

Explanatory Memorandum

Constitutional and legal framework:

The constitutional and legal framework for adoption of the Law on Changes and Amendments to the Election Law of Bosnia and Herzegovina is enshrined in the Article IV.4 a) of the Constitution of Bosnia and Herzegovina, Article 2.9, Paragraph (1), point 16 of the Election Law on Bosnia and Herzegovina (“Official Gazette of BiH” No. br. 23/01, 7/02, 9/02, 20/02, 25/02, 4/04, 20/04, 25/05, 52/05, 65/05, 77/05, 11/06, 32/07, and 33/08, 37/08, 32/10, 18/13, 7/14, 31/16 and 41/20).

Reasons for the introduction of regulation and explanation of proposed legal solutions:

Article 1.1a. The definition contains information on the meaning of words used in this Law. In order to define the used terms more clearly, the following changes are proposed:

- In Paragraph 2), Point 2) words “Banja Luka” shall be erased because a number of municipalities in Bosnia and Herzegovina have been granted the status of city: Cazin, Bihać, Prijedor, Gradiška, Derventa, Gradačac, Bijeljina, Doboј, Gračanica, Srebrenik, Tuzla, Živinice, Zvornik, Zenica, Livno, Visoko, Široki Brijeg, Goražde, Ljubuški, Čapljina and Trebinje, which is why this provision now has a wider meaning and it no longer refers to Banja Luka only.
- The definition of “compensatory mandate” shall be changed for the sake of a more precise explanation of the definition.
- The definition of “national minority member” shall be changed in order to harmonise this term with the definition of national minority member as prescribed by the Law on Protection of Members of National Minorities (“Official Gazette of BiH”, No. 12/03).

Apart from the abovementioned changes, terms shall be included which are used in the Election Law of BiH but were not listed in this Article before, with the goal of achieving a clearer understanding and interpretation of individual provisions of the Election Law of BiH as follows:

- “Executive office” – until now, explanation of which offices are considered executive offices in terms of this Law was provided in the Article 1.8, Paragraph (1). Since a number of terms used in the Election Law of BiH are listed in the Article 1.1a, the proposal is to include the term of executive office in the list of definitions.
- “Permanent residence” – the definition of residence shall be harmonised with the Law on Permanent and Temporary Residence of Citizens of Bosnia and Herzegovina (“Official Gazette of BiH” No. 32/01, 56/08 and 58/15, and it shall be defined as the municipality or district where a citizen has taken residence with the intention of residing there permanently. For a citizen of Bosnia and Herzegovina with the status of displaced person or refugee, the permanent residence shall be the place of residence in which the person resided at the time when Bosnia and Herzegovina conducted its last census.
- “Mandate” shall be defined as a function or authority awarded by the electorate, which is awarded for a period prescribed under the constitution or law.
- “Candidate list”, for the purpose of this Law, shall be a list of political entities certified by the Central Election Commission of BiH for participation in the elections.

- “Candidate list for compensatory mandates” – since the definition of this term has not been provided by the Election Law of BiH so far, and the interpretation of this term caused many problems in practice, the term of candidate list for compensatory mandates shall be precisely defined.
- “Premature campaign” shall mean all forms of campaigns of political entities in the period between the election announcement and the period of the official start of the election campaign.
- “Electronic media”, for the purpose of this Law, shall mean any public and private television and radio stations holding an appropriate license issued by the Communications Regulatory Agency (CRA).
- “Online media” Implies internet portals and other online platforms that are a means of communication with the aim of influencing voters.
- “Social media” shall mean the Internet or mobile platforms that allow two-way interaction through user-generated contents and communications, i.e. the media operating on certain platforms designed to allow the users to generate the contents and interact with information and their sources.
- “Hate speech“ shall mean any form of public causing or inciting hatred, discrimination or violence against any person or group based on race, skin colour, nationality, gender or sexual orientation, religion, ethnicity or any other personal trait or orientation. This definition implements the Recommendation No. 22 from the Final Report of OSCE/ODIHR on 2018 General Elections in Bosnia and Herzegovina.
- “Abuse of public funds and resources”, for the purpose of this Law, shall mean the illegal use of funds and resources of the BiH State, the Entities, Cantons, Brcko District of BiH, and other units of local administration and self-governance, which the candidates in the elections and on the election lists hold at their disposal in their capacity as public officials or civil servants, or directly elected officials for the needs of exercising their official duties.
- “Early voting”, for the purpose of this Law, shall mean voting before the Election Day by eligible voters with the right to vote, who will not be able to vote in person at their polling stations on the day of the election. This proposal introduces the system of early voting in the election system of Bosnia Herzegovina which is modelled after some other European countries, allowing persons who will be justifiably absent from Bosnia and Herzegovina on the election day to exercise their right to vote.
- “Repeated elections” – this proposal provides a clearer definition of the situations in which elections need to be repeated in line with provisions of the Article 14.1 of the Election Law on BiH.
- “By-elections” – this proposal introduces the institute of by-elections into the election system of Bosnia and Herzegovina and defines the term of by-elections as elections which are announced once the reasons prescribed by the constitution have arisen and where the term of office of elected officials runs for four years.
- The method of implementation of by-elections shall be regulated by the proposal for the Chapter 14 of the Election Law of BiH.
- “Extraordinary circumstances”, for the purpose of this Law, shall mean an emergency situation, a state of natural disaster and other disasters declared by the competent authorities of Bosnia and Herzegovina and which have an impact on the conduct of the election process.
- “Election technologies” shall mean a set of information and communication programs, information and communication devices, methods and procedures used in the election process. This definition will play a role once the types of technologies to

- be introduced in the election system of Bosnia and Herzegovina are clearly defined.
- “Tender-ballot” shall mean a ballot used for exercising the right to vote at the NNN polling stations. Unlike at the regular polling stations, this procedure first verifies the voting right of the person who cast the ballot, and then the ballot enters the process of counting.
 - “Election material” shall mean material that is used at the polling station and is divided into sensitive, non-sensitive material and election technology.
 - “Child abuse for political purposes” means involving a child in activities that may be linked to political advocacy or promotion

In its informal comments the OSCE/ODIHR specifically referred to the definition of "hate speech", stressing that it is vital that the definition was in line with international standards, clear and consistent, and that there was a threshold according to which judicial bodies can determine if hate speech has occurred and if it is legally prohibited. Any amendments to hate speech must not be used to discourage citizens from engaging in legitimate democratic debate on matters of public interest. In order to avoid restrictions on speech for illegal purposes, such as combating disagreement and criticism, a high threshold for restrictions on free expression is recommended. Freedom of expression, in addition to the common understanding, as the right to hold and express different political views, may also refer to speech that "may be considered deeply offensive" and to information or ideas that may "offend, shock or disturb."

Article 1.2a. In order to meet European democratic standards for elections, it is necessary to fulfil procedural guarantees, and one of them refers to the independent and impartial body for organisation of elections, as explained in the Venice Commission Code of Good Practice in Electoral Matters, under Item 85 on page 27 (CDL-AD (2002) 023rev): “The electoral law should contain an article requiring the authorities (at every level) to meet the demands and needs of the electoral commission. Various ministries and other public administrative bodies, mayors and town hall staff may be directed to support the election administration by carrying out the administrative and logistical operations of preparing for and conducting the elections”.

Provision of Article 1.2a, Paragraph (1) of the Election Law of BiH prescribes that funds for execution of responsibilities of the Central Election Commission of BiH shall be allocated from the Budget of Institutions of Bosnia and Herzegovina and International Obligations of Bosnia and Herzegovina, and Paragraph (6) of the same Article prescribes that the funds must be secured within 15 days after Central Election Commission of BiH passes the decision to call the elections.

With the failure to secure funds needed to conduct the elections, such in the case of organising and conducting the 2020 Local Elections in line with the imperative legal provision, the Central Election Commission of BiH – although an independent body – is practically prevented from exercising its authority, including the authority pursuant to provisions of Article I/2 of the Constitution of Bosnia and Herzegovina to secure free and democratic elections for which it is responsible and competent pursuant to provisions of the Article 5 of the Annex 3 of the General Framework Agreement for Peace in Bosnia and Herzegovina.

Having in mind that the elections must be organised and conducted by an independent body which shall have the funds for conducting elections secured within legally prescribed deadlines, the Central Election Commission of BiH proposes amendments to the Election Law of BiH which will make sure that funds for conducting elections will be secured within the legally prescribed deadlines.

