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► Workers' representatives in Bosnia and Herzegovina:

Filling a gap in labour rights protection or trade
union competition?

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► Introduction

Representatives of workers who participate in the protection of their socioeconomic interests and collective and individual rights usually belong to two widely recognized organizations – trade unions and works councils. A trade union is a professional organization of workers that protects the socioeconomic interests of its members. “The concept of a trade union also includes the association of trade unions (at lower levels of organization) into various forms of union organization at the national and international level – trade union federations (sectoral, branch, industrial union) and trade union confederations (so-called union headquarters at national or international levels)” (Lubarda 2013, 815). Employers also establish their associations through which they can more effectively protect their individual interests. The freedom of association has certain limitations aimed at preventing abuse by setting conditions that the trade union and employers’ association must meet in order to become representative, that is, authorized to engage in collective bargaining and to conclude collective agreements. Trade union rights and freedoms in Bosnia and Herzegovina (BiH) are mainly based on International Labour Organization (ILO) Conventions on Freedom of Association and Protection of the Right to Organise, 1948 (No. 87), and on the Right to Organise and Collective Bargaining, 1949 (No. 98), which are an integral part of the legal system of Bosnia and Herzegovina.¹

The right to participation or workers’ participation in the management of a particular work environment represents an additional level of protection of the economic and social interests of workers. Unlike freedom of association, through which both workers and employers can protect their interests, the right to participation is exclusively tied to workers. Elected workers’ representatives represent all employees of a particular employer, regardless of trade union membership, and have powers and responsibilities beyond those that are considered purely trade union-related activities. Depending on the legal regime,

participation is regulated by law, collective agreement or autonomous general acts of the employer.

In Bosnia and Herzegovina, the concept of workers’ participation has been regulated by law, which has an *erga omnes* effect. This is a much better solution than regulating participation through a collective agreement or an employer’s general act, as the latter do raise concern re. unitary interpretation and application of the concept.

The content of the legal solutions is largely determined by ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and Workers’ Representatives Convention, 1971 (No. 135), which are an integral part of the legal system of BiH.² According to the latter, workers’ representatives are understood as: (a) trade union representatives and (b) representatives elected by workers in free elections at a given employer (Dedić and Gradašćević-Sijerčić 2005, 123–124).

The main point of differentiation between trade unions and works councils as workers’ representatives is the trade union pluralism and the singular nature of works councils. Trade union pluralism means that, in accordance with trade union freedoms, multiple trade unions can be established within the same industry or with the same employer with the aim of protecting the economic and social interests of their members primarily, and then other workers. Unlike trade unions, works councils protect the economic and social interests and rights of all employees, but exclusively with one employer, regardless of whether those employees are members of a trade union or not. In addition, works councils are required to protect the interests and rights of even those workers who may not have voted for the establishment of the works council.

This report will analyse the position of trade unions and works councils as worker representatives in accordance with the national legislation of Bosnia and Herzegovina. Additionally, it will analyse the relationship between trade unions and works councils based on their powers and the possibilities of coordination in their work, as well as alternative action when coordination is not possible.

1 In force as of 2 June 1993.

2 In force as of 2 June 1993.

► 1. Normative framework for the activities of trade unions and works councils

After the dissolution of the Socialist Federal Republic of Yugoslavia (SFRY) and the signing of the Dayton Peace Agreement in 1995, labour legislation in Bosnia and Herzegovina was adopted according to its constitutional establishment. Specifically, labour legislation in Bosnia

and Herzegovina consists of the legislation adopted and applied in the Federation of Bosnia and Herzegovina (FBiH), Republika Srpska (RS), Brčko District of Bosnia and Herzegovina (BD BiH) and labour law applicable to BiH state institutions (Gradašćević-Sijerčić 2005, 195).

1.1. Trade union rights and freedoms and the activities of trade unions

Trade union rights and freedoms laid down in the labour legislation of Bosnia and Herzegovina based on ILO Conventions No. 87 and 98 and are regulated by the Labour Law of the Federation of Bosnia and Herzegovina³ (LL FBiH), the Labour Law of Republika Srpska⁴ (LL RS), the Labour Law of Brčko District of Bosnia and Herzegovina (LL BD BiH)⁵, and the Labour Law in the Institutions of Bosnia and Herzegovina⁶ (LL in the Institutions of BiH). These freedoms include:

