



The Institution of Human Rights Ombudsman of Bosnia and Herzegovina

Pursuant to Article 36, paragraph 1, of the Law on Human Rights Ombudsman of Bosnia and Herzegovina („Official Gazette of BiH“, no: 19/02, 35/04 i 32/06) human rights ombudsmen of Bosnia and Herzegovina a d o p t :

**RULES OF PROCEDURE
OF THE INSTITUTION OF HUMAN RIGHTS OMBUDSMAN OF BOSNIA AND HERZEGOVINA**

I GENERAL PROVISIONS

Article 1

In accordance with the Law on Human Rights Ombudsman of Bosnia and Herzegovina (hereinafter: the Law) this Rules of Procedure of the Institution of Human Rights Ombudsman of Bosnia and Herzegovina determine way of processing of complaints alleging human rights violations and fundamental freedoms or procedures conducted by the ombudsmen *ex officio*, and determine other issues important for the work of Ombudsmen Institution.

Article 2

The Human Rights Ombudsman of Bosnia and Herzegovina is an independent institution set up in order to promote good governance and the rule of law and to protect the rights and liberties of natural and legal persons, as enshrined in particular in the Constitution of Bosnia and Herzegovina and the international treaties appended thereto, monitoring to this end the activity of the institutions of Bosnia and Herzegovina, its entities, and the District of Brčko.

Article 3

The Seat of the Institution of Human Rights Ombudsman of Bosnia and Herzegovina is in Banja Luka. Ombudsmen Institution shall have offices in Sarajevo, Mostar, Livno and the District of Brčko, and, depending on needs, additional offices may be established in other places in BiH as well.

Article 4

In addition to organizational units listed in Article 1 of the Law on Human Rights Ombudsman of of Bosnia and Herzegovina („Official Gazette of BiH“, no: 32/00, 19/02, 35/04, 32/06 i .), where necessary, the Institution shall organize work of additional organizational units.

Article 5

Ombudsman Institution promotes and improves human rights in Bosnia and Herzegovina. With a view to perform function referred to in preceding paragraph of this Article, BiH Ombudsman shall identify directions of development of human rights and freedoms, problems and issues contained in social programs and procedures, including issues that potentially could appear in future.

Article 6

Ombudsman Institution shall have seal and other features in conformity with existing regulations in Bosnia and Herzegovina.

Article 7

In its work Ombudsman Institution shall ensure equal use of language and alphabet of peoples of Bosnia and Herzegovina.

II GENERAL RULES OF PROCEDURE

Article 8

Ombudsman Institution is independent of all governmental bodies and in carrying out of its functions shall be under no orders or instructions by any authorities.

In carrying of their function BiH Ombudsmen are independent and no organ or person can interfere with Institution's operations.

Article 9

BiH Ombudsmen prepare recommendations, decisions and reports. .

Article 10

No ordinary or extraordinary remedies lie against decisions or other acts of BiH Ombudsmen.

Article 11

The Ombudsmen may issue general or special authorization to their Deputies and other staff concerning investigating or other actions that are to be done promptly and conscientiously.

Article 12

The Ombudsmen, Deputy Ombudsmen, advisors and other staff shall have identification cards with photograph and identification data.

Format of identification cards shall be defined by the Ombudsmen.

Article 13

All procedural activities by the Institution shall be performed with the greatest possible discretion concerning both the complainants and public services or bodies.

1. Initiation of procedure/Rules of procedure

Article 14

Ombudsmen procedure is initiated by submission of the complaint or *ex officio*.

Investigating activity referred to in preceding paragraph may be conducted by each Ombudsman individually, but 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.

Article 15

A complaint is to be submitted in written form and is to be sent by mail or submitted in person the Institution. Submissions sent through electronic mail also fulfill requirements of written form. Such submissions are considered signed if they contain the name of sender. To facilitate communications with the citizens Ombudsman Institution shall prepare complaint form with listed data to be filled by complainant.

Article 16

A complaint should contain the following information:

1. Personal data of complainant: the name and family name of complainant, profession and address of the complainant, nationality, and if complainant wish so year and place of birth,
2. Information on authorized person or contact person, where such person exists,
3. Information on responsible body,
4. Facts and evidence in support of complaint
5. Statement on whether and when procedure concerning the case has been initiated before other organ,
6. Complainant's statement concerning confidentiality of his/her identity and circumstances of the case,
7. Date of submission and signature of complainant

Complaint form contains information that procedure before Ombudsman Institution is free of charge and that complainant is obligated to follow ordinary legal procedures and respect deadlines determined by law for use of legal remedies before courts or administrative bodies.

