



Emerika Bluma 1, 71000 Sarajevo

Tel. 28 35 00 Fax. 28 35 01

Department for Legal Affairs



LAW ON CHANGES AND AMENDMENTS TO THE CRIMINAL PROCEDURE CODE OF THE BRCKO DISTRICT OF BOSNIA AND HERZEGOVINA

**“Official Gazette of the Brcko District of Bosnia and Herzegovina”,
21/07**

LAW ON CHANGES AND AMENDMENTS TO THE CRIMINAL PROCEDURE CODE OF THE BRCKO DISTRICT OF BOSNIA AND HERZEGOVINA

Article 1

In the Criminal Procedure Code of the Brcko District of Bosnia and Herzegovina („Official Gazette of the Brcko District of Bosnia and Herzegovina, 10/03, 48/04, 6/05 and 14/07) (hereinafter: the Law), in Article 20 (*Basic Terms*), item g), in the end of the text, the full stop shall be replaced by a comma, and shall be added a new sentence to read as follows:

„Expert associates, that is, investigators of the BiH Prosecutor’s Office, as well as the Prosecutors Office of Brcko District of BiH, working under the authorization of the Prosecutor shall also be considered as authorized officials”.

Article 2

In Article 123 (*Types of Measures*), in paragraph 1, the words: “house arrest” shall be replaced with the words: “prohibiting measures”.

Article 3

- (1) The title of Section 4 shall be amended to “Section 4 – Prohibiting Measures”.
- (2) The title of Article 126 and Article 126 shall be amended to read as follows:

“House arrest and Travel Ban”

1) If there are circumstances indicating that the suspect or accused might flee, hide or go to an unknown place or abroad, the Court may, by a reasoned decision, place the suspect or accused under house arrest.

(2) In circumstances referred to in Paragraph (1) of this Article, the Court may also, either as an additional measure to the house arrest or as a separate measure, order a temporary withdrawal of travel documents together with the prohibition of issuance of new travel documents, as well as the prohibition to use the identity card for crossing the State border of Bosnia and Herzegovina (travel ban).

Article 4

After Article 126 of the Law, shall be added new Articles 126a, 126b, 126c, 126d, 126e, 126f and 126g to read as follows:

“Article 126a

Other Prohibiting Measures

(1) When the circumstances of the case so indicate, the Court may order one or more of the following prohibiting measures:

- a) prohibition from performing certain business or official activities,
- b) prohibition from visiting certain places or areas,
- c) prohibition from meeting with certain persons,
- d) order to report occasionally to a specified body, and
- e) temporary withdrawal of the driver’s license.

(2) Other prohibiting measures referred to in Paragraph (1) of this Article may be imposed in addition to the house arrest as well as in addition to a travel ban referred to in Article 126 of this Code, or as separate measures.

Article 126b

Imposing the Prohibiting Measures

(1) The Court may impose the house arrest, travel ban and other prohibiting measures by a reasoned decision upon the proposal of a party or the defense attorney.

(2) When deciding on custody, the Court may impose the house arrest, travel ban and other prohibiting measures ex officio, instead of ordering or prolonging the custody.

(3) In the decision imposing the prohibiting measures, the suspect or accused shall be warned that the custody may be ordered against him or her if he/she violates the obligation under the imposed measure.

(4) In the course of an investigation, the prohibiting measures shall be ordered and revoked by the preliminary proceedings judge and after the issuance of an indictment – by a preliminary hearing judge and after the case has been referred to the judge or the Panel for the purpose of scheduling the main trial – by that judge or the presiding judge.

(5) The prohibiting measures may last as long as they are needed, but not later than the date on which the verdict becomes legally binding if a person was not pronounced the sentence of imprisonment and at the latest until the person has been committed to serve the sentence if a person was pronounced the sentence of imprisonment. Travel ban may also last until the pronounced fine is paid in full and/or the property claim and/or confiscation of material gain enforced in full.

(6) The preliminary proceedings judge, preliminary hearing judge, the judge, or the presiding judge must review every two months whether the imposed prohibiting measure is still needed.

(7) A decision ordering, extending or revoking the prohibiting measures may be appealed by a party or the defense attorney, while the Prosecutor may also appeal a decision rejecting his motion for the ordering of a measure. An appeal shall be decided by the Panel referred to in Article 24 Paragraph (6) of this Code Appellate Court within three days of receipt of the appeal. An appeal shall not stay the execution of decision.

