

BOSNIA AND HERZEGOVINA

**DECENT WORK COUNTRY PROGRAMME
DOCUMENT
2008 - 2010**



DECENT WORK COUNTRY PROGRAMME DOCUMENT FOR BOSNIA AND HERZEGOVINA 2008 - 2010

This Programme reflects the strategic planning of the ILO cooperation activities with Bosnia and Herzegovina for the period 2008-2010 and has been prepared with the ILO Constituents with aim of promoting decent work as a key component of development policies and at the same time as a national policy objective of governments and social partners.

Three main Priorities have been identified that will set the direction and scope of action of the ILO's assistance in three-year period. These are:

- Priority 1: Strengthening capacity of government institutions and the social partners to improve the governance of the labour market at state, entity and district levels.
- Priority 2: Measures to reduce the informal economy agreed upon and implemented by the government in consultation with the social partners.
- Priority 3: Improved social protection policy development.

By signing hereunder the participating parties endorse the DCWP and underscore their joint commitment to the fulfilment of its goals.

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CONTENTS

Abbreviations	ii
Introduction	1
I. The current situation from a Decent Work perspective	1
II. Lessons learned from previous cooperation	3
III. Priority areas of cooperation	4
Priority 1: Strengthening capacity of government institutions and the social partners to improve the governance of the labour market at state, entity and district levels	5
Priority 2: Measures to reduce the informal economy agreed upon and implemented by the government in consultation with the social partners	6
Priority 3: Improved social protection policy development	7
IV. Management and implementation	8
V. Performance monitoring and evaluation arrangements	8

ABBREVIATIONS

BD	Brcko District of Bosnia and Herzegovina
BiH	Bosnia and Herzegovina
CDS	Country Development Strategy
DWCP	Decent Work Country Programme
EO	Employers' organisation
ESC	Economic-Social Council
EU	European Union
FBIH	Federation of Bosnia and Herzegovina
ILO	International Labour Organization
LDS	Labour Dispute Settlement
MDGs	Millennium Development Goals
MTDS	Mid-Term Development Strategy
OSH	Occupational Safety and Health
PRSP	Poverty Reduction Strategy Paper
RS	Republika Srpska
SAA	Stabilisation and Accession Agreement
SIS	Social Inclusion Strategy
SRO	Sub-Regional Office
TU	Trade Unions
UN	United Nations
UNDAF	United Nations Development Assistance Framework

INTRODUCTION

The primary goal of the ILO is to promote opportunities for women and men to obtain decent and productive work in conditions of freedom, equity, security and human dignity. Decent Work Country Programmes (DWCPs) promote decent work as a key component of development policies and at the same time as a national policy objective of governments and social partners. The present country programme is informed by international development agendas such as the Millennium Development Goals, as well as the United Nations Development Assistance Framework (UNDAF) based on the national development objectives. It also takes account of the priorities of the ILO constituents, as expressed in consultations held with them. The programme details the policies, strategies and results required to realise progress towards decent work for all. This document reflects the strategic planning of ILO cooperation activities with Bosnia and Herzegovina for the period 2008-2010. Reflecting the constituents' as well as the ILO experts' assessment of past cooperation, the programme aims at ensuring greater synergies and stronger coherence of ILO activities in Bosnia and Herzegovina and thus contribute to achieving sustainable results.

The established competencies in Bosnia and Herzegovina in the areas covered by the DWCP will be observed entirely throughout its implementation.

I. THE CURRENT SITUATION FROM A DECENT WORK PERSPECTIVE

Immediately after the war and supported by international assistance, BiH has embarked on a process of physical, economic and social reconstruction. Though carried out in the context of complex governance structures with different paces, a number of results have been achieved. These results are mirrored in the renewed infrastructure, progress in economic reconstruction and stability, generally low inflation, advanced privatisation and progress in finance, trade policy and public administration reform. However, the implementation of some other structural reforms has been slow and uneven.

