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## Department for Legal Affairs



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

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Pursuant to Article IV.4a of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina at the 69<sup>th</sup> session of the House of Representatives held on 30 December 2009 and the 42<sup>nd</sup> session of the House of Peoples held on 21 January 2010, enacted the following

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

### **Article 1**

Article 1 of the Criminal Code of BiH (Official Gazette of BiH number 3/03, 32/03, 37/03, 54/04, 61/04, 30/05, 53/06, 55/06 and 32/07) shall be amended and read as follows:

### **“General Terms**

#### **Article 1**

- (1) The *criminal legislation* of Bosnia and Herzegovina comprises the criminal justice provisions set forth in this Code and provisions in other laws of Bosnia and Herzegovina.
- (2) The *territory of Bosnia and Herzegovina* means the land, coastal seas 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 Bosnia and Herzegovina 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 administrating 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 Bosnia and Herzegovina.

(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 Bosnia and Herzegovina 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 fourteen years of age.

(12) A *juvenile*, for the purpose of this Code, is a person who has not reached 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 carry a punishment of imprisonment of over three years or more severe punishment, for the purpose of 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* means an information pertaining to the areas of public security, defense, 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 defense 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 organization 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 organization.
- (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 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) *Holocaust* means a crime of genocide or crimes against humanity committed by the German Nazi Regime during the World War II recognized as such by final and binding decisions or judgments of the International Military Tribunal established under the London Treaty of 8 August 1945.

(38) *A mass grave* means an unmarked spot where two or more bodies or human remains are buried or a spot where such bodies or human remains have been subsequently relocated as a result of the perpetration of the criminal offences specified in Article 171 through 180 of this Code.

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

## Article 2

New article 3a shall be added after Article 3 so as to read:

**“Principle of Guilt  
Article 3a**

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

**Article 3**

Article 6 shall be amended to read:

**“The Purpose of Legal Sanctions for Criminal Acts**

**Article 6**

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 7, the words “in compliance with the international law” shall be replaced with words “in compliance with the law and the international law”.

**Article 5**

Article 8 shall be amended so as to read:

**“Applicability of criminal legislation of Bosnia and Herzegovina to those  
perpetrating a criminal offence within the territory of Bosnia and Herzegovina**

**Article 8**

- (1) The criminal legislation of Bosnia and Herzegovina shall apply to anyone who perpetrates a criminal offence within its territory.
- (2) The criminal legislation of Bosnia and Herzegovina shall apply to anyone who perpetrates a criminal offence aboard a domestic vessel, regardless of its location at the time of perpetration of the offence.
- (3) The criminal legislation of Bosnia and Herzegovina shall apply to anyone who perpetrates a criminal offence aboard a domestic civil aircraft while in flight, or aboard a domestic military aircraft, regardless of its location at the time of perpetration of the offence.“

## Article 6

Article 9 shall be amended so as to read:

### **“Applicability of the criminal legislation of Bosnia and Herzegovina to offences perpetrated outside the territory of Bosnia and Herzegovina**

## Article 9

(1) The criminal legislation of Bosnia and Herzegovina shall apply to anyone who, outside of its territory, perpetrates:

- a) Any criminal offence against the integrity of Bosnia and Herzegovina prescribed in Chapter Sixteen of this Code (*Criminal Offences against the Integrity of Bosnia and Herzegovina*);
- b) The criminal offence of Counterfeiting of Money or of Counterfeiting of Securities of Bosnia and Herzegovina, the criminal offence of Counterfeiting of Instruments of Value or Forgery of Trademarks, Measures and Weights issued on the basis of regulations enacted by the institutions of Bosnia and Herzegovina, set forth in Articles 205 through 208 of this Code;
- c) A criminal offence which Bosnia and Herzegovina is bound to punish according to the provisions of international law and international treaties or intergovernmental agreements;
- d) A criminal offence against an official or responsible person in the institutions of Bosnia and Herzegovina, related to his duty.

(2) The criminal legislation of Bosnia and Herzegovina shall apply to a citizen of Bosnia and Herzegovina who, outside the territory of Bosnia and Herzegovina, perpetrates any criminal offence.

