

# **(“Official Gazette” of Bosnia and Herzegovina, No. 29/02, 12/04)**

Based on Article IV (4) (a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina, at the session of the House of Representatives held on 20 June 2002 and at the session of the House of Peoples held on 25 June 2002, adopted the

## **LAW ON ADMINISTRATIVE PROCEDURE**

### **FIRST PART – GENERAL PROVISIONS**

#### **I – BASIC PRINCIPLES**

##### **1. Validity of the Law**

###### **Article 1**

- (1) This Law shall define the administrative procedure rules under which administrative authorities of Bosnia and Herzegovina shall act when they, by directly applying the provisions, take decisions in administrative matters on the rights, responsibilities or legal interests of citizens, legal entities or other parties in the administrative matters which fall within the competence of the institutions of Bosnia and Herzegovina.
- (2) Public corporations and public companies (associations), institutions and other legal entities of Bosnia and Herzegovina shall be required to act under this law when they, in exercising the public authorisations (hereinafter: institutions possessing public authorisations) granted to them by law, take decisions in administrative matters.

##### **2. Special Procedure**

###### **Article 2**

Individual procedural issues related to a certain administrative area may only exceptionally, by a separate law, be regulated differently than by this law, if this is necessary for acting differently as per these issues, provided that they may not be in contradiction with the principles of this law.

##### **3. Subsidiary Application of the Law**

###### **Article 3**

In the administrative areas for which a special procedure is laid down by law, actions shall be taken as per the provisions of that law, given that actions related to all the issues not regulated by a special law shall be undertaken as per the provisions of this law.

##### **4. Principle of the Rule of Law**

###### **Article 4**

- (1) When acting in legal matters, administrative authorities and institutions possessing public authorisations shall be required to resolve these matters on the basis of laws and other provisions, as well as on the basis of general acts of institutions possessing public authorisations, which they issue on the basis of public authorisations.

- (2) In administrative matters in which the authority or the institution possessing public authorisations is authorised by law or a law-based regulation to take a decision at its discretion, the decision must be taken within the limits of authorisation and in compliance with the aim for which the authorisation has been granted.
- (3) The rules of the procedure laid down in the provisions of this Law shall also be valid for the cases in which the institution possessing public authorisations is authorised to take decisions in administrative matters at its discretion.

## **5. Protection of Citizen's Rights and Freedoms and Protection of Public Interest**

### **Article 5**

- (1) Where administrative authorities and the institutions possessing public authorisations conduct a procedure and take decisions, they shall be required to enable the parties to protect and exercise their rights in accordance with the Constitution of Bosnia and Herzegovina, European Convention on the Protection of Human Rights and Freedoms and Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina as easily as possible and, in doing so, take care that the exercising of their rights is not detrimental to the rights of other persons or in contradiction with the public interest defined by law.
- (2) Where the official who takes decisions in an administrative matter learns or assesses, having regard to the existing facts, that a particular party has the basis to exercise a right, he shall warn the party of this.
- (3) If some liabilities are imposed on the parties on the basis of the law, the parties shall be subject to the application of the legally prescribed measures which are more favourable to them if the aim of the law is achieved by such measures.

## **6. Principle of Transparency**

### **Article 6**

When acting in administrative matters, administrative authorities and institutions possessing public authorisations shall be required to ensure the right of access to information to any physical or legal entity, in accordance with the Law on Freedom of Access to Information in Bosnia and Herzegovina ("Official Gazette of BiH", No. 29/00).

## **7. Principle of Publicity**

### **Article 7**

The procedure before the administrative authorities and institutions that exercise public authorisations shall be public. The official conducting the procedure may exclude the public only where the law explicitly provides this.

## **8. Principle of Effectiveness**

### **Article 8**

When taking decisions in administrative matters, administrative authorities and the institutions possessing public authorisations shall be required to ensure efficient exercising of the rights and interests of citizens, companies (associations), establishments and other legal entities, which includes the good organisation of performing activities by the authority and which ensures fast, full and effective resolving of administrative matters in the administrative procedure with an all-round consideration of these matters.

## **9. Principle of Material Truth**

### **Article 9**

A true state of things must be established in the procedure and, for this purpose, all the facts of importance for taking a legal and proper decision must be fully and properly established.

## **10. Principle of Party Hearing**

### **Article 10**

- (1) Prior to taking a decision, a party must be given an opportunity to provide his position on all the facts and circumstances important for taking a decision.
- (2) A decision may be taken without prior provision of the party's position only where this is provided by law.

## **11. Procedure Cost-Effectiveness**

### **Article 11**

The procedure shall be conducted fast and with as little costs and loss of time for a party and other persons who are participating in the procedure as possible, but in such a manner as to obtain everything necessary for a proper establishing of facts and taking a legal and proper decision.

## **12. Provision of Assistance to an Ignorant Party**

### **Article 12**

The authority conducting the procedure shall take care that the ignorance and illiteracy of a party and other persons participating in the procedure are not detrimental to the rights belonging to them under the law.

## **13. Assessment of Evidence**

### **Article 13**

Which facts will be taken as evidence shall be decided by an authorised official in his own conviction on the basis of a thorough and careful assessment of each piece of evidence separately and all pieces of evidence together, as well as on the basis of the results of the entire procedure.

## **14. Independence in Decision Taking**

### **Article 14**

- (1) The authority shall conduct the procedure and take a decision independently within the authorisations granted to it by law, other provisions and general acts.
- (2) An authorised official of the authority responsible to conduct the procedure shall independently establish facts and circumstances and, on the basis of the established facts and circumstances, apply provisions or general acts to a particular case.

## **15. Right of Appeal**

### **Article 15**

- (1) A party shall have the right to appeal against a decision taken in the first instance. Only the law may provide that in certain administrative matters an appeal shall not be allowed, and this only if the protection of rights and rule of law is ensured in some other way.
- (2) If there is no second-instance authority, an appeal against the first-instance decision may be lodged only where this is provided for by law. That law shall specify the authority which shall take a decision as per an appeal.
- (3) Under the terms set out in this law, a party shall have the right to appeal even where the first-instance authority has not taken a decision as per his request within a specified period, that is, if it has not taken a decision in the procedure *ex officio* and in the interest of a party.
- (4) An appeal shall not be allowed against a decision taken in the second instance.

## **16. Finality of Decision**

### **Article 16**

A decision against which no regular legal instrument (appeal) may be lodged in the administrative procedure (the final one in the administrative procedure) and by which a party has acquired a right, that is, by which certain liabilities have been imposed on the party, may be revoked, cancelled or amended only in the cases laid down by this law or other laws.

## **17. Validity of Decision**

### **Article 17**

A decision against which no appeal may be lodged or an administrative procedure instigated (valid decision) and by which a party has acquired a right, that is, by which certain liabilities have been imposed on the party, may be revoked, cancelled or amended only in the cases laid down by this law or other laws.

## **18. Use of Language and Script**

### **Article 18**

- (1) The administrative procedure shall be conducted in Bosnian, Croatian or Serbian language.
- (2) The authority conducting the administrative procedure shall ensure equal use of the Bosnian, Croatian or Serbian language.
- (3) If the procedure is not conducted in the party's language, the authority conducting the procedure shall be required to enable him to follow the course of the procedure in his language, as well as to deliver all summons and other letters to him in his language and script. The authority shall advise a party or another participant of the possibility to use his language in the procedure and it shall be entered in the record that the party or another participant has been advised of this right, as well as his statement related to the given advice.
- (4) The parties and other participants in the procedure who are not nationals of Bosnia and Herzegovina and do not speak the language in which the procedure is conducted shall have the right to follow the course of the procedure via an expositor (interpreter).
- (5) The official scripts in the administrative procedure shall be Latin and Cyrillic.

## **19. Use of the Term “Authority”**

### **Article 19**

‘Authority which conducts the procedure, that is, take decisions in administrative matters’ shall, within the meaning of this law, be taken to include the administrative authorities and the institutions possessing public authorisations referred to in Article 1 of this law.

## **II – JURISDICTION**

### **1. Real and Territorial Jurisdiction**

#### **Article 20**

- (1) The real jurisdiction for decision taking in the administrative procedure shall be determined under the provisions regulating the legal area in question, or under the provisions regulating the jurisdiction of individual authorities.
- (2) The territorial jurisdiction shall be determined as per the seat of an authority, that is, as per the seat of an organisational unit within the authority.

#### **Article 21**

- (1) An administrative authority of Bosnia and Herzegovina shall have real jurisdiction for decision taking in administrative matters in the first instance, unless the law provides the jurisdiction of an Entity administrative authority in cases of transferred jurisdiction.
- (2) If the provision regulating the legal area in question does not provide which administrative authority of Bosnia and Herzegovina has real jurisdiction for decision taking in a particular administrative matter which falls within the competence of the Institutions of BiH and this cannot be determined by the nature of things, such a matter shall fall within the jurisdiction of the administrative authority of Bosnia and Herzegovina designated by the Council of Ministers of Bosnia and Herzegovina.

#### **Article 22**

- (1) No authority may assume an administrative matter which falls within the jurisdiction of another authority and resolve it by itself, unless this is provided by a law and carried out under the conditions laid down by that law.
- (2) The authority responsible for decision taking in an administrative matter may transfer the decision taking in that administrative matter to another authority only on the basis of an explicit legal authorisation.
- (3) The real and territorial jurisdiction may not be changed by an agreement reached between the parties or by an agreement reached between the authority and the parties or by an agreement reached between authorities, unless otherwise provided by law.

#### **Article 23**

- (1) Each authority shall, *ex officio*, take care of its jurisdiction during the whole course of the procedure.
- (2) If the authority finds that it is not competent to work as per an administrative matter, it shall act in the manner prescribed in Article 58, paragraph 3 and 4 of this law.

- (3) If a non-competent authority has performed some actions in the procedure, the authority which is competent and to which the matter has been ceded shall assess whether it will repeat some of those actions.

## **2. Parties with Diplomatic Immunity**

### **Article 24**

- (1) In respect of the jurisdiction of local authorities in the matters in which the party is a foreign national who enjoys the right of immunity in Bosnia and Herzegovina, a foreign country or an international organisation, they shall have the status in the administrative procedure, which is regulated by the international law, that is, international agreements accepted by Bosnia and Herzegovina.
- (2) In case of any doubts concerning the existence and scope of the right of immunity, an explanation shall be given by the administrative authority responsible for foreign affairs of Bosnia and Herzegovina.
- (3) Official actions concerning persons enjoying the right of immunity shall be carried out through the mediation of the administrative authority responsible for foreign affairs of Bosnia and Herzegovina.
- (4) Official actions undertaken in an extraterritorial area shall be carried out through mediation of the authority responsible for foreign affairs of Bosnia and Herzegovina.

## **3. Conflict over Jurisdiction**

### **Article 25**

Conflicts over jurisdiction in the administrative procedure between administrative authorities of Bosnia and Herzegovina, between administrative authorities of Bosnia and Herzegovina and institutions of Bosnia and Herzegovina possessing public authorisations and between institutions of Bosnia and Herzegovina possessing public authorisations shall be resolved by the Court of Bosnia and Herzegovina.

### **Article 26**

Conflicts over jurisdiction in the administrative procedure between organisational units of an administrative authority of Bosnia and Herzegovina, which are located outside the seat of the administrative authority and have been established with the task to perform certain administrative duties falling within the competence of administrative authorities of Bosnia and Herzegovina, shall be resolved by the administrative authority of Bosnia and Herzegovina within which these organisational units are.

### **Article 27**

- (1) Where two authorities claim to be responsible or non-responsible for decision taking in the same administrative matter, a proposal for the resolution of the conflict over jurisdiction shall be submitted by the authority which was taking a decision on its jurisdiction last, and the proposal may also be submitted by a party.
- (2) The authority which is resolving the conflict over jurisdiction shall simultaneously revoke the decision taken by a non-responsible authority, that is, it shall revoke the conclusion whereby a responsible authority claimed non-responsibility and shall provide a list of cases to the responsible authority.
- (3) The party may not lodge a special appeal or conduct an administrative lawsuit against a decision on conflict over jurisdiction.

### **Article 28**

- (1) If the authority involved in the conflict considers that a decision on conflict over jurisdiction has violated a right, it may lodge an appeal against that decision. If a decision on conflict over jurisdiction has been taken by a competent court, an appeal shall not be allowed.
- (2) If the authority responsible for decision taking as per the appeal referred to in paragraph 1 of this Article establishes that a decision on conflict over jurisdiction is not based on provisions, it shall discuss the resultant relationships between the appellant authority and the authority declared responsible by the decision, taking care of the rights which, according to relevant provisions, belong to the appellant authority. A decision taken as per an appeal shall be considered as the first-instance decision on the relationships it resolves.
- (3) The appeal referred to in paragraph 1 of this Article and a decision taken as per that appeal shall have no impact on the administrative procedure in a particular case, as the administrative matter in question shall be resolved by the authority which has been identified as a competent one by a decision issued in relation to the conflict over jurisdiction.

#### **4. An Official Authorised to Conduct the Procedure and Take Decisions**

##### **Article 29**

- (1) In the administrative matter for the resolution of which an administrative authority is responsible, a decision in the administrative procedure shall be taken by the head of that authority in the manner regulated by a regulation on the organisation of that authority.
- (2) The head of the authority may authorise another official of the same authority to take decisions in administrative matters which are related to a specific type of administrative activities, or some other expert official for conducting the procedure, that is, for undertaking actions in the procedure before a decision is taken.
- (3) The head of the administrative authority shall be required to issue a separate decision on authorisation of the officials referred to in paragraph 2 of this Article, which shall contain the officials' personal information and the scope of his authorisations for decision taking in administrative matters (to conduct the administrative procedure or take decisions in administrative matters, or both).
- (4) An authorisation for decision taking shall also include the conducting of the procedure which precedes a decision taking.

##### **Article 30**

If the Council of Ministers of Bosnia and Herzegovina is responsible for decision taking in an administrative matter, the procedure shall be conducted and a proposal of the decision prepared by the authorised person or the authority which the Council of Ministers of Bosnia and Herzegovina designates by its act, unless otherwise provided by law or any other provision.

##### **Article 31**

If a House of the Parliamentary Assembly of Bosnia and Herzegovina is responsible for decision taking in an administrative matter, the procedure shall be conducted and a proposal of the decision prepared by an authorised person or a commission, or another body which these authorities designate by their act, unless otherwise provided by law or some other provision.

##### **Article 32**

In administrative matters in which the institution possessing public authorisations takes decisions, the decisions shall be taken by the head of institution, unless otherwise provided by law or some other provision. The head

may authorise another official from the institution to undertake actions in the procedure until a decision is taken or to take decisions in the administrative matters that fall within the competence of that institution, on which a special decision shall be issued and it shall contain the officials' personal information and the scope of authorisations for decision-taking in administrative matters.

## **5. Legal Assistance**

### **Article 33**

- (1) In order to carry out individual actions in the procedure, the administrative authority or the institution possessing public authorisations may request *legal assistance* (translator's note: the text in italic is missing in the local version) from the administrative authority of the respective Entity or the Brčko District of Bosnia and Herzegovina in the territory of which the action is to be carried out.
- (2) For the purpose of easier and more efficient carrying out of actions or to avoid unnecessary expenses, the authority responsible for decision taking in the administrative procedure may request another relevant authority, which is authorised to undertake such an action, to carry out an individual action in the procedure.

### **Article 34**

- (1) Authorities, as well as institutions possessing public authorisations for decision taking in administrative matters, shall be required to provide legal assistance to each other in the administrative procedure. This assistance shall be requested by a special request.
- (2) The requested authorities, that is, institutions referred to in paragraph 1 of this Article shall be required to act under a request within the limits of their competence, without delay and within 10 days from the date of receiving the request at the latest.
- (3) The legal assistance for carrying out individual actions in the procedure may be requested from courts only within special provisions. Exceptionally, the authority or institution possessing public authorisations for decision taking in administrative matters may request courts to provide them with files necessary for conducting the administrative procedure. The courts shall be required to act as per such a request if this does not disrupt the court procedure itself. The court may determine a time limit within which the files must be returned to it.
- (4) The provisions of international agreements shall apply to the provision of assistance to foreign authorities and if there are no such agreements, the principle of reciprocity shall apply. If there are doubts about the existence of reciprocity, explanations on this issue shall be requested from the administrative authority responsible for foreign affairs of Bosnia and Herzegovina.
- (5) Local authorities shall provide legal assistance to foreign authorities in the manner laid down in the local legislation. The authority shall deny legal assistance if the requested action is contrary to the local legislation. The action which is the subject of the request of a foreign authority may be also carried out in the manner requested by the foreign authority if such an action is not contrary to the local legislation.
- (6) If international agreements have not provided for the possibility of direct contact with foreign authorities, local authorities shall communicate with foreign authorities via the administrative authority responsible for foreign affairs of Bosnia and Herzegovina.

## **6. Exemption**

### **Article 35**

An official authorised to take decisions or carry out individual actions in the procedure shall be exempt from work on the case:

- 1) if he is a party, co-authorised person or co-responsible person, witness, expert, authorised person or legal representative of a party in the case in which the procedure has been conducted;
- 2) if he is in blood relation with a party or a party's representative or authorised person in the direct ascending line and, in the descending line, to the fourth degree inclusive; a spouse or a relative by in-laws to the second degree inclusive, even when the marriage has been dissolved;
- 3) if he is related to a party as a foster carer, adopter, adoptee or breadwinner;
- 4) if in the first-instance procedure he participated in conducting the procedure or decision taking.

### **Article 36**

As soon as an official authorised to take a decision in a certain administrative matter or carry out a certain action in the procedure learns about the existence of any of the reasons for exemption referred to in Article 35 of this Law, he shall be required to stop any further work on the case and accordingly notify the authority responsible to take a decision on exemption (Article 38). If an official considers that there are other circumstances which justify his exemption, he shall accordingly notify the same authority without stopping his work.

### **Article 37**

- (1) A party may request the exemption of an official for the reasons referred to in Article 35 of this Law and also where there are other circumstances which draw suspicion on his impartiality. In his request a party must state the circumstances due to which he considers there is a reason for exemption.
- (2) The official for whom a party requested exemption for any of the reasons referred to in Article 35 of this Law may not, until a conclusion is rendered as per the request, carry out any actions in the procedure except those which do not tolerate delays.

### **Article 38**

- (1) A decision on exemption of an official in the administrative authority or institution possessing public authorisations shall be taken by the manager who manages that authority or institution.
- (2) A decision on exemption of an official in the authority which is within the administrative authority shall be taken by the manager of the authority which is within the administrative authority.
- (3) A decision on exemption of the manager referred to in paragraph 1 of this Article shall be taken by the Council of Ministers and a decision on exemption of the manager of the authority which is within another administrative authority shall be taken by the manager of the authority within which that authority is.
- (4) A decision on exemption of an official of the institution possessing public authorisations shall be taken by the manager of that institution and a decision on exemption of the manager of that institution shall be taken by the authority designated for that purpose by the statute or another general enactment of the institution, unless otherwise provided by law or a regulation issued on the basis of the law or by another special regulation.
- (5) The provisions of this Law pertaining to the exemption of officials shall accordingly apply on the exemption of the officials referred to in Article 30 and 31 of this Law. A decision on exemption of these persons shall be taken by an appropriate Government or House.
- (6) A decision on exemption shall be taken in the form of a conclusion.

### **Article 39**

- (1) A conclusion on exemption shall designate the official who will take a decision or carry out individual actions in the procedure related to the case for which exemption has been determined.
- (2) An appeal against a conclusion determining exemption shall not be allowed.

#### **Article 40**

- (1) The provisions of Article 38 of this Law regarding the exemption of officials shall accordingly apply on exemption of a minutes-taker.
- (2) A conclusion on exemption of a minutes-taker shall be rendered by the official authorised to conduct the procedure.

### **III – A PARTY AND THEIR REPRESENTATION**

#### **1. Party**

#### **Article 41**

A party is the person under whose request the procedure has been instigated or against whom the procedure has been conducted or who, in order to protect his rights or legal interests, has the right to participate in the procedure.

#### **Article 42**

- (1) A party in the administrative procedure may be any physical and legal entity.
- (2) A party in the administrative procedure may be an operational unit of a company (association), a settlement, a group of people etc. that lack the capacity of a legal entity, if they can be the holders of the rights and obligations on which decisions are to be taken in the administrative procedure.
- (3) A party may also be a union if the administrative procedure relates to a particular right or legal interest of a civil servant in administrative authorities, as well as of employees in the institution possessing public authorisations.
- (4) A party may also be an Ombudsperson of B-H, where he, in performing the duties falling within his competence, finds that there are grounds for instigating an administrative procedure in order for citizens to exercise their rights and freedoms guaranteed to them by the Constitution of Bosnia and Herzegovina, European Convention on Protection of Human Rights and Fundamental Freedoms and the instruments referred to in Annex 6 of the General Framework Agreement for Peace in Bosnia and Herzegovina.

#### **Article 43**

- (1) A company (association), establishment and another legal entity, public organisation and association of citizens registered in accordance with the law, which, under their general act, have the task to protect certain rights and interests of their members, may, upon obtaining consent from their member, file a request pertaining to such rights and interests in his name, as well as to take part in an already instigated procedure with all the rights of a party.
- (2) The legal entity referred to in paragraph 1 of this Article may represent their employee in the administrative procedure at his request if this is laid down by the general enactment of that legal entity.

#### **Article 44**

- (1) If a Defence Attorney of Bosnia and Herzegovina and other governmental authorities are authorised by law to represent public interests in the administrative procedure, they shall, within the limits of their authorisations, have the rights and obligations of a party.
- (2) The authorities referred to in paragraph 1 of this Article may not have broader authorisations in the administrative procedure than those of the parties, unless otherwise provided by law.

