

**BOSNIA AND HERZEGOVINA
COUNCIL OF MINISTERS**
General Secretariat

Number: 05-07-458-13/07
Sarajevo, 12/04/2007

MINISTRY OF CIVIL AFFAIRS
For the Secretary

SARAJEVO

SUBJECT: Information

Please be informed that the BiH Council of Ministers, on its 6th session, which was held on 11/04/2007, discussed and adopted the Strategy on Development of the VET in Bosnia and Herzegovina for the period 2007 – 2013.

Respectfully yours,

SECRETARY GENERAL

Zvonimir Kutleša

PROPOSAL

On the basis of Article 4.a) of the BiH Constitution, the BiH Parliamentary Assembly on the session of the Home of Representatives, which was held in _____2006, and at the session of the Home of People, which was held in _____2006, adopted the

LAW ON THE AGENCY FOR PRESCHOOL, PRIMARY AND SECONDARY SCHOOL EDUCATION

PART ONE - INTRODUCTORY PROVISIONS

Article 1.

(Subject of the Law)

By this law the Agency for Preschool, Primary and Secondary School Education (in further text – the Agency), is established and its legal status, organization, competency, the method of establishing and competencies of professional and managing bodies, financing and all the other issues related to its operational work have been regulated,

PART TWO – THE STATUS AND ORGANIZATION OF THE AGENCY

Article 2.

Status and the seat of the Agency

- (1) The Agency has the status of independent managing organization with a status of a legal person**
- (2) The Agency has its seal and stamp in accordance with the Law**
- (3) The seat of the Agency is in Sarajevo**

Article 3.
(Establishing of branch offices)

- (1) Besides the seat the Agency establishes the branch offices as well.**
- (2) The branch offices of the Agency are in the process of establishing are in Banja Luka and Mostar.**

PART THREE – COMPETENCY OF AGENCY

Article 4.
(Establishing of standards in preschool, primary and secondary school education)

The Agency is competent for establishing of standards of knowledge, assessment of achieved results and development of common core of curricula in preschool, primary and secondary school education, as well as for the other professional issues referring to standards of knowledge and assessing of quality, stipulated by the specific law and other regulations.

Article 5.
(Establishing of standards of knowledge and assessment)

In the field of establishing the standards of knowledge and assessment of the achieved results in preschool, primary and secondary school education and for the other professional issues referring to standards of knowledge and assessing of quality of education, the Agency is competent to:

- a) Establish standards of pupils' knowledge and assess the achieved results.**

- b) Carry out the research in order to assess development of standards of pupils' knowledge, to assess the achieved results and to publish the research results,**
- c) Advise the competent educational authorities on issues related to standards of knowledge and their implementation,**
- d) Establish and running the mechanism of flow of information referring to the system of education in BiH,**
- e) Collect, process and publish data on quality and quantity of knowledge,**
- f) Carry out external assessment,**
- g) Provide guidelines for implementation of program for teachers and professional advisors training in the field of standards of knowledge and external assessment,**
- h) Establish a contact with the other bodies of similar interest and function in other countries as well as with the international organizations and institutions, in order to harmonize the regulated standards in education**
- i) Provide assistance in verification of local certification and diplomas in other countries and vice versa,**
- j) Carry out the other activities related to establishing and implementation of standards of knowledge and assessment.**

Article 6.

(Development of common core of curricula)

Concerning the development of the common core curricula in preschool, primary and secondary education, the Agency is competent to:

- a) monitor implementation of common core curricula,**
- b) monitor, evaluate, improve and develop the common core curricula, in accordance with the standards determined by the Framework Law on Primary and Secondary Education in BiH,**
- c) realize cooperation with PIs and other institutions in order to support, modernize and develop the preschool, primary and secondary education,**
- d) provide advice to competent educational authorities on preparation and implementation of new program contents (syllabus)**

- e) **providing guidelines for preparation of program for training of teachers and other experts in the field of education,**
- f) **cooperation with the Commission for preparation of Curricula for additional classes for the subject that belongs to the group of subjects called “national subjects” for the pupils of primary and secondary schools – citizens of BiH living abroad,**
- g) **carry out the other activities in accordance with this Law and other laws, referring to standards in preschool, primary and secondary school education.**

PART FOUR – PROFESSIONAL AND MANAGING BODIES OF THE AGENCY

CHAPTER I – PROFESSIONAL BODY OF THE AGENCY

Article 7.

