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Department for Legal Affairs



LAW AMENDING THE LAW ON HUMAN RIGHTS OMBUDSMAN OF BOSNIA AND HERZEGOVINA

“Official Gazette of Bosnia and Herzegovina”, 61/23

[NOTE: The Law on the Human Rights Ombudsman of Bosnia and Herzegovina was published in the “Official Gazette of Bosnia and Herzegovina”, 32/00.](#)

Pursuant to Article IV 4 a), and in relation to Article II 1 of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina, at the 10th session of the House of Representatives held on 22 August 2023, and the 8th session of the House of Peoples held on 30 August 2023, adopted the following

LAW AMENDING THE LAW ON HUMAN RIGHTS OMBUDSMAN OF BOSNIA AND HERZEGOVINA

Article 1

In the Law on the Human Rights Ombudsman of Bosnia and Herzegovina (Official Gazette of BiH, 32/00, 19/02, 35/04, 32/06, and 38/06), Article 1 is amended to read:

“Article 1

1. The present Law regulates the powers and competencies of the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina as well as of an/the Ombudsman, composition, appointment, resignations, immunity and incompatibility, investigation procedure, the obligation to cooperate with the ombudsman, confidential and secret documents, the duty of discretion, the responsibility of authorities and officials, recommendations, notifications and communications, reports, rules and procedures, staff and equipment, the financing of the Institution.
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 and promote 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 activities of the institutions of Bosnia and Herzegovina, its entities, and the Brčko District of BiH, in accordance with the provisions of the present Law.
3. In this Law, the term:
 - a) “Institution” designates the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina;
 - b) “an/the Ombudsman” designates one of the three Ombudsmen comprising this institution;
 - c) “the Ombudsmen” designates the three persons comprising the Institution;
 - d) “authorities in Bosnia and Herzegovina” refers to all institutions, authorities, agencies, and all other government institutions in Bosnia and Herzegovina (State, entities, Brčko District of BiH, cantonal and municipal, as well as private agencies performing public functions).
4. The seat of the Human Rights Ombudsman of Bosnia and Herzegovina shall be in Banja Luka. The Institution of Ombudsman shall have its offices in Mostar, Sarajevo, and Brčko

District of BiH and may, as required, establish offices also elsewhere in Bosnia and Herzegovina.

5. The Institution of the Ombudsman shall organize its special organizational units to monitor the exercising of the rights of children, disabled persons and the rights of national, religious, and other minorities.”

Article 2

After Article 1, a new article, 1a, shall be added to read as follows:

“Article 1a.

All terms in this Law expressed in one grammatical gender refer, without discrimination, to both men and women.”

Article 3

After Article 4, a new article, 4a, shall be added to read as follows:

“Article 4a.

1. In line with Article 17 of the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Official Gazette of BiH – International Treaties, 08/08), the Ombudsmen shall carry out the tasks of the preventive mechanism for the prevention of torture and other cruel, inhuman or degrading treatment or punishment in Bosnia and Herzegovina (hereinafter: the preventive mechanism).
2. The tasks of the preventive mechanism shall include:
 - a) Visits and tours of the places that hold or might hold persons deprived of liberty or persons whose movement in Bosnia and Herzegovina has been restricted in order to increase the level of their protection from torture and other forms of cruel, inhuman or degrading treatment or punishment;
 - b) Issuing recommendations to the competent authorities in Bosnia and Herzegovina in order to improve treatment of persons deprived of liberty and conditions in which they are held, as well as to prevent torture and other forms of cruel, inhuman, or degrading treatment or punishment;
 - c) Giving proposals and comments to laws and other regulations with the intention of protecting and improving human rights and freedoms of persons deprived of liberty.
 - d) Cooperating with the United Nations Subcommittee on the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, sending information and holding meetings.
3. For the purpose of this Law, a person deprived of liberty shall mean any person with respect to whom a judicial, administrative or any other competent authority has issued a decision placing them in detention, prison, or a public or private place of custody that the person cannot leave voluntarily.
4. In the exercise of their tasks as preventive mechanism, the Ombudsmen shall be authorised to do the following:
 - a) visit, without prior announcement, places defined under Article 4a, paragraph 2, item a) of this Law, and inspect the premises that hold or could hold persons deprived of liberty;

