

# LAW ON LABOUR

**“Official Gazette of Republika Srpska”, 38/00**

**NOTE:**

- Correction of the Labour Law, published in the “Official Gazette of the Republika Srpska”, 41/00, the [High Representative's Decision on Amending the Labour Law of the Republika Srpska](#), published in the “Official Gazette of Republika Srpska”, 40/00, and Law on Changes and Amendments to the Labour Law, published in the “Official Gazette of Republika Srpska”, 47/02, 38/03, 66/03 and 20/07, are not included in this translation.
- On the effective date of this Law, the Law on Working Relationships (“Official Gazette of Republika Srpska” No 25/93, 14/94, 15/96, 21/96, 3/97 and 10/98) shall cease from implementing.

# **LAW ON LABOUR**

## **I BASIC PROVISIONS**

### **Article 1.**

This law is to regulate the methods and procedures for the conclusion of employment contract between employers and employees, working hours, vacations and leaves, salaries and other labour based reimbursements, protection of rights deriving from employment, conclusion and implementation of collective agreements, peaceful settlement of labour disputes between employees and employers, participation of workers and trade unions in protection of employees' rights, termination of employment contracts and other issues deriving from employment on the territory of the Republika Srpska (hereinafter: the RS).

Rights and obligations deriving from employment shall arise on the day when an employee starts working with an employer on the basis of an employment contract.

### **Article 2.**

“Employee”, in terms of this Law, designates a person employed on the basis of an employment contract.

### **Article 3.**

“Employer”, in terms of this Law, means a company, institution, bank, insurance company, association, agency, co-operative, as well as any other natural or legal person who or which employs workers on the basis of employment contract.

### **Article 4.**

Appropriate provisions of this Law shall also apply to the employees in the administration, judiciary, law enforcement agencies, customs service and all other administrative agencies and organisations, unless otherwise provided under a different law.

### **Article 5.**

When exercising his/her right deriving from employment or right to employment, an employee as well as an individual seeking employment shall not be discriminated against on the basis of race, ethnicity, colour, gender, language, religion, political or other opinion or conviction, social origin, property, membership or non-membership in a trade union or political party, physical and mental condition or any other characteristics which are not directly related to the nature of employment.

A person who thinks his/her rights have been violated because of discrimination on any of the grounds specified paragraph 1 of this Article shall be entitled to file a complaint against the employer with the competent court. If the court finds the complaint well founded, it shall order the employer to redress the violation and ensure to the plaintiff the exercise of the rights that have been denied to him/her.

### **Article 6.**

Employees shall be entitled to organise a trade union, at their own discretion, and become members thereof, in accordance with the Articles of Association or the Rules and Regulations of that trade union.

Employers shall be entitled to form employers' associations, at their own discretion, and become members thereof, in accordance with the Articles of Association or the Rules and Regulations of that association.

Trade unions and employers' organisations shall be founded without any prior approval of any governmental body.

#### **Article 7.**

Employees and employers shall decide freely on their leaving the trade unions i.e. employers' associations.

#### **Article 8.**

No employer or employers' organisation acting on its own behalf or through another person, member or representative shall interfere with the establishment or administration of a trade union, promote or give any assistance to a trade union with an intention of controlling the trade union.

No trade union acting on its own behalf or through another person, member or representative shall interfere with the establishment, functioning or administration of employers' organisation.

#### **Article 9.**

Lawful activity of trade unions or employers' associations shall not be prohibited either permanently or temporarily.

#### **Article 10.**

A collective agreement, a rule book and an employment contract shall provide closer determination of rights and the scope of individual rights deriving from employment as well as the method and procedures for exercising the rights.

"Collective agreement", in terms of this Law, is the collective agreement that binds an employer and his employees, in the conclusion of which the employer was directly involved or authorised another employer to do it on his behalf or became a party to the collective agreement at a later date.

"Rule book", in terms of this Law, is the book on labour rules and regulations issued by an employer in accordance with Article 11 and 12 of this Law.

"Employment contract", in terms of this Law, is the contract that serves as a basis for establishing a relationship of employment between an employer and an employee.

#### **Article 11.**

A rulebook shall be issued by each employer employing more than 15 employees.

The employer shall send the draft rule book to the trade union and the employees' council to get their opinions and shall take these opinions into consideration before adopting the rule book. Whenever the employer decides to dismiss the opinions, he shall notify the trade union and the employees' council about it in writing.

#### **Article 12.**

The employer shall publish the rule book appropriately so that all employees can be informed of its content.

When concluding employment contracts and ensuring the exercise of employees' rights deriving from employment, the employers, which are not obliged by law to issue the rule book under Article 11(1) of this Law, shall directly apply the provisions of this Law and the collective agreement applicable to the industry he does business in (branch collective agreement) if the employer is subject to it in accordance with Article 129(1), 130 and 131 of this Law.

#### **Article 13.**

A collective agreement, a rule book or an employment contract shall not provide for the scope of rights which is less than the one secured by this Law or some other law, unless the Law explicitly provides otherwise.

The collective agreement, the rule book or the employment contract may provide for more rights than this Law does unless this Law explicitly provides otherwise.

## **II CONCLUSION OF EMPLOYMENT CONTRACTS**

### **1. Conditions for concluding an employment contract**

#### **Article 14.**

A person who has not reached the age of 15 or a person who does not have the general ability to work shall not conclude an employment contract.

Persons between 15 and 18 may conclude an employment contract subject to providing a certificate issued by a competent doctor to confirm their general ability to work.

A person who has not reached the age of 18 shall not conclude a contract for employment entailing increased danger of injuries or health hazards (hereinafter: jobs under special working conditions).

### **2. Types and duration of employment contracts**

#### **Article 15.**

A contract for employment may be concluded: for an unspecified period of time or for a specified period of time.

A contract of employment, which contains no indication of its duration, shall be deemed to be a contract for an unspecified period of time.

#### **Article 16.**

A contract for a specified period of time shall not be concluded for a period of more than two years.

Employment on the basis of a contract for specified time shall be terminated at the expiration of the time specified in the contract, unless the employee and his employer agree otherwise.

#### **Article 17.**

An employer and his employee may agree to extend the employment contract for a specified period of time once or several times for a specified time, providing the duration of employment, including the extensions, does not exceed two years counting from the day of conclusion of the first employment contract for specified period of time. The employment relationship shall be considered uninterrupted if the period between two contracts is less than two weeks.

Whenever an employee, having tacit or explicit consent of his employer, continue to work after the expiration of the time specified under paragraph 1 of this Article, it shall be deemed that the employee has entered into an employment contract for unspecified period of time.

## **Article 18.**

During a vacation, temporary inability to work due to illness, maternity leave, suspension from work, time between the date of termination of employment contract and the date of reinstatement in his/her former position on the basis of a court decision or a decision of another body, or during some other time of justified absence from work which the employee takes on the basis of the law, collective agreement or rule book, the employment shall not be considered interrupted.

If an employee, after the expiration of the time specified under an employment contract, has been employed with the same employer for a few times on the basis of an employment contract for a specified period of time and has worked thereupon for 24 months over the last three years, it shall be considered that an employment contract for unspecified period of time has been made.

### **3. Format and content of an employment contract**

## **Article 19.**

An employment contract shall be made in writing unless this Law specifies otherwise.

The employment contract shall include the following particulars:

1. Name and seat of the employer;
2. Name, surname, qualification, domicile or temporary place of residence of the employee;
3. Date of employee's starting work;
4. Placement of the employee and the location of working place; duration and schedule of working hours;
5. Salaries or wages, bonuses, benefits and other perquisites deriving from employment;
6. Duration of annual leave;
7. Duration of the employment contract, if it is for a specified time;
8. Dismissal notice period to be complied with by both the employee and the employer in case of employment contract for unspecified time;
9. Jobs under special working conditions, if there are some; and
10. Other information the employer and the employee believe to be important to the regulation of the employment relationship.

The data listed under points 5 to 10 of paragraph 2 of this Article may be replaced by a citation of relevant provisions of laws, collective agreement or rule book governing those issues.

The employer is obliged to give a copy of the employment contract to the employee before his starting work.

## **Article 20.**

If an employer fails to make a written contract with an employee hired to work for him, he shall issue a written statement on terms of employment containing data specified under article 19(2) of this Law and serve it to the employee within 30 days after his starting work.

The employer's written statement defined under paragraph 1 of this Article shall replace a written employment contract.

If an employer fails to conclude an employment contract with his employee or issue a written statement pursuant paragraph 1 of this Article, he shall be liable for violating the rights of the employees as provided under this law.

#### **4. Data that shall not be requested nor used**

##### **Article 21.**

When concluding an employment contract, an employer shall not request from the employee to furnish the data that are not directly related to the work the employee is supposed to perform.

Personal data on employee may be requested, used and furnished to the competent bodies and third parties only in cases specified by law, or if this is necessary for employee's exercising rights and obligations deriving from employment.

