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

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

Article 1

In the Criminal Code of the Brčko District of Bosnia and Herzegovina („Official Gazette of the Brčko District of Bosnia and Herzegovina“, 10/03, 6/05), Article 2 shall be amended to read as follows:

“GENERAL TERMS

Article 2

(1) The criminal legislation of Brčko District comprises the criminal justice provisions set forth in this Code and provisions in other laws of Brčko District.

(2) The territory of Brčko District means the land and water surfaces within its borders, as well as the air space above them.

(3) An official person means: a person elected or appointed to legislative, executive and judicial office within Brčko District and other governmental and administrative institutions or services which perform particular administrative, expert and other duties, within the rights and responsibilities of the authority who has founded them; a person who continuously or occasionally executes official duty in the mentioned administrative bodies or institutions; an authorized person in a business enterprise or another legal person who has been legally entrusted with the execution of public authorities, who performs certain duties within the scope of the relevant authority; and other persons who are performing, with or without remuneration, official duties stipulated by law or other regulations based on the law or other regulations originating from the Law.

(4) When an official person has been indicated as the perpetrator of a particular criminal offence, persons referred to in Paragraph (3) of this Article may be considered the perpetrators of such offences provided that it does not follow from the characteristics of a particular criminal offence or particular prescript that their perpetrator may only be one of the specified persons.

(5) A responsible person means a person in a business enterprise or other legal person who, in the line of duty or on the basis of specific authorization, has been entrusted with a portfolio related to the implementation of law or regulations based on law or general act of a business enterprise or other legal person in managing and administering the property, or is related to managing a productive or other business process or supervision of such process. Official persons as defined in Paragraph (3) of this Article are also considered responsible persons when the

actions as whose perpetrator the responsible person has been indicated are at issue, and at the same time are not stipulated as criminal offence by provision of the chapter dealing with criminal offences against official and other responsible duty, or as criminal offences of an official person stipulated under some other chapter of this Code or other laws of Brčko District.

(6) In cases when an official or responsible person has been indicated as the perpetrator of a criminal offence, all persons referred to in Paragraphs (3) and (5) of this Article may be the perpetrators of such offences, provided that it does not follow from the characteristics of a particular criminal offence that their perpetrator may only be one of the specified persons.

(7) A foreign official person means a member of a legislative, executive, administrative or judicial body of a foreign state, a public official person of an international organization or of its bodies, judge or other official person of an international court, serving in Brčko District with or without remuneration.

(8) An international official person means a civilian employee of an international organization or agency.

(9) A military person, for the purpose of this Code, means a member of professional military personnel and a member of reserve personnel for the duration of their service in the Armed Forces of Bosnia and Herzegovina, in accordance with the Law on Service in the Armed Forces of Bosnia and Herzegovina.

(10) When an official person is identified as the person against whom a criminal offence has been perpetrated, the official person shall also be, for the purpose of this Code, in addition to persons specified in Paragraph (3) of this Article, a military person referred to in Paragraph (9) of this Article.

(11) A child, for the purpose of this Code, is a person who has not reached 14 (fourteen) years of age.

(12) A juvenile, for the purpose of this Code, is a person who has not reached 18 (eighteen) years of age.

(13) A legal person, for the purpose of this Code, stands for Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, the Republika Srpska, the Brčko District of Bosnia and Herzegovina, canton, city, municipality, local community, any organizational form of a business enterprise and all forms of co-operating enterprises, institutions, crediting and other banking institutions or insurance of property and persons institutions, as well as other financial institutions, funds, political organizations and associations of citizens or other forms of associations that may acquire funds and use them in the same way as other institutions or bodies that acquire and use funds and that are legally recognized as legal persons.

