



Emerika Bluma 1, 71000 Sarajevo

Tel. 28 35 00 Fax. 28 35 01

Department for Legal Affairs



LAW ON AMENDMENTS TO THE CRIMINAL CODE OF BOSNIA AND HERZEGOVINA

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Pursuant to Article IV 4 a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina at the 79th session of the House of Representatives held on 18 May 2006 and at the 58th session of the House of Peoples held on 23 May 2006,

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, Nos. 37/03, 54/04, 61/04 and 30/05; hereinafter: the Code), in Article 1, after paragraph (7), new paragraphs (8) and (9) shall be added and shall read:

“(8) A *military person*, for the purpose of this Code, means a member of professional military personnel, a cadet at a military school and a member of reserve personnel as referred to in the Law on Service in the Armed Forces of Bosnia and Herzegovina, as well as a civil servant or an employee exercising official duty within the chain of command and control over the Armed Forces of Bosnia and Herzegovina, including the Deputy Ministers of Defence.

(9) When an official person is designated as the person against whom a criminal offence has been perpetrated, an official person within the meaning of this Code shall, in addition to persons specified in paragraph (3) of this Article, also be a military person referred to in paragraph (8) of this Article.”

Current paragraphs (8) through (19) shall become paragraphs (10) through (21).

Current paragraphs (20) and (21) shall be deleted.

Paragraph (22) shall be amended to read:

“(22) *Secret data* means a fact or instrument which contains information pertaining to the areas of public security, defence, foreign affairs and interests, intelligence and security activities or interests of Bosnia and Herzegovina, communication and other systems important for state interests, judiciary, projects and plans significant for defence and intelligence-security activities, scientific, research, technological, economic and financial business significant for the safe functioning of the institutions of Bosnia and Herzegovina or security structures at all levels of the state organisation of Bosnia and Herzegovina which is designated as secret by virtue of a law, other regulation or general enactment of the competent body made on the basis of the law, or which is classified pursuant to the provisions of the law and regulations on protection of secret data. The term also includes secret data of another state, international or regional organisation.”

After paragraph (30), a new paragraph (31) shall be added to read:

“(31) *Arms and military equipment* mean items listed in the most recent “common list of military equipment” as referred to in the laws on manufacture, import and export of arms and military equipment.”

Current paragraphs (31) and (32) shall become paragraphs (32) and (33).

Article 2

After Article 162 (*Armed Rebellion*), a new Article 162a shall be added, which shall read:

“Illegal Creation of Military Forces

Article 162a

(1) Whoever, in violation of the Law on Defence of Bosnia and Herzegovina or the Law on Service in the Armed Forces of Bosnia and Herzegovina, organises, trains, equips or mobilises a military force in the territory of Bosnia and Herzegovina,

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

(2) The punishment referred to in paragraph (1) of this Article shall be imposed on whoever directs at any level the perpetration of the criminal offence referred to in paragraph (1) of this Article.

(3) Whoever joins in any way a military force organised, trained, equipped or mobilised in violation of the Law on Defence of Bosnia and Herzegovina or the Law on Service in the Armed Forces of Bosnia and Herzegovina,

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

(4) Whoever procures means for perpetrating the criminal offence referred to in paragraph (1) of this Article,

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

Article 3

In Article 163 (*Espionage*), paragraphs (1) and (4), the words “state, military or official secret” shall be replaced by the words “secret data”.

In Article 163, paragraph (5), after the text “referred to in paragraph 1” the text “and (2)” shall be added.

Article 4

The title of Article 164 (*Disclosing a State Secret*) shall be amended to read: **“Disclosure of Secret Data”**.

Article 164 shall be amended to read:

“(1) An official or responsible person in the institutions of Bosnia and Herzegovina or a military person, who is authorised to classify data or to access secret data and who without authorisation communicates, conveys or in any other way makes accessible to another secret data, or obtains secret data with an aim of conveying it to an unauthorised person,

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

(2) The punishment referred to in paragraph (1) of this Article shall be imposed on whoever, with an aim to make an unauthorised use of secret data, avails himself unlawfully of secret data or who communicates, conveys or in any other way makes accessible to another such secret data without a permit; and on whoever communicates, conveys or in any other way makes accessible to another or mediates in communicating, conveying or in other way making accessible to another a fact or

instrument which contains information and which he knows to constitute secret data and which he obtained the possession of in an illegal manner.