It is forbidden to request that women seeking employment or women already employed should be tested for pregnancy.

#### **5. Probation**

##### **Article 22.**

An employment contract may have a clause placing the employee on probation, which shall not exceed three months (contract for probationary employment). Exceptionally and with consent of both the employer and the employee, the probationary employment may be extended for additional three months.

Both the employer and the employee may terminate the contract for probationary employment before the expire of the contract with seven days' termination notice.

In addition to the data listed under article 19(2) of this Law, the employment contract for probationary employment shall provide for the method of conducting evaluation of performance of the employee on probation in accordance with the collective agreement and the rule book.

##### **Article 23.**

While on probation, the employee shall have all rights deriving from employment, which pertain to the jobs he/she is doing during the probationary period.

The employment of an employee whose job performance proves non-satisfactory while he/she is on probation shall terminate at the expiration of time specified under the employment contract.

#### **6. Sending workers to work abroad**

##### **Article 24.**

An employer may send an employee to work in a different country where the employer has some business operation on condition that the jobs the worker is expected to do suit his professional abilities and that the employer agrees with the employee on the following:

1. Duration of the employment abroad;
2. Accommodation while abroad, if required,
3. The currency in which the salary and other payments in cash based on the work in a foreign country will be paid, as well as the deadlines and methods of payment;
4. Terms of departure and return to the country from the work abroad.

The employer shall acquaint the employee with the regulations which he/she is going to adhere to in the exercise of his/her rights and obligations while working abroad and shall do it prior to his/her departure to work abroad.

"Foreign country", in terms of paragraph 1 of this Article, shall not be so construed to include the Federation of Bosnia and Herzegovina.

**7. Confirming qualification of employees to use means of production and apply measures of safety at work**

**Article 25.**

Before concluding an employment contract as well as during the employment, an employer may require of a prospective or current employee to be tested for his/her skills in operating means of production as well as applying measures of safety at work, which the employee is expected to use at work or that are directly related to the working conditions of the particular job.

**8. In-service training: Additional training, vocational training and improvement**

**Article 26.**

An employer may send the person seeking employment or the already employed, with him/her consent, to additional training in operating means of production and applying measures of safety at work whenever this is necessary for him/her to safely operate the means and use them in accordance with their intended purpose.

The duration and way of conducting the training described under paragraph 1 of this Article shall to be determined by the employer.

**Article 27.**

An employer may send his employees to various forms of in-service training and vocational improvement in accordance with job requirements, especially when new technologies and organisation are adopted and introduced.

**Article 28.**

An employee shall comply with the requests of the employer for additional training and in-service training and improvement as provided under Article 26 and 27 of this Law.

A collective agreement, rule book and employment contract shall provide for more detailed additional training in operating means of production as well as in-service training of employees as provided under Article 26 and 27 of this Law.

**9. Apprenticeship/internship**

**Article 29.**

An employer may conclude an employment contract with an apprentice (trainee or intern) for a specified period of time not exceeding one year unless the law, collective agreement or rule book provide otherwise.

An apprentice (trainee or intern) shall be considered any person employed for the first time in the occupation after having completed secondary, high school or faculty, who is obliged to pass a (professional) proficiency exam or have prior professional experience as a prerequisite for his/her independent work in a pursuance of the law.

**Article 30.**

After a completed training period (internship), the apprentice (trainee or intern) shall take the (professional) proficiency exam, in accordance with the law, other regulations and rule book.

Serving an apprenticeship, the apprentice (trainee or intern) shall be entitled to salary and other rights deriving from employment, in accordance with the law, collective agreement and rule book and contract of employment.

## **10. Voluntary work**

### **Article 31.**

As an exception to Article 29(1), if the (professional) proficiency exam or work experience stipulated in the law or rule book is a prerequisite for getting a job in a certain occupation pursuant to the law, an employer may employ a trainee or intern without an employment contract (voluntary work). The voluntary work may last as long as prescribed by law for a particular occupation or title.

The period of voluntary work under paragraph 1 of this Article shall be counted into apprenticeship (internship) and work experience legally required for work in the specific jobs.

### **Article 32.**

The volunteer has the following rights:

- right to safety at work;
- right to breaks during the working day and breaks between two consecutive working days;
- right to health insurance and pension/disability insurance in case of an accident at work or occupational disease, in accordance with the law.

## **11. Transferring an employment contract to a different employer**

### **Article 33.**

When a company changes ownership (as a result of sale or being inherited, etc.), the rights and obligations deriving from the employment contract shall be transferred to the new employer, if the employees agree.

The new employer and the employees may terminate the employment contract in the way and in times specified by the employment contract concluded with the previous employer.

## **12. Occasional and temporary employment**

### **Article 34.**

In case of works for whose performance not more than 60 days or up to 150 hours of work per year are required due to their occasional or temporary nature, an employer shall conclude a contract with a performer of the works which establishes between them a legal relationship subject to provisions of the Law on Obligations (Law on Contracts and Torts).

The contract under paragraph 1 of this Article shall contain clauses on the task whose performance is the subject of the contract, deadlines for the start and completion of the works, conditions and terms of performance as well as the amount, time and method of payment of reward for the work done.

In addition to the right to reward for the work done, the performer of the work on the basis of a special service contract is entitled to health and pension/disability insurance in case of injury at work or occupational disease if he performs the work in the employer's premises.

The ministry in charge of labour shall prescribe the format of the special service contract.



### **III WORKING HOURS**

#### **1. Full-time jobs**

##### **Article 35.**

Full-time jobs shall occupy all normal working hours not exceeding 40 hours a week.

An employee may conclude a contract for a full-time job with only one employer.

An employer shall schedule working hours for at least 30 days in advance and announce the schedule in the way accessible to all employees.

If the work with a particular employer is organised in shifts, the shift rotation shall be made at the times and in the way specified by the collective agreement, rule book and employment contract.

##### **Article 36.**

In jobs where, in spite of the compliance with health and safety regulations, it is not possible to protect employees from harmful effects, the working hours shall be reduced in proportion to the harmful effects of the working conditions on health and working ability of the employees, but not more than by 10 hours a week (jobs under special working conditions).

Duration of the working hours, in terms of paragraph 2 of this Article, shall be decided on by the ministry in charge of labour, at the request of the employer, the worker concerned, a labour inspector or the trade union, on the basis of an analysis by recognised scientific or expert organisation.

As to the exercise of employees' rights, the reduced working hours in terms of paragraph 2 of this Article shall be equalled to working full-time.

#### **2. Part-time jobs**

##### **Article 37.**

An employer and his employee may conclude a contract for a part-time job (reduced working hours).

An employee may conclude a contract for a part-time job with several employers in order to achieve full-time employment specified under article 35(1) of this Law.

For his part-time work the employee shall receive salary and shall be entitled to other rights deriving from employment in proportion to the number of working hours as specified in the employment contract.

#### **3. Overtime work**

##### **Article 38.**

In case of an unexpected increase of work, removal of consequences of disastrous weather, machine breakdown, fire, earthquake, epidemics or other emergencies, an employee, at the request of the employer, shall work longer hours than his/her working hours specified under Article 35(1) of this law (hereinafter: overtime work).

##### **Article 39.**

Overtime work in terms of Article 38 of this Law shall not last longer than 10 hours a week. Exceptionally, at the request of the employer, an employee may voluntarily work additional 10 hours a week.

During a calendar year, an employer shall not have more than 150 hours of overtime work.

##### **Article 40.**

If the need for overtime work of an employee lasts more than three consecutive weeks or more than ten weeks altogether during one calendar year, the employer shall notify thereupon the competent labour inspector.

#### **Article 41.**

An employee shall be entitled to an increase in salary for his/her overtime work in accordance with the collective agreement, rule book and employment contract.

The increase in salary for the overtime work shall not be less than 30% of the salary payable for the same number of hours of work in regular working hours.

#### **Article 42.**

No overtime work shall be ordered to

- Employees under 18 years of age;
- Pregnant woman, mother of a child of up to three years of age
- Single parent or adoptive parent of a child under six years of age.

Exceptionally, the employee specified under paragraph 1, lines 2 through 4, may work overtime if he/she provides a written statement of his voluntary consent to do it.

#### **Article 43.**

The competent labour inspector shall ban overtime work introduced in contravention of provisions of Articles 38 through 40 and Article 42 of this Law.

### **4. Working hours distribution**

#### **Article 44.**

If the nature of the job so requires, working hours may be re-distributed so that during one period they last less, and in another period more than the regular working hours, provided that the average working hours may not exceed 40 hours a week.

If the re-distribution of the working hours has been introduced, working hours may not exceed 52 hours in one week; in case of seasonal work, the working hours may not exceed 60 hours.

If the re-distribution of working hours has been introduced as described under paragraph 1 above, the working hours shall not be considered overtime work.

