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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**EXCERPTS OF THE ELECTORAL LEGISLATION
OF BOSNIA-HERZEGOVINA**

ELECTION LAW OF BOSNIA AND HERZEGOVINA

Article 9.6

Mandates are allocated in each constituency in the following manner: For each political party and coalition, the total number of valid votes received by that political party or coalition shall be divided by 1, 3, 5, 7, 9, 11, et seq., as long as necessary for the allocation in question. The numbers resulting from this series of divisions shall be the "quotients". The number of votes for an independent candidates is the quotient for that candidate. The quotients shall be arranged in order from the highest quotient to the lowest quotient. Mandates shall be distributed, in order, to the highest quotient until all the constituency mandates for the body have been distributed.

Political parties, coalitions, lists of independent candidates and independent candidates cannot participate in the allocation of mandates if they do not win more than 3% of the total number of valid ballots in an electoral unit.

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Chapter 12**Cantonal Assemblies, Municipal Councils/Assemblies, and City Councils/Assemblies****Article 12.1**

Mandates for Cantonal Assemblies and Municipal Councils/Assemblies and City Councils/Assemblies shall be allocated under the proportional representation system set forth in Article 12.5 of this law.

Article 12.2

The number of members of a Municipal Council/Assembly shall be as follows:

1. A municipality with a number of registered voters less than eight thousand (8,000), shall have between eleven (11) and seventeen (17) members.
2. A municipality with a number of registered voters between eight thousand (8,000) and twenty thousand (20,000), shall have between seventeen (17) and twenty-five (25) members.
3. A municipality with a number of registered voters more than twenty thousand (20,000), shall have between twenty-five (25) and thirty-one (31) members.

Article 12.3

The number of members of a Cantonal Assembly shall be as follows:

1. A canton with a number of registered voters less than seventy-five thousand (75,000), shall have between twenty (20) and twenty-five (25) members.
2. A canton with a number of registered voters between seventy-five thousand (75,000) and two hundred thousand (200,000), shall have between twenty-five (25) and thirty (30) members.
3. A canton with a number of registered voters more than two hundred thousand (200,000), shall have between thirty (30) and thirty-five (35) members.

Article 12.4

A political party, coalition, independent candidate, or list of independent candidates, certified by the Election Commission of Bosnia and Herzegovina, may stand for election for mandates allocated under this chapter.

Article 12.5

Allocation of mandates for the Cantonal Assembly and the Municipal Council/Assembly shall be conducted in accordance with Article 9.6 of this law.

If a political party, coalition, or list of independent candidates is distributed mandates equal to the number of candidates on its list and there are still mandates to be distributed, then the remaining quotients of that political party, coalition, or list of independent candidates shall be ignored in distributing the remaining mandates. If an independent candidate wins a mandate, then the remaining quotients of that independent candidate shall be ignored in distributing the remaining mandates.

If a tie occurs because the quotients are identical, the mandate shall be allocated on the basis of the drawing of a lot.

Mandates won by a list shall be distributed first amongst candidates on the list who individually received at least five percent (5%) of the total number of valid votes received by that list, these mandates being awarded in the order of the highest number of votes to the lowest number of votes. If there are still mandates to be distributed to a list and the candidates remaining are those who received less than five percent (5%) of the total valid votes received by that list, then distribution of the mandates among the remaining candidates from the list will be done according to their order on the list.

Article 12.6

If the mandate of a candidate from the list of a political party, coalition, or independent candidates terminates in accordance with Article 1.10 of this law, then the mandate shall pass to the next candidate as set forth in Article 12.5 paragraph 4 of this law. If the mandate of an independent candidate who did not stand on a list of independent candidates terminates in accordance with Article 1.10 of this law, then the mandate shall remain vacant.

Article 12.7

The Mayor may either be elected by an indirect election by the Municipal Council/Assembly or by a direct election by the registered voters in that municipality. If the Entity laws stipulate that there shall be a direct election of the Mayor then the election shall be conducted in accordance with paragraph two of this article. If the Entity laws stipulate that the election of the Mayor shall be elected indirectly by the Municipal Council/Assembly then the election shall be conducted in accordance with paragraph 3 of this article. If the Entity laws do not stipulate how the Mayor shall be elected then the Mayor shall be elected by an indirect election as established in paragraph 3 of this law.