The first (revised) National Development Strategy 2004-2007 (MTDS/PRSP) aimed at the transformation of a largely aid-dependent economy into a self-sustainable economy, and also at poverty reduction. It had three main policy goals a) create the conditions for sustainable and balanced economic development; b) reduce poverty by 20 percent, and c) accelerate EU integration. Although the Country Development Strategy 2008-2013 (CDS) is still under the preparation, it is likely that the main policy goals will be strengthening of macroeconomic stability, sustainable development, competitiveness, employment, EU integrations and social inclusion. Along with the preparation of the CDS, the preparation of the Social Inclusion Strategy (SIS) is also underway. The SIS will most likely be focused on the improvement of pension policy and employment and social policies along with other issues such as improvement of health and education systems. Another important document on key structural reforms is the Platform for Action signed in October 2007 by the Chairperson of the Council of Ministers, entity Prime Ministers and the Mayor of the Brcko District. The Platform for Action aims at accelerating the implementation of urgent reforms to attract investments, accelerate job creation and improve living standards in the country.

The negotiations with the EU on the Stabilization and Accession Agreement (SAA), which had been launched in 2005, were completed with the signature of the SAA on 16th June 2008. The conclusion of the SAA is the first step towards the institutionalisation of relations between BiH and the EU enabling gradual preparation of BiH for acquiring full membership of the EU.

Over the past decade, the country has made progress, albeit to a different extent, in the areas promoted by the Decent Work¹ Agenda. For example, the country has ratified several social dialogue-related conventions including fundamental conventions No. 87 on Freedom of Association, No. 98 on the Right to Organise and Bargain Collectively and priority convention No. 144 on Tripartite Consultation. At the same time, and in accordance with the BiH Constitution, each Entity and the Brcko District has shaped a legal framework which regulates labour relations between employers and workers and their organisations. At the State level, two important laws have been adopted²; they govern labour relations in the public service at the State level. Employers' and workers' organizations have been formed at both the entity/Brcko District (BD) and the State level and have started to operate. However, there are still some legal and procedural obstacles in the legislation-procedure of registration, which prevent workers' organisations from registering and functioning normally in order to further the interests of their membership. This situation appears to be hindering the promotion of an effective tripartite social dialogue at State level.

There are Economic and Social Councils operating in both Entities and in the BD as well as in certain Cantons of the FBiH. They serve as bodies for tripartite social dialogue between public authorities and social partners. In the two Entities and in BD, social partners are consulted over a broad range of economic and social issues including draft laws in the field of social and labour policy, the minimum wage and other related issues.

Tripartism and social dialogue are thus familiar concepts; tripartite bodies discuss a range of economic and social issues. Employers and workers and their respective organizations negotiate working conditions at sectoral and enterprise levels; labour and employment laws compatible with a market economy are in place, as well as a social protection system.

Despite efforts regarding enforcement of labour legislation, e.g. labour inspections report on a number of activities undertaken to combat illegal employment, there are many other aspects of violation of the labour law, such as non payment of wages and social contributions, discrimination at work, and so forth. Although, the laws governing registration requirements are in place and employers' and workers' organisations operate, there remain difficulties regarding the freedom of association in both legislation and practice as assessed by the ILO's supervisory bodies.

Although many bipartite collective agreements are concluded, collective bargaining at sectoral and enterprise levels requires further improvement, including the setting up of mechanisms for industrial dispute settlement. Despite the fact that the establishment of an Economic and Social Council at the state level was envisaged by the MTDS 2004-2007 and also agreed with the ILO Constituents when developing the previous Decent Work Country Programme, it has not yet been set up.

In BiH, a system of conciliation and mediation to help workers and employers settle their disputes amicably is in the early stage of development in the two Entities and the BD. Following the adoption of the Law of Mediation Procedure of BiH in 2004 an Association of Mediators was created in the FBiH in March 2002 (there is no association of mediators at the level of entity). It appears that the services offered by this institution are rarely used by employers and workers. One of the reasons for this situation is that current mediators are not specialised in labour disputes but deal with all sorts of civil disputes (family, property disputes, etc.). The same can be said about the institutions in the RS and the BD. As a result, disputes at an enterprise are still dealt with by industrial action or court litigation, thus undermining peace at the work place, which is often already fragile due to the problems of enterprise restructuring (privatisation and the like) and the consequences for job security. Dispute resolution in the public service at the State level also requires some attention.

