Branch Collective Agreement for Employees in the Administration and Judiciary of the Federation of Bosnia and Herzegovina (Official Gazette of FB&H, 32/21),
- Collective agreement for postal traffic (Official Gazette of FB&H, 33/21).

Further, the following collective agreements that have expired are entered in the Register:

- General Collective Agreement for the Entire Federation of Bosnia and Herzegovina (Official Gazette of FB&H, 48/16, 62/16 and 19/18),
- Collective Agreement on the Rights and Obligations of Employers and Workers in the Production and Processing of Metals in the Federation of Bosnia and Herzegovina (Official Gazette of the FB&H, 78/16),
- Collective Agreement on the Rights and Obligations of Employers and Workers in Transport for the Entire Federation of Bosnia and Herzegovina (Official Gazette of FB&H, 78/16),
- Framework Collective Agreement on the Rights and Obligations of Employers and Workers in Utilities for the Entire Federation of Bosnia and Herzegovina (Official Gazette of FB&H, 79/16),
- Collective Agreement on Amendments to the Collective Agreement for Employees in Administrative Bodies and Judiciary in the Federation of Bosnia and Herzegovina (Official Gazette of FB&H, 89/16),
- Collective Agreement on the Rights and Obligations of Employers and Workers in Forestry in the Federation of Bosnia and Herzegovina (Official Gazette of FB&H, 93/16),
- Collective Agreement for Wood and Paper Industry in the Federation of Bosnia and Herzegovina (Official Gazette of FB&H, 99/16) and Agreement on Extension of the Collective Agreement for Employees in Wood and Paper Industry in the Federation of B&H (Official Gazette of FB&H, 8/18),
- Collective Agreement on the Rights and Obligations of Employers and Workers in Mining in the Federation of Bosnia and Herzegovina (Official Gazette of FB&H, 72/16),

- Collective Agreement on the Rights and Obligations of Employers and Workers in Health Care for the Entire Federation of Bosnia and Herzegovina (Official Gazette of FB&H, 12/17),
- Collective Agreement on the Rights and Obligations of Employers and Workers in Trade (Official Gazette of FB&H, 54/17),
- Collective Agreement for Railway Workers for the Entire Federation of Bosnia and Herzegovina (Official Gazette of FB&H, 13/17),
- Collective Agreement for Officials of Administrative Bodies and Judiciary in the Federation of Bosnia and Herzegovina (Official Gazette of FB&H, 16/18),
- Collective agreement for railway workers for the entire Federation of Bosnia and Herzegovina (Official Gazette of FB&H, 49/18),
- Collective Agreement on the Rights and Obligations of Employers and Workers in Trade in the Federation of Bosnia and Herzegovina (Official Gazette of FB&H - Advertisements, 28/18),
- Agreement on Continuation of the Implementation of the Collective Agreement on the Rights and Obligations of Employers and Workers in Mining in the Federation of Bosnia and Herzegovina (Official Gazette of the FB&H, 78/19),
- Collective Agreement for Textile, Leather Processing, Rubber and Footwear Industries in the Federation of Bosnia and Herzegovina (Official Gazette of the FB&H, 76/18),
- Collective agreement for postal traffic (Official Gazette of FB&H, 37/18),
- Collective Agreement for Telecommunications in the Federation of Bosnia and Herzegovina (Official Gazette of the FB&H, 74/18),
- Branch collective agreement for electric power activity in the Federation of Bosnia and Herzegovina (Official Gazette of FB&H, 29/18, 44/20 and 90/20),
- Collective agreement for postal traffic (Official Gazette of FB&H, 57/20).

Accordingly, collective agreements concluded for cantons or for individual employers are sent for registration to the cantonal ministries in charge of labour.

In the Republic of Srpska, in sections financed from the budget and where the Government of the Republic of Srpska is a direct or indirect employer, the following collective agreements have been concluded and are in force:

- Special collective agreement for employees in administrative bodies (Official Gazette of RS, 67/16, 104/17, 47/19 and 83/20);
- Special collective agreement for employees in the public services of the Republic of Srpska (Official Gazette of RS, 69/16, 52/19 and 83/20);
- Special collective agreement for employees in health care (Official Gazette of RS, 72/16, 111/16, 69/17, 108/17, 113/18, 19/19, 68/19 and 65/20);
- Special collective agreement for employees in the local self-government of the Republic of Srpska (Official Gazette of RS, 20/17, 85/18, 86/18 and 21/20);
- Special collective agreement for employees in social protection of the Republic of Srpska (Official Gazette of RS, 47/18 and 68/20);
- Special collective agreement for employees in the judicial institutions of the Republic of Srpska (Official Gazette of RS, 69/19);
- Special collective agreement for employees in internal affairs of the Republic of Srpska (Official Gazette of RS, 69/19);
- Special collective agreement for employees in higher education and student standard of the Republic of Srpska (Official Gazette of RS, 70/19) and
- Special collective agreement for employees in education and culture of the Republic of Srpska (Official Gazette of RS, 70/19).

Collective agreements where the Government is not the employer but relate to the public sector:

- Collective agreement for employees of JPŠ "Šume Republike Srpske" ad Sokolac (Forestry Company) (Official Gazette of RS, 113/18 and 99/19) and Special collective agreement for employees in utility and service activities of the Republic of Srpska (Official Gazette of RS, 21 / 18).

The Brčko District of Bosnia and Herzegovina does not have information in this regard.

42. The Committee asks whether there is a collective agreement between the B&H Council of Ministers and employees in institutions, that is representatives of labour unions in B&H at the level of B&H institutions;

At the level of B&H institutions, there is no collective agreement between the Council of Ministers of B&H and employees, that is representatives of trade unions of employees in the institutions of B&H. A collective bargaining procedure has been launched but has not been completed yet.

4.3 Article 6 Paragraph 3 - Conciliation and arbitration

(Pending receipt of the information requested, the Committee defers its conclusion.)

43. The Committee requests information on possible new legislation that has been adopted regarding conciliation and mediation for collective labour disputes (for all levels of government and for civil servants);

At the level of **Bosnia and Herzegovina,** no new legislation has been adopted regarding conciliation and mediation for collective labour disputes. The Law on Strike of Employees in B&H Institutions prescribes peaceful resolution of disputes.

The Law on Peaceful Settlement of Labour Disputes entered into force in the **Federation of Bosnia and Herzegovina.** The adoption of this Law is a continuation of the reform of labour legislation, given that the Labour Law provides for the adoption of a special law on peaceful settlement of labour disputes. Namely, the peaceful settlement of labour disputes is a legal mechanism for the exercise of individual and collective rights from the employment relationship, through a type of social dialogue assisted by conciliators and arbitrators. This type of labour dispute resolution is introduced to improve access to justice, as one of the basic human rights prescribed by the European Convention for the Protection of Human Rights and Fundamental Freedoms, as well as to save money by reducing the workload of courts and to reach an agreement on the dispute in a much shorter time comparing to the duration of proceedings before the courts, which is why this Law is of great importance for employers and workers.
The aim of this Law is to reach an agreement on an individual or collective labour dispute in a relatively short period of time in a procedure based on the principles of voluntariness, equality, impartiality and independence, with the expert assistance of conciliators and arbitrators.

The Law on Peaceful Settlement of Labour Disputes is in force in the **Republic of Srpska.**

In the Brčko District of Bosnia and Herzegovina, with the adoption of the new Labour Law, this topic was addressed in chapter "Peaceful Resolution of Collective Labour Disputes". The Law provides that in the event of a dispute over the interpretation, application, amendment, supplementation or cancellation of a collective agreement or other similar dispute related to a collective agreement, the parties may agree to engage in conciliation procedure. Conciliation is conducted by a conciliation board formed for the territory of the District and consists of three members, namely representatives of employers, trade unions and representatives elected by the

parties to the dispute. The conciliation board adopts rules of procedure before that council. The parties to the dispute may accept or reject the decision of the conciliation board. If they accept the decision, it is binding on both parties to the dispute and if they refuse, then each of the parties to the dispute may seek resolution of the dispute before competent court.

44. The Committee requests that the next report provide details of the nature and conditions of arbitration procedures existing for collective labour disputes as well as of measures and steps taken by the authorities to promote the use of conciliation and arbitration procedures and their timelines;

In the Federation of Bosnia and Herzegovina, peaceful settlement of both individual and collective labour disputes in accordance with this Law is based on the principle of voluntariness of the parties to the dispute in a way that the resolution of individual or collective labour disputes is entrusted to the conciliation board. This implies that the dispute will not be entrusted to the conciliation council if both parties to the dispute do not accept a peaceful manner of resolving the dispute in accordance with the Law. This Law governs the procedure of peaceful settlement of labour disputes and prescribes obligations of the parties to the dispute, members of the conciliation board, as well as the ministries in charge of labour. Further, the manner of choosing conciliators and arbitrators is prescribed, as well as the conditions that they must meet. The conciliation board consists of three members: one representative of the parties in an individual or collective dispute, as well as one representative - conciliator chosen by agreement of the parties to the dispute from a list determined by the Federation Minister of Labour and Social Policy. This implies that a conciliation board will be formed for each dispute entrusted to the Conciliation board, provided that, depending on the parties to the dispute, conciliation boards will be formed for the territory of the Federation of Bosnia and Herzegovina and the cantons. It is envisaged that conciliation may be completed by concluding an agreement on the subject matter of the dispute or the conciliator will otherwise declare the conciliation unsuccessful. If the parties to the dispute do not resolve the dispute in the conciliation procedure, it is envisaged that they may entrust the resolution of the dispute to the arbitral tribunal, whose decision is final and binding. In this way, the principle of two instances is ensured in the procedure based on voluntariness. The arbitration council will also consist of three members, with each party in an individual or collective dispute electing one arbitrator from the list, and the third arbitrator from the list to be appointed by the Federation Minister of Labour and Social Policy. The passage of this Law has created the conditions for the peaceful settlement of individual and collective labour disputes, provided that the implementation of this Law in practice will depend on the interest of the parties to the dispute to entrust it to the conciliation board.
Until the enactment of the Law, the peaceful settlement of labour disputes took place in accordance with the Labour Law but this included only resolution of collective and not individual labour disputes.

