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## **Department for Legal Affairs**



# **LAW ON FREEDOM OF ACCESS TO INFORMATION AT THE LEVEL OF THE INSTITUTIONS OF BOSNIA AND HERZEGOVINA**

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

Pursuant to Article IV.4. a) of the Constitution of Bosnia and Herzegovina, at the 10<sup>th</sup> session of the House of Representatives, held on 22 August 2023, and at the 8<sup>th</sup> session of the House of Peoples, held on 30 August 2023, the Parliamentary Assembly of Bosnia and Herzegovina adopted the following

# **LAW ON FREEDOM OF ACCESS TO INFORMATION AT THE LEVEL OF THE INSTITUTIONS OF BOSNIA AND HERZEGOVINA**

## **SECTION ONE – INTRODUCTORY PROVISIONS**

### **Article 1 (Subject matter of the Law)**

(1) The Law shall govern the right of access to information and the re-use of documents owned by the institutions of Bosnia and Herzegovina, legal entities established by the institutions of Bosnia and Herzegovina pursuant to the provisions of the Law on Registration of Legal Entities Established by the Institutions of Bosnia and Herzegovina (“Official Gazette of BiH”, Nos. 37/03 and 76/11) and the independent bodies of Bosnia and Herzegovina established by a special law (hereinafter: the BiH institutions), which is exercised in the manner and under the procedure prescribed by this Law.

(2) This law shall transpose the provisions of Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector documents.

### **Article 2 (Scope of application)**

(1) The provisions of this Law shall not be applicable to parties in judicial, administrative and other proceedings based on law, where the availability of information from these proceedings is determined by a special regulation.

(2) The provisions of this Law shall not be applicable to information that is subject to confidentiality requirement in line with the special regulations governing the domain of confidential information.

### **Article 3 (Objective of the Law)**

The objective of this Law shall be to enable and ensure the exercise of the right of free access to information for the natural and legal entities, through transparency and publicity of the functioning of the BiH institutions in line with the international treaties on human rights and freedoms and in line with universally accepted rules of international law, with this and other laws, aimed at achieving and protecting the public interests and achieving a free and democratic order and an open society.

### **Article 4**

**(Indiscriminate use of terms in both genders)**

The terms that are for the purpose of easier reference in this Law used in one gender, shall refer indiscriminately to both male and female genders.

**Article 5**  
**(Definitions of terms)**

(1) The terms used in this Law shall be defined to have the following meaning:

- a) **“User of the right of access to information and the re-use of information”** (hereinafter: the user) is any local or foreign natural person or legal entity;
- b) **“BiH institution”** shall, for the purpose of this Law, mean a body of legislative, judicial or executive authority established by law, entrusted with the exercise of public authority, which is financed from public revenues and/or which is designated by virtue of a special law to carry out administrative affairs at the level of Bosnia and Herzegovina. The BiH Institution is also a legal entity established by the BiH institutions in line with the provisions of the Law on Registration of Legal Entities Established by the Institutions of Bosnia and Herzegovina (Official Gazette of BiH, No. 37/03 and 76/11) and other entities of Bosnia and Herzegovina established by a special law;
- c) **“information”** is any information owned by the BiH institutions, recorded in any form of representation, which the BiH institution has developed, applied or received regardless of time of its emergence or categorisation;
- d) **“document”** is any content regardless of the medium (paper or electronic form or as sound, visual or audio-visual recording) or any part of such content;
- e) **“international information”** is any information provided to Bosnia and Herzegovina by a foreign country or international organisation that Bosnia and Herzegovina cooperates with or holds membership in;
- f) **“the right of access to information”** includes the right to request and receive information as well as the obligation of BiH institutions to provide access to the requested information, i.e. to disclose such information regardless of the request made, when such disclosure arises from an obligation prescribed by a law or other regulation;
- g) **“re-use of documents”** is the use of documents possessed by BiH institutions, for commercial or non-commercial purposes other than the original purpose for which the documents were produced, and which is realised within the scope of operation or affair that is generally considered a public affair and is established by a law or other regulation. The exchange of information among BiH institutions in order to perform tasks within their scope of operation shall not be considered re-use;
- h) **“Proportionality Test and Public Interest Test”** is an assessment of proportionality between the reasons for granting access to information and the reasons for imposing restrictions and granting access to information only if the public interest prevails;

- i) **“information owner”** is an institution of Bosnia and Herzegovina within whose scope of operation the information was generated, or a body of another state or international organisation within whose scope of operation the international information was generated;
- j) **“Central Portal of Public Information”** means an on-line tool available to the public, ensuring permanent user access to information archived in electronic databases and/or hard copy collections;
- k) **“machine readable format”** means a file format structured so that software applications can easily identify, recognise and extract specific data, including individual statements of fact, and their internal structure;
- l) **“open format”** means a file format that is platform-independent and made available to the public without any restriction that impedes the re-use of documents;
- m) **“open data portal”** is a data hub for the collection, categorisation and distribution of open public sector data of BiH institutions. The portal represents a type of metadata catalogue that enables easier open data browsing;
- n) **“metadata”** means data on data, i.e., data that describes the characteristics of a data source. These can describe a single piece of data, an entire collection of data, or a part of a whole;
- o) **“proactive disclosure of information”** is a continuous self-initiated disclosure of certain types of information on the websites of BiH institutions in an open format, which includes a file format that is platform-independent and has no restrictions with regard to its re-use;
- p) **“responsible official”** for the purpose of this Law is an official employed with a BiH institution, whose action or omission has led to a violation of the Law;
- r) **“the Board of Appeals within the Council of Ministers of Bosnia and Herzegovina (hereinafter: the Board of Appeals)”** is a legal entity that decides appeals filed in the second instance proceedings;
- s) **“third person”** is any natural person or legal entity other than a BiH institution, which holds the data in its possession.

## SECTION TWO- PRINCIPLES OF THE LAW

### Article 6

#### **(Transparency and openness principles, gender equality, non-discrimination and personal data protection)**

- (1) All information of BiH institutions shall be considered open and public, unless non-disclosure is fully justifiable and based on the exceptions that are prescribed by law.
- (2) This Law shall be based on the principle of non-discrimination as provided under the Law on Prohibition of Discrimination in Bosnia and Herzegovina (“Official Gazette of BiH”, Nos. 59/09 and 66/16)

(3) This Law shall be based on the principle of gender equality as provided under the Law on Gender Equality in Bosnia and Herzegovina (“Official Gazette of BiH, No. 32/10- Consolidated Version).