- (14) A business enterprise, for the purpose of this Code, means corporations, companies, firms, partnerships and any other organizational form registered for performing economic activities.
- (15) An association means any kind of associating three or more people.
- (16) Several persons mean at least two persons.
- (17) A body of people constitutes at least five persons.
- (18) A group of people is an assemblage of at least three individuals that are associated for the purpose of perpetration of criminal offences, in which each of the individuals gives his contribution to the perpetration of the criminal offence.
- (19) An organized group is a group that is formed for the purpose of direct perpetration of an offence and that does not need to have formally defined roles of its members, the continuity of its membership, or a developed structure.
- (20) An organized criminal group is a group of three or more persons, existing over a certain period of time and acting in concert with the aim of perpetrating one or more criminal offences which, in accordance with the law, carry a punishment of imprisonment of over three years or more severe punishment, for the purpose of acquiring material gain.
- (21) A terrorist group is an organized group of at least three persons that is formed and operates over a certain period of time with the aim of perpetrating a criminal act of terrorism.
- (22) Secret data of Brcko District means an information or document designated as Brcko District secret by virtue of a law, other regulation or general enactment of the competent body made on the basis of the law, whose disclosure would cause detrimental consequences for Brcko District.
- (23) A document denotes any object that is suitable or designed to serve as evidence of some fact relevant to legal relations.
- (24) Money denotes coins and paper bank notes, which are legal tender in Bosnia and Herzegovina or in a foreign country.
- (25) Instruments of value also include foreign instruments of value.
- (26) A movable object also includes any manufactured or accumulated energy used for producing light, heat or movement, and telephone and other impulses.
- (27) A mean of transport is every vessel, vehicle or aircraft, as well as any other mean that may be used in land, water and air traffic regardless of type of propulsion.

(28) Force also includes the use of hypnotic suggestion or the use of intoxicating substances for the purpose of bringing a person against his will into a state of unconsciousness, or incapacity for resistance.

(29) Narcotic drug means any medical drug or hazardous substance with addictive and psychotropic characteristics, or any substance that can easily be converted into such substances, provided that it is subject to control under the international convention ratified by Bosnia and Herzegovina, or any substances declared as narcotic drugs by a competent institution of Bosnia and Herzegovina, Brcko District or by a competent institution of the entities.

(30) Arms and military equipment mean items and means referred to in the Law on Manufacture, Import and Export of Arms and Military Equipment.

(31) Radioactive material means nuclear material and other radioactive substances with spontaneously decomposing nuclides (a process which releases one or several types of ionizing emissions such as alpha and beta emissions, neutron particles and gamma rays), which due to their radiological and fissile features can cause death, serious injuries or extensive property and environmental damage.

(32) Nuclear material means plutonium, save for the one with isotope concentration of more than 80 % in plutonium 238 or uranium 233; uranium enriched with isotope 235 or 233; uranium which contains a mixture of isotopes as found in nature, save in the form of ore or ore residue; or any other material which contains one or several of the aforementioned, where "uranium enriched with isotopes 235 or 233" means uranium which contains isotope 235 or 233 or both in such amount that the ratio between the sum of these isotopes and isotope 238 is greater than the ratio between isotope 235 and 238 found in nature.

(33) A nuclear device means every nuclear explosive device or any device that disperses radioactive material or produces emissions that can, due to their radiological qualities, cause death, serious injuries or damage to property and environment of significant proportions.

(34) A nuclear facility means every nuclear reactor, including reactors mounted on vessels, vehicles, aircrafts or space facilities used as energy source for those vessels, vehicles, aircrafts or space facilities or for any other purposes, and every plant or instrument used for production, storing, processing or transport of radioactive material.

(35) Fixed platform is an artificial island, instrument or device that is fixed to the sea floor for the purposes of research or exploitation of natural resources or other commercial purposes.

(36) An explosive device means:

- a) Explosive or incendiary weapon or device which has been assembled so that it can cause death, serious injuries or extensive property damage; or

- b) Weapon or device which has been assembled so that it can cause death, serious injuries or significant damage by releasing, dispersion and effect of poisonous chemicals, biological agents or poisons or similar substances or radiation or radioactive material.

(37) Hatred represents motivation for perpetrating criminal offense, stipulated by this Law, which is fully or partially grounded on the differences based on realistic or presumable ethnical or national background, language or alphabet, religious beliefs, race, skin colour, sexual orientation, political or other beliefs, social origin, social position, age, health status or other characteristics, or which is in connection with persons who have one of the mentioned different characteristics.

(38) Grammatical gender terminology, male or female, is to be understood as including both genders of natural persons.”

