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## **Department for Legal Affairs**



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

**“Official Gazette of Bosnia and Herzegovina”, 61/04**

[NOTE: The Criminal Code of Bosnia and Herzegovina was enacted by the High Representative’s Decision Enacting the Criminal Code of Bosnia and Herzegovina \(HR Decision No. 101/03 from 24 January 2003\). The Decision was published in the «Official Gazette of Bosnia and Herzegovina», 3/03 and the Criminal Code of Bosnia and Herzegovina entered into force on 1 March 2003.](#)

Pursuant to Article IV 4 a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina at the session of the House of Representatives held on 23 September 2004 and at the session of the House of Peoples held on 30 September 2004, has adopted the

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

### **Article 1**

In the Criminal Code of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, No. 37/03), in Article 1 new Paragraph 30 shall be added, which shall read:

“(30) *Chemical weapons* means any chemical which through its action on life processes can cause death, temporary incapacitation or permanent harm to humans, animals or plants, regardless of their origin or production (toxic chemical); any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical (precursor); munitions and device, specifically designed to cause death or other harm and any equipment specifically designed for use directly in connection with the employment of such munitions or device, if such chemical, reactant, munitions, device or equipment is subject to control under the international convention ratified by Bosnia and Herzegovina or under the regulation of Bosnia and Herzegovina.”

Paragraphs 30 and 31 shall become paragraphs 31 and 32.

### **Article 2**

After Article 4, a new Article 4a shall be added, which shall read:

**“Trial and punishment for criminal offences pursuant to the general principles of international law  
Article 4a**

Articles 3 and 4 of this Code shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of international law.”

### **Article 3**

Article 186 shall be amended to read:

“(1) Whoever, by means of use of force or threat of use of force or other forms of coercion, of abduction, of fraud or deception, of the abuse of power or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, recruits, transports, transfers, harbours or receipts 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 or of the other type of exploitation,

shall be punished by imprisonment for a term between one and ten years.

(2) Whoever recruits, transports, transfers, harbours or receipts a child or a juvenile 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) Whoever organises or directs at any level the group of people for the purpose of perpetration of the criminal offences referred to in paragraphs 1 and 2 of this Article,

shall be punished by imprisonment for a term not less than ten years or long-term imprisonment.

(4) The circumstance whether a person consented to the exploitation referred to in paragraph 1 of this Article is of no relevance for the existence of a criminal offence of trafficking in persons.”

### **Article 4**

In Article 188, after the word “Whoever” a coma and the following words shall be added: “with an aim of limiting the freedom of movement or exercising power over a person”, while the words “another person’s

identification papers or passport” shall be amended to read: “another person’s identification or travel paper”.

#### **Article 5**

Article 189 shall be amended to read:

“(1) Whoever, out of gain, transports across the state border one or more persons that do not comply with the requirements for legal entry across the state border, or whoever enables another person to cross the border illegally,

shall be punished by imprisonment for a term between six months and five years.

(2) Whoever, out of gain, enables a person who is not a citizen or permanent resident of a receiving state to remain in the territory of that state without complying with the requirements for legal stay,

shall be punished by a fine or imprisonment for a term not exceeding three years.

(3) If, during the perpetration of the criminal offence referred to in paragraph 1 of this Article, life or safety of persons transported across the state border was endangered or was likely to be endangered, or they were treated for the purpose of exploitation or in another inhuman or degrading manner, the perpetrator

shall be punished by imprisonment for a term between one and eight years.

(4) If, during the perpetration of the criminal offence referred to in paragraph 2 of this Article, life or safety of persons to whom illegal stay in the territory of a receiving state was enabled was endangered or was likely to be endangered, or they were treated for the purpose of exploitation or in another inhuman or degrading manner, the perpetrator

shall be punished by imprisonment for a term between six months and five years.

(5) Whoever organizes or directs at any level a group of people for the purpose of perpetrating the criminal offence referred to in paragraphs 1 and 2 of this Article,

shall be punished by imprisonment for a term not less than ten years or long-term imprisonment.”

#### **Article 6**

In Article 192, paragraph 1, the words “deprives of a life” and a coma after the word “Whoever” shall be deleted.

#### **Article 7**

In the title of Article 193, after the words “**Military Equipment**”, the words “**and Products of Dual Use**” shall be added.

In Article 193, paragraph 1, after the words “without the license prescribed by the Law of Bosnia and Herzegovina”, the words “or contrary to the international law” shall be added.