(4) BiH institutions, and any natural or legal person affected by the provisions of this Law shall be required to comply consistently with the provisions of the Law on Personal Data Protection (“Official Gazette of BiH”, Nos. 49/06, 76/11 and 89/11).

**Article 7**  
**(Principle of freedom of access to information)**

All information shall be available to any national or international natural person and legal entity, either through a proactive disclosure or by filing an application required in order to exercise the freedom of access to information.

**Article 8**  
**(Principle of open government)**

During the performance of their duties, the BiH institutions shall provide services as openly as possible, in order to promote good governance, ensure public participation and anti-corruption.

**Article 9**  
**(Principles of timely access to information, information completeness and accuracy)**

The BiH institutions must ensure an easy, prompt and efficient access to information, so that the information provided and/or disclosed by the BiH institutions must be provided in a timely manner, and must be complete and accurate.

**Article 10**  
**(Principle of equal treatment of users)**

(1) The rights of access to information and re-use of documents shall be granted to every user in the same way and under the equal terms and conditions.

(2) The BiH institutions shall not place the users in an unequal position, especially by enabling certain information users to obtain information before other users or in a way that would place them in a more favourable position.

**Article 11**  
**(Principle of information disposal)**

The users having the information at their disposal, as provided under this Law, shall be entitled to disclose this information to the public.

**Article 12**  
**(Principle of mutual respect and cooperation)**

The relationship between the BiH institutions and users shall be based on the principles of mutual cooperation and assistance, including the principles of mutual respect and respect for human dignity.

**Article 13**  
**(Principle of free information)**

The BiH institution that owns the information shall be required to provide such information and enable its re-use free of any charge.

**SECTION THREE – OBLIGATIONS OF BiH INSTITUTIONS**

**Article 14**  
**(Proactive disclosure of information)**

(1) The BiH institutions shall be obligated to regularly disclose and update information within the scope of its operations on its website or through another convenient method by making it easily accessible, and disclosing it in a machine-readable format whenever possible and appropriate, within 15 days from the date the information is generated.

(2) The obligation referred to in paragraph (1) shall include specifically the following types of information:

- a) Information about the BiH institution, such as: the legal basis prescribed by law and other legal frameworks, scope of operation, a list of key assignments and documents issued by the BiH institution, internal acts, functions, competences, and authorities of the BiH institution
- b) Information about the organization of the BiH institution, such as: organizational structure, information about its employees (first and last name, position, educational qualification, salary amount, and contact information), including statistical data and work report;
- c) Information about the work, such as strategies, work plans, policies, activities and action plans;
- d) Decisions and acts, such as: regulations, general acts and documents adopted by the BiH institution, which affect the user interests;
- e) Information about the decision-making method and opportunities for public participation, including information about public consultations and other forms of participation, information about its sessions, agenda, conclusions and minutes of the sessions, including about enabling public attendance at the sessions, specifying the method and deadlines for submission of application forms, as well as the number of participants;
- f) Information about the sources of funding, such as: the planned budget, revenue and expenditure reports, audits and evaluations, including other financial information
- g) Information about the grants awarded by the BiH institution, such as: subsidies, donations, aids, project funds with details of the recipient, amount, and period for which the funds are awarded;
- h) Information about public procurements, including information about the public procurement process, criteria, results, and contracts, including the reports about the completed contracts;

- i) Information about the advertised open competitions, including the text of the advertisement, documentation required for participation in the competition (if any), stages in the competition process, and about the final outcome of the competition process;
- j) Information about the services provided by the BiH institutions to users, such as name and legal grounds, instructions, deadlines, forms, information about fees, charges and other payments;
- k) Information about registers, databases and catalogues kept by the BiH institution, method of access (internet or otherwise), with links to those that can be accessed online;
- l) Information about the right of access to information, including the information concerning the method chosen to ensure that the rights are exercised, legal framework, procedures followed in order to exercise the rights, contact information of the information officer, the right to file an appeal and application, format and layout of the application form, annual reports, the register of requests and other details of relevance for the users of the right to gain access to information;
- m) Other information with regard to which the disclosure requirement is established under a special law or other regulation.

(3) In addition to the information referred to in paragraph (2) of this article, the BiH institution shall disclose all other information of relevance for the work, organisation, decision-making and financing, which includes the information disclosure in the form of guides, summaries and other comprehensible forms that are accessible to users, displaying important information on the bulletin boards of the BiH institutions, as well as providing a certain number of copies of important documents.

### **Article 15** **(Delivery of documents to the Central Portal of Public Information)**

(1) BiH institutions shall be required to deliver the documents referred to in Article 13, paragraph (2) of this Law in electronic format to the Central Portal of Public Information in order to ensure permanent access to such documents.

(2) The tasks of running and keeping the Central Portal of Public Information shall be done by the Secretariat General of the Council of Ministers of Bosnia and Herzegovina.

(3) The method of organisation and keeping of the Central Portal of Public Information at the level of institutions of Bosnia and Herzegovina shall be prescribed in a Rulebook to be adopted by the Council of Ministers of Bosnia and Herzegovina at the proposal of the Secretariat General of the Council of Ministers of Bosnia and Herzegovina within the period of nine months following the date of entry into force of this Law.

### **Article 16** **(Publicity of operation)**

(1) The BiH institution shall be required to inform the public about:

- a) the sessions of the official bodies and their agenda, the schedule for these sessions, the method of operation and possibilities having direct insight into their operations;

- b) the number of persons who can be provided with a direct insight into the operations of the BiH institution at the same time, while the order of steps in the application process must be taken into account.

(2) The BiH institution shall not have an obligation to provide any direct insight into its operations insofar as it involves the matters where the mandatory exclusion of the general public is required by law; specifically, in the event that it involves information with regard to which the right of access to information is not restricted under the provisions of this Law.

(3) The BiH institution shall take steps to disclose the contents of public documents, when such disclosure proves to be in the interest of promoting transparency and efficiency of the operations of the BiH institution, including encouraging the informative effect to the general public in relation to the matters of public interest.