(The Board of Agency)

- (1) The Agency Board for preschool, primary and secondary school education (in further text the Board) is the professional body established within the Agency,**
- (2) The Board consists of seven members. Two members from each constitutive nation and one from the others,**
- (3) The Ministry of Civil Affairs is to advertise a public announcement for selection of the Board members and the unified list of all candidates who met the requirements is to be submitted to the BiH Conference of the Ministers for Education for further consideration and opinion**
- (4) The Board is nominated by the BiH Council of Ministers,**
- (5) The representative from the Ministry of Civil Affairs participates in the work of the Board but with no right to vote,**
- (6) The members of the Board are nominated for the period of three years.**

Article 8.

(Method of work and the sub-law regulations of the Board)

- (1) The Board reaches the decisions in accordance with this Law**
- (2) Other issues related to the method of work of this Board is being regulated by the Internal rules on work of the Board of the**

Agency for preschool, primary and secondary school education (in further text Internal rules on work).

- (3) Members of the Board are to elect the Chairman of the Board among themselves, for the period of one year in accordance with the Internal rules on work.**
- (4) On all issues the Board decides by the majority of votes of total number of the Board members, bearing in mind that the majority of votes include one vote of the representative of each constitutive nation.**

Article 9.

Dismissal of the Board

- (1) In a case that the Board does not fully realize its function the BiH Minister of Civil Affairs can make proposal to the Council of Ministers to dismiss the Board i.e. a particular member of the Board, even before the end of period it was nominated for.**
- (2) About the proposal for dismissal of the member or the members of the Board the opinion of the BiH Conference of the Ministers for Education must be provided.**

Article 10.

(Competency of the Board)

The Board is competent to:

- a) Establish standards of pupils knowledge and assess the achieved results**
- b) Approve the common core of curricula for primary and secondary school education and publish it in the BiH Official Gazette.**
- c) Provide advice, explanations and recommendations to the competent educational authorities related to issues from its scope of competency.**
- d) Establish and perform mechanism of information referring to issues from its competency**
- e) Analyze the carried out research from the Agency scope of work and publish the results ,**
- f) Establish and realize contacts with the bodies with similar function in other countries, as well as with the international organizations and institutions, with the aim to compare the**

- regulated standards in BiH, with the standards in other European countries.
- g) Issue guidelines for implementation of the training program for teachers and the other professional associates.

CHAPTER II – MANAGING OF THE AGENCY

Article 11.

(Director of the Agency)

- (1) The Agency is managed by the Director, who is nominated in accordance with the Law on Ministries Nominations and Nomination of the Council of Ministers. The Director has two Deputies who are managers of the Branch offices and who are nominated in the same way for that position.**
- (2) Director of the Agency and his Deputies are nominated by the BiH Council of Ministers for the four years period.**
- (3) During the election of the Director and his Deputies it is necessary to pay attention to equal national balance of the all constitutive nations.**
- (4) For his/her work and the work of the Agency the Director of the Agency is responsible to the BiH Council of Ministers**

Article 12.

(Director's Competencies)

Director of the Agency:

- a) manages and directs the work within the Agency's competency**
- b) is responsible to implement the decisions brought by the Agency Board**
- c) prepares material the Board has to discuss about and makes decisions**
- d) prepares the Agency's Activity Plan and reports about the work**
- e) prepares the Agency financial plan and submit the financial report**
- f) in accordance with the Law is responsible for the issues related to labor -relations**
- g) realizes necessary cooperation with the competent educational authorities in the entities, cantons and the Brcko District**
- h) submits the annual report to the BiH Council of Ministers**

- i) **performs the other tasks in accordance with the law and the sub-law regulations, and with the Agency's regulations.**

Article 13.

(The Book of Rules on Internal Organization of the Agency)

- (1) Director of the Agency, in consultation with the managers from the other Branch Offices, brings the Book of Rules on Internal Organization, by previous approval of the BiH Council of Ministers.**
- (2) The Book of Rules on Internal Organization obligatory defines the Branch Offices' competencies.**

PART FIVE - FINANCING

Article 14.