### **2. Procedural Capability and Legal Representative**

#### **Article 45**

- (1) A physical person who is fully business capable may carry out actions in the procedure by himself (procedural capability).
- (2) For a procedurally incapable physical person, actions in the procedure shall be undertaken by his legal representative. A legal representative shall be determined on the basis of the law or by an enactment of the responsible authority issued on the basis of the law.
- (3) A legal entity shall carry out their actions via their representative or legal representative. A representative or a legal representative of the legal entity shall be designated by their general enactment if he has not been determined by law or by an enactment of a responsible authority issued on the basis of the law.
- (4) An administrative authority shall carry out actions in the procedure via a legally authorised representative, an organisational unit of an organisation (association) – via the person who manages the operation of the organisational unit and a settlement or a group of people lacking the capacity of legal entity – via the person they authorise, unless otherwise provided by special provisions.
- (5) Where the authority conducting the procedure establishes that a legal representative of the person who is under guardianship does not demonstrate necessary attention in the representation it shall notify the guardian authority of this.

#### **Article 46**

- (1) During the whole procedure the authority shall, *ex officio*, watch whether the person who is appearing as a party can be a party in the procedure and whether the party is represented by his representative or an authorised representative.
- (2) If during the procedure a party passes away, the procedure may be suspended or continued depending on the nature of the administrative matter which is the subject of the procedure. If, by the nature of things, the procedure cannot be continued, the authority shall suspend it by a conclusion against which a special appeal is allowed.

### **3. Provisional Representative**

#### **Article 47**

- (1) If a procedurally incapable party does not have a legal representative or an action is to be taken against the person whose place of residence is unknown and who does not have an authorised person, the authority conducting the procedure shall appoint a provisional representative for such a party if this is required by the urgency of the case and the procedure has to be conducted. The authority conducting the procedure shall immediately notify a guardian authority of this and if a provisional representative is appointed for a party

whose residence is unknown, it shall announce its conclusion on a notice board or in another normal way.

- (2) If a company (association), establishment or any other legal entity does not have a legal representative, representative or an authorised person, the authority conducting the procedure shall, as a rule and under the conditions referred to in paragraph 1 of this Article, appoint a provisional representative for such a party from among persons in the legal entity and accordingly notify the legal entity of this without delay.
- (3) In the manner laid down in the provisions of paragraphs 1 and 2 of this Article, a provisional representative shall be also appointed where the action which cannot be postponed must be carried out and it is not possible to timely summon a party or his authorised person or representative. The party, authorised person or representative shall immediately be notified of this.
- (4) An appointed person shall be required to assume representation, which he may refuse only for the reasons laid down by special provisions. A provisional representative shall take part only in the procedure for which he has been explicitly appointed and this only until a party's legal representative or representative, or the party himself or his authorised person does not appear.
- (5) Where a party or his legal representative is located abroad and does not have an authorised person in Bosnia and Herzegovina, he shall be asked, upon the delivery of the first letter, to appoint within a specified period his authorised person or a person authorised to receive letters and warned that if he does not appoint his authorised person within the specified period, he shall be *ex officio* appointed a person authorised to receive letters or a provisional representative.

#### **4. Joint Representative**

##### **Article 48**

- (1) Two or more parties may, unless otherwise provided by a special regulation, appear jointly in the same procedure. In that case they shall be required to indicate who of them will appear as their joint representative, or to appoint a joint authorised person.
- (2) The authority conducting the case may, if this is not banned by a special provision, order the parties who participate in the procedure with the same requirements to indicate within a specified period who of them will be their representative, or to appoint their authorised person, on which a conclusion shall be rendered. If the parties do not act as per such a conclusion, the authority conducting the case may do this. In that case a joint representative, that is, an authorised person shall retain that capacity until such time as the parties do not appoint another one. The parties shall have the right to lodge a special appeal against such a conclusion, but the appeal shall not postpone the execution of the conclusion.
- (3) Even in case a joint representative or an authorised person has been appointed, each party shall retain their right to appear as a party in the procedure, give statements, independently lodge appeals and use other legal instruments.

#### **5. Authorised Person**

##### **Article 49**

- (1) A party or their legal representative may appoint an authorised person who will represent him in the procedure except in actions in which the party needs to give statements himself.
- (2) The actions which an authorised person undertakes in the procedure within his authorisation shall have the same legal effect as if they have been undertaken by the party himself.

- (3) Regardless of an authorised person, a party may give statements himself and such statements may be directly requested from the party.
- (4) The party who is present at the time his authorised person is giving an oral statement, may, immediately after the statement has been given, amend or revoke the statement given by his authorised representative. If there are discrepancies in written and oral statements which pertain to the and which are given by the party or his authorised person, the authority conducting the case shall consider both statements within the meaning of Article 11 of this Law.

#### **Article 50**

- (1) An authorised person may be any person who is business able, except for the person who is dealing in illegal practice of law.
- (2) If a person dealing in illegal practice of law appears as an authorised person, the authority shall deny further representation to such a person and it shall render a conclusion on this and immediately notify it to the party.
- (3) A special appeal may be lodged against a conclusion on denial of representation, which shall not postpone the execution of the conclusion.

#### **Article 51**

- (1) A power of attorney may be given in writing, or orally, for the record, which shall be entered by the official of the authority conducting the procedure.
- (2) The party who is illiterate or unable to put a signature shall put a fingerprint on a written power of attorney instead of the signature. If a power of attorney is issued to the person who is not a lawyer, the presence of two witnesses shall be required, who shall sign the power of attorney.
- (3) Exceptionally, an official conducting the procedure or carrying out individual actions in the procedure may allow to the person who has not submitted a power of attorney (a family member, etc.) to carry out a certain action in the name of a party as his authorised person, but he shall simultaneously order that person to subsequently, within a specified period, submit an appropriate power of attorney for the action in question.

#### **Article 52**

- (1) If a power of attorney has been issued in the form of a private document and there is suspicion of its authenticity, an order may be given that an authenticated power of attorney be submitted.
- (2) The authenticity of a power of attorney shall be verified *ex officio* and the deficiencies of a written power of attorney eliminated in accordance with Article 60 of this law and, in the process of this, an official conducting the procedure may allow an authorised person with an improper power of attorney to carry out urgent actions in the procedure.

#### **Article 53**

- (1) The provisions of a power of attorney shall be relevant for the contents and scope of the power of attorney. A power of attorney may be issued for the whole procedure or for individual actions and it may also be time limited.
- (2) A power of attorney shall not cease to be valid upon the death of a party, loss of his procedural capability or change in his legal representative, however a legal successor of the party or his legal representative may revoke an earlier power of attorney.

#### **Article 54**

The provisions of this law pertaining to the parties shall accordingly apply to their legal representatives, authorised persons, provisional representatives and joint representatives.

#### **Article 55**

- (1) In the matters which require technical knowledge of the issues related to the subject of the procedure, the party shall be allowed to bring an expert who will give him information and advice (expert assistant). This person does not represent the party.
- (2) The party may not bring as an expert assistant the person who is business incapable or who is dealing in illegal practice of law.

### **IV – COMMUNICATION BETWEEN THE AUTHORITY AND PARTIES**

#### **1. Submissions**

#### **Article 56**

- (1) Submissions shall be taken to include requests, forms to be used in automatic data processing, proposals, reports, applications, appeals, complaints and other notices with which individuals or legal entities refer to authorities.
- (2) Submissions shall, as a rule, be delivered directly or sent in writing by mail or orally given for the record at the authority and they may, unless otherwise provided, be submitted by fax or telegraph. Short and urgent statements may be given by phone, if this is possible by the nature of things.

#### **Article 57**

A submission shall be presented to the authority responsible for receiving submissions and it may be presented on each working day during office hours. For oral submissions which are not time limited or unpostponable, it may be determined that they are to be submitted only at specific hours during office hours. The time for submitting such requests shall be announced by each authority in its premises, in a visible place.

#### **Article 58**

- (1) The authority responsible for receiving submissions or an oral statement shall be required to receive the submission being presented to it, that is, to take the oral statement for the record.
- (2) The official who receives a submission shall be required to give a receipt on receiving the submission *ex officio* or on submitter's oral request. No fee shall be charged for this receipt.
- (3) If the authority is not responsible for receiving written submissions or statements for the record, an official of this authority shall warn the submitter of this and direct him to the authority responsible for receiving them. If in spite of this the submitter requests that his submission or a statement for the record be received, an official shall be required to receive such a submission or oral statement. If the authority finds that it is not responsible to act as per such a submission, it shall render a conclusion by which it shall refute the submission due to its non-responsibility and immediately deliver the conclusion to the party.
- (4) Where the authority receives a submission it is not responsible to receive and it knows which authority is responsible to receive it, it shall send the submission to the responsible authority or court without delay and notify the party of this. If the authority which received a submission cannot determine which authority is responsible to

act as per the submission, it shall, without delay, render a conclusion on refuting the submission due to the non-responsibility and immediately deliver it to the party.

- (5) A special appeal shall be allowed against the conclusion referred to in paragraphs 3 and 4 of this Article.
- (6) If the authority receives a charge for the instigation of the administrative procedure by mail, it shall immediately communicate the charges to the Court of Bosnia and Herzegovina, on which it shall notify the filer of the charge in writing.

#### **Article 59**

- (1) A submission has to be legible and contain everything that is necessary to act as per it. The submission should contain in particular the following information: the name of the authority it is addressed to; the case it refers to, that is, a proposal; who is a representative or an authorised person if any and the name and surname and place of residence (address) of the submitter or of the representative or authorised person.
- (2) The submitter shall be required to personally sign the submission. Exceptionally, instead of the submitter the submission may be signed by his spouse, one of his parents, son or daughter or the lawyer who composed the submission under the party's authorisation. The person who signed the submission on behalf of the submitter shall be required to write his name and his address on the submission.
- (3) If the submitter is illiterate or incapable of putting his signature, the submission shall be signed by another, literate person who shall write down his name and address.

#### **Article 60**

- (1) If a submission contains a formal deficiency which prevents undertaking of actions as per the submission, or if the submission is illegible or incomplete, it may not be refuted only because of this. The authority which received such a submission shall be required to carry out the activities which will ensure the elimination of the deficiencies and shall set a deadline for the submitter within which he shall be required to eliminate them. The submitter may be notified of this in writing, by fax or phone and even orally if the submitter happens to be in the authority which notifies this. The authority shall make an official note on performed notification in the file.
- (2) If the submitter eliminates deficiencies within a specified period, it shall be considered that the submission has been a proper one from the very beginning. If the submitter does not eliminate deficiencies within the specified period and due to this it is not possible to act as per the submission, it shall be deemed that the submission has not been submitted at all. The authority shall render a conclusion on this and a special appeal shall be allowed against it. The submitter shall be particularly warned of this consequence in an invitation for correction of submissions.
- (3) Where a submission has been sent by fax or telegraph or where a statement has been received by phone and it is suspected that the submission was not submitted by the person indicated on the telegraph or fax submission or that it does not originate from the person who gave his name when giving his statement by phone, the responsible authority shall instigate a procedure for the establishment of these facts and if the deficiencies are not eliminated, it shall act in the manner laid down in paragraph 2 of this Article.

#### **Article 61**

If a submission contains several requests which must be resolved separately, the authority which received the submission shall take for decision taking those requests it is responsible to resolve and it shall handle the other requests within the meaning of Article 58 of this Law.

## **2. Summoning**

### **Article 62**

- (1) The authority conducting the procedure shall be authorised to summon the person whose presence in the procedure is required and whose place of residence is in the territory it covers. As a rule the summoning may not be carried out for the purpose of delivering outgoing written decisions and conclusions or for the purpose of notifications which can be carried out by mail and in another way which is more suitable for the person to whom the notification is to be communicated.
- (2) Exceptionally, the person whose place of residence is located outside the territory covered by the authority may be invited to the oral hearing if this is to expedite the procedure or make it easier and if the arrival does not cause larger expenses or loss of time for the summoned person.
- (3) The summoning shall be carried out in writing, unless another way is laid down by special provisions.

### **Article 63**

- (1) In a written summons the following information shall be indicated: the name of the summoning authority; the name, surname and address of the person being summoned; the place, date and, if possible, the hour when the summoned person should come, the case for which he is summoned and in what capacity (as a party, witness, expert etc.) and then which ancillary and evidential instruments the summoned person should bring. The summons must state whether the summoned person is required to come in person or he may send his authorised person who will represent him, and then he shall be warned of the consequence that in the event of his inability to respond to the summons he shall be required to notify this to the authority which issued the summons. The summoned person shall also be warned of the consequence that he may be taken into custody if he does not respond to the summons for unjustified reasons, or that he may be fined.
- (2) In a summons for the oral hearing the party may be asked to furnish written and other evidence and may be warned that he can bring witnesses he intends to refer to.
- (3) Where this is allowed by the nature of things, it may be left to the discretion of the summoned person to submit a required written statement until a specified date instead of coming in person.

### **Article 64**

- (1) When summoning, the authority shall make sure that the person whose presence is required is asked to come at the time which will least hinder the summoned person from carrying out his regular work.
- (2) No one may be summoned to come during the night. The summoning to come in the night may be carried out only exceptionally, if this is provided by special provisions and if it is necessary to carry out urgent and undeferrable measures that must be stated in the summons, as well as the reference to the provision the summoning is based on.

### **Article 65**

- (1) The summoned person shall be required to respond to the summons.
- (2) If the summoned person is unable to come due to illness or for some other justified reason, he shall be required to notify this to the authority which issued the summons immediately after receiving it, and if the reason for being unable to come occurred later, then immediately after learning about that reason.
- (3) If the person who has been delivered a summons in person (Article 76) does not respond to the summons and

justify his absence, he may be taken into custody if his presence is required and, in addition, penalised by a fine of up to 50 KM. These measures shall apply only if they were indicated in the summons. If expenses have been incurred in the procedure due to the unjustified absence of the summoned person, it may be decided that these expenses shall be born by the person who was absent. A conclusion on taking into custody, declaration of a penalty or payment of expenses shall be rendered by the official conducting the case in agreement with the person authorised to resolve the matter, and at the requested authority – in agreement with the head of that authority, that is, with the official authorised to take decisions in similar matters. A special appeal shall be allowed against this conclusion.

### **3. Record**

#### **Article 66**

- (1) A record shall be made of the oral hearing or another important action undertaken in the procedure, as well as of more important statements of the parties or third parties given in the procedure.
- (2) As a rule no record but an official note in the very file, with the signature of the official who made it and date, shall be made of less important actions and statements of the parties and third parties, which do not essentially influence the resolution of the matter, as well as of the manner of administering the course of the procedure, notifications, official observations, oral instructions and orders and of the circumstances which pertain only to the internal operation of the authority at which the procedure is being conducted. Also, a record need not be made of those oral requests of the party on which a decision is to be taken in a shortened procedure and which meets the requests, but such requests may only be noted in a prescribed manner.

#### **Article 67**

- (1) The following information shall be entered in the record: name of the authority which carries out an action, Ref. No. and date, place where the action is to be carried out, date and hour when the action is to be carried out and the case within which it is to be carried out, names of officials, present parties and their representatives or authorised persons and other persons present during the performance of the action.
- (2) The record should contain an accurate and short description of the course and the content of the performed action, as well as given statements, and these actions and statements should be confined to the particulars pertaining to the matter which is the subject of the procedure. The record shall also indicate all the documents used for any purpose during the performance of the action and, if necessary, these documents shall be attached to the record.
- (3) Statements of the parties, witnesses, experts and other persons who participate in the procedure, and which are important for taking a decision, shall be entered in the record as accurately as possible and, if necessary, in their words. Also, all the conclusions rendered during the performance of the action shall be entered in the record.
- (4) If the hearing is carried out via an expositor or interpreter, the language in which the heard person spoke shall be indicated, as well as who the expositor or interpreter was.
- (5) A record shall be kept during the performance of an official action. If the action cannot be carried out on the same day, it shall be entered in the same record what was done on each day separately and then signed.
- (6) If the action on which a record is being kept could not be carried out without interruptions, it shall be stated in the record that there were interruptions.
- (7) If blueprints, sketches, drawings, photos and the like were developed or obtained during the action, these documents shall be certified with the official's signature and attached to the record and it shall be concluded in the record that these documents are integral parts of the record.

- (8) The provisions may regulate that in certain matters a record may be kept in the form of a book or other means of recording.

#### **Article 68**

- (1) A record must be kept properly and nothing may be erased in it. The places which are crossed until the conclusion of the record must remain legible and the official conducting the procedure shall certify them with his signature.
- (2) Nothing may be added or changed in an already signed record. A supplement to the already signed record shall be entered in the attachment to the record.

#### **Article 69**

- (1) Before concluding it, the record shall be read to the heard persons and other persons who participate in a procedure action. These persons shall have the right to examine the record by themselves and give their remarks and an official shall be obliged to enable this to them. At the end of the record it shall be stated that the record was read, that there were no remarks or, if there were any, the substance of the given remarks shall be entered in short. These remarks shall be signed by the person who gave them. Then the record shall be signed in such a way that the heard persons, i.e. the persons who gave the statements, shall sign it first and, at the end, the official conducting the procedure shall sign it, as well as a minutes-taker, if there was any.
- (2) The party, witnesses, experts and other persons heard in the procedure shall put their signatures in the record below that part of the record where their statement was entered.
- (3) If there were confrontations, the part of the record on that shall be signed by the persons who were confronted.
- (4) If the record contains several pages, they shall be marked with ordinal numbers and the official conducting the procedure action and the person whose statement was entered at the end of the record shall certify each page with their signatures at the bottom of the each page.
- (5) Supplements to an already concluded record shall be signed and certified again.
- (6) If the person who should sign the record is an illiterate one or cannot write, his name shall be signed by a literate person who shall also put his signature. This may not be an official conducting the procedure action or a minutes-taker.
- (7) If a person does not want to sign the record or if he leaves before the conclusion of the record, this shall be stated in the record, as well as the reason for which the signature was denied.

#### **Article 70**

- (1) The record made in accordance with the provisions of Article 69 of this law shall be a public document. The record shall be the evidence of the substance of a procedure action and given statements, except for those parts of the record on which the heard person remarked they were not properly made.
- (2) It shall be allowed to prove the incorrectness of the record.

#### **Article 71**

- (1) Where a board authority resolves in the administrative procedure, a special record of consultations and voting shall be made. Where a unanimous decision has been taken in the procedure under an appeal, the record of

consultations and voting needs not be made and only an official note on this may be made in the file, which shall be certified with the signature of the official who chairs the board authority.

- (2) In addition to the information on the board authority composition, the record of consultations and voting shall contain the indication of the case in question and the brief contents of what was decided, as well as different opinions if there were any. This record shall be signed by the person who chairs the board and a minutes-taker.
- (3) Where a legislative or executive administrative authority takes a decision in the administrative procedure, no separate record of consultations and voting shall be made, but a conclusion rendered in the administrative matter entered in the record, as well as other conclusions of these authorities.

#### **4. Inspection of Files and Reporting on the Course of the Procedure**

##### **Article 72**

- (1) The parties shall have the right to inspect case files and transcribe necessary files at their expense, and the authority shall be obliged to enable this. Files shall be inspected and transcribed under the supervision of an official.
- (2) The right to inspect files and transcribe individual files at his expense shall also have every other person who makes probable his interest in doing this, as well as a social organisation and an association of citizens, if there is a justified interest.
- (3) The inspection and transcription of files may be also requested orally. The authority may request from the person referred to in paragraph 2 of this Article to explain for the record, either in writing or orally, the existence of his legal interest.
- (4) The following may not be inspected or transcribed: a record of consultations and voting, official reports and draft decisions, as well as other files which are kept as confidential, if this could frustrate the purpose of the procedure or if this is contrary to the public interest or justified interest of a party or third persons.
- (5) The party and every other person who makes probable his legal interest in the case, as well as interested authorities, shall have the right to be informed on the course of the procedure.
- (6) A special appeal shall be allowed against the refusal of request, even where a conclusion has not been issued in writing. The appeal may be lodged immediately.
- (7) An appeal may be lodged immediately following the pronouncement and within 24 hours from the pronouncement at the latest. A decision as per an appeal must be taken within 48 hours from the hour when the appeal was lodged.

#### **V – DELIVERY OF LETTERS**

##### **1. Method of Delivering Letters**

##### **Article 73**

- (1) The delivery of letters (summonses, decisions, conclusions and other official letters) shall, as a rule, be carried in such a manner that a letter is handed over to the person it is intended for.
- (2) The delivery shall be carried out by mail or by the authority via its official. The person who a letter is to be delivered may only exceptionally be asked to come to take the letter, where this is required by the nature of things or the importance of the letter to be delivered, if such a delivery is laid down by a separate provision.

- (3) The method of delivery shall be determined by the authority whose letter is to be delivered in accordance with the provisions of this pertaining to the delivery of letters.

#### **Article 74**

- (1) The delivery shall be carried out only on workdays, in the daytime.
- (2) The authority whose letter is to be delivered may, exceptionally, for particularly important reasons, determine that the delivery is to be carried out even on Sunday or some other non-working day or on a public holiday.
- (3) The delivery by mail may be carried out even on the days referred to in paragraph 2 of this Article.

#### **Article 75**

- (1) The delivery shall, as a rule, be carried out in the apartment or at the work place where the person to whom the delivery is to be carried out works, and to a lawyer – in his lawyer’s office.
- (2) The delivery may be also carried out outside the premises referred to in paragraph 1 of this Article if the person to whom the delivery is to be carried out accepts to receive the letter being delivered, and if there are no such premises, the delivery to such a person may be carried out wherever he happens to be.

### **2. Obligatory Personal Delivery of Letters**

#### **Article 76**

- (1) The delivery must be personally carried out to the person the letter is intended for: where such a delivery is laid down by this law or other regulation; where the period which cannot be extended under the law begins to run from the date of delivery; or where this is determined by the authority which ordered the delivery. It shall be deemed that the delivery to a lawyer has been carried out in person even where letters are delivered to a person employed in the lawyer’s office.
- (2) Where the person to whom the delivery is to be carried out in person is not in the apartment or at work place or where a person employed in the lawyer’s office is not found in it, the deliverer shall be advised when and where he can find him and, consequently, he shall leave a written note with one of the persons referred to in Article 77 of this law that he should be in his apartment or at work place on a specified date and hour for the purpose of receiving the letters. If even after this the deliverer does not find the person to whom the delivery is to be carried out, he shall act in the manner laid down in Article 79 of this law and then it shall be deemed that the delivery was carried out.
- (3) By delivering letters to a legal representative, authorised person or person authorised to receive letters, it shall be deemed that the delivery was carried out to the party himself.

