

Annex to OSCE/ODIHR Comments on the Draft Law on Public Assembly in the Federation of Bosnia and Herzegovina

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Bosnia and Herzegovina

Federation of Bosnia and Herzegovina

FEDERAL MINISTRY OF INTERIOR

SARAJEVO

PRE-DRAFT

LAW  
ON PUBLIC ASSEMBLY  
OF THE FEDERATION OF BIH

Sarajevo, January 2018

LAW  
ON PUBLIC ASSEMBLY  
OF THE FEDERATION OF BIH

**I - GENERAL PROVISIONS**

Article 1  
(Subject of the Law)

(1) This law shall regulate freedom of assembly of citizens on the territory of the Federation of BiH (hereinafter: the Federation) in order to ensure the implementation of the highest level of internationally recognized rights and freedoms set forth in the international documents listed in the Annex to the Constitution of the Federation of Bosnia and Herzegovina, which according to the Constitution of the Federation of BiH needs to be ensured by the Federation of Bosnia and Herzegovina.

(2) In accordance with paragraph (1) of this Article, this Law regulates the public assembly of citizens of the Federation as the Constitutionally guaranteed right of Federation to freedom of assembly, speech and thought through which public, political, social and other beliefs and interests, as well as the way of organizing of public assembly and public protests, public events and other forms of assemblies in the Federation are publicly expressed.

Article 2  
(Right to organize public assembly)

In accordance with this Law, the Constitution of the Federation, the citizens living in the the territory of the Federation shall have the right to organize the public assembly and participate in it while respecting human, ethnic, religious, national and all other rights prescribed by international documents, codes, as well as domestic laws and other acts.

Article 3  
(Public assembly)

(1) Public assemblies shall imply any organized assembly of citizens held for public nonviolent expression of political, social and other beliefs and interests.

(2) Public assembly shall also imply any unorganized, spontaneous assembly of citizens held in special, sudden and relevant situations for social community, and all for the purpose of public expression of political, social and other beliefs and interests in the area prescribed in Article 6 of this law.

Article 4  
(Assembly)

The assembly, in terms of this law, shall be considered all public assemblies of citizens, public protests, performances, events, as well as other forms of assembly.

Article 5  
(Meaning of individual terms)

Some terms used in this law have the following meanings:

- a) "Additional security measures" are measures taken by the Cantonal Ministry of the Interior (hereinafter: the Cantonal Ministry) to secure public assemblies beyond the ordinary conduct of police affairs,
- b) "Particularly justified reasons" are the reasons that the organizer can not foresee.

Article 6  
(Tasks of the Cantonal Ministry)

Submitting of the request for public assembly, issuing decisions and other acts related to the public assembly as well as conduct and monitoring of additional measures of protection in relation to the public assembly shall be organized and performed by the Cantonal Ministry in accordance with this Law.

Article 7  
(Grammatical terminology)

The grammatical terminology related to the use of male or female gender for terms in this law includes both sexes.

Article 8  
(Application of the Law on Administrative Procedure)

Procedures led under this Law for the purpose of establishing facts or other data related to public assembly, public event and other forms of public assembly and issuing decisions as well as in other cases envisaged by this Law, shall be carried out in accordance to the provisions of the Law on Administrative Procedure ("Official Gazette of the Federation of BiH ", No. 2/98 and 48/99), unless stipulated otherwise by this Law.

**II PUBLIC ASSEMBLY**

Article 9  
(Restriction of freedom of speech at public assembly)

Freedom of speech at public assembly shall be limited by the prohibition of hate speech, public invitations or incitement to war, violence, religious, national or ethnic hatred or discrimination, as well as for the protection of constitutional order, rights and freedoms of people.

Article 10  
(Obligation to announce public assembly)

The organizer of the public assembly shall announce the public assembly no later than 72 hours before the scheduled public assembly to the Cantonal Ministry in accordance to the place of public assembly.

Article 11  
(Public assembly of more than 20 persons)

According to this law, public assembly of more than 20 persons who, with their assembly, express protest or seek the realization and promotion of their political, national, social, religious, cultural, humanitarian and other rights and goals that exist in a modern democratic society, must be reported to the Cantonal Ministry in the manner prescribed in accordance to the Article 19 of this Law.

Article 12  
(Duration of the public assembly)

- (1) The organizer of the public assembly is obliged to finalize the public assembly within a maximum of eight hours from the time (hour) indicated in the application as the time of beginning of the public assembly from the Article 19 of this Law.
- (2) The organizer of the public assembly and the Cantonal Ministry are obliged to ensure that the public assembly is completed within the deadline specified in paragraph (1) of this Article.

Article 13  
(Venue of public assembly)

- (1) A space suitable for the venue of assembly shall be public place accessible and suitable for the assembly of persons whose number and identity is not predetermined and where the assembly of citizens does not endanger the rights and freedoms of other persons, health of people, safety of people and property and disturbance of public transport.

(2) A space suitable for public assembly shall also be the area where public transport is flowing, when additional measures can be taken to ensure the temporary modification of the traffic regime, as well as to protect the health of people and the safety of people and property.

#### Article 14 PUBLIC ASSEMBLY ON THE MOVE

(1) Public assembly can be reported and carried out as a movement of participants in public assembly in a specific area (hereinafter: public assembly on the move).

(2) Public assembly on the move can only take place with continuous movement, except at the starting and ending point.

#### Article 15 (Limitations on organizing public assemblies)

(1) Only this law may prescribe restrictions to the freedom of public assembly that are necessary in democratic society in order to protect the constitutional order, rights and freedoms of other people and health of people.

(2) Public assembly cannot be organized by a political organization or association of citizens whose work is prohibited.

(3) A person to whom a security measure of the prohibition of public appearance was pronounced by a valid court decision cannot convene public assembly or appear at public assembly.

(4) If the holding of assembly is contrary to this law.

#### Article 16 (Prohibition of organizing of public assembly)

Freedom of speech and public appearance at public assembly shall be limited by the prohibition of public invitations or incitement to armed conflict, violence, religious, national or ethnic hatred or discrimination.

#### Article 17 (Responsibility for damage)

The organizer is responsible for the damage done by the participants of the public assembly.

