

BOŠNJA I HERCEGOVINA
FEDERACIJA BOSNE I HERCEGOVINE
PREMIJER

БОШНА И ХЕРЦЕГОВИНА
ФЕДЕРАЦИЈА БОСНЕ И ХЕРЦЕГОВИНЕ
ПРЕМИЈЕР

BOŠNJA AND HERZEGOVINA
FEDERATION OF BOSNIA AND HERZEGOVINA
PRIME MINISTER

No.: 01-02-1042- 121 /17
Sarajevo, May 4th, 2018

Mr. Guy Ryder, Director-General
International Labour Office
Geneva

Mrs. Corinne Vargha, Director
International Labour Standards Department
International Labour Office
Geneva

Re: Your letter ref. TUR 1-338

Dear Mr. Ryder and Mrs. Vargha,

Thank you for your letter which was forwarded to my office two weeks ago through the Ministry of Foreign Affairs and Ministry of Civil Affairs of Bosnia and Herzegovina. In this letter you referred to a communication dated March 9, 2018 from the Confederation of Independent Trade Unions of Bosnia and Herzegovina (SSS BiH). I would like to use this opportunity to present my Government's point of view.

First of all, I regret that such a communication has been sent to you by the SSS BiH as it contains not only wrong information but also an inaccurate presentation of the current status of social dialogue in the Federation of Bosnia and Herzegovina. I shall take this opportunity to dismiss the allegations made by SSS BiH.

In contrast to statements made by SSS BiH the current Government of the Federation of BiH has demonstrated strong commitment to social dialogue. First and foremost, my Government participated in more sessions of the Economic and Social Council (ESC) than any other government in the past, and almost all of them involved my presence, as well as the presence of my deputies. Second, my Government has significantly improved social dialogue by restarting the process of collective bargaining that had been dormant for almost a decade. As a result, my Government has concluded more collective agreements than any previous

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government. Lastly, only a year ago my Government succeeded in introducing the second set of amendments to the Labour Law in consultations and with consent of both the trade unions, including SSS BiH, and the Federation Employers' Association.

The communication that you received from SSS BiH addresses a non-issue. The Government has never rejected, nor conditioned, participation in any session of the Economic and Social Council and in this regard the claim made by SSS BiH is wrong. It is important to note that, in their letter, SSS BiH omitted to inform you that the electoral process for the election of the new leadership of SSS BiH had been disrupted when the majority of trade union congressional delegates voted to reject the work and audit reports of Mr. Ismet Bajramovic (the signatory of the letter sent to you) as well as appointment of the candidate that he openly favoured for the new president of SSS BiH.

The electoral process was disrupted because Mr. Bajramovic, together with a small group of delegates, left the Congress, thereby preventing it from continuing its proceedings and from completing the process of election of the new SSS BiH leadership in a democratic fashion. This has caused a rift between, on the one hand, the minority of the sectoral trade unions within SSS BiH that support Mr. Bajramovic and the majority of the sectoral trade unions on the other. This rift has grown to such an extent that important members of SSS BiH publicly refused to acknowledge Mr. Bajramovic as president of SSS BiH any longer and several of them refused to continue paying the membership fee until the Congress of SSS BiH is reconvened and a new leadership is elected. Finally, for more than two months after the disruption of the Congress, Mr. Bajramovic continues to reject the constant calls of the majority of the sectoral trade unions within SSS BiH to reconvene the Congress. When acting in this manner, Mr. Bajramovic is not only in breach of the internal acts of SSS BiH but also of the country's applicable legislation. Domestic media have covered these developments closely and all this information is available in the public domain.

In view of the above, we reject all allegations made by Mr. Bajramovic that the Government has interfered in the SSS BiH election process. Put simply, the Government has had neither the intention nor the means to do so. It is important to note that the election process at the most recent SSS BiH Congress was based on the secret ballot, which by itself leaves no room for any interference. Finally, it is beyond obvious that Mr. Bajramovic has made these false allegations as an excuse to prevent any changes in the leadership of SSS BiH which depart from his expectations, given that the candidate that he favoured and supported as the new president of SSS BiH was rejected by a large majority of the trade union delegates.

We also strongly reject the false allegations made in Mr. Bajramovic's letter that my Government refuses to participate in the proceedings of the Economic and Social Council. As mentioned previously, my Government participated in by far the greatest number of ESC sessions in the history of the Federation of Bosnia and Herzegovina. Within the scope of the ESC proceedings, we only express opinions and give recommendations, never conditioning our participation in ESC sessions. , we regard the election process within SSS BiH as a strictly internal matter of SSS BiH. However, it is important to let you know that several ESC members, delegates of SSS BiH, including two SSS BiH vice-presidents, have publicly stated that they would not take part in any future ESC activities until Mr. Bajramovic allows the

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election process within SSS BiH to be completed. All this needs to be viewed in the context that our applicable legislation requires trade unions to hold elections periodically. We also reject allegations that we obstructed the ESC sessions "for five months". In this regard, I would like to inform you that in the last several months my Government has faced a major coalition crisis. As a result, I was frequently unable to convene regular Government sessions. Nevertheless, two attempts were made on my part to secure sufficient attendance of the Government ministers at the scheduled ESC sessions, but due to above mentioned broader political issues, both sessions had to be cancelled. Unfortunately, this situation, as is well known to our public and most certainly to SSS BiH, has continued for several months.

