

LABOR MANAGEMENT PROCEDURES

(LMP)

for

**Just Transition in Select Coal Regions in Bosnia
and Herzegovina**

DRAFT

October 2024

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ABBREVIATIONS

BiH	Bosnia and Herzegovina
ESF	Environmental and Social Framework
ESMF	Environmental and Social Management Framework
ESMP	Environmental and Social Management Plan
ESS	Environmental and Social Standards
FBiH	Federation of Bosnia and Herzegovina
GM	Grievance Mechanism
ILO	International Labor Organization
LMP	Labor Management Procedures
MOFTER	Ministry of Foreign Trade and Economic Relations
OHS	Occupational Health and Safety
PIU	Project Implementation Unit
PPE	Personal Protective Equipment
SEA/SH	Sexual Exploitation and Abuse / Sexual Harassment
WB	World Bank

1 PROJECT DESCRIPTION AND BACKGROUND

The World Bank (WB) is considering to support Bosnia and Herzegovina (BiH) through the support the State level of BiH and the Federation of BiH for Just Transition in Select Coal Regions in BiH Project for improved social and environmental outcomes.

This document will manage labor required for measures and activities implemented on the level of State and in the Federation of Bosnia and Herzegovina (FBiH).

The Project is designed to achieve its objectives through the **following four components with subcomponents**, as follows:

1. Component 1: Institutional Strengthening and Project Management

Subcomponent 1.1: State-level Measures on Just Transition

- *Committee on Just Transition*
- *Annual Just Transition Forum*

Subcomponent 1.2: FBiH-level Measures on Just Transition:

- *Institutional Strengthening for a Just Transition in FBiH*
- *Policy Development, Legal and Regulatory Updates*

Subcomponent 1.3: Project Management

2. Component 2: Repurposing of Post-Mining Lands (Banovici and Kreka) and Closure of Select Underground Works (, Zenica and)

Subcomponent 2.1: Assessing, Planning and Executing Repurposing

Subcomponent 2.2: Planning and Executing Closure of Select Underground Work(s)

3. Component 3: Renewable Power Generation in RMU Banovici and Kreka Mine

4. Component 4: Support to Labor Transition in RMU Banovici and Zenica Mines

Subcomponent 4.1: Financial Obligations

Subcomponent 4.2: Support the Transition of Mine Workers

Subcomponent 4.3: Community-delivered productive measures for affected unemployed workers and community engagement

The Project will be managed by FMERI through a Project Implementation Unit (PIU), supplemented by Project Management Teams (PMTs) in RMU Banovici and EPBiH. The PIU in FMERI will be established no later than one month following the Effective Date of the project and will include several key members. The PIU will be responsible for channeling resources to the PMTs to strengthen them as required. The PMTs will provide technical support to the PIU for the activities relevant to their respective companies. Also, Intersectoral Ministerial Committee – Federation of BiH Steering Committee (SC) will be established, to support Energy Sector Just Transition Projects in FBiH, appointed by the Decision made by the Government of the Federation of Bosnia and Herzegovina and consisting of the Prime Minister and Ministers of the relevant Ministries, with the below defined responsibilities.

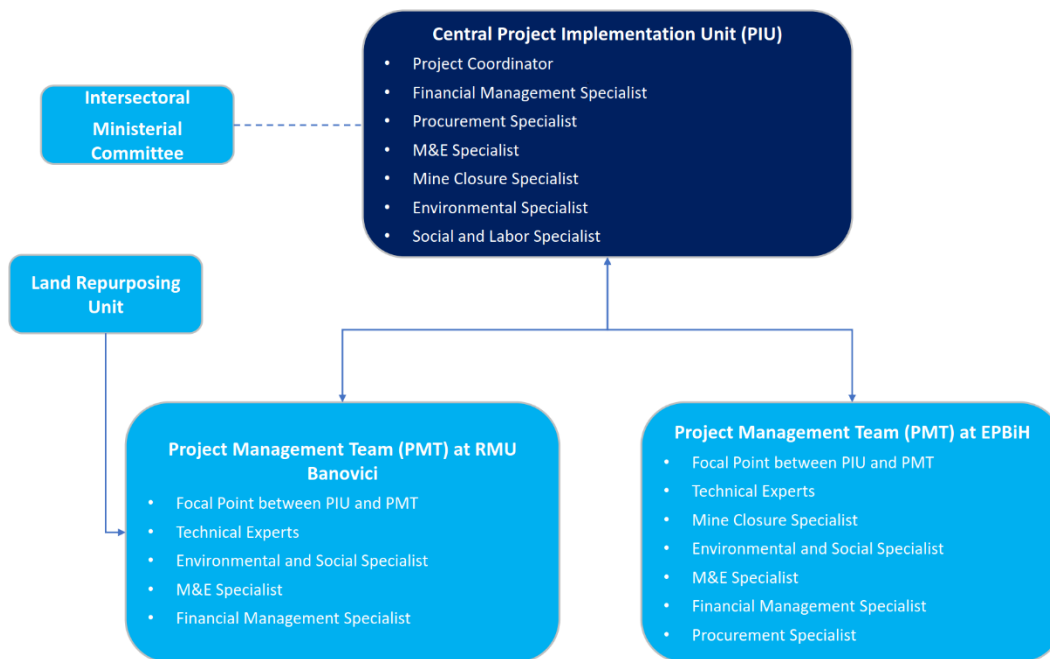


Figure 1 Proposed project implementation arrangements

2 OBJECTIVES AND PURPOSE OF THE LABOR MANAGEMENT PROCEDURES

The project is designed as an Investment Project Financing (IPF) and as such needs to comply with the World Bank's Environmental and Social Framework (2016) (ESF)¹ comprising, *inter alia*, the Environmental and Social Standards (ESS).

The Framework specifies the mandatory requirements in the form of 10 standards that Borrowers must apply.

One of those standards is the Environmental and Social Standard 2 („ESS2“) which concerns labor and working conditions. ESS2 recognizes the importance of employment creation and income generation in the pursuit of poverty reduction and inclusive economic growth. By treating workers fairly and providing safe and healthy working conditions, borrowers can foster healthy relations between workers and management and enhance the development benefits of the project.

Objectives of ESS2 are the following:

- to promote safety and health at work;
- to promote the fair treatment, non-discrimination and equal opportunity of project workers;
- to protect project workers, including vulnerable workers such as women, persons with disabilities, children (of working age, in accordance with this ESS) and migrant workers, contracted workers, community workers and primary supply workers, as appropriate;
- to prevent the use of all forms of forced labor and child labor;

¹ In August 2016, Board of Executive Directors of the World Bank approved the Environmental and Social Framework (ESF), which entered into force in October 2018.

- to support the principles of freedom of association and collective bargaining of project workers in a manner consistent with national law;
- to provide project workers with accessible means to raise workplace concerns.

Under ESS2, Borrowers are required to develop and implement written labor management procedures (“LMP”) applicable to the project. The purpose of the LMP is to facilitate planning for the project and help identify the resources necessary to address the labor issues associated with the project. LMP facilitates to (a) identify the different types of project workers that are likely to be involved in the project, and (b) set out the ways of meeting the requirements of ESS2 that apply to the different types of workers.

In response to the Government's commitment to align with the ESF, the Government developed this Labor Management Procedure (LMP), which sets out the Project's approach to achieving the goals of the World Bank's ESS2: Labor and Working Conditions (ESS2). It defines the terms and conditions for employment or engagement of workers on the project, lists the requirements and standards that must be met and the policies and procedures that must be followed, assesses risks and proposes the implementation of mitigation measures, and requires fair treatment, non-discrimination and equal opportunities for project workers, as well as providing workers with safe and healthy working conditions. The LMP was created to help avoid, mitigate and manage risks and impacts related to project workers and it sets out how project workers will be managed, in accordance with national law and ESS2 requirements. The procedures address how both standards will apply to different categories of project workers including direct workers, as well as how third parties will manage their workers in accordance with this document (contracted workers).

This procedure is developed based on the Bank's requirements, as well as positive national legislation in BiH. The procedure will be updated as necessary during the preparation, development and implementation of the Project. Amendments and updates to the procedure are also made in case of changes in domestic legislation in any aspect relevant to this Procedure.

3 OVERVIEW OF LABOR USE ON THE PROJECT

3.1 Categories of Workers according to the World Bank Categorization

ESS2 identifies the following categories of project workers:

Direct workers

People employed or engaged directly by the Borrower (including the project proponent and the project implementing agencies) to work specifically in relation to the project. Therefore, a “direct worker” is a worker with whom the Borrower has a directly contracted employment relationship and specific control over the work, working conditions, and treatment of the project worker. The worker is employed or engaged by the Borrower, paid directly by the Borrower, and subject to the Borrower’s day-to-day instruction and control. Examples of direct workers may include persons employed or engaged by the Borrower’s project implementation unit to carry out design and supervision, monitoring and evaluation, or community engagement in relation to the project.

Contracted workers

People employed or engaged through third parties to perform work related to core functions of the project, regardless of location, are referred to as contracted workers. Therefore, a “contracted worker” is a worker employed or engaged by a third party to perform work or provide services related to the core functions of the project, where the third-party exercises control over the work, working conditions, and treatment of the project worker. In such circumstances, the employment relationship is between the third party and the project worker, even if the project worker is working on an ongoing basis on project activities.

Primary supply workers

People employed or engaged by the Borrower’s primary suppliers are referred to as primary supply workers. Therefore, a “primary supply worker” is a worker employed or engaged by a primary supplier, providing goods and materials to the project, over whom a primary supplier exercises control for the work, working conditions, and treatment of the person.

Community workers

People employed or engaged in providing community labor are referred to as community workers. The type of projects in which community workers are involved can vary considerably in terms of complexity, duration, and type of work; number of workers involved; types of project benefits, and the way in which ESS2 applies to the participation of community workers. Examples range from projects where the objective is to construct small-scale community infrastructure to regional or national projects designed to provide a social safety net to address unemployment or underemployment. The application of ESS2 to such projects is designed to address the relevant risks and impacts in a proportionate manner, tailored to the specific context, objectives, and design of the project.

3.2 Project Workers

Direct workers: Within the framework of this Project, in the category of **direct workers**, there are:

- Civil servants of the Federation of BiH,
- Employees of the Federation of BiH, and
- External/independent consultants hired by the PIU to specifically work in relation to the Project.

1. Civil servants foresee staff from the following authorities:

State level of Bosnia and Herzegovina:

Staff from the involved BiH Ministry of Foreign Trade and Economic Relations (MoFTER) and staff of a *Committee on “Just Transition”*;

Federation of Bosnia and Herzegovina:

- Staff involved from all relevant Federation Ministries,
- Staff for the involved Ministries in Federation of Bosnia and Herzegovina include staff for:
 - *Project Implementation Unit and Project Management Teams PMT(s);*
 - *Inter-Ministerial Committee on Just Transition;*
 - *A Post Closure Mine Monitoring Unit;*
- *In House Labor Transition Units* (in the mine’s HR department) in Banovići and Zenica Mines, complemented by a *focal point for EPBiH at their headquarters.*
- Staff from involved **Cantonal ministries** that are involved in the project (Zenica-Doboj Canton and Tuzla Canton) (civil servants);
- Staff from **Municipalities:** in Municipalities in Tuzla Canton and Zenica-Doboj Canton;
- Local and Cantonal Employment services.

It is expected that staff engaged in PIU, Inter-Ministerial Committee, and a Committee on “Just Transition” will be civil servants or external consultants, engaged for the following positions: project coordinator, a monitoring and evaluation specialist, a procurement specialist, financial management specialist, and environmental and social specialist and professional experience related to the major areas of energy transition, such as energy, labor, SME development, regional planning, spatial planning, communications, stakeholder engagement, coordination officer. Some of which these positions may require engagement of external consultants, who will be considered direct workers.

2. External consultants:

In addition to potential consulting engagements within PIU, external consultants would be needed to propose legal and regulatory updates in different policy areas, development of terms and reference and procedures, development of policy documents or plans, job research trainings, trainings in digital literacy skills, basic entrepreneur skills, soft skills training, experts joining the Labor Transition Unit during the loan duration, etc. When engaging external consultants, provisions of national legislation on work engagement shall apply, in parallel with compliance with requirements of this Labor Management Procedure.

Contracted workers: The category of **contracted workers** includes the workers of contractors and service providers to be engaged in civil works for needs of subprojects (e.g., contractors engaged in land reclamation, RE installation, firms providing training and re-skilling assistance, and technical assistance support firms). It is possible that the contractor will engage multiple subcontractors and in such cases the subcontractors’ workers will be also considered as contracted workers.

Primary supply workers: Given the nature of the Project and construction needs under the Components 2, 3, and 4 (in relation to supply of goods and services, remediation and repurposing the mine lands, etc.) it is likely that primary suppliers will be engaged. There will probably be a number of such suppliers who will supply these materials and services continuously throughout the Project implementation. All primary suppliers must be formal businesses who procure or produce goods subject to high standards. Workers engaged by primary suppliers for procuring said goods are defined as **primary supply workers**.

According to World Bank definitions, community workers are not expected to be engaged in this Project.

The workers in the mines are not considered “project workers” as per ESS2 definition, but rather project beneficiaries and affected parties. The preparation for mine closures and closure of mine pits will entail workforce reduction and retrenchment, which will be assessed under ESS1 and is discussed in the Environmental and Social Management Framework (ESMF). However, due to the nature of retrenchment risks, measures to manage retrenchment and associated risks will also be considered under the LMP.

Female comprise only a small proportion of the formal mining workforce.. Women are paid equally as men of the same qualifications in the same jobs. Federation of BiH Labor Law defines hiring procedure and compensation level, forbidding any form of direct or indirect discrimination based on gender or any other grounds. .

Labor Law, Article 8, Section 1 forbids any direct or indirect discrimination of workers or job-seekers based on gender, sexual orientation, marital status, family obligations, age, disability, pregnancy, language, religion, political or any other views, ethnic background, social background, financial status, place of birth, rase, skin color, membership or non-membership of political parties and trade unions, health condition or any other personal characteristic. Sections 3 and 4 define direct and indirect discriminations. Furthermore, the Labor Law prescribes employer’s obligation to pay employees equal salary for equal work, irrespectively of ethnic, religious, sexual, political or trade union background, or based on any other specified ground of discrimination (Article 77).

4 ASSESSMENT OF KEY POTENTIAL LABOR RISKS

4.1 Project Activities

The project will support numerous technical assistance activities which relates to preparing mining lands for future use and investment and developing renewable power generation in the three selected coal mines (Banovići, Kreka, and Zenica).

The Project will support specific labor-intensive public works that will be selected based on specific needs in the area where the project will be implemented.

Mine closure works will be performed following the rules and procedures prescribed by Federation of BiH Mining Law, Federation of BiH Law on Geologic Surveys, Environmental Protection Law, Water Law and provisions of the legislation regulating use of land and forests, construction of facilities, physical planning and other material regulations of the Federation of FBiH, as well as relevant procedures of the World Bank.

Project documentation on mine closure and mine land recultivation and Environmental Protection Studies related to mine closure and mine land recultivation, including additional studies required under the relevant procedures of the World Bank, will define detailed type and scope of necessary mine closure works.

Preparation for mine closure works include civil works such as reshaping and grading mine lands, geotechnical stabilization works, repair, repurposing and preservation of existing assets and infrastructure; expansion of infrastructure; re-vegetation and afforestation; drainage and

hydro-technical works. The civil works will be required to remediate mining lands to conditions that are safe and stable to allow their utilization for a wide range of uses, including natural habitats, forests, energy crops and agriculture, space for renewable energy installations (PV), recreational facilities, industrial facilities, and business parks. Typical civil works would include the levelling, grading and compaction of surfaces, especially of external overburden deposits; stabilization of local landslides and slope failures; demolition of the unused buildings; improving and / or construction of access roads, drainage systems and power supply; installation of equipment for environmental and geotechnical monitoring; and temporary and permanent greening of surfaces to prevent erosion. The number and types of jobs and skill profiles will be needed for mining land remediation and repurposing.

The Project will also support installation works of various equipment. In the case of renewable power generation, for example, workers will be needed for infrastructure and equipment installation in the short term.

Zenica BCM Closure Mining Design, as well as other studies developed in line with the World Bank procedures, will define all works necessary for closure of underground workings, rehabilitation, ground water management, methane management and other works in the exploitation field. Civil works may also include, in Zenica Mine (Raspotočje underground pit), demolition of no longer needed surface structures to free the industrial yard in the city, the dismantling and removal of underground equipment, the stabilization, backfilling or otherwise securing of remaining underground voids, the control of emissions and effluents, such as coal mine methane (CMM) or acid mine drainage (AMD).

The project will also finance social arrears for retrenched workers (statutory pension insurance contributions unemployment insurance arrears) and severance payments as well as labor activation and production measures such as trainings and reskilling of mine workers.

4.2 Key Labor Risks

The main workforce risks that may arise from the nature of the work to be undertaken include: working underground, work in confined spaces and work at heights, work equipment hazards, trip and fall hazards, exposure to hazardous materials and electrical hazards when using tools and machinery, infectious/communicable diseases. Since the construction work will involve hazardous work, persons under the age of 18 will not be employed on the project.

It is expected that direct workers (PIUs and external consultants) will primarily perform office work within the Project, in addition to occasional visits to project locations. Given the nature of the activities performed by this category of workers (advisory activities), health and safety risks are minimal or negligible, except for the risk of infectious/communicable diseases (COVID-19). The risks in relation to work in civil service and consultant business are, in general, low in BiH (for example, irregular payment of compensation for work, informal work or child labor are not common and prevalent in the civil service).

