



According to the article 61, paragraph 2 of the Law on administration (“Official Gazette of BiH”, No. 32/02), Minister of Justice of Bosnia and Herzegovina i s s u e s

R U L E B O O K
ON CONDUCTING OF THE RULES FOR CONSULTATIONS IN
DRAFTING OF THE LEGAL REGULATIONS IN THE MINISTRY OF
JUSTICE OF BOSNIA AND HERZEGOVINA

Article 1
(Subject of the Rule book)

This Rule book prescribes the procedures for consultations with the public in the process of drafting of the legal regulations in the Ministry of Justice of Bosnia and Herzegovina (Henceforth: the Ministry), in order to make the Rules for consultations in drafting of the legal regulations (“Official Gazette of BiH”, 81/06) more understandable and more conductible.

Article 2
(The purpose of issuing the Rule book)

The purpose of issuing a Rule book is to ensure:

- a) Understanding the real effects of the normative-legal activities;
- b) Quality of the normative-legal documents;
- c) Harmonization of the legal regulations with the legal framework;
- d) Efficiency and effectivity in the Ministry;
- e) Coordination and understanding among partner institutions;
- f) Scope of consultations and openness for comments of the public;
- g) Whole responsibility in providing detailed information about the planned normative-legal documents and their expected use;

Article 3
(The principles behind conducting consultations)

(1) The following general principles shall direct the work of the Ministry in fulfilling the obligations from the Rules:

- a) Except in the cases of important and unusual circumstances that prevent it, the consultations regarding the laws with significant influence on the public shall be conducted as early as possible in each of the phases described in article 11;
- b) When possible, the subjects of consultations shall be clearly and precisely defined in order to promote a true discussion and collect concrete positions and suggestions from the partners in consultations;
- c) The Ministry shall in certain form inform the public about findings and conclusions reached in all phases of consultations;

- d) The Ministry shall establish clear and reasonable expectations with its partners about the way the consultations shall be conducted, including the time limits for delivering the comments, and the partners will be expected to obey those procedures;
- e) The Ministry shall ensure the consulting partners and wider public enough informational material about the subject of consultations, in order to enable a real exchange of information.

Article 4
(Minimal obligations regarding consultations)

- (1) According to the article 6 of the Rules for consultations in drafting of the legal regulations (Henceforth: the Rules), the Ministry shall, on its web site, publish all proposed laws and secondary legislation documents in the form of draft or pre draft, and enable for the citizens to send written comments in the period of at least 21 days.
- (2) Together with the proposals of laws and secondary legislation, there has to be an explanation of the necessity for adoption of the law or secondary legislation in question, as well as other key information.
- (3) The instructions for how to and to whom we can send our comments are on the web site.
- (4) If it is about the comments in the written form, the Ministry shall enable the delivery of those comments within the period of at least 30 days.
- (5) Also, the Ministry shall inform the individuals and organizations that expressed interest for the normative-legal activities of the Ministry and whose names are in the list for consultations run by the Ministry according to the article 3 of the Rules of the Council of Ministers and article 5 of this Rule book, about the way that they can obtain the copy of the proposal of the law or secondary legislation document.
- (6) Wider methods of consultations are applied when the proposed law or secondary legislation document has “a significant influence on the public” according to the article 8 of the Rules of the Council of Ministers and detailed description in article 7 of this Rule book.

Article 5
(The list for consultations)

- (1) According to the article 3 of the Rules, the coordinator for consultations makes, keeps and regularly edits the list of persons (groups and individuals) that are interested in normative-legal activities of the Ministry, and that want to be included into the list.
- (2) The list contains the contact information of the individuals or groups, information about the fields of their profession, previous experience in drafting of the legal regulations or consultations, and experience in leadership and readiness to serve as a contact for distribution of information to other interested sides.
- (3) The list of groups and individuals which do not contain the information from paragraph 2 of this article and which the Ministry uses for internal purpose, will be available to everyone who requests it in the written form.

Article 6
(Planned normative-legal activities)

(1) According to the articles 6 and 7 of the Rules, every year on its web site, the Ministry publishes the list of planned normative-legal activities and marks the laws and secondary legislation documents that are considered to have “a significant influence on the public”.

(2) Constant editing of the list from paragraph 1 of this article shall be performed by the coordinator for consultations according to the data collected from managing state officials.

(3) Also, the Ministry shall deliver such a list to all individuals and groups asking for it in a written form.

Article 7
(Legal regulations with significant influence on the public)

(1) When it is about the legal regulations that attract large attention of the public, and that are under the authority of the Ministry, the Ministry shall not only publish the proposals of such laws or secondary legislation documents but also conduct additional consultations, as prescribed in this Rule book.