Article 2

After Article 4, a new Article 4a shall be added to read as follows:

“Article 4a

No one can be punished or subjected to other criminal sanctions if he is not guilty of the committed criminal offence.”

Article 3

Article 7 shall be amended to read as follows:

“The Purpose of Legal Sanctions for Criminal Acts

Article 7

The purpose of legal sanctions for criminal acts is:

- a) Protection of the society from criminal acts through preventive influence on others to respect the legal system and do not commit criminal acts, as well as by preventing perpetrators to commit criminal acts and encouraging of their reformation;
- b) Protection and satisfaction of victims of criminal offences.”

Article 4

In Article 8, the words: “in compliance with international law” shall be replaced with the words: “in compliance with the Law and international law”.

Article 5

In Article 12, Paragraph 4 shall be deleted.

Article 6

Article 25 shall be amended to read as follows:

“Insignificant Offence

Article 25

An insignificant offence, although having legal characteristics of a criminal offence, shall not constitute a criminal offence due to its nature and gravity or the manner of its perpetration, or the insignificance or non-existence of detrimental consequences i.e. obtained property gain and low degree of culpability of the perpetrator.”

Article 7

After Article 27, a new Article 27a shall be added to read as follows:

“Force and Threat

Article 27a

- (1) A criminal offence perpetrated under irresistible force shall not constitute a criminal offence.
- (2) A perpetrator who has perpetrated a criminal offence under resistible force or threat may be sentenced to a more lenient punishment.
- (3) In the case specified in Paragraph (1) herein, the person who has applied irresistible force shall be considered a perpetrator of the criminal offence.”

Article 8

The title of Article 31 shall be changed to read as follows: **“Co-perpetration”**.

Article 9

In Article 32, after Paragraph (2), a new Paragraph (3) shall be added to read as follows:

“(3) Incitement to commit a criminal offence shall be construed to mean, in particular: pleading, persuading or prompting, portraying benefits of the perpetration of the criminal offence, giving or promising gifts, abusing the state of subordination or dependency, making a person believe in and keeping a person under a mistake of fact or law, deceiving.”

Article 10

In the title of Article 34, the words “criminal responsibility” shall be replaced with the word: “culpability”.

In Paragraph (1), the words: “criminally responsible” shall be replaced with the word: “culpable”.

In Paragraph (3), the words: “criminal responsibility” shall be replaced with the word: “culpability”.

Article 11

“The title of the CHAPTER SIX shall be amended to read as follows: “**VI – CHAPTER SIX – CULPABILITY**”.

Article 12

Article 35 shall be amended to read as follows:

“Elements of Culpability

Article 35

(1) Culpability exists if at the time of the perpetration of the criminal offence the perpetrator was mentally accountable and acted with intent.

(2) Culpability for the criminal offence exists even if the perpetrator acted out of negligence only if the law explicitly prescribes so.”

Article 13

In Article 36, in Paragraph (3), the words: “criminally liable” shall be replaced with the word: “culpable”; the words: “criminal responsibility” shall be replaced by the word: “culpability”, and the words in the parenthesis: “(voluntarily caused mental insanity)” shall be deleted.

Article 14

Article 39 shall be amended to read as follows:

“Mistake of Fact

Article 39

(1) A person shall not be guilty if he perpetrates an offence while under an irreparable mistake of fact.

(2) The mistake of fact shall be considered irreparable if the perpetrator, at the time of the perpetration of the criminal offence, was not aware of a legally prescribed element of the criminal offence or wrongly believed that there existed circumstances which, if they truly existed, would have made his conduct permissible.

(3) If the perpetrator was under a mistake of fact due to negligence, that shall be considered a criminal offence perpetrated out of negligence only if the law prescribes punishment for that criminal offence committed out of negligence.”

Article 15

In Article 41, Paragraph (1) shall be amended to read as follows:

“(1) Perpetrator of the criminal offence who has been found guilty may be sentenced to:

a) imprisonment

b) long-term imprisonment

c) fine.”

Article 16

After Article 41, a new Article 41a shall be added to read as follows:

“Article 41a

Principal and Subsidiary Punishment

(1) Imprisonment may be imposed only as principal punishment.

(2) A fine may be imposed both as a principal and as a subsidiary punishment.

