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Department for Legal Affairs



LAW ON AMENDMENTS TO THE LAW ON THE HUMAN RIGHTS OMBUDSMAN OF BOSNIA AND HERZEGOVINA

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Pursuant to Article IV 4a) of the Constitution of Bosnia and Herzegovina, at the session of the House of Representatives held on 7 March 2006, and the session of House of Peoples held on 27 March 2006, the Parliamentary Assembly of Bosnia and Herzegovina, adopted the following

LAW

ON AMENDMENTS TO THE LAW ON THE HUMAN RIGHTS OMBUDSMAN OF BOSNIA AND HERZEGOVINA

Article 1

In the Law on the Human Rights Ombudsman of Bosnia and Herzegovina (“Official Gazette of Bosnia and Herzegovina”, No. 19/02) in Article 1, paragraph (2), sub-paragraph d) shall be amended to read as follows:

“d) ‘*authorities*’ refers to all institutions, authorities, agencies, and all other government institutions in Bosnia and Herzegovina (State, entities, Brcko District, cantonal and municipal) as well as private agencies performing public services;”

Sub-paragraph e) shall be deleted.

After paragraph (2) the new paragraphs (3) and (4) shall be added to read as follows:

(3) The seat of the Human Rights Ombudsman of Bosnia and Herzegovina shall be in Banja Luka. The Institution shall have its offices in Mostar, Sarajevo, and Brcko District of Bosnia and Herzegovina and may, as required, establish offices also elsewhere in Bosnia and Herzegovina.”

(4) The Institution of the Ombudsman shall organize its special organizational units to monitor the exercising of the rights of children, disabled persons and the rights of national, religious, and other minorities.

Article 2

Article 5 shall be deleted.

Article 3

Article 8 shall be amended to read as follows:

“(1) Three persons shall compose the Institution of the Ombudsman.

(2) The Ombudsmen co-operate in the exercise of their functions. Investigating activity and the addressing of either individual complaints or matters considered *ex officio* may be carried out individually by an Ombudsman, provided that the distribution of tasks among them shall not rely on the criterion of ethnic origin of the complainant. In their suggestions, resolutions and reports, the Ombudsmen act jointly.

(3) The coordination of operations in the work of the Ombudsman Institution in the period of two years shall be directed by one Ombudsman presiding during this period.

(4) A special *ad hoc* Commission for the appointment of Ombudsmen shall be established by the Parliamentary Assembly of Bosnia and Herzegovina, which shall announce the public invitations and after the procedure is conducted establish the list of candidates meeting the requirements set out under this Law.

(5) The list of candidates shall be delivered to the House of Representatives and the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina for further procedure. The Parliamentary Assembly of Bosnia and Herzegovina may request from the candidates to make the presentation of their concept of operation of the Institution of the Ombudsman.

(6) The Parliamentary Assembly of Bosnia and Herzegovina shall appoint three Ombudsmen at the same time to the Institution of the Ombudsman to serve for the terms of office of six (6) years. The Ombudsmen shall be appointed and dismissed by the House of Representatives and the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina by majority vote, in accordance with the rules of procedure of each chamber respectively. The sequential order of Ombudsmen coordinating the operation of the Institution of the Ombudsman shall be identified by alphabetical order of appearance of the Ombudsmen. The rules of procedure shall further regulate the method of realization of coordination order and other matters of relevance for application of this principle.

(7) The Ombudsmen shall be appointed from among the three constituent peoples (Serb, Bosniac, and Croat), which shall not preclude the possibility of appointing the Ombudsmen from among the Others.”

Article 4

In Article 9, paragraph (1) shall be deleted.

In the same article, paragraph (2) shall be amended to read as follows:

“(2) The appointment of the Ombudsmen in accordance with this Law shall be made no more than sixty (6) days following the date when the proposal of the *ad hoc* Commission is deposited with the Parliamentary Assembly of Bosnia and Herzegovina, and, in any case, no more than three months after the date upon which the vacancy occurs, or when the Ombudsman stops performing his/her duty for any reasons provided by this Law, except in the cases where until the end of the Ombudsman’s term of office there remains the period of less than six (6) months.”

Article 5

Article 10 shall be amended to read as follows:

“(1) The Ombudsmen shall be appointed for a period of six (6) years and may be re-elected.

