

Legal act
Of Ombudsman for children

I. Basic principles

Article 1.

With this legal act Ombudsman for children is established as independent institution which protects, follows and promotes the rights of children.

Article 2.

Child, by this legal act, is any person who has not yet reached the age of 18, no matter if the person is domestic or international citizen, if the person was born in legal marriage or not , if it was adopted , or if it is under the parenteral guardianship or not.

Article 3.

Ombudsman for children is independent in performing the tasks confirmed by this legal act and no person has the right to interfere in its work and managing.

In performing the duties under the authority of ombudsman for children, it acts in accordance with Constitution, laws and other legal acts, as well as international contracts and rules of international law, managed by principles of fairness and morale.

Article 4.

Head office of Ombudsman for children is in Banja Luka.

Ombudsman for children by decree can form offices afield the head office.

By common act of internal organization and systematization of workplaces in professional service of Ombudsman for children is conducting regulated in the offices.

II. Authority and procedure

Article 5.

Ombudsman for children:

1. Follows compliance of legal acts and other regulations in Republic of Srpska which are related to rights of children with paragraphs of Constitution of Republic of Srpska, UN Convention on the rights of the child and other international documents which are related to protection of rights and interests of children.
2. Follows implementation of obligations of Republic of Srpska which come from Convention of United Nations about children's rights and other international documents which are related to protection of rights and interests of children:
3. Follows implementation of all acts related to rights and interests of children
4. Follows violation of rights and interests of children
5. Advocates for protection and promotion of rights and interests of children
6. Suggests undertaking of measures for protection and promotion of rights of children, as well as blockage of harmful acts which endanger rights and interests of children
7. Informs public on children's rights state
8. Undertakes other activities adopted by this legal act

Article 6.

Ombudsman for children familiarizes children with accomplishing and protection of their rights and interests and advises children on achieving and protecting of their rights and interests.

Ombudsman for children cooperates with children continuously, encourages them to express themselves, initiates public activities focused on improving of child's status and takes part in those activities, as well as suggests measures for increasement of children influence in society.

Article 7.

Ombudsman for children is authorized to submit to the Government, or National Assembly initiative for amendment or annex of legal and other common acts if violation of children's rights is due to lack of acts , as well as initiates new legal acts, other and common acts, if considered of importance for realization and protection of rights of children.

Government, or Committee responsible in National Assembly, has to consider initiatives submitted by Ombudsman for children.

Ombudsman for children is authorized to, in process of act preparations, give an opinion to government and National Assembly on drafts on legal and other acts, if they are of importance in protection of rights of children.

Article 8.

Ombudsman for children is responsible to initiate trial before Superior Court for evaluation of constitutionality and legality of legal act, other and common act, when discrepancies are determined with Constitution or legal act.

Article 9.

By undertaking affairs under its responsibility Ombudsman for children is authorized to suggest to state institutions, bodies, or local self-government units, as well as other legal and civil bodies that perform tasks in relation with children, proposes undertaking of measures for prevention of harmful procedures which endanger their rights and interests, to warn on irregularities, and to require reports on measures undertaken.

Bodies and persons from paragraph 1. of this article are responsible to immediately, and no later than 15 days after acquiring request, inform Ombudsman for children on undertaken measures based on their warnings, suggestions and recommendations.

If bodies and persons from paragraph 1. of this article did not act in reference period according to request of Ombudsman for children, Ombudsman for children will inform responsible body that supervises their activities.

If body that supervises work of person from paragraph 1. of this article does not inform Ombudsman for children in 8 days, on given facts and measures undertaken, Ombudsman for children will inform Government of Republic of Srpska in regards to that matter.

Article 10.

Ombudsman for children has right the right of inspection in accomplishing care of children which are temporarily, by the decision of authorized body, placed with legal and civil persons, including the right of access within the premises where the child resides, as well as the right of undisturbed access into institute for performing sanctions and other places where child who has been deprived of liberty resides.

In regards to inspection from paragraph 1. of this article Ombudsman for children performs report which is delivered to persons from paragraph 1. of this article, as well as to body that supervises their activities.

Persons who have reports delivered are responsible, in 30 days upon receipt, to inform Ombudsman for children in regards to undertaken actions.

Article 11.

