



Organization for Security and Co-operation in Europe

# PUBLIC HEARINGS MANUAL

Committee Consultations with the Public

by the: Legislative Strengthening Programme



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FROM THE AMERICAN PEOPLE

# *Public Hearings*

## *Manual*

*This Manual is primarily designed for the parliament, specifically Committee members, staff and other parliamentary officers. The Manual also has a second audience in mind: civil society, specifically, organized groups such as NGOs. Although the legislative process discussed in the Manual is that of the BiH Parliamentary Assembly (State Parliament), the Manual and most of its recommendations are equally relevant to Entity Parliaments, and can guide public hearing processes at lower levels of government.*

This Manual was prepared by Kristin van der Leest in cooperation with Doina Ghimici, Project Manager, as part of the OSCE Mission to Bosnia and Herzegovina's Legislative Strengthening Program (LSP) funded by USAID. The Assembly of Kosovo Public Hearings Manual (co-produced by the National Democratic Institute and the OSCE Assembly Support Initiative) provided the principal source of information, along with the Guide to Organizing Public Forums (co-produced by NDI and the Center for Civic Education Pakistan).

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### SECTION I: THEORY AND PRACTICE

#### **WHAT** *is a Public Hearing?*

In essence, a public hearing is a mechanism by which parliamentary committees obtain information, expert opinions, and alternative perspectives on a proposed piece of legislation. As a result, it can inform all MPs, the executive, and the general public of potential implications of the legislation and present possible means of improving proposed legislation.

#### **WHY** *hold a Public Hearing?*

The main purpose of a public hearing is to provide, obtain and exchange information among parliamentarians, experts, and the public in the hopes of producing more effective and sounder legislation.

#### **WHO** *holds a Public Hearing?*

The parliamentary committee to which proposed legislation is entrusted for additional research purposes decides whether to hold a public hearing, based upon the subject matter and careful consideration of the potential advantages and disadvantages. The Rules of Procedure of the House of Representatives of the BiH PA also requires the Constitutional and Legal Committee to hold a public hearing when discussing any amendments to the Constitution of BiH. It is also possible to hold a joint Committee hearing.

#### **WHEN** *to hold a Public Hearing?*

In general, the moment when a public hearing may take place is dictated by the parliamentary Rules of Procedure (i.e., after a legislative proposal is submitted by the House to the competent Committee as defined by both Houses' RoP for further analysis). However, in BiH, there is no legal obligation to hold a public hearing at any stage during the legislative process. A Committee may choose to hold a public hearing when it lacks sufficient information to make an informed decision on a submitted proposal otherwise; when a topic may affect a wide range of stakeholders; when Committee members request it; or to gauge public responses to a specific proposal.

#### **WHERE** *to hold a Public Hearing?*

Public hearings organized by committees usually take place on parliamentary premises, although travelling hearings take place in certain circumstances.

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## **Layout of Manual:**

The layout of the Manual is straightforward: it includes a detailed discussion of the merits and possible demerits of public hearings; the legislative process; the key components of hearings; and how to organize a hearing to maximize the benefits of the process for both the parliament and citizens.

The Manual has two target audiences in mind:

- a) the parliament, specifically, Committee members and staff
- b) civil society actors, specifically organized groups such as NGOs

In terms of the parliament, the Manual provides step by step guidelines for organizing and conducting a public hearing, including the preliminary process of evaluating the appropriateness of a hearing. For citizens, specifically citizen organizations, the Manual provides hints and suggestions for opening up the public hearing process, and by implication the legislative process, to the public, and ensuring that public participation is both possible and fruitful.

**Shaded Boxes:** The system of shaded boxes summarizes information, highlights important details or terms, and offers suggestions as to how to actively engage civil society in the public hearing process.

**Round Bullet Points (●):** Round bullet points are inserted to highlight specific information, indicate lists, and define specific activities that should be undertaken by Committee and staff members.

**Checkmark Bullet Points (✓):** Checkmark bullet points designate steps that should be taken during the planning and execution of the public hearing, and are intended for use by Committee members and staff.

**Arrow Bullet Points (➤):** Arrow bullet points contained within shaded boxes indicate measures that may be taken by civil actors to influence the public hearing process.

In addition, interspersed in the Manual are a series of recommendations, mostly in reference to modifying the current Rules of Procedure of the BiH PA, others providing useful hints for facilitating the planning process. The

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Manual ends with a checklist that can be printed separately for reference purposes during the hearing preparations.

**Note on usage:** The term "government" in this Manual refers exclusively to executive authorities in BiH, i.e. the Council of Ministers and other ministerial posts. A clear distinction between the executive and the legislature (i.e. the Parliamentary Assembly) is maintained at all times.

### **ACRONYMS:**

**BiH:** Bosnia and Herzegovina

**HoP:** House of Peoples

**HoR:** House of Representatives

**INDOK:** PA Documentation Centre

**MP:** Member of Parliament

**PA:** Parliamentary Assembly

**PR:** Public Relations

**RC:** Research Centre

**RoP:** Rules of Procedure

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## I. WHAT IS A PUBLIC HEARING?

### *Public Hearings and Community Meetings:*

It is important to distinguish public hearings from community meetings, and highlight the legal and technical differences between the two, especially in BiH, where the two terms can easily cause confusion.

The main difference between a public hearing and a community meeting lies in legal responsibility. Most parliaments that hold **public hearings** are legally required to do so when discussing certain subject matters. Committees are not legally obligated to hold **community meetings**, however, although they may be organized in a similar fashion.

In BiH, where no legal obligation exists in any case (with the exception of the Constitutional and Legal Committee when discussing constitutional amendments), the difference between a hearing and a community meeting lies in the role of the Committee. A public hearing can be held only when a Committee decides so, while members of civil society can organize and hold a community meeting whenever they wish.

*For the purposes of this Manual, the term "public hearing" refers specifically to Committee meetings organized and conducted by parliamentary Committees so that Members of Parliament can receive expert and other public advice on draft legislation, draft regulations or policy issues. Although usually open to the public, the competent Committee may choose in certain circumstances to conduct a closed hearing.*

*It is important to note that Committees can also organize and conduct meetings that are open to the public in order to hear views from and question Ministers and senior ministerial officials. As well, in certain circumstances Committees can undertake special investigative hearings to examine details of public administration or Ministerial conduct. These, too, can be either open to the public or closed. Members of Parliament may also take part in community meetings organized by civic groups and citizens. While all of these different kinds of meetings are vital to parliamentary responsibilities, this Manual deals only with "public hearings" which are for the development of legislation, regulation and policy.*



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### II. THEORIES OF PUBLIC PARTICIPATION

Engaging the public in decision-making processes is an important means of improving relations between citizens and public authorities; ensuring legislative transparency and accountability; and increasing citizen awareness as well as knowledge of important political and legislative processes.

Although public participation constitutes a key component of the democratic process, however, it is also a fluid concept, and its effectiveness will vary depending upon each policy-making context. In fact how, and when, citizens are engaged in the legislative process depends upon how the roles of "citizen" and "authority" are conceptualized in democracies:

- the managerial point of view claims that citizens entrust elected representatives to identify and act in the public's best interest. Public participation is perceived negatively, as it permits self-interested behaviour on the parts of individuals and interest groups
- proponents of a pluralist perspective conceive of government as an "arbiter" amongst different interest groups: public participation is the instrument by which these groups promote their respective causes
- the popular perspective assumes that democracy requires direct participation by citizens in decision-making processes, and that this participation will engender better legislation and policies

This Manual assumes that the popular perspective ought to be nurtured in the context of Bosnia and Herzegovina for the following reasons:

- a wealth of information resides in citizens in the form of values, norms, and local knowledge that experts and the parliament or government often ignore or miss; this knowledge can be extremely useful in formulating policy alternatives in the legislative context
- policies incorporating public perspectives are ultimately more legitimate, and allows the government to earn the trust of the populace
- technocracy, or rule by experts, is incompatible with democratic ideals: citizens should have a say in the legislation that affects them
- encouraging public participation may in time engender a culture of

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civic participation, resulting in increased demands for government accountability and transparency, and rooting out public apathy

### ***Public Hearings: An Effective Participatory Mechanism?***

How do public hearings fit into these theoretical participation frameworks, and are they a suitable participatory technique for use in BiH? Hearings are the most common public participation mechanism used by legislatures to solicit public input, but they are the most widely criticized as well for several reasons.

Public hearings are subject to the following criticisms:

***Democratic ritual:*** In many countries, parliamentary committees are legally obliged to hold public hearings when discussing certain legislative topics. In order to fulfil this legal requirement, many parliaments will arrange public hearings to "discuss" aspects of proposed legislation that have in fact previously been agreed upon: in this way, parliaments grant a veil of legitimacy to decisions already made.

***Lack of dialogue:*** Critics argue that public hearings do not permit deliberation: dialogue between the public and the parliament or experts is often minimal, and the time allocated for public questions or comments insufficient for proper discussion. As expert witnesses are usually invited by Committee members to support particular points of view, the impression is given that minimal "hearing" of public views and suggestions actually occurs.

***Expert-Citizen divide:*** The expert-citizen divide is similar to the managerial perspective outlined above: it is based on the perception that the democratic emphasis on public inclusion is incompatible with rational decision making. Critics of the public hearing argue that the predominance of a "technocratic culture", in which citizens are perceived as unable to, unwilling to, or uninterested in participating in technically-challenging problem-solving processes, prohibits the possibility of true information and opinion exchange.

***High-jacked by stakeholders:*** Opponents also insist that public hearings attract an unrepresentative sample of society, mainly powerful stakeholders with an economic or political interest in the outcome. Such stakeholders are often already well-organized and may also possess valuable lobbying connections to certain political parties or individuals.

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***Political posturing:*** Public hearings, if improperly organized, can often degenerate into contests between naturally competing political camps. Witness presentations may be manipulated to promote the achievements of a specific party or organization, and discredit opposing groups (and, by implication, their concerns and views regarding the proposed legislation).

In Bosnia and Herzegovina, we might include the additional problem of not only accommodating and representing the three constituent peoples (amongst both the witnesses and the invited general public), but also ensuring that oppositional camps are not created on the basis of ethnic differences alone.

***Adversarial:*** Public hearings, as opposed to focus groups, roundtables, or public forums, are often adversarial in nature. Critics argue that rather than resolving issues and promoting discussion, hearings often exacerbate tensions and alienate citizens from their neighbours as well as the parliament. Such a hostile environment will often prevent many citizens from speaking, out of fear that their views will be ridiculed, dismissed or attacked. Representatives from marginalized or unorganized sections of the population may feel especially vulnerable, and the environment may reinforce the impression that they have no place within the political realm.