If the Mayor is directly elected then the Election Commission of Bosnia and Herzegovina shall determine the form of the ballot.

If the Mayor is indirectly elected then he or she shall be elected by a majority vote of the total number of members of the Municipal Council/Assembly. Each member of the Municipal Council/Assembly may nominate a candidate for the position of the. In the event a candidate does not receive a majority vote of the total number of members, a second election shall be conducted. If no candidate receives a majority of votes of the total number of members, a

third election shall be conducted. The member that receives the most votes in the third election shall be elected. In the event that there is a tie, the youngest of the tied candidates shall be elected Mayor.

In the event that the indirectly elected Mayor resigns, dies or is removed by the Municipal Council/Assembly, the Municipal Council/Assembly shall elect a new Mayor in accordance with paragraph 3 of this article.

Article 12.8

The President of the Canton shall be elected by the Cantonal Assembly by a majority vote of the total number of members of the Cantonal Assembly.

Article 12.9

Cantons 6 and 7 which have a special regime shall be exempt from articles 12.8 of this law that pertains to the election of the President of the Canton.

Article 12.10

The members of the City Council/Assembly shall be elected by the Municipal Councils/Assemblies which form the City.

Mandates for the City Council/Assembly shall be allocated to candidate lists according to the system of proportional representation of political parties, coalitions, lists of independent candidates or groups of members as set forth in Article 12.5 of this law. Distribution of mandates amongst the candidates from the same list shall be done according to the order on the list of candidates for this election.

Each City Council/Assembly shall elect a Mayor and a President of the City Council/Assembly as set forth in Article 12.7 paragraph 3 of this law.

Article 12.11

The mandate of the Municipal Councils/Assemblies and the Cantonal Assemblies shall be for four (4) years.

The elections of the Municipal Councils/Assemblies and the Cantonal Assemblies shall take place on the same day.

Article 12.12

The election of the members of the City Council/Assembly shall take place as soon as the Municipal Councils/Assemblies convenes after the elections for the Municipal Councils/Assemblies.

Article 12.13

When officials managing Administrative bodies in the Municipal, Cantonal and City executive bodies are appointed by the Mayor or President of the Canton, or when the Municipal or City Executive Board is elected by the Municipal or City Assembly, the composition of the population of the municipality, canton or city shall be taken into consideration.

OFFICIAL GAZETTE OF BOSNIA AND HERZEGOVINA

Number 20

Saturday, 3 August 2002

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**THE LAW ON AMENDMENTS TO THE ELECTION LAW OF BOSNIA AND
HERZEGOVINA**

Article 1

In the Election Law of Bosnia and Herzegovina (*Official Gazette of BiH*, No. 23/01) and the Law on Amendments to the Election Law of Bosnia and Herzegovina (*Official Gazette of BiH*, No 7/02 and 9/02), the following amendments shall take place.

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Article 18

The existing chapters 12, 13, 14, 15, 16, 17 and 18 become chapters 13, 14, 15, 16, 17, 18 and 19.

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OFFICIAL GAZETTE OF BOSNIA AND HERZEGOVINA

Year VIII
Wednesday, on 3 March 2004

Number
4

Having considered, borne in mind and noted all the matters aforesaid, the High Representative hereby issues the following

DECISION
enacting the Law on amendments to the Election Law of Bosnia and Herzegovina

Article 2

A new Chapter 19 will be introduced in the Election Law of Bosnia and Herzegovina (OG BiH, 23/01, 7/02, 9/02, 20/02 and 25/02): after Chapter 18, "District of Brcko", a Chapter entitled "The City of Mostar" will be added and read as follows:

"Article 19.1

This law shall govern the elections of the councillors to the Council of the City of Mostar (hereinafter: "the City Council"). The principles outlined in this Chapter will apply to elections in the City of Mostar, notwithstanding Chapter 13 of this Law.