### **3. Indirect Delivery of Letters**

#### **Article 77**

- (1) When the person to whom the delivery is to be carried out is not found in his apartment, the delivery shall be carried out by handing a letter over to any of adult members of his household, and if they are not found in the apartment, the letter may be handed over to a neighbour if he agrees to it.
- (2) If the delivery is carried out at the workplace of the person to whom a letter is to be delivered and that person is not found there, the delivery may be carried out to a person employed at the same workplace if he agrees to receive the letter. The delivery to a lawyer may be carried out by handing a letter over to the

person employed in the lawyer's office.

- (3) The delivery in accordance with paragraphs 1 and 2 of this Article may not be carried out to the person who participates in the same procedure with an opposite interest.

#### **Article 78**

- (1) If it is established that the person to whom the delivery is to be carried out is absent and that the person referred to in Article 77 of this law cannot hand a letter over to him on time, the letter shall be returned to the authority which issued it with the indication of the absent person's whereabouts.
- (2) If the place of abode or residence of the person to whom the delivery is to be carried out remained unknown in spite of enquiries, the authority which issued a letter shall appoint a provisional representative to that person within the meaning of Article 47 of this law and deliver the letter to him.

#### **Article 79**

- (1) If the delivery may not be carried out in the manner laid down in Article 77 of this Article and it has not been established that the person to whom the delivery is to be carried out is absent, a deliverer shall deliver a letter to the appropriate authority of the municipality in the territory of which the person to whom the delivery is to be carried out has his place of abode or residence or to the post office in the place of his abode or residence if the delivery is carried out by mail. A deliverer shall put a written note against the door of the apartment of the person to whom the delivery is to be carried out in which he shall indicate where the letter is. In the note and on the letter which has to be delivered the deliverer shall indicate the reason for such a delivery, as well as the date when he put the note with the indicated reason against the door and put his signature.
- (2) The delivery shall be deemed to be carried out where a note has been put against the door, given that any damage or destruction of this note carried out after its placement against the door shall have no effect on the validity of delivery.
- (3) The authority which ordered delivery shall be notified of the delivery carried out in the manner laid down in paragraph 1 of this Article.

### **4. Special Cases of Delivering Letters**

#### **a) Delivery of Letters to a Legal Representative and an Authorised Person**

##### **Article 80**

- (1) The delivery to a legal representative or an authorised person, if the party has them, shall be carried out in the manner laid down in Article 73 through 79 of this law.
- (2) If several parties have a joint legal representative or an authorised person in the same case, the delivery for all of them shall be carried out to that legal representative or authorised person. If a party has several authorised representatives, it shall be sufficient to carry out the delivery to one of them.

#### **b) Delivery of Letters to a Person Authorised to Receive Letters**

##### **Article 81**

- (1) The party may authorise a person to receive letters and the delivery shall be carried out to that person.
- (2) The person authorised to receive letters shall be required to send each document to the party without delay.

- (3) If the direct delivery to the party, authorised person or legal representative would considerably delay the procedure, the official conducting the procedure may order the party to appoint within a specified period a person for receiving letters related to the case in question. If the party does not act under this order, the authority may act in accordance with Article 47 of this law.
- (4) With the delivery of letters to the person authorised to receive letters, it shall be deemed that the delivery was carried out to the party to whom the letter was to be delivered.

#### **Article 82**

- (1) Where several parties participate in the procedure with the same requests and do not have a joint authorised person, they shall, upon carrying out the first action in the procedure, be required to register with the authority their joint authorised person for receiving letters, if possible the one who resides in the place where the authority has its seat. Until they report their joint authorised person for receiving letters, such an authorised person shall be deemed to be that party among them who was first signed or marked on their first joint submission. If it is not possible to designate an authorised person in this way, the official conducting the procedure may designate any of these parties as an authorised person. If the number of parties is large or if they are from various places, the parties may report, and the official himself may designate, a number of such authorised persons and indicate which party each of them will represent.
- (2) A joint authorised person for receiving letters shall be required to notify, without delay, all the parties of the letter he received for them and enable them to exam, transcribe and certify the letter which he, as a rule, should keep.
- (3) All the persons to which the delivery is to be carried out shall be indicated in the letter delivered to the authorised person for receiving letters.

#### **c) Delivery of Letters to Governmental Authorities, Companies (Associations), Establishments and other Legal Entities**

#### **Article 83**

- (1) The delivery of letters to governmental authorities, companies (associations), establishments and other legal entities shall be carried out by handing the letters over to an official, i.e. the person designated to receive letters, of these authorities or legal entities, unless otherwise provided for individual cases.
- (2) If operational units, settlements, groups of persons etc. (Article 42, paragraph 2) participate in the procedure, the delivery shall be carried out by handing over a letter to the person they designated to receive letters (Article 45, paragraph 4).
- (3) If during the office hours a deliverer does not find the person designated to receive letters, he may deliver the letters to any person employed in that authority or legal entity who happens to be in their premises.

#### **d) Delivery of Letters to other Persons**

#### **Article 84**

- (1) The delivery of letters to physical and legal entities abroad, as well as to foreign countries, international organisations and internationals to Bosnia and Herzegovina who enjoy diplomatic immunity, shall be carried out via the administrative authority of Bosnia and Herzegovina responsible for foreign affairs, unless otherwise provided by international agreements.

- (2) The delivery to the nationals of Bosnia and Herzegovina who are located abroad may be carried out directly. The delivery of these and other letters may also be carried out via diplomatic and consular representation offices of Bosnia and Herzegovina abroad.
  - (3) The delivery of letters to military persons, police members, persons employed in the inland, river, maritime and air traffic may be carried out via their HQ's or the authority or legal entity with which they are employed.
  - (4) The delivery of letters to the persons deprived of liberty shall be carried out via the management of the institution in which they are situated.
- e) **Delivery of Letters via a Public Announcement**

#### **Article 85**

If there are one or more persons who are unknown or unidentifiable to the authority, the delivery shall be carried out by putting a public announcement on a notice board of the authority which issued the letter. It shall be deemed that the delivery of letters was carried out after 15 days from the date of putting an announcement on the notice board, unless the authority which issued the letter specifies a longer period. In addition to the announcement on the notice board, the authority may publish the announcement in newspapers or other mass media or in any other normal way.

f) **Refusal to Receive Letters**

#### **Article 86**

- (1) If the person to whom a letter has been addressed or an adult member of his household refuses to receive the letter without a legal reason, or this is done by a person employed in an authority, company (association), establishment or other legal entity or in the lawyer's office, that is, if this is done by the person who a settlement, group of people etc. (Article 42, paragraph 2) has designated to receive letters, the deliverer shall leave the letter either in the apartment or at the workplace where the person in question is employed, or put the letter against the door of the apartment or premises where the person is employed.
- (2) When the delivery of letters has been carried out in the manner laid down in paragraph 1 of this Article, the deliverer shall enter in the delivery note the date, hour and the reason why the letter was refused to be received, as well as the place where he left the letter and, by this, it shall be deemed that the delivery was carried out.

g) **Change of the Apartment**

#### **Article 87**

- (1) When the party or his legal representative changes their place of residence or apartment during the procedure, they shall be required to immediately notify this to the authority conducting the procedure.
- (2) If they do not do this and a deliverer cannot find out where they moved, the authority shall provide that all further deliveries of letters in the procedure for the party in question be carried out by placing the letters on the notice board of the authority conducting the procedure.
- (3) The delivery shall be deemed to be carried out after the expiration of 15 days from the date of putting a letter on the notice board of the authority conducting the procedure.
- (4) When an authorised person or a person authorised to receive letters changes his place of residence or apartment during the procedure and does not notify this to the authority conducting the procedure, the delivery shall be carried out as if the authorised person has not been appointed at all.

## **5. Delivery Note**

### **Article 88**

- (1) The evidence on performed delivery of letters shall be a receipt on delivery (delivery note).
- (2) The delivery note shall contain the following information: the name of the authority delivering a letter, number and date, the name of the letter to be delivered, the name of the party i.e. the person to whom the letter is to be delivered and his address.
- (3) The date of delivery shall be entered in the delivery note which shall be signed by the recipient and the deliverer. The recipient shall indicate in the delivery note the date of receiving the letter in writing.
- (4) If the recipient is illiterate or unable to sign a delivery note, the deliverer shall indicate in the delivery note his name and date of delivery and put a note as to why the recipient has not put his signature.
- (5) If the recipient refuses to sign a delivery note, the deliverer shall enter this in the delivery note and put in writing the date of delivery and, by this, it shall be deemed that the delivery was carried out.
- (6) If the delivery was carried out to any of the persons referred to in Article 77 of this law, the deliverer shall indicate in a delivery note the person to whom a letter was handed over (a member of the family, neighbour, etc.).
- (7) If the delivery was carried out in accordance with Article 79 of this law, it is necessary to indicate the date of notification, as well as the date of handing over the letter to a municipal or city authority or to the post office.

## **6. Errors in the Delivery of Letters**

### **Article 89**

- (1) If an error was made in the delivery of letters, which pertains to the date of delivery or to the person the letter was handed over to, the authority whose letter is in question shall be required to conduct a procedure for establishing these facts. It shall be deemed that the delivery was made on the date established in the procedure as the date when the person to whom the letter was intended really received it.
- (2) If a delivery note has disappeared, the performed delivery of letters may be proved by other means, which shall be determined in the procedure, in accordance with the provisions of paragraph 1 of this Article.

## **VI – TIME LIMITS**

### **Article 90**

- (1) Time limits may be set for undertaking individual actions in the procedure.
- (2) If time limits have not been set by law or some other provision, they shall be set, having regard to the circumstances of the case, by the official conducting the procedure.
- (3) The time limit set by the official conducting the case may be extended at the request of the interested party filed prior to the expiration of the time limit or three days following the expiration of the time limit if there are justified reasons for its extension, on which an official note shall be made in the file.

### **Article 91**

- (1) Time limits shall be set in days, months and years.
- (2) When a time limit is set in days, the day on which the delivery or notification was carried out, or on which falls the event from which the time limit is to be calculated, shall not be calculated within the time limit and the first following day shall be taken as the beginning of the time limit. The time limit set in months or years shall end upon the expiration of the day, month or year which, according to its number, corresponds to the day when the delivery or notification was carried out, that is, to the day on which falls the event from which the duration of the time limit is to be calculated. If that day does not exist in the last month, the time limit shall expire on the last day of that month.
- (3) The end of the time limit may also be indicated by a calendar date.

### **Article 92**

- (1) The beginning and the course of time limits shall not be prevented by weekend days, that is, by non-working days or national holidays.
- (2) If the last day of a time limit falls on Sunday or on a national holiday or on any other day when the authority at which a procedure action is to be undertaken does not work, the time limit shall end upon the expiration of the first next working day.

### **Article 93**

- (1) A submission is filed within the time limit if it, prior to the expiration of the time limit, arrived to the authority it had to be delivered to.
- (2) Where a submission has been sent by mail, registered mail or telegraph, the day of its delivery to the post office shall be considered as the date of its delivery to the authority it is addressed to.
- (3) For the persons deprived of liberty, the day of delivering a submission to the management of the institution in which these persons are situated shall be considered as the date of its delivery to the authority it is addressed to.
- (4) If the responsible authority has set out the day on which it will discuss about the submission which the party is required to submit and invited the party to submit the submission until a certain date, the authority shall be required to consider the submission received prior to the commencement of the discussion.

## **VII – RESTORATION TO THE PREVIOUS STATUS**

### **Article 94**

- (1) The restoration to the previous status shall be allowed to the party who failed to carry out a procedure action for justified reasons and was excluded from carrying it out due to that failure, on his proposal.
- (2) The restoration to the previous status shall be allowed to the party who failed to submit a submission within a time limit, on his proposal, even if he, either due to his ignorance or obvious mistake, timely sent the submission by regular mail or directly submitted it to a non-responsible authority.
- (3) The restoration to the previous status shall also be allowed in case the party exceeded the time limit by obvious mistake and the submission was received by the responsible authority within three days from the expiration of the time limit at the latest, if the party would lose his right due to the delay.

#### **Article 95**

- (1) In his proposal for restoration to the previous status the party shall be required to present the circumstances due to which he was prevented to carry out an omitted action within the time limit and at least make these circumstances probable (Article 156).
- (2) The proposal for restoration to the previous status may not be based on the circumstances which the authorised authority have already assessed as insufficient for the extension of the time limit or postponement of the hearing.
- (3) If the restoration to the previous status is requested because such a submission was omitted to be filed, that submission shall be attached to the proposal.

#### **Article 96**

- (1) A proposal for restoration to the previous status shall be filed within eight days from the date when the reason which caused the omission ceased to exist, and if the party learned about the omission only later, from the date the party learned about it.
- (2) The restoration to the previous status shall not be allowed upon the expiration of three months from the date of omission.
- (3) If the time limit for requesting the restoration to the previous status referred to in paragraphs 1 and 2 of this Article was missed, the restoration may not be requested due to the omission of this time limit.

#### **Article 97**

- (1) A proposal for restoration to the previous status shall be submitted to the authority at which an omitted action should have been carried out.
- (2) The authority at which an omitted action should have been carried out shall decide on the proposal.
- (3) An untimely submitted proposal shall be refuted without further procedure.
- (4) If the facts on which a proposal is based are generally known, the responsible authority may take a decision on the proposal without the opposing party's position.

#### **Article 98**

- (1) An appeal shall not be allowed against a decision on restoration to the previous status, unless the restoration was allowed under an untimely or impermissible proposal (Article 96, paragraph 3).
- (2) A special appeal shall be allowed against the conclusion by which a proposal for restoration to the previous status was refuted only if the conclusion was rendered by the first-instance authority.
- (3) An appeal shall not be allowed against the conclusion on proposal for restoration to the previous status issued by the authority responsible for taking a decision on the main matter in the second instance.
- (4) A special appeal shall be allowed against a decision by which a proposal for restoration to the previous status was rejected as untimely only when the conclusion was rendered by the first instance authority.

#### **Article 99**

- (1) A proposal for restoration to the previous status shall not postpone the course of the procedure, but the authority responsible for decision taking may temporarily suspend the procedure until the conclusion on proposal, by which the restoration matter is resolved, becomes final.
- (2) Where the restoration to the previous status is allowed, the procedure shall be restored to the stage in which it was before the omission and all the decisions and conclusions which the authority rendered in connection with the omission shall be revoked.

## **VIII – MAINTENANCE OF ORDER**

### **Article 100**

- (1) The official who manages a procedure action shall be required to take care of the maintenance of order during work.
- (2) To this end, the official shall be authorised to warn the persons who disturb the authority operation and determine the measures necessary to maintain order on which an official note shall be made in the file.
- (3) The person who attends such a procedure action may not carry weapons or dangerous tools.

### **Article 101**

- (1) The person who in spite of the warning disturbs the operation, or makes a vulgar act during the performance of a procedure action or does not want to lay away weapons or tools, may be evicted. The person who participates in the procedure action may be evicted only after being previously warned that he would be evicted and after being presented legal consequences of such a measure. The eviction due to the disturbance of order or due to the vulgarity or carrying weapons or dangerous tools shall be pronounced by the official who manages the procedure action.
- (2) If on the basis of the provision of paragraph 1 of this Article the party who does not have an authorised person is evicted, or if an authorised person whose authoriser is not present is evicted, the official managing the procedure action shall invite the person being evicted to appoint his authorised person. If the asked person refuses to do this, the official may suspend the action at the expense of the person who refused to appoint his authorised person and appoint an authorised person to him by himself if necessary. Such an authorised person may perform the representation only in the procedure action from which the party has been evicted.
- (3) A conclusion shall be rendered on the eviction referred to in paragraph 1 and 2 of this Article. A special appeal may be lodged against the conclusion by which the party who does not have an authorised person is evicted or an authorised person whose authoriser is not present.

### **Article 102**

- (1) Whoever more severely disturbs order or makes a vulgar act during the procedure action may, besides being evicted, be penalised by a fine of up to 50 KM.
- (2) This penalty shall not exclude criminal or disciplinary responsibility.
- (3) The person who, with his submission, severely violated the standards of behaviour towards the authority or authorised person conducting the procedure may be also penalised by the penalty referred to in paragraph 1 of this Article.

### **Article 103**

- (1) Fines for the actions laid down in Article 102, paragraph 1 of this law shall be pronounced by the person managing the procedure action, and for the actions referred to in Article 102, paragraph 3 – the authority conducting the procedure.
- (2) A special appeal may be lodged against the conclusion on penalty. The appeal against the conclusion on fine due to the disturbance of order shall not postpone the execution of that penalty.

## **IX – EXPENSES OF THE PROCEDURE**

### **1. Expenses of Authorities and Parties**

#### **Article 104**

- (1) Cash expenses of the authority conducting the procedure, such as: travel expenses of officials, expenses for witnesses, experts, interpreters, investigations, announcements and the like, which have been incurred by carrying out the procedure in an administrative matter, shall, as a rule, be borne by the one who conducted the procedure.
- (2) When the person who participates in the procedure causes expenses in individual actions in the procedure by his fault and wantonly, he shall be required to bear these expenses.
- (3) When an *ex officio* instigated procedure is concluded in favour of the party, expenses shall be borne by the authority which instigated the procedure.

#### **Article 105**

- (1) Each party shall, as a rule, bear his own expenses caused by the procedure, such as the expenses of arrival, loss of time, expenses for dues, legal representation and technical assistance.
- (2) Where two or more parties with opposite interests participate in the procedure, the party which caused the procedure and to the detriment of which the procedure was concluded, shall be required to compensate justified expenses to the opposing party which the latter incurred by participating in the procedure. If in such a case one of the parties has partially succeeded with his request, he shall be required to compensate expenses to the opposing party proportionally to the part of his request with which he has not succeed. The party who has incurred expenses to the opposing party by his wanton behaviour, shall be required to compensate these expenses to that party.
- (3) Expenses for legal representation shall be compensated only in cases where such a representation was necessary and justified.
- (4) A request for compensation of expenses under the provisions of paragraphs 2 and 3 of this Article must be filed before a decision on the legal matter is taken, on time, so that the authority conducting the procedure may decide on it in the ruling. Otherwise, the party loses the right to reimburse expenses. The official conducting the procedure shall be required to timely warn the party of this.
- (5) Each party shall bear their expenses in the procedure completed by settlement, unless otherwise provided in the settlement.
- (6) The expenses of a party and another person in the procedure incurred by the procedure instigated *ex officio* or in a public interest and which the party or other person in the procedure has not caused by his behaviour, shall be borne by the authority which instigated the procedure.

#### **Article 106**

The execution-related expenses of the procedure shall be borne by the executor. If these expenses cannot be collected from him, they shall be borne by the party at the proposal of which the execution was carried out.

#### **Article 107**

If the procedure is instigated at the party's request and it can be anticipated with certainty that it will cause expenses in cash (related to the investigation, expertise, arrival of witnesses and the like), the authority conducting the procedure may provide by a conclusion that the party should deposit the necessary amount for covering these expenses in advance. If the party does not deposit this amount within a certain period, the authority may abandon the furnishing of this evidence or suspend the procedure, unless the procedure must be continued due to the public interest.

#### **Article 108**

- (1) In the decision by which the procedure is finished, the authority issuing the decision shall determine who bears the expenses of the procedure, their amount and to whom and within which period they are to be paid.
- (2) It must be specifically stated in the decision whether the one who bears the expenses shall be required to remunerate the expenses to another party (Article 105, paragraphs 2 and 3).
- (3) If the expenses of the procedure are borne by several persons, the expenses shall be equally divided between them, that is, in an appropriate proportion.
- (4) If the authority does not take a decision on expenses in the decision, it shall be stated that a separate conclusion on expenses will be issued.

#### **Article 109**

- (1) Witnesses, experts, expositors (interpreters) and officials shall be entitled to the remuneration of travel expenses and expenditures caused by their stay in the place for the purpose of carrying out these actions, given that these persons shall also be entitled to the remuneration of lost income if during that period they do not generate income on the basis of labour relations in a governmental authority, legal entity or some other person, that is, in the institution they are employed with. In addition to the remuneration, experts and expositors shall be also entitled to a special reward.
- (2) Witnesses, experts and expositors shall be required to file their request for remuneration or reward during the hearing, exposition (interpretation) or provision of an expert's opinion. Otherwise, they shall lose this right. The official conducting the procedure shall be required to warn a witness, expert or an expositor (interpreter) of this.
- (3) The authority conducting the procedure shall determine the amount of remunerations by a separate conclusion, by determining who is required to pay them and within which period. A special appeal shall be allowed against this conclusion. This conclusion shall be the basis for execution.

#### **Article 110**

- (1) Remunerations of expenses, expenditures and lost income to witnesses, experts and expositors (interpreters), that is, special rewards to experts and expositors (interpreters), the manner of collection and payment of these remunerations and rewards, as well as the exemption from payment of expenses, shall be regulated by a regulation of the Council of Ministers.
- (2) In respect of the remuneration to officials, the provisions on remuneration to officials determined by the

authorities referred to in paragraph 1 of this Article shall apply.

## **2. Exemption from Payment of Expenses**

### **Article 111**

- (1) The authority conducting the procedure may exempt a party from bearing expenses either in full or partially if it finds that the party is unable to bear the expenses without damaging his essential needs and support to his family. The authority shall render a conclusion on this at the party's request, on the basis of its assessment of his income scale.
- (2) The exemption from bearing expenses pertains to the exemption from dues, expenditures of the authority conducting the procedure, such as travel expenses of officials, expenditures for witnesses, experts, expositors, investigation, notices and the like, as well as to the exemption from depositing security for expenses.
- (3) Foreign nationals shall be exempted from bearing expenses only under the conditions of reciprocity. In case of any doubt concerning the existence of reciprocity, an explanation shall be provided by the authority responsible for foreign affairs of Bosnia and Herzegovina. The provision of Article 34, paragraph 4 of this law shall apply to requests for explanations.

