



INSTRUCTION
on procedure of adjudicating complaints and appeals submitted to the election commissions

Sarajevo, May 2014

Pursuant to Article 2.9, paragraph (1), point 2 and Article 6.3, paragraph (3) of the Election Law of Bosnia and Herzegovina („Official Gazette of BiH“, no. 23/01, 7/02, 9/02, 20/02, 25/02, 4/04, 20/04, 25/05, 52/05, 65/05, 77/05, 11/06, 24/06, 32/07, 33/08, 37/08, 32/10, 18/13 and 7/14), the Central Election Commission of Bosnia and Herzegovina has at its 20th session held on May 8, 2014 adopted

INSTRUCTION

on procedure of adjudicating complaints and appeals submitted to the election commissions

CHAPTER I INTRODUCTION

Article 1

(Application – Article 6.3, paragraph (1) and (3) of the BiH Election Law)

This instruction shall:

- a) determine the procedures of adjudicating complaints and appeals submitted to the election commissions (Article 6.3, paragraph (3) of the BiH Election Law),
- b) determine contents of the form for complaints (Article 6.5, paragraph (1) of the BiH Election Law), and
- c) regulate other issues relevant to the protection of the electoral right.

Article 2

(Subsidiary application)

All cases that are not set forth in this Instruction, and which are relevant to the protection of the electoral right, shall be dealt with in accordance with the provisions of the Election Law of Bosnia and Herzegovina, Election Law of Republika Srpska, Election Law of the Brčko District of Bosnia and Herzegovina and the Law on administrative procedure.

Article 3

(Communication and meeting deadlines and counting time)

(1) During the election period communication between the election commissions and the parties in procedure that is conducted under provisions of this Instruction shall be done by fax machine (hereinafter: fax) and directly.

(2) Beside the manner of communication referred to in paragraph (1) of this Article, communication between the BiH Central Election Commission and the parties in procedure shall be done:

- 1) through the web page of the BiH Central Election Commission www.izbori.ba, and
- 2) by e-mail with the voters voting outside Bosnia and Herzegovina.

(3) Political subject shall, on the form referred to in Article 4 of this Article, indicate the number of fax *that was reported to the BiH Central Election Commission for official communication* and that has to be available 24 hours. This fax number shall not be used by any other political subjects *during the election period*.

(4) During the election period and in communication with political subjects the BiH Central Election Commission shall pay attention to impersonation on behalf of a political party, coalition, list of

independent candidates or an independent candidate (Article 7.3, paragraph (2) of the BiH Election Law).

(5) Impersonation referred to in paragraph (4) of this Article shall be considered as: use of someone else's premises, telephone, slogan, emblems or insignias.

(6) If the fax is used to submit the documents, the fax report on which the contact fax number is found, shall be used as a proof of delivery. If the fax report does not contain contact fax number or if it contains number that has not been reported to the BiH Central Election Commission as an official number or if the delivery to a political subject cannot be done due to malfunction of the fax machine, the delivery in a repeated procedure shall be done by publishing the document on the web page of the BiH Central Election Commission.

(7) The motion can be submitted electronically and it shall be certified by a qualified e-signature in accordance with the special law, if submitted by a political subject.

(8) The deadlines shall commence from the moment of delivery (by fax or publication on the web page of the BiH Central Election Commission www.izbori.ba) and shall last in accordance with the BiH Election Law.

CHAPTER II COMPLAINT

Article 4

(Form and contents of the complaint - Article 6.3, paragraph (1) of the BiH Election Law)

(1) The complaint shall be filed on a form containing:

- a) place, time, perpetrator and a brief description of the violation committed,
- b) Provisions of the Election Law of BiH for which the complainant believes are violated,
- c) the evidence that confirms the allegations of the complaint, and
- d) number of fax to which the decision on the complaint shall be delivered, and
- e) Signature of the complainant.

(2) The form referred to in Article 5 of this Instruction shall be submitted by the complainant together with the complaint unless it was earlier delivered to the election commission to which the complaint is submitted.

Article 5

(Contents of the form of deposited signatures)

(1) *Signature of an authorized representative* must be found on the form of deposited signatures of authorized representatives of a political party, coalition and list of independent candidates for submitting complaints and appeals that are submitted to the competent election commission. The form shall be submitted in the period from the day elections are announced until the day the election results are confirmed.

(2) The form referred to in paragraph (1) of this Article shall contain:

- a) name of a political party/coalition/list of independent candidates,
- b) name and last name of representatives of political party/coalition/list of independent

- candidates,
- c) municipality/city for which the representative is authorized,
 - d) national identification number of the authorized representative,
 - e) signature of authorized representative,
 - f) place and date when authorization was issued, and
 - g) signature of the president/authorized representative of political party/coalition/list of independent candidates.

(3) If president or authorized representative of political party/coalition/list of independent candidates withdrawn the complaint submitted by the authorized person referred to in paragraph (1) of this Article it shall be found that such a complaint was not submitted.