***Lack of influence on outcomes:*** Lastly, academic and empirical literature on public hearings is equivocal about the actual effects of public participation on decision-making processes: most argue that public input rarely influences outcomes in the legislative context. If public participation does not force parliaments to incorporate public views and suggestions into legislative proposals, critics argue, what then is the point of soliciting public input at all?

These are important and often valid criticisms to consider when deciding whether to hold a public hearing. However, many of these problems arise from poor planning, a lack of defined objectives, and a fundamental misunderstanding (on the part of both parliaments and citizens) of what public hearings are and what they ought to achieve, rather than from inherent flaws in the nature of public hearings as such.

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## Types of Public Hearings:

This Manual focuses on *legislative public hearings* organized by parliamentary committees in order to highlight the importance of citizen participation in the legislative process. It is important, however, to note that other types of hearings exist, which allow for parliamentary scrutiny of the government (*supervisory hearings*) and the actions of officials (*investigative hearings*).

The Rules of Procedure of the BiH PA Houses do not distinguish between these types of hearings per se, but the purpose, subject matter, and format of the hearing offer clear indications of what type of hearing is appropriate in a given context.

A crucial difference between legislative and supervisory and/or investigative hearings lies in the fact that the former is conducted for the purpose of soliciting public input, while the latter hearings, although open to the public, do not accommodate public input. The latter hearings should be of special significance to the media, however, who may use this opportunity to either expose misbehaviour by government officials or to examine and evaluate the effectiveness of the government in implementing and running state programs and policies.

**Legislative:** The RoP of both Houses of the BiH PA permit the use of legislative public hearings by parliamentary committees in order to obtain expert and public feedback on legislative proposals. Legislative hearings may be conducted on proposals already drafted, or in order to ascertain whether a law on a particular subject is necessary and/or advised.

**Ministerial questioning:** Ministerial questioning allows for parliamentary questioning of ministers or senior officials. These hearings are used to evaluate the quality and effectiveness of government programs and the performance of government authorities and application of relevant laws and regulations.

**Investigative:** Investigative public hearings are conducted to investigate a suspicion of offensive actions or behaviour by authorities while acting in their official capacity.

## III. THE BENEFITS OF PUBLIC HEARINGS

The previous section outlined the main criticisms levelled against hearings as a public participation mechanism - this section examines in more detail the benefits of public hearings, both to citizens and the parliament itself.

There are many ways to categorize the benefits of public participation in general, but the following six advantages or benefits of public hearings are grouped in order to:

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- highlight the political and social benefits to citizens (benefits which transcend the individual interests of citizens or interest groups);
- underline the advantages of hearings for the parliament (hearings as a source of information, but also as a means to achieve the additional goal of trust-building);
- reveal how benefits to both parties may eventually influence the regulatory system (executive, legislative, and civil) in general

### ***Benefits to Citizens and Parliament:***

***Education:*** Both citizens and the parliament benefit from the process of information exchange. A public hearing allows the parliament to present legislative proposals to the public in a formal and organized manner, and facilitates the process of gauging public support for or opposition to a draft law.

The information presented also permits citizens to make more informed decisions regarding the appropriateness of the legislation, and to participate in the legislative process in an active way. Even if the suggestions and opinions provided by citizens do not significantly influence outcomes, the education process may encourage officials to become more sensitive to public concerns.

***Legitimacy:*** Involving the public in a process of information and opinion exchange helps lend legitimacy to the legislative process. Although the process can be manipulated to grant legitimacy to a proposal already agreed upon, the decision to involve the public is itself a symbol of parliamentary willingness to accommodate public concerns. In fact, research indicates that even if the parliament decides in the end to pass disputed legislation or to not heed public suggestions, citizens who feel their voices were at least heard will still respect the process and the institution which conducted the hearing.

***Alternative Knowledge:*** It is difficult to guarantee that public input itself, however rich and informed, will necessarily influence the legislative process, and ultimately result in better policies. However, the general public takes into account norms, local knowledge and values that experts often ignore: this is helpful in producing alternatives and better informed policies.

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Scholarly research indicates that experts and citizens perceive "risks" differently. That is, the consequences and potential impact of any given proposal will be interpreted differently by these two broad groups, depending on their values, as well as their position and interests as stakeholders. Listening to different perceptions of the impact of proposed legislation may provide the parliament with an incentive to consider legislative alternatives or to modify legislation to satisfy a wider range of stakeholders.

***Empowerment:*** Empowering citizens through public hearings is the central objective of this Manual. It is argued that allowing citizens to play an active role in the legislative and decision-making processes of legislative and governmental institutions will ultimately result in a better-informed and more active public. In Bosnia and Herzegovina, which lacks a strong civil society tradition, the possibility of nurturing a culture of civil society participation in legislative affairs is especially important. Empowered citizens will also be in a position to demand accountability and transparency from politicians elected to represent the public's interests.

***Trust:*** A potential by-product of the public hearing process is increased public trust in the authorities, and the institutions they represent. During a public hearing, citizens are given the opportunity to evaluate the willingness, effectiveness, and ability of their representatives to accommodate public voices. Conducting a hearing is an effective means of potentially earning the trust of a public often wary of politicians' credibility.

***Conflict Resolution:*** Although characterized as adversarial, pitting one set of interests against another, at heart public hearings are about exchanging knowledge, opinions, perspectives, and values. It is through this communication exchange that consensus on a subject matter becomes possible, by broadening horizons, introducing alternative perspectives and possibilities, and learning to appreciate and respect different points of view. Again, conflict resolution between different stakeholders, or citizens and the parliament, depends upon how public hearings are organized. A hearing which permits and promotes citizen-expert-parliament dialogue will prove much more successful in easing tensions than a hearing which excludes the possibility of public input, giving the impression that citizen views are invalid and unimportant.

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### Benefits to the Regulatory System:

#### *Culture of Civic Participation:*

Although historically Bosnia and Herzegovina lacks a tradition of civic involvement in our modern understanding of the term, the country presently possesses the institutions and institutional framework necessary to accommodate and encourage active public participation in decision-making procedures. This occurs when the concept in question (civic participation) is internalized as a natural, organic development in the minds of both MPs and citizens.

It develops on the part of the parliament in the form of altered behaviour. That is, MPs may not change their voting patterns, or allow public input to modify legislative outcomes, but they will most likely become more sensitive to citizen concerns, and learn to accommodate public perspectives. Engaging the public will thus become a natural part of the regulatory system, or, in the case of public hearings, an important component of the legislative process, for both MPs and citizens. In addition, public hearings may

### Why Encourage Participation?

**Education:** Educating the public enables citizens to engage in the legislative process more effectively. The parliament is also able to gauge public support for or against a proposal and the reasons therefore.

**Legitimacy:** Public involvement grants additional legitimacy to the legislative process and to parliament decisions.

**Alternative Knowledge:** The public is an important source of norms, values, and local knowledge that, when collected, may serve to generate alternatives to proposed legislation.

**Outcomes:** Alternatives generated during a hearing may influence outcomes in the form of improved legislation, by incorporating public knowledge (technical, local, social, economic) and appealing to a wider range of stakeholders.

**Empowerment:** To include citizens in decision-making processes is to empower citizens to make better informed choices, and demand accountability from the institutions designed to represent them.

**Trust:** Citizens who feel respected will in turn respect the institutions that accommodated them. To preserve this, parliaments may seek to improve accountability and transparency, reinforcing a culture of responsibility.

**Conflict Resolution:** Public participation that allows some form of dialogue may help defuse tensions between different interest groups.

**Culture of Participation:** If planned properly, a public hearing can help transform a culture of technocracy into a culture of collaboration between citizens and parliament, with open and direct dialogue constituting the focal point.

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provide an opportunity for the three constituent peoples of BiH to initiate dialogue. It may also lead to a strengthening and consolidation of state institutions: public hearings constitute a possible means of bridging the divisions wrought by entity and constituency politics.

For citizens of BiH, a culture of participation means involving oneself in a continuous course of learning and awareness of legislative processes that often appear too technical for the public to understand; too opaque to allow citizen input to be effective; and too detached to accommodate citizen participation at all. Altering perceptions is a long, time-consuming process, but active citizen involvement is the most effective means of ensuring ever greater accountability and transparency from MPs elected to represent citizen interests.

#### IV. PUBLIC HEARINGS IN BiH

##### *a) The legislative process:*

The legislative process in the state level parliament of BiH (the Parliamentary Assembly) begins once a law is drafted and submitted to the parliament (*a proposal of law*). According to Article 99 of the Rules of Procedure (hereinafter RoP) of the House of Representatives (hereinafter HoR), a legislative proposal may be submitted by an MP, Working Committees of the Houses, Joint Committees, the House of Peoples (hereinafter HoP), as well as the BiH Presidency and the Council of Ministers within the scope of their competencies.

The draft law is first submitted to the Speaker of the House, who refers it immediately to the Collegium. Within 7 days, the Collegium is responsible for determining which Committee possesses the competency to review the law; the proposal is also automatically sent to the Constitutional and Legal Committee, which is required to assess the constitutionality of the draft law. At this stage, the legislative proposal is also sent to delegates, the House of Representatives or the House of Peoples (depending upon which House the proposal was originally submitted to), the Council of Ministers and the BiH Presidency. It is also possible for the Collegium to grant competence to a Joint Committee of both Houses: in this case, the proposed bill is sent to a



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Joint Collegium, which then submits it to the competent Joint Committee (Article 96 HoP RoP, Article 102 HoR RoP).

### **The First Committee Phase:**

After the proposal is submitted to the relevant Committee(s), a Committee may decide to hold a public hearing to gather more information before proceeding with internal Committee discussion of the proposal. The Committee to which the proposal is submitted must present its opinions to the Speaker of the House within 15 days. In its report, the Committee may recommend the proposal to the First Reading, or reject the proposal on the basis of unconstitutionality, non-adherence to precepts of the legal system, or inadmissibility of the principle upon which the law is based. Following the submission of the Committee report, the Speaker refers the report to the Collegium, and convenes a session of the House within 7 to 15 days, where the proposal as well as the report will be discussed.