In the Republic of Srpska, the procedure for peaceful settlement of interest-based collective labour disputes in the sense of the Law on the Peaceful Settlement of Labour Disputes is voluntary. If the proposal for the peaceful settlement of the collective interest-based labour dispute has been submitted by one of the parties to the dispute, the Agency is to submit the proposal and documentation to the other party to the dispute. If the other party does not answer within the prescribed time limit or if it does not accept the proposal, the procedure is suspended. In the event that the other party to the dispute accepts the proposal for the peaceful settlement of the dispute, the Director of the Agency issues a decision on the appointment of a conciliation board. If the parties to the collective labour dispute do not reach an agreement, based on the report of the conciliation board, the Director of the Agency suspend the procedure of peaceful settlement of the interest-based collective labour dispute issuing a conclusion. If an agreement is reached between the parties in the interest-based collective labour dispute, the agreement becomes an integral part of the collective agreement or other regulation that was the subject-matter of the dispute.

There is a certain exemption only when it comes to the procedure of peaceful settlement of collective labour disputes in activities of general interest. In activities of general interest, determined by law, or in activities in which interruption of work could endanger human life and health or cause damage on a larger scale, the parties in a collective dispute of legal views or of interests are obliged to submit a proposal to the Agency for peaceful settlement of the dispute. The parties to the dispute are obliged to submit this proposal within five days of collective dispute arising. If the parties to the dispute do not submit a proposal, the Director of the Agency initiates ex officio the procedure for resolving the dispute in accordance with this Law.

In the Brčko District of Bosnia and Herzegovina, the parties to the dispute may entrust the resolution of the collective labour dispute to arbitration by mutual agreement. The appointment of arbitrators and the arbitral tribunal and other matters relating to the arbitral proceedings are governed by a collective agreement or agreement of the parties.
Arbitration bases its decision on law, other regulations, the collective agreement and fairness. The arbitral award must be reasoned, unless the parties to the dispute decide otherwise. No appeal is allowed against the arbitral award. The arbitral award has the force and effect of a collective agreement.

45. The Committee requests information on mediation procedures for civil servants at all levels of government;

We do not have information in this regard for the level of institutions **of Bosnia and Herzegovina**.

In the Federation of Bosnia and Herzegovina, in connection with the answer to the previous question, in the last five years, in accordance with the Labour Law, the Federation Ministry of Labour and Social Policy received one request for peaceful resolution of collective labour dispute in the manner prescribed by the Labour Law. This Ministry does not have data on conducted arbitration procedure in the cases when the parties to the dispute opted for that way of peaceful settlement of labour disputes. Considering that in accordance with the mentioned legal provision a conciliation board could be formed for the territory of the canton, the cantonal ministries in charge of labour also have data on the number of collective labour disputes that were resolved in the manner provided by the Labour Law/ special cantonal regulations, if they were adopted on the basis of the Labour Law.

In the Republic of Srpska, the protection of the rights of civil servants is regulated by the relevant provisions of the Law on Civil Servants. Two levels of decision-making are possible. According to the Law and by-laws in this matter, no mediation procedure is envisaged. The head of the body decides on the rights and duties of a civil servant issuing a decision unless otherwise provided by this Law. When deciding on the rights and duties of a civil servant, the rules of general administrative procedure apply, unless otherwise provided by this Law or a special law. In order to exercise his rights, the civil servant addresses the head of the body in writing. A civil servant has the right to file an objection against an individual act which decides on his rights or obligations, except on status issues. The objection is to be submitted to the head of the body within eight days of delivery of the decision or other individual act, and the head of the body is obliged to decide on the objection within 15 days of its submission. In the procedure of deciding on the submitted objection, the head of the body reconsiders his / her decision and may amend it. A civil servant has the right to file an objection even if the head of the body does not decide on the right or obligation to which the request relates within 15 days of submitting the objection. If the head of the body does not decide on the submitted objection t within the set deadline or if the civil servant is not satisfied with the decision regarding the submitted objection, the civil servant may address the Board within 15 days

of receipt, i.e. expiration of the deadline for decision. The decision of the Board is final and a dispute may be initiated against it before the competent court within 30 days of delivery of the decision.

In the Brčko District of Bosnia and Herzegovina, the Labour Inspectorate is not aware of whether mediation procedures have been conducted.

4.4 Article 6 Paragraph 4 – Collective action

(The European Committee of Social Rights concluded in its Conclusions (2018) that the situation in Bosnia and Herzegovina is not in line with this article on the grounds that the sectors in which the right to strike can be restricted are too extensive and the restrictions do not meet the requirements of this article of the Charter.)

46. The Committee requests detailed information on the legislative framework for strikes, including the right of police forces to strike (for all levels of government); who has the right to strike; whether the right to strike is guaranteed by the Constitution; whether it is possible to initiate a strike in institutions, i.e. whether civil servants have the right to go on strike; how many civil servants are covered by trade unions and what is the number of employees who do not have the right to strike and for what reasons;

At the level of institutions **of Bosnia and Herzegovina**, the Law on the Strike of Employees in the Institutions of B&H was adopted. This Law provides that employees freely and voluntarily decide on their participation in a strike organized in accordance with the Law, and that employees cannot be prevented from or forced to participation in a strike. It is also prescribed that the right to strike of employees in certain institutions can be limited only on the basis of a special law. Thus, the right of employees to strike is general and restrictions can only be prescribed by a special law. E.g. this was done by Article 26 of the Law on Service in the Armed Forces of B&H (Official Gazette of B&H, 88/05, 53/07, 59/00, 74/10, 42/12 and 41/16), which provides that professional military personnel are prohibited from trade unions and political organizations.
Civil servants have the right to go on strike.
The Ministry of Justice of B&H does not have data on the number of civil servants who are members of the trade union, or the number of employees who do not have the right to strike, because these are data that are exclusively available to institutions individually for their employees.

In the Federation of Bosnia and Herzegovina, the Labour Law provides that a trade union has the right to call for a strike and to carry it out in order to protect and exercise the economic and social rights and interests of its members. A strike can only be organized in accordance with the Strike Law, the union's strike rules and the collective agreement. The strike may not begin before the end of the conciliation procedure provided for in this Law, or before the implementation of another procedure for the peaceful settlement of the dispute agreed upon by the parties. It is stipulated that a worker may not be placed at a disadvantage over other workers for organizing or participating in a strike. A worker cannot in any way be forced to take part in a strike. If a worker acts contrary to the Law or if he intentionally harms the employer during a strike, he may be dismissed, in accordance with the Law. Penal provisions provide for a fine of BAM 1,000.00 to BAM 3,000.00 and in repeated offenses a fine of BAM 5,000.00 to BAM 10,000.00 for the employer-legal entity if it puts workers at a disadvantage due to organizing or participating in a strike.

In the Republic of Srpska, the Constitution of the Republic of Srpska provides that employees have the right to strike, under conditions determined by law, and the Law on Strike regulates the procedure of organized interruption of work in which workers can protect professional, economic and social rights and interests.

A strike is an organized interruption of work, which can be organized in a company, institution and other legal entity or entrepreneur (hereinafter: the employer). A strike may be organized in a section, division or group or as a general strike for the territory of the Republic of Srpska (hereinafter: the RS). Workers are free to decide on their participation in strike. The employer may not prevent the workers from organizing and participating in the strike, nor my it use threats and coercion to end the strike, nor may it provide higher wages or other more favourable working conditions for non-striking workers on the basis of non-participation in the strike.
The decision to go on strike or a warning strike with the employer is made by the competent body of the representative trade union or more than half of the employees with that employer. The decision to go on strike or a warning strike with an employer may be made by the competent authority and another union, which is supported by more than half of the employees of that employer. The decision to join a strike or warning strike in a section, division or group is made by the competent body of the trade union whose representativeness has been determined in that section, division or group.
Civil servants in the Republic of Srpska, in accordance with the Law on Civil Servants, have the right to strike.
The Law on Police and Internal Affairs provides that police officers have the right to strike, except in case of war, state of emergency, state of emergency situation or state of increased risk or general danger on a larger scale, violent threat to the democratic and constitutional order of the Republic of Srpska and B&H, natural disasters or imminent threat of disasters and accidents that threaten the safety of people and property in the territory of the Republic of Srpska. Police officers participating in the strike may not gather outside the official premises of the Ministry or wear uniforms, official weapons or equipment.
Civil servants and non-civil servants in the bodies of local self-government units of the Republic of Srpska have the right to strike in accordance with the Law on Civil Servants and Non-Civil Servants in Local Self-Government Units under the conditions prescribed in the Law on Strike.
Regarding the issue related to trade union coverage, based on the inspection of the Register of Trade Union Organizations, it was stated that a trade union was organized in almost all RS administrative bodies, public services and local self-government units. In the entire O section - public administration and defence, compulsory social security, about 8,000 employees are organized in unions.

