

OHR: 30 Delegates Can Hold FBiH House of Peoples Session



The Federation of Bosnia and Herzegovina's House of Peoples could hold its constituent session with a simple majority of delegates appointed from the FBiH Cantons, according to a legal interpretation of the Federation's constitution.

The FBiH Constitution says that the House of Peoples is comprised of 58 delegates; 17 from each of Bosnia and Herzegovina's constituent peoples and seven "Others". Only a simple majority is required for it to operate – a simple majority is achieved when over 50 per cent of the delegates have been appointed, that is 30 delegates in all.

At that time, the House of Peoples could hold its constitutive session, approve legislation and begin the process of making nominations to the BiH House of Peoples. The vacant posts in the House of Peoples of the Federation would be filled as subsequent nominations are approved.

The OHR's legal interpretation looks to ensure that now the elections are over the institutions at all levels can start to work. It underlines that a constitution in a democratic system must be read with a view to ensuring effective institutional functioning. No individual or individuals can be allowed to block the working of the constitution.

The delay in the formation of the FBiH House of Peoples – under the constitution the FBiH House of Peoples was to have been formed by 17 November, 20 days after the election of the

Cantonal parliaments – is impeding the proper functioning of FBiH and State-level legislatures.

The OHR's legal opinion underlines that the constitution itself foresees absenteeism without affecting the ability of the FBiH House of Peoples to function. The House of Peoples adopts legislation and protects of vital national interests though a majority vote of those delegates present and voting in each constitutive people caucus. By extension this means that there is no impediment to the House of Peoples holding sessions as long as a majority of delegates have been appointed.

The OHR's legal opinion concludes that the FBiH House of Peoples "can be constituted...even though the number of available seats...have not been taken up" and can "select delegates to the House of Peoples of Bosnia and Herzegovina".