### **Article 17** **(Information officer)**

(1) For the purpose of ensuring the right of access to information, the BiH institution shall be required to appoint an information officer within 90 days following the date of entry into force of this Law. The official information about the information officer together with his or her contact details shall be submitted to the Human Rights Ombudsman of Bosnia and Herzegovina and the Board of Appeals, and posted on the website of the BiH institution within eight days following the day his or her appointment.

(2) The Board of Appeals shall maintain a list of BiH institutions that are required to act in accordance with this Law, including a list of information officers that will be posted in a machine-readable format on the website of Board of Appeals, with the requirement of making regular updates.

(3) The BiH institution shall be required to ensure that any request for free access to information is to be submitted to the competent organisational unit within the respective BiH institution, which owns the requested information, in order to conduct the process of issuing a decision about the request.

(4) The decision referred to in paragraph (3) of this article shall be submitted to the information officer of the BiH institution.

(5) The Information officer shall keep proper records about the number of requests received, the type of information requested, the number of decisions issued, the number of final decisions, the number of requests with regard to which no decisions have been made and the procedure followed by the public authorities.

(6) The Information Officer shall be required to submit the records referred to in paragraph (5) of this article to the Manager of the BiH institution, the Board of Appeals and the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina every three months.



(7) An integral part of the report referred to in paragraph (6) of this article is the analysis and assessment made as to how the rights of access to information and re-use of information in the BiH institution are exercised, the data and analysis with regard to appeal cases, inspection supervision and breaches committed as a result of violation of the rights of access to information and re-use of documents, together with the measures proposed in order eliminate shortcomings and irregularities.

(8) The Information officer shall also be required to make an annual report about the work of the BiH institution that shall include the records about the number of received requests, the type of requested information, the number of issued decisions, the number of final decisions, the number of requests with regard to which no decisions have been made and the method of operation of the BiH institution, which [report] shall be sent to the Council of Ministers of Bosnia and Herzegovina and the Parliamentary Assembly of Bosnia and Herzegovina in line with the procedure prescribed by law.

(9) The annual report referred to in paragraphs (6) and (7) of this article shall be posted by the Information Officer on the official website of the relevant BiH institution.

(10) The Information officer shall regularly disclose other information in accordance with the internal organisation of the BiH institution.

(11) In order to ensure efficient implementation of this Law, following the proposal made by the Ministry of Justice of Bosnia and Herzegovina, the Council of Ministers of Bosnia and Herzegovina shall adopt a Guidebook on Access to Information in order to regulate in greater detail the ways in which the citizens are allowed to exercise the right of access to information owned by the BiH institutions, with the corresponding forms that shall ensure that the right of access to information is exercised as quickly and easily as possible. The Guidebook shall be posted on the official website of the BiH institution within 90 days following the date of entry into force of this Law.

## **Article 18**

### **(Register of Requests)**

(1) The information officer in the BiH institution shall keep a special register of requests for access to information, which shall contain the entries about the procedural steps taken, about the decision taken with regard to the request filed, including also the data about the appellate or judicial procedures.

(2) The BiH institution shall post the data from the register of requests on its official website, by complying with the personal data protection requirement for the users and third parties, in accordance with the law governing the matters of personal data protection.

(3) The contents and method of keeping the register referred to in paragraph (1) of this article shall be prescribed by a Rulebook of the Minister of Justice of Bosnia and Herzegovina within 90 days following the date of entry into force of this Law.

## **SECTION FOUR – RESTRICTIONS TO THE RIGHT OF ACCESS TO INFORMATION**

### **Article 19 (Restrictions and their duration)**

(1) The information owned by the BiH institution shall be public, whereas the right of access to information shall be exercised by using the method and procedures prescribed by this Law.

(2) Access to information may be restricted in order to protect the privacy of physical persons, protect the user and third party personal data, in line with the law governing the matters of relevance for the personal data protection.

(3) The restriction under paragraph (2) of this article shall not be applicable to information about the names of employees, executive management officers and other persons participating in public affairs, about their salaries, other sources of revenue disbursed from the budget, the expenditures related to the public activities of the concerned person, the existence of conflicts of interest, including also their professional qualifications.

(4) Access to information may be restricted in the event that it can reasonably be expected that providing access to information would cause serious harmful consequences with regard to the following concerns:

- a) national security concerns and international relations in the event that information is classified as confidential, in line with a law or a general enactment adopted on the basis of the law prescribing the data confidentiality requirement;
- b) public order in the event that the information is classified as confidential, in accordance with the law or a general enactment adopted on the basis of the law prescribing the data confidentiality requirement;
- c) during the course of inspection, control and supervision carried out by the BiH institution, in the event that the information disclosure would make impossible the operation of the authority in charge of conducting administrative supervisions, inspection supervisions, or supervisions conducted to check the legality of its operations and enactments;
- d) commercial and other economic interests, and economic, monetary and currency exchange rate policies, and
- e) environmental concerns.

(5) The BiH institution shall restrict access to information of relevance for the equal treatment of parties in judicial proceedings and the efficiency of the judiciary, proceedings conducted by competent authorities in the preliminary criminal or disciplinary proceedings for the duration of those proceedings, unless otherwise prescribed by a special law and in the event that the disclosure of information would make the effective, independent and impartial enforcement of the decision or execution of the sanctions of the BiH institution impossible.

(6) The BiH institution may restrict access to information in the event that such access involves information that is still in the process of drafting within a single BiH institution or across several BiH institutions, working groups or commissions, and is still subject to the exchange of views

and opinions, where the disclosure of such information – before any complete and final information is developed – could seriously damage the process of its generation.

(7) The BiH institution may limit access to information:

- a) in the event that information constitutes a tax-related secret, according to the law;
- b) in the event of re-use of information by the applicant, provided that the information is protected by the regulations that govern the matters of relevance for intellectual property rights.

(8) The information under paragraphs (4) and (7) of this article shall become available to the public once the reasons on account of which the right of access to information was restricted by the BiH institution have ceased to exist.

## **Article 20**

### **(Proportionality Test and Public Interest Test)**

(1) The BiH institution shall be allowed to disclose the requested information, regardless of an exemption or exclusion established under this Law, only when such disclosure is justifiable by the existence of a public interest, by taking into account any benefit and damage any that may arise therefrom.

