



MANUAL

FOR DRAFTING LEGISLATION

Sarajevo, February 2006



Bosnia and Herzegovina

Advisory Board for Legislative Reform

M A N U A L

FOR DRAFTING LEGISLATION

(Technical Requirements and Style)

Sarajevo, February 2006

MANUAL FOR DRAFTING LEGISLATION

Prepared:

Niko Grubescic	<i>Deputy Minister of Justice, BiH Ministry of Justice</i>
Mirsad Ceman	<i>Chairman of the Constitutional and Legal Committee, House of Representatives of the Parliamentary Assembly</i>
Milan Zjajic	<i>Secretary to the Constitutional and Legal Committee, House of Representatives of the Parliamentary Assembly</i>
Gianni La Ferrara,	<i>International Consultant</i>
Sally Fleschner,	<i>Legislative Advisor, USAID JSDP</i>
Elmerina Ahmetaj Hrelja	<i>Staff Attorney, USAID JSDP</i>

Proofreader:

Lejla Nuhodzic

Publisher:

Graficki atelje OSKAR

Copies: 50

Note:

This publication was developed with assistance of USAID Justice Sector Development Project.

PREFACE

The manner in which legislation is drafted is an indication of its quality. A law that follows a logical structure and is written in clear, user-friendly language is easier to understand and apply. Poorly drafted legislation leads to mistakes in implementation, possible litigation and a need for amendments to cure the initial oversights, ultimately resulting in higher costs. Furthermore, it creates uncertainty for citizens and negatively impacts the credibility of the legislator. While the substantive content of a law matters, a proper format is almost as important.

In the past, rules governing legislative drafting in Bosnia and Herzegovina were not formally laid out. Apart from a few academic treatises, it was the older, experienced lawyers carrying on and guiding the practice of legislative drafting. Unfortunately, the events of '92-'95 and subsequent changes resulted in much of this knowledge being lost or unused. As the new institutions of Bosnia and Herzegovina evolved, only a few learned drafters were available and the task in the institutions of Bosnia and Herzegovina often had to be assigned to less experienced staff.

Meanwhile, the size of the legislative agenda increased tremendously, mirroring huge social changes: single to multi-party system, war to peace, simple structure of government to multi-layered government, and planned to market economy. Starting to harmonize domestic laws with the EU *acquis* also placed a strain on limited resources. At the same time, the influence of foreign experts and the legislative powers of the High Representative for Bosnia and Herzegovina contributed to an increased lack of uniformity in drafting practice.

These events cried for action. On 26 January 2005, the Parliamentary Assembly of Bosnia and Herzegovina enacted the *Uniform Rules for Legislative Drafting*, setting out formal criteria for quality legislation drafting in the institutions of Bosnia and Herzegovina. The *Uniform Rules* were prepared by a working group of the Parliamentary Assembly of Bosnia and Herzegovina, building on earlier work performed by the Council of Ministers of Bosnia and Herzegovina and the Secretariat of the Presidency of Bosnia and Herzegovina. The *Uniform Rules* were also designed to be consistent with relevant practices in the European Union.

The purpose of this manual is to explain the second section of the *Uniform Rules (Uniform Technique of Legislative Drafting)* and facilitate its implementation. Other relevant sources have been also taken into account, drawing upon examples (including from actual legislation) to illustrate common drafting problems and to provide solutions. The resulting document is intended primarily as an aid for those charged with legislative drafting in the state administration and legislators (deputies in the legislative body, etc.). We are confident, however, that it will also be welcomed by others who are interested in this issue and the ones who need to improve their knowledge in this field in the course of their work.

The preparation of the Manual was led by a number of members of the Advisory Board for Legislative Reform, with support from USAID/Justice Sector Development Project. We hope that you will find it useful: the Advisory Board will be grateful for your comments, which will certainly help in potential revisions. In due course, we hope in fact that the Manual will develop and cover also other aspects of the legislative process related to legislative drafting.

TABLE OF CONTENTS	4
INTRODUCTORY NOTE	6
1. STRUCTURE	6
1.1. Introduction	7
1.1.1. Preamble	7
1.1.2. Title	8
1.1.3. Statement of Purpose	9
1.1.4. Definitions	10
1.2. Principal Part	11
1.2.1. General Principles	12
1.2.2. Rights and Duties	12
1.2.3. Authority to Issue Regulations	12
1.2.4. Implementing Provisions	13
1.2.5. Penal Provisions	14
1.3. Final Part	16
1.3.1. Transitional Provisions	16
1.3.1.1. Transitional Measures	16
1.3.1.2. Pending Matters	17
1.3.2. Final Provisions	18
1.3.2.1. Restricted Validity	18
1.3.2.2. Repealing Provisions	18
1.3.2.3. Publication and Entry into Force	19
1.3.3. Dating and Signature	20
1.4. Annexes	20
2. ORDER	20
2.1. Sections, Chapters and Parts	21
2.2. Articles	21

2.3. Paragraphs, Points and Lines	22
3. LANGUAGE	22
3.1. Style	23
3.1.1. Clear Language	23
3.1.2. Consistent Language	24
3.1.3. Precise Language	24
3.1.4. Necessary Language	24
3.1.5. Official and Other Languages	25
3.2. Shortcuts	25
3.2.1. References	25
3.2.2. Citations	26
3.2.3. Shortened Expressions	26
3.3. Grammar	27
3.3.1. Verbs	27
3.3.2. Nouns	27
3.3.3. Numbers	28
3.3.4 Other Grammatical Suggestions	28
4. SPECIAL TYPES OF LEGISLATION	29
4.1. Amending Legislation	29
4.1.1. Title	29
4.1.2. First Article	30
4.1.3. Format	30
4.2. Laws Confirming High Representative's Decisions	31
4.3. Subsidiary Legislation	32
4.3.1. Type and Purpose	32
4.3.2. Structure and Order	33
UNIFORM RULES FOR LEGISLATIVE DRAFTING IN THE INSTITUTIONS OF B&H	35

INTRODUCTORY NOTE

This Manual focuses on the second section of the *Uniform Rules for Legislative Drafting* in the institutions of Bosnia and Herzegovina (hereinafter: *Uniform Rules*) dealing with *Uniform Technique of Legislative Drafting*. The *Uniform Rules* were published in the Official Gazette of Bosnia and Herzegovina, no. 11/05 of 7 March 2005. The presentation of topics follows the same order as the *Uniform Rules*, except that primary (law) and subsidiary (regulation) legislation are treated separately: the body of the manual is written for the former, while special rules applying to the latter are discussed later in the manual. Covered topics include:

- ♦ The structure of a law through the organization of text;
- ♦ The division of legislation into articles, and into larger units (chapters, sections, parts) or smaller units (paragraphs, points, lines);
- ♦ The consistent specialized use of language, including style, grammar, and abbreviated expressions;
- ♦ Specific requirements for special types of legislation including amendments, confirmation of the decisions of the High Representative for Bosnia and Herzegovina (hereinafter referred to as: the High Representative) and regulations.

This manual is concerned with legislative drafting at the state level. While the consequences of the legislative powers of the High Representative are taken into account, the manual is not designed for use by the Office of the High Representative (OHR). Similarly, the manual is not designed for legislative drafters at the entity level and below, although drafters at these levels might find it useful. It is hoped that they will implement it on a voluntary basis, leading to consistent standards for legislative drafting throughout Bosnia and Herzegovina (BiH).

What type of issues should be covered by a law? Drafters must be able to deal with complex, intertwined issues. In general, it is best for all key aspects of one matter to be covered by a single comprehensive law rather than by several different ones. A comprehensive law makes it easier for users to find and consult the applicable rules. In this context, the *Law on Mediation Procedure* (Official Gazette of BiH, no. 37/04) and the *Law on Transfer of Mediation Affairs to the Association of Mediators* (Official Gazette of BiH, no. 52/05) represent bad examples. The *Law on Mediation* should have regulated the issue of transfer of competence to the Association of Mediators instead of adoption of a separate law governing the transfer of mediation matters.

1. STRUCTURE

Before starting to draft a law, first identify the goal(s) of a law and then map out an outline to use as a guide. Decide what should be in the law and what should be left to other laws and regulations. The *Uniform Rules* make this easier by providing a sequence of the general structure of laws in Articles 3 to 24.

Article 3 requires the following structure:

- ♦ Introductory part
- ♦ Principal part
- ♦ Closing part

The text below illustrates the content of these parts in greater detail.

1.1. Introductory Part

The introductory part tells how the law was adopted and what it regulates. This information makes the text easier to read, but does not establish new rules. The normative value of the introductory part is therefore indirect and influences how well other provisions of the law will be understood.

According to Article 4, the introductory part contains three mandatory parts and two optional parts.

- ♦ The Preamble
- ♦ The Title
- ♦ The Statement of Purpose

A list of definitions is optional and while an index must be prepared, it may or may not be included in the law (see 1.1.3 below).

1.1.1. Preamble

The preamble provides information on a law's enactment by the Parliamentary Assembly.

- ♦ Article 5.(1) requires the Preamble to state the legal basis for the adoption of the law. This is consistent with the tradition of Bosnia and Herzegovina and was always required at least as part of the explanatory note. However, it has recently been omitted from the text of most laws and its inclusion is now being re-introduced.
- ♦ Article 5.(2) requires the Preamble to state how the law proceeded through the legislative process by stating the number and date of the session at which each house of parliament adopted the text, starting with the house that did so first.
- ♦ Article 5.(3) states that a body enacting legislation is obliged to obtain prior opinion or approval of another body. It mainly refers to the adoption of a Book of Rules as a regulation passed by a minister with approval or an opinion by the Council of Ministers.

For example: Article 62 of the *Law on Civil Service* (Official Gazette of BiH, no. 19/02-475) provides:

Article 62. paragraph 3.

The Head of the Agency is responsible for managing the Agency and for adoption of the Book of Rules of Internal Organization of the Agency, with prior approval of the Council of Ministers.

These requirements are mandatory for any law passed by the Parliamentary Assembly. The text should read as follows:

Based on article (article of the Constitution providing for the substantive basis), and according to article IV.4.a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina, at the (ordinal number) session of the House of Representative held on (date) and at the (ordinal number) session of the House of Peoples held on (date), enacted the...

The preamble should not include additional policy considerations and contingent reasons behind the law's enactment, as done in the High Representative's Decisions. A bad example is the *Law on Foreign Debt* (Official Gazette of BiH, no. 1/97):

In order for Bosnia and Herzegovina to:

- *determine the validity of requests for payment of parts of the foreign debt it contracted, or for which guarantees were provided by the former Socialist Federal Republic of Yugoslavia, and which Bosnia and Herzegovina accepted parts of the obligations for payment (...);*
- *timely passing this law in order to ensure the legal bases and procedures on which Bosnia and Herzegovina will partly rely in the forthcoming holding of negotiations with foreign creditors (...)*

Such background information may make sense for emergency measures and will be valid as long as the emergency or extraordinary circumstances that triggered them continue. Ordinarily laws are expected to remain in force regardless of their originating circumstances.

1.1.2. Title

The title follows the preamble and is centered as a heading. It provides a way to identify and reference the law. A good title should succinctly describe the subject matter regulated.

Avoid being overly descriptive; in the introductory part of the law there is sufficient information. Article 6.(3) requires that if the law deals with several issues, only the most important issue should be mentioned in the title.

Don't:	<i>Law on provisional measures and manner to ensure the means for the purchase of aircraft for extinguishing forest and other fires and the way to ensure the means for the use and maintenance of such aircraft, which were previously acquired for the same purpose</i> (Official Gazette of RBiH, no. 2/92)
Do:	<i>Law on financial measures for the purchase of fire-extinguishing aircraft</i>

Article 6.(2) forbids the use of punctuation. A title with punctuation is unavoidably long. This is evident when lists of several elements are included in the title, for which a comma is needed.

Don't:	<i>Law on legal aid and official cooperation in criminal matters between the Federation of Bosnia and Herzegovina, the Republika Srpska and the Brčko District of Bosnia and Herzegovina</i> (Official Gazette of BiH, no. 19/02)
Do:	<i>Law on legal aid and official cooperation in criminal matters</i>

Similarly, the title should not contain a long list using the conjunction "and."

The *Uniform Rules* also forbid abbreviated expressions in titles. The conciseness sought is illusory since, in order to make the title clear, an explanation of the abbreviated expression would also be necessary (see 3.2 below).

Don't:	<i>Law on Y2K</i> (Official Gazette of BiH no. 17/99 (This expression marks the year 2000, with 'Y' for the English 'year', and '2K' for the number)
Do:	<i>Law on the year 2000 computer problem</i> (which is what the law addressed)

A good title contains no redundant information, such as *of Bosnia and Herzegovina* or *in Bosnia and Herzegovina*, often used to stress the enacting authority and the ambit of its application. This is unnecessary; the preamble indicates the enacting authority and the statement of purpose indicates the content and scope of the law.

Similarly, avoid qualifying the law as *Framework*, *General* or *Provisional*. No such special type of laws exists, and the framework, general or provisional value of these laws is set forth in their specific provisions, not in the title.