#### Article 18 (Organizer of public assembly)

(1) The organizer of public assembly is a legal or natural person who, in accordance with the provisions of this law, convenes, organizes, maintains, monitors and supervises the holding of the public assembly.

(2) When a public assembly is organized by a group of citizens or several legal persons, they shall determine their representative.

#### Article 19 (Obligation to report public assembly)

(1) The organizer, respectively his representative shall submit a request for the holding of public assembly, as prescribed by this law.

(2) The request referred to in paragraph (1) of this Article shall be submitted no later than 72 hours before the beginning of public assembly.

(3) The request shall be submitted to the competent Cantonal Ministry.

(4) Exceptionally from the paragraph (2) of this Article, for particularly justified reasons, the request may be submitted no later than 48 hours before the beginning of public assembly, with justified explanation for not requesting it within the deadline referred to in paragraph (2) of this Article.

(5) The signed request shall be submitted in person or by registered mail. The deadline for the request submitted through the registered mail shall begin from the date of delivery to the post office of the mail being sent.

#### Article 20 (Content of the request)

1. The request referred to in Article 12, paragraph (1) of this Law shall contain:

- a) program, cause and objectives of the public assembly,
- b) information on the venue, date, time and duration of the public assembly,
- c) name and seat of the organizer and personal data of the responsible person-leader and representative if the organizer implies several legal persons or groups of citizens, as well as the name, family name and personal identification number if the organizer is a natural person,
- d) personal data of the organizer of public assembly and contact telephone,
- e) list of stewards with their personal data,
- f) information on the measures taken by the organizer to keep peace and order,
- g) estimate of the number of participants
- h) other information of interest for safe and unobstructed holding of public assembly.

2. In terms of this Article, the venue of public assembly shall imply the place where public assembly is being held, as well as the access roads and space (closer and wider area) next to the venue of public assembly.
3. The request for public assembly on the move must contain a detailed route of movement, starting and ending point, as well as the manner of movement of participants (on foot, by vehicles, combined).
4. If the public assembly extends to the road surface due to which the traffic would be stopped or interruption, the organizer shall enclose, along with the request, the approval of the competent authority in accordance with the Law on Basics of Traffic Safety on Roads in BiH ("Official Gazette of BiH, "No. 56/06 and 47/07).
5. When the request does not contain data or documentation referred to in paragraphs (1), (3) and (4) of this Article, the competent police department shall warn the organizer in writing and set a deadline to complete the request.
6. In the case referred to in paragraph (5) of this Article, public assembly shall be considered requested upon the submission of complete request.
7. Any modification of the content of the submitted request shall be considered as submission of the new request.

#### Article 21

(Holding of public assemblies near the institutions of the Federation that are under the protection by the Federal Police Administration)

- (1) If public assembly is organized in order to express protests against the institutions of the Federation (Federal Parliament, Government of Federation and Ministries), the request referred to in the Article 19, paragraph (1) of this Law shall be submitted to the Cantonal Ministry according to the seat of the institutions of the Federation.
- (2) Upon receipt of the request, the Cantonal Ministry shall immediately submit it to the Federal Police Administration for their opinion.
- (3) The Federal Ministry is obliged to submit their opinion the latest 24 hours from the receipt of the request.
- (4) If the Cantonal Ministry does not receive the opinion within the deadline referred to in the paragraph (3) of this Article, it is considered that the public assembly referred to in the paragraph (1) of this Article can be organized.
- (5) After receiving the opinion from paragraph (2) of this Article, the Cantonal Ministry shall act in accordance to that opinion and instructions of the coordinator as referred in the paragraph (6) of this Article.
- (6) When the Federal Ministry receives the request referred to in the paragraph (1) of this Article, the Director of the Federal Police Administration shall appoint a public assembly coordinator.

- (7) The coordinator referred to in paragraph (6) of this Article monitors and directs activities related to public assembly with the Cantonal Ministry and the organizer of the public assembly.

#### Article 22

(Duty of the Federal Police Administration when securing public assembly)

- (1) The Federal Police Administration is obliged to ensure all necessary measures in order to have the public assembly referred to in Article 21 of this Law carried out in accordance with the goal for which it was organized.
- (2) In accordance with their capabilities the Cantonal Ministry is obliged to provide support for the implementation of the public assembly under the Article 21 of this Law at the request of the Federal Police Administration.

#### Article 23

(Public assembly near the facilities of institutions of Bosnia and Herzegovina)

If public assembly is organized to express protests directed against the institutions of Bosnia and Herzegovina (BiH Parliament and Council of Ministers) located in the territory of the Federation, the Federal Police Administration shall provide support and act in accordance with the instructions of the competent authority of Bosnia and Herzegovina.

#### Article 24

(Processing of request in accordance to the Law on Protection of Personal Data)

The Cantonal Ministry and the Federal Police Administration are obliged to process the request referred to in the Article 19 of this Law in accordance with the Law on Personal Data Protection.

#### Article 25

(Exemptions from the obligation to report public assembly)

- (1) Exceptionally from the provisions of the Article 19, paragraph (1) of this Law, meetings, forums, roundtables or assemblies of registered political parties, trade unions and other organizations or associations, which are held in enclosed premises suitable for such purposes, shall not be requested, except in cases when the organizer finds it necessary.
- (2) Political parties, coalitions, lists of independent candidates and independent candidates shall organize and hold public assemblies in accordance with the provisions of the Election Law of BiH. ("Official gazette of BiH", number.: 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 and 31/16).
- (3) State ceremonies, anniversaries etc. shall not be requested.



(4) The organizer or his representative respectively is obliged to inform the Cantonal Ministry about each assembly referred to in paragraphs (1) and (2) of this Article, holding of which requires the undertaking of special security measures,

#### Article 26

(Public assemblies whose organizer is unknown)

(1) Public assemblies whose organizer is not known can be held in places determined by the Canton through its special act.

(2) The proposal referred to in paragraph (1) of this Article shall be based on the recommendations of the Municipal Councils which, after the discussion, shall propose the Cantonal Government at least one location in the territory of their municipalities, taking into account that the number of locations does not limit the exercising of citizens' rights to freedom of assembly.

