

## **(“Official Gazette” of Bosnia and Herzegovina, No. 08/10)**

Pursuant to Article IV(4)(a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina, at the 69<sup>th</sup> session of the House of Representatives held on 30 December 2009, and the 42<sup>nd</sup> session of the House of Peoples, held on 21 January 2010, adopted the following

### **LAW**

#### **ON AMENDMENTS TO THE CRIMINAL CODE OF BOSNIA AND HERZEGOVINA**

##### **Article 1**

In the Criminal Code of Bosnia and Herzegovina (Official Gazette of BiH, No. 3/03, 32/03, 37/03, 54/04, 61/04, 30/05, 53/06, 55/06 and 32/07), Article 1 shall be amended so as to read:

##### **“Basic terms**

##### **Article 1**

(1) *Criminal legislation of Bosnia and Herzegovina* comprises the criminal justice provisions contained in this Code and in other laws of Bosnia and Herzegovina.

(2) The *territory of Bosnia and Herzegovina* means the land, coastal seas and water surfaces within its borders, as well as the air space over them.

(3) *Official person* means: a person elected or appointed to legislative, executive and judicial office within Bosnia and Herzegovina and other national and administrative institutions or services which perform particular administrative, expert and other duties, within the rights and liabilities of the authority that has founded them; a person who continuously or occasionally executes official duty in the aforementioned administrative bodies or institutions, an authorised person in a business enterprise or another legal entity that has been entrusted with the execution of public authorities by law or other regulations based on the law, who performs certain duties within the framework of the given authority; and other persons who are performing specific official duties, with or without remuneration, as stipulated by law or other regulations based on the law.

(4) Where an official person has been alleged as the perpetrator of a particular criminal offence, persons referred to in paragraph 3 of this Article may be considered the perpetrators of such offences provided that it does not follow from the elements of the particular criminal offence or a particular regulation that their perpetrator may only be one of the specified persons.

(5) *Responsible person* is a person in a business enterprise or another legal entity who, in the line of duty or on the basis of specific authorisation, has been entrusted with a portfolio related to the implementation of law or regulations based on law or general act of a business enterprise or other legal entities in managing and administering the property, or is related to managing a productive or some other business process or supervision of such processes. Official person as defined in paragraph 3 of this Article is also considered to be a responsible person when it comes to actions where a responsible person is alleged as a perpetrator, providing that such actions are not stipulated as a criminal offence under the chapter dealing with criminal offences against official and other responsible duties, or as criminal offences of an official person stipulated under some other chapter of this Code or another law of Bosnia and Herzegovina.

(6) In cases where an official or responsible person has been alleged as the perpetrator of a criminal offence, all persons referred to in paragraphs 3 and 5 of this Article may be the perpetrators of such an offence provided that it does not follow from the elements of a particular criminal offence that their perpetrator may only be one of the specified persons.

- (7) *Foreign official person* means a member of a legislative, executive, administrative or judicial body of a foreign state, a public official of an international organisation or of its bodies, a judge or another official person of an international court, serving in Bosnia and Herzegovina, with or without remuneration.
- (8) *International officer* is a civilian employee employed with an international organisation or agency.
- (9) *Military person*, in terms of this Code, is a military professional or a person on the reserve force, while in service with the Armed Forces of Bosnia and Herzegovina, pursuant to the Law on Service in the Armed Forces of Bosnia and Herzegovina.
- (10) Where an official person is alleged as a person against whom a criminal offence was committed, the notion of an official person, in terms of this Code, in addition to persons defined under paragraph 3 of this Article, shall also include the military person referred to in paragraph 9 of this Article.
- (11) A *child*, in terms of this Code, is a person who has not reached fourteen years of age.
- (12) A *juvenile*, in terms of this Code, is a person who has not reached eighteen years of age.
- (13) A *legal person*, in terms of this Code, stands for Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, Republika Srpska, the Brčko District of Bosnia and Herzegovina, canton, city, municipality, local community, any organisational form of a business enterprise and all forms of association of business enterprises, institutions, crediting and other banking institutions or property and personal insurance institutions, as well as other financial institutions, funds, political organisations and associations of citizens or other associations that may acquire funds and utilize them in the same way as any other institution or agency that acquires and utilizes funds and that is legally recognised as legal persons.
- (14) A *business enterprise*, for the purpose of this Code, means corporations, companies, firms, partnerships and any other organizational form registered for performing business activities.
- (15) An *association* means any kind of associating by three or several persons.
- (16) *Several persons* means at least two persons.
- (17) A *body of people* constitutes at least five persons.
- (18) A *group of people* is an assemblage of at least three individuals that are associated for the purpose of perpetration of criminal offences, while each of the individuals gives his contribution to the perpetration of the criminal offence.
- (19) A *structured group* is a group of individuals that is formed for the immediate perpetration of an offence and that does not need to have formally defined roles for its members, continuity of its membership, or a developed structure.
- (20) A *group for organised crime* is a group of three or more persons, existing for a period of time and acting in concert with the aim of perpetrating one or more criminal offences that under the law carry a punishment of imprisonment of three years or a more severe punishment, with the aim of acquiring property gain.
- (21) A *terrorist group* is a structured group of at least three persons, formed and operational for a period of time with the aim of perpetrating one of the criminal offences of terrorism.
- (22) *Secret information* is information in the field of public safety, defense, foreign affairs and interests, intelligence and security services or the interests of Bosnia and Herzegovina, communications and other systems of importance for national interests, judiciary, projects and plans for major defense and intelligence-security activities, scientific, research, technological, economic and financial affairs of importance for the

security and functioning of the institutions of Bosnia and Herzegovina, and/or security structures at all levels of the state organisation of Bosnia and Herzegovina, which has been designated as secret by law, other regulation or general act issued by a relevant authority, passed on the basis of the law, or which has been designated as secret information in accordance with the laws and regulations on the protection of secret information. This term also includes secret information of another country, international or regional organisation.

(23) A *document* denotes any object that is suitable or designated to serve as evidence of some fact relevant to legal relations.

(24) *Money* denotes coins and paper bank notes, which are legal tender in Bosnia and Herzegovina or in a foreign country.

(25) *Instruments of value* also include foreign instruments of value.

(26) *Movable object* includes, *inter alia*, any manufactured or accumulated energy used for producing light, heat or motion, as well as telephone and other impulses.

(27) *Means of transportation* shall be so construed as to include any vessel, vehicle or aircraft, as well as any other conveyance that may be used for transportation in land, water and air traffic, regardless of the type of drive.

(28) *Force* also includes the use of hypnosis or the use of opiate substances for the purpose of rendering a person, against his will, unconscious, or incapacitated for resistance.

(29) *Narcotic drug* means any medical drug or hazardous substance with addictive and psychotropic characteristics, or any substance that can easily be converted into such substances, provided that it is subject to control under the international convention ratified by Bosnia and Herzegovina, or any substances declared as narcotic drugs by a relevant institution of Bosnia and Herzegovina or by a relevant institution of the entities.

(30) *Weapons and military equipment* are items and means listed under the Law on Production, Export and Import of Weapons and Military Equipment.

(31) *Radioactive material* is nuclear material and other radioactive substances that contain nuclides, which spontaneously decay (a process accompanied by emission of one or more types of ionizing radiation such as alpha, beta, neutron particles and gamma rays), which due to their radiological or fissile properties may cause death, serious bodily injury or large scale damage to property or the environment.

(32) *Nuclear material* is plutonium, other than the one with the concentration of isotopes of over 80% in plutonium 238 or uranium 233; uranium enriched with isotope 235 or 233; uranium containing the mixture of isotopes as found in nature, except in the form of ore or mineral residues, or any material that contains one or more of the above, where 'enriched uranium isotopes 235 or 233' stands for uranium containing isotope 235 or 233 or both in an amount where the ratio of the sum of these isotopes to isotope 238 is greater than the ratio of isotope 235 to isotope 238 that is found in nature.

