

Ref: 15-04-07-1-3936/10

Date: December 30, 2011

Pursuant to Article 61, paragraph (2) of the Law on Administration („Official Gazette of BiH“, no. 32/02 and 102/09), the Director of the Agency for Identification Documents, Registers and Data Exchange of Bosnia and Herzegovina, has passed the

GUIDELINES
for the Implementation of Regulations on Consultations
in Legislative Drafting in the
Agency for Identification Documents, Registers and Data Exchange

Article 1
(Subject)

The Guidelines for Implementation of the Regulations on Legislative Drafting (Official Gazette of BiH, no. 81/06) (hereinafter: the Rulebook) establish procedures for consultations to be followed by the Agency for Identification Documents, Registers and Data Exchange of Bosnia and Herzegovina (hereinafter: the Agency) when drafting legislation.

Article 2
(Purpose)

Purpose of these Guidelines is to ensure:

- a) consistent implementation of the Regulations on Legislative Drafting (hereinafter: the Regulations),
- b) active participation of citizens and civil society organizations during the process of preparation, development and monitoring of legal regulations and implementation of public policies at the BiH level,
- c) efficiency of policy adoption,
- d) legitimacy and support of policy,
- e) prevention of the public criticism of closure and exclusion.

Article 3
(Principles behind Consultations)

When implementing the obligations set forth in the Regulations, the following principles shall be applied:

- a) transparency,
- b) expertise,
- c) efficiency and economizing,
- d) professionalism.

Article 4
(Consultation Coordinator)

- (1) The Agency is required to designate Consultation Coordinator who shall be responsible for the administrative and technical activities related to implementation of the Regulations.
- (2) Responsibilities of the Consultation Coordinator are
 - a) to support the teams for legislative drafting and introduce them with the role of the Coordinator and obligation to submit reports to Consultation Coordinator on plans for initiating consultations for legislative drafting,
 - b) to answer the queries related to consultations,
 - c) to update information related to consultations on the website of the Agency,
 - d) to inform the employees of the Agency on opportunities of education and familiarizing with new trends and positive practice in the field related to consultations;
 - e) to prepare evaluation reports on implemented consultations.
- (3) The name of the Coordinator and his contact information may be found on the website of the Agency.
- (4) Irrespective of paragraph (1) of this Article, the Agency shall designate an officer, who participates in the legislative drafting, to be responsible to manage consultation process.

Article (5)
(Consultation List)

- (1) Consultation Coordinator shall maintain the list of organizations and individuals interested in legislative activities.
- (2) Consultation list shall contain contact information and an abstract on academic and professional references of the subjects referred to in paragraph (1) of this Article.
- (3) Consultation Coordinator shall update the list based on a written request submitted by an individual or organization.

Article 6
(Publication of Planned Normative and Legal Activities)

- (1) Upon creation of the list of planned normative and legal activities of the Agency as a part of the annual work plan, Consultation Coordinator shall publish the list on the website of the Agency.
- (2) Consultation Coordinator shall regularly update each modification of the list of planned normative and legal activities of the Agency on the website of the Agency.
- (3) The Agency shall provide all the entities included in the consultation list, as well as others who request it in writing, with a copy of the list of planned normative and legal activities of the Agency.

Article 7
(Organizations and individuals involved in consultations)

- (1) The team, which is in charge of legislative drafting in the Agency, shall consider which individuals or organizations may be interested in or influenced by the

Regulation, and which of the entities may provide relevant and professional comments to the subject regulation.

- (2) Consultation Coordinator shall collect comments from the entities referred to in paragraph (1) of this Article.
- (3) With each notification sent to the entities referred to in paragraph (1) of this Article, a short statement on purpose of legal regulation shall be enclosed.

Article 8 (Time of Consultations)

Consultations may be made at any stage of the development of a regulation, however, the time required for development of the regulation must be planned after the consultations are finished.

Article 9 (Comments)

- (1) Comments provided by the entities referred to in Article 5 of the Guidelines may be provided orally or in writing.
- (2) An orally provided comment shall be recorded by audio or by other means of recording, where such delivery of comments is stipulated.
- (3) The Team in charge of legislative development may decide whether to accept or reject any comment during the process of regulation drafting.
- (4) Comments may be aggregated or reduced to avoid needless repeating, but the meaning or authenticity must not be lost.
- (5) In a written report, which is to be provided to the Council of Ministers of BiH as a part of a statement, a decision by which a specific comment has been accepted or rejected shall be explained.

Article 10 (Minimum Consultation Obligations)

- (1) Minimum consultation obligations upon arrangement of the pre-drafted text of the regulation are:
 - a) to publish a pre-draft regulation on the website of the Agency,
 - b) to call for providing comments and to notify the entity referred to in Article 5 of the Guidelines.
- (2) The deadline for providing comments is 21 days at least.