Don't: *Framework law on securities* (Official Gazette of BiH, no. 28/04)
General law on societies (Official Gazette of BiH, no. 18/03)
Provisional law on dissolving the custom services and establishing the Indirect Taxation Administration (Official Gazette of BiH, no. 18/03)

1.1.3. Statement of Purpose

The statement of purpose is a single article immediately following the title (unless there is an index). It tells the reader what the law regulates.

A good statement of purpose is short and does not contain ancillary information detailing the content of each section, chapter and part of the law. Article 1 of the *Law on the import and export of weapons and military equipment* (Official Gazette of BiH no. 5/03) is an example of what should be avoided:

Don't: This law regulates the way and requirements according to which it is possible to carry out the export, import and transit of weapons and military equipment, it defines what is defined as weapon and military equipment, identifies the organ responsible for issuing permits for the import, export, transit and putting on sale of weapons and military equipment or for the commerce of services related to weapons and military equipment and the requirements under which such permits can be issued, the content of those permits, the organs responsible for giving previous consent and opinions, the reciprocal relations and obligations of the responsible organs and the cooperation with international organizations, the possibility to agree cooperation with a view to research, training, and techniques exchanged on relation to weapons and military equipment, the delegation of powers to the Ministry of Foreign Trade and Economic Relations and of the custom administrations in the implementation of this Law and the criminal measures which can be issued in case of breach of provisions of this Law.

This is confusing and unnecessarily elaborate, especially since the law only has twenty-one articles. Article 8.(2) requires that only elements of general relevance are included in the statement of purpose. The above example could have read as follows:

Do: *This law regulates the issuing of permits for the export, import, transit and sale of weapons and military equipment, as well as of related services.*

Even if the law is long, the statement of purpose should be short. Article 7 offers a better way of dealing with long or complex laws. The index prepared as part of the explanatory note may be published in the Official Gazette of BiH as part of the law, in between the title and the statement of purpose. The service of the House of Peoples in charge of official publication decides if

this is needed; however, the proponent of any law exceeding 100 articles should suggest that the index be published.

Finally, the statement of purpose, like all elements in the introductory part, may not regulate. Regulatory provisions should be saved for the principal part of the law. For example, article 1 of the *Law on the Foreign Trade Chamber of Bosnia and Herzegovina* (Official Gazette of BiH, no. 30/01) provides:

Don't: *This law establishes the Foreign Trade Chamber of Bosnia and Herzegovina (further: the Chamber), dealing with questions related to its status, membership, responsibilities, composition, way of election and responsibility of its organs, Chamber judgments, financing and other questions which are of importance for its functioning. (...)*

(4) The seat of the Chamber is in Sarajevo, street Branislav Djurdjevic 10.

Here, the problem is not just that the statement of purpose is too detailed. The last paragraph, in fact, sets an autonomous rule that should have been left to the principal part of the law but without unnecessary details such as the address (street and number) stated in the above example.

Do: *This law regulates the establishment of the Foreign Trade Chamber of Bosnia and Herzegovina and related matters.*

1.1.4. Definitions

Using definitions in the introductory part of a law is relatively new to the tradition of Bosnia and Herzegovina and it should not be abused. Using common words in their ordinary meaning is usually sufficient, but if there is a doubt about the meaning of a term, it should be defined.

Definitions are used to explain terms that are (i) technical or (ii) ambiguous (that is, they have more than one meaning requiring clarification), or they have a special meaning. A term may also become ambiguous if used in a narrower or wider sense than is commonly employed (e.g. "vehicles" as limited to cars, or including tractors).

Be careful not to introduce unnecessary definitions when drafting a law that implements an international convention or is harmonized with EU legislation. EU legislation uses definitions quite liberally in order to secure understanding across different legal systems. The drafter need not imitate EU legislation, but when harmonizing a law with the EU *acquis*, the drafter should only define a term if there is ambiguity in the linguistic context of Bosnia and Herzegovina.

Technical terms are those specific to a scientific discipline (including law) and not usually familiar to the general public. They should be defined unless the meaning of the term is explained in the text of the law.

Be careful to maintain consistency across the legal system. The drafter should verify that the same term has not been defined previously by other laws, particularly when dealing with related subjects. The definition should be consistent with or refer to those previously given. If previous or related legislation did not define a term but regulated it, it is better to simply refer to that law. For example, article 2 of the *Law on protection of witnesses under threat and in danger* (Official Gazette of BiH, no. 21/03) provides:

The terms used in this law have the same meaning as in the Law on Criminal Procedure of Bosnia and Herzegovina (hereafter: ZKP BiH), the Criminal Law of Bosnia and Herzegovina and the Law on the Court of Bosnia and Herzegovina, unless stated otherwise in this law.

Definitions are placed in one article after the statement of purpose, which starts with the expression, *For the purpose of this law*, followed by a separate paragraph for each term defined.

Definitions should be brief and conclusive. Article 9.(2) cautions not to use terms that in turn require definition. A list of examples to explain a definition is also inappropriate and it unnecessarily burdens the text.

Don't: *For the purpose of this law... d) 'ship' means a vehicle for inland or sea navigation such as a cruiser, a submarine, a raft or other.*

Definitions are not to be confused with shortened expressions. Shortened expressions are placed in the text where they first appear (See 3.2.3 below). For example:

Don't: *For the purpose of this law... d) 'Agency' means the Agency for Civil Navigation established under section III of this Law.*

Finally, definitions themselves do not regulate. Therefore, the wording should contain only the definition.

Don't: *For the purpose of this law... d) 'complaint' means any information submitted by any person with an interest in the safety of the ship; the identity of the person lodging the information must not be revealed to the master or owner of the ship.*

The language after the semicolon is neither a definition nor a part of definition, but constitutes a separate rule to be placed in the principal part of the law.

1.2. Principal Part

The principal part contains the enacting terms to achieve the policy objectives of the law. Depending on their effect, Articles 10 to 15 group these enacting terms into five basic types:

- 1 General principles;
- 2 Rights and duties;
- 3 Authorization to enact regulations;
- 4 Implementing provisions; and
- 5 Penal provisions, if applicable.

Laws are not required to contain all five types. Some laws, for example, can be limited to organizational issues, such as in the Law on the Council of Ministers of BiH (Official Gazette of BiH n. 30/03) or the Law on the High Judicial and Prosecutorial Council (Official Gazette of BiH no. 9/04).

For more complex legislation, the five types of provisions in the *Uniform Rules* provide a sequence for the orderly presentation of the different measures and follow basic principles of logic. For example:

General provisions precede special provisions;
Rights precede the arrangements necessary for their implementation;
More important provisions precede less important provisions;
Permanent provisions precede temporary provisions; and
Technical or housekeeping provisions appear last.

1.2.1. General Principles

The general principles come first in the principle part of the law. Unlike the introductory part, the statement of principles has a regulatory purpose: it is on this basis that institutions must implement the law, especially the judiciary which will decide unclear situations, not explicitly foreseen by the drafters. An example of a general principle of contract law is:

To be enforceable, a contract must be based on mutual consideration.

Reference can be made to identify known legal doctrines in the general principles, but a clear explanation should be given to new legal concepts. For example, a simple mention that workers are favored in labor matters, or that proportionality governs an administrative action, is sufficient.

The general principles are specific to the law and should not simply repeat constitutional provisions. Copying provisions of the Constitution into the law risks changing its meaning.

Article 11.(2) suggests including a concise explanation of the concept. This is particularly important when the general principle is new.

For example, article 3 of the *Law on civil service in the institutions of BiH* (Official Gazette of BiH, no. 19/02) lists five principles governing the functioning of the Civil Service as: *a) legality; b) transparency and publicity; c) accountability; d) efficacy and effectiveness; and e) professional independence*. While some of these are self-explanatory, others are not. How is *transparency* different from *publicity*? What specific expectations are connected to *efficacy and effectiveness*?

1.2.2. Rights and Duties

The rights and duties section comes after the general principles and regulates the effect of a law on the persons or subjects to which it applies.

The provisions can cover the relationships between and among such persons or subjects, or between them and the government. Also, whenever additional rights are granted, those entitled to exercise such rights should be identified precisely, as well as the conditions for the enjoyment of such rights. This is a precondition for assessing the impact of the draft law on the budget of the State and of the other levels of government.

The rights and duties section can also impose duties and, when necessary, limit constitutionally recognized rights as long as it does not conflict with the application of the European Convention for the Protection of Human Rights and Fundamental Freedoms (which is an integral part of the Constitution, Article II.2). Rights and duties cannot be relegated to secondary legislation.

1.2.3. Authority to Issue Regulations

A good law must address all important policy considerations on the regulated matter, but also must be flexible and able to adapt to changing conditions without the need for amendments. With that in mind, the legislator authorizes the executive branch to issue regulations addressing technical and other details as needed to implement a law.

The section authorizing the issuance of regulations usually follows the "rights and duties" section; however, it may be found elsewhere in the law, such as when a law creates a new institution. For example, the authorization to adopt a rulebook on internal organizations would appear in the implementing provisions.

Article 13 lists the basic elements required for a good authorization clause:

- ♦ *Identify the authorized body.* The Council of Ministers has, in practice and by default, the responsibility for adopting regulations, mostly upon proposal of administrative bodies. Administrative bodies can adopt regulations only if the law explicitly authorizes them, as per article 16 of the *Law on administration*. Mention the authorized body by name and avoid impersonal formulations such as, a *regulation shall be enacted* or vague ones such as, *the competent ministry shall enact*. If the Council of Ministers is to adopt the regulations, indicate also the body responsible for preparing the regulation and submit it to the Council of Ministers for adoption, as follows: *The Council of Ministers, upon proposal of the Agency/Directorate/Institute XY, shall adopt....* Nevertheless, in exceptional cases, and for good reason where applicable, and given the dynamism of organizational solutions in Bosnia and Herzegovina, the term ‘competent ministry’ may be also used.
- ♦ *Specify the scope of the regulation.* Regulations are intended to implement policy choices already made in the law, not to postpone their implementation. They are derivative and should deal with organizational and procedural issues, not with matters requiring parliamentary scrutiny, such as the creation of new budget users, the awarding of additional rights, unless explicitly prescribed by the law, limitations of constitutional rights or the introduction of criminal sanctions, which cannot be left to secondary legislation.
- ♦ *Set a deadline for enactment.* Clear deadlines establish a timetable to implement the law and define the length of the transitional period during which special arrangements may be needed. In order to reduce the risk of missing deadlines, make them realistic. Otherwise, it may require unnecessary amendments to the law, which affects credibility of the legislator. If the institution responsible for issuing regulations still needs to be established, consider six months to one year. When authorization by the Council of Ministers is required, the time it takes to process the submitted proposal should be taken into account.

1.2.4. Implementing Provisions

The implementing provisions set out what institutions and procedures are needed to implement the law. It follows the section conferring authority to enact regulations.

Provisions establishing new institutions appear in this section, but before doing so, consider whether the responsibilities could be entrusted to an existing institution. Increasing the number of budget users unnecessarily is against fiscal discipline, and article 47 of the *Law on administration* (Official Gazette of BiH, no. 32/02) requires such initiatives to undergo full legislative scrutiny.

Provisions establishing a new institution must contain:

- ♦ The name, mandate, and position of the institution within the administration, consistent with the criteria in articles 48 to 51 of the *Law on administration*. This is where the differences amongst the various types of organizations (ministries, services, as well as agencies, institutes and directorates) are defined.
- ♦ The allocation of managerial responsibility within the institution according to the *Law on civil service of BiH* (Official Gazette of BiH, no. 23/02) for civil service positions, or the *Law on ministerial appointments, appointments of the Council of Ministers of BiH and other appointments* (Official Gazette of BiH, no. 37/93) for positions outside the civil service.

The law only addresses the internal levels below top management. These, and related other elements, are details better left to regulations.

The implementing provisions also regulate the procedures that institutions must follow to effectuate rights and duties. Procedures involving private parties (issuing of certificates, awarding of permits, deciding complaints, etc.) must follow the *Law on administrative procedure* (Official Gazette of BiH, no. 29/02, as amended). Any departure from this general law, such as fixing shorter or longer deadlines, should be prescribed in exceptional cases.

Article 80 of the *Law on aviation of BiH* (Official Gazette of BiH, no. 2/04) fixes a deadline of eight days to appeal an order of the Disciplinary Commission, while the *Law on administrative procedure* permits 15 days. Article 11 of the same law, however, goes in the opposite direction for appealing a decision of entity-level authorities to the State Directorate for Civil Aviation. In this case a longer deadline of 30 days is allowed.

Such "exceptions" are frequent in practice and not always necessary. To prevent overuse of exceptions, Article 14.(3) requires exceptions to be identified as such in the law. This can be done as follows:

The appeal against the Commission's first-instance decision is submitted within the special deadline of 8 days...

The term *special*, in this example, clearly indicates the intention to depart from the general rules of administrative procedure.