(3) The criminal legislation of Bosnia and Herzegovina shall apply to a non-citizen of Bosnia and Herzegovina who, outside the territory of Bosnia and Herzegovina, perpetrates against Bosnia and Herzegovina or its citizen any criminal offence not included in paragraph (1) of this Article.

(4) The criminal legislation of Bosnia and Herzegovina shall apply to a non-citizen of Bosnia and Herzegovina who, outside the territory of Bosnia and Herzegovina, perpetrates against a foreign state or a non-citizen of Bosnia and Herzegovina a criminal offence which, under the law in force in the place of perpetration of the criminal offence, carries a punishment of imprisonment for a term of five years or a more severe punishment.

(5) In the cases referred to in paragraphs (2) and (3) of this Article, the criminal legislation of Bosnia and Herzegovina shall apply only if the perpetrator of the criminal offence is found within the territory of Bosnia and Herzegovina, or has been extradited to it, while in the case referred to in paragraph (4) of this Article, only if the perpetrator is found within the territory of Bosnia and Herzegovina and is not extradited to another country.”

**Article 7**

Article 10 shall be amended so as to read:

**“Applicability of criminal legislation of Bosnia and Herzegovina to juveniles**

**Article 10**

The criminal legislation of Bosnia and Herzegovina shall apply to juveniles pursuant to Chapter X of this Code (*Rules Relating to Educational Recommendations, Educational Measures and Punishment of Juveniles*) and other laws of Bosnia and Herzegovina.”

**Article 8**

Article 11 shall be amended so as to read.

**“Applicability of criminal legislation of Bosnia and Herzegovina to legal persons**

**Article 11**

The criminal legislation of Bosnia and Herzegovina shall apply to legal persons pursuant to Chapter XIV of this Code (*Liability of Legal Persons for Criminal Offences*) and other laws of Bosnia and Herzegovina.”

**Article 9**

Article 12 shall be amended so as to read:

**“Exclusion of applicability of the criminal legislation of Bosnia and Herzegovina to children**

**Article 12**

The criminal legislation of Bosnia and Herzegovina shall not be applied to children.”

**Article 10**

New article 23a shall be added after Article 23 so as to read:

**“Insignificant act**

**Article 23a**

An act shall not be a criminal offense although it has elements of a criminal offence defined under the law if, due to its nature and gravity or the manner of its perpetration or

the insignificance or non-existence of detrimental consequences and a low degree of culpability of the perpetrator, it constitutes an insignificant act.”

### **Article 11**

After Article 25 new article 25a shall be added so as to read:

#### **“Force and threat Article 25a**

- (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 12**

In Article 26 words: "prison sentence of three years and more severe punishment" shall be replaced with the following words: "three years prison sentence or more severe punishment".

### **Article 13**

The title of Article 29 shall be amended so as to read **“Co-perpetration”**.

### **Article 14**

Words: "prison sentence of three years or more severe sentence" in Article 30, paragraph (2) will be replaced with the following words: "three years prison sentence or more severe punishment".

New paragraph (3) shall be added after paragraph (2), so as to read:

“(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 15**

In the title of Article 32 the word “responsibility” shall be replaced by the word “culpability”.

In paragraph (1) the words “criminally responsible” shall be replaced by the word “culpable”.

In paragraph (3) the words “criminal responsibility” shall be replaced by the word “culpability”.

### **Article 16**

The title of Chapter Six shall be amended so as to read “**VI CHAPTER SIX – CULPABILITY**”.

### **Article 17**

Article 33 shall be amended so as to read:

#### **“Content of culpability Article 33**

(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 18**

In Article 34, paragraph (3) the words “criminally responsible” shall be replaced by the words “culpable”, the words “criminal responsibility” shall be replaced by the word “culpability”, while the words in parentheses “(voluntary intoxication)” shall be deleted.

### **Article 19**

Article 37 shall be amended so as to read:

#### **“Mistake of Fact Article 37**

(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 20**

In Article 39, sub-paragraph b), after the word “offences” new wording shall be added so as to read “and to encourage his reformation”.

#### **Article 21**

Article 40 shall be amended so as to read:

#### **“Types of Punishments**

#### **Article 40**

Perpetrator of the criminal offence who has been found guilty may be sentenced to:

- a) imprisonment
- b) long-term imprisonment
- c) fine.”