(33) *Nuclear device* is any nuclear explosive device or any device that disperses radioactive material or emits radiation that, due to its radiological properties, may cause death, serious bodily injury or large scale damage to property or the environment.

(34) *Nuclear facility* means any nuclear reactor, including a reactor mounted on a vessel, vehicle, aircraft or space object used as a source of energy to run such a vessel, vehicle, aircraft or space object, or for any other purpose, or any facility or means used for production, storage, processing or transport of radioactive materials.

(35) *Fixed platform* is an artificial island, device or implement that is permanently attached to the seabed

for the purpose of research or exploitation of natural resources or other economic purposes.

(36) *Explosive device* is:

- a) explosive or incendiary weapon or device that is designed to or may cause death, serious bodily injury or substantial material damage; or
- b) a weapon or device that is designed to or may cause death, serious bodily injury or large-scale damage by release, the expansion or influence of toxic chemicals, biological agents or toxins or similar substances or radiation or radioactive materials.

(37) *The Holocaust* is the crime of genocide and crimes against humanity committed by the German Nazi regime during World War II, recognized as such in the final and binding decisions or judgments of the International Military Tribunal established under the London Agreement of 8 August 1945.

(38) *Mass grave* is an unmarked site containing two or more bodies or human remains or a site where such bodies or human remains were subsequently moved to, created as a result of the commission of criminal offences prescribed under Articles 171 through 180 of the Code.

(39) The use of grammatical genders, masculine or feminine, shall be so construed as to include both genders of natural persons."

## **Article 2**

A new Article 3a. shall follow Article 3 and read:

### **"Principle of guilt Article 3a.**

No punishment or other criminal sanctions shall be imposed on a person unless guilty of the committed criminal offence."

## **Article 3**

Article 6 shall be amended so as to read:

### **"Purpose of criminal sanctions Article 6**

The purpose of criminal sanctions is as follows:

- a) protecting the society from the commission of criminal offences through deterrence so that legal order is respected and criminal offences prevented, as well as preventing perpetrators from perpetrating new criminal offences and encouraging their rehabilitation;
- b) providing protection and redress to victims of a criminal offence."

## **Article 4**

The wording under Article 7: "in compliance with international law" shall be replaced with: "in compliance with the law and international law".

## **Article 5**

Article 8 shall be amended so as to read:

### **"Applicability of Criminal Legislation of Bosnia and Herzegovina to Those Perpetrating a Criminal**

## **Offence within the territory of Bosnia and Herzegovina**

### **Article 8**

- (1) The criminal legislation of Bosnia and Herzegovina shall apply to anyone who perpetrates a criminal offence within its territory.
- (2) The criminal legislation of Bosnia and Herzegovina shall apply to anyone who perpetrates a criminal offence aboard a domestic vessel, regardless of its location at the time of perpetration of the offence.
- (3) The criminal legislation of Bosnia and Herzegovina shall apply to anyone who perpetrates a criminal offence aboard a domestic civil aircraft during a flight, or aboard a domestic military aircraft, regardless of its location at the time of perpetration of the offence. "

### **Article 6**

Article 9 shall be amended so as to read:

#### **“Applicability of Criminal Legislation of Bosnia and Herzegovina to Offences Perpetrated Outside the Territory of Bosnia and Herzegovina**

### **Article 9**

- (1) The criminal legislation of Bosnia and Herzegovina shall apply to anyone who, outside of its territory, perpetrates:
  - a) Any criminal offence against the integrity of Bosnia and Herzegovina prescribed in Chapter Sixteen of this Code (*Criminal Offences against The Integrity of Bosnia and Herzegovina*);
  - b) The criminal offence of Counterfeiting Money or of Counterfeiting Securities of Bosnia and Herzegovina, the criminal offence of Counterfeiting Instruments of Value or of Forgery of Trademarks, Measures and Weights issued on the basis of regulations of the institutions of Bosnia and Herzegovina, as defined in Articles 205 through 208 of this Code;
  - c) A criminal offence which Bosnia and Herzegovina is bound to punish according to the provisions of international law and international treaties or intergovernmental agreements;
  - d) A criminal offence against an official or responsible person in the institutions of Bosnia and Herzegovina, in relation to his office.
- (2) The criminal legislation of Bosnia and Herzegovina shall apply to a citizen of Bosnia and Herzegovina who, outside the territory of Bosnia and Herzegovina, perpetrates any criminal offence.
- (3) The criminal legislation of Bosnia and Herzegovina shall apply to an alien who, outside the territory of Bosnia and Herzegovina, perpetrates a criminal offence not included in paragraph 1 of this Article against Bosnia and Herzegovina or its national.
- (4) The criminal legislation of Bosnia and Herzegovina shall apply to an alien who, outside the territory of Bosnia and Herzegovina, perpetrates a criminal offence against a foreign state or a foreign national which under this legislation carries a punishment of imprisonment for a term of five years or a more severe punishment.
- (5) In the cases referred to in paragraphs 2 and 3 of this Article, the criminal legislation of Bosnia and Herzegovina shall apply only if the perpetrator of the criminal offence is found in or extradited to Bosnia and Herzegovina, while in the case referred to in paragraph 4 of this Article, only if the perpetrator is found in the territory of Bosnia and Herzegovina and is not extradited to another country."

### **Article 7**

Article 10 shall be amended so as to read:

**"Applicability of Criminal Legislation of Bosnia and Herzegovina to Juveniles  
Article 10**

The criminal legislation of Bosnia and Herzegovina shall apply to juveniles pursuant to Chapter X (*Rules on Educational Recommendations, Educational Measures and Punishment of Juveniles*) of this Code and other laws of Bosnia and Herzegovina."

**Article 8**

Article 11 shall be amended so as to read:

**"Applicability of Criminal Legislation of Bosnia and Herzegovina to Legal Persons  
Article 11**

The criminal legislation of Bosnia and Herzegovina shall be apply to legal persons pursuant to Chapter XIV (*Liability of Legal Persons for Criminal Offences*) of this Code and other laws of Bosnia and Herzegovina."

**Article 9**

Article 12 shall be amended so as to read:

**"Precluding the Application of Criminal Legislation of Bosnia and Herzegovina to Children  
Article 12**

The criminal legislation of Bosnia and Herzegovina shall not apply to children."

**Article 10**

A new Article 23a. shall follow Article 23 and read:

**"Insignificant offence  
Article 23a.**

An offence shall not be considered criminal, although it contains elements of a criminal offence prescribed under the law if, due to the nature and the gravity of the offence, or manner of perpetration of the offence, or minor or inexistent harmful consequences, or the acquired material gain and low degree of culpability on the part of the perpetrator, it amounts to an insignificant offence."

**Article 11**

A new Article 25a. shall follow Article 25 and read:

**"Force and threat  
Article 25a.**

- (1) An offence shall not be considered criminal if committed under the influence of irresistible force (*vis absoluta*).
- (2) A less severe sanction may be imposed on a perpetrator who committed a criminal offence under the influence of a resistible force or a threat (*vis compulsiva* or *vis moralis*).
- (3) In the case referred to in paragraph (1) of this Article, the person who applied an irresistible force shall be deemed the perpetrator."

**Article 12**

N/A

### **Article 13**

The title of Article 29 shall be amended so as to read: "**Co-perpetration**".

### **Article 14**

Article 30, Paragraph (2) shall be followed by the new paragraph (3) which reads:

"(3) The incitement to the commission of a criminal offence shall particularly mean the following: pleading, inducement or persuasion, demonstrating the benefits of the commission of a criminal offense, giving or promising gifts, misuse of subordination or dependency relations, leading or keeping a person in a state of actual or legal misconception."

### **Article 15**

In the title of Article 32, the word "Responsibility" shall be replaced with the word "Culpability".

The wording under paragraph (1): "criminally responsible" shall be replaced with the word "guilty".

The wording under paragraph (3): "criminal responsibility" shall be replaced with the word "culpability".