1.2.5. Penal Provisions

Penal provisions state the punishment for violating the law and they should be used sparingly. Multiplying penalties for the same conduct should be avoided. Check first whether penal provisions for a particular conduct exist elsewhere. Both the *Criminal law of Bosnia and Herzegovina* (Official Gazette of BiH, no. 37/03) and the entity-level criminal laws have penalties governing certain conduct. Article 164 of the State Criminal Law, for instance, sets penalties for disclosing state secrets, although what qualifies as a state secret is found in other laws. These other laws do not need to list the penalties separately as they already exist in article 164 of the Criminal Law.

Likewise, in the area of misdemeanors, related legislation can set the penalties applicable in other laws. Chapter XIV of the *Law on administration* (Official Gazette of BiH, no. 32/02), as well as the *Law on administrative procedure* (Official Gazette of BiH, no. 29/03) penalize administrative bodies for failing to implement organizational measures or complete certain procedures within a given deadline. Hence a law requiring administrative bodies to act within a certain time period does not need a separate penal provision, as one of these two laws governs the conduct.

In criminal matters, if no applicable penal provisions are found in other laws, consider whether penal provisions should be put in the new law, or whether the criminal code should be amended to include the penalties with reference to it in the new law. It is better practice to amend the criminal code itself rather than set out separate penalties in a new law. Having penal provisions spread over a number of different laws can lead to confusion and possible uneven consequences for similar conduct.

For misdemeanors the policy is more relaxed. The *Law on misdemeanors of Bosnia and Herzegovina* (Official Gazette of BiH, no. 20/04) deals only with jurisdiction and procedure leaving sanctions for misdemeanors to those laws governing the conduct.

Don't: ...the provisions of Paragraph 4, points a), b) and c) of article 33 of the Law on concessions of Bosnia and Herzegovina (Official Gazette of BiH, no. 32/02):

4. A fine in the amount ranging from 400 KM to 4,000 KM shall be imposed on the Concessionaire who:
a) violates any provision of this Law;
b) performs any act prohibited by this Law;
c) fails or refuses to perform any duty entrusted to him/her for which a penalty has not been provided...;

Penal provisions must be drafted meticulously. If they are too vague, they will lead to legal insecurity and difficulties in implementation. Article 15 insists on penal provisions being drafted *without possibility of different interpretation*. In order to achieve this, make sure you do the following.

- ♦ Identify those subject to the law. Repeat the same terminology to identify the subject both in the body of the law and in the penal provisions. Thus, if the law states that, e.g., *every legal person shall pay a fee of KM 100 within eight days*, it is wrong for the related penal provision to refer to *anybody* or *the persons from article X*. Use instead the same *every legal person*.

Define the penalized conduct with specificity and repeat the terminology throughout. Avoid overly broad penal provisions aimed at covering the whole law.

Don't: ...any person failing to act in the manner prescribed by this law shall be penalized...

Such provisions are not practical in terms of application due to their vagueness.

Do: ...a penalty of...shall be imposed on every legal person that fails to pay a fee of KM 100 within eight days.

- ♦ State whether the conduct is a criminal offense or a misdemeanor. The effect of the sanction on the rights of the accused can be vastly different.
- ♦ State the penalty with its minimum and maximum application within the parameters established by the law, and characterize it correctly. It is not correct, for example, to have a penalty for a misdemeanor described like an economic criminal offences (e.g., *a fine of two to twenty times the amount in question... shall be imposed...*).

If a draft law includes multiple penalties, these must be grouped into one specific article, or more than one article positioned at the end of the principal part of the law. If the penalties are of a different kind, they should be grouped in order of severity, starting with the most severe.

1.3. Final Part

The final part maps out the rules for shifting from the old to the new. In different ways, this part regulates the entry into force and tempers the effects of the new law during its initial period of validity. It is divided into three different parts:

- ♦ Transitional provisions
- ♦ Final provisions
- ♦ Dating and signature

While laws may or may not have transitional provisions, final provisions are always required to regulate entry into force. If there are too few transitional and final provisions to be divided into separate sections, they can be grouped together as *Transitional and Final Provisions* even though they serve somewhat separate functions.

Transitional and final provisions should also deal with regulations issued pursuant to prior laws and should state explicitly whether those regulations continue in effect and until when.

Laws end with a date and signature.

1.3.1. Transitional Provisions

Transitional provisions deal with specific issues that arise out of the transition from the old law to the new. They set out measures for the initial period the law is in effect, and on how pending administrative, judicial and other matters will be treated.

It is not unusual to see legislation in Bosnia and Herzegovina, particularly at the state level recently, which has neither dealt with transitional conditions nor contained the transitional provisions. This results in wasted time, uncertainty, and potentially unnecessary costly litigation.

1.3.1.1. Transitional Measures

Since new laws cannot be implemented overnight, the drafter must have a plan on how certain matters will be dealt with until the new legislation can be fully implemented. Therefore, before finalizing a law, consider:

- ♦ Whether policy favors a phased-in approach. Is there sufficient time to adequately inform the public? Will sudden changes result in confusion or adverse consequences? Is the timing of implementation fair?
- ♦ Whether regulations should be issued before the law becomes effective, and if so, what regulations. It is a common mistake to relegate some issues to regulations and then fail to regulate during the period of time before the regulations are adopted.
- ♦ Whether there are, or will be, funds available for implementation of a law. Laws approved without full financial coverage may require a rebalance of the budget or new sources under the existing budgetary items. In such cases, transitional provisions may have to address funding issues. This requires prompt attention and should be included in the text of the law.
- ♦ Whether new institutions or departments are established under the law that need time to staff up and become operational. Preparing and approving a rulebook on internal organi-

zation can take several months; recruitment and initial training even longer.

Each of these circumstances demands transitional arrangements. If none are made, having a law in force that cannot be implemented carries a cost and other adverse effects as mentioned above.

There are two kinds of transitional provisions:

- ♦ Those that delay the entry into force of specific provisions of the new law, either in general or in certain cases. This is not the preferred method.
- ♦ Those that establish a separate set of rules that will apply during the transitional period only, different from both the old and the new law. The relevant transitional provisions should be immediately applicable without the need to issue new regulations, obtain new funds or establish institutions, as this would require introducing a further transitional period.

Transitional periods are expressed temporally in two ways:

- ♦ A closed transitional period, with the end date specifically indicated (e.g., *for the period of one year after the entry into force of this law*). As a rule, the end date should not occur earlier than the deadline for the adoption of the subsidiary regulation.
- ♦ An open transitional period, the end date of which is conditioned on an event. This can either be linked directly with the implementation of the law (e.g., *until the subsidiary regulations in articles 18, 21, 23 are in force...*) or independently (e.g., *until free trade agreements with the neighboring countries are concluded...*).

Particular attention should be paid when determining the length of transitional period. The time frame which is too long leads to unnecessary delays in the implementation of some segments of the law. If the time frame is too short, it will most frequently result in delays in drafting regulations and other measures necessary for the implementation, which will either require an amendment to the law, and extension of the deadline, or it will lead to a continued period in which the area is an unregulated factual state of unlawfulness. Both have negative impact on the credibility of the legislator.

For example, the *Law on public procurement of Bosnia and Herzegovina* (Official Gazette of BiH, no. 49/04) had been subject to several amendments before its implementation commenced. This inefficiency negatively affected the credibility of the legislator.

1.3.1.2. Pending Matters

The final part also deals with pending judicial, administrative and other proceedings. The problem usually arises with procedural laws and can be addressed in two ways.

- ♦ The old law will apply to cases initiated before the effective date of the new law until the matter is completed. In such cases Article 18.(2) requires the following clause:

All cases and legal proceedings, which were not completed in a legally binding manner until the date of entry into force of this law, shall be completed according to the provisions of the law at the time of the entry into force.

- ♦ The new law will apply to pending proceedings as soon as it becomes effective. However, this method is rarely used, as it can result in unfairness and unpredictability. There is also a leniency rule in criminal legislation.

Because of the negative societal impact, substantive rules have retroactive effect, applied only on an exceptional basis. Before making an exception, consider the interests involved. The objectives accomplished by the retroactivity must be of substantially greater social importance than the legal security and predictability otherwise afforded. In general, retroactivity can be admissible if the treatment of the affected parties is more favorable.

Criminal laws can never be applied retroactively.

1.3.2. Final Provisions

Final provisions prescribe the effective date of the new law. They may contain a provision on the repeal of a part or the whole of the old law, if required, but they must also always include a provision regulating the publication and entry into force of the law.

1.3.2.1. Restricted Validity

Laws are designed to last, but occasionally you might have to limit the time period of their applicability. This is quite rare, but can be done through, e.g., the simple restricting formula in Article 19.(3), *This law is valid only until...* (date) or, *This law is valid starting from...*(date).

It is even rarer to restrict the application of a law to a specific place. You can do this so long as the anti-discrimination provisions of article II.4 of the Constitution of BiH are not violated. Article 19.(2) prescribes: *This law is valid only for...* (place).

1.3.2.2. Repealing Provisions

Typically, new laws replace old laws in their entirety or in part. State laws can repeal other state laws and subsidiary legislation. State laws do not repeal entity or lower level laws. The same effect is achieved in a different way, however, through article III.3.(b) of the Constitution of BiH which states: *...the Entities and any subdivisions thereof shall comply fully...with the decisions of the Institutions of Bosnia and Herzegovina*. Once the state legislates on a given matter, conflicting lower level legislation is automatically superseded. As the issue is constitutionally regulated, it is not necessary for the drafter to include a special clause to this effect.

Article 20 requires repeal provisions to list each of the individual laws and regulations which are no longer applicable. It is advisable to list them in order of hierarchy, and if of the same hierarchy, in order of enactment, starting with the earliest. For instance:

The following is hereby repealed:

- a) Law A (Official Gazette of BiH, no. 1/2004);
- b) Law B (Official Gazette of BiH, no. 2/2005);
- c) Decision C (Official Gazette of BiH, no. 1/2003);
- d) Decision D (Official Gazette of BiH, no. 3/2004);
- e) Rulebook E (Official Gazette of BiH, no. 2/2005);
- f) Rulebook F (Official Gazette of BiH, no. 5/2005).

Repealing provisions may only repeal parts of an act (a partial repeal). For example:

The following is hereby repealed:

- a) Law A Articles 10-25 (Official Gazette of BiH, no. 1/2004);
- b) Law B (Official Gazette of BiH, no. 2/2005), limited to its chapter II, section B.

They can also contain saving clauses, which may have the same effect as a partial repeal. For example:

The following is hereby repealed:

- a) Law A (Official Gazette of BiH, no. 1/2004);
- b) Law B (Official Gazette of BiH, no. 2/2005), save its chapter II, section B.

Whether to use one or the other depends on which makes the provisions easier to follow.

Repeal provisions should be both specific and comprehensive. The drafter must research existing legislation for conflicting provisions.

It is not correct to make a general repealing statement like: *All laws and by-laws contrary to provisions of this law are hereby intended as repealed*. This offers no guidance to the reader. It merely states a general conflicts-of-law principle that would apply anyway, according to which the most recent law is given precedence (*lex posterior*).

1.3.2.3. Publication and Entry into Force

Article IV.3.(h) of the Constitution of BiH provides for laws and other acts of the Parliamentary Assembly to become effective only after their official publication. It stands to reason that persons affected by laws have notice of them before they become effective.

The final provisions state the period of time after publication for the law to become effective (*vacatio legis*). Article 21.(2) fixes this time as eight days, although it allows exceptions. The *vacatio legis* may, in fact, be longer than eight days if circumstances dictate or the laws are complex, and more time is needed to prepare for application of the new law. The period may be shorter for reasons of urgency, but it may never be less than one day after publication. Similarly, the rule is that it can never be prescribed that a law enters into force immediately and subsequently be published in the Official Gazette.

The effective date is expressed in terms of days from publication, and never as day/month/year. This is because the process for enacting legislation and the publication date cannot always be predicted.

Do not try to regulate the time of publication; this would be meaningless since any such provision would still only become binding after publication. Avoid also trying to set deadlines for publication or including in the final provision a requirement of publication *without delay*.

For the same reason, do not try to regulate the mode of publication either. Under Article 21.(4) the Official Gazette of BiH is the only means of publishing state-level legislation. Consequently parallel publication in the *Official Gazettes of the Entities and the Brčko District of Bosnia and Herzegovina* is not required. Furthermore, past practice proved that having different publication dates in different gazettes raised serious problems in the calculating effective dates. Hence:

Don't:	<i>This law shall be published without delay, and come into force eight days after its publication in the Official Gazette of Bosnia and Herzegovina, as well as the Official Gazettes of the Entities and the District of Brčko of Bosnia and Herzegovina.</i>
--------	---

Do:	<i>This law comes into force eight days after its publication in the Official Gazette of Bosnia and Herzegovina.</i>
-----	--

1.3.3. Dating and Signature

A law ends with the date and signature. In the case of primary legislation, it also contains the reference number of the act according to the internal protocol of the Parliamentary Assembly, and the date of the signatures by the presidents of the two houses, both of which appear under the text. For example:

*PA BiH number 40/03
23 April of the year 2003
Sarajevo*

Two signatures are necessary, given the bicameral structure of the Parliamentary Assembly of Bosnia and Herzegovina. The date of signing and the operative date is the date of the session of the chamber which last adopted the law. However, dating is merely a formality and shows when the law came into existence. The effective dates of laws are determined in accordance with their publication in the Official Gazette, not the date they are signed.