Article 1.2b. After the Article 1.2a, a new Article 1.2b shall be added to prescribe the procedure for securing financial means necessary for undisturbed functioning of the Central Election Commission of BiH. According to this proposal, the Central Election Commission of BiH shall deliver the proposal of budget to the Commission for Finance and Budget of BiH Parliamentary Assembly's House of Representatives for approval, and after obtaining the approval, the proposal of budget shall be delivered to the BiH Ministry of Finance and Treasury to be included in the Budget of Institutions of BiH in line with the deadlines prescribed by the Law on Financing of Institutions of BiH.

In the OSCE/ODIHR's view, the introduction of this article is important to ensure the institutional and operational independence of the BiH Central Election Commission, including ensuring sufficient funds for election operations and for the institutional development and regular running costs of the BiH Central Election Commission.

With addition of the new Article 1.2b to the Election Law of BiH, the previously Article 1.2b shall become **Article 1.2c**. The words "*who is directly elected*" and "*new*" shall be erased because they are surplus and they add unnecessary bulk to the text of the provision.

Article 1.3. The Code of Good Practice in Electoral Matters which was adopted at the 51st plenary session of the Venice Commission on 5-6 July 2002 defined the principles of European electoral heritage as *universal, equal, free, secret and direct suffrage*. Also, this Code stipulated that elections must be held at *regular intervals*. All this principles jointly constitute the European electoral heritage. The principle of regular intervals of elections includes frequency of elections, and the rule that the term of office of a legislative assembly must not exceed five years. Therefore, the proposal includes the principle of conducting elections at regular intervals is included in this provision.

Article 1.6. Article IX, Paragraph 1 of the Constitution of BiH prescribes: "*No person who is serving a sentence imposed by the International Tribunal for the Former Yugoslavia, and no person who is under indictment by the Tribunal and who has failed to comply with an order to appear before the Tribunal, may stand as a candidate or hold any appointive, elective, or other public office in the territory of Bosnia and Herzegovina*". Since this provision was expanded by the Election Law of BiH, the words "may not be recorded in the Central Voters Register" shall be erased in order to completely harmonise this provision with the Constitution of BiH.

Article 1.8. This Article regulates the conditions which persons who are holding the listed public offices need to meet if they stand as candidates for elections. The proposed changes to Paragraph (1) provide a clearer definition for conduct of the Central Election Commission of BiH in the case that the mentioned persons fail to act in line with the prescribed obligations, and they stipulate the obligation to deliver registers of office holders listed in Paragraph (1) with the goal to completely establish facts when certifying the candidate lists.

In the same Article, Paragraph (4), the words "directly elected" shall be erased, and words "and for no longer than 90 days" shall be added to the end of the sentence because of the fact that executive bodies of authorities are not elected directly, as wrongly stated in the existing law. Also, a clear period shall be prescribed in which one person can simultaneously hold one legislative and one executive office in order to allow undisturbed functioning of the institutions until formation of new executive bodies of authority, but not longer than 90 days. Separation of powers is one of the principles of organisation of state authorities. The existing law practically allows the situation in which one and the same person holds both legislative

and executive office simultaneously for 30 months after the election, which is not in line with the principle of division of powers and which prevents full implementation of the elections and election results. Furthermore, the new Paragraph (5) shall be added to allow the Central Election Commission of BiH to terminate the mandate of a person who fails to act in line with the proposed Paragraph (4) of this Article within 90 days.

After these changes and amendments are incorporated, previously Paragraph (5) shall become Paragraph (6), and previously Paragraph (6) shall be erased.

Article 1.10. The words “(declared mentally incompetent)” shall be erased from the Paragraph (1), Point 5 because they are surplus. New Point 9 shall be added to stipulate that mandate can also be terminated based on a final and binding decision of the Central Election Commission of BiH establishing that the elected official failed to act in line with the proposed provisions from Article 1.8 of the Election Law of BiH.

This proposal also changes Paragraph (3) to stipulate that the Central Election Commission of BiH shall use the prescribed form to inform about all reasons for termination of mandate from Paragraph (1), and not only in case of resignation as previously stipulated.

Article 1.11. Provision from the previously Article 1.11 shall be completely erased since this provision is outdated. This provision is contained in the original text of the Election Law of BiH from 2001, when OSCE Mission to Bosnia and Herzegovina was responsible for conducting the elections, and when such provision was necessary due to the security situation in the country at the time.

Since this Chapter refers to General Provisions, provisions from the Article 2.1, Paragraph (3) should replace the previously Article 1.11, considering the fact that they contain a general principle which should be located in the Chapter 1, where it belongs based on its content.

Article 1.13. Since the previous versions of this provision did not cover all political subjects which are eligible for participation in elections such as representative of a list of independent candidates, registered association or other registered organized forms of associations of national minorities and groups of at least 40 citizens with voter rights, this provision shall be changed and amended.

Article 1.14 In paragraph (1), the words “does not” should be deleted. They are redundant because this provision lays down the general rule that the election takes place on the first Sunday in October, unless the Sunday conflicts with a religious holiday of one of the constituent peoples in BiH, instead of “does not conflict”, as currently laid down in this provision.

Article 1.14.a The reasons for the introduction of the piece of legislation lie in the fact that the provisions of the current Election Law of Bosnia and Herzegovina do not prescribe the possibility of postponing the announcement and holding of regular elections in extraordinary circumstances, unlike legislative solutions of other countries, some of which have already made decisions to postpone the announcement and holding of the elections, in accordance with the existing law. In this proposal, paragraph (1) clearly defines the exception on the basis of which the Central Election Commission of BiH may decide to postpone the announcement and holding of elections, and the exception refers to extraordinary circumstances. It also specifies when the Central Election Commission of BiH may decide to postpone the announcement and holding of elections, which is at least 150 days prior to the scheduled election date. This means that the Central Election Commission of BiH makes the decision to postpone the announcement and

holding of elections on the same date when it would have made a decision to announce and hold the elections, if the circumstances were ordinary. Also, it foresees an obligation of notifying all competent authorities on all government levels, as well as the public, about the decision to postpone the announcement and holding of the elections.

Paragraph (3) stipulates that the BiH Central Election Commission shall issue a special Decision on postponing the day of elections in the event that extraordinary circumstances arise after the BiH Central Election Commission passes a Decision on calling and holding elections.

Paragraph (4) of the same Article lays down the obligation of the Central Election Commission of BiH to make the decision to announce and hold the elections once it has established that conditions for holding of the election in accordance with this law have been met, within no more than 90 days of the date of cessation of the extraordinary circumstances. The proposed solution is in accordance with Chapter 14 of the BiH Election Law, more precisely with Article 14.2 paragraph (3) of the Election Law of BiH, which lays down that the postponed elections will be announced by the Central Election Commission of BiH. In that regard, the assessment of the existence of legal conditions for holding of the postponed elections in accordance with the Election Law of BiH is within the competence of the Central Election Commission of BiH, and it would be authorised to make this decision during the extraordinary circumstances as well, if it finds that these circumstances no longer prevent the organisation of elections. On the other hand, the period in which the BiH Central Election Commission is to make a decision to announce and hold the elections (up to 90 days of the date of cessation of the state of emergency) is the ultimate time limit in which the BiH Central Election Commission is to make a decision to announce and hold the elections. In that regard, the time limit of 90 days is approximate, and the Central Election Commission of BiH may make such a decision on the first day after the official cessation of extraordinary circumstances, if objective circumstances allow it, and if all other conditions for the announcement and holding of the elections defined by the BiH Election Law have been met. Paragraph (4) lays down that once the conditions have been fulfilled for taking of a decision to announce and hold the elections, provisions of Article 1.14 paragraphs (2) and (3) of the BiH Election Law shall apply accordingly.

In relation to the draft Initiative, the recommendation of the OSCE/ODIHR was taken into account, and the possibility of making a decision on postponing the elections is envisaged if extraordinary circumstances arise after the decision on calling and holding elections is made.

Article 2.1 Paragraph (3) of this Article was transferred to Article 1.11, because it is a general principle that belongs to Chapter 1 by its contents.