1. The right of workers or employer to freely organize a trade union or employers' association of their choice,
2. The right to establish a trade union or employers' association without any prior approval,
3. The freedom of workers or employers to decide to join or leave a trade union or employers' association,
4. The right to non-discrimination based on membership or non-membership in a trade union or employers' association,
5. The right to protect the trade union or employers' association from mutual interference in establishing, functioning and managing the trade union or employers' association,

6. The lawful activities of a trade union or employers' association cannot be permanently or temporarily prohibited.⁷

Trade unions are established in accordance with the laws on associations and foundations of Bosnia and Herzegovina,⁸ the Federation of Bosnia and Herzegovina,⁹ Republika Srpska¹⁰ and Brčko District of Bosnia and Herzegovina,¹¹ and by registering with competent authorities,¹² trade unions acquire the status of legal entities. According to these laws, a trade union can be founded by three or more individuals. A trade union represents the individual and collective interests of its members in the realization of their economic and social rights in relation to an employer as well as the competent public authorities. Also, trade union representatives can participate in the protection of individual and collective workers' rights. Labour laws introduce the obligation of employers to allow trade union representatives to work without hindrance, both technically, by providing adequate working conditions, and legally, by protecting trade union representatives from being placed in a disadvantageous position by an employer while

3 *Official Gazette of FBiH*, 26/2016, 89/2018 and 44/2022.

4 *Official Gazette of RS*, 1/2016, 66/2018, 91/2021 – Decision of the Constitutional Court of Republika Srpska, and 119/2021.

5 *Official Gazette of BD BiH*, 34/2019, 2/2021, 6/2021 and 15/2022.

6 *Official Gazette of BiH*, 26/2004, 7/2005, 48/2005, 60/2010, 32/13, 93/17 and 59/2022.

7 See provisions of Articles 14-17 of the LL FBiH, 209-212 of LL RS, 12-15 of LL BD BiH, 3-5 of LL in the Institutions of BiH.

8 *Official Gazette of BiH*, 32/2001, 42/2003, 63/2008, 76/2011 and 94/2016.

9 *Official Gazette of FBiH*, 45/2002.

10 *Official Gazette of RS*, 52/2001 and 42/2005.

11 *Official Gazette of BD BiH*, 41/2020 and 44/2022.

12 At the level of Bosnia and Herzegovina, in the Federation of Bosnia and Herzegovina, and in Republika Srpska, trade unions are registered in the register of associations and foundations maintained by the competent Ministry of Justice. In the Brčko District of Bosnia and Herzegovina, the trade union is registered in the register of associations maintained by the Basic Court of the Brčko District of Bosnia and Herzegovina.

performing their function, as well as for a certain period after performing their function.

In order to achieve certain collective workers' rights, trade unions in Bosnia and Herzegovina must fulfil an additional requirement, which is representativeness. The obligation to establish the status of representativeness has been introduced to prevent possible abuses, primarily in the conclusion of collective agreements by those trade unions that have a smaller number of members and who might not necessarily represent the will of the majority of workers with an individual employer or in a particular industry. The determination of the status of representativeness in the Federation of Bosnia and Herzegovina is regulated by a *lex specialis* regulation, the Law on the Representativeness of Trade Unions and Employers' Associations,¹³ and in Republika Srpska, Brčko District of BiH, and at the level of BiH institutions, by the respective labour laws.

In the territory of the Federation of Bosnia and Herzegovina, a trade union is deemed representative if: a) it is registered with the competent authority as prescribed by law at least 12 months prior to filing a request for the determination of representativeness, (b) it is primarily financed from membership fees and other own sources, (c) it meets the condition of having at least 20 per cent of members relative to the total number of employees in the Federation of Bosnia and Herzegovina, in at least five sectors or industries in accordance with the data of the statistics authority, that is, of another authority keeping appropriate records in BiH, that is, in the Federation of Bosnia and Herzegovina, and (d) it is active in at least three Cantons in the Federation of Bosnia and Herzegovina.¹⁴ In terms of a sector or industry, a trade union is deemed representative if: (a) it is registered with the competent authority as prescribed by law at least 12 months prior to filing a request for the determination of representativeness, (b) it is primarily financed from membership fees and other own sources, (c) it meets the condition of having at least 15 per cent of members relative to the total number of employees in the sector or industry in the territory of the Federation of Bosnia and Herzegovina, in accordance with the data provided by the statistics authority, that is, of another authority keeping appropriate records in BiH, that is, in the Federation of Bosnia and Herzegovina.¹⁵ At the level of employer or company in the Federation of Bosnia and Herzegovina, for a trade union to be representative, in

addition to meeting the conditions related to registration and financing mentioned above, it must have at least 20 per cent of the members in relation to the total number of employees of the employer.¹⁶

For a trade union to be representative in Republika Srpska and Brčko District of BiH, it must also be registered with the competent authority and predominantly financed by the membership fees of its members.