¹ The ILO defines Decent Work as follows: "to promote opportunities for men and women to obtain decent and productive work in conditions of freedom, equity, security and dignity", Report of the Director General to the ILC, June 1999, Geneva.

² The Law on Civil Service in BiH Institutions and the Law on Labour in BiH Institutions.

This situation needs to be addressed and the Associations of Mediators operating at entity level and in the BD need to be assisted in developing competencies in the broad field of labour relations related disputes. Awareness raising and training of the team of mediators on labour relations issues and modern techniques of mediation and arbitration are key for the reestablishment of the Associations of Mediators credibility *vis-à-vis* the social partners and the success of their work.

Despite the sustained economic growth rate of 5.7 per cent over the triennium 2004-2006, employment growth has been less than satisfactory during the same period.³ In 2006, the overall employment rate was as low as 35 per cent, with a huge disparity between rates for men and women (46.1 and 24 per cent, respectively), while the share of informal employment is estimated at one-third of total employment. Informality is directly related to age, since more than 50 per cent of young workers are engaged in informal employment compared with approximately 29 per cent of prime-age workers in the age bracket 25-49. The move of both informal workers and enterprises to the formal economy remains a priority high in the agenda of policy-makers. Although the latest data available from the 2007 Labour Force Survey indicate that between 2006 and 2007, unemployment fell by 2 percentage points, the current overall rate is set at 29 per cent. Unemployment, being a major determinant of poverty, is still very high and although envisaged by the MTDS 2004-2007, the country still does not have an active policy on employment. Unemployment is particularly widespread among young persons. In 2006, the overall youth unemployment rate was 62.3 per cent, one of the highest worldwide. Although the ratio youth-to-adult unemployment rates of 2.2 are similar to the average rate for the Western Balkans sub region, the level of youth unemployment has become alarmingly high. Further, periods of unemployment are of a long-term nature (on average more than two years) and hit harder women and low skilled workers, especially those above 45 years of age. The overall rate of inactivity of 48.7 is also very high and is mostly due to non-participation of women in the labour market. In 2006, female inactivity rate was almost double that of male (62.6 and 34.5 per cent, respectively).

Despite the fact that poverty has decreased during the period 2004-2007, about 20 percent of the population still live in poverty. Poor living standards and war casualties are among the main reasons why the system of social protection is continually pressed by a demand for various types of benefits, the financing of which requires huge budgetary allocations.

The Decent Work Country Programme 2008-2010 will further ILO assistance to the country in implementing its development and social inclusion agendas, along with other international organisations. It mirrors the Constituents' priorities taking into account the policy goals of the CDS 2008-2013 and the Platform for Action signed in October 2007. It is also informed by the international development agendas: the Millennium Development Goals (MDGs) and United Nations Development Assistance Framework 2005-2008 (UNDAF), where the latter articulates the major challenges for BiH, out of which the outcomes related to governance and social protection, are reflected in the country programme and the UNDAF 2010-2014 where the linkages are evident with the outcomes related to Democratic Governance and Social Inclusion. As the member of the UN Family in BiH, ILO cooperates with other UN Agencies through country-based UN Theme Groups on Gender and HIV/AIDS and development and implementation of joint project proposals and activities.

II. LESSONS LEARNED FROM PREVIOUS COOPERATION

The 2006-2007 DWCP for Bosnia and Herzegovina was finalised in early 2006 based on consultations with the Constituents. Although it was not formally signed, it was endorsed by the Governments through an exchange of letters. As well as being involved in all stages of the Programme, the ILO's National Coordinator organised a final evaluation with all the constituents in the form of individual

³ The data on the labour market indicators is from the Bosnian Labour Force Surveys of 2006 and 2007, and from the Employment Policy Review of Bosnia and Herzegovina, International Labour Organization and Council of Europe, Strasbourg (forthcoming).

meetings with the representatives of the Governments and employers' and workers' organisations in January and February 2008.