1.4. Annexes

The purpose of an annex is not to regulate, but to provide details for concepts contained in the main text of the law which cannot be easily expressed.

Annexes are an integral part of the law, so there is no need to state that fact. According to Article 23.(2), a reference in the body of the law is sufficient to make this clear. For example...*in the polling stations listed in Annex X...* needs no further attention.

Annexes have no title; they are opened only by the heading 'ANNEX' in capital letters. If there is more than one annex, they should be numbered with Roman numerals (I, II, III, etc.). As annexes do not regulate, there is no introductory clause referring back to the main text. The title of the law may be placed under the word 'ANNEX', e.g., *ANNEX I of the Law X*, only if the annexes are voluminous.

Annexes tend to be comprised of lengthy lists of words and/or numbers (persons, tariffs, timetables, etc.), explanations of technical details that need to follow the rules of a discipline other than the law (chemical formulas, mathematical equations, sampling methods, etc.), or concepts that need to be expressed by means other than words and numbers (maps, organizational charts, forms, etc.).

There are no specific rules governing the presentation of annexes. Any appropriate system of numbering or subdivision may be used. Article 24.(1) requires only that annexes in the same law follow a standardized format, subdivided so as to make the technical content as clear as possible. Apart from this, the only requirement is to follow the language of the relevant discipline.

2. ORDER

Laws are divided in articles and other units that should be presented in a uniform manner. Depending on their length and complexity, the text of laws may be grouped into Sections, Chapters and Parts, and may be accompanied by annexes (see above). Breaking complex matters into smaller parts makes the law easier to read and understand and allows for easier reference and citation. After the title, the law is divided into articles which can be further divided into paragraphs, points and lines. Each grouping must contain more than one article.

2.1. Sections, Chapters and Parts

Articles of law may be grouped. Each group consists of articles of a similar theme. However, Article 25.(2) requires each group to be comprised of at least two articles: groups of one single article would make no sense since it could simply be identified by referring to the article.

The decision to divide a law into groups and the manner in which the text of the law is grouped depends on its nature and complexity. Very short laws (less than ten articles) may not need any divisions. Provisions of the same type in the core of a complex regulation might be divided into different parts, like the punitive provisions in criminal laws. While laws may be grouped by type of provision, the transitional and final provisions, for example, may be grouped together when they are few in number. These decisions are really a matter of common sense and judgment. The drafter should always ask: *How will this look to my reader?*

The *Uniform Rules* allow you to organize the law with three levels of groupings: sections, chapters and parts. At each level, the grouping is given a number and perhaps a title. If a grouping uses a title in one instance, it should use titles throughout the law. Groupings are not centered; they appear on the left side of the page.

First, laws are divided into two or more sections. Sections are capitalized with an ordinal number in letter form. The title, if any, is on the same line, between parentheses and separated by a dash.

Sections may be divided into chapters. Chapters are capitalized with a Roman numeral. The title, if any, appears on the same line in upper case letters between parentheses.

Chapters are divided into parts. Only the first letter of "Part" is capitalized and is followed by an upper case letter, starting sequentially with A. The title, if any, is on the same line, between parentheses. Only the first letter in the first word of the title is capitalized. The following illustrates:

SECTION ONE - (INTRODUCTORY PROVISIONS)

CHAPTER II (FORM OF REGULATIONS)

Part A (Internal division of regulations)

2.2. Articles

Regardless of the groupings chosen, all laws are divided into articles. Each article represents one or more thoughts that can be taken as a single conceptual unit. An article might deal with all aspects of one issue (e.g. both a rule and its possible exceptions) or only one of them. Avoid overly long articles, no more than ten paragraphs. If an article is too long, consider dividing it by consigning some of the issues to a second article.

Articles are centered on the page, marked sequentially by an Arabic number, followed by a period, starting with number one through to the end of the law. This is standard under Article 29, which rejects any other way of numbering. Using Roman numerals is incorrect, as is starting with new numbers with each section, e.g., the *Law on elections of Bosnia and Herzegovina*, (Official Gazette of BiH, no. 23/01).

Article 29 requires each article to have a title. The title of the article must be short and reflect the logical thought it contains. Titles in articles should be chosen in the same manner titles of laws are chosen.

The title of the article appears in lower case letters, except for the first letter, in parentheses, centered below the article number, to distinguish it from the paragraphs of the article.

2.3. Paragraphs, points and lines

Articles can be divided into paragraphs, points and lines, and Article 31 has standardized the rules. Each paragraph represents a single logical thought and usually contained in one sentence, preferably not longer than four lines. Occasionally you may include more than one sentence, but only if the thoughts are closely linked to each other and the resulting text is not too long. If an article contains only one paragraph, the paragraph must not be numbered.

Paragraphs can be subdivided into points and points into lines. Each of these subdivisions represents an element of the same logical thought. They are used to break up a paragraph and list conditions, requirements or other elements within the same rule. They should not be in sentence form and they are introduced by words ending with a colon, and are separated by commas, semi-colons and periods, always ending with a period. It is not proper to mark points or lines by indents, bullets and dashes, which is inconvenient for referencing and citing. Take care that the wording used is consistent with the introductory words.

Article 32 requires points to be lettered using lower case letters of the alphabet followed by a single parenthesis as in: *a).*

Article 33 requires lines to be numbered sequentially with Arabic numbers, followed by a single parenthesis as in: *1).*

Use points and lines only when actually needed. Avoid using subdivisions in paragraphs, especially when the text would read better in a continuous sentence. For example,

Don't:	<i>If a person: (a) is injured; or (b) falls ill; and there is nobody to: (a) care for; or (b) feed; the person, then</i>
Do:	<i>If a person is injured or falls ill, and there is nobody to care for or feed the person, then ...</i>

The following illustrates the proper format:

Article 1.
(Title of article)

- (1). Paragraph
- a). Point
- 1). Line

3. LANGUAGE

Besides dealing with content and organization, the *Uniform Rules* also address the language of drafting. This section of the manual includes a few rules and recommendations on terminology, style, shortcuts and grammar.

3.1. Style

Language in legislation must be clear, consistent, precise and necessary. Read your draft several times, checking it over until you are satisfied with your choice of words and manner of expression.

Some examples of how style can be improved:

Don't: *within the period of 12 months beginning on 1 July 1999...*

Do: *within 12 months beginning on 1 July 1999...*

Repetitious and unnecessary expressions:

Don't: *Subject to the provisions of section 5 ...*

Do: *Subject to section 5 ...*

Negative expressions:

Don't: *A secondary education institution that has complied with section 5 is not required to do X, if ...*

Do: *A secondary education institution that has complied with section 5 must do X.*

Don't: *Subsection (1) does not apply to a secondary education institution that has complied with section 5, if ...*

Do: *Subsection (1) does not apply if ...*

3.1.1. Clear Language

The language of laws should be as clear and simple as possible. Words must be used in their ordinary meaning. Think of the persons to whom the law is meant to apply and whether their rights and obligations will be clear to them.

Jargon, certain vogue words, Latin expressions or unnecessarily technical terms should be avoided. They make the meaning of the law less accessible to the majority of citizens. If use of special or technical terms is unavoidable, they should be defined (see 1.1.4. above).

Do not use traditional legal expressions that are unnecessarily obscure and longwinded. They are rarely necessary and leftovers from a time when it was fashionable to obfuscate.

Don't: *...notwithstanding anything to the contrary in Law ABC*

Do: *...despite Law ABC...*

3.1.2. Consistent Language

The terms used in a law should be consistent throughout and in related laws and subsidiary legislation. While the use of synonyms may be considered more interesting for prose, this is not the case in the drafting of legislation. Using different terms to indicate the same concept can be confusing and the law or regulation could be misinterpreted. Likewise, identical terms must not be used to express different concepts. In that case, a different appropriate term should be chosen.

3.1.3. Precise Language

Legislative terminology should also be precise. The purpose of a law is to prescribe or forbid conduct which cannot be accomplished if the terms used are vague. For example, Article 37.(2) points to certain time-related expressions as imprecise, such as *immediately*, *without delay*, *timely*, or *as a rule*.

Since laws have direct application and are binding in their entirety, they should be drafted to take into account the persons to whom they are intended to apply so that such persons have no doubts as to their rights and obligations. For example:

Don't:	<i>Law enforcement agencies are those with a mandate including law enforcement, criminal investigations, public and state security, or detention or judicial activities.</i>
Do:	<i>For the purpose of this law, "law enforcement agencies" mean:</i> <i>(1). the Prosecutors Offices,</i> <i>(2). the Finance Police,</i> <i>(3). the Police Agencies,</i> <i>(4). the Investigation Agencies of the Tax and Custom Administration in so far as they undertake criminal investigation in the scope of their competence, and</i> <i>(5). the State Border Service in so far as it undertakes criminal investigation in the scope of its competence.</i>

There may also be a conflict between the requirement of simplicity and that of precision. Simplification is often achieved at the expense of precision and vice versa. In practice, a balance must be struck so that the provision is as precise as possible.

3.1.4. Necessary Language

Finally, EVERY WORD YOU USE IN THE LAW SHOULD HAVE A REASON FOR BEING THERE! Using more words than needed makes a law longer to read and increases the chances of mistakes.

Avoid including elements that are obvious or irrelevant and have nothing to add to the rule. For example:

Don't:	<i>in order to apply correctly this law, a business enterprise must ...</i>
Do:	<i>...a business enterprise must</i>

Using complex expressions of two or more words to indicate a concept that can just as easily be expressed with one word should be avoided. For example:

Don't: ... any official who contravenes or fails to comply with...

Do: ...any official who contravenes...

Look hard at every single word in the text and ask yourself if it is really necessary or whether the meaning would change by deleting it. Nearly any text can be made considerably shorter through such a process.

3.1.5. Differences in Official and Other Languages

Article 38 addresses the use of terms from different languages, including the official languages of Bosnia and Herzegovina and foreign languages. Using words that, while identical, have different meaning or nuance in the different official languages should be avoided. Use terms that have the same meaning in the three languages.

The use of foreign language terms is permitted when they have entered common usage in the official languages of Bosnia and Herzegovina; otherwise, a corresponding term in the official languages should be used. However, if the foreign term better conveys the desired meaning, as is found in international instruments or terms generally known to the specialists in the area, the foreign term can be inserted in parentheses following the domestic term.

3.2. Shortcuts

References, citations and shortened expressions are tools to avoid repeating lengthy concepts to achieve precision and brevity.

3.2.1. References

It is unnecessary, and sometimes risky, to repeat provisions of the Constitution or other laws when a simple reference will do. References should be used sparingly, however, because they compel the reader to consult another source in order to understand what is meant. Use a reference only if:

- ♦ it simplifies the text by not repeating the content of the provision referred to;
- ♦ the comprehensibility of the provision is not affected; and
- ♦ the text referred to has been published and is sufficiently accessible to the public.

Article 39 describes two kinds of references: closed and open. The two strike a balance between preciseness and flexibility. Preciseness, because a good reference allows the reader to immediately identify the piece of legislation to be consulted, and flexibility, because you want your reference to remain valid if the law changes.

A closed reference is made to a specific law, listing its title and information about its publication. The title of the law appears between quotation marks, followed by, in parentheses, the year and issue number of the Official Gazette where the law was published. If the law has been amended, the year and issue number of the Gazette where the amendments were published is also added, as follows:

... according to the employment procedure set forth in article 33 of the "Law on civil service in the institutions of Bosnia and Herzegovina" (*Official Gazette* of BiH, no. 12/2002; 03/2003; 08/2004).

This is the most precise way to make a reference, and the easiest to understand. Place the subject of the reference at the beginning, as with *according to the employment procedure* in the foregoing example, so the reader knows what is being referenced.

Of course, if you need to refer the same law repeatedly, the complete formulation may be rather hard reading. In such cases, only the first reference needs to be made in full. Later references can be abbreviated (see 3.2.3).

Avoid chain references, those in which the referred provision in the other piece of legislation includes itself a reference, and circular references, those in which the referred legislation refers back to the referring one. Instead, repeat the referred provision.

An open reference simply indicates an area of law. For precision, specify the subject and type of law to which reference is made. For example:

...according to the laws governing employment procedures in the Civil Service of Bosnia and Herzegovina...

This type of reference is useful, especially if the referred matter is likely to change, but it should not be a substitute for the research on the part of the drafter. You will still have to verify the referred matter to legislation to avoid mistakes and ambiguities. You should particularly pay attention to potential inconsistency between the legislation you are drafting and the laws which govern the matter to which you refer.

Because open references lack specificity, they should be used with care, particularly if their effect is to force the reader to conduct unnecessary research.

3.2.2. Citations

A citation differs from a reference in that it seeks to avoid unnecessary repetition in the same law. Article 40.(1) sets forth the rules for citing articles:

...in article 6. of this law

...of this law is mandatory and avoids confusion, in particular if there are references to other laws.