(2) An Ombudsman elected following the resignation of another Ombudsman or the termination of the latter’s duty for the reasons set out under this Law, shall serve for the remaining part of the term of office and may be re-elected.

(3) The salary of an Ombudsman shall be established as equivalent in its amount to the one of a judge of the Constitutional Court of Bosnia and Herzegovina.

(4) The salaries of advisors, assistants to the Ombudsmen and the salaries of the other employees in the Institution of the Ombudsmen shall be established as equivalent to the salaries of the civil servants and employees employed with the institutions of Bosnia and Herzegovina, with the consent of the Ministry of Finance and Treasury of Bosnia and Herzegovina, in accordance with the approved budgetary resources.”

Article 6

Article 11 shall be amended to read as follows:

“The citizens of Bosnia and Herzegovina of age, who have completed a law degree and passed the bar examination, who have the minimum experience of ten (10) years in the legal profession, who have become prominent in that profession and have a demonstrated experience in the field of protection of human rights and civil freedoms and high moral standing may be elected as Ombudsmen.”

Article 7

In Article 12, paragraphs (3) and (5) shall be amended to read as follows:

“(3) Once the post of an Ombudsman has become vacant, the procedure of appointment of a new Ombudsman shall commence within the period of one month.

(5) Once the post of an Ombudsman has become vacant for a reason other than the expiration of his or her term of office, the remaining Ombudsmen shall provisionally perform his or her duties until such time as the appointment of a new Ombudsman has been completed.”

Article 8

Chapter IV – “Co-operation with Ombudsman Institutions of the Entities” and Articles

13 and 14 shall be deleted.

Chapter V shall become Chapter IV, Chapter VI shall become Chapter V, Chapter VII shall become Chapter VI, Chapter VIII shall become Chapter VII, Chapter IX shall become Chapter VIII, Chapter X shall become Chapter IX, Chapter XI shall become Chapter X, Chapter XII shall become Chapter XI, Chapter XIII shall become Chapter XII, Chapter XIV shall become Chapter XIII, and Chapter XV shall become Chapter XIV.

Article 9

Paragraph (1) of Article 15 shall be amended to read as follows:

“The Ombudsmen shall work independently and autonomously. They shall receive no orders. Within the framework of their constitutional and legal competencies, the Ombudsmen shall be given no instructions by any authority. The Ombudsmen shall act within the framework of the provisions of the Constitution and laws and international legal acts on human rights and freedoms recognized by Bosnia and Herzegovina.

In their work the Ombudsmen shall be required to comply with the principles of equity and morality.”

Article 10

In Article 34, paragraph (1), the full stop shall be deleted, and a comma and the following words shall be added:

“...the Parliament of the Federation of Bosnia and Herzegovina and the National Assembly of the Republika Srpska.”

Article 11

Article 36 shall be amended to read as follows:

“(1) The Institution of the Ombudsman shall issue the general acts which, in accordance with the provisions of this Law, shall establish the rules and procedures of how to handle the cases and treat the clients, the rules governing the internal organization and systematization, the rules governing the salaries, the rules of procedures, the rules of disciplinary accountability of those employed with the Institution of the Ombudsman and other acts as may be necessary.

(2) The Institution of the Ombudsman must issue the rules of internal organization and systematization within one month following the election day.”

Article 12

The title of Chapter XIV – “Staffing and Equipment” – shall be amended to read as follows: “Staff, Equipment and Financing of the Institution of the Ombudsman”

Article 13

Article 37 shall be amended to read as follows:

“Selection of the staff in the Institution of the Ombudsman shall be conducted by way of open competition, in accordance with law, and which matter shall further be regulated by the rules of internal organization and systematization of the Institution of the Ombudsman. ”

Article 14

“In Article 38, paragraph (2), the words “Members of the Institution staff” shall be replaced with the words “Institution staff”.

Article 15

Article 39 shall be amended to read as follows:

“(1) The financial appropriation necessary to the functioning of the Institution of the Ombudsman shall be included in the budget of the Institutions of Bosnia and Herzegovina.

(2) Every year the Institution shall be obliged to submit a proposed financial plan to the competent Ministry of Finance and Treasury, on the basis of which the financial appropriation in the budget of the Institutions of Bosnia and Herzegovina shall be approved.