(Financing and Self-financing of the Agency)

- (1) Resources for work of the Agency are provided from the Budget of the BiH institutions from 01/01/2007.**
- (2) The Agency can have its own income, as well as the income from the other resources.**

PART SIX – SUPERVISION

Article 15.

(Supervision)

Supervision over the implementation of this Law is to be done by the BiH Ministry of Civil Affairs.

PART SEVEN – TRANSITIONAL AND FINAL PROVISIONS

Article 16.

(Closure of the Inter-Entity Agency)

- (1) Closure, the archive hand-over , the equipment and the employees of the Agency for Standards and Assessment in Education of the FBiH and the RS (in further text the Inter-Entity Agency) will be regulated by the Agreement which will be**

signed by the BiH Council of Ministers, the FBiH Government and the RS Government.

- (2) Procedure of signing the Agreement stipulated by the Item 1, of this Article, is to be carried out, latest, in three months period starting from the day the law is coming into force.

Article 17.

(Nomination of the Acting Director of the Agency)

Director of the Inter-Entity Agency is the Acting Director of the Agency till the election of Director, in accordance with the law, for the period of six months latest, from the day when this law is coming into force.

Article 18.

(Harmonization of the rules and regulations)

- (1) The Articles 45. 47., and 48., of the BiH Framework Law on Primary and Secondary School Education (the BiH Official Gazette, No. 18/03) are cancelled by this Law coming into force.
- (2) In accordance with this law, in the period of three months from the date this law is coming into force, the Entity Governments will cancel the Decision on Establishing the Agency for Standards and Assessment in the FBiH and RS Education (the FBiH Official Gazette, No. 28/00), and the Decision on Establishing the Agency for Standards and Assessment in the FBiH and RS Education (the RS Official Gazette, No. 42/01).

Article 19.

(Coming into force)

This Law is coming into force the eighth day from the date of being published in the BiH Official Gazette.

**PA BiH, Number _____ /06
_____2006.**

Sarajevo

**Chairman
Home of Representatives
Parliamentary Assembly
Bosnia and Herzegovina**

**Chairman
Home of People
Parliamentary Assembly
Bosnia and Herzegovina**

E X P L A N A T I O N

I CONSTITUTIONAL AND LEGAL BASE

Constitutional base for bringing the Law is contained in provision of the Article III 5 a) and IV .4 a) of BiH Constitution, according which The Parliamentary Assembly is authorized to pass the laws necessary for implementation of Presidency decisions or for carrying out of Assembly functions according this Constitution.

Legal base for issuing of this Law is contained in The Framework Law on Primary and Secondary Education in Bosnia and Herzegovina ("Official Gazette of Bosnia and Herzegovina ", number 18/03) according which are regulated bodies for establishment of standards in education and in the Article 47. On The Law of Administration (Official Gazette of Bosnia and Herzegovina, number 32/02) according which administrative bodies of Bosnia and Herzegovina (administrative organizations/agencies), are founded by the law which brings The Parliamentary Assembly of Bosnia and Herzegovina on the proposal of BiH Ministers' Council.

This Law is based on principles of equality and respect of human rights and basic freedoms defined by BiH Constitution and international conventions signed by BiH and which are directed to the following objectives:

- achievement of high - quality upbringing, education and teaching for all the children**
- achievement the standard of the knowledge which could be compared with international, i.e. European level , which assure**

- inclusion and follow up of education in European educational system;
- Inclusion in the process of European integration.

II REASONS FOR BRINGING THE LAW

According the Reform of Educational System in BiH which is carried out in accordance to documents: The Reform of Education - message to Bosnia and Herzegovina citizens, the five promises (2002), Common Strategy for Modernization of Primary and General Secondary Education in Bosnia and Herzegovina, White Paper (2003) and Midterm Development Strategy of Bosnia and Herzegovina 2003-2007 (2003), is envisaged to assure standards and qualities of education on all the levels, based on modern curricula and modern system of assessment and certification of students and teachers / educators.