### **5. Working at night**

#### **Article 45.**

Work in the period between 22 hours in the evening and 6 hours in the morning of the following day, shall be considered work at night.

For the employees under 18 years of age, work at night shall be considered the work performed between 20 hours and six hours the following day; in case that they work in manufacture, work at night shall be considered the work performed between 19 h and seven hours the following day.

#### **Article 46.**

Working at night shall not be allowed to employees of less than 18 years of age.

Exceptionally, the employees under 18 years of age may be temporarily exempted from the prohibition of working in night shifts in case of removing the consequences of force majeure, machine breakdowns and protection of the interests of the RS, on the basis of a decision by competent labour inspector.

#### **Article 47.**

Pregnant women, starting from the sixth month of pregnancy and mothers of a child under one year of age shall not work at night.

### **IV BREAKS AND LEAVE**

#### **1. Daily break during the working hours**

##### **Article 48.**

A full-time employee shall be entitled to a break during working hours in the duration of at least 30 minutes. A schedule of this break shall be determined by the employer.

Exceptionally, an employer may allow the workers to take an additional hour of daily break at the end of the week if the nature of their work allows that.

The break during working hours shall be counted in working hours.

#### **2. Daily break between two consecutive working days**

##### **Article 49.**

An employee shall be entitled to a daily break between two successive working days in the duration of at least 12 hours without interruption; employees working in agriculture or seasonal work shall be entitled to a daily break between two consecutive working days in the duration of at least 10 hours without interruption.

Minor employees shall be entitled to a daily break between two consecutive working days in the duration of at least 12 hours without interruption.

#### **3. Weekly break**

##### **Article 50.**

An employee shall be entitled to a weekly break in the duration of at least 24 hours without interruption, in accordance with a pre-determined schedule, and if it is necessary that he/she works on the day of his weekly break, he/she shall be provided with one day off later on in agreement with the employer.

#### **4. Annual leave**

##### **Article 51.**

An employee, who has worked for at least six months uninterruptedly, shall be entitled to an annual leave with pay in the duration of at least 18 days for each calendar year. A minor employee shall be entitled to annual leave in the duration of at least 24 working days. Absence from work during which time the employee has received salary compensation in accordance with the law, collective agreement and rule book shall not be considered an interruption of service.

An employee working in jobs under special working conditions as described under Article 36 of this Law shall be entitled to annual leave in the duration of at least 30 working days.

#### **Article 52.**

An employee who does not have six months of uninterrupted service shall be entitled to a vacation in duration of at least one day for each completed month of work.

#### **Article 53.**

The annual leave shall not cover the periods while the other forms of absence from work is used, so the annual leave shall be considered interrupted in case of leave of absence given on some other grounds.

In case of interruption of annual leave in accordance with the provision of paragraph 1 of this Article, the employee shall take the remaining days of annual leave in agreement with the employer.

#### **Article 54.**

If the work is organised in less than six working days in a week, in determining the duration of the annual leave, it shall be assumed that working hours are distributed into six working days, unless otherwise regulated in the collective agreement, rule book or employment contract.

#### **Article 55.**

The annual leave shall be taken in one part, unless the employer decides to break the vacation in two parts, taking organisational requirements and needs in consideration.

An employer and employee may agree that the employee takes vacation in more than two parts, providing that one part of the annual leave is not less than two weeks of uninterrupted vacation.

#### **Article 56.**

When deciding on when an employee will take the annual leave, the employer may take into consideration the justified wishes of the employees.

When necessary, the employer may request from the employees' council or trade union to give their proposals or opinions on annual leave schedule.

#### **Article 57.**

An employee may not waive his/her right to take annual leave.

An employee may not be denied the right to take annual leave, nor may he/she be paid compensation in lieu of annual leave.

The employer shall make it possible for an employee to take the remainder of annual leave not later than the end of September the following calendar year.

#### **Article 58.**

Employees working, as teachers in the education shall take their annual leave during the school holidays.

The length and schedule of annual leaves of the employees from paragraph 1 of this Article may be arranged under a different law.

#### **Article 59.**

During the annual leave, employees are entitled to full salary, as though they had been working all the time.

In addition to salary compensation specified under paragraph 1 of this Article, the employees are entitled to holiday bonus<sup>1</sup> in accordance with the collective agreement, rule book and employment contract.

The collective agreement, rule book and employment contract shall give a closer definition of the annual leave and employees' rights based thereupon.

## **5. Leave of absence with pay**

### **Article 60.**

An employee shall be entitled to leave of absence with pay of up to three working days in one calendar year – leave with pay in case of: wedding, wife's birth-giving, serious disease or death of a family member and in other cases provided under the collective agreement and rule book.

"Family member", in terms of paragraph 1 of this Article, shall include: spouse or cohabiting partner, child (legitimate, illegitimate, adopted, stepchild, child taken in the custody or parentless foster-child), father, mother, stepfather, stepmother, adoptive parent, grandfather and grandmother (paternal and maternal), siblings.

## **6. Leave of absence without pay**

### **Article 61.**

If an employee requests so, his employer shall give the employee a leave of absence of up to three working days within one calendar year for religious or national and traditional purposes without pay, unless the employer decides otherwise.

At the request of an employee, his employer may give him a leave of absence without pay in some other justifiable circumstances.

## **V PROTECTION OF EMPLOYEES**

### **1. Health and safety at work**

#### **Article 62.**

Employers shall enable employees to familiarize themselves with the labour, health and safety rules and regulations, including the rights and obligations deriving from the collective agreement and rule book, within 30 days from the day of the start of employment.

#### **Article 63.**

If an employee uses in his work means of production which may present a danger to life and health of people or environment, the employer shall make sure before the employee starts work that he is trained to use the means of production in question.

Where necessary, the employer shall send the employee to undergo additional training in safety at work.

#### **Article 64.**

An employer shall be responsible for the consequences of any accident, which may occur due to malfunction of facilities, machines, devices and other material assets used in the work process, as well as for unauthorised and untrained handling of the aforesaid.

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<sup>1</sup> regres

In addition to liability for misdemeanours<sup>2</sup> specified under Article 150 of this Law, the responsibility in terms of paragraph 1 of this Article shall mean also financial liability of the employer towards the employee who sustains an injury at work in accordance with the general regulations on liability.

#### **Article 65.**

An employee may refuse to work if his/her life or health, or health or lives of others are directly threatened due to the fact that the prescribed safety regulations have not been enforced.

The employee shall report the existence of the conditions under paragraph 1 of this Article and his/her refusal to work under such conditions immediately to the employer and, if necessary, to the competent labour inspector as well.

#### **Article 66.**

Employees shall apply appropriate measures of safety at work and use means of production in accordance with their purpose and nature.

An employee who has acted in contravention of the paragraph 1 of this Article shall be responsible for misconduct, especially if the unskilled use of means of production and safety measures resulted in an accident at work or in material damage.

#### **Article 67.**

Closer definition of measures of safety at work shall be given in the law, collective agreement, and employer's safety regulations and employment contract.

#### **Article 68.**

An employer shall register all employees for health insurance, pension/disability insurance and unemployment insurance, as prescribed under the law and shall insure all employees collectively against accident at work with an appropriate insurance company.

### **2. Special protection of minors**

#### **Article 69.**

An employee under 18 years of age shall not work on particularly hard manual works, works underground or under water, nor in other jobs which might have a harmful effect or increased risk to his/her life or health or development.

A closer definition of jobs specified under paragraph 1 of this Article shall be given in the collective agreement in accordance with the law.

### **3. Protection of women and maternity**

#### **Article 70.**

A woman shall not be assigned to work in underground parts of mine, except when the woman works on a managerial position which does not require physical work or in health or social service. Exempted from this are the cases when the employed women has to temporarily work in the underground parts of a mine because of vocational training or when she needs to carry out a specific task not requiring physical work.

#### **Article 71.**

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<sup>2</sup> "prekršaj", minor offense

An employer shall not refuse to employ a woman because of her pregnancy or terminate her employment contract during her pregnancy or maternity leave.

#### **Article 72.**

On the basis of the findings and recommendations of the competent doctor, the pregnant women or a woman who breast-feeds her child may be temporarily placed to another job if this is in the interest of her health or health of her child.

If the employer has no possibility of placing the woman to another job in accordance with paragraph 1 of this Article, the woman shall be entitled to leave of absence with a compensation in accordance with the collective agreement and rule book. This compensation may not be less than the remuneration the woman would have received if she had worked on her post.

A pregnant or breast-feeding woman may be placed to a post in a different location only with her consent.

#### **Article 73.**

During pregnancy, birth giving and child-care, a woman shall be entitled to maternity leave in the duration of one year without interruption, and if she has given birth to twins, a third or every next child, she shall be entitled to maternity leave in the duration of 18 months without interruption.

By request of a woman and a recommendation of competent doctor, the woman may start using the maternity leave 28 days before the due date.