In cases of **contracted workers**, the key labor risks would be associated with health and safety risks related to the installation and civil works in sub-projects. Preparation for mine closure works include civil works such as demolition of the unused buildings; reshaping and grading

mine lands, geotechnical stabilization works, repair, repurposing and preservation of existing assets and infrastructure; installation of equipment for environmental and geotechnical monitoring; expansion of infrastructure; re-vegetation and afforestation; drainage and hydrotechnical works.

Other contracted workers, such as workers employed by consultancy firms, IT companies, educational institutions, etc., will be exposed to the same risks as direct workers.

It is anticipated that the contracted workers will be exposed to occupational health and safety hazards, primarily including but not limited to:

- work at height;
- working underground and work in confined spaces;
- danger of tripping and falling;
- dangers from excavation works;
- fall of equipment on workers;
- lifting heavy materials;
- hazards related to handling materials (eg lifting, impact, crushing, etc.);
- work on steep and unsafe terrain;
- work with electrical equipment;
- exposure to toxic waste and gases, dust, noise and vibrations;
- risk of infectious/communicable diseases (COVID-19);
- work in a non-physiological position of the body;
- discrimination;
- traffic accidents;
- welding hazards (fumes, burns and radiation);
- steel erection (towers) hazards;
- excavations, earth works hazards vibration;
- vibration of heavy construction equipment;
- use of rotating and moving equipment;
- lack of workers’ awareness on occupational health and safety requirements such as the use of personal protective equipment (PPE) and safe workplace practices.

FBiH legislation requires *each employer to assess labor risks specific to each job/position*. The employer is obliged to prepare an act on *risk assessment* 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. The employer is also obliged to perform training of workers related to safe work. With the use of protection equipment, proper training and organization of site, the risk of work-related injuries and occupational health can be significantly reduced.

As the construction activities involve potentially hazardous work, even after preventive and protective measures have been put in place, persons under the age of 18 will not be employed by the Project, to avoid any unnecessary risks.

Retrenchment of mine workers is also one of the key project risks, which is covered under ESS1 and also under ESS2 (even though mine workers are not “project workers”). The FBiH

legislation and applicable collective agreements have detailed provisions on retrenchment which are aligned with the World Bank requirements. FBiH legislation requires that employers prepare retrenchment plans, consult with unions and public employment service and provide grievance mechanism. The legislation also provides for the formula for the calculation of the severance payment. The only gap with ESS2 is the requirement to provide all statutory payment prior to the termination of employment. The local law requires that all payment be made within 30 days of employment termination. The mining companies benefiting from the project will be required to prepare retrenchment plans and carry out consultations with unions, prior to any collective workforce reductions.

The Project is assessed as low on SEA/SH (Sexual Exploitation and Abuse/Sexual Harassment) risk. Taking into account the nature of civil works and characteristics of related labor market in BiH, it is expected that the number of female workers at the construction sites will be very low. It is assumed that unskilled and semiskilled construction workers will be only men. Women could be engaged as managers, engineers, and administration staff.. However, in the context of this project, large labor influx is not expected. It is expected that the workforce will be from local communities and BiH. The identified SEA/SH risks can be mitigated through disclosure and awareness raising on Code of Conduct, training of contracted workers on SEA/SH issues, as well as strengthening GM with procedures to handle SEA/SH related grievances.

If other labor risks arise during subprojects implementation, this LMP will be appropriately updated.

5 OVERVIEW OF LABOR LEGISLATION: TERMS AND CONDITIONS

This section sets out the **key aspects** of national labor legislation regarding terms and conditions of work, and how national legislation applies to different categories of workers identified in Section 1. The overview focuses on legislation which relates to the items set out in ESS2, paragraph 11 (i.e., wages, deductions, and benefits).

Bosnia and Herzegovina has been a member of the International Labor Organization (ILO) since June 1993. Bosnia and Herzegovina is a signatory to 83 ILO conventions, including 8 fundamental conventions.

The **Labor Act in Federation of Bosnia and Herzegovina**² is the main legislation that guides labor practices in FBiH. Regarding terms and conditions of work, and how this legislation applies to different categories of workers. It governs relations between employees and employers, as well as other legal relations deriving from such relations between them and the relevant national authorities and entities. The Law regulates all forms of employment, relations between employees and employers, retirement, employment termination, and union operations. Furthermore, the Law includes a section on occupational safety and health.

Under Article 7 of the **Law on Employment of Foreigners**³ (LEF), a foreigner must be in possession of a work permit to enter an employment contract. Foreign employees have the same rights, obligations and responsibilities as nationals unless otherwise provided by international

² Labor Act "Official Gazette of FBiH", No. 29/16, 89/18 and 44/22;

³ "Official Gazette of the FBiH", number 111/12;

agreements (Art. 6). Provisions on issuing work permits are also regulated by BiH **Law on Aliens**⁴.

According to the Article 62 of the **Law on Asylum**⁵, asylum seekers and the asylees have the right to access the labor market, in accordance with the law regulating employment of foreign citizens. The asylum seekers and the asylees are entitled to primary health care, in conformity with the law regulating health care.

The **FBiH Law on Health Insurance**⁶, **Law on Pension and Disability Insurance**⁷ and **Law on Peaceful Settlement of Labor Disputes FBiH**⁸ establish rights and obligations related to certain/relevant aspects of labor relations.

A. Working conditions and management of worker relationships

Provision of information and forms of employment contracts

Art. 20a of the Labor Act stipulates that employers must lay down their recruitment rules and procedures in their labor rulebooks. Public sector employers (including agencies, institutions, directorates, administrative organizations, and companies in which the FBiH, cantons, cities or municipalities have a majority stake) may recruit employees only by publishing job vacancies.

Article 4 of the Labor Act stipulates that a labor relation shall be initiated by concluding an employment contract.

Article 22 prescribes that employment contracts may be concluded for an indefinite period, or for a fixed term. Fixed-term employment may not exceed three years. Thus, fixed-term contracts renewed over a period exceeding three years shall be deemed concluded for an indefinite period. Contracts not defining the duration of employment shall also be deemed to be concluded for an indefinite period. However, employees working for compensation without having entered a written employment contract with their employers shall be deemed to be fixed-term employees, unless their employers prove otherwise.

Article 24 regulates that the contract shall be concluded in writing and shall contain the following: a) employer's name and headquarters; b) employee's name and address; c) duration of the contract; d) commencement date; e) place of work; f) position and brief job description; g) schedule and working hours; h) salary, salary allowances and benefits; i) payment related information; j) annual leave; k) notice period; and (l) other information concerning employment determined by a collective agreement. Data requirements under paragraphs g), h), i), j), k), and l) may be replaced by the relevant articles of laws, the collective agreement, or the labor rulebook.

4 "Official Gazette of BiH" No. 88/15, 34/21 and 63/23;

5 "Official Gazette of BiH" No. 11/16.

6 "Official Gazette of FBiH", No. 30/97, 7/02, 70/08, 48/11, 100/14 and 36/18;

7 "Official Gazette of FBiH", No 13/18, 90/21 and 19/22.

8 "Official Gazette of FBiH", No. 49/21;

If the employer does not conclude an employment contract with the employee in writing, and the employee performs work for the employer for a fee, the employment relationship is considered to be based on an indefinite period of time, unless the employer proves otherwise.

Employment contracts may provide for a probationary period that may not exceed six months. (Art. 21).

Article 166 provides that employment contracts may also be concluded (in writing) for temporary and occasional jobs where such jobs: (1) are provided for by collective agreements or labor rulebooks; (2) do not require the conclusion of either full- or part-time contracts of limited or unlimited duration; and (3) do not exceed the duration of 60 days in one calendar year. Such contracts include the type, the manner, the time frame for completing jobs and the amount of remuneration for the job. (Art. 167)

Article 32 provides that employers may conclude an employment contract with a trainee for the purpose of providing professional training aimed at enabling him to work autonomously. A trainee shall be a person with secondary or post-secondary school qualifications and/or a university degree who for the first time enters into labor relations in a particular profession, and who is obliged to pass a professional examination under the law or needs prior work experience to be able to work in the profession. The contract shall be concluded for a fixed term, however not longer than one year, unless otherwise provided for by the law. During the training period, a trainee shall be entitled to 70% of the salary set for the job for which he/she is trained, but could be higher if the employer and trainee agree.

Employees may enter a home-based contract for work they perform at home or other premises of their choice, other than the workplace of the employer. Such contracts may be entered into only for jobs that are not hazardous or detrimental to the health of the employees or other people. (Art. 26)

Finally, Art. 600 of the Law on Obligations (LO) regulates “that Short-Term Contract obliges an employee (entrepreneur, contractor) to perform a certain task, such as **production or repair of a certain good or perform a certain physical or intellectual work**, etc. and employer is obliged to pay a compensation against such work.”

Delivery of generic products, tangible or intangible is regulated by BiH Public Procurement Law.

Wages and deductions

Article 7 of the Labor Act prescribes that employee shall be entitled to a fair salary, safe and healthy work conditions, and other rights in accordance with the law, collective agreements, labor rulebooks, and employment contracts. It is the employer's obligation to register workers for pension and disability insurance, health insurance and unemployment insurance (Article 4 of the Labor Act). Wages and compensation are regulated by Article 75-83 of the Labor Act. The salary of the worker is determined by the collective agreement, the Rulebook on Work and the employment contract.

Salary for the work performed and time spent at work shall consist of basic salary, part of salary for performance and increased salary referred to in Article 76 of the Law, in accordance with the collective agreement, labor rulebook, and employment contract. Increased salary referees to difficult working conditions, overtime and night work, as well as for work during Sunday rest, holidays or any other day for which the law stipulates no work, in accordance with the collective agreement, Rulebook on Work, and employment contract (article 76 of the Labor Act).

The FBiH Economic and Social Council determines the minimum wage for the territory of the Federation of BiH. No worker may be paid less than the mandatory minimum rate. Employers may not pay wages lower than those fixed in collective agreements and labor rulebooks. (Art. 78)

The Labor Act guarantees the right of workers to a fair salary and full salary compensation during annual vacations, public holidays, temporary incapacity for work due to an injury at work or occupational disease. Employers are obliged to pay workers equal wages for work of equal value (same level of education, same work ability, responsibility, physical and intellectual work, skills, working conditions and work results) regardless of national and religious affiliation, sexual orientation, political affiliation and membership in the union as well as other discriminatory grounds (article 77 of the Labor Act).

Workers are entitled to salary compensation during temporary incapacity for work due to illness or injury or other reasons provided for in the Law on Health Insurance.

The salary compensation during sick leave amounts to at least 80% of the salary, while the salary compensation during sick leave due to injuries at work, diseases related to pregnancy and childbirth and organ transplantation amounts to 100% of the salary (Article 47 of the Law).

Trainee employees are also entitled to a salary determined by law and the relevant collective agreement; such salaries shall not be lower than 70% of the salaries for the jobs they are being trained for. (Labor Act Art. 32)

Employers that fail to pay their salaries within 30 days, or to pay them in full, shall deliver their employees' pay slips indicating the outstanding amounts by the end of the month during which the work was performed. Pay slips shall be considered writs of execution (Art. 80).

Pension, social benefits – contributions

Under the Labor Act, upon the conclusion of an employment contract, an employer is obliged to register the employee for pension and disability insurance, and health and unemployment insurance (Art. 4). Employees are entitled to salary compensation for the entire period of absence permitted by law, as well as when they are not working for reasons on the part of the employer. Employees shall receive salary compensation during annual leave, paid leave of absence, sick leave, maternity leave, leave for educational purposes, official holidays, and for overtime work. Employers shall bear all the costs of treatment of occupational accidents and diseases. Additionally, employees are entitled to salary compensation during interruptions in their work for which they are not responsible (force majeure, temporary stoppages of

production, etc.), in accordance with the collective agreements, labor rulebooks, and employment contracts (Art. 81).

FBiH has compulsory and voluntary pension and disability insurance schemes. The compulsory pension scheme rests on the principles of intergenerational solidarity and mutuality. Thus, according to the Art. 4 of Law on Pension and Disability Insurance (hereinafter: LPDI), the rights arising from pension and disability insurance entail the right to: (1) old age pension; (2) disability pension; (3) insurance in case of diminished work capacity; (4) rights related to physical disabilities; and (5) the right to family pension. Under the Law, insured persons denote employees, the self-employed, farmers and religious workers (LPDI Art. 10).

The minimum conditions required for old-age retirement are 65 years of age and 15 years of paid insurance. Otherwise, workers may retire at any age provided they have at least 20 years of pensionable service or 40 years of insurance regardless of their age (LPDI Art. 40).

The insured, who have developed a general or occupational incapacity for work, are entitled to a disability pension provided they meet the requirements prescribed by the law. Disability may be caused by illness, injury outside work or at work or an occupational disease (LPDI Art. 58).

Insured male workers are entitled to early full retirement when they turn 63.5 provided, they have 38.5 years of pensionable service. The requirements will change in the near future, to: (1) 2025 – 64 years of age and 29 years of pensionable service; (2) 2026 – 64.5 years of age and 39 years of pensionable service (LPDI Art. 142).

Insured female workers are entitled to early full retirement when they turn 58,5 provided, they have 33,5 years of pensionable service. The requirements will change in the near future, to: (1) 2025 – 59 years of age and 34 years of pensionable service; (2) 2026 – 59.5 years of age and 34.5 years of pensionable service and so on until 2036 when female employees will have to be 64.5 years of age and have 39.5 years of pensionable service to qualify for early full retirement (LPDI Art. 143).

Under Article 2 of the Law on Health Insurance (LHI), health insurance can be compulsory, extended (allowing the insured to pay higher contributions), and voluntary. Mandatory health insurance contributions are paid for all residents regularly receiving any kind of income. Mandatory health insurance covers both employed and self-employed persons and their dependent families, as well as farmers, pensioners and, upon certain conditions, unemployed persons, or other recipients of social welfare benefits (LHI Art. 3).

Working hours

The Labor Act in part IV defines the working time, starting with the definition of working time (Article 35) that working hours as the period when employees, based on their employment contacts, are required to perform tasks for their employers. Article 36 stipulates that full-time work shall not exceed 40 hours a week, unless the law, collective agreement, Rulebook on Work or work contract stipulates a shorter duration. Weekly work may be performed over a period of five or six days, and may be reduced by other laws, collective agreements, rulebooks, or employment contracts.

Overtime work

Overtime (more than 8 hours a day) work is regulated by the articles 38-39. It is allowed in the case of force majeure (fire, earthquake, flood) and a sudden increase in the scope of work, as well as in other similar cases of necessity, the worker, at the request of the employer, is obliged to work longer than full time (overtime), up to eight hours at most. weekly.

Overtime work shall not be allowed to workers who are minors, pregnant women, mother i.e. adoptive parent of a child up to three years of age, as well as to single parents, single adoptive parents and persons to whom, on the basis of a decision of a competent authority, a child had been entrusted to keep and raise, up to six years of age of the child. although upon their written request, the employer may approve to work overtime. Except for minors, upon their written request, the employer may approve to work overtime.

Workers shall be entitled to increased salary for overtime work.

Employers are under the obligation to report to the relevant labor inspectorate overtime exceeding three consecutive weeks or ten weeks during a calendar year.

Rest brakes

A worker has the right to rest during work, daily rest and weekly rest, and these rights cannot be denied.

Daily break (rest) is defined by the Articles 44 while weekly brake is regulated in Art 45 of the Law. The Article 44 stipulates that the worker who works at least six hours a day is entitled to a daily period of rest (a break) of a minimum of 30 minutes. The method and time of using a brake of this article is governed by the collective agreement, the work regulations and the work contract.

The worker is entitled to a minimum daily rest period of 12 consecutive hours per 24-hour period. While working on seasonal jobs, the worker has the right to a daily rest of at least 10 continuous hours, and for minor workers, at least 12 continuous hours.

Night work and Shift Work

Article 40 of the Labor Act prescribed that night-time work entails work performed between 10 pm (22:00) and 6 am (06:00), i.e., between 10 pm (22:00) and 5 am (05:00) in agriculture. If work entails nightshifts, employees shall not work such shifts continuously for more than one-week. Article 42 regulates the right of minors. According to it, minors may not work nightshifts except in extraordinary situations, such as a force majeure. In industrial branches, night-time work of minors entails work performed between 7 pm (19:00) and 7 am (07:00). Night-time work of minors in non-industrial branches entails work between 8 pm (20:00) and 6 am (06:00).

The Labor Act prohibits night-time work of pregnant women as of the sixth month of pregnancy, mothers, or adoptive mothers of children under three, as well as single parents and adoptive single parents or guardians of children under two (Art. 41). Additionally, a single parent or one of the parents, if both parents are employed, of a child with serious development

difficulties or disabilities, who has not been placed in a social welfare/healthcare institution, shall not be ordered to work nights, unless they consent to such work in advance (Art. 69)

Rest period

Labor Act regulates rest period. Employees working more than six hours a day are entitled to a 30-minute break. However, at the employees' request, employers shall provide them with hour-long breaks once a week. Breaks during working hours are not reckoned as work time. (Art. 44).

Daily rest periods shall be minimum 12 continuous hours within each 24-hour period (Art. 45).

However, seasonal workers are entitled to 10-hour and underage workers entitled to 12-hour daily rest periods (Art. 45). Occasional and temporary workers are entitled to the same breaks and rights as all other employees Art. 166. Employees are also entitled to weekly rest periods of at least 24 continuous hours; usually on Sunday (except for employees working in shifts, who have another day in the week as weekly rest period) (Art. 46).

Breastfeeding workers working full time after maternity leave are entitled to two one-hour breastfeeding breaks per day, until their infants turn one. Breastfeeding breaks count towards full-time working hours. (Art. 65).