(3) If several punishments are prescribed for a criminal offence, only one of them may be imposed as a principal punishment.

(4) For criminal offences motivated by greed, a fine may be imposed as an subsidiary punishment even when that is not specifically prescribed by the law or in cases where the law prescribes that the perpetrator shall be punished by imprisonment or a fine, and the court decides to impose the punishment of imprisonment as the principal punishment”.

Article 17

In Article 42, item b), after the word: “offences”, shall be added the words: “and to encourage his reformation”.

Article 18

Article 43 shall be amended to read as follows:

“Imprisonment

Article 43

- (1) Imprisonment may not be shorter than thirty days or longer than twenty years.
- (2) The punishment of imprisonment shall be imposed in full years and months; however, the punishment of imprisonment for a term not exceeding six months may also be meted out in full days.
- (3) Imprisonment referred to in this Article cannot be imposed to the juveniles. Juvenile imprisonment may be imposed under the conditions prescribed by Chapter X of this Code (Rules Relating to Educational Recommendations, Educational Measures and Punishment of Juveniles). By its purpose, nature, duration and manner of execution, juvenile imprisonment constitutes a special punishment of deprivation of liberty.”

Article 19

After Article 43, new Articles 43a and 43b shall be added to read as follows:

“Substitution of Imprisonment

Article 43a

- (1) On request of the convicted person, imprisonment sentence up to one year can be substituted by a fine paid in a single installment within 30 days.
- (2) Imprisonment shall be substituted with a fine in a way that every day of imprisonment equals one daily amount of fine or with KM 100 if the fine is to be determined in a certain amount.
- (3) If the fine is not paid within the deadline from Paragraph (1) of this Article, the Court shall make a decision on execution of imprisonment. If the fine is paid only partially, then the imprisonment will be proportional to the amount that was not paid.

Long-Term Imprisonment

Article 43b

- (1) For the gravest forms of serious criminal offences perpetrated with intent, a long-term imprisonment for a term between twenty-one and forty-five years may be imposed.

(2) Long-term imprisonment may never be imposed as the sole principal punishment for a particular criminal offence.

(3) Long-term imprisonment cannot be imposed on a perpetrator who has not reached twenty-one years of age at the time of perpetrating the criminal offence.

(4) Long-term imprisonment shall be meted out in full years only.

(5) If long-term imprisonment has been imposed, amnesty or pardon may be granted only after three-fifths of the punishment has been served.”

Article 20

In Article 44, in Paragraph (1), the words: “for a term not exceeding six months” shall be replaced with the words: “imprisonment up to one year”.

In Paragraph (3), the words: “a maximum of sixty working days” shall be replaced with the words: “a maximum of ninety working days”.

Article 21

In Article 46, in Paragraph (1), the words: “from one year or more severe punishment” shall be replaced with the words: “exceeding one year or more severe punishment”.

Article 22

In Article 47, in Paragraph (3), the number: “150” shall be replaced with the number: “500” and the number: “50.000” shall be replaced with the number: “100.000”.

In Paragraph (8), the word: “two” shall be replaced with the word: “one”.

Article 23

In Article 48, Paragraph (2), the words: “paid in full or in part” shall be replaced with the word: “paid”.

In Paragraph (3), the number “50” shall be replaced with the number “100”, and the words: “whereby the imprisonment may not exceed one year” shall be replaced with the words: “whereby it may not exceed the prescribed punishment for that offence”.

Article 24

In Article 49, Paragraph (1), the words: “criminal liability” shall be replaced with the word “culpability”.

Paragraph (2) shall be amended to read as follows:

“A circumstance which is an element of criminal offense shall not be considered neither as aggravating, that is, mitigating circumstance, unless it exceeds the limit necessary for the existence of criminal offense or certain type of criminal offense, or if there are two or more such circumstances and only one is required for the existence of severe, that is, less severe type of criminal offense. If criminal offense was committed out of hatred as prescribed in Article 2, Paragraph 37 of this Law, the Court shall consider that as aggravating circumstance and pronounce higher sentence, unless the Law provides more severe sentence for qualified type of criminal offense.”

Article 25

In Article 50, item b), the word “and” shall be deleted.