#### **Article 22**

Article 42 shall be amended so as to read:

#### **“Imprisonment**

#### **Article 42**

- (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 23**

New articles 42a and 42b shall be added after Article 42 so as to read:

### **“Substitution of Imprisonment**

#### **Article 42a**

- (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 42b**

- (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 24**

Words in Article 43 paragraph (1) "imprisonment of maximum six months" shall be replaced with words: "imprisonment up to one year".

Words in paragraph (3): "sixty working days maximum" shall be replaced with words: "ninety working days maximum".

## **Article 25**

In Article 45, paragraph (1) the words “of one year or more severe punishment” shall be replaced by the words “exceeding one year or more severe punishment”.

### **Article 26**

In Article 46, paragraph (3) number “150” shall be replaced with number “500” and number “50,000” with number “100,000”.

In paragraph (8) number “2” shall be replaced by the word “one”.

### **Article 27**

In Article 47, paragraph (2), the words “paid in full or in part” shall be replaced by word “paid”.

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

### **Article 28**

In Article 48, paragraph (1), the words “criminal liability” shall be replaced with the word “culpability”.

### **Article 29**

In Article 49, sub-paragraph a), word "and" shall be deleted.

### **Article 30**

In Article 50, paragraph (1), sub-paragraph g) number “150” shall be replaced with number “500”.

### **Article 31**

In Article 53, paragraph (1) shall be amended to read:

“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), sub-paragraph a) shall be amended to read:

“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 sub-paragraph b) new sub-paragraph c) shall be added to read:

“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.”

Current sub-paragraphs c) and d) shall become sub-paragraphs d) and e).

### **Article 32**

Paragraph (3) of Article 55 shall be deleted.

### **Article 33**

In Article 56, paragraph (2), number “50” shall be replaced with number “100”.

### **Article 34**

In Article 59, paragraph (2) the words “criminal responsibility” shall be replaced by the word “culpability”.

Paragraph (4) shall be deleted.

Current paragraphs (5), (6) and (7) shall become paragraphs (4), (5) and (6).

### **Article 35**

In Article 71, paragraph (1) words: "in a condition of significantly reduced mental capacity or reduced mental capacity" shall be replaced with words: "in a condition of significantly reduced or reduced mental capacity".

Paragraph (4) shall be deleted.

### **Article 36**

Paragraph (3) in Article 72 shall be deleted.

### **Article 37**

In Article 73, paragraph (1) words: "criminal offense with regard to property entrusted or accessible to him by virtue of his occupation, activity or duty" shall be replaced with words: "criminal offense in connection with his occupation, activity or duty" and words: "new criminal act committed through abuse of his occupation, activity or duty with regard to property entrusted or accessible to him" shall be replaced with words: "new criminal offense in connection with his occupation, activity or duty".

### **Article 38**

In Article 74 paragraph (1) word "absolutely" shall be deleted.

Paragraph (3) shall be amended to read:

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

#### **Article 39**

In Article 95 the words "criminally liable" shall be deleted and the words "the high degree of criminal responsibility" replaced with the words "the degree of culpability".

#### **Article 40**

In Article 110 paragraph (3) shall be deleted.

#### **Article 41**

New article 110a shall be added after Article 110 so as to read:

#### **"Expanded Confiscation of Material Gain Acquired Through Perpetration of a Criminal Offence**

#### **Article 110a**

In cases of criminal proceedings for criminal offences referred to in chapters XVII, XVIII, XIX, XXI, XXI A and XXII of this Law, the court can also decide, on basis of Article 11 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 42**

In Article 114 paragraph (1), sub-paragraph c) is added after sub-paragraph b) in the following manner:

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

Current sub-paragraph c) shall become sub-paragraph d).

In paragraph (2) sub-paragraph c) is changed as to read:

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

## **Article 43**

Article 121 shall be amended to read:

### **“Deleting Conviction**

#### **Article 121**

(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 44**

New article 121a shall be added after Article 121 to read:

#### **“Criminal Records Data Article 121a**

(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 45**

In the title of Article 123 the word “criminal” shall be deleted.