- b) have unobstructed access to data on places defined under Article 4a, paragraph 2, item a) of this Law holding persons deprived of liberty, data on the number of persons deprived of liberty in the institution or agency they are visiting, and data on the treatment of the persons deprived of liberty;
 - c) without the presence of an official, talk to persons deprived of liberty and other persons that may provide relevant information regarding suspicions of human rights violations in the agency or an institution they are visiting;
5. In the exercise of the tasks of preventive mechanism which require specialised expert knowledge, the Ombudsmen may engage other independent experts from the academia and other relevant areas, as well as representatives of civil society organisations registered to perform activities in the field of human rights protection, in line with Article 18, paragraph 2, of the Optional Protocol, which are to be selected based on a public call.
 6. The annual work report of the Institution, referred to under Article 34 of this Law, shall contain a special chapter on the functioning of the preventive mechanism with recommendations.
 7. Within 90 days following the day this Law enters into force, the Institution shall adopt a Rulebook on the exercise of tasks of the preventive mechanism, regulating the criteria and requirements for selection, as well as the working methods and procedures of independent experts and civil society organisations from the field of human rights.
 8. The Rulebook referred to under paragraph 7 of this Article shall be published in the Official Gazette of BiH, and on the Institution's website.

Article 4

After Article 36, new Article, 36a, is added to read:

“Article 36a

With a view to protecting and promoting human rights and freedoms, the Institution shall hold regular and thematic consultations with civil society organisations, international organisations, and independent experts, as well as the academia.”

Article 5

Article 39 shall be amended to read as follows:

“Article 39

1. In accordance with provisions of the Law on Financing of Institutions of Bosnia and Herzegovina (Official Gazette of BiH, 61/04, 49/09, 42/12, 87/12, and 32/13) regulating the procedures relevant for preparing mid-term plans, preparing and developing budget framework document and the draft of an annual budget, the Institution shall make a budget request for next year and send it in the form of a draft to the Ministry of Finance and Treasury of BiH by 1st August of a current year.
2. The Ministry of Finance and Treasury of BiH shall prepare an opinion on the request submitted by the Institution by 20 August of a current year. The Institution shall then forward their request, together with the opinion received from the Ministry of Finance and Treasury of BiH, to the Finance and Budget Committee of the House of

- Representatives of the Parliamentary Assembly of Bosnia and Herzegovina and the Joint Committee of Human Rights of the Parliamentary Assembly of Bosnia and Herzegovina.
3. The Committees referred to under paragraph 2 of this Article shall submit their declarations of opinion on the submitted budget request to the Institution and the Ministry of Finance and Treasury no later than 15 September of a current year, and the Ministry of Finance and Treasury of BiH shall include the budget of the Institution into the draft Law on the Budget of BiH Institutions for the following year, in line with the recommendations given in the said Committees' declarations of opinion. If the recommendations in the declarations given by the two Commissions are not identical, the opinion of the Finance and Budget Committee of the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina shall be considered relevant.
 4. The Council of Ministers of Bosnia and Herzegovina and the Presidency of Bosnia and Herzegovina shall not reduce the draft budget for the Institution, made by the Ministry of Finance and Treasury of BiH after the said Committees have given their declarations of opinion, unless the budget reductions are due to changes in regulations concerning the rights and obligations in relation to specific expenditure items for all beneficiaries of the budget.
 5. The approved budget must ensure the functional independence of the Institution and its functioning without additional conditioning.”

Article 6

This Law shall enter into force on the eighth day following its publication in the Official Gazette of BiH.

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30 August 2023

Sarajevo

Speaker of the
House of Representatives
of the Parliamentary Assembly of BiH
Marinko Čavara, *m.p.*

Speaker of the
House of Peoples
of the Parliamentary Assembly of BiH
Nikola Špirić, PhD, *m.p.*