(3). The Acts from the paragraph 1 of this Article shall be adopted by the Canton within 90 days from the date of adoption of this Law.

#### Article 27

(Exceptions)

Exceptionally from the Article 26 of this Law, public assembly shall not be held:

a) in the vicinity of hospitals, in a way that impedes the access to ambulances and disturbs the peace of patients,

b) in the vicinity of kindergartens, primary and secondary schools, while children and students reside in them,

c) in national parks and protected nature parks, except for peaceful assemblies aimed at promoting and popularizing the protection of nature and environment, as well as marking of significant historical dates,

d) near the cultural monuments, if this could cause destruction or damage to the protected monuments,

e) on the highways, main and regional roads, where the railway traffic is flowing, in a way which may endanger smooth traffic flow,

f). in other places if, considering the time, number of participants or the nature of the assembly, it could seriously jeopardize the movements and work of a large number of citizens or endanger material goods.

Article 28  
(Prohibition to hold public assembly)

1. With its decision the Cantonal Ministry shall prohibit the holding of public assembly if:

- a) it aims at the violent endangerment of the constitutional order,
- b) it aims at the commission of criminal offenses or incitement to the commission of criminal offenses,
- c) it is not timely and properly requested, when requesting is obligatory,
- d) it is requested to take place where, in accordance with this Law, public assembly cannot be held,
- e) objectives are aimed at inviting and encouraging armed conflict or use of violence, violation of guaranteed rights and freedoms of person, national, racial, religious and other hatred,
- f) there is a real danger that holding of public assembly would endanger the security of people and property or would create a real danger of violence or disturbance of public peace and order in a larger scale,
- g) upon request by the competent authority, the organizer does not undertake ordered additional measures in timely manner.
- h) it is necessary in order to prevent endangerment of health of people, at the request of the State administration body in charge for health issues,
- i) the work of the organizer is prohibited by the decision of the competent court.

2. The decision referred to in paragraph (1) shall be adopted within 24 hours and if it is a case from the paragraph (1), point d) of this Law, no later than 12 hours before the notified commencement of the public assembly.

Article 29  
(Appeal procedure)

(1) The organizer, respectively his representative, can appeal against the decision referred to in the Article 28 of this Law to Federal Police Administration, no later than 24 hours after the receipt of the decision.

(2) The Cantonal Ministry is obliged to immediately deliver the appeal with associated files to the Federal Police Administration for resolution.

(3) The appeal referred to in paragraph (1) of this Article shall not delay the execution of the decision.

(4) The procedure for resolving the appeal shall be urgent and the decision on the appeal shall be brought and delivered to the appellant within at least 12 hours before the public assembly.

(5) The organizer shall inform about prohibition of public assembly immediately after receiving the final corresponding decision, and shall remove publicly displayed information on convening of the public assembly.

6. An administrative dispute before the competent court may be initiated against the decision referred to in the paragraph (4) of this Article.

Article 30  
(Foreigners as organizers of public assembly)

- (1) Foreign natural and legal persons can organize the public assembly, that is, appear at a public assembly only after the submission of the request from the Article 19 of this Law and issuance of approval from the Cantonal Ministry.
- (2) The request referred to in paragraph (1) of this Article shall be filed no later than 72 hours before the beginning of the public assembly, that is, appearance at a public assembly.
- (3) Reasons for refusing of the authorization, as well as the appeal procedure upon the decision, shall be conducted in the manner prescribed by this Law.
- (4) The request can also be submitted in English language. (SHOULD THERE BE THE TRANSLATED VERSION OR PRESENCE OF COURT'S INTERPRETER DURING THE FILING OF THE REQUEST FOR THE ASSEMBLY? WHAT DOES IT MEAN IN ENGLISH LANGUAGE, DOES IT MEAN THAT THE REQUEST SHOULD BE FILED IN THREE OFFICIAL LANGUAGES OR???)
- (5) The request can also be filed in any other language with the verified translation or presence of a court interpreter who shall be provided by the organizer. (DURING THE FILING OF THE REQUEST OR AT THE PUBLIC ASSEMBLY. NOT CLEAR? DOES IT MEAN THAT IF IT IS IN ENGLISH LANGUAGE IT DOES NOT HAVE TO BE TRANSLATED WHILE FROM GERMAN, FRENCH IT DOES?)

Article 31  
(Maintenaning of undisturbed public assembly)

- (1) The organizer shall ensure undisturbed holding of the public assembly respecting the public order and participants of the public assembly.
- (2) The organizer shall particularly take all necessary measures to ensure that the participants of public assembly are unarmed and do not cause damage at the location of the public assembly.
- (3) The duty of the organizer shall ensure sufficient number of persons for undisturbed holding of the public assembly (hereinafter: steward) at the public assembly and to undertake appropriate measures of medical and fire protection.
- (4) The organizer can entrust keeping of peace and order to the agency for protection of people and property.
- (5) The organizer shall enable the undisturbed passage to vehicles of the police, Armed Forces of BiH, security agencies, ambulances, fire brigade vehicles and public transport vehicles.

(6) The activities related to maintenance of undisturbed public assembly at the site or an area that is located right next to the venue of the assembly shall be carried out by the police officers of the Cantonal Ministry i.e. Federal Police Administration (hereinafter: police officers).

(7) The Cantonal Ministry is obliged to prevent interference or disruption of holding of public assembly held in accordance with the provisions of this Law.

(8) Participants of the public assembly, as well as persons moving towards the venue of the public assembly, are forbidden to carry weapons, items suitable to cause body injuries and alcoholic beverages.

(9) Participants of public assembly shall not wear uniforms, parts of uniforms, clothing or other signs which invite or encourage armed conflicts or use of violence, national, racial or other hatred.

#### Article 32 (Leader of public assembly)

(1) The organizer shall nominate the leader of public assembly (hereinafter: the leader).

(2) The leader shall be the person to supervise the holding of public assembly and direct the work of stewards.

(3) The leader shall take the necessary measures to ensure undisturbed holding of the public assembly.

(4) The duty of the leader is to interrupt the public assembly if there is a real danger to lives and security of people and property or there is a danger of disturbance of public peace and order to a greater extent.