In terms of the number of members of a trade union in the Republika Srpska, for a trade union to be representative at the level of Republika Srpska, at least five per cent of the total number of employees in Republika Srpska must be members in at least three areas, regions and sectors, according to the data of the Republic Institute of Statistics. A trade union in which no less than ten per cent of the total employed in the area, region or sector are members is considered a representative union in the area, region or sector. A representative union at the employer is considered any trade union in which no less than 20 per cent of the employees are members of the total number of employees of the employer.¹⁷

In Brčko District of BiH, a trade union is considered representative for the territory of the District if it has at least 30 per cent of members in at least three sectors, in relation to the total number of employees in the District, according to the data of the Agency for Statistics of BiH. A trade union is considered representative in a field, area or branch if it has at least 10 per cent of the total number of employees in that field, area or branch. A trade union is considered representative for a specific employer or company if it has at least 20 per cent of the employees out of the total number of employees at that employer or company.¹⁸

In the Federation of Bosnia and Herzegovina, Republika Srpska, and Brčko District of BiH, if no trade union at the level of the entity, sector or employer fulfils the membership requirement, the trade union with the largest number of members is considered representative. In terms of the number of trade union members, there is no distinction made between fixed-term or indefinite employment contracts with full-time or part-time working hours.

At the level of institutions in Bosnia and Herzegovina, a "representative trade union" refers to a trade union registered at the level of Bosnia and Herzegovina, or

13 Official Gazette of FBiH, 103/2021.

14 See provisions of article 5 (1) and article 9 of the Law on the Representativeness of Trade Unions and Employers' Associations.

15 See provisions of article 5 (1) and article 7 (1) of the Law on the Representativeness of Trade Unions and Employers' Associations.

16 See provisions of article 5 (1) and article 6 of the Law on the Representativeness of Trade Unions and Employers' Associations.

17 See provisions of articles 217–219 of LL RS.

18 See provisions of articles 138–139 of LL BD BH.

two or more trade unions that act together, whose membership represents a majority of employees of a single employer at the employer's headquarters.¹⁹

The main powers of representative trade unions at all levels in Bosnia and Herzegovina, among others, are to participate in collective bargaining and conclude collective agreements, and to delegate their representatives to bipartite and tripartite bodies composed of representatives of government bodies, employers' associations and trade unions at all levels.

According to a ruling of the Constitutional Court of Republika Srpska from 2017, legal norms that introduce

the representativeness of trade unions are not in conflict with the provisions of ILO Conventions No. 87 and 98 and the European Convention on Human Rights and Fundamental Freedoms, as the legal definition of representativeness criteria does not limit universal freedoms and rights to trade union organization established by these international acts.²⁰ Additionally, the representativeness of unions is not established ex officio by the competent public authorities or employers, but the interested trade union must prove its representativeness in a legally regulated procedure in order to participate in collective bargaining.²¹

1.2. Establishment and authorities of the works council

In Bosnia and Herzegovina, there is a legal form of regulating employee participation in decision-making within an employer's organization, according to the so-called German homogeneous model, under which "works councils represent all employees, regardless of whether they are members of a trade union or not, and trade unions do not have the right to directly determine the number of members of works councils" (Lubarda 2013, 1090).²² The normative framework for establishing and operating works councils is found in labour laws as *lex generalis* regulations, as well as in the Law on Works Councils²³ in the Federation of Bosnia and Herzegovina (LWC FBiH), and the Law on Works Councils²⁴ in Republika Srpska (LWC RS) as *lex specialis* regulations. In the Brčko District of BiH, the Labour Law contains provisions that regulate the possibility of establishing a works council, but a *lex specialis* regulation that would regulate the way in which it is established, and its authorities, have not yet been enacted.

Employees at an employer in the Federation of Bosnia and Herzegovina who have at least 30 employees in employment, and at an employer in Republika Srpska who have at least 15 employees, have the right to form a works council and thus participate in decisions regarding their economic and social rights and interests.