The strike **in the Brčko District of Bosnia and Herzegovina** is legally regulated by the Labour Law and the Law on Strike of the Brčko District of B&H.

47. The Committee requests information on the right to call for a strike, when it is reserved and under what conditions, as well as restrictions on the right to strike and the mandatory minimum service (for all levels of government);

The organizer of the strike can be any a trade union in accordance with the Law on Labour in the Institutions **of Bosnia and Herzegovina**. Restrictions on the right to strike can only be prescribed by a special law. The condition for initiating a strike, in accordance with the Law on Strike, is to make an attempt to resolve the dispute peacefully and only if the dispute fails to be resolved amicably, the strike organizer can go on strike by interrupting work and gathering employees in the premises or in front of the employer. The legislature prescribes both a warning strike and a solidarity strike. The organizer of the strike announces the strike in writing through the strike committee, and the announcement of the strike also contains a written explanation.
Regarding the minimum service during the strike, it is prescribed by the Law on Strike of Employees in B&H Institutions, and it is determined by an act of the Council of Ministers in the form of a decision, based on a previously submitted proposal by the employer to which an approval

of the trade union must be obtained, in order to protect public interests, interests of citizens, general security, security of persons and property, taking particular account of the need to ensure unhindered living, working and movement of persons, goods and services.

In the Federation of Bosnia and Herzegovina, the right to organize a strike is the subject-matter of a special Law on Strike, the provisions of which have not changed in the reporting period, so the conditions for organizing and going on strike are still the same. The Law provides that a trade union has the right to call for a strike and to carry it out in order to protect and exercise economic and social rights and interests of its members. A strike may be organized only in accordance with this or another Law, the union's rules on strike and the collective agreement. The Law does not apply in the case when a union organizes a warning strike if it lasts no longer than two hours. According to the Law, any employee is free to decide on his participation in the strike. Organizing and participating in a strike organized in accordance with the law, the collective agreement and union's rules on the strike, does not constitute a violation of the employment contract. The strike is announced to the employer in writing, no later than ten days before the start of the strike. The written announcement contains the reasons for the strike, the place, day and time of the start of the strike. At the same time, the organizer of the strike is obliged to inform the competent Ministry of Internal Affairs about the time and place of the strike.

According to the Law on Strike, at the proposal of the employer, the trade union and the employer mutually determine the jobs that cannot be interrupted during the strike. The agreement contains in particular stipulations on jobs and the number of employees who are obliged to work during a strike or exclusions from work in order to ensure a minimum service (production maintenance), ensuring the necessary living and working conditions of the population, or the work of other legal entities, as well as to insure property and prevent endangerment of life and personal safety or health of the population, endangering life and personal safety or health of the population (health, electricity, water, postal services, international traffic). The agreement must not disable or limit the right to strike.

According to the employer, employees who do not participate in the strike can be excluded from the work process only in response to the already started strike. The exclusion of employees from the work process cannot begin before the expiration of eight days of the start of strike. The Law on Strike provides that the salary of an employee who participated in the strike may be reduced in proportion to the time of participation in the strike, in accordance with the collective agreement and labour regulations.

We also point out that the Strike Law provides that this law regulates the right of employees to strike, the right of trade unions to call for strikes, the right of employers to exclude employees from work and other issues related to strikes, and that strikes in, inter alia, administrative bodies and administrative services in the Federation of B&H will be regulated by a special law. Accordingly, the Law on Strike does not apply to the organization of strikes in administrative bodies and administrative services in the Federation of B&H, but the organization of strikes in the sense of the above is the subject of special regulations. In this regard, the issue of organizing a strike in administrative bodies is regulated by the Collective Agreement for Administrative and Judicial Officers in the Federation of B&H (Official Gazette of FB&H, 6/20 and 11/21) and the Branch Collective Agreement for Administrative and Judicial Officers of the Federation of B&H (Official Gazette of the FB&H, 32/21), which establishes that, in order to protect and realize the economic and social interests of its members, the union has the right to call its members and employees on strike and that a strike is organized and conducted in accordance with the Law on Strike and the union rules on strike. Bearing in mind that the mentioned Collective Agreements, when it comes to organizing and conducting strikes in administrative bodies in the Federation of B&H, still refer to the Law on Strike, they apply in the case of strikes in administrative bodies and administrative services in the Federation of B&H.

In the Republic of Srpska, the strike committee is obliged to announce the strike to the employer, by submitting a written decision on going on strike, no later than seven days before the day set for the start of strike or 24 hours before the warning strike, unless another deadline is set by this Law. The decision to go on strike in a section, division or group is submitted to the representative association of employers in that section, division or group, or the Republic of Srpska Government, if the strike is organized in sections or divisions or groups within the section: O - Public administration and defence; compulsory social security, R - Education and Q - Health and social work activities, in accordance with the regulation governing the classification of activities. The decision to join the general strike is submitted to the representative association of employers at the level of the Republic and the Government of the Republic of Srpska.

The strike committee and the employer, i.e. the negotiating body designated by the employer, are obliged to try to resolve the dispute peacefully from the day of delivery of the written decision on going on strike and during the strike or may bring the dispute before a special conciliation body established in agreement of the parties to dispute

The right of workers to strike can be exercised in activities of general interest or in activities whose interruption of work due to the nature of work could endanger human life and health or cause large-scale damage if the special conditions set out in this Law are met. Activities of general interest are the activities performed by the employer in the field of: electricity, water supply, railway, air traffic and air traffic control, public radio and television services, postal traffic, utilities, fire protection, health and veterinary protection and social care of children and social protection. In terms of this Law, activities of general interest are activities of importance for the functioning of the public administration and security system of the Republic of Srpska in accordance with the law, as well as activities necessary to fulfil obligations under international agreements in activities of general interest.

If a strike in the above-mentioned activities is organized in one organizational part of the employer, the obligation to meet special conditions regarding the exercise of the right to strike of workers applies only to that organizational part.

Workers working in these activities can go on strike if minimum service is provided to ensure safety of people and property or if it is an indispensable living and working condition for citizens. The minimum service and the manner of its provision is determined by the act of the founder, i.e. the director of the employer, depending on the nature of the activity, the degree of endangerment of life and health and other circumstances important for meeting the needs of citizens, employers and other entities. When determining the minimum service, the founder/the director of the employer is obliged to request the opinion of the trade union or the workers' council, i.e. the authorized representative of the workers. Workers who are obliged to work during the strike in order to ensure the minimum service are designated by the director and the strike committee, no later than five days before the start of the strike. In order to ensure minimum service, the employer may designate members of the strike committee up to 1/3 of the total number of board members, except for the president of the strike committee.

In activities of general interest, the strike is announced to the employer, no later than ten days before the start of the strike, by submitting a written decision on going on strike.

The strike committee is obliged to cooperate with the employer during the strike in order to carry out the provided minimum service. Workers who are determined to perform the tasks of the minimum service are obliged to carry out the employer's orders during the strike regarding the execution of the provided minimum service.

In the Brčko District of Bosnia and Herzegovina, the Labour Law on Strike is discussed in the chapter "Right to Strike and Worker’s Booklet", according to which the union has the right to invite workers to a strike to protect and exercise economic and social rights and interests of its members.

A strike can only be organized in accordance with strike regulations, union strike rules and a collective agreement.
A worker cannot be placed at a disadvantage compared to other workers due to organizing or participating in a strike. A worker cannot in any way be forced to take part in a strike. If the worker acts contrary to these provisions, or if he intentionally causes damage to the employer during the strike, he may be dismissed, in accordance with the law.

48. The Committee requests information on deadlines for resolving disputes in situations where a strike has taken place, and on other procedural conditions such as voting conditions and quorum;

The Law on Strike of Employees in the Institutions **of Bosnia and Herzegovina** provides that the strike ceases with the withdrawal of the strike organizers from the strike, by direct agreement of the parties to the dispute or by a decision of the conciliation board. In accordance with the Strike Law, the conciliation board appoints a strike committee on the one hand, and an employer on the other hand for each individual dispute. This conciliation board has an equal number of representatives of employees and employers and is obliged to submit a proposal for resolving the dispute to the parties to the dispute within seven days of appointment or to state that the peaceful settlement of the dispute has failed. Within the next three days, the parties to the dispute are obliged to give an answer regarding the proposed solution, and if they accept it, then it becomes binding for both employees and the employer.