In accordance to The Framework Law on Primary and Secondary Education in Bosnia and Herzegovina, which came into effect on the 1st of July 2003, is anticipated to, within a deadline of three months of coming this Law into effect, to found bodies for establishment of standards and assessment of the quality and curricula in preschool, primary and in secondary education.

Regarding the fact, that this legal obligation is not still fulfilled and that currently is existing and functioning only inter - entity Agency for Standards and Assessment in Education for Federation of Bosnia and Herzegovina and Republic of Srpska, founded by the decision of the Federal Government of Bosnia and Herzegovina and Republic of Srpska in 2000 ("Official Newspapers of Bosnia and Herzegovina Federation" number 28/00, " Official Gazette of Republic of Srpska ", number 42/01), it is envisaged, in accordance to The Framework Law, to found independent professional body on the state level, authorized for standards and quality assessment and for curricula in preschool, primary and secondary education.

Explanation of selected policy

Taking into account provision of the Framework Law on Primary and Secondary Education in Bosnia and Herzegovina (" Official Gazette of Bosnia and Herzegovina" number 18/03) related to bodies for establishing of standards in education, and provision of the Administrative Law (" Official Gazette of Bosnia and Herzegovina,

number 32/02) and the Law on Ministries and The Other Administrative Bodies of Bosnia and Herzegovina (" Official Gazette of Bosnia and Herzegovina", number 5/03) related to establishment of agencies as professional organizations, are proposed the following solutions:

It is adopted The Agency as an independent administrative organization and its organization, according which Agency has a site in Sarajevo and the branch offices in Banja Luka and Mostar.

The Agency has the authority in the area of establishing the standards of the knowledge and assessment of achieved results, as well as in the area of the common core of curricula.

It is established the Board as a professional body of The Agency, according the equal representation of constitutive nations and the others and it is established the method of work and decision making as well as the possibility of its cancellation.

Besides the Board as a professional body, management organ of The Agency is the Director who has particular responsibilities.

After the establishment of The Agency in accordance to this Law, it is defined the timing and mode of cancellation of work of the existing inter - entity Agency for Standards and Assessment in Education for Federation of Bosnia and Herzegovina and Republic of Srpska and are overtaken its archives, equipment and the employees.

By this Article is regulated cancellation of provisions of the Framework Law on Primary and Secondary Education in Bosnia and Herzegovina, which anticipated the existence of two separate agencies, The Agency for Standards and Assessment and The Agency for Curricula.

III COORDINATION OF THE LAWS WITH THE EU LEGISLATION

The realization of non discrimination in social, economic, cultural life and creation of regulations , adjusted with the norms and the practice of European countries, members of EU because of adjustment of our legal practice with the standards of EU countries, it is fundamental objective which is fulfilled by passing this Law.

In accordance with the mentioned, The Law on Agency for Preschool, primary and Secondary Education of Bosnia and Herzegovina is one of very important laws from the set of laws on education which are

brought in order to adjust of the laws with the Framework Law on Primary and Secondary Education in Bosnia and Herzegovina, which include European principles established in European conventions and protocols, signed by Bosnia and Herzegovina and enables the further reform and development of preschool, primary and secondary education in Bosnia and Herzegovina, as an European integral part of educational system.

This Law is adjusted with European standards since it includes standards established in a frame of:

- The Articles 149 and 150 of Agreement on Foundation of European Union;**
- The Article 14 of European Convention on Human Rights and Freedoms;**
- The Article 2 of The Protocol 1 by European Convention of Human Rights and Fundamental Freedoms;**

Supervision of the implementation of this Law

The supervision of implementation of this Law is very important segment which should have as a result , establishment the monitoring model of implementation of this Law by Ministry of Civil Affairs and defined cooperation with the competent educational authorities , regarding the fact that majority of obligations is on the local levels of authority.

V FINANCIAL RESOURCES

In order to carry out this Law it is necessary to provide resources for financing of Agency, i.e. necessary resources anticipated in the budget of

Common institutions of Bosnia and Herzegovina in amount of 1.500.000 KM.

The structure of above mentioned necessary resources is given in an attachment of the explanation, what is an integral part of it.

This structure is result of evaluation which is made in a frame of project "The Functional Overview of an Educational Sector in BiH" financed by European Union.