#### **Article 74.**

At her own request a woman may start work before the expiration of the maternity leave specified under Article 73(1), but not before 60 days have expired after the childbirth.

If a woman starts working before the expiration of the maternity leave defined under Article 73(1) of this law, she shall be entitled to additional 60 minutes of break during working hours in order to breastfeed the child.

If a woman has given birth to a stillborn or her child has died before the expiration of the maternity leave, the women shall be entitled to a leave as long as the doctor in appropriate institution finds necessary for the women to recuperate from the delivery and psychical crisis caused by the loss of the child, but no less than 45 days after delivery i.e. the loss of the child.

#### **Article 75.**

If the mother of a child has died or abandoned the child, or for other justified reasons is not able to take care of her child, the working father or adoptive parent of the child, or other person to whom the child was entrusted by the competent social security office, shall be entitled to a leave in duration specified under Article 73(1) of this Law.

#### **Article 76.**

Upon the expire of maternity leave one working parent of a child up to two years of age shall be entitled to work half working hours if the child, as determined by a competent doctor, needs a special care.

If the parents of a child have died, or abandoned the child, or are unknown, or are for some other justified reasons prevented from taking care of their child, a working adoptive parent of the child or the person to whom the competent social security office has entrusted the child shall be entitled to work half working hours for the period specified under paragraph 1 of this Article.

#### **Article 77.**

One of the parents of a seriously retarded or handicapped child, who is not committed to a medical or social institution, shall be entitled to work half working hours, without the right to salary compensation for the time while the child requires special care, on the basis of findings of the competent doctor.

The parent of the child under paragraph 1 of this Article shall not be ordered to work night shifts, to work overtime, nor shall be his/her place of work changed, unless he/she has provided his consent to this effect.

#### **Article 78.**

During the maternity leave, a woman shall be entitled to salary compensation at the level of average salary she was earning during the last six months before the starting date of the maternity leave. The compensation shall be adjusted monthly to the increase of salaries and wages in the RS.

If the woman did not receive salary over each of the last six months, the salary compensation shall be equal to the average salary she received during the months she was working before the maternity leave.

Provisions of paragraphs 1 and 2 of this Article accordingly shall apply to other persons, which are entitled to salary compensation during absence from work for the purpose of taking care of the child, in accordance with this Law.

Salary compensation specified under paragraph 1 of this Article shall be paid by the Public Fund for the Protection of Children of the RS.

#### **Article 79.**

Provisions of article 78 of this Law shall accordingly apply in determining the amount and ways of salary compensation for the half of working hours during which the holder of the right does not work in the cases specified under Article 76 providing for the mother of a child or other persons to work only a half of working hours to take care of the child in accordance with this Law.

### **4. Special protection of sick or disabled employees**

#### **Article 80.**

An employer shall not cancel the employment contract to an employee who has suffered an injury at work or has developed an occupational disease during the period of his temporary incapacity for work, no matter whether the employee has a contract on employment for specified or unspecified period of time.

If the employee from paragraph 1 of this Article has an employment contract for specified period of time, the period of temporary work disability due to medical reasons shall not be counted in the duration of the contract.

#### **Article 81.**

An employee from Article 80 of this Law, who has regained his work ability after a medical treatment and recovery, shall be entitled to return to the job he worked on before the occurrence of the temporary incapacity for work or to another appropriate job.

If the employer is not able to assign the employee specified under paragraph 1 of this Article to another appropriate job, the employee shall exercise his rights in accordance with the regulations on pension and disability insurance.

The employee who still has some residual functional disability after a treatment of injury at work or occupational disease and rehabilitation shall have a priority over other employees when it comes to the right to vocational training.

#### **Article 82.**



If the competent service of the Public Pension and Disability Insurance Fund establishes an impairment of working capacity or a risk of disability with an employee after a treatment and rehabilitation, the employer shall place him/her to another position which is appropriate for his remaining working capacity in accordance with the Law.

The remaining working capacity of the employee under paragraph 1 of this Article shall not be the grounds for the termination of employment contract.

## **VI SALARIES, WAGES AND SALARY COMPENSATION**

### **1. Salaries and wages**

#### **Article 83.**

Employees' salaries shall be determined in accordance with the collective agreement, rule book and employment contract.

The employer shall not pay to an employee a salary, which is lower than the one set forth in the collective agreement, rule book or employment contract.

#### **Article 84.**

A collective agreement shall determine the minimum wage and the terms and methods of its harmonization.

The collective agreement and rule book shall determine the periods of salary payments, which may not exceed 30 days.

In payment of salary, the employer shall supply the employee with a written calculation of the salary at the occasion of salary payment.

#### **Article 85.**

An employee shall be entitled to increased salary for difficult working conditions, years of employment, overtime work, working night shifts and work on Sundays, holidays or any other day which is in the law determined to be a non-working day, in accordance with the collective agreement, rule book and employment contract.

### **2. Salary compensation**

#### **Article 86.**

An employee shall be entitled to salary compensation for the period he/she does not work in cases stipulated in this Law, collective agreement, rule book or employment contract.

#### **Article 87.**

The collective agreement, rule book and employment contract shall provide more detailed provisions in which cases the employee shall be entitled to salary compensation, method of its payment and other issues related to the rights of the employee concerning salary compensation.

The instruments specified under paragraph 1 of this Article shall not specify an amount of salary compensation lower than 50% of average salary the employee had in a given prior period, or the salary which he/she would have earned if he had been working.

#### **Article 88.**

Salary compensation for the time of vacation, temporary inability to work due to injury at work or occupational disease, as well as for interruptions in work resulting from employer's failure to apply appropriate measures of safety at work shall amount to at least 100% of the average salary the employee earned in the appropriate previous period of time or would have earned if he had been working.

The legislation on health insurance shall provide more detailed definition of the conditions for exercising the right to salary compensation during temporary inability to work due to disease or injury, duration of this right, as well as the amount and method of exercising the right to salary compensation.

Salary compensation during a break or absence from work prescribed under this Law, collective agreement, rule book or employment contract shall be paid by the employer, unless this or some other law specifies otherwise.

## **5. Protection of salaries and salary compensations**

### **Article 89.**

An employer shall not collect his or another person's claims against an employee by attaching a part of salary or salary compensation, without the consent of the employee or a final decision of the competent court.

Up to the half of salary or salary compensation of an employee may be attached on the basis of a final court decision for the purpose of fulfilling the obligation of court-ordered support, and for other liabilities no more than one third of the employee salary or salary compensation may be forcibly attached.

Individual salary payments shall not be public.

## **VII RESPONSIBILITY FOR SERIOUS BREACH OF WORKING OBLIGATIONS AND FINANCIAL RESPONSIBILITY**

### **1. Breach of obligations deriving from employment contract made by employees**

#### **Article 90.**

While working, employees shall adhere to obligations prescribed by the law, collective agreement and rule book and perform their obligations in the way which will not hinder or prevent other employees from performing their obligations.

An employee shall be accountable for a breach of his working obligations to his employer; if the breach has resulted in material damage for the employer or a third party, or a criminal offence or minor offence has been committed, the employee shall be subject to both civil and criminal liability.

#### **Article 91.**

A serious breach of working obligations is such behaviour of the employee at work or in connection with work that inflicts serious damage to the interests of the employer, after which continuation of the employee's work with the employer may not reasonably be expected.

In accordance with the provision under paragraph 1 of this Article, a serious breach of working obligations which may be a reason for the employer to terminate the employment contract with the employee one-sidedly, shall be one of the following:

1. refusing to perform the working obligations stipulated in the employment contract;
2. thieving, deliberately destroying, damaging or illegally using employer's assets, as well as causing damage to third parties which the employer is liable for;
3. abusing his/her position, with material or other harmful consequences for the employer;

4. disclosing business or official secret;
5. deliberately preventing other employees from doing their jobs, thereby disturbing the work process of the employer;
6. behaving violently towards the employer, other employees or other persons at work;
7. consuming alcohol or drugs at work;
8. being absent without leave for three days in a calendar year;
9. any other behaviour of an employee which is detrimental to the interests of his employer or from which a well-founded conclusion is made that the continuation of his employment will not be possible.

If an employee defaults at work or in connection with work which is not considered to constitute a serious breach of working obligations as defined under paragraph 1 of this Article, the employer shall draw his attention to such behaviour in a written warning; if the employee, even after having received the written warning, repeats the same or commits another omission, such repeated behaviour shall be considered to constitute a serious breach of working obligations on the basis of which the employer may terminate the employment contract.

#### **Article 92.**

A collective agreement and rule book shall determine in details the institution, conducting and the statute of limitations of the procedure for determining breaches of working obligations and other issues important for the protection of discipline at work.

If the collective agreement and rule book do not specify otherwise, the termination of employment contract due to a serious breach of working obligations shall be decided on by the executive body of the employer (director) directly or at a proposal by the employees' immediate supervisor.