In the Federation of Bosnia and Herzegovina, in accordance with the answer to the previous question, if the union and the employer do not reach an agreement within five days of the beginning of the agreement entrusts the resolution of the dispute to arbitration council. The arbitration council consists of one trade union representative and one employer, and an independent president appointed by agreement between the trade union and the employer. If the union and the employer cannot agree on the appointment of a representative, and these issues are not regulated by the collective agreement or agreement between the union and the employer, he will be appointed by the competent municipal court within five days at the proposal of the union or the employer. The arbitration council renders its decision within five days of the initiation of the arbitral proceedings. No later than the day of the announcement of the strike, the union is obliged to publish an agreement on jobs that cannot be interrupted during the strike. The jobs can be enumerated by a collective agreement.
The Law on Strike provides that a strike may not begin before the end of the conciliation procedure provided for in the Labour Law, i.e. before the implementation of another method of peaceful settlement of the dispute agreed upon by the parties. The conciliation procedure may not last longer than five days of submitting the request to the conciliation board. If the parties entrust the resolution of the dispute to arbitration council provided for by the Labour Law, the decision of the arbitration council is binding.

In the Republic of Srpska, if the dispute is not resolved within eight days of the beginning of the strike, the parties to the dispute may invite a representative of the bodies of the Republic of Srpska and representatives of the representative union at the level of the Republic of Srpska to participate in resolving the dispute if the union is not the organizer of the strike, representatives of the representative association of employers at the level of the Republic of Srpska, as well as experts from certain fields or may bring a dispute before a special conciliation body, in accordance with the law governing the peaceful settlement of labour disputes. In the event that the dispute is not resolved within 30 days of the beginning of the strike, the parties to the dispute may submit the dispute to arbitration council, in accordance with the law governing the peaceful settlement of labour disputes.

The strike committee and the workers participating in the strike are obliged to organize and lead the strike in a way that does not endanger the safety and health of people and the safety of property, prevents immediate material damage and allows continued work after the strike. The strike committee and the workers participating in the strike must not prevent the employer from using the funds and disposing of the funds with which he carries out his activity. The strike committee and workers participating in the strike cannot prevent employees who do not participate in the strike from working. The employer is obliged to provide the strike committee and the workers participating in the strike with the use of appropriate premises and the necessary administrative, technical and communication services.
The strike ends with the agreement of the parties to the dispute, the decision of the arbitration council and the decision of the workers who made the decision to go on strike. For each new strike, the participants in the strike are obliged to make a new decision on the strike.

In the Brčko District of Bosnia and Herzegovina, the answer to these questions is contained in the Law on Strike, according to which the body to which the strike was announced is obliged to contact the strike committee within 24 hours of receiving the decision, in order to resolve the dispute peacefully. If the dispute is not resolved within that period, the parties to the dispute are obliged to continue negotiations during the strike, without interruption, until the final resolution of all disputed issues.

5. Article 21 - The right of workers to be informed and consulted

(In its Conclusions (2018), the European Committee of Social Rights concluded that the situation in Bosnia and Herzegovina is not in line with this article on the grounds that it has not been established that:
- All workers enjoy the right to information and consultation;
- Supervision of respect for the right to information and consultation is not guaranteed.)

49. The Committee requests that the next report provide detailed information on whether the legal framework in this area applies to all undertakings, both in the private and public sectors (as it is not clear from the previous report whether all employed in the police, judiciary and public sector who do not have the right to establish a workers' consultative body civil servants);

The legal framework at the level of institutions **of Bosnia and Herzegovina** includes employees in B&H institutions and bodies, B&H public companies, B&H associations and foundations, inter-entity corporations and other institutions for performing additional competencies in B&H and legal entities established by B&H institutions.
All employees in the police, judiciary and public administration do not have the status of civil servants, they can have the status of holders of judicial functions (judges, prosecutors, etc.), police officers, officers of the armed forces etc.

In the Federation of Bosnia and Herzegovina, the manner of forming an employees' council, as well as other issues related to the work and operation of employees' councils, are regulated by the Law on Employees' Councils.

In the Republic of Srpska, the Labour Law applies also to employees in Republic of Srpska-level bodies, local self-government bodies and public services, unless otherwise determined by a special law. Directly or through his representatives, a worker has the right to associate, participate in negotiations for collective agreements, peacefully resolve collective and individual labour disputes, consult, inform and express their views on important labour issues. An employer is obliged to inform the workers, i.e. their representatives, about the rights, duties and responsibilities, especially under this Law and the collective agreement, about the conditions for determining salaries, salaries,

working conditions, manner of protection of workers' rights, general condition and perspective of the employer and activity and plans for future development, employment prospects, working conditions and safety at work. The employer is obliged to inform the employee about all activities related to making him redundant and to acquaint him with the possibilities for resolving his employment status. The trade union has the right to request from the employer other information important for the exercise of workers' rights except for information that is a business secret of the employer. The employer is obliged to provide the trade union with technical and spatial conditions for its activities, in accordance with the spatial and financial possibilities, as well as to provide it with access to data and information necessary for performing trade union activities. The employer is obliged to enable the trade union to act in accordance with its role and tasks, statutes, program and international labour conventions, namely: to launch initiatives, submit requests and proposals and to take position relevant to financial, economic and social position of workers; to consider the opinions and proposals of the trade union before making a decision relevant to financial, economic and social position of workers and to decide in relation to them.
Trade union representatives are allowed to display union notices at the employer's premises in places that are accessible to workers. The employer is obliged to allow union representatives to provide workers with information, newsletters, publications, leaflets and other union documents.

In the Brčko District of Bosnia and Herzegovina, the Labour Law provides for consultations in the real sector and it applies to all undertakings without exception in the case of dismissal of 20% or more workers as follows:
An employer who employs more than fifteen workers and who intends to terminate the employment contract for economic, technical or organizational reasons for more than 20% of the total number of workers with that employer in the next three months is obliged to consult with the workers' council and if the workers' council is not established with each union representing 10% or more of the workers of that employer, in order to reach an agreement for the purpose of eliminating or reducing termination of employment contracts.
The obligation to consult is based on a written act prepared by the employer and begins at least 30 days before the notice of dismissal is given to the workers concerned. The act is submitted in writing to the workers' council or trade union before the start of consultations, and contains information on: the total number of workers with the employer; the reasons for the planned termination of the employment contract; proposal of criteria for selection of workers whose employment contract may be terminated; the number of categories and sex of workers to be made redundant; measures proposed to avoid some or all of the planned redundancies, such as reassignment of workers within the same employer, retraining where necessary, temporary reduction of working hours; measures proposed to help workers find employment with another employer; measures proposed with the aim of retraining workers for the purpose of employment with another employer; deadline for termination of employment contract and method of calculating severance pay.
The employer is obliged to inform the Employment Bureau of the Brčko District of B&H about the consultations by submitting a written act and to submit a copy of the notification to the workers' council/the trade union.
The workers' council or the trade union may submit objections against the act to the Bureau. Employment of redundant workers may not be terminated before the expiration of a period of thirty days of delivery of the written act to the workers' council or trade union.

50. The Committee also asked for information on the existence of any thresholds established by national law or practice, which may exclude undertakings which employ less than a certain number of workers;

At the level of institutions **of Bosnia and Herzegovina**, there is no data available in this sense, because the matter is regulated by entity regulations.

In the Federation of Bosnia and Herzegovina, employees of an employer with at least 15 employees, except for employees in the Federation Army, police, administrative bodies and administrative services, have the right to participate in deciding on issues related to their economic and social rights and interests in the manner prescribed by this law. The number of members of the employees' council is determined on the basis of the number of employees with the employer, provided that the employees' council may not have less than three and more than nine members. Therefore, the mentioned Law envisages an exception regarding the formation of the employees' council in the police, administrative bodies and administrative services. However, having in mind that trade unions can be organized in the mentioned activities, in accordance with the Law on Employees' Council and the Labour Law, they have the powers of employees' councils.

In the Republic of Srpska, there are no prescribed thresholds for companies that employ less than a certain number of workers.

In the Brčko District of Bosnia and Herzegovina, the thresholds established by national law or practice, which may exclude undertakings which employ less than a certain number of workers, are regulated by the Labour Law.

51. The Committee asked for detailed information on the matters which are subject to information and consultation and for decisions which are subject to consultation of workers and/or their representatives within the undertaking;

The union of employees of institutions **of Bosnia and Herzegovina** gives its approval of the act which determines the minimum service during the strike and during the adoption of the rulebook and other acts regulating the rights and obligations arising from the established employment relationship. All acts that are important for the work and internal organization of the administrative body are published on the website of the institution.

In the Federation of Bosnia and Herzegovina, the Law on the Employees' Council provides that before making a decision important for the rights and interests of employees, the employer must consult with the Employees' Council on the intended decision, especially when: issuing work regulations; there is an intention of the employer to terminate the employment contract of more than 10% of the employees, at least five, for economic, technical or organizational reasons; making employment plan, relocation and dismissal; adopting measures related to health and safety at work; making significant changes or introducing new technology; making vacation plan; producing working hours schedule; determining night work; introducing fees for inventions and technical improvements and making other decisions for which the collective agreement provides for consulting employees' councils in their adoption. The Law explicitly provides that the decision of the employer made contrary to the provisions of this law respecting the obligation to consult with the employees' council is null and void.

