

BOSNIA AND HERZEGOVINA
Ministry of Communications and Transport
Directorate of Civil Aviation

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LAW ON AIR NAVIGATION SERVICES
AGENCY OF BOSNIA AND
HERZEGOVINA



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Pursuant to Article IV. 4 a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina, at its 53rd session of the House of Representatives, held on 13th May 2009 and 29th session of the House of Peoples held on 20th May 2009 issued

THE LAW ON

AIR NAVIGATION SERVICES AGENCY OF BOSNIA AND HERZEGOVINA

PART ONE – BASIC PROVISIONS

Article 1

Scope of the Law

The Air Navigation Services Agency of Bosnia and Herzegovina (hereinafter: the Agency) is established by this Law and defines its scope of work, management of the Agency and other issues significant for establishment and operations of the Agency.

Article 2

Status and the Seat

(1) The Agency is a non-profitable and financially independent institution, with the status of legal person.

(2) The seat of the Agency shall be in Mostar.

Article 3

Name

(1) Name of the Agency is: "Air Navigation Services Agency of Bosnia and Herzegovina"

(2) Abbreviation of the name of the Agency is BHANSA.

(3) Name of the Agency in English language shall be: "*BH Air Navigation Services Agency*".

Article 4

Scope

(1) Lines of business of the Agency shall include:

- a) provision of air traffic control services
- b) provision of communication, navigation and surveillance services,
- c) provision of aeronautical information services,
- d) provision of aeronautical meteorological services,

- e) operations of the rescue coordination centre in search and rescue,
- f) education and training of air traffic control staff,
- g) export and import for the needs of the Agency,
- h) other tasks and operations providing for safe air navigation.

(2) Provision of services specified under paragraph (1), item a) of this Article shall cover the following services:

- a) air traffic services (area, approach and aerodrome control), different flight information services, air traffic advisory services and alerting services;
- b) air traffic flow management services providing for maximum capacity utilization of air traffic control, its scope being harmonized with capacities defined by the Agency, while contributing to safe, orderly and expeditious air traffic flow;
- c) airspace management, meaning a planning function with primary objective of optimizing the utilization of available airspace by dynamic, time-shared distribution of time and periodically by distribution of airspace between various categories of airspace users;
- d) coordination for the needs of the Airspace Management Cell (AMS) where representatives nominated by the BiH Ministry of Defence shall also participate.

(3) Provision of services specified under paragraph (1), item b) of this Article shall cover the following services:

- a) communication services, for which aeronautical fixed and mobile devices are used that, for air traffic control purposes, enable communication ground-ground, air-ground and air-air;
- b) navigation services, provision of which involves use of devices that provide position and weather data o aircraft;
- c) surveillance services, provision of which involves use of devices for positioning of the relevant aircraft for safe separation;

(4) Provision of services specified under paragraph (1), item c) of this Article shall cover provision of aeronautical information and data within the defined area of responsibility, required for safety, regularity and expeditiousness of air navigation.

(5) Provision of services specified under paragraph (1), item d) of this Article means that the Agency shall provide required capacities for publication of meteorological forecasts and real time weather reports, and any other meteorological information and data provided for aeronautical purposes by the state.

Article 5

Internal Organization

(1) The Agency shall comprise the following organizational units:

- a) Main office in Mostar;
- b) Area Control Centre (ACC) with operational Air Traffic Control Units in Sarajevo (ATCU I) and Banja Luka (ATCU II);
- c) Operational-technical services;
 - 1) Bosnia and Herzegovina Meteorological Watch Office (BiH MET) in Banja Luka;
 - 2) Rescue Coordination Centre of Bosnia and Herzegovina (BH RCC) in Banja Luka,
 - 3) Flight Information Service of Bosnia and Herzegovina (FIS) integrated with BHRCC in Banja Luka,
 - 4) Aeronautical Information Services of Bosnia and Herzegovina (AIS BiH) in Mostar;
 - 5) Air Traffic Control Training Centre with ATC simulator in Mostar,
 - 6) International NOTAM office of Bosnia and Herzegovina (BiH NOF) in Sarajevo,
- d) Approach and Aerodrome Control Units at the controlled airports in Bosnia and Herzegovina: Sarajevo, Banja Luka, Mostar and Tuzla.