VI THE DESCRIPTION OF CONSULTATIONS CARRIED OUT IN A PERIOD OF DEVELOPMENT OF REGULATIONS

The Ministry of Civil Affairs participated in the work of particular working group which prepared the Draft Law on Agency for Education, within a project " EU Reform of Education" financed by European Union. In the working group for realization of this objective were local experts from all the parts of BiH.

The working material was several times the topic for discussion of ministers of education in BiH. On the last session of BiH Ministers' of Education Conference, held on 11th of April this year, all ministers of education in BiH came to conclusion that this Law should be put into parliamentary procedure, since the deadline given in The Program of Priority from European Partnership with BiH for its adoption is (June 2006).

On the 122 session of the BiH Ministers' Council, held on 05.07.2006, in discussion about this Law, there were several suggestions given for improvement of the text of the Law.

In the proposal of the text of this Law, we accepted all suggestions which we consider as a contribution:

- **in the Article 2 paragraph (2) we deleted unnecessary words;**
- **in the Article 7 we defined only one legally possible mode for selection of the Agency Board : competition announced by Ministry of Civil Affairs-the opinion on Ministers' of Education Conference on candidate list which fulfill conditions- forwarding of proposal to Ministers' Council;**
- **In the Article 8 we precisely stated that The Board issues decision by majority of votes and in this majority should be per one vote of representatives of constitutive nations. This was the proposal on the very session of Ministers' Council. Another proposal was presented on the same Ministers' Council session - that the Board should bring decisions by consensus - it is not possible to accept, because it would open possibility of permanent blockage of The Board S work.**
- **- in the Article 11 we proposed the method of selection of the director's deputy(the same as director);**
- **in the Article 12 we defined competent educational authorities (entity, cantons and District);**
- **in the Article 13 we established that by Regulations on Internal Organization of the Agency should be defined the competence of branch offices of the Agency;**

- in the Article 14 which is related to budget of BiH institutions , as financier of the Agency, we added paragraph , that it starts since 01.01.2007;
- In the Article 18 we deleted more words than it was needed in the first paragraph.

We couldn't accept the following suggestions:

- To put the BiH Ministers' of Education Conference above state institutions which are established by Law, and above Administrative System defined by Laws.
- Such a suggestion is stated in the Article 9 (that Ministers' of Education Conference gives proposal to Ministry of Civil Affairs for premature release of the Board); in the Article 10 (that Ministers of Education Conference , on the proposal of the Agency Board adopt common core of curricula).
- This is to stress that BiH Ministers of Education Conference has only coordination and consultative role - what gives enough possibilities to influence on all decisions-but there is no regulated mandate. The Ministers of Education Conference is not legal, but political body; that's why its not justified that it has more legal authorities from the institution founded by the Law, nor it can replace the decision of institutions of authorities which are established on the basis of the Law.

On the session of the Ministers Council the question was asked on regularity of the Article 17, when director of inter - entity Agency carry out the duty of the acting director of the Agency. It is usual legal practice in such cases. The sense of it is to accelerate transformation of existing institution and keeps continuum of the work.

There was also the question asked on, whether it would amend the Articles 46, 47 and 48 of the Framework Law on primary and Secondary Education in BiH (by which the Agency is established) or by this Law derogate these articles. In relation to this, it is to be stressed that this Law *lex specialis* who can derogate particular provisions of the general Law - this is general legal standard.

VII REASONS FOR BRINGING THE LAW IN AN URGENT PROCEDURE

In a document Program of Realization of Priorities from European Partnership with BiH, in the Article 13 g. are mentioned four laws from educational area which should be adopted by BiH until the end of June 2006. One of them is the Law on Agency for Preschool , Primary and Secondary Education. Regarding the fact that we broke this deadline and that European team for Reform Process Monitoring stated its concern in regard with this - it is envisaged to accelerate procedure for issuing of this Law.

Besides, all so far achieved results in reform of preschool, primary and secondary education is not possible to include in educational system without competent national professional - administrative institution.

Besides above mentioned, it is not possible to apply for resources from Programs of European Union, for resources from IPA program. as well as the other programs of EU also, which are opened in BiH in this phase - the phase of negotiation on stabilization and alignment - without adequate national institutions which are mediators between state, potential beneficiaries and European bodies.