All the bodies of state administration , and local self government units, as well as legal and civil persons who perform tasks in relation with children, are responsible to enable insight, information and acts related to rights and protection of children to Ombudsman for children, no matter to the degree of confidentiality ,unless when contrary to the law.

Ombudsman for children is responsible even after termination of function to keep information that is acquired during performing functions confidential.

Necessity of confidentiality refers to assistants as well as all other employees in professional service of Ombudsman for children.

Article 12.

If during performing duties Ombudsman for children comes to know that child has been exposed to assault, sexual violence, molestation, exploitation or neglect, it is responsible

Article 13.

Ombudsman for children can ask for help from professional or specialized institutions with activities in protecting and caring for development and implementation of rights of children.

Institutions from paragraph 1. of this article are responsible to provide requested assistance to Ombudsman for children in timely manner.

Article 14.

Everyone has right to submit proposal for consideration that is of importance for protection of rights and interests of children to Ombudsman for children.

Ombudsman for children will inform applicant of proposal in regards to activities undertaken, no later than 30 days from the day of submitting of proposal.

Article 15.

President of Republic Srpska, president and members of Government, president of national assembly, president of Constitutional Court, and all the officials in the organ of state administration will accommodate Ombudsman for children, at their request, no later than 10 days.

Article 16.

Ombudsman for children is responsible to regularly inform public on state of rights of children as well as measures that are undertaken for protection and improvement of condition of children in society.

Article 17.

Ombudsman for children is responsible annually to report to National Assembly in regards to its function.

Annual report for previous year should be submitted no later than 15. of March of current year and it is published in Official Gazette of Republic of Srpska and web page of Ombudsman for children.

Ombudsman for children has right to present special report to National Assembly when it deems necessary for promotion of rights and interests of children.

III. Election and termination

Of function

Article 18.

Ombudsman for children is elected by national Assembly with recommendation of president of Republic.

In the process of initiation of recommended candidates, professional institutions are consulted as well as representatives of civil sector that are dealing with the rights of children.

In the process of initiating recommended candidates, persons that are selected will be given an opportunity to present their point of view regarding role and position of institution of rights of children.

Ombudsman for children is elected for the period of 4 years and the same candidate can be elected for two mandates in a row for this position.

Process for selection of new Ombudsman for children commences at least 6 months prior to expiry of mandate of previous Ombudsman for children.

Article 19.

Ombudsman for children can be any citizen of Republic of Srpska who fulfills the following conditions:

1. That has a university degree-LLB
2. That has at least 10 years of experience in legal department
3. That is familiar with United Nations Convention, international documents, Constitution and Acts of Republic of Srpska as well as other acts by which the rights and interests of children are regulated, as well to represent work which shows experience in the field which is important for responsibilities for Ombudsman for children.
4. That possesses high moral and professional qualities.

Person who has been prosecuted and sentenced for criminal act cannot be elected for Ombudsman for children nor his assistant.

Article 20.

Ombudsman for children has two assistants, who help and contribute in performing the duties defined in this legal act, within the authority delegated on them.

Ombudsman for children determines which of his assistants will replace him in the event of absence or inability to perform his tasks.

Ombudsman for children recommends assistants.

Ombudsmen for children, as well as assistants are elected by National Assembly by the majority of votes of all members.

Assistant of Ombudsman for children is elected for the period of 4 years and the same candidate can be elected for 2 mandates in a row for this position.

Assistant of Ombudsman for children can be any citizen who fulfills the following conditions:

1. That has university degree-BA
2. That has at least 10 years of experience in the field which is significant for Ombudsman for children.
3. That possesses high moral and professional qualities.

Article 21.

Ombudsman for children and his assistant must take an oath which states: "I swear that I will perform my duties responsibly, impartially and independently, according to constitution and law, and that I will conscientiously work on protection and promotion of rights of the children.

Ombudsman for children takes an oath before the National Assembly, and his assistants before the president of National assembly.

Article 22.

It is considered that Ombudsman for children and his assistant commence their mandate from the moment they take an oath.

If Ombudsman for children and his assistant do not commence their mandate in the period of 30 days following the oath taking, without valid explanation, it is considered that they have quit and National assembly confirms that.

In case of paragraph 2. of this article , immediately, procedure is initiated for election of new Ombudsman for children or his assistant.

Article 23.

With the function of Ombudsman for children or his assistant any other public or professional performance is incompatible, as well as performance of any other duties or work that could influence their independence.

