

Decision imposing the Law on Citizenship of BiH

H.E. Alija Izetbegovic
Chair of the Presidency

H.E. Kresimir Zubak
Member of the Presidency

H.E. Momcilo Krajisnik
Member of the Presidency

Bosnia and Herzegovina

Dear Presidents,

With reference to Para II 1 a of the Bonn Document, the deadline of 15 December 1997 to adopt the three Laws on Citizenship, Council of Ministers and Travel Documents has expired.

As I see it two laws were adopted properly by the two Houses of Parliament:

1. The Law on the Council of Ministers and the Ministries of Bosnia and Herzegovina (adoption in the House of Peoples on 16 December, in the House of Representatives on 2 December 1997).
2. The Law on Travel Documents (adopted in the House of Representatives on 15 December and in the House of Peoples on 16 December 1997).

The necessary steps to publish both laws in the Official Gazette should be taken immediately.

It is with regret that I have been informed about the failure of both Houses to take a similar decision with regard to the Law on Citizenship on Bosnia and Herzegovina within the said deadline.

In accordance with my authority under Annex 10 of the Peace Agreement and Article XI of the Bonn Document, I do hereby decide that the Law on Citizenship of Bosnia and Herzegovina shall enter into force by 1 January 1998 on interim basis, until the Parliamentary Assembly adopts this law in due form, without amendments and no conditions attached. The text of the Law, submitted to Parliament and in accordance with Annex 1 of the Bonn Documents is attached hereto and must be published in the Official Gazette as well.

As all three laws are of utmost importance for the Peace Process I invite the Chairs of the Council of Ministers as well as the Minister for Civil Affairs and his Deputies to my Office on 19 December at 11 a.m. to discuss the next steps which must be taken to implement the three laws without delay. I would be grateful if you could request the Members of the Council to attend this meeting.

In concluding, I recall in this context the Bonn Document, which calls on the Parliamentary Assembly of Bosnia and Herzegovina to adopt the statement on the possibility of concluding bilateral agreements on dual citizenship in accordance with the Constitution. I would appreciate if the Presidency in its meeting on 17 December 1997 could discuss this issue in a spirit of co-operation and mutual good will.

The Peace Process is, after Sintra and Bonn, entering a new and decisive phase. I am decided to fully use my authorities under Annex 10 of the Dayton peace Accord and Article 11 of the Bonn Document to insure an efficient implementation and fully count on your fully co-operation in this endeavour.

This letter will be distributed to the Media. The Co-Chairs and the Vice-Chair of the Council of Ministers will receive copies. Translations will follow by tomorrow morning (17.12.).

Yours sincerely,

Carlos Westendorp
High Representative

Office of the High Representative

The High Representative's Decision on the Law on Citizenship of Bosnia and Herzegovina

16 December 1997

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No. 01/97

16 December 1997

Carlos Westendorp
High Representative

LAW ON CITIZENSHIP OF BOSNIA AND HERZEGOVINA

Chapter I

General Provisions

Article 1.

This Law determines the conditions for the acquisition and loss of citizenship of Bosnia and Herzegovina (hereinafter: the citizenship of BiH), in accordance with the Constitution of Bosnia and Herzegovina.

The citizenship Laws of the Entities must be compatible with the Constitution of Bosnia and Herzegovina and with this Law.

Article 2.

All citizens of the Federation of Bosnia and Herzegovina and Republika Srpska (hereinafter: Entities) are thereby citizens of BiH.

A change of the citizenship of one Entity to the citizenship of another Entity does not affect the citizenship of BiH.

Article 3.

All citizens of BiH enjoy the same human rights and fundamental freedoms as provided for by the Constitution of Bosnia and Herzegovina (hereinafter referred to as "the Constitution") and shall enjoy the protection of those rights in the whole territory of Bosnia and Herzegovina, under the same conditions and regardless of their Entity citizenship.

Article 4.