(3) The punishment of imprisonment for a term between one and ten years shall be imposed on whoever perpetrates the criminal offence referred to in paragraphs (1) and (2) of this Article:

a) out of greed; or

b) in respect of data classified pursuant to the law as “strictly confidential” or with the degree “secret”, or as “state secret” or with the degree “top secret”; or

c) for the purpose of communicating, conveying or in other way making accessible or using the secret data outside of Bosnia and Herzegovina.

(4) If the criminal offence referred to in paragraph (1) and (3) of this Article was perpetrated by a person who pursuant to the law on protection of secret data has legal authorization to classify data or to access secret data of a degree in respect of which the criminal offence was perpetrated, the perpetrator shall be punished:

a) for the criminal offence referred to in paragraph (1) of this Article by imprisonment for a term not less than three years;

b) for the criminal offence referred to in paragraph (3) of this Article by imprisonment for a term not less than five years.

(5) If the criminal offence referred to in paragraphs (1), (2) and (3) of this Article has been perpetrated during a state of war or imminent war threat or a state of emergency or when an order for the engagement and employment of the Armed Forces of Bosnia and Herzegovina is issued, the perpetrator

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

(6) If the criminal offence referred to in paragraph (1) and (4) of this Article was perpetrated by negligence, the perpetrator shall be punished:

a) for the criminal offence referred to in paragraph (1) of this Article by a fine or imprisonment for a term not exceeding three years;

b) for the criminal offence referred to in paragraph (4) of this Article by imprisonment for a term between three months and three years.

(7) If the criminal offence referred to in paragraph (6) of this Article was perpetrated in respect of data classified pursuant to the law as “strictly confidential” or with the degree “secret”, or as “state secret” or with the degree “top secret”, the perpetrator

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

(8) Provisions of paragraphs (1), (3), (4), (5), (6) and (7) of this Article shall also be applied to a person who without authorisation communicates, conveys or in any other way makes accessible to another secret data, after his function as an official or responsible person in the institutions of Bosnia and Herzegovina or as a military person or as a person authorised to classify data or to access secret data has ceased.

(9) There shall be no criminal offence of disclosure of secret data if somebody makes public or mediates in making public secret data the contents of which are in contravention with the constitutional order of Bosnia and Herzegovina, with an aim of disclosing to the public the irregularities attached to organising, performance or management of the office or with an aim of disclosing to the public the facts which

constitute a violation of the constitutional order or of an international agreement, provided that the making public has no substantial prejudicial consequences for Bosnia and Herzegovina.”

Article 5

Article 225 (*Disclosure of Official Secret*) shall be deleted.

Article 6

In Article 237 (*Breach of Secrecy of Proceedings*), paragraphs (1) and (2), the words “information he came in possession of out of” shall be replaced by the words: “a fact or instrument which contains information and in the possession of he came out of investigative procedure or”, the words “or has been declared a secret” shall be replaced by the words “or has been classified as secret data” and the words “a decision of the competent body or institution of Bosnia and Herzegovina” shall be replaced by the words: “an authorised person”.

Article 7

In Article 240 (*Revealing of Identity of a Protected Witness*), paragraph (1), the word “secret” shall be replaced by the words: “secret data” and the words “a decision of the competent body or institution of Bosnia and Herzegovina” shall be replaced by the words: “an authorised person”.

Article 8

After Article 246 (*Illegal Distribution of Satellite Signals*), the new Chapter XXI A and Articles 246a, 246b, 246c, 246d, 246e, 246f, 246g, 246h, 246i, 246j, 246k, 246l, 246m, 246n, 246o, 246p, 246r, 246s, 246t, 246u, 246v, 246z, 246q, 246x, 246y, 246w and 246ww shall be added to read:

“XXI A CHAPTER TWENTY – ONE

CRIMINAL OFFENCES AGAINST THE ARMED FORCES OF BOSNIA AND HERZEGOVINA

Failure and Refusal to Execute an Order

Article 246a

(1) A military person who fails or refuses to execute an order of a superior given in the line of duty, and thereby the impossibility of conducting the service or the more difficult conduct of service or the danger for human lives or for property of a high value occurs,

shall be punished by imprisonment for a term not exceeding five years.