Article 26

In Article 51, Paragraph (1), item g), the number “150” shall be replaced with the number “500”.

Article 27

In Article 54, Paragraph (1) shall be amended to read as follows:

“If the perpetrator, by a single action or by several actions, has perpetrated several criminal offences, for which he is tried at the same time, the court shall first assess the punishment for each of the offences separately, and then proceed with imposing a compound punishment of long-term imprisonment, a compound punishment of imprisonment or a compound fine for all the offences taken together.”

In Paragraph (2), item a) shall be amended to read as follows:

“a) If the court has meted out a punishment of long-term imprisonment or long-term imprisonment and imprisonment for criminal offences in concurrence, the compound sentence of long-term imprisonment shall be higher than each individual punishment, but shall not exceed 45 years.”

After item b) shall be added a new item c) to read as follows:

“c) If for two or several concurrent criminal offences the court meted out punishments of imprisonment exceeding ten years, the court may pronounce a compound punishment of long-term imprisonment which shall not reach the sum of individual punishments of imprisonment.”

The current items c) and d) shall become items d) and e).

Article 28

In Article 56, Paragraph (3) shall be deleted.

Article 29

In Article 57, Paragraph (3), the number: “50” shall be replaced with the number: “100”.

Article 30

In Article 61, Paragraph (2), the words: “criminal responsibility” shall be replaced with the word: “culpability”.

Article 31

In Article 62, Paragraph (2) shall be deleted.

The current Paragraphs 3, 4 and 5 shall become Paragraphs 2, 3 and 4.

Article 32

In Article 74, Paragraph (1), the words: “in a condition of considerably reduced or reduced mental capacity” shall be replaced with the words: “in a condition of considerably reduced or reduced mental capacity”. (Note: Not to be reflected in the English version.)

Article 33

In Article 75, Paragraph (3) shall be deleted.

Article 34

In Article 76, Paragraph (1), the words: “a criminal offence with regard to property entrusted or accessible to him by virtue of his occupation, activity or duty” shall be replaced with the words: “a criminal offense in connection with his occupation, activity or duty”, wherever the words: “another criminal offence through the abuse of the occupation, activity or duty with regard to the property entrusted or accessible to him” shall be replaced with the words: “new criminal offense in connection with his occupation, activity or duty”.

Article 35

In Article 78, Paragraph (1), the word “absolutely” shall be deleted.

Paragraph (3) shall be amended to read as follows:

“(3) The Law can regulate mandatory forfeiture of objects.”

Article 36

In Article 99, the words: “criminally liable” shall be deleted, and the words: “the high degree of criminal responsibility” shall be replaced with the words: “degree of culpability”.

Article 37

In Article 114, Paragraph (3) shall be deleted.

Article 38

After Article 114 a new Article 114a shall be added to read as follows:

“Expanded Confiscation of Material Gain Acquired Through Perpetration of a Criminal Offence

Article 114a

In cases of criminal proceedings for criminal offences referred to in chapters XVIII, XXII, XXIII, XXIX and XXXI of this Law, the court can also decide, on basis of Article 114 paragraph (2), to order confiscation material gain for which the prosecutor provides sufficient evidence that there is reasonable suspicion that it was acquired through execution of these criminal offences, and the accused person did not provide evidence to prove that the material gain was acquired legally.”

Article 39

In Article 118, Paragraph (1), after item b) shall be added a new item c) to read as follows:

“c) Confiscation of permits or approvals issued by an authority or status recognized by the decision of the authority;”

The current item c) shall become item d).

In Paragraph (2), item c) shall be amended to read as follows:

“c) Prohibition of obtaining any permits or approvals issued by an authority or status recognized by the decision of the authority.”.