In paragraph (3), words: "under conditions referred to in Article 12" shall be replaced with words: "under conditions referred to in Article 9".

#### **Article 46**

In paragraph (1) of Article 125, words “is not criminally liable” shall be replaced with words “not guilty”.

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

#### **Article 47**

In Article 126, paragraph (1), the word “criminally” before the word “liable” shall be deleted.

In paragraphs (2) and (3) the word “criminal” before the word “liability” shall be deleted.

#### **Article 48**

In the title of Article 128 and in the text of the Article before the word “liable” the word “criminal” shall be deleted.

#### **Article 49**

In Article 129, paragraph (2) the word “criminally” before the word “liable” shall be deleted.

#### **Article 50**

New paragraph (3) shall be added in Article 132 so as to read:

“(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 51**

In Article 137, sub-paragraph b) the word “economic” shall be deleted.

#### **Article 52**

In Article 138 words: “or certain benefits for economy” shall be replaced with words: “or for protection or encouragement of social values.”

#### **Article 53**

Word “economic” shall be deleted from the title of Article 139.

In paragraph (1), words: “Security measures of a ban on certain economic activities” shall be replaced with the following words: “Security measures of a ban on a certain activity”, while words: “or from performing other economic activity” shall be replaced with words: “or from performing other business i.e. activities.”

In paragraph (2), words: "performing of a certain economic activity" shall be replaced with words: "performing of a certain activity", while words: "prejudicial to the economic and financial operation of other legal persons" shall be replaced with words: "prejudicial to the economic and financial operation of other persons ".

#### **Article 54**

In the title of Article 142 and in paragraph (1) therein the word “criminal” shall be deleted.

In paragraph (3), sub-paragraph b) word "economic" shall be deleted.

#### **Article 55**

In Article 143 the word “criminally” shall be deleted. (*Interpreter’s note: the word “criminally” does not appear in the English version of the text*)

#### **Article 56**

New articles 145a and 145b shall be added after Article 145 so as to read:

#### **“Inciting national, racial and religious hatred, discord or hostility**

##### **Article 145a**

(1) Whoever publicly incites or inflames national, racial or religious hatred, discord or hostility among the constituent peoples and others who live in Bosnia and Herzegovina shall be punished by imprisonment for a term between three months and three years.

(2) Whoever perpetrates the criminal offence referred to in paragraph (1) by abuse of office or authority shall be punished by imprisonment for a term between one and ten years.

#### **“Damaging or Destroying Religious Facilities**

##### **Article 145b**

Whoever damages or renders useless or destroys a religious facility shall be punished by imprisonment for a term between six months and five years.”

#### **Article 57**

After Article 147, a new Article 147a shall be added so as to read:

#### **"Unauthorized Wiretapping and Audio or Video Recording**

##### **Article 147a**

(1) An official or responsible person in the institutions of Bosnia and Herzegovina who, by using special devices, without authorization wiretaps or audio records a conversation or a statement which was not intended for him, or enables an unauthorized person to become familiar with a conversation or a statement that was wiretapped or audio recorded without authorization, or who, without authorization, wiretaps or records another person's messages in a computer system, 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 the official or responsible person in the institutions of Bosnia and Herzegovina who takes a photograph, makes a video recording or any other recording of another person without his consent on his premises or who communicates such recording directly to a third party or shows it to the third party, or enables the third party in another way to be directly acquainted with the record."

#### **Article 58**

In Article 148 the words "who abuses his position or authority and" shall be replaced by the words "by abusing his position or authority", and the word "one" shall be replaced by the word "three".

#### **Article 59**

After Article 149, a new Article 149a shall be added so as to read:

#### ***"Unlawful Withholding of Identity Papers***

##### **Article 149a**

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 60**

In Article 151 Paragraph (1), the words "or imprisonment for a term not exceeding one year" shall be replaced by the words "and imprisonment for a term not exceeding three years".

### **Article 61**

In Article 152, after the words "within Bosnia and Herzegovina" and a comma, the words "votes again" shall be added; after the words "under the name" a comma shall be added, and the words "or tries to vote again after having voted once, shall be punished by a fine or imprisonment for a term not exceeding three years", shall be replaced by the words "shall be punished by imprisonment for a term between three months and five years."

