

GUIDEBOOK
Of the Ministry of Justice of BiH for the Access to Information

Sarajevo, April 2008
(This Guidebook is free)

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1. INTRODUCTORY REMARKS

This guidebook was made in order to help the submitters of the request in acquiring the right of access to information according to the provisions of Law on freedom of access to information in Bosnia and Herzegovina (“Official Gazette of BiH”, No. 28/00 and 45/06 – Henceforth: ZOSPI).

The guide book helps to find out more about how you can have access to information which are in possession and under control of the Ministry of Justice of BiH (Henceforth: the Ministry).

This guidebook gives information about rights according to ZOSPI in the following way:

- contains simple instructions for making and submitting of the request,
- informs the submitter of the requests about the time limits that the Ministry has to respect during the processing of the request for the access to information,
- informs the submitter about the circumstances under which the request for access to certain information may be denied,
- contains instructions for lodging of the complaint and time limits for lodging of the complaints against the decisions according to the ZOSPI,
- directs to the authorized persons for information and contact phones that can be used to make easier the access to information and contains the list of information necessary for addressing the Ministry,
- contains the uniform form of the request for access to information,
- regulates the amount of costs of the multiplying of the requested information, and
- directs to the Index register of the Ministry of Justice of BiH and the method of access to the Register.

The users of the Guidebook of the Ministry of Justice of BiH for access to information may give recommendation and suggestions which would improve its next edition.

2. WHAT KIND OF INFORMATION CAN BE OBTAINED?

ZOSPI in Bosnia and Herzegovina guarantees to every legal and physical person the access to information that is under the control of the Ministry.

Before a contact, it is recommended to consult the Index of register of the Ministry of Justice of BiH.

As a rule, the Ministry will approve the access to information, except in the exceptional circumstances regulated by the ZOSPI. In case of the dilemma whether the Ministry possess the requested information and it is in the authority of the Ministry, the person for contact may be contacted and he/she is obliged to give instructions.

3. PROCEDURE OF THE ACCESS TO INFORMATION

3.1. Before submitting of the request for the access to information, it is necessary to try to obtain the requested information in an informal way

In the cases when there is a high level of certainty that the Ministry possesses the necessary information, and before submitting of the formal request for access to information, it is necessary to contact the contact person in order to try to obtain the necessary information in an informal way.

If the information cannot be obtained in a simpler, informal way, in that case one should submit the formal request to the Ministry.

3.2. Address and information for the contact of the Ministry of Justice of BiH

Address for the submitting of the formal request for access to information:
Ministarstvo pravde Bosne i Hercegovine, Trg BiH br.1, Sarajevo

71000 Sarajevo
Phone: 033 22 35 05
Fax: 033 22 35 07
Web: www.mpr.gov.ba
E-mail: info@mpr.gov.ba
Public relations officer: Marina Bakić, Public relations adviser

3.3. Planning of the request for access to information

Before submitting of the formal request for the access to information, it is necessary to carefully plan and establish the information and files that are wished to be obtained, and predict the financial funds possibly needed for multiplying of the requested documents.

It is desirable to first establish whether the access to information in question is limited or forbidden.

3.4. Submitting of the request for access to information

After it has been carefully planed, the formal request for access to information on its form which is in the supplement of this guidebook is submitted to the Ministry. The request for access to information is addressed to the public relations person and can also be delivered in person with signature, over the writing office of the Ministry with the reception seal, by registered letter, by fax or e-mail. The delivering of the request should be done in the way that ensures the evidence of submitting – confirmation with the date of the submitting of the request.

The request is submitted in one of the official languages of Bosnia and Herzegovina.

The request should clearly state what we want to know. It is necessary to state the name of the wanted document, the date of its appearance, the author, sender, or give any other piece of information that would help the Ministry find the documents that contain the wanted information.

If the request is not submitted in the prescribed form and does not contain the data that can be used for identification of the requested information, the Ministry will, within seven days, inform the submitter of the request that his/her request cannot be processed due to the mentioned reasons.