Article 40

Article 125 shall be amended to read as follows:

“Deleting Conviction

Article 125

(1) Provided that the perpetrator is not convicted again of a new criminal offence, there shall be a mandatory deletion of the sentence upon the expiry of the following deadlines:

a) A sentence by which a person who has perpetrated a criminal offence has been released from punishment shall be deleted from the criminal records, provided he does not perpetrate a new criminal offence within the period of one year from the date of entry into force of the verdict.

b) A suspended sentence shall be deleted from the criminal record after the period of one year from the expiration of the probation period has elapsed, unless the person convicted has perpetrated another criminal offence within that period.

c) A fine and imprisonment for a term not exceeding one year shall be deleted from the criminal records after the lapse of the period of three years from the day on which the punishment has been executed, pardoned or amnestied, or barred by the statute of limitations, provided that the convicted person does not perpetrate a new criminal offence within that period.

d) A sentence of imprisonment for a term between a year and three years shall be deleted from the criminal records after the lapse of the period of five years from the day on which the punishment has been executed, pardoned or amnestied, or barred by the statute of limitations, provided that the convicted person does not perpetrate a new criminal offence within that period.

e) A sentence of imprisonment for a term between three years and five years shall be deleted from the criminal records after the lapse of the period of ten years from the day on which the punishment has been executed, pardoned or amnestied, or barred by the statute of limitation, provided that the convicted person does not perpetrate a new criminal offence within that period.

f) A sentence of imprisonment for a term between five years and ten years shall be deleted from the criminal records after the lapse of the period of fifteen years from the day on which the punishment has been executed, pardoned or amnestied, or barred by the statute of limitation, provided that the convicted person does not perpetrate a new criminal offence within that period.

(2) Upon appeal by a convicted person, the court may decide to delete a sentence of imprisonment for a term exceeding ten years, if a period of twenty years has expired from the day on which the punishment has been served, pardoned or amnestied, or barred by the statute of limitations, provided that the convicted person has not perpetrated a new criminal offence within that period.

(3) In deciding on deleting the sentence, the court shall take into account the conduct of the convicted person after serving his sentence, the nature of the criminal offence, and other circumstances that might be relevant to the evaluation of the justifiability of the deletion.

(4) A sentence of long-term imprisonment may not be deleted from the criminal records.

(5) A sentence may not be deleted from the criminal records during criminal proceedings on a new criminal offence.

(6) A sentence cannot be deleted from the criminal records neither during application of security measures nor before full completion of confiscation of material gain acquired through criminal activities.

(7) Upon the deletion of the sentence from the criminal records under the conditions referred to in Paragraphs (1) through (3), it shall be considered that the perpetrator of the criminal offence has no prior convictions.”

Article 41

After Article 125, a new Article 125a shall be added to read as follows:

“Criminal Records Data

Article 125a

(1) Data from the criminal records are not public data.

(2) A citizen has the right to request and obtain data about him from the criminal records if these data are necessary for exercising his rights and interests.

(3) Replacement of the imposed fine with a community service or imprisonment, as well as replacement of imprisonment with the community service or fine shall be registered in the criminal records.”

Article 42

In the title of Article 127, the word “Criminal” shall be deleted.

In Paragraph (3), the words: “referred to in Article 13 of this Code” shall be replaced with the words: “referred to in Article 11 of this Code”, while the text in the parenthesis of this Paragraph (the title of Article 13) shall be deleted.

Article 43

In Article 129, Paragraph (1), the words: “is not criminally liable” shall be replaced with the words: “is not guilty”.

In Paragraph (2), the words: “criminal liability” shall be replaced with the word “culpability”.

Article 44

In Article 130, Paragraph (1), the word “criminally” in front of the word “may be liable”, shall be deleted.

In Paragraph (2) and Paragraph (3), the word “criminal/criminally”, in the front of the word “liable”, shall be deleted.

Article 45

In the title of Article 132, the word “Criminal”, as well as the word “criminal” in the text of the Article and before the word “liability”, shall be deleted.

Article 46

In Article 133, Paragraph (2), the word “criminally”, before the word “responsible”, shall be deleted.

Article 47

In Article 136, after Paragraph (2), a new Paragraph (3) shall be added to read as follows:

“(3) If a fine is not paid within the deadline set forth in the verdict, the procedure for forcible collection shall be implemented immediately.”

Article 48

In Article 141, in item b), the word “economic” shall be deleted.

Article 49

In Article 142, Paragraph (1), the words: “or to obtain certain benefits for economy” shall be replaced with the words: “or to protect or encourage social values.”

Article 50

In the title of Article 143, the word “**Economic**” shall be deleted.