(2) A military person who resists a guard, patrolman, officer on duty or another military person under similar duty while performing their duty, as well as a military person who fails to comply to their call or fails to execute or refuses to execute their order,

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

(3) If, by the criminal offence referred to in paragraph (1) and (2) of this Article, extremely serious consequences for military service are caused, the perpetrator

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

(4) A military person who perpetrates the criminal offence referred to in paragraph (1) of this Article by negligence,

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

(5) The perpetrator of the criminal offence referred to in paragraphs (1), (2) and (4) of this Article who is provoked by the illegal or irregular conduct of the superior, guard, patrolman, officer on duty or another military person,

may be punished less severely or released from punishment.

Refusal to Receive and Use Arms Article 246b

A military person who, contrary to regulations and without justified reason, refuses to accept arms or to use arms as ordered or pursuant to the rules of service,

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

Resisting a Superior Article 246c

(1) A military person who jointly with other military persons offers resistance to an order of a superior given in the line of duty or refuses to execute an order or refuses to discharge his duty,

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

(2) If the criminal offence referred to in paragraph (1) of this Article is perpetrated in an organised manner, the perpetrator

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

(3) A military person who in the perpetration of criminal offence referred to in paragraph (1) and (2) of this Article uses arms,

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

(4) Whoever organizes or directs at any level the perpetration of criminal offence referred to in paragraph (1) through (3) of this Article,

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

(5) A military superior that participates in the perpetration of criminal offence referred to in paragraph (1) through (3) of this Article,

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

(6) A military person who in perpetrating the criminal offence referred to in paragraph (3) of this Article deprives another person of life by negligence,

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

(7) A military person who in perpetrating the criminal offence referred to in paragraph (1) and (2) of this Article deprives another person of life with intent,

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

(8) The perpetrator of the criminal offence referred to in paragraph (1) of this Article, who is provoked by the illegal or irregular conduct of the superior,

may be punished less severely or released from punishment.

Violation of Sentry, Guard, Patrol or Other Similar Duty
Article 246d

(1) A military person who acts contrary to the regulations on sentry, guard, patrol or other specific duty, thus causing serious harmful consequences for the service or imperilling seriously the service,

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

(2) A military person who perpetrates the criminal offence referred to in paragraph (1) of this Article nearby arms or military equipment depots or depots of explosive substances, or nearby other important installations,

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

(3) If, by the criminal offence referred to in paragraphs (1) and (2) of this Article, a serious bodily injury is inflicted upon a person, or a material damage on a large scale is caused, or if other serious consequences occurred, the perpetrator

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

(4) If, by the criminal offences referred to in paragraphs (1) and (2) of this Article, a person is deprived of life, the perpetrator

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

(5) A military person who perpetrates the criminal offence referred to in paragraphs (1) through (4) of this Article by negligence, shall be punished:

a) for the criminal offence referred to in paragraph (1) of this Article by imprisonment for a term not exceeding six months;

b) for the criminal offence referred to in paragraph (2) of this Article by imprisonment for a term not exceeding one year;

c) for the criminal offence referred to in paragraph (3) of this Article by imprisonment for a term not exceeding three years;

d) for the criminal offence referred to in paragraph (4) of this Article by imprisonment for a term not exceeding five years.

(6) If, by the criminal offence referred to in paragraph (5) of this Article, the consequence referred to in paragraph 3 or 4 of this Article is caused, the perpetrator

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

Coercion against a Military Person Discharging Official Duty
Article 246e

(1) Whoever, by force or threat of immediate use of force, prevents a military person in the execution of official duty, or coerces a military person in the same way to execute an official duty,

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

(2) Whoever, in the perpetration of criminal offence referred to in paragraph (1) of this Article, seriously offends a military person, or inflicts a slight bodily injury upon a military person,

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

(3) Whoever in the perpetration of criminal offence referred to in paragraph (1) and

(2) of this Article uses arms,
shall be punished by imprisonment for a term between six months and five years.

(4) The perpetrator of criminal offence referred to in paragraph (1) of this Article, who is provoked by the illegal or irregular conduct of the military person,
may be punished less severely or released from punishment.

Assault against a Military Person Discharging Official Duty Article 246f

(1) Whoever attacks or seriously threatens to attack a military person while the military person is discharging his official duty,
shall be punished by imprisonment for a term not exceeding three years.