### **Article 112**

The authority conducting the procedure may, during the procedure, revoke a conclusion on exemption from bearing expenses if it establishes that the reasons due to which a party was exempted from bearing expenses no longer exist.

### **Article 113**

The party may file a special appeal against the conclusion by which a party's request for exemption from bearing expenses is refuted, as well as against the conclusion referred to in Article 112 of this law.

## **SECOND PART – FIRST-INSTANCE PROCEDURE**

### **X – INSTIGATION OF THE PROCEDURE AND PARTIES' REQUESTS**

#### **1. Instigation of the Procedure**

##### **Article 114**

The administrative procedure shall be instigated *ex officio* by a responsible authority or at the party's request.

##### **Article 115**

- (1) A responsible authority shall instigate the procedure *ex officio* where this is provided by law or a provision based on the law, or when it establishes or learns that, having regard to the existing facts, it should instigate the administrative procedure for the purpose of protecting public interest.
- (2) When instigating the administrative procedure *ex officio*, the responsible authority shall take into consideration possible complaints by citizens and legal entities and warnings by authorities.

##### **Article 116**

- (1) The administrative procedure shall be instigated as soon as the responsible authority carries out any action for the purpose of conducting the procedure.
- (2) If in relation to a party's filed request the responsible authority finds that there are no grounds for the instigation of the procedure under the valid provisions, it shall render a conclusion on this by which the filed request shall be refuted as premature. A special appeal shall be allowed against this conclusion.

#### **Article 117**

In the matters in which, under law and as per the nature of things, a party's request is necessary for the instigation and conducting of the procedure, the responsible authority may instigate and conduct the procedure only if such a request exists.

### **2. Merging of Matters into One Procedure**

#### **Article 118**

- (1) If the rights and obligations of parties are based on the same or similar facts and on the same legal base and if the authority conducting the procedure in relation to all these cases is a really responsible one, a single procedure may be instigated and conducted even where the rights and obligations of several parties are in question.
- (2) One or several parties may exercise several different requests in one procedure under the same conditions.
- (3) The responsible authority shall render a special conclusion on conducting a single procedure in such cases and an appeal may be filed against it, unless the conclusion was rendered by the second-instance authority.

#### **Article 119**

The responsible authority may, by a public notice, instigate an administrative procedure against a larger number of persons who are unknown or unidentifiable to the authority and who can have the status of a party in the procedure, if essentially the same request against all these persons is in question.

#### **Article 120**

- (1) Where, within the meaning of Article 122 of this law, one procedure is conducted or where the procedure has been instigated by a public notice within the meaning of Article 119 of this law, each party shall act individually in the procedure.
- (2) In the conclusions by which certain actions are taken against parties in such a procedure, it must be determined which of these measures pertain to which party, unless these are the parties that jointly act in the procedure with the same requests, or unless otherwise provided by law.

### **3. Changing of the Request**

#### **Article 121**

Once the procedure has been instigated, the party may, until the first-instance decision is taken, extend a filed request or file another request instead of the earlier one regardless of whether the extended or changed request is based on the same legal base, provided that such a request is based on essentially the same facts.

### **4. Abandonment of Request**

#### **Article 122**

- (1) A party may abandon his request during the whole course of the procedure.
- (2) Where the procedure has been instigated at the party's request and the party abandoned his request, the authority conducting the procedure shall render a conclusion whereby the procedure shall be suspended. The opposing party, if any, shall be notified of this.
- (3) If further conducting of the procedure is necessary in the public interest or if this is requested by an opposing party, the authority shall continue with conducting the procedure.
- (4) Where the procedure has been instigated *ex officio*, the authority may suspend the procedure. If the procedure could have been instigated at the party's request, the procedure shall be continued if the party so requests.
- (5) A special appeal shall be allowed against the conclusion suspending the procedure.

### **Article 123**

- (1) A party shall abandon his request by submitting a written statement which he shall give to the authority conducting the procedure or orally for the record. Until the authority conducting the procedure does not render a conclusion on the suspension of the procedure and deliver it to the party, the party may revoke his abandonment of the request.
- (2) A party's individual action or omission may be deemed as his abandonment of the request only where this is provided by law.
- (3) If a party has abandoned his request after the first-instance decision and before the expiration of the period for lodging an appeal, the first-instance decision shall be revoked by a conclusion on suspension of the procedure if the party's request was positively or partially positively resolved by it. If the party abandoned his request after an appeal had been filed and consequently a decision on the filed appeal was delivered to him, the first-instance decision by which the party's request was adopted shall be revoked by a conclusion on suspension of the procedure, either in full or partially, if the party completely abandoned his request.

### **Article 124**

The party that abandoned his request shall be required to bear all the expenses incurred until the suspension of the procedure, unless otherwise provided by special provisions.

## **5. Settlement**

### **Article 125**

- (1) If two or more parties participate in the procedure with opposite requests, the official conducting the procedure shall, during the whole course of the procedure, make efforts that the parties reach settlement, either in full or at least as per individual disputable points.
- (2) The settlement must always be clear and fixed and must not be detrimental to the public interest, public morality or legal interest of third persons. The official conducting the procedure must take care of this *ex officio*. If it is established that the settlement would be detrimental to the public interest, public morality or legal interest of third parties, the authority conducting the procedure shall not accept the conclusion of the settlement and shall issue a separate conclusion on this.
- (3) The settlement shall be entered in the record. The settlement is concluded when the parties sign the record

on settlement after they have been read the record. A certified transcription of the record shall be given to the parties if they request it.

- (4) The settlement shall have the force of an executive decision taken in the administrative procedure.
- (5) The authority before which the settlement was concluded shall render a conclusion by which the procedure will be suspended either in full or partially as necessary.
- (6) If the conclusion on suspension or continuation of the procedure is not in compliance with the concluded settlement, a special appeal shall be allowed against the conclusion.

## **XI – PROCEDURE UNTIL THE ISSUANCE OF A DECISION**

### **A. GENERAL PRINCIPLES**

#### **1. Common Provisions**

##### **Article 126**

- (1) Prior to the issuance of a decision all the facts and circumstances which are of relevance for the resolution shall be established and the parties enabled to exercise and protect their rights and legal interests on which the official conducting the procedure shall take care.
- (2) This may be carried out through a shortened procedure or a special examination procedure.

##### **Article 127**

- (1) The official conducting the procedure may, in the course of the whole procedure, supplement facts and furnish evidence even on those facts which have not been presented earlier in the procedure or established as yet.
- (2) The official conducting the procedure shall *ex officio* order the furnishing of any evidence if he finds that this necessary for clarifying things.
- (3) The official conducting the procedure shall be obliged *ex officio* to obtain information on the facts on which official records are kept by the authority responsible for decision taking. The official shall act in the same manner in respect of the evidence on which official records are kept by another authority, that is, a company (association), establishment or another legal entity.

##### **Article 128**

- (1) The party shall be required to correctly, truly and definitely present the facts on which he bases his request.
- (2) If these are not generally known facts, the party shall be required to offer evidence for his statements and, if possible, to furnish them. If the party does not do this himself, the official conducting the procedure shall invite him to do this. The party shall not be requested to obtain and furnish the evidence which the authority conducting the procedure may obtain more easily and faster, or to submit such certificates which authorities are not required to issue in accordance with Article 163 of this law.
- (3) If the party has not furnished evidence in a subsequently specified period, the authority may not refute the request as if it was not submitted (Article 62, paragraph 2), but shall be required to continue the procedure and resolve the administrative matter in accordance with the rules of procedure and under a substantive regulation.

### **Article 129**

- (1) During the procedure a party shall, as a rule, give his statement orally and he may also give it in writing.
- (2) Where a complex matter is in question or where broader technical explanations are required, the official conducting the procedure may order the party to submit a written statement by setting him a sufficient period for doing that. In such a case the party shall also have the right to request to be allowed to give a written statement.
- (3) If the party has been ordered or allowed to submit a written statement, he may not be deprived of the right to give his statement orally due to this.

### **Article 130**

If the person who has not participated during the procedure as a party appears in it, the official conducting the procedure shall, upon his request to participate in the procedure as a party, examine his right to be the party and render a conclusion on this. A special appeal shall be allowed against a conclusion whereby this capacity is not recognised.

### **Article 131**

The official conducting the procedure shall, if necessary, be required to warn the party of his rights in the procedure and direct his attention to the legal consequences of his actions or omissions in the procedure.

## **2. Shortened Procedure**

### **Article 132**

- (1) The authority may directly resolve a matter in a shortened procedure:
  - 1) if a party, in his request, stated facts or furnished evidence on the basis of which the state of things can be established, or if this state can be established on the basis of generally known facts or the facts which are known to the authority;
  - 2) if the state of things can be established on the basis of official information which are at the authority's disposal and it is not specifically necessary to hear the party for the purpose of protecting his rights or legal interests;
  - 3) where the provisions provide that the matter can be resolved on the basis of facts or circumstances which are not fully proved or which are only indirectly proved by evidence, but the facts or circumstances were made probable, and it follows from all the circumstances that the party's request is to be met;
  - 4) where undertaking of urgent measures, which cannot be delayed, in the public interest is in question and the facts on which a decision is to be based are established or at least made probable.
- (2) The decisions referred to in point 1) and 2) of paragraph 1 of this Article may be produced by means of computers.

## **3. A Special Examination Procedure**

### **Article 133**

- (1) A special examination procedure shall be carried out where this is necessary for the purpose of establishing the facts and circumstances which are important for the resolution of the matter or for the purpose of giving a possibility to the parties to exercise and protect their rights and legal interests.

- (2) Depending on the circumstances of an individual case, the official conducting the procedure shall determine the course of the examination procedure by complying with the provision of this law and the provisions pertaining to the matter in question.
- (3) Within these limitations the official conducting the case shall in particular: determine which actions in the procedure are to be carried out and issue orders for carrying them out; determine the order in which individual actions will be carried out and the periods within which they are to be carried out, if they are not prescribed by law; order oral hearings and hearings, as well as everything else that is necessary for holding them; decide which evidence is to be furnished and by which evidential instruments and take a decision on all proposals and statements.
- (4) The official conducting the case shall decide whether hearings and furnishing of evidence will be carried out separately for individual disputable issues or jointly for the whole case.

#### **Article 134**

- (1) A party shall have the right to participate in the examination procedure and, for the purpose of accomplishing the objective of the procedure, give necessary information and defend his rights and legally protected interests, whereas the official shall be obliged to enable this.
- (2) The party may present facts which can influence the resolution of the matter and challenge the correctness of the allegations which do not match with his allegations. He shall have the right to supplement and explain his requests until a decision is taken and if he does this after the oral hearing, he shall be required to justify why he has not done it at the hearing.
- (3) The official conducting the procedure shall be required to give a possibility to the party: to give his position regarding all the circumstances and facts presented in the examination procedure, as well as on the proposals and presented evidence; to participate in furnishing evidence and put questions to other parties, witnesses and experts via the official conducting the procedure and, with his permission, also directly, as well as to get acquainted with the outcome of the furnishing evidence and provide his position on that. The responsible authority may not take a decision before it gives a party the possibility to provide his position on the facts and circumstances on which the decision is to be based and on which the party has not been given a possibility to provide his position.

#### **4. Prior Issue**

##### **Article 135**

- (1) If the authority conducting the procedure encounters an issue without the resolution of which the matter itself cannot be resolved and the issue constitutes an independent legal entirety for the resolution of which the court or some other authority is responsible (prior issue), it may, under the conditions set out in this law, discuss the issue by itself or discontinue the procedure until the responsible authority resolves this issue. A conclusion shall be rendered on the discontinuation of the procedure against which a special appeal shall be allowed, unless the conclusion was rendered by the second-instance authority.
- (2) If the authority has discussed a prior issue, the resolution of such an issue shall have legal effects only in the matter in which the issue has been resolved.
- (3) With respect to the issue of the existence of a criminal act and criminal responsibility of the perpetrators, the authority conducting the procedure shall be bound by a valid criminal court verdict whereby the defendant was pronounced guilty.

### **Article 136**

- (1) The authority conducting the procedure must discontinue the procedure where a prior issue relates to the existence of a criminal act, the existence of marriage and establishment of paternity, or where this is provided by law.
- (2) Where a prior issue pertains to a criminal act and there is no possibility for conducting criminal prosecution, the authority conducting the procedure shall also discuss that issue.

### **Article 137**

Where the procedure does not have to be discontinued as per Article 136 paragraph 2 of this law due to the prior issue, the authority conducting the procedure may consider the prior issue by itself and discuss it as an integral part of the matter and, on that basis resolve the matter itself.

### **Article 138**

- (1) If the authority conducting the administrative procedure does not consider the prior issue within the meaning of Article 137 of this law and the procedure for resolving the prior issue, which may only be conducted *ex officio*, has not been instigated with the responsible authority as yet, it shall request the responsible authority to instigate a procedure as per that issue.
- (2) In the matter in which the procedure for resolving a prior issue is instigated at the party's request, the authority conducting the administrative procedure may, by a conclusion, order one of the parties to request from the responsible authority to instigate the procedure for the purpose of resolving the prior issue, and this by setting the party a time limit within which he is required to do it and present evidence on requesting this to it. The time limit for requesting the instigation of the procedure for the purpose of resolving a prior issue shall begin to run as of the date when the conclusion became final.
- (3) If within the set period a party does not submit evidence that he requested the responsible authority to instigate the procedure as per a prior issue, it shall be deemed that the party who lodged the request has desisted from it and the authority conducting the procedure shall suspend the procedure. If this has not been done by the opposing party, the authority shall continue the procedure and resolve the prior issue by itself.
- (4) A special appeal shall be allowed against the conclusion rendered under paragraph 2 of this Article.

## **5. Oral Hearing**

### **Article 140**

The official conducting the procedure shall, either on his or party's initiative, order an oral hearing in any case where this is useful for the clarification of the matter, and he must order it:

- 1) in the matters in which two or more parties with opposite interests participate, or
- 2) where an investigation is to be carried out or a witness or an expert heard.

### **Article 141**

- 1) The oral hearing shall be public.
- 2) The official conducting the procedure may exclude the public for the entire oral hearing or only one part of it:
  - 1) if this is required by reasons of morality or public safety,

- 2) if there is a grave and immanent danger of hampering the oral hearing,
  - 3) if it is necessary to discuss family relations in a family,
  - 4) if it is necessary to discuss about the circumstances which represent an official, business, professional, scientific or artistic secret.
- 3) A proposal for the exclusion of public may be also placed by an interested party.
  - 4) A conclusion shall be rendered on the exclusion of public, which must be explained and publicly announced.
  - 5) During the declaration of the decision, the public may not be excluded.

#### **Article 142**

- (1) The exclusion of the public shall not pertain to the parties, their authorised persons and technical assistants.
- (2) The official conducting the procedure may allow individual officials, scientific and public workers to attend an oral hearing the public is excluded from if this is in the interest for their service, that is, scientific work. The official conducting the procedure shall warn all these persons that they are required to keep as secret everything they have learnt at the hearing.

#### **Article 143**

- (1) The authority conducting the procedure shall be required to undertake everything necessary for the oral hearing to be carried out without delay and, if possible, without discontinuations and postponements.
- (2) The persons summoned to the oral hearing must be left sufficient time to prepare themselves for the hearing and come to it on time and without extra expenses. The summoned persons shall, as a rule, be left eight days from the date of delivering a summons until the date of hearing.

#### **Article 144**

Where it is necessary to examine certain blueprints, files or other items for the discussion at the oral hearing, these items shall be made available to summoned persons concurrently with ordering the hearing and the summons to the hearing should contain information on the time and place, where and when they can be viewed.

#### **Article 145**

- (1) The authority conducting the procedure shall be also required to publicly announce the ordering of oral hearing: where there is a danger that individual summonses will not be timely delivered, where there is a possibility that there are interested persons that have not appeared as parties as yet, or where other similar reasons so require.
- (2) The public announcement of oral hearing should contain all the information which must be stated in an individual summons, as well as an invitation to everyone who considers that the matter is related to his legally protected interests to come to the hearing. This notification is to be announced in the manner prescribed in Article 85 of this law.

#### **Article 146**

The oral hearing shall, as a rule, be held in the seat of the authority conducting the procedure. If it is necessary to carry out investigation in the place outside the seat of that authority, the oral hearing may be held on the investigation site. The authority conducting the procedure may also designate another place for oral hearing where this is necessary for a considerable reduction of expenses and a more thorough, faster or simpler

discussing of matters.

#### **Article 147**

- (1) At the beginning of the oral hearing the official conducting the procedure shall be required to establish who of the summoned persons are present and verify for the absent persons whether the summonses were properly delivered.
- (2) If any of the parties who have not been heard yet did not come to the hearing and it was not established that a summons was properly delivered, the official conducting the meeting shall postpone the hearing except where the oral hearing was timely announced by a public announcement.
- (3) If the party under whose request the procedure was instigated does not come to the hearing although he was properly summoned and from the whole state of things it can be presupposed that the party withdrew his request, the official conducting the procedure shall suspend the procedure. A special appeal against a conclusion on this shall be allowed. If it cannot be presupposed that the party withdrew his request by himself, or if the procedure must be continued *ex officio*, the official shall, according to the circumstances of the case, carry out the hearing without the persons in question or postpone it.
- (4) If the party against which the procedure has been instigated is unjustifiably absent although he was properly summoned, the official conducting the procedure may carry out the hearing without him and even postpone the oral hearing at his expense, if this is necessary for the proper resolving of the matter.

#### **Article 148**

- (1) If the present party, although being warned about the consequences, does not make a remark during the very hearing concerning the operation of the hearing, it shall be deemed that he does not have any. If such a party makes a remark concerning the operation of the hearing, the official resolving the matter shall assess the remark if it can have influence on the resolution of the matter and if it was not given after the hearing in order to delay the procedure.
- (2) If the party summoned by a public announcement has not come to the hearing and makes his remarks concerning the operation of the hearing after the hearing, these remarks shall be taken into consideration under the condition referred to in paragraph 1 of this Article.

#### **Article 149**

- (1) Something that is the subject of the examination procedure is to be heard and established at the oral hearing.
- (2) If the subject cannot be heard at one hearing, the official conducting the procedure shall discontinue the hearing and schedule its continuation as soon as possible. For this continuation, the official shall undertake all the measures laid down for ordering the oral hearing and he may orally announce them to the present persons, as well as the time and place of the continuation of hearing. During the continuation of the oral hearing the official conducting the procedure shall outline the course of the previous hearing.
- (3) For the presentation of the written evidence furnished subsequently, it is not necessary to schedule an oral hearing again, but the party shall be given a possibility to provide his position on the presented evidence.

### **B. PROVING**

#### **1. General Provisions**

#### **Article 150**

- (1) The facts on the basis of which a decision is to be taken shall be established by evidence.
- (2) Everything that is suitable for establishing the status of things and corresponds to an individual case shall be used as evidence, such as: documents, that is, a microfilm copy of the document or a reproduction of that copy, witnesses, party's statement, experts, investigation and other.

#### **Article 151**

- (1) Whether it is necessary to prove a fact shall be decided by the official conducting the procedure depending on whether that fact may have influence on the resolution of the matter. Evidence shall, as a rule, be presented after it is established what is disputable and what needs to be proved in terms of facts.
- (2) It is not necessary to prove generally known facts.
- (3) Also, it is not necessary to prove the facts the existence of which is assumed by law, but it is allowed to prove the non-existence of these facts, unless otherwise provided by law.

#### **Article 152**

If the proving before the authority conducting the procedure is unfeasible or is connected with expenses or disproportionate expenses or great waste of time, the proving or individual pieces of evidence may be presented before the requested authority.

#### **Article 153**

Where a regulation provides that the matter can be resolved on the basis of facts or circumstances which are not fully proved or are only indirectly established by means of evidence (the facts and circumstances which are made probable), it is not necessary to present special evidence for the purpose of establishing these facts laid down by the provisions of this law pertaining to the presentation of evidence.

#### **Article 154**

- (1) If the resolving authority is not familiar with the right which is valid in a foreign country, it may acquaint itself of this at the administrative authority of Bosnia and Herzegovina responsible for foreign affairs.
- (2) The authority resolving the matter may request from a party to file a public document issued by the responsible foreign authority and confirming which right is valid in a foreign country. It shall be allowed to prove a foreign right contrary to such a public document, unless otherwise provided by an international agreement.

### **2. Documents**

#### **Article 155**

- (1) A document issued in a prescribed form by an authority within its responsibility and which may be adapted to the electronic data processing, as well as a document issued in that form by the institution possessing public authorisations (public document), shall serve to prove something that is confirmed or determined in it.
- (2) In the procedure of furnishing evidence, a microfilm copy of the document or a reproduction of this copy shall have the equal value as the document referred to in paragraph 1 of this Article if such a microfilm copy or the reproduction of this copy was issued by the authority within its competence, that is the institution

possessing public authorisations.

- (3) It shall be allowed to prove that the facts were falsely confirmed in such a document or a microfilm copy of the document or a reproduction of this copy, or that the document itself or a microfilm copy of the document or a reproduction of this copy has been falsely composed.
- (4) It shall be allowed to prove that a microfilm copy or a reproduction of this copy does not correspond to the original.

#### **Article 156**

If something is crossed on the document, grabbed or otherwise erased, inserted, or if there are some other external deficiencies on the document, the official conducting the procedure shall, as per all the circumstances, assess whether the evidential value of the documents has been decreased by this and to what extent or whether the document has completely lost its evidential value for resolving the matter on which the procedure has been conducted.

#### **Article 157**

- (1) The documents serving as evidence shall be submitted by the parties or obtained by the official conducting the procedure. The party shall submit the document in the original, microfilm copy or reproduction of that copy or in the form of a certified transcription or certified photocopy and he may submit it as a pure transcription. Once the party submits the document in the form of a certified transcription, the official conducting the procedure may request from the party to show the original document, and where he submits the document as a pure transcription, the official shall establish whether the transcription corresponds to the original. A microfilm copy of the document or a reproduction of that copy which the authority issued within its powers or the institution with public authorisations shall, for the purpose of resolving the matter on which the administrative procedure is conducted, have the evidential value of the original document within the meaning of Article 155, paragraph 1 of this law.
- (2) If some facts or circumstances have already been established by the authority which was responsible for this or testified in a public document (such as an ID, register certificate etc.), the authority conducting the procedure shall accept these facts and circumstances as being proved. Where the acquisition or losing of rights is in question and there is a probability that these facts and circumstances have subsequently changed, or where it is necessary to specially prove them on the basis of special provisions, the official shall request from the party to furnish special evidence on these facts and circumstances or the authority shall obtain them by itself.

