

Pursuant to the Article 61, paragraph 2 of the Law on Administration („Official Gazette of BiH“, no. 32/02), Minister of Justice of Bosnia and Herzegovina, issues

**THE RULEBOOK
FOR THE IMPLEMENTATION OF REGULATIONS ON CONSULTATIONS IN LEGISLATIVE
DRAFTING IN THE MINISTRY OF JUSTICE OF BOSNIA AND HERZEGOVINA
(Revised text)**

**Article 1
(Subject Matter of the Rulebook)**

This Rulebook establishes procedures for consultations with the general public to be followed by the Ministry of Justice of Bosnia and Herzegovina (hereinafter: the Ministry) when drafting legislation, in order to better understand and effectively implement Regulations on Consultations in legislative drafting ("Official Gazette of BiH", no. 81/06).

**Article 2
(Statement of Purpose)**

Purpose of issuing this Rulebook is to ensure:

- a) understanding of the real effect of normative-legal activities;
- b) quality of normative-legal acts;
- c) harmonization of legal regulations with legal framework;
- d) efficiency and effectiveness in the Ministry;
- e) coordination and understanding among partner institutions;
- f) scope of consultations and openness to comments of the general public;
- g) overall responsibility by providing detail information on planned normative-legal activities and their benefit.

**Article 3
(Principles behind Consultations)**

(1) The work of the Ministry in terms of meeting the obligations set forth in the Regulations shall be governed by the following principles:

- a) Except in cases of important and unusual circumstances that prevent it, consultations related to the legislation with significant impact on the public shall be carried out as early as possible in each of the stages referred to in the Article 11;
- b) Whenever possible, subject of the consultations shall be as clearly and precisely described as possible, to promote genuine debate and collect concrete views and suggestions from partners in consultations;
- c) The Ministry shall, in certain form, inform the general public on findings and conclusions reached as a result of all consultation stages;
- d) The Ministry shall determine clear and reasonable expectations with its consultation partners about the manner in which consultations shall be carried out, including deadlines for submission of comments, and the partners shall be expected to comply with those procedures;
- e) The Ministry shall ensure that consultation partners and wider public are provided with enough informative material on the subject of consultations, to enable genuine exchange of information.

**Article 4
(Minimum Consultation Obligations)**

(1) In accordance with the Article 6 of the Regulations on Consultations in legislative drafting (hereinafter: the Regulations), the Ministry shall post on its web-site all proposed laws and by-laws in

the form of draft and enable citizens to submit written comments on those laws and by-laws in the period of least 21 days.

(2) Proposals of the laws and by-laws have to be accompanied by an explanation which explains the need for enacting the law or by-law act and other key information.

(3) Instructions on how and where to submit comments shall be given on the web-site.

(4) Concerning the written comments, the Ministry shall enable delivery of such comments within the period of at least 30 days.

(5) Furthermore, the Ministry shall provide individuals and organizations interested in its normative-legal activities, whose names are on the consultation list maintained by the Ministry in accordance with the Article 3 of the Council of Ministers' Regulations and Article 5 of this Rulebook, with the information how they may obtain a copy of the proposed law or by-law.

(6) Wider methods of consultations shall be applied in cases when certain law or by-law has a „significant impact on the public“, in accordance with the Article 8 of the Council of Ministers' Regulations and detailed description contained in the Article 7 of this Rulebook.

Article 5 (Consultation List)

(1) In accordance with the Article 3 of the Regulations, Consultation Coordinator shall make, maintain and regularly update the list of persons (groups and individuals) interested in normative-legal activities of the Ministry, who want to be included on that list.

(2) The list shall also contain contact information of the individuals or groups, information on areas of their expertise, previous experience in legislative drafting or consultations and experience in leadership and willingness to serve as contacts for disseminating information to other interested parties.

(3) The list of names of groups and individuals, which does not contain information determined in the paragraph 2 of this Article and which the Ministry has for its internal use, shall be available to anyone who request it in writing.

Article 6 (Planned Normative-Legal Activities)

(1) In accordance with the Articles 5 and 8 of the Regulations, the Ministry shall place every year on its web-site the list of planned normative-legal activities and indicate which of the laws or by-laws may have a "significant impact on the public".

(2) Consultation Coordinator shall regularly update the list mentioned in the paragraph 1 of this Article, based on data collected by the managerial civil servants.

(3) Also, the Ministry shall provide a copy of the list to all individuals and groups requesting a copy in writing.

Article 7 (Legislation with Significant Impact on the Public)

(1) When it comes to the legislation for which there is a great public interest, and which is under the competence of the Ministry, the Ministry shall not only make public such proposals of the laws or by-laws in accordance with the Article 6 of the Regulations and Article 4 of this Rulebook, but also conduct additional consultations, as prescribed by this Rulebook.