In the Republic of Srpska, the employer is obliged to enable the trade union to act in accordance with its role and tasks, statute, program and international labour conventions, namely: to take initiatives, submit requests and proposals and take position relevant to financial, economic and social position of workers; to consider the opinions and proposals of the trade union before making a decision relevant to financial, economic and social position of workers and to decide on them. The employer is obliged to: request an opinion from the trade union in cases determined by law and, in the employer where the trade union has not been established, from the workers' council or

representatives appointed by the workers. Before determining the final text of the rulebook, the employer is obliged to seek an opinion of the trade union or the workers' council, if established, and to consider the opinion. The Employees'' Rulebook is passed by the competent body of the employer determined by the statute, i.e. other by-laws, and the person who independently performs entrepreneurial activity if he employs more than 15 workers. When resolving redundancies, the employer is obliged to submit a program proposal to the trade union or the workers' council and to the Bureau no later than eight days of determining the program proposal, in order to give an opinion. The trade union or workers' council is obliged to submit an opinion on the program proposal within 15 days of submitting the program proposal. The employer is obliged to consider the opinion of the trade union and the Bureau and to inform them of its position within eight days of submitting the opinion.
In the procedures of determining the responsibility of an employee for violations of work duties, before terminating the employment contract, if the employee submitted an opinion of the trade union of which he is a member, the employer is obliged to consider the attached opinion of the trade union. If at least ten workers or at least 10% of the total number of employees turn to the employer for protection of labour rights at the same time, the employer is obliged to seek and consider the opinion of the union or workers' council if the employer has not established a union.
Information and consultations are also prescribed by the relevant provisions of the Law on Occupational Safety and Health and bylaws. The Law on Occupational Safety prescribes the manner of consultation between employers and workers and the participation of workers and their representatives in the consideration of all issues related to occupational safety and health.

In the Brčko District of Bosnia and Herzegovina, a partial answer to this question is contained, partly in a direct and partly in an indirect way, in the Law on Safety and Protection of Workers at Work.
The employer is obliged to warn every person who is found in the working place on any basis of dangerous places or health hazards that occur in the technological process or the protection measures that must be applied and advise him of safe areas for movement.
The employer is obliged to visibly mark and display signs informing employees about: risks in the technological process; directions of movement; permitted places of stay; and measures to prevent or eliminate risks.
Employers are obliged, taking into account the nature of the work they perform, to coordinate activities related to the application of measures to eliminate the risk of injury or damage to workers' health, as well as to inform each other and their employees or workers' representatives about these risks and measures for their elimination.
The employer is obliged to acquaint the employee representative with the reports on injuries at work, occupational and work-related diseases and on the measures taken to prevent imminent danger to life and health.

52. For the Republic of Srpska, the Committee requests detailed information on the provisions of the Law on Workers' Councils regarding the opinion and suggestions of the workers' council towards the employer, and whether there have been changes to this Law in the reference period;

In the Republic of Srpska, the Law on Workers' Councils regulates the manner and procedure of establishing workers' councils with employers, election and duration of council members, rights and duties of council members, relations of councils with employers and trade unions and other issues of importance for council's protection. In the reference period, there were no changes to the said law.
Workers employed by an employer, which regularly employs at least 15 workers, except for those employed in the Army, police, judiciary and administration, have the right to establish a council.

The Council has the right to give opinions and suggestions to the employer in order to improve working conditions and safety at work, providing a meal for workers during the working day, organizing transportation of workers to and from work, providing material assistance to workers of lower financial status, terminating employment contracts to the elderly and disabled, the introduction of overtime work, night work and shift work, the elimination of undeclared work and other issues that the council considers important for the exercise and protection of workers' rights. Further, the council may consider individual requests and proposals of employees regarding the exercise of their rights, on which it will give its opinion to the employer and inform the applicants.
The employer is obliged to inform the council about the state of safety at work and working conditions of workers, the movement of wages and other issues of importance for the material and social position of workers. The employer is obliged to consider opinions and proposals of the council when making decisions, and if he does not accept them, he is obliged to inform the council in a timely manner about the reasons for non-acceptance. The president of the council has the right to attend the sessions of the board of directors and other bodies of the employer, without the right to participate in decision-making. The representative of the council is obliged to inform the workers in writing or verbally, through the media or in another appropriate way about the work of the council and the situation regarding the exercise and protection of workers' rights. The president of the council may consult with the workers in an appropriate manner or ask for their opinion on issues within the competence of the council, in order to take a position on the part of the council on these issues.

53. For the Brčko District, the Committee asks whether employees are consulted before adopting an employer's rulebook on occupational safety;

In the Brčko District of Bosnia and Herzegovina, the Law on Safety and Protection of Workers at Work did not explicitly state consultations with workers before the adoption of the rulebook in safety at work.

54. The Committee asked for detailed information on the administrative and / or judicial procedures available to employees, or their representatives, who consider that their right to information and consultation within the company has not been respected. The Committee also requested information on the penalties that may be imposed on employers for non-compliance and whether employees or their representatives are entitled to compensation;

At the level of institutions **of Bosnia and Herzegovina**, the protection of employees' rights from employment is regulated by the Law on Labour in B&H Institutions, so it is prescribed that an employee who believes that his employer has violated his labour right may demand from employer his exercise of that right. The employer is obliged to resolve the request in writing, within 30 days of submitting the request. Submission of the request does not prevent the employee from seeking protection of the violated right before the Court of B&H. An employee may file a lawsuit before the Court of B&H for violation of labour rights, as well as in the event that the employer has not resolved the request within the specified period. The statute of limitations is one year of delivery of the decision which violated his right, i.e. of finding out about the violation of the labour right. Furthermore, the parties to the dispute may entrust the settlement of labour dispute to arbitration council. The composition, procedure and other issues important for the work of arbitration council is regulated by law, the act of the employer/ an agreement. In the event of a change of employer or its legal position, employment contracts are transferred to the new employer, with approval by the employee. The new employer and the employee may terminate the contract in the manner and within the deadlines determined by this law. The absolute statute of limitations for employment claims is three years of filing the claim.

In the Federation of Bosnia and Herzegovina, in accordance with the above, the workers' council has at its disposal a mechanism that includes applying to the competent court for finding the nullity of the employer's decision made contrary to this Law.

In the Republic of Srpska, the Labour Law does not provide for special procedures of exercising the right to information and consultation within the company. An employee who believes that his employer has violated his labour right may submit a written request to the employer to ensure his exercising that right. The request referred to in paragraph 1 of this Article may be submitted within 30 days of finding out about the violation of rights, and no later than within three months of the violation. The employer is obliged to decide on the employee's request within 30 days of submitting the request. A worker who believes that his employer has violated his labour right may submit a proposal for peaceful settlement of a labour dispute to the competent authority or a lawsuit to the competent court for the protection of that right.

55. The Committee requested updated information on the decisions of the competent judicial authorities and penalties related to the exercise of the right to information and consultation;

In the Federation of Bosnia and Herzegovina, the competent labour inspection supervises the implementation of this law in the Federation of B&H. There are also fines for the employer from BAM 1,000.00 to 7,000.00 for violations, such as: disabling employees in the formation of employees' councils; not informing the workers' council etc.
The Federation Ministry of Labour and Social Policy does not have information on the decisions of the competent judicial authorities and penalties related to the exercise of the right to information and consultation.

In the Republic of Srpska, the Law on Employees' Councils provides that an employer-legal entity will be fined from BAM 500 to 3,000 for a misdemeanour if, inter alia, it does not take an opinion or proposal of the workers' council under consideration or if the workers' council does not know the reasons for the opinion or proposal of Employees' Council not having been accepted.

No such decisions have been issued in the **Brčko District of Bosnia and Herzegovina.**

56. The Committee asked for information on the administrative body responsible for monitoring compliance with workers' rights to be informed and consulted within the company, with special reference to its competencies and operational resources (for all levels of government);

Administrative and inspection supervision over the application of the Labour Law in the institutions **of Bosnia and Herzegovina** is performed by the Ministry of Justice of B&H, in accordance with the Labour Law. The Administrative Inspectorate may: review by-laws and individual acts, records and other documentation; listen to and take statements from employees, employers or representatives of the representative union; take other measures and actions provided by law. The Administrative Inspectorate draws up a report on the performed inspection, and on the basis of it makes a decision. The employer and the employee may file an appeal against the decision of the Administrative Inspectorate to the Ministry of Justice of B&H within 15 days from the receipt of the decision. The decision of the Ministry from the previous paragraph is final and binding, but a lawsuit can be filed against it with the Administrative Department of the Court of B&H.