Annual leave

A worker, for each calendar year, has the right to a paid vacation lasting at least 20 working days, and at most 30 working days. Article 47 of the Labor Act foreseen exception by which annual leave can last longer than 30 working days, if it is regulated by a collective agreement, and according to the nature of the work and working conditions.

A minor worker has the right to an annual vacation lasting at least 24 working days. Art 48 of the Labor Law stipulates that the right to annual leave is earned after 6 months of continuous work. Annual leave can be used in two parts, with the first part lasting at least 12 days, and the second part to be used no later than June 30 of the following year (Art 50).

Employees are entitled to maximum seven-day paid leave a year in special circumstances, such as entry into marriage, birth of a child, death, or grave illness of a close family member, during vocational or unionist training, in case they donate blood, as provided for in the collective agreements, labor rulebooks, or employment contracts (Art. 53).

The plan for the use of annual leave is determined by the employer, with prior consultation with the workers or their representatives in accordance with the Law, taking into account the needs of the job, as well as the justified reasons of the worker. A worker cannot waive the right to annual leave. Also, a worker cannot be denied the right to annual leave, nor can he be paid compensation instead of using annual leave.

Paid Leave

According to the Article 53 of the Labor Law, employees are entitled to maximum seven-day paid leave a year in special circumstances, such as entry into marriage, birth of a child, death, or grave illness of a close family member, during vocational or unionist training, in case they donate blood, as provided for in the collective agreements, labor rulebooks, or employment

contracts. Additionally, employees are entitled to two days of paid leave for religious purposes (Art. 54). Furthermore, employees are entitled to paid leave for educational purposes, retraining, or upgrading their skills, and educational purposes needed by their trade union in accordance with the collective agreements and the labor rulebooks (Art. 53).

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Unpaid Leave

According to the Art. 54 of the Labor Law, employers may grant employees unpaid leave on their request. Social security contributions are not paid during unpaid leave. Employees are entitled to take two unpaid days of leave, in addition to the two paid days, for religious or tradition-related purposes.

Article 67 of the Labor Act foresees that one of the parents may take unpaid leave until their child turns three, if provided by the collective agreement or the labor rulebook. Labor-related rights and obligations shall be suspended during such leave.

Maternity/Parental/Family Leave

Article 63 of the Labor Act prescribed that female workers are entitled to one-year continuous maternity leave during pregnancy, delivery, and to care for their babies. Women may return to work earlier, 42 days after delivery at the earliest. Based on the findings of the relevant doctor, a female employee may go on maternity leave 28 days prior to the anticipated date of delivery. Article 63 entitled female employees, following maternity leave, to work half time until their infants turn one; mothers of twins, a third and each subsequent child are entitled to work half time until their infants turn two, unless cantonal regulations extend the duration of this right. This right may also be exercised by the father of the child, if the mother is working full-time during that period.

Working fathers may also exercise the right to paternity leave when the baby is 42 days old if the parents so agree or if the mother has passed away, abandoned the baby, or is prevented from using maternity leave for other justified reasons (Art. 62).

While one parent of a one-year-old infant requiring additional care, according to the findings of the relevant health institution, is entitled to work half the time until the child turns three (Art. 64).

Women, giving stillbirths or experiencing newborn deaths before the expiry of maternity leave, are entitled to extend maternity leave if necessary to recover from the delivery and the psychological condition caused by the loss of the baby, according to the findings of the relevant doctor. Such maternity leave may not be extended by less than 45 days from the day of delivery or death of the baby; during this period, the women shall be entitled to all the rights arising from maternity leave (Art. 66). One of the parents may take unpaid leave until their child turns three, if provided by the collective agreement or the labor rulebook. Labor-related rights and obligations shall be suspended during such leave (Art. 67).

Sick Leave

Under the FBiH Law on Health Insurance, employees unable to work due to sickness, injury or childcare are entitled to a salary for the duration of such leave (Arts. 42, 46, and 47). Such compensation shall be paid by the employer for a maximum of 42 days and thereafter by the Health Insurance Fund for a maximum of one year. Such compensation shall equal up to 80% of their salaries the previous month. However, employers may also cover the difference between the compensation and the employees' full salaries. (Labor Act Art. 68; Law on Health Insurance Arts. 46, 47 and 52).

Written notice and severance payments

Notices must be in writing and include the reasons for the termination of the employment contract, and they must be delivered to the employee/employer. (Labor Act, Art 104). An employer may terminate employment contracts without notice if the employee has committed a grave offense or breach of employment terms (Art. 97 and 100).

However, if an employment contract is terminated by mutual agreement, the agreement must be in writing and must define the notice period and other rights and duties of the contracting parties (Art. 95).

The notice period may not be shorter than seven days in case of termination by the employee or fourteen days respectively in case of termination by the employer. The notice period commences from the day of delivery of the notice to terminate (Labor Act, Art 105). The notice period for workers who are members of the Employees Council, enjoy additional protection, including, among others, male workers over 55, female workers over 50, for which the notice period commences after the employee council within 10 days' consents to or oppose to termination pursuant to the Law on Employee Councils (Art. 26).

The collective agreements, labor rulebooks and employment contracts may provide for longer notice periods. Such notice periods may not exceed one month when employees are giving notice or three months when the employers are giving notice. (Labor Act, Art. 105).

Employment contracts may provide for a probationary period that may not exceed six months. A seven-day notice period is required in case of termination of contracts before the expiry of the probationary period. (Labor Act, Art. 21).

Employers employing over 30 workers and intending to terminate the employment contracts of at least five redundant workers in the coming three months for economic, technical, or organizational reasons are obliged to consult with their employee councils and the trade unions. (Labor Act, Art. 109) The employers are obliged to send the employee council or trade union a written document and initiate consultations at least 30 days before giving the redundant employees notice. The written document shall include, inter alia, the following information: reasons for termination, and measures that the employer can take to prevent some terminations. (Labor Act, Arts. 109 and 110).

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Nondiscrimination, equal opportunities, and positive discrimination

The Labor Act in Article 8 paragraph 1 prohibits any direct or indirect discrimination against workers as well as persons seeking employment, with regard to gender, sexual orientation, marital status, family obligations, age, disability, pregnancy, language, religion, political and other opinions, nationality, social origin, property status, birth, race, skin color, membership or non-membership in political parties and trade unions, health status, or some other personal characteristic. Paragraphs 3 and 4 defines the direct and indirect discrimination.

Furthermore, the Labor Law stipulates that an employer shall pay equal salaries for equal work to employees, irrespective of their national, religious, gender, political or trade union affiliation, as well as any other abovementioned discriminatory grounds (Art. 77).

Under Article 58 of the *Law on Principles of Social Protection and Protection of Civilian Victims of War and Families with Children*⁹, civilian victims of war shall have priority in employment. Similarly, according to the *Law on Vocational Rehabilitation, Training, and Employment of People with Disabilities*¹⁰, persons with disabilities are entitled to preferential treatment in employment in the public sector and in business associations established with the aim of employing persons with disabilities (Art. 15). Furthermore, legal, and natural persons employing persons with disabilities are entitled to various benefits (Art. 48).

Related to the employment of women, Art 59 of the Labor Act prohibits the employment of women in underground jobs (in mines), except in the case if she is employed in a managerial position that does not require physical labor or in health and social protection services, i.e. if the woman has to spend a certain time in training underground or has to periodically enter to the underground part of the mine in order to perform occupations that do not involve manual labor. Art 60 of the Labor Act stipulates that an employer cannot refuse to hire a woman because of her pregnancy, nor can he during pregnancy, use of maternity leave, and during the use of rights from Art. 63, 64 and 65 of this law to cancel the employment contract of a woman, that is, a worker who uses some of the mentioned rights. The employer is obliged to assign a woman to other jobs during pregnancy, i.e. breastfeeding, if this is in the interest of her health condition, as determined by an authorized doctor. If the employer is not able to ensure deployment of the woman, the woman has the right to leave from work with salary compensation, in accordance with the collective agreement and the work regulations, which cannot result in a reduction of the salary.

In relations to employment of migrant workers, the existing work permit scheme in Bosnia and Herzegovina is based on the demand system, as only the employer is authorized to submit an

⁹ «Official Gazette of FBiH», Nos. 36/99, 54/04, 39/06, 14/09, and 45/16.

¹⁰ «Official Gazette of FBiH», No 9/10.

application. The BiH Law on Aliens and the by-laws regulate the framework for the entry and stay of foreigners for the purpose of work, due to the interconnectedness of the decisions governing the stay of foreigners, it appears as a framework and direction for the possibility of working in BiH. The Law on the Employment of Foreigners in the FBiH¹¹ stipulates that, in addition to the general conditions established by the law, the collective agreement and the work regulations, a foreigner must also possess a **work permit** to conclude a contract, issued by the Cantonal service at the request of the employer, prior approved by Federal Employment Agency, based on the established quota¹² of work permits in Federation of BiH. The Law stipulates that foreigners cannot be placed in a less favorable position on the basis of: gender, sexual orientation, marital status, family obligations, age, pregnancy, language, religion, political and other opinions, nationality, social origin, property status, birth, race, skin color or some other personal characteristic. They have the same rights, obligations and responsibilities as and employed citizens of the Federation in accordance with labor regulations and employment, collective agreement and work regulation, if international agreements not otherwise specified.

Sexual harassment

Article 9 of the Labor Act strictly prohibits all employers and employees from engaging in harassment or sexual harassment, gender-based violence, as well as systematic harassment of job seekers and employees at work or in relation to work (mobbing).

Worker's Organizations

The right to freedom of peaceful assembly and of the freedom of associations with other are one of the fundamental rights defined by the Constitutions in BiH. According to the Art. 14 of the Labor Act, workers have the right, of their free choice, to organize a trade union and to join it, in accordance with the statute or rules of that trade union, without any prior approval. Employers are prohibited to interfere in the establishment, functioning and provision of assistance with intent to control such a trade union (Art 16). There are no national restrictions on membership in trade unions, although foreign nationals must have valid work permits. The Labor Act prohibits discrimination against employees and job applicants on grounds of their membership in a trade union. (LL Art. 8)

Employers and associations of employers are prohibited from interfering with the establishment, operations, and management of trade unions and from lobbying for or helping trade unions with the aim of controlling them. (LL Art. 16)

¹¹ Official Gazette of the FBiH", No 111/12;

¹² Work permit quotas are based on the expressed needs of employment services in relation to the number of foreigners according to degree and type of education, ie qualifications and expertise. Decision on the annual labor quota is issued by the Council of Ministers of BiH (Government of BiH) in accordance with the migration policy and with appreciation of the situation on the labor market.

Additionally, employers shall ensure appropriate conditions for trade union activities in accordance with the collective agreements. Union representatives, who are not employed by an employer, shall be allowed access to the employer's premises when necessary to perform their union activities provided the employer has workers who are members of the trade union. (LL Art. 18).

Collective agreement

According to the Art. 137 and 138, collective agreements may be concluded at different levels as general, branch, and individual collective agreements. A general collective agreement shall be concluded for the territory of the Federation, while branch collective agreements shall be concluded for the territory of the Federation or one or more cantons. Individual collective agreements are concluded with individual employers.

Collective agreements shall be concluded in writing and for a fixed period not exceeding three years and that they shall apply no longer than 90 days following the lapse of the term to which it was concluded. However, they may be extended by the parties at least 30 days before expiry (Art. 140).

B. Protecting the workforce

Minimum age of employment

According to Article 20 of the Labor Act, an employment contract cannot be concluded with a person younger than 15 years of age, nor can they be employed in any type of work.

Minors between 15 and 18 years of age may conclude employment contracts, i.e., take up employment with the consent of their legal representative, provided they have obtained a medical certificate of general health proving their ability to work; such certificates are issued by the relevant doctors or relevant health institutions. However, minors may not work more than 35 hours per week (Art. 36).

Underage employees may not work nights, except in specific, extraordinary, situations (accidents, force majeure, protection of the Federation interests). In industrial branches, night-time work of minors entails work performed between 7 pm (19:00) and 7 am (07:00). Night-time work of minors in non-industrial branches entails work between 8 pm (20:00) and 6 am (06:00). (Art. 42)

Minors may not perform particularly hard manual labor, underground or underwater work, or other jobs that may adversely affect or pose greater risks to their life and health, development, or morality, given their psychological and physical capacities. In the event a labor inspector determines that a minor is performing a job unsuitable for a person his/her age, the employer shall offer the minor employee another appropriate job, and if there are no such jobs, the employer shall offer the minor retraining or additional training for other appropriate jobs. However, if, following the retraining or additional training, there are no appropriate jobs which the minor may perform, the employer may terminate the employment contract. (Arts. 42, 57, and 171).

Minor employees are entitled to a medical examination at least once in two years; the costs of the examinations shall be borne by their employers. (Art. 58).

Article 23 of the Law on Occupational Safety obliges employers to adopt the act on protection at work which has to regulate implementation of safety at work, rules of prevention and protection, jobs with increased risk, jobs where the measure of shortening working hours is implemented, the method of determining the health status of workers who work in jobs with increased risk, and other workers, means and equipment of personal protection belonging to the worker, and the rights, obligations and responsibilities of occupational health and safety workers and other workers in this field, as well as other issues of importance for safety and health protection at work. The basis for drafting the act on protection at work is the **risk assessment at the workplace**, which contains a description of the work process with an assessment of the risk of injury or damage to health at the place of work in the working environment and measures to eliminate or reduce the risk to the smallest possible extent in order to improve safety and health protection at work. Risk assessment is performed in accordance to Rules on risk assessment¹³ adopted by the Federal Minister of Labor and Social Protection.

Article 69 of the Law on Occupational Safety states special protection for particularly sensitive groups, including minors. Article 70 prohibits minors from working in jobs that may endanger their health and development.

Forced Labor

Labor Act prohibits employment of a person younger than 15 years of age in any type of work (Art 20). No specific provisions on force labor are given in FBiH Law on Labor. The Criminal Code of Bosnia and Herzegovina¹⁴ prohibits slavery and transport of slaves and trafficking in persons. Additionally, it prohibits commercial sexual exploitation and sexual exploitation of children. (Art. 185), and sanctions are defined for forced labor (Art. 186). Furthermore, BiH is signatory to the ILO Forced Labor Convention and the Abolition of Forced Labor Convention. Article II of the Constitution of Bosnia and Herzegovina prohibits slavery, servitude, and forced and compulsory labor.

C. Grievance mechanism

Labor disputes

The Labor Act includes provisions that allow workers to resolve disputes in cases where there is a disagreement between the employer and the employee over the essential terms of conditions of a labor agreement and other aspects of work.

¹³ Official Gazette of the FBiH", No 23/21.

¹⁴ "Official Gazette of BiH", No. 3/03, 32/03, 37/03, 54/04, 61/04, 30/05, 53/06, 55/06, 8/10, 47/14, 22/15, 40/15, 35/18.

Article 114 of the Labor Act stipulates that (1) A worker who believes that his employer has violated a right from the employment relationship may, within 30 days from the day of delivery of the decision violating his right, or from the day of learning about the violation of the right, request the employer to exercise that right. (2) If the employer does not comply with the request within 30 days from the date of submitting a request for the protection of rights or reaching an agreement on the peaceful resolution of the dispute referred to in Article 116, paragraph 1 of this law, the worker may, within a further period of 90 days, file a lawsuit before the competent authority by the court. (3) The protection of the violated right cannot be requested before the competent court by an employee who has not previously submitted a request to the employer from paragraph 1 of this article, except in the case of an employee's request for compensation for damages or other monetary claim from the employment relationship.

Article 116 of the Labor Act stipulates that: (1) Before filing a lawsuit, the employee and the employer can agree on a peaceful settlement of the dispute in the manner and under the conditions provided for by law. (2) If the procedure referred to in paragraph 1 of this article is not completed within a reasonable period of time, which cannot be longer than 60 days, or if the conciliation procedure is completed unsuccessfully, the worker has the right to file a complaint with the competent court, within the time limits referred to in Article 114 of this law which run from the day the conciliation procedure ends.

The Labor Act also contains provisions in the case of discrimination (Art 12) which reads: (1) In cases of discrimination within the meaning of the provisions of this law, the worker as well as the person seeking employment may request protection from the employer within 15 days from the day of learning about the discrimination. (2) If the employer does not comply with the request within 15 days from the date of submission of the request from the previous paragraph, the worker may file a complaint with the competent court within a further period of 30 days. (3) If a worker or a person seeking employment in the event of a dispute presents facts that justify the suspicion that the employer acted contrary to the provisions of this law on the prohibition of discrimination, the employer bears the burden of proving that there was no discrimination, that is, that the existing difference is not aimed at discrimination, but that has its own objective justification. (4) If the court determines that the lawsuit from paragraph 2 of this article is founded, the employer is obliged to establish and ensure the exercise of the rights denied to the employee, and to compensate him for the damage caused by discrimination.

The worker, the trade union, the employer and the employee council can submit a request to the labor inspector to conduct an inspection (Art 162). For example, according to the provisions of the *Branch collective agreement of the electrical activity in FBiH*, the parties to the dispute can agree to entrust the solutions to the resulting labor dispute to arbitration. The composition, procedure and other issues related to the arbitration procedure will be regulated by an agreement between the union and the employer.

The worker, the trade union, the employer and the employees' council can submit a request to the labor inspector to conduct an inspection or control over the proper application of the provisions of the law. Supervision over the application of the Labor Act (Art 159), and the regulations adopted based on it, is performed by the Federal or Cantonal labor inspector. In addition of the supervision task, the labor inspector is obliged to: a. gives instructions to

employers and workers on the most efficient way of applying legal regulations; b. informs the competent administration authorities about deficiencies that are not specifically defined by existing legal regulations; and c. cooperates with other administrative bodies, employers and associations of employers and workers.