Article 126c

Content of the Prohibiting Measures

- (1) In a decision ordering the house arrest for the suspect or accused, the Court shall specify the place where the suspect or accused shall stay for as long as the measure lasts, as well as the boundaries beyond which the suspect or accused may not go. The place may be restricted to the suspect's or accused's home.
- (2) In a decision imposing the travel ban, the Court shall order temporary withdrawal of travel documents together with the prohibition of issuance of new travel documents, as well as the enforcement of the prohibition to use the identity card for crossing the State border of Bosnia and Herzegovina. The decision shall contain personal data of the suspect or accused, and may contain other information as necessary.
- (3) In a decision prohibiting the suspect or accused from visiting certain places or areas, the Court shall specify places and areas and the distance within which the suspect or accused may not approach them.
- (4) In a decision prohibiting the suspect or accused from meeting with certain persons, the Court shall specify the distance within which the suspect or accused may not approach a certain person.
- (5) In a decision ordering the suspect or accused to report occasionally to a specified body, the Court shall appoint an official person that the suspect or accused must report to, the time limit in which the suspect or accused must report and the manner of keeping records of reporting.
- (6) In a decision ordering temporary withdrawal of a driver's license, the Court shall specify categories for which a driver's license shall be suspended. The decision shall contain personal data of the suspect or accused, and may contain other information as necessary.

Article 126d

Limitations in the Content of the Prohibiting Measures

- (1) The prohibiting measures shall not restrict the right of the suspect or accused to communicate with his/her defense attorney in Bosnia and Herzegovina.
- (2) The prohibiting measures shall not restrict the right of the suspect or accused to live in his/her home in Bosnia and Herzegovina, to see members of his/her family and close relatives freely or just in Bosnia and Herzegovina or just in a place specified under the house arrest and unless the proceedings involve the criminal offense committed to the detriment of the family member or close relatives, nor shall they restrict the right of the suspect or accused to perform its professional activity unless the proceedings involve the criminal offense related to the performance of that activity.

Article 126e

Enforcement of Prohibiting Measures

- (1) A decision ordering the house arrest shall be submitted also to the body enforcing the measure.
- (2) A decision ordering the travel ban shall be submitted also to the border police, and the temporary withdrawal of travel documents together with the prohibition of issuance of new travel documents, as well as the enforcement of the prohibition to use the identity card for crossing the State border shall be entered into the Central Data Processing Centre.

(3) The measures of house arrest, travel ban, prohibition from visiting certain places or areas, prohibition from meeting with certain persons and temporary withdrawal of a driver's license shall be enforced by a police body.

(4) The measure ordering the suspect or accused to report occasionally to a specified body shall be enforced by a police body or the body that the suspect or accused must report to.

Article 126f

Verification of Prohibiting Measures and Obligation to Submit Report

(1) At any time, the Court may order verification of prohibiting measures and request the competent body in charge of the enforcement to submit a report. The body shall be obliged to submit the report to the Court without delay.

(2) If the suspect or accused is not fulfilling obligations ordered by the measure, the enforcement body shall inform the Court about it and the Court may pronounce additional prohibiting measure or place him/her into custody.

Article 126g

Special Provision on Travel Ban

(1) Exceptionally, in emergency cases, in particular in cases involving a criminal offense for which a prison sentence of ten years or more severe punishment may be pronounced, the order for a temporary withdrawal of travel documents and the identity card together with prohibiting the issuance of new documents that might be used for crossing the State border, may be issued by the Prosecutor.

(2) The Prosecutor may issue the order referred to in Paragraph (1) of this Article when ordering the conduct of an investigation, when questioning the suspect or when issuing an apprehension order under Article 125, Paragraph (2) of this Code, or whenever the emergent action is needed for the effective conduct of the process until the beginning of the main trial.

(3) In the course of an investigation, the Prosecutor shall immediately inform the preliminary proceedings judge and after the issuance of an indictment – a preliminary hearing judge and after the case has been referred to the judge or the Panel for the purpose of scheduling the main trial – that judge or the presiding judge, who shall decide about the order within 72 hours. In case the judge fails to issue the said order, the travel documents and the identity card shall be returned.

(4) The order for a temporary withdrawal of travel documents and the identity card together with prohibiting the issuance of new documents that might be used for crossing the State border, shall be executed by a police body, and may also be executed by judicial police. If a suspect or accused refuses to surrender the travel documents and/or the identity card, the order shall be executed by force.

(5) The suspect or accused shall be issued a receipt on withdrawn documents. For the identity card, the suspect or accused shall be issued a special certificate or card that shall replace the identity card in all respects, but it may not be used for crossing the State border.”

Article 5

This Law shall be applied in all cases in which the final and binding judgement is not reached prior to the date of entering into force of this Law.

Article 6

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