In the Federation of Bosnia and Herzegovina, the Employees' Council monitors the application of laws, collective agreements and other regulations that are of interest for the exercise of employees' rights. The President of the Employees' Council is obliged to convene a meeting of employees to inform on issues that relate in particular to: the state and results of business;

development plans and their impact on the economic and social position of employees; movements and changes in wages; safety at work and measures to improve working conditions; other issues important for labour rights and interests of employees arising from employment, at least twice a year in equal time periods. This information is provided by the employer at least every six months, i.e. it informs the employees' council on the mentioned issues. Further, the Law on Employees' Council provides that an employer may only with approval by the Employees' Council make a decision on dismissal of a member of the Employees' Council, dismissal of an employee with impaired working capacity or imminent risk of disability, dismissal of a male employee over 55 and a woman over 50, collecting, processing, using and providing data to third parties on an employee. The Employees' Council cooperates with the trade union in order to protect and exercise the rights and interests of employees. If the Employees' Council does not provide its approval in writing within 10 days of requesting the approval, it is to be deemed to approve the employer's decision. If the employees' council denies the approval, the dispute is to be entrusted to arbitration council.

In the Republic of Srpska, supervision over compliance with the Law on Workers' Councils, other labour regulations, collective agreements and labour regulations governing the rights, obligations and responsibilities of employees is performed by the Republic of Srpska Administration for Inspection Affairs, through competent Republic of Srpska-level inspectors and inspectors in local self-government units. Inspection over compliance with this Law and implementing regulations is performed by labour inspectors and inspection over compliance with the part concerning the rights, obligations and responsibilities of employees in Republic of Srpska administrative bodies and local self-government units is performed by administrative inspectors. In performing inspection, in addition to the general powers prescribed by the law governing the relevant area of inspection, the competent inspector is authorized also to take measures from the legislation governing employment.

In the Brčko District of Bosnia and Herzegovina, there have been no decisions with regard to the competent judicial authorities and the penalties related to the exercise of the right to information and consultation.

6. Article 22 - The right of workers to take part in the determination and improvement of working conditions and working environment

(In its Conclusions (2018), the European Committee of Social Rights concluded that the situation in Bosnia and Herzegovina is not in line with this article on the grounds that it has not been established that:

- The right to participate in the decision-making process within undertaking with regard to working conditions, vork organization and working environment is not effectively guaranteed;
- The right of workers to take part in the determination and improvement of the protection of health and safety is not effectively secured.)

57. The Committee requests all information on possible changes in the legislation in this area in the reference period (for all levels of government);

When it comes to the institutions **of Bosnia and Herzegovina**, there were no changes in legislation in the period 2017-2020.

The Federation of Bosnia and Herzegovina has adopted the Law on Occupational Safety, which regulates the rights, obligations and responsibilities of employers and workers in relation to the implementation and improvement of safety and health protection of workers at work, as well as general principles of prevention and safety and health rules at work, the application of which achieves the prevention of injuries at work, occupational diseases and other diseases related to

work, as well as the protection of the working environment, and other issues related to safety and health at work.

In the Republic of Srpska, occupational health and safety is regulated by the relevant provisions of the Law on Occupational Safety and Health and bylaws.

There have been no changes in legislation in the **Brčko District of Bosnia and Herzegovina in the reporting period.**

58. The Committee asks whether Article 22 is applied to both private and public undertakings as well as whether there are any thresholds established by the national legislation or practice, in order to exclude undertakings which employ less than a certain number of workers (for all levels of government);

The Law on Labour in the Institutions **of Bosnia and Herzegovina** does not contain restrictive provisions regarding the application of Article 22.

In the Federation of Bosnia and Herzegovina, for the purpose of the Law on Safety at Work, employer means a legal or natural person who employs one or more workers, including state administration bodies. For the purposes of this Law, an employer is also considered to be a farmer and a natural person who alone or with members of his family performs agricultural or some other activity as his only or main occupation. In this regard, the Law applies to both the private and public sectors. Further, the Law applies to members of the armed forces and police officers, until the adoption of special regulations on safety and health at work for members of the armed forces and police officers, i.e. the provisions of this Law do not apply to members of the armed forces and police officers if they are in conflict with the regulations governing service in the armed forces and the police.

In the Republic of Srpska, the Law on Occupational Safety is a general law on occupational safety and applies to both the public and private sectors. The Law on Occupational Safety regulates occupational health and safety as an activity of general interest, determines the bearers of implementation and improvement of occupational safety and health, their rights, obligations and responsibilities, preventive measures, as well as other issues related to safety and health at work. The Law applies to all economic activities and does not exclude any sector, unless otherwise provided by a special regulation. The Law on Occupational Safety and Health is a systemic law, which is applied in a subsidiary manner to all areas that are not explicitly prescribed by special rules for occupational safety and health, and it ensures a minimum of rights in occupational safety and health. Occupational health and safety is provided and implemented by every legal and natural person who employs one or more workers, including public services, state and other bodies, unless otherwise provided by law. The Law applies also to persons who perform activities by personal work and to persons who are otherwise engaged in work.

In the Brčko District of Bosnia and Herzegovina Article 22 applies to all undertakings and there are no restrictions on its implementation.

59. The Committee asks whether the participation of employees in the determination and improvement of working conditions and the working environment through consultations conducted by the employer with the trade union in the process of adopting regulations is in line with the Committee's case law;

In the Federation of Bosnia and Herzegovina, when it comes to employee participation in the determination and improvement working conditions and working environment through consultations conducted by the employer, we emphasize that the Law on Occupational Safety provides that the union participates in regulating and improving safety and health of workers in accordance with the law, regulations adopted on the basis of the law and the collective agreement. Further, the Law envisages the concept of the commissioner for occupational safety, as a representative of workers with special powers. Namely, the Law on Occupational Safety provides that in the case of an employer who employs 30 or more workers, the workers elect or appoint a commissioner for occupational safety. The number of commissioners, their election and their mandate are determined in accordance with the regulation on the employees' council, taking into account the representation of all parts of the work process. The commissioner for occupational safety is appointed by the union, if the commissioner was not elected by the workers. The appointed commissioner for occupational safety has the same rights and obligations as the elected commissioner of workers. The commissioner for occupational safety and health will be elected or appointed regardless of the number of workers if required by working conditions (increased risk to safety and health of workers, work in isolated places, etc.), and must have appropriate education and work experience.

The commissioner for occupational safety has the right to: obtain information on working conditions, analysis of injuries at work, occupational diseases and work-related illnesses, findings and recommendations of inspection bodies; request the employer to take appropriate measures and submit proposals for risk mitigation and elimination of sources of danger; inform workers about the implementation of occupational safety measures; request an inspection if he considers that the measures taken by the employer are not appropriate for the purpose of ensuring safe and healthy working conditions and make its observations during the inspection; attend inspections and / or submit his observations during inspections.

During the performance of tasks determined by this Law, the commissioner for occupational safety from the ranks of employees is entitled to salary compensation in the amount of the salary he would have earned if he had worked on the tasks for which he concluded an employment contract. The commissioner for occupational safety may perform the tasks determined by this Law for a maximum of six hours per week. The employer is to provide the commissioner for occupational safety with the necessary resources to be able to perform his function arising from this Law. The commissioner for occupational safety cannot be placed at a disadvantage compared to other workers, due to his work related to safety and health at work.

In the Republic of Srpska, a worker is obliged to cooperate with the employer and the officer for safety and health at work, in order to implement the prescribed measures for safety and health at work at his job. The employer is obliged to inform workers and their representatives about the introduction of new technologies and means of work, as well as the dangers of injuries and damage to health caused by their introduction, and in such cases to issue appropriate instructions for safe work. The employer will enable workers or their representatives for safety and health at work to have access to all information related to safety and health at work, and especially about the measures taken to achieve safe and healthy working conditions at work. The employer and the workers and / or their representatives for safety and health at work will cooperate in activities related to solving the issue of safety and health at work.

In the Brčko District of Bosnia and Herzegovina, there is no information on case law in this regard.

60. The Committee requests specific information on the measures adopted or encouraged by the competent authorities in order to enable workers, or their representatives, to contribute to the

determination and improvement of the working conditions, work organization and working environment within the undertaking at the state and entity levels;

With regard to the institutions **of Bosnia and Herzegovina**, we can point out that in the process of adopting legislation, institutions are obliged to apply the Rules on Consultations in Legislative Drafting, which provides the obligation of institutions to place all regulations on the e-consultation platform, which enables all legal entities to give their comments and suggestions in legislative drafting which the institutions process, give their opinion and make a statement on the consultations held, before sending the proposed piece of legislation for adoption.

In the Federation of Bosnia and Herzegovina, the Law on Occupational Safety provides that the employer is obliged to:

- inform workers, trade unions and the commissioner for occupational safety about the introduction of new technologies and means of work, as well as threats and harms to the health of workers and issue instructions for safe work (Article 22, item e),
- ensure that the planning and introduction of new technologies is subject to consultation with workers and / or their commissioner for occupational safety and health regarding safety and health consequences of the choice of equipment, working conditions and working environment (Article 22, point f),
- during drafting of by-law on occupational safety, consult the commissioner for occupational safety (Article 23, paragraph 5),
- give workers and/or their representatives appropriate written instructions related to safety and health risks with protective and preventive measures taken to eliminate or reduce those risks (Article 38, paragraph 1),
- at least twice a year report to the commissioner for occupational safety, the employees' council and the trade union on safety and health risks, and the measures it has taken and will take to improve safety and health. In addition to regular notification in this regard, the employer has the obligation to inform and consult with workers' representatives or workers after a fatal, group or serious injury at work, an established case of occupational disease, as well as the findings of the competent labour inspection on shortcomings of safety at work measures (Article 40),
- consult with workers and/or their representatives and enable them to participate in discussions on all issues related to occupational safety and health. In particular, to enable them to participate in: discussions and approval of all measures regarding safety and health protection at work, any measure that may significantly affect safety and health protection at work, appointment of workers to perform tasks related to ensuring healthy and safe working conditions, first aid, firefighting and evacuation of workers, engagement, where necessary, of authorized organizations for safety at work, planning and organizing training of workers in safety at work (Article 43).