(5) The leader can continue with interrupted public assembly if, in the meantime, all circumstances referred to in the paragraph (4) of this Article have been removed within the time of scheduled assembly.

#### Article 33 (Stewards)

(1) The steward is a person designated by the organizer to perform tasks of keeping the undisturbed holding of the public assembly.

(2) During the performance of his duties, the steward is obliged to protect the participants of the public assembly and property located in the area where public assembly is held.

(3) The steward shall immediately notify and hand over to police officer the participant of the public assembly as well as the person moving to the venue of the public assembly who is carrying a weapon or items which might cause body injuries and who bear the inscriptions that cause and invite to national, religious, racial or any other intolerance and hatred.

- (4) The steward shall give to police officer data about person who has violated peace and order.
- (5) While performing monitoring duties the steward has the right and duty to:
- a) direct the movement of participants to the public assembly,
  - b) exclude and remove a person who instigates or violates peace and order,
  - c) immediately notify and hand over to police officer a person who severely violates peace and order.
- (6) While performing of his duties, the steward shall wear a vest of fluorescent paint with the visible sign "STEWARD".
- (7) The steward shall not carry weapons or items which might cause injuries, uniform, parts of uniform, clothing or other signs which invite or encourage the armed conflict or use of violence, national, religious or other hatred.

#### Article 34

(Assessment in ordering additional security measures)

- (1) From the data contained in the request for holding the public assembly or other findings and circumstances, the Cantonal Ministry shall evaluate whether the conditions for safe holding of public assembly have been met.
- (2) Based on the assessment referred to in the paragraph 1 of this Article, the Cantonal Ministry shall in written form order the organizer to undertake additional security measures within the deadline which cannot be shorter than 24 hours.
- (3) If the organizer of the public assembly does not act in timely manner upon the imposed measures referred to in the paragraph 2 of this Article, the Cantonal Ministry shall act in accordance with the provisions of the Article 27, paragraph 1, point (g) of this Law.

#### Article 35

(Discontinuation of public assembly)

- (1) Police officers are authorized to prevent or discontinue public assembly if:
- a) it is aimed at violent endangering of the constitutional order
  - b) participants are called upon or encouraged to engage in armed conflict or violence, violation of guaranteed rights and freedoms of person, or incitement of national, racial, religious or other hatred,
  - c) there is a real or direct danger of violence, destruction of material goods or other forms of a large scale disturbance of public peace and order,
  - d) there is a real or direct danger to the health of participants of public assembly or other people,

e) holding of public assembly is not timely and properly reported when registration is mandatory or holding is prohibited,

f) it is organized by a political organization or an association of citizens whose work is forbidden or if it is convened or publicly announced by a person to whom a security measure of prohibition of public appearance has been pronounced by the legally-binding court decision.

g) it is held in a place that is not stated in the request.

#### Article 36

##### (Measures for discontinuation of public assembly)

(1) A police officer shall order the discontinuation of public assembly referred to in the Article 34 of this Law, to the leader of the public assembly.

(2) The leader shall announce to participants of the public assembly that the peaceful assembly has been discontinued and shall request the participants to peacefully disperse.

(3) If the leader or participants of public assembly fail to comply with the order referred to in the paragraph 1 of this Article, the police officers shall take the necessary measures to disperse the participants of the public assembly.

### III – PUBLIC EVENTS

#### Article 37

##### (Organizing of public events)

(1) Public events shall imply organized assemblies for the purpose of income generating within the registered activity, which, given the expected number of participants and the nature of event, require undertaking of special security measures.

(2) Public events can be organized in an open or enclosed space intended or suitable for this purpose.

#### Article 38

##### (Specific way of organizing sport events)

Public events of sporting character i.e. the organizers of sport events shall organize those events in accordance with a special regulation, if the Law does not prescribe otherwise..

#### Article 39

(Organizer of public event)

(1) The organizer of the public event is a legal or natural person who, in accordance with this Law, organizes a public event.

(2) When the public event is being prepared by a group of citizens or by several legal entities, they shall determine their representative.

Article 40

(Registration of public event)

(1) The organizer of the public event, or his representative, shall submit the request for holding of the public event.

(2) Public event shall be registered not later than five (5) days prior to the beginning of the event.

(3) The request referred to in the paragraph (1) of this Article shall be submitted to the Cantonal Ministry.

(4) The request for holding of public event shall contain:

a) data on purpose, location, date and time of holding and duration of the public event,

b) name and seat of organizer and personal data of responsible person-leader or a representative if the organizer represents several legal entities or groups of citizens, name and surname, contact telephone number and unique personal registration number if an organizer is a physical person,

c) personal information of the leader of the public event,

d) list of stewards from an agency for protection of persons and property with their personal data.

e) information on measures taken by the organizer to maintain peace and order,

f) assessment on the number of participants and,

g) other data of interest for the safe and unobstructed holding of the public event.

(5) under the place of holding of public event in terms of this Article, shall be considered a place where the public event is to be held as well as the access roads and area (immediate and wider location) closely adjacent to the location of the public event.

(6) if public event is held on the traffic road, which would consequently cause the traffic suspension or obstruction, the organizer, along along with the request, shall submit the approval of the competent authority in accordance with the provisions of the Law on Basics of Traffic Safety on Roads in BiH.

#### Article 41

(Prohibition of decanting, offering and selling of alcoholic beverages on public events)

- (1) Selling, decanting and offering of alcoholic beverages is not allowed at public event.
- (2) The organizer of public event shall undertake all necessary measures to implement the prohibition referred to in the paragraph 1 of this Article.

#### Article 42

(Prohibition of holding of public event)

- (1) The Cantonal Ministry shall prohibit holding of the public event by a decision if:
  - a) it is not timely and properly requested,
  - b) the organizer does not implement the measure from the Article 41 of this Law,
  - c) it is requested to take place in the area which is unintended or unsuitable for holding of the public event,
  - d) there is a real danger that holding of the public event would endanger the security of persons and property, violate public peace and order in a larger scale or seriously endanger health of people and environment.
- (2) The decision referred to in the paragraph 1 of this Article must be passed not later than 24 hours prior to the beginning of the public event.