### **Article 16**

The title of Chapter Six shall be amended so as to read: "**VI – CHAPTER SIX - CULPABILITY**".

### **Article 17**

Article 33 shall be amended so as to read:

#### **"Existence of Guilt Article 33**

- (1) Guilt exists if a perpetrator was mentally capable at the time of the commission of a criminal offence and acted with intent.
- (2) Guilt with regard to a criminal offence also exists if the perpetrator acted out of negligence, where the law so prescribes explicitly."

### **Article 18**

Article 34, paragraph (3), the wording "criminally responsible" shall be replaced with the word "guilty", the words: "criminal responsibility" shall be replaced with the word "guilt", while the words in parenthesis: "(voluntary intoxication)" shall be deleted.

### **Article 19**

Article 37 shall be amended so as to read:

#### **"Mistake of fact Article 37**

- (1) A perpetrator is not guilty of the criminal offence committed under an irreversible mistake of fact.

(2) Mistake of fact is irreversible if at the time of the perpetration of a criminal offence the perpetrator was not aware of one of its elements defined by law, or if he mistakenly believed that circumstances existed which, if they had actually existed, would render such conduct permissible.

(3) If the perpetrator's mistake of fact resulted from his negligence, there shall exist a criminal offence perpetrated by negligence, provided that the criminal offence in question is punishable by law also when perpetrated by negligence."

#### **Article 20**

Article 39, item b) the word "future" shall be followed by the words "and encourage his rehabilitation."

#### **Article 21**

Article 40 shall be amended so as to read:

#### **"Types of punishment Article 40**

The following may be imposed on a perpetrator guilty of a criminal offence:

- a) imprisonment;
- b) long-term imprisonment;
- c) fine."

#### **Article 22**

Article 42 shall be amended so as to read:

#### **"Imprisonment Article 42**

- (1) Imprisonment may not be shorter than thirty days or longer than twenty years.
- (2) Imprisonment shall be imposed in full years and months; however, the punishment of imprisonment for a term not exceeding six months may also be measured in full days.
- (3) Imprisonment referred to in this Article cannot be imposed on juveniles. The punishment of juvenile imprisonment may be imposed on juveniles under the conditions prescribed by Chapter X of this Code (*Rules on Educational Recommendations, Educational Measures and Punishment of Juveniles*). Juvenile imprisonment, by its purpose, nature, duration and manner of execution, represents a special punishment of deprivation of liberty."

#### **Article 23**

Article 42 shall be followed by new Articles 42a. and 42b. which read as follows:

#### **"Substitution of Imprisonment Article 42a.**

- (1) A sentence not exceeding one year of imprisonment, upon request of the convicted person, may be substituted by a fine to be paid as a one-off payment within 30 days.
- (2) Imprisonment shall be replaced by a fine by having one day in prison equal to a daily amount of the fine or to 100 KM, if the fine is set in a specific amount.



(3) If a fine has not been paid within the deadline referred to in paragraph (1) of this Article, the court shall order that the imprisonment sentence be enforced. If a fine is paid only in part, the imprisonment shall be enforced in proportion to the amount unpaid.

### **Long-term Imprisonment Article 42b.**

(1) For the gravest forms of serious criminal offences perpetrated with intent, long-term imprisonment for a term of twenty-one to forty-five years may be prescribed.

(2) Long-term imprisonment shall never be prescribed as the sole principal punishment for a particular criminal offence.

(3) Long-term imprisonment shall not be imposed on a perpetrator who has not reached twenty-one years of age at the time of perpetrating the criminal offence.

(4) Long-term imprisonment shall be imposed in full years only.

(5) If long-term imprisonment has been imposed, amnesty or pardon may be granted only after three-fifths of the punishment have been served."

### **Article 24**

The wording under Article 43, paragraph (1): "imprisonment for a term not exceeding six months" shall be replaced by: "imprisonment for a term not exceeding one year".

The wording under paragraph (3): "a maximum of sixty working days" shall be replaced by: "a maximum of ninety working days".

### **Article 25**

The wording under Article 45, paragraph (1): "for a term of one year or a more severe punishment" shall be replaced with: "exceeding one year or a more severe punishment".

### **Article 26**

Number "150" under Article 46, paragraph (3) shall be replaced with number "500", while number "50,000" shall be replaced with number "100,000".

Paragraph (8), the word "two years" shall be replaced with "one year".

### **Article 27**

The wording under Article 47, paragraph (2): "paid in full or in part" shall be replaced with "paid".

Under paragraph (3), number "50" shall be replaced with number "100", while the wording: "whereby the imprisonment may not exceed one year", shall be replaced with: "provided that it does not exceed the punishment prescribed for that particular offence".

### **Article 28**

Article 48, paragraph (1), the words: "criminal liability" shall be replaced with "guilt".

### **Article 29**

Article 49, item (b), the words: "and" shall be deleted.

### **Article 30**

Number "150" under Article 50, paragraph (1), item (g) shall be replaced with number "500".

### **Article 31**

Article 53, paragraph (1) shall be amended so as to read:

"(1) If the perpetrator, by a single action or by several actions, has perpetrated several criminal offences, for which he is tried at the same time, the court shall first mete out the punishment for each of the offences separately, and then proceed with imposing a compound punishment of long-term imprisonment, compound punishment of imprisonment or a compound fine for all the offences taken together."

Paragraph (2), item (a) shall be amended so as to read:

"a) If the court has determined a punishment of long-term imprisonment, or long-term imprisonment and imprisonment, for the concurrent criminal offences, the compound punishment must be higher than each of the individual punishments, but must not exceed a period of forty-five years;"

Item (b) shall be followed by a new item (c), which reads:

"c) If the court has determined a punishment of imprisonment exceeding ten years for two or more concurrent criminal offences, the court may impose a compound punishment of long-term imprisonment that shall not be as high as the sum of all individual punishments;"

Former items (c) and (d) shall become items (d) and (e).

### **Article 32**

Paragraph (3) under Article 55 shall be deleted.

### **Article 33**

Number "50" under Article 56, paragraph (2) shall be replaced with number "100".

### **Article 34**

Article 59, paragraph (2), the words: "criminal liability" shall be replaced with "guilt".

Paragraph (4) shall be deleted.

Former paragraphs (5), (6) and (7) shall become paragraphs (4), (5) and (6).

### **Article 35**

The wording under Article 71, paragraph (1): "in a state of considerably diminished mental capacity, that is, diminished mental capacity" shall be replaced with: "in a state of considerably diminished or diminished mental capacity".

Paragraph (4) shall be deleted.

### **Article 36**

Paragraph (3) under Article 72 shall be deleted.

### **Article 37**

The wording under Article 73, paragraph (1): " a criminal offence with regard to property entrusted or accessible to him by virtue of his occupation, activity or duty" shall be replaced with: "a criminal offence in relation to his occupation, activity or duty ", and the wording: "another criminal offence through the abuse of the occupation, activity or duty with regard to the property entrusted or accessible to him" shall be replaced with: "another criminal offence in relation to his occupation, activity or duty".

### **Article 38**

Article 74, paragraph (1), the word "absolutely" shall be deleted.

Paragraph (3) shall be amended so as to read:

"(3) The law may provide for mandatory forfeiture."

### **Article 39**

Article 95, the words "'criminally liable'" shall be deleted, and the wording "the high degree of criminal responsibility" shall be replaced by "the degree of guilt".

### **Article 40**

Paragraph (3), Article 110 shall be deleted.

### **Article 41**

Article 110 shall be followed by new Article 110a which reads:

#### **Extended Confiscation of Property Gain Acquired through Perpetration of a Criminal Offence Article 110a**

Where criminal proceedings involve the criminal offences set forth under Chapters XVII, XVIII, XIX, XXI, XXI A and XXII of the Code, the Court may issue a decision under Article 110, paragraph (2) and confiscate the property gain for which the prosecutor provided sufficient evidence to reasonably believe that such property gain was acquired by the perpetration of these criminal offences, while the perpetrator failed to prove that the gain was acquired in a lawful manner."