(2) When deciding whether the disclosure of the requested information is justifiable by a public interest, the respective BiH institution shall take into account considerations such as, including but not limited to: i) any breach of legal obligations; ii) existence of any misconduct; iii) miscarriage of justice; iv) abuse of authority or negligence in the performance of official duties; v) unauthorised use of public funds, or; vi) danger to the health or safety of an individual, the public or the environment.

(3) In the event that the BiH institution has established that the information constitutes an exemption that needs to be made in the public interest, it shall issue a decision in order to notify the applicant about this requirement.

## **Article 21**

### **(Information disaggregation and partial access to information)**

In the event it is established that a part of the requested information has been excluded, the competent BiH institution shall disaggregate that part of information and share the remaining quantity of information, while specifying what kind(s) of exclusion(s) has(have) been applied and to which parts of the document(s) the exclusion(s) is(are) applicable.

## **SECTION FIVE – PROCEDURE OF EXERCISING THE RIGHT OF ACCESS TO INFORMATION**

### **Article 22**

#### **(Exercising the right of access to information)**

(1) The BiH institutions shall be required to grant access to information by:

a) making a timely release of the information regarding their operation in an appropriate and accessible way, i.e. on the official website of the BiH institutions, the Central Portal of Public Information of the BiH Institutions or by publishing the information in the Official Gazette;

b) providing the information to the user who has filed a request, in one of the following ways:

1) by providing information directly;

2) by providing information in writing;

3) by providing insight into the documents and making copies of the documents that contain the requested information;

4) by delivering copies of the documents that contain the requested information;

5) in other ways that are found to be appropriate for the exercise of the right of access to information.

(2) In the request, the applicant user may indicate the way that would be appropriate for information receipt. However, if no such indication has been made, the information shall be delivered in the way identical to the one in which the request was filed, i.e., in the most cost-effective manner.

### **Article 23**

#### **(Access to information at the party's request)**

(1) The request for access to information shall be decided by the BiH institution that owns the requested information.

(2) The applicant shall acquire the right of access to information by filing a written request to the competent BiH institution in one of the languages and alphabets in the official use in Bosnia and Herzegovina.

(3) A written request shall contain: the name and address of the BiH institution, the data relevant for recognising the requested information, the first and last name and the address of the physical person who is the information user, i.e. the name and head office address of the legal entity.

(4) The written request shall, for the purpose of paragraph (2) of this article, mean a request submitted electronically, provided that it contains all elements specified in paragraph (3) of this article.

(5) The applicant shall have no obligation to indicate the reasons on account of which the access to information is requested.

(6) Giving opinions, explanations or instructions related to: i) acquisition of a right or fulfilment of an obligation; ii) development of an analysis or interpretation of a regulation; or iii) production of new information – shall not be regarded as a request for access to information.

(7) In the event that the BiH institution that has received the request is not the actual owner of the requested information, it shall be required to forward the request to the BiH institution that owns such information within the scope of its competences, as soon as possible, but no later than eight days following the receipt of the request. The non-owner institution shall also be required to inform the applicant thereof. In this case the deadline set to decide the request shall run from the day when the non-owner BiH institution has received the original request.

(8) In the event that, in spite of making reasonable efforts, the non-owner BiH institution is still unable to identify the actual BiH institution that owns the information, the non-owner institution shall be required to issue a conclusion, within the period of eight days, rejecting the request on grounds of the lack of competence, which [conclusion] shall be accompanied with the instructions about the right to file an appeal to the Board of Appeals.

(9) In the event that the requested information is classified as confidential to a specific degree of confidentiality pursuant to the law governing the data confidentiality, the BiH institution shall be required to assign the request to the BiH institution that owns the classified information.

## **Article 24**

### **(Administrative fee and compensation charged for providing access to information)**

(1) No administrative fee shall be paid in order to file the request for access to information in the procedure before the BiH institution.

(2) The BiH institution shall be entitled to demand a reimbursement of actual costs from the applicant, such as the costs of duplication, scanning, or data carrier costs, including a reimbursement of the costs of delivery of the requested information.

(3) The BiH institution shall provide the applicant with information about the method of calculating the costs referred to in paragraph (2) of this article.

(4) The amount of compensation and the method of collection of compensation referred to in paragraph (2) of this article, in accordance with market prices, shall be prescribed by a decision of the Council of Ministers of Bosnia and Herzegovina within six months following the date of entry into force of this Law, at the proposal of the Ministry of Finance and Treasury .

(5) Revenue generated from the fees that have been collected in line with paragraph (2) of this article shall be regarded as the revenue of the Budget of the Institutions of Bosnia and Herzegovina.

## **Article 25**

### **(Deadlines)**

(1) Based on the request for access to information, the BiH institution shall issue a decision about the request for access to information without any delay, but no later than within 15 days following the date of submission of a timely and complete request.

(2) In the event of an incomplete or incomprehensible request, the BiH institution shall invite the applicant to make corrections in the request within five days following the date of receipt of the request for correction.

(3) In the event that the applicant has failed to make an adequate correction in the request, while on the basis of the submitted request it is not possible to identify with certainty what specific kind of information is requested, the BiH institution of shall issue a conclusion to reject the request as incomplete.

(4) The deadline referred to in paragraph (1) of this article may be extended for yet another 15 days, counting from the day when the BiH institution was supposed to decide the request for access to information, in the event that a single request is filed in order to request a large quantity of different kinds of information, about which the BiH institution shall be required to inform the applicant without delay and shall indicate the reasons on account of which the deadline has been extended.

(5) In the event that the BiH institution has failed to decide the request for access to information by the deadlines prescribed under this article, the applicant shall be entitled to file a complaint on account of the institution's omission to act (i.e. the so-called *administrative silence*).

## **Article 26** **(Deciding the request)**

(1) Once the request for access to information has been received, the BiH institution in charge of deciding the request shall take all required steps in order to collect the requested information, and when running a public interest test it shall consider all facts and circumstances of relevance for the request by the deadline prescribed under Article 25 of this Law.