#### Article 43

(Costs of additional measures of security)

- (1) The organizer of the public event, or the event of sport, cultural or recreational nature shall bear the costs of additional security measures that the competent Cantonal Ministry, outside its regular activity, will undertake to ensure public peace and order.
- (2) A contract between the organizer and the Cantonal Ministry concerning the costs referred to in the paragraph 1 of this Article shall be concluded not later than 24 hours before the beginning of the public event.
- (3) The Cantons will adopt the regulation that will determine the cost for provision of additional security measures which will be borne by the organizer of the event referred to in the paragraph (1) of this Article.



(4) The funds referred to in the paragraph (3) of this Article shall compensate for the costs of hiring of police officer (fee, etc.).

#### IV OTHER FORMS OF ASSEMBLY

##### Article 44 (Other forms of assemblies)

(1) Other forms of assembly include assemblies aimed at the realization of economic, religious, cultural, humanitarian, sport, entertainment and other interests that are not aimed at income generating.

(2) Other forms of assemblies from the paragraph 1 of this Article shall not be requested.

##### Article 45 (Reporting of other forms of assemblies)

(1) Notwithstanding the provisions of the Article 44, paragraph 2 of this Law, the organizer shall also submit request for other forms of assemblies, if the character or expected number of participants in the other form of the assembly requires undertaking of security measures outside the regular performance of police duties.

(2) The request for other form of assembly referred to in the paragraph 1 of this Article shall be submitted not later than 72 hours prior to its beginning.

(3) The request shall be submitted to the Cantonal Ministry.

(4) The request shall contain the data referred to in the Article 19 of this Law.

##### Article 46 (Application of provisions of the Law to other forms of public assemblies)

Provisions from Articles 38 to Article 40 of this Law shall also be applied to other forms of public assemblies if their aim is gaining financial benefits.

#### V – RECORDS

##### Article 47 (Record keeping)

- (1) The Cantonal Ministry shall keep the records on requests for holding of the public assemblies, events and other forms of requesting for which the obligation to request is established as well as on issued decisions prohibiting public assembly.
- (2) On the basis of this Law, the Cantonal Ministry shall keep records in accordance with the regulation that governs the record keeping and processing of data in that Ministry.

#### Article 48 (Regulation)

The Federal Minister shall issue a regulation determining the content and manner of record keeping referred to in the Article 47 of this Law and other issues relating to such records.

### VI - REPORTING AND ADMINISTRATIVE CONTROL

#### Article 49 (Reporting)

- 1) At least once a year the Cantonal Ministry is obliged to submit the report on the implementation of this Law to the Cantonal Government.
- 2) Federal Ministry of the Interior (hereinafter: the Federal Ministry) shall annually submit information to the Government of the Federation on exercising the rights to freedom of assembly in the Federation on the basis of this Law and the international instruments listed in the Annex to the Constitution of the Federation.
- 3) On the basis of the report referred to in paragraph (1) of this Article which the Cantonal Ministries are obliged to submit to the Federal Ministry and reports submitted by the Federal Police Administration, the Federal Ministry shall draft the information referred to in the paragraph (2) of this Article.

#### Article 50 (Administrative supervision)

- (1) Administrative supervision over the implementation of this Law shall be carried out by the Cantonal Ministry and the Federal Ministry.
- (2) Administrative supervision includes insight and control of tasks and activities related to implementation of public assembly, provision of expert assistance, provision of expert explanations and instructions on inquiries of the public assembly organizer or other persons, requesting information and announcements about the conduct of activities relating to public assembly and solving administrative procedure in the second instance in accordance with this Law.

### VII - PENAL PROVISIONS

Article 51  
(Fines for organizers of public assemblies)

(1) A fine from 3,000 BAM to 9,000 BAM shall be imposed to a legal person-organizer of a public assembly if he/she:

a) holds the public assembly without the request when requesting is obligatory (Article 12, paragraph 1, Article 28, paragraph 1, and Article 34, paragraph 1).

b) does not inform the competent police authority about necessity of undertaking special security measures on public transport surfaces in order to maintain peaceful assembly (Article 13, paragraph 4),

c) holds peaceful assembly in places where it cannot be held (Article 16),

d) holds peaceful assembly contrary to decision of the competent police authority on the prohibition of holding of the assembly (Article 17, paragraph 1),

e) fails to inform public and participants about the prohibition of holding of the public assembly (Article 18 paragraph 5),

f) organizes peaceful assembly or speaks out at public assembly without the approval of the competent police authority (Article 19 paragraph 1),

g) does not ensure peace and order at public assembly (Article 20, paragraph 1),

h) fails to take all necessary measures to ensure that participants at the public assembly are not armed and do not cause damage (Article 20, paragraph 2),

i) does not insure sufficient number of stewards and does not undertake corresponding measures of medical and fire protection at the public assembly (Article 20, paragraph 3),

j) does not enable the undisturbed passage of police vehicles, vehicles of Armed Forces of BiH, ambulances, fire brigade vehicles and public transport vehicles at the public assembly (Article 20, paragraph 5),

k) does not appoint the responsible person-leader of the public assembly (Article 21, paragraph 1),

l) fails to comply with the imposed security measures by the competent police authority (Article 23, paragraph 2),

m) holds the public event contrary to decision of the competent police authority on the prohibition of holding of the event (Article 30, paragraph 1).

(2) Responsible person in legal entity, the organizer of assembly shall be fined in amount from 1,000 BAM to 1,500 BAM for the offense from the paragraph 1 of this Article.

(3) A fine of 1,000 BAM to 1,500 BAM shall be imposed to natural person, organizer of the public assembly, if he/she:

a) organizes public assembly in the name of a political organization or an association of citizens whose work is banned and

b) convenes or speaks out at public assembly, contrary to final court decision prohibiting his/her public addressing.

(4) Natural person, the organizer of public assembly, shall be fined from 1,000 BAM to 1,500 BAM for the offenses referred to in the paragraph 1 of this Article.