### **Article 42**

Paragraph (1) of Article 114 shall be amended and new subparagraph c) shall be added after subparagraph b):

"c) confiscation of permits or authorizations issued under decisions by government agencies, or a status acknowledged under decisions rendered by government agencies;"

Subparagraph c) shall become subparagraph d).

Subparagraph c) under paragraph (2) shall be amended so as to read:

"c) Ban on the acquisition of permits or authorizations issued under decisions of government agencies,

or a status acknowledged under decisions rendered by government agencies."

### **Article 43**

Article 121 shall be amended so as to read:

#### **Deletion of Conviction**

##### **Article 121**

- (1) On the condition that the perpetrator of the criminal offence has not been convicted yet again of a new criminal offence, the conviction shall be deleted by the force of law upon the expiry of the following time periods:
  - a) A sentence by which a perpetrator of a criminal offence has been released from punishment shall be deleted from the criminal record, provided that he does not perpetrate a new criminal offence within the period of one year from the date when the verdict becomes final.
  - b) A suspended sentence shall be deleted from the criminal record one year after the expiration of the probation period, unless the person convicted has perpetrated another criminal offence within that period.
  - c) A fine or a sentence of imprisonment of up to one year shall be deleted from the criminal record three years after the day on which the punishment was served, pardoned or barred by the statute of limitations, provided that the convicted person does not perpetrate a new criminal offence within that period.
  - d) The sentence of imprisonment for a term exceeding one and up to three years shall be deleted from the criminal record five years after the day on which the punishment was served, pardoned or barred by the statute of limitations, provided that the convicted person does not perpetrate another criminal offence within that period.
  - e) The sentence of imprisonment for a term exceeding three and up to five years shall be deleted from the criminal record ten years after the day on which the punishment was served, pardoned or barred by the statute of limitations, provided that the convicted person does not perpetrate another criminal offence within that period.
  - f) The sentence of imprisonment for a term exceeding five and up to ten years shall be deleted from the criminal record fifteen years after the day on which the punishment was served, pardoned or barred by the statute of limitation, provided that the convicted person does not perpetrate another criminal offence within that period
- (2) Upon petition by a convicted person, the court may decide to delete a sentence of imprisonment for a term exceeding 10 years from the criminal record, if a period of twenty years has expired from the day on which the punishment was served, pardoned or barred by the statute of limitations, provided that the convicted person has not perpetrated another criminal offence within that period.
- (3) In deciding on deleting the sentence, the court shall take into account the conduct of the convicted person after serving his sentence, the nature of the criminal offence, and other circumstances that might be relevant to evaluate whether the deletion is warranted.
- (4) The sentence of long-term imprisonment shall not be deleted from the criminal record.
- (5) Conviction shall not be deleted from criminal records for as long as another criminal proceeding is ongoing for a new criminal offence.
- (6) Conviction shall not be deleted from criminal records for as long as security measures are in place, or until the property gain acquired by the perpetration of the criminal offence has been entirely confiscated.
- (7) Should the sentence be deleted in accordance with the provisions of paragraphs (1) through (3) of this Article, the perpetrator of a criminal offence shall be considered as having no previous convictions.

#### **Article 44**

Article 121 shall be followed by new Article 121a., which reads:

#### **“Criminal records Article 121a**

- (1) Criminal records and the information therein are not public.
- (2) A citizen is entitled to request and receive information contained in the criminal records about himself in order to exercise his right or interest.
- (3) Substitution of an imposed fine by a community service or imprisonment, as well as the substitution of a prison sentence by community service or a fine, shall be entered in the criminal records."

#### **Article 45**

The word “criminal” shall be deleted from the title of Article 123.

The term “the conditions referred to in Article 12” shall be replaced with “the conditions referred to in Article 9”.

#### **Article 46**

Article 125 shall be amended in paragraph (1) so that the wording: "is not criminally liable" is replaced with the words “not guilty”.

“Criminal liability” in paragraph (2) shall be replaced with "culpability".

#### **Article 47**

The word “criminally” in Article 126, paragraph (1) before the word “liable” shall be deleted.

The word “criminally” in paragraph (2) and paragraph (3) before the word “liable” shall be deleted.

#### **Article 48**

Article 128 is hereby amended by deleting the word “criminal” in the title, and by deleting the word “criminally” before the word “liable”<sup>1</sup> in the text of the Article.

#### **Article 49**

Under Article 129, paragraph (2), the word “criminally” before the word “responsible” shall be deleted.

#### **Article 50**

Under Article 132, new paragraph (3) shall be added after paragraph (2) and it shall read as follows:

"(3) A failure to pay a fine within the deadline set under the final verdict shall result in an immediate forced collection procedure."

#### **Article 51**

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<sup>1</sup> Translator's note: The version in English language does not contain the word “criminally”.

Article 137, subparagraph b), the word “economic” shall be deleted.

#### **Article 52**

Article 138, the wording "or to obtain certain benefits for economy" shall be replaced with “or to protect or promote social values”.

#### **Article 53**

The word “economic” in the title of Article 139 shall be deleted.

In paragraph (1), the wording: "By ordering the security measure of a ban on certain economic activities" shall be replaced with: "By ordering the security measure of a ban on certain activities", while the words: "or other economic activity" shall be replaced with “other business or activities”.

Paragraph (2) shall be amended by replacing the wording: "performing of a certain economic activity" with: "performing of a certain activity", while: "prejudicial to the economic and financial operation of other legal persons” shall be replaced with “prejudicial to the economic and financial operation of other persons”.

#### **Article 54**

Article 142, paragraph (1), the word "criminal" shall be deleted.

The word “economic” in paragraph (3), subparagraph b) shall be deleted.

#### **Article 55**

Article 143, the word “criminally” shall be deleted<sup>2</sup>.

#### **Article 56**

Article 145 shall be followed by new Articles - 145a and 145b, which read as follows:

#### **Provoking ethnic, racial and religious hatred, conflicts and intolerance Article 145a**

(1) Whoever publicly provokes or inflames national, racial or religious hatred, conflicts or intolerance among the constituent peoples and others, as well as among other people living or residing in Bosnia and Herzegovina, shall be punished by a prison sentence ranging from three months to three years.

(2) Whoever perpetrates the criminal offence referred to in paragraph (1) of this Article by abusing his office or official authority, shall be punished by a prison sentence between one and ten years.

#### **Damaging or destroying religious facilities Article 145b**

Whoever damages, renders unusable or destroys a religious facility shall be sentenced to imprisonment of between six months and five years.

#### **Article 57**

New Article 147a shall be added after Article 147 so as to read:

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<sup>2</sup> Translator's note: The version in English language does not contain the word “criminally”

**"Unauthorised Intercepting and Audio and Video Recording  
Article 147a**

(1) An official or a responsible person in the institutions of Bosnia and Herzegovina who, by means of special devices, illegally intercepts or audio records a conversation or a statement not intended for his ears, or allows an uninvited individual to become acquainted with the illegally intercepted or audio recorded conversation or statement, or illegally intercepts or records someone else's electronic messages in the computer system, shall be punished by a prison sentence ranging between six months and five years.

(2) The sanction referred to in paragraph (1) of this Article shall be imposed on the official or responsible person in the institutions of Bosnia and Herzegovina who takes photographs, video footage or otherwise records another individual without his consent, or shows such a record or otherwise makes it possible to other people to directly get acquainted with such records."

**Article 58**

In Article 148, the wording: "abuses his position or authority and" shall be replaced with "by abusing his position or authority", while the word "one year" shall be replaced with "three years".

**Article 59**

New Article 149a shall be added after Article 149 so as to read:

**"Unlawful Withholding of Personal Identification Documents  
Article 149a**

Whoever unlawfully withholds from another person his personal or travel document with the aim of restricting his freedom of movement or exercising his power over such person, shall be punished by a prison sentence ranging between six months and five years."