The Federal Labor Inspector performs direct inspection supervision in companies, enterprises and institutions of interest to the Federation. The Cantonal labor inspector performs the direct inspection supervision tasks referred to in Article 159 of the Labor Act at the employer, except for the supervision tasks that are determined by this or other law to be performed by Federal labor inspectors.

Conclusion:

In summary, the FBiH Labor Act is to large extent aligned with ESS2, apart from a few gap areas. The Labor Act does not specify whether wages that have been earned, social security benefits, pension contributions and any other entitlements must be paid on or before termination of the working relationship. The ESS2 specifically requires this payment to be paid before or on employment termination date. While workers are entitled to increased payment rate for the overtime work, night work and work on public and religious holidays, the Labor Act does not clearly specify the premium rate for this type of work. While the Labor Act prohibits conclusion of employment contracts with persons under the age of 15 years, the law does not specifically prohibit employment of persons between ages of 15 and 18 years in jobs that could interfere with the child's education. Labor Act provides for a workplace grievance mechanism. Art 55 of Labor Act obliges the employer to enable the employee to familiarize himself with the regulations regarding labor relations, at the time of recruitment. However, there is no specific provision the specifically obligate employers to notify their future employees of the grievance mechanism at the time of recruitment.

6 OVERVIEW OF LABOR LEGISLATION: OCCUPATIONAL HEALTH AND SAFETY

This section sets out the key aspects of the national labor legislation with regards to occupational health and safety, and how national legislation applies to the different categories of workers identified in Section 1. The overview focuses on legislation which relates to the items set out in ESS2, paragraphs 24 to 30.

Occupational health and safety, as a subject of general interest, is within the scope of regulation competence of the Entities in Bosnia and Herzegovina. The key piece of legislation that regulates occupational safety and health in Federation of BiH is the Law on Occupational Safety¹⁵. The Law defines the occupational health and safety measures, the employers' obligations and the employees' rights and duties in the field of occupational health and safety, as well as preventive measures against occupational risks, elimination of accident-related risk factors, information, consultation, training of workers and their representatives and their engagement in planning and implementing occupational health and safety measures. The 2020 Law on Occupational Safety (LOS) directly implements and incorporates in the Federation of

¹⁵ "Official Gazette of FBiH", No. 79/20;

BiH legal system EU Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work. Health and safety at work is the duty to be ensured and implemented by every legal and physical entity that employs one or more workers, including public services (employer), state and other bodies, unless otherwise specified by law. This also apply both to persons who perform the activity through personal work and to persons who are employed in another way.

The Law prescribed a number of obligations for employers, among which are the preparation of a risk assessment, the training of workers to work in a safe manner, and the provision of medical examinations to workers employed in certain jobs. The focus is on the principle of **workplace injury prevention through risk assessment**, which the employer is obliged to carry out for each workplace, and to identify jobs with increased risk. The employer is obliged to determine the organization of the implementation of occupational safety in its **internal act on occupational safety**, and it is necessary to determine which means and equipment of personal protection the worker should have. The Law **does not specify specific protection measures for certain types of jobs**, but that part is **regulated by regulations of which there are 29 and which are mostly from the period of the SFRY**, but there are also those that date from the FNRJ.

In addition to taking care of the workers, it is necessary to ensure the adequate working environment. In this regard, employers are obliged to ensure testing of electrical installations and other factors in the working environment, as well as testing of work machines and work equipment to ensure their correctness. In order to ensure that the employees have the highest level of protection, the Law stipulates that only authorized companies can perform tasks related to occupational health and safety insurance. It is necessary to keep accurate records of everything on prescribed forms.

The employer's legal obligation is to provide training and training of workers for occupational safety before the start of work, for all relevant changes in the work process, and for referral to a new workplace. Training must be renewed periodically so that workers are ready to apply regulations and safety rules at work at all times.

In addition to these provisions, provisions on occupational health and safety regulated by the *FBiH Law on Mining* have also been presented for the reason that rehabilitation and reclamation of mining land is also a mining activity and is carried out according to the provisions of these laws.

Identification of potential hazards to project workers, particularly those that may be life threatening

Under the General Rulebook on Hygienic and Protective Measures at Work¹⁶, which defines the employers' and employees' duties in detail, all equipment and tools used in the working process must include instructions and warning signs (Arts. 4, 5, 6, and 7).

Article 71. of the Law on Occupational Safety obliges employers to take measures to prevent diseases, disabilities, or deterioration of the workers' health if risks of such diseases or disabilities exist at a workplace despite the implementation of occupational safety measures. In cooperation with the Federal Ministry of Health, the Federal Minister of Labor shall lay down the procedure for assigning workers to jobs identified as jobs with increased risk in the internal occupational safety acts, the working conditions at such workplaces and the supervision of the workers' health.

Article 72 of the Law regulates that the working hours of workers at such workplaces shall be reduced in proportion to the detrimental effect of the working conditions on their health and working capacity, in accordance with the law. It prescribes that these jobs with increased risks and the duration of working hours are determined by the employer's internal act on occupational safety, based on the **risk assessment act** defined in the Article 23, paragraph (2) of this law, and the expert opinion of an authorized organization, which fulfills the personnel, organizational, technical and other conditions. With respect to exercise of the right to a salary and other work-related rights, part-time work in the meaning of this Article (on shorter working hours) shall be equated with full-time work.

Article 29 of The Law obliges employers to provide their workers with personal protection equipment and ensure that it is in a good state of repair. They must exclude from use personal protection equipment that has suffered changes endangering the safety and health of workers. Work equipment can be in use only if provided it fulfills the occupational safety requirements as attested by its manufacturer or importer. Personal protection equipment can be placed on the market, ordered, or used provided it provides reliable protection against work-related risks as attested by its manufacturer or importer. Equipment subject to periodic occupational safety tests and inspections may be used only if it is accompanied by a record or document referred to in Article 67, paragraph (1) of the Law on Occupational Safety, proving that it meets the requirements prescribed by law (Art. 14).

Furthermore, only workers trained in healthy and safe work, who have received special work instructions, meet the health requirements, and are provided with appropriate personal protection equipment, have access to at risk workplaces where they are in imminent danger of injury or health damage (poisoning, suffocation, et al) (Art. 28). Additionally, employers are obliged to examine the working environment, i.e., to assess the risks and ensure the protection of the health and safety of workers exposed to physical, chemical, and biological hazards at work (Law on Occupational Safety, Art. 25).

¹⁶ "Official Gazette of FNRJ", no. 16/47, 18/47 and 36/50. The Rulebook is available in Bosnian at <http://fmrsp.gov.ba/?wpdmpo=opsti-pravilnik-o-higijenskim-i-tehnickim-zastitnim-merama-pri-radu&wpdmdl=5040&refresh=5ecaf5f8b5c2e1590359544>

Employers must display permanent hazard and general warning signs in accordance with the relevant regulations at workplaces and on equipment and installations. If the signs do not suffice, the employers must display permanent written instructions on use of the premises, equipment, and hazardous substances (Art. 39)

The employers' occupational safety and health measures may not impose financial obligations on the workers (Art. 31).

Preventive and protective measures

Under the Article 20 of the Law on Occupational Safety, the employer is obliged to provide preventive measures to protect the life and health of employees, before the start of the worker's work, during work, as well as with any change in the technological procedure, by choosing work and production methods that ensure the greatest safety and health protection at work, based on the application of regulations in the field of safety and health protection at work, labor relations, technical regulations and standards, regulations in the field of health care, etc.

The employer is obliged to provide the necessary funds for their application.

The employer is obliged by its **internal act on occupational safety** to determine the organization of the implementation of occupational safety, rules of prevention and protection, jobs with increased risk, jobs where the measure of reducing working hours is implemented, the method of determining the health status of workers who work in jobs with increased risk, and other workers, means and equipment of personal protection that belong to the worker, and the rights, obligations and responsibilities of workers for occupational safety and other workers in this area, as well as other issues of importance for safety and health protection at work. The act that will serve as the basis for the internal act on occupational safety is the **act on risk assessment at the workplace**.

According to Art 22 of the Law, the employer is obliged to:

- adopt an internal act on occupational safety;
- organize safety and health protection tasks at work;
- enable the worker to familiarize himself with safety and protection measures at work before starting work;
- inform the workers, the trade union and the occupational safety commissioner about the introduction of new technologies and means of work, as well as dangers and harms to the health of workers, and issues instructions for safe work;
- ensure that the planning and introduction of new technologies is subject to consultation with workers and/or their occupational safety commissioner regarding the consequences for safety and health caused by the choice of equipment, working conditions and working environment;
- train workers for safe work;
- provide workers with means and equipment for personal protection and their use;
- ensure periodic medical examinations of workers who work in jobs where there are increased health risks and undertakes measures to prevent the occurrence of disability and occupational diseases of workers;
- ensure periodic inspections of work equipment and personal protective equipment at work, in accordance with technical standards;

- ensure periodic inspections and tests of physical, chemical and biological hazards and microclimate in the working environment;
- ensure periodic inspections and tests of work equipment and equipment, work and auxiliary premises and personal protection equipment and equipment, which are not subject to mandatory periodic inspections and tests, in the manner, according to the procedure and within the deadlines established by the general act;
- implement fire protection measures in accordance with special regulations;
- implement measures to ensure first aid;
- improve safety and health protection at work;
- inform the competent labor inspectorate about any death, accident that befell one or more workers, serious injury, occupational disease, any occurrence or illness affecting more than one worker and any occurrence that could endanger the life or health of workers at work, inform the competent inspection about the start and completion of works on construction, assembly, replacement of equipment, overhaul and reconstruction of buildings

Article 7 of the Law on Occupational Safety regulates establishment and the role of the **Council for protection at work**¹⁷. The mandate of the Council is to propose and periodically reviews the policy of safety and health protection at work and encourages harmonization of the work of all relevant organs and bodies, as well as legislation, with the aim of ensuring the life, health and work ability of workers, preventing injuries at work and occupational diseases.

Under the General Rulebook on Hygienic and Protective Measures at Work, all equipment and tools used in the working process must include instructions and warning signs (Arts. 4, 5, 6, and 7). Employers must take measures to prevent diseases, disabilities, or deterioration of the workers' health if risks of such diseases or disabilities exist at a workplace despite the implementation of occupational safety measures. The working hours of workers at such workplaces shall be reduced in proportion to the detrimental effect of the working conditions on their health and working capacity, in accordance with the law. In cooperation with the Federal Ministry of Health, the Federal Minister of Labor shall lay down the procedure for assigning workers to jobs identified as jobs with increased risk in the internal occupational safety acts, the working conditions at such workplaces and the supervision of the workers' health (Law on Occupational Safety, Art. 71). With respect to exercise of the right to a salary and other work-related rights, part-time work in the meaning of this Article (on shorter working hours) shall be equated with full-time work (Law on Occupational Safety, Art. 72).

Furthermore, employers must provide their workers with personal protection equipment and ensure that it is in a good state of repair. They must exclude from use personal protection equipment that has suffered changes endangering the safety and health of workers. (Law on Occupational Safety, Art. 29). Work equipment may be in the market, ordered, or used provided it fulfills the occupational safety requirements as attested by its manufacturer or importer. Personal protection equipment may be in the market, ordered, or used provided it provides reliable protection against work-related risks as attested by its manufacturer or importer.

¹⁷ At the time of writing this document (March 2024), this Council was in the phase of its establishment by the FBiH Government.

Equipment subject to periodic occupational safety tests and inspections may be used only if it is accompanied by a record or document referred to in Article 67, paragraph (1) of the Law on Occupational Safety proving that it meets the requirements prescribed by law (Art. 14) Furthermore, only workers trained in healthy and safe work, who have received special work instructions, meet the health requirements, and are provided with appropriate personal protection equipment, have access to at risk workplaces where they are in imminent danger of injury or health damage (poisoning, suffocation, et al). (Law on Occupational Safety, Art. 28). Additionally, employers are obliged to examine the working environment, i.e., to assess the risks and ensure the protection of the health and safety of workers exposed to physical, chemical, and biological hazards at work (Law on Occupational Safety, Art. 25).

Employers must display permanent hazard and general warning signs in accordance with the relevant regulations at workplaces and on equipment and installations. If the signs do not suffice, the employers must display permanent written instructions on use of the premises, equipment, and hazardous substances. (Law on Occupational Safety, Art. 39) The employers' occupational safety and health measures may not impose financial obligations on the workers. (Law on Occupational Safety, Art. 31).

Training of project workers and maintenance of training records

Article 46 of the Law on Occupational Safety obliges the employers to ensure that workers receive adequate occupational safety and health training, in the form of information and instructions specific to their workstation or job: at the time of employment, transfer to another job, on introduction of new work equipment or a new technology. During the training, the employers must familiarize the workers with all the risks at the jobs they are assigning them to and with the occupational safety and protection measures undertaken in accordance with the risk assessment document. The training must be tailored to the workers' jobs, must take place during working hours, and may not be debited to the workers.

Employers shall ensure that pregnant and breastfeeding workers, underage workers, and workers with diminished working capacity are both trained in safe and healthy work and notified in writing of the workplace risk assessment results and the measures for eliminating the risks with a view to increasing safety and health at work (Art. 42).

Documentation and reporting of occupational accidents, diseases, and incidents

Article 61 of the Law on Occupational Safety obliges the employer to keep prescribed records of:

- a) workers at workplaces with increased risk;
- b) workplaces with increased risk;
- c) hazardous substances used during work;
- d) check the knowledge of workers in the field of safety and health protection at work;
- e) performed inspections and tests of the working environment and work equipment;
- f) injuries at work, occupational diseases, deaths and their causes;
- g) medical examinations of workers;

Employers are obliged to submit to the competent labor inspection annual reports on work-related injuries, occupational diseases, deaths, and their causes.

Regarding work-related injuries and occupational diseases, employers must submit **reports** to the workers who suffered them, the relevant health insurance institution with which the workers are insured, the authorized health institution extending specific health care/occupational medicine services to the employers, as well as the relevant labor inspection, within seven days from the day of injury or the occurrence of the disease (Art. 62.) The report is submitted on a form whose content and method of submission is prescribed by the federal minister in cooperation with the federal minister of health.

Article 63 of the Law obliges employers to immediately notify the **labor inspection** of any death, serious injury at work, occupational disease and any occurrence that may endanger the life or health of workers at work, to investigate the case. The employer is also obliged to invite to the investigation the designated occupational safety worker, the injured worker's immediate supervisor and the occupational safety commissioner to perform an inquiry into each injury at work.

Emergency prevention and preparedness and response arrangements to emergency situations

Under the Article 20 of the Law on Occupational Safety, when organizing work and the work process, the employer is obliged to provide preventive measures to protect the life and health of employees, as well as the necessary material resources for their application, before the start of the worker's work, during work, as well as with any change in the technological procedure. The employer must choose work and production methods that ensure the greatest safety and health protection at work, based on the application of safety regulations and health protection at work, labor relations, technical regulations and standards, regulations in the field of health protection, etc. This responsibility of the employer exists even if engages an authorized organization for occupational safety.

According to Article 36, the employer is obliged to: a) take the necessary first aid, firefighting and evacuation measures tailored to the nature of the activities and the size of their undertaking; b) establish necessary links with specialized services, particularly those extending first aid, emergency medical care, rescue, and fire-fighting services. Employers shall designate workers implementing first aid, firefighting, and evacuation measures. The number of such workers, their training, and the equipment available to them shall be proportionate to the size and/or specific hazards of the undertaking.

Furthermore, under Article 11 of the General Rulebook on Hygienic and Protective Measures at Work, every building shall have special fire exits, fire extinguishers, and train a specific number of employees in responding to fire-related emergencies. All employees must be trained in use of fire extinguishers, and all larger companies must display detailed evacuation plans in visible places.

According to Article 37 of the Law, in case of serious and imminent danger employers must: a) familiarize all workers who are, or may be, exposed to serious and imminent danger with the

risks they may be exposed to and with the measures taken or to be taken to protect them as soon as possible; b) take the measures and issue instructions enabling workers to cease work and/or immediately leave the workplace and proceed to a place of safety in the event of a serious and imminent danger; c) refrain from requiring of workers to continue working in case the serious and imminent danger persists, except in exceptional cases where there is a serious and imminent danger to the safety of a number of people and the environment.

Workers who leave their workplace and/or a dangerous area in the event of a serious and imminent danger may not suffer any adverse consequences under labor law (Art. 37).

Remedies for adverse impacts such as occupational injuries, deaths, disability, and disease

Article 72 of the Labor Act prescribed that a work-related injury, disease, or occupational disease may not have any detrimental effect on the exercise of an employee's rights arising from labor relations. Thus, employees incapacitated for work up to six months are entitled to return to their jobs after they recuperate. If there is no longer any need for the work the employees had performed before they were temporarily incapacitated, their employers are obligated to deploy the employee to other duties in accordance with his qualifications and skills required for work. However, if they cannot secure them a new job, the employers may terminate the employees' contracts following consultations with the employee council. Employers may not terminate the employment contracts, including fixed term contracts, of employees who have suffered an injury at work or developed an occupational disease, during their medical treatment unless they had committed a grave offense or a grave breach of employment terms (Art. 71). Wrongfully dismissed employees may sue their employers and claim damages.

