

BOSNIA-HERZEGOVINA

Items	Regulations in force on 1 January 2015
1: Notification procedures in the case of individual dismissal of a worker with a regular contract	<p><i>Republic of Srpska (RS):</i> In accordance with Article 127 of the Labor Law (hereinafter: ZOR) termination of employment shall be given by the employer in writing, including the reasons for canceling the contract (compulsory). A copy of the notification of termination has to be delivered to the worker.</p> <p><i>Federation of Bosnia and Herzegovina (FBiH):</i> Termination of employment, including the appropriate explanation, shall be given in writing (Article 94 of the Labour Act).</p> <p>Only with prior approval of the Employee Council, an employer may decide on:</p> <ul style="list-style-type: none"> • termination of the contract for an employee who is member of the Employee Council; • termination of the contract for an employee with altered working ability or who is in immediate danger of disability; • dismissal of a male employee older than 55 years and a woman employee aged 50 or more. <p>If the Employee Council doesn't respond within 10 days after receiving notice, it is considered that it is giving its consent. If the employee council withholds approval for the decision referred to in paragraph 1 of this Article, the dispute resolution is entrusted to arbitration (Article 26 of the Act on the council of employees).</p> <p>Calculation: average of less and more than 50/55 $(1+3)/2=2$</p>
2: Delay involved before notice can start	<p><i>RS:</i> No special reasons are required for delay.</p> <p><i>FBiH:</i> In the case of employees covered by additional protection according to Article 26 of the Act on the council of employees, the Council shall, within 10 days, provide or refuse the approval in writing.</p>
3: Length of notice period at different tenure durations (a)	<p><i>RS:</i> Article 128 (Labour Law): The notice period may not be shorter than 30 calendar days if the employer is the one terminating the employment contract.</p> <p><i>FBiH:</i> Article 95 (Labour Law): The notice period shall not be less than 15 days nor more than six months, and the specific length of the notice period shall be regulated by the collective agreement and the rulebook. The notice period begins to run from the date of the delivery of notice to the employee or the employer.</p>
4: Severance pay at different tenure durations (a)	<p><i>RS:</i> A worker who has concluded a contract of indefinite duration, and where employment was terminated by the employer, after at least two years of continuous employment with the employer, the employer is obliged to pay a severance. The amount of severance pay shall be determined by the collective agreement, rule book and employment contract, but cannot be less than one third of the average monthly wages of the last three months for each full year of service with the employer (Art. 141 ZOR), and depends on the length of service of the employee with the employer.</p> <p><i>FBiH:</i> The right to severance pay in the event of termination of employment with employees who have a contract for an indefinite period, provided that the contract is terminated after at least two years of work, and the reasons for dismissal are not breaches of obligation or non-fulfillment of obligations under the employment contract. Severance pay is determined by the collective agreement, rule book and employment contract but can not be set at an amount less than one-third of the monthly salary paid to the employee in the last three months before retirement, for each year of work with the employer (Article 100 of the Labour Act). The law permits the employee and the employer agree on another form of compensation.</p>