(2) Regulation on Internal Organization of the Agency shall observe provisions specified under paragraph (1) of this Article.

Article 6 (Operational Resources)

(1) The resources for operations of the Agency shall be provided in the following manner:

a) All property and assets acquired by proceeds of the EBRD loan within the implementation of the Air Traffic Management Strategy in Bosnia and Herzegovina (hereinafter: BHATM Strategy) shall be entered into the accounting records of the Agency after its establishment.

B) BHDCA, as the implementing body of the BHATM Strategy, shall transfer to the Agency all rights and responsibilities resulting from the implementation, including the obligation of loan recovery to the European Bank for Reconstruction and Development (hereinafter: EBRD), as defined by the Loan Agreement no: This transfer shall be in detail specified by an agreement that the Agency shall conclude with the EBRD immediately after the registration.

(2) To use the assets entered in the accounting records of the Federation Directorate of Civil Aviation (hereinafter: FEDCAD) and the Republic Directorate of the Civil Aviation (hereinafter: RSCAD), that are of interest for the Agency for the purpose of provision of air navigation services, the Agency shall, after establishment, conclude special contracts with respective owners of the abovementioned assets, which shall precisely state the modality for utilization thereof.

Article 7 (Status of Employees)

(1) The Law on Labour in Institutions of Bosnia and Herzegovina ('BiH Official Gazette' no: 26/04, 7/05 and 48/05) shall apply to all persons employed in the Agency.

(2) Pursuant to this Law, all employed persons shall be exempted from the Law on Civil Service in Institutions of Bosnia and Herzegovina ('BiH Official Gazette' no: 19/02, 35/03, 4/04, 17/04, 26/04, 37/04, 48/05, 2/06 and 32/07) and the Law on Salaries and Allowances in BiH Institutions ('BiH Official Gazette' no: 50/08).

PART TWO – MANAGING OF THE AGENCY

Article 8

(Rights, Obligations and Responsibilities of Founder)

(1) Rights, obligations and responsibilities on behalf of the founder of the Agency shall be exercised by the Council of Ministers of Bosnia and Herzegovina (hereinafter: Council of Ministers).

(2) The Parliamentary Assembly of Bosnia and Herzegovina shall adopt the development strategy after the proposal of the Council of Ministers.

(3) Council of Ministers shall:

- a) approve the business policy of the Agency,
- b) give consent to the Statute of the Agency,
- c) approve the document determining the salaries, pay scales and special wage supplements for employees of the Agency,
- d) adopt annual work programme and financial plan of the Agency,
- e) adopt annual report of the Agency Council on performance of the Agency,
- f) appoint independent body for auditing of financial affairs, if required,
- g) within a commercial year, approve purchase, sale, exchange, taking on lease or leasing out, raising of loan and other transactions whose scope is larger than one third of accounting value of the property of the Agency according to the balance at the end of previous year,
- h) perform also other duties defined by this Law.

Article 9

(Bodies)

Bodies of the Agency shall be the Council of the Agency and Management of the Agency (hereinafter: the Management).

Article 10

(Structure of the Council of the Agency)

(1) The Council of the Agency shall have seven members who are representatives of the:

- a) BiH Minister of Communications and Transport,
- b) BiH Ministry of Defence,
- c) BiH Ministry of Finance and Treasury,
- d) Government of the Republika Sprska,
- e) Government of the Federation of Bosnia and Herzegovina,
- f) BHDCA and
- g) employees of the Agency.

(2) The Council of Ministers, after proposal of the Minister of Communications and Transport, shall appoint members of the Council of the Agency.

(3) Within 15 days, the institutions specified under paragraph (1), items b) to f) of this Article shall, at request of the Minister of Communications and Transport, nominate their representatives to the Council of the Agency.

(4) Members of the Council of the Agency shall be appointed for the period of four years and shall be eligible only for one reappointment.

(5) When appointing members of the Council of the Agency, the Council of Ministers shall pay attention to equal representation of all constituent peoples in Bosnia and Herzegovina.