#### **Article 158**

- (1) The official conducting the procedure may invite the party referring to a document to submit it if he has it or can obtain it.
- (2) If the document is in the possession of the opposing party and that party does not want to voluntarily submit or present it, the official conducting the procedure shall invite that party to submit or present that document at the hearing in order for the other parties to provide their position on it.
- (3) If the party asked to submit or present the document does not act as per the invitation, the official conducting the procedure shall assess what influence it has for the resolution of the matter with regard to all the circumstances related to the case.

#### **Article 159**

If the document to be used as evidence in the procedure is in the possession of the authority or institution possessing public authorisations and the party who referred to that document has not succeeded in obtaining it, the authority conducting the procedure shall obtain it *ex officio*. These authorities and institutions shall be required to act as per the request of a responsible authority.

#### **Article 160**

- (1) If the document is in the possession of a third person and this person does not want to voluntarily present it, the authority conducting the procedure shall, by a conclusion, invite that person to present the document at the hearing in order for the parties to provide their position on it.
- (2) The third person may deny the presentation of the document for the same reason, as well as a witness may do with testimony.
- (3) The same action as the one against the person who refuses to witness shall be undertaken against the third person who refuses to present a document.
- (4) The third persons shall have the right to lodge an appeal against the decision ordering him to present a document, as well as against the conclusion on penalty for failing to present the document, which shall postpone the execution of the conclusion.
- (5) The party referring to the document which is in the possession of a third person shall be required to compensate the expenses which that person incurred in relation to the presentation of the document.

#### **Article 161**

- (1) In accordance with the Constitution of Bosnia and Herzegovina, the party shall have the right to submit documents in the language referred to in Article 18 of this law.
- (2) Documents issued in a foreign language shall be submitted in the form of a certified translation, if necessary.
- (3) Documents issued by a foreign authority and which are valid in the country of their issuance as public documents shall, under the terms of reciprocity, have the same evidential force as local public documents, if they have been properly certified.

### **3. Certificates**

#### **Article 162**

- (1) Administrative authorities of Bosnia and Herzegovina shall be required to issue certificates, that is, other documents (certificates, receipts etc.) on the facts on which they keep official records.
- (2) Under the conditions referred to in paragraph 1 of this Article, the institutions possessing public authorisations shall issue certificates, that is, other documents on the facts related to the activities which they carry out in compliance with the law.
- (3) Certificates and other documents on the facts on which official records are kept must be issued in compliance with the data from the official records. Such certificates, that is, other documents shall have the validity of a public document.
- (4) The term 'official records' shall be taken to include the records laid down by this law or other provisions, or by a general act of the institution possessing public authorisations.

- (5) A certificate and other documents on the facts on which official records are kept shall be issued to a party on oral request, as a rule, on the same day when the party requested the issuance of the certificate or some other document and within five days at the latest, unless the regulation referred to in paragraph 4 of this Article, by which official records are established, otherwise provides.
- (6) If the authorities or institutions referred to in paragraphs 1 and 2 of this Article reject the request for the issuance of a certificate or some other document, they shall be required to issue a special decision on that. If within five days from the date of submitting the request they neither issue a certificate or some other document nor issue and deliver to the party a decision on refusing the request, it shall be deemed that the request was rejected.
- (7) If a party, on the basis of the evidence he possesses, considers that a certificate or some other document was not issued to him in compliance with the data from official records, he may request the amendment of the certificate or some other document. The authority or the institution shall be required to issue a special decision if it rejects the party's request to amend or issue a new certificate or some other document. In that case the period of five days from the date of submitting the request shall apply to the issuance of a new certificate or some other document, and if this is not done within the specified period, it shall be considered that the request was rejected.

#### **Article 163**

- (1) The authorities and institutions possessing public authorisations shall be also required to issue certificates or other documents on the facts on which they do not keep official records if this is provided by law. In that case, facts shall be established by conducting the procedure laid down by the provisions of this law.
- (2) A certificate or some other document issued in the manner set out in paragraph 1 of this Article shall not bind the authority it was submitted to as evidence and which should resolve the matter. If the authority does not accept that certificate or some other document as evidence, it shall establish the facts specified in the certificate by itself.
- (3) A certificate or some other document shall be issued to a party, that is, a decision on refusing the request issued and delivered to the party within eight days from the date of submitting the request, and if it is not acted in this way, it shall be deemed that the party's request was rejected.

#### **4. Witnesses**

##### **Article 164**

- (1) A witness may be any physical person who is capable of observing the fact on which he is to testify and who is capable to tell his observations.
- (2) The person who participates in the procedure as an official may not be a witness.

##### **Article 165**

Every person summoned as a witness shall be required to respond to the summons and testify, unless otherwise provided by this law.

##### **Article 166**

The person who would violate the duty of keeping an official, national or military secret by his statement may not be examined as a witness until the responsible authority relieves him from that duty.

### **Article 167**

- (1) A witness may deny testimony:
  - 1) on individual questions which, if answered, would expose him, his relative in the ascending or descending line to the third degree inclusive, spouse or an in-law relative up to the second degree inclusive, even if the marriage has been dissolved, as well as his guardian or dependent, adopter or adoptee to grave shame, considerable property damage or criminal prosecution;
  - 2) on individual questions he could not answer without violating the obligation of keeping a business, professional, artistic or scientific secret;
  - 3) on something that the party confided to the witness as his authorised person;
  - 4) on something that the party or another persons confessed to the witness as a religious confessor.
- (2) The witness may also be resolved from the duty to testify in relation to other individual facts when he presents important reasons for that. If necessary, he should make these reasons probable.
- (3) The witness may not, due to the danger of any property damage, deny testimony on legal operations during which he was present as a witness, notary or an agent, on the operations which he undertook as a legal ancestry or representative of one of the parties, as well as on each action in relation to which he, on the basis of special provisions, is required to submit a report or give a statement.

### **Article 168**

- (1) Witnesses shall be heard individually, without the presence of the witnesses which will be heard subsequently.
- (2) The heard witness must not leave without the permission of the official conducting the procedure.
- (3) The official conducting the procedure may hear an already heard witness and he may confront the witnesses whose statements do not match.

### **Article 169**

- (1) The witness shall be previously warned that he is obliged to speak the truth, that he must not suppress anything and that he may be sworn for his statement and, consequently, he shall be presented the consequences of giving a false statement.
- (2) After that, general personal information shall be taken from the witness, in the following order: name and surname, occupation, place of residence, place of birth, age and marital status. If necessary, the witness shall also be examined about the circumstances pertaining to his credibility as a witness in the case in question and personally about his family relationships with the parties.
- (3) The official conducting the procedure shall indicate to the witness to which questions he may deny answers.
- (4) After that the witness shall be questioned about the case itself and he shall be asked to say what he knows about it.
- (5) It shall not be allowed to put such questions which suggest the manner of answering.
- (6) The witness shall always be asked about the source from which he knows about something he testifies.

### **Article 170**

- (1) If the witness does not speak the language in which the procedure is conducted, he shall be examined via an expositor (interpreter).
- (2) If the witness is deaf, questions shall be put to him in writing and if he is dumb, he shall be asked to answer in writing. If the examination cannot be carried out in this manner, the person who can communicate with the witness shall be called as an expositor.

#### **Article 171**

- (1) Upon hearing the witness, the official conducting the procedure may decide that the witness should swear an oath for his statement. The witness who is minor or who cannot sufficiently understand the importance of the oath shall not be sworn.
- (2) The oath shall be sworn orally by saying the following words: “I swear that I said the truth about everything I was questioned here and that I did not suppress anything I know about this matter”.
- (3) Dumb witnesses who can read and write shall swear an oath by signing the text of the oath and deaf witnesses shall read the text of the oath. If dumb or deaf witnesses cannot read or write, they shall swear an oath via an expositor.

#### **Article 172**

- (1) If a properly summoned witness does not come and does not justify his absence, or leaves from the place he should be heard at without permission or a justified reason, the authority conducting the procedure may order that he be forcefully brought and bear the expenses of his bringing, and it may also punish him by a fine of up to 50 KM.
- (2) If a witness arrives and then, without a justified reason, refuses to give a testimony although being warned about the consequences of the refusal, he may be penalised by a fine of up to 50 KM and if he refuses to testify even after that, he may be penalised once more by a fine up to 50 KM. A conclusion on the pro of a fine shall be issued by the person conducting the procedure in agreement with the official authorised to resolve the matter, and at the requested authority – in agreement with the manager of that authority, that is, an official authorised to take decisions in similar matters.
- (3) If a witness subsequently justifies his absence, the official conducting the procedure shall revoke the conclusion on fine or expenses. If the witness subsequently accepts to testify, the official may revoke the conclusion on fine.
- (4) The person conducting the procedure may take a decision that the witness remunerates the expenses he has caused by his absence or refusal to testify.
- (5) A special decision shall be allowed against the conclusion on expenses or fine issued on the basis of paragraphs 1, 2 and 4 of this Article.

### **5. Party’s Statement**

#### **Article 173**

- (1) If there is no direct evidence for establishing a fact or if it cannot be established on the basis of other evidential instruments, an orally given statement by the party may be taken as an evidential instrument. A party’s statement may also be taken as an evidential instrument in the matters of little significance if the fact in question would have to be established by hearing the witness who lives in the place remote from the seat of the authority, or, otherwise, the exercising of the party’s rights would be made difficult due to the

obtaining of other evidence.

- (2) The law may provide that also in other cases, in addition to those referred to in paragraph 1 of this Article, certain facts may be proved by a party's statement.
- (3) The veracity of the party's statement shall be assessed in accordance with the principle laid down in Article 10 of this law.
- (4) Prior to taking a party's statement, the official conducting the procedure shall be required to warn the party of the criminal and material liability for giving a false statement.

## **6. Experts**

### **Article 174**

Where the expertise which the official conducting the procedure does not possess is required for the establishment or assessment of a fact, the evidence shall be furnished by expertise.

### **Article 175**

- (1) If evidence by expertise would be disproportionately expensive with regard to the significance or the value of the case, the matter shall be resolved on the basis of other evidential instruments.
- (2) In the event referred to in paragraph 1 of this Article, the expertise shall be carried out if the party so requests and accepts to bear the expenses.

### **Article 176**

- (1) In order to furnish evidence by expertise, the official conducting the procedure shall, *ex officio* or at a party's proposal, designate one expert, and where he assesses that the expertise is complex, he may designate two or more experts.
- (2) Skilled persons, primarily those who have a special authorisation to give an expert opinion on the issues falling within a particular line of work, shall be designated as experts, if such an authorisation is laid down by provisions.
- (3) The party shall, as a rule, be previously heard about the expert's personality.
- (4) The person who cannot be a witness may not be designated as an expert.

### **Article 177**

- (1) Everyone who has necessary qualifications must accept the duty of an expert, unless the official conducting the procedure exempts him from this duty for justified reasons, such as the state of being overloaded with expert assessments, other jobs and the like.
- (2) The exemption from the duty of carrying out expertise may be also requested by the manager of the authority or legal entity where the expert is employed, if there are justified reasons.

### **Article 178**

- (1) An expert may deny expert assessment for the same reasons for which a witness may deny testimony.

- (2) Persons employed in the authority shall be exempted from the duty of carrying out expertise where their exemption from this duty is provided by a special regulation.

#### **Article 179**

- (1) With regard to the exemption of an expert, the provisions of this law on exemption of officials shall appropriately apply.
- (2) A party may request the exemption of an expert even where he makes probable the circumstances which question his expert knowledge.
- (3) The official conducting the procedure shall take a decision on exemption of expert by a conclusion.

#### **Article 180**

- (1) Prior to commencing the expertise, an expert is to be warned that he shall be required to carefully study the subject of the expertise and correctly state in his written finding whatever he observes and finds, as well as to impartially and in accordance with the rules of science and skills present his explained expert opinion.
- (2) The official conducting the procedure shall then present to the expert the case he is to study.
- (3) When an expert presents his finding and opinion, the official conducting the procedure, as well as the parties, may put questions to him and request explanations in relation to the presented finding and opinion. The finding and opinion shall be presented in writing.
- (4) With regard to the hearing of an expert, Article 169 of this law shall appropriately apply.
- (5) The expert shall not swear an oath.

#### **Article 181**

- (1) An expert may also be ordered to carry out expertise outside the oral hearing. In that case, it may be requested that an expert explains his written finding and opinion at the oral hearing.
- (2) If several experts were appointed, they may jointly present their finding and opinion. If they disagree, each of them shall separately present his finding and opinion.

#### **Article 182**

- (1) If the experts' finding and opinion are not clear or complete, or if the findings and the opinions of experts differ considerably, or if the opinion has not been sufficiently explained, or if there is a reasonable doubt concerning the correctness of the presented opinion and these deficiencies cannot be eliminated even by a repeated hearing of experts, the expertise shall be renewed either with the same or different experts and an opinion of a scientific or technical institution may also be requested.
- (2) An opinion may be requested from a scientific or technical institution where, due to the complexity of the case or the necessity to carry out analysis, it can be justifiably presumed that a more accurate opinion will be reached in this way.

#### **Article 183**

- (1) If a properly summoned expert does not come and fails to explain his non-arrival, or if he arrives but rejects to carry out expertise, or where he does not submit his written finding or opinion within the specified period,

he may be penalised by a fine of up to 50 KM. If, due to the unjustified expert's non-arrival, his refusal to carry out expertise or failure to present a written finding and opinion, expenses have been incurred in the procedure, it may be determined that the expert shall bear these expenses.

- (2) A conclusion on fine or payment of expenses shall be issued by the person conducting the procedure in agreement with the manager of that authority, that is, with the official authorised to resolve in similar matters.
- (3) If an expert subsequently justifies his absence, or subsequently justifies as to why he has not provided his written finding and opinion on time, the official conducting the procedure shall repeal the conclusion on fine or expenses, and if the expert subsequently accepts to carry out expertise, the official may repeal the conclusion on fine.
- (4) A special appeal shall be allowed against the conclusion on expenses or fine rendered on the basis of paragraph 1 or 2 of this Article.

## **7. Expositors and Interpreters**

### **Article 184**

- (1) An expositor shall be the person designated to communicate with the participant in the procedure who is deaf or dumb and the hearing of whom cannot be carried out in writing.
- (2) If in the procedure participates the person who does not speak the language in which the procedure is conducted, that person shall be assigned an interpreter who speaks the language of that person.
- (3) With regard to the obligation of assigning an expositor or interpreter, exemption from this duty, right to deny exposition or interpretation, exemptions and other issues, the provisions of this law pertaining to the expert shall accordingly apply.

## **8. Inspection**

### **Article 185**

The inspection shall be carried out where the direct observation of the person conducting the procedure is required to establish a fact or clarify essential circumstances.

### **Article 186**

- (1) The parties shall have the right to attend the inspection. The official conducting the procedure shall determine which persons in addition to the parties shall attend the inspection.
- (2) The inspection may be carried out with the participation of experts.

### **Article 187**

The inspection of the item which can be easily brought to the place where the procedure is being conducted shall be carried out in that place, otherwise the inspection shall be carried out in the place where the item is located.

### **Article 188**

- (1) The owner or holder of items, premises or land which are to be viewed, or in which the items to be inspected are located, or which need to be crossed, shall be required to allow inspection.

- (2) If the owner or holder of items does not allow the performance of inspection, the provisions of this law on denial of testimony shall accordingly apply.
- (3) The same measures which are applied against the witness who refuses to testify (Article 172, paragraph 2, 3 and 4) may be applied against the owner or holder of items who does not allow the inspection without a justifiable reason.
- (4) The damage caused during the inspection shall fall within the procedure expenses (Article 104, paragraph 1) and shall be remunerated to the owner or holder of items. The official conducting the procedure shall render a conclusion on this. A special appeal shall be allowed against this conclusion.

#### **Article 189**

The official managing the inspection shall make sure that the inspection is not abused and that no one's official, professional, scientific or artistic secret is violated.

### **9. Securing of Evidence**

#### **Article 190**

- (1) If there is a justifiable fear that it will not be possible to subsequently furnish some pieces of evidence or that their furnishing will be hampered, a particular piece of evidence, for the purpose of securing evidence at any stage of the procedure and even before the instigation of the procedure, may be furnished.
- (2) The securing of evidence shall be carried out *ex officio* or at the proposal of the party, that is, of the person that has a legal interest.

#### **Article 191**

The authority conducting the procedure shall be responsible to secure evidence during the procedure.

#### **Article 192**

- (1) A special conclusion shall be rendered on securing evidence.
- (2) A special appeal shall be allowed against the conclusion by which a proposal for securing evidence is refuted, which shall not discontinue the course of the procedure.

## **XII – DECISION**

### **1. The Authority that Takes a Decision**

#### **Article 193**

- (1) On the basis of facts established in the procedure, the authority responsible for decision-taking shall take a decision on the matter which is the subject of the case.
- (2) Where a board authority takes a decision on the matter, it may take a decision when more than a half of its members are present and it shall take a decision by majority of votes of the present members, unless a specific majority is provided for by law or other provisions.
- (3) In respect of the resolution of an administrative matter by the Council of Ministers, the provisions of this law shall

apply, unless otherwise provided by special provisions regulating the issues on which the Council of Ministers takes a decision.

#### **Article 194**

Where the law or any other regulation based on the law provides that two or more authorities shall take a decision on one matter, each of them shall be required to take a decision on that matter. These authorities shall agree which of them will issue a decision and that decision must include the act of another authority.

#### **Article 195**

- (1) Where the law or any other regulation based on the law provides that a decision shall be issued by one authority with the consent of another authority, the authority taking a decision shall draft the decision and provide it, together with case files, to another authority for obtaining consent and the latter may give its consent by an endorsement on the very decision or by a special act. In that case, the decision shall be issued when another authority gives its consent and it shall be deemed as an act of the authority which took a decision. (See the translator's note in paragraph 2)
- (2) In the case referred to in paragraph 1 of this Article, \*the authority taking a decision shall draft the decision and communicate it together with case files to another authority for obtaining consent and the latter may give its consent by its confirmation on the very decision or by a special enactment. In that case, the decision shall be issued when another authority gives its consent and it shall be considered as an enactment of the authority which took a decision. (Translator's note: the part of the paragraph marked with an asterisk is identical to the text in the first paragraph)
- (3) The provision of paragraph 2 of this law shall also apply where the law provides that a decision shall be taken by one authority with the confirmation or approval of another authority.
- (4) Where the law or any other regulation provides that the responsible authority shall be required to obtain an opinion of another authority prior to taking a decision, the decision may be taken only after the obtained opinion.
- (5) The authority whose consent or opinion, that is, endorsement or approval is required for taking a decision, shall be required to give its consent or opinion within 15 days from the date it was requested from it, unless another period is laid down by a special regulation. If the authority in question does not issue its act and provide it to the authority which takes a decision whereby it either gives or denies its consent, endorsement or approval, that is, an opinion, it shall be deemed that it gave its consent, confirmation or approval, that is, an opinion, and if it does not provide any position, the responsible authority may take a decision even without an obtained consent or opinion, that is, confirmation or approval, unless otherwise provided by special provisions.

#### **Article 196**

If the official conducting the procedure is not authorised to take a decision, he shall be required to submit a draft decision to the authority taking a decision. This official shall sign the draft decision.

### **2. The Form and Integral Parts of the Decision**

#### **Article 197**

- (1) Each decision must be marked as such. Exceptionally, if necessary, special provisions may provide that another name may be given to a decision.

- (2) The decision shall be issued in writing. Exceptionally, in the cases laid down in this law, the decision may be also issued orally.
- (3) A written decision shall contain the following information: name of the authority, No. and date, introduction, declaration, explanation, legal redress, signature of the authorised persons and stamp. In the cases laid down by law or a regulation based on the law, a decision does not have to contain some of these parts. If the decision is processed by mechanic-graphic means, it may contain a facsimile of the authorised person's signature instead of the signature.
- (4) Even where a decision is declared orally, it must be issued in writing, in compliance with this law.
- (5) The decision must be provided to the party either in original or in a certified transcription.

#### **Article 198**

- (1) The introduction of the decision shall contain the following information: name of the authority that takes a decision, a provision on the competence of that authority, names of the party and his legal representative or authorised person if any and a brief description of the subject of the procedure.
- (2) If a decision was taken by two or more authorities, or if it was taken with the consent, certification, approval or obtained opinion of another authority, this shall be stated in the introduction, and if the decision was taken by a board authority, the date of the session of the board authority at which the matter was resolved shall be indicated in the introduction. If a decision is issued *ex officio*, this shall be indicated in the introduction of the decision.

#### **Article 199**

- (1) The declaration of the decision shall provide the ruling on the subject of the procedure in full, as well as on all the requests of the parties which were not specifically resolved during the procedure.
- (2) The declaration of the decision must be short and specific and, where necessary, it may be divided in several points.
- (3) The expenses of the procedure, if any, may be also resolved in the declaration of the decision by determining their amount, who is liable to pay them and within which period. If the declaration of the decision does not resolve the expenses, it shall be indicated that a special conclusion shall be taken on them.
- (4) If the execution of an action is ordered by the decision, the period within which that action is to be carried out shall be set in the declaration of the decision.
- (5) Where it is provided that an appeal shall not postpone the execution of the decision, this must be indicated in the declaration of the decision.