### **2. Compensation for material damage**

#### **Article 93.**

An employee who at work or in relation to the work deliberately or due to gross negligence causes damage to the employer shall compensate for the damage.

If the damage has been caused by a number of employees, each employee shall be liable for the share of the damage he has caused; if it is not possible to establish the share of the damage caused by each respective employee, it shall be assumed that all the employees are equally responsible and they shall go shares in damages equally.

If a number of employees have caused damage by perpetrating a crime, they shall be subject to joint liability.

#### **Article 94.**

In case that an accurate amount of damages can not be determined or if the determination would incur disproportional expenses, the collective agreement and rule book may provide for an award of lump-sum damages, the body for and methods of determining the lump-sum damages and other issues related to the determination of lump-sum damages.

If the actual damages significantly exceeds the determined lump-sum damages, the employer may seek damages to repay actual losses.

#### **Article 95.**

An employee and his employee shall be subject to joint liability for the damage the employee inflicts upon a third person at work or in connection with work.

The employer who has compensated for damage to the third party in accordance with the provision of paragraph 2 of this Article shall be entitled to seek a reimbursement from the employee.

**Article 96.**

A collective agreement and rule book may provide for conditions and cases when the employee may be released from the obligation to reimburse the employer for the damage.

**Article 97.**

The employee shall be entitled to compensation by the employer for the damage he sustains at work or in connection with work, except when the damage was caused through his own fault or negligence.

**Article 98.**

If the employer and employee cannot agree on the amount and method of compensation for damage, the aggrieved party shall exercise its right to institute an action for damages at the competent court, in accordance with the law.

**Article 99.**

The legislation governing obligations (contracts and torts) shall apply to the issues of compensation for damage caused at work or in connection with work that are not specifically set forth in this Law.

**VIII PROHIBITION OF COMPETITION BETWEEN THE EMPLOYEE AND THE EMPLOYER**

**Article 100.**

Without the approval of his employer, an employee shall not transact business, on his own account or on account of a third party, in the line of business where the employer also works.

**Article 101.**

If an employee has made an invention, innovation, technical advance or another discovery in the line of business of the employer, he shall inform the employer about it and offer him to buy it pursuant to the right of pre-emption, unless the employment contract stipulates otherwise.

If the employer fails to respond to the offer to buy the invention within 60 days, or fails to issue a statement that he takes no interest in the invention, the employer may freely dispose with the invention, providing he shall keep his invention secret during this time and during negotiations with the employer.

**Article 102.**

An employer and his employee may make an agreement with the employee that he will not be employed with another employer on the territory of the RS or a smaller area, i.e. that he will not transact business, either on his own or on account of a third party, in which he competes with the old employer on the territory of the RS or a smaller area, for a certain period after the termination of the employment contract, which shall not exceed one year from the day of termination of such contract.

The employee shall not be required to take upon himself the obligations under paragraph 1 of this Article if the employment contract was terminated because of the employer's fault.

While the obligation under paragraph 1 of this Article is still effective, the employee shall be entitled to compensation which may not be less than 50% of the average salary the employee was receiving on his

job during the last six months of his work with the employer. Unless the employer and employee agree otherwise, this compensation shall be paid to the employee as a lump-sum payment.

## **XI PROTECTION OF EMPLOYEES' RIGHTS**

### **Article 103.**

The rights and obligations of the employees deriving from employment contract in accordance with this law, collective agreement, rule book and employment contract shall be decided on by the managerial body of the employer (director) or another person designated in the articles and memorandum of association.

The responsible person under paragraph 1 of this Article may issue a written authorisation to another person, who is of legal age and competent, to decide on all or some individual rights and obligations deriving from employment.

### **Article 104.**

An employee, who thinks that his employer has violated a right deriving from employment, may request of his employer to ensure to him the exercise of the right.

Submitting a request for protection of the right in accordance with paragraph 1 of this Article shall not stay the execution of the employer's decision or action against which the employee has submitted the request, except when the employee refuses to do a job where the performance may be dangerous for the employee or other persons' life or health.

The employee shall submit the request for the protection of a right to the employer in writing or orally.

The employer shall decide employee's request within 30 days after the submission of request and, if he fails to do it, the request shall be considered sustained.

### **Article 105.**

An employee who thinks that his employer has violated his right deriving from employment contract shall be entitled to file a complaint to the competent court for protection of the right. The right to filing the complaint is not conditional upon prior addressing the request for protection of the right to the employer.

The employee shall file the complaint for protection of right within one year after having learnt of the violation of the right and not later than three years after the commission of the violation.

### **Article 106.**

A collective agreement or rule book may provide for a procedure of amicable settling of disputes which may arise between an employee and his employer.

An employee and his employer may agree to submit the issue to arbitration in case of a dispute.

The composition of arbitrators and the arbitration procedure shall be determined by a collective agreement and rule book.

An award on the issue in controversy is final and binding for the employer and the employee.

### **Article 107**

Independently from the proceedings for protection of rights instituted with his employer or in arbitration, an employee may seek protection of his rights from the competent labour inspector.

If the employee has instituted a judicial proceeding for the protection of right, the labour inspector may suspend the act or activity of the employer until the court makes a final decision on the issue in controversy.

**Article 108.**

In case of at least five employees or at least 10% of all employees turning to their employer requesting protection of the same right at the same time, the employer shall seek and consider the opinion of the employees' council or trade union in case that the employees' council has not been established.

**X EMPLOYEES' COUNCIL**

**Article 109.**

If an employer employs at least 15 employees on a regular basis, the employees shall be entitled to establish the employees' council to represent them and protect their interests deriving from the employment contracts.

The employees' council shall comprise between five and fifteen members.

The members of the employees' council shall be elected by personal voting of the employees.

**Article 110.**

At least one third of all employees employed by an employer may decide to establish the employees' council.

The employer shall not interfere in nor influence the establishment of the employees' council.

**Article 111**

The employees' council shall give to the employer opinions and proposals related to drafting and implementation of the rule book, the exercise of important social and economic rights of the employees, in-service and vocational training of the employees, organising different activities in welfare programmes, making the leave schedule and in other issues related to employees' rights pursuant to the law, collective agreement and rule book.

The function of the employees' council shall be advisory in nature without prejudice to the right and position of trade union in the protection of collective and individual rights of employees who are members of the trade union.

A law shall provide more detailed provisions on the election, composition, powers and other issues related to the establishment and work of the employees' council.

## **XI TERMINATION OF WORKING RELATIONSHIP**

### **1. Termination of employment contract**

#### **Article 112.**

An employment contract shall be terminated:

1. by the death of the employee,
2. by an agreement between the employer and the employee,
3. by the termination of the contract by employer or employee,
4. once the employee completes 40 pensionable years of employment or 65 years of age and at least 20 pensionable years of employment, unless the employer and the employee agree otherwise,
5. on the date of the delivery of a final decision determining the total disability,
6. at the expiration of the contract concluded for a specified period of time,
7. if the employee has been sentenced to a non-conditional term of imprisonment or ordered a security measure, educational or protective measure exceeding three months, on the date of the start of serving the punishment or measures, if the employee has to be absent from work while serving the punishment.
8. on the basis of a decision of the competent court which results in the termination of employment of the employee – on the day specified in the court's decision.
9. on the day of the termination of the employer's work, or the day of the start of a preliminary injunction prohibiting employer's work for longer than three months.

### **2. Termination of employment contract by the employer**

#### **Article 113.**

An employer may cancel the employment contract of an employee

1. if the employee has committed a serious breach of working obligations, as defined under article 91 of this Law.
2. if the work of the employee is not required any more due to economic, organisational or technological reasons;
3. if the employee has stopped performing the obligations specified under the employment contract;
4. if the employee fails to return to work within 30 days since the termination of his leave without pay or a rest of rights deriving from working relationship;

The termination of employment contract in the cases specified under paragraph 1, points 2 and 3, of this Article may be effected if the employer can not offer to the employee another appropriate job due to his economic situation, productive and other working capacities and organisation of work, as well as other working abilities of the employee.

#### **Article 114.**

The notice of the termination of employment contract shall be made in writing, comprising a statement of reasons for the decision.

The employer shall send a copy of the termination notice to the employee.

#### **Article 115.**

If an employer terminates the employment contract to an employee due to a serious breach of working obligations, he shall ensure that the employee is given a fair chance to be heard and to defend himself, whenever this is possible considering the circumstances, and to take into consideration an opinion of the trade union or employees' council if it was given before the final decision on the termination is made.

The employer may issue the employment termination notice under paragraph 1 of this Article within 30 days after having learnt of the breach of working obligations and the perpetrator.

In case of a dispute before the competent court, the burden of proof of reasons for the termination of employment contract shall lie with the employer.

#### **Article 116.**

During the proceeding for the termination of employment contract before the competent court, by request of the employee and if it finds that the termination has been obviously illegal or if the contract has been terminated in contravention of Article 118 of this Law, the court may order for the employee to be reinstated temporarily in his former post until the proceeding has been completed.