(3) The starting point for determination of the amount of appropriation for financing the Institution of the Ombudsman shall be, primarily, a need to ensure complete, independent and efficient performance of duties, their nature, volume and other conditions defined by separate laws.”

Article 16

Article 41 shall be amended to read as follows:

“(1) The Ombudsman of Bosnia and Herzegovina and the Ombudsmen of the Entities who currently perform this duty shall have the status of the Ombudsman and the Deputy Ombudsmen in the transitional period.

(2) The status of the Ombudsman and the Deputy Ombudsmen in the transitional period shall last until 31 December 2006.

(3) In the transitional period as provided for in Paragraph 2 of this Article, the duty of the Ombudsman shall be transferred in the following manner:

- a) the duty of the Ombudsman of Bosnia and Herzegovina in the transitional period until the said deadline shall be performed by the Ombudsman coming from one of the three constituent peoples and the duty of the Deputy Ombudsmen by the current Ombudsmen coming from the other two constituent peoples;
- b) the duty of the Ombudsman in the Republika Srpska in the transitional period shall be performed by the already appointed Ombudsman of Republika Srpska coming from one of the three constituent peoples and the duty of the Deputy Ombudsmen by the current Ombudsmen coming from the other two constituent peoples;
- c) the duty of the Ombudsman in the Federation of Bosnia and Herzegovina in the transitional period shall be performed by the already appointed Ombudsman of the Federation of Bosnia and Herzegovina coming from one of the three constituent peoples and the duty of the Deputy Ombudsmen by the current Ombudsmen coming from the other two constituent peoples.

(4) A decision on the criteria and order for the performance of the duties of the Ombudsman and the Deputy Ombudsmen in the transitional period shall be made by the House of Representatives and the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina and the Parliaments of the Entities within 30 days of the entry into force of this Law.

(5) The House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina and the Parliaments of the Entities in the decision-making referred to in the previous paragraphs shall ensure that the Ombudsmen of Bosnia and of the Entities do not come from the same people.”

Article 17

Article 42 shall be amended to read as follows:

“(1) Until the deadline specified in Article 16, Paragraph (2) of this Law, the Ombudsmen shall be appointed in accordance with the Law.

(2) Notwithstanding the above provision, first Ombudsmen in accordance with this Law may be appointed from among the Ombudsmen who perform these duties in the transitional period.”

Article 18

Article 43 shall be amended to read as follows:

“(1) The staff, means for work and equipment of the Entity Ombudsmen shall be taken over by the Institution of the Ombudsman, on which a separate act shall be issued and the manner of takeover defined, before the deadline referred to in Article 16, Paragraph 2 of this Law.

(2) The Institution of the Ombudsman shall assign the staff to appropriate positions, in accordance with internal acts.

(3) In the transitional period, the Ombudsmen of BiH and of the Entities shall downsize the number of staff up to 30% and the field office up to 50% taking into consideration in particular not to endanger the achieved level of the protection of human rights and freedoms by such downsizing.

(4) The staff members who are not assigned in accordance with the previous paragraph of this article shall be subject to appropriate laws which provide for the right of employees in case of the termination of their positions.”

Article 19

Article 44 shall be amended to read as follows:

“(1) In the transitional period, the Institution of the Ombudsman shall be funded from the budget of the Institutions of BiH and the budgets of the Entities, until the final restructuring of the Institution of the Ombudsman in accordance with this Law.

(2) The Ombudsmen of Bosnia and Herzegovina and the Ombudsmen of the Entities shall regularly cooperate until the termination of the operations of the Entity Ombudsmen, and the cooperation shall include the preparation, within six months, of a co-coordinated work plan, the exchange of experience, the harmonization of the practices and the preparation of an initial framework for the future functioning of the Institution of the Ombudsman.

(3) Until the expiry of the deadline under Article 16, Paragraph 2, the Entities must pass relevant laws to establish the termination of the operations of the Entity Ombudsmen and to transfer their responsibilities to the Institution of the Ombudsman.”

Article 20

Throughout of the Law the words “government authority and government bodies of BiH” shall be replaced by the words “authorities in Bosnia and Herzegovina”.

Article 22

This Law shall enter into force on the eighth day after the publication in the Official Gazette of BiH.