#### **Article 200**

- (1) In simple matters in which only one party participates, as well as in simple matters in which two or more parties participate and none of them does not object the made request and the request has been recognised, the explanation of the decision may contain only a brief presentation of a party's request and the reference to the legal provisions on the basis of which the matter was resolved. In such matters a decision may be also issued on a prescribed form.
- (2) In other matters the explanation of the decision shall contain the following: a brief presentation of the parties' requests, the furnished evidence and the established facts, the reasons which were decisive in the

assessment of evidence, the reasons due to which any of the parties' requests were not recognised, the reasons which, given the established facts, lead to the decision as being given in the declaration of the decision and to the legal provisions on the basis of which the administrative matter was resolved. If an appeal does not postpone the execution of the decision, the explanation shall also contain the reference to the provision which provides this. The explanation of the decision shall also provide an explanation of the conclusions against which a special appeal is not allowed.

- (3) Where, on the basis of the law or some other provision based on the law, the authority is authorised to resolve the matter at its discretion, it shall, in addition to the information referred to in paragraph 2 of this Law, be required to specify in the declaration of the decision the provision which provides the resolution at discretion and present the reasons which governed it during the procedure. These reasons do not have to be specified where this is in the public interest or specifically provided by law or some other regulation.
- (4) If the law or a provision based on the law provides that the reasons which governed the authority in taking a decision are not to be specified in the decision taken at its discretion, the information referred to in paragraph 2 of this Article shall be stated in the explanation of the decision, as well as the provision authorising the authority to resolve the matter at its discretion and the provision authorising it not to specify the reasons which governed it in the procedure of taking a decision.

### **Article 201**

- (1) By the legal redress the party shall be advised whether he may lodge an appeal or instigate an administrative lawsuit or another procedure before the court.
- (2) Where an appeal may be lodged, the legal redress shall specify: the name of the authority the appeal is to be lodged to, the name of the authority to which, the period within which and the amount of administrative revenue fee with which the appeal is to be lodged, provided it is indicated that the appeal may also be stated for the record at the authority that issued a decision.
- (3) Where an administrative lawsuit may be instigated against a decision, the legal redress shall specify that the charge be lodged with the Court of Bosnia and Herzegovina, the period for lodging it and the amount of administrative revenue fee.
- (4) Where an incorrect legal redress is provided in a decision, the party may act under the current provisions or under the legal redress. The party who acts under an incorrect legal redress cannot have detrimental consequences because of that.
- (5) Where no legal redress is provided in a decision or if the legal redress is an incomplete one, the party may act under the current provisions or, within eight days, request from the authority which issued the decision to supplement it. In such a case the period for appeal, that is, charge shall begin to run from the date of delivery of the supplemented decision.
- (6) Where it is possible to lodge an appeal against the decision and the party has been incorrectly instructed that no appeal may be lodged against that decision or that no administrative lawsuit may be instigated against it, the period for appeal shall begin to run from the date of delivery of the decision by which the appeal was refuted as ungrounded, unless the party has already lodged an appeal to the responsible authority.
- (7) Where it is not possible to lodge an appeal against a decision and the party has been incorrectly instructed that he may lodge an appeal against it and due to this, he failed to do this within the period for instigation of an administrative procedure, this period shall run from the date of delivery of the decision by which the appeal was refuted, unless the party has already instigated an administrative lawsuit.
- (8) The legal redress, as a separate integral part of the decision, shall be placed after the explanation.

## **Article 202**

- (1) The decision shall be signed by the official authorised to take a decision (Article 29).
- (2) A decision taken by a board authority shall be signed by the Chairman, unless otherwise provided by this law or a special regulation.
- (3) Where the board authority issued a full decision, the parties shall be issued a certified transcription of the decision, and where it resolved the matter by a conclusion, the decision shall be rendered in compliance with that conclusion and a certified transcription of such a decision shall be issued to the parties.

## **Article 203**

- (1) Where within the same procedure a decision is being taken on the matter which relates to a larger number of persons, one decision may be issued for all of them, but they must be named in the declaration of the decision and the reasons pertaining to each of them must be presented in the explanation of the decision. Such a decision must be provided to each of those persons, except in the case laid down in Article 80 of this law.
- (2) If the matter in question pertains to a larger number of persons who are unknown to the authority, a single decision may be issued for all of them, but the decision has to contain such an information on the basis of which it will be possible to easily identify the persons to which the decision relates (e.g. tenants or owners of the property in a certain street or tenants of a building and the like).

## **Article 204**

- (1) In the matters of less importance in which the party's request is satisfied and the public interest or another person's interest is not violated, the decision may be composed of only the declaration in the form of an official note in the file, if the reasons for such a decision are obvious and unless otherwise provided.
- (2) Such a decision shall, as a rule, be stated to the party orally and it must be issued to him in writing if he so requests.
- (3) As a rule, such a decision shall not include the explanation, unless it is necessary by the nature of things. Such a decision may be issued only on a prescribed form.

### **3. Partial, Supplementary and Provisional Decision**

## **Article 205**

- (1) Where a decision on a single matter is taken in several points and only some of them have matured for resolving and where it proves to be purposeful for these points to be resolved by a special decision, the competent authority may issue a decision only on these points (partial decision).
- (2) The partial decision shall, with regard to the legal redresses and execution, be deemed as an individual decision.

## **Article 206**

- (1) If the competent authority has not taken a decision on all the issues that were the subject of the procedure, it may, at a party's proposal or *ex officio*, issue a special decision on the issues which are not covered by an already issued decision (supplementary decision). If the party's proposal for issuance of a supplementary decision is refuted, a special appeal shall be allowed against a conclusion on this.

- (2) If the subject has been sufficiently discussed, a supplementary decision may be issued without carrying out the examination procedure again.
- (3) A supplementary decision shall, with regard to the legal redresses and execution, be deemed as an individual decision.

#### **Article 207**

- (1) If according to the circumstances of the case it is necessary to issue a decision prior to the completion of the procedure, whereby the disputable issues or relations are provisionally regulated, the decision shall be issued on the basis of the information which exists at the moment of its issuance. It must be explicitly indicated in such a decision that it is a provisional one.
- (2) The competent authority may make the issuance of a provisional decision conditional upon the provision of security for the damage which, due to the execution of that decision, could be inflicted to the opposing party in case the basic request of the proponent is not recognised.
- (3) The provisional decision issued during the procedure shall be repealed by the decision on the main matter issued following the completion of the procedure.
- (4) A provisional decision shall, with regard to legal redresses and execution, be considered as an individual decision.

### **4. Period for Issuing a Decision**

#### **Article 208**

- (1) Where the procedure is instigated on request of the party, that is, *ex officio*, if it is in the party's interest and it is not necessary to carry out a special examination procedure prior to taking a decision and there are no other reasons due to which it would not be possible to issue a decision without delay (resolving of a prior issue and the like), the responsible authority shall be required to issue a decision and communicate it to the party as soon as possible and within 30 days at the latest calculating from the date of submission of a proper request, that is from the date of instigation of the procedure *ex officio*, unless a shorter period is set by a special provision.
- (2) In other cases of instigation of a procedure on party's request, that is, *ex officio* if it is in the party's interest, the competent authority shall issue a decision and communicate it to the party within 60 days at the latest, unless a shorter period is set by a special provision.
- (3) If the competent authority against a decision of which an appeal is allowed does not issue a decision and communicate it to the party within the period referred to in paragraph 1 and 2 of this Article, the party shall have the right to lodge an appeal to the competent authority as if his request was rejected.
- (4) Where the procedure in the cases referred to in Article 132 of this law is concerned, the competent authority shall be required to issue a decision as per a party's request within 15 days at the latest from the date of receiving the request.

### **5. Correction of Mistakes in the Decision**

#### **Article 209**

- (1) The authority which issued a decision, that is, the official who signed or issued the decision may at any time

correct mistakes in names or numbers, writing or calculation, as well as other obvious mistakes in the decision or its certified copies. The correction of a mistake shall take effect as from the date on which the corrected decision takes effect.

- (2) A special decision on correction shall be issued, which shall be attached to the original decision and make its integral part. A certified transcription of the conclusion shall also be delivered to the parties to which the decision has been delivered. The conclusion shall be signed by the official who signed the decision. The conclusion shall obligatorily contain the number and date of the decision which is corrected.
- (3) An appeal shall be allowed against the conclusion by which an already issued decision is corrected or a proposal for correction refuted.

## **XII – CONCLUSION**

### **Article 210**

- (1) The issues which pertain to the procedure shall be decided by a conclusion.
- (2) The issues for which the law provides that a conclusion is to be rendered, shall be resolved by a conclusion, as well as other issues related to the procedure operation, which are not resolved by a decision.

### **Article 211**

- (1) A conclusion shall be rendered by the official who carries out the procedure action in which the issue that is the subject of the procedure has arisen, unless otherwise provided by this law or other provisions.
- (2) If the conclusion orders the execution of an action, the period within which it is to be executed shall be set.
- (3) The conclusion shall be rendered in the form of an official note in the file and stated orally to the interested persons and it shall be issued in writing where a special appeal may be lodged against the conclusion or where the execution of the conclusion can be immediately requested.
- (4) The conclusion issued in writing shall include the introduction, declaration, explanation and legal redress.

### **Article 212**

- (1) A special appeal may be lodged against the conclusion, where this is provided by law.
- (2) The appeal shall be lodged within the same period and to the same authority as an appeal against the decision.
- (3) Interested persons may contest the conclusions against which a special appeal is not allowed by an appeal against the decision, unless an appeal against a conclusion is excluded by this law.
- (4) An appeal shall not postpone the execution of the conclusion, unless otherwise provided by law or by the conclusion itself.

## **THIRD PART – LEGAL REDRESSES**

### **A. REGULAR LEGAL REDRESSES**

## **XIV – APPEAL**

## **1. The Right to Appeal**

### **Article 213**

- (1) A party shall have the right to appeal against the decision issued in the first-instance.
- (2) The Prosecutor, Defence Attorney and other authorities, when authorised by law, may lodge an appeal against the decision violating the law in favour of an individual or a legal entity and detrimental to the public interest.
- (3) An appeal against the decision taken in the first-instance may also be lodged by the ombudsperson of Bosnia and Herzegovina, where he, in performing the duties from his competence, finds that a decision violates the citizen's rights and freedoms guaranteed by the Constitution of Bosnia and Herzegovina, European Convention on Protection of Human Rights and Fundamental Freedoms and the instruments listed in Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina.

### **Article 214**

- (1) The right to appeal against the first instance decisions of administrative authorities of Bosnia and Herzegovina and the institutions with public authorisations shall be regulated by a legislation of Bosnia and Herzegovina in a particular administrative field and within the competence of the institutions of Bosnia and Herzegovina.
- (2) When taking a decision on the right of appeal against the decision referred to in paragraph 1 and 2 of this Article, it is necessary to take care that, as a rule, an appeal against all first-instance decisions is provided for and thereby ensure the principle of two-instance decision taking in the administrative procedure and that an appeal may be excluded only for particularly justified reasons.
- (3) The legislation referred to in paragraph 1 of this Article shall also designate the authority that will take a decision as per an appeal.
- (4) An appeal may not be lodged against a decision of the Houses of the Parliamentary Assembly of Bosnia and Herzegovina issued in the first-instance.
- (5) If an appeal against the first-instance decisions referred to in this Article is not allowed, an administrative lawsuit may be directly instigated with the Court of Bosnia and Herzegovina.
- (6) An appeal must be allowed against all first-instance decisions in which the administrative lawsuit is excluded.

## **2. The Competence of the Authority for Decision Taking as per an Appeal**

### **Article 215**

- (1) The Appellation Council within the Council of Ministers of Bosnia and Herzegovina shall take a decision on an appeal against the first-instance decisions of administrative authorities of Bosnia and Herzegovina.
- (2) An appeal against the first-instance decisions of organisational units of administrative authorities of Bosnia and Herzegovina and institutions of Bosnia and Herzegovina, which have public authorisations and which are established outside the seats of the administrative authorities and the institutions with the task to carry out certain administrative duties falling within the responsibilities of the administrative authority or institution, shall be resolved by the authority or the institution possessing public authorisations and within which is the organisational unit in question, unless another authority is designated by a special law.

- (3) An appeal against the first-instance decisions of institutions possessing public authorisations shall be resolved by the administrative authority of Bosnia and Herzegovina within the responsibility of which the administrative field in question falls, unless another authority is designated by a special law.

#### **Article 216**

- (1) An appeal against the first-instance decision taken on the basis of Article 194 or 195 of this law shall be resolved by the authority responsible to resolve as per an appeal against the decision of the authority which issued it (Article 194), that is, which took a challenged decision (Article 195), unless a special provision provides that another authority shall take a decision as per an appeal. In these cases, the second-instance authority may only revoke a challenged decision and may not amend it.
- (2) If the authority which, according to paragraph 1 of this Article, was responsible to take a decision as per an appeal, gave its consent, approval or confirmation for the first-instance decision, the authority designated by law shall take a decision as per an appeal, and if such an authority has not been designated, an administrative lawsuit against such a decision may be directly instigated with the competent court.

#### **Article 217**

- (1) An appeal against the first-instance decision of the institution possessing public authorisations shall be resolved by the authority designated by the statute of that institution, unless the law by which the public authorisation is granted provides that an administrative authority or some other authority shall take a decision as per an appeal.
- (2) If no authority has been designated for decision taking as per an appeal within the meaning of the provisions of paragraph 1 and 2 of this Article, the administrative authority responsible for an appropriate administrative field shall take a decision as per an appeal.

### **3. Appeal Period**

#### **Article 218**

- (1) An appeal against a decision shall be lodged within a period of 15 days, unless otherwise provided by law.
- (2) An appeal period for each person and for each authority the decision is to be delivered to shall be calculated as from the date of delivery of the decision.

#### **Article 219**

- (1) During the appeal period the decision may not be executed. Where an appeal was properly lodged, the decision may not be executed until the decision issued as per an appeal is delivered to the party.
- (2) Exceptionally, a decision may be executed in the appeal period, as well as after the lodging of an appeal, if this is laid down by law or if an irreparable damage would be inflicted to one of the parties by the postponement of the execution. In this case an appropriate security may be requested from the party in whose interest the execution is carried out and make the execution conditional upon this security.

### **4. Substance of an Appeal**

#### **Article 220**

- (1) The challenged decision must be stated in an appeal together with the indication of the name of the authority which issued it and the decision Ref. No. and date. It shall be sufficient that the appellant presents in the

appeal in what respect he is dissatisfied with the decision, but he does not have to specifically explain the appeal.

- (2) New facts and evidence may be presented in the appeal, but the appellant shall be required to explain why he did not present them in the first-instance procedure.
- (3) If new facts and evidence are presented in the appeal and two or more parties with opposing interests participate in the procedure, the appeal shall be accompanied by as many copies of the appeal as there are such parties. In that case the authority shall deliver to each such party a transcription of the appeal and shall set a period to him to provide his position on new facts and evidence. This period may not be shorter than 8 and longer than 15 days.

## **5. Submission of Appeal**

### **Article 221**

- (1) An appeal shall be submitted directly or sent by mail to the first-instance authority.
- (2) If an appeal was submitted or sent directly to the second-instance authority, it shall immediately send it to the first-instance authority.
- (3) In respect of the appeal period, it shall be deemed that the appeal which was submitted or mailed directly to the second-instance authority was delivered to the first-instance authority.

## **6. The Operation of the First-Instance Authority as per an Appeal**

### **Article 222**

- (1) The first-instance authority shall verify whether an appeal is allowed, whether it is a timely one and lodged by an authorised person.
- (2) The first-instance authority shall, by its decision, refute a non-allowed and untimely appeal, that is, the one which was lodged by an unauthorised person.
- (3) The first-instance authority shall assess the timeliness of the appeal delivered or sent directly to the second-instance authority as per the date when it was delivered, that is, sent to the second-instance authority.
- (4) A party shall have the right to appeal against the decision by which an appeal was refuted on the basis of paragraph 2 of this Article. If the authority taking a decision as per an appeal finds that the appeal is justified, it shall simultaneously take a decision on the refuted appeal.

### **Article 223**

- (1) If the first-instance authority which issued a decision finds that an appeal is justified and it is not necessary to carry out a new examination procedure, it may resolve the matter differently and replace the decision challenged by the appeal with a new decision.
- (2) The party shall have the right to appeal against the new decision.

### **Article 224**

- (1) If in respect of the appeal the authority which issued a decision finds that the performed procedure was incomplete and that this could have influence on the resolution of the matter, it shall be required to complete

the procedure in compliance with the provisions of this law.

- (2) The authority which issued a decision shall complete the procedure even where the applicant provided such facts and evidence in the appeal which could result in the different resolution of the matter, if the applicant had to be given an opportunity to participate in the procedure which preceded the issuance of the decision and this possibility was not given to him, or it was given to him, but he failed to use it and in his application he justified this failure.
- (3) According to the results of the completed procedure the authority which issued a decision may, within the limits of the party's request, take a different decision and replace the decision challenged by the appeal with a new decision.
- (4) The party shall have the right to appeal against the new decision.

#### **Article 225**

Where a decision was taken without a previously conducted special examination procedure, which was obligatory, or where it was taken in compliance with Article 132, point 1, 2 and 3 of this law, but the party was not given the opportunity to provide his position on the facts and circumstances which are of importance for taking a decision and in his appeal the party requested that the examination procedure be carried out, that is, he to be given the opportunity to provide his position on such facts and circumstances, the first-instance authority shall be required to carry out that procedure. After carrying out the procedure, the first-instance authority may recognise the request from the appeal and issue a new decision.

#### **Article 226**

- (1) Where the authority which issued a decision finds that a lodged appeal is allowed, a timely one and presented by the authorised person, but that it failed to replace the decision challenged by the appeal in compliance with Article 223 to 225 of this law, it shall be required to send an appeal to the authority authorised for taking a decision as per an appeal, without delay and within eight days from the date of receiving the appeal.
- (2) In addition to the appeal, it shall be required to attach all the files that pertain to the case.

### **7. Decision Taking of the Second-Instance Authority as per an Appeal**

#### **Article 227**

- (1) If an appeal is a non-allowed one, untimely or presented by an unauthorised person and the first-instance authority failed to refute it for these reasons, the authority competent for decision taking as per an appeal shall refute it by its decision.
- (2) If it does not refute an appeal, the second-instance authority shall take the case for decision taking.
- (3) The second-instance authority may refute an appeal, revoke the decision in full or partially, or amend it.

#### **Article 228**

- (1) The second-instance authority shall refute an appeal where it establishes that the procedure which preceded a decision was properly conducted and that the decision is a proper and legally based one and that the appeal is ungrounded.
- (2) The second-instance authority shall also refute an appeal where it finds that there were deficiencies in the

first-instance procedure, but that they were of such a character that they could not influenced the resolution of the matter.

- (3) If the second-instance authority establishes that the first-instance decision is legally based, but for other reasons and not for those stated in the decision, it shall present these reasons in its decision and refute the appeal.

#### **Article 229**

- (1) If the second-instance authority establishes that an irregularity was made in the first-instance procedure which makes the decision invalid (Article 256), it shall declare such a decision to be invalid, as well as that part of the procedure which was carried out following that irregularity.
- (2) If the second-instance authority establishes that a non-competent authority issued the first-instance decision, it shall revoke that decision *ex officio* and provide the case to the competent authority for decision taking.

#### **Article 230**

- (1) If the second-instance authority establishes that the facts were incompletely or incorrectly established in the first-instance procedure, that the rules of the procedure which would influence the resolving of the matter were not taken into account or that that the declaration of the challenged decision is unclear or in contradiction with the explanation, it shall complete the procedure and eliminate the identified deficiencies either alone or via the first-instance authority or any other requested authority and these authorities shall be required to act on request of the second-instance authority. If the second-instance authority finds that on the basis of the facts established in the completed procedure the matter has to be resolved differently than it was resolved by the first-instance decision, it shall revoke the first-instance decision by its decision and resolve the matter by itself.
- (2) If the second-instance authority finds that the deficiencies of the first-instance procedure will be more expeditiously and more cost-effectively eliminated by the first-instance authority, it shall revoke the first-instance decision by its decision and return the case to the first-instance authority for renewal of the procedure. In that case, the second-instance authority shall be required to indicate in its decision in which respect the first-instance authority is to complete the procedure and the first-instance authority shall be required to fully comply with the second-instance decision and issue a new decision without delay and maximum within 15 days from the date of receiving the case. A party shall have the right to appeal against the new decision.

#### **Article 231**

- (1) If the second-instance authority establishes that evidence was incorrectly assessed in the first-instance decision, that in respect of facts a wrong conclusion was derived from the established facts, that the legal provision on the basis of which the matter is being resolved was incorrectly applied, that the first-instance decision was already revoked once and in particular if the first-instance authority did not fully comply with the second-instance decision, or if it finds that a different decision should have been issued on the basis of a free assessment, it shall revoke the first-instance decision by its decision and resolve the matter by itself.
- (2) If the second-instance authority establishes that the decision is correct in terms of established facts and in terms of the application of legislation, but that the objective for which the decision was issued can also be achieved by other means which are more favourable for the party, it shall amend the first-instance decision in that respect.

#### **Article 232**

- (1) For the purpose of correctly resolving the matter the second-instance authority may, upon appeal, amend the first-instance decision in favour of the appellant even apart from the request stated in the appeal and within the request made in the first-instance procedure, if this does not violate the rights of another person.
- (2) For the same purpose the second-instance authority may, upon appeal, amend the first-instance decision at the appellant's expense, but only for the reasons provided in Article 252, 255 and 256 of this law.

#### **Article 233**

- (1) The provisions of this law, which pertain to the decision, shall also apply to the decisions taken as per an appeal.
- (2) All allegations contained in an appeal must be assessed in the explanation of the second-instance decision. If in the explanation of its decision the first-instance authority correctly assessed the allegations stated in the appeal, the second-instance authority may, in its decision, only refer to the reasons presented in the first-instance decision.