Citizens of BiH may hold the citizenship of another State, provided that there is a bilateral agreement between BiH and that State governing this matter, approved by the Parliamentary Assembly in accordance with Article IV(4)(d) of the Constitution.

Chapter II

Acquisition of citizenship of BiH

General principles

Article 5.

Citizenship of BiH is acquired in accordance with the provisions of this law:

1. by descent
2. by birth on the BH territory
3. by adoption
4. by naturalization
5. by international agreement,

Acquisition by descent

Article 6.

Citizenship of BiH by descent is acquired by a child born after the entry into force of the Constitution:

1. both of whose parents were citizens of BiH at the time of the child's birth, regardless of the place of his or her birth;
2. one of whose parents was a citizen of BiH at the time of the child's birth, and the child was born on the BiH territory,
3. one of whose parents was a citizen of BiH at the time of the child's birth, and the child was born abroad if the child would otherwise be stateless;
4. who was born abroad and one of whose parents was a BiH citizen at the time of the child's birth, provided that by the time he or she attains the age of 23;
 - he or she has been registered for the purpose of being entered in BiH citizens register with the competent BiH authority at home or abroad, or
 - he or she has taken up permanent residence in the territory of BiH.

Acquisition by birth on the territory of BiH

Article 7.

1. Citizenship of BiH is acquired by a child who has been born or found on the territory of BiH after the entry into force of the Constitution and both of whose parents are unknown or of unknown citizenship or stateless, or if the child is stateless.
2. A child coming within the provisions of paragraph 1 of this Article loses the citizenship of BiH if, by the age of 14 years, that child has acquired by descent the citizenship of another State.

Acquisition by adoption

Article 8.

A child under the age of 18 who has been fully adopted by a citizen of BiH after the entry into force of the Constitution acquires the citizenship of BiH.

Acquisition by naturalisation

Article 9.

A foreigner who has submitted a request for acquisition of the citizenship of BiH may acquire it by naturalization if he or she fulfils the following conditions:

1. he or she has reached 18 years of age;
2. his or her permanent place of residence was registered on the territory of BiH for at least 8 years before submitting a request;
3. he or she has knowledge of one of the languages of the BiH constituent peoples;
4. he or she was not the object of the security measure of expulsion of a foreigner from the country or of the protective measure of removing a foreigner from the territory of BiH undertaken by an authority established in accordance with the Constitution, and this measure is

still in force;

5. he or she was not sentenced to a term of imprisonment for a premeditated criminal act for longer than three years within 8 years of the submission of a request;
6. he or she renounces or otherwise loses his or her former citizenship upon the acquisition of the citizenship of BiH, unless a bilateral agreement as referred to in Article 14 provides otherwise. The renunciation or loss of the former citizenship is not required if this is not permitted or cannot be reasonably required;

Acquisition by facilitated naturalisation

Article 10.

Citizenship of BiH may be acquired by the foreign spouse of a citizen of BiH under the following conditions:

1. that the marriage lasted for at least five years before submitting the request and that it still lasts when the request is submitted;
2. he or she renounces or otherwise loses his or her former citizenship upon acquisition of the BiH citizenship unless a bilateral agreement as referred to in Article 14 provides otherwise; the renunciation or loss from the former citizenship is not required if this is not permitted or cannot be reasonably required;
3. that he or she has been permanently resident for at least three years in the territory of BiH.

Article 11.

1. A child under the age of 18, one of whose parents has acquired the citizenship of BiH, has the right to the citizenship of BiH by naturalisation, if this child is permanently resident on the territory of BiH.
2. The parent who has the citizenship of BiH may apply for acquisition of the citizenship of BiH on behalf of a minor child under paragraph 1 of this Article. If the child is over 14 years of age, his or her consent is required.

Article 12.

The following persons are entitled to acquire BiH citizenship by application without meeting the requirements of Article 9, paragraphs 2 and 6:

1. emigrants who have returned to Bosnia and Herzegovina,
2. first and second generation descendants of persons referred to in paragraph 1 above, who have returned to Bosnia and Herzegovina.