If a paragraph within an article is cited, it should read:

...in paragraph 2. of this article

If the citation refers to points and lines (together), the formula numbers these in sequence, as follows:

...in paragraph 2.(1).a) of article 6. of this law

Finally, Article 40.(2) cautions against using such terms as, *in the previous*, or *next*, article or paragraph, or *below* or *above*. These terms add nothing and present problems if the law is amended and new text is inserted between the prior text and the text containing the citation.

3.2.3. Shortened Expressions

One way to achieve conciseness is to substitute shortened expressions for entire expressions when they appear repeatedly (at least more than once) in the text. They are regulated by Article 41.

The shortened expression of a title is introduced in parentheses and introduced by the word "hereinafter," immediately after the place where the law is referenced for the first time. For example:

...as provided by article 33 of the "Law on civil service in the institutions of Bosnia and Herzegovina" (Official Gazette of BiH, no. 12/2002; 03/2003; 08/2004, hereinafter: Law on civil service).

Recurrent expressions are shortened similarly:

...there shall be an agency for civil service (hereinafter: the Agency)...

Shortened names of laws are capitalized (Law, Act, Decision, etc.) if it is a specific legislative act. However, if preceded by a pronoun, the term (law, act, decision) will be written in small letters, e.g. *this law, this decision, etc.*

An expression can be shortened by using the initials of the words comprising it. It is a common way of referring to countries, parties, institutions, governmental agencies, etc.

Article 41.(2) discourages such use unless the expressions are commonly known. In such instances, the expression is written simply with a period after each initial (*I.S.O.*).

3.3. Grammar

It is important to follow rules of grammar. However, there are some usages, specific to legislative language.

3.3.1. Verbs

According to Article 42, verbs should be in the active voice. Verbs in the passive voice can be confusing, especially in longer sentences.

Also, use verbs in the present tense. This is the simplest and the most correct solution: while laws are written for the future, they are always in force at the moment of their application.

Pay special attention to the effect of the choice of verbs. It can determine the nature of a law. For example, provisions of laws can be mandatory, discretionary or recommended.

Every company shall keep a register ... is an example of a mandatory provision.

XX may receive financial assistance from... is an example of a discretionary provision.

It is recommended that companies ... is an example of a provision that is recommended, but not binding.

3.3.2. Nouns

According to Article 43, nouns (and related adjectives) in the text of the law should be singular; what applies to one applies to all. Article 43.(2) expressly forbids the use of alternative singular/plural formulations, such as "candidate or candidates" or the like.

Use nouns and their adjectives either in the masculine or in the feminine gender. Article

II.4 of the Constitution of Bosnia and Herzegovina prohibits gender-based discrimination; hence, provisions applicable to a female (or a male) are equally applicable to the opposite gender, unless the purpose of the provision is to emphasize a right, obligation, etc., which specifically and indiscriminately refers to one gender. However, this is not an issue of legislative drafting, but the substance of the law. Similarly, referring to both genders, as in *she-candidate/he-candidate* and the like is improper. To be consistent, choose a gender and use it throughout the text.

Important pieces of state legislation followed this approach even before the *Uniform Rules*. For instance, the *Criminal law of Bosnia and Herzegovina* (Official Gazette of BiH, no. 3/03), in its article 1.(31), provided that *..grammatical gender terminology, male or female, is to be understood as including both genders of natural persons*. This statement is no longer necessary in individual laws since the *Uniform Rules* now regulates the issue for all legislation.

3.3.3. Numbers

Article 45 is clear. Numbers up to and including ten are always to be written in letters (*candidates from one to ten*), while numbers above ten are written in digits (*candidates from 11 to 100*). Two exceptions are when the numbers represent a date (*1 May 2005.*), or a sum of money (*a fee of 5 KM*).

It is not proper to show numbers in digits and in letters between parentheses, as in *within 30 (thirty) days after the entry into force of this law*. The practice is archaic in legislative drafting and should be left to the banking sector.

3.3.4. Other Grammatical Suggestions

Large slabs of unbroken text are particularly daunting to the reader. Try the “five line rule”—avoiding unbroken text more than five lines unless there is a good reason for it. Consider using two or even three sentences when appropriate, but not more than three sentences unless you have a very good reason, because multiple sentences can raise problems with cross references.

The grammatical relationship between the different parts of the sentence must be clear. There should be no doubt, for example, as to whether an object relates to the verb in the main clause or to that in a subordinate clause.

Language should flow. For example:

Don't:	<i>The market prices of widgets shall be the prices ex-factory, exclusive of national taxes and charges: a) of the product packaged in cartons; b) raised by an amount of X KM to take account of the necessary transport costs .</i>
Do:	<i>The market prices of widgets shall be the prices ex-factory of the product packaged in cartons, exclusive of national taxes and other charges. Those prices shall be raised by an amount of X KM to take account of the necessary transport costs.</i>

Certain short cuts are to be avoided. It is false economy to use them to convey a message so complex that an explanation is called for. For example:

Don't:	<i>If products do not satisfy the requirements laid down in article 5, the Agency shall take all necessary measures to restrict or prohibit the marketing of those products or to ensure they are withdrawn from the market, subject to penalties for the other eventuality decided on by the Agency.</i>
Do:	<i>If products do not satisfy the requirements laid down in article 5, the Agency shall take all necessary measures to restrict or prohibit the marketing of those products or to ensure they are withdrawn from the market.</i> <i>The Agency shall determine the penalties to be applied in the event of failure to comply with those restrictions, prohibitions or withdrawal from the market.</i>

Avoid using several phrases or subordinate clauses when one will do. For example:

Don't:	<i>For the purposes of this (Act, section, etc)...</i>
Do:	<i>In this (Act, section, etc)...</i>

4. SPECIAL TYPES OF LEGISLATION

This manual deals also with special types of legislation, such as amending legislation, subsidiary legislation and legislation passed under special circumstances, and contains the rules that apply to them.

4.1. Amending Legislation

A law may be changed by enacting an entirely new law which repeals and replaces it, or by passing a law on amendments.

Completely replacing a law is not so common to BiH practice, but Article 46 requires this whenever more than half of the law is to be amended. If modifications affect less than half the original text, the correct method is to draft a law on amendments.

Any part of a law can be amended except the title, the preamble and its date of enactment. Amendments relate to the original law; they do not amend amendments. To the extent amendments affect other laws, amendments must be drafted for those laws separately, preferably at the same time.

The amending law must not contain substantive provisions which regulate a different matter than that regulated by the old law. Only the old law, as amended, is left in existence and continues to govern the whole of the matter.

4.1.1. The Title

The title of an amendment does not contain substantive provisions, but merely refers to the nature of the amendment and to the law that is being amended. Both aspects are dealt with in Article 48.

Make clear whether the law contains changes, additions, or both. A law with changes is one that modifies the original text by either deleting or replacing individual provisions. A law with additional substantive provisions, instead, is one that leaves the original text unchanged but adds something to it. A law containing only changes cannot be entitled "on changes and additions."

The title should reflect the number of changes and/or additions. If there is one change, the title is in the singular and should read, *Law on change*.... If there is more than one change or addition, the plural must be used, as appropriate. Article 48.(1) gives examples.

After the introductory part which begins with *Law on change*, the title of the law that is being amended follows and must be stated in full, without abbreviations.

The title of an amendment does not reflect the history of amendments; this will be evident from the date of enactment. No matter how many times a law is changed, the title will always be the same, with only the date of enactment to mark the difference. Avoid titles like *Law to further amendment*... and also *Law on additional amendments*.... While such titles might be helpful when the original law is amended for the second time, what do you use for a title in the next round of amendments? In the same context:

Don't: *Law on Amendments to the Law on Amendments to the Law x.*

4.1.2. First Article

Another peculiarity of amending legislation is the structure of the principal part of the law or other regulation, which is spelled out in Articles 49 to 53. The amendment appears in the first article, immediately after the title, and refers to the law being amended and introduces the first (and sometimes only) change or addition. For example:

Don't:	<p><i>Preamble</i></p> <p><i>The Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina (Official Gazette of BiH, no. 15/02) in its amended form (Official Gazette of BiH, nos. 26/02 and 35/02) (further in the text: the Law) is hereby made the following new changes and additions:</i></p> <p style="text-align: center;"><i>Article 1</i></p> <p><i>In article 66, paragraph 1, the words.....</i></p>
Do:	<p style="text-align: center;"><i>Article 1</i></p> <p style="text-align: center;"><i>(title)</i></p> <p><i>In the Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina (Official Gazette of BiH, nos. 15/02, 26/02 and 35/02, further in the text: "this Law"), at article 66, paragraph 1, the words....</i></p>

It is important that the reference is always made in full, including not only the title and official gazette number for the original text, but also the coordinates of all other amendments to date. This allows the reader to place the new amendment within the context of the legislation as currently in force.

4.1.3. Format

Beyond the first article, if several changes or additions have to be made, they are placed in the order of the articles of the law being amended. All changes and addition to the first article of the amended law are located in the first article of the amending law; all changes and additions to the second article are located in the second article, and so forth. Every change or addition within the same article appears as a separate paragraph (see Article 49).

Articles 50 to 53 provide formats for the different kinds of amendments.

For changing an entire article:	<i>In the Law xy, article xx is changed and reads: Article x Followed by the new text of the article</i>
For changing a paragraph, point or line:	<i>In article 66, paragraph (1) is changed and reads: (1)</i>
For a change touching on individual words only:	<i>In article 66, paragraph (1), the words are substituted by the words.....</i>
Use this formula for deleting words, paragraphs, or articles:	<i>In article 66, paragraph (1), the words are deleted.</i>

In general, amendments should remain faithful to the structure and terminology of the original text of the law. The new text should fit seamlessly into the previous one. Often this is difficult to achieve by canceling and adding words, so it would be better to replace whole provisions (articles or subdivisions of articles).

Under Articles 51 to 53, additions should be drafted as follows:

For the addition of a section, chapter or part:	<i>In the Law xy, after chapter 12, Chapter/Part 12a is added and reads; Chapter/Part 12a</i>
For the addition of an article:	<i>In the Law xy, after article 66., article 66a. is added and reads: (66a).</i>
For an addition of a paragraph, point or line:	<i>In article 66, after paragraph (1), a new paragraph (2) is added, and reads: (2).....</i>

Additions must be numbered correctly. Additions to divisions bigger than an article are made without re-numbering the articles. Additions of divisions smaller than an article are treated differently; they are renumbered or relettered, unless the addition was done at the end of the sequence, in which case a number or letter is simply added to the sequence.

Renumbering must be shown in the amending legislation by a separate provision, e.g., *previous paragraph (3) becomes paragraph (4)...*

Deletions should not simply be filled in with other provisions and their numbers should be left blank unless there is a replacement that fits into the text.

4.2. Laws Confirming the High Representative's Decisions

Articles 56-57 address legislation passed on a temporary basis by the High Representative for Bosnia and Herzegovina which, as it is most often stated when a decision is passed, is supposed to remain in force, *"until the Parliamentary Assembly of Bosnia and Herzegovina shall pass it without changes or amendments and additional conditions."*

Until recently, the Parliamentary Assembly of Bosnia and Herzegovina enacted the laws of the High Representative overagain as originally written. This created problems with respect to deadlines stipulated in the law, and it also increased publishing costs.

The *Uniform Rules* solved the problem by allowing for confirmation of laws enacted by the High Representative in a much simpler manner. This is made through a newly prescribed wording *Law on Adoption of the Law on...* (quote the title of the law being confirmed). Such law consists of only two articles and should read as follows:

Article 1.
(Adoption of law)

- (1) By this law, the Law (enter the- full title), which was enacted on a temporary basis by the High Representative for Bosnia and Herzegovina, published in the Official Gazette of Bosnia and Herzegovina (enter number of the Official Gazette) is adopted.*
- (2) The law and related regulation enacted in accordance with this law are effective as of the date of entry into force of the Law (enter the Official Gazette in which the law was published).*

The second and last article is a conventional final provision, which regulates when the law is published.

4.3. Subsidiary Legislation

Subsidiary legislation (regulations) is subordinate to and mostly derivative of primary legislation (laws).

When a law regulates a subject matter more pertinent for regulations, it tends to make it too detailed, often resulting in too many amendments to the law. Therefore, it is better to think about and specify the issues to be regulated by regulations in the beginning, remembering that all derived, secondary and organizational issues are by their nature better dealt with by regulations.

Since regulations are usually drafted to implement the details of laws, they should be prepared at the same time as the draft of the law itself is prepared. In this way, the subject-matter of both can be logically apportioned to differentiate those belonging in the primary law from those belonging in regulations. It also ensures that regulations will be issued promptly following the parliamentary enactment or within statutory deadlines.

Regulations are usually passed by the competent body of executive branch (government, ministry, etc.). For the most part the rules which govern the drafting of primary legislation apply to the drafting of regulations. The exceptions and special rules that apply to regulations are set forth below.

4.3.1. Type and Purpose

Regulations can be authorized by a law, or independently.