(2) The BiH institution shall not issue a decision to decide the request:

- a) when informing the applicant of the fact that he has already received the requested information earlier and that the period of 90 days has not passed counting from the date when the prior request was submitted;
- b) when informing the applicant that the information has been disclosed to the public;
- c) when informing the applicant that, as a party to the proceedings, by virtue of a special regulation he shall be allowed to have access to information from various judicial, administrative and other legally grounded proceedings,
- d) when informing the applicant that the information is subject to confidentiality requirement pursuant to Article 2 paragraphs (2) and (3) of this Law.
- e) when informing the applicant that his submission is not regarded as a request within the meaning of Article 23 of this Law, in which case the BiH institution shall be required to instruct the applicant about the ways of how to proceed with enabling the fulfilment of his request.

(3) The BiH institution shall be required to inform the applicant in writing without delay, but no later than within eight days following the day of receipt of the request, about the existence of the reasons specified under paragraph (2), points b), c), d) and e) of this article. The BiH institution shall also be required to enable the applicant to exercise his right to file an appeal with the Board of Appeals.

(4) The BiH institution shall issue a decision when providing the user with access to information by applying the provision of Article 25, paragraph (1) of this Law.

(5) In the event that it does not possess the requested information and cannot determine with reasonable effort which other BiH institution owns such information, the BiH institution shall issue a conclusion in order to reject the request within the time limit prescribed by law. The

conclusion shall also instruct the applicant that he shall be allowed to file an appeal with the Board of Appeals.

(6) The BiH institution shall issue a decision to reject the request if:

- a) the requirements prescribed in Article 19, paragraphs (4), (6) and (7) of this Law have been met,
- b) it finds that the grounds required to amend or correct the given information referred to in Article 27 of this Law are no longer in existence,
- c) if the requested information cannot be regarded as information within the meaning of Article 4, paragraph (1), item c) of this Law;
- d) if one or more interrelated applicants are obviously abusing the right of access to information through one or more functionally related requests, and particularly when as a result of frequent requests for the delivery of the same or similar information, or as a result of the requests demanding a large quantity of information, an additional burden has been caused to the operations and regular functioning of the BiH institutions.

### **Article 27** **(Information amendment and correction)**

(1) If an applicant considers that the information provided on the basis of a request is inaccurate or incomplete, the applicant may request its correction and/or amendment within 15 days of the date of receipt of such information.

(2) The BiH institution shall be required to decide the request for amendment or correction of the information referred to in paragraph (1) of this article without delay, but no later than within 15 days of the date of receipt of the request as provided under Article 25 of this Law.

### **Article 28** **(Right to file an appeal)**

(1) The applicant may file an appeal against the decision of the BiH institution made in the first instance proceedings on the request for access to information.

(2) The appeal referred to in paragraph (1) of this article shall be filed with the Board of Appeals within 15 days following the day of receipt of the decision.

(3) The applicant shall be entitled to file an appeal in the event that the BiH institution fails to decide the applicant's request within 15 days and when the BiH institution does not issue a decision referred to in Article 26, paragraph (2) of this law.

(4) The appeal referred to in paragraph (1) of this article shall not stay the enforcement of the decision.

(5) The Board of Appeals shall make a decision on the appeal and deliver it to the applicant through the first-instance authority no later than within 30 days of receipt of the appeal.

(6) If the Board of Appeals fails to decide on the appeal within the time limit referred to in paragraph (5) of this article, the appellant party shall be entitled to initiate an administrative dispute before the Court of Bosnia and Herzegovina on account of the Board's omission to act (i.e. the so-called *administrative silence*).

(7) In the appeals procedure against the decision on restriction of information referred to in Article 19, paragraphs (2) and (3) of this Law, the BiH institution shall provide the Board of Appeals with access to information that is the subject matter of the procedure.

(8) The Board of Appeals may request the opinion of the Ministry of Security of Bosnia and Herzegovina as a national security authority established pursuant to Article 75 of the Law on the Protection of Classified Information of Bosnia and Herzegovina ("Official Gazette of BiH", Nos. 54/05 and 12/09) for the information referred to in Article 19, paragraph (2), item a) of this Law.

(9) When the Board of Appeals seeks the opinion from the security authority with regard to the information referred to in paragraph (8) of this article, it shall be required to issue a decision and deliver it to the appellant party through the first instance authority no later than 90 days.

(10) When during the course of the appeal procedure the Board of Appeals needs to examine whether the proportionality and public interest tests have been conducted accurately – i.e. when it needs to conduct the proportionality and public interest tests, it shall be required to issue the appeal decision and deliver it to the appellant party through the first instance authority no later than within 60 days.

(11) Once it has established that the appeal is well-founded, the Board of Appeals shall issue a decision to order the BiH institution to provide the appellant party with access to the requested information, i.e. it shall decide the party's request and set an appropriate time limit within which it will be required to act accordingly.

(12) The BiH institution shall be deemed to have denied or restricted access to information to the applicant if he fails to comply with the decision of the Board of Appeals or fails to do so within the time limit set by the Board of Appeals.

## **Article 29**

### **(Judicial remedy)**

(1) No appeal shall be allowed against the decision of the Board of Appeals; however, the administrative proceedings may be instituted by filing a complaint with the Court of Bosnia and Herzegovina. These proceedings shall be considered urgent and the Court must decide such complaints within 90 days.

(2) The complaint referred to in paragraph (1) of this article shall stay the enforcement of the decision inasmuch as the decision of the Board of Appeals allows the appellant party to gain access to information.



(3) The administrative proceedings referred to in paragraph (1) of this article may also be instituted by the BiH institution that issued the first instance decision.

## **SECTION SIX – RE-USE OF DOCUMENTS**

### **Article 30 (Right to re-use documents)**

(1) Every user shall be entitled to re-use the documents for commercial or non-commercial purposes as provided by this Law.

(2) For the purpose of re-use, the BiH institution shall not have the obligation to draft and adapt the document, single out specific parts of the document if such an exercise would require a disproportionate spending of time or funds. Equally, no request can be made to the BiH institution requiring from it to continue to update, upgrade and archive the documents for the purpose of re-use.

(3) The remaining provisions of this Law shall be applicable accordingly to all matters that are otherwise not specifically regulated under this section of the Law.

### **Article 31 (Practical arrangements made for the re-use of documents)**

(1) For the purpose of encouraging and facilitating the re-use of documents, the BiH institution shall disclose the easily searchable documents available for re-use, together with metadata, in a machine-readable and open format, in line with the open standards on its official website and portal referred to in Article 15, under paragraph (1) of this Law.