Article 2.2 In this Article, paragraph (4) is deleted, considering that this provision is identical to the provision of Article 2.14 paragraph (1), which is an unnecessary repetition. If this proposal were to be accepted, paragraphs (5) and (6) would become paragraphs (4) and (5). Members of the authorities responsible for the conduct of elections shall undergo continued trainings during their mandate, in accordance with the training plan issued by the Central Election Commission of BiH. In this regard, a new paragraph (6) is proposed, which would enable the establishment of a Training Centre that would be responsible for all types of trainings of the election administration, but also of all other election actors. This is why a new paragraph (7), which regulates the management of the Training Centre, has been proposed.

The OSCE/ODIHR considers that if this provision is adopted and training sessions for members of the election commission are organized on a regular basis, it will contribute to increasing the understanding and performance of duties by members, as well as to the overall effectiveness of election implementation.

Article 2.3 It is proposed to amend point 4 of paragraph (1) of this Article, which specifies who cannot be a member of the election commission or the polling station committee, in such a way to ban this candidacy in the last cycle of general elections and the last cycle of local elections.

Article 2.9 This Article lays down the competences of the Central Election Commission of BiH. Considering that the Central Election Commission of BiH often receives requests for interpretation of certain provisions of the Election Law of BiH, adding of a new point 2.b has been proposed, which would enable the Central Election Commission of BiH to provide expert opinions on the implementation of the Election Law of BiH. Amendment to point 3) of the same Article is also proposed, in order to align this point with the proposal for a new Article 1.2b.

Adding of a new point 18) is also proposed. Namely, the Central Election Commission of BiH issues manuals and professional publications for every election, for the purposes of the election actors. These publications and manuals are produced with the support of international donors only. Given that the development and issuance of these manuals are necessary in order to conduct elections, this solution provides the BiH Central Election Commission with preconditions so that the preparation and issuance of these manuals and publications do not depend on the will of international donors. Instead, a mechanism would be established in this institution, which would enable their timely development and issuance. In this proposal, existing point 17) becomes point 18).

Article 2.12 Considering that municipal election commissions of Cazin, Bihać, Prijedor, Gradiška, Derventa, Gradačac, Bijeljina, Doboj, Gračanica, Srebrenik, Tuzla, Živinice, Zvornik, Zenica, Livno, Visoko, Široki Brijeg, Goražde, Ljubuški, Čapljina and Trebinje gained the status of city election commissions, and that the City Election Commission of Banja Luka and the Election Commission of BiH Brčko District had already been operational, the words “Municipal Election Commission” should be replaced with “Election Commission of basic electoral unit” throughout the Law, so that certain provisions of the Law apply to all election commissions of basic electoral units. In the same Article, paragraph (4) is expanded to enable persons holding the office of an attorney general to be members of the election commission of a basic electoral unit.

Article 2.13 The addition of new point 4 and the amendment to point 7, which becomes point 8 in this proposal, expand the competencies of the election commission of the basic electoral unit, since the issues of appointment and training of election result controllers in counting centres are not fully regulated, and neither are the responsibilities for proper determination of election results from polling stations and entry of the election results to the Unified Election Information System JIIS, which is the responsibility of the election commission of the basic electoral unit. In these proposals, existing points 4, 5, 6, 7, 8 and 9 become points 5, 6, 7, 8, 9 and 10.

Article 2.14 In this proposal, paragraph (1) becomes an imperative norm which stipulates that when appointing election commissions, the provisions on gender equality must be respected, in accordance with the provisions of the Law on Gender Equality in Bosnia and Herzegovina.

Article 2.15 This proposal specifies the provision concerning cases in which the Central Election Commission of BiH appoints a member of the election commission, if the appointment was not made by the competent body within the legal time limit.

Article 2.16 In paragraph (1), the word “prior” shall be deleted, because it is redundant and burdens the provision unnecessarily, considering that it is impossible to remove a member of the election commission of the basic electoral unit in any case without the approval of the Central Election Commission of BiH, pursuant to the provisions of the Law on Administrative Procedure of BiH.

Article 2.19 In order to strengthen the efficiency, transparency and integrity of the election process, especially taking into account the fact that the biggest problems in the conduct of elections come from polling station committees, the method of electing polling station members should be reformed. This issue was also treated by the recommendation no. 6 from the final report of the OSCE/ODIHR on the conduct of the Local Election in 2020.

The Central Election Commission of BiH proposes two solutions. According to the first proposed solution, members of polling station committees are appointed by the election commission of the basic electoral unit from the list of candidates for appointment to polling station committees, which includes persons with electoral experience who would be certified by the election commissions of basic electoral units. This list is compiled between two election periods via public calls, and it is updated on a regular basis. Also, a reserve list is compiled of persons who respond to a public call, and who are not on the list of candidates for polling station committees. These lists are activated in case of one’s withdrawal or inability to work in polling station committees. All persons from the list of candidates and the reserve lists are required to complete special trainings and obtain training certificates after testing that would be required for appointment to polling station committees.

According to the second solution, the chairs and deputy chairs of the polling station committees are elected in the same way as defined in proposal 1, while the members and deputy members are elected by lot upon the proposal of political parties. The lot for the allocation of seats in polling station committees includes political entities that received seats in the Parliamentary Assembly of BiH, the Parliament of the Federation of BiH, the National Assembly of the Republika Srpska and the level of cantons in the Federation of BiH in the previous election cycle. The Polling Station Committee is filled for the Local Elections cycle by members of the Polling Station Committee and their deputies at the proposal of political entities that received mandates in the previous election cycle in the elections for municipal mayor or city mayor, municipal council or municipal assembly, or the Brčko District Assembly. If the number of allocated seats is less than the number of required members, the election commissions shall appoint the remaining members of the polling station committees. Also, the ban is prescribed on the abuse of the legal right to participate in the work of a Polling Station Committee on behalf of one political entity by fictitiously representing a political entity entitled to a seat at the Polling Station Committee, in order to favour another political entity not entitled to the seat at the Polling Station Committee, contrary to the provisions of this Law. The ban also applies to members of the polling station committee.

Article 3.1 The Election Law of BiH lays down that voters’ registers shall be public. In order to ensure the integrity of the eligible voters register and transparency of the process, the Central Election Commission of BiH shall submit eligible voters registers to the election commissions

of basic electoral units that make them appropriately available to the public (usually through bulletin boards of city / municipal authorities, local communities, etc.) The problem in practice is the fact that, as a rule, excerpts from the Central Voters Register are not published for eligible voters who vote outside of Bosnia and Herzegovina. There were many abuses in the registration of these eligible voters in the last two cycles. In order to strengthen the accuracy and integrity of the Central Voters Register, it is necessary to expand the provision of paragraph (2) of this Article to ensure that all excerpts from the Central Voters Register are made available to the public in adequate manners. In this way, excerpts from the Central Voters Register would be published in accordance with the provisions of the Law on Personal Data Protection. Any person on the Central Voters Register would conduct checks through the BiH Central Election Commission's website by entering their single birth registration code (JMB) in the application or in another appropriate way, while the public would be periodically granted access to excerpts from the Central Voters Register, also through the BiH Central Election Commission's website, and in other ways determined by the Central Election Commission of BiH through its regulation. Introduction of a person's photograph is a novelty in relation to previous excerpts, which enables identification of persons without any doubts.

According to the OSCE/ODIHR, these amendments could address the concerns raised in previous elections regarding the potential misrepresentation of out-of-country voters and deceased voters.

Article 3.2 In order to keep the eligible voter register updated, data from the Central Voters Register would be published twice a year in a non-election year. In this way, the accuracy of the data contained in the Central Voters Register is verified and it is possible to make corrections and remedy all irregularities contained in the Central Voters Register.

This also prescribes the obligation of competent authorities for submit data for displaced persons no later than on 31 March in the election year.

In order to clarify paragraph (2) of this Article, it is emphasised that one shall be entered in the Central Voters Register "ex officio", under the conditions prescribed by law, and that persons residing in Bosnia and Herzegovina shall be entered in the register. Another paragraph (4) is added to this Article, enabling one's entry in the Central Voters Register at personal request, applying the procedure that shall be prescribed by the Central Election Commission of BiH. Existing paragraph (4) that would become paragraph (5) once these amendments have been incorporated, shall be added the word "full", clarifying the provision related to the re-entry of persons whose full legal capacity has been restored to the Central Voters Register.

The current solution in the BiH Election Law stipulates that the Central Voters' Register is regularly updated, however, clear conditions and rules for that are not prescribed. The OSCE/ODIHR considers that the Initiative's proposal also addresses this shortcoming. Also, the proposal to change the system of applying for electronic registration of voters residing abroad, in their opinion, facilitates the exercise of voting rights of this category of voters, in accordance with international standards.