### **The First Reading:**

During the First Reading phase, the plenary discusses the report of the competent Committee. The House may either accept or reject the conclusions of the Committee. Several outcomes are thus possible:

- the Committee rejects the proposal; the House accepts the report (proposal is dead)
- the Committee rejects the proposal; the House rejects the report (proposal sent back to Committee and discussed again)
- the Committee accepts the proposal; the House rejects the report (there are two possible outcomes):
  - i) the proposal is dead
  - ii) in rare cases, proposal is returned to Committee for redrafting
- the Committee accepts the proposal; the House accepts the report (proposal continues to the First Reading)

In the case of the last outcome, if there are no proposed amendments by either the Committee itself, or others competent to submit amendments, it is

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possible for the draft law to be adopted at this stage, although this is unusual.

### **Submission of Amendments to the Committee:**

If the plenary accepts the proposal at the conclusion of the First Reading, then the process of submitting amendments begins (Article 109 HoR RoP). Amendments may be submitted to the responsible Committee in hard copy form by any MP, a caucus, non-competent Committee members, the proponent of the proposal, or the Council of Ministers of BiH, up to 15 days after the end of the First Reading in the plenary.

### **The Second Committee Phase:**

After the 15-day amendment deadline passes, the competent Committee holds another discussion on the proposed law and amendments. Each Article that received amendments must be discussed, and then voted upon individually. After all amendments are discussed and either accepted or rejected, the proposal as a whole, including its adopted amendments, will be voted upon by the Committee members. The Committee nominates a rapporteur who must submit a report to the House within 20 days of the First Reading, and defend the position of the Committee during the plenary session (Article 113 HoR RoP); the contents will include a report on the proposed law as well as the adopted amendments. The rapporteur is usually the Chair of the Committee, who submits the report as an official act of the competent Committee.

### **The Second Reading:**

Once the Committee report is submitted to the Speaker, he/she forwards it to House members, and convenes another session of the House within 7 to 15 days of receipt of the report. During this period, MPs and caucuses may contest the amendments approved by the Committee and submit their own. In addition, those who initially presented amendments to the competent Committee for consideration, but whose proposals were rejected, may resubmit these amendments to the House (Article 118 HoR RoP).

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### Adoption by the Houses:

If the proposal is adopted by the House (e.g. the House of Representatives or vice versa) at the end of the Second Reading, it must then be referred to the other House (the House of Peoples, or vice versa) within 3 days. A proposal is considered passed if the other House adopts the proposal in its entirety (that is, if the texts of the adopted proposal of both Houses are identical).

### Joint Committee for Harmonization:

If the texts of the proposal are not identical, the Speaker shall request that a Joint Committee on Harmonization be convened in order to reach agreement on the text (Article 123 HoR RoP). A Joint Committee is comprised of 6 members, 3 from each House. Once agreement on a text is reached, the proposed text must be approved by a majority of the Joint Committee, and a majority of each of the 3 constituent peoples in the Joint Committee and in each House. If majorities of the Joint Committee and constituent peoples adopt the text, a report on the harmonization is submitted to both Houses for approval (Article 123 HoR RoP). Several outcomes are again possible:

- both Houses adopt the report of the Joint Committee; the proposal is considered passed and is submitted for official publication

### Engaging Civil Society:

#### How to Influence the Legislative Process

Civil society actors can influence the legislative process during several phases:

- **Drafting Stage** - Civil society actors such as NGOs can lobby to be included in government working groups on draft legislation. As MPs are constantly under time constraints, and rarely have the capacity to conduct indepth research, civil actors can present themselves as an alternative expert source of information and knowledge on the subject matter.
- **Public Hearing Stage** - Members of the public can join together to lobby MPs for a public hearing. In addition, civil actors can research the interests and positions of MPs in regards to the issue or similar subject matter, and ally with sympathetic MPs or affiliated expert witnesses.
- **Amendment Stage** - While civil society actors cannot submit legislative amendments themselves, they can, as above, lobby sympathetic MPs outside the organizing Committee(s) to submit amendments to the legislative proposal which they themselves may formulate.

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- one House does not adopt the report of the Joint Committee; the proposal is considered rejected
- both Houses reject the report of the Joint Committee; the proposal is returned to the Joint Committee which must draft a new report

### Passage into Law:

A legislative proposal is considered law after publication in the official Gazette: the law usually comes into force 8 days following its publication.

### **RECOMMENDATION 1: Defining the subject matter of Closed Hearings**

With the exception of Article 34 (b) HoP RoP, which states that the Committee may "summon and hear witnesses from any institution in BiH and may request that they respond to all questions and present all the facts and information including those treated as a state secret", no clause exists which clearly defines when a closed hearing is appropriate. We may infer that legislation concerning national security issues, or issues which may compromise the security of witnesses, will be discussed during a closed hearing.

It is recommended that the BiH PA follow the example of other parliaments to bring legal clarity to this issue. The Assembly of Kosovo outlines in Article 44 RoP subject matter discussions that are not open to the public. These include: debates concerning security issues in Kosovo, confidential commercial contracts, and any other matter deemed inappropriate for public consumption.

### ***b) Rules of Procedure:***

#### ***Articles:***

The Rules of Procedure (modified 2006) of both the House of Representatives and the House of Peoples of the state level parliament permit the use of public hearings by Committees. Article 114 (1) HoR RoP states that *"Before the bill is entered into the procedure referred to in Article 110 of these Rules of Procedure [debate on proposed legislation and amendments], the committee may decide to open a public hearing on the proposed law which would involve all the interested parties, specialist institutions and individuals."*

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Article 115 HoR RoP clarifies by stating that *"Invited individuals and representatives of the bodies and institutions shall present their opinions on issues related to the proposed law, if requested so by the committee."*

### ***Constitutional Amendments:***

The Rules of Procedure of the House of Representatives require that proposed amendments to the BiH Constitution be subject to a public hearing. Article 134 (1) HoR RoP asserts that *"Amendments to the BiH Constitution shall undergo a public hearing procedure."* The RoP of the House of Peoples is less categorical: Article 26 (1) (d), states that *"The Constitutional and Legal Committee shall when the House deems it necessary, conduct public debate about proposed amendments to the Constitution of BiH or bills, and inform the House about the results of the public debate."*

**Proposal of Law**

**Speaker of the House**

**Collegium**

**Relevant & Constitutional and  
Legal Committees**

**Plenary – First Reading**

**Relevant Committee:  
Amendments**

**Plenary – Second Reading**

**Joint Committee  
on Harmonization**

**Adoption of Bill:  
Each House**

**Adopt Identical Text**

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### **Limitations:**

Public hearings in BiH differ from their counterparts in other countries in one essential respect: there is no legal provision obliging parliamentary Committees to hold hearings on any given subject under any circumstances, other than those described above in Article 134 HoR RoP. In the United States, by contrast, public hearings are required when legislation is proposed regarding the environment; public infrastructure and institutions, such as the building of roadways, dumping and sewage sites, schools or parks; real estate issues; or any subject matter with potentially significant social or economic implications for the general public.

The RoP of both Houses of the BiH PA, however, state only that a Committee **"may decide to open a public hearing on a proposed law"**. Article 108 HoP RoP states that *"Prior to the commencement of the proceedings referred to in Article 104 (1) of these Rules of Procedures [referring to debate on proposed legislation and amendments], the committee may make an independent decision to extend the debate on the bill which would include interested groups, professional institutions and individuals."*

### **Open vs. Closed Hearings**

Parliamentarians exist to represent the interests and address the concerns of the public which elects them. Parliamentary proceedings should therefore be as open as possible, to encourage transparency and accountability on the part of MPs.

Public hearings constitute no exception. Although according to Article 37 (1) (a) HoR RoP, a Committee may "conduct public or closed hearings", the majority of hearings should be made open to the public, even if the public is not always able to actively contribute.

In fact, Article 37 (b) HoR RoP states that witnesses may be required to "present all facts and information, including those that are considered a state secret." This is a clear indication that the public is entitled to be informed about the legislation that may potentially affect it.

However, a Committee may hold closed hearings when soliciting the technical advice of public experts on a subject, but does not feel that the nature of the legislation justifies a full public hearing. It is up to the discretion of the Committee members whether to hold a public or closed hearing.

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### ***Ramifications:***

Does the wording and terminology employed in the parliament's RoP affect our understanding of what a public hearing is and how effective it might be?

The absence of a legal obligation to hold a public hearing does indeed impact how effective public hearings can be in BiH in general. Granted, it prevents parliaments from holding hearings merely to fulfil a legal requirement, but it also prevents the public hearing process from becoming an effective mechanism for increasing public participation, improving levels of accountability and trust, and providing the parliament with alternative sources of knowledge.

- the public remains uninformed about legislative proposals, even those that may have an important impact on the lives of citizens (the parliament may not wish to hold a hearing precisely because the subject matter is very sensitive and may engender significant opposition)
- the public is therefore unable to register its views, complaints, or opinions. In short, an absence of legal obligation may result in limited public participation in the legislative process, one of the key reasons why public hearings are important in the first place
- limiting public involvement also diminishes the parliament's alternative sources of knowledge on the potential impact of legislative proposals: uninformed decision making on the part of the parliament may take a toll on the government in the long run, if voters choose to register their dissatisfaction at the ballot box
- public participation ensures greater levels of accountability and transparency amongst officials: the lack of a legal obligation permits MPs and the executive branch to avoid this natural form of citizen control and oversight. The system of checks and balances that public hearings helps enforce is thereby weakened

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### **RECOMMENDATION 2: Defining Topics for Public Hearings**

Clearly defining what legislative subject matters require a public hearing will clarify and facilitate the planning of the public hearing process. Members of the general public already constitute important stakeholders on issues such as infrastructure, public institutions, the environment, or property, because they will be directly affected by new laws or modifications to existing legislation. Thus, their input into the potential effects and ramifications of proposals in the form of opinions or local knowledge will help in isolating and solving problems, and developing solutions and alternatives.

#### **Javna Saslušanja vs. Javna Rasprava**

The translation of "public hearing" into local language is not merely a linguistic issue: it will have significant implications for how hearings are perceived by both the parliament and the public. In English, the term "public hearing", must not be confused with public debates, discussions, meetings, forums, or roundtables, as the legal and technical characteristics of each are different.

The major difficulty in translating this term arises from the fact that in English, the term "public hearing" has been purposely infused with a legalistic connotation in order to distinguish it from a community meeting, in which parliamentary legality is absent.