<p>5: Definition of unfair dismissal (b)</p>	<p><i>RS:</i> The employer may terminate the employment contract (justified reasons Art. 126 ZOR):</p> <ol style="list-style-type: none"> 1. If the employee has committed a serious breach of obligations, 2. For economic, organizational and technological reasons necessary, 3. If the worker, given its expertise and ability to work, is not performing the obligations of the contract, 4. If a worker, within five working days from the date of expiry of unpaid leave or mode of labor rights, do not return to work. <p>Any other reasons considered inadequate reasons. Termination of contract for economic reasons is possible only if, given the size, capacity and economic situation of the employer, the latter cannot be reasonably expected to assign the employee to other work or to train the employee in order to qualify him/her for other work.</p> <p><i>FBiH:</i> Cancellation of employment contracts is permitted if the reasons for this are of economic, organizational or technical nature, or if the employee is unable to perform its obligations arising from employment. The Labour Act does not clearly define unjustified (unfair) reasons for termination of employment contract, but they arise from other legal norms, such as provisions on non-discrimination, trade union membership, participation in a strike organized in accordance with the law and the like. Termination of contract for economic reasons is possible only if, given the size, capacity and economic situation of the employer, the latter cannot be reasonably expected to assign the employee to other work or to train the employee in order to qualify him/her for other work.</p>
<p>6: Length of trial period (c)</p>	<p><i>RS:</i> The employment contract may provide for a trial period for workers, which can be up to three months (contract for a trial period). Exceptionally, this period may be extended by mutual agreement for up to three months (Art. 21 ZOR).</p> <p><i>FBiH:</i> The Labour Code provides the possibility of contracting the probation period may not exceed six months (Art. 18 Labour Law).</p>
<p>7: Compensation following unfair dismissal (d)</p>	<p><i>RS:</i> Article 130 ZOR states that if the competent court determines that the termination of the employment contract is unlawful, the employer will be obliged to reinstate the employee. The employee shall perform the same tasks as before the contract termination, or similar task corresponding to the employee's expertise and experience. The employer shall pay him a compensation for lost wages and other benefits to which the employee is entitled under the collective agreement, rulebook and employment contract.</p> <p><i>FBiH:</i> In the event of unfair dismissal, the court may order the employer to pay the employee a compensation in the amount he would pay an employee if he were working; compensation for the damage suffered, the severance pay to which the employee is entitled in accordance with the law, collective agreement and labor and other benefits to which the employee is entitled in accordance with the law, collective agreement and the rulebook. (Article 96 paragraph 2 of the Labour Act).</p>
<p>8: Reinstatement option for the employee following unfair dismissal (b)</p>	<p><i>RS:</i> See item 7.</p> <p><i>FBiH:</i> In the event of unfair dismissal, the court may oblige the employer to reinstate the employee in his previous job, or other appropriate job, or pay him compensation in the amount he would pay an employee if he were working and compensate him for damages caused (Article 96 paragraph 2 of the Labour Act).</p>
<p>9: Maximum time period after dismissal up to which an unfair dismissal claim can be made (e)</p>	<p><i>RS:</i> Article 118 of the Labour Act: An employee who believes that his employer has violated the right of employment, may file a complaint with the competent court. Lawsuit to protect the rights of the worker may be filed within one year from the date of "knowledge of such violation" (<i>dismissal notification</i>), and not later than three years from the date of the violation.</p> <p><i>FBiH:</i> Article 103 of the Labour Act: An employee may file a complaint before the competent court for violation of employment within one year from the date of receipt of the decision about the violation of labor rights.</p>
<p>10: Valid cases for use of standard fixed term contracts</p>	<p><i>RS:</i> In accordance with Article 16 ZOR, an employment contract for a definite period may be concluded in the following cases:</p> <ul style="list-style-type: none"> - Execution job for up to six months; - Temporary increase of the workload; - Replacing the absent worker up to a year; - Perform work whose duration is predetermined by nature and type of job. <p><i>FBiH:</i> An employment contract is concluded for an indefinite or definite time. An employment contract for a definite period may not last more than two years (Art. 19 Labour Law)</p>