The final self-evaluation revealed that the ILO's technical assistance in assisting the Council of Ministers to better fulfil its constitutional obligations was successful. A backlog of Article 22 obligations was eliminated and the Council of Ministers has also undertaken steps concerning the submission of international labour standards adopted by the ILC since 1993 onwards to the national authorities.

As an Agreement on the Economic and Social Council at the state level has not been signed yet the ILO was requested to continue providing support to the Constituents in that regard. At the same time, the legal and procedural obstacles to the exercise of the right to freedom of association and collective bargaining have not been removed as requested by ILO supervisory bodies. The ILO will keep working in the present triennium with Bosnian authorities in order to bring the FOA legislation and practice into conformity with the principles of international labour standards. At the level of the Entities the social partners believe that their viewpoints are not given sufficient consideration by the Governments. Along with their concerns, representativity of social partners and establishment of proper criteria will likely be an issue to be dealt with in this programme.

In the field of employment, the Country Review of Employment Policy for BiH was made and its recommendations, pending final approval of the Constituents, will be used when developing further activities.

In the field of social security policy development the Governments and the social partners claimed a common understanding of ILO's minimum standards. Nevertheless, it was requested to continue the work on establishing tripartite boards in social security institutions and involving social partners in pension reform. In the area of occupational safety and health (OSH), the ILO provided comments on the OSH Laws both in Republika Srpska and in the Federation of BiH. The OSH Law entered into force as of January 2008 in Republika Srpska, while in the Federation of BiH it entered into the parliamentary procedure. The social partners in the Federation of BiH complained that the Draft OSH Law was not discussed at the ESC. The ILO's methodologies and tools are applied by the labour inspectors and the ILO was highly praised for the support given in this regard. A group of trade unions' experts were trained on OSH matters, an activity that was requested by the employers to be replicated for them in this triennium.

As a general remark, the self-evaluation exercise revealed that the constituents need to improve their understanding of the Decent Work Agenda and the UNDAF, as well as their role related to it. Long periods of inactivity between two consequent ILO activities were reported and more feedback was requested.

The overall finding was that the timely delivered and high quality assistance was useful in all areas of interventions. However, it was proposed to change the modality of the operation and create a body consisting of the ILO and Constituents' representatives with the aim to increase the accountability of all sides involved in the implementation process of the new DWCP.

III. PRIORITY AREAS OF COOPERATION

Considering the lessons learned during past cooperation, the ILO will aim at reinforcing the Constituents' capacities and enlarging the influence of the ILO Decent Work policy in line with the Millennium Development Goals for Bosnia and Herzegovina, UN Common Country Assessment and the Government action programmes. The strategy will be to work with the close involvement of the Constituents and multilateral and bilateral donors

Within the overarching theme of "Decent Work for All" the ILO will concentrate on three country programme priorities in Bosnia and Herzegovina in this period 2008-2010, which should be seen as long-term goals:

- I. Strengthening the capacity of government institutions and the social partners to improve the governance of the labour market at state, entity and district levels.
- II. Measures to reduce the informal economy agreed upon and implemented by the government in consultation with the social partners.
- III. Improved social protection policy development.

The ILO has a comparative advantage in developing programmes, plans and in delivering technical cooperation programmes that aim to attain the above-mentioned goals. More specifically, the ILO's Secretariat has a long-standing experience and technical expertise in the areas of labour standards, employment promotion, social protection and social dialogue. The latter has implemented a number of projects in Central and Eastern Europe to the full satisfaction of donors and recipient countries.

Priority 1: Strengthening capacity of government institutions and the social partners to improve the governance of the labour market at state, entity and district levels

The need for stronger institutions that are able to implement the reform processes related to the EU-SAA, the CDS and SIS 2008-2013 and the Platform for Action are crosscutting all development priorities. The ILO capacity building interventions will target the actors of social dialogue and the institutions of social dialogue.

Outcome 1.1: Economic and Social Council at the state level is established and functioning (BIH 101)

In the past years the ILO has been working with the constituents on this issue, however, due to several reasons the ESC has not been established at the state level yet. Pursuant to the Tripartite Constituents' request, technical assistance will be provided to them to create conditions to establish a State ESC.