(2) If, by the criminal offence referred to in paragraph (1) of this Article, a slight bodily injury is inflicted upon a military person, or if the criminal offence referred to in paragraph (1) of this Article is perpetrated by the use of arms, the perpetrator
shall be punished by imprisonment for a term between three months and three years.

(3) If, by the criminal offence referred to in paragraph (1) of this Article, a serious bodily injury is inflicted upon a military person, or serious consequences for service are caused, the perpetrator
shall be punished by imprisonment for a term between one and ten years.

(4) If, in the perpetration of the criminal offence referred to in paragraph (1) of this Article, a military person is deprived of life with intent, the perpetrator
shall be punished by imprisonment for a term not less than ten years or by long-term imprisonment.

(5) The perpetrator of the criminal offence referred to in paragraph (1) and (2) of this Article, who is provoked by the illegal or irregular conduct of the military person,
may be punished less severely or released from punishment.

Maltreatment of a Subordinate or a Military Person of Lower Rank Article 246g

(1) A military superior who in the line of duty or in connection with duty maltreats a subordinate or a person of lower rank or treats him in a way offensive to human dignity,
shall be punished by imprisonment for a term not exceeding three years.

(2) A military superior who perpetrates the criminal offence referred to in paragraph (1) of this Article against a number of persons,
shall be punished by imprisonment for a term not exceeding five years.

Submitting Untrue Reports and Accounts Article 246h

(1) A military person who in the discharge of official duty or service files a report or gives an account of untrue content, or in his report or account he suppresses a fact which he should not suppress, thus causing serious harmful consequences for the service or imperilling seriously the service, and thereby endangers human lives or property of great value,

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

(2) If the criminal offence referred to in paragraph (1) of this Article is perpetrated by filing an extremely important report or giving an extremely important account or extremely harmful consequences are caused, the perpetrator

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

(3) Whoever perpetrates the criminal offence referred to in paragraph (2) of this Article by negligence,

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

Failure to Take Measures for the Protection of a Military Unit Article 246i

(1) A military superior who fails to undertake prescribed, ordered or other obviously needed measures for the protection of lives and health of people entrusted to him, for the security and maintenance of installations, objects and means serving combat readiness, for regular supply of his unit with food, equipment or material, for the protection of lives and health of livestock, or for the timely and proper execution of safety works or for the protection of facilities entrusted to him, and thereby causes serious harmful consequences for the service or seriously imperils the service or endangers human lives or seriously imperils the health of people or property of great value,

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

(2) If, by the criminal offence referred to in paragraph (1) of this Article, a serious bodily injury is inflicted upon a person, or a material damage on a large scale or other serious consequences are caused, the perpetrator

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

(3) If, by the criminal offence referred to in paragraph (1) of this Article, a death of a person or several persons is caused, the perpetrator

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

(4) A military superior who perpetrates the criminal offence referred to in paragraph (1) of this Article by negligence,

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

(5) If, by the criminal offence referred to in paragraph (4) of this Article, the consequences referred to in paragraph 2 of this Article are caused, the perpetrator

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

(6) If, by the criminal offence referred to in paragraph (4) of this Article, the consequence referred to in paragraph (3) of this Article is caused, the perpetrator

shall be punished by imprisonment for a term not exceeding five years.

Deficient Protective Measures at Military Exercises Article 246j

(1) A military person who fails to undertake prescribed, ordered or obviously needed safety or precautionary measures during exercises, training courses or in the course of conducting experiments, and thereby endangers human lives or seriously imperils the health of people or property of great value,

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

(2) If, by the criminal offence referred to in paragraph (1) of this Article, a serious bodily injury is inflicted upon a person, or a material damage on a large scale or other serious consequences are caused, the perpetrator

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

(3) If, by the criminal offence referred to in paragraph (1) of this Article, a death of a person or several persons is caused, the perpetrator

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

(4) A military person who perpetrates the criminal offence referred to in paragraph (1) of this Article by negligence,

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

(5) If, by the criminal offence referred to in paragraph (4) of this Article, the consequences referred to in paragraph (2) of this Article are caused, the perpetrator

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

(6) If, by the criminal offence referred to in paragraph (4) of this Article, the consequence referred to in paragraph (3) of this Article is caused, the perpetrator

shall be punished by imprisonment for a term not exceeding five years.