**Article 60**

Article 151, paragraph (1) shall be amended by replacing the words: "or imprisonment for a term not exceeding one year" with: "and imprisonment for a term not exceeding three years".

**Article 61**

Under Article 152, after the words "Herzegovina, votes", the word "again" shall be added, while the wording: "or tries to vote again after having voted once, shall be punished by a fine or imprisonment for a term not exceeding three years" shall be replaced with: "shall be punished by imprisonment for a term between three months and five years".

**Article 62**

Article 154 shall be amended by adding the words: "as final" after the word "discloses".

**Article 63**

Under Article 162a, paragraph (2), the words "at any level" shall be replaced with: "in any manner whatsoever".

**Article 64**

In Article 164, paragraph (3), the words: "referred to in paras (1) and (2)" shall be replaced with "referred to

in paragraphs (1) and (2)"<sup>3</sup>.

In paragraph (4), the words: "referred to in paras (1) and (3)" shall be replaced with "referred to in paragraphs (1) and (3)"<sup>4</sup>.

In paragraph (5), the words: "referred to in paras (1), (2) and (3)" shall be replaced with "referred to in paragraphs (1), (2) and (3)"<sup>5</sup>.

In paragraph (6), the words: "referred to in paras (1) and (4)" shall be replaced with "referred to in paragraphs (1) and (4)"<sup>6</sup>.

In paragraph (8) , the words: "Provisions of paras." shall be replaced with "Provisions of paragraphs"<sup>7</sup>.

#### **Article 65**

Article 170 shall be amended by replacing the words: "between one and ten years" with: "not less than three years".

#### **Article 66**

In Article 172, paragraph (2), subparagraph e), the words: "in the custody or under control of the accused" shall be replaced with: "in the custody or under control of the perpetrator".

#### **Article 67**

The title of Article 180 is hereby amended so as to read: "**Individual and Command Responsibility**".

The word "instigated" in the first sentence of paragraph (1) shall be deleted, while the words: "shall be personally responsible for" shall be replaced with: "shall be guilty of", the words: "any accused person" shall be replaced with: "any individual" and the words: "criminal responsibility" shall be replaced with: "culpability".

The words "criminal responsibility" under paragraphs (2) and (3) shall be replaced with: "culpability".

#### **Article 68**

Paragraph (2) of Article 185 is hereby amended so as to read:

"(2) Whoever, in violation of the rules of international law, buys, sells, hands over to another person or mediates in the purchase, sale or handing over persons under 18 years of age for the purpose of adoption, removing parts of human body, exploitation by labour or for other illicit purposes, shall be punished by imprisonment for a term not less than five years."

#### **Article 69**

Article 186 shall be amended so as to read:

#### **"Trafficking in persons Article 186**

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<sup>3</sup> Translator's note: The wording of this Article in English needs no amendments.

<sup>4</sup> Translator's note: The wording of this Article in English needs no amendments.

<sup>5</sup> Translator's note: The wording of this Article in English needs no amendments.

<sup>6</sup> Translator's note: The wording of this Article in English needs no amendments.

<sup>7</sup> Translator's note: The wording of this Article in English needs no amendments.



(1) Whoever, by means of use of force or threat of use of force or other forms of coercion, by abduction, fraud or deception, the abuse of power or influence or a position of vulnerability, or by giving or receiving payments or benefits to achieve the consent of a person having control over another person, recruits, transports, transfers, hands over, harbours or receives a person for the purpose of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or similar status, servitude or the removal of organs of human body or of other types of exploitation, shall be punished by imprisonment for a term not less than three years.

(2) Whoever recruits, incites, transports, transfers, hands over, harbours or receives individuals under 18 years of age for the purpose of the exploitation referred to in paragraph (1) of this Article, shall be punished by imprisonment for a term not less than five years.

(3) In the event that a criminal offence under paragraphs (1) and (2) of this Article is perpetrated by an official exercising his official duty, the perpetrator thereof shall be punished by imprisonment for a term not less than five years.

(4) Whoever forges, obtains or issues a travel or personal document, or uses, retains, seizes, alters, damages, destroys a travel or personal document of another person for the purpose of facilitating trafficking in persons, shall be punished by a prison sentence between one and five years.

(5) Whoever organises or in any manner leads a group of people for the purpose of perpetration of the criminal offences referred to in paragraphs (1) or (2) of this Article, shall be punished by imprisonment for a term not less than ten years or a long-term imprisonment.

(6) Whoever uses the services of a victim of human trafficking shall be punished by a prison sentence between six months and five years.

(7) In the event that the perpetration of the criminal offences under paragraphs (1) and (2) of this Article resulted in a serious health damage, bodily injury or death of the persons referred to in paragraphs (1) and (2), the perpetrator shall be punished by a prison sentence of minimum five years or long-term imprisonment.

(8) The objects and means of transportation used for the perpetration of the offences shall be seized, while the facilities used for the purpose of human trafficking may be temporarily or permanently closed.

(9) Whether a person consented to the exploitation is of no relevance to the existence of a criminal offence of trafficking in persons.

#### **Article 70**

Under Article 187, paragraph (2), the words: "six months and five years" shall be replaced with: "one and ten years".

Paragraph (3) shall be deleted.

Current paragraph (4) shall become paragraph (3).

#### **Article 71**

Article 188 shall be deleted.

#### **Article 72**

Article 189 shall be amended so as to read:

#### **"Smuggling of Persons Article 189**

(1) Whoever, out of personal or someone else's gain, illegally transports or enables transportation across the state border of one or more migrants or other persons, or whoever with the same purpose, makes, obtains or

possesses false travel or personal documents, shall be punished by imprisonment for a term between one and ten years.

(2) Whoever recruits, transports, harbours, protects or otherwise enables smuggled persons to stay in Bosnia and Herzegovina, shall be punished by a prison sentence between six months and five years.

(3) If the offences under paragraphs (1) and (2) have been perpetrated by members of a structured group, or an organised crime group, by abuse of official duty, or in a manner that poses a threat to life, health or safety of the smuggled persons, or if those persons were exploited or treated in another inhuman or degrading manner, the perpetrator shall be punished by imprisonment for a term between three and fifteen years.

(4) The punishment under paragraph (3) of this Article shall be imposed also on the perpetrator of the criminal offences referred to in paragraphs (1) and (2) of this Article whose victims were under 18 years of age.

(5) In the event that the offences under paragraphs (1) and (2) resulted in a death of one or more smuggled persons, the perpetrator shall be punished by imprisonment for a term of not less than five years.

(6) The objects or means of transportation used for the purpose of perpetration of the offence shall be confiscated.

### **Article 73**

New Article 189a shall be added after Article 189 and it shall read as follows:

**"Organising a group or an association for the purpose of perpetration of the criminal offences of  
Trafficking in Persons and Smuggling of Migrants  
Article 189a**

(1) Whoever organises a group or an association for the purpose of perpetration of the criminal offences in violation of Articles 186 (*Trafficking in Persons*) and 189 (*Smuggling of Persons*) of this Law, shall be punished by a prison sentence of not less than three years.

(2) Whoever becomes a member of the group or the association referred to in paragraph (1) of this Article, or otherwise assists the group or association, shall be punished by imprisonment of not less than one year.

(3) The provisions set forth in Article 250 (*Organised Crime*) of this Law shall apply to the organiser or ringleader of the structured group or the association who perpetrated the offences under paragraph (1) of this Article and the members thereof.

### **Article 74**

N/A

### **Article 75**

Article 191, paragraph (1), the words "Bosnia and Herzegovina" and a comma shall be added after the word: "compelling", and the word "another" shall replace the word "a", while the words: "between one and ten years" shall be replaced with "not less than three years".

### **Article 76**

Article 192, paragraph (1) the words: "between one and ten years" shall be replaced with "not less than three years".

## Article 77

Article 193, paragraph (1) the words: "between one and ten years" shall be replaced with "not less than three years".