## Article 52

### (Fines for public assembly leader)

A fine from 750 BAM to 1,500 BAM shall be imposed upon the public assembly leader if he/she:

a) does not undertake necessary measures to ensure peace and order at the public assembly (Article 21 paragraph 3),

b) does not interrupt the public assembly when there is a real danger for the security of participants of the public assembly and property (Article 21, paragraph 4),

c) continues with the disrupted public assembly without eliminating the real danger for the safety of participants and property (Article 21 paragraph (5),

d) does not announce the participants of public assembly that the public assembly has been interrupted and does not ask from participants to peacefully disperse (Article 25, paragraph 2).

## Article 53

### Fines for stewards

A fine from 200 BAM to 600 BAM shall be imposed to steward for the public assembly offense if:

a) steward does not undertake measures specified in the provisions of the Article 22, paragraphs 2, 3 and 4 of this Law.

b) steward acts contrary to the provisions of the Article 22, paragraph 5 of this Law,

c) steward does not wear a fluorescent vest with the visible sign "STEWARD" (Article 22, paragraph 6),

d) steward holds weapon or objects suitable for causing injuries, uniform, parts of uniforms, clothing or other features that are invoking or encouraging armed conflicts or the use of violence, national, racial, religious or other hatred (Article 22, paragraph 7).

Article 54  
(Fines for natural persons)

A fine from 100 BAM to 300 BAM shall be imposed to the natural person for an offense if:

- a) the natural person as the participant of the public assembly and as the person that moves towards the place of holding of the public assembly, carries objects suitable for causing bodily injuries and alcoholic beverages (Article 20, paragraph 8)
- b) the natural as the participant of the public assembly, wears uniform, parts of uniform, clothing or other features that are invoking or encouraging armed conflicts or the use of violence, national, racial, religious or other hatred (Article 20, paragraph 9) and
- c) selling, decanting, offering and consuming of alcoholic beverages is forbidden in the public assembly, (Article 29, paragraph 1 and 2). – CHECK IF IT SI ARTICLE 29

Article 55  
(Fines for natural persons)

Request for initiation of misdemeanor proceedings for misdemeanors determined in Articles from 51 to 54 of this Law can be submitted by police officers in accordance with the Law on Misdemeanors ("Official Gazette of the Federation BiH", No. 63/14).

VIII - TRANSITIONAL AND FINAL PROVISIONS

Article 56  
(Application of Law on sport events)

If particular issues are not regulated by the regulation on the prevention of violence and misbehavior at sport events, the provisions of this Law shall also apply to sport events.

Article 57  
(Entry into force)

This Law shall enter into force on the eighth day from the date of its publication in the "Official Gazette of the FBiH".

## **EXPLANATION**

### **I - CONSTITUTIONAL BASE**

The constitutional basis for the adoption of the Law on Public Assembly of the Federation of Bosnia and Herzegovina is contained in the provision II. A. of the Article 2, paragraph 1, point i) and in conjunction with Provisions III of the Article 2, point a) and the Article 3 paragraph 3 of the Constitution of the Federation of BiH. The above provisions stipulate that the Federation will ensure the application of the highest level of internationally recognized rights and freedoms set forth in the acts specified in the Annex, and in particular that all persons in the territory of the Federation enjoy the rights to basic freedoms: freedom of speech and of the press, freedom of thought, conscience and belief, and freedom of assembly, and that the Federal Government and Cantons are responsible for guaranteeing and enforcing human rights, including, among others, the right to freedom of assembly, which must be ensured as binding in the territory of the Federation and in exercising of these competencies, when it comes to laws and other regulations that are binding on the whole Federation, in accordance with this Constitution and decisions of the Parliament of the Federation, the federal authorities will take into account cantonal competencies, different situations in individual cantons and the need for flexibility in implementation. The Federal Government has the right to establish policies and to enact laws concerning the guaranteeing and implementation of human rights.

Bearing in mind that this Law regulates the manner and procedure for the realization and conduct of public assemblies, which belongs to the right to freedom of assembly guaranteed by the Constitution of the Federation, which is to be secured by the Federation, we consider that the aforementioned provisions of the Constitution of the Federation can serve as the basis for the adoption of this law.

### **II REASONS FOR ADOPTION OF THE LAW**

With the act number 02-d-02-441/16 dated 2 March 2016, the Club of Delegates of the Bosniak People commenced the Initiative proposing to the Government of the Federation of Bosnia and Herzegovina (hereinafter: the Government of the Federation) to submit the Draft Law on Public Order of the Federation of Bosnia and Herzegovina (hereinafter: Law on Public Order) to the parliamentary procedure.

In the explanation of this initiative, issues that need to be regulated by the Law on Public Order and the reasons for adoption of this Law are more closely defined.

It results from the Initiative that the Law on Public Order needs to regulate the following issues:

a) organizing of sport and other events in the territory of the Federation of Bosnia and Herzegovina (hereinafter: the Federation);

b) and other public assemblies i.e. issues in the field of public order in the territory of the Federation.

Reasons for adoption the Law on Public Order as stated in the Initiative, are as follows:

a) prevention of diversions and terrorist activities of certain groups and individuals,

b) legal capacity to engage police forces from the level of the Federation or from other cantons when organizing sport, cultural and other public events or other forms of public assemblies in the territory of the Federation;

c) establishment of uniform rules of procedures and uniform penal policy in the Federation when it comes to public assembly;

d) establishment of the legal basis for provision of material, technical and other types of assistance to the cantonal police for issues in the field of public order;

e) legal regulation of the public assembly of citizens in the vicinity of facilities and spaces protected by the Federal Police Administration (hereinafter: the Police Administration).

It is stated in the Initiative that the Government of the Federation in cooperation with the cantons will, as soon as possible, prepare texts of regulations pertaining to public order which need to be adopted at the level of the Federation.

In accordance with the aforementioned Initiative and in order to regulate the aforementioned issues, the Federal Ministry of Interior has decided to prepare and submit to the Government of the Federation three regulations: the Law on Public Assembly, the Law on Misbehavior at Sport Events and the Law on Public Order.

The Government of the Federation adopted a decision by which it accepts the Initiative of the Club of the Delegates of the Bosniak People and instructed the Federal Ministry to submit to the Government of the Federation a proposal of a decision on appointment of the Working Group which will develop pre-drafts of the following regulations:

a) The Law on the Prevention of Violence and Misbehavior at Sport Events,

b) The Law on Public Assembly,

c) The Law on Public Peace and Order.

