
COVID-19 and Labour Law: Bosnia and Herzegovina

Nedim Hovic*

Abstract

In this national report, the author presents an overview of the measures enacted to support the economy and govern the labour relations in Bosnia and Herzegovina in the wake of the COVID-19 pandemic. Measures are briefly discussed; the main findings are that they are skewed toward employers with the potential to erode employees' rights and bargaining power.

Keywords: Covid-19; Labour Law; Collective bargaining; Workplace conditions.

1. Introduction

Bosnia and Herzegovina (BiH) introduced measures to prevent the spread of COVID 19 infections on March 11th. Due to the complex federal structure of the state, which is a sui generis federal state comprised out of two entities, measures related to labour law and related fields differ between the Federation of BiH (FBiH) and Republika Srpska (RS). However, at the time of the creation of this report (May 1st), the measures are much more transparent and elaborate in the FBiH; thus, the majority of this paper is dedicated to the FBiH.

In the wake of the COVID-19 pandemic, the BiH governments introduced strict measures. These included a ban of movement for minors and persons over the age of 65¹ as well as the closing of borders for all non-nationals. Bosnia was also one of the few European states, alongside Serbia and Romania, which initially advised its citizens staying abroad not to return home. Those who have ignored this advice have returned mostly via their own arrangement, without state support, and they were subject to a 14-day or 28-day quarantine. A strict curfew enforced by the police was observed from 8 PM to 5 AM in FBiH² and from 5 PM to 5 AM in RS.

* PhD Researcher, Sant'Anna School of Advanced Studies, Dirpolis Institute, Italy.

¹ Deemed unconstitutional by the BiH Constitutional Court on April 22. See the decision at http://www.ustavnisud.ba/dokumenti/_bs/AP-1217-20-1234093.pdf

² Revoked on April 25th in FBiH. See Official: Curfew abolished in Federation of Bosnia and Herzegovina Entity, *Sarajevo Times* at <https://www.sarajevotimes.com/official-curfew-abolished-in-federation-of-bosnia-and-herzegovina-entity/>

2. Support for employers

Expecting a 15% decline in tax revenue and a GDP contraction of 5%, the country requested emergency funding relief from the International Monetary Fund. Additionally, the country requested an additional €250 million in relief from the European Union. However, as of the time of this report's creation (May 2nd), it is uncertain how these measures will directly benefit workers, their conditions, and their bargaining power in negotiating wages. This is because the measures that have been developed thus far (which still remain in the draft phase) are primarily designed to target employers by incentivising them to not lay off workers. For example, the government of FBiH will subsidise the payment of benefits for employees' health and pension funds in the amount that is proportional to the payment of benefits for the lowest minimum salary if their turnover has been reduced by more than 20% compared to the first two months of the year. Additionally, the FBiH government has decided to create a Guarantee Fund for its Development Bank; this would be used as a vehicle to guarantee direct financial support from the commercial banks to the businesses that aim to recover from the crisis. However, with its longstanding reputation as a vehicle for supporting those that are politically connected, such a move may provoke fears that the recovery of the economy will create new avenues for strengthening corruption networks. A similar plan in RS would entail supporting the employers through a 'Solidarity Fund' which is more transparent than the one in FBiH.

3. Workplace guidelines and the proposed changes to the labour law in FBiH

The authorities in both Bosnian entities have issued guidelines and orders concerning the organisation of the workplace and the workforce. The guidelines indicate that protective equipment such as gloves and masks should be used in the workplace, that social distancing measures should be in place, and that work from home should be arranged whenever possible. These guidelines were seemingly largely enforced, as very few outbreaks were observed in the companies; most registered cases of COVID-19 were related to families who had members returning from work or trips abroad. In the four companies in which the outbreaks did occur, quarantine measures for workers and their family members were enforced and observed, which led to a decrease in the number infected in those areas and a return to work for all of the companies affected by the outbreak. Orders, on the other hand, were focused on shutting down businesses such as dental practices, notary and law offices, hotels, and other tourist establishments.

The RS entity did not propose any significant changes to the legal framework governing labour relations, while FBiH did.³ These include a more flexible arrangement concerning the organisation of remote work, allowing an additional 20-day paid and unpaid leave to be

³ Ministarstvo rada i socijalne politike Federacije BiH, Zakon o izmjenama i dopunama Zakona o radu, April 14, 2020 (on file with author; in Bosnian).

introduced by the employers. If the employer's income has been lowered by more than 35% compared to the same period last year, the employer may lower the wages of the employee to only 75% of the minimum wage. If the employer shortens the working time of the employees, he may also lower their wages up to 35% of the original salary. According to the proposed changes, the employee may be faced with a three-month 'waiting time' period. In that period, the employee will receive a remuneration not lower than the minimum wage while not working. If the employee is not recalled from this 'waiting time', his or her contract will be terminated with a right to severance pay. The employer may also initiate the usage of holiday days for the employees without any consultation with the employees. The trade unions have explicitly rejected these proposals⁴ and it remains to be determined whether they will obtain parliamentary support.

Some evidence suggests that the crisis and its aftermath will exert a heavier impact on female employees. This is because the country simultaneously issued an order for the children to stay home (shutting down the schools and the kindergartens) without providing any safeguard for workers who must spend more time at home to take care of their children. At this point, we do not know what percentage of laid-off workers are women, but it is reasonable to assume that the percentage is higher than that of men.

A slow response from the government induced insecurity among the employers, who have laid off more than 5% of the workforce in the first month of the pandemic. Additionally, it is thus far unclear how many jobs have been lost among the approximately 200,000 employees working in the informal economy.

It is also worth mentioning that no strict moratorium on banking credits was introduced, as was the case in Serbia, Slovenia, or Croatia. Instead, it was left to the banks to decide whether the loanee was affected by the crisis on such a scale as to become insolvent or unable to repay his loan, in which case the bank had the opportunity to restructure the payback plan. We currently lack the data to assess the impact of these measures, but we can anticipate that many of the workers will be dramatically affected by the measure.

4. Conclusion

Most of the measures introduced by the BiH governments were designed to curb the outbreak of epidemics, support fiscal stability, and defend the healthcare system. However, in the field of labour relations, the measures were skewed toward the employers. The primary intention behind the measures appears to be a desire to lower the number of layoffs. However, a slow response has led to dramatic cuts in the number of employees, which effectively means that BiH has lost all workplaces created within the last two years. Lenience regarding credit payments and a flexible approach incentivizing lowering the wages of employees and allowing employees to use unpaid leave may result in the

⁴ Saopštenje SSSBiH na Nacrt Zakona o izmjenama i dopunama Zakona o radu at <https://www.sssbih.com/ocitovanje-sssbiH-na-nacrt-zakona-o-izmjenama-i-dopunama-zakona-o-radu/> (in Bosnian)

deterioration of the future conditions of Bosnian employees. Moreover, the proposed changes allow the employers to introduce a 72-hour working week, while keeping the wages at a minimal level. We should also note that while the reduction of turnover for 20 to 30% qualifies the companies to seek financial assistance, no such support is guaranteed to the workers; it is expected that some form of support will be introduced at the cantonal and local level.

Copyright © 2020 Nedim Hovic. This article is released under a Creative Commons Attribution 4.0 International License