3.5. What to do when the Ministry does not possess the information

In the case when the Ministry does not possess the requested information, or it has no access to the requested information, it is obliged to, within the period of eight days after reception of the request, forward the request to the institution or legal person that can provide the requested information. The Ministry informs the submitter of the request about this action in written form.

3.6. Time limit for obtaining the information

Within the period of 15 days after the reception of the request, the Ministry is obliged to inform the submitter of the request whether the access to information for him/her has been approved or denied.

In the cases of exceptions and necessity of examining the confidential commercial information and examining of the public interest, the time limit can be prolonged according to ZOSPI. The submitter of the request must be informed about all actions and reasons for prolonging of the time limit.

3.7. Access to information

When the Ministry partially or completely approves the access to requested information, it informs the submitter of request by a decision. The decision regulates the possibility of personal access and insight into the information in the premises of the Ministry in the time suitable for the submitter of the request and the personnel of the Ministry, or the Ministry will, provided that the information is shorter than ten pages, deliver the information in written form to the submitter of the request.

According to the approved request, the Ministry informs the submitter of the request about the possibility to receive the photocopy of the requested information, and if the information is longer

than ten pages, after the costs of multiplying is paid.

3.8. The costs of multiplying the information

According to the Law, the Ministry does not charge the fees for the submitting of the request or for the written information according to ZOSPI, while the costs of the multiplying pages of information are charged according to the Decision of the Council of Ministers on the costs of multiplying of the requested information, according to the Law on the freedom of access to information of BiH ("Official Gazette of BiH", No. 12/01), as follows:

- 0,50 KM for each page of the standard format,
- 10 KM per floppy disc for the electronic documentation.

The first ten pages of the multiplied material is free of charge, and for all other requested information with larger number of pages, the submitter of the request pays in advance.

4. DENYING THE ACCESS TO INFORMATION of the Ministry AND ESTABLISHING OF THE CATEGORIES OF EXCEPTIONS

ZOSPI gives right to request the access to any information that is under the control of the Ministry. Only in exceptional circumstances regulated by the ZOSPI, the Ministry will not approve the access to the requested information, i.e. in the cases of the following three categories of information:

The first category of the exceptions regards the functions of the Ministry as a public organ. Within this category, the exception may be established if the giving of information will cause significant damage for the legitimate goals of the following categories in Bosnia and Herzegovina:

- protection of the public security;
- interests of the defense and security;
- foreign policy;
- interests of the monetary policy;
- preventing crime and detection of crime, and
- protection of the procedure of making decisions of the public organ.

The second category of exceptions regards the cases when the request to access to information includes the confidential commercial interests of the third party, and providing of information may cause damage to the third party.

The third category of exception regards the justified protection of privacy of the third person. Regardless of the mentioned exceptions, the Ministry shall publish the information if it is justified by the public interest, under conditions and in the procedure prescribed in the article 9 of the ZOSPI.

5. PROTECTION OF RIGHT IN THE CASE WHEN THE ACCESS TO INFORMATION IS NOT APPROVED

If the Ministry, partially or completely, denies the access to the requested information, it informs about it the submitter by the decision within the period of 15 days from the day of reception of the request.

The decision will state the reasons for denial of the request for access to information, the legal bases for denial of the request, all material issues important for the decision, and instruct the submitter of the request about the right to lodge a complaint.

In the mentioned case, the submitter of the request can:

- lodge an administrative complaint against the decision
- in the case when the submitter of the request is not satisfied with the decision after the complaint, he/she can launch an administrative litigation in front of the Court of BiH and/or
- address the ombudsman of BiH in any phase of the procedure.

The time limits for lodging of the complaints are precisely defined and strictly formal and if not respected, one risks losing the right to lodge a complaint.

