

Pursuant to article 17 of the Law on Council of Ministers of Bosnia and Herzegovina (“Official Gazette” of B&H, No 30/03 and 42/03) and article 75 (2) of the Single Rules for drafting of legal regulations in the Institutions of Bosnia and Herzegovina (“Official Gazette” of B&H, No. 11/05), the Council of Ministers of Bosnia and Herzegovina, at its 128th session held on 7 September 2006, issued:

RULES FOR CONSULTATIONS IN DRAFTING OF THE LEGAL REGULATIONS

Article 1 (Scope of the Rules)

These rules prescribe procedures for consultations with the public and organizations to be followed by all Ministries and other institutions of Bosnia and Herzegovina (hereinafter: institutions) when drafting legal regulations.

Article 2 (Definitions)

For the purpose of these rules:

- a) ‘Public’ means the general public;
- b) ‘Organizations’ mean legal persons and groups of citizens that are not affiliated with the Government Sector.

Article 3 (Keeping the List)

- (1) Each institution shall keep the list of organizations and individuals interested in its legislative activities and shall make the list available to anyone requesting a copy in writing.
- (2) Each institution shall add to the list the names of individuals or organizations that request in writing to be added to the list.

Article 4 (Coordinator for Consultations)

- (1) Each institution shall designate a Coordinator for Consultations who shall be responsible for coordination of all consultative obligations performed by the institution, including the minimal obligations regarding consultations of Article 6 of these Rules and obligation of preparing the statement from the Article 24 of these Rules.
- (2) Each institution may designate an official involved in the drafting of a particular legal regulation to be responsible for carrying out the consultations required by these Rules.

Article 5 (Publishing of Planned Normative-Legal Activities)

- (1) When an institution makes the list of planned normative-legal activities, as a part of its annual Work Plan, it shall place the list on its website. The institution shall specially indicate which of the legal regulations on the list have significant influence on the public in accordance with Article 8 of these Rules.
- (2) Each institution shall provide a copy of the list of its planned normative-legal activities to those on its consultation list and to anyone requesting a copy in writing.

Article 6

(Minimal Obligations Regarding Consultations about Pre-Drafts of Legal Regulations)

- (1) Each institution shall comply with the minimal obligations regarding consultations about pre-drafts of legal regulations.
- (2) Once the text of pre-draft of legal regulation has been finalized, the minimal consultative obligations of each institution are as follows:
 - a) Post the preliminary draft of legal regulation on the institution's website, if it has one, which shall provide the possibility to submit comments via the internet; and
 - b) Solicit comments by notifying those on the institution's consultation list and provide them with information how they may obtain a copy.
 - c) The deadline for submission of comments shall be at least 21 days.

Article 7

(Statement about the Purpose)

Each institution shall provide short Statement about the purpose of legal regulation with each notice provided to an organization or an individual for comment pursuant to these Rules.

Article 8

(Legal Regulations that have Significant Influence on the Public)

When deciding which legal regulation will be drafted, each institution shall assess whether the legal regulation has "significant influence on the public" by applying criteria stated in Articles 9 through 13 of these Rules. Beside the minimal obligation regarding consultations of Article 6 of these Rules, the legal regulations which have significant influence on the public shall be subject to additional consultative obligations as regulated in the Articles 15 through 23 of these Rules.

Article 9

(Legal Regulations Effecting a Change of Legal Status)

Legal regulations that change the legal status of persons with regard to any rights or privileges have a significant influence on the public, such as:

- a) Criminal Codes and Criminal Procedure Codes,
- b) Laws limiting or extending the possibility of gaining the right on privileges,
- c) Laws affecting the voting rights,
- d) Laws affecting rights regarding citizenship or rights of foreigners who reside in B&H,
- e) Laws affecting access to the courts, and
- f) Laws altering legal principles that have been relied upon in the past.

Article 10

(Legal Regulations Effecting a Change of Economic Status)

Legal regulations that have an impact on the economic status of persons, including that with modest affect on large number of persons and that with substantial affect on a limited number of persons, may have a significant influence on the public, such as:

- a) Amendments to tax and customs legislation,
- b) Amendments to privileges or subventions,
- c) Amendments to the regulations governing contracts concluded by legislative and executive authority,
- d) Amendments to the Law on Obligatory Relations,
- e) Amendments to the laws that regulate labor relations,
- f) Amendments to the laws regarding fiscal and economic policy, or
- g) Amendments to the laws affecting property rights.

Article 11

(Harmonization of Legal Regulations with the International Standards)

Legal regulations that must be enacted to satisfy international obligations of the state or to apply the international standards may have a significant influence on the public, such as:

- a) Laws aimed at the harmonization with European Directives, or
- b) Laws aiming to comply with or fulfill the obligations arising from International Agreements and Conventions.

Article 12

(Legal Regulations Affecting the Environment)

Legal regulations that affects the environment, including the quality of water and air, and that imposes or reduces obligations regarding use of land and other natural resources, may have a significant influence on the public, such as:

- a) Laws that restrict emissions of pollutants (gas and alike) into the environment,
- b) Laws that determine damages or penalties for environmental degradation,
- c) Laws that restrict use of land for environmental reasons, or
- d) Laws that determine exceptions to legal regulations on the environment.

Article 13

(Other Factors)

In considering the degree of influence on the impact, institutions may take into account a variety of other factors, such as

- a) Whether the law presents a novelty;
- b) Whether the purpose of that law is a refinement of law;
- c) Whether the purpose of the law is an adaptation to technological changes;
- d) Whether the changes are the result of court decisions invalidating the previous law;
- e) The number of persons, in country, region or community, affected by the change; and
- f) The financial impact on the country, region or economic sector.