61. The Committee requests detailed information on how occupational safety and health is ensured in the private sector and on the right of workers to participate in the decision-making process as regards the protection of health and safety (for all levels of government);

The Law on Labour in the Institutions **of Bosnia and Herzegovina** provides that the employer is obliged to train the employee to work in a way that ensures the protection of life and health of employees and prevents accidents, as the employer is obliged to provide the necessary conditions for safety at work and the health of the employee, as well as any other person with whom he comes into contact during the term of the contract, in accordance with the Law. The Law on Labour in the Institutions of B&H provides that a representative trade union of employees has the right in accordance with the law to: be consulted before the adoption of a by-law concerning the

employment status and salaries of its members; monitor whether the employer acts in accordance with this law and other regulations concerning labour relations; report any violation of regulations from the previous point to the Administrative Inspectorate; assist and represent the employee at his request in cases of violation of his rights or disciplinary proceedings or an action for damages.

In the Republic of Srpska, involvement in decision-making processes, planning and implementation of measures for protection and health at work is enabled through the commissioner for protection and health at work, through a clear definition of his rights and obligations.
In the case of an employer who employs fifty or more workers, a Committee for Occupational Safety and Health is established as an advisory body to the employer. An employer who employs more than 250 workers and who has several plants/branches, i.e. plants/branches in several places outside the headquarters, establishes the Central Committee for Protection and Health at Work, whose task is to improve the state of protection and health at work. By a by-law, the employer is to ensure to the employees equal membership of the Board, including workers' commissioner for occupational safety and health, if elected. The employer is obliged to consider the proposals of this advisory board, and if he does not accept them, he must state the reason for non-acceptance.
The rights and obligations of the workers' commissioner/persons elected to represent workers in occupational safety and health at the employer are regulated by the Law on Occupational Safety of the Republic of Srpska. In the case of an employer with which a trade union is organized, the duties of workers' commissioner for occupational safety and health at work are performed by the trade union committee, in the case of an employer with 15 or more workers where no trade union is organized, workers elect workers' commissioner for occupational safety and health, taking into account representation of all parts of the work process.
The commissioner will be elected or appointed, regardless of the number of workers if required by working conditions (increased danger to the safety and health of workers, work in isolated places, etc.).
The union will appoint a commissioner for protection and health at work, if the commissioner was not elected by the workers. The appointed trade union commissioner for protection and health at work have fully equal rights and obligations as the elected commissioner of workers does.
The task of the commissioner is to act in the interest of workers in protection and health at work, and to monitor the application of regulations and ordered protection measures in the work environment in which he was elected. The commissioner also has the following rights and duties: a) he participates in planning the improvement of working conditions, he monitors the introduction of new technology, introduction of new materials in the work and production process and encourages the employer to implement occupational safety, he has the right to inspect and use documentation related to protection and health of workers, he is informed of all changes affecting the protection and health of workers, he receives comments from workers on the application of regulations and implementation of measures of protection and health at work, he informs workers for protection and health at work, employers and, if necessary, inspectors on the state of protection and health of workers whose commissioner he is, he attends inspections and actively participates in establishing the factual situation, he calls the labour inspector when he assesses that the life and health of workers are endangered and the employer fails or refuses to do so, he attends training in all jobs, constantly expands and improves knowledge, monitors and collects announcements relevant to his work, he gives objections to the inspection findings and opinion if the inspection was performed at his request, he encourages other workers to work safely, he informs workers about the measures taken by the employer to ensure their protection and health at work.
The employer is obliged to provide the commissioner with conditions for the uninterrupted performance of that duty, to give him all the necessary announcements and provide insight into all regulations and documents related to occupational safety. The employer may not assign him to another job or another employer, terminate his employment contract, reduce his salary or otherwise

put him at a disadvantage, if the commissioner acted in accordance with his powers. Conditions for the unhindered performance of the duties by the workers' commissioner for protection and health at work are provided in accordance with the Law on Workers' Council. By special agreements, the employer, the workers' council or the trade union may regulate other specific issues related to the number of commissioners in separate workplaces for protection and health at work, salaries, benefits and other material rights, as well as absence from work to get trained in safety and health at work at the expense of the employer (courses, seminars, meetings, etc.).

In the Brčko District of Bosnia and Herzegovina, the Law on Safety and Protection of Workers' Health prescribes in detail the duties and obligations that ensure safety at work. The participation of workers in the decision-making process in occupational safety is explained in detail in the Law.

62. The Committee requested information on sanctions for non-compliance in this area (for all levels of government);

The criminal provisions of the Law on Labour in the Institutions **of Bosnia and Herzegovina** do not prescribe a sanction regarding this issue, so the Law on Misdemeanours of B&H may be applied according to the Law.

In the Brčko District of Bosnia and Herzegovina, penal provisions are listed in the Law on Safety and Security of Workers at Work of the Brčko District of B&H.

7. Article 28 - The right of workers' representatives to protection in the undertaking and facilities to be accorded to them

(In its Conclusions (2018), the European Committee of Social Rights concluded that the situation in Bosnia and Herzegovina is not in conformity with this article on the grounds that it has not been established that:

- The protection granted to workers' representatives in Brčko District is not extended for a reasonable period after the expiration of their mandate;
- It has not been established that facilities afforded to workers' representatives are adequate in all three entities of Bosnia and Herzegovina.)

63. The Committee requests all information on possible changes in the legislation in this area in the reference period (for all levels of government);

At the level of institutions **of Bosnia and Herzegovina**, there were no changes in legislation in the reporting period 2017-2020.

In the Federation of Bosnia and Herzegovina, the Labour Law provides that the employer is obliged to provide appropriate conditions for the operation of the trade union in accordance with the collective agreement. Therefore, ensuring the conditions for the operation of trade unions is a legal obligation, provided that the collective agreement regulates the manner of ensuring them.
Furthermore, the Labour Law provides that during trade union commissioner's performance of duties and six months after the termination of the performance of duties, the employer may not do the following without prior approval by the Federation ministry responsible for labour: terminate the employment contract or otherwise make the position of the trade union commissioner less favourable compared to the post before he was appointed to the position of union commissioner.

There are no changes in the Brčko District of Bosnia and Herzegovina in terms of providing protection to workers' representatives.

64. The Committee seeks a detailed explanation of the term "employee representative" and whether the term is defined by existing legislation (for all levels of government);

The Law on Labour in the Institutions **of Bosnia and Herzegovina** does not contain provisions that explain or regulate the term "employee representative".

In the Federation of Bosnia and Herzegovina, for the purpose of this Law, a trade union commissioner is a worker who is an authorized representative of a trade union organized with employers in accordance with the regulations on the organization and operation of trade unions. If the competent ministry denies the approval, the employer may request within 30 days of delivery of such a decision that the approval be replaced by a court decision. Bearing in mind that the Labour Law provides that all unions have the right to represent their members before the employer in accordance with the rules on organization and operation of unions, and given that the law prescribes the obligation to obtain prior approval by the Federation Ministry of Labour and Social Policy, it is not important whether the trade union is determined to have representativeness or not, but it is only important that it is an organized union operating with the employer.

In the Republic of Srpska, the Labour Law provides that, directly or through his representatives, a worker has the right to associate, participate in negotiations for collective agreements, peacefully resolve collective and individual labour disputes, consult, inform and express their views on important issues in labour. A worker/workers' representative cannot be called to account or be placed in a less favourable position in terms of working conditions and exercising labour rights over the above-mentioned activities if he acts in accordance with the law and the collective agreement. "Employee representative" is considered a representative of the employees elected in the workers' council or in the trade union bodies.

In the Brčko District of Bosnia and Herzegovina, the employee representative is defined by the Law on Safety and Protection of Workers at Work of the Brčko District of B&H.

65. The Committee requests information on whether protection against prejudicial acts other than dismissal was granted to all types of workers' representatives in all entities of Bosnia and Herzegovina and if these principles were fully applied in practice. It also asked for clarification, as to whether the protection against dismissal in the Brčko District extended to employees' council members;

Protection against prejudicial acts is prescribed in the provisions of the Law on Labour in the Institutions **of Bosnia and Herzegovina** that protect employees from discrimination on any grounds; in provisions prohibiting discrimination; in provisions regulating the protection of labour rights; and in provisions stipulating that an employee does not violate his / her official duty by participating in a strike, nor can he / she be placed in a less favourable position than other employees due to organizing or participating in a strike. According to the information, these principles are respected in practice.