In Paragraph (1), the word “economic” shall be deleted, and the words: “other economic activity” shall be replaced with the words: “of a certain activity”.

In Paragraph (2), the word “economic” shall be deleted, and the words: “prejudicial to the economic and financial operation of other legal persons” shall be replaced with the words: “detrimental to the economic and financial operation of other persons”.

Article 51

In the title of Article 146 and in Paragraph (1), the word “Criminal/criminal” shall be deleted.

In Paragraph 3, item b), the word “economic” shall be deleted.

Article 52

In Article 147, the word “criminally” shall be deleted.

Article 53

Inducing National, Racial or Religious Hatred, Discord or Hostility

In Article 160, Paragraph (1) shall be amended to read as follows:

“(1) Whoever publicly incites or inflames national, racial or religious hatred, discord or hostility among the constituent peoples and others who live in Brcko District,

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

After Paragraph (3) a new Paragraph (4) shall be added to read as follows:

“(4) Materials and articles containing messages referred to in Paragraph 1 of this Article, as well as materials and means used for production, multiplying or distribution thereof, shall be confiscated.”

Article 54

Murder

In Article 163, Paragraph (2), item 3) shall be amended to read as follows:

“(3) deprives another person of life out of hatred;”

Article 55

Grievous Bodily Harm

In Article 169, Paragraph (4) shall be amended to read as follows:

“(4) A person who commits the criminal act referred to in Paragraph 1 of this Article out of hatred, shall be punished with a sentence referred to in Paragraph 3 of this Article.”

Article 56

After Article 190, a new Article 190a shall be added to read as follows:

“Unlawful Withholding of Identity Papers

Article 190a

Whoever, with the aim of limiting the freedom of movement or exercising power over a person unlawfully withholds another person's identification or travel documents,

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

Article 57

Rape

In Article 200, Paragraph (4) shall be amended to read as follows:

“(4) A person who commits criminal offence referred to in Paragraph 1 of this Article due to hatred,

shall be punished with a sentence referred to in Paragraph 1 of this Article.”

Article 58

In the title of Article 233, the words “Possessing and” shall be deleted.

In Article 233, Paragraph (3) shall be deleted.

Paragraph (4) shall become Paragraph (3).

Article 59

After Article 267, a new Article 267a shall be added to read as follows:

“Failure to Pay Taxes

Article 267a

(1) Whoever, by transfer or misappropriation of property, closure of an enterprise or in another way, prevents collection of the declared tax required by tax legislation of Brcko District, provided that the obligation that is evaded exceeds the amount of 50,000 KM, shall be punished by a fine or imprisonment for a term not exceeding three years.

(2) Whoever perpetrates the offense referred to in Paragraph (1) of this Article provided that the evaded tax exceeds the amount of 100,000 KM, shall be punished by imprisonment for a term between one and ten years.

(3) Whoever perpetrates the offense referred to in Paragraph (1) of this Article provided that the evaded tax exceeds the amount of 200,000 KM, shall be punished by imprisonment for a term of not less than three years.

(4) If the perpetrator pays the liabilities referred to in Paragraphs (1), (2) and (3) of this Article, he may be relieved from punishment.”

Article 60

Grand Larceny

In Article 281, Paragraph (1), after item 4), shall be added a new item 5) to read as follows:

“5) by hatred.”

Article 61
Robbery

In Article 282, Paragraph (2) shall be amended to read as follows:

“(2) If, while committing the offence referred to in Paragraph 1 of this Article, a severe bodily injury was inflicted to another with premeditation, or if the robbery is committed out of hatred, or the offence was committed by several persons, or if some weapon or a dangerous object was used, the perpetrator

shall be sentenced to at least five years in prison.”

Article 62
Armed Robbery

In Article 283, Paragraph (2) shall be amended to read as follows:

“(2) If, while committing the offence referred to in Paragraph 1 of this Article, a person severe bodily injury was inflicted to another with premeditation, or if the aggravated robbery is committed out of hatred, or the offence was committed by several persons, or if certain weapon or a dangerous object was used, the perpetrator

shall be sentenced to at least five years in prison.”