6. ACCESS TO PERSONAL INFORMATION

ZOSPI prescribes a special procedure for access to personal information, i.e. information about the private life. As an addition to the general requests connected to the requests for access to information, it is important to point out that the access to personal information may be requested only by the person to whom the information belong, who will sign the request and provide the valid identity document with a photo. The request may also be submitted by the legal representative, or authorized person of the person to whom the information belong. The legal representative and authorized person are obliged to provide valid evidence about the status of the legal representative or an authorized person, as well as the photocopy of the valid identity document with the photo of the person that he/she represents, and provide his/her own identity documents with photo.

ZOSPI gives right which ensures that the personal information under control of the public organ are correct, current, complete, relevant for the legal use for which they have been stored, and that they are not in any way wrong.

After accessing to the personal information, one can ask for change, supplementing or giving comments, which is added to the personal information. The requests for change or supplement of the personal information are not limited with time.

If it establishes that the legal conditions about correctness, relevance for legal use for which it has been stored are not fulfilled, or it establishes that they are in any way wrong, the public organ may, by a decision, deny the requested change or supplement of the personal information. Such a decision also contains the instructions for legal remedy.

7.1. Form of the request

Name and family name of the submitter of request

Phone/fax/e-mail

Date, _____

**PARLIAMENTARY ASSEMBLY OF BOSNIA AND HERZEGOVINA
TRG BiH 1
71 000 SARAJEVO**

RE: REQUEST FOR ACCESS TO INFORMATION

According to the Law on freedom of access to information in Bosnia and Herzegovina, I request the access to the following information:

(You should state what information you want, and describe it as precisely as possible)

Circle the wanted method of access to information:

- a) direct insight
- b) multiplying of the information
- c) sending of the information to the home address

SIGNATURE OF THE SUBMITTER OF REQUEST

Enclosure:

7.2. Index register

INDEX REGISTER FOR ZOSPI in the Ministry

The integral part of the Guidebook of the Ministry of Justice of BiH for submitters of the request according to the Law on the freedom of access to information in Bosnia and Herzegovina is also the Index register which further informs the submitter of request about the kind of information that he/she can obtain in the Ministry.

According to the Law on ministries and other organs of administration of BiH (“Official Gazette of BiH”, No. 05/03), the Ministry of Justice of Bosnia and Herzegovina is authorized for:

- administrative functions connected to the judicial organs at the state level;
- international and inter-entity judicial cooperation (mutual legal assistance and contacts with international tribunals);
- writing of the appropriate laws and regulations for regulating the issues from the indented lines 1 and 2 of this article;
- securing that the legislation of BiH and its carrying out at all levels is according to the obligations of BiH that originate from the international agreements;
- cooperation with the Ministry of Foreign Affairs and entities in writing of the international bilateral and multilateral agreements;
- giving guidelines and supervision of the legal education in order to secure the inter-entity harmonization in this field and procedures according to the best standards;
- acting as a central coordinating organ for securing of the harmonization of legislation and standards of the judicial system between entities, by securing conditions for discussion or by coordination of the initiatives;
- extradition;
- administrative inspection of the execution of laws regarding the state officials and employees in the administrative organs, administrative proceedings and special administrative proceedings and office management in the administrative organs;
- issues regarding the associations of citizens, keeping register of citizens and non governmental organizations that work on the territory of BiH;
- other tasks that are not under the authority of other Ministries of BiH, and are related to the tasks and works from the authority of this Ministry.

The legal authorities of the Ministry of Justice of BiH are realized within the following organizational units:

Sector for personnel, general and financial matters is authorized for making of the general official documents of the Ministry, as well as analytic, informative and other materials, management of the human potentials in the Ministry, carrying out the procedure of competitions or notices, and cooperation with the Agency for State Service and Department of state service for complaints, keeping personal record of the employees, making of the documents regarding the rights, duties and responsibilities in the employment or regarding the employment, securing the publicity of the work of the Ministry, enabling the free access to information from the authority of the Ministry, editing of the written materials, translation of the texts into the foreign languages and from the foreign languages into the official languages in BiH, writing office tasks, running archives, providing couriers and chauffeurs for the needs of the Ministry, making of the financial plans and annual financial report of the Ministry, public procurements for the needs of the Ministry, payroll accounts, paying of salaries and other compensations to the employees, accounting issues and other financial services for the needs of the Ministry, registering of the pledges of the movable property and obtaining information about the pledges according to the valid regulations.