Although this Manual wishes not only to emphasize the legal nature of legislative public hearings in BiH, but also to formalize the public hearing as an important parliamentary mechanism, it nonetheless advocates the use of the term *rasprava* (trans. - debate, discussion; [in regards to the court/*sud*] - hearing) rather than *saslušanja* (trans. - hearing, audience, trial) for the following reasons:

a) Active public participation in public hearings firstly depends upon whether the public perceives the hearing as a beneficial instrument, or rather a tool to further consolidate legislative and executive powers. The term *rasprava* resonates with the public because it implies dialogue, an actual exchange of information gained through discussion. The term *saslušanja*, on the other hand, gives the impression of traditional one-way exchange, in which the public listens while witnesses present testimony, and in which no true dialogue is possible.

b) This impression of what *saslušanja* represents is founded on the fact that this term literally refers to legal court proceedings, often criminal proceedings, in which the public is invited only to listen, and the testimony offered is that of witnesses testifying either for the prosecution or defence. In order to avoid the impression that a public hearing does not actually accommodate public input, the term *rasprava* is therefore preferred.

As public hearings become more entrenched in the legislative process, this policy may require revision, in order to highlight the legalistic nature of the public hearing, but at the moment, it is recommended to place more emphasis on cultivating a culture of public-authority dialogue.



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### SECTION II: The Committee Stage

#### **V. EVALUATING THE NEED FOR A PUBLIC HEARING**

Involving the public in decision-making processes is not always helpful. There is a time, a place for, and an appropriate means of soliciting public input. Before a Committee begins the preparations for conducting a public hearing, therefore, it should first determine whether public participation is indeed desirable, and second, whether a public hearing is the best mechanism by which to engage the public in the legislative process.

#### ***Procedural Process within the Committee:***

Before preparations begin, the competent Committee must formally approve the public hearing; an initiative may be submitted by members of the Committee prior to a Committee session at which the proposal of law will be discussed or at the session itself before making a decision on the principles. As a preliminary step to determining the viability of a hearing, the secretary of the Committee submits a brief proposal to the Committee Chair. This summary should include the purpose of the public hearing (the objectives, what it is intended to achieve, whether it is viable), potential witnesses, and recommended duration of the hearing. Following the submission of the report, Committee members will then discuss the merits of a public hearing, and call a vote. At this point, a simple majority amongst Committees members is sufficient to initiate public hearing procedures.

#### ***Defining the Purpose:***

Before investing time, energy and resources into planning and executing a public hearing, the Committee must first determine the purpose of the public hearing by asking the following fundamental question:

*What is the principle objective of the public hearing?*

- to inform the public about an important legislative proposal OR
- to seek public opinion, suggestions and recommendations

Of course, it is possible, and often necessary, to achieve both objectives through

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a public hearing, but the Committee should decide whether it is primarily a means of informing the public or seeking information from the public. Clarifying the purpose of a public hearing will allow organizers to manage public expectations more effectively. If the objectives are not clearly communicated, citizens will develop their own differing expectations of what the public hearing should be, making it more difficult for Committee members to satisfy public needs and concerns, and achieve some sort of compromise.

### *Evaluating Criteria:*

Once the purpose is defined, Committee members should discuss the following questions to determine whether a public hearing will be feasible.

*What is the educational value of the public hearing?*

- Proposals of a highly scientific or technical nature may better be left to discussion by experts alone if the added value of public input may not prove relevant or realistic.

*Will public input result in a sounder legislative proposal?*

- Public input is most useful if citizens are consulted on legislation that will directly affect their lives or livelihoods: in these cases, incorporating local knowledge and norms will most likely result in better policies that appeal to a greater range of stakeholders.

*Will the views of those present be representative of the general public?*

- Participants at a public hearing usually have a stake in the outcome of the proposal. A public hearing dominated by powerful stakeholders will not produce the intended results, and will not truly reflect the varied interests and viewpoints of the public. Likewise, a public hearing that solicits only the views of experts aligned with the parliamentary majority will only serve to make citizens, NGOs, and opposition members more distrustful of parliamentary intentions.

*Will a public hearing serve to improve or impair citizen-authority relations?*

- Public hearings conducted for the sole purpose of granting legitimacy to a legislative decision will serve only to alienate citizens, who may feel that

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their opinions and perspectives are unimportant. If the hearing allows for genuine citizen-expert-parliament dialogue, however, chances are that citizens will leave the event more favourably disposed to the institution that allowed their voices to be heard. A Committee must seriously analyse the purpose and objectives of the public hearing to decide whether it will improve or impair relations between the public and MPs.

*Will a public hearing encourage conflict resolution?*

- If properly organized, a public hearing can aid in the process of conflict resolution between different or opposing interest groups. A hostile environment will only exacerbate tensions, however, and may prevent members of the public from speaking up. Committee members should ponder the sensitivity level of the legislation in question, the type of stakeholders involved, and the method of seeking public input in order to determine whether a public hearing is suitable.

*Will the benefits of a public hearing justify the financial costs?*

- Public hearings are expensive to organize and conduct, and require great time and resource commitments. The answers to the previous questions will help Committee members determine

### Evaluation Criteria for Public Hearings

**Purpose/Objective:** What is the purpose and desired outcome of the hearing? What is the nature of the problem to be solved?

**Education:** Is the subject matter of a sufficiently accessible nature to the general populace to justify a public hearing?

**Policy Substance:** Will public input result in better, sounder policies?

**Representation:** Are the values, opinions, and perspectives of the individuals present at the hearing representative of those of the broader public?

**Citizen-Authority Relations:** Will a public hearing serve to improve levels of trust in the parliament or alienate the public?

**Conflict Potential:** Will a public hearing serve to reduce or exacerbate tensions between conflicting interest groups?

**Cost-effectiveness:** Will the financial costs associated with a public hearing justify or outweigh the benefits?

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whether holding a public hearing on a specific proposal is justified. In addition, Committee members must take into consideration the costs of transporting and accommodating expert witnesses and securing a venue in the case of travelling hearings.

### *Timing:*

Once a Committee decides that a public hearing is desirable, it should allow at least two weeks to allow staff to plan the hearing properly. Specific preparation guidelines will be discussed in more detail below.

### **RECOMMENDATION 3: Establishing Committee Quorums**

In terms of quorums, the RoP of the BiH PA are vague on two accounts. Firstly, the RoP do not specify what quorum is required in order for a Committee to conduct a public hearing, nor do the Rules identify who may request a public hearing from within the parliament or government. Secondly, the RoP do not stipulate that a quorum of Committee members is actually required to attend the public hearing. These procedural gaps compromise the effectiveness of public hearings in several ways.

**a) Quorum for holding hearing:** Article 44 (7) of the Assembly of Kosovo's Rules of Procedure stipulates clearly who within the legislature or government may request or demand that a public hearing be held. In the case of the Kosovo Assembly, a public hearing on a proposed piece of legislation must be held if requested by the President of the Assembly, the Presidency, a parliamentary group, or one third of respective Committee members. It would be useful if the BiH PA's RoP contained similar stipulations, in order to clarify who may request or demand a public hearing.

Similarly, the RoP of the BiH PA do not state clearly the quorum necessary for a Committee to hold a public hearing, thus by default, the standard of a simple majority is applied. However, this provision is insufficient as it discriminates in favour of the government, whose representatives comprise the majority of any parliamentary Committee. Opposition members desiring a public hearing on proposed legislation are thus disadvantaged as they constitute a minority. It is

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recommended, therefore, to incorporate a clause that requires the support of only a third of Committee members for a public hearing.

Such a condition would offer further insurance that a legislative proposal drafted by the government could not reach the Second Reading due to votes registered by government majority MPs alone. (This is especially important in regards to ministerial questioning and investigative public hearings, where Committee members of the governing majority would prove even more reluctant to conduct a public inquiry into the questionable actions or behaviour of fellow government ministers or officials.)

### ***b) Quorum for attending hearing:***

Furthermore, according to the RoP, there is no quorum necessary in terms of Committee member attendance at the public hearing (with the exception of those occupying a position of authority, such as the Chair and/or the moderator, who of course must attend). As a legislative public hearing is conducted in order to facilitate information exchange between

### **Engaging Civil Society: How to Lobby for a Public Hearing**

Civil society actors can exert pressure upon Committee members to conduct public hearings in various ways:

- Liaising with sympathetic MPs in order to promote your cause
- Writing letters to MPs to discover their positions on various issues, and building possible alliances
- Scheduling meetings with MPs in their constituencies to discuss pertinent issues on the parliamentary agenda
- Consolidating coalitions with other interested NGOs and organizations, building strength through numbers
- Highlighting the issue through the media
- Discussing the issue with interested representatives of international organizations, which enjoy considerable clout in BiH
- Developing or enhancing an expertise on the subject matter, so that sympathetic MPs will approach representatives of your organization to attend or even speak at a public hearing
- Monitoring and evaluating progress of the legislation during the post-hearing follow-up phase. Keeping the media involved in order to highlight successes or failures of parliament to accommodate public input

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citizens and their parliamentary representatives, it is recommended that a quorum be established in terms of MP participation. A public hearing which few Committee members attend, or where they appear for only a short time, gives the impression that the organizing Committee members do not deem citizen input and the public hearing process an important component of the legislative process.

The BiH PA confronts the additional issue of capacity. The House of Peoples is comprised of 15 delegates and 3 standing Committees, while the House of Representatives contains 42 representatives and 8 standing Committees. It is common for MPs to belong to more than one Committee. The proposed constitutional amendments sought to address this issue by increasing the number of delegates of both Houses, but following the rejection of this proposal in April 2006, it is at this moment unclear when this situation will be rectified.

## **VI. CHOOSING WITNESSES: THE SELECTION PROCESS**

The term "witness" is usually used, first of all, when investigative hearings are conducted. For the purpose of this Manual, however we shall also use the term to refer to the selection of experts and specialists who advocate or oppose legislative proposals, as well as competent representatives of academia and professionals, i.e. representatives of stakeholder bodies, professional institutions and individuals.

The process of selecting expert witnesses to testify at a public hearing is very important, as Committee members must ensure that all possible perspectives on the proposed legislation are represented. In addition, members must include all potential stakeholders, although when a legislative proposal is rather sensitive, or may significantly affect the public, this may prove particularly difficult. The selection procedure may be facilitated, however, by answering the following questions at the beginning of the process:

- Who has an interest or a stake in the subject matter of the proposal?
- Who may be potentially affected by the legislation?

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- Who is willing to participate?
- Whose support is critical to the success of the legislation?
- Who will be negatively affected by the legislation?

### **Government witnesses:**

Parliamentary Committee members are responsible for selecting expert witnesses. In most parliaments, it is accepted that a Committee member will invite witnesses who will support his or her particular view on the legislative proposal. As the majority of Committee members represent the government (that is, the party in power), most expert witnesses will therefore provide testimony in support of proposals initiated by the government or representatives thereof.