Employees in the armed forces, police, administrative bodies and administrative services do not have the right to form works councils.²⁵ Employees are not obligated to form a works council, but solely at their own discretion decide whether they want to form a works council and thereby provide themselves with an additional level of protection of their rights. The proposal for the formation of a works council in the Federation of Bosnia and Herzegovina can be submitted by a representative trade union or at least 20 per cent of employees of the total number of employees at an employer. The proposal for the formation of a works council in Republika Srpska can be submitted by at least one-third of the total number of employees at the employer or the competent body of the trade union, which has at least 20 per cent of the total number of employees employed by an employer.²⁶

The number of members of the works council in the Federation of Bosnia and Herzegovina is determined based on the number of employees at the employer, with the works council not having fewer than three and not more than nine members.²⁷ In Republika Srpska, the number of members of the works council ranges from 5 to 15 depending on the number of employees at an employer.²⁸ If the employer has formed more organizational units outside the headquarters, multiple

19 See provisions of article 92 of LL in the Institutions of BiH.

20 See the ruling of the Constitutional Court of Republika Srpska No. U-10/16 of 25 January 2017.

21 See the ruling of the Constitutional Court of Republika Srpska No. U-42/10 of 20 April 2012.

22 In addition to the homogeneous model, there are also the so-called French tripartite model (members directly elected by employees, appointed members by trade unions and employers) and the Belgian bipartite model (equal numbers of representatives from employees and employers) (*Ibid.*).

23 Official Gazette of FBiH, 38/2004.

24 Official Gazette of RS, 26/2001.

25 See provisions of article 119 of LL FBiH, article 208 of LL RS, article 2 of LWC FBiH, article 2 LWC RS. In addition, the LWC RS explicitly states that nor do employees in the judiciary have the right to establish a works council.

26 See provisions of article 3 of LWC FBiH and LWC RS.

27 See provision of article 4 of LWC FBiH.

28 From 15 to 50 employees – five members; from 51 to 250 employees – seven members; from 251 to 500 employees – nine members; from 501 to 750 employees – 11 members; from 751 to 1,000 employees – 13 members; more than 1000 employees – 15 members. See provision of article 8 of LWC RS.

works councils can be formed, with the number of employees in the organizational unit being higher than 100 in Republika Srpska. In that case, the main works council is formed, consisting of representatives of works councils in organizational units. The procedure for the election and revocation of members of a works council in

the Federation of Bosnia and Herzegovina and Republika Srpska is regulated in detail by laws on works councils.²⁹

Unlike trade unions, the works council does not have the status of a legal entity because it represents the interests of all employees solely in relation to the employer.

1.2.1. Rights and authorities of works councils

The works council has the authority to monitor the implementation of laws, collective agreements and other regulations that are important for the realization of workers' rights. In Republika Srpska, the works council has the right to provide opinions and proposals to the employer on all issues that the council considers significant for the realization and protection of workers' rights. The works council also monitors whether the employer pays social security contributions and, in that sense, has the right to access relevant documentation from an employer.

The obligations of the employer in the Federation of Bosnia and Herzegovina and Republika Srpska towards the works council regarding certain issues are to inform the works council, consult with the works council and seek prior approval from the council when making certain decisions.

The obligation of the employer to inform and consult with the works council in the Law on Works Councils of Republika Srpska is normed in a general manner. An employer is obliged to inform the council about the state of occupational safety and working conditions of workers, changes in wages and other issues of importance for the material and social position of workers. The obligation to consult is fulfilled by the employer by considering the opinions and proposals of the council, and if not accepted, the employer is obligated to inform the council promptly of the reasons for non-acceptance. The president of the council has the right to attend the meetings of the management board and other bodies of the employer, without the right to participate in decision-making.³⁰ Specificity in the context of informing Republika Srpska is an explicit legal obligation of the council president to inform workers in writing or verbally, through media or by other appropriate means, about the council's work and the status of the realization and protection of workers' rights. The council president may consult with workers on certain matters within the council's jurisdiction in order to adopt council positions on those matters.

In the Federation of Bosnia and Herzegovina, the employer's obligations to inform and consult with the

works council are more precisely defined through legal provisions regarding when and in which matters the council is informed and consulted. The employer informs the works council at least every six months about issues affecting their interests in the employment relationship, especially concerning:

- the state and results of business operations,
- developmental plans and their impact on the economic and social position of employees,
- changes and fluctuations in wages,
- workplace safety and measures to improve working conditions,
- other issues important to the rights and interests of employees in the employment relationship.³¹

Before making a decision significant to the rights and interests of employees (such as the adoption of work regulations, mass layoffs, employment plans, transfers and dismissals, health and safety protection, the introduction of new technologies and so on), an employer is required to consult with the works council regarding the intended decision. Within a period of seven calendar days, a works council can agree with the decision an employer intends to make, oppose it (provide comments and suggestions) or not express an opinion on the decision if no comments are deemed necessary. The employer is not bound by the opinions or proposals of the works council, but if they fail to consult, then their decision is void.³²