(2) The following legal acts may be laws or by-laws with significant impact on the public, as specified in Articles 9 through 13 of the Council of Ministers' Regulations:

- a) Laws effecting a change of legal status (for example criminal law and criminal procedure law, laws limiting or extending the possibility to gain right to benefits they provide, laws affecting voting rights, laws affecting access to the courts and laws altering the applicable legal principles);
- b) Laws effecting a change in economic status (for example Law on Obligations (contracts and torts) and other laws affecting the economic and legal status, property rights, contracts concluded by the institutions of BiH etc.);
- c) Laws that must be enacted to satisfy international obligations of BiH or to apply international standards (for example laws harmonized with European directives, laws enacted in order to comply with or fulfill the obligations established by international treaties and conventions etc.);
- d) Laws affecting the environment, including the quality of water and air, and imposing or reducing obligations related to the use of land and other natural resources (for example laws that restrict emissions of pollutants into the environment, that impose damages or penalties for environmental degradation, that establish waivers or exceptions to environmental regulations etc.).

(3) In considering the scope of public impact, the Ministry may take into account a variety of other criteria, such as whether the legislation is a novelty, whether the legislation is a refinement of legislation, whether the legislation is an adaptation to technological changes, whether the proposed changes are compelled by judicial decisions invalidating the previous legislation, the number of people affected by the change nationally, regionally or locally and financial impact on the state, region or economic sector.

(4) Certain kinds of legislation can be presumed by the Ministry not to have significant impact on the public, unless circumstances indicate otherwise, and therefore are only subject to minimum consultation obligations of the Article 6 of the Regulations, such as: amendments to correct spelling or other grammatical mistakes, and laws codifying or otherwise consolidating, reorganizing or moving provisions to different sections of the law without substantive change.

Article 8 (Forms and Scope of Consultations)

(1) In order to carry out consultations, the Ministry shall publish all proposals of laws and by-laws and may apply following forms of consultations, in accordance with the Article 17 of the Council of Ministers' Regulations:

- a) notice or publication of draft law in print media,
- b) informing and educating about draft law through radio and television,
- c) notice and publication of draft law on the Internet,
- d) direct distribution of draft law to organizations and individuals,
- e) public meetings or roundtables with selected organizations and individuals,
- f) involvement of experts and representatives of organizations in a working group.

(2) In determining the scope of consultations, which corresponds to the specific laws and by-laws, the Ministry, in accordance with the Article 18 of the Regulations, must take into account the following:

- a) time constraints for the adoption of legislation;
- b) consultation capacity of organization and individuals;
- c) novelty or technical capacity of the subject matter of the draft legislation.

Article 9 (Level of Consultations)

(1) The Ministry may decide to implement different levels of consultations with various community groups, as described in the Article 16 of the Regulations, including the following:

- a) general public and organizations as defined in the Article 2 of the Regulations,
- b) experts from the academic and research community, both national and international,

- c) media,
- d) government bodies, including agencies that are particularly interested in issues related to justice and security areas,
- e) legal community, including lawyers, prosecutors, judges and their professional associations.

(2) If necessary, the Ministry shall provide consultations with the wide spectrum of civil society organizations and NGOs active in the justice area.

Article 10 (Consultation Sources)

The Ministry may use following consultation sources for the mentioned groups:

- a) Wider public: reports to the public, reportages, surveys, researches;
- b) Interested external observers: web-site, information sheets, bulletins, notifications by e-mail;
- c) Interested external observers who are willing to give comments: public meetings, group meetings, citizens' juries, focus groups, periods for written comments;
- d) Technical experts and evaluators: technical advisory groups or expert panels and discussions, public debates;
- e) Active participants, including main actors from government and civil society: interactive workshops, working bodies, working groups;
- f) Co-decision-makers: government interdepartmental teams and special working bodies comprised of representatives of the government and civil societies that work on the basis of negotiations.

Article 11 (Time of Consultations)

In accordance with the Article 20 of the Regulations, the Ministry may conduct consultations related to the laws or by-laws that have significant impact on the public at any stage of preparation of such law or by-law act, and they may be also carried out at different levels of development of the Ministry's policies and strategies:

- a) at the stage of defining a problem, issue or scope of consideration;
- b) at the stage of deciding which alternatives should be taken into consideration or which issues should be in focus;
- c) at the stage of assessing the good and bad sides of alternatives or approaches;
- d) at the stage of deciding on the specific alternative or approach;
- e) at the stage of deciding on the manner of enforcing strategy or law.