Article 19.2

The City Council shall be composed of 35 members. The councillors in the City Council shall be elected in a city-wide electoral constituency and city area electoral constituencies, in the manner set forth in Article 19.4 hereof.

'A city-wide electoral constituency' shall for the purpose of the preceding paragraph cover the entire territory of the City, as defined in Article 5 of the Statute of the City of Mostar.

For the purpose of paragraph 1 of this Article, "city areas electoral constituencies" shall be the former city municipalities, as defined by Article 7 and 15 of the Statute of the City of Mostar.

Article 19.3

The City of Mostar shall have one Election Commission established in accordance with the provisions of this Law pertaining to Municipal Election Commissions.

Article 19.4

Seventeen (17) councillors shall be elected from a city-wide electoral constituency. A minimum of four (4) councillors of each constituent people and one (1) councillor from the group of "Others" shall be elected from the city-wide electoral constituency.

Three (3) councilors shall be elected from each of the six city area electoral constituencies.

The city area electoral constituency 1 shall consist of the former City-Municipality Mostar North.

The city area electoral constituency 2 shall consist of the former City-Municipality Mostar Stari Grad.

The city area electoral constituency 3 shall consist of the former City-Municipality Mostar Southeast.

The city area electoral constituency 4 shall consist of the former City-Municipality Mostar South.

The city area electoral constituency 5 shall consist of the former City-Municipality Mostar Southwest.

The city area electoral constituency 6 shall consist of the former City-Municipality Mostar West.

Each constituent people or the group of "Others" shall not have more than fifteen (15) representatives in the City Council.

Article 19.5

The mandates to be filled from the city-wide electoral constituency shall first be allocated under the formula set forth in Article 9.6, paragraph 1 of this Law. If the allocation of mandates from the city-wide electoral constituency does not allow minimum representation of any of the constituent peoples and/or of the group of "Others", as provided for under Article 19.4, paragraph 1 of this Law, the following method shall apply:

1. The last mandate(s) to be allocated from the city-wide electoral constituency required to fill the quotas of any of the constituent peoples and/or the group of "Others" shall be allocated to the candidate(s) from the relevant constituent people(s) and/or group of "Others" having received the highest number of votes on the list of the political party, the list of independent candidates or the coalition's list to which the mandate was allocated under Article 9.6, paragraph 1 of this Law. If the mandate would, under the formula set for the in Article 9.6, paragraph 1 of this Law, be allotted to an independent candidate, item 2 of this Article will apply.

2. If the political party, list of independent candidates or coalition to which the mandate(s) was allocated under Article 9.6, paragraph 1 of this Law does not have enough such eligible candidate(s) on its city-wide electoral list or if the mandate would, under Article 9.6 of this Law, be allocated to an independent candidate, the mandate shall be transferred either:

- to the political party(ies), list(s) of independent candidates or coalition(s) having such candidates left on its list;

or

- to (an) independent candidate(s) from the relevant constituent people or from the group of "Others", which/whoever ha(s)(ve) the next highest quotient as defined in Article 9.6 of this Law.

3. If no candidate from the relevant constituent people(s) or the group of "Others" can be found in accordance with items 1 and 2 of this Article, the mandate(s) shall be transferred to either:

- the political party, list of independent candidates or coalition's list having such candidate(s) left on a list for any city area constituency after the seats filled from the area constituencies have been allocated in accordance with Article 19.6 of this Law;

or

- the independent candidate(s) from the relevant constituent people or from the group of "Others" running for any city area constituency, which/whoever ha(s)(ve) received the highest quotient as defined in Article 9.6 of this Law.

Article 9.6, paragraph 2 shall not apply when allocating mandate(s) under this Article.

Article 19.6

The mandates filled from the city areas electoral constituencies are thereafter allocated under the formula set forth in Article 9.6 of this Law. Mandates shall be allocated individually, starting with the highest placed candidate in each city area constituency, and proceeding in similar fashion to fill each available seat from each city area constituency. The sequence of filling the mandate allotted to each city area constituency, for each of the three successive steps, shall be determined by the drawing of lots. The drawing of lots shall be organized by the Election Commission of Bosnia and Herzegovina.