Article 6

(Decision making procedure)

(1) When an election commission receives a complaint on which it is not competent to decide, and the competent election commission is known, it shall without any delay forward the complaint to the competent election commission and shall inform complainant thereof.

(2) Election commission shall reject illegal, untimely, incomplete complaint as well as the complaint, which has been filed by an unauthorized person.

(3) In case the complaint was not filed on the form set forth in Article 4 of this Instruction, as well as in the case that the complaint is incomprehensible, incomplete or it does not contain sufficient evidence to support the allegations states in the complaint, and in the case provisions of the BiH Election Law, which the complainant deems to be violated, are not listed, the election commission shall within 24 hours following the receipt inform the complainant to complete the complaint thus removing shortcomings indicated in the notice. In the same notice the complainant shall be warned of consequences for failing to remove shortcoming, as well as of the fact that in such case it will be found that the complaint was not filed.

(4) The election commission shall take a decision on the complaint if the latter is not rejected on the grounds listed in paragraph (3) of this Article.

(5) When the election decision is deciding on a complaint that was filed by fax it can request the complainant to submit the original directly or by mail if the election commission finds it necessary.

(6) Election commission may reject the complaint as groundless or may accept it and order measures or sanctions.

(7) If the election commission fails to initiate an ex-officio procedure for made violation under its competence or it fails to decide on a complaint in cases in which it has first instance competence and within the deadlines stipulated by the BiH Election Law, the BiH Central Election Commission shall *upon its finding* initiate and complete the procedure and decide on the complaint made.

Article 7

(Records)

Election Commission shall enter information on received complaints and appeals under their competence into the Application on complaints and appeals.

**Article 8
(Contents of the appeal)**

Appeal shall contain:

- a) full name, contact (with fax number) of the appellant,
- b) number and title of the decision on which the appeal is submitted,
- c) statements on which part of the decision the appeal is submitted,
- d) reasons for the appeal
- e) signature of the appellant

**Article 9
(Procedure on appeal – Article 6.6, paragraph (2) of the BiH Election Law)**

(1) If the appeal on *the decision of the election commission* is submitted directly to the Central Election Commission of BiH, it shall be forwarded by fax to the Election Commission to establish whether the appeal is admitted, sent in timely manner and submitted by the authorized person. The appeal shall be relected if conditions referred to in Article 6.3, paragraphs (4) and (5) of the BiH Election Law are not met.

(2) If the Election commission that made a first instance decision does not reject the appeal pursuant to Paragraph (1) of this Article, it may admit the appeal and change its decision or it may forward it to the Central Election Commission with all the documents concerning the matter and with a statement on the appeal within 24 hours from the reception of the appeal.

**Article 10
(Records of complaints and appeals)**

(1) Election commission shall keep records of complaints and appeals. It shall place a stamp on the every received complaint or appeal indicating time (date and hour) when the document was submitted.

(2) If an authorized person in the election commission does not have a stamp referred to in paragraph (1) of this Article, he/she shall record the time, hour and manner of the receipt on the complaint or the appeal.

**Article 11
(Administering sanctions – Article 6.7 of the BiH Election Law)**

When administering sanction, but without any limitations, the BiH Central Election Commission and the election commission under its competence shall take into account mitigating and aggravating circumstances, *also taking into account already administered sanctions*.

**Article 12
(Concurrence and divarication of procedure)**

(1) In cases when one political subject makes more same or similar violations set forth in Chapter 7 of the BiH Election Law, the BiH Central Election Commission may decide to conduct single procedure for all violations and to administer a single sanction.

(2) In case when allegations in complaint or appeal indicate multiple violations of the BiH Election Law done by one political subject, the BiH Central Election Commission may decide to conduct separate procedure on each violation or to conduct a single procedure.

CHAPTER IV FINAL PROVISIONS

Article 13 (Ineffectiveness)

The instruction on adjudication of complaints and appeals (“Official Gazette of BiH”, no. 37/10, 53/10 and 61/12) shall become ineffective upon entry into force of this Instruction.

Article 14 (Integral part of the Instruction)

Integral parts of this Instruction are:

- a) Complaint form (PPIK) referred to in Article 4 of this Instruction, and
- b) The form of deposited signatures of representatives of political parties/coalitions and list of independent candidates authorized to file the complaints and appeals for elections (DP) referred to in Article 5 of this Instruction.

Article 15 (Coming into force and publishing in the Official Gazettes)

This instruction shall enter into force on the day following the day of publishing in “The Official Gazette of BiH”, and it shall be published in “The Official Gazette of the FBiH”, “The Official Gazette of the RS” and the “Official Gazette of the Brčko District” as well as on the web page of the BiH Central Election Commission www.izbori.ba.

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Sarajevo, May 8, 2014

President

Stjepan Mikić