Article 3.3 Article 3.3 shall be expanded in the way that the Central Voters Register shall be made and, among other things, "records of passports of citizens of Bosnia and Herzegovina issued by the diplomatic - consular offices of Bosnia and Herzegovina."

Article 3.4 Given that the records of the Central Voters Register are processed and kept using computerised data processing between several competent institutions and the Central Election Commission of BiH, the word “authority” should be replaced with “authorities.”

Article 3.5 and Article 3.6 These Articles specify the manner of keeping the Central Voters Register and the obligations of the Central Election Commission of BiH, the Agency for Identification Documents, Registers and Data Exchange of Bosnia and Herzegovina, Ministries of Interior, registry offices, election commissions of basic electoral units and other competent institutions to ensure accuracy and the integrity of the Central Voters Register, as well as the manner of drafting and publishing of excerpts from the Central Voters Register.

Article 3.7 – Paragraph (1) of this Article shall be amended in order to clarify the obligation of the Central Election Commission of BiH to make an excerpt from the Central Voters Register for each basic electoral unit, introduce photographs of persons on the Central Voters Register, as well as the obligation to submit excerpts in a timely manner. Paragraph (2) shall be amended in order to clarify that an excerpt shall be kept based on the most recent place of residence for displaced persons and persons voting outside of Bosnia and Herzegovina, with a note about the exact temporary stay address.

Article 3.9 The gender used in the word “had” in paragraph (3) shall be changed from feminine to masculine, in order to make the sentence grammatically correct.

Article 3.10 – The amendments specify that the records of the Central Voters Register should also contain a photograph and a signature available to the Agency for Identification Documents, Registers and Data Exchange of Bosnia and Herzegovina, eliminate some linguistic inaccuracies, and emphasise that the form and content of excerpts from the Central Voters Register shall be determined by the Central Election Commission of BiH, taking into account the Law on Protection of Classified Data.

Article 3.11 The Article was amended in order to clarify that the Central Election Commission of BiH is to make excerpts available to the public pursuant to Article 3 paragraph (5) of this Law, which specifies what an excerpt must contain.

Article 3.12 Considering that Article 3.12 provides a definition of the permanent place of residence and temporary residence for displaced persons, it is proposed that this Article should be transferred in an appropriate form to Article 1.1a, which contains definitions.

Article 3.12a This amendment links a change of eligible voter's permanent place of residence and the manner of voting to the date of the announcement of elections, emphasising that the eligible voter will be at the regular polling station in the municipality where he had the permanent place of residence, not until the day when he changed the permanent residence, but until the date of the announcement of elections. This amendment was proposed in order to equalise active and passive voting rights in the election period. In this way, it is impossible for a person to run in one constituency and to exercise the right to vote in another constituency.

Article 3.13 In paragraph (3) of this Article, the aforementioned points are aligned with the renumbering in Article 3.10.

Article 3.14 The amendment to the Article linguistically refines the provision and adds a category of persons who are absent from their permanent place of residence on the Election

Day, provided that this was reported to the competent election commission of the basic electoral unit in a timely manner. In this way, provisions on the early voting system are implemented.

Article 3.15 The amendment to the Article formulates the norm in a clearer way and emphasises that BiH citizens temporarily living abroad, who have the status of refugees from BiH, and refugees from BiH who are not on the Central Voters Register for voting outside of BiH, must submit an electronic application to be included in an excerpt from the Central Voters Register, followed by a printed version of the electronic application with a signature that must be identical to the signature from an ID document, as well as other evidence they must enclose. This improves the system of voter registration for voting outside of Bosnia and Herzegovina, the entire mechanism is more efficient and more economical, considering that significant savings of material and human resources are generated because existing PRP-2 forms are not sent to persons who were previously registered to vote by post, and there is no need to hire a large number of people to physically enter data from the forms into the application. Considering the large number of abuses recorded in the previous election cycle, this significantly improves the whole registration system and prevents registration abuses through certain corrections in legislation.

Article 3.16 Due to the renumbering in Article 3.15, this Article should also be corrected and harmonised with Article 3.15, and the first paragraph in the first sentence is amended in order to emphasise that the person referred to in Article 3.15 paragraphs (1) and (2) is to submit all changes related to the data previously submitted by the Central Election Commission of BiH, to submit them by post or the diplomatic-consular mission abroad.

Article 3.17 This solution enables a BiH citizen who has the right to vote, but is not recorded in the voter register, to exercise his/her right to vote using an unconfirmed ballot. This right is granted to persons who turn 18 after the conclusion of the Central Voters Register 45 days before the elections, and to persons who are on the Excerpt from the Central Voters Register for voting outside of Bosnia and Herzegovina, and find themselves in Bosnia and Herzegovina on the Election Day.

Article 3.18 This proposal authorises the Central Election Commission of BiH to adopt rules regulating all issues required for the implementation of this chapter.

Article 4.1 The provision is expanded by imposing an obligation on the persons referred to in Article 1.8 to submit proof of having resolved their status in accordance with the provision 1.8 of the Election Law of BiH when applying for certification of candidacy.

Article 4.4 This proposal in paragraph (2) enables electronic application for certification of the participation in elections. According to the current practice, applications are submitted on pre-printed forms that are obtained at the Central Election Commission of BiH. Once the application for certification has been submitted, data are entered to the Unified Election Information System manually. Due to the large number of candidates (over 30,000), and the large number of supporters' signatures to be verified, the Central Election Commission of BiH spends significant financial and material resources. With the introduction of electronic application, the process itself is significantly more efficient and economical, it enables 100% verification of supporters' signatures, and not based on a sample of 10% as before, and the responsibility for the accuracy of data entered into the system lies with the applicant.

The same Article in paragraphs (4) and (5) proposes an increase of the number of supporters' signatures for participation in the elections. In this way, the conditions for participation in elections are tightened, considering that the practice has shown that a large number of political entities fictitiously apply for participation in elections in order to take part in the distribution of membership in polling station committees. The purpose of tightening the election participation criteria is to eliminate trading in membership in polling station committees. The OSCE/ODIHR considers that the number of signatures to be collected in support of a candidacy should not exceed 1 per cent of the number of registered voters in the relevant constituency. It should be taken into account that the increase does not exceed this limit.

Article 4.6 Paragraph (3) is amended in order to clarify this provision, considering that the word "deficiency" includes all potential cases in which a political entity's application must be returned for correction. Also, the existing solution is contradictory, considering that the second sentence reads that the Central Election Commission of BiH shall not certify the application of the political party for participation in the elections in such cases, while the third sentence of this paragraph reads that the Central Election Commission of BiH shall decide whether to certify or reject the application for participation in the elections, which is why this sentence was moved to a new paragraph (4).

Article 4.11. In this Article, the word "verifying" is deleted since the Central Election Commission of BiH does not conduct the procedure of "verification" of the signatures, and that would not be practically possible. For political entities that meet the condition of the required number of valid support signatures, provided that they meet other conditions, a decision is made to verify the political subject to participate at the local election, or the decision refusing the application to verify the political subject if any of the conditions were not met, including the conditions related to the support signatures.

Article 4.12. The same explanation as for Paragraph 4.6.

Article 4.16. For the purpose of making the point 3 more precise, under Paragraph (1) at the end of the sentence added are the words: "or in multi-member electoral unit".

Furthermore, a new Paragraph (1) is added stipulating that the amount of verification fee that was paid up shall be returned also in the case that the application for verification of a political subject is refused.

Article 4.18. This decision precludes any alteration of the lists of candidates after it has been verified by the Central Election Commission of BiH, except in case of obvious technical mistakes.

Article 4.20. Considering that the international standard is that the election rights may be denied only in the most serious cases of loss of business capacity, this proposal precisely defines the status of a candidate in case of loss of full business capacity.

Article 4.21. Under Paragraph (2), a new imperative norm is added that clearly prescribes that all activities related to verification of lists of candidates must be completed, at the latest, 65 days prior to the date of election, so as not to jeopardize the implementation of the following activities in accordance with the time plan of the election activities.

Article 4.24. In paragraph (4) added are the words "This list" for the purpose of specifying the norm that refers to the obligation to publish the compensatory list in the Official Gazette.

Article 4.25. This amendment gives the authority to the Central Election Commission of BiH to prescribe the format and content of the form prescribed in this proposed amendment to Article 4.25.