Article 63
Damaging Another’s Article

In Article 287, Paragraph (3) shall be amended to read as follows:

“(3) A person who commits criminal offense referred to in Paragraphs 1 and 2 of this Article out of hatred,

shall be sentenced to a prison sentence between six months up to five years.”

Article 64

In Article 317, Paragraph (1), after the words “by shooting from firearms”, the following words shall be added: “or by other action or instrument against general safety,”.

Article 65
Grave Offences against General Safety of People and Property

In Article 322, Paragraph (1) shall be amended to read as follows:

“(1) If the offence referred to in Article 317 (Causing of State of General Danger), Paragraphs 1 to 3, Article 318 (Destroying or Damaging Important Economic Facilities or Public Facilities), Paragraphs 1 and 2, Article 319 (Damaging of Safety Equipment at Work), Paragraphs 1 and 2 and Article 320 (Unlawful and Improper Construction), Paragraph 1 of this Code resulted in grievous bodily harm of a person or large-scale damage of property, or if these offences were committed out of hatred,

the perpetrator shall be sentenced with one to ten years in prison.”

Article 66

In Article 336, the title of the criminal offence (**Criminal Enterprise**) shall be changed to read as follows “**Organized Crime**”.

In Paragraph (1), the words: “as a member of criminal enterprise,“ shall be replaced with the words: „as a member of organized crime group,“.

In Paragraph (2), the words: “as a member of criminal enterprise,“ shall be replaced with the words: „as a member of organized crime group,“.

In Paragraph (3), the words: “criminal enterprise,“ shall be replaced with the words: „organized crime group,“.

In Paragraph (4), the words: “as a member of criminal enterprise,“ shall be replaced with the words: „as a member of organized crime group,“.

In Paragraph (5), the words: “A member of criminal enterprise,“ shall be replaced with the words: „A member of organized crime group,“.

Article 67

In Article 352, Paragraph (2), the word “insulted” shall be deleted, and the words: “to three years” shall be replaced with the words: “to five years”.

Article 68

Article 356 shall be amended to read as follows:

“Violent Behavior

Article 356

(1) A person who jeopardizes peace of other people by rude insult or brutal abuse, by committing violence against another, and in that way provoking significant disturbance and a fear amongst citizens, or largely provoking violation of public peace and order, shall be sentenced with a fine or two years in prison.

(2) If the offence referred to in Paragraph 1 of this Article was committed by two or a group of persons, or if the criminal offence caused severe humiliation or abusing of several persons, or if it resulted in a light bodily injury,

the perpetrator shall be sentenced to prison from three months to three years.”

Article 69

Article 378 shall be amended to read as follows:

“Misappropriation

Article 378

(1) A person who illegally appropriates money, securities or other movables entrusted to him by virtue of his office, or generally, by employment in positions in institutions in Brčko District of Bosnia and Herzegovina or within the legal entity,

shall be sentenced with six months to five years in prison.

(2) If the value of appropriated articles referred to in Paragraph 1 of this Article does not exceed 500 KM, and the perpetrator acted with an aim to obtain lesser value,

the perpetrator shall be sentenced with a fine or one year prison sentence.

(3) If the offence referred to in Paragraph 1 of this Article resulted in acquisition of a property gain exceeding 10,000 KM, the perpetrator shall be sentenced with a prison sentence from one to eight years and if this amount exceeds 50,000 KM,

the perpetrator shall be sentenced with a prison sentence from two to ten years.”

Article 70

Article 380 shall be amended to read as follows:

“Unauthorized Use

Article 380

A person who makes an unauthorized use of money, securities or other movables entrusted to him by virtue of his office or generally, by employment in positions in institutions in Brčko District of Bosnia and Herzegovina or within the legal entity, or who without authorization gives these to another person for use,

shall be sentenced with a fine or prison sentence up to three years.”

Article 71

The Legislative Commission of the Assembly of the Brčko District of Bosnia and Herzegovina is obliged to establish the Consolidated Version of the Criminal Code of the Brčko District of Bosnia and Herzegovina within sixty (60) days from the day of entering into force of this Code.

Article 72

This Code shall enter into force on the eighth day from the day of its publication in the “Official Gazette of the Brčko District of Bosnia and Herzegovina”.