(2) The laws and secondary legislation that have significant influence on the public can include the following documents as it is prescribed in articles 9-13 of the Rules of the Council of Ministers:

- a) The laws that cause the change of the legal status of a person (e.g. Criminal code and law on the criminal proceedings, laws that limit or expand the possibilities for acquiring rights to benefits they ensure, laws affecting the voting rights, laws affecting the approach to courts, and laws that change the valid legal principles);
- b) The laws that cause the change of economic status of a person (e.g. law on obligatory relations and other laws affecting the economic and legal status, property rights, contracts concluded by institutions of BiH etc.);
- c) The laws that must be adopted in order for BiH to fulfill the international obligations or apply the international standards (e.g. laws harmonized with European directives, laws that adopted in order to respect or fulfill the obligations regulated by the international contracts and conventions etc.);
- d) The laws that have influence on the environment, including the quality of water and air, and those that impose or reduce the obligations connected to the use of land and other natural resources (e.g. laws that limit releasing into nature, that determine the compensations or fines for polluting the environment, that establish the exceptions from the laws or other rules on environmental protection, etc.).

(3) When determining the level of the influence on the public, the Ministry may take into consideration various other criteria, such as whether a regulation represents something new, whether the purpose of the law is to improve an existing one, whether the purpose of the law is to adapt to the technological changes, whether the proposed changes originate from the court decisions that put the earlier law or part of it out of effect, number of persons in the country, region or community that will be influenced by the change, and the financial impact on the country, region or economic sector.

(4) The Ministry can suppose that certain kinds of laws have no significant influence on the public, except if the circumstances do not show the opposite, and in that case it is obliged to

minimum consultations from article 6 of the Rules. They are for example changes and supplements due to the spelling and grammar corrections, and laws that are used for codification, or in some other way uniting or reorganizing of the text or certain provisions are transferred to the other parts of the law without the change of the content.

Article 8
(Forms and scope of consultations)

(1) In order to conduct consultations, the Ministry publishes all proposals of laws and secondary legislation, and can apply the following forms of consultations, according to article 17 of the Rules of the Council of Ministers:

- a) notice or publication of draft of laws in printed media,
- b) informing and educating about the draft of laws over the radio and television,
- c) notices and publication of the draft of law on the internet,
- d) direct delivering of the law to groups and individuals,
- e) public meetings and round tables with chosen organizations and individuals,
- f) task groups that include the experts of organizations and individuals.

(2) When establishing the scope of consultations that is suitable for concrete laws or secondary legislation, the Ministry has to consider the following, according to article 18 of the Rules:

- a) Time limits for adoption of a regulation;
- b) Capacity of organizations and individuals for consultations;
- c) Innovation or technical complexity of the subject of legal regulation draft.

Article 9
(The level of consultations)

(1) The Ministry can decide to conduct different levels of consultations with different social groups, including the following, as described in the article 16 of the Rules:

- a) The public in general or organizations according to definition in article 2 of the Rules,
- b) Experts of the academic and research community, domestic and foreign,
- c) media,
- d) government organs, including the agencies that are especially interested in the issues from the fields of law and security,
- e) legal community, including the lawyers, prosecutors, judges, and their professional associations.

(2) The Ministry will also care to, when necessary, conduct consultations with wide specter of organizations of the civil society and NG Organizations active in the legal field.

Article 10
(The sources of consultations)

For the aforementioned groups, the Ministry can use the following sources for consultations:

- a) Wider public: public reports, reports, questionnaires, research;

- b) Interested foreign monitors: web site, informational newspapers, bulletins, sending notices by e-mail;
- c) Interested foreign monitors ready to give comments: public meetings, meetings of groups, citizens' juries, focus groups, written comments periods;
- d) Technical experts and evaluators: technical advisory groups or expert panels and discussions, public discussions;
- e) Active participants, including those from the government and civil society: interactive workshops, task groups;
- f) Co makers of decisions: government interdepartmental teams and special task groups consisted of the representatives of government and civil society working according to negotiations.

Article 11
(The time of consultations)

According to the article 20 of the Rules, the Ministry can conduct consultations regarding the laws that have significant influence on the public at any phase of the preparation of the law or secondary legislation, and can the consultations may be conducted at different levels of making of the policies and strategies of the Ministry:

- a) In the phase of defining a problem, issues or scope of consideration;
- b) In the phase of deciding on which alternatives should be taken into consideration or which questions should be in the focus;
- c) In the phase of estimation of good and bad sides of the alternatives or approaches;
- d) In the phase of deciding on the concrete alternative or approach;
- e) In the phase of deciding on the method of application of the strategy or law.

Article 12
(Focus of consultations connected to the significant influence on the public)

(1) The ministry will, as thoroughly as possible and considering the limited time, resources and capacities, research various conceptual options for the proposals of the legal regulations, as well as their benefits and costs.

(2) This has to be done qualitatively and where possible quantitatively, and put into the report that will be delivered to the Council of Ministers, as a part of statement from the article 15 of this Rule book.

(3) Information about the benefits will include the information about the direct benefits and users as well as about the indirect benefits and users.