After paragraph 1, a new paragraph 2 shall be added, which shall read:

“(2) Whoever perpetrates the criminal offence referred to in paragraph 1 of this Article in regard to products, software or technology that may be used for military purpose,

shall be punished by imprisonment for a term between one and five years.”

Present paragraphs 2 and 3 shall become paragraphs 3 and 4.

After present paragraph 3 that shall become paragraph 4, a new paragraph 5 shall be added, which shall read:

“(5) Whoever perpetrates the criminal offence referred to in paragraph 2 of this Article out of negligence,

shall be punished by a fine or imprisonment for a term up to three years.”

#### **Article 8**

After Article 193 a new Article 193a shall be added, which shall read:

**“Forbidden Arms and Other Means of Combat  
Article 193a**

(1) Whoever, contrary to the regulation of Bosnia and Herzegovina or rules of the international law, makes or improves, produces, stockpiles or stores, offers for sale or buys, intermediates in a purchase or sale or in some other way directly or indirectly transfers to another, possesses or transports chemical or biological weapons, or some other means of combat prohibited by the rules of international law,

shall be punished by imprisonment for a term between one and ten years.

(2) Whoever, at a time of war or armed conflict, orders the use of chemical or biological weapons, or some other means or method of combat prohibited by the rules of international law, or whoever uses them,

shall be punished by imprisonment for a term of not less than three years.

(3) If, by the criminal offence referred to in paragraphs 1 and 2 of this Article, the death of one or more persons is caused, or grave consequences for the health of people or animals or grave consequences for environment have occurred, the perpetrator

shall be punished by imprisonment for a term of not less than five years or by the long-term imprisonment.

(4) Whoever military prepares the use of arms, means or methods referred to in paragraph 2 of this Article,

shall be punished by imprisonment for a term up to three years.”

**Article 9**

Article 237 shall be amended to read:

“(1) Whoever without authorisation reveals to another information he came in possession of out of court, minor offence, administrative or disciplinary proceedings before the institutions of Bosnia and Herzegovina, which must not be disclosed according to the law or has been declared a secret by a decision of the Court of Bosnia and Herzegovina or by a decision of the competent body or institution of Bosnia and Herzegovina,

shall be punished by a fine or imprisonment for a term not exceeding one year.

(2) Whoever without authorisation makes public, mediates in making public, enables a publication or renders accessible information he came in possession of out of court, minor offence, administrative or disciplinary proceedings before the institutions of Bosnia and Herzegovina, which must not be disclosed according to the law or has been declared a secret by a decision of the Court of Bosnia and Herzegovina or by a decision of the competent body or institution of Bosnia and Herzegovina,

shall be punished by a fine or imprisonment for a term not exceeding three years.”

**Article 10**

The title of Article 240 shall be amended to read: **“Revealing of Identity of a Protected Witness”**.

Article 240 shall be amended to read:

«(1) Whoever without authorisation discloses, delivers or takes another action with an aim of revealing data on the identity or information which can lead to the discovery of the identity of a person who has given or is about to give evidence before the institutions of Bosnia and Herzegovina, and which must not be disclosed according to the law or has been declared a secret by a decision of the Court of Bosnia and Herzegovina or by a decision of the competent body or institution of Bosnia and Herzegovina,

shall be punished by imprisonment for a term between three months and three years.

(2) A judge of the Court of Bosnia and Herzegovina or other official person who makes available to an unauthorised person data or information referred to in paragraph 1 of this Article,

shall be punished by imprisonment for a term between six months and five years.

(3) The punishment referred to in paragraph 2 of this Article shall be imposed on whoever, without authorisation, makes public, mediates in making public, enables a publication or renders accessible data or information referred to in paragraph 1 of this Article.

(4) Whoever, having accidentally obtained revealed, but not publicised data or information referred to in

paragraph 1 of this Article, communicates or renders accessible this data or information, knowing of their nature,

shall be punished by a fine or imprisonment not exceeding one year.

(5) The perpetrator of the criminal offence referred to in paragraphs 1 and 3 of this Article who, at the request of the competent body, does not reveal a source and manner of obtaining data or information referred to in paragraph 1 of this Article,

shall be punished by imprisonment for a term between one and eight years.

(6) The perpetrator of the criminal offence referred to in paragraph 4 of this Article who, at the request of the competent body, does not reveal a source and manner of obtaining data or information referred to in paragraph 1 this Article,

shall be punished by a fine or imprisonment for a term not exceeding three years.»

#### **Article 11**

This Law shall enter into force on the eight day after its publication in the “Official Gazette of Bosnia and Herzegovina”.