Article 14

(Legal Regulations with No Significant Influence on the Public)

Certain categories of legal regulations can be presumed not to have significant influence on the public, unless circumstances indicate otherwise, and are only subject to the minimal obligation regarding consultations of Article 6 of these Rules, such as:

- a) Amendments to correct spelling or other grammatical mistakes;
- b) Legal regulations codifying or otherwise consolidating, reorganizing or moving provisions to different sections of the legal regulation without substantive changes.

Article 15

(Consultation about Legal Regulations with Significant Influence on the Public)

When an institution determines that a legal regulation may have a significant influence on the public, it shall carry out broader consultation than are defined in Article 6 of these Rules in accordance with the procedure defined in Articles 16 through 18. The institution shall decide who should be consulted and in which way the consultations should be carried out.

Article 16

(Organizations and Individuals that Participate in the Consultations)

The institution shall consider which organizations and individuals are most likely to be interested in or affected by the legal regulation and who would most likely provide valuable comments, and solicit their comments. The organizations and individuals include, for example:

- a) General public and organizations defined in Article 2 of these Rules,

- b) Experts, including those from the academic and research community, as well as from foreign countries,
- c) Media,
- d) Government bodies, and
- e) Legal community, including attorneys, prosecutors, judges and their professional associations.

Article 17
(Forms of Consultations)

The institution shall decide on the form of consultation that is most likely to provide relevant guidelines for drafting legal regulations. Those forms of consultation include soliciting written and oral comments through:

- a) Notice or publication of pre-draft of legal regulation in printed media,
- b) Informing and educating about pre-draft of legal regulation in radio and television,
- c) Notice and publication of pre-draft of legal regulation on the internet,
- d) Direct distribution of pre-draft of legal regulation to organizations and individuals,
- e) Public meetings or roundtables with selected organizations and individuals, and
- f) Involvement of experts and representatives of organizations and individuals in a working group.

Article 18
(Appropriate Procedure)

Institution shall determine the appropriate form of consultation, taking into account:

- a) Time limits for adoption of legal regulation,
- b) The capacity of organizations and individuals to participate in consultations, and
- c) The novelty or technical complexity of the subject matter of the pre-draft of legal regulation.

Article 19
(Budget for Consultation)

Each institution shall plan necessary resources in its budget for fulfilling of its obligations regarding consultations, in accordance with these Rules.

Article 20
(Time Framework for Consultation)

The institution may conduct consultations at any stage of the preparation of the pre-draft of the legal regulation, but shall allow sufficient time to complete the consultation prior to submission of the draft of legal regulation to the Council of Ministers of Bosnia and Herzegovina (hereinafter: Council of Ministers).

Article 21
(Written Comments)

When the form of consultation provides for written comments, the institution shall allow a period of at least thirty days for organizations and individuals to submit comments.

Article 22
(Oral Comments)

The institution shall record comments by audio or other means and prepare a summary of such comments, when the form of consultation provides for oral presentation of comments.

Article 23
(Use of Comments)

- (1) Comments, whether submitted orally or in writing, shall be taken into consideration by the institution in preparing the draft of legal regulation for the Council of Ministers.
- (2) Comments may be grouped and summarized to the extent they are redundant.

(3) The institution may decide to accept or reject any comments, and shall prepare a written report containing the reasons of such decision. The report shall be the part of the institution's statement submitted to the Council of Ministers.

Article 24

(Statement which Institution Submits to the Council of Ministers)

When draft of legal regulation is submitted to the Council of Ministers for adoption, the institution shall:

- a) State that the minimal obligations regarding consultations are fulfilled;
- b) State whether or not the draft of legal regulation has significant influence on the public and provide the explanation for its conclusion;
- c) Explain the decision on the selected form of consultation and describe the consultations that it conducted; and
- d) State that the institution has acted upon comments received pursuant to this procedure and provided the required report in accordance with the Article 23 (3) of these Rules.

Article 25

(Public Availability of the Statement)

Each institution shall make available the Statement described in Article 24 of these Rules to anyone requesting a copy in writing.

Article 26

(Exceptions)

(1) In special circumstances, the head of an institution may waive the consultative obligations of the institution, if the he finds that one or more of the following reasons require the exception:

- a) Emergency circumstances;
- b) Unanticipated international obligations, or
- c) Court invalidation of one part or complete law.

(2) The head of the institution provide to the Council of Ministers detailed reasons for the exception.

(3) The exception will not exempt an institution from the minimal obligations regarding consultations, which derive from these Rules.

Article 27

(Forwarding the Proposal of Law to the Parliamentary Assembly)

When forwarding proposal of the law to the Parliamentary Assembly of Bosnia and Herzegovina for adoption, the Council of Minister shall attach the Statement described in Article 24 or the decision on exception issued in accordance with the Article 26 of these Rules.

Article 28

(Entering into Agreements)

An institution may enter into agreements with organizations and individuals that will conduct consultations in accordance with these Rules.

Article 29

(Refusal to Put the Legal Regulation in the Session Agenda)

The Council of Ministers may refuse to put draft of legal regulation in its agenda when the institution fails to provide the required Statement or approved request by the head of the institution for exception. In that case, the Secretary General of the Council of Ministers shall return the draft of legal regulation to the institution to comply with these Rules designating the deadline for that compliance.

Article 31
(Entry into Force)

These Rules shall enter into force eight days after their publication in the “Official Gazette of Bosnia and Herzegovina”.

CoM no: _____/06
7 September 2006
Sarajevo

CHAIRMAN
of the Council of Ministers of B&H

Adnan Terzic