The third legal obligation of the employer towards the works council is to obtain prior consent from the works council when making certain decisions, thus introducing the obligation of joint decision-making between the employer and the works council. In Republika Srpska, the employer must obtain the consent of the works council if they intend to terminate the employment contract of the president of the works council. In the Federation of Bosnia and Herzegovina, the employer must obtain the

29 See provisions of articles 7–20 of LWC FBiH and provisions of articles 12–25 LWC RS.

30 See provisions of article 29 and 30 (3) of LWC RS.

31 See provisions of article 22 LWC FBiH.

32 See provisions of articles 23–25 of LWC FBiH. For more, see Dedić and Gradašćević-Sijerčić (2005, 124–125).

consent of the works council if they intend to make a decision regarding:

- the dismissal of a member of the works council,
- the dismissal of an employee whose ability to work has changed or who is at risk of becoming disabled,
- the dismissal of a male employee over the age of 55 or a female employee over the age of 50,
- the collection, processing, use and disclosure of employee data to third parties.

If the works council does not respond in writing within eight days in Republika Srpska, or ten days in the Federation of Bosnia and Herzegovina, it is deemed that the employer's decision has been approved. If the works council refuses to give consent to the employer's decision, the dispute is referred to arbitration.³³ In the Federation of Bosnia and Herzegovina, the employer is not required to obtain prior consent if there is no works council or trade union in place at the time of the decision.³⁴

In the Federation of Bosnia and Herzegovina, a works council can also enter into written agreements with an employer to regulate certain employment issues that apply to all employees of the employer. These agreements cannot regulate issues such as salaries, working hours and other matters that are mandatory or regulated by a collective agreement unless the parties to the collective agreement authorize the works council and employer to enter into an agreement on these matters.³⁵

Considering the legal solutions in the Federation of Bosnia and Herzegovina and Republika Srpska, it can be observed that there are differences in the scope of authority of the works council and the obligations of the employer towards the works council. This can lead to serious problems in practice if an employer has organizational units in both entities. The question of discrimination in the work of councils in different entities arises, where the right to joint decision-making (requesting prior consent) will be recognized for one issue in one entity, but only the right to consultation for the same issue in another entity (Grubešić 2013, 757).³⁶

33 See provisions of article 191 of LL RS and article 26 of LWC FBiH.

34 See the ruling of the Supreme Court of the Federation of Bosnia and Herzegovina, No. 39 0 Rs 061888 21 Rev of 30 August 2022.

35 See provision of article 27 of LWC FBiH.

36 According to the author, if the powers of works councils in both entities are considered, in relation to European standards, it can be concluded that domestic legislation meets the minimum standards provided for by Directive No. 2002/14/EC.

► 2. The relationship between trade unions and works councils

The key question in relationships between trade unions and works councils is whether their parallel existence contributes to a better and more comprehensive protection of workers or represents an obstacle to more efficient protection of workers' rights. The answer to this question lies primarily in the position of trade unions and works councils in relation to employers. If there are several active trade unions in one employer, each trade union protects the rights of their own members first, and only then the rights of other workers. Unlike trade unions, works councils protect the interests of all workers of the employer. This does not mean that these two workers' organizations cannot coordinate and achieve synergy in protecting the interests of workers of a certain employer.

An analysis of legal solutions in the Federation of Bosnia and Herzegovina and Republika Srpska shows that a trade union represents an alternative to a works council in protecting the economic and social interests of workers and protecting their rights. In the Federation of Bosnia and Herzegovina, it is explicitly stated that if a works council is not formed at an employer, then the trade union has obligations and authorities that, based on the law, relate to the works council.³⁷ Additionally, a trade union has the following powers in relation to a works council:

- May propose the establishment of a works council.
- Convenes a meeting of employees if a works council has not been established at the employer, at which all employees appoint an electoral commission and decide on the proposal for the establishment of a works council.
- May propose a list of candidates for the election of members of the works council.
- May request the exclusion of a member of the works council due to non-performance of duties and powers established by the Law on the Works Council or other laws.
- As a party to the collective agreement, the trade union may authorize the works council and the employer to regulate certain employment-related issues by a written agreement, which cannot be regulated by the collective agreement, such as pay, working time duration and other issues that

are mandatory regulated or regulated by the collective agreement.