Ombudsman for children and his assistant cannot be members of political parties.

Ombudsman for children and his assistant have position of chosen representatives according to law which determines protection of conflicts of interests in performing public functions and provision of law fully applies to them.

On the day of commencing the mandate of Ombudsman for children or to his assistant all public, professional or other functions must be completed if they are opposite to regulative of this law, as well as membership in political parties.

Article 24.

Ombudsman for children and his assistant cannot be held responsible for their opinion, critique or suggestion they offered while performing their function.

Ombudsman for children and his assistant cannot give statements of political nature.

Ombudsman for children has the same immunity as members of National Assembly.

Article 25.

Function of ombudsman for children ends in the following cases:

1. End of mandate , if not reelected
2. Death
3. Resignation
4. Loss of citizenship which is determined by act of authorized state body
5. Fulfilling retirement conditions determined by law
6. In case of physical or mental inability to perform duties, which is determined by document from relevant medical institution
7. Release of duty
- 8.

Article 26.

Ombudsman for children is released of duty by National Assembly.

Ombudsman for children can be released of duty only in the following cases:

1. If they perform other public or professional activity, if they perform other activities that could affect its independence, or if it acts against the law which regulates the prevention of conflict of interest in the exercise of public functions.
2. If convicted for criminal act which makes him unsuitable for performing this function.

Ombudsman for children has right to address the members of National Assembly during session regarding his dismissal.

Article 27.

National Assembly can render a decision on suspension of Ombudsman for children in the following cases:

1. If in custody
2. If convicted for criminal act which makes him unsuitable for performing this function and the verdict is not in effect.

National Assembly will withdraw its suspension as soon as reasons for suspension are justified.

Article 28.

Acts of duty release of Ombudsman for children are applicable to his assistant as well, provided that a proposal for his dismissal can be submitted by Ombudsman for children.

Article 29.

In case of termination of function of Ombudsman for children or his assistant for reasons stated in article 25. Paragraph 1.-6. of this legal act , National Assembly with no further discussion makes a decision which states that conditions for termination of mandate have been fulfilled.

Legal consequences on termination of mandate commence from day of enforcement of decision of paragraph 1 of this article.

Article 30.

In case of termination of function of Ombudsman for children, until reelection of new Ombudsman for children, this function will perform his assistant as well as in case of his absence or inability to perform this function.

Election of new Ombudsman for children shall be no later than 6 months from the date of completion of function of mandate of previous Ombudsman for children.

IV. Right of salary

Article 31.

Ombudsman for children is entitled to salary which will be determined by regulations from by-law on salaries from the Institution of Ombudsman for children with agreement from National Assembly of Republic Srpska.

**V. Working means of
Ombudsman for children**

Article 32.

Working means of ombudsman for children are provided by the Budget of Republic of Srpska.

Ombudsman for children creates a draft for following year and submits it to government as a part of integral draft of budget of Republic of Srpska and draft must be created using the same methodology and criteria which applies to other budget users.

Annual working means of Ombudsman for children should enable its effective and efficient functioning in accordance with the law.

VI. Experts Units

Article 33.

For performing expert and administrative duties an expert unit of Ombudsman for children is formed.

Secretary of unit is in charge of expert unit.

Ombudsman for children creates common act of internal organization and systematization of positions in expert unit.

Ombudsman for children creates rule of act and if necessary other common acts of institution.

Ombudsman for children renders a decision on employing experts in expert unit.

VII. Transitional and final acts

Article 34.

National Assembly will elect Ombudsman for children within 60 days from the day this legal act takes effect.

Ombudsman for children will submit recommendation for election of assistant within 30 days from beginning of its mandate.

Article 35.

Common act of internal organization and systematization of positions in expert units Ombudsman for children will render within 90 days from the commencing of his mandate.

Acceptance of employees in expert unit ombudsman for children will perform within 60 days from enforcement of common act on internal organization and systematization of positions in expert unit.

Article 36.

Government will, until the enforcement of common act on internal organization and systematization of positions in expert unit of Ombudsman for children, on recommendation by Ombudsman for children, provide facility, means and other necessary conditions for start.

Article 37.

This legal act will take effect on the eight day since publishment in Official Gazette of Republic of Srpska.

Number: 01-1903/ 08

President of National Assembly

Date: October 15. 2008.

MA Igor Radojicic