Article 11 (Legal Regulations with Significant Influence on the Public)

- (1) The Team for legislative drafting in each specific case shall assess whether or not the regulation has significant influence on public, taking into consideration the criteria specified in the Rules.

- (2) If a regulation has significant influence on public, apart from minimum consultation obligations referred to in Article 9 of the Guidelines, additional consultations subject to the Rules shall be applied.
- (3) Regulations having significant influence to public shall be particularly specified in the list of planned normative and legal activities which is to be published on the website of the Agency.

Article 12 (Additional Consultation Forms)

- (1) Forms of consultations requiring written or oral comments are:
 - a) notice or publication of the pre-draft regulation in print media,
 - b) informing and education about the pre-draft regulation via radio and television,
 - c) notice and publication of the pre-draft regulation on the website,
 - d) direct delivery of the pre-draft regulation to organizations and individuals from the list for consultations,
 - e) public meetings or roundtables,
 - f) work groups engaging experts and representatives of the organizations from the list for consultation.
 - g) other appropriate consultation forms.
- (2) In each individual case it shall be determined, which form of consultations referred to in paragraph (1) of this Article is to be used, taking into account the following:
 - a) time constraints for the adoption of a legal regulation;
 - b) novelty or technical complexity of the subject matter of the pre-draft regulation;
 - c) possibility of the entity from the list to participate in the consultation process.

Article 13 (Exemption from Consultation Obligation)

- (1) In exceptional circumstances, the Director of the Agency may decide to exempt the Agency from the consultation obligation in the following cases:
 - a) emergency circumstances;
 - b) unexpected international obligations;
 - c) judicial annulment of the whole law or its parts.
- (2) The Director of the Agency shall provide the Council of Ministers of BiH with the detailed explanation of the reasons for exemption.
- (3) In the case referred to in paragraph (1) of this Article, the Agency shall not be exempted from the minimum consultation obligations.

Article 14 (Agency Statement)

- (1) When submitting the draft regulation to the Council of Ministers of BiH, the Agency shall enclose a Statement which includes:
 - a) a statement that the minimum consultation obligations have been met;
 - b) an explanation of the conclusion whether the regulation has a significant impact on the public or not;

- c) an explanation of the decision on the selected form of consultations and description of conducted consultations;
- d) a statement on applied procedure for collecting comments and attached written report on comments referred to in Article 9 of the Guidelines.

(2) The Statement shall be posted on the website of the Agency.

Article 15
(Budget for Consultations)

The Agency shall plan necessary funds to meet the obligations regarding consultations for each fiscal year.

Article 16
(Forms for implementation of consultations)

In the process of implementing consultations the forms numbered 1-8 which are integral parts of the Guidelines shall be used and they are available on the website of the Agency.

Article 17
(Entering into force)

These Guidelines shall enter into force on the day of their adoption.

Director
Siniša Macan, M.Sc.

Form 1

Statement

According to Article 24 of the Regulation for Consultations in Legislative Drafting ("Official Gazette of BiH", No. 81/06), the Agency for Identification documents, Registers and Data Exchange, together with the draft of _____, shall provide a

STATEMENT

1.	Minimum obligations regarding consultations	
2.	Explanation of the conclusion whether or not a legal regulation significantly affects the public	
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 modifications in the text according to the requests of NGOs, supportless)	
6.	Methods 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 submitted a required report according to Article 23, (3) of the Rules for Consultations in Legislative Drafting	
9.	Other information	

Form 2
Plan for Consultation Activities

Activities	Implementation deadline	Involved entities (names)	Consultation purpose	Required preliminary activities	Required resources (financial, equipment)	Person accountable to manage consultations

Form 3**Individual overview of the entities to be involved in consultations**

INDIVIDUAL OVERVIEW OF THE ENTITIES TO BE INVOLVED IN CONSULTATIONS	
Relevance of the entity (overview of the significance of the entity for the policy, based on the entity analysis)	
Representatives of the entity (particular persons)	
Contact information	
Specific objective of the consultations with the entity	
Specific subject and contents of the consultations with that entity	
Time frame for consultations	
Consultation methods – based on principle of efficiency and adequacy to the target group	
Required preliminary activities for preparation of consultations	
A person designated to carry out consultations with the entity	
Are additional financial assets required to implement consultations?	