Article 5.1. A new Paragraph (2) introduces the institute of early voting that enables the people who will justifiably be absent at the Election Day (business travel, medical reasons...) to vote. This practice exists in some other European countries too (Denmark, Iceland, Slovenia...), and this solution allows to people who will be absent for a good reason to exercise their voting right. The methods, deadlines and procedures for this type of voting would be specified by the Central Election Commission of BiH in a bylaw.

Amendment to the Paragraph (2) instructs the election commissions in basic electoral units when deciding on the location of the polling stations to make sure that the locations are accessible to people with special needs.

These amendments would make the earlier paragraphs (2), (3), (4) and (5) paragraphs (3), (4), (5) and (6), respectively.

In its informal comments the OSCE/ODIHR considers that issues related to the essential details of early voting, such as the early voting period, the main criteria for voters entitled to vote in this way and guarantees to prevent abuse and ensure the secrecy of the vote, should be included in the law while the BiH Central Election Commission proposes that these issues be regulated by a by-law.

Article 5.3 The proposed amendments to this Article specify the method of delivering the election materials by stipulating that the election materials must be delivered to the polling station committee at the polling station and not, as it had been the practice so far, to have the election materials be taken over by the presidents of the polling station committees at the seat of the basic electoral units, and frequently taken to their homes where there is no control at all of the election materials. This solution would provide for the election materials to be delivered to the polling stations and secured in a locked room until the Election Day and arrival of the polling station committees and observers. When carrying out these activities, the police would need to provide assistance. This solution contributes to fostering trust into the election process.

Article 5.4. This proposal expands on the provision that concerns the obligation of the Central Election Commission of BiH to pass regulations specifying the method of formally accepting the ballots issued to an individual polling station so that such regulations regulate the layout, content, features, characteristics of the paper used, printing and control of the accepted ballots.

Article 5.5. Amendments to this Article stipulate the obligation of the President and Members of the Polling Station Committee to be present throughout the process of voting and counting of ballots, and the obligation of their Deputies to be present in case of their absence.

Also, a new Paragraph (3) prescribes the mandatory presence of the Deputy President of Polling Station Committee and Deputy Members of the Polling Station Committee during the process of counting the ballots at all Polling Stations where the number of voters exceeded 350. This provision is amended for the reason of necessity to speed up the process of counting the votes and delivering and entering the election results.

Article 5.6. This proposal replaces the formulation “*may request*” by imperative norm that the President of the Polling Station Committee must request the assistance of the police in all cases of violation of public order and peace at the Polling Stations.

Article 5.7. Due to frequent cases of superficial, illegible or unordered keeping of records, the obligation of the Polling Station Committee to keep the records continuously, with sufficient details, and legibly is emphasized.

Article 5.8. For the purpose of ensuring transparency of the process, the lists of members of the Polling Station Committee, indicating the names of political subject that nominated them, need to be shown at visible places at the locations of the Polling Stations. This provision needs to be further considered and aligned with the adopted proposal of Article 2.19.

Article 5.9. Under Paragraphs (3) and (4) of this Article, the time period of “*up to three hours or less*” is wrongly stated. Since the period of “*up to three hours*” includes the shorter period, a linguistic correction needs to be made in the said paragraphs.

Article 5.10. This Article stipulates that the Central Election Commission of BiH and the bodies competent for implementation of elections make sure that the voting is secret and that voters vote in person, using the ballot. This proposal additionally needs to emphasize that the Central Election Commission of BiH is also the body competent for implementation of elections, and that other hierarchically “lower” bodies for implementation of elections are also competent for these activities, such as the election commissions of the basic electoral units and Polling Station Committees. Also, adding a formulation “*or electronically*” is proposed as that would satisfy the legal requirements for introduction of electronic voting when other conditions will have been met.

Article 5.13. Under Paragraph (2), the amendments emphasize the obligation of the member of the Polling Station Committee to make sure that the voter’s signature in the excerpt from the voters register at the Polling Station corresponds with the signature at the identification document used to verify the voter’s identity.

Article 5.14. This Article is harmonized with the proposal in the amended Article 5.4, and specifies more closely the required conditions the ballots have to meet.

Amendments under Paragraph (2), point 3 enables the voter to give not more than three preferential votes, and the amendments to Paragraph (3) authorize the Central Election Commission of BiH to pass a bylaw to regulate the method of voting by the voters.

Article 5.15. The proposal is made to delete the word “*use and*” as superfluous and to have the instruction at the ballot include only the method of filling out the ballot and what to do with the ballot after filling it.

The same Article, Paragraph (2), gives the authority to the Central Election Commission of BiH to pass a bylaw that would regulate more closely the method and procedure of drawing lots to determine the position of political subjects at the ballots.

Article 5.17. One of the reasons for the increased number of invalid ballots in the previous election cycles is the fact that total number of invalid ballots also included blank ballots. A blank ballot may represent the will of the voter not to vote for any of the proposed candidates. In connection with this, the Central Election Commission of BiH proposes to separate the

invalid from blank ballots, and to introduce separate statistics for invalid and for blank ballots. Similar solutions are noted in practice of other countries.

Article 5.19. This proposal authorizes the Central Election Commission of BiH to issue bylaws to regulate implementation of this Article.

Article 5.21. This amendment is proposed for the purpose of alignment with the proposed amendments to Articles 5.1 and introduction of the system of early voting into the election system of Bosnia and Herzegovina.

Article 5.23. The current solution states under Paragraph (1) that the Polling Station Committee, among other things, shall start establishing the voting results after completion of the voting process. Since the Central Election Commission of BiH is the only one authorized to “establish” the results of the vote by a decision, the wording needs to be changed as proposed.

Article 5.25. This amendment is proposed for the purpose of aligning this article with the proposed amendment to the Article 5.17 of the Election Law of BiH.

Article 5.26. In line with the proposal to amend Article 5.23 of the Election Law of BiH, the change in the wording is required since the results of elections are established solely by the Central Election Commission of BiH issuing a special decision.

Article 5.27. This amendment prescribes under Paragraph (1) the obligation of the controller of the election results to enter the election results from the Polling Station voting results forms, and from the forms for correctly consolidated established election results, as this issue was not defined precisely enough.

Article 5.30. Counting the deadlines in hours instead of in days, as it used to be the case, shortens the time during which the election stakeholders have the possibility to submit the request to do the recount of the ballots; according to the current solution, the deadline starts to run from the following day of the day of the Central Election Commission of BiH passing a decision establishing the election results. This change would result with the time starting to run immediately upon delivery of the decision by the Central Election Commission of BiH, and would expire within 72 hours, whereby the whole activity would be shortened by a day.

Article 5.32. The Central Election Commission of BiH shall pass a decision on verification of the election results within 30 days from the Election Day. This proposal also allows this institution to pass this decision within 45 days in exceptionally justified cases, and if additional time were needed to establish the state of facts.

The new Paragraph (2) of this Article states that the Decision on Verification of Election Results is final, binding and cannot be appealed considering that these legal remedies are provided to the election stakeholders after the decision on determining the results has been made, and that this decision on confirming the election results is made after all the completed activities and the expiration of the deadlines for submitting appeals.

With this amendment, current Paragraph (2) becomes Paragraph (3).

Article 6.2. Proposed interventions in Paragraphs (2) and (3) are made to make Art. 6.2 more precise.

Article 6.6. This proposal allows to the Central Election Commission of BiH to extend the deadline for deciding on objections and complaints in exceptional, particularly complex situations, all for the purpose of fully and properly establishing the state of facts. There are some complex cases in practice when additional evidentiary proceedings must be conducted, which is not possible to do in 48 hours as the Election Law of BiH currently stipulates.

In addition, the amendment stipulates the obligation of informing general public on the procedures on objections or appeals, and of keeping record of all these procedures. This proposal implements the recommendations 20 and 21 from the OSCE/ODIHR Final Report on Implementation of General Election 2018.

Article 6.7. This proposal enables both the sanctioning and control of election results in the counting centres; pronouncing administrative measure of prohibition of performing the function of a controller of election results, and proposes to increase the fine to 30,000.00 BAM. In order to provide for a clearer nomotechnical formulation the article needs to be divided into two paragraphs.

Article 6.9. Under Paragraph (1), words: “*by which the decision is taken on implementation of this Law*” are erased as they unnecessarily burden the text of the Law.