Spouses of persons referred to in paragraph 1 of this Article, are entitled to acquire BiH citizenship by application without meeting the requirements of Article 9, paragraph 2, provided that they fulfil the conditions of Article 10, paragraphs 1 and 2.

Article 13.

If in individual cases the naturalization of a person is considered to be of particular benefit to Bosnia and Herzegovina, he or she may acquire citizenship without meeting the requirements of Article 9, paragraphs 1, 2 and 6.

Article 14.

In all cases where the present Law provides for the loss of the previous citizenship by persons acquiring BiH citizenship, such persons are entitled to continue to hold the citizenship of the previous state, whenever this is provided for by a bilateral agreement between BiH and that State, approved by the Parliamentary Assembly in accordance with Article IV (4)(d) of the Constitution of Bosnia and Herzegovina.

Chapter III

Loss of citizenship of BiH

Article 15.

Citizenship may not be lost if the person concerned would thereby become stateless, save in the case specified in Article 23, paragraph 1.

Article 16.

Citizenship of BiH is lost:

1. by operation of law
2. by renunciation
3. by release
4. by withdrawal
5. by international agreement

Loss by operation of Law

Article 17.

Citizenship of BiH is lost by the voluntary acquisition of another citizenship, unless a bilateral agreement between BiH and that State, approved by the Parliamentary Assembly in accordance with Article IV (4)(d) of the Constitution provides otherwise.

Article 18.

Citizenship of BiH is lost by a child if, following a full adoption, he or she acquires the citizenship of another state.

Renunciation

Article 19.

1. A citizen who has reached the age of 18, who habitually resides abroad and has acquired or has been guaranteed the citizenship of another state, has the right to renounce his or her citizenship of BiH.
2. A child who lives abroad and has or has been guaranteed the citizenship of another State ceases to have the citizenship of BiH by renunciation upon the request of both parents whose citizenship of BiH ceased to exist by renunciation, or upon the request of one parent whose citizenship ceased to exist by renunciation, if the other parent is dead or he or she was deprived of his or her parental responsibilities, or he or she is a foreigner or stateless or upon the request of an adopting parent if his or her citizenship of BiH was lost by renunciation and the relationship between the adopting parent and the adopted child is one of full adoption. If the child is over 14 years of age, his or her consent is required.
3. The person in paragraphs 1 and 2 of this Article ceases to have the citizenship of BiH once an authorized body has verified the existence of the required conditions under paragraphs 1 and 2 of this Article and delivered appropriate notification to that person.

Article 20.

The decision on renunciation may be invalidated upon the request of the person concerned who has emigrated from BiH, if such a person has not acquired a foreign citizenship within a period of one year of the date of his or her loss of the citizenship of BiH by renunciation.

Release

Article 21.

Release of the citizenship of BiH may be granted upon request to a person living in the territory of BiH, who meets the following conditions:

1. he or she is 18 years of age;
2. criminal proceedings have not been instituted against him or her for criminal acts prosecuted ex officio, or, if he or she has been sentenced to imprisonment in BiH, the sentence has been served;
3. he or she has settled all required contributions, tax or other legal obligations for payment stipulated by a legal decision of the authorized bodies;
4. he or she has acquired or has been guaranteed the citizenship of another state;
5. he or she has fulfilled his or her military obligations.

Article 22.

A child under 18 years of age who has acquired or has been guaranteed the acquisition of the citizenship of another State and who still lives on the territory of BiH ceases to have the citizenship of BiH by release upon the request:

1. of both parents whose citizenship of BiH was lost by release;
2. of one parent whose citizenship of BiH was lost by release, if the other parent is deceased or if he or she was deprived of his or her parental responsibilities or is a foreigner or stateless;
3. of one parent, who exercises parental responsibilities and whose citizenship of BiH was lost by release and the other parent, who is a citizen of BiH, agrees;
4. of an adopting parent if his or her citizenship of BiH was lost by release and the relationship between the adopting parent and the adopted child is one of full adoption.

