



Emerika Bluma 1, 71000 Sarajevo
Tel. 28 35 00 Fax. 28 35 01

Department for Legal Affairs



AMENDMENT I TO THE CONSTITUTION OF BOSNIA AND HERZEGOVINA

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Pursuant to Article X, 1 of the Constitution of Bosnia and Herzegovina (Annex 4 of the General Framework Agreement on Peace in Bosnia and Herzegovina), the Parliamentary Assembly of Bosnia and Herzegovina, at the 49th session of the House of Representatives, held on 25 March 2009, and the 27th session of the House of Peoples, held on 26 March 2009, enacted the following:

AMENDMENT I¹ **to the Constitution of Bosnia and Herzegovina**

In the Constitution of Bosnia and Herzegovina, after Article VI, 3, a new Article VI, 4 shall be added and shall read:

“4. The Brcko District of Bosnia and Herzegovina

The Brcko District of Bosnia and Herzegovina, which exists under the sovereignty of Bosnia and Herzegovina and is subject to the responsibilities of the institutions of Bosnia and Herzegovina, (Croat=comma, Serb=no comma, Bosnian=no comma)² as those responsibilities derive from this Constitution, whose territory is held in condominium by the Entities, is a unit of local self-government with its own institutions, laws and regulations, and with powers and status definitively prescribed by the awards of the Arbitral Tribunal for the Dispute over the Inter-Entity Boundary in the Brcko Area. The relationship between the Brcko District of Bosnia and Herzegovina and the institutions of Bosnia and Herzegovina and the Entities may be further regulated by law adopted by the Parliamentary Assembly.”

The Constitutional Court of Bosnia and Herzegovina shall have jurisdiction to decide in any dispute relating to protection of the determined status and powers of the Brcko

¹ This Translation includes the corresponding footnotes to explain the differences in three local languages.

² Nota Bene: The punctuation added in the Croat and Serb languages, but not in Bosnian, suggests that either the same text was edited by two or three different linguists who abide by slightly different semantic and syntactic standards or that the editor(s) had an avid desire to reflect any kind of differences in three languages just in order to justify their proof-reading engagements. Generally speaking, according to the current rules of grammar, in addition to morphological and lexical differences, the three languages do have some minor syntactic differences too, but normally they can hardly be reflected in terms of punctuation. However, knowing how sensitive the constitutional matter always is, and how restricted we are by the past misconceptions, blunders and attempts to employ some witty weasel-wording arrangements in the translations of the Dayton Constitution and of the Brcko Award, there should be no major differences at least in terms of punctuation and the three versions should have the same punctuative distribution just for the sake being consistent throughout. By way of illustration, in paragraph 1 there is a typical complex subordinate relative sentence, where at the relevant point we can see an implicit subordination typical for asyndetical sentence structures phrased with an adverbial modal clause in which the contents of cataphoric modal adverbial preposition **as** (local=*onako kako*) are distinctively made. In such subordination there should be no commas since the wording “*as they (these responsibilities) derive (local: onako kako te nadležnosti)*” is restrictive, determinative and modify the meaning of the word responsibilities (local=*nadležnosti*). Nevertheless, we can also put to use an appositional notion and if in that case a comma is to be accepted at this point, the English version wording should read: “*(...), the way these responsibilities derive from this Constitution,*” instead of: “*, as these responsibilities derive,*” because in the latter case it may imply a cause-effect relation and, as such, the term **as [they] derive** would be redundant since it would be causative rather than expletive and modifying.

District of Bosnia and Herzegovina that may arise between an Entity or more Entities and the Brcko District of Bosnia and Herzegovina or between Bosnia and Herzegovina and the Brcko District of Bosnia and Herzegovina, (Croat=comma, Serb=comma, Bosnian=no comma)³ under this Constitution and the awards of the Arbitral Tribunal.

Any such dispute may also be referred by a majority of the councilors of the Assembly of the Brcko District of Bosnia and Herzegovina, (Croat=comma, Serb=comma, Bosnian=no comma)⁴ including at least one-fifth of the elected councilors from among each of the constituent peoples.”

The existing Article VI, 4 shall become Article VI, 5.

Amendment I to the Constitution of Bosnia and Herzegovina shall enter into force on the eight day after its publication in the “Official Gazette of Bosnia and Herzegovina”.

³ Nota Bene: Same as under footnote 1, the punctuation is added in the Croat and Serb languages, but not in Bosnian, with the only difference that the comma here may shift the connection to the first part of the sentence, where the emphasis would be on “*the jurisdiction to **decide**(...) under this Constitution and the awards of the Arbitral Tribunal (=decision-making under the Constitution and the awards)* instead of “*any **dispute** relating to protection of the determined status and powers **that may arise** (...) under the Constitution and the awards of the Arbitral Tribunal”(=potential **disputes** arising under the Constitution and the award). In paragraph 2, there is a typical determinative and restrictive phrase subordinated with an adverbial modal/locational clause “*under this Constitution and the awards of the Arbitral Tribunal*” modifying the term “**disputes**” rather than the term “**decide**”. Since in a much too meticulous eye of the beholder, the comma here might possibly give rise to rendering different interpretations, one should be more specific and clarify what is meant here either by removing the comma or keeping it. However, the disputed wording is frequently encountered in the legislative discourse, modifying both the *decision-making* and *disputes*, leaving a discretionary power to the readers to choose of their own volition whether either the former is regulated or the latter arise (or both) under the Constitution or awards. This deserves more attention of the legislator in the future.*

⁴ Nota Bene: Same as under footnotes 1 and 2, the punctuation is added in the Croat and Serb languages, but not in Bosnian. In the colorful world of Slavic linguists, one of the most contentious and controversial items, when it comes to punctuation, is still the long-time debate of whether the use of commas is *incorrect, correct or alternative*. We are particularly trapped with the failures to make distinctions between appositive clauses, which require coupled commas, and attributive clauses, which rule out commas completely. In this particular case, the use of commas in this explicit relative discourse may be understood as alternative, even though the term “including...” modifies the term “majority” rather than it stands in apposition. In any case, the recommendation is that much more attention should be paid in any future legislative and amendment processes to tasking the parliamentary interdisciplinary teams of linguists, lawyers, economists, legislative and other experts capable of maintaining mutual coordination, so as to avoid any such situations similar to this one where we have apparent discords between the linguists resulting in the above punctuative differences in the three languages.