Irregular or Careless Attitude toward Entrusted Arms or Military Equipment Article 246k

(1) Whoever irregularly or carelessly keeps, stores or handles arms or military equipment entrusted to him and belonging to a military unit or military institution, and thereby causes substantial damage to these items or their destruction or disappearance, shall be punished by a fine or imprisonment for a term not exceeding one year.

(2) A person in charge of a depot of means of combat, arms or military equipment who fails to take measures towards their protection or maintenance, causing thereby substantial damage, destruction or disappearance of these items,

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

(3) If, by the criminal offence referred to in paragraph (2) of this Article, the extensive damage to property is caused, the perpetrator

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

(4) A person referred to in paragraph (2) who perpetrates the criminal offence referred to in paragraph (2) of this Article by negligence,

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

(5) If, by the criminal offence referred to in paragraph (4) of this Article, the consequence referred to in paragraph (3) of this Article is caused, the perpetrator

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

Illegal Disposition of Entrusted Arms or Military Equipment Article 246l

Whoever illegally appropriates, conveys, pledges, gives to another for use, damages or destroys arms or military equipment, which are entrusted to him and which serve

defence needs,

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

Theft of Arms or Military Equipment

Article 246m

(1) Whoever takes away arms or military equipment or a part of means of combat serving defence needs with an aim of acquiring, by appropriating it, unlawful material gain for himself or for someone else,

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

(2) The punishment of imprisonment for a term between one and ten years shall be imposed on whoever perpetrates the criminal offence referred to in paragraph (1) of this Article:

a) by breaking in, entering by force or otherwise overcoming great obstacles in order to come to property within a closed building, room, cash register, closet, safe or other closed premises or space; or

b) as a member of a group of persons who have joined together for the purpose of perpetrating the theft; or

c) in a particularly dangerous or brazen manner; or

d) carrying a weapon or dangerous instrument for attack or defence; or

e) by taking advantage of conditions caused by a fire, flood, earthquake or another calamity; or

f) in respect of an object of great value and the perpetrator acts with an aim of acquiring the material gain of such value.

Trespass on Military Installations and Unauthorised Making of Sketches or

Drawings of Military Installations or Means of Combat

Article 246n

(1) Whoever, for the purpose of reconnaissance, enters a military installation without authorisation, despite knowing that access is forbidden,

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

(2) Whoever, without authorisation, makes sketches or drawings or takes photographs of military installations or means of combat or records them otherwise,

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

Arbitrary Abandonment and Desertion of a Military Unit or Service

Article 246o

(1) A military person who arbitrarily leaves his unit or service and fails to return on duty within the time-limit of ten days, or fails to return on duty from an authorized furlough from the unit or service within the same time-limit,

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

(2) The punishment referred to in paragraph (1) of this Article shall be imposed on a military person, who more than twice for a period shorter than ten days stays outside his unit or service without permission and to a military person who arbitrarily leaves his unit or service at the time of executing an important task or when his unit is at an

increased level of readiness for combat.

(3) A military person who hides in order to evade military service, or who arbitrarily leaves his unit or service and fails to return to his duty within the time-limit of thirty days, or fails within the same time-limit to return from an authorised furlough from the unit or service,

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

(4) A military person who leaves the country or remains abroad in order to evade military service,

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

(5) A military person who prepares to escape abroad in order to evade military service,

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

(6) The perpetrator of the criminal offence referred to in paragraph (1) of this Article, who voluntarily reports to a competent body,

may be punished less severely or released from punishment.

(7) The perpetrator of the criminal offence referred to in paragraph (3) and (4) of this Article, who voluntarily reports to a competent body,

may be punished less severely.