Regulations are those issued to implement a law or deal with details. They are issued by administrative bodies (ministries, agencies, directorates, etc.) or the government (in Bosnia and Herzegovina, the Council of Ministers) pursuant to an authorization from the laws from which they are derived.

The *Law on administration* (Official Gazette of BiH, no. 32/02) lists the types of regulations to be issued by administrative bodies, such as: directives, instructions and orders (article 99) and rulebooks on internal organization (article 52). Regulations issued by the Council of Ministers appear most often in the form of a decision (article 17 of the *Law on the Council of Ministers of Bosnia and Herzegovina*, Official Gazette of BiH, no. 30/03).

Decisions of the Council of Ministers, however, can also be issued independently. According to article 55 of the *Rules of Procedure of the Council of Ministers* (Official Gazette of BiH, no. 22/03), the purpose of decisions is not only to *regulate issues for the implementation of legislation* or other general acts, but also to *regulate specific issues and take measures in the framework of the rights and duties of the Council of Ministers*. The latter, according to inherited pre-war practice, includes the power to issue regulations on matters that the Constitution, laws, or long-standing legislative policy do not reserve to regulation by the Parliamentary Assembly of Bosnia and Herzegovina. Independent regulations, however, are rare and are normally issued in cases of emergency.

4.3.2. Structure and Order of Regulations

A regulation has the same structure as a law with an introductory, principal and final part. However, the content of regulations is generally less elaborate than laws and some of the formalities of drafting applied in drafting a law can be omitted. There are a few other relevant differences.

The preamble of authorized regulations must refer to the relevant provision in the delegating law. When the consent of another body is required (e.g., from the Council of Ministers for the adoption of a rulebook on internal organization), the date on which the consent was given should be also stated.

The principal part of a regulation is usually simpler than that in a law. Some provisions are reserved to laws and excluded from regulations. According to articles 3 and 47 of the *Law on administration* (Official Gazette of BiH, no. 32/02), only laws can establish new institutions. The same is true for criminal penalties (see article 3.(1) of the *Criminal law of Bosnia and Herzegovina* (Official Gazette of BiH, no. 37/03). The same is true for the establishment of new taxes or duties, which would be hardly imaginable without a full political debate. The establishment of misdemeanor penalties should be treated in the same way. Therefore, due attention should be paid when deciding on the approach or assessing which matter or segments should be regulated by a regulation instead of a law.

The final part of a regulation is usually limited to the closing provision on the effective date. In this respect, Article 21.(2) introduces a general obligation for subsidiary legislation to be published in the Official Gazette of Bosnia and Herzegovina. Unlike prior practice, this includes regulations dealing with "internal matters," such as the rulebooks on internal organization, which is important for administrative transparency. As many regulations are internal in nature, however, the importance of prompt publication is not as important for regulations as it is for laws. While laws are not effective until eight days after publication, regulations are exempt from this rule.

Finally, according to Article 22, the dating clause at the end of the text of a regulation is also a formality. The date on which the regulation came into being, therefore, is considered to be either that of the session of the Council of Ministers at which it was passed (article 63 of the *Rules of procedure of the Council of Ministers of BiH*, Official Gazette of BiH, no. 22/03), or the date it was signed by the head of the administrative body.



**UNIFIED RULES FOR LEGISLATIVE DRAFTING
IN THE INSTITUTIONS OF BOSNIA AND HERZEGOVINA**

Sarajevo 2005.

Pursuant to Point 1 of the Conclusions on the Necessity to Draft a Code of Unified Nomotechnical Rules for Legislative Drafting in the Institutions of Bosnia and Herzegovina ("Official Gazette of Bosnia and Herzegovina", No. 46/04) and Article IV/4 a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina adopted, at the session of the House of Representatives held on 12 January 2005, and at the session of the House of Peoples held on 26 January 2005, the following

UNIFIED RULES FOR LEGISLATIVE DRAFTING IN THE INSTITUTIONS OF BOSNIA AND HERZEGOVINA *

SECTION ONE - INTRODUCTORY NOTES

Article 1

(Scope of application with regards to subjects)

- (1) Unified rules for legislative drafting in the institutions of Bosnia and Herzegovina (hereinafter: Rules) define the rules to be observed by those in charge of legislative and normative tasks when drafting the rules in the institutions of Bosnia and Herzegovina.
- (2) Other incumbents of normative tasks at lower levels of authority in Bosnia and Herzegovina, as well as the Office of the High Representative are recommended to observe these rules.
- (3) If legal acts are enacted following an **emergency** procedure and in case when they regulate special issues that, due to their urgent nature, specific content and particularity in relation to other regulations, these rules cannot be applied, those in charge of drafting legislation are not bound to observe these rules.

Article 2

(Scope of application regarding a subject)

- (1) According to these rules, the term "regulation" implies:
 - a) constitution
 - b) agreement (if the other party agrees),
 - c) law,
 - d) rules of procedure,
 - e) decision,
 - f) instruction,
 - g) rulebook, and
 - h) other general legal acts.
- (2) These rules can be applied on individual acts, as well as on international agreements, resolutions and other acts of declaratory nature, if their nature allows it.

SECTION TWO - UNIFIED TECHNIQUE OF LEGISLATIVE DRAFTING

CHAPTER I - CONTENT OF REGULATION

Article 3

(Structure of regulation)

- (1) Regulation is structured in the following way:

* "Official Gazette B&H", number 11/05

- a) Introductory part
- b) Main body
- c) Final part

- (2) If the nature of regulation requires it, regulation can have its annexes.

Part A. Content of introductory part of regulation

Article 4 (Introductory part)

- (1) Introductory part of a regulation comprises:

- a) Preamble,
- b) Title of regulation,
- c) Subject.

- (2) Introductory part of regulation can contain definitions.

Article 5 (Preamble)

- (1) Preamble is part of regulation that stands at its beginning and contains information the legal basis for adoption of the regulation, i.e. provisions from which the power of its enactment arise.

- (2) Preamble of legal regulation represents the procedural manner by which the regulation has assumed its legal power, referring to the regulations of higher legal relevance, the name of the body passing it and the ordinal number of the session at which the body has adopted it as well as the date of adoption.

- (3) When a body passing a legal regulation is previously obliged to obtain opinion or approval of another body, the preamble should contain the name of the body that issued its opinion, i.e. approval for passage of the regulation.

- (4) Abbreviations and acronyms are not used in preamble.

- (5) Paragraphs (1) and (2) of this Article do not relate to constitutional provisions.

Article 6 (Title of regulation)

- (1) Title is part of regulation that follows the preamble and contains basic information on the subject regulated by the regulation according to which it is identified.

- (2) Title must be written without abbreviation and acronyms and punctuation marks.

- (3) Title needs be a term that is synthetic, yet adequate to the content of the legal regulation. If that is not possible, sine the regulation contains different subject s then the title contains synthetic content that is most relevant for the regulation.

Article 7 **(Overview of the content)**

- (1) Overview of content is part of explanation and it contains the information on the structure of the regulation.
- (2) In the formulation of content list or table is used in which all the segments of the regulation or of its articles are marked by numbers and titles.
- (3) Overview of content is particularly needed when a new subject or a complex subject is subject of regulation.
- (4) Publishing service of the House of Peoples decides on eventual need to publish the content overview in the "Official Gazette of BiH".

Article 8 **(Subject)**

- (1) Subject is part of regulation that follows the title or precedes the content overview and to contain information on the purpose and goals of the regulation.
- (2) When formulating the subject, basic content of the regulation relevant for the entire content of the regulation should be mentioned.

Article 9 **(Definition)**

- (1) Definition is part of regulation that follows the subject and contains information on the meaning of terms used in the regulation.
- (2) When formulating the definition it is important to use common and unambiguous terms that do not need further definitions.

Part B. Content of the main body of regulation

Article 10 **(Main body)**

The main body of legal regulation contains normative power of the regulation and determines rules that would be used in order to achieve the set goals, and it may include:

- a) general principles,
- b) right and obligations,
- c) competencies,
- d) application of provisions,
- e) punitive provisions.

Article 11 **(General principles)**

- (1) General principles are part of regulation that is put in the beginning of the main body of the regulation and it contains information on the key values the regulation regulates.

- (2) The content of principles should be clearly explained, except in the case when the principles correspond to a well-known legal concept.

Article 12 **(Rights and obligations)**

- (1) Rights and obligations are part of regulation that follows general principles, if they exist, and they contain information on the effect of regulation on those concerned.
- (2) Provisions relating rights and obligations should be defined as clearly as possible, with particular emphasis on their effect on the budget.

Article 13 **(Competencies)**

- (1) Competencies are part of regulation that follows rights and obligations, if they exist, and it contains information on additional by-laws that should be adopted by different bodies in the framework of implementation of the regulation.
- (2) Competence for passing regulation indicates:
- a) the body responsible for passing a by-law,
 - b) scope of by-law,
 - c) included time frame and can contain a clause whereby by-laws' validity terminates automatically after a certain period of time.

Article 14 **(Application of provisions)**

- (1) Application of provisions is part of regulation that follows competencies, if they exist, and it contains information on institutions and procedures necessary to implement the regulation.
- (2) Provisions establishing new institutions must clearly determine their responsibility, management structure and obligations.
- (3) Provisions establishing new procedures must clearly determine the situations in which general rules of administrative procedure are not applied.

Article 15 **(Penal provisions)**

- (1) Penal provisions are part of regulation that follows provisions on application, if they exist, and they contain information on sanctions in case of violation of a certain provision of the regulation.
- (2) Each punitive provision indicates the punitive actions and relevant sanctions, taking into account that:
- a) definition of punitive action is determined without the possibility of different interpretation,
 - b) definition of sanction is determined within the limitations of their maximum and minimum sanction.

Part C. Content of the final part of regulation

Article 16 (Final part)

U final part of legal regulation, information is contained on the time when the regulation enters into force and the initial period of its application and it may include:

- a) transitional provisions,
- b) final provisions,
- c) date and signature.

Article 17 (Transitional provisions)

- (1) Transitional provisions are part of regulation at the beginning of the final part of regulation, and they contain information on special circumstances envisaged for the period of the start of application of the regulation.
- (2) Transitional provisions incorporate the provisions on transition to the new system that regulates a certain situation or relationship in a different manner.

Article 18 (Cases, i.e. proceedings pending before legally valid decision)

Transitional provisions regulate the cases, i.e. proceedings that are not concluded in a legally binding manner on the date of entry into force of the regulation:

- a) by determining deadline after which a new manner of regulating cases, i.e. proceedings shall be applied,
- b) allowing for cases, i.e. proceedings that were initiated on the basis of earlier provisions to be concluded, using the following formulation:

"All cases, i.e. proceedings that were not concluded in a legally binding manner until the date of entry into force of this regulation, shall be concluded following the provisions of the regulation that was in force at the time of its entry into force."

Article 19 (Limiting provisions)

- (1) Limiting provisions are part of regulation that follows transitional provisions, if they exist, and they contain information on special limitations in the application of the regulation with regards to space and time.
- (2) Limitations in the application of the regulation with regards to space may be solved by using the following formulation:

"these regulations are valid only for...".

- (3) Limitations in the application of the regulation with regards to time may be solved by using the following formulation:

"these regulations are valid only until... or ... from...".

Article 20

(Provisions on putting regulation out of force)

- (1) Provisions on putting regulation out of force are part of regulation that follows the limiting provisions, if they exist, and they contain information on regulations that are put out of force by entry of the new regulation into force.
- (2) Provisions on putting regulation out of force must state clearly every regulation that is put out of force.

Article 21

(Final provisions)

- (1) Final provisions are part of regulation that follows transitional provisions and they contain information on when the regulation enters into force.
- (2) Regulation, in terms of constitutional principles, enters into force upon the expiry of a certain deadline after their publication and it must be stated that way. In the case of law, it is a period of eight days, and never earlier than one day after the day of publication.
- (3) Existence of temporal distance between the date of entry into force of regulation and the beginning of application of individual provisions of the regulation may be solved by the following formulation:

*"This regulation enters into force on day from the day of publication,
and shall be applied from"*

- (4) Regulations do not determine the time of their publication. Regulations passed by the institution they refer to are published:
 - a) only in the "Official Gazette of Bosnia and Herzegovina" (laws and other regulations that are of public concern),
 - b) in internal media or on notice board (individual acts).

Article 22

(Dating)

- (1) Dating is special temporal clause that follows the body text of regulation and it shows the date when the regulation was made.
- (2) Dating is a formal act and may be expressed in the following manner:
 - a) original manner - where the date given at the bottom of published text of regulation is treated as the date it emerged. This is valid for all regulations except laws.
 - b) un-original manner - if the date the regulation is conceived is not given, and then the date of regulation is the date of its publication in the relevant Official Gazette.

Part D. Content of annex to regulation

Article 23

(Purpose and validity of annexes)

- (1) If there are practical reasons, due to the volume or special way of expressing technical rules or data in the normative part of regulation, these rules are regulated through annexes.

(2) Annexes are, in any case, integral part of regulation they are passed with and the text of the law should refer to the annexes.

Article 24
(Structure of annexes)

(1) Annexes must have uniform structure and be written in such the way as to have a clear content, with full observance of the rules of the relevant scientific discipline.