(2) An inventory list of documents available for re-use together with metadata, which are disclosed in accordance with paragraph (1) of this article, shall be provided through the Central Portal of Public Information that is kept and maintained by the Secretariat General of the Council of Ministers of Bosnia and Herzegovina.

(3) The provisions of paragraph (2) of this article shall not exclude the establishment and maintenance of special portals that would enable the re-use of special types of documents for the BiH institutions that have specific competences.

(4) Aimed at encouraging and facilitating the re-use of documents, the BiH institutions that have specific competences shall be required to disclose the documents with regard to which they hold the intellectual property rights and shall do so in the manner prescribed by paragraph (1) of this article.

(5) Whenever possible and practicable, cross-language information retrieval (CLIR) shall be made possible.

### **Article 32 (Actions taken to respond to a request for re-use)**

(1) In the request for re-use of information the applicants must indicate, in addition to data from Article 23, under paragraph (3) of this Law, the documents they wish to re-use, the format and

method in which they would like to receive the content of the requested documents, and the purpose for which they would like to re-use the documents (commercial or non-commercial purposes).

(2) The BiH institution shall process the request for re-use of documents received electronically and submit an electronic response to the request; however, if the applicant also requests the delivery of documents, the BiH institution shall instruct the applicant to file a written request in accordance with Article 23 of this Law.

(3) The BiH institution shall decide the request for the re-use of documents by issuing a Decision within 15 days following the date of submission of a timely and complete request. The Decision must specify the requirements that have to be met in order to re-use the documents, including the amount of fees and the method of their calculation.

(4) The time limit referred to in paragraph (2) of this article may be extended for yet another 20 days, counting from the day when the BiH institution was supposed to decide the request for access to information, in the event of a request for the re-use of documents whose contents require a longer period of time for collection of information and issuance of the decision, while the BiH institution shall be required to inform the applicant in writing and indicate the reason for the extension of the time limit.

(5) The BiH institution shall comply with the request for re-use of documents through an electronic means of communication, wherever possible and practicable.

(6) The BiH institution shall issue a decision to reject the request if the request refers to the following:

- a) information under Article 19, paragraphs (2), (4), (6) and (7) of this Law,
- b) confidential statistical information pursuant to the law,
- c) information with regard to which the user is required to prove the existence of legal interest,
- d) parts of information that contain only logotypes, coats of arms, or symbols,
- e) information owned by the bodies providing the radio, television and electronic media public services,
- f) information owned by the bodies having specific competences, and
- g) information that is not collected within for the purpose of performing public activities.

(7) An appeal against the decision to re-use the documents may be filed with the Board of Appeals within 15 days.

(8) No appeal shall be allowed against the decision of the Board of Appeals referred to in paragraph (7) of this article; however, an administrative dispute may be initiated before the Court of Bosnia and Herzegovina.

(9) In the event that the BiH institution has rejected the request for re-use of documents, on account of protecting the intellectual property rights, it shall be required to inform the applicant

about the holder of intellectual property rights, if the holder is known, or about the licence holder from whom the BiH institution has received the document.

(10) The Archives Institution of Bosnia and Herzegovina shall not be required to inform the applicant about the holder of intellectual property rights or the licence holder referred to in paragraph (9) of this article.

### **Article 33** **(Re-use requirements)**

(1) The BiH institution shall provide the applicant with the information for re-use without restrictions, for free use and in an open format.

(2) In justified cases, the BiH institution may specify the requirements that have to be met for re-use, in which case their contents and implementation shall not impose any unjustifiable restriction with respect to the possibility of re-use and these requirements shall not be used in order to restrict market competition.

(3) The requirements for the re-use of documents may not be discriminatory for the same or similar types of documents, or for commercial or non-commercial use.

(4) The requirements identical to those applicable for other users shall also be applicable to the BiH institution that re-uses its own documents as the basis for commercial activities that do not fall within the scope of its public activities.

(5) Following the proposal of the Ministry of Justice of Bosnia and Herzegovina, the Council of Ministers shall adopt a Rulebook to prescribe the types and content of the requirements for the re-use of documents within six months following the date of entry into force of this Law.

### **Article 34** **(Administrative fees and charges for re-use)**

(1) When posting the documents on its official website, the BiH institution shall not charge the users for any administrative fees and charges in return for the re-use of such documents.

(2) Review of the official documents on the premises of the BiH institution shall be free of charge.

(3) The BiH institution may charge the applicant for the actual material costs of re-use of documents incurred through their reproduction, their assignment for use and their delivery, in accordance with the criteria referred to in Article 24, paragraph (4) of this Law.

(4) Exceptionally, the BiH institution may charge the user for the costs referred to in paragraph (3) of this article, provided that one of the following conditions has been met:

- a) the BiH institution is financed mainly from its own sources of revenue, or
- b) the user has requested information with which the BiH institution secures adequate revenue required to cover the costs of their collection, drafting, reproduction and release.

(5) In the cases referred to in paragraph (4) of this article, the BiH institution shall impose a fee for the re-use in line with the objective, clear and verifiable criteria for the calculation of costs of re-use of the documents, which [criteria] are defined by the decision of the Council of Ministers of Bosnia and Herzegovina, within the period of six months following the entry into force of this Law at the proposal of the Ministry of Finance and Treasury.

(6) The total annual revenue of the BiH institution referred to in paragraph (4) of this article generated from the compensation of costs pursuant to paragraph (5) of this article may not exceed the costs of collection, drafting, reproduction and provision of information, including a reasonable rate of return on investment, with regard to which the BiH institution shall carry out an annual review of the method of calculation of the fees charged for the costs.

(7) Through its official website the BiH institution shall inform the users about the criteria for the collection of costs under Article 24, paragraph (4) of this Law, including about the criteria and method of calculating the costs referred to in paragraph (4) of this article, and the actual amount that has been collected annually for the purpose of reusing the documents.

### **Article 35**

#### **(Non-discrimination and exclusive rights)**

(1) The re-use of documents shall be permissible and made available to the applicant for the same fee and under the same terms and conditions. The number of applicants to whom the body approves the right of information re-use shall not be limited.

(2) The BiH institution may not approve, by a contract or other agreement or a decision, the re-use of documents that would prevent the re-use of documents by other users.