Punishing for Criminal Offence Perpetrated during the State of War or the State of Emergency or When an Order for the Engagement and Employment of the Armed Forces of Bosnia and Herzegovina is Issued
Article 246p

(1) Whoever perpetrates the criminal offence referred to in Article 246a (*Failure and Refusal to Execute an Order*), paragraph (2); Article 246b (*Refusal to Receive and Use Arms*); Article 246c (*Resisting a Superior*), paragraph (1); Article 246d (*Violation of Sentry, Guard, Patrol or Other Similar Duty*), paragraphs (1), (2) and (5); Article 246e (*Coercion Against a Military Person Discharging Official Duty*), paragraphs (1) and (2); Article 246f (*Assault against a Military Person Discharging Official Duty*), paragraphs (1) and (2); Article 246g (*Maltreatment of a Subordinate or a Military Person of Lower Rank*); Article 246h (*Submitting Untrue Reports and Accounts*); Article 246i (*Failure to Take Measures for the Protection of a Military Unit*), paragraphs (1), (4), (5) and (6); Article 246j (*Deficient Protective Measures at Military Exercises*), paragraphs (1), (4), (5) and (6); Article 246k (*Irregular or Careless Attitude toward Entrusted Arms or Military Equipment*), paragraphs (1), (4) and (5); Article 246n (*Trespass on Military Installations and Unauthorised Making of Sketches or Drawings of Military Installations or Means of Combat*) and Article 246o (*Arbitrary Abandonment and Desertion of a Military Unit or Service*), paragraphs (1) and (2) of this Code during the state of war or the state of emergency or when an order for the engagement and employment of the Armed Forces of Bosnia and Herzegovina is issued,

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

(2) Whoever perpetrates the criminal offence referred to in Article 246d, paragraphs (3) and (6); Article 246e, paragraph (3); Article 246f, paragraph (3); Article 246i, paragraphs (2) and (3); Article 246j, paragraphs (2) and (3); Article 246k, paragraphs

(2) and (3); Article 246l (*Illegal Disposition of Entrusted Arms or Military Equipment*); Article 246m (*Theft of Arms or Military Equipment*), paragraph (1) and Article 246o, paragraphs (3) and (5) of this Code during the state of war or the state of emergency or when an order for the engagement and employment of the Armed Forces of Bosnia and Herzegovina is issued,

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

(3) Whoever perpetrates the criminal offence referred to in Article 246a, paragraph (1) and (3); Article 246b, paragraph (1); Article 246c, paragraphs (2), (3) and (4); Article 246d, paragraph (4); Article 246f, paragraph (4); Article 246m, paragraph (2) and Article 246o, paragraph (4) of this Code during the state of war or the state of emergency or when an order for the engagement and employment of the Armed Forces of Bosnia and Herzegovina is issued,

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

Joining the Enemy and Surrender to the Enemy **Article 246r**

(1) A military person who joins an enemy's army during the state of war or the state of emergency or when an order for the engagement and employment of the Armed Forces of Bosnia and Herzegovina is issued,

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

(2) A military person who, before all means and ways have been exhausted, surrenders to an enemy's army during the state of war or the state of emergency or when an order for the engagement and employment of the Armed Forces of Bosnia and Herzegovina is issued,

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

Failure to Discharge Duties During the Combat **Article 246s**

(1) A military person who fails to discharge his duty during a combat or immediately before a combat and thereby causes serious consequences for the military unit, security operation or combat situation,

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

(2) If, by the criminal offence referred to in paragraph (1) of this Article extremely serious consequences are caused, the perpetrator

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

Leaving the Post During a Combat Without Permission **Article 246t**

(1) A military person who leaves his post without permission during the combat or immediately before the combat,

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

(2) If, by the criminal offence referred to in paragraph (1) of this Article extremely serious consequences are caused, the perpetrator

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

Abandoning Position Contrary to the Order
Article 246u

(1) A superior military person who, contrary to the order, abandons the position with the unit he is in charge of before all defence means have been exhausted, shall be punished by imprisonment for a term between one and ten years.

(2) If, by the criminal offence referred to in paragraph (1) of this Article extremely serious consequences are caused, the perpetrator shall be punished by imprisonment for a term between five and fifteen years.

Abandoning Damaged Vessel or Aircraft Prematurely
Article 246v

(1) A commander of a combat vessel who, during the state of war or an immediate war threat or during the state of emergency or when an order for the engagement and employment of the Armed Forces of Bosnia and Herzegovina is issued, abandons the damaged vessel before he has carried out his duty pursuant to the regulations on service on vessels,

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

(2) A crew member of a combat vessel, who during the state of war or an immediate war threat or during the state of emergency or when an order for the engagement and employment of the Armed Forces of Bosnia and Herzegovina is issued, abandons the damaged vessel before the commander of the vessel gave the order to abandon it, or a crew member of a military aircraft, who during the time of war abandons the damaged aircraft,

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

(3) If, by the criminal offence referred to in paragraph (1) and (2) of this Article extremely serious consequences are caused, the perpetrator shall be punished:

a) for the criminal offence referred to in paragraph (1) of this Article by imprisonment for a term between five and fifteen years;

b) for the criminal offence referred to in paragraph (2) of this Article by imprisonment for a term between two and ten years.