11: Maximum number of successive standard FTCs (initial contract plus renewals and/or prolongations)	<p><i>RS:</i> No limit.</p> <p><i>FBiH:</i> There is no limit to the number of fixed term contracts in the framework of the two-year limitation period of the contract.</p>
12: Maximum cumulated duration of successive standard FTCs	<p><i>RS:</i> 24 months</p> <p><i>FBiH:</i> Employers may conclude successive fixed-term contracts, but their cumulative time without interruption, can not be longer than two years</p>
13: Types of work for which temporary work agency (TWA) employment is legal	<p><i>RS:</i> In RS there are no temporary employment agencies, and this kind of work engagement is not foreseen in regulations that cover labor and employment.</p> <p><i>FBiH:</i> Labor regulations, labor relations and employment do not contain provisions on the agency for temporary employment.</p>
14: Are there restrictions on the number of renewals and/or prolongations of TWA assignments? (f)	<p><i>RS:</i> not applicable. <i>FBiH:</i> not applicable.</p>
15: Maximum cumulated duration of TWA assignments (f)	<p><i>RS:</i> not applicable. <i>FBiH:</i> not applicable.</p>
16: Does the set-up of a TWA require authorisation or reporting obligations?	<p><i>RS:</i> not applicable. <i>FBiH:</i> not applicable.</p>
17: Do regulations ensure equal treatment of regular workers and agency workers at the user firm?	<p><i>RS:</i> not applicable. <i>FBiH:</i> not applicable.</p>
18: Definition of collective dismissal (b)	<p><i>RS:</i> In accordance with Article 138 ZOR any employer employing more than 15 workers, and who in the period of next three months intends to, due to the reduction in volume and other economic, technological and organizational reasons, dismiss at least 10% of total employees, but no less than five workers, shall consult with work councils, or, if in the employer has not established advice workers, with unions representing at least 10% of employees.</p> <p><i>FBiH:</i> An employer who employs more than 15 employees and who in the period of the next three months intend to, due to economic, technical or organizational reasons, terminate contracts of employment for more than 10% of the employees and at least five, has an obligation to consult with the works council or union if the employee council has not been established.</p>
19: Additional notification requirements in cases of collective dismissal (g)	<p><i>RS:</i> In order to undertake the consultations under Article 138 of this Code, the employer shall, in writing, no later than 30 days prior to termination of employment contract workers, inform the worker's council (or union), about the following:</p> <ul style="list-style-type: none"> - The reasons for the termination of the workers, - Number and qualifications of workers who need to stop working relationship, - Measures which might avoid termination of employment to all or a specific number of workers (through the deployment of a number of workers to other jobs, retraining, working time reduction, etc.), - Measures to facilitate the employment of workers with other employers. <p><i>FBiH:</i> Any employer who plans to terminate the contracts of employment for economic, technical or organizational reasons of more than 10% of employees or a minimum of five has the obligation to consult with the council of employees or the union if council of employees has not been established (Article 23 of the Act on the council of employees). Consultations are based on a written document prepared by the employer and start at least 30 days prior to making a final decision. The council shall within seven days submit suggestions and comments on the intended decision of the employer. The decision rendered by the employer without the aforementioned consultation is null and void (Article 25 of the Act on the council of employees).</p>

20: Additional delays involved in cases of collective dismissal (h)	<i>RS:</i> 30 days (see Item 19) <i>FBiH:</i> 30 days (see Item 19)
21: Other special costs to employers in case of collective dismissals (i)	<i>RS:</i> Not prescribed fees in these cases. <i>FBiH:</i> The employer is obliged to deliver to the council of employees for consultation a plan of the measures which it considers could be used to avoid some or all the anticipated dismissals, such as the redeployment of employees to job retraining, temporary reduction of working time, etc.

Legend: d: days; w: weeks; m: months; y: years. For example "1m < 3y" means "1 month of notice (or severance) pay is required when length of service is below 3 years".

Notes:

- a) Three tenure durations (9 months, 4 years, 20 years). Case of a regular employee with tenure beyond any trial period, dismissed on personal grounds or economic redundancy, but without fault (where relevant, calculations of scores to compute OECD EPL indicators assume that the worker was 35 years old at the start of employment). Averages are taken where different situations apply – e.g. blue collar and white collar; dismissals for personal reasons and for redundancy.
- b) Based also on case law, if court practice tends to be more (or less) restrictive than what specified in legislation.
- c) Initial period within which regular contracts are not fully covered by employment protection provisions and unfair dismissal claims cannot usually be made.
- d) Typical compensation at 20 years of tenure, including back pay and other compensation (e.g. for future lost earnings in lieu of reinstatement or psychological injury), but excluding ordinary severance pay and pay in lieu of notice. Where relevant, calculations of scores to compute OECD EPL indicators assume that the worker was 35 years old at the start of employment and that a court case takes 6 months on average. Description based also on case law.
- e) Maximum time period after dismissal up to which an unfair dismissal claim can be made.
- f) Description based on both regulations on number and duration of the contract(s) between the temporary work agency and the employee and regulations on the number and duration of the assignment(s) with the same user firm.
- g) Notification requirements to works councils (or employee representatives), and to government authorities such as public employment offices. Only requirements on top of those requirements applying to individual redundancy dismissal count for the OECD EPL indicators (cf. Item 1).
- h) Additional delays and notice periods in the case of collective dismissal (only delays on top of those required for individual dismissals – as reported in Items 2 and 3 – count for the OECD EPL indicators).
- i) This refers to whether there are additional severance pay requirements and whether social compensation plans (detailing measures of reemployment, retraining, outplacement, etc.) are obligatory or common practice.