(2) If there is more than one annex, they are marked with Roman (ordinal) numbers.

CHAPTER II - FORM OF REGULATION
Part A. Internal division of regulation

Article 25
(Types of internal division)

(1) Internal division of regulation with regards to their form opts for the solution that enables a good setup of the regulated subject matter thus making it user-friendly. Internal division of regulation can be done in the form of:

- a) sections
- b) chapters
- c) parts

(2) Regulation and each of its internal divisions may not be less than two articles.

Article 26
(Section)

(1) Regulation may be divided at least into two sections. Section covers a thematic whole of regulation.

(2) Section is marked by ordinal number starting from number one. Numbers are written in capital letters: E.g. SECTION ONE.

(3) Section may have a title. If one section has a title, then all the sections of a regulation should also have them.

Article 27
(Chapter)

(1) Section may be divided into two chapters. Chapter occurs with the division of section onto several functional or logical wholes.

(2) Chapter is marked by Roman number that is written after the word "CHAPTER". E.g.: CHAPTER I.

(3) Chapter may have a title. If one chapter has a title, then all the chapters of a regulation should also have them.

**Article 28
(Part)**

- (1) Part is an integral part of chapter, as one of the elements of a whole.
- (2) Part is marked by a capital alphabet letter followed by a punctuation mark "full stop". E.g.: Part A.
- (3) Part Chapter may have a title. If one part has a title, then all the parts of a regulation should also have them.

Part B. Article and internal division**Article 29
(Article)**

- (1) Article contains one or several ideas that can be taken as one logical whole.
- (2) Article is marked by Arabic number, starting from number one and then following the order of numbers until the last article of the regulation.
- (3) Article has a title what is added under the numerical designation and put into brackets.

**Article 30
(Internal division of article)**

- (1) Article is divided into:
 - a) paragraphs,
 - b) paragraphs into points,
 - c) points into lines.
- (2) Provisions of an article, paragraph, point and line consist of one sentence each. Only if the interest of comprehensibility requires so, provision may exceptionally consist of two or more sentences.
- (3) Provisions of article and paragraph always end with a punctuation mark "full stop", and provision of point and line end with the punctuation sign of "comma" or "full stop", ending with "full stop" in every case.

**Article 31
(Paragraph)**

- (1) Article may consist of one or several paragraphs.
- (2) Paragraph is marked with an Arabic number, with an open bracket before and closed bracket after it. E.g.: (1). If article consist of only one paragraph, that paragraph is not marked numerically.

**Article 32
(Point)**

- (1) Paragraph may consist of one or several points.

(2) Point is marked by a small letter before the text of the provision following the alphabetic order. Brackets follow the letter. E.g.: a).

Article 33
(Line)

- (1) Point may consist of one or several lines.
- (2) Line is marked by Arabic number, starting from the number one, with the closed bracket after it. E.g.: 1).

CHAPTER III - STYLE OF REGULATION

Part A. Terminology

Article 34
(General principles of terminology)

- (1) Regulation is written in clear style, simple words and precisely expressed intentions of legislator.
- (2) Terminology used in regulations must be:
- a) clear,
 - b) consistent,
 - c) precise,
 - d) necessary.

Article 35
(Clear terminology)

- (1) Regulation uses the terminology with as few diversions as possible from the everyday meaning of the words, with regards to their legal and professional meaning.
- (2) Usage of terminology that has two or more meanings should be avoided. If that is not possible, then the desired meaning should be defined by a separate to be included in the introductory part of the regulation.

Article 36
(Consistent terminology)

- (1) Usage of terminology throughout the text of regulation should be internally consistent as well as consistent to the regulations that are in force.
- (2) When a term in a regulation is used in one meaning, it must be used in the same meaning throughout the regulation.

Article 37
(Precise terminology)

- (1) Regulation uses precise terminology whose legal consequences may be undoubtedly clear.

- (2) Usage of common, and imprecise notions such as "immediately", "without delay", "timely", "as the rule", etc. should be maximally avoided in determining the time frame.

Article 38 **(Terminology)**

- (1) Regulation uses only the terminology that has identical meaning in the languages officially used in Bosnia and Herzegovina.
- (2) Usage of two or several terms that could be expressed by one term alone with the same meaning, as well as foreign terms, should be avoided.
- (3) Foreign word can be used in the meaning they have in the languages in official use in Bosnia and Herzegovina.
- (4) Foreign term used in regulation is put in the bracket after the local term with the same meaning.

Part B. References, quotations and abbreviations

Article 39 **(References)**

- (1) Reference in a regulation to the provisions of other regulations is done by referring to them and not by repeating the provision itself.
- (2) Reference to another regulation is done in an open and closed manner:
- a) closed reference is done by referring to the title of regulation, marking in the brackets and with inverted commas the title, number and the year of publication of the Official Gazette in which the regulation referred to is published with all the modifications and amendments.
 - b) open reference is done by quoting the generic term for a certain type of regulation, e.g. law or decision, and the field it regulates.
- (3) In case of closed reference to several regulations with different titles, relevance and nomotechnical origin, the order of reference is related to their relevance: constitutions, agreement, law, rules of procedure, decision, instruction, rulebook etc. If regulation of the same relevance is referred to (e.g. two laws), reference is first made to the regulation that was published earlier.

Article 40 **(Quotations)**

- (1) Reference in a regulation to parts of the same regulation is done by quotation. Quotation can be solved in the following manner:
- (a) *"from Article x. of this regulation", if reference is made to Article, or*
 - b) *"from paragraph (y) of this Article", if reference is made paragraph.*
- (2) Usage of terms such as previous, next, below etc. for the purpose of quotation should be avoided.

Article 41
(Abbreviations)

- (1) In case of repetition of abbreviation of titles or other terms in a regulation, then only general title of the regulation phrased as "hereinafter" is used put into the brackets after the punctuation mark "colon".
- (2) In case of repetition, abbreviation in which initial letters of individual word is followed by "full stop" should be avoided, unless the abbreviation is a common one.

Part C. Grammar

Article 42
(Usage of verbs)

In regulation, verbs are used in present tense and active voice.

Article 43
(Usage of singular)

- (1) In regulation, words are used in singular.
- (2) It is not correct to use alternative (singular and plural), e.g. "award(s), "candidate(s), authority (ies).

Article 44
(Usage of masculine and feminine genders)

In regulation, words are used only in masculine or feminine genders.

Article 45
(Writing numbers)

- (1) In regulation, numbers are written in letters, unless denoting a date or a sum of money.
- (2) In regulation, numbers up to number 10 are written in letters and above 10 in digits.

CHAPTER IV - MODIFICATION AND CONFIRMATION OF REGULATION

Part A. Modifications and amendments

Article 46
(Purpose and scope of modifications and amendments)

- (1) Modifications and amendments are made when regulations do not correspond to the changes in the legal system, the changes in the policy in a certain field, or when they should be adapted to real needs.
- (2) Main regulation may be completely modified, except for the title of regulation and its date.
- (3) If more than one-half of articles of original regulation are modified, i.e. amended, enactment of a new regulation must be initiated.

Article 47
(Manner of introducing modifications and amendments)

- (1) Modifications and amendments of regulation may be done only by a regulation of the same relevance and in the same procedure as it was done with the regulation that is being modified.
- (2) Modifications and amendments of one regulation cannot carry out modification in a regulation regulating another field.
- (3) Modification of regulation is carried out in such the way as to make one amendment encompassing all the modifications and amendments that relate to one article, and modifications and amendments relate to different goals, i.e. purposes, modification of regulation is done by several amendments to one article.

Article 48.
(Title of modifications and amendments)

- (1) Title of modifications and amendments in regulation need to correspond to its content. If there is:
 - a) only one modification and amendment, regulation is entitled "on a modification" or "on an amendment",
 - b) one modification and several amendments, regulation is entitled "on a modification and amendments", i.e. "on modifications and an amendment",
 - c) at least two modifications and at least two amendments, regulation is entitled "on modifications and amendments".
- (2) Title of regulation on modifications and amendments should refer as the whole to the title of the regulation that is being modified.

Article 49
(Reference to original regulation)

- (1) When original text of regulation is modified, then it should refer to "original text", and when modification is carried out of already modified and amended regulation, then it should refer to "this regulation".
- (2) Regulation on modifications and amendments need to contain in the first article reference to the original regulation and the designation of the first article that is modified or amended, while other articles follow the running order of the text.

Article 50
(Formulation of modification of regulation)

- (1) Modification of regulation may be solved by the following formulations:
 - a) if entire article is modified,

"In regulation (title) Article x. is modified and reads:

Article x
a, b, c''';

- b) if a part, e.g. a paragraph, is modified

"In Article x. paragraph (1) is modified and reads:

'(1) a, b, c'";

- c) if one or more words within an article are modified,

"In Article x. paragraph (1), words 'a, b, c' are substituted by the words 'd, e, f'."

- (2) If a provision or part of the provision is deleted, the modification may be solved by the following formulation:

"In Article x. paragraph (1), words 'a, b, c' are deleted."

- (3) The same formulations delete other types of provisions of higher structural degree (sentence, line, point) and the term "word" is substituted by the term used for the structure that is deleted.

Article 51 **(Formulation of amendment to a part of regulation)**

If a provision of regulation is amended by amending a part of regulation, e.g. one chapter, amended part is marked by the same number as the previous one of the same type followed by progressive letter. Formulation of amendment reads:

"After (following) Chapter 12, Chapter 12a is amended reading. Wrong example:

*'Chapter 12a
Article xa"*

Article 52 **(Formulation of amended Articles)**

If amendment of regulation is done by amending an article or several articles, the new article is marked by the same number as the previous one, followed by progressive letter. The formulation of the amendment reads:

"In regulation (title) after Article x., Article that reads is amended:

*'Article xa
a, b, c'."*

Article 53 **(Formulation of amendments to parts of articles)**

- (1) If amendment to regulation is done by adding a paragraph or several paragraphs, the following formulation is used.

*"In Article x., after paragraph (2,) a new paragraph (3) is added, that read:
'(3) a, b, c. '"*

- (2) In the case from paragraph (2), the consequence of amendment may be twofold:
- a) if Article x. consists of two paragraphs, then proposed formulation is final, and the new paragraphs is simply added with progressive number or letter.
 - b) if Article x. consists of three or more paragraphs, then the provision continues with one more paragraphs that reads:

"Previous paragraph (3) becomes paragraph (4)."

Part B. Refined text and rectification of regulation

Article 54 (Refined text)

- (1) When institution that applies these rules requests from its service to prepare a final draft, this task is approached in the manner referred to in Article 53 of these Rules, whereby the formulation "final draft" below the title of regulation indicates it.
- (2) Articles of final draft in that case get new numbers.
- (3) Corrections may be contained in the final draft.
- (4) Final draft of regulation is not submitted to regular legislative procedure, but to further procedure pursuant to the Rules of Procedure.
- 5) Final draft has official character and is published in Official Gazette.

Article 55 (Correction)

- (1) Correction is used to carry out the modification of regulation after its publishing in order to correct obvious errors, i.e. differences between signed and published versions of regulation.
- (2) Institution competent to adopt regulation is competent for its correction in one of the next issues of Official Gazette.
- (3) Correction refers both to the incorrect and to the correct text of regulation, as well as the place, time and body that made the correction.

Part C. Confirmation of decisions made by the High Representative in Bosnia and Herzegovina

Article 56 (Law on adoption of laws)

With regards to adoption of the decision by which the High Representative in Bosnia and Herzegovina, in line with his competences, pronounced laws on temporary basis, competent legislative body enacts the law on its adoption, without modification and amendments and additional conditions.

Article 57
(Content of law)

Law on adoption contains: title of the decision by which the High Representative in Bosnia and Herzegovina pronounced the law on temporary basis, the number of the issue of Official Gazette in which the decision was published and the date of its entry into force, without the publication of the text of the law, e.g.

«LAW ON ADOPTION OF THE LAW ... (quote the title of the law)
Article 1

(1) *By this law, the Law (quote), which was passed on temporary basis by the High Representative in Bosnia and Herzegovina, published in... (quote the Official Gazette and number of its issue).*

(2) *Law and all by-laws passed pursuant to this Law are applied from the date of entry into force of the Law (quote earlier Official Gazette I which the regulation was published.)*

Article 2
This Law shall be published in the "Official Gazette..."»

SECTION THREE - UNIFIED TECHNIQUE OF DRAFTING EXPLANATION

CHAPTER I - FORM OF EXPLANATION

Article 58
(Obligation of submitting explanation)

(1) When drafting regulation or proposal of regulation in the institutions of Bosnia and Herzegovina, the proponent is bound to submit explanation together with the draft or the proposal the explanation.

(2) Regulation with which explanation is submitted are: constitutions, drafts and proposals of laws, drafts and proposals of agreements, decisions, instructions, conclusions, declarations, resolutions and all other regulations that fall under the competence of the institutions of Bosnia and Herzegovina, including amendments submitted in the parliamentary procedure.

Article 59
(Structure of explanation)

Explanation, in the form of appendix, is submitted as separate document together with draft or proposal of regulation and is not considered to be annex to the draft or proposal of regulation.