If the child is over 14 years of age, his or her consent is required under paragraphs 1, 2 and 3.

Withdrawal

Article 23.

Citizenship of BiH may be withdrawn in the following cases:

1. when the citizenship of Bosnia and Herzegovina was acquired by means of fraudulent conduct, false information or concealment of any relevant fact attributable to the applicant,
2. when a citizen of BiH performs voluntary service in a foreign military force in spite of an injunction to the contrary.
3. when the citizenship of BiH was acquired after the entry into force of this Law, without the fulfillment of the conditions in Articles 9 and 10.

Date of loss

Article 24.

1. The citizenship of BiH is lost by release, renunciation or withdrawal on the day of notification to the person concerned of the legal decision.
2. If the place of residence of such person is not known or cannot be confirmed, the citizenship of BiH is lost on the day of its publication in the Official Gazette of BiH.
3. The notification shall be published in the official gazettes of the Entities.
4. The citizenship of BiH is lost under Articles 17 and 18 of this Law on the day the person concerned acquires the citizenship of another State.

Chapter IV

Relation Between BiH Citizenship and Entity Citizenship

Article 25.

Persons who have the citizenship of BiH in accordance with Article 6, 7 and 8 shall be considered as already possessing the citizenship of one of the Entities.

Article 26.

All decisions on acquisition and loss of citizenship taken by the Entities or by Bosnia and Herzegovina must be taken in accordance with Articles 30 and 31.

Article 27.

A person who loses his or her Entity citizenship, without receiving the citizenship of the other Entity, shall lose his or her citizenship of BiH. The person who loses the citizenship of BiH simultaneously loses his or her Entity citizenship.

Article 28.

1. A child who acquires by descent or by full adoption, according to Article 8, the citizenship of BiH obtains the Entity citizenship of the parent or adopter who possesses the citizenship of BiH.
2. If the parents or adopters have different Entity citizenships, the child acquires:
 1. the citizenship of the Entity in which he or she was born, and
 2. if born abroad, the child acquires:
 1. the Entity citizenship as agreed between the parents, or
 2. if agreement is not reached, the child acquires:
 1. in the case of acquisition by descent, the citizenship of the Entity of the parent who registered the child in the birth registry in a diplomatic-consular representation of Bosnia and Herzegovina, or,
 2. in the case of acquisition by full adoption, the citizenship of the Entity where he or she has the place of residence in BiH, or, if there is no such place of residence, the citizenship of the Entity of the parent who applied to register the child.
3. A child who acquires the citizenship of BiH according to Article 7 acquires the citizenship of the Entity where he or she was born or found.

Article 29.

Upon a change of residence from the territory of one Entity to the territory of the other Entity, the citizenship of the Entity is also changed, if the person so wishes, provided the change has occurred after this Law has entered into force.

Chapter V

Procedure

Article 30.

1. Decisions on acquisition or loss of citizenship of BiH are taken by the Ministry of Civil Affairs and Communications of BiH, except for decisions under Articles 6, 7, 8, 9, 10, 11, 12, 13, 21, 22 and 23.
2. Decisions under Articles 6, 7, 8, 9, 10, 11, 12, 21, 22 and 23 are taken by the competent

authority of the Entity.

3. Decisions under Article 13 are taken by consensus by the Council of Ministers of BiH.

Article 31.

1. The decisions referred to in Article 30, paragraph 2, with the exception of decisions taken under Article 6, 7 and 8, must be submitted to the Ministry of Civil Affairs and Communications of BiH within three weeks of the date of decision.
2. The decision of the competent authority of the Entity becomes effective two months following its submission to the Ministry of Civil Affairs of BiH, unless this Ministry concludes that the conditions of Articles 9, 10, 11, 12, 21, 22 and 23 have not been fulfilled. In this case, this authority must refer the matter back to the competent authority of the Entity for reconsideration. Decisions taken under Articles 6, 7 and 8 become effective upon registration by the competent authority
3. If, following the reconsideration, a dispute remains between the respective competent authorities of the Entity and BiH, the matter must be submitted for a final decision to the Constitutional Court in accordance with Article VI.3 of the Constitution of BiH.

