



INSTRUCTION
on procedures of adjudicating complaints and appeals submitted to the election commissions
(Consolidated text)

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, 7/14, 31/16, 41/20, 38/22, 51/22, 67/22 and 24/24), the Central Election Commission of Bosnia and Herzegovina has at its 20th held on May 3, 2024 passed

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CHAPTER I INTRODUCTION

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

The Instruction on procedures of adjudicating complaints and appeals submitted to the election commissions (hereinafter: the 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 6.3, 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 calculation of deadlines)

(1) During the election period communication between the election commissions and the parties to the proceedings conducted under provisions of this Instruction shall be done by fax machine (hereinafter: fax), electronic mail and directly.

(2) When conditions are met, communication referred to in paragraph (1) of this Article shall be done through electronic application that will be available on the website of the BiH Central Election Commission www.izbori.ba.

(3) Beside the manner of communication referred to in paragraphs (2) and (3) of this Article, communication between the BiH Central Election Commission and the parties to the proceedings shall be done:

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

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

(5) 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).

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

(7) 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 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 website of the BiH Central Election Commission. The same method is applied in case of delivery by e-mail.

(8) A 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.

(9) The deadlines shall commence from the moment of delivery (by fax, e-mail or by publication on the website 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 content of the complaint form- 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 or e-mail 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.

(3) If the complaint is filed through the application it shall contain all information and attachments referred to in paragraph (1) and (2) of this Article.

Article 5
(Form and content of deposited signatures' form)

(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 a 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
(Competence and decision making process)

(1) An election commission in its basic constituency shall have the first instance competence to adjudicate complaints filed for violation of the rules of conduct referred to in Chapter 7 of the BiH Election Law, except in case of violation referred to in Article 7.2a, Article 7.3, paragraph (1), points 3) and 7), Article 7.3, paragraph (2) and Article 7.4, paragraph (1), point 3) of the BiH Election Commission, to be decided by the BiH Central Election Commission.

(2) Apart from the first instance adjudication competence referred to in paragraph (1) of this Article, the BiH Central Election Commission shall have first instance competence to adjudicate the complaints filed for violation of the rules of electoral process, electoral rights and violations of Chapter 16 of the BiH Election Law made by the political subject.

(3) 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 notify complainant.

(4) Election commission shall reject inadmissible, untimely and incomplete complaint filed by an unauthorized person.

(5) In case the complaint was not filed on the form set forth in Article 4 of this Instruction, or a complaint submitted through application does not contain all information set forth in Article 7 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 stated in the complaint, and does not list the provisions of the BiH Election Law, which the complainant deems to be violated, the election commission shall inform the complainant to complete the complaint and to remove shortcomings

indicated in the notice within 24 hours following of its receipt. 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 a case the complaint shall be found not filed.

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

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

(8) Election commission may reject the complaint as groundless or may accept it and order a measure or a sanction.

(9) 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, as soon as it learns about this, initiate and complete the procedure and decide on the complaint made.

Article 6a. **(Deadlines for adjudicating complaints)**

(1) A voter and a political subject whose rights have been violated under the Election Law of BiH may submit a complaint to the competent election commission no later than 72 hours after the violation occurred.

(2) The election commission is required to review the complaint and issue a decision within 48 hours after the deadline for submission of statements from the parties mentioned in the complaint. The election commission shall promptly notify the complainant and other parties of its decision.

(3) In exceptional cases, particularly complex ones where it is necessary to hear from parties and witnesses to establish facts and circumstances crucial to resolving the issue, and to review a substantial amount of documentary evidence, the Central Election Commission of BiH shall conduct proceedings within three to a maximum of five days after the deadline for submitting statements from the parties mentioned in the complaint.

Article 7 **(Recording of complaints)**

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

(2) Election commissions shall enter the data referred to in Paragraph (1) of this Article in such a way that after selecting the type of election to which the complaint/appeal relates and the constituency, they also enter other data that are divided into four categories, namely:

- a) General information about the complaint/appeal,
- b) Information about the decision,
- c) Information about the appeal and
- d) Case status.

(3) General information about the complaint/appeal must be recorded by the election commissions immediately upon receipt of the complaint/appeal.

(4) Data on the decision must be entered by the election commissions immediately after making the

decision.

(5) Information about the appeal must be recorded by the election commissions immediately upon receipt of the appeal.

(6) Regarding the status category, election commissions must promptly update information about the case status and indicate whether the case has been referred to the competent authority immediately after any change in the status of the case.

Article 7a.
(Register of complaints, appeals, and decisions)

(1) The BiH Central Election Commission shall keep a dedicated register organized according to the types of complaints and appeals submitted.