Complaint should be supported by copies of relevant legal documents.

Article 17

If written complaint is incomplete or unclear, complainant shall be called to complete it in a reasonable period of time, and, where appropriate, complainant may be invited to come to office of the Ombudsmen Institution.

Article 18

According to law, complaint to BiH Ombudsmen may be submitted through legal counselor or an authorized person. The complainant or authorized person shall inform the Office of BiH Ombudsmen about any change of his/her address and of all circumstances important for the proceeding.

Article 19

A group of persons may submit a collective complaint if it concerns the violation of the same right. Such complaint should contain a list of all complainants and one of them should be appointed to represent the party. If the representative is not indicated, the first on the list shall be considered as representative.

Article 20

If a number of complaints allege the same facts, that is, the same source of human rights violation, the Ombudsman may decide to join several similar complaints together in a single proceeding, if they deem it justifiable. Consent on merger shall be decided by one of BiH Ombudsmen upon written proposal of lawyer dealing with the case.

Article 21

If in a single complaint are alleged several human rights violations and freedoms committed against the complainant by several responsible parties or if in a complaint is alleged that violation of human rights and fundamental freedoms of a group of persons due to one or several violations of human rights and fundamental freedoms, BiH Ombudsmen, where they deem it justifiable, for effectiveness of procedure may separate procedure and for each part create a single case.

Consent on separation shall be decided by one of BiH Ombudsmen upon written proposal of lawyer dealing with the case. Complaint shall be copied in corresponding number of cases and for each complaint a separate case shall be opened.

Provisions referred to in previous paragraph shall be also applied if Ombudsmen proceed *ex officio*.

2. Processing of complaint – preliminary procedure

Article 22

BiH Ombudsmen shall register every received complaint and confirm its reception in writings regardless of whether complaint is admissible or not and then shall conduct preliminary investigation to determine procedural preconditions for consideration of case, such as accuracy and acceptability of the complaint.

Article 23

If complainant addresses the Institution verbally or through telephone, electronic mail or fax, and the Ombudsmen assess that there is not ground for accepting of complaint and taking measures from their competences and powers, they shall provide complainant with professional advice as to competent body and procedure through which exercise of right eventually could be realized.

In the case referred to in preceding paragraph complaint shall not be registered but the Institution shall make evidence on addressing and professional aid provided, related to which official record shall be prepared.

Article 24

Ombudsmen Institution maintains evidence on registered complaints and corresponding activities as well as proceedings, and in sense of Article 23 through separate act the Ombudsmen shall determine manner of maintenance of statistical evidence.

Article 25

All actions and activities taken upon complaint, including contacts with complainant, shall be officially recorded and put into evidence.

Article 26

The Ombudsman may refuse to pursue a complaint if it is:

1. anonymous
2. considered to have been made in bad faith,
3. ill founded
4. includes no claim,
5. entails damage to the legitimate rights of a third party,
6. lodged with the Institution more than 12 months after the facts, events or decisions complained of
7. lodged by a complainant who failed to exhaust all available legal remedies as s/he would be reasonably expected to
8. the complaint is incomplete or unclear; the complainant has not corrected and completed the complaint as requested by the Ombudsman or the complainant gave up the complaint.

In cases involving situations set out in the above paragraph 1 thereof the Ombudsman of BiH can adopt a decision on non-admissibility of such a complaint.

Article 27

The Ombudsman of BiH shall not accept a complaint which is:

1. identical case was already investigated by the Ombudsmen or Human Rights Ombudsperson for Bosnia and Herzegovina, and complaint contains no new relevant information,
2. related to the facts that took place prior to 14 December 1995..

In cases involving situations set out in the above paragraph 1 thereof the Ombudsman will adopt a decision on non-admissibility of such a complaint.

Article 28

If the Ombudsman decides not to accept a complaint, the Ombudsman shall inform the complainant as soon as possible about this decision, explaining the reasons for not acceptance, and if needed, giving the appropriate advice to the complainant as to how to solve the issue complained of.

Article 29

The Ombudsman Institution may initiate an *ex officio* investigation when available information indicates grave violation of the human rights and fundamental freedoms of an individual or massive human rights and freedoms violations, or discrimination of citizens on prohibited grounds, while citizens fail to lodge complaints due to fear or other justified reasons.

The Ombudsman BiH may act in the same way if it learns of violation of somebody's human rights and freedoms and that person has physical or material obstacles to lodge a complaint.