New paragraph (6) shall be added after paragraph (5) and it shall read:

"(6) The arms, military equipment and products of dual use, as well as the means of their transportation or distribution, shall be confiscated."

## Article 78

Article 193a, new paragraph (7) shall be added after paragraph (6) so as to read:

"(7) Chemical or biological weapons, or means of combat prohibited by the rules of international law, or means of disorder management referred to in this Article, as well as means of their transport or distribution, shall be confiscated."

## Article 79

The abbreviation "CWC" mentioned two times in Article 193b, paragraph (1), shall be substituted by the word: "Convention".

Paragraph (3) shall be followed by new paragraph (4), which reads as follows:

"(4) The chemicals referred to in this Article shall be confiscated."

## Article 80

The title of Article 193c shall be amended so as to read: "**Activities Contrary to the Regimes Prescribed by the Law on Implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction**".

In paragraphs (1), (2) and (3), the abbreviation "CWC" shall be substituted by the word "Convention".

The word under paragraph (3): "stockpiles" shall be grammatically modified only in the B/S/C version, so that the version in English remains the same.

New paragraph (4) shall be added after paragraph (3) and it shall read:

"(4) The chemicals referred to in paragraph (3) of this Article shall be confiscated."

## Article 81

Article 194 shall be amended so as to read:

### **Illicit Procurement and Disposal of Nuclear Material** **Article 194**

(1) Whoever, without authorisation, obtains, receives, hands over or enables another person to get into possession or to possess, use, transport, process, dispose of, store, or disperse nuclear or other radioactive material or device, shall be punished by a prison sentence of up to five years.

(2) Whoever obtains nuclear or other radioactive material or device by theft, deceit, force, threat or in any other form of intimidation, shall be punished by a term of imprisonment between one and ten years.

- (3) Whoever, by perpetrating the offences referred to in paragraphs (1) and (2) of this Article causes danger to human life or health, or substantial danger to property or environment, shall be punished by imprisonment for a term of not less than three years
- (4) If the perpetration of the criminal offence referred to in paragraphs (1) through (3) of this Article has resulted in the death of one or more persons, or substantial property or environmental damage, the perpetrator shall be punished by imprisonment for a term not less than five years.
- (5) Whoever perpetrates the criminal offence referred to in paragraphs (1) and (3) of this Article by negligence, shall be punished by imprisonment for a term not exceeding three years.
- (6) Whoever perpetrates the criminal offence referred to in paragraph (4) of this Article by negligence, shall be punished by imprisonment for a term not exceeding ten years.
- (7) Whoever, in order to compel a State, international organisation or a natural or legal person to perform or abstain from performing an act, threatens to endanger the lives of people or property to a substantial extent through the use of nuclear material, shall be punished by a prison sentence of not less than three years.
- (8) The nuclear or other radioactive material or device referred to in this Article and means of their transport shall be confiscated.”

## **Article 82**

New Article 194a shall be added after Article 194 and it shall read:

### **"Endangering a Nuclear Facility Article 194a**

- (1) Whoever perpetrates a criminal offence with the aim of impeding the operation of a nuclear facility, or uses or damages the nuclear facility in the manner that causes danger of nuclear or other radioactive leakage, shall be punished by a prison sentence between one and five years.
- (2) Whoever by perpetration of the criminal offence referred to in paragraph (1) of this Article causes danger to human life or health, or substantial danger to property or environment, shall be punished by imprisonment for a term of not less than one year.
- (3) Whoever perpetrates the criminal offence referred to in paragraphs (1) and (2) of this Article by negligence, shall be fined or punished by imprisonment for a term not exceeding three years.
- (4) If the perpetration of the criminal offence referred to in paragraphs (1) and (2) of this Article has resulted in the death of one or more persons, or substantial property or environmental damage, the perpetrator shall be punished by imprisonment for a term of not less than five years.
- (5) Whoever perpetrates the criminal offence referred to in paragraph (4) of this Article by negligence, shall be punished by imprisonment for a term between one and ten years.
- (6) Whoever threatens to commit one of the offences referred to in paragraphs (1) and (2) of this Article, shall be punished by a prison sentence not exceeding three years."

## **Article 83**

The wording: “between one and ten years” in Article 195, paragraph (1), shall be replaced with: “not less than three years”.

The words “three years” in paragraph (2) shall be replaced with “five years”.

The words: “six months and five years” under paragraph (3) shall be replaced with: “one and ten years”.

#### **Article 84**

The title of Article 197 shall be amended so as to read: "**Hijacking an Aircraft or a Ship or Seizing a Fixed Platform.**"

Under paragraph (1), the words "or a fixed platform" shall be added after the words: "of any type".

Under paragraph (2), the words "or a fixed platform" shall be added after the word: "vessel".

#### **Article 85**

The title of Article 198 shall be amended by adding the words: "or Fixed Platforms" after the word: "Navigation".

Under paragraph (1), the words: "communicates false information regarding the flight of the aircraft" shall be replaced with: "communicates information he knows to be false".

The word "employed" in paragraph (2) shall be deleted.

Paragraph (3) shall be amended so as to read:

"(3) The punishment referred to in paragraph (1) of this Article shall be imposed on whoever performs violence against a person on board a ship or vessel or fixed platform, destroys a ship or vessel or fixed platform, or causes damage to a ship or vessel or their cargo or to a fixed platform, places or causes to be placed on a ship or vessel, or fixed platform, by any means whatsoever, an explosive or some other device or substance capable of destroying or damaging the ship, vessel or their cargo, or a fixed platform, destroys or damages maritime navigational facilities or interferes with their operation, communicates information he knows to be false, or perpetrates another act of violence, endangering thereby the safe navigation or the safety of the voyage of the ship or the safety of the vessel or fixed platform."

Paragraphs (5) and (7) shall be amended by adding the words: "or a fixed platform" after the word: "vessel".

#### **Article 86**

Under Article 201, paragraph (1), the words: "three years" shall be replaced with: "five years".

In paragraph (2), the word "five" shall be replaced with "eight".

New paragraph (4) shall be added after paragraph (3) and shall read as follows:

"(4) Whoever procures or prepares any means of, or removes an obstacle to, or undertakes any other act to create conditions for, the perpetration of the criminal offence under Paragraph (1) of this Article, shall be punished by a prison sentence between one and ten years."

In former paragraph (4), which shall now become paragraph (5), the word "intentionally" shall be deleted.

#### **Article 87**

Article 202 shall be amended so as to read:

#### **"Funding of Terrorist Activities Article 202**

(1) Whoever by any means, directly or indirectly, provides or collects funds with the aim to use them or knowing that they are to be used, in full or in part, in order to perpetrate:

- a) the criminal offence referred to in the following Articles of this Code: 191 (*Taking of Hostages*), 192 (*Endangering Internationally Protected Persons*), 194 (*Illicit Procurement and Disposal of Nuclear Material*), 194a (*Endangering Nuclear Facilities*), 196 (*Piracy*), 197 (*Hijacking an Aircraft or a Ship or Seizing a Fixed Platform*), 198 (*Endangering the Safety of Air Traffic and Maritime Navigation or Fixed Platforms*), 199 (*Destruction and Removal of Signal Devices Utilised for the Safety of Air Traffic*), 200 (*Misuse of Telecommunication Signals*), 201 (*Terrorism*), 202a (*Encouraging Terrorist Activities in Public*), 202b (*Recruitment for Terrorist Activities*), 202c (*Training to Perform Terrorist Activities*);
- b) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking active part in the hostilities in an armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel the authorities of Bosnia and Herzegovina or any other authorities or an international organisation to perform or to abstain from performing any act, shall be punished by imprisonment of not less than three years.

(2) The funds collected for the perpetration or obtained as a result of the perpetration of the criminal offence under paragraph (1) of this Article shall be confiscated.”