According to the above conclusion, the Government of the Federation of BiH issued a decision by which it appointed the Working Group for drafting of the Law on Public Assembly.

The reason for the adoption of this Law is contained in the fact that most of public assemblies in the Federation are conducted and organized in front of the institutions of the Federation which are secured by Federal Police Administration. In order for the Federal Police Administration to successfully perform this task, it is necessary to have a federal law

governing public assembly, because Federal Police Administration can not enforce cantonal regulations, but only applies the regulations passed by the Parliament of the Federation.

### III – EXPLANATION OF THE PROPOSED SOLUTIONS

This law precisely defines the way of exercising the right to freedom of assembly as the highest internationally recognized right to be secured by the Federation.

The right to peaceful assembly is regulated by a series of international documents, including the Universal Declaration of Human Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. All the above documents are listed in the Annex to the Constitution of the Federation.

When it comes to freedom of peaceful assembly, the obligations of the state or society and in this particular case of the Federation (referring to the provisions II, A. of the Article 2, paragraph 1, point i) and III. of the Article 2, point a) of the Constitution of the Federation) is to ensure the holding of the assembly (gathering), in order to enable participants of the assembly (gathering) to express their opinion without fear of physical violence of others. The obligation of the state regarding the freedom of assembly is to refrain from obstructing the public assembly (gathering) as one of the guaranteed rights by the Constitution of the Federation of persons located in the territory of the Federation.

To ensure the freedom of assembly, states must take all reasonable and appropriate measures to enable the allowed protests to conduct peacefully and without interruption, and if necessary, the Federation or the canton must ensure police protection, and in extreme cases it can also ban demonstrations.

The modern standards of exercising of this right (freedom of assembly) i.e. the enjoyment of this freedom do not imply only passive attitude towards public assemblies, the Federation must ensure that this goal is achieved through:

- active engagement after the public assembly is requested,
- provision of protection to groups that use the right to peaceful assembly,
- secure assemblies during which public expression of individual groups in demonstrations does not correspond or is unacceptable for some other groups.

The above requirements according to the Constitution of the Federation are fully respected in the proposed text of the law.

One of the features of public assemblies that are organized in the territory of the Federation is the fact that participants in public assemblies, in most cases, are citizens who come from at least two or more cantons. Because of this feature, public assemblies requires the establishment of a legal framework for coordination and execution of tasks and cooperation between Cantonal Ministries and the Federal Police Administration in its organization.



Establishing of this legal framework will ensure that the citizens of the Federation organize public assembly successfully, efficiently and in dignified manner, during which they will clearly achieve the goal of sending a message without interference from other non-participants of the public assembly. The provisions of this Law provide this kind of establishment of the legal framework for cooperation and coordination between the Federal Police Administration and the Cantonal Ministry.

It is important to note that there is no legal framework governing public assemblies organized in the immediate vicinity of the institutions of the Federation of BiH protected and secured by the Federal Police Administration. The previous practice was that these assemblies were covered by cantonal regulations, which prevented the efficient operating of the Federal Police Administration in organizing of these public assemblies. This law stipulates that Cantonal Ministries shall request an opinion regarding the public assembly conducted near the institutions of the Federation. Currently, public assemblies organized near the institutions of the Federation, which are secured and protected by the Federal Police Administration, did not have any influence on decision making regarding the organization of public assemblies or any legal obligation for the organizer or the Cantonal Ministry to provide data or other information necessary for development of an assessment by the Federal Police Administration in order to undertake the necessary measures for provision of security of facilities and participants of the public assembly.

This law regulates specific issues (public assemblies) which require that, when securing public assemblies (gatherings), police officers must strictly refrain from using force against participants in the public assembly and who exercise their right to peaceful assembly. To this end, police officers must refrain from using excessive force and non-selective use of force, which obliges the Cantonal Ministries and the Federal Police Administration to prepare and conduct regular trainings for police officers, and such trainings must be sufficient to ensure that police officers respect the principles of human rights when securing public assemblies (gatherings).

We emphasize that most of the public assemblies in the Federation are conducted and organized in front of the Institutions of the Federation which are secured by the Federal Police Administration, therefore, this law regulates the conduct of the Federal Police Administration in cases when public assemblies are organized in front of the Institutions of the Federation secured by the Federal Police Administration.

Laws governing the freedom of assembly and practices related to such laws must be in full compliance with international human rights standards. Restrictions on freedom of assembly can be imposed only if they are based on the law and are necessary in a democratic society for one of the specific grounds stipulated in international human rights standards. A ban on assembly can be allowed only in exceptional occasions, as foreseen by international human rights standards. This law fulfills all the above elements and is in full compliance with the Constitution of the Federation and ensures that all citizens in the Federation have the highest level of internationally recognized rights and freedoms set forth in the acts listed in the Annex, and in particular that all persons in the territory of the Federation enjoy the rights to

basic freedoms: freedom of speech and of the press, freedom of thought, conscience and belief and freedom of assembly.

This law regulates and allows spontaneous assemblies, in accordance with the assumption that supports the holding of assemblies, even when the assembly is not announced in advance.

**Freedom of assembly is the right of a citizen established by the Constitution of the Federation, and exercising of that right is regulated by the law. This Law regulates a public assembly and establishes the manner of exercising the right to freedom of assembly.**

Conceptually and substantively, the Law on Public Assembly is systematized in four chapters, which constitute thematically self-contained units within a substantively unified act: I - Basic Provisions, II – Public Assembly, III – Public events, IV - Other forms of assembly, V – Record keeping, VI - Reporting and administrative control, VII - Penal Provisions and VII - Transitional and Final Provisions.

Within the chapter - Basic Provisions (Articles 1 to 8), the basic issues regulated by this Law are defined. Those issues relate to the freedom of assembly, which according to the Constitution of the Federation should be ensured by the Federation as the application of the highest level of internationally recognized rights, as defined in international documents listed in the Annex to the Constitution of the Federation. In order to regulate the freedom of assembly, this Law regulates the public assembly of citizens of the Federation, through which the citizens of the Federation publicly express political, social and other beliefs and interests, by organizing public events and other forms of assembly in the Federation.