Article 11 (Scope of Activity of the Council of the Agency)

The Council of the Agency shall:

- a) oversee business operations of the Agency;
- b) oversee performance of the management;
- c) with approval of the Council of Ministers, issue the Statute;
- d) propose annual work programme and financial plan of the Agency,
- e) with approval of the Council of Ministers, issue Regulation on Internal Organization and Systematization of Positions;
- f) issue Ethic Code of the Agency;
- g) adopt semi-annual and annual business reports of the Management, including balance sheet and income sheet;
- h) submit to the Council of Ministers annual report on business operations of the Agency, including a report of an independent auditor on conducted audit;

- i) within a commercial year, approve purchase, sale, exchange, taking on lease or leasing out, raising of loan and other transactions within the scope between KM 100,000 and one third of accounting value of the property of the Agency according to the balance sheet at the end of previous year;
- j) determine the proposal of basis for calculation of salaries of employees, pay scales of employees and special wage supplements related to specific nature and complexity of the job;
- k) form intermittent commissions and determine their composition and terms of reference;
- l) perform also other duties defined by this Law.

Article 12
(Work of the Council of the Agency)

- (1) The Council of the Agency shall issue its Rules of Procedure.
- (2) The Council of the Agency may issue decisions with more than a half of members thereof attending.
- (3) The Council of the Agency shall decide by simple majority of the members attending, apart from cases specified under Article 11, paragraph (1), items c) and h), where unanimous vote is stipulated.
- (4) For cases requiring unanimous decision of the Council of the Agency, the decision shall be approved by unanimous vote of all members of the Council of the Agency.
- (5) Member of the Council of the Agency coming from the Ministry of Communications and Transport shall be the Chairperson of the Council of the Agency. The Chairperson of the Council of the Agency shall be responsible for timely preparation and holding of sessions and for signing of all documents issued by the Council of the Agency.

Article 13
(Sessions of the Council of the Agency)

- (1) Session of the Council of the Agency shall be held as required, but no less frequently than once in three months.
- (2) Members of the Management shall attend session of the Council of the Agency.

Article 14
(Remuneration)

- (1) Members of the Council of the Agency shall be entitled to remuneration for their work and for costs of duty travel.
- (2) Remuneration for work of the members of the Council of the Agency shall be determined by a special decision of the Council of Ministers. However, it may not exceed the average salary paid for previous year at the level of the BiH institutions.

(3) Remuneration for duty travel shall be calculated according to regulations defining remuneration for duty travel in the Council of Ministers.

Article 15
(Management)

The Management shall consist of Director and two deputy Directors.

Article 16
(Appointment of the Management)

(1) (1) The Council of Ministers, after proposal of the Council of the Agency, shall appoint members of the Management. Should the Council of Minister fail to accept the proposal, the Council of the Agency may within 15 days prepare new proposal from the list of successful candidates. Should the Council of Ministers in this case again fail to approve the proposal for the appointment, the public vacancy announcement procedure shall be repeated.

(2) The public announcement procedure shall be conducted in accordance with the Law on Ministerial Appointments, Appointments of the Council of Ministers and Other Appointments of Bosnia and Herzegovina ('BiH Official Gazette' no: 7/03 and 37/03).

(3) A person nominated for the member of the Management shall:

- a) meet the requirements under the Law on Ministerial Appointments, Appointments of the Council of Ministers and Other Appointments of Bosnia and Herzegovina,
- b) be at least a university graduate,
- c) have at least five years of work experience in the field of civil aviation, and
- d) meet also special requirements for appointment of the member of the Management defined by the Statute of the Agency.

(4) When appointing members of the Management, the Council of Ministers shall pay attention to equal representation of constituent peoples and Entities'.

(5) Term of office of members of the Management shall be five years, with the possibility of single reappointment.

(6) The same person may not concurrently be a member of the Management and of the Council of the Agency.

Article 17
(Scope of Activity of the Management)

(1) The Director shall chair the Management, manage the business operations and represent the Agency and shall be responsible for lawfulness in business operations of the Agency.