(3) Notwithstanding the provisions of paragraph (2) of this article, the BiH institution may grant an exclusive right of re-use of documents if so is necessary in order to provide public services or other services of public interest. Every three years, the BiH institution shall make a reassessment as to whether the grounds for granting of such an exclusive right are justifiable and shall inform thereof the Administrative Inspectorate of the Ministry of Justice of Bosnia and Herzegovina.

(4) The Administrative Inspectorate of the Ministry of Justice of Bosnia and Herzegovina shall keep the publicly available records of all exclusive rights that have been granted.

(5) Once this Law has entered into force, the valid contracts and decisions about the exclusive rights must be posted on the website of the BiH institution without delay.

(6) The contents and method of keeping records of the exclusive re-use rights referred to in paragraph (4) of this article shall be prescribed by the Council of Ministers of Bosnia and Herzegovina within six months following the date when this Law enters into force.

## **SECTION SEVEN- SUPERVISION OF ENFORCEMENT**

### **Article 36 (Board of Appeals)**

(1) The Board of Appeals shall perform the tasks of a second-instance authority in deciding the appeals on the exercise of the right of access to information and the right to re-use documents in accordance with this Law.

(2) The Board of Appeals, as the second-instance authority referred to in paragraph (1) of this article, shall propose to the BiH institutions to take the measures to improve the exercise of the rights of access to information and re-use of documents prescribed by this Law.

(3) The Board of Appeals shall initiate the adoption or amendment of regulations in order to implement and improve the rights of access to information and re-use of documents.

### **Article 37 (Inspection supervision)**

(1) The inspection supervision over the enforcement of this Law shall be carried out by the Ministry of Justice through the Administrative Inspectorate.

(2) The inspection supervision shall be carried out once an application has been received for access to information and re-use of documents, at the proposal of a third party or *ex officio*.

(3) The inspectors shall be independent in their work.

(4) No one may, by using his or her official position or otherwise, prevent or obstruct the inspectors in the performance of supervision and in undertaking measures or actions he or she is authorised to take.

### **Article 38 (Duties of the inspector)**

(1) During the course of inspection supervision over the implementation and enforcement of this Law, the inspectors shall check out:

- a) whether the BiH institution has disclosed the information pursuant to Article 14 of this Law;
- b) whether the BiH institution has ensured the transparency of work in line with Article 15, paragraph (1), item a) of this Law;
- c) whether the BiH institution has designated an Information Officer and whether the Information Officer acts in compliance with the authorisations prescribed by this Law;
- d) whether the BiH institution keeps a special official record of the requests, the procedures and decisions about the exercise of the rights of access to and re-use of information;
- e) whether the provisions of this Law have been enforced properly once the requests for access to information and the requests for re-use of documents have been received;

- f) whether the BiH institution has published the information about the costs of the access and re-use, and the conditions for the re-use of documents.

(2) During the course of inspection supervision, the inspectors shall be entitled to request and receive from the BiH institutions all information that is the subject matter of the procedure conducted in accordance with this Law.

### **Article 39**

#### **(Standard methods of inspection supervision)**

The inspection supervision shall be conducted as:

- a) direct inspection supervision, through the direct inspection of data and documents of the supervised BiH institution, and of the conditions and method of work of the supervised BiH institution;
- b) indirect inspection supervision, through the inspection of submitted data and documents.

### **Article 40**

#### **(Direct inspection supervision)**

(1) The inspector shall be required to inform about the direct inspection the manager of the BiH institution where the direct inspection shall be carried out, no later than three days prior to the start of the supervision.

(2) Notwithstanding the provisions of paragraph (1) of this article, the inspector may carry out the direct inspection supervision without prior notice in the event of the need for urgent action.

(3) The manager of the BiH institution shall be required to ensure the smooth conduct of the inspection supervision, which includes the provision of working space for the conduct of supervision, the use of technical aids, data and documentation that shall be subject to inspection supervision.

(4) Where necessary, the inspector may take the statements from the managers of the supervised BiH institutions or other officials as part of the inspection supervision.

### **Article 41**

#### **(Indirect inspection supervision)**

(1) While conducting the indirect inspection supervision, the inspector shall be authorised to make a written request for the delivery of documents and to set an appropriate deadline for their delivery, which may not exceed the period of 15 days.

(2) The manager of the BiH institution or another authorised person shall be required to comply with the request made by the inspector, and ensure the delivery of complete and accurate data, whereas in the event that they are unable to comply with the request, they should provide a written statement about it in writing without delay.

**Article 42**  
**(Inspection records)**

(1) Once the inspection has been completed, the inspector shall make the record of the identified illegalities, irregularities and deficiencies.

(2) The inspection record referred to in paragraph (1) of this article (hereinafter: the record) shall contain:

- a) the facts of the situation and potential breaches of laws and other regulations, irregularities and deficiencies detected in the operation,
- b) assessment of the situation,
- c) measures ordering the elimination of any illegal practices identified, and the deadline for the implementation of the ordered measures,
- d) proposals for the elimination of the identified irregularities and deficiencies detected in the operation,
- e) reporting requirement prescribed for the inspector about the measures taken,
- f) instructions concerning the right to file an appeal.

(3) Depending on the nature of the measures ordered, the inspector shall be required to set an appropriate deadline for their implementation.

(4) In the event that no illegal practices, irregularities or deficiencies have been detected in the operation during the inspection supervision, the manager of the respective BiH institution shall be informed about it in writing.

**Article 43**  
**(Rights and duties of the inspector)**

(1) Through the inspection records the inspector may impose the following measures:

- a) order the undertaking of appropriate measures in order to remove the identified violations of this Law and other regulations adopted thereunder, including the irregularities and deficiencies detected in the operations of the supervised BiH institution;
- b) prohibit the activities undertaken in violation of this Law;
- c) suggest the undertaking of the measures aimed at removing the irregularities or deficiencies detected in the operation;
- d) propose the undertaking of the measures aimed at improving the performance of the supervised BiH institution.

(2) The inspection records shall be delivered to the manager of the supervised BiH institution.

(3) The records may also be delivered to the BiH institution to which the supervised BiH institution is directly responsible, pursuant to the regulations governing the organisation of the administrative authorities at the level of institutions of Bosnia and Herzegovina.