Procedures to establish and maintain a safe working environment

Employers shall organize occupational safety activities considering the technical-technological process of work, the number of workers, the number of locations of separate work units, and the dangers and risks to the workers' health. They shall engage authorized occupational safety organizations if they themselves lack professional staff capable of implementing protection and prevention activities. Employers may perform occupational safety activities themselves if they are engaged in trade, catering and tourism, financial-technical and business services, education, science and information, health, and social protection and in housing and communal services and have fewer than 30 workers. The Federal Minister of Labor shall prescribe the conditions that must be met by the professional staff referred to in this Article, as well as the manner of and requirements for performing occupational safety activities at the employer depending on the risks, activities, and number of workers (Law on Occupational Safety, Art. 33). In workplaces where workers perform jobs with increased risk, employers shall designate one or more workers who will perform tasks related to the prevention of risks at work and the protection of the workers' health (Law on Occupational Safety, Art. 34). Workers in companies employing 30 or more workers shall elect or appoint an occupational safety commissioner (Law on Occupational Safety, Art. 44).

Article 23 of the Law on Occupational Safety obliges employers to consult with workers and/or workers' representatives charged with occupational safety and health on all occupational safety

and health issues. Employers shall particularly facilitate their involvement in: a) discussions and approval of any measures regarding occupational safety and health; b) any measures that may significantly affect occupational safety and health; c) the designation of workers charged with ensuring safe and health working conditions, first aid, firefighting, and evacuation of workers; d) engagement of authorized occupational safety organizations, if necessary; and, e) the planning and organization of occupational safety trainings for workers. Furthermore, they shall also notify of and consult with workers' representatives or workers after fatal, group or serious injuries at work, diagnosed occupational diseases and on the findings of the relevant labor inspection finding a deficiency in the implementation of occupational safety measures. (Art. 40). Article 23 of the Law on Occupational Safety obliges employers to consult their occupational safety commissioners during the development of their internal acts on safety at work.

Under Article 13 of the Law on Occupational Safety, if two or more organizations and employers are engaged in activities at the same construction site, each of them is responsible for implementing safety measures, and the main contractor or investor is obliged to provide a single occupational safety study.

Right and responsibility to report unsafe situation, right to leave the workplace and prohibition of retaliation for reporting

Article 53 of the Law on Occupational Safety gives the workers a right to refuse to work if they believe that there is an imminent danger to their life or health and must immediately notify their immediate supervisors and/or designated occupational safety workers, the competent labor inspector, and the worker's representatives thereof. Upon receipt of such notification, the competent labor inspection shall immediately conduct an on-site inspection and order the implementation of appropriate protection measures and/or prohibit work pending their implementation or inform the workers why their requests are ill-founded. Workers who have left their workplaces in face of an imminent danger may not suffer any adverse consequences under labor law, unless their employers prove that they had left them without good cause.

Workers must, among other things, immediately notify their employer and/or designated occupational safety workers of any occurrence reasonably suspected of posing a risk to occupational safety and health, as well as of any deficiencies in protection procedures. They must also notify the persons responsible for the jobs at issue and/or their employers of the injuries they have sustained (Law on Occupational Safety, Art. 52). Furthermore, designated occupational safety workers must prohibit work at the workplace or use of work and personal protection equipment in the event they identify an immediate risk to the life and health of workers, and notify their employers and occupational safety commissioners thereof in writing (Law on Occupational Safety, Art. 35).

Workers unable to contact their immediate superiors in case of a serious and imminent danger to their own safety or safety of others must undertake adequate measures they know of and have the technical means to implement to avoid the consequences of such a danger provided those

measures are not manifestly disproportionate to the danger. They may not suffer any adverse consequences under labor law for taking such measures (Law on Occupational Safety, Art. 37).

Workers who leave their workplace and/or a dangerous area in the event of a serious and imminent danger may not suffer any adverse consequences under labor law (Law on Occupational Safety, Art. 37)

Facilities for workers

Article 9 (Para 4) of the Labor Act establishes **the general rules and safety measures at work** refer in particular to the following requirements: ensuring the necessary work surface and work space, providing the necessary paths for the passage, transport and evacuation of workers and other persons, ensuring cleanliness, ensuring the prescribed temperature and humidity and limiting the speed of air flow, ensuring the prescribed lighting, noise and vibration protection, protection from harmful atmospheric and climatic influences, protection against physical, chemical and biological harmful influences, protection against excessive exertion, protection against electromagnetic and other radiation, and provision of premises and devices for personal hygiene. The Law **does not specify specific protection measures** for certain types of jobs, but that part is **regulated by rulebooks of which there are 29 and which are mostly from the period of the SFRY**¹⁸, while there are also those that date from the FNRJ.

Rulebook on general safety measures at work for construction objects intended for work and auxiliary premises and work premises¹⁹ established general safety measures at work, for construction facilities intended for work and ancillary rooms and work spaces, where work is carried out or where workers are occasionally kept at work. The Rulebook, among others, oblige employers to provide auxiliary rooms (wardrobe rooms, bathrooms, sinks, and other rooms for workers' personal hygiene, rooms for preparing and taking food, smoking, personal hygiene rooms for female workers; rooms for occasional heating of workers, toilets, urinals, rooms for cleaning and disinfection of work clothes and protective equipment etc) that are, as a rule, should be placed in special buildings near the work premises or in annexes next to the work premises. These measures must be complied with already when creating technical documentation for facilities intended for work and auxiliary rooms, designing technological processes and construction of the working facilities.

Employers must examine the working environment, i.e., assess the risks and ensure the protection of the health and safety of workers exposed to physical, chemical, and biological hazards at work (Law on occupational Safety Art. 25). Under Article 76 of the General Rulebook on Hygienic and Protective Measures at Work²⁰, all working premises must be kept

¹⁸ The Article 61 of the Law on Occupational Safety regulates that until the adoption of new regulations on safety and health protection at work, the application of secondary legislation that were in force at the time of the adoption of this law shall continue, if they do not contradict the provisions of that law and other regulations.

¹⁹ "Official Gazette of SRBiH" No 05/88. Available at: <https://fmrsp.gov.ba/download/pravilnik-o-opstim-mjerama-zastite-na-radnu-za-gradjevinske-objekte-namijenjene-za-radne-i-pomocne-prostorije-i-radne-prostore/?wpdmdl=5052&refresh=65f1d5f28b5181710347762>

²⁰ The General Rulebook on Hygienic and Protective Measures at Work, which defines the employers' and employees' duties in detail, is available in Bosnian at <http://fmrsp.gov.ba/?wpdmdl=5040&refresh=5ecaf5f8b5c2e1590359544>

clean. All premises must be cleaned at least once a week, while the floors must be cleaned daily. Walls and ceilings must be painted at least once a year.

Contractors and collaboration with project workers on OHS

As previously mentioned, contractors are under the obligation to comply with all applicable laws. Under Article 13 of the Law on Occupational Health, if two or more organizations and employers are engaged in activities at the same construction site, each of them is responsible for implementing safety measures, and the main contractor or investor is obliged to provide an occupational safety study for the entire workplace. Employers shall ensure that workers of other companies working in their undertaking have received appropriate instructions regarding health and safety risks (Art. 47).

System for regular OHS review

In addition to the obligation, employers are obliged to examine the working environment, i.e., to assess the risks and ensure the protection of the health and safety of workers exposed to physical, chemical, and biological hazards at work (Law on Occupational Safety, Art. 25). Furthermore, they must arrange checkups of their workers performing jobs with increased risk before the latter commence work and periodic checkups during their employment. (Law on Occupational Safety, Art. 57). Employers must keep the prescribed records of: a) workers performing jobs with increased risks; b) jobs with increased risk; c) hazardous substances used in work; d) results of the workers' occupational health and safety tests; e) performed tests and inspections of the working environment and equipment; f) work-related injuries, occupational diseases, deaths, and their causes; g) medical examinations of workers. Employers must submit to the competent labor inspection annual reports on work-related injuries, occupational diseases, deaths, and their causes (Law on Occupational Safety, Art. 61).

Employers, designated occupational safety workers and commissioners, trade unions and other workers must notify the authorized occupational medicine institution of all factors at the workplace and in the working environment that they know or assume may adversely affect the workers' health (Law on Occupational Safety, Art. 56).

OHS risks which may be specific to female workers and children

During the organization of the workplace, employers must consider the presence of sensitive risk groups. Particularly sensitive risk groups, such as pregnant and breastfeeding women and young mothers, minors, persons with disabilities, as well as workers with diminished working capacity under pension and disability insurance regulations, must be protected from risks they are particularly susceptible to, in accordance with the Law on Occupational Safety, other regulations, the collective agreement and the employers' general acts (Law on Occupational Safety, Art. 69).

Pregnant and breastfeeding women and young mothers may not be assigned jobs where they risk exposure to hazardous substances, chemical, physical, and biological agents, harmful radiation, and microclimatic effects, i.e., jobs in difficult working conditions, as well as especially difficult and dangerous jobs where their physical and mental health may be at risk. Minors may not perform work that may jeopardize their health or development. Workers with diminished working capacity may not perform work risking to further diminish their working capacity (Law on Occupational Safety, Art. 70).

Minors may not perform particularly hard manual labor, underground or underwater work, or other jobs that may adversely affect or pose greater risks to their life and health, development, or morality, given their psychological and physical capacities. Minors are also entitled to regular medical examinations, the costs of which shall be covered by their employers (Labor Act, Arts. 57 and 58). The Labor Act similarly specifically prohibits women from working in underground mines. This provision, however, does not apply to women holding managerial positions not requiring physical labor, women employed in health or welfare services, i.e., women who must spend a certain amount of time in underground training or to occasionally enter the underground part of a mine for the purpose of practicing an occupation not involving physical labor (Labor Act, Art. 59).

Employers shall ensure that pregnant and breastfeeding workers, underage workers, and workers with diminished working capacity are both trained in safe and healthy work and notified in writing of the workplace risk assessment results and the measures for eliminating the risks with a view to increasing safety and health at work (Law on Occupational Safety, Art. 42).

Unlike ESS2, the Law does not require a balanced representation of women on OHS committees to help design policies responding to the needs of female project workers.

Role of the inspectorates

Inspection over the implementation of the Law on Occupational Safety and bylaws adopted on the basis of the law, technical regulations and standards related to safety and health protection at work and general acts in the field of safety and health protection at work is carried out by the Cantonal Administration for Inspection Affairs, except for supervision which is placed under the jurisdiction of the Federal Administration for Inspection Affairs by this law. Articles 74-82 of this Law regulates the rights and duties of the Labor Inspection.

The **FBiH Law on Mining** stipulates that every employee who establishes an employment relationship in a mining company must familiarize himself with the work he will perform, the regulations and safety measures at work and fire protection measures, with the dangers that may arise in the work, before being assigned to jobs or tasks, as well as with the organization and implementation of occupational health and safety in the company (Article 52). The company is obliged to adopt special programs for acquiring knowledge in the field of occupational safety

according to the type of work and the expertise of the employees. The company, is obliged to organize the familiarization of all employees with regulations and safety measures at work, as well as measures for the implementation of the defense plan and rescue operations in cases of sudden accidents (article 54). Article 59 stipulates that mining company is obliged, before carrying out **rehabilitation and technical reclamation of devastated areas** to carry out insurance measures in order to permanently exclude dangers to the life and health of people and property and possible causes of environmental pollution, i.e. damage to buildings and the environment. Supervision over the implementation of the law is carried out by **Cantonal and Federal mining inspectors**.

7 RESPONSIBLE STAFF

At the level of Federation of Bosnia and Herzegovina, the project will be managed by FMERI through a **Project Implementation Unit (PIU)** housed in the Federal Ministry of Energy, Mining and Industry, with the project manager appointed by the Minister of the Ministry. The PIU will be equipped with a project manager, a monitoring and evaluation specialist, a procurement specialist, a financial management specialist, mine closure specialist, environmental protection specialist and social and labor specialist. Project coordinator will report to the Federal Ministry on a regular basis.

Each beneficiary company will have a **Project Management Team (PMT)** to assist in developing and approving TORs, overseeing implementation of activities and report on progress to the PIU. The PMTs play a critical coordinating and liaising function between the PIU and the local actors involved in the project. In the case of EPBiH who has several beneficiary mines under the project, EPBiH will develop a PMT that involves relevant mine employees from Zenica and, Kreka. The PMT(s) at the beneficiary level will be equipped with focal point for coordination purposes, technical experts, environmental, OHS and social specialists, M&E specialists, and may have financial management and procurement responsibilities (yet to be defined).

PIU and PMTs at the level of mines will be responsible for implementation and oversight of implementation of this Labor Management Procedure. In connection with this Labor Management Procedure, the PIU in FBiH shall be responsible for the following:

- Monitoring the implementation of this LMP.
- Updating this LMP when necessary in the course of preparation, development and implementation of the Project, as well as in case the national legislation changes in any aspects of importance for this Procedure.
- Engaging and managing ministry employees and any external consultants (as direct workers).
- Monitoring the implementation of requirements of this LMP by contractors and subcontractors whose workers are considered to be contracted workers.
- Establishment and maintenance of grievance mechanisms in compliance with requirements of this LMP.
- Apply this labor management procedure to project workers.

Labor Management Procedures

- Ensure that contractor(s) responsible for [include activity] prepare their labor management procedure, in compliance with this labor management procedure, and occupational health and safety plan before [include stage].
- Monitor and report on implementation of project contractors' labor management procedures.
- Monitor that the contractors are meeting obligations towards contracted and sub-contracted workers as included in the General Conditions of Contract the World Bank Standard Bidding Documents, and in line with ESS2 and F BiH Labor Act and occupational health and safety laws.
- Maintain records of recruitment and employment process of direct workers.
- Monitor employment process of contracted workers to ensure it is carried out in accordance with this labor management procedure and F BiH Labor Act.
- Monitor that occupational health and safety standards are met at workplaces in line with national occupational health and safety legislation, ESS2 and Occupational Health and Safety Plan.
- Ensure that project workers receive training on SEA/SH prevention and Code of Conduct at the start of the employment and monitor SEA/SH prevention measures implementation during the life of the project.
- Ensure and monitor training of the project workers on OHS, and any other required trainings.
- Ensure that the grievance mechanism for project workers is established, monitor and report on its implementation.
- Ensure that dedicated SEA/SH grievance mechanism is established, monitor and report on its implementation.
- Monitor implementation of the workers Code of Conduct.
- Establish and implement a procedure for documenting specific incidents such as project-related occupational injuries, illnesses, lost time accidents and incidents related to sexual exploitation and abuse and sexual harassment. Maintain such records and require from all third parties and primary suppliers to maintain them. Such records will form an input into the regular review of OHS performance and working conditions.
- Implement disciplinary measures in instances of sexual exploitation and abuse and sexual harassment misconduct.
- In instances of medium, severe, fatal, and mass accidents, inform the law enforcement bodies and Labor Inspectorate.
- Ensure that mine companies prepare retrenchment plans and carry out consultations with unions prior to any collective workforce reductions. The World Bank should provide No Objection to retrenchment plans.

The PIU will have the reporting and monitoring responsibility vis-a-vis the World Bank. PMTs at the level of mines will have the same responsibilities for the LMP implementation as those listed above. Additionally, the PIU shall be responsible for carrying out procurement and supervision/monitoring of contracts.

In terms of labor and safety performance, each sub-project will be overseen by the Supervision Consultant (external consultant), who will be engaged by the PIU and at least on monthly basis report to PIU on contractor's performance.

The contractors shall be responsible for:

- Employ or appoint qualified social, labor, and occupational safety experts to prepare and implement project specific labor management procedure, occupational health, and safety plans prior to the start of works, and to manage subcontractor performance.
- Develop their own labor management procedure and occupational health and safety plan, consistent with this LMP and ESS2, which will apply to contracted and sub-contracted workers. These procedures and plans will be submitted to the Supervision Consultant for review and approval before the contractors mobilize for the design stage.
- Contractors will supervise their subcontractors' implementation labor management procedures and occupational health and safety plans.
- Maintain records of recruitment and employment process of contracted workers.
- Clearly communicate job description and employment conditions to contracted workers and provide them with one copy of the employment contract.
- Develop, implement, and maintain workers' grievance mechanism and address the grievance received from the contracted and sub-contracted workers. Report on grievance mechanism implementation to the Supervision Consultant and the Employer;
- Have a system for regular review and reporting on labor, and occupational safety and health performance.
- Deliver regular work induction trainings including but not limited to OHS, HSE, social induction, trainings to employees.
- Ensure that all contractor and sub-contractor workers understand and sign the Code of Conduct prior to the commencement of works.
- Ensure that contracted and sub-contracted workers receive training on SEA/SH prevention and Code of Conduct at the start of the employment and monitor SEA/SH prevention measures implementation during the life of the project.
- Ensure that dedicated SEA/SH grievance mechanism is established, monitor and report on its implementation.
- Establish and implement a procedure for documenting specific incidents such as project-related occupational injuries, illnesses, lost time accidents and incidents related to sexual exploitation and abuse and sexual harassment. Maintain such records and require all third parties and primary suppliers to maintain them. Such records will form an input into the regular review of OHS performance and working conditions.
- Implement disciplinary measures in instances of sexual exploitation and abuse and sexual harassment misconduct.
- In instances of medium, severe, fatal, and mass accidents, inform the law enforcement bodies and Labor Inspectorate.

Contracts concluded with contractors shall contain a provision on the obligation to comply with the current legislation on labor and protection at work, as well as an obligation to establish mechanisms for workers' grievances.

Managing Just Transition issues

Workers in mines are not project workers under ESS2 definition, however, they may be impacted by mine closures and job losses. Therefore, the section below presents different entities which will have a role in managing Just Transition issues, including labor support to affected workers. While these roles and responsibilities are not strictly the scope of LMP, they are included in this section due to labor risks associated with Just Transition.