### **8. An appeal when the First-Instance Decision Was Not Issued within the Legal Period**

#### **Article 234**

- (1) If an appeal has been lodged by the party at whose request the first-instance authority did not take a decision within a legal period (Article 208, paragraph 1 and 2), the second-instance authority shall be required to immediately, and within three days from the date of receiving the appeal, request from the first-instance authority to immediately provide it with all case files and present in writing the reasons due to which the decision was not issued within the period. The first-instance authority shall be obliged to act on this request within the period set by the second-instance authority, provided that this period may not exceed five days. If the second-instance authority finds that the decision was not issued within the period due to justified reasons or due to a party's failure, it shall set a period to the first-instance authority for taking a decision, which may not exceed 15 days, and return to it all case files for decision taking.
- (2) If the second-instance authority finds that the reasons due to which the decision was not taken within the set period are not justified, it shall resolve the matter on the basis of the case files and issue its decision, if possible, and if it is not possible to resolve the matter on the basis of the case files, it shall carry out the procedure by itself and resolve the matter by its decision. Exceptionally, if the second-instance authority finds that the procedure will be more expeditiously and more cost-effectively carried out by the first-instance authority, it shall order this authority to do this and provide the second-instance authority with collated information within a specified period which may not exceed eight days and the first-instance authority shall be obliged to act as per this request. Once the first-instance authority provides the requested information and evidence, the second-instance authority shall immediately resolve the matter. A decision of the second-instance authority taken under this provision shall be final.

### **9. The Period for Issuance of a Decision as per an Appeal**

#### **Article 235**

- (1) A decision as per an appeal must be issued and delivered to the party as soon as possible and within 30 days at the latest from the date of submission of the appeal, unless a shorter period is laid down by law.
- (2) If a party abandons his appeal, the procedure as per an appeal shall be suspended by a conclusion.

### **10. Special Cases of Taking a Decision as per an Appeal**

## **Article 236**

A ruling against the decision taken in the first instance by an administrative authority of the respective Entity and the Brčko District of Bosnia and Herzegovina, in compliance with the provisions regulating that administrative field, shall be taken by the administrative authority of Bosnia and Herzegovina designated by the provision regulating that administrative field.

### **11. Delivery of the Second-Instance Decision**

#### **Article 237**

The authority which resolved the matter in the second instance shall, as a rule, send its decision together with case files to the first-instance authority, which shall be required to deliver the decision to the parties within the period of five days from the date of receiving the file.

## **B. EXTRAORDINARY LEGAL REMEDIES**

### **XV – RENEWAL OF THE PROCEDURE**

#### **1. Instigation of the Renewal of the Procedure**

#### **Article 238**

The procedure completed by a decision or a conclusion against which there is no regular legal remedy in the administrative procedure (final in the administrative procedure) shall be renewed:

- 1) if new facts are established or a possibility is found or acquired for using the new evidence which, either alone or in relation to already furnished and used evidence, could result in different decision had these facts, that is, evidence been presented or used in the previous procedure;
- 2) if a decision was taken on the basis of a false document or a false testimony by a witness or an expert, or if it is a result of an act which is punishable under the criminal code;
- 3) if a decision is based on the verdict issued in the criminal procedure or in the economic offence procedure and that verdict was validly revoked;
- 4) if a decision favourable to a party has been issued on the basis of party's false allegations by which the authority that conducted the procedure was misled;
- 5) if a decision of the authority which conducted the procedure is based on a prior issue and the competent authority subsequently resolved that issue in an essentially different manner;
- 6) if the official who, according to the law, had to be exempted participated in the process of taking a decision;
- 7) if a decision was taken by the official of the competent authority, who was not authorised to issue it;
- 8) if the board authority which issued a decision did not take it in the composition laid down by the current provisions or if a prescribed majority did not vote for the decision;
- 9) if the person who should have participated in the capacity of a party was not given the possibility to participate in the procedure;
- 10) if a legal representative did not represent the party and he should have represented him under law;
- 11) if the person who participated in the procedure was not given the possibility to use his language under the conditions referred to in Article 16 of this law.

#### **Article 239**

- (1) The renewal of the administrative procedure may be requested by a party, and the authority which issued the decision whereby the procedure was concluded may *ex officio* instigate the renewal of the procedure.

- (2) Due to the circumstances set out in Article 238, point 1, 6, 7, 8 and 11 of this law, a party may request the renewal of the procedure only if he, without his fault, was not able to present in the earlier procedure the circumstances due to which he requests the renewal of the procedure.
- (3) For the reasons stated in Article 238, points 6 to 11 of this law, a party may not request the renewal of the procedure if the reason was presented in the previous procedure without success.
- (4) The Prosecutor may request the renewal of the procedure under the same conditions as a party.
- (5) The renewal of the procedure may also be requested by the Ombudsperson of Bosnia and Herzegovina, where he, in doing the activities that fall within his responsibility, finds that the rights and freedoms guaranteed by the Constitution of Bosnia and Herzegovina, the European Convention on Protection of Human Rights and Fundamental Freedoms and the instruments listed in Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina are violated by the final decision.

#### **Article 240**

If the decision as per which the renewal of the administrative procedure is requested was the subject of the administrative lawsuit, the renewal may be allowed only because of those facts which the authority established in the earlier administrative procedure and not because of the facts which the court established in its procedure.

#### **Article 241**

- (1) A party may request the renewal of the procedure within 30 days, as follows:
  - 1) in the event referred to in Article 238, point 1 – as from the date when the party could present new evidence, that is, use new facts;
  - 2) in the event referred to in Article 238, point 2 and 3 – as from the date when the party learned about a valid verdict in the criminal procedure or economic offence procedure, and if the procedure cannot be carried out – as from the date he learned about the suspension of that procedure or about the circumstances due to which the procedure may not be carried out, that is, about the circumstances due to which there are no possibilities for criminal prosecution, that is, for the economic offence prosecution.
  - 3) in the event referred to in Article 238, point 5 – as from the date when the party could have used a new act (verdict, decision);
  - 4) in the event referred to in Article 238, point 4, 6, 7 and 8 – as from the date when the party learned about the reasons for renewal;
  - 5) in the event referred to in Article 238, point 9, 10 and 11 – as from the date when the decision was delivered to the party.
- (2) If the period set out in paragraph 1 of this Article begins to run before the decision becomes final in the administrative procedure, this period shall be calculated as from the date the decision becomes final, that is, from the date of delivery of the final decision of the competent authority.
- (3) After the expiration of the period of five years from the date of delivery of the final decision to a party, the renewal may not be requested or instigated *ex officio*.
- (4) Exceptionally, even after the expiration of the period of five years, the renewal may be request or instigated only for the reasons set out in Article 238, point 2, 3 and 5 of this law.

#### **Article 242**

- (1) The administrative procedure may be renewed for the reasons set out in Article 238, point 2 of this law even

if the criminal procedure may not be carried out or if there are circumstances due to which the procedure may not be instigated.

- (2) Prior to rendering a conclusion on renewal of the administrative procedure for the reasons set out in Article 238, point 2 of this law, the official shall request from the authority responsible for criminal prosecution the information whether the criminal procedure has been suspended, that is, whether there are circumstances due to which the procedure may not be instigated. The official does not have to request such an information if the statute of limitations has taken effect in respect of the criminal prosecution or if the person whose criminal responsibility is indicated in the request for renewal of the administrative procedure has died, or if the circumstances due to which the procedure may not be instigated can be determined with certainty by the official himself.

### **Article 243**

In his request for renewal of the procedure a party shall be required to make the circumstances on which he bases his proposal probable, as well as the condition that the proposal has been made within the legal period.

## **2. Decision Taking on Renewal of the Procedure**

### **Article 244**

- (1) A party shall submit a proposal for renewal of the procedure to the authority which was resolving the case in the first-instance or to the authority which issued a decision whereby the procedure was completed.
- (2) The authority which issued a decision whereby which the procedure was completed shall take a decision on the proposal for renewal of the procedure.
- (3) Where the renewal is requested in relation to the decision issued in the second-instance, the first-instance authority which received the request for renewal shall attach case files to the proposal and immediately send it to the authority which was resolving in the second-instance and within three days from the date of receiving the proposal at the latest.

### **Article 245**

- (1) When the authority responsible to take a decision on the proposal for renewal of the procedure receives the proposal, it shall be required to verify whether the proposal is a timely one and lodged by the authorised person and whether the circumstances on which the proposal is based have been made probable.
- (2) If the conditions referred to in paragraph 1 of this Article have not been met, the competent authority shall refute the proposal by its conclusion.
- (3) If the conditions referred to in paragraph 1 of this Article have been met, the competent authority shall verify whether the circumstances, that is, the evidence presented as the reason for renewal are of such a character that they could result in a different decision, and if it establishes that they are not of such a character, it shall refute the proposal by its conclusion.

### **Article 246**

- (1) If the competent authority does not reject or refute the proposal for renewal on the basis of Article 245 of this law, it shall render a conclusion on allowing the renewal of the procedure and it shall set the scope within which the procedure will be renewed. If the renewal of the procedure is instigated *ex officio*, the competent authority shall render a conclusion on allowing the renewal, if it previously established that legal

conditions for the renewal are met. Previous actions in the procedure on which the reasons for renewal do not have any effect shall not be repeated.

- (2) Where the circumstances surrounding the case allow it, and it is in the interest of expediting the procedure, the authorised authority may, as soon as it establishes the existence of the conditions for renewal, move to those actions in the procedure which are to be renewed, without rendering a special conclusion by which the renewal is allowed.
- (3) Where the second-instance authority takes a decision on renewal, it shall carry out necessary actions in the renewed procedure by itself and, exceptionally, where it finds that these actions will be more expeditiously and more cost-effectively carried out by the first-instance authority, it shall order the latter to do this and to provide it with the material on that within the specified period which may not exceed eight days. The first-instance authority shall be obliged to act as per an order of the second-instance authority.

#### **Article 247**

On the basis of the data collated in the previous procedure or in the renewed procedure, the competent authority shall issue a decision on the matter which was the subject of the renewal of the procedure and, by it, it may leave it valid or replace it by a new one. In the latter case and taking into account all the circumstances surrounding an individual case, the authority may revoke the previous decision or cancel it.

#### **Article 248**

- (1) An appeal may be lodged against the conclusion rendered on the proposal for renewal of the procedure, as well as against the decision issued in the second-instance, only where this conclusion or decision was issued by the first-instance authority.
- (2) If the conclusion or decision on renewal of the procedure was issued by the second-instance authority, an administrative lawsuit against that conclusion or decision may be directly instigated with the Court of Bosnia and Herzegovina.

#### **Article 249**

- (1) A proposal for renewal of the procedure shall, as a rule, not postpone the execution of the decision by which the renewal is requested, but if the authority which is competent for taking a decision as per a proposal for renewal of the procedure considers that the proposal for renewal will be recognised, it may, *ex officio* or at a party's proposal, take a decision that the execution be postponed until a decision is taken on the issue of renewal of the procedure.
- (2) A conclusion by which the renewal of the procedure is allowed shall postpone the execution of the decision against which the renewal is allowed.

### **XVI – SPECIAL CASES OF REVOKING, CANCELLING AND AMENDING DECISIONS**

#### **1. Amending and Revoking of Decisions Related to the Administrative Procedure**

#### **Article 250**

- (1) The authority against a decision of which an administrative lawsuit has been timely instigated, may, until the completion of the lawsuit and if it recognises all the requests of the charge, revoke or amend its decision for those reasons for which the court could revoke such a decision, if the right of a party in the administrative procedure or of a third person is not violated by that.
- (2) A decision on revocation or amendment of the decision in compliance with the provision of paragraph 1 of this

Article shall be issued by the authority *ex officio* at the time it establishes from the charge which the court provided to it for response and by examining the whole file that the charge is grounded.

- (3) A decision issued within the meaning of paragraph 2 of this Article shall be delivered to the party and the Court of Bosnia and Herzegovina. The decision shall be issued within the period which the Court of Bosnia ad Herzegovina set for the provision of a response concerning the charge, that is, before the administrative lawsuit is completed.

## **2. Request for Protection of Legality**

### **Article 251**

- (1) Against a valid decision issued in the matter in which an administrative lawsuit may not be conducted and the court protection is not secured even outside the administrative lawsuit, the Defence Attorney of Bosnia and Herzegovina shall have the right to lodge a request for protection of legality if he believes that the law is violated by the decision.
- (2) A request for protection of legality as per the provision of paragraph 1 of this Article may be lodged within 30 days from the date when the decision was delivered to the Defence Attorney of Bosnia and Herzegovina, and if it has not been delivered to it – within three months from the date of delivering it to a party.
- (3) The administrative authority responsible for taking a decision as per an appeal against the challenged decision shall take a decision on the request for protection of legality which an administrative authority of Bosnia and Herzegovina and the institution possessing public authorisations issued in the administrative procedure, and if such an authority does not exist – then the Council of Ministers.
- (4) Following a request for protection of legality, the competent court may cancel the challenged decision or reject the request. An appeal against a decision issued as per the request for protection of legality shall not be allowed.
- (5) Both a party and any other interested person may submit an initiative for lodging a request for protection of legality to the competent Defence Attorney of Bosnia and Herzegovina.

## **3. Revocation and Cancellation of a Decision under the Right of Supervision**

### **Article 252**

- (1) The competent authority shall, under the right of supervision, revoke a decision which is final in the administrative procedure:
  - 1) if the decision was issued by the actually competent authority and it is not the case provided in Article 256, point 1 of this law;
  - 2) if a valid decision was previously issued in the same matter and by which that administrative matter was resolved differently;
  - 3) if the decision was issued by one authority without the consent, confirmation, permission or opinion of the other authority and this is required by law or any other provision based on the law;
  - 4) if the decision was taken as a result of compulsion, extortion, blackmail, pressures or any other illicit action.
- (2) The decision which is final in the administrative procedure may be cancelled under the right of supervision, if the substantive law has obviously been violated by it. In the matters in which two or more parties with opposing interests participate, the decision may be cancelled only upon the consent of interested parties.

### **Article 253**

- (1) A decision may be revoked or cancelled under the right of supervision by the second-instance authority. If there is no second-instance authority, the decision may be revoked or cancelled by the Council of Ministers.
- (2) The competent authority shall issue a decision on revocation or cancellation of the decision *ex officio* or at the request of the party, Defence Attorney of Bosnia and Herzegovina or Ombudsperson of Bosnia and Herzegovina.
- (3) A decision on revocation, on the basis of point 1 and 2 of paragraph 1 and 2 of Article 252 of this law may be issued within the period of five years and on the basis of point 4, paragraph 1 of that Article – within the period of one year from the date when the decision became final in the administrative procedure.
- (4) A decision on revocation of the decision, on the basis of Article 252, paragraph 1, point 5 of this law, may be issued regardless of the periods laid down in paragraph 3 of this Article.
- (5) A decision on revocation on the basis of paragraph 2 of Article 252 of this law may be issued within the period of one year from the date when the decision became final in the administrative procedure.
- (6) An appeal shall not be allowed against the decision issued on the basis of Article 252 of this law, but an administrative lawsuit may be instigated directly with the competent court.

#### **4. Cancellation and Amendment of the Valid Decision with the Party's Consent or at the Party's Request**

##### **Article 254**

- (1) If the party acquired a right by a valid decision and the authority which issued it considers that the substantive law was incorrectly applied in it, it may cancel or amend the decision for the purpose of its harmonisation with the law only if the party, which on the basis of that decision acquired that right, agrees to it and if the right of a third person is not violated by this. The party's consent is also required for an amendment to the valid decision, which is detrimental for the party and which imposes a liability on the party.
- (2) Under the conditions referred to in paragraph 1 of this Article and at the party's request, a valid decision which is unfavourable for the party may be revoked or amended. If the authority finds that there is no need to revoke or amend the decision, it shall be required to notify the party of that.
- (3) An amendment to the decision on the basis of this Article shall take effect only in the future.
- (4) A decision on the basis of paragraph 1 and 2 of this Article shall be issued by the first-instance authority which issued the decision, and the second-instance authority only where it decided on the matter by its decision. If this authority has been dissolved or if it ceased to be competent for the matter in question, a decision shall be issued by the authority which was responsible for that matter at the time of its issuance.
- (5) An appeal against the new decision issued on the basis of this Article shall be allowed only if that decision was issued by the first-instance authority. If the decision was issued by the second-instance authority, that is, if the first-instance decision was final, an administrative lawsuit may be instigated against that decision.

#### **5. Extraordinary Cancellation of Decisions**

##### **Article 255**

- (1) An executive decision may be cancelled if necessary for the purpose of eliminating a grave and imminent danger to the life and health of people, public security, public peace and order or public morality, or for the

purpose of eliminating disruptions in the economy, if these could not be successfully eliminated by other means which would less interfere with the acquired rights. A decision may also be cancelled only partially to the extent sufficient to eliminate the danger or protect the mentioned public interest.

- (2) If a decision was taken by the first-instance authority, this decision may, within the meaning of paragraph 1 of this Article, be cancelled by the second-instance authority, and if there is no second-instance authority – by an appropriate authority referred to in paragraph 1 of Article 253 of this law.
- (3) An appeal shall be allowed against the decision by which a previous decision is cancelled only where this decision was issued by the first-instance authority. Otherwise, an administrative lawsuit against such a decision may be directly instigated with the Court of Bosnia and Herzegovina.
- (4) The party who, due to the cancellation of the decision, suffers damage shall have the right to claim only the compensation of the actual damage. The Court of Bosnia and Herzegovina shall be responsible to take a decision as per a request for compensation of damage.

## **6. Declaration of the Decision Invalid**

### **Article 256**

The decision shall be declared invalid:

- 1) the one which, in the administrative procedure, was issued in the matter which falls within the judicial competence or in the matter on which a decision may not be taken in the administrative procedure at all;
- 2) the one which, if executed, could cause an act punishable under the criminal code;
- 3) the one whose execution is not possible at all;
- 4) the one which the authority issued without a prior party's request (Article 120) and to which the party has not explicitly or tacitly agreed subsequently;
- 5) the one that contains a failure which, under an explicit legal provision, is laid down as the reason for invalidity.

### **Article 257**

- (1) A decision may be declared invalid *ex officio* or at the proposal of a party or a Defence Attorney of Bosnia and Herzegovina or an Ombudsperson of Bosnia and Herzegovina at any time.
- (2) A decision may be declared invalid in full or partially.
- (3) A decision shall be declared invalid by the authority which issued it or by the second-instance authority and if there is no second-instance authority – by an appropriate authority referred to in paragraph 1 Article 253 of this law.
- (4) An appeal shall be allowed against the decision by which another decision is declared invalid or by which a proposal of the party, Defence Attorney or Ombudsperson for the declaration of the decision invalid is refuted. If there is no authority which takes a decision as per an appeal, an administrative lawsuit may be directly instigated with the competent court.

## **7. Legal Consequences of Revocation and Cancellation**

### **Article 258**

- (1) With the revocation of a decision and declaring it invalid, the legal consequences of such a decision shall also be revoked.

- (2) With the cancellation of a decision, the legal consequences which the decision has already caused until the date of cancellation shall not be revoked, but the generation of further legal consequences of the cancelled decision prevented.
- (3) The authority that learns on a decision violating the law and the violation may be the reason for the renewal of the procedure, that is, for the revocation, cancellation or amendment of the decision, shall be required to notify, without delay, the authority responsible for the instigation of the procedure and the issuance of a decision.

## **FOURTH PART**

### **XVII – EXECUTION OF DECISIONS AND CONCLUSIONS**

#### **1. General Provisions**

##### **Article 259**

- (1) The execution of a decision issued in the administrative procedure shall be carried out for the purpose of effectuating financial claims or non-pecuniary liabilities.
- (2) A decision issued in the administrative procedure shall be executed once it becomes executive.
- (3) The first-instance decision shall become executive:
  - 1) by the expiration of the appeal period, if an appeal has not been filed;
  - 2) by its delivery to the party, if an appeal is not allowed;
  - 3) by its delivery to the party, if an appeal does not postpone the execution;
  - 4) by delivering a decision on refuting or rejecting an appeal to the party.
- (4) The second-instance decision, by which the first-instance decision is amended, shall become executive when it is delivered to the party.
- (5) If it is indicated in the decision that the action which is subject of the execution may be carried out within the set period, the decision shall become executive upon the expiration of that period. If the decision does not indicate the period for the execution of an action, the decision shall become executive within 15 days from the date of issuance of the decision. The period for execution of the decision set out by the decision, that is, the prescribed period of 15 days for the execution shall begin to run from the date when the decision, within the meaning of paragraph 3 and 4 of this Article, becomes executive.
- (6) The execution may also be carried out on the basis of a concluded settlement, but only against the person who participated in the conclusion of the settlement.
- (7) If a decision pertains to two or more parties that participate in the procedure with the same requirements, an appeal submitted by any of these parties shall prevent the execution of the decision
- (8) Following the expiration of a period of five years from the date when a decision became executive, its execution may not be requested.

##### **Article 260**

- (1) A conclusion issued in the administrative procedure shall be executed when it becomes executive.

- (2) A conclusion against which a special appeal may not be lodged, as well as the one against which a special appeal may be lodged but cannot postpone its execution, shall become executive by its declaration, that is, by its delivery to the party.
- (3) Where the law or the conclusion itself provides that an appeal shall postpone the execution, the execution shall become executive following the expiration of the appeal period if an appeal has not been lodged, and if it has been lodged – by delivering to the party a decision whereby the appeal is refuted or rejected.
- (4) In other cases, the conclusion shall be executive under the conditions laid down for the finality of the decision in Article 259, paragraphs 4, 5, and 7 of this law.
- (5) The provisions of this law concerning the execution of the decision shall also apply to the execution of the conclusion.

#### **Article 261**

- (1) Where there is a possibility for the execution to be carried out in several ways and by the application of various instruments, the execution shall be carried out in the manner and by the application of that instrument which leads to the goal and which is the mildest for the person who is the subject of execution.
- (2) Execution activities may be carried on Sundays and non-working holidays, as well as in the night, only exceptionally and if there is a danger from infliction of a considerable damage and if the authority which carries out the execution issued a written order for this.

#### **Article 262**

- (1) The execution shall be carried out against the person who is obliged to fulfil the liability (the person who is subject to the execution), that is, his heirs or legal successors.
- (2) The execution shall be carried out *ex officio* or at the party's proposal.
- (3) The execution shall be carried out *ex officio* where this is required by the public interest. The execution which is in the interest of the party shall be carried out at the party's proposal (the person requesting execution).