Sector for judicial organs at the state level is authorized for writing of the laws and other regulations from the judicial field at the state level, supervising of the situation and suggesting of measures for solving of the problems from the judicial field at the state level, making analyses, reports, information, the programs of research and other professional materials from the judicial field at the state level, giving professional opinions on the drafts of laws and other regulations of the institutions of Bosnia and Herzegovina, analyzing and giving suggestions for harmonization of the regulations with the law from international conventions, approving of the misdemeanor orders according to the Law on misdemeanors of BiH, carrying out procedures regarding taking of the bar examinations according to the Law on the bar examination of BiH, cooperation with the international criminal courts, running of the central data base for the criminal acts for which the Law on criminal proceedings of BiH and international contracts prescribe the centralization, and the work of the Court police at the state level.

Sector for international and inter-entity legal assistance and cooperation is authorized for providing the international legal assistance in criminal and civil matters according to the international multilateral and bilateral contracts, cooperation with the domestic and international judicial organs, extraditions of the suspects, accused and convicted, transfer of the criminal proceedings from one country to another, transfers of the convicted persons and acting according to the requests for assuming of the execution of the foreign court decisions in criminal, civil and other matters, acting on the requests on the international criminal, civil and other kind of legal assistance, acting according to convention on civil and legal aspects of the international children abductions /returning of the illegally taken away and kept children/, acting according to the convention on acquiring of the alimentative requests abroad, making analyses, reports, information and other professional material from the authority of the Sector, supervising the situation and suggesting measures for establishing of the policy and solving of the problems from the field of the international legal assistance and cooperation, procedures of concluding the international contracts from the field of providing international legal assistance as well as the procedures of joining the international conventions from this field, and certifying of the documents intended for the use in foreign countries.

Sector for administration at the state level is authorized for writing of the laws and other regulation from the field of administration at the state level, registration and keeping the register of associations, foundations, foreign organizations offices, associations and unions of the higher level and legal persons established by the institutions of Bosnia and Herzegovina, churches and religious communities, giving opinions on the drafts of laws, decisions, instructions, conclusions, and other normative documents regarding the issues connected to the sanctions, organization and functioning of the administrative organs of Bosnia and Herzegovina and their mutual relations, as well as the rule books on the internal organization of the institutions of Bosnia and Herzegovina, supervising the situation and suggesting of measures for solving of the problems from the administrative field at the state level, preparing of the materials for the Council of Ministers of Bosnia and Herzegovina according to the Law on the use of name of Bosnia and Herzegovina, approving of the making and use of seals in the institutions of Bosnia and Herzegovina, taking the professional exams for secondary school, college and university graduates according to the Decision on the conditions and method of taking the professional administrative exam of the interns and employees at the level of BiH, recognizing of the passed professional administrative exams according to the Decision on the conditions and method of taking the professional administrative exam of interns and employees at the level of BiH, running of the administrative proceedings and solving the most complex administrative matters in the first instance proceedings (special enquiry proceedings) from the authority of the Ministry and solving of the simple administrative matters in the first instance proceedings (shortened enquiry proceedings) from the authority of the Ministry.

Administrative inspectorate at the state level is authorized for the control of the applying of the regulations regarding the organization and method of work of the administrative organs, control of the solving of the administrative matters in the prescribed deadlines, control of the correctness of the applying of the regulations in the administrative proceedings, control of the method of collecting the evidence in the administrative proceedings, control of acquiring rights, legal interests and execution of the obligations of citizens, public corporations, chambers, public companies and other legal persons in the administrative proceedings, control of the regulations from the field of the labor relations in the administrative organs, control of the carrying out of the administrative decisions, control of the providing the legal assistance, control of the keeping records on administrative cases control of the applying of the regulations on office management and making of the analyses of the situation in the field of applying laws.