As part of Component 1 activities, at the State level, a **Committee on “Just Transition”** will be set up and appointed by the Council of Ministers of Bosnia and Herzegovina, in close cooperation with the two Entities and Brčko Distrikt of Bosnia and Herzegovina. In addition, the Project will support an annual **Forum on Just Transition** to promote and exchange knowledge and experience, and discuss issues related to Just Transition. The Ministry of Foreign Trade and Economic Relations (MOFTER) will lead implementation of these activities. The project will support costs related to the Secretariat function of the Committee and the annual Forum. These costs will be financed by the additional grant that is still to be identified and secured.

An Inter-Sectoral Ministerial Committee – Federation of BiH Steering Committee (SC) will be established, consisting of the Prime Minister and Ministers of the relevant Ministries. The committee will: (i) coordinate with vertical and horizontal levels of governments the activities related to development of Just Transition projects in the Federation of Bosnia and Herzegovina; (ii) provide maximum contribution and invest efforts to meet joint objectives, needs and directions by proposing activities, which fall under its responsibility, towards Just Transition projects development in the Federation of Bosnia and Herzegovina; (iii) follow up preparation and development of energy sector just transition strategic documents in the Federation of Bosnia and Herzegovina; (iv) provide contribution to activities under FMERI Minister’s actual responsibilities related to preparation and closure of mines in the Federation of Bosnia and Herzegovina; and (v) by its activities, contribute to mobilization of financial resources necessary for energy sector just transition in Bosnia and Herzegovina.

A Post-Closure Mine Monitoring Unit will be established under the FMERI with links to the Cantonal ministry to maintain and monitor closed coal mines to ensure public safety and environment.

It is anticipated that some **legal and regulatory updates within FBiH** will be required to enable certain approaches to a Just Transition to be successful. An indicative list is proposed here: (i) Updates to the law on intermediation (draft of revised law still in discussion) to ensure that counsellors can focus on providing support to unemployed and laid-off people (through the de-link of health insurance and unemployment registration); (ii) Updates to the Public Employment Services rulebook to clarify how Public Employment Services organize their services in mining areas when labor transitions are expected; (iii) Updates to social assistance law to consider providing income support to laid-off workers in vulnerable households; (iv) Updates in mining and environmental legislation to allow for a more upstream approach to mine land repurposing; (v) Updates in spatial planning legislation to support provision of suitable investment space for RE and low carbon economic development, and to incentivize investments

on former mining and industrial brownfields; and (vi) Plan for coal mines restructuring in the FBiH.

It is foreseen the establishment of an **In-House Labor Transition Unit** in the mine's HR departments (Banovici, Zenica, Kreka) which will (i) provide information on rights, (ii) offer redeployment services on a voluntary basis to mine employees (individualized job counseling, job search training, labor market information, pension service record reconciliation advice) and (iii) organize non-technical in-house training sessions (such as digital literacy skills, basic entrepreneurship skills, soft skills training). The establishment of a central-level unit at EPBiH HQ could alternatively be considered, with the purpose to serve additional mines in the future.

After the bidding process is completed and the Contractors are known, this labor management procedure can be updated to include additional details about companies, as necessary.

8 POLICIES AND PROCEDURES

This section sets out policies and procedures related to fair recruitment and employment, non-discrimination, OHS, reporting and monitoring and other general project policies. Where relevant, it identifies applicable national legislation. The policies and procedures adopted for this Project shall enable achievement of objectives of ESS2 and full compliance with FBiH Labor Act.

The Contractors will prepare labor management procedures in line with this labor management procedure and FBiH Labor Act. The principles and procedures presented below represent the minimum requirements but is not an exhaustive list of requirements. The following measures will be developed by the contractors and monitored by the PIU and supervision consultant to ensure fair treatment of all employees:

Non-discrimination: As specified in the Labor Act of FBiH, the employment of project workers will be based on the principles of non-discrimination and equal opportunity. There will be no discrimination with respect to any aspects of the employment relationship, such as recruitment, compensation, working conditions and terms of employment, access to training, promotion, or termination of employment. Any discrimination based on gender, sexual orientation, age, race, ethnicity, political option, social origin, residence, disability, status, or trade union activity, as well as other criteria not related to his/her professional qualities, shall be prohibited.

Recruitment and Employment: Recruitment procedures will be transparent, public, and non-discriminatory with respect to ethnicity, religion, sexual orientation, disability, gender, and other grounds included in the Labor Act, other relevant laws, and World Bank ESS2 standard. The contractor will consider following:

- Employment opportunities to the local communities and groups via the most appropriate channels and develop job adverts in the corresponding language and clear and inclusive wording.
- Applications for employment will be considered in accordance with the application procedures established by the contractors.

- Clear job descriptions will be provided in advance of recruitment and will explain the skills required for each post.
- All workers will have written contracts describing terms and conditions of work and will have the contents clearly explained to them. Workers will sign the employment contract. Terms and conditions of employment will be available at work sites.
- Merit-based employment is needed; however, the contractors may prioritize candidates from local communities and disadvantaged groups such as women and the disabled.
- Prior to adopting the retrenchment plan, the employer must consult with the council of employees and the trade union. The retrenchment plan must be submitted to trade unions and the employee council. The amount of a severance pay is determined by a bylaw or the employment contract, provided that it may not be lower than the sum of the third of the employee's salary for each full year of employment with the employer where the employee exercises the right to severance pay.
- The contracted workers will not pay any hiring fees. If any hiring fees are to be incurred, these will be paid by the Employer ('Contractor').
- Depending on the employer's and employee's origin the contracts will be developed in corresponding language understandable for both parties.
- In addition to written documentation, an oral explanation of conditions and terms of employment will be provided to workers who may have difficulties with understanding the documentation.
- While communication language related problems are not expected, attention should be given to ensuring coordination between different contractors and means to address any language differences.
- Foreign workers will require residence and work permits, which will allow them to work in FBIH.
- PIU will include in contracts that all contractor (and subcontractor) personnel must be of the age of 18 years or older. Child and forced labor will not be allowed under this Project.

The following policies and procedures for OHS related aspects will be followed:

OHS Plans: The Borrower will include into the bidding documents specific OHS standard requirements that all contractors and sub-contractors will meet under this project. The standards will be consistent with local regulations, WBG EHS guidelines and GIIP (Good International and Industry Practices). The following OHS standard requirements should as a minimum be included in the OHS Plan to be prepared by the contractors:

- Risk Assessment Procedure.
- Work permitting for hazardous work (working at heights, hot work, work on energized lines, work within confined spaces).
- Golden rules for life threatening works.
- Emergency response procedure.
- Fall prevention and working at heights.

- Excavation, ladders, and scaffolders safety; welding and cutting safety; cranes, derricks, and forklifts safety; power and hand tools safety.
- Respiratory prevention to chemical and airborne hazards (including dust, silica and asbestos); electrical safety (hazardous energies control, lock out tag out, energy verification, safe distance work, wiring and design protection, grounding, circuit protection, arc fault protection, electrical safety, PPE and dielectric tools); hazards communication; noise and vibration safety; steel erection safety; fire safety; material handling safety; concrete and masonry safety.
- Construction PPE.
- OHS training.
- Refuse to work policy.

OHS Staff: In addition, occupational health and safety plans, will among other issues, include the following: the construction contractor will define an OHS accountability matrix for all staff including Project manager, contract manager, OHS staff, foremen, and all employees with clear roles and OHS responsibilities. Each Contractor must have its own OHS staff that will be responsible for the implementation and supervision of the OHS program.

Risk Assessment: All contractors are required to develop risk assessment analysis to identify hazards and OHS risk at the workplace. The contractors will develop risk management plans, including Risk Assessment Procedures, to mitigate OHS risks. The procedure should aim to establish and maintain a safe working environment, including that workplaces, machinery, equipment, and processes under their control are safe and without health risk. The Contractors must keep the training records.

Safety Standards and PPE: Contractors will provide a safe workplace, therefore a risk assessment will be completed before the commencement of any construction activities, and safety measures will be implemented in accordance with applicable safety standards. All employees will strictly follow Golden rules²¹ for life threatening works (OHS rules that cannot be broken in any circumstances), which will be enforced under contractual matrix of consequences. The employer will provide special clothing, footwear, and other personal protective equipment (PPE) to employees free of charge. Such PPE is to be delivered to employees involved in work related to the elimination of the consequences of accidents and natural disasters. When the PPE is dysfunctional, the employer is obliged to replace PPE at their own expense without the employee's responsibility. If the employee purchases PPE at their own expense, the employer is obliged to reimburse such costs.

OHS Trainings: The employer is responsible for providing OHS training to employees in language understandable to the workers before the work is commenced on:

- General principles of health and safety.

²¹ Golden rules usually address issues such as work at heights, work in confined spaces, excavation work, personal protective equipment (PPE), system of work permits, lifting, working on powered systems, traffic, work in high risk situations, etc. Employers should define their Golden rules in accordance with the nature of work.

- Working procedures, equipment, machinery, and manual and instructions for the use and repair of work equipment.
- Emergencies and evacuation plans, and their implementation activities.
- Existing threats and risks and also on measures to be taken with regards to overcoming such situations.

Contractors will control the access to the construction site only to authorized people and verify if workers are meeting training and accreditation requirements in accordance with the set training standards and applicable regulatory requirements (i.e., in many countries truck drivers, crane and derrick operators must be accredited, as well as electricians. Workers must be trained to perform hazardous works such as working at heights, confined spaces, welding etc.). All workers must complete at minimum an OHS induction to have access to the construction site.

Refuse to Work Policy: Employees have a right to refuse to perform tasks or instructions assigned by the employer, creating health and safety risks for the employees. Employees are entitled to leave the workplace in the event of danger. The contractors will not dismiss an employee from their job or place them in a less advantageous position than other employees if such employees exercise the rights of reporting or leaving the workplace during the threat of danger.

All contractors are obliged to take appropriate protective measures whenever avoidance of health and safety hazards is not possible. These measures include controlling the hazard at source using protective solutions and providing adequate personal protective equipment (PPE) at no cost to the project/sub-projects worker.

The employer will develop and implement reporting system for any accidents, diseases, and incidents.

OHS Committee: There will be a construction OHS committee with representatives of employees, the Borrower and all subcontractors. Biweekly OHS meetings will be conducted to discuss preventive measures, deviations and non-compliances, accidents and corrective actions. Contractors will conduct internal OHS surveys and audits to verify compliance of OHS practices. Non-compliances will be documented and reported internally. A time frame for a corrective action will be set and followed up. Daily OHS briefings will be conducted before the commencement of the works highlighting the hazards and preventive measures from each job. Contractors will document and report to the Borrower all accidents and illnesses with a day lost or more, fatalities or serious injuries that may happen at the work site. Women will be included in the OHS Committees.

First Aid: There must be on site resources for first aid and for more serious injuries. Furthermore, there must be a pre-approved health facility for medical treatment, as well as appropriate transportation of injured workers. Projects with major civil works should have medical doctors on site.

Workers' accommodation: If accommodations are provided for workers, Contractors will ensure that they are provided in good hygiene standards, with fresh drinking water, clean beds,

restrooms and showers, clean bedrooms, good illumination, lockers, proper ventilation, safe electrical installation, fire and lightning protection, separate cooking and eating areas. There will be separate facilities provided for men and women. The contractors will be liable to comply with "Workers' Accommodation: processes and standards A guidance note" by IFC and the EBRD

Monitoring and Reporting: The Supervision Consultant will conduct periodic supervision of contractor's OHS performance, including site visits, at least monthly and weekly in case of large infrastructure works. These supervisions will cover compliance with above mentioned standards, accidents, violations of golden rules, recommendations, and progress of ongoing corrective actions. The Borrower will include in the contract(s) as requirement for contractors to report on issues such as number of accidents rates, severity rates, number of recurring non-compliances, violations of Golden rules, fatalities and serious injuries; and penalties for non-completion. Furthermore, the supervision consultant will review and approve contractors' safety plans and procedures. The contractors will be required to provide the periodic information on the performance in terms of labor, occupational health and safety issues. The information will be included in the construction contractor's monthly report and will be reviewed by the supervision consultant's team.

In addition, the contractor shall report to the Borrower about any inspections and audits carried out by the respective ministries such as the Labor Inspection. The findings of the labor audits will be presented to the Borrower and the Bank, if requested.

Reporting on accident and incidents: Immediately or not later than 24 hours, the PIU or the contractor shall report to the Labor Inspectorate and the Ministry of Interior (police), verbally and in writing, any fatality, collective or individual serious injury, due to which the employee is unable to work for three consecutive working days, as well as any dangerous event that may put health and safety of the employees at risk.

The PIU will inform the Bank immediately or not later than 48 hours about any incident or accident related to the project which has, or is likely to have a significant adverse effect on the environment, the affected communities, the public or workers (labor, health and safety, or security incident, accident or circumstance), but no later than three calendar days after the occurrence of the event. Such events can include strikes or other labor protests, serious worker injuries or fatalities, project-caused injuries to community members or property damage, cases of SEA/SH, environmental damages such as leakages, explosions, etc.. The PIU will prepare a report on the event and the corrective action and submit to the Bank within 30 calendar days of the event.

Contractors shall use the recommended format for Report on Compliance with Conditions of Work with ESS2, provided in Annex 1 of this LMP, to prepare reports on labor & OHS issues.

Code of Conduct: The construction contractor will develop and implement Code of Conduct. The construction contractor should also submit the Code of Conduct to supervision consultant for review and approval. The Code of Conduct will reflect the company's core values and

overall working culture. The content of the Code of Conduct is included in the World Bank Standard Bidding Documents and will include provisions relating to SEA/SH prevention.

Sexual Exploitation and Abuse (SEA) and Sexual Harassment (SH): Sexual exploitation is any actual or attempted abuse of a position of vulnerability, differential power or trust for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another (UN Glossary on Sexual Exploitation and Abuse 2017, pg. 6). Sexual abuse is actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions (UN Glossary on Sexual Exploitation and Abuse 2017, pg. 5). Sexual harassment is any unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature. Project workers are prohibited to commit any acts of SEA/SH. Project workers are required to sign a Code of Conduct at the start of employment. Project workers will receive a training on the Code of Conduct and prevention of SEA/SH.

The FBiH laws prohibit harassment and sexual harassment in the workplace. Harassment is defined in the Labor Act as any unwanted conduct aiming at or amounting to the violation of dignity of a person that seeks employment, or an employed person, which causes fear or creates a hostile, degrading or offensive environment. Sexual harassment is any verbal, non-verbal or physical behavior aiming at or amounting to the violation of dignity of a person seeking employment, as well as of an employed person in the sphere of sexual life, and which causes fear or creates a hostile, degrading or offensive environment.

The Law on Gender Equality of Bosnia and Herzegovina (not adopted at Entity level) provides that harassment, sexual harassment or sexual extortion at work or related to work, which is committed by an employee to other employee are considered violation of duties at work and the grounds to terminate the employment contract and to expel the employee from work. An employee should inform the employer in writing about the circumstances indicating his/her exposure to harassment, sexual harassment or sexual blackmail and request efficient protection.

Harassment is defined in the Labor Act as any unwanted conduct aiming at or amounting to the violation of dignity of a person that seeks employment, or an employed person, which causes fear or creates a hostile, degrading or offensive environment. Sexual harassment is any verbal, non-verbal, or physical behavior aiming at or amounting to the violation of dignity of a person seeking employment, as well as of an employed person in the sphere of sexual life, and which causes fear or creates a hostile, degrading or offensive environment.

Retrenchment: Pit closures (Raspotocje) will involve retrenchment of workers including retirements, voluntary and involuntary retrenchment. Prior to any retrenchment implementation, mine companies will prepare retrenchment plans (Annex 7) in line with local law and World Bank requirements, and consult the unions and public employment service. The World Bank will provide No Objection to the retrenchment plan. The mine companies will establish grievance mechanism for workers to raise any concerns associated with retrenchment. The good practice is to have union representatives as member of grievance committees. Affected workers may be eligible for unemployment insurance and will receive re-skilling support and training provided by the Project.

9 AGE OF EMPLOYMENT

Bosnia and Herzegovina has ratified both the ILO Minimum of Age Convention (C138) and the ILO Worst Forms of Child Labor Convention (C182). The age at which employment is allowed is 18, as prescribed by the Labor Act in Federation of Bosnia and Herzegovina.

The minimum age of employment for this project shall be 18 years and to ensure compliance, all employees will be required to produce one of the documents below for age verification purposes:

- a document confirming the age of the person (a birth certificate and/or health insurance card); or
- personal identification card or passport; or
- school certificate.

The necessary conditions and the minimum age for each labor position shall be specified in the recruitment process with special emphasis on the fact that persons younger than 18 shall not be engaged on tasks that could be dangerous for psychological or physical health of a person. In the recruitment process, documentation shall be sought from the candidates, with which the age of the candidates shall be verified.

If it is determined that a minor is engaged in project activities, the PIU will notify the competent labor inspection and terminate the employment relationship in a responsible manner, taking into account the best interests of the child. No other age restrictions will be imposed during employment.

The contractor will be required to confirm the identity and age of its workers. This will require workers to provide official documentation sufficient to verify age.

10 TERMS AND CONDITIONS

This section sets out details regarding:

- Specific wages, hours and other provisions that apply to the project.
- Maximum number of hours that can be worked on the project.
- Any collective agreements that apply to the project. When relevant, provide a list of agreements and describe key features and provisions.
- Other specific terms and conditions.

The employers of both direct workers and contracted workers shall be under the obligation to prepare information and necessary documentation that is clear and understandable for workers in regard to their conditions in employment. Prepared information and documentation shall be in compliance with the Labor Act of FBiH.

Based on these laws, the terms and conditions of employment or engagement of the project worker must meet, inter alia, the following standards:

- The project worker should in advance be clear about the job one is going to do and the wage/salary/fee one is going to receive.