Leaving Undamaged Means of Combat to the Enemy
Article 246z

(1) A military person who allows a substantially undamaged military depot, vessel, aircraft, tank or other means of combat to fall into enemy hands,

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

(2) The punishment referred to in paragraph (1) of this Article shall be imposed on whoever, contrary to orders, allows substantially undamaged facilities or other installations of great importance for defence of the State to fall into enemy hands.

(3) Whoever perpetrates the criminal offence referred to in paragraph (1) and (2) of this Article by negligence,

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

Undermining Readiness to Combat and Combat Circumstances
Article 246q

(1) Whoever, during a combat or immediately before a combat, undermines readiness to combat within the unit or damages combat circumstance by rising discontent among soldiers, spreading disturbing news, deserting, throwing away arms or ammunition or by spreading fear or in some other way,

shall be punished by imprisonment for a term between two and twelve years.

(2) A senior military person who fails to take necessary steps against a subordinate or military person of a lower rank who, during a combat or immediately before a combat, undermines readiness to combat within the unit or damages combat circumstances by spreading disturbing news, making disorder and confusion in the unit or in some other way,

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

(3) If, by the criminal offence referred to in paragraphs (1) and (2) of this Article extremely serious consequences are caused, the perpetrator

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

Failure to Secure a Military Unit
Article 246x

(1) A military person who during the state of war or the state of emergency or when an order for the engagement and employment of the Armed Forces of Bosnia and Herzegovina is issued fails to secure the unit he is in charge of and thereby causes serious consequences for the unit,

shall be punished by imprisonment for a term between two and twelve years.

(2) If, by the criminal offence referred to in paragraph (1) of this Article extremely serious consequences are caused for the unit, the perpetrator

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

(3) A military person who perpetrates the criminal offence referred to in paragraph (1) of this Article by negligence,

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

(4) If, by the criminal offence referred to in paragraph (3) of this Article a consequence referred to in paragraph (2) of this Article is caused, the perpetrator

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

Failure to Inform Military Authorities
Article 246y

(1) Whoever during the state of war or the state of emergency or when an order for the engagement and employment of the Armed Forces of Bosnia and Herzegovina is issued fails to inform the superior or senior officer or headquarters about an incident that manifestly requires military actions without delay,

shall be punished by imprisonment for a term not exceeding two years.

(2) If, by the criminal offence referred to in paragraph (1) of this Article extremely serious consequences are caused, the perpetrator

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

Pronouncing a Disciplinary Penalty or a Disciplinary Measure
Article 246w

For a criminal offence against the Armed Forces of Bosnia and Herzegovina prescribed in this Chapter of this Code and for which a punishment of imprisonment for a term not exceeding three years is prescribed, a disciplinary penalty or a disciplinary measure determined by regulations regulating disciplinary responsibility in the Armed Forces of Bosnia and Herzegovina may be pronounced to a military person instead of a criminal sanction, provided that the offence is of an especially light character and that interests of the service so require.

Responsibility for a Criminal Offence Perpetrated on Superior's Orders
Article 246ww

There shall be no criminal offence if its legal elements are met by a subordinate pursuant to an order from his superior and that order is given in the line of official duty, except if such an order relates to the perpetration of genocide, war crimes, crimes against humanity or another criminal offence for which a punishment of imprisonment for a term of ten years or a more severe punishment may be imposed, or if it is obvious that by obeying such an order a criminal offence would be perpetrated.”

Article 9

The legislative bodies of the Entities shall harmonise their respective criminal codes in accordance with this Law within the deadline of one month from the day of entry into force of this Law.

Article 10

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

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23 May 2006
Sarajevo

Chair
of the House of Representatives
of the Parliamentary Assembly of BiH
Martin Raguž, m.p.

Chair
of the House of Peoples
of the Parliamentary Assembly of BiH
Mustafa Pamuk, m.p.