The proposed Paragraph (4) implements Recommendation 21 of the OSCE/ODIHR Final Report on Implementation of General Election 2018.

Name of **Chapter 7** is changed because these changes and amendments allow to the Election Commission to also conduct the procedure of establishing responsibility of political subjects for violations of provisions from this Chapter, such as preventing journalists to do their job in accordance with the rules of profession and election rules, promising monetary reward or other material benefit for the purpose of receiving support of the voters, or threatening supporters of other political subjects, encouraging people who do not have the right to vote to vote anyway, using the language that might lead or incite a person to engage in violence or spread hate, or to publish or use images, symbols, audio and video recordings, SMS messages, internet communication and other materials that may have such effects during the period from formally calling the election until confirmation of the election results, and not only, as is the case now, during the time of official campaigns.

A **new Article 7.1** is added that under Paragraph (1) prohibits early election campaign. Early election campaign means running a paid election campaign in the time period from the election announcement date to the date of the official start of the election campaign. This particularly applies to running a campaign that has stereotypical or offensive content against men and/or women that encourages stereotypical or offensive behaviour based on sex or humiliating treatment of different sexes. The election campaign starts one month prior to the opening of the polling stations, and lasts until the start of the electoral silence, which is 24 hours prior to the opening of the polling stations. However, in practice to date, political subjects often start activities that have all the features of election campaign using the fact that the legislator had not foreseen this situation nor prescribed a sanction for such cases.

Article 1.11 with these amendments is transferred to Chapter 7, which becomes **Article 7.1a**, since its content should be in Chapter 7, which deals with the conduct of electoral subjects from the day of calling the elections to the day of confirmation of results, and not in Chapter 1, which regulates the general principles of the BiH Election Law.

With this proposal, Article 7.1 would become Article 7.1b.

For the purpose of ensuring equality of both sexes, a new **Article 7.1c** is proposed that would oblige the political subjects to provide for equal promotion of both sexes in their media appearances, public gatherings and other forms of election campaign. In this way, the Recommendation number 16 of the OSCE/ODIHR Final Report on Implementation of General Election 2018 would be implemented.

Article 7.2. A new Paragraph (4) is added that explicitly prohibits to an elected official, or holder of public office, to use public resources for the purpose of conducting any form of election campaign, or their own promotion, i.e. promotion of the political subject. This proposal implements Recommendation 15 of the OSCE/ODIHR Final Report on Implementation of General Election 2018, and Recommendations 3 and 17 of the OSCE/ODIHR Final Report on Implementation of General Election 2018.

According to the OSCE/ODIHR, although the aim of the proposal is clear, the legal framework should not prohibit the full use of public resources, but should allow equal access to those resources for all participants in the election process, including public funding of political parties and campaigns, buildings and facilities, which are used to run the campaign, and publicly owned media. The absence of any other legal provisions prohibiting the misuse of state resources (for example, non-campaigning by public officials during a certain period of time or during a business trip) can potentially be used to the benefit of a particular candidate or party. The BiH Central Election Commission agrees with this conclusion of the OSCE/ODIHR and will assess cases of misuse of public funds for the purpose of the campaign on individual case basis.

A new **Article 7.2b** is added whereby the political subjects are obliged to make sure that all advertisements, posters, billboards or similar materials used for the purposes of election campaign of that political subject are removed from all public places and public buildings within 15 days from the date of election. The election campaign lasts until the start of the electoral silence; however, in practice, common are the cases that the materials (ads, posters...) are found on the surfaces and visible places for months after the elections. This solution places on the political subjects the responsibility to remove all such materials within 15 days from the date of confirming the election results.

Article 7.3. For the purpose of complying with Recommendation 22 of the OSCE/ODIHR Final Report on Implementation of General Election 2018, the proposed Article 1.1a includes the definition of hate speech. This amendment aligns the provision under Article 7.3 with the proposed definition. Also, due to the increased influence of social networks and mobile application in the election process, this provision is expanded to include any form of communication. In addition, amendment of Article (2) prevents the abuse of legal right to participate in the work of polling station committee on behalf of a political subject contrary to the provision of Article 2.19 of this Law by fictitiously representing a political entity entitled to a seat at the Polling Station Committee, in order to favour another political entity not entitled to the seat at the Polling Station Committee.

The United Nations Convention obliges Parties to ensure that all entities must carry out their activities concerning the child and involving children solely in the best interests of the child. Children must be provided with the necessary protection, which means that children must not

be used in the campaign to achieve the goals of adults, but their needs must be recognized in party programs. According to this convention, children have no place on party websites, on social networks, in photos with politicians, billboards, panels, posters, nor should they wear party insignia. Children must be in programs that improve the position of children and that will offer possible solutions and respond to the needs of children in the given conditions. The Convention stipulates that the protection of children's rights in all areas, including this one, requires clear rules governing the obligations of the competent services and institutions to act and be responsible for non-compliance with established rules and procedures.

The Institution of the Ombudsman for the Protection of Human Rights of BiH and the Ombudsman for Children of Republika Srpska have repeatedly warned about the problem of child abuse for political purposes. Taking into account the above, the Central Election Commission of BiH proposes to add a new item 8) in Article 7.3, paragraph (1), which prohibits the abuse of children for political purposes.

In its informal comments, the OSCE/ODIHR emphasizes the importance of bearing in mind that international law does not define hate speech and instead of banning hate speech as such, international law prohibits incitement to discrimination, hostility and violence. Hate speech that does not reach the threshold of incitement is not something that states must ban.

Article 7.4. In paragraph (2), words “radio and TV programme” are replaced with “audio-visual media services and media radio services”, in accordance with recommendation by Communications Regulatory Agency.

Deletion of the Point 5 from Paragraph (1) and inclusion of a new Paragraph (3) prohibit any activities that disrupt or obstruct the election process throughout its duration, not only 24 hours prior to opening of the polling stations.

Article 8.4. Since the Parliamentary Assembly of Bosnia and Herzegovina has adopted the Law Amending the Law on Filling the Vacant Position of a Member of the Presidency of BiH during the Mandate (Official Gazette of BiH number 16/02), this Article needs to be amended as proposed by deleting the reference to the Official Gazette in which the laws are published as any further change or amendment to this Law would also require an intervention in the Election Law of BiH.

Article 9.11. For the purpose of implementing Recommendation number 8 of the OSCE/ODIHR Final Report on Implementation of General Election 2018, a proposal is made to add the words “be obligated to” in Paragraph (1), thus imperatively ordering the Parliamentary Assembly of BiH to re-examine the electoral units and the number of mandates assigned to each electoral unit every four years in order to make sure that they are determined in consideration of geographic limitation, in accordance with democratic principles, and particularly the proportionality between the number of mandates and the number of voters registered in the Central Election Register.

Article 9.12b. The word “certification” is replaced with “validation of the results” since the Central Election Commission of BiH issues decision on validation of the results, it does not certify the results, as the current wording in the law implies.

Article 10.3: List of independent candidates is added to this Article as the current text does not include it.

Article 10.6: Under Paragraph (3), the word “*another*” se replaced with “*regular*”, making this provision more precise by specifying that only a previously verified candidate on the regular list of a political subject may be included in the compensatory list.

Article 10.9: For the purpose of implementing Recommendation number 8 of the OSCE/ODIHR Final Report on Implementation of General Election 2018, the proposal is made to add “be obligated to” in Paragraph (1), thus imperatively ordering the Parliamentary Assembly of BiH to re-examine the electoral units and the number of mandates assigned to each electoral unit every four years in order to make sure that they are determined in consideration of geographic limitation, in accordance with democratic principles, and particularly the proportionality between the number of mandates and the number of voters registered in the Central Election Register.

Article 10.13. Explanatory note is the same as for the proposal made in Article 9.12b.

Article 10.16. This proposal specifies the manner of election of delegates to the House of Peoples of the Parliament of the Federation of BiH.

Article 10.18. It is proposed that the words "new cantonal assembly" be replaced with the words "new convocation" so as to correct the terminology used herein.

Article 11.9. To implement Recommendation No. 8 from the OSCE / ODIHR Final Report on the 2018 general elections, it is proposed that the word “mandatory” be added in paragraph (1), thereby requiring that the RS National Assembly review, every four years, the constituencies and number of mandates allocated to each constituency so as to ensure that they are determined taking into account geographical limitations, in line with the principles of democracy, and in particular that the number of mandates is proportionate to the number of voters registered in the Central Voters’ Register.