### **Opposition witnesses:**

The organizing Committee must take into account the perspectives of all Committee members when compiling a list of witnesses, however. This provides opposition members with the opportunity to invite witnesses that will testify against the proposal of the government, or at least provide arguments as to why the proposal should be modified. It is important to invite witnesses that will provide counter-arguments for the sake of unaligned citizens as well, who will make their decision regarding the legislation based on the evidence presented by both (or multiple) sides.

### **Civil Society Stakeholders:**

Ostensibly, the list of witnesses compiled by the Committee should encompass not only the views of experts and specialists, but also the perspectives of all affected stakeholders. This requires clearly defining the multiple "publics" potentially affected by the proposed legislation. In reality, however, witnesses are invited to support the views of MPs that invited them, and refute the testimony of MPs holding opposing views. Any invited stakeholders usually have connections to the Committee members, who will work to accommodate their interests due to the stakeholders' power, position, and influence.

Civil society actors cannot directly force the Committee to invite their preferred experts to testify at a public hearing; yet, if they remain inactive, their input will

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be limited. There are several ways to make public hearings more accommodating of public interests and concerns, however. Maintaining relations with opposition or government members who share similar perspectives on proposed legislation, for example, will ensure that the concerns of civil society actors are represented. Using the media to highlight citizen concerns, opinions, and suggestions will put pressure on Committee members to accommodate citizen voices during the hearing. Approaching members of the international community, or building alliances with organizations, trade unions, NGOs, and other associations will also help build strength through numbers, which will be harder for the parliament to ignore.

### *Legal Obligations of Witnesses:*

Witnesses invited to testify at a public hearing are not legally obligated to attend, although most will in order to show support for allied parliamentary members. Nor are witnesses sworn in, and so legally, they are not obliged to tell the truth: the only safeguard against false testimony is the fear of exposure by opposition Committee members or the public during the question period. As providing false testimony will undoubtedly reflect badly on the Committee members (and their position on the proposal), the desire to maintain credibility helps ensure that given testimony is accurate. However, Article 34 (c) HoP RoP states that a Committee may "raise the issue of responsibility for a failure to appear before the committee, [or] making false or untrue testimony before the committee under oath."

In general, expert witnesses do not possess the legal rights enjoyed by witnesses during a court hearing. Because their testimony is politicized from the start (due to stated political allegiance to the views of the MPs who invited them), expert witnesses often face difficult, even hostile, question periods when confronted by Committee members who oppose their views. It is the responsibility of the Chairperson to ensure that this questioning/interrogating process does not get out of hand.

### **Suggested List of Witnesses**

- Academic specialists/experts
- Representatives of government ministries
- NGOs
- Business groups
- Affected civil society stakeholders (trade unions, students, health care/social workers, businesses, women's organizations)
- Representatives from interested international organizations
- Individual citizens who submit applications to speak



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It should be noted that in circumstances where the testimony of a witness may place that individual in danger, it is possible to hear his/her statements in private. This is of course a rare occurrence, but precautions should always be made to protect witnesses from undue harm or consequences.

### **Ministerial Questioning and Investigatory Hearing Witnesses**

During ministerial questioning and investigative hearings, the selection of witnesses is more complex, as those requested to testify are most often government officials being called to account for their actions or the actions of other authorities. Article 34 (c) HoP RoP states that a Committee may "summon and hear witnesses from any institution in BiH and may request that they respond to all questions and present all the facts and information including those treated as a state secret"; (d) states that a Committee may "request a report from any elected and appointed official, officer or institution."

The Rules of Procedure of some parliaments, such as the Scottish Parliament, include a clause which effectively compels invited witnesses to attend a public hearing of any type, or face possible sanctions or criminal proceedings. The ability to compel witnesses to attend is a mechanism that significantly enhances parliamentary oversight of the executive: in this way, parliamentarians can ensure greater accountability from government officials for their actions and behaviour.

### ***Preparing Witnesses:***

After Committee members have identified and chosen relevant specialists and representatives from all potentially affected stakeholders and interest groups, it is necessary to request the participation of witnesses, and inform them about the public hearing subject matter as well as their responsibilities.

The Committee Chairperson shall on the basis of proposals by the Committee:

- ✓ **12-14 days** prior: determine format and content of invitations, including subject matter, logistics (time, date, venue), draft agenda, and request for attendance
- ✓ **12-14 days** prior: select witnesses through discussion with all Committee members and draft a set of questions for witnesses (request a summary of expertise, as well as opinions, recommendations, criticisms); these will also help structure witness presentations in terms of content and time

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- ✓ **12-14 days** prior: determine time limits for presentations and questions, and include these in the invitations. Depending upon the number of witnesses, presentations should range from 5-15 minutes, with a 5-10 minute question period following each in order to allow Committee members to query witnesses, and witnesses to respond
- ✓ **1 week** prior: study the draft law and ensure that, as Committee members, each participant is knowledgeable about the subject matter, including implications of the proposed legislation, to facilitate the question period

Staff members should:

- ✓ **7-10 days** prior: prepare and send invitations, preliminary agenda, and questions to witnesses; inform witnesses that written testimonies or comments should be sent to Committee members in advance; request that witnesses confirm attendance ASAP
- ✓ **1-2 days** prior: contact witnesses by phone to remind them of their commitment, and to send any written documentation of their presentations to the appropriate Committee ahead of time

### **RECOMMENDATION 4: *Registering Public Input***

Although the duties and responsibilities of expert witnesses are formally outlined in the invitations, there are no clear guidelines regarding the form of citizen participation during a public hearing. In these circumstances, it is important that, when planning the logistics of the hearing, the method of accommodating participation is defined (usually by the Chairperson).

*Will citizens be required to submit written requests in advance of the hearing if they wish to participate in the proceedings?*

- If so, this information must be included in public notices, including a sample (or at least guidelines) regarding the format of the submission, the required contents, where to send it to, and how many days in advance. Staff members must then accommodate these speakers in the agenda, and adjust the timeframe accordingly

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*Alternatively, will citizens be allowed to speak simply by filling in a request form at the beginning of the hearing?*

- If so, staff members should design a standard request form, make sufficient copies, and delegate someone to answer questions, direct citizens to the forms, and ensure that the Chairperson receives the forms during the hearing

Regardless of which format the Chairperson wishes to adopt, the method must be clearly communicated to the public on the notices, so that citizens are fully aware of how to proceed in registering their views.

### Question Period:

The Chairperson must decide the format of the public question period during the period of hearing preparations. In order not to disrupt the flow of proceedings, it will be most effective to allow experts to speak, allow questions from Committee members only, and designate a period at the end of the hearing for public questions, comments or suggestions (up to an hour to allow for effective and detailed discussion and debate).

The structure would therefore unfold as follows (example only):

---

<b>6.00pm</b>	<b>Opening Remarks</b> (Name of Chairperson)
<b>6.15pm</b>	<b>First Expert</b> (Introduced by Chair) (Name of Expert; Position; Organization)
<b>6.30pm</b>	<b>Question Period</b> (Committee members and responses from witnesses)
<b>6.35pm</b>	<b>Second Expert</b> (Introduced by Chair) (Name of Expert; Position; Organization)
<b>6.50pm</b>	<b>Question Period</b> (Committee members and responses from witnesses)
.....	
<b>7.45pm</b>	<b>Break</b>
<b>8.00pm</b>	<b>Public Question Period</b> (Chair introduces questions/identifies audience)
<b>8.45pm</b>	<b>Closing Remarks</b> (Chair offers summary and post-hearing plan of action)

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### Engaging Civil Society: The Public Forum as Alternative

It is difficult for civil society actors to force parliamentary Committees to hold a public hearing, let alone accommodate representatives of each potential stake holding group, especially if these individuals do not support the governing majority's view on the proposed legislation. As an alternative, civil society actors such as NGOs may consider organizing a public forum to ensure that all affected stakeholders are represented and heard.

The benefits of organizing a public forum on a legislative proposal are:

- Forums do not require the approval of the parliament or Committees, and can be organized at any time by interested civil society actors such as NGOs
- Civil actors create their own list of witnesses, ensuring that voices that oppose the parliamentary majority are heard
- The date of the forum can be timed to coincide with sessions of parliament for maximum coverage and effect
- Through links with the media, organizers can ensure that the event is well-publicized, and that the information campaign is effective
- Organizers can coordinate activities with other interested organizations to facilitate preparations: links with actors in other areas can be used to organize public forums simultaneously in different locations
- Public forums are a means of gauging, and more importantly publicizing, public support for or, more often, opposition to legislative proposals

## VII. PREPARING A LOGISTICS TEAM

Public hearings require an enormous amount of planning and preparation. Although the responsible Committee has some staff at its disposal to deal with the details, it is also helpful to designate a logistics team from the pool of available staff members (with the exception of the Chairperson, whose position in most cases is filled by the Chair of the Committee calling the hearing), so each can assume responsibility for a particular component of the preparation procedure.

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A logistics team should consist of a:

***Chairperson/Moderator:*** As the Chairperson's responsibilities are vast and diverse, his/her position will be discussed in a separate section below. In brief, however, the Chairperson is responsible for ensuring that the public hearing unfolds according to plan; that time limits are respected; that hecklers/disturbances are dealt with efficiently and effectively; and that the process in general runs smoothly. The Chair also liaises with the media following the hearing, and ensures that the witnesses are properly cared for and informed of the schedule.

Most often, the Chairperson also holds the position of moderator, who is responsible for ensuring that the process unfolds in an orderly manner. He/she will identify and repeat questions, enforce time limits, accommodate public input, and ensure that the discussion remains on track. It is important to emphasize the neutrality of the moderator: he/she should not publicly voice an opinion on the proposed legislation in order to maintain an atmosphere of fairness and equality.

***Secretary:*** If the Chair also holds the position of moderator, the Committee should designate a secretary who will sit next to the Chair during the hearing, and deal with issues that arise during the hearing that, as coordinator of the hearing, the Chairperson will be unable to address. This may include disciplining hecklers, resolving disputes between individuals or parties, or sorting out any logistical problems that arise during the course of the hearing. This position is in most cases filled by the Committee Secretary.

***Media Liaison:*** The media liaison is responsible for all PR activities, and ensuring that the public as well as media sources are properly informed about the public hearing well in advance. The role of the parliamentary PR office should never be underestimated: it is crucial to the overall success of the hearing.