3. Investigation procedure

Article 30

If the Ombudsman BiH finds that a complaints of an *ex officio* initiated case indicates possible violation of the complainant's rights, it will initiate investigation procedure by collecting necessary documentation or evidence, asking respondent parties to plea, taking insight into the relevant files, examining possibilities of mediation in order to find a peaceful and efficient solution to the complainant's case presented in their complaint.

The Ombudsman shall inform the complainant on taken measures, as well as the respondent party, the relevant authority complained of and ask it to reply as the allegations within the specified time period. This deadline can be extended if the circumstances so demand.

Any refusal to comply with the Ombudsman's request will be treated as a refusal to cooperate, about which the Ombudsman will inform superior body. Any form of non-cooperation with the Ombudsman will be recorded and published in its Annual report.

If an authority body or an official fails to submit their reply or opinion to the Ombudsman's inquiry in the defined deadline complaint processing can be continued without it.

Article 31

The Ombudsman BiH shall inform the complainant on reply provided by the authority body if such reply is not of such a nature to be considered confidential and ask the complainant to plea as to the allegations of the body in question within a certain time limit. If reply of the respondent authority body satisfies the Ombudsman to establish that there is no ground for further investigation, the complainant will be notified thereupon pursuant to Article 35. If the complaint fails to plea as to the allegations given in the authority body's reply within the determined time limit, it will be considered as losing the interest in further pursuance of the complaint.

Article 32

During the proceedings, the Ombudsman BiH shall seek to mediate between the parties trying to reach an amicable solution of the case. In any stage of the procedure, the Ombudsman shall make its best efforts to close the case efficiently and in satisfactorily.

To this end the Ombudsman BiH shall seek to mediate between the parties aimed at finding agreement between them with regard to issue subject to complaint.

Article 33

During the investigation the Ombudsman may ask for the assistance of any person, body or service it sees may help in finding solution for the case. Ombudsman or the person to whom he/she has delegated the task may present himself/herself at any office of a government department, in order to check all the requisite information, conduct personal interviews or study the necessary files and documents.

Article 34

When during the investigation the Ombudsman BiH establishes that the enforcement of an administrative body's decision may result in irreparable damage or violation of the rights of the complainant, the Ombudsman may recommend to the responsible party to suspend enforcement of a challenged decision for period not longer than 10 days.

Concerned body asked to suspend enforcement of its decision may, within three days from receipt of such suggestion, but in any case prior to the enforcement of the challenged measure, refuse to comply with such suggestion giving its explanation and notifying the Ombudsman on reasons for it in a written document.

4. Closure of a case file

Article 35

The Ombudsman BiH shall close a case file and adopt a decision on closure in the following events:

1. the complainant without a justified reason fails to participate in the investigation, despite calls from the Ombudsman BiH,
2. the complainant abandons his/her complaint, and at the same time the Ombudsman finds no ground to continue the investigation ex officio,
3. the responsible party redressed violation of the rights and freedoms indicated in the complaint
4. the parties have reached mutual agreement,
5. complaint has no grounds,
6. if the Ombudsman BiH following conducted investigation establishes presence of some reasons provided in Article 24 and 25 thereof (admissibility of a complaint),
7. it is established that there is no violation of the rights and freedoms protected by the Ombudsman,
8. if recommendation is complied with or not complied with and afterwards the Ombudsman took measures and activities according to the Law .

5. Recommendations

Article 36

If the Ombudsman of BiH establishes that there was a violation of human rights and freedoms, it may issue recommendations to the authority bodies and officials recommending them to adopt new measures according to the Law.

Article 37

All recommendations of the Ombudsman of BiH shall be available to general public unless in cases involving confidential or secret issues or when the complainant does not wish his/her identity or particulars of his or her complaint to be revealed.

Recommendations, decisions, reports and other documents adopted in the course of procedure shall be signed by Ombudspersons of BiH or persons they authorize.

Article 38

Publicity of the work of the Ombudsman of BiH shall be provided, among other things, in the following ways:

- informing the public through media on some concrete cases,
- publishing of adopted decisions and reports,
- posting its decisions and reports on the web-site of the Ombudsman of Bosnia and Herzegovina,
- issuance of publications of the Ombudsman of BiH.

III TRANSITORY AND FINAL PROVISIONS

Article 39

All the issues not governed by the Law and these Rules of Procedure shall be resolved by Ombudspersons on a case-by-case basis.

Article 40

The Rules of Procedure shall come into force on the date of its publishing in the "Official Gazette of BiH". With entering into force of these Rules of Procedure, former Rules for Functioning of the Institution of Human Rights Ombudsman of Bosnia and Herzegovina shall cease to be in force („Official Gazette of BiH “ no 45/04).