Article 32.

Applications for acquisition or renunciation of or release from BiH citizenship must be directly submitted to the authority indicated under Article 30 or, if the applicant resides abroad, through a diplomatic-consular representation of BiH.

Article 33.

1. The responsible authority from Article 30 must decide upon applications within 60 days of receiving the correct application. Decisions refusing an application for acquisition, renunciation or release or decisions to withdraw citizenship, must contain reasons in writing.
2. The person concerned may institute an administrative dispute against a decision from the previous paragraph.

Chapter VI

Evidence of BiH Citizenship

Article 34.

The citizenship of BiH and Entity citizenship is proved by the certificate of citizenship of BiH and Entity citizenship or by the passport of Bosnia and Herzegovina.

Article 35.

1. The certificate of citizenship of BiH and Entity citizenship is issued by the authority in charge of keeping birth registers.
2. The citizenship is registered in birth registry books without special decision when it is confirmed that the person fulfils the conditions of acquisition under Articles 6, 7 and 8.
3. In case an authority under paragraph 1 of this Article on an unfounded basis refuses to issue a certificate of citizenship of BiH, the responsible Ministry of the Entity or the Ministry of Civil Affairs and Communications of BiH issues a certificate of citizenship of BiH to the person concerned, on the basis of documentary information which the Ministry of Civil Affairs and

Communication and the competent Entity authorities possess within the framework of their competencies. In case of dispute between the respective competent authorities of the Entity and BiH, the matter must be submitted to the Constitutional Court in accordance with Article VI.3 of the Constitution of BiH.

4. Where documentary information relating to citizenship is not accessible or cannot be obtained within a reasonable time by citizens of Bosnia and Herzegovina, the competent bodies referred to in the previous paragraph shall allow such persons to provide this information by other means including statements made by or for such persons.
5. The competent bodies in the Entities will, in individual cases, provide the Ministry of Civil Affairs and Communications with requested information from the registers mentioned in paragraph 1.

Article 36.

1. A certificate of citizenship is issued on a form with the following elements:
 1. name "Bosnia and Herzegovina" and name of Entity,
 2. name of authority of Article 35 which issued the certificate,
 3. "certificate of citizenship of BiH",
 4. indication of belonging to citizenship of Entity,
 5. name and surname of the person to whom the certificate is issued, name of one parent and his or her citizenship, date and place of birth,
 6. evidence on which the issuing of the certificate is based,
 7. date and place of issuing, seal of authority and signature of the responsible person.
2. Ministry of Civil Affairs and Communications prescribes the form in the previous paragraph of this article.

Chapter VII

Transitional and Final Provisions

Article 37.

All persons who were citizens of the Republic of Bosnia and Herzegovina, immediately prior to the entry into force of the Constitution, including all persons who were citizens of R BiH until April 6 1992, are citizens of Bosnia and Herzegovina. However the citizenship of persons who were naturalised between April 6, 1992 and the entry into force of the Constitution shall be determined in accordance with Articles 40 and 41.

Article 38.

1. All persons, who are citizens of BiH in accordance with this Law and who on 6 April, 1992 were residents on the territory now falling within an Entity, are considered citizens of that Entity, unless they are permanently resident in the other Entity, in which case they are considered citizens of that Entity.
2. All persons, who are citizens of BiH in accordance with this Law and who on the date this Law enters into force live abroad, are considered citizens of the Entity in which they were permanent residents before 6 April 1992, unless they take up residence in, or opt for the citizenship of the other Entity. The conditions and procedures for changing Entity citizenship by option shall be regulated by agreement between the Entities to be incorporated in the Citizenship Laws of the Entities. The right of option may only be exercised within 9 months after the conclusion of the aforementioned inter-Entity agreement.
3. All persons, who were citizens of the former SFRY and who between April 6 1992 and the entry

into force of this Law took up permanent residence in the territory of an Entity and who maintain this residence two years after the entry into force of this law, shall upon application receive the citizenship of that Entity and of Bosnia and Herzegovina.