**Article 44**  
**(Control of the measures imposed in the inspection records)**

- (1) The manager of the supervised BiH institution shall be required to implement the imposed measures within the period of time specified in the records.
- (2) Within 15 days following the end of the period specified for undertaking of the measures imposed in the records, the manager of the supervised BiH institution shall be required to provide the inspector with the report and evidence about the implementation of these measures.
- (3) Control over the implementation of the imposed measures shall in general be conducted indirectly by the inspector, by way of obtaining the reports and evidence of implementation.
- (4) Control over the implementation of the imposed measures may also be carried out through direct inspection supervision, if so is required by the nature of the activities that are supposed to be conducted during the implementation of the measures, or once the need for direct inspection supervision required on account of the detected deficiencies has been identified by the inspector in the report.

**Article 45**  
**(Reported cases of failure to comply with the imposed measures)**

In the event that the supervised BiH institution fails to implement the measures imposed in order to eliminate the detected illegalities, the Chief Administrative Inspector shall be required to inform:

- a) the Council of Ministers of Bosnia and Herzegovina, in the event that the measures have not been implemented by the BiH institutions whose manager is directly responsible to the Council of Ministers of Bosnia and Herzegovina, and
- b) the founder of the BiH institution.

**Article 46**  
**(Procedure followed to respond to the applications)**

- (1) The inspectors shall respond to the applications that have been filed with regard to the operations of the BiH institutions related to the implementation of this Law.
- (2) The Inspector shall be required to review the application filed as referred to in paragraph (1) of this article.
- (3) In the event that through the review of the application the inspector has established that the claims made in the application are well-founded, the inspector shall be authorised to issue a warning to the BiH institution affected by the application, for the purpose of undertaking the urgent actions to eliminate the potential illegal practices, and for the purpose of delivering the report about the undertaken measures.
- (4) In the event that during the procedure conducted as a response to the application the inspector has established that the facts indicated in the application are accurate, while the elimination of the illegal practices or irregularities would require of him to impose the



measures, the inspector shall conduct the *ex officio* inspection supervision, in the way and in line with the authorisations prescribed under this Law.

(5) The Inspector shall be required to inform the applicant in writing about the established facts, and/or about the measures undertaken to respond to the application.

(6) The information referred to in paragraph (5) of this article shall not be regarded as an administrative act.

## **SECTION EIGHT- OMBUDSMAN FOR HUMAN RIGHTS**

### **Article 47**

#### **(Obligations of the information officer towards the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina)**

The information officer shall be required to provide the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina with an annual report under Article 17, paragraph (8) of this Law.

### **Article 48**

#### **(Annual Report of the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina)**

The Institution of the Human Rights Ombudsman of Bosnia and Herzegovina shall prepare an annual report concerning the situation in the sphere of freedom of access to information at the level of institutions in Bosnia and Herzegovina and deliver it to the relevant authorities.

## **SECTION NINE – PENALTY PROVISIONS**

### **Article 49.**

#### **(Penalty provisions in cases of failure to comply with the decision taken by the Board of Appeals)**

(1) A fine in an amount ranging between BAM 1,000.00 and BAM 10,000.00 shall be imposed for a violation on the responsible official in the BiH institution who has failed to comply with the decision taken by the Board of Appeals referred to in Article 28, paragraph (10) of this Law or failed to comply with the deadline specified in the decision of the Board of Appeals.

(2) The responsible official referred to in paragraph (1) of this article may be fined on multiple occasions until such time as he or she has complied with the decision of the Board of Appeals.

### **Article 50**

#### **(Penalty Provisions in cases of failure to comply with the provisions of this Law)**

(1) A fine in an amount ranging between BAM 1,000.00 and BAM 10,000.00 shall be imposed for a violation on a responsible official who has damaged, destroyed, concealed, or otherwise made unavailable a document containing information with the intention of preventing the exercise of the right of access to information.

(2) A fine in an amount ranging between BAM 1,000.00 and BAM 10,000.00 shall be imposed on a physical person, or a fine in an amount ranging between BAM 2,000.00 and BAM 20,000.00 shall be imposed on a legal entity that has used information contrary to the published requirements for the reuse of documents referred in Article 32 of this Law.

(3) A fine in an amount ranging between BAM 500.00 and BAM 5,000.00 shall be imposed for a violation on a responsible official in the BiH institution in the event that the official:

- a) has failed to comply with the order issued by the administrative inspector;
- b) has failed to enable an administrative inspector to gain access to information that is the subject of the procedure, has failed to provide the requested data, or has provided incomplete or inaccurate data;
- c) has failed to enable the inspector to conduct smooth supervision.

## **SECTION TEN - TRANSITIONAL AND FINAL PROVISIONS**

### **Article 51**

#### **(Applicability of the Law on Administrative Procedure)**

All matters governing the conduct of the proceedings that are not otherwise regulated under this Law shall be subject to application of the provisions of the Law on Administrative Procedure accordingly ("Official Gazette of BiH", Nos. 12/04, 93/09, 88/07, 41/13 and 53/16).

### **Article 52**

#### **(Repealing provisions and completion of the initiated proceedings)**

(1) The BiH institutions shall make all organizational, material, technical, and other arrangements required for the implementation of the provisions of this law within the period of six months following the date of the entry into force of this Law.

(2) Once this Law has come into effect, the Law on Freedom of Access to Information in Bosnia and Herzegovina ("Official Gazette of BiH", Nos. 28/00, 45/06, 102/09, 62/11 and 100/13) shall cease to be applicable.

(3) The proceedings instituted before the entry into force of this Law shall be completed in accordance with the regulations that were in effect at the time when the proceedings were instituted, provided that such regulations were more favourable for the relevant party in the proceedings.

(4) All bylaws adopted on the basis of the Law on Freedom of Access to Information in Bosnia and Herzegovina shall remain in effect until such time as the new bylaws have been adopted.

### **Article 53**

#### **(Entry into force)**

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

No 01,02-02-1-1031/23

30 August 2023

Sarajevo

Speaker of the  
House of Representatives of  
the Parliamentary Assembly of BiH  
**Marinko Cavara**, *manu propria*

Speaker of the  
House of Peoples of  
the Parliamentary Assembly of BiH  
**Dr. Nikola Špirić**, *manu propria*