#### **Article 117.**

If the competent court finds that the termination of employment contract issued by the employer to the employee has been illegal, it shall order for the employee to be reinstated in the post he was on before the termination of employment contract or another post that suits his/her qualification and skills, and to be paid a compensation for lost salary and other benefits the employee is entitled to in accordance with the collective agreement, rule book and employment contract.

If the employer is not able to reinstate the employee in his former post due to the existing organisation or does not want to do so, or the employee does not want to be reinstated, the employer shall pay to the employee a severance pay the employee is entitled to according to the collective agreement, rule book and employment contract.

#### **Article 118.**

An employer may terminate the employment contract to an elected representative of employees for the employees' council and bodies of the trade union during his/her term of office and one year after the expiration of the term of office only after having obtained a consent of the minister in charge of labour.

### **3. Suspension of employee**

#### **Article 119.**

In case that an employee was found doing something which is reasonably suspected to be a criminal offence or presents a threat to property of great value, his employer may suspend the employee even before the termination of employment contract.

The suspension shall not exceed three months, within which time the employer shall decide on employee's responsibility or release him from the responsibility. If a criminal proceeding has been instituted against the employee, the employee shall be suspended until the criminal proceeding has finished, unless the employer decides otherwise.

During the time he is suspended, the employee shall be entitled to salary compensation to the extent of 50% of the average salary he earned in the last six months.

### **4. Termination of employment contract by employee**

#### **Article 120.**

An employee shall have the right to terminate the employment contract if his employer has committed a violation of his obligations deriving from the employment contract, and if the violation is such that he cannot be reasonably expected to continue working with the employer. The employee may give the termination notice in this case within 15 days after having learnt that the employer committed the violation.

The employee shall offer the termination notice in written, explaining the reasons why he is terminating the employment contract.



In case of termination of the employment contract for the reasons stated under paragraph 1 of this Article, the employer should be entitled to all rights deriving from employment as in the case when the employer illegally terminates the employment contract.

## **5. Notice period**

### **Article 121.**

In case of the termination of employment, an employee shall be entitled to a notice period, except when the employment is terminated in accordance with provisions under Article 113(1), points 1 and 4 of this Law.

The notice period may not be shorter than 15 calendar days if the employee is the one terminating the employment contract, nor shorter than 30 calendar days if the employer is the one terminating the employment contract. The notice period starts to run on the day of serving the termination notice to the employee i.e. employer.

A collective agreement, rule book and employment contract shall provide more detailed provisions on cases and conditions for notice period, duration of the notice period and other issues related to the rights and obligations of the employer and the employee during the notice period.

If an employer is the one terminating the employment contract, the acts defined under paragraph 2 of this Article shall provide for a longer notice period for the employees having more years of service with the employer.

### **Article 122.**

If an employee stops working before the expiration of the prescribed notice period by request of his employer, the employer shall pay to him the salary compensation and recognise all other rights deriving from employment as though the employee had been working until the expiration of the notice period.

During the time while the employee is receiving the salary compensation provided for under paragraph 1 of this Article, the employee is not entitled to the benefit normally paid to unemployed persons in accordance with the legislation on employment.

During the notice period, the employer shall enable the worker to take a day off a week to seek another job.

## **6. Termination of employment contract accompanied with an offer to conclude a different employment contract**

### **Article 123.**

An employer may terminate the employment contract to an employee and simultaneously offer him to conclude a different employment contract specifying different employment terms and conditions.

Provisions of this Law on the termination of employment contract by employer shall apply accordingly to the termination of the contract in cases set forth in paragraph 1 of this Article.

If an employee accept the employer's offer to conclude a new employment contract specifying different terms and conditions, he/she shall retain the right to contest the change in the employment contract before the competent court.

An employee who refuses to continue working under an amended employment contract shall be entitled to a severance pay pursuant to Article 127 of this Law.

#### **Article 124.**

The employer employing more than 15 employees, who intends to terminate employment contracts to at least five or 10% of the total number of employees over the following three months due to reduced amount of work or other economical, technological or organisational reasons, shall consult the employees' council or, if there is no employees' council established with the employer, with all trade unions representing at least 10% of the employees.

#### **Article 125.**

For the purpose of conducting consultations in accordance with Article 124 of this Law, the employer shall notify in writing the employees' council i.e. trade unions about the following:

- reasons for the termination of employment;
- number and qualifications of employees whose employment is to be terminated;
- measures which might avoid the termination of employment contract of all or a number of employees (by re-placing a number of workers to different jobs, retraining, reducing working hours, etc.)
- measures which would help them to be recruited by other employers.

#### **Article 126.**

If within a year after the termination of employment contract to former employees in accordance with Article 124 of this Law the employer intends to conclude contracts of employment with a number of employees which are required to have qualifications similar to the former employees, the jobs shall be offered to the former employees first.

### **8. Severance pay**

#### **Article 127.**

An employer shall pay a severance pay to the employee whose employment contract has been terminated and who has worked for him on the basis of a contract for unspecified time for at least two uninterrupted years, except when the employment contract is being terminated on the basis of the provisions of Article 113(1), points 1 and 4 of this Law.

The amount of severance pay provided for under paragraph 1 of this Article shall be determined by the collective agreement, rule book and employment contract, depending on years of service with the employer, and shall amount to at least one third of the average monthly salary of the employee paid during the last three months before the termination of employment contract for every year of service with the employer.

Exceptionally to paragraph 2 of this Article, the employer and the employee may agree on some other form of compensation in lieu of the severance pay.

The method and time for the payment of severance pay may be defined by a special agreement between the employer and the employee.

## **XV COLLECTIVE AGREEMENTS**

### **1. Content of collective agreements**

#### **Article 128.**

Collective agreements shall provide closer definition of the scope and methods for exercising the rights and obligations deriving from employment, in accordance with the law and regulations, the procedure of concluding collective agreement, the composition and method of work of the bodies in charge of amicable

settlement of collective disputes between employees and employers, mutual relations of the parties to the collective agreement, and other issues of importance for defining relations between employers and employees.

## **2. Mandatory nature of collective agreements**

### **Article 129.**

Collective agreements shall be mandatory for the parties who have directly participated or were represented in the process of concluding collective agreements, as well as for the legal persons which have become a party to them subsequently.

If the ministry in charge of labour deems that there is an interest of the RS and that it is justified for the purpose of realising the goals of economic and social policy of the RS, it may decide to extend the collective agreement, or particular provisions thereof, to all legal persons which did not participate in the conclusion of collective agreement nor have become a party to it subsequently.

Before deciding on an extension of the provisions of the collective agreement as defined under paragraph 1 of this Article, the ministry shall request opinion of the appropriate trade unions, employer or association of employers to whom the collective agreement is to be extended to.

If the ministry in charge of labour revokes the decision to extend the applicability of the collective agreement in accordance with paragraph 1 of this Article, it shall do so applying the same procedure prescribed for making and announcing the decision to extend applicability of collective agreement.

At the initiative of parties to the collective agreement or whenever it finds it to be in the interests of the RS, the ministry in charge of labour may decide to exclude certain legal persons from the implementation of the collective agreement.

## **3. Territorial and individual applicability of collective agreement**

### **Article 130.**

A collective agreement may be made for the territory of the RS, for a particular group or industry or for one or several employers.

A collective agreement shall not prescribe a more limited scope of rights than the scope provided for under the law.

Branch collective agreements shall not prescribe a more limited scope of rights than the scope provided for under the general collective agreement, nor shall an individual collective agreement or rule book stipulate a less scope of employees' rights than the scope specified under branch collective agreements.

When concluding collective agreements, a trade union or several trade unions may act on behalf of employees and an employer, several employers or employers' association at the appropriate organisational level may act on behalf of employers.

### **Article 131.**

Parties to a collective agreement at the level of the RS that regulates the most significant basis of economic and social policy in the RS as a whole shall be the following: the Government of the RS, trade union organised at the level of the RS that has the largest number of members, with previously obtained written consent of other unions operating in the RS, and employers' association at the level of the RS which gathers the largest number of employers, with previously obtained written consent of other employers' associations working in the RS.

Parties to a collective agreement at the level of a group or industry branch, whenever they feel it necessary for the purpose of achieving common goals in the area of economic and social policy in the RS, may decide to involve the ministry in charge of labour in the process of concluding collective agreement.

#### **Article 132.**

If more trade unions or more employers have participated in the collective bargaining, only those trade unions i.e. employers' association, which have power of attorney issued by each individual trade union, i.e. employer, in accordance with their respective articles of association, may make decisions on the conclusion of collective agreement.

If the parties to the collective agreement specified under Article 130(4) of this Law consider it necessary or justified, they may decide to involve the Government of the RS or other appropriate governmental body in the procedure of concluding collective agreement which defines common grounds for rights and obligations of employees and employers.

Amendments to the collective agreement shall be adopted by applying the same procedure followed in its conclusion.