Form 4**List of entities for consultations**

No.	Name of the entity (institution, organization, individual)	Area of operations or interests	Professional reference of the entity	Contact person	Contact information (e-mail, phone, address)	Name of people designated on behalf of a specific institution/organization to be involved in consultations

Form 5**Standardized form of a document with the invitation for consultations**

INVITATION FOR CONSULTATION FORM	
Document Title	Standardized invitation for consultation form on a pre-draft of _____ (name of the law, other regulation or document)
Document Creator	Body responsible for legislative drafting and implementation of consultations
Document Purpose	Information on relevant facts related to consultations
Document Date	dd-mm-yy
Document Version	pre-draft, etc.
<ul style="list-style-type: none">- summary of document (ideally not longer than one page)	
<ul style="list-style-type: none">- description of a theme, proposals and problems that are subject matter of the consultation procedure	
<ul style="list-style-type: none">- purpose of consultations and objectives to be fulfilled	
<ul style="list-style-type: none">- consultation method (or combination of methods) to be applied (public presentations, target groups, work meetings, etc.)	
<ul style="list-style-type: none">- Problems regarding which the opinion is required: whenever possible, problems are to be specified in the form of questions and/or clearly explained options, avoid the form of simple yes/no answers. The combination of open and closed questions is preferred, it is necessary to always leave the possibility to express the view of both topics that are not explicitly covered by the offered issues.	
<ul style="list-style-type: none">- an explanation of possible already made decisions, as well as clarification of the reasons for choosing particular option	
<ul style="list-style-type: none">- if relevant, different sources of ideas and information, as well as factual statements of thorough follow-references (e.g. by academics or user groups)	
<ul style="list-style-type: none">- if appropriate, an explanation about the entities who could be affected by the subject of consultations and in what way, as well as the assessment of the impact of the subject of consultation on specific sectors/target groups (e.g. implementing role of a certain group or anticipated cost increase)	
<ul style="list-style-type: none">- if appropriate, invite the entities involved in the consultations to submit their ideas or assessment of the manner in which the subject of consultations affects the non-governmental, non-profit organizations	
<ul style="list-style-type: none">- the deadline for responses of the entities, the time constraints foreseen for the remainder of the process for development and implementation of regulations, a statement about how to provide feedback to the entities	
<ul style="list-style-type: none">- contact information about the person who may be contacted in case of further inquiries of the entities	
<ul style="list-style-type: none">- the list of entities the consultations are conducted with; possibly, proposals (by the entity involved in the consultations) of organizations or individuals with whom consultations should be carried out	
<ul style="list-style-type: none">- Request from the entities involved in consultations to provide full information (who they are, who they represent, professional references, whether they consulted anyone) to ensure provision of relevant and professional response	
<ul style="list-style-type: none">- a statement that answers will be available, except in the case when the entities involved in the consultation require the answers to be confidential	
<ul style="list-style-type: none">- clarification of possible limitations during consultations	
<ul style="list-style-type: none">- call for submitting feedback on the consultation process and possible proposals for improvement of consultation in the future	

Form 6

Form for the summary explanation of the consultation process

EXPLANATION OF THE CONSULTATION PROCESS
1. Introduction – summary of the consultation purpose
2. How the consultations have been implemented – summary of the activities during the consultation process (work groups, forum, etc.)
3. Main findings and future activities – summary of the main topics that emerged during the consultation process (number of responses, response by sectors, etc.)
4. Summary of the responses of the entities involved in the consultation process and position of the state bodies about them and explanation of unaccepted remarks
5. Annexes – e.g. a list of organisations/individuals which provided the responses/attachments to consultations, list of meetings, conferences etc.

Form 7

Form of conducted consultations

FORM OF CONDUCTED CONSULTATIONS	
Document title	Report on conducted consultations on the pre-draft_____ (law, regulation or act)
Document Creator	Body responsible for drafting legislation and carrying out consultations
Document purpose	Report on ccarried out consultations on _____
Document date	yy-mm-dd
Version of the document	Pre-draft, etc.
Document type	Report
Regulation title	
Identification of the pre-draft regulation on the list of planned activities published on the website of the Ministry	
The body responsible for drafting the regulation	
What are the entities involved in the consultations, i.e. in the work of the team for drafting the regulation?	
Has a pre-draft regulation been published and how? How much time is foreseen for the consultations? If not, why not?	
Who are the entities involved in the consultations that have provided their answers?	
The reasons for non-acceptance of certain objections of the entities involved in the consultations about the pre-draft regulation	
Costs of conducted consultations	

Form 8**Form for the entities involved in consultations for legislative drafting**

FORM FOR THE ENTITIES INVOLVED IN CONSULTATIONS FOR LEGISLATIVE DRAFTING	
Regulation title	
Name of the body responsible to develop a regulation	
The period of consultations (beginning and end)	
Names of the entity and its representatives in the consultation process that gives their comments on the pre-draft of a regulation	
The interest, categories and the number of users one represented	
General objections	
Individual objections (In case of a larger number of objections, then they shall be attached to the form and only articles or parts of the pre-draft regulation to which the objections relate are listed herein)	
Name of the person (or persons) who made the comments or the person who represents the entity involved in consultations	
Date of delivery	Signature