In the Federation of Bosnia and Herzegovina, for the purpose of the Labour Law, a trade union commissioner is any employee authorized by a trade union organized with the employer as a representative of that trade union, in accordance with regulations on the organization and operation of the trade union, whose capacity of authorized representative was notified to the employer. The number of above-defined authorized representatives of trade unions depends on the manner in which this issue is regulated by regulations on the organization and operation of trade unions, and the statute of the trade union. The obligation to obtain approval given by the Federation Ministry of Labour and Social Policy also exists in the event of dismissal with an offer of an amended

employment contract. This is because the Labour Law stipulate that the provisions of this Law relating to dismissal apply in the event that the employer terminates the contract and at the same time offers the employee the conclusion of an employment contract under amended conditions. Accordingly, if the employer intends to terminate the employment contract of the trade union commissioner or at the same time offer him a new employment contract under changed conditions, in that case there is an obligation of the employer to seek prior approval from the Federation Ministry of Labour and Social Policy.
Further, the Law on the Employees' Council provides that the employer may only make a decision with prior approval of the employees' council, inter alia, on the dismissal of a member of the employees' council. If the employees' council does not give its approval in writing within 10 days of requesting approval, it will be deemed that the employees' council agrees to employer's decision. If the employees' council refuses to approve the decision, the dispute is to be entrusted to arbitration council.
When it comes to the protection of workers' rights, including workers' representatives, in case of violation of labour rights, it is regulated by the Labour Law providing that a worker may apply to the employer or the competent court for redress within statutory deadlines.

In the Republic of Srpska, in addition to protection from dismissal, the Labour Law provides maximum protection to trade union representatives from other harmful actions of the employer.

The legislation of the **Brčko District of Bosnia and Herzegovina** does not provide protection against dismissal or legal remedies for workers to contest their dismissal or any other prejudicial treatment.

66. The Committee requests that the next report provide comprehensive information on remedies in all entities of Bosnia and Herzegovina available to workers' representatives to contest their dismissal or any other prejudicial treatment;

Legal remedies in the institutions **of Bosnia and Herzegovina** to which employees are entitled are: an appeal against a first instance decision or a decision deciding on an employee's right and a lawsuit at the competent Court of Bosnia and Herzegovina.

In the Republic of Srpska, an employer may terminate the employment contract of an elected employee representative on the workers' council or union body during performance of his duties or six months after termination of performance of his duties only with prior approval of the union or workers' council. If the trade union/the workers' council does not give its approval within eight days, it is considered that it agrees with the decision of the employer. If the trade union or the workers 'council denies approval to the termination of the employment contract, it must explain it in writing, and the employer may request an arbitration decision within 15 days of receiving the union's/the workers' council's statement, in accordance with the law on peaceful settlement of labour disputes. The president of the representative union and the president of the workers' council enjoy the protection.
The procedure before the arbitration council is initiated at the proposal of the employer in case of denial of the approval by the trade union/the workers' council of the termination of the employment contract to workers' elected representative. The proposal is submitted by the employer within 15 days of receiving the statement of the trade union/the workers' council. The arbitration council is obliged to make a decision within 15 days of its constitution and to submit a report on the work to the Director of the Agency within the specified deadline. The decision of the arbitration council is final and binding on the parties to the dispute.

There are no legal remedies **in the Brčko District of Bosnia and Herzegovina.**

67. The Committee requested detailed information on facilities afforded to workers' representatives in all entities of Bosnia and Herzegovina and on practical implementation of the relevant legislative provisions (for all levels of government);

Through their representatives, i.e. through trade unions, employees in the institutions **of Bosnia and Herzegovina** participate in the adoption of the Rules of Procedure of Institutions of B&H, in accordance with the Law on Labour in the Institutions of B&H and, through the representative trade union and when adopting a by-law concerning the status and salaries of employees, monitor whether the employer acts in accordance with the provisions of the Law and other regulations concerning labour relations and may report any violation of regulations to the Administrative Inspectorate, may represent and assist the employee, at his request in disciplinary proceedings or an action for damages, in accordance with the Law.
Employees may participate and give their comments and suggestions during public consultations in legislative drafting, in accordance with the Rules on Consultations in Legislative Drafting.
Through trade unions, employees also participate in drafting of an act prescribing the minimum service during the strike, in accordance with the Law on Strike of Employees in B&H Institutions.
The acts of the employer are published on the notice board of the employer and on the website of the employer.
Therefore, employees in the institutions of Bosnia and Herzegovina have an opportunity to actively participate both in legislative drafting and in the practical implementation of regulations governing the rights and obligations of employment.

In the Republic of Srpska, an employer may terminate the employment contract of an elected employee representative on the workers' council or union body during performance of his duties or six months after termination of performance of his duties only with prior approval of the union or workers' council. If the trade union/the workers' council does not give its approval within eight days, it is considered that it agrees with the decision of the employer. If the trade union or the workers 'council denies approval to the termination of the employment contract, it must explain it in writing, and the employer may request an arbitration decision within 15 days of receiving the union's/the workers' council's statement, in accordance with the law on peaceful settlement of labour disputes. The president of the representative union and the president of the workers' council enjoy the protection. Acting as an employee's representative in accordance with the law cannot be considered a justified reason for termination of the employment contract.
Trade union representatives must be allowed to be absent from work to attend trade union meetings, conferences, sessions and congresses, and to receive training in courses and seminars. Trade union representatives are provided with access to all jobs with the employer when necessary for performance of their office, except for jobs under a special protection regime in accordance with a special regulation. In case of the need to collect solidarity funds, the representatives of the workers authorized by the trade union have the right to perform this activity in the appropriate premises or facilities of the employer. Trade union representatives are allowed to display union notices at the employer's premises in places that are accessible to workers. Union representatives are allowed to use at least two hours per month during business hours for company meetings and two hours per week for other union activities. The employer is obliged to allow union representatives to provide workers with information, newsletters, publications, leaflets and other union documents. Free access of external trade union representatives to the organization of trade unions organized by the employer is allowed, provided that these activities and visits are announced in advance to the employer. The activities of the trade union are carried out in such a way that they do not harm the

regular operation of the employer and work discipline.

V. ACRONYMS

B&H - Bosnia and Herzegovina
FB&H - Federation of Bosnia and Herzegovina
RS - Republic of Srpska
BD B&H - Brčko District of Bosnia and Herzegovina
BPC - Bosnia-Podrinje Canton
HNC - Herzegovina-Neretva Canton
ESC / R / - European Social Charter / revised /
ECSR - European Committee of Social Rights
ESC - Economic and Social Council
RS ESC - Economic and Social Council of Republic of Srpska
ILO - International Labour Organization
WHO - World Health Organization
BAM - Convertible mark
PI - Public institution

VI. CONCLUSION

A proposal of the Twelfth Report on the Implementation of the European Social Charter /revised/ for B&H for thematic group 3: Labour Rights, Articles 2, 4, 5, 6, 21, 22 and 28, was prepared by Interdepartmental Working Group composed of expert representatives appointed according to the Decision of the B&H Ministry of Human Rights and Refugees on the Establishment of the Interdepartmental Working Group for the Report Preparation number: 01-02-3-167-9/21 dated 15 March 2021 as follows:

1. Amela Hasić, Coordinator of the Interdepartmental Working Group, Ministry of Human Rights and Refugees of Bosnia and Herzegovina;
2. Hana Ćeranić, Member, Ministry of Human Rights and Refugees of Bosnia and Herzegovina;
3. Nenad Novaković, Member, Ministry of Civil Affairs of Bosnia and Herzegovina;
4. Diana Beribaka, Member, Ministry of Justice of Bosnia and Herzegovina;
5. Sanela Zeljković, Member, Labour and Employment Agency of Bosnia and Herzegovina;
6. Šefika Hasanagić, Member, Federation Ministry of Labour and Social Policy;
7. Mira Vasić, Member, Ministry of Labour and Veterans' and Disabled Protection of the Republic of Srpska;
8. Milorad Mitrović, Member, Ministry of Labour and Veterans' and Disabled Protection of the Republic of Srpska;
9. Edisa Bajraktarević, Member, Department of Health and Other Services of the Government of the Brčko District of Bosnia and Herzegovina.

In order to fulfil the obligation of Bosnia and Herzegovina as an international entity submitting a report on the implementation of the European Social Charter /revised/, the Ministry of Human Rights and Refugees of Bosnia and Herzegovina proposes that, after considering the proposal of the Report, the Council of Ministers of Bosnia and Herzegovina adopt the following:

CONCLUSIONS

1. The Twelfth Report of Bosnia and Herzegovina on the Implementation of the European Social Charter /revised/ for thematic group 3: Labour Rights, Articles 2, 4, 5, 6, 21, 22 and 28, in the reference period January 2017-December 2020 is adopted;

2. The Ministry of Human Rights and Refugees is instructed to submit the Twelfth Report of Bosnia and Herzegovina on the Implementation of the European Social Charter /revised/ for thematic group 3: Labour Rights, Articles 2, 4, 5, 6, 21, 22 and 28, in the reference period January 2017-December 2020, through the Ministry of Foreign Affairs of B&H to the Committee on Social Rights of the Council of Europe in Strasbourg and the Associations of Employers and Trade Unions in Bosnia and Herzegovina, pursuant to Articles 21 and 23 of European Social Charter, after its adoption at the meeting of the Council of Ministers of Bosnia and Herzegovina.