***Logistics Coordinator:*** The logistics coordinator takes care of all details surrounding the preparation of the venue for the hearing. This includes booking the venue, contacting security, accommodating the media and translators as well as their equipment, ensuring enough seating for the public,

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paying attention to lighting and heating/air conditioning, providing space for refreshments and documents, arranging a cleaning service, and ensuring that the venue is left in proper order following the hearing. Due to the present conditions in the PA, these tasks, too, are conducted individually, or with the assistance of other staff of the Common Services.

**Rapporteur:** The rapporteur is responsible for taking notes during the public hearing session, even when recording equipment is available and in use. The rapporteur should take note of the atmosphere, the number of attendees, and which experts and Committee members did not attend, as well as pay special attention to any recommendations or alternatives suggested by the Committee members, experts or public during the proceedings.

**Assistant:** On the day of the hearing, this staff member will ensure that nameplates exist for all participating panellists as well as Committee members, and that they are properly placed. He/she is also responsible for welcoming the public and the panellists, showing presenters/witnesses to

### Key Actors in a Public Hearing

**Chairperson/Moderator:** In essence, the Chairperson directs the proceedings by ensuring that time limits are respected, liaising with the media and experts, and moderating the proceedings

**Secretary:** The secretary ensures that, behind the scenes, the hearing unfolds in an orderly fashion, and deals promptly and efficiently with any problems that arise during the proceedings

**Rapporteur:** The rapporteur must take careful notes of all proceedings, paying special attention to questions and recommendations submitted by the public and MPs

**Logistics Coordinator:** The logistics coordinator organizes all aspects relating to the venue, including: booking, security, translation, media and recording equipment, lighting, heating, chairs, and supplies

**Panellists:** Panellists include the expert witnesses, and anyone else invited to speak or give a presentation during the public hearing

**Translators:** In BiH, translators are very important, given the significant international presence. It is essential that translation into foreign languages is provided for those invited to speak

**PR/Media Liaison:** The PR or media liaison is responsible for all aspects of the information and media campaign, including press releases and media coverage, and acts as contact person for public inquiries

**Assistant:** The assistant welcomes and seats the experts and public, provides written materials, and ensures that required supplies are available when needed

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their proper seats, and distributing and photocopying information materials as well as permission to speak forms, if necessary.

### ***RECOMMENDATION 5: Systematizing a Division of Labour***

It is evident that planning a public hearing requires a great deal of organization. It would be helpful, therefore, to institutionalize a clear division of labour between staff and Committee members tasked with organizing the preparations. This division could be codified through the Rules of Procedure by establishing formal job descriptions with the responsibilities of each position clearly defined.

However, because Committee manpower is at present limited in the BiH PA as regards members and staff, parliamentary personnel other than Committee staff can assume responsibilities in the preparation of public hearings. In cooperation with international organizations, the BiH PA is heavily engaged in the process of capacity-building. As a result, certain parliamentary services that previously suffered from a lack of resources and trained personnel, such as the Research Centre (RC) and INDOK, are now able to assume more responsibilities. These components of the PA should be incorporated into any division of responsibilities, and their roles institutionalized in order to provide clear guidelines regarding organizational tasks.

The Research Centre plays a major role in providing Committees with the necessary background materials and analysis of the subject matter of the public hearing. It is necessary to allow the RC staff sufficient time to undertake proper research and to compile the requested information and materials. In order to allow for adequate planning of the RC's input, the Committee Secretary should alert the RC Manager as soon as the Committee discusses the possibility of holding a public hearing.

In addition, the PA has a number of other resources at its disposal through the assistance of the international community.

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## VIII. MOUNTING AN EFFECTIVE INFORMATION CAMPAIGN

### *a) The Information Campaign:*

The information campaign constitutes a key component of the public hearing process, a component which can ultimately determine the success of the event overall. A well-organized, well-timed campaign will result in an informed public whose input may prove very useful, while an unplanned, ill-timed operation may serve to alienate the public, reinforcing the perception that the parliament is not actually interested in public input. Legislative public hearings usually take place quite late in the legislative process anyway, and so proper planning is essential to avoid the impression that the hearing is being held for the sake of legislative legitimacy alone.

It is necessary to emphasize the importance of an information campaign, as opposed to a media campaign, when planning a public hearing. The latter refers to a specific sector of civil society, while the former is designed to encompass not only the general public, NGOs and interested stakeholders, but also the government (executive), MPs, and even members of the organizing Committee itself. Without proper information dissemination to all parties involved, the hearing will simply not be a success. The public must be informed well in advance; it must be provided with neutral, substantive information materials; and the hearing must be presented as an opportunity for the public to participate actively.

### *Keys to a Successful Information Campaign:*

- ✓ **+14 days:** design a catchy title/slogan that not only sums up the proposed legislation topic but also peaks the interest of the public
- ✓ **+14 days:** consult list of media contacts and compile list of affected stakeholders to send notification to
- ✓ **+14 days:** prepare public notification. The notice should include date, venue, time, subject matter and proposal, as well as contact information. Any crucial documentation, such as maps or diagrams, should be made available beforehand at specified venues



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- ✓ **+14 days:** circulate notice of public hearing internally to Committee members, both Houses, the Speaker, and staff members
- ✓ **12-14 days prior:** develop link to public hearings on PA website (or update existing one): the link should contain all necessary information (time, date, venue, purpose of hearing), an e-mail address for electronic public speaking requests, contact information, and background information about the legislation. The website should be updated on a regular basis or as required
- ✓ **10-14 days prior:** publish first public notice in newspapers. Ensure that newspapers have sufficient coverage, and that notice appears in all official languages as well as minority/foreign language publications. Ensure notice will be seen (e.g. include it under a "What's Happening" column)
- ✓ **8-12 days prior:** send notice of public hearing to affected stakeholders, such as schools, hospitals, trade unions, etc. (e-mail or fax)
- ✓ **8-10 days prior:** prepare in cooperation with PR office media advisory and obtain approval of Chairperson
- ✓ **4-6 days prior:** send media advisory to media, preferably by fax
- ✓ **2-4 days prior:** prepare media press packet for day of hearing. (See next section for contents of press packet)
- ✓ **Day-2 days before Hearing:** send another media advisory and publish second notice in morning edition of newspapers
- ✓ **Day after Hearing:** publish a short summary of the hearing in newspapers, and include the proposals presented by the Chairperson regarding the parliament's future plan of action

### **RECOMMENDATION 6: A Note on Notifications**

As previously stated, the Rules of Procedure of both the Houses provide few guidelines on the standard procedures and protocol regulating the organization and implementation of public hearings. Certain countries which regularly hold public hearings, such as the United States, require at

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least two notifications announcing a public hearing, the first sent at least 30 days before the date of the public hearing, and the second typically a week before the hearing.

Standard information includes: date, venue, time, topic, background, contact details for inquiries, location where any information materials will be available, and if possible a list of confirmed witnesses.

Although legally not obliged to provide notification, it is recommended that the BiH PA establish guidelines regarding notification procedures for future public hearings. In the absence of notification requirements, it is recommended to print a notice at least one- two weeks before the scheduled hearing, and another a day or two before the hearing and to include the aforementioned information in all notifications.

### Informing the Public: Public Hearing Notice Venues

- Local newspapers, preferably under a “What’s Happening” column
- Electronic foreign language newspapers
- Public Service Announcements
- Affected stakeholders (NGOs, businesses, unions, students)
- Press releases to media
- Parliament website
- Public institutions (Chamber of Commerce, hospitals, universities)

### ***b) The Information Materials:***

Disseminating materials and documentation about the contents or implications of a legislative proposal is certainly a crucial component of the information campaign, but it is important as well to examine the nature and quality of the resource materials on their own. The information that is compiled and disseminated by staff members, experts, and stakeholders during the media campaign and the actual public hearing will form the basis on which the parliament will ultimately make its decision regarding the proposed legislation.

### ***Press Materials:***

It is the press who will publicize the hearing, and also who will publish summaries, critiques and updates regarding the parliament's actions in the post-hearing period. The press must be provided, therefore, with as much

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information as possible in order to ensure informed reporting on the event. The information packet prepared for the press should include:

- i) press release
- ii) agenda
- iii) list of Committee members
- iv) list of expert witnesses
- v) presentations of witnesses, if available
- vi) summary of the legislative proposal
- vii) code of conduct/rules of procedure for the media

### ***Committee Member Materials:***

Committee members involved in the public hearing require substantial information materials in order to make the most well-informed, objective decisions possible about the proposed legislation. Staff members should prepare briefing papers for Committee members, including the following materials:

- budget and funding information, financial implications of proposal
- recent press coverage about the issue, to ascertain public opinions
- questions for witnesses
- copy of the draft law
- agenda
- list of witnesses and background information
- copies of witness testimonies or reports submitted in written form
- desirably, background information and analysis of the subject matter of the public hearing, provided by the Research Centre, which may also include reference to the manner in which other countries regulate the respective issue

### ***The Chairman:***

- notes to assist the Chairman in conducting hearing, including possible discussion points, questions, introduction, purpose, and summary
- opening and closing remarks

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### **Tackling the Internet:**

Using the internet to provide information to the public, register participants and submit input is an efficient means of organizing public hearings, and is an effective means of reaching out especially to young people who most frequently use the internet. The parliament's webpage should contain a permanent link to public hearings, displaying upcoming hearings in the form of a media advisory (with subject matter, date, time, venue, contact information, invited witnesses and purpose of the hearing). As the public hearing date approaches, the actual media advisory may also be featured on the home page of the website for extra coverage.

The internet also constitutes an efficient means of registering public participants who wish to attend and speak during the hearing. This method allows organizers (i.e. the Chairperson) to plan in advance how much time is required to accommodate public input. It is also the most convenient method of ensuring that the public question period(s) unfolds in an orderly fashion, as only those who submitted questions and/or comments in advance are normally allowed to speak (although arrangements should be made at the end of the hearing to permit a limited open period for questioning so that participants can respond to the expert presentations). A special e-mail address should be created for this purpose, and the address published on all public and media notices.

During the post-hearing period, electronic technology will also prove useful when registering the data (comments, opinions, recommendations submitted by the public). During this period, the e-mail address should be checked regularly for additional input submitted by the public, including further suggestions, comments or complaints on the proceedings of the public hearing itself, or requests for more information.

Lastly, the parliament should use the website to post the Committee's report on the public hearing, as well as periodic updates on the status of the legislative proposal and how the PA intends to use public input. Electronic resources are the most effective and efficient means of organizing information in the post-hearing follow-up period.

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### **Neutrality of Information Materials:**

One may argue that there is no such thing as “neutral” information. All material inherently reflects a bias to some degree, especially when the objective of the public hearing is to present one’s perspective, and argue for its merits. However, in collecting data and designing information packages for the media and public, it is important for staff members especially to assume an objective viewpoint, and aspire to neutrality in order to ensure that all possible perspectives are represented.