- The project worker will be paid on a regular basis, at least once a month, or, if so agreed, upon the completion of specific activities, in accordance with the employment contract or engagement agreement.
- Provide for employers to conduct an appropriate risk assessment prior to the work commencement by persons between the ages of 15 and 18 years.
- Provide that a child under the age of 18 is not engaged in night work.
- Include if there are any Collective Agreements which apply to employees.
- As per Federation of BiH Labor Act, the working week lasts five days, and regular working time per week is 40 hours. Overtime may not last more than eight hours a week.
- The project worker will work 8 or fewer hours a day. Any work longer than 8 hours is considered overtime work and the project worker should receive extra payment for the hours of overtime work. In any case, the project worker cannot work more than 12 hours a day.
- The project worker is entitled to a daily rest of at least 12 hours within 24 hours.
- The project worker is entitled to a weekly rest of at least 24 consecutive hours.
- Average weekly hours of work in a six-month period cannot exceed 40 hours.
- The project worker is entitled to annual, sick, maternity and family leave, as required by the Labor Acts in both Entities. Where the national legislation does not stipulate entitlement to leaves on any ground (i.e. temporary or seasonal work), the contracted party will provide the project worker, at his/her request, with a reasonable period of leave taking into consideration all the circumstances.
- An employment contract or engagement agreement, except in case of permanent employment, ends on the date of its expiry, unless both parties have agreed otherwise. In case of an early termination, a written notice will be submitted at least 15 days in advance. The termination of employment contract and payment of any related entitlements will be done in compliance with the national legislation. All wages earned, social security benefits, unused leave time, pension contributions and any other entitlements will be paid on or before termination of employment contract. The notice periods shall be compliant with FBiH Labor Act requirements.
- The third party will assess the risk related to specific jobs. In conformity with the national legislation, the third party will be responsible for taking preventive and protective measures to ensure a safe and healthy work environment and informing the project worker on all the relevant issues and conditions affecting his/her health and safety at work. The project worker will respect regulations relating to safety and protection of life and health at work in order not to put in danger his/her life and health or life and health of others.
- The third party will make effort to establish mechanisms that will prevent discrimination, harassment, sexual harassment and abuse at work and ensure equal treatment and equal opportunity for all.
- Project workers have the right to form or join union or other organizations of their choosing and to bargain collectively, in accordance with the national legislation. The employer (third party) will not interfere with the worker's right to choose the organization or opt for an alternative mechanism to protect their rights regarding working conditions and terms of employment

- The project worker will be able to raise his/her grievances using the grievance mechanism communicated to them.

The contractors' labor management procedure will set out terms and conditions for the contracted workers. These terms and conditions will be in line, at minimum, with this labor management procedure, national Labor Law and General Conditions of the World Bank Standard bidding documents and comparable industry standards.

11 GRIEVANCE MECHANISM

In accordance with ESS2, the grievance mechanism (GM) should be provided for all direct and contracted workers, with the aim to address workplace concerns. The main objective of a worker GM is to ensure timely, effective and efficient resolution of complaints and grievances related to labor and working conditions. Workers will be informed of the grievance mechanism at the time of recruitment and the measures put in place to protect them against reprisal for its use. Measure will be put in place to make the grievance mechanism easily accessible to all such project workers. Project workers will be able to raise concerns regarding a broad range of labor and employment concerns including terms and conditions of employment, discrimination, SEA/SH, unsafe or unhealthy work situations through the grievance mechanism. As part of the LMP, the contractor will establish and describe the details of an appropriate workplace grievance mechanism consistent with the ESS2 requirements (including a written record, established responsibilities and response time, etc). The PIU will review the records on a monthly basis and report on the grievances, response time and resolution status in a quarterly report to the WB. The format on Workers' Grievance is attached in the **Annex 4** of this LMP.

In line with ESS2 requirements and national legislation related to collective agreements clauses, the grievance mechanism established under ESS2 does not replace or override the requirements to provide workplace processes to report work situations that a project worker believes are not safe or healthy referred to in paragraph 27 of ESS2. The Borrower and third parties inform direct and contracted workers, respectively, about the available grievance mechanisms, and how they work. The relevant information should be made available throughout project duration in a manner that is clear, understandable, and accessible to workers, for example, by including it in workers' handbooks, on notice boards, or through similar communication mechanisms.

The LMP include reasonable measures so that direct and contracted workers are not subjected to any form of retaliation as a result of any grievance raised. Such measures may include the need for confidentiality. The grievance mechanism will not impede access to other judicial or administrative remedies that might be available under the law or through existing arbitration procedures, or substitute for grievance mechanisms provided through collective agreements. Some of such mechanisms are described in the **Annex 5** of the LMP.

The PIU will develop and implement a grievance mechanism for direct workers to address workplace concerns. The grievance mechanism will be established by the beginning of the project implementation and will be maintained over the life of the project.

PIU will require contractors to develop and implement a grievance mechanism for their workforce (contracted workers) including sub-contractors, prior to the start of works. The construction contractors will prepare their labor management procedure before the start of civil works, which will also include detailed description of the workers' grievance mechanism.

The workers' grievance mechanism will include, at minimum:

- a procedure to receive grievances such as comment/complaint form, suggestion boxes, email address, a telephone hotline, focal point department;
- stipulated timeframes to respond to grievances and to address cases;
- a register to record and track the timely resolution of grievances;
- a responsible department to receive, record, address and track resolution of grievances.

The Supervision Consultant will monitor the contractors' recording and resolution of grievances, and report these to PIU in their monthly progress reports. The process will be monitored by the GM Focal Point, a PIU representative who will be responsible for the project GM.

The Workers' grievance mechanism will be described in staff induction trainings, which will be provided to all project workers. The mechanism will be based on the following principles:

- The process will be transparent and allow workers to express their concerns and file grievances.
- There will be no discrimination and retaliation against those who express grievances, and any grievances will be treated confidentially.
- Anonymous grievances will be treated equally as other grievances, whose origin is known.
- Management will treat grievances seriously and take timely and appropriate action in response.
- Any worker including subcontracting workers can express concerns, complaints, and grievances at any time, without fear of retribution and retaliation.
- All grievances will be treated in a fair and respectful manner.
- Anonymous grievances will be treated equally as other grievances whose origin is known.
- When a grievance is received, the PIU will ensure to confirm its receipt within [include number of days] business days. At this time, the complaint will also be provided information about response times, next steps and a contact within the team.
- All grievances will be documented to the grievance mechanism, including those received by supervisors, project managers, or any management staff.
- Grievance mechanism will have a dedicated procedure to address complaints related to workplace harassment and sexual harassment. The sexual harassment grievance mechanism shall be operated by the trained staff and complaints will be recorded and kept in a data protected data base,

Information about the existence of the grievance mechanism will be readily available to all project workers (direct and contracted) through notice boards, the presence of “suggestion/complaint boxes”, and other means as needed.

GM Focal Points shall be trained to operate grievance mechanisms and to maintain confidentiality.

The Project workers’ grievance mechanism will not prevent workers to use any other administrative or judicial mechanisms provided by the national laws.

12 CONTRACTOR MANAGEMENT

Contractor²² selection will follow the procedures consistent with the WB Procurement Policy for solicitations and contracts that contain conditions regarding workforce, jobs, health and safety. PIU will ensure that contractors are legitimate and reliable entities, and that all written procedures for workforce management applied by contractors are in accordance with this Procedure.

As part of the selection process, the Borrower can view the following information:

- Information in public records, e.g. company registers and public documents related to violations of the applicable labor law, including reports from labor inspections and other law enforcement bodies;
- Business licenses, registrations, permits and consents;
- Documentation related to the workforce management system, including e.g. issues related to occupational health and safety, workforce management procedures.

During the execution of the Agreement, the following will be reviewed:

- Identification of workforce management, safety and health personnel; their qualifications and certificates;
- Certificates/permits/training for workers to perform the necessary work;
- Record of safety and health violations, and responses;
- Accident and fatality records and notifications to authorities.
- Payrolls of workers, including the number of working hours and the salary paid;
- Copies of previous contracts with contractors and suppliers showing the inclusion of terms and conditions reflecting ESS2.

If it deems it necessary, the PIU may ask the contractors to submit additional documentation, including, among others, the following:

- Policies on workforce management in written form (e.g. Rulebook on workforce management);
- Reports of labor inspection and other bodies;

²² For the purposes of this chapter, Contractors refers to any construction contractor, service provider and supplier of goods selected for the implementation of Project activities.

- Records on occupational health and safety, including data on accidents and deaths, as well as information submitted to competent authorities.

Workforce management by contractors will be monitored on the basis of the Report on compliance with conditions of work with ESS2 for third parties engaging contracted workers, which contractors are required to submit to the PIU every six months. The format of the report can be found in Annex 1 of this procedure. If any irregularities are determined on the basis of these reports or through the complaint resolution mechanism, the PIU is obliged to notify the competent labor inspection.

Contracts concluded with contractors should contain provisions on mandatory compliance with relevant regulations on work and health and safety protection at work, as well as the obligation to establish a mechanism for resolving employee complaints (if such a mechanism does not exist) in the manner specified in this Procedure.

Monitoring of contracts concluded with contractors should include periodic audits and random checks of construction sites and records and reports on workforce management. The contractor's records and reports on workforce management may contain: (i) a representative sample of employment contracts or agreements between third parties and contracted workers; (ii) records of received complaints and their solutions; (iii) safety inspection reports, including fatalities and accidents, and the implementation of corrective actions; (iv) records of training held for contracted workers to clarify work, working conditions and protection of health and safety at work in connection with the project. PIU are obliged to include in the contracts for the performance of works with contractors/subcontractors appropriate corrective measures in case of non-compliance, such as termination of the contract if the contractor, within a reasonable time, does not implement what is stated in the notice for correction, which, among other things, can relate to compliance with the FBiH Labor Act, regulations on health and safety at work and this Procedure. The statement/format of third parties on compliance with the provisions of the work regulations and the Project Procedure is found in **Annex 2**.

13 PRIMARY SUPPLIERS

The primary suppliers shall be companies that supply various materials and goods on an ongoing basis for contouring of land; placement of topsoil or an approved substitute on the graded area; reseeding with native vegetation, crops and/or trees; primary suppliers for the renewable energy components such as solar PVs, and operations and maintenance of the generation asset, etc.

For any supply chain adequate management systems and controls must be in place to ensure compliance with the national law and the requirements of ESS1, ESS2 (in the area of child labor, forced labor and serious safety issues which may arise in relation to primary suppliers).

When purchasing materials from primary suppliers, the contractor will require such suppliers to identify the risk of child labor, force labor and serious safety risks in producing the construction materials and goods. If any of these risks are identified in relation to primary suppliers, the PIU will require the primary supplier to take appropriate steps to remedy them. Such mitigation measures will be monitored periodically. In the case mitigation measures are

found to be ineffective, the PIU will, within a reasonable period, shift the project's primary suppliers that can demonstrate that they are meeting the relevant requirements. The statement of the primary suppliers on compliance with the provisions of the labor regulations and the Project Procedures related to minor labor, forced labor and protection at work can be found in **Annex 3** of the LMP.

Third parties will be required through the provisions of the LMP to ensure their suppliers and subcontractors comply with the Entity / State laws and to ensure that employees of any suppliers or subcontractors are adequately trained on the requirements covered in the law. The PIU reserves the rights to verify compliance with the requirements set by a combination of mechanisms including but not limited to self-assessments, surveys, site-visits or audits. Relevant records must be maintained to demonstrate compliance and if necessary, allow access to their own and their suppliers' and subcontractors' premises for authorized representatives of the PIU.

Once the Project advances the provisions of the LMP covering management of labor and working condition risk of primary suppliers shall be expanded and updated and based on the findings of the assessment detailed procedures established and included in the revised document.

ANNEX 1: Format for report on compliance with conditions of work with ESS2 for third parties engaging contracted workers

Assignment name:
Contract ref. No:
Contract period: Start date (M/D/Y) End date (M/D/Y)
Contractor/Service Supplier:
Reported period:
Date of report:
Signature of authorized person:

LABOR AND WORKING CONDITIONS COMPLIANCE REPORT

Company employees²³ statistics:

Total number of employee's gender disaggregated²⁴: M _____ F _____

Number of employees with an employment contract out of total number of employees

Number of employees without an employment contract out of total number of employees

Number of employees with access to social security, pension and health insurance out of total number of employees

Number of employees who receives wages/salaries at least once a month out of total number of employees

Number of employees who left the company in the reported period out of total number of employees

Number of employees hired in the reported period

Number of hours worked per employee (monthly average)

Total overtime (monthly average per employee)

- Number of injuries at work (in reporting period and cumulative since contract start) out of total nr. of employees
- Number of fatalities at work (in reporting period and cumulative) out of total nr. of employees
- Number of reported violence out of total nr. of employees
- Number of reported harassment/ abuses out of total nr. of employees

Availability of an accessible and functioning employee grievance mechanism (Y/N)

²³ The employee is any natural person employed or engaged to work or perform service for the employer;

²⁴ The number of employees refers to the actual number/headcount on the date of the report;

Number of grievances raised with the GM (in reporting period and cumulative since contract start)

Number of grievances resolved by GM (in reporting period and cumulative since contract start)

Number of grievances which are open past 30 days

Number of lawsuits filed with regard to labor, employment and OHS issues

Number of disputes brought to peaceful settlement/ voluntary arbitration procedure

Number of visits by labor/ OHS inspection

Project workers' statistics:

- Total number of project workers²⁵:
- Number of project workers with an employment contract:
- Number of project workers without an employment contract:
- Number of project workers with access to social security, pension and health insurance verified by confirmation from registry:

Working and Labor Conditions Screening Check List

	Terms and conditions	Yes / No	Notes
1	All project workers have an employment contract or engagement agreement in writing.	Yes <input type="checkbox"/> No <input type="checkbox"/>	If "No" please specify and explain
2	All project workers are paid at least once a month	Yes <input type="checkbox"/> No <input type="checkbox"/>	If "No" please specify and explain
3	All project workers worked 8 hours a day, 40 hours a week	Yes <input type="checkbox"/> No <input type="checkbox"/>	If "No" please explain and specify the hours worked
4	All project workers had a regular daily and weekly rest	Yes <input type="checkbox"/> No <input type="checkbox"/>	If "No" please specify and explain
5	Number of project workers were terminated from employment with termination in line with national labor law and ESS2	Yes <input type="checkbox"/> No <input type="checkbox"/>	If "Yes" please specify number and explain conditions of termination
6	Number of project workers attended OHS related training program	Yes <input type="checkbox"/> No <input type="checkbox"/>	If "Yes" please specify number and explain
7	Project workers were granted leaves they are entitled to	Yes <input type="checkbox"/> No <input type="checkbox"/>	If "Yes" Please specify the type and number of leaves

²⁵ The worker is any natural person employed or engaged by the employer who work specifically on this project

	Terms and conditions	Yes / No	Notes
8	Project workers were involved in accidents at work resulting in injuries or fatalities	Yes <input type="checkbox"/> No <input type="checkbox"/>	If "Yes" please specify and explain
9	Project workers reported on cases of discrimination, harassment, sexual harassment or non-compliance with law	Yes <input type="checkbox"/> No <input type="checkbox"/>	If "Yes" please specify and explain
10	Project workers raised grievances or started voluntary arbitration / legal proceedings to settle a dispute	Yes <input type="checkbox"/> No <input type="checkbox"/>	If "Yes" please specify and explain
11	In the reported period there were some incidents on noncompliance with the LMP	Yes <input type="checkbox"/> No <input type="checkbox"/>	If "Yes" please specify and explain

ANNEX 2: Format for third parties statement (potential contractors and service providers) on compliance with provisions of labor legislation and the Project`s LMP

Date and place of issuance: _____

Name and address of the issuer (Bidder): _____

STATEMENT OF LEGAL AND REGULATORY COMPLIANCE

Hereby we declare that²⁶

- We are aware of, and comply with, the standards laid down in the Labor Management Procedures.
- We conform to all national laws²⁷ and applicable regulations concerning employment, labor and employee relations, and labor and working conditions.
- We are committed to providing a safe and healthy environment for our employees and to implementing all occupational health and safety requirements as stipulated by national legislation.
- We do not tolerate any form of child, forced or slavery work.
- We prohibit any form of harassment, sexual harassment, abuse, violence, including SEA/SH at work and forbid direct or indirect discrimination against any employee or groups of employees on any ground and for whatever reason.
- We confirm that a workers' grievance mechanism is available, or if it is not available, it will be will be established prior to the start date of the contract.

We hereby state that should we be awarded with the contract; we shall adopt the Labor Management Procedures applicable to the project and incorporate them in our practice.

We understand that the failure to respect any of the above stated commitments could lead to termination of the contract and exclusion from the project.

Signature:

Name:

Position:

²⁶ The Bidder should mark the appropriate commitment

²⁷ National Laws refers both to the Laws of FBiH and the domicile Law of the country in case the Bidder is foreign

ANNEX 3: Primary suppliers statement of compliance with provisions of labor legislation and the Project`s LMP related to child labor, forced labor and OHS

Date and place of issuance: _____

Name and address of the Supplier: _____

STATEMENT OF LEGAL AND REGULATORY COMPLIANCE

Hereby we declare that

- We conform to all national laws²⁸ and applicable regulations concerning employment, labor and employee relations, and labor and working conditions.
- We are committed to providing a safe and healthy environment for our employees and to implementing all occupational health and safety requirements as stipulated by national legislation.
- We do not tolerate any form of child, forced or slavery work.
- We prohibit any form of harassment (including sexual) abuse, violence and SEA/SH at work and forbid direct or indirect discrimination against any employee or groups of employees on any ground and for whatever reason.
- We shall maintain records related to labor, occupational injuries, illness, near misses and incidents.