- The trade union, together with the works council, prepares a report on economic, social and other issues that are of interest to employees, as well as a report on the work of the works council.
- The works council collaborates with the trade union to protect and promote the rights and interests of employees.
- A member of the works council can also be a member of the trade union.
- Representatives of the trade union may attend meetings of the works council, without the right to participate in decision-making (Hrle 2008, 10–11).

However, the works council is not an alternative to the trade union, because in a workplace where a works council has been formed but no trade union operates, whether representative or not, the works council cannot take over the role and responsibilities of the trade union. The Law on Works Councils of the Federation of Bosnia and Herzegovina explicitly states that a works council cannot participate in strike preparation, employee lockout or a collective labour dispute that could lead to a strike.³⁸ Although these provisions are not in the Law on Works Councils of Republika Srpska, it is clear that a works council can only exercise those powers determined by the law and is not authorized to take over the responsibilities of the trade union,³⁹ with the exception that in a workplace where a works council has been formed, the trade union must seek the council's opinion before deciding to go on strike.⁴⁰ However, this opinion of the council does not bind the trade union.

A works council, as an institutional form of employee participation at the employer, can protect economic and social interests and workers' rights only to the extent determined by the laws on works councils and only in relation to a specific employer. The works council does not have any means to put pressure on the employer except in exceptional cases when the employer must seek prior approval of the council when making certain decisions. According to current legal regulations, the council primarily has the role of controlling the employer's work in those areas of its business that affect the economic and social status of workers.

37 See provision of article 31 (3) of LWC FBiH.

38 See provision of article 29 of LWC FBiH.

39 This provision was also omitted from the preliminary draft of the Law on Works Council of the Federation of Bosnia and Herzegovina from November 2020.

40 See provision of article 27 (2) of LWC RS.

► Conclusion: Should works councils have greater powers in protecting workers' rights?

The relationship between trade unions and works councils is not competitive but coordinative, always keeping in mind the basic premise that the goal of both is to protect the socioeconomic interests of workers and their rights in relation to work. The relationship between trade unions and works councils is primarily determined by their position towards the employer, regulated by adopted international standards and national legislation. A trade union is obliged to protect the interests of its members in relation to the employer primarily as a social partner at the employer level, in certain activities or sectors, or at the national level. Accordingly, trade unions are authorized, subject to meeting representativeness requirements, to conclude collective agreements at different levels and to protect the socioeconomic interests of their members through the establishment of a binding normative framework. Additionally, only trade unions can organize a strike and call on workers to participate in a strike, thereby pressuring the employer to fulfil their demands.

Unlike trade unions, a works council, as an institutional form of participation, is established to exercise the right to participate in decision-making at an individual employer. A works council represents all workers of an individual employer in exercising the rights of information, consultation or co-decision. In order to protect the right to participation by labour legislation in Bosnia and Herzegovina, the possibility was left for a trade union to propose the establishment of a works council or to assume the competencies of a council when it is not formed. In that sense, based on the previous

analysis, a trade union represents an alternative to the competencies of the works council in exercising the rights of workers' participation in decision-making.

The open question in relation to trade unions and works councils is whether the works councils should have greater powers to protect the individual and collective rights of workers. Would granting these powers to the works council weaken the acquired position of the trade union and lead to parallelism in the protection of workers' rights, potentially weakening the level of protection? The answer should be sought in the position of the trade union as an alternative to the competencies of the works council.

For those employers where a trade union operates, the works council should remain at the level of the body through which the institutional form of workers' participation is exercised. However, for those employers where a trade union is not established, or where a trade union branch does not operate, the works council should be given competencies by a trade union, primarily through the possibility of the works council being a party to collective bargaining and the possibility of the works council organizing and leading a strike. In this way, the gap in protecting the economic and social interests of workers would be filled for those employers where, for any reason, the right to trade union organization could not be realized. These competencies of a works council would be exercised exclusively at the level of an individual employer and would aim to protect the economic and social interests of all workers there.

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► List of abbreviations

BD BiH	Brčko District of Bosnia and Herzegovina
BiH	Bosnia and Herzegovina
FBiH	Federation of Bosnia and Herzegovina
LL BD BiH	Labour Law of Brčko District of Bosnia and Herzegovina
LL FBiH	Labour Law of the Federation of Bosnia and Herzegovina
LL in the Institutions of BiH	Labour Law in the Institutions of Bosnia and Herzegovina
LL RS	Labour Law of Republika Srpska
RS	Republika Srpska
SFRY	Socialist Federal Republic of Yugoslavia



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