## **SECTION III: PUBLIC HEARING PREPARATIONS**

### **IX. LOGISTICS**

Planning the logistics of a public hearing is time-consuming and resource intensive. However, a properly-organized hearing will determine its success, and often the lack of attention to even a minor detail can negatively affect the entire process. The following section outlines in detail the various preparations involved in planning a public hearing.

**Date:** In determining the best date for a public hearing, organizers must keep several considerations in mind. Are there any public holidays during the time span under consideration? Are there any special cultural, sporting, or business events occurring at the same time that may detract attention from the hearing? Are MPs and relevant Committee members available? Is it planned for a weeknight (after work), and during mid-week rather than a Friday or weekend, when many families and MPs are away?

**Time:** In setting the time of the hearing, logistic coordinators must keep in mind not only the start time, but also the intended length of the hearing. The best start time may depend upon local customs, typical workday schedules, and chosen day of the week. The length of a public hearing will ultimately depend upon the number of witnesses invited, the timeframe of the presentation and question periods, the time allotted for public input, and the number of planned breaks. If citizens are required to submit in advance a request to speak, it will be easier to calculate the amount of time required. Ideally, public hearings should last between 2-3 hours in order to permit

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adequate time to present and discuss the proposed legislation, but not allow the process to lose momentum and attendees by dragging on.

**Venue:** Legislative hearings are usually held on parliamentary premises, thus easing the pressure on staff members to locate and prepare a suitable venue elsewhere. However, there are still a number of issues to keep in mind. Remember that the premises should be available at least one hour before and one hour after the scheduled public hearing period, to allow adequate time to prepare the venue beforehand, and allow for proper clean up as well as discussion or networking following the proceedings.

- **Amplification:** Ensure that the amplification system is working properly, and that microphones are accessible to audience members wishing to speak: a handheld microphone will be useful if working mics are accessible only to the Chairperson and panellists
- **Nameplates/Seating:** Staff members should prepare nameplates for all invited experts as well as Committee members including names and function (or sponsoring organization), and ensure that the seating arrangements are prepared and followed accordingly
- **Platform/Panel:** The panellists should sit facing the audience. Elevation is important in order to ensure that the audience and the media have clear views of the speakers
- **Media:** Accommodating the media (and media equipment) is necessary in order to guarantee coverage, and to provide an additional set of recordings of the process
- **Rapporteur:** Ensure that a seat close to the panellists and Committee members is available so that the rapporteur can hear the presentations, as well as the questions asked by Committee members and the public following the speeches.
- **Recording Mechanisms:** An official transcript of the hearings is essential if the organizing Committee is serious about incorporating public input into the legislative proposal. Make sure that recording equipment functions properly before the hearing begins, in order not

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to miss any part of the hearing, or disrupt the proceedings once they have begun.

- **Refreshments:** Depending on the length of the hearing, refreshments should be served to both the public as well as the speakers. These can either be made available by caterers during the proceedings or during break times in a specified area. Make sure that neither servers nor recipients disrupt the hearing
- **Space for Materials:** There will probably be a great deal of literature available for the public in addition to the agenda. Set aside a table or area for the material, make sure there are ample copies, and designate someone to be responsible for photocopying or retrieving more resources if necessary
- **Stationary/Writing Utensils:** Depending on the system established regarding audience input, stationary should be provided to submit written requests to speak. It should also be provided for panellists and Committee members to make notes on. Extra paper may also prove useful for making signs or additional nameplates
- **Translation Services:** For hearings which will be attended by representatives of international organizations, it is important to provide translation into foreign languages and vice versa. Ensure beforehand that the equipment functions properly and that space is reserved for the translation team
- **Security:** In the case of sensitive subject matter, where a large audience is anticipated, special attention should be paid to security. As most hearings will take place at the parliament buildings, it will be

### Venue Checklist:

- ✓ Venue booked and available
- ✓ Amplification system functioning
- ✓ Heating/Air-Conditioning monitored
- ✓ Nameplates/Seating arranged
- ✓ Materials/documents provided
- ✓ Media accommodated
- ✓ Platform/Panel set up
- ✓ Recording mechanisms present
- ✓ Refreshments available
- ✓ Security alerted/organized
- ✓ Stationary provided
- ✓ Translation services available

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necessary to inform the security services in advance, and make clear to the public the procedures involved in entering the building

- **Heating/Air-conditioning:** Depending on the weather and time of the public hearing, coordinators should take into consideration the heating and air conditioning of the room, especially if the hearing will last for several hours. Improper heating conditions may make attendees irritable and exacerbate tensions

### Catering:

Refreshments of some kind (juice, coffee, tea, water) should be made available for participants during the course of the public hearing, and especially during scheduled break times. For longer hearings, it may be necessary to provide food as well, or provide suggestions of nearby restaurants and an adequate break length. If food is to be provided, the organizers must have a clear idea of how many participants will attend, although this is extremely difficult when the hearing is open to the public.

### Transport:

The transport of visiting expert witnesses must be arranged in advance, and, if necessary, hotel accommodations booked. All receipts must be carefully kept, in order to ensure that expenses are kept within the hearing budget guidelines.

## **RECOMMENDATION 7: The Budget**

Dealing with budgetary details is time-consuming and at times frustrating. Even in countries with a strong tradition of public hearings, such as Canada, attempting to establish a component for public hearings in the annual parliamentary budget is difficult, as Committee secretaries are unsure how many hearings will be held, where they will be held, who will be invited to attend, and how much should be set aside to cover transport and accommodation.



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At present, BiH is assisted by the international community in conducting public hearings, but this will not always be the case. If public hearings are to remain an important component of the legislative process, funds should be earmarked for this purpose in the annual parliamentary budget. The costs associated with public hearings are evident, but the major decision to be made regards whether to compensate invited experts for travel and accommodation. Other expenditures include: printing materials, public and media notification, catering, transport/accommodation costs of MPs travelling outside the seat of parliament, and stationary supplies.

Until funds are specifically set aside for public hearings in the parliamentary budget, PA staff should rely upon projections, estimates, and actual expenditures of previous hearings in order to formulate realistic budget guidelines for future public hearings. This budget should also take into account and specify the amounts of financial or in-kind assistance provided by donors or international organizations.

## X. PLANNING THE AGENDA

On the day of the hearing, the agenda is the one document that participants will continually consult. Therefore, it is important that it provides as much useful information as possible and that the information is up to date. (It should actually be reviewed the day of the hearing, in order to make any required adjustment to speakers or timeframes, but include disclaimer "subject to change" nonetheless.) The agenda provides structure to the hearing, outlines time limits, introduces the speaker, presenters and other actors, and provides participants with a brief summary of the proposal to take with them for future reference. There are a number of key components to an agenda.

- **Title:** The title of the hearing should be the same as that devised for the information campaign, and should basically indicate the subject matter of the proposed legislation
- **Date/Time/Venue:** List the full date, time, and venue of the public hearing, for easy (and future) reference for the public and the media
- **Purpose:** In a few sentences, provide the main purpose for holding the public hearing, and what the hearing is meant to achieve

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- **Background:** In this case, background information refers to the public hearing, including: a brief summary of the draft proposal, the objectives of the hearing (including goals and desired outcomes), and how the hearing process is organized
- **List of Committee members/MPs:** List in full all Committee members involved in researching and discussing the proposed legislation. Also include names and position of those who helped organize the hearing
- **List of International Organizations:** List any international organizations that have been invited to attend, either for testifying or observing purposes, and those that assisted the Committee financially and/or through consultancy services
- **Opening Remarks:** Include the name of the Chairperson and timeframe
- **Speakers/Presentations:** Include each speaker (name, status and affiliation) and the time allotted for each presentation, and, if available, the subject matter of the presentation
- **Question periods:** Indicate the appropriate moment when questions from Committee members as well as the public will be solicited, and a timeframe (how many minutes per question)
- **Scheduled Breaks:** Slot in scheduled break times so attendees can plan entrances and exits accordingly
- **Closing Remarks:** Print Chairperson's name, and inform reader that closing remarks will include a follow-up plan
- **Contact Information:** Include the name, number, and address of a contact person, to whom any further public inquiries can be directed. Include as well the e-mail address and website of the parliament

## XI. THE ROLE OF THE CHAIRPERSON

An effective and persuasive Chairperson is critical to the success of a public hearing, for his/her role is not only to ensure that the process unfolds smoothly and on time, but also to reassure participants that their views and perspectives are important.

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Ideally, a public hearing will include both a Chairperson and a moderator. This way, the Chairperson can focus on maintaining order, while the moderator concentrates on ensuring that witnesses remain on track, keep within their time limits, and respect the hearing rulebook. However, often the roles of the Chairperson and moderator are combined in one person, who has a number of key responsibilities.

The Chairperson is responsible for:

### ***Prior to the Hearing:***

- Approving and printing the agenda (or delegating this task)
- Attending to witnesses and briefing them on proceedings
- Welcoming public attendees and ensuring an open environment
- Liaising with media, and arranging a time for interviews

### ***During the Hearing:***

- Introducing the hearing, and establishing the timeframe
- Presenting ground rules
- Introducing the speakers/witnesses
- Ensuring that time limits are respected; keeping the hearing on track
- Moderating the session and ensuring that presenters stick to the topic under discussion
- Dealing with hecklers and disruptions, as well as resolving disputes
- Identifying those with questions, and repeating questions if necessary
- Calling the hearing to order following breaks

### ***Closing the Hearing:***

- Summing up the hearing and presenting future plan of action
- Providing closing remarks
- Answering questions or listening to complaints following the hearing
- Meeting with the media for official interviews and comments

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## **RECOMMENDATION 8: *Drafting a Rulebook***

At the moment, there is no standard protocol for conducting a public hearing in Bosnia and Herzegovina. This allows the Chairperson to develop and implement guidelines that are specifically tailored to each public hearing. However, drafting a standard rulebook would add more legitimacy to the process (in the sense of institutionalizing the process), and free the Chairperson to concentrate on other important issues. In addition, it would ensure consistency of behaviour across the board, with all future Chairpersons deferring to the same guidelines. Lastly, the public would know what to expect from each public hearing in terms of decorum, and manner of organization.

The process of drafting a rulebook for public hearings should involve a thorough analysis of summaries of past public hearings, to ascertain which rules worked and which did not, and what problems or issues consistently arose during different hearings. Further analysis of the rules should be conducted during their implementation, to see whether they work effectively, and how they can be improved.