4. All persons, who were citizens of the former SFRY and who between the date this Law enters into force and 31 December 1998 take up permanent residence in the territory of an Entity and who maintain this residence for a continuous period of three years, shall upon application receive the citizenship of that Entity and of Bosnia and Herzegovina. The right of option may be exercised within one year following the expiration of the said three year period.

Article 39.

1. All persons who before the entry into force of this law voluntarily acquired another citizenship lose the citizenship of BiH, if they do not, within ~~15~~**11** years from the date this Law enters into force, renounce the other citizenship, unless a bilateral agreement provides otherwise. The renunciation of the other citizenship is not required if this is not permitted or cannot be reasonably required.
2. The Council of Ministers of Bosnia and Herzegovina shall propose to the Presidency to conclude bilateral agreements referred to in paragraph 1 with neighbouring countries within 6 months after this law enters into force.

Article 40.

1. A Commission is established within two months after the date this law enters into force to review the status of persons naturalised after 6 April 1992, and before the entry into force of the Constitution of Bosnia and Herzegovina as referred to in Article 1(7)(c) of the Constitution.
2. The Commission consists of nine members, two Bosniacs, two Croats, two Serbs as well as three representatives who are not citizens of Bosnia and Herzegovina or of a neighbouring country. All members of the Commission are appointed by the Council of Ministers. The international members are appointed in consultation with the Committee of Ministers of the Council of Europe.
3. The Commission reports on its deliberations and decisions to the Parliamentary Assembly twice a The Commission must resign if at any time a vote of no confidence is adopted by both Chambers of the Parliamentary Assembly.
4. 18 months after the establishment of the Commission, the mandate and the competence of the Commission shall be reviewed by the Parliamentary Assembly.

Article 41.

1. The Commission reviews individual applications for citizenship by naturalisation granted in the period mentioned in Article 40, paragraph 1. To this end, it considers the information provided by the the persons concerned, as well as the procedural regularities.
2. Upon request by the Commission, the persons concerned and the competent authorities of BiH and the Entities must submit to it all relevant information within a period determined by the Commission.
3. If the person concerned does not comply with the request for information referred to in paragraph 2, the Commission may withdraw his or her citizenship.
4. If the Commission finds that the regulations in effect in the territory of Bosnia and Herzegovina at the time of the naturalisation had not been applied, and it is clear that the applicant was

aware that he or she did not fulfil the conditions for naturalisation, the citizen loses his or her citizenship of Bosnia and Herzegovina, unless he or she thereby becomes stateless. If this person by the time the decision of the Commission is taken, fulfils the conditions for naturalisation or facilitated naturalisation provided in this law, he or she is considered a citizen of Bosnia and Herzegovina in accordance with this law.

5. The Commission takes its decisions by consensus. In case consensus cannot be reached, the decision is taken by the international members by consensus.
6. The decision of the Commission enters into force on the day the written notification is received by the person concerned. If the person cannot be notified, the decision enters into force on the day of its publication in the Official Gazette of Bosnia and Herzegovina and of the Entities.

Article 42.

All laws, and regulations passed on their basis, regulating the issue of the BiH citizenship, become invalid when this Law enters into force.

Article 43.

The Ministry of Civil Affairs and Communications of Bosnia and Herzegovina passes or harmonises the regulations for the enforcement of this Law within 45 days after the entry into force of this law. The competent bodies of the Entities shall, at the latest, 45 days thereafter pass citizenship regulations harmonised with it.

Article 44.

This Law becomes effective on the eighth day after being published in the Official Gazette of Bosnia and Herzegovina and shall be published in the official gazettes of the Entities.

[1] Originally: "5" (The High Representative's Decision Enacting the Law on Amendments to the Law on Citizenship of Bosnia and Herzegovina, published in the Official Gazette of Bosnia and Herzegovina 41/02)