(2) The register referred to in Paragraph (1) of this Article shall include the following data:

- a) Name of the complainant/appellant;
- b) Name of the respondent against whom the complaint/appeal was filed;
- c) Case number and date;
- d) Summary of complaints/appeals;
- e) Status of the case;
- f) Decision of the BiH Central Election Commission;
- g) Name of the applicant appealing against the decision of the BiH Central Election Commission and the date;
- h) Decision of the Appellate Division of the Court of Bosnia and Herzegovina;
- i) Notes.

(3) The BiH Central Election Commission shall publish information from the register regarding submitted complaints and appeals, as well as decisions made, on its website www.izbori.ba. This publication adheres to the principles of personal data protection in accordance with the Law on Personal Data Protection.

(4) Information specified in paragraph (3) of this Article shall be updated weekly on the website of the BiH Central Election Commission.

(5) When the necessary conditions are met, the BiH Central Election Commission shall keep the register described in paragraph (1) of this article using an electronic application.

CHAPTER III APPEAL

Article 8
(Content of the appeal)

An appeal shall contain:

- a) full name, contact (with fax number or e-mail) of the appellant,
- b) number and title of the decision on which the appeal is submitted,
- c) statements concerning parts of the decision being challenged,
- d) reasons for the appeal and evidence,
- e) signature of the appellant

Article 9
(Adjudicating the appeal – Article 6.6, paragraph (2) of the BiH Election Law)

- (1) Decisions of the election commission can be appealed to the BiH Central Election Commission within 72 hours following receipt of the first instance decision.
- (2) 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 or e-mail to the election commission to establish if the appeal is timely and submitted by an authorized person. The appeal shall be rejected if conditions referred to in Article 6.3, paragraphs (4) and (5) of the BiH Election Law are not met.
- (3) If the election commission that made a first instance decision does not reject the appeal in terms of paragraph (1) of this Article, it may uphold 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 receipt of the appeal.
- (4) The BiH Central Election Commission shall review the appeal and issue a decision within 48 hours after the deadline for submitting the statement as outlined in paragraph (3) of this Article.
- (5) In exceptional cases, particularly complex ones where it is necessary to hear from parties and witnesses to establish crucial facts and circumstances for resolving the issue, and to review a substantial amount of documentary evidence, the Central Election Commission of Bosnia and Herzegovina shall conclude the procedure within three to a maximum of five days after the deadline for submitting the statement from paragraph (3) of this Article.

Article 9a.
(Procedure following an appeal against the decision of the BiH Central Election Commission)

- (1) The Appellate Division of the Court of Bosnia and Herzegovina has jurisdiction to adjudicate appeals against decisions made by the Central Election Commission of Bosnia and Herzegovina.
- (2) An appeal against a decision of the Central Election Commission of Bosnia and Herzegovina shall be submitted, through the Central Election Commission of Bosnia and Herzegovina, to the Appellate Division of the Court of Bosnia and Herzegovina within two days from the receipt of the decision of the Central Election Commission of Bosnia and Herzegovina.
- (3) The Appellate Division of the Court of Bosnia and Herzegovina, in deciding on matters under this law, shall render a decision on the appeal within three days from the date of receipt of the appeal.

Article 10
(Recording 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, they shall record the time, hour and manner of the receipt on the complaint or the appeal and sign it.

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 splitting of the proceedings)

(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.

Article 13
(Use of masculine and feminine expressions)

Words that are, for the sake of clarity, listed in one gender in this Instruction refer to both male and female genders without discrimination.

CHAPTER IV FINAL PROVISIONS

Article 14
(Integral part of the Instruction)

Integral part 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, and
- c) The register of complaints, appeals and decisions made.

Article 15
(Ineffectiveness)

The Instruction on procedures of adjudicating complaints and appeals submitted to the election commissions (Official Gazette of BiH, nos. 37/14 and 25/20) shall become ineffective on the day this Instruction enters into force.

Article 16
(Regulations covered by this Instruction)

This instruction covers the Instruction on procedures of adjudicating complaints and appeals submitted to the election commissions (Official Gazette of BiH, number 27/22) and the Instruction amending the Instruction on procedures of adjudicating complaints and appeals submitted to the election commissions, number 05-1-02-2-603-1/24 of May 3, 2024.

Article 17
(Publishing in Official Gazettes)

This Instruction shall be published in the Official Gazette of BiH, the Official Gazette of FBiH, the Official Gazette of RS and the Official Gazette of Brčko District as well and on the web page of the BiH Central Election Commission www.izbori.ba.

Number: 05-1-02-2- 604-/24
Sarajevo, May 3, 2024

President

Dr. Irena Hadžiabdić