#### **Article 88**

New Articles 202a., 202b., 202c. and 202d. shall be added after Article 202 and they shall read as follows:

#### **"Encouraging Terrorist Activities in Public Article 202a**

Whoever publicly, through the media, disseminates or otherwise sends out a message to the public with the aim of encouraging another person to perpetrate the criminal offences referred to in the following Articles of this Code: 191 (*Taking of Hostages*), 192 (*Endangering Internationally Protected Persons*), 194 (*Illicit Procurement and Disposal of Nuclear Material*), 194a (*Endangering Nuclear Facilities*), 196 (*Piracy*), 197 (*Hijacking an Aircraft or a Ship or Seizing Fixed Platforms*), 198 (*Endangering the Safety of Air Traffic and Maritime Navigation or Fixed Platforms*), 199 (*Destruction and Removal of Signal Devices Utilised for the Safety of Air Traffic*), 200 (*Misuse of Telecommunication Signals*), 201 (*Terrorism*), 202 (*Funding of Terrorist Activities*), 202b (*Recruitment for Terrorist Activities*), 202c (*Training to Perform Terrorist Activities*) and 202d (*Organising a Terrorist Group*), shall be punished by a prison sentence of not less than three years;

#### **Recruitment for Terrorist Activities Article 202b.**

Whoever recruits or incites another person to perpetrate or participate, or assist in the perpetration, or join a terrorist group for the purpose of perpetrating any of the criminal offences referred to in the following Articles of this Code: 191 (*Taking of Hostages*), 192 (*Endangering Internationally Protected Persons*), 194 (*Illicit Procurement and Disposal of Nuclear Material*), 194a (*Endangering Nuclear Facilities*), 196 (*Piracy*), 197 (*Hijacking an Aircraft or a Ship or Seizing a Fixed Platform*), 198 (*Endangering the Safety of Air Traffic and Maritime Navigation or Fixed Platforms*), 199 (*Destruction and Removal of Signal Devices Utilised for the Safety of Air Traffic*), 200 (*Misuse of Telecommunication Signals*), 201 (*Terrorism*), 202 (*Funding of Terrorist Activities*), 202a (*Encouraging Terrorist Activities in Public*) and 202c (*Training to Perform Terrorist Activities*), shall be punished by a prison sentence of not less than three years.

#### **Training to Perform Terrorist Activities Article 202c**

(1) Whoever trains another person to manufacture or use explosives, fire arms or other weapons or harmful or dangerous materials or explosive devices, or otherwise trains another person in specific methods,

techniques or skills with the purpose of perpetrating any of the criminal offences referred to in the following Articles of this Code: 191 (*Taking of Hostages*), 192 (*Endangering Internationally Protected Persons*), 194 (*Illicit Procurement and Disposal of Nuclear Material*), 194a (*Endangering Nuclear Facilities*), 196 (*Piracy*), 197 (*Hijacking an Aircraft or a Ship or Seizing a Fixed Platform*), 198 (*Endangering the Safety of Air Traffic and Maritime Navigation or Fixed Platforms*), 199 (*Destruction and Removal of Signal Devices Utilised for the Safety of Air Traffic*), 200 (*Misuse of Telecommunication Signals*), 201 (*Terrorism*), 202 (*Funding of Terrorist Activities*), 202a (*Encouraging Terrorist Activities in Public*) and 202b (*Recruitment for Terrorist Activities*), shall be punished by a prison sentence of not less than three years.

(2) Whoever provides means for the training, or otherwise renders available a facility or a space, aware that they will be used for the perpetration of the criminal offence referred to in paragraph (1) of this Article, shall be punished by the sentence foreseen in paragraph (1) of this Article.

### **Organising a Terrorist Group Article 202d**

(1) Whoever organises a terrorist group or otherwise unites a minimum of three individuals for the purpose of perpetration of the criminal offences referred to in the following Articles of this Code: 191 (*Taking of Hostages*), 192 (*Endangering Internationally Protected Persons*), 194 (*Illicit Procurement and Disposal of Nuclear Material*), 194a (*Endangering Nuclear Facilities*), 196 (*Piracy*), 197 (*Hijacking an Aircraft or a Ship or Seizing a Fixed Platform*), 198 (*Endangering the Safety of Air Traffic and Maritime Navigation or Fixed Platforms*), 199 (*Destruction and Removal of Signal Devices Utilised for the Safety of Air Traffic*), 200 (*Misuse of Telecommunication Signals*), 201 (*Terrorism*), 202 (*Funding of Terrorist Activities*), 202a (*Encouraging Terrorist Activities in Public*), 202b (*Recruitment for Terrorist Activities*) or 202c (*Training to Perform Terrorist Activities*), shall be punished by a prison sentence of not less than five years.

(2) Whoever becomes a member of the group referred to in paragraph (1) of this Article or otherwise participates in the activities of a terrorist group, which includes providing financial or any other assistance, shall be punished by a prison sentence of not less than three years.

(3) A member of the group referred to in paragraph (1) of this Article who discloses the group before participating in a criminal offence as its member or on its behalf, shall be fined or punished by a prison sentence not exceeding three years, and may even be acquitted.

### **Article 89**

Article 209, paragraph (1), the words: "between six months and five years" shall be replaced with "between one and eight years".

New paragraph (2) shall be added after paragraph (1) and it shall read:

"(2) The perpetrator of the offence under paragraph (1) of this Article who is at the same time a perpetrator or an accomplice in the perpetration of a criminal offence whereby the money or property referred to in paragraph (1) of this Article was obtained, shall be punished by a prison sentence between one and ten years."

In former paragraph (2), which shall now become paragraph (3), the figure "50,000" shall be replaced with the figure "200,000", while the words "between one and ten years" shall be replaced with: "not less than three years."

Former paragraphs (3) and (4) shall now become paragraphs (4) and (5).

In paragraph (5), the words: "paragraph (1) through (3)" shall be replaced with: "paragraphs (1) through (4) of this Article".

## **Article 90**

Article 210 shall be amended so as to read:

### **Tax Evasion or Fraud Article 210**

(1) Whoever evades the payment of duties required under the tax legislation of Bosnia and Herzegovina by not submitting the required information, or by submitting false information on the acquired taxable income or on other facts which may affect the determination of the existence or the amount of such liability, if the amount evaded exceeds 10,000 KM, shall be punished by imprisonment for a term between six months and five years.

(2) Whoever perpetrates the offence referred to in paragraph (1) of this Article and whoever, with the aim of exercising the right to tax refund or indirect tax credit provided under the tax legislation of Bosnia and Herzegovina, files a false Tax Return with the amount of the presented tax refund or indirect tax credit exceeding 10,000 KM, shall be punished by the sentence foreseen under paragraph (1) of this Article.

(3) Whoever perpetrates the offence referred to in paragraph (1) of this Article, if the evaded liability exceeds the amount of 50,000 KM, or perpetrates the offence referred to in paragraph (2) of this Article if the presented amount of tax refund or indirect tax credit exceeds 50,000 KM, shall be punished by imprisonment for a term between one and ten years.

(4) Whoever perpetrates the criminal offence referred to in paragraph (1) of this Article if the evaded amount exceeds 200,000 KM, or perpetrated the criminal offence in violation of paragraph (2) of this Article if the presented amount of tax refund or indirect tax credit exceeds 200,000 KM, shall be punished by a prison sentence of not less than three years.”

## **Article 91**

Article 210 shall be followed by Articles 210a. and 210b. so as to read:

### **"Illicit trade in Excise Products Article 210a.**

(1) Whoever illegally manufactures, puts on the market or sells products that are not marked with control and tax stamps in the manner prescribed by the tax legislation of Bosnia and Herzegovina, shall be punished by imprisonment for a term between six months and five years.

(2) The products referred to in paragraph (1) of this Article shall be confiscated.

### **Unauthorised storage of goods Article 210b.**

(1) Whoever stores goods taxable pursuant to the tax legislation of Bosnia and Herzegovina on the premises not registered for that purpose in accordance with the law, or whoever allows that goods be stored on his premises not registered for such purposes, shall be punished by a fine or imprisonment for a term not exceeding three years.