(2) The Director shall particularly be responsible for:

- a) management of resources, programmes, services and staff of the Agency;
- b) proposing of business policy of the Agency;

- c) implementation of business policy and business and development plans;
- d) implementation of decisions of the Council of the Agency
- e) issuance of general documents of the Agency;
- f) preparation of semi-annual and annual reports on business activities and submitting thereof to the Council of the Agency;
- g) implementation of all other activities that the Council of Agency considers necessary and that are required for efficient operations of the Agency in compliance with this Law, Statute and other acts of the Agency.

(3) Scope of operations of the deputy directors, their rights, obligations and responsibilities for heading and managing of the Agency shall be defined by the Statute.

(4) The Director shall authorize in writing one of the deputy directors to replace him during his absence. In such case, the deputy shall perform all duties of the director.

PART THREE – GENERAL ACTS OF THE AGENCY

Article 18 (Statute)

(1) The Agency shall have the Statute containing provisions on:

- a) name and seat of the Agency;
- b) lines of business of the Agency;
- c) value of assets owned by the Agency;
- d) management of the business operations and representation of the Agency;
- e) rights and responsibilities of the founders;
- f) organization of the Agency;
- g) management and method of work and issuance of decisions, composition, manner of appointment and suspension, rights and responsibilities of members of the Agency bodies;
- h) general and specific requirements and manner of appointment of a member of the Council of the Agency coming among employees of the Agency;
- i) specific requirements for appointment of the members of the Management;
- j) scope of activities of the members of the Management,
- k) managing of the Agency;
- l) reporting to the founders on business operations of the Agency,
- m) other issues significant for business operations of the Agency.

(2) The Statute of the Agency shall be published in the "BiH Official Gazette".

Article 19
(General Acts and Code of Ethics)

(1) General acts of the Agency shall, in accordance with legislation, regulate recruitment and labour relations in the Agency, financing, accounting, internal organization and systematization of job positions and other issues significant for operations of the Agency.

(2) The Code of Ethics of the Agency shall determine ethic duties and responsibilities of members of the Agency bodies and employees of the Agency.

PART FOUR – BUSINESS OPERATIONS OF THE AGENCY

Article 20
(Scope of Service Provision)

(1) The Agency shall provide air navigation services in the airspace of Bosnia and Herzegovina for the Flight Information Region (FIR Sarajevo).

(2) The Agency may also provide air navigation services beyond the airspace of Bosnia and Herzegovina should it be regulated by an international agreement with Bosnia and Herzegovina being a contracting party therein.

Article 21
(Certification)

(1) The Agency may provide air navigation services only if holding a certificate on compliance with requirements for provision of air navigation services.

(2) The certificate on compliance with requirements for provision of air navigation services shall be issued by the BHDCA.

Article 22
(Financing)

(1) For its operations, the Agency shall collect revenues from:

- a) air navigation service charges;
- b) other sources of revenues in accordance with specific regulations.

(2) The amount of charges specified under paragraph (1), item a) of this Article, related to over-flight charges, shall be determined by the Council of Ministers at proposal of the director of the Agency in accordance with responsibilities arising from international agreements. The amount of charges for other services provided in air navigation shall be determined by the Council of the Agency at proposal of the Director of the Agency.

(3) Charges specified under paragraph (1), item a) of this Article shall not be collected for:

- a) flights exempted from payment of charges in compliance with regulations of the European Organization for Safety of Air Navigation (hereinafter: EUROCONTROL);

b) flights exempted from payment of charges by a decision of the Minister of Communications and Transport.

Article 23
(Loss Coverage)

Should it be impossible to cover expenses created by the Agency in the course of provision of the air navigation services, the institutions of Bosnia and Herzegovina shall cover the uncovered portion of the expenses.

Article 24
(Financial Affairs and Audit)

(1) Bodies of the Agency shall provide for full transparency in financial affairs of the Agency both for users of air navigation services and for citizens of Bosnia and Herzegovina.

(2) Financial affairs of the Agency shall be conducted in accordance with general acts of the Agency and with the current accounting practice.

(3) Financial operations of the Agency shall be in compliance with the relevant regulations of "EUROCONTROL".

(4) The audit of the annual financial reports shall be conducted by an independent audit firm.

(5) The management shall ensure that annual financial reports of the Agency are audited within 120 days as of the end of budgetary year of the Agency.

(6) To provide transparency in financial affairs for users of air navigation services, annual financial reports of the Agency shall present financial effects of air navigation services according to the individual types of service.