We hereby acknowledge our understanding that our company may be subjected to announced and unannounced visits, site checks and labor and working condition audits by the Contractor through which materials and good are supplied to the Project, and independent third parties with the aim to verify compliance with the above statement.

We understand that the failure to respect any of the above stated commitments could lead to termination of the contract and exclusion from the project.

Signature:

Name:

Position:

²⁸ National Laws refers both to the Laws of FBiH and RS and the domicile Law of the country in case the Suppliers are expatriates.

ANNEX 4: Workers' Grievance Form

Reference number:	
Full name (<i>optional</i>)	
Contact information (optional)	<input type="checkbox"/> By post: Please provide mailing address: _____ _____ _____ <input type="checkbox"/> By _____ telephone: <input type="checkbox"/> By _____ e-mail: _____ _____ <input type="checkbox"/> On website
<i>Please mark how you wish to be contacted (mail, telephone, e-mail).</i>	
Preferred language of communication	<input type="checkbox"/> Bosnian/Croatian/Serbian <input type="checkbox"/> English (if possible) <input type="checkbox"/> Other _____
Description of incident for grievance	What happened? Where did it happen? Who did it happen to? What is the result of the problem?
Date of incident / grievance	
	<input type="checkbox"/> One-time incident/grievance (date _____) <input type="checkbox"/> Happened more than once (how many times? _____) <input type="checkbox"/> On-going (currently experiencing problem)
What would you like to see happen?	

Signature: _____

Date: _____

ANNEX 5: Grievance mechanisms in the legislation of in Bosnia and Herzegovina

The stated mechanisms elaborated below provided by the BiH and FBiH legislation are considered as minimum standard to be achieved in addressing labor dissatisfaction and perceived maltreatment.

Laws that regulate the civil service, at the level of the State of BiH and FBiH, and BiH Institutions' Labor Law

For **civil servants** in institutions of Bosnia and Herzegovina and Federation of BiH, there are already established appeal committees for workers' complaints. These committees were established on the basis of the law regulating the civil service, adopted both at the level of Bosnia and Herzegovina and at the level of the FBiH.

At the *level of State of Bosnia and Herzegovina*, the *State Service Committee for Appeals*, as a permanent body of the Council of Ministers of Bosnia and Herzegovina, was established by the Decision on the establishment of the Committee adopted by the Council of Ministers of Bosnia and Herzegovina ("Official Gazette of Bosnia and Herzegovina", no 16/02 and 1/04). The competences of the Committee are prescribed by the *Law on Civil Service in BiH Institutions*²⁹. Pursuant to Article 63 of the Law, the Committee is responsible for reviews of all final decisions, taken or missed actions of institutions of BiH and/or Civil Service Agency, which refer to the labor law status of civil servants and candidate appeals to the competition procedure, and conducts second-instance disciplinary proceedings against civil servants in order to protect the legal interests of civil servants, candidates for civil servants and institutions of BiH in accordance with the Rulebook on disciplinary responsibility of civil servants in institutions BiH³⁰.

BiH Institutions' Labor Law regulates the working relationships of employees in the institutions of Bosnia and Herzegovina and its bodies who are not civil servants, and who are expressly exempted from the Law on Civil Service in the Institutions of Bosnia and Herzegovina, and employees who are employed in public enterprises of Bosnia and Herzegovina, associations and foundations of Bosnia and Herzegovina, legal entities established by institutions of Bosnia and Herzegovina, inter-entity corporations and other institutions for the exercise of additional competences in Bosnia and Herzegovina, unless otherwise specified by another law. This Law stipulates that the employer decides on the rights, obligations and responsibilities of the employee from the employment relationship on the basis of this and other laws, the collective agreement and by-laws, unless otherwise stipulated by law. Article 83. and 84. of the Law stipulates that an employee, who believes that the employer has violated a right from the employment relationship, can demand from the employer the realization of that right, who is obliged to solve it within 30 days. The employee can also file a lawsuit before the Court of Bosnia and Herzegovina for violation of rights from the employment relationship, as well as in the event that the employer has not resolved the claim within the prescribed period. The parties to the dispute may agree to entrust the resolution of the labor dispute to arbitration.

²⁹ Law on the Civil Service in the Institutions of Bosnia and Herzegovina ("Official Gazette of BiH", No. 12/2002, 19/2002, 8/2003, 35/2003, 4/2004, 17/2004, 26/2004, 37/2004, 48/2005, 2/2006, 43/2009, 8/2010, 40/2012 and 93/2017);

³⁰ ("Official Gazette of Bosnia and Herzegovina" no. 20/03 i 94/10);

In *Federation of BiH*, the *Civil Service Appeal Committee* is an independent authority for performing activities stipulated under the Law on Civil Service of Federation of BiH³¹. The Committee is competent for decision making on all appeals lodged against decisions of the civil service managers, appeals lodged against the decisions of the disciplinary commission and appeals lodged against the decisions of the director of the FBiH Civil Service Agency. According to the Rules of Procedures³² appeals can be directly submitted or mailed to the body whose decision is challenged (the first instance authority). The first instance authority shall examine whether an appeal is admissible and timely submitted by an authorized person. Within eight days from the date of receipt of the appeal, the first authority submits to the Civil Service Appeal Committee all files related to the case. The Appeal Committee shall reach its decision within 60 days of the receipt of the appeal and the files related to the first instance decision.

Discrimination / Human Rights Ombudsman of Bosnia and Herzegovina

*Law on Prohibition of Discrimination*³³ in BiH, which refers to both groups, direct and contracted workers, provides clear procedures to be followed in any case of discriminatory actions, unjust treatment or concerns over non-compliance with the law. This law applies to the actions of all public bodies at the level of the State, Entities, Cantons and Brcko District of Bosnia and Herzegovina, municipal institutions and bodies, and legal entities with public authorizations, as well as to the actions of all legal and natural persons, in the areas stipulated in the Article 6 of the Law. Some of these areas are: employment, work and working conditions, as well as working conditions, compensation, promotions and dismissals; education, science and sports; social protection; training, including initial training and continuous professional training, all types and all levels of professional guidance, advanced professional training, further training and retraining, including the acquisition of practical work experience; membership in professional organizations, including membership in an organization of workers or employers or in any organization whose members perform a specific occupation; involvement in such organizations and benefits provided by such organizations; and others. Forms of discrimination are regulated in Articles 3-5 of the Law. The Law on Prohibition of Discrimination implies *proceedings before the Human Rights Ombudsman of Bosnia and Herzegovina, administrative and judicial proceedings*.

The Ombudsman of BiH has a broad mandate and may be addressed by each natural person or institution that has legitimate interests. Related to the discrimination, this is the central institution responsible for protection against discrimination³⁴. Within the domain defined by law, the Ombudsman of BiH receives individual and group complaints related to discrimination, and when initiating court proceedings, provides assistance to persons and groups of persons

³¹ Law on Civil Service in the Federation of Bosnia and Herzegovina ("Official Gazette of the BiH", no. 29/2003, 23/2004, 39/2004, 54/2004, 67/2005, 8/2006, 77/2006 - US decision, 34/2010 - US decision, 45/2010 - another law, 4/2012, 99/2015 and 9/2017 - decision of the Constitutional Court);

³² „Official Gazette of FBiH“, no. 101/12;

³³ „Official Gazette of BiH“, No. 59/09 and 66/16;

³⁴ *Discrimination*, within the meaning of this law, shall be considered any different treatment including any exclusion, restriction or preference based on real or presumed grounds towards any person or group of persons and those related to them by family or other relationship on the basis of their race, skin color, language, religion, ethnicity, disability, age, national or social origin, ties to a national minority, political or other belief, financial status, membership in a trade union or other association, education, social position and gender, sexual orientation, gender identity, sexual characteristics, as well as any other circumstance that has the purpose or consequence of making it impossible or threatening for any person to recognize, enjoy or exercise rights and freedoms on an equal basis in all areas of life.

who have filed a complaint due to discrimination, undertakes the examination of individual reports until the initiation of a court case, collects and analyzes statistical data on in cases of discrimination, submits annual and, if necessary, extraordinary reports on occurrences of discrimination to the competent authorities, informs the public about occurrences of discrimination, and conducts research in the field of discrimination. According to the annual reports on incidents of discrimination in Bosnia and Herzegovina, it was stated that in the structure of the complaints received, the largest number of complaints refer to violations of rights from the employment relationship. The activity of the Ombudsman, which in a specific case can contribute to the prevention of discrimination, is proposing the initiation of a mediation procedure in accordance with the provisions of the Law on Mediation³⁵.

Discrimination in the provisions of the FBiH Labor Act

Provisions on the prohibition of discrimination are established in the articles 10-13 of the *FBiH Labor Act*. In cases of discrimination, the worker as well as the person seeking employment can request protection from the employer within 15 days from the day of learning about the discrimination. If the employer does not comply with the request within 15 days from the date of submission of the request, the worker may file a complaint with the competent court within a further period of 30 days. The worker, the trade union, the employer and the employees' council can submit a request to the labor inspector to conduct an inspection, which was regulated by the Article 162 of the Law.

Harassment at work

Article 9. of the *Labor Act* in Federation of BiH prohibits the employer and other persons employed by the employer from harassment or sexual harassment, gender-based violence, as well as systematic harassment at work or in connection with work (mobbing) of workers and persons seeking employment with the employer. Article 13 of the Law establishes the right to conduct criminal or civil proceeding, in cases of discrimination, harassment, sexual harassment, gender-based violence and mobbing in the workplace or in relation to work, and no provision of this Law shall be interpreted as a restriction or reduction of the right to institute criminal or civil proceedings.

Peaceful Settlement of Labor Disputes

*Law on Peaceful Settlement of Labor Disputes FBiH*³⁶ allows for settlement of both individual and collective grievances and claims arising from the employment relationship and work situations without referring to judiciary through mediation of mediators and arbiters and agreement of the parties involved. The principle of voluntariness is emphasized as a fundamental principle in the Law, since the parties in a dispute decide on a peaceful resolution, as well as on the selection of a conciliator or arbitrator. The process of peaceful resolution of individual and collective issues dispute is initiated by submission proposals to the *Federal Ministry of Labor and Social Policy*. The procedure for peaceful resolution of grievance is regulated in Art 11-23 of the Law.

³⁵ "Official Gazette of Bosnia and Herzegovina", no. 37/04.

³⁶ "Official Gazette of FBiH", No. 49/21;

ANNEX 6: Sample Code of Conduct

CODE OF CONDUCT FOR PROJECT WORKERS

We are the Contractor, [*enter name of Contractor*]. We have signed a contract with [*enter name of Employer*] for [*enter description of the Works*]. These Works will be carried out at [*enter the Site and other locations where the Works will be carried out*]. Our contract requires us to implement measures to address environmental and social risks related to the Works, including the risks of sexual exploitation and abuse and sexual harassment.

This Code of Conduct is part of our measures to deal with environmental and social risks related to the Works. It applies to all our staff, laborers and other employees at the Works Site or other places where the Works are being carried out. It also applies to the personnel of each subcontractor and any other personnel assisting us in the execution of the Works. All such persons are referred to as “**Contractor’s Personnel**” and are subject to this Code of Conduct.

This Code of Conduct identifies the behaviour that we require from all Contractor’s Personnel.

Our workplace is an environment where unsafe, offensive, abusive or violent behaviour will not be tolerated and where all persons should feel comfortable raising issues or concerns without fear of retaliation.

REQUIRED CONDUCT

Contractor’s Personnel shall:

1. carry out his/her duties competently and diligently;
2. comply with this Code of Conduct and all applicable laws, regulations and other requirements, including requirements to protect the health, safety and well-being of other Contractor’s Personnel and any other person;
3. maintain a safe working environment including by:
 - a. ensuring that workplaces, machinery, equipment and processes under each person’s control are safe and without risk to health;
 - b. wearing required personal protective equipment;
 - c. using appropriate measures relating to chemical, physical and biological substances and agents; and
 - d. following applicable emergency operating procedures.
4. report work situations that he/she believes are not safe or healthy and remove himself/herself from a work situation which he/she reasonably believes presents an imminent and danger to his/her life or health;
5. treat other people with respect, and not discriminate against specific groups such as women, people with disabilities, migrant workers or children;
6. not engage in any form of sexual harassment including unwelcome sexual advances, requests for sexual favors, and other unwanted verbal or physical conduct of a sexual nature with other Contractor’s or Employer’s Personnel;
7. not engage in sexual exploitation, which means any actual or attempted abuse of position of vulnerability, differential power or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of

another. In World Bank financed projects/operations, sexual exploitation occurs when access to or benefit from Bank financed Goods, Works, Consulting or Non-consulting services is used to extract sexual gain;

8. not engage in rape, which means physically forced or otherwise coerced penetration—even if slight—of the vagina, anus or mouth with a penis or other body part. It also includes penetration of the vagina or anus with an object. Rape includes marital rape and anal rape/sodomy. The attempt to do so is known as attempted rape. Rape of a person by two or more perpetrators is known as gang rape;
9. not engage in sexual assault, which means any form of non-consensual sexual contact that does not result in or include penetration. Examples include: attempted rape, as well as unwanted kissing, fondling, or touching of genitalia and buttocks not engage in any form of sexual activity with individuals under the age of 18, except in case of pre-existing marriage;
10. complete relevant training courses that will be provided related to the environmental and social aspects of the Contract, including on health and safety matters, and sexual exploitation, and sexual abuse (SEA);
11. report violations of this Code of Conduct; and
12. not retaliate against any person who reports violations of this Code of Conduct, whether to us or the Employer, or who makes use of the [Project Grievance [Redress] Mechanism].

RAISING CONCERNS

If any person observes behavior that he/she believes may represent a violation of this Code of Conduct, or that otherwise concerns him/her, he/she should raise the issue promptly. This can be done in either of the following ways:

1. Contact [*enter name of the Contractor's Social Expert with relevant experience in handling gender-based violence, or if such person is not required under the Contract, another individual designated by the Contractor to handle these matters*] in writing at this address [] or by telephone at [] or in person at []; or
2. Call [] to reach the Contractor's hotline (*if any*) and leave a message.

The person's identity will be kept confidential, unless reporting of allegations is mandated by the country law. Anonymous complaints or allegations may also be submitted and will be given all due and appropriate consideration. We take seriously all reports of possible misconduct and will investigate and take appropriate action. We will provide warm referrals to service providers that may help support the person who experienced the alleged incident, as appropriate.

There will be no retaliation against any person who raises a concern in good faith about any behavior prohibited by this Code of Conduct. Such retaliation would be a violation of this Code of Conduct.

CONSEQUENCES OF VIOLATING THE CODE OF CONDUCT

Any violation of this Code of Conduct by Contractor's Personnel may result in serious consequences, up to and including termination and possible referral to legal authorities.

FOR CONTRACTOR'S PERSONNEL:

I have received a copy of this Code of Conduct written in a language that I comprehend. I understand that if I have any questions about this Code of Conduct, I can contact [*enter name of Contractor's contact person with relevant experience in handling gender-based violence*] requesting an explanation.

Name of Contractor's Personnel: [insert name]

Signature: _____

Date: (day month year): _____

Countersignature of authorized representative of the Contractor:

Signature: _____

Date: (day month year): _____

ANNEX 7: Indicative outline of a Retrenchment Plan

1. Description of Anticipated Retrenchment and Rationale

- anticipated magnitude, rationale, and timeframe
- characteristics of the labor force (number of men and women employed by skill level and type of contract)
- adequacy of current staffing levels and need for retrenchment from a business point of view
- size of the planned retrenchment (number of men and women to be retrenched by skill level and type of contract)
- retrenchment schedule

2. Relevant Economic Context

- situation of the local economy, as it relates to the retrenched workers' ability to find new jobs or start new businesses
- importance of the firm/enterprise in the local economy
- main trends in the sector in which the firm operates (e.g., projected growth, level of employment, wages, foreign and domestic investment)

3. Retrenchment Methods and Procedures

- methods anticipated (e.g., voluntary retirement, severance packages, lay-offs)
- consultation and negotiation (e.g., with labor organizations, workers' representatives, community organizations, government representatives, and NGOs)
- selection criteria for worker dismissal
- strategies to prevent the disproportionate representation of a social group (e.g., women or members of a particular ethnic or religious group) among the retrenched workers

4. Management Arrangements

- person or people who will direct/supervise the retrenchment process
- grievance and appeal procedures

5. Legal/Institutional Framework

- legislation that applies to early retirement, provision of severance packages and lay-offs
- legal role of trade unions or other representative bodies in the retrenchment process
- relevant agreements with labor unions or other labor representatives
- compliance of planned retrenchment with applicable legislation and agreements
- coverage of retrenched workers by unemployment insurance or any other welfare programs
- eligibility of part-time or contract workers to receive benefits or assistance

6. Anticipated Impacts on Retrenched Workers and Communities

- prospects for retrenched workers (market demand for their skills and alternative sources of income/employment)
- eligibility of retrenched workers for unemployment or other benefits
- impacts on wider communities and remedial measures proposed

7. Compensation and Any Additional Assistance to Be Provided to Retrenched Workers

- compensation anticipated by skill level and type of contract

- training programs
- career counseling
- assistance to set up micro-enterprises
- financial counseling

8. Monitoring of the Retrenchment Process

- indicators to be monitored (e.g., situation of the retrenched workers, payment of entitlements, outcomes of assistance provided)
- frequency of monitoring activities
- party or parties that will carry out the monitoring activities

9. Supporting Documentation

- references of written materials, record of consultations with affected workers, tables, and the like included in an annex