(2) The punishment referred to in paragraph (1) of this Article shall be imposed on whoever stores goods taxable pursuant to the tax legislation of Bosnia and Herzegovina on the premises registered for that purpose in accordance with the legislation on the storage of goods, if such goods are not accompanied by the prescribed documentation on the origin of goods and the taxes paid."

## **Article 92**

Article 211 shall be amended so as to read:



**"Failure to Pay Taxes  
Article 211**

(1) Whoever by transfer or misappropriation of property, dissolution of a company or otherwise prevents the collection of declared taxes prescribed under the tax legislation of Bosnia and Herzegovina, if the amount evaded exceeds 50,000 KM, shall be punished by a fine or imprisonment not exceeding three years.

(2) Whoever commits the offence referred to in paragraph (1) of this Article, if the amount evaded exceeds 100,000 KM, shall be punished by imprisonment between one and ten years.

(3) Whoever commits the offence referred to in paragraph (1) of this Article, if the amount evaded exceeds 200,000 KM, shall be punished by imprisonment of not less than three years.

(4) If the perpetrator settles the liabilities referred to in paragraphs (1), (2) and (3) of this Article, the perpetrator may be relieved of punishment."

**Article 93**

Article 214, paragraph (4) shall be amended so as to read:

"(4) Goods, substances and other items referred to in paragraphs (1) through (3) of this Article shall be confiscated."

Paragraph (5), the word "vehicles" shall be replaced with "means of transportation".

**Article 94**

Article 217, paragraphs (1), (2) and (3), the wording: "a foreign official person" shall be followed by: "or an international official", and the words "a benefit" and "benefits" shall be followed by: "for himself or for another person".

**Article 95**

The wording under Article 218, paragraphs (1), (2) and (3): "a foreign official person" shall be followed by: "or an international official".

**Article 96**

A new paragraph (4) shall be added to Article 219, after paragraph (3), so as to read:

"(4) A reward accepted or any other gain shall be forfeited."

**Article 97**

A new paragraph (4) shall be added to Article 220, after paragraph (3), so as to read:

"(4) The gain so acquired shall be forfeited."

**Article 98**

A new paragraph (4) shall be added to Article 221, after paragraph (3), so as to read:

"(4) Money, securities or other movables, as well as the gain acquired, shall be forfeited."

#### **Article 99**

A new paragraph (4) shall be added to Article 222, after paragraph (3), so as to read:

"(4) The acquired property gain shall be forfeited."

#### **Article 100**

The wording under Article 224, paragraph (1): "a fine or imprisonment for a term not exceeding three years" shall be replaced with: "imprisonment for a term between three months and five years".

The wording under paragraph (2): "six months and five years" shall be replaced with: "one and ten years".

#### **Article 101**

Article 228, the wording: "between six months and five years" shall be replaced with: "between one and ten years".

#### **Article 102**

Article 231a., the title shall read as follows: "**Failure to Report a Mass Grave Site**", while the words "a mass grave" in the text of the Article shall be replaced with: "a mass grave site".

#### **Article 103**

The wording under Article 237, paragraph (1): "by a fine or imprisonment for a term not exceeding one year" shall be replaced with the wording: "imprisonment for a term not exceeding three years".

The wording under paragraph (2): "by a fine or imprisonment for a term not exceeding three years" shall be replaced with the wording: "imprisonment for a term between six months and five years".

#### **Article 104**

Article 238, after the wording "Constitutional Court of Bosnia and Herzegovina" the comma shall be replaced with the word "or", while the wording: "or the Human Rights Chamber" shall be deleted.

#### **Article 105**

The title of Article 239 shall be amended so as to read: "**Failure to Enforce Decisions of the Constitutional Court of Bosnia and Herzegovina, Court of Bosnia and Herzegovina, Human Rights Chamber or the European Court of Human Rights**".

A comma shall be added in the text of the Article after: "Court of Bosnia and Herzegovina", the word "or" shall be deleted, while "or the European Court of Human Rights" shall follow the word "Chamber".

#### **Article 106**

The wording under Article 241, paragraph (2): "between one and ten years" shall be replaced with: "not less than three years".

#### **Article 107**

New Articles 241a. and 241b. shall follow Article 241, so as to read:

**"Preventing Official Person in the Exercise of Official Duty  
Article 241a.**

- (1) Whoever uses force or threatens to directly use force to prevent an official person in the institutions of Bosnia and Herzegovina in the exercise of his official duties within his authority, or whoever in the same way forces him to perform an official duty, shall be punished by imprisonment for a term between three months and three years.
- (2) If an official person subjected to the criminal offence referred to in paragraph (1) of this Article was abused or sustained light bodily injuries or if the criminal offence was committed at gunpoint, the perpetrator shall be punished by imprisonment for a term between six months and five years.
- (3) Whoever commits the criminal offence referred to in paragraphs (1) and (2) of this Article against an official person while performing tasks related to security in Bosnia and Herzegovina, while apprehending the perpetrator of a criminal offence or guarding a person deprived of liberty, shall be punished by imprisonment for a term between one and ten years.
- (4) If the perpetrator of the criminal offence referred to in paragraphs (1) through (3) of this Article was provoked by an unlawful or inconsiderate treatment by the official person, the perpetrator may be relieved of punishment.

**Attack against the official person on tasks of security, detection and apprehension of perpetrators of criminal offences  
Article 241b.**

- (1) Whoever attacks or seriously threatens to attack an official person in the institutions of Bosnia and Herzegovina or a person assisting while performing tasks related to security in Bosnia and Herzegovina, while detecting or apprehending the perpetrator of criminal offences or guarding a person deprived of liberty, shall be punished by imprisonment for a term between three months and three years.
- (2) If an official person or a person assisting him has sustained light bodily injuries as a result of the criminal offence referred to in paragraph (1) of this Article or if the criminal offence referred to in paragraph (1) of this Article was committed at gunpoint, the perpetrator shall be punished by imprisonment for a term between six months and five years.
- (3) If an official person or a person assisting him has sustained serious bodily injuries as a result of the criminal offence referred to in paragraph (1) of this Article, the perpetrator shall be punished by imprisonment for a term between one and ten years.
- (4) If the perpetrator of the criminal offence referred to in paragraphs (1) through (3) of this Article was provoked by an unlawful or inconsiderate treatment by the official person or a person assisting him, the perpetrator may be relieved of punishment."

**Article 108**

The wording under Article 249, paragraph (1): "for which a punishment of imprisonment of three years or a more severe punishment may be pronounced", and the comma, shall be deleted, while the wording: "six months and five years" shall be replaced with: "one and ten years".

Paragraph (2), the word "one" shall be replaced with "three".

**Article 109**

Article 250, paragraphs (1), (2), (3), (4) and (5), the wording: "organised criminal group" shall be replaced with: "a group for organised crime".

Paragraph (2), the words: "three years" shall be replaced with: "five years".

Paragraph (5), the wording at the end of the paragraph: "organised criminal group" shall be replaced with: "that group".

#### **Article 110**

The Constitutional Commission of the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina and the Constitutional Commission of the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina shall be tasked with producing a consolidated version of the Criminal Code of Bosnia and Herzegovina within 60 days as of the publication of this Law in the Official Gazette of BiH.

#### **Article 111**

The relevant bodies of the Federation of Bosnia and Herzegovina, Republika Srpska and the Brčko District of Bosnia and Herzegovina shall harmonise their respective criminal legislation with this Law within 90 days as of the day when the Law comes into effect.

#### **Article 112**

The Law shall come into effect on the ninetieth day as of the day of its publication in the Official Gazette of BiH.

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21 January 2010  
Sarajevo

Speaker of the  
House of Representatives of the  
Parliamentary Assembly of BiH  
Dr **Milorad Živković**, */in own hand/*

Speaker of the  
House of Peoples of the  
Parliamentary Assembly of BiH  
**Sulejman Tihić**, */in own hand/*