(7) Annual financial report of the Agency shall be published in the 'BiH Official Gazette' in languages in official use in Bosnia and Herzegovina and in English language.

Article 25
(Damage Liability)

(1) The Agency shall be liable for damages caused to third persons by all of its property.

(2) The founder of the Agency shall act as surety for damages caused to third parties by the operations of the Agency.

(3) When damages under paragraph (2) of this Article are paid out, the founder of the Agency may seek to recover the amount paid.

(4) The Agency shall insure itself against risk of damages.

Article 26
(Ethnic Breakdown of Employees)

The ethnic breakdown of the employees of the Agency shall reflect results of the latest census of population in Bosnia and Herzegovina.

Article 27

(Cooperation with Administrative Bodies and Other Legal Persons)

(1) Administrative bodies, public corporations, chambers and other legal persons shall, at request, submit to the Agency data related to safe, orderly and expeditious flow of air traffic.

(2) Administrative bodies, public corporations, chambers and other legal persons, when complying with requests related to telecommunications or forwarding of data significant for safety of air traffic and operations of the Agency, shall act without delay and shall give priority to fulfilling of these requests.

(Article 28)

(Powers of the BiH Minister of Communications and Transport in Event of Strike)

(1) In event of strike in the Agency, the BiH Minister of Communications and Transport shall be authorized to determine in a decision the most necessary operations of air traffic to protect special interests of Bosnia and Herzegovina, of other legal persons and citizens in the specific area.

(2) Employees, performing tasks and duties in implementation of decision under paragraph (1) of this Article, shall in the course of the strike follow orders issued by the Director of the Agency, or in his absence, authorized Deputy Director.

PART FIVE – INTERIM AND FINAL PROVISIONS

Article 29

(Nomination and Appointment of Bodies of the Agency)

(1) The BiH Minister of Communications and Transport shall initiate a procedure for selection and appointment of the members of the Council of the Agency within 15 days as of the date when this law comes into force.

(2) The Council of the Agency shall within 15 days after being constituted initiate the procedure for selection of the members of the Management of the Agency and shall, with consent of the Council of Ministers, appoint acting Management of the Agency.

Article 30

(Registration)

(1) The Agency shall be registered as a legal person of Bosnia and Herzegovina, in accordance with the Law on Registration of Legal Persons Founded by the Institutions of Bosnia and Herzegovina ('BiH Official Gazette' no: 37/03).

(2) BHDCA shall be responsible to conduct all activities required for the registration and start of operations of the Agency.

Article 31

(Transfer of Functions)

(1) BHDCA shall in coordination with the bodies of the Agency continue to implement the BHATM Strategy until complete establishment of the unique system for provision of area air traffic control services, together with belonging operational-technical services.

(2) FEDCAD and RSCAD shall transfer the functions of the approach and aerodrome air traffic control to the Agency no later than by establishment of the single technical-operation system for provision of area air traffic control services with belonging operational-technical services.

Article 32
(Access to Property)

To avoid jeopardy to safety of air navigation, FEDCAD and RSCAD, the Federation of Bosnia and Herzegovina and the Republika Srpska shall be responsible to provide for the Agency free access to use of assets even before concluding of separate contracts as specified in Article 6, paragraph (2) of this Law.

Article 33
(Take Over of Employees)

(1) The Agency shall take over all persons employed in BHDCA, FEDCAD and RSCAD who, at the time when this Law comes in force, perform duties within the scope of operations of the Agency.

(2) The staff that are taken over shall be deployed to appropriate working positions, while taking into account education, tasks and duties that those staff perform at the time when this Law comes into force.

Article 34
(Termination of Implementation of Certain Provisions of the BiH Aviation Law)

When this Law comes into force provisions of the Aviation Law of Bosnia and Herzegovina ('BiH Official Gazette' no: 2/04) that are within the scope of this Law, shall become null and void.

Article 35
(Coming into Force)

This Law shall come into force on the eighth day after its publication in the 'BiH Official Gazette'

PA BiH no: 355/09
20th May 2009 Sarajevo

Chaired by

The Law was published in the BiH Official Gazette no: 43/09