Article 11.12. This proposal allows each member to delegate delegates to the House of Peoples of the Republika Srpska, instead of this right be reserved only for the political parties represented in the caucuses of delegates of the respective constituent peoples and the Others, members of one of these caucuses, as members of ad hoc committees elected in accordance with Article 11.11 paragraph (2) of the Election Law of BiH, as stated in the applicable law.

Article 11.15. Under this proposal, the deadline expressed in months is replaced with the deadline expressed in days.

Article 13.2. Given that a larger number of municipalities in Bosnia and Herzegovina have been granted city status, the provisions of this Article need to be harmonised accordingly. Current point 3 is split into two new points 3 and 4 given a large range of number of members in relation to the number of voters in the Central Voters Register for those basic electoral units.

Also, this proposal obliges the Central Election Commission of BiH to, within 90 days before the elections are announced, notify the authorities referred to in paragraph (1) of this Article of the number of voters registered in the Central Voters Register, for the purposes of harmonising the statutes of these bodies and determining the number of members in the municipal councils / assemblies respectively.

Article 13.3. Due to a large range of members in the cantonal assemblies in relation to the number of voters in the Central Voters Register, it is proposed that the provision in question be amended for the cantons concerned.

Article 13.7. In paragraph (2), the word "If" is replaced with the word "When" to add terminological precision to the provision in question. Also, new paragraphs (4) and (5) are added, which clearly specify the course of action in case of death of a candidate for mayor before or on Election Day. During the 2020 local elections, the candidate for mayor of Travnik, who won the most votes, passed away on Election Day. In light of that and the fact that it was not possible to award the mandate to the candidate who won the most votes, the Central Election Commission of BiH made a decision to repeat the elections in this basic constituency, which was subsequently upheld by the Court of Bosnia and Herzegovina. This proposal clearly and precisely regulates the situation that has hitherto been insufficiently regulated in the BiH Election Law and prescribes the procedure in such cases.

Article 13.10. This proposal further specifies paragraph (1) of this Article and prescribes the obligation for the Central Election Commission of BiH to adopt a bylaw governing the manner of conducting elections referred to in Article 13.10 of this Law.

The title of **Chapter 14** is changed due to the fact that this proposed amendment also introduces the institute of early elections in the electoral process of Bosnia and Herzegovina and chronological harmonization with the order of provisions.

Article 14.1. This proposal further specifies the provision relating to the obligation to call repeated elections, which are *usually* called within 15 days of the decision on annulment of the elections becoming final. However, in exceptional and justified situations, this period may be longer if an additional investigation is necessary for determining the facts accurately and completely. This interpretation has also been confirmed by the Court of Bosnia and Herzegovina in the appellate proceedings against the upheld decisions on the annulment of the 2020 local elections in the basic electoral units of Doboje and Srebrenica.

Article 14.2. This proposal provides an exception to the obligation to hold postponed elections within 30 days in cases when the competent authorities fail to secure the necessary funds for elections.

Article 14.3. This proposal introduces the concept of by-elections into the electoral system of Bosnia and Herzegovina in the event that an elected body is dissolved in accordance with the Constitution. In this case, the mandates of the newly elected members would last for four years and the elections would be conducted in accordance with Article 14.3 of the Election Law of Bosnia and Herzegovina.

Article 14.4. This article regulates the conditions for calling by-elections. The mandate of the officials elected in these elections would last for four years, and the period for conducting these elections ranges from 60 to 120 days.

The title of Chapter 15 has been changed as this chapter covers not only the financing of political parties during the election campaign, but also the period before and after the election campaign.

The new Article 15.1 prescribes the manner of securing funds for financing election campaign in such a way that these funds are to be provided from sources prescribed by the Law on Political Party Financing and the Election Law of BiH.

In the current Article 15.1, which under this proposal becomes **Article 15.1a**, the amount of 100.00 KM is deleted, which is why political entities are now required to report all monetary donations without any limits. The rationale behind this proposal is that cash contributions have been reported as contributions of several persons each below 100.00 KM, and consequently there is no obligation to list these donors in the financial statements. This solution helps achieve greater transparency of political party financing.

Also, under the proposal made in item 4, political entities are required to show in their reports the costs of internet advertising because the campaigns are nowadays largely conducted on social networks.

In the view of the OSCE/ODIHR, however, it should be borne in mind that, with a proposal to amend Article 15.1a according to which all donations, no matter how small, must be reported, there is a risk that this level of transparency will discourage citizens from participating in the political system.

The new Article 15.1b requires political entities to open a special account to finance their political campaign. This account is to be opened by the head office that is the central committee of the political party no later than on the day of submission of the application for certification for participation in the elections, but not earlier than three months prior to the date of submission of the application for certification. The funds that the political party and the independent candidate participating in the elections for the authorities of Bosnia and Herzegovina at all levels intend to spend for the election campaign must be paid credit to the special account for financing the election campaign, and no payments may be received on this account. Any unspent funds must be paid from this account to the transaction account of the political entity's head office, and if the funds held on the special account are not sufficient to cover all the expenses, the outstanding liabilities are to be paid from the account of the political party head office. Unspent funds are to be returned proportionally to sources or donors. Also, the recommendations I. - IV. from the GRECO Fourth Evaluation Round have thereby been implemented.

Article 15c. This article regulates the financing of election campaigns of the coalitions in such a way that the account is opened by one of the members of the coalition and the relations between the members of the coalition are regulated by their mutual agreement. Funds paid into this account by one of the political entities are not to be considered a donation within the meaning of this law.

Article 15d. Political entities submit to the Central Election Commission of BiH a report on the transactions completed through the special account for the period from its opening until the day of submitting the application for election certification, which is a condition for certification of these political entities. Three days before the election day, the report on the transactions completed through the transaction account for financing the election campaign is also entered in the electronic application; including a report on all monetary and non-monetary donations, as well as the identity of the donor, together with the date and amount of such payment; report on the costs (expenditures) of the election campaign, as well as the accounts of suppliers and

service providers, with updated data until the date of the report submission. Also, within 30 days following the date of publication of the election results in the BiH Official Gazette, the financial report on the transactions completed through the transaction account for election campaign financing is to be submitted by entering it in the electronic application, including on the sources of election campaign funding, election campaign expenses (expenditures) for the period between the date of submission of the application for certification for the elections and the date of confirmation of the election results, as well as on the amount and type of outstanding debts for election campaign expenses.

Article 15.2. The obligation of the Central Election Commission of BiH is expanded in such a way that it is required to prescribe the content of the statement referred to in Article 15.1, paragraph (1) point 5 of this proposal.

Article 15.3. Under this proposal, the deadline for appointing competent person in charge of filing reports and record-keeping, and who is also authorized to receive communications from the Central Election Commission of BiH has been extended from three to fifteen days, given that in practice this deadline has shown to be unreasonably short.

Article 15.4. The obligation of an independent candidate to file reports with the Central Election Commission of BiH is further specified.

Article 15.5. This article clearly and precisely specifies the obligation of the Central Election Commission of BiH to enable access to the reports through the website of the Central Election Commission of BiH.

Article 15.7. It is proposed that the words "the candidates elected" be replaced with the words "the officials elected" so as to add precision to the term used herein.

Article 15.8. It is proposed that the words "the candidates elected" be replaced with the words "the officials elected" so as to add precision to the term used herein. Considering that property situation statements are also filed electronically, this manner of filing needs to be further specified.

The amendments to paragraph (3) prescribe the obligation to submit asset declaration form after the termination of the mandate and in cases of recall and withdrawal of the mandate due to the finality of a court judgment sentencing the person in question to imprisonment for a term of six months or more. Also, this obligation is deleted in cases when a person loses his mandate due to death.

Article 15.9. To further specify the obligation of the Central Election Commission of BiH to publish the statements on total property situation, it is proposed to amend the current article. This proposal prescribes the manner of making the statements available, which is through the website of the Central Election Commission of BiH. The responsibility for the accuracy of data provided in the statement lies with the declarant as there are no mechanisms in place for verifying the data. Also, the obligation of the Central Election Commission of BiH to regulate the form and content of the property situation statement, as well as the deadlines and manner of submission through a bylaw is also prescribed.