Outcome Indicators:

- Objective representativity criteria for sitting in the ESC are agreed by the Social Partners and the Council of Ministers
- A tripartite agreement on the establishment of the ESC at state level is finalised and signed while taking into consideration the Constitution of BiH and other relevant laws of the country.
- The Council of Ministers initiates the creation of the ESC and allocates resources for the functioning of its secretariat (premises, recruitment of staff, and allocation of budget).
- The representative Social Partners and relevant state ministries nominate their members in the ESC, including a number of women
- The ESC adopts internal regulations, elects the chair person and establishes its working plans.
- ESC minutes indicate active involvement of the social partners in BiH.

Outcome 1.2: Efficient labour administration including an effective dispute settlement mechanism at state, entity and district levels (BIH 103)

The ILO will assist the tripartite Constituents at state, entity and district levels to strengthen the existing mechanisms and establish new alternative systems of labour disputes where they do not exist.

The technical assistance provided by the ILO will include:

- technical advice to the concerned ministries and social partners on the formulation of a policy of prevention of labour disputes
- training of designated teams of mediators/conciliators on mediation/conciliation techniques for Labour Disputes Settlement (LDS) in a pre-judiciary phase
- participation of a tripartite delegation in the regional conference on LDS targeting the countries of Western Balkans and Moldova.

Outcome Indicators:

- An action plan is approved for state, each entity and BD on a tripartite basis to create and/or strengthen an alternative system for amicable settlement of labour disputes.
- The line Ministries at state, entity and district levels initiate the implementation of the action plan and allocate resources within their own budget.
- Gender balanced teams of mediators/conciliators, designated in collaboration with the Social Partners, are trained on LDS and the procedure of mediation /consultation, defined in consultation with the Social Partners, becomes operational.

Outcome 1.3: Increased value of employers' and workers' organizations to existing and potential membership through the provision of new and better services. (BIH 104)

As a follow-up to previous work and in order to reinforce and empower trade union women the ILO will support the inclusion of women from the existing women networks at the country level in collective bargaining and help them to effectively participate in bargaining processes and mainstreaming gender in collective agreements.

Strengthening employers' organisations will on one hand support building membership and providing services to its members and on the other hand the capacity building will target developing expertise on particular issues of relevance and concern.

Outcome Indicators:

- Trade unions have improved services and thus their membership increases; they have improved public visibility, gender is mainstreamed in collective agreements.
- Employers' organisations have new or better services developed for members which will lead to increased membership; issues of importance to employers will be more widely understood in the community and the employers will provide effective representation of members.

Priority 2: Measures to reduce the informal economy agreed upon and implemented by the government in consultation with the social partners

Transforming of informal employment into the formal is a high priority of the government. There is a need for enhanced coordination among institutions and the development of an integrated strategy to fight the problem.

Outcome 2.1: Improved coordination mechanisms are in place at Entity and the BD levels and including the social partners, to implement measures to promote transition from the informal to the formal economy (BIH 126)

The ILO will provide technical assistance to the Constituents at the Entity and BD levels to address the problem of the informal economy and promote cooperation among different institutions involved in the fight against undeclared work

Outcome Indicators:

- An integrated strategy is defined and started to be implemented to address the problem of the informal economy based on full cooperation between the government and social partners.
- Gender equality issues are mainstreamed in the defined strategy.

Outcome 2.2: A more business friendly legal environment is in place and measures aimed to increase productivity and quality of work to encourage enterprises and workers to engage in the formal economy (BIH 127)

Social partners will receive assistance to be able to address and actively contribute to reducing the informal economy.

Outcome Indicators:

- Strategies for increasing TU membership developed.
- EO report of analysed survey results including barriers to employers entering the formal economy produced.
- Workshop report identifies measures to assist employers moving to the formal economy.
- Awareness-raising action plan developed and implemented by employers.
- Submissions to Government developed and presented proposing changes to legislative environment.