If the allocation of a mandate from the city areas electoral constituency would lead to the representation of a constituent people and/or the group of Others beyond the quota provided for under Article 19.4, paragraph 4 of this Law, the following method shall apply:

1. The mandate shall be re-allocated to the candidate who does not belong to the said constituent people and/or to the group of "Others" having received the highest number of votes on the list of the political party, the list of independent candidates or coalition's list to which the mandate was allocated under Article 9.6, paragraph 1 of this Law. If the mandate would, under the formula set for the in Article 9.6, paragraph 1 of this Law, be allotted to an independent candidate, item 2 of this Article will apply.

2. If there is no such candidate or if the mandate would, under the formula set for the in Article 9.6, paragraph 1 of this Law, be allotted to an independent candidate, the mandate shall be transferred, in the same city area constituency, either:

- to the party, list of independent candidates or coalition's list having a candidate who does not belong to the said constituent people and/or to the group of "Others" left on its list;

or

- to the independent candidate(s) who does not belong to the said constituent people and/or to the group of "Others", which/whoever has the next highest quotient as defined in Article 9.6 of this Law.

3. If no such candidate can be found in accordance with items 1 and 2 of this Article, the mandate(s) shall be transferred to either:

- the political party, list of independent candidates or coalition's list having such candidate(s) left on a list for any other city area constituency after the seats filled from that city area constituencies have been allocated in accordance with Article 19.6 of this Law;

or

- the independent candidate(s) from the relevant constituent people or from the group of "Others" running for any city area constituency, which/whoever ha(s)(ve) received the highest quotient as defined in Article 9.6 of this Law.

Article 19.7

Notwithstanding Article 13.7 of this Law, the Mayor of the City of Mostar will be indirectly elected in accordance with the Constitution of the Federation of Bosnia and Herzegovina."

Number 181/04
28 January 2004
Sarajevo

High Representative
Paddy Ashdown

OFFICIAL GAZETTE OF BOSNIA AND HERZEGOVINA

Year XII
Tuesday, 22 April 2008

Number
33

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**THE LAW ON AMENDMENTS TO THE ELECTION LAW
OF BOSNIA AND HERZEGOVINA**

CHAPTER 1. BASIC PROVISIONS

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Chapter 13

Cantonal Assemblies, Municipal Councils/Assemblies, and City Councils/Assemblies

Article 56

In Article 13.6, the second sentence: "If the mandate of an independent candidate who did not stand on a list of independent candidates terminates in accordance with Article 1.10 of this law, then the mandate shall remain vacant" shall be deleted.

In the same article a new paragraph (2) shall be added, which reads:

"The Central Election Commission of Bosnia and Herzegovina shall reallocate mandates pursuant to the procedure established by Article 9.5 of this Law."

Article 57

Article 13.7 shall be altered to read:

"(1) The Mayor/ President of the City Council/Assembly shall be elected pursuant to this Law, the Entity law, statutes of municipality/city.

"(2) If the Mayor/ President of the City Council/Assembly is directly elected, then the Mayor/ President of the City Council/Assembly shall be elected by the voters registered in the Central Register of Voters in that unit pursuant to this Law, the Entity law, statutes of municipality/city.

"(3) In case the mandate of the elected Mayor/ President of the City Council/Assembly referred to in paragraph (2) of this article ceases in accordance with Article 1.10 of this Law or in case she/he is removed from office the Mayor/ President of the City Council/Assembly shall be elected pursuant to this Law, the Entity law, statutes of municipality/city."

Article 58

In Article 13.10, in paragraph (3), the words: "in Article 13.7 paragraph 3 of this law" shall be replaced by the words: "in the Law and statute".

Article 59

In Article 13.11 after the words "municipal councils, there shall be added: "City Council/Assembly".

Article 60

Article 13.12 is altered to read:

“The election of the members of the City Council/Assembly shall take place within 15 days from the date the Municipal Councils/Assemblies convenes after the elections for the Municipal Councils/Assemblies.”