Article 12 (Focus of Consultations Concerning the Significant Impact on the Public)

(1) The Ministry shall strive to examine as thoroughly as possible, taking into account the limited time, resources and capacities, different conceptual options for the proposals of legal regulations and their benefits and costs.

(2) That has to be done qualitatively and quantitatively, where possible, and presented in the report that shall be submitted to the Council of Ministers of BiH as a part of the statement under the Article 15 of this Rulebook.

(3) Information on benefits shall include information on direct benefits and beneficiaries, as well as on indirect benefits and beneficiaries.

(4) Information on costs shall include identification of concrete negative implications of the laws and by-laws concerned in terms of who shall bear the costs and places or circumstances where such negative effects may appear.

(5) Those costs shall include regular and occasional costs to be borne by the state and state institutions (including the costs of the capital and human resources), society as a whole (including the costs that could be borne by individuals as consumers or citizens), and specific groups and companies.

(6) Cost estimation shall define all assumptions from its calculation, having in mind that maximum, minimum and average values in certain ratio may be delivered.

(7) Information obtained through consultations, and statements, shall include analysis of possible expenditures for monitoring and implementation, related to the law or by-law act, including sanctions for noncompliance.

(8) Within the consultation process, the Ministry may examine the costs, although such issues are primarily dealt with by the Council of Ministers of BiH.

Article 13 (Consultation Coordinator)

(1) In accordance with the Article 4 of the Regulations, the Ministry is required to designate Consultation Coordinator who shall be responsible for ~~complying with the Regulations~~ the technical part of the public consultation process.

(2) The name of the Coordinator and his/her contact information shall be posted on the web-site of the Ministry.

(3) The citizens may at any time refer to the Coordinator a question or comments related to the public consultations led by the Ministry.

(4) When preparing a specific law or by-law, the Ministry ~~may designate an additional official who~~ shall designate a responsible person who shall coordinate consultations with the public on the draft law or by-law.

(5) The name and contact information of that person shall be posted on the web-site of the Ministry for receiving comments of the public and interested groups during consultation process.

Article 14 (Use of Comments and other Data Obtained through Consultations)

(1) Comments and data submitted to the Ministry orally or in writing, in accordance with this Rulebook and Regulations, shall be taken into consideration in preparing proposals of the laws or by-laws to the Council of Ministers of BiH.

(2) Comments may be grouped and summarized in order to facilitate collecting and presenting, but sufficient details shall be presented to clarify issues raised during debate or through written comments.

(3) If the comments indicate changes of the draft or proposal of a legal regulation, whether by including or disregarding certain details, those steps or exemptions shall be summarized and presented in short reports after completing additional consultations, and summarized in the form which the Ministry considers appropriate for the statement under the Article 23 of the Regulations, which shall be submitted to the Council of Ministers of BiH with the final draft or proposal as prescribed by the Article 15 of this Rulebook.

(4) Statement form is an integral part of this Rulebook.

Article 15 (Statement)

(1) The Ministry shall enclose to the draft law or by-law submitted to the Council of Ministers of BiH statement and supporting report in accordance with the Article 23 of the Regulations which:

- a) certify that the minimum consultation obligations are met in accordance with the Article 6 of the Regulations;
- b) certify whether or not the law may have a significant impact on the public, and provide explanation for its determination;
- c) provide explanation for the decision on the selected form of conducted consultations related to the legislation with significant impact on the public and content of the consultations; and
- d) certify that the Ministry has taken into account comments received during consultations and provide reasons why certain comments are included or disregarded.

(2) The statement shall also include additional supporting documents which enable the Council of Ministers of BiH and the public to understand background and reasons for drafting certain law or by-law.

(3) The statement of the Ministry submitted to the Council of Ministers of BiH shall be available to the public through the web-site of the Ministry or at the request submitted to the Ministry in accordance with the Article 25 of the Regulations.

Article 16
(Provisions on Waiving the Consultation Obligation)

(1) In exceptional circumstances, the Minister may waive the consultation obligation of the Ministry, if he/she finds that one or more of the following reasons require the waiver in accordance with the Article 26 of the Regulations:

- a) emergency circumstances;
- b) unexpected international obligations;
- c) judicial invalidation of all or part of legislation.

(2) In such circumstances, the Minister shall provide the Council of Ministers of BiH with the detailed explanation for the waiver.

(3) The waiver shall not exempt the Ministry from the minimum consultation obligations.

Article 17
(Application of the Rulebook)

The Rulebook shall be applied in all organizational units of the Ministry and shall be obligatory for all employees of the Ministry.

Article 18
(Entry into Force)

The Rulebook shall enter into force on the date of adoption.

MINISTER
Barisa Colak