Article 15.10. Considering that the Central Voters Register reopens and closes several times during the election process, the proposed amendment of paragraph (1) specifies that this refers to data in the Central Voters Register closed 45 days before the Election Day. Given that a

number of municipalities have been granted city status, the relevant provision of paragraph (2) of this article needs to be harmonised accordingly.

Also, adjustments to the maximum allowed amount for financing the election campaign are proposed, given that the existing amounts are large and the parties have significant amounts available to them for financing the election campaigns, and with the current limits it is almost impossible to exceed the existing maximum amounts allowed.

The adoption of these provisions is in the opinion of the OSCE/ODIHR a positive step towards strengthening the transparency and accountability of campaign financing and effective financial oversight by the BiH Central Election Commission. We note that the BiH Central Election Commission has accepted the suggestion of the OSCE/ODIHR and has included in the Initiative appropriate sanctions for violations of the provisions of Chapter 15 of the Election Law of BiH.

The title of **Chapter 16** is changed to “Media” given that this chapter regulates the conduct of the media during the election period and not only during the election campaign as stated in the current title of this chapter.

Article 16.1. A new paragraph (2) is proposed requiring the media to make the information about media ownership available to the public and transparent. With this proposal the Recommendation No. 18 from the OSCE / ODIHR Final Report on the 2018 general elections is implemented.

Article 16.2. This proposal establishes new principles binding on the media in the election process, that is, the principle of balance, equal access, equal representation and fairness thereby affording political entities equal treatment in the media, where election authorities are authorized to report to the Communications Regulatory Agency violations of this article.

Article 16.3. Under this proposal, in the event of any violation of this Article by the media, the election authorities are authorized to submit the matter to the Communications Regulatory Agency for its further action, and the Central Election Commission of BiH is authorized to conduct the procedure for determining the responsibility of candidates for violations of this article.

Article 16.4. This proposal establishes new principles binding on the media in the election process, that is, the principle balance, equal access, equal representation and fairness thereby affording political entities equal treatment in the media.

Article 16.5. This provision is amended on the basis of a proposal by the Communications Regulatory Agency in order to extend this provision to the entire election period.

Article 16.11. This proposal clearly specifies the period of 24 hours prior to the opening of polling stations, which refers to the campaign silence, and that in that period there may be no media coverage of any activities related to the political and election campaign.

Article 16.13. The proposal is amended in the manner that paragraph (1) prescribes the obligation of the electronic media to refuse paid political advertising in all cases prescribed in paragraph (1) items a) - f). The current point c), which was of a general nature, has been amended in such a way as to specify additional situations in which the media have the right to refuse the publishing of a political advertisement where it involves any discrimination or prejudice based on sex, race, ethnicity, nationality, religion or belief, disability, special needs,

age, sexual orientation, social background, or any other content that has as its purpose or effect nullification or impairment of the recognition, enjoyment or exercise on an equal basis of rights and freedoms of any person, or where the advertisement humiliates, intimidates, and incites hatred, violence or discrimination against one person or a group because of their sex, race, ethnicity, nationality, religion or belief, disability, special needs, age, sexual orientation, social background, or any other circumstance that has as its purpose or effect nullification or impairment of the recognition, enjoyment or exercise on an equal basis of their rights and freedoms, or where the advertisement involves the abuse of children for political purposes in accordance with international standards, or where the advertisement contravenes other regulations of the Communications Regulatory Agency of BiH.

Under this proposal, the Communications Regulatory Agency may issue binding opinions to political entities and the media regarding the application of this provision.

The OSCE/ODIHR welcomes the clarification of the existing provisions of Article 16.13, according to which the electronic media have the right to refuse to publish political advertising in cases of advertising involving any discrimination or prejudice for reasons stated in the Draft, or if the content aims to or incites violation of the rights and freedoms of any person or when inciting hatred or violence against any person or group on any grounds, or when the advertisement involves the abuse of children for political purposes or is contrary to other regulations.

Article 16.14. The words "30 days prior to the Election Day" are replaced with the words "election campaign" as the definition of election campaign is contained in Article 1.1a and it is clearly stated what this period refers to. In paragraph (3), the word "paid" is deleted, given that there are very frequent cases in the practice of conducting a premature election campaign and sanctions are possible only in cases where it is proven that it is paid political advertising.

The last sentence in paragraph (3) has been moved as a new paragraph (4) in order to emphasize the prohibition of stereotypical and abusive behaviour in relation to women and men.

Article 16.14a. This provision stipulates that the provisions of Article 16.14, paragraphs (3) and (5) shall apply accordingly to private electronic media, online media, social media or any form of public advertising.

Article 16.15a. Given the growing role of social media in society, this allows political entities to run their campaign online.

Article 16.16. This article more clearly specifies the obligation of the Central Election Commission of BiH to conduct the procedure for determining the responsibility of political entities for violating the provisions of this chapter.

Article 16.17. This provision is harmonised with the extended powers of the Press Council to include online media, and it is also reflected in the name of the institution.

Article 16.17a. In order to prevent misinformation and spread of false information by political entities by way of electronic media and the internet that could undermine the integrity of the election process, this proposal authorizes the Central Election Commission of BiH to conduct the procedure and determine the responsibility of the political entity.

Article 16.17b. With this proposal Recommendation No. 16 from OSCE / ODIHR Final Report on the 2018 general elections is implemented, and it also facilitates women's political participation, increases the visibility of women candidates in election campaign, and integrates gender perspective into the platforms of political entities.

In the event of violation of the provisions of this Article, the Communications Regulatory Agency is authorized to conduct the procedure and determine the responsibility of the media.

Article 17.2. Under this proposal, the political entities are allowed to have more observers in the counting center and not just one as it has been the case under the current law. Namely, in the counting center, the counting is performed over several counting tables and for several constituencies at the same time, and also there are parallel processes taking place in the premises for verification of ballots received by mail and the preparation for ballot counting. Since political entities may have only one observer at a time, it is not possible to observe multiple processes that take place in the counting center at the same time.

The OSCE/ODIHR considers that this amendment reduces the possibility of abuse and increases the transparency and credibility of the process.

Article 17.8. Given that the legal remedy that can be filed by an observer in cases referred to in this article in its nature is a complaint, and that it is a second instance decision of the Central Election Commission of BiH, the term "objection" needs to be replaced with the legal term "complaint".

Article 18.3. This article is deleted as the method of financing is regulated by Article 1.2a of this Law and this provision is therefore unnecessarily repeated.

Article 19.8. This Article of the Election Law of BiH stipulates that the Parliamentary Assembly of BiH will, among other things, review the fines determined by this law at least every four years, and decide whether they correspond to economic and financial situation in Bosnia and Herzegovina. As practice shows that the fines do not deter political entities from violating the Law, the Central Election Commission of BiH proposes an increase in fines for those employed or hired in the election administration, and that in accordance with this the Central Election Commission of BiH can impose fines in the range from 600.00 KM to 3,000.00 KM.

This proposal envisages sanctions for violating the provisions proposed by this Initiative, but also the provisions that have been in the BiH Election Law so far, but the Law did not recognize sanctions for violating these provisions (Articles 2.17, 5.6 paragraphs (3) and (5) and 5.20), it also provides for the possibility of punishing political entities that have nominated members of polling station committees who are found to have violated the provisions of this Act.

Given the two proposals of Article 2.19, it will be necessary to make nomotechnical corrections in the numbering of points depending on the adopted proposal.

Article 19.9. The same as for Article 19.8, it is proposed that the fine referred to in paragraph (1) be increased, and according to this proposal it would range from 3,000.00 KM to 30,000.00 KM. Also, a new point a) is proposed prescribing a sanction for a political entity whose candidate fails to comply with Article 1.8 of this Law, and new points e) and f), which prescribe a sanction for using public funds and resources to promote a political entity and a failure to remove election material within 15 days from Election Day. It is also proposed that political

entities enjoying a privileged position in the media and using public office to get a privileged position in electronic media, placing by way of electronic and print media stereotype and offensive against men and/or women or spreading false information that could undermine the integrity of the election process and misinform the voters be sanctioned.

Paragraphs (2), (3), (4) and (5) are harmonized with the amendments to paragraph (1) and it is proposed that the monetary sanctions prescribed in these paragraphs be increased.

A new paragraph (6) is also proposed, allowing for imposition of other sanctions as prescribed by Article 6.7.

Article 20.17. Since the Election Law of BiH, including these amendments, has been amended 23 times, the official consolidated version of the Election Law of BiH needs to be compiled.