Within the chapter - Public assembly (Articles 9 to 35), defines issues relating to freedom of assembly through which citizens of the Federation exercise their guaranteed right by Constitution of the Federation enforced by the Federation. And those are the restrictions on freedom of speech at public assemblies, obligations of announcing public assemblies, duration of the public assembly, place where the public assembly is held, restrictions in organization of public assembly, obligations of the organizers of the public assembly, way of reporting of the public assembly and other issues relating to public assembly.

Within the chapter - Public events (Articles 36 to 41), defines issues relating to the manner of conducting or organizing of public events as the form of freedom of assembly, that are performed in order to generate income within the registered activity.

Within the chapter - Other forms of assembly (Articles 42 through 44), defines all other forms of the assembly, which arise from the constitutional right to freedom of assembly.

Within the chapter – Record keeping (Articles 45 to 46), defines records that are kept based on this law.

Within the chapter - Reporting and Administrative Supervision (Articles 47-48), defines issues relating to reporting and administrative supervision under this Law.

Within the chapter - Penal provisions (Articles 49 to 52), defines issues relating to offenses and penalties, which can be imposed on the basis of this Law.

Within the chapter - Transitional and Final Provisions (Articles 53 to 54) it is established when the Law enters into force.

#### IV – HARMONIZATION OF REGULATIONS WITH EUROPEAN LEGISLATION

The Federal Ministry of the Interior could not establish that there is primary and secondary source of European Union law that specifically regulate issues which are regulated by the aforementioned law.

#### V – IMPLEMENTING MECHANISMS AND WAY OF ENSURING COMPLIANCE WITH REGULATIONS

The implementation of the Law shall be provided by the Federal Ministry and the Cantonal Ministries through the activities of supervision. Those activities will be carried out through legislative supervision, which consists of providing the expert opinions, delivery of information and other actions.

#### VI – DESCRIPTION OF CONSULTATIONS CONDUCTED IN DRAFTING PROCESS

In accordance with the conclusions of the Government of the Federation of BiH, the Federal Ministry of the Interior proposed forming of the Working Group appointed by the Government of the Federation of BiH which developed the pre-draft of the Law on Public Assembly.

After the Working Group developed the Draft Law in accordance with the the Decision of the Government of the Federation of Bosnia and Herzegovina, the draft was submitted to the Federal Minister of the Interior.

After receiving the pre-draft of the Law on Public Assembly, the Federal Ministry of the Interior, in accordance with the Decree on Rules for Participation of Interested Stakeholders in the Process of Preparation of Federal Legislation and Other Acts ("Official Gazette of the Federation of BiH" No. 51/12) consulted with the following interested stakeholders: Cantonal Ministries of the interior, Football Association of BiH, Chamber of Agencies for Protection of People and Property, Basketball Federation and Volleyball Federation.

After obtaining suggestions and comments, the Federal Minister of the Interior submitted the pre-draft Law on Public Assemblies with remarks and suggestions from the aforementioned authorities and institutions to the Federal Police Administration in order for them to consider the pre-draft Law and determine the final text of the pre-draft Law on Public Assemblies.

The following bodies had comments and suggestions to the Draft Law:

Football Association of BiH – eight

The Inspectorate for Monitoring the Work of Agencies and Internal Services for Protection of People and Property and Fire Protection – seven  
Una-Sana Canton – Ministry of the Interior – one  
Sarajevo Canton - Ministry of the Interior – one  
Sector for General and Common Affairs – two  
Zenica-Doboj Canton - Ministry of the Interior – 12  
OSCE – 15

The Cantonal Ministries of the the Interior from Livno, Mostar and Ljubuski commented the pre-draft Law on Public Assembly, stating that the public assembly is exclusively within the competence of the cantons and that they do not consent that the said Law is passed by the Parliament of the Federation of BiH.

After examining the content of the pre-raft Law on Public Assembly, it can be clearly established that there is no transfer of jurisdiction relating to public assembly organized in the Cantonal Ministry of the Interior to any federal administrative body, but that those activities remain within the jurisdiction of the Cantonal Ministry of Interior. This Law, in the unique way, regulates the freedom of assembly including public assembly in the territory of the Federation, ensuring the highest level of internationally recognized citizens' rights established by the Constitution of the Federation of Bosnia and Herzegovina and the international documents listed in the Annex of the Constitution of the Federation of BiH, which is the obligation of the Federation of BiH.

The remarks and suggestions made by the Football Federation of Bosnia and Herzegovina refer to the Law on the Prevention of Violence and Misbehavior at Sports Events.

The remarks and suggestions made by the Inspectorate for the Supervision of the Work of the Agencies and Internal Services for Protection of People and Property and Fire Protection related to the harmonization of the pre-draft Law on Public Assembly with the Law on Agencies and Internal Services for Protection of People and Property and are fully accepted.

Regarding the remarks and suggestions of the Ministry of the Interior of the Canton Sarajevo - to have more precisely defined terms "steward", "responsible official" and "security guard", we believe that there is no need for more precise definitions.

Remark and suggestion of the Ministry of the Interior of the Una-Sana Canton to consider the deadlines for the request submitted by mail - we consider that the said provision is in line with the Law on Administrative Procedure.

The remarks and suggestions of the Sector for General and Common Affairs related to nomotechnical regulation of the provisions.

The remarks and suggestions of the Ministry of the Interior of the Zenica-Doboj Canton were mostly accepted and incorporated into the text of the pre-draft Law.

The remarks and suggestions made by the OSCE in the form of recommendations were dealt with the OSCE representatives.

The Federal Police Administration amended the pre-draft Law developed by the Working Group with the provisions relating to the securing of public assembly conducted in front of the institutions of the Federation of BiH secured by the Federal Police Administration. For the first time this law regulates exercising of the right to public assembly in front of the institutions of the Federation of BiH, whose security is within the jurisdiction of the Federal Police Administration.

### III FINANCIAL MEANS

The adoption of this Law does not require funds but its implementation requires allocation of additional funds from the FBiH Budget.