### **4. Format and duration of collective agreements**

#### **Article 133.**

A collective agreement shall be made in writing.

A collective agreement may be concluded for an unspecified or a specified time. If the collective agreement does not contain the indication of its duration, it shall be considered to be made for unspecified period of time.

Each party to a collective agreement may terminate the collective agreement. The termination notice may not be less than 30 days, unless the collective agreement specifies otherwise.

### **5. Publication of collective agreements**

#### **Article 134.**

A general collective agreement, branch collective agreements, and decisions of the ministry in charge of labour on an extension of the applicability of the collective agreement defined under Article 129 of this Law shall be published in the "Official Gazette of the Republika Srpska".

Collective agreements under paragraph 1 of this Article shall be entered in the registry prescribed and kept by the ministry in charge of labour.

Individual collective agreements shall be published in the way agreed by the parties thereto.

### **6. Settlement of disputes**

#### **Article 135.**

In case of a dispute arising from the implementation of collective agreement, its termination by one of its parties or necessity to amend it, the parties shall attempt to find settlements in an amicable way. However, if a settlement cannot be reached in this way, the dispute shall be presented to a reconciliation council.

The reconciliation council under paragraph 1 of this Article shall comprise three members appointed by the ministry in charge of labour, majority trade union established at the level of the RS and majority employers' association in the RS each.

#### **Article 136.**

If parties to a dispute accept the proposal agreed by the reconciliation council to settle the disputed issue related to the implementation of collective agreement, this proposal shall have legal force and shall bind the parties to the collective agreement.

If the reconciliation council does not reach a necessary understanding on the proposal for the settlement of the disputed issue, or if the parties to the dispute fail to accept the proposal agreed by the reconciliation council, the reconciliation process shall be considered failed.

The ministry in charge of labour shall prescribe rules of procedure of the reconciliation council.

#### **Article 137.**

Parties to the collective agreement may submit the dispute to arbitration.

The composition of arbitrators and their powers shall be determined by a collective agreement or a separate agreement of the parties to the dispute.

#### **Article 138.**

The arbitration shall decide the issue in controversy in accordance with the law and collective agreement.

An award shall be reasoned.

An award on the issue in controversy shall be final and no appeal shall be allowed.

#### **Article 139.**

Parties to collective agreement may seek protection of their rights deriving from the collective agreement, except the rights finally decided on in arbitration in accordance with Article 137 of this Law.

### **XIII SPECIAL PROVISIONS**

#### **1. Economic-social council**

#### **Article 139.**

For the purpose of encouraging collective bargaining and harmonizing interests of employees and employers with the goals and measures of economic and social policy in the RS, an Economic and Social Council shall be established.

The Economic and Social Council shall comprise nine members, three of them shall be appointed by the RS Government, a trade union representing the greatest number of employees in the RS and an employers' association gathering the greatest number of employers in the RS each.

A collective agreement shall provide a closer definition of procedures of appointing members of the Economic and Social Council and its powers.

The Economic and Social Council shall pass its rules of procedure.

## **2. Right to strike**

### **Article 141.**

Employees shall have the right to strike in accordance with the valid Law on Strike.

## **3. Suspension of rights deriving from employment contract**

### **Article 142.**

The rights and obligations derived from employment contract of an employee who has a contract of employment for an unspecified period of time shall be suspended while he/she is serving army.

The rights and obligations derived from employment contract of the employee having an employment contract for unspecified period of time shall be suspended while he/she is holding an office in a governmental body or organisation, public service, trade union or political organisation.

### **Article 143.**

A public office in terms of Article 144(2) of this Law is an office to which the employee has been directly elected by citizens or to which he/she was appointed by the competent body of the RS, if he discharges the duties on a professional basis and receives a salary for it.

### **Article 144.**

The employee, whose rights and obligations deriving from employment contract have been suspended while serving the army, may return to his or other appropriate job with the same employer within 30 days after completing the military service.

Suspension of rights and liabilities due to holding a public office shall not exceed two terms after which time the employee may return to his former job or other appropriate job.

If the employer is unable to take the employee back to his old job or offer him another appropriate job due to changed work organisation and general work and market conditions which occurred after the employee from paragraph one of this Article had stopped work, the employer shall pay a severance pay, applying the provisions of Article 127 of this Law.

## **4. Working booklet**

### **Article 145.**

Each employee shall have a working booklet.

The working booklet shall be a public document for proving pensionable years of service and other kinds of pensionable years of an employee.

### **Article 146.**

The format of the working booklet shall be prescribed by the ministry in charge of labour.

The working booklet shall be issued by the competent municipal administrative body.

### **Article 147.**

While the employee is in employment, the working booklet shall be kept by the employer for safe-keeping and an appropriate receipt proving it shall be issued to the employee by the employer.

By request of the employee, his employer shall give back the working booklet to him/her, issuing an appropriate receipt.

#### **Article 148.**

After the termination of employment, the employer shall enter the duration of employment into the working booklet, certifying it with his stamp and signature, and shall give the employee the working booklet, issuing a receipt.

An employer shall not keep the working booklet of his employee regardless of the claims the employer may have against the employee, nor shall he enter any other data, except the period of employee's employment with the employer, into the working booklet.

### **5. Supervision over implementation of the labour legislation**

#### **Article 149.**

Supervision over implementation of provisions of this Law, regulations passed on the basis of this law, collective agreement and rule book shall be carried on by labour inspectors, in accordance with the law.

## **XIV PENAL PROVISIONS**

#### **Article 150.**

A fine ranging between 1,000 and 10,000 convertible marks shall be imposed for a minor offence to an employer who is a legal person for:

1. the failure to ensure equality of employees at work and equality of unemployed persons seeking job (Article 5(2) of this Law);
2. hindering or preventing a trade union from establishing (Article 8(1) of this Law);
3. the failure to issue and publish the rule book under Article 11 and 12 of this Law;
4. providing a less scope of rights to the employees, in contravention of Article 13 of this Law;
5. for acting in contravention of Articles 14 through 24 when concluding and applying an employment contract;
6. the failure to ensure the conditions under Article 30(2) of this Law to an apprentice/trainee;
7. the failure to ensure the minimum rights under Article 32 of this Law to an apprentice/ trainee or a volunteer;
8. concluding an employment contract in contravention of Article 34 of this Law;
9. ordering working hours longer than the working hours under Article 35(1) of this Law;
10. ordering overtime work longer than the overtime work under Article 39 and 40 of this Law;
11. ordering overtime work to the employee under Article 42 of this Law;
12. distributing working hours in contravention of Article 44 of this Law;
13. ordering a woman to work at night in contravention of Article 47 of this Law;
14. not ensuring that an employee takes his/her daily break (Article 48 of this Law);
15. not ensuring that an employee takes he/his weekly break (Article 50 of this Law);
16. not ensuring that an employee takes he/her annual leave (Article 57 of this Law);

17. not ensuring that an employee takes a leave with pay under Article 60 of this Law;
18. not ensuring that an employee takes a leave without pay under Article 61 of this Law;
19. not ensuring that an employee gets familiar with the employment legislation and health and safety regulations pursuant to Article 62 and 63 of this Law;
20. the failure to check the ability of a newly employed person to use means of production and apply measures of safety at work before he/she actually starts work (Article 63 of this Law);
21. ordering, allowing or making possible for a minor to perform the tasks he/she is prohibited from performing under Article 69 of this Law;
22. ordering a female employee to work in underground part of the mine in contravention of Article 70 of this Law;
23. treating a pregnant women or a woman having recently given birth in contravention of Article 71 of this Law;
24. not ensuring that a female employee is placed or compensated for salary pursuant to Article 72 of this Law;
25. depriving any authorised person of his/her rights related to child care under Article 75 and 79 of this Law;
26. denying a sick or disabled employee the rights under Articles 80 through 82 of this Law;
27. denying or reducing a salary or salary compensation an employee is entitled to pursuant to the law, collective agreement, rule books and employment contract or not paying them within the specified deadlines (Articles 83 through 89 of this law);
28. hindering or preventing the employees' council from establishing or working (Article 110 of this Law);
29. not ensuring to an employee to present his defence in a disciplinary proceeding pursuant to Article 115(1) of this Law;
30. terminating the employment contract to an elected employees' representative in contravention of Article 118 of this Law;
31. preventing an employee from working during the notice period or failure to pay him the salary compensation, or not allowing an employee to take one day off a week during the notice period to seek a new job (Article 122 of this Law);
32. terminating employment contracts to employees in contravention of Article 124 and 124 of this Law;
33. not ensuring a priority in employment under Article 126 of this Law;
34. not paying to an employee the severance pay under Article 127 of this Law;
35. refusing to reinstate an employee in his former position after the period of suspension of rights has expired or to pay the severance pay in accordance with Article 144(3) of this Law;
36. the failure to give the working booklet back to an employee or to enter the duration of employment into it (Article 147(2) and 148 of this Law);
37. the failure to issue and publish the rule book in the way and within the time limit under Article 162(1) of this Law;



38. the failure to offer to an employee an employment contract in accordance with Article 163(1) of this Law or the failure to recognise the notice period or to pay the severance pay under Article 164 of this Law.