CHAPTER II - STRUCTURE AND CONTENT OF EXPLANATION

Article 60
(Content of explanation)

(1) Explanation of regulation contains:

- a) constitutional and legal basis for the introduction of the regulation,
- b) reasons for introduction of the regulation and explanation of the policy opted for,
- c) harmonization of regulation with European legislation,
- d) mechanisms of implementation and manner of ensuring observance of regulation,
- e) explanation of financial resources for implementation of regulation and of financial effects of regulation,
- f) description of consultations conducted in the process of drafting the regulation,
- g) schedule of potential revision of the introduced regulation.

(2) If it is estimated that the nature of regulation does not require explanation according to one of the points of the paragraph (1) of this Article, departure from the regulation is possible. The institution competent for passing the regulation may decide that the explanation is not complete and demand additional explanations from the drafters.

Article 61 **(Constitutional and legal examination)**

(1) Constitutional and legal basis for introduction of regulation contains the examination of:

- a) Constitutional and legal competences for regulation of the matter and enactment of regulation,
- b) Harmonization with existing legislation, including international agreements.

(2) If necessary, Constitutional and legal basis included also the harmonization of regulation with binding legal principles such as legal certainty, proportionality and equality before the law, as well as procedural requirements.

Article 62 **(Reason for introduction of regulation)**

(1) Reasons for introduction of regulation and explanation of the policy opted for must be based on clear evidence that the problem contained in the subject matter chosen did exist and that the introduction of regulation is justified, stating in particular:

- a) analysis of current situation,
- b) values the drafters were led by and current policy of the institution with regards to them, and
- c) probability of benefits from introduction of regulation, based on realistic assessment of efficiency of the institution.

(2) Whenever it is possible, reasons for introduction of regulation and explanation of the policy opted for needs also to be based on evidence that debate was held on alternative forms of regulating the subject matter, such as economic regulation, non-binding agreements, self-regulation, presenting information and other non-normative forms of regulation.

Article 63 **(Harmonization with the EU legislation)**

(1) When, in order to harmonize the legislation of BiH with that of the EU, modification and amendment of the existing regulation is made, or a new regulation is passed, the institution that prepares the draft or proposal of the regulation shall make efforts to ensure the overview of harmonization of the regulation with the legal legacy of the EU (*acquis communautaire*).

(2) Institutions of BiH undertake obligation from paragraph (1) of this Article to gradually and successively, until the moment when BiH, in the process of realizing its contract with the EU, begin the mandatory harmonization of its legislation, and when the overview of harmonization of the regulation with the legal legacy of the EU becomes mandatory for every institutions in the full sense of the term.

Article 64 **(Verification of implementation)**

(1) Implementation mechanisms and manner of ensuring the observance of regulation relate to the methods of implementation of laws and other regulations or acts, i.e. mechanisms used in order to make the individuals to which regulatory relationship relates to observe its provisions.

(2) Methods and strategies referred to in paragraph (1) of this Article enable the determination of the following:

- a) measures and actions for implementation and observance of regulations, and particularly ensuring full administrative capacities for realization of tasks and obligations,
- b) bodies competent for implementation and deadlines that should be respected, and
- c) activities by which potential conflict and misunderstanding should be avoided with the individual to which the regulation relates.

Article 65 **(Assessment of financial resources and benefits)**

(1) Explanation of financial resources contains an assessment of necessary resources, their sources and method of their ensuring for implementation of the regulation.

(2) The proponent of regulation is bound to present an assessment of expected costs and benefits from the introduction of regulation and of potential alternatives to the regulation.

(3) Assessment referred to in paragraph (2) of this Article should be available in the format accessible to administrative, executive and legislative bodies in which decisions are made.

(4) Assessment of most important regulations include the costs and benefit assessment for the key sub-elements of regulation in order to divide justified elements from those that are not.

(5) If necessary, assessment also should include:

- a) all the economic costs to be covered by companies, citizens and other levels of authority competent for implementation of the regulation,
- b) costs of the choice of policy and administrative formalities;
- c) administrative and fiscal costs for the regulation as well as of the non-regulatory alternatives, including the costs of implementation of the regulation.

(6) In any case, the drafter should present a reasonable assessment of justification for the costs incurred, by the way of presentation of their benefits prior to the initiation of the process of adopting of the regulation.

Article 66 **(Consultations among institutions)**

- (1) Each time the process of introduction of regulation requires the participation of more than one institution or levels of authority, the explanation contains the overview of consultation conducted among institutions.
- (2) Drafters explain the mechanisms used in order to conduct all the necessary consultation, including, depending on the individual case, horizontal and vertical coordination and cooperation among institutions and levels of authority.

Article 67 **(Revision of existing regulations)**

- (1) In order to avoid the situations where regulations become outdated, inconsistent or poorly drafted, the institutions of Bosnia and Herzegovina shall establish systemic and periodical reviews of existing regulations.
- (2) In the explanation, attached to the draft or proposal of regulation, drafters shall mention the time schedule of reviews of the regulation, in the manner referred to in paragraph (1) of this Article.
- (3) Drafters shall mention also the obligation of reporting and accountability.
- (4) Drafters of regulation may re-consider the need to introduce the regulation prior to the time schedule referred to in paragraph (2) of this Article, if a change of conditions occurs after the adoption of the regulation. In this case, all the necessary measures are taken to revise or annul the existing regulations.

SECTION FOUR- ORGANIZATION OF TASKS ARISING FROM NORMATIVE ACTIVITIES

CHAPTER I - COMPETENT UNITS OR SPECIALIZED STAFF

Article 68 **(Establishment of units or specialized workplace)**

- (1) Pursuant to the Rulebook on Internal Organization and in a precise manner, every institution involved in the process of drafting and processing normative acts shall establish:
 - a) unit for "normative tasks", comprising two or more officers with special competence of drafting and processing normative acts, or
 - b) workplace of specialist for "normative tasks", explicitly competent for drafting normative acts.
- (2) If the workload on drafting normative acts does not justify establishment of a unit or a workplace solely committed to "normative tasks", then an adequate job description may contain additional tasks, such as administrative-legal tasks.

Article 69 **(Expert tasks)**

- (1) The unit or the specialized staff competent for drafting normative acts should possess appropriate university degree and specialist knowledge as well as experience in all the issues relating implementation of these unified Rules.

(2) In order to develop and advance their own expertise, competent units or specialized staff is entitled to occasional training organized and supervised jointly by the head of the unit and competent managers of the institutions.

CHAPTER II - PROCEDURE OF DRAFTING REGULATION

Article 70

(Competence for preparation of regulation)

(1) Initiative of the bodies of authority for drafting a normative act begins with the inclusion of that act in the work plan of that body.

(2) When formulating its initiative the body making its plan shall:

- a) task one of the institutions as well as others who shall participate under its supervision, in the drafting of the normative act,
- b) explain in sufficiently clear terms the goal of the normative act that is being drafted,
- c) determines the deadline for submission of the draft of normative act.

Article 71

(Composition of the regulation drafters' team)

(1) The institution tasked with the drafting of normative act shall draft hit together with the unit or specialized staff competent for normative tasks, with the participation of expert team working in that institutions or within its internal organizational units.

(2) If competence cannot be ensured by the institution itself, the manager of the institution may propose to the proponent of the act, depending on the specific case, the request for establishment of an advisory working group made of experts from other institutions of BiH. The work of the working group is coordinated by the unit or specialized staff competent for normative tasks within the institution takes with drafting the regulation.

(3) If competence cannot be ensured by the institutions of BiH, the manager of the institution may ensure it by outsourcing. These outsourced experts, who may be domestic or international, act under the supervision of the unit or specialized staff competent for normative tasks within the institution tasked with drafting regulation.

Article 72

(Preparation of theses)

(1) The regulation drafting team prepares the theses that outline main concept relating the drafting of the normative act.

(2) Theses may be presented in the form of a limited number of alternative options for regulation of the specific subject matter.

Article 73

(Approval of theses)

(1) The regulation drafting team submits its theses to the manager of the institution for his approval.

- (2) In case there are alternatives with regards to specific subject matter, approval should indicate which of the options shall be considered in the further procedure.

Article 74
(Preparation of preliminary draft)

- (1) In accordance to the approved theses, the regulation drafting team prepares the preliminary draft of normative act.
- (2) When preparing the preliminary draft the criteria stipulated in Chapters I - III of these unified Rules are applied. Unit or specialized staff competent for normative tasks in given institution maintains continuous flow of information relating the draft with the competent units of the proponent.

Article 75
(Process of consultation)

- (1) Based on preliminary draft, the regulation drafting team conducts consultations with
- a) unit or person tasked with charged with drafting normative acts in the competent Ministry of Bosnia and Herzegovina, aimed at ensuring necessary budgetary funds for the implementation of the normative act that is being drafted,
 - b) unit or person tasked with charged with drafting normative acts in the institution competent for European integration, aimed at verifying that the normative act is being drafted in accordance with the EU requirements.
- (2) The same staff shall consult, to the greatest possible extent, with:
- a) other institutions of Bosnia and Herzegovina to which the normative act that is being prepared relates,
 - b) public bodies to which the normative act that is being prepared, including competent entity institutions and all their administrative units,
 - c) private individuals representing registered citizen's associations,
 - d) international institutions relevant for the subject matter of the normative act that is being prepared.

Article 76
(Preparation of draft)

- (1) Based on the outcome of consultations, the regulation drafting team prepares a draft of normative act.
- (2) While preparing the draft of normative act the criteria determined in Chapters I -III of these unified Rules shall be applied. Unit or specialized staff competent for normative tasks in given institution maintains continuous flow of information to the competent units of the Council of Ministers or the Presidency of Bosnia and Herzegovina.

Article 77
(Approval of draft)

- (1) The regulation drafting team submits a draft for the approval of the manager of the institution.
- (2) In case the draft is approved. It shall be forwarded to the Council of Ministers of Bosnia and Herzegovina or the Presidency of Bosnia and Herzegovina, depending on the regulation, accompanied by:

- a) explanation that meets the criteria referred to in Chapter II of these unified Rules,
- b) theses for drafting regulation, approved by the manager of the institution,
- c) preliminary draft of normative act used in the course of consultation,
- d) documentation on the consultations that were carried out.

CHAPTER III - ENSURING IDENTICAL VERSIONS OF REGULATION IN THE OFFICIAL LANGUAGES

Article 78

(Identical wording of regulations in the three official BiH languages)

- (1) Provisions of regulations must be identical in all the three official languages of Bosnia and Herzegovina.
- (2) Requirement for regulations to be identical in the three official languages is applied on the regulation at the moment of its proposal.

Article 79

(Internal proofreading)

- (1) In order to ensure identical linguistic versions of regulation in the process of consideration and decision-making, competent services of the proponent of regulation shall provide for a professional proofreader (i.e. language expert).
- (2) Proofreader shall advise and assist the expert referred to Article 72 of these Rules.
- (3) Proofreaders are responsible to test whether the text of the regulation is identical in all the three official languages.

Article 80

(Final proofreading)

Prior to official publishing in the "Official Gazette of BiH", all the adopted regulations shall be controlled with regards to the language used by the Service for Publication of the House of Peoples of the Parliamentary Assembly of BiH, in order to ensure the accurate and identical versions of the regulation in the three official languages.

Article 81

(Commission for Linguistic Policy in the Legislation of BiH)

- (1) Commission for Linguistic Policy in the BiH Legislation shall be established, to which the Service for Publication of the House of Peoples of the Parliamentary Assembly of BiH shall serve as the secretariat.
- (2) Commission for Linguistic Policy in the BiH Legislation is a body that is convened, when necessary, and which comprises six distinguished linguistic experts, nominated by the House of Peoples of the Parliamentary Assembly of BiH. The Commission shall have equal number of members representing three constituent peoples.
- (3) Commission for Linguistic Policy in the BiH Legislation shall meet at least once a year in order to:

- a) decide on complaints relating linguistic accuracy and correctness and whether terms used in regulations that are in force are identical,
- b) compile and update tri-lingual official lexicon of terms used in regulations,
- c) decide about dictionaries and grammatical rules to be used in the forthcoming year.

SECTION FIVE - FINAL PROVISIONS

Article 82 **(Control of the Rules)**

(1) Within six months from the date of entry into force of these Rules, competent institutions referred to in Article 1.(1) of these Rules shall incorporate the provisions of these Rules into their acts (rules of procedures, rulebooks etc.)

(2) With the aim of updating and constant amending of these Rules, the institution referred to in Article 1 paragraph (1) of these Rules shall at least once a year look into the content of the Rules to establish whether they are adapted to the current practice.

Article 83 **(Entry into force)**

These Rules shall enter into force on the eighth day from the day of their publication in the Official Gazette of Bosnia and Herzegovina”.

PABiH No: 151/05
26 January 2005
Sarajevo

Speaker
of the House of Representatives
of the Parliamentary Assembly of BiH
Šefik Džaferović

Speaker
of the House of Peoples
of the Parliamentary Assembly of BiH
Velimir Jukić