Moreover, the list of problems does not end here. The current SSS BiH leadership has for some time insisted to hold an ESC session dedicated to two discrete issues: a) drafting of the Workplace Safety Law, and b) setting a new level of the minimum wage. With no intention to derogate the role of ESC, we have had to question this initiative for very strong reasons. First, drafting of the Workplace Safety Law had already been completed through a series of consultations in which both the unions and the employers' association were involved, and this law had already been debated at ESC sessions. As a result, this piece of draft legislation has already been submitted to the Federation Parliament for deliberation and adoption. Second, pursuant to the Federation Labour Law, the Government has no role to play in the process of setting the minimum wage. This task has been entrusted to trade unions and the employers' associations. Consequently, the Federation Employers' Association also rejected the inclusion of this item into the ESC agenda, which made it impossible to hold this session.

Although Mr. Bajramovic is surely well aware of these considerations, as well as of all previously described circumstances, he nevertheless insisted on holding an ESC session with this agenda. This leaves not only the Government but also the third social partner with the impression that Mr. Bajramovic's intention has never been to continue the social dialogue but to get the Government involved in internal affairs and disputes within SSS BiH in order to avoid the resumption of the Congress and election of the new SSS BiH leadership in a democratic fashion and in accordance with the internal acts of SSS BiH and domestic legislation. In addition, one wonders why the current SSS BiH leadership insists on holding ESC sessions and reopening issues that had already been discussed or that the Government is by law excluded from discussing. Everyone should draw their own conclusions, however it is my duty not to allow the Government to be enmeshed in internal conflicts within SSS BiH or in discussions that exceed its prerogatives.

In conclusion, my Government will respond positively to any future ESC-related initiatives, provided they are formulated in line with the Agreement on Establishment of ESC, and that the proposed agenda falls within the Government's jurisdiction. With regard to ESC sessions, I would like to note that, unlike Mr. Bajramovic and SSS BiH, the Government has never blocked the Council's work. During the first half of 2016, it was Mr. Bajramovic and SSS BiH who unilaterally blocked the work of the ESC for six months, demanding that the Government interferes with the judicial and court processes. The decision to block the work of ESC was submitted to the Government in writing as official policy of SSS BiH. Nevertheless, we did not complain to ILO, although this was the most egregious example of obstructing the work of ESC. The ESC work resumed only after the majority of sectoral trade union members from

SSS BiH demanded from Mr. Bajramovic to allow a continuation of social dialogue. This act of Mr. Bajramovic and SSS BiH was in clear violation of the Agreement on Establishment of ESC. Moreover, the members of SSS BiH even demanded that the Government replaces its appointed negotiators in the collective bargaining process, thereby interfering with the work of the Government. Furthermore, in one of his latest letters to the Government, Mr. Bajramovic expressed the view that the Government should not send any legislation to the Parliament without the ESC consent, which is also in breach of the above mentioned agreement, which gives this Council a consultative role. Such a demand is also in breach of the Federation Constitution, which clearly defines the Government as responsible only to the Federation Parliament. In conjunction with everything described above, this clearly shows that it is Mr. Bajramovic and SSS BiH, and not the Government, who seek to abuse their position, obstruct the work of ESC and interfere with the functioning of the Government.

The fact that my Government is in an election year should not be used by any social partners to manipulate social dialogue. It is a well-known fact that Mr. Bajramovic and SSS BiH signed an agreement on a set of joint actions with the opposition political parties. Both my Government and ILO should steer clear from being drawn into day-to-day politics, as SSS BiH is clearly trying to do.

It is my hope that this letter may help clarify the complex circumstances facing not only SSS BiH but also the Government of the Federation of BiH. Our commitment to strengthening ESC remains strong. In this regard, we recently shared with both social partners a set of ideas about improving the work of ESC, and we also embarked on a process of drafting the ESC Law. Short-term problems with scheduling ESC sessions should not overshadow the fact that the social dialogue with all sectoral trade unions associations, members of SSS BiH, is well underway and that it is reinforced by frequent consultations and regular negotiations of collective bargaining agreements.

I remain at your disposal for any further clarification.

Yours faithfully,

Fadil Novalić

PRIME MINISTER

cc.

H. E. Ambassador Lars-Gunnar Wigemark, Head of Delegation and Special Representative
Delegation of the European Union to Bosnia and Herzegovina and European Union Special
Representative in Bosnia and Herzegovina

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