#### **Article 263**

- (1) The execution of the decision shall be carried out in an administrative way (administrative execution) and in the cases laid down by this law – in a judicial way (court execution).
- (2) The administrative execution shall be carried out by administrative authorities under the provisions of this or special law, and the court execution – by the Court of Bosnia and Herzegovina under the provisions valid for court execution.

#### **Article 264**

- (1) The execution for the fulfilment of non-pecuniary liabilities shall be carried out in an administrative way.
- (2) The execution for the fulfilment of monetary claims shall be carried out in a judicial way. Exceptionally, the execution for the fulfilment of monetary claims from the income generated on the basis of labour relations may be carried out in an administrative way upon the obtained consent from the person who is subject of the execution.

### **Article 265**

- (1) The administrative execution shall be carried out by the administrative authority which was resolving the matter in the first-instance, unless another authority is designated for this purpose by a special provision.
- (2) The authorities of internal affairs shall be required to provide assistance to the authority responsible for carrying out the execution, at its request, during the performance of the execution.

### **Article 266**

- (1) In order to commence the execution of a decision, it is necessary that the authority responsible for administrative execution issues, *ex officio* or at the party's request, a conclusion on permitting the execution. It shall be allowed to lodge an appeal against this conclusion with the competent second-instance authority.
- (2) The authority responsible for administrative execution shall be required to issue, without delay, a conclusion on permitting the execution of the decision issued *ex officio* in the administrative matter when such a decision became executive and within 30 days from the date when the decision became executive, unless otherwise provided by special provisions, given that this period may be extended for additional 30 days.
- (3) Where the administrative execution is not carried out by the authority which took a decision in the first-instance, but some other authority designated by a special provision, the person requesting the execution shall submit a proposal for execution to that authority or to the institution possessing public authorisations, if that institution issued the decision which is to be executed. If the decision has become executive, the mentioned authority, that is, the institution, shall put on the decision the confirmation that it has become executive (confirmation of enforceability) and, for the purpose of its execution, it shall communicate it to the authority responsible for execution and at the same time it must obligatorily propose the method of execution.
- (4) Where the execution of a decision of the authority, that is, the institution possessing public authorisations is to be carried out *ex officio* and they are not authorised to carry it out, they shall, for the purpose of carrying out the execution, refer to the authority responsible for execution in the manner laid down in paragraph 3 of this Article.

### **Article 267**

- (1) The administrative execution, which is to be carried out by the authority which was resolving the matter in the first-instance, shall be carried out on the basis of a decision which became executive and on the basis of a conclusion on allowing execution.
- (2) The administrative execution, which is to be carried out by some other authority, shall be carried out on the basis of a decision on which the confirmation of enforceability was put and on the basis of a conclusion on allowing execution.

### **Article 268**

- (1) In the procedure of administrative execution an appeal may be lodged, but the one which pertains only to the execution, and it may not be used to challenge the correctness of the decision which is executed.
- (2) The appeal shall be lodged to the competent second-instance authority. An appeal shall not postpone the instigated execution. With regard to the appeal period and the authority responsible for taking a decision as per an appeal, the provisions of Article 215 through 219 of this law shall apply.

### **Article 269**

- (1) The authority responsible for administrative execution shall, *ex officio*, be obliged to suspend the instigated execution and annul the performed actions if it is established that the liability was carried out, that the execution was not allowed at all, that it was executed against the person who was not subject to liability, or if the person who requested the execution desisted from his request, that is, if the executive decision was revoked or cancelled.
- (2) The administrative execution shall be postponed if in respect of the execution of liability it is established that a grace period is allowed or that instead of the provisional decision which is executed, a decision on the main matter was issued and the latter differs from the provisional decision. The postponement shall be authorised by the authority which issued the conclusion on allowing execution.

#### **Article 270**

- (1) The fines declared under this law shall be collected by the authorities responsible for the collection of fines.
- (2) The fine shall be collected in favour of the Budget of Bosnia and Herzegovina.

#### **Article 271**

- (1) Where the court execution of a decision taken in the administrative procedure is to be carried out, the authority whose decision is to be carried out shall put on the decision the confirmation of enforceability (Article 266, paragraph 3) and provide it to the Court of Bosnia and Herzegovina for execution.
- (2) A decision taken in the first-instance, which contains the confirmation of enforceability, shall be the basis for court execution. This execution shall be carried out under the provisions valid for the court execution.
- (3) An ungrounded confirmation of enforceability shall be cancelled by a decision of the authority which put the confirmation and it shall immediately communicate that decision to the court responsible for execution.

### **2. Execution of Non-Pecuniary Liabilities**

#### **Article 272**

The execution for the purpose of effecting non-pecuniary liabilities of the person who is subject to the liability shall be carried out via other persons or by enforced collection.

#### **a) Execution via Other Persons**

#### **Article 273**

- (1) If a liability of the person who is subject to it consists of the performance of an action which may be carried out by another person and the person subject to the liability does not carry it out at all or in full, this action shall be carried out via another person at the expense of the person who is subject to the liability. The person who is subject to the liability must be previously warned about this in writing.
- (2) In that case the authority conducting the execution may, by a conclusion, order the person subject to the liability to deposit in advance the amount necessary for covering the expenses of execution and the calculation to be carried out subsequently. A conclusion on depositing this amount shall be executive.

#### **b) Coercive Execution**

#### **Article 274**

- (1) If the person who is subject to a liability is required to allow or bear something and is acting against that

liability, or if the subject of execution is the action of the person who is subject to the liability, which cannot be carried out by someone else but him, the authority carrying out the execution shall force the person who is subject to the liability to fulfil the liability by declaring fines.

- (2) The authority carrying out the execution shall first threaten to the liable person with the application of a coercive instrument if he does not carry out his liability within the set period. If during that period the liable person undertakes an action which is contrary to his liability, or if the set period expires without success, the threatened coercive instrument shall be immediately applied and, at the same time, a new period shall be set for the performance of the action and the liable person threatened with a more severe coercive measure.
- (3) A coercive fine, which, on the basis of paragraph 2 of this Article, is declared for the first time may not exceed 50 KM. Any subsequent coercive fine may be again declared in the same amount.
- (4) A collected fine shall not be reimbursed.

#### **Article 275**

If the execution of a non-pecuniary liability cannot be carried out at all or timely by the application of the instruments provided in Article 173 and 274 of this law, the execution, depending on the character of the liability, may be carried out by exerting direct coercion, unless otherwise provided by provisions.

#### **Article 276**

- (1) Where the execution based on a decision was carried out and that decision was subsequently revoked or amended, the liable person shall have the right to request the restoration of what was taken from him, that is, to be restored to the situation which arises from the new decision.
- (2) The authority which issued a decision on allowing the execution shall take a decision as per the liable person's request referred to in paragraph 1 of this Article.

### **3. Execution for Provision of Security and a Provisional Conclusion**

#### **a) Execution for Provision of Security**

#### **Article 277**

- (1) For the purpose of securing the execution, the execution of the decision may be allowed by a conclusion even before the decision becomes executable, if the execution could be prevented or considerably hampered without this.
- (2) If the liabilities which are to be forcefully collected only at the party's proposal are in question, a proponent must make probable the danger from preventing or hampering collection and the authority may make the execution referred to in paragraph 1 of this Article conditional upon provision of security under Article 207, paragraph 2 of this law.
- (3) A special appeal shall be allowed against the conclusion issued at the party's proposal for execution for security, as well as against a conclusion issued *ex officio*. Any appeal against a conclusion determining the execution for security shall not postpone the execution.

#### **Article 278**

- (1) The execution for security may be carried out in an administrative or judicial way.

- (2) Where the execution for security is carried out in a judicial way, the court shall act as per the provisions which are valid for court execution.

#### **Article 279**

The execution of a provisional decision (Article 207) may be carried out only to that extent and in those cases where execution for security is allowed (Article 277 and 278).

#### **b) Provisional Conclusion on Security**

#### **Article 280**

- (1) If a party's liability exists or if it is made probable and there is a danger that the obliged party will prevent or considerably hamper the execution of that liability by managing the assets, by an agreement with third persons or in any other manner, the authority responsible for issuing a decision on the party's liability may, prior to the issuance of a decision on that liability, issue a provisional conclusion for the purpose of securing the execution of the liability. Prior to the issuance of a provisional liability, the competent authority shall be required to take into account the provision of Article 261 of this law and explain the conclusion.
- (2) The issuance of a provisional conclusion may be made conditional upon the provision of the security laid down in Article 207, paragraph 2 of this law.
- (3) With regard to the provisional conclusion issued on the basis of paragraph 1 of this Article, the provisions of Article 277, paragraph 3 and Article 278 of this law shall apply.

#### **Article 281**

- (1) If it was established by a valid decision that legally there was no party's liability for securing of which a provisional conclusion was issued, or if it was established in any other manner that a request for issuance of a provisional conclusion was unjustified, a proponent in whose favour the conclusion was issued shall compensate to the opposing party the damage inflicted to him by the issued conclusion.
- (2) The authority which issued the provisional conclusion shall take a decision on compensation of the damage referred to in paragraph 1 of this Article.
- (3) If in the case referred to in paragraph 1 of this Article it is obvious that a provisional conclusion was rendered wantonly, a proponent shall be penalised by a fine of up to 50 KM. A special appeal shall be allowed against the conclusion on penalty, which shall postpone the execution of the conclusion.

### **FIFTH PART – IMPLEMENTATION OF THE LAW AND INTERIM AND FINAL PROVISIONS**

#### **XVIII – MEASURES FOR THE IMPLEMENTATION OF THE LAW**

#### **Article 282**

- (1) Administrative authorities and institutions possessing public authorisations may not apply coercive measures of taking into custody and bringing in laid down in Article 65, paragraph 3, Article 160, paragraph 3 and Article 172, paragraph 1 and 2 of this law in the administrative procedure which they themselves conduct.
- (2) If during the procedure conducted by an administrative authority or the institution possessing public authorisations it is established that the procedure cannot be carried out at all or that it cannot be properly carried out without the application of coercive measures laid down in the provision of paragraph 1 of this

Article, that authority or institution shall refer to the administrative authority designated by a special law for the purpose of the application of that coercive measure, unless another authority is designated by the legislation of Bosnia and Herzegovina. At the request of the institution possessing public authorisations, that authority shall be authorised to apply a prescribed coercive measure of taking into custody or bringing in, if this is proved to be necessary for carrying out the procedure.

#### **Article 283**

In administrative authorities, as well as in the institutions possessing public authorisations, unless otherwise provided by law, the authorisation for undertaking actions in the administrative procedure and the authorisation for decision taking in administrative matters (Article 29) may be granted only to the person who has appropriate qualifications, work experience and a passed certification exam, which are laid down by law.

#### **Article 284**

- (1) Managers of the administrative authority or institutions possessing public authorisations shall be responsible for proper and consistent implementation of this law and shall in particular be responsible to make sure that administrative matters are resolved within the time limits laid down by law. For the purpose of efficient resolving of matters in the administrative procedure, these responsible persons shall be obliged to undertake measures for the continuous provision and carrying out of vocational training of employees and other persons working on the resolution of administrative matters.
- (2) The official who is authorised to undertake measures in the administrative procedure, that is, who is authorised to resolve in administrative matters shall be required to notify the party in writing of the reasons why a decision, that is, conclusion has not been issued, as well as of the activities he will undertake to issue the decision or the conclusion and provide legal redress to the party within three days from the date of expiration of the period for decision taking referred to in Article 208 and 235 of this law.
- (3) The official referred to in paragraph 2 of this Article, who is authorised to conduct the administrative procedure, that is, to resolve administrative matters, shall make a more serious violation of work duty if certain procedural activities in the administrative procedure have not been carried out due to his fault and due to which the decision or conclusion could not be issued within the legal period.
- (4) An appropriate Administrative Inspectorate shall have the right to request the instigation of an accountability procedure with the competent authority against the manager of an administrative authority or the manager of an institution possessing public authorisations who fails to carry out the duties referred to in paragraph 1 of this Article, as well as against the one who, contrary to Article 283 of this law, authorises an official to undertake actions in the procedure or to resolve in administrative matters, but who does not meet the prescribed conditions, as well as a disciplinary procedure against the persons referred to in paragraph 3 of this Article.

#### **Article 285**

- (1) Administrative authorities and administrative institutions shall be obliged to submit to the Council of Ministers of Bosnia and Herzegovina an annual report on resolving administrative matters in the administrative procedure, which fall within their competence.
- (2) Administrative authorities shall be required to provide the administrative authority designated by a special law with a copy of the report referred to in paragraph 3 of this Article.
- (3) The report referred to in paragraph 2 of this Article shall be used for undertaking appropriate measures via the Administrative Inspectorate, as well as for other measures they are authorised for under the law for the purpose of the proper and consistent application of the provision of this law.

- (4) The report referred to in paragraph 1 of this Article shall in particular contain the following information: the number of submitted requests by parties, the number of instigated administrative procedures *ex officio*, the manner and periods for resolving administrative matters in the first and second-instance procedure, the number of revoked or cancelled administrative acts, the number of rejected requests, that is, suspended administrative procedures, the number and the type of applied coercive measures, that is, fines and the number of unresolved administrative cases.

#### **Article 286**

- (1) The manner of presenting information in the reports referred to in paragraph 1 of Article 285 of this law shall be prescribed by the administrative authority designated by a special law.
- (2) The administrative authority referred to in paragraph 1 of this law shall lay down, if necessary, the forms for summons, delivery notes, orders for taking into custody, that is, for bringing in, reports, reports in the form of a book, the decision referred to in Article 200, paragraph 1 and Article 204 and the certificate referred to in Article 111, paragraph 1 of this law, as well as for other acts in the administrative procedure for the purposes of administrative authorities of Bosnia and Herzegovina and the institutions possessing public authorisations.

#### **Article 287**

- (1) At the request of citizens, administrative authorities, institutions possessing public authorisations, as well as other authorities and institutions, the *Ministry of Justice*<sup>1</sup> shall be required to provide information on the application of the provisions of this law.
- (2) Explanations concerning the application of the provisions of this law may be also given by the Ministry of Civil Affairs and Communication *ex officio* for the purpose of ensuring the uniform application of this law.

### **XIX – SUPERVISION OVER THE IMPLEMENTATION OF THIS LAW**

#### **Article 288**

- (1) The supervision over the implementation of this law in administrative authorities of Bosnia and Herzegovina, institutions of Bosnia and Herzegovina and other authorities of Bosnia and Herzegovina, in the institutions of Bosnia and Herzegovina which have public authorisations in the matters which these authorities, services and institutions resolve in the administrative procedure on the basis of the legislation of Bosnia and Herzegovina or other provisions of Bosnia and Herzegovina, shall be carried out by the *Ministry of Justice*<sup>2</sup>.
- (2) The supervision over the implementation of this law shall be carried out via the Administrative Inspectorate, as well as in any other legally permitted way.
- (3) The authorities and the institutions possessing public authorisations shall be required to enable an insight into the administrative decision-taking and act as per orders of the Administrative Inspectorate which carries out the supervision and, at the request of this Inspectorate, provide necessary data, files and information on the issues pertaining to the administrative matters being resolved in the administrative procedure.

### **XX – PENAL PROVISIONS**

#### **Article 289**

---

<sup>1</sup>Amendments published in the Official Gazette of Bosnia and Herzegovina 12/04

<sup>2</sup>Amendments published in the Official Gazette of Bosnia and Herzegovina 12/04

(1) The public institution possessing public authorisations shall be penalised for offence by a fine ranging from 2,000 KM to 8,000 KM:

- 1) if for decision taking in administrative matters or undertaking an action in the procedure it appoints a person who does not meet the prescribed conditions;
- 2) if it rejects to accept a party's written request or oral statement for record, that is, if it does not issue a receipt on receiving the submission (Article 62, paragraph 1, 2 and 3),
- 3) if the summoning is carried out in the night contrary to the provision of Article 64, paragraph 2 of this Law,
- 4) if the summoned person is forcefully taken into custody and the application of that measure is not indicated in the summons (Article 65, paragraph 3),
- 5) if information on the facts on which official records are kept are not obtained *ex officio*, or if a party is requested to obtain and furnish evidence which the authority conducting the procedure can obtain faster and more easily, or if it requests from the party to submit a certificate which authorities are not required to issue (Article 127, paragraph 3 and Article 128, paragraph 2),
- 6) if the party has not been given a possibility to provide his position on the facts and circumstances on which the decision is based, that is, to participate in the furnishing of evidence or if a decision had been taken before the party was given the possibility to provide his position on the facts and circumstances (Article 134, paragraph 3),
- 7) if, upon a party's request, it does not want to issue a certificate or any other document on the facts on which it keeps official records or if it does not issue the certificate or any other document within the prescribed period or if it does not issue a decision on refusing a request for issuance of a certificate (Article 162, paragraph 1, 2, 5 and 6),
- 8) if it does not act on request of the competent authority in relation to the issuance of a document (Article 159),
- 9) if it does not issue a decision upon a party's request and does not communicate it to the party within a prescribed period (Article 208),
- 10) if it does not communicate an appeal together with files to the second-instance authority within a prescribed period (Article 226),
- 11) if it does not act upon a request of the second-instance authority or if it does not fully comply with the second-instance decision or if it does not issue a decision within a prescribed period (Article 230);
- 12) if upon a request of the second-instance authority it does not communicate within a specified period the requested information, or if it does not issue a decision at the order of the second-instance authority within a prescribed period, or if it does not collate requested information upon a second-instance request and communicate them within a prescribed period (Article 234);
- 13) if it does not issue a decision as per an appeal within a prescribed period (Article 235);
- 14) if it does not act as per an order of the second-instance authority or fails to communicate the requested material within a specified period (Article 246, paragraph 3);
- 15) if it prevents the insight into the administrative decision taking or if it does not act as per orders of the competent authority, that is, of the administrative inspectorate which carries out the supervision or if it does not want to communicate necessary information, files and intelligence at the request of the authority or of the Administrative Inspectorate (Article 288, paragraph 3).

(2) For the offences referred to in paragraph 1 of this Article the responsible person in the administrative authority or institution possessing public authorisations shall also be fined from 300 KM to 1,200 KM.

#### **Article 290**

(1) The institution possessing public authorisations shall be penalised for offence by a fine ranging from 1,500 KM to 6,000 KM:

- 1) if it does not provide the requested legal assistance or if it does not act as per a request within a specified period (Article 33, paragraph 1 and 2),
  - 2) if it does not read the minutes to the heard persons or if it prevents the persons to examine the minutes (Article 69, paragraph 1);
  - 3) if it prevents a party or another person from examining the file or from transcribing necessary files (Article 72, paragraph 1 and 2),
  - 4) if the obligatory personal delivery is not carried out in the cases set out in the provision of Article 76, paragraph 1 of this law,
  - 5) if it does not want to issue a certificate at the party's request, that is, to issue a decision on refusing the request within a prescribed period (Article 163, paragraph 1 and 3),
  - 6) if it examines as a witness the person who would violate the duty of keeping an official, national or military secret by his statement (Article 166),
  - 7) if it performs an enforced taking into custody or bringing in contrary to Article 282, paragraph 1 of this law, that is, if it does not issue a conclusion on the application of a coercive measure within a specified period or decide on the appeal within the specified period,
  - 8) if it does not undertake measures for continued technical training and improvement of the officials authorised to resolve in administrative matters, that is, to undertake actions in the procedure or if it does not ensure resolving of administrative matters within a specified period or if it does not notify the party within a prescribed period of the reasons due to which a decision or a conclusion has not been issued (Article 284, paragraph 1 and 2).
- (2) For the offence referred to in paragraph 1 of this Article the responsible authority in the institution possessing public authorisations, as well as the responsible person in the administrative authority or administrative service shall also be penalised by a fine ranging from 200 KM to 800 KM.

#### **Article 291**

- (1) The institution possessing public authorisations shall be penalised for an offence by a fine ranging from 1,000 KM to 4,000 KM if:
- 1) it does not exempt an official where the conditions for exemption are met,
  - 2) it does not allow the party to use an expert facilitator (Article 59, paragraph 1),
  - 3) the summoning of the person carried out for the purpose of delivering documents is carried out contrary to the provisions of Article 73, paragraph 2 of this law,
  - 4) a letter is not delivered to the person authorised to receive letters (Article 81, paragraph 1),
  - 5) if it does not advise a witness on which answers he may deny testimony, that is, on which issues an expert may deny his expertise (Article 169, paragraph 3 and Article 178, paragraph 1).
- (2) For the offences referred to in paragraph 1 of this Article the responsible person in the institution possessing public authorisations, as well as the responsible person in the administrative authority or in the administrative service shall also be penalised by a fine ranging from 150 KM to 600 KM.

#### **Article 292**

- (1) 'Responsible person in the administrative service or in the civil service' means, within the meaning of the provision of Article 289, paragraph 2, Article 290, paragraph 2 and Article 291, paragraph 2 of this law, the manager of the administrative authority, as well as a civil servant in those authorities or services who is authorised to take decisions in administrative matters or undertake actions in the administrative procedure, or an official tasked to directly carry out a certain duty and has not carried out that duty, or has carried it out but contrary to the given obligation.
- (2) 'Responsible person in the institution possessing public authorisations means', within the provisions of Article 289, paragraph 2, Article 290, paragraph 2 and Article 291 of paragraph 2 of this law, the manager of

the institution and other persons designated by the statute of that institution.

## **XXI – INTERIM AND FINAL PROVISIONS**

### **Article 293**

Administrative cases which have not been resolved until the date this law comes into force shall be resolved under the provisions of this law.

### **Article 294**

On the date this law comes into force the Law on General Administrative Procedure in the Republic of Bosnia and Herzegovina (“Official Gazette of the Republic of Bosnia and Herzegovina”, No. 2/92 and 13/94) shall be repealed.

### **Article 295**

This law shall come into force on the eighth day from the date of its publication in the “Official Gazette of Bosnia and Herzegovina” and it shall also be published in the Official Gazettes of the respective Entities and in the “Official Gazette of the Brčko District of Bosnia and Herzegovina”.