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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

**DRAFT AMENDMENTS
ON THE ADOPTED ORGANIC LAW
ON THE OMBUDSMEN
OF THE FEDERATION OF BOSNIA AND HERZEGOVINA
PREPARED BY
THE FEDERATION OMBUDSMEN**



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DRAFT AMENDMENTS ON THE ADOPTED ORGANIC LAW ON THE OMBUDSMEN
OF THE FEDERATION OF B&H
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1. The following wording should be added to paragraph 2 of the article 2: **examining to this end government activity of any institution in the Federation, in accordance with documents listed in paragraph 1 of this Article.**
2. Last sentence of Article 3, paragraph 2, should be changed into: **In their recommendations, resolutions and reports the Ombudsmen act jointly.**
3. Article 4: ...head quarters of the Army of the Federation and **military administration.**
4. Article 7: instead of the Human Rights Chamber and the Ombudsperson, there should be: **highest judicial authorities of B&H competent in human rights matters.**
5. Article 9 should be changed into: **Three persons shall compose the Institution of the Federation ombudsmen.**
6. Article 10 should read: **The ombudsmen shall be appointed by the House of Representatives and by the House of Peoples by a two-thirds majority of each House, following a joint proposal by the competent permanent joint committee of the House of Representatives and the House of Peoples (competent committee). Competent committee shall adopt the proposal, by a majority of two-thirds of its members.**
7. Article 12. ... and is recognized (as a person of high moral qualities...) should be deleted.

8. Article 13, paragraph 1 c. should read: **His/her manifest inability to perform his/her duty.**
9. Article 13, paragraph 1 e. should not contain the following: **against official or other responsible person, or for other criminal offenses committed with theft as a motive or due to low motives.**
10. Article 13, paragraph 1 f. should be **deleted.**
11. Article 13, paragraph 2 should read: **An Ombudsman's post shall be declared vacant by the President of the House of Representatives in the event of decease, resignation, or final conviction of an Ombudsmen, or expire of his/her term of office.**
12. Article 13, paragraph 3 should read: **In other circumstances from paragraph 1 of this article, the decision that the post is vacant shall be taken by a two-thirds majority of the House of Representatives and the House of Peoples, after a debate and following a hearing of the person concerned by the permanent committee from Article 10 of present law.**
13. Article 13, paragraph 4: instead of competent body, there should stay **permanent joint committee.**
14. Article 14, paragraph 1: The first sentence of this paragraph should not contain ... specific orders **by authority organs**, and new phrase should be added at the end of this paragraph: **on the basis of the institution's own criteria.**
15. Article 16, paragraph 4: instead of competent body, there should stay **permanent joint committee.**
16. Article 17, paragraph 1: there should stay ...**natural and legal person...**
17. Article 24 paragraph 1: after word Federation there should be added: **including private agencies performing public functions...**
18. Article 24 paragraph 3: at the end of this paragraph there should stay: **without prejudice to the provisions of Article 27 of this law.**
19. Article 27, paragraph 3: please note that the word **proper** could mean several local terms, and could be translated in several ways, which actually took place, (It is translated as correctly, or justly, or regularly, or rightly), and now President or vice-president of the Federation is in a possibility to assess if the investigation was conducted formally and legally correctly , we suggest use of the word **efficient** investigation.
20. Article 31, paragraph 4: we suggest: inequitable **or unlawful** results.
21. Article 31, paragraph 5: instead of public authorities institutions there should stay **services provided by private persons under a contract of concession of public service (services provided to the public is even more clearer).**
22. Article 34, paragraph 3: instead of competent body there should stay **permanent joint committee from Article 10 of this law.**
23. Article 36, paragraph 2, which defines funding of the institution by the federal Government or Prime-minister should be changed into the following wording: **The Ombudsman may, within the budgetary limits, freely staff the institution's offices, in accordance with the Rules of Procedure. The Ombudsman staff shall be appointed and dismissed by the Ombudsman.**
24. Article 38 should read: **Upon proposal by the Ombudsman, the financial appropriation necessary to the functioning of the institution shall be included**

in the budget of the House of Representatives of the Parliament of the Federation of B&H.

25. New article 40 should be added to the present law: **Five years after adoption of present amendments, which are harmonization of the wording of the adopted Law on the Ombudsmen of the Federation of B&H published in "Official Gazette of the Federation of B&H, No: 32/00 of 30 august 2000" with wording of Draft law prepared by the Venice Commission, and five years after harmonized law comes into force the Ombudsmen institution may propose to the Parliament, in a report containing reasons, the amendments which it considers should be made to it.**

**The Ombudsmen of the Federation
of Bosnia and Herzegovina**

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