Outcome 2.3: Local economic and employment strategies, programmes and tools are developed and implemented to improve quality of employment together with competitiveness of enterprises. (BiH128)

The ILO will provide technical assistance to local institutions, including the social partners, in order to increase understanding of the causes and magnitude of the informal economy and devise strategies that promote employment in the formal economy. This will be done through the implementation of demonstration projects targeting specific economic sub-sectors and geographical areas. The capacity to design and implement employment programmes will be strengthened through the technical assistance to employment services, including through the development of operational tools and techniques for service delivery. Lessons learnt from pilot implementation will be used for replication of similar strategies, programmes and tools in other sectors and locations

Outcome Indicators:

- The linkages between the informal economy and competitiveness are explored.
- Assistance is provided locally in the transition from informal to responsible and sustainable economy.
- Upscale strategies and plans of action to tackle informal economy are available.

Priority 3: Improved social protection policy development

The technical assistance provided by the ILO aims to share the knowledge with the government and social partners and provide information on the various policy options for decision making.

Outcome 3.1: Pension reform strategies are agreed based on tripartite consultations, following the guidance of ILO Convention No. 102 (BIH 151)

The ILO will assist its tripartite constituents in framing the options of pension reform policy through technical assistance and in building capacity to implement pension reform.

Outcome Indicators:

- New pension law is adopted and implementation starts.

Outcome 3.2: Improved mechanisms of social security governance are in place with the active participation of social partners (BIH 152)

The capacity of social partners will be strengthened in order to be actively involved in the pension reform debate. The creation of a mechanism to reflect the voices of social partners is a key issue in the coming reform, as well as in pension scheme governance in general.

Outcome Indicators:

- Normative preconditions for the establishment of improved mechanisms of social security governance with the active participation of social partners are in place.
- Social partners are actively involved in the policy making and decision making process of pension reform.

- Views of the social partners are properly reflected in the management of the social security systems.

Outcome 3.3: Labour, and where appropriate administrative, inspections and social partners use ILO tools and procedures, designed to improve OSH (BIH 153)

The administrative inspections are also included because they are in charge to supervise the application of the laws applied to civil servants and employees in the institutions. The employment relationship in civil service is governed by separate laws and someone needs to supervise its application.

The ILO will provide technical assistance to improve the OSH system and promote the ILO Convention 187 on the promotional framework of OSH. Assistance will be provided to tripartite constituents to improve their capacity to develop and implement OSH strategy. This will be done as a follow-up to the 2003 ILC General Discussion on OSH.

Outcome Indicators:

- ILOs technical assistance is used to design and develop the national OSH system.
- Trade union OSH experts use ILO tools.
- Employer representatives trained on OSH tools
- Tripartite consensus formed for the ratification of the C. 187

IV. MANAGEMENT AND IMPLEMENTATION

The cooperation programme will be managed through a network among SRO Budapest, the National Coordinator in Sarajevo, the Regional Office for Europe and technical units at headquarters in Geneva. The National Coordinator will play a coordination role together with SRO Budapest. The ILO will continue its cooperation with major stakeholders in the country such as the UN under the framework of the UNDAF, the World Bank and the EC Delegation.

The objectives of the programme will be pursued through technical cooperation projects, advisory missions, and seminars for information dissemination and capacity building. Extra-budgetary resources and the ILO's regular budget resources will be used to finance the implementation of this Country Programme. The ILO network mentioned will continue to mobilize further resources for the follow-up to the results achieved, bearing in mind priority concerns of the constituents. The government and the social partners will facilitate their respective expert staff and premises and provide logistic support, as appropriate. They are committed to implementing the follow-up steps necessary to achieve the expected results in accordance with the DWCP work plan which will be developed.

V. PERFORMANCE MONITORING AND EVALUATION ARRANGEMENTS

The implementation of the Decent Work Country Programme will be reviewed on a regular basis with the constituents using interactive methods. The missions of the ILO experts and their internal reports will be used as part of the monitoring process. Every six months, the Decent Work Country Programme implementation plan will be internally reviewed by an Overview Board consisting of the representatives of the Constituents and the National Coordinator. The SRO Director will assess the programme achievements with the constituents in Bosnia and Herzegovina at least once per triennium. On a yearly basis, the Decent Work Country Programme implementation plan will be internally reviewed and adjustments will be made to reflect changed circumstances, as necessary, in order to improve the implementation strategy.