Sector for execution of the criminal sanctions and work of the corrective institution is authorized for execution of the criminal sanctions, detention and other measures sentenced by the Court of Bosnia and Herzegovina, execution of the effective decisions of the foreign courts for the crimes prescribed by the Law of Bosnia and Herzegovina or, if the special law of Bosnia and Herzegovina or an international contract whose signatory state is Bosnia and Herzegovina prescribes the execution of the criminal sanction of the detention or other measures sentenced by the Court of Bosnia and Herzegovina for the foreign citizens or the persons without citizenship, unless some other law or a signed international convention regulates it in a different way, execution of the criminal sanction sentenced in the entity courts for the crimes regulated by the Criminal code of BiH and at the request of the convicted person. It is also authorized for writing of the legal regulations and secondary legislation from the field of execution of the criminal sanctions at the state level, giving opinions and consents in the applying of a law or other regulation, carrying out the professional training of the prison officials, inspection of the institution for execution of the criminal sanctions, inspection of the process of the re-education of the convicted persons, inspection of the acquiring rights of the persons deprived of freedom, acting at the request for amnesty, transfer and release on parole.

Detention unit and the Department of execution of the criminal sanctions at the state level is authorized for execution of the detention measures regulated by the Decision of the Criminal department of the Court of BiH, securing of the conditions for serving the detention sentences regulated by the Decision of the Criminal department of the Court of BiH, the work of the Department of the court police at the state level i.e. Security service in the Detention unit according to the Law and accepted international standards, as well as the administrative, technical, organizational, and financial matters regarding the construction of the Department of the execution of the criminal sanctions at the state level.

Sector for strategic planning, coordination of help and European integrations is authorized for making, coordination and supervision of the execution of the policy, strategies and plans of the Ministry, collecting data, research and analyses for the purpose of giving information about the policy and strategy of the Ministry, planning and making the programs of help of the European Union and other donors for the needs of the Ministry, coordinating of the help from the European Union and other donors for the justice sector in BiH, running of the data base about the donors and donor help for the justice sector in BiH, coordination of the carrying out the strategies and policies of the European integrations from the authority of the Ministry, harmonization of the legal system of with *acquis* for the issues from the authority of the Ministry, carrying out of the *acquis* from the authority of the Ministry, coordination of the carrying out of the Uniform rules for making of the legal regulations in the institutions of BiH and coordination of the carrying out of the Rules of consultations in making of the legal regulations.

Sector for cooperation with non governmental organizations and building of civil society is authorized for making of the development documents of the non governmental sector in BiH, making of the Strategy and Action plan for developing a suitable surroundings for development of the civil society, preparing and suggesting of the different kinds of organizations with the purpose of ensuring the better proportionality, directness, transparency and cooperation between the Council of Ministers of BiH and non governmental sector in BiH, improving of the work of the common organs for the reaching of the agreements and estimation of goals, supervising of the significance of the infrastructure of the non governmental sector and voluntary work, estimates of the new policies in the phase of development of the non governmental sector in order to enable the non governmental sector to take an important role in the procedure of adoption of laws, carrying out consultations and directives in the procedure of writing laws and other regulations considering the interests of the non governmental organizing, supervising of the improvement of the cooperation at the lower levels of government, making of the annual reviews of the applying and operationalism of the agreements on cooperation between the Council of Ministers of BiH and non governmental sector in BiH, making analyses about the obeying laws and other regulations, maintaining of the high standards of governing, reporting to the founder and users about its obligations, carrying out of the codex of behavior for the non governmental sector in BiH, preparing of the professional opinions and explanations for the application of laws and other regulations and general documents from the authority of the Sector.

The submitter of the request according to the ZOSPI can demand all the information from the domain of the Ministry.