A fine ranging between 2,000 and 15,000 convertible marks shall be imposed for a minor offence to an employer who is a legal person for:

1. ordering a minor employee to work at night in contravention of Article 46 of this Law;
2. an accident at work through his fault pursuant to Article 64 and 65 of this Law;
3. not insuring a newly hired employee (Article 68 of this Law);
4. the failure to enable a female employee to exercise the rights related to pregnancy, childbirth and maternity in accordance with Article 73, 74, 76, 77 and 78 of this Law;
5. the failure to stop an act or action from execution as ordered by the labour inspector within the set time limit (Article 107(2) of this Law);
6. the failure to comply with a decision by labour inspector on the temporary reinstatement of an employee in his former post in accordance with Article 116 of this Law;
7. the failure to comply with a final and binding decision of a court, in accordance with Article 117 of this Law.

When a labour inspector finds in an inspection that the employer has committed an offence under paragraph 2 of this Article, he may render to the employer an order suspending his work until the proceeding on charges filed for the offence has been closed.

The responsible person working with the employer – legal person shall be punished with a fine ranging between 100 and 500 convertible marks for an offence under paragraph 1 of this Article and with a fine ranging between 200 and 1,000 convertible marks for an offence under paragraph 2 of this Article.

If an offence under paragraph 1 of this Article has been committed against a minor or a woman in connection with pregnancy, childbirth and maternity, or against an employee with disabilities, the fine imposed upon the legal person shall not be less than 3,000 convertible marks, and the fine imposed upon the responsible person in the legal person shall not be less than 500 convertible marks.

An employer who is a physical person shall be punished with a fine ranging between 200 and 800 convertible marks for an offence under paragraph 1 of this Article.

## **XV TRANSITIONAL AND FINAL PROVISIONS**

### **Article 151.**

Provisions of Article 127 of this Law on employees' right to severance pay at the expense of their employer shall apply also to the employees who happen to be on waiting lists on the effective date of this Law, which status they acquired in accordance with Article 64 of the Law on Employment ("Official Gazette of the Republika Srpska" No 25/93, 14/94, 15/96, 21/96, 3/97 and 10/98), unless the employer invites them to work within three months after the effective date of this Law.

The severance pay under paragraph 1 of this Article shall amount to at least six times the average salary in the RS over the three months preceding the month when the employment contract was terminated.

The employment contract of the employees under paragraph 1 of this Article shall be terminated at the expiration of three months from the effective date of this Law.

Provisions of this Article shall start applying as of eighth day after the social security programme has been passed to ensure subsistence wages to workers.

#### **Article 152.**

Employees having employment contract on the day of 31 December 1991 with the employer having seat on the territory which is now part of the Republika Srpska, whose working relationship with that employer was illegally terminated between that date and the effective date of this Law, shall have the right to file a request for severance pay within three months since the effective date of this Law. This request is to be filed with the ministry in charge of labour, in writing (submitted in person or by mail).

The right to submit a request under paragraph 1 of this Article shall not be exercised by the individuals who:

- ◆ have exercised the right to compensation for notice period or compensation while on the waiting list in accordance with Article 54 and 64 of the Law on Employment (“Official Gazette of the Republika Srpska No 25/93, 14/94, 15/96, 21/96, 3/97 and 10/98.)

#### **Article 153.**

The amount of severance pay under Article 153(1) of this Law shall depend on the number of pensionable years of service with the employer and shall amount to:

- up to five pensionable years of service - 1.33 times of the average salary paid in the RS over the three months preceding the month when the employment contract was terminated, according to the information of the Republic Statistical Institute,
- between five and ten pensionable years of service – in the amount of 2.00 times the average salary under line 1 of this Article,
- between ten and twenty pensionable years of service – in the amount of 2.66 times the average salary under line 1 of this Article.
- over twenty pensionable years of service – in the amount of 3.00 times the average salary under line 1 of this Article.

#### **Article 154.**

The severance pay under Article 153 of this Law shall be paid to an employee from the fund established for this purpose from privatisation proceeds and other sources in accordance with the law.

#### **Article 155**

A decision on the right to severance pay shall be made by a commission established by the minister in charge of labour (hereinafter: the Commission).

The Commission shall comprise a chairman and four members.

The chairman and members of the Commissions shall be appointed from among legal experts experienced in implementation of the labour legislation who do not hold any political nor governmental offices in the RS, Federation of Bosnia and Herzegovina or joint institutions of Bosnia and Herzegovina.

#### **Article 156.**

If an employee has already instituted a labour suit at the competent court for the purpose of exercising the rights under Article 152(1) of this Law still pending on the effective date of this Law, the court shall stop the proceedings and refer the case to the Commission.

If an employee has instituted a proceeding for exercising the rights under Article 152(1) of this Law with labour inspectors still pending on the effective date of this Law, the labour inspectors shall stop the proceedings on the effective date of this Law and refer the case to the Commission.

#### **Article 157.**

The Commission shall be independent and autonomous in its work.

The Commission shall make decisions by a majority of votes of all members.

#### **Article 158.**

The Commission shall make a final decision on an employee's request not later than 90 days after the submission of the request.

Any decision of this Commission shall be final and binding.

A decision of this Commission shall be served to the applicant, the fund established under Article 154 of this Law and to the employer where the employee had a job last, within 15 days after having been issued.

#### **Article 159.**

In the procedure of deciding a request for exercising the right to severance pay, the Commission may require all necessary data and information concerning the employment from the employee and his employer, take statements from natural persons, review business books and employer's records and take other actions which are necessary for fact finding and establishing the right to severance pay.

Aiming at the most complete fact finding, on the basis of authorisation by the chairman of the Commission, the Commission may engage employees of the ministry in charge of labour to review the appropriate documents and business books of the employer and to inform the Commission on the findings of fact.

#### **Article 160.**

The ministry in charge of labour shall enact more detailed regulations prescribed by this law or amend the regulations, which were in force on the effective date of this Law accordingly within three months after the effective date of this Law.

#### **Article 161.**

Parties to collective agreements under Articles 130 and 131 of this Law shall start negotiations on collective agreements in accordance with this Law, within 60 days after the effective date of this Law.

Until the collective agreements have not been concluded in a pursuance of provisions of this Law, the old collective agreements shall apply.

Any party to a collective agreement may waive the right to enter into a collective agreement pursuant to Article 133(3) of this Law at any time after the expiration of time limit under paragraph 1 of this Article.

#### **Article 162.**

Any employer employing more than 15 full-time employees shall issue and appropriately publish the rule book providing more detailed information on work organisation, salaries and wages and other obligations deriving from employment contract, in accordance with the law and collective agreement, within six months after the effective date of this Law.

Until the rule book under paragraph 1 of this Article has been passed, provisions of this Law as well as the provisions of the collective agreement and employer's by-laws which were in force on the effective date of this Law shall apply directly in exercising the rights and obligation of an employee.

### **Article 163.**

Employers shall offer employees to conclude employment contracts pursuant to provisions of this Law, collective agreement and rule book or shall issue to the employees written statements on terms of employment, as prescribed under Article 20 of this Law within nine months after this Law entered into force.

By request of an employer, where the process of privatisation of state owned capital has not been finished yet, the ministry in charge of labour may extend the deadline specified under paragraph 1 of this Article for not more than three months.

### **Article 164.**

If an employee refuses the offer to conclude contract of employment, i.e. refuses to accept the terms specified in the employer's statement issued in accordance with Article 163(1) of this Law, he/she may file an objection to the employer seeking protection of his rights.

If the employer refuses the employee's request for protection of rights, his employment shall terminate within 30 days after the day of offering the contract of employment.

The employee whose employment has been terminated in accordance with the provision of paragraph 1 of this Article shall be entitled to notice period and severance pay in accordance with Articles 120 through 122 and Article 127 of this Law.

An employee who thinks that the employer's offer to conclude contract of employment is not in accordance with this Law may institute proceedings for protection of his rights at the competent court within 15 days after the day of refusing the offer.

### **Article 165.**

Proceedings for the protection of employees' rights having been instituted before this Law came into force shall be completed in accordance with the legislation valid before this Law entered into force.

### **Article 166.**

On the effective date of this Law, the Law on Working Relationships ("Official Gazette of the Republika Srpska" No 25/93, 14/94, 15/96, 21/96, 3/97 and 10/98) shall cease from implementing.

### **Article 167.**

This Law shall enter into force on the eighth day after its publication in the "Official Gazette of the Republika Srpska".

No. 01-625/00  
Date: 24 October 2000  
Banja Luka

President  
of the National Assembly  
Petar Đokić