(4) Information about the costs will regard the concrete negative implications of the laws and secondary legislation in question, providing the information about who will bear the costs and also the places and circumstances where such negative effects may appear.

(5) These costs will include constant and temporary costs that will be born by the state or state institutions (including the costs of the capital and human resources), society in genera (including the costs that could be born by individuals as consumers or citizens), and concrete groups and companies.

(6) The estimation of costs will define all assumptions from its calculation, having in mind that maximum, minimal and average values in the certain proportion may be delivered.

(7) Information obtained by consultations and also the statements, will cover the analyses of the potential expenses for supervision and application regarding the law or secondary legislation, including the sanctions for disrespect.

(8) Within the process of consultations, the Ministry can reexamine the costs, although such issues are primarily dealt with by the Council of Ministers.

Article 13
(Coordinator for consultations)

(1) According to the article 4 of the Rules, the Ministry is asked to appoint a coordinator for consultations with the public and he/she is responsible for obeying the Rules.

(2) The name of the coordinator and his contact information is on the web site of the Ministry.

(3) The citizens can at any time send the coordinator questions and remarks about the consultations with the public which are run by the Ministry.

(4) When a concrete law or secondary legislation is being drafted, the Ministry can appoint an additional official who will coordinate the consultations with the public about that draft of the law or secondary legislation.

(5) The name and contact information of that person are put on the web site of the Ministry which receives the comments of the public and interested groups during the process of consultations.

Article 14
(Using of the comments and other information obtained during consultations)

(1) Comments and data delivered to the Ministry according to this Rule book and the Rules, in oral or written form, will be used in preparing of the proposal of the law or secondary legislation that are delivered to the Council of Ministers of BiH.

(2) Comments can be grouped or summarized for the purpose of easier collecting and presenting, but enough details will be presented in order to explain the questions started during the discussion or over the written comments.

(3) If the comments are directed towards the change of draft or proposal of the legal regulation, by including or rejecting the certain points, these steps and disqualifications will be summarized and noted in the short reports after conclusion of the additional consultations, and showed collectively in the form that the Ministry finds suitable for statement according to the article 23 of the Rules which is delivered to the Council of Ministers of BiH, together with the final draft or proposal, as prescribed by the article 15 of this Rule book.

(4) The form of the statement is an integral part of this Rule book.

Article 15
(Statement)

(1) The Ministry will, together with the draft of the law or secondary legislation, deliver the statement and accompanying report to the Council of Ministers according to the article 23 of the Rules which:

a) states that all minimal obligations regarding the consultations from article 6 of the Rules have been fulfilled;

- b) states whether a law can have a significant influence on the public or not and justifies the opinion;
- c) explains the decision on the form of consultations conducted regarding the legal regulation that has significant influence on the public as well as the content of consultations;
- d) states that the Ministry has taken into consideration the comments delivered during the consultations and lists the reasons why the expressed remarks have been accepted or neglected;

(2) The statement will include the additional documents which enable the Council of Ministers of BiH and the public to understand the background and reasons of the drafting of the law or secondary legislation in question.

(3) The statement that the Ministry delivers to the Council of Ministers will be available to the public on the web site of the Ministry, or upon request sent to the Ministry according to the article 25 of the Rules.

Article 16

(Provisions on the exemption from the obligation of conducting consultations)

(1) In a special circumstances, a Minister can exempt the Ministry from the obligation of conducting consultations if he/she establishes that due to one or more reasons the exemption should be made according to the article 26 of the Rules:

- a) emergency;
- b) unplanned international obligations;
- c) court annulment of the part or complete law.

(2) In these circumstances the Minister will deliver a detailed explanation of the exemption to the Council of Ministers.

(3) By exemption the Ministry is not freed of minimal obligations regarding the consultations.

Article 17

(Application of the Rule book)

The Rule book is applied in all organizational unit of the Ministry and is obligatory for all employees in the Ministry.

Article 18

(Going into effect)

The Rule book goes into effect on the day of its adoption.

No.: _____/2008.

Sarajevo, _____ 2008

MINISTER

Mr. Bariša Čolak



According to the article 24 of the Rules for consultations in drafting of the legal regulations (“Official Gazette of BiH”, No. 81/06), the Ministry of Justice with the draft of _____, issues a

S T A T E M E N T

1.	Minimal obligations regarding consultations	
2.	Explanation of the conclusion whether a legal regulation has significant influence on the public or not	
3.	Explanation of the decision on the form of the conducted consultations	
4.	Non governmental organizations with which the consultations were conducted	
5.	The position of the non governmental sector (support, accepted after adoption of the suggestions and changes in the text according to the requests of NGOs, no support)	
6.	Measures of informing the public and opinion of the public	
7.	Consultations with domestic and international consultants	
8.	Statement that the institution handled the received comments according to this procedure and delivered the necessary report according to the article 23, paragraph 3 of the Rules	
9.	Other information	

MINISTER

Mr. Bariša Čolak