Ideally, these rules should be incorporated into the official Rules of Procedure of both Houses of the BiH PA. However, as the process of amending the RoP is a lengthy one, provisional regulations for public hearings could be adopted in the form of a Protocol by a Decision of the House Collegium. Given the practice of holding joint hearings by Committees of both Houses, and the exercise of harmonizing final legislative texts, the text of the Protocol should be identical for both Houses. Committees themselves could adopt such interim regulations. However, in order to ensure consistency across the board, it is better to regulate the organization and conduct of public hearings through the Rules of Procedure.

## **XII. FOLLOW-UP**

The conclusion of the actual public hearing is not the end of the public hearing process. In fact, it is attention to the post-hearing follow-up that may determine what happens to public input offered during the hearing and whether it will influence the form and content of the proposed legislation.

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Thus, while momentum and interest will undoubtedly diminish in the aftermath of the hearing, it is essential that post-hearing monitoring mechanisms are put into place.

Following the hearing, staff members should:

- ✓ Draft thank you letters and send to witnesses
- ✓ Produce a brief summary of the public hearing and send it to media sources for inclusion in newspapers or journals the following day
- ✓ Ensure all logistical details are addressed, including payment for catering, accommodation and transportation of witnesses, as well as venue if necessary
- ✓ Listen to and review carefully the recorded transcripts of the hearing
- ✓ Study any written material produced and submitted during the hearing by Committee members, experts, or the public, including amendments, statements, opinions, or suggestions for improvement

### Engaging Civil Society: The Public Hearing Follow-Up

The follow-up period is another point during which civil society actors can actively participate by keeping the public informed, and pressuring the parliament to implement the proposals included in the post-hearing action plan.

The most effective means of ensuring that the parliament makes good on its promise to take public views into consideration is to:

- Maintain links with media sources so that they can publish periodic updates regarding the parliament's post-hearing action plan
- Liaise periodically with MPs who proved sympathetic to your cause and concerns - request updates and progress reports to ensure that you are kept up to date on parliamentary activities (or lack thereof) regarding the legislation
- Draft and make public your own reports on the parliament's progress, and make available to the public
- Keep in close contact with other organizations that proved interested in the public hearing to ensure monitoring is occurring in other regions, and through all possible channels
- If your organization deems it desirable or necessary, organize your own public forum or discussion on the topic to discuss the government's activities, and to register again either public support for or opposition to the proposed legislation

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- ✓ Review as well any questions or comments submitted by the members of the public either before or during the hearing, to ascertain what sort of concerns they possessed, and what sort of information they were seeking
- ✓ Highlight suggested amendments to the proposed legislation, either in written or transcript form, and categorize these as either technical (linguistic or grammatical changes, additions, or deletions) or substantive (modifications to actual content matter)
- ✓ Draft summaries of each witness's presentation/testimony for Committee members
- ✓ Update the PA website section on public hearings to provide a summary of hearing, including proposed action plan, conclusions, list of speakers and presentations, and goals achieved; include the post-hearing Committee report; allow the public to submit further suggestions, recommendations, or comments on the conduct of the public hearing itself; and post updates on the status of the legislative proposal

### Timing is Everything!

In order to maintain credibility and order, it is essential that public hearings **begin and end on time!**

Similarly, the Chairperson's most difficult task is to ensure that witnesses, commentators, and those asking questions **respect established time limits.**

This includes **keeping to scheduled break times**, and preventing breaks from spilling over into the time allocated to formal proceedings.

Keeping to established time limits is the easiest means of **structuring the hearing**, and **maintaining order.**

Everyone (the public, witnesses and officials) has busy schedules, and most will have scheduled the public hearing between other important commitments. Running over time may result in individuals **leaving early** and **disrupting the flow of the proceedings**, or in **questioning the professionalism** of the organizers or the hearing process in general.

Therefore, when it is deemed justified, invite participants, at the beginning of or during the hearing, **to orally present the major talking points** and to attach or hand over later their written comments or proposals.

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- ✓ Check e-mail often, and record any additional public comments, suggestions, or complaints

The Chairperson should:

- ✓ Call a meeting of Committee members to review the testimony from the hearing; the Chairperson, secretary, and rapporteur should then meet to draft a report with a series of recommendations, based on public and Committee member input, as well as the advice and suggestions of the panellists
- ✓ Distribute the report for approval by the Committee, and incorporate any further suggestions by the members
- ✓ Send the report to the Speaker of the House, for dissemination to the Collegium and main committees of the House

**Please Note:** *The following checklist is for general reference purposes only, and should not be taken as step by step requirements. Given the limited resources of the BiH PA at present, Committee staff and the Chairperson should feel free to modify the guidelines as required and as parliamentary resources dictate.*

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✓	Timeline	PUBLIC HEARING CHECKLIST: Pre-Hearing Preparations
		<b>CHAIRPERSON:</b>
	+14 days	Secretary: draft report on public hearing: pros and cons
	+14 days	Review report from secretary: call Committee meeting
	14 days	Discuss purpose, objective, format with Committee
	12-14 days	Edit and approve agenda
	10 days	Develop rulebook (protocol)
		<b>SELECTING WITNESSES:</b>
	14 days	Select witnesses/alternates during Committee discussion
	12-14 days	Draft invitations and determine time limits
	12-14 days	Draft questions for witnesses
	12 days	Send invitations
	7 days	Confirm experts and contact alternates if necessary
	1-2 days	Contact witnesses by phone as reminder
		<b>INFORMATION CAMPAIGN:</b>
	14 days	Design title/slogan for hearing
	14 days	Compile media contact list
	12-14 days	Prepare public notice
	12-14 days	Draft agenda; send to Chairperson
	12 days	Circulate notice internally
	12 days	Create webpage; e-mail address; electronic question form
	10-14 days	Publish first notification
	8-12 days	Send notice to affected organized stakeholders
	8-10 days	Draft media advisory; send to Chairperson
	4-6 days	Send media advisory to media
	2-4 days	Assemble media press packet
	2 days	Collate written presentations and submitted questions from public and distribute to Committee members
	1-2 days	Send second media advisory and publish second notice
		<b>VENUE/LOGISTICS:</b>
	12-14 days	Determine date, time, venue of hearing
	7-10 days	Book venue
	7-10 days	Contact security, recording and translation services
	7 days	Book hotel and transportation for witnesses, if necessary
	5 days	Book catering
	2-3 days	Confirm booking of venue, services, accommodation



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✓	Timeline	PUBLIC HEARING CHECKLIST: Day of Hearing
		<b>LOGISTICS TEAM</b>
	Before	PR: Accommodate media
		PR: Provide media press packets
		Staff: Accommodate translation/transcription services
		Assistant: Display nametags; provide stationary, briefings
		Assistant: Set up printed materials (agenda, draft law, etc)
		Assistant: Ensure speakers have water
		Assistant: Show public and experts to their seats
		Secretary: Provide Chair with hearing notes, briefings
	During	Assistant: Photocopy extra materials as required
		Staff: Ensure refreshments provided at break
	Following	PR: Facilitate interviews with media, Chairperson
		Staff: Assist in closing venue
		<b>VENUE: LOGISTICS COORDINATOR</b>
	Before	Ensure amplification system works
		Check heating/air-conditioning and lighting
		Arrange seating: panel, platforms for experts
		Ensure security services are available
	During	Monitor venue and adjust settings as necessary
	Following	Supervise clean-up
		Ensure venue is left in proper order
		<b>CHAIRPERSON:</b>
	Before	Greet experts; brief them on proceedings and protocol
		Liaise with media; arrange interviews, press conference
		Maintain awareness of environment to prevent friction
	During	Call hearing to order; introduce subject, purpose, agenda
		Present ground rules or protocol, including timeframes
		Address logistic issues (bathrooms, refreshments, breaks)
		Introduce witnesses, Committee members
		Introduce speakers and ensure timeframe adhered to
		Identify questions, repeat if necessary
		Ensure order maintained; deal with disturbances as needed
		Close hearing: provide summary, follow up action plan
	Following	Listen to comments, complaints following hearing
	Following	Meet with media through interviews or press conference

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✓	Timeline	<b>PUBLIC HEARING CHECKLIST: Post-Hearing Follow-Up</b>
		<b>INFORMATION CAMPAIGN:</b>
	1 day after	Send media advisory with action plan, summary to media
	1 day after	Publish summary in newspaper, with proposed next steps
	Continual	Update website regularly on status of legislation
	Continual	PR: answer media questions, requests for interviews
		<b>COMMITTEE STAFF:</b>
	1 day	Draft media advisory, summary, action plan for media
	1-2 days	Send thank you letters to participating witnesses
	1-2 days	Address payment logistics: witnesses, venue, catering
	2-4 days	Review carefully transcripts of hearing
	2-4 days	Study submitted questions, amendments, suggestions
	3-5 days	Draft summaries of each witnesses' presentation
	Continual	Check e-mail for additional recommendations
		<b>CHAIRPERSON:</b>
	4-7 days	Meet with secretary, rapporteur to discuss, draft report
	7-8 days	Distribute report to Committee members; add comments
	10-15 days	Finish report and submit to Speaker of the House
		<b>COMMITTEE MEMBERS:</b>
	3-5 days	Review amendments and categorize during meeting
	8-9 days	Submit changes, comments, recommendations for report
		<b>CIVIL SOCIETY:</b>
	Continual	Maintain links with media to publish updates on action
	Continual	Liaise with sympathetic MPs to stay informed of events
	Continual	Draft, publish own reports on government progress
	Continual	Maintain contact with other organizations
	Continual	If desired, organize public forum/community meeting

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<sup>1</sup>The legislative process and other references to BiH PA procedure included in the Manual are based on the text of the Rules of Procedure (RoP) adopted by the House of Representatives (HoR) on 16 January 2006 and the RoP endorsed by the House of Peoples (HoP) on 31 January 2006, both published in the Official Gazette of BiH No. 33/06 (May). The new Rules were adopted following a prolonged process of revision. The HoR adopted a set of new Rules in July 2005 and waited until December of that year for the other House to endorse amendments to it. Several new amendments were necessary in order to harmonize the newly adopted Rules.

Although the Rules of Procedure adopted in January 2006 should have entered into force 8 days after being published, in May 2006 both Houses decided to further amend the new RoP in order to postpone their implementation until the new Parliamentary Assembly resulting from the October 2006 elections is constituted. These latest amendments were published in the Official Gazette of BiH No. 41/06.

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This Manual is based in on the work of two principal sources:

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*A Guide to Organizing Public Forums. 2004.*

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