### **Article 62**

In Article 154, after the word "discloses" the words "as the final" shall be added.

### **Article 63**

In Article 162a Paragraph (2), the words "at any level" shall be replaced by the words "in any way".

### **Article 64**

In Article 164 paragraph 3 words: "from par. 1 and 2" shall be replaced with words "from paragraphs 1 and 2".

In paragraph 4, words "from par. 1 and 3" shall be replaced with words: "from paragraphs 1 and 3".

In paragraph 5, words: "from par. 1, 2 and 3" shall be replaced with words: "from paragraphs 1, 2 and 3".

In paragraph 6, words: "from par. 1 and 4" shall be replaced with words: from paragraphs 1 and 4".

In paragraph 8, words: "Provisions from par." shall be replaced with words: "Provisions from paragraph".

### **Article 65**

In Article 170, the words "between one and ten years" shall be replaced by the words "not less than three years".

## **Article 66**

In Article 172 Paragraph (2) Sub-paragraph e), the word "by the accused or under supervision of the accused" shall be replaced with words "by the perpetrator or under supervision of the perpetrator".

## **Article 67**

The title of Article 180 shall be amended so as to read "**Individual and Command Responsibility**".

In Paragraph (1), in the first sentence, the word "instigated" shall be deleted, and the words "shall be personally responsible" shall be replaced by the words "shall be guilty"; the words "of any accused person" shall be replaced by the words "of any person", and the words "criminal responsibility" shall be replaced by the word "guilt".

In Paragraph (2) and (3) the words "criminal responsibility" shall be replaced by the word "guilt".

## **Article 68**

In Article 185, Paragraph (2) shall be amended so as to read:

"(2) Whoever, in violation of the rules of international law, buys, sells, hands over to another person or mediates in the purchase, sale or handing over of an individual younger than 18 years of age, for the purpose of adoption, removal of organs or, exploitation by labor or for other illicit purposes, shall be punished by imprisonment for a term of not less than five years."

## **Article 69**

Article 186 shall be amended so as to read:

### ***"Human Trafficking***

## **Article 186**

(1) Whoever, by use of force or threat of use of force or other forms of coercion, abduction, fraud or deception, abuse of power or influence or a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, recruits, transports, transfers, harbors or receives a person for the purpose of the prostitution of that person or other forms of sexual exploitation, forced labor or services, slavery or a similar status, servitude or the removal of organs or of some other type of exploitation, shall be punished by imprisonment for a term of not less than three years.

(2) Whoever recruits, solicits, transports, transfers, harbors or receives a person younger than 18 years of age with the purpose of exploitation referred to in Paragraph 1 of this Article,

shall be punished by imprisonment for a term for at least five years.

(3) If the criminal offense referred to in Paragraphs (1) and (2) of this Article is committed by an official person while executing official duty, the perpetrator shall be punished by imprisonment for a term of not less than five years.

(4) Whoever counterfeits, procures or issues travel or identification documents, or uses, holds, seizes, alters, damages or destroys travel or identification documents of another person with the purpose of facilitating human trafficking, shall be punished by imprisonment for a term between one and five years.

(5) Whoever organizes or directs at any level the group of people for the purpose of perpetration of the criminal offenses referred to in Paragraphs (1) or (2) of this Article, shall be punished by imprisonment for a term of not less than ten years or long-term imprisonment.

(6) Whoever uses the services of the victims of human trafficking, shall be punished by imprisonment for a term of between six months and five years.

(7) If the perpetration of the criminal offense referred to in Paragraphs (1) and (2) caused serious health damage, grievous bodily harm or the death of the persons referred to in Paragraphs (1) and (2),

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

(8) Items and conveyances used for the perpetration of the offense shall be seized, while the facilities and premises used for human trafficking, without prejudice to the rights of the third parties, may be closed temporarily or permanently.

(9) Whether the person who is a victim of human trafficking consented to the exploitation bears no relevance to the existence of the criminal offense of human trafficking.”

### **Article 70**

In Article 187 Paragraph (2), the words "six months and five years" shall be replaced by the words "one and ten years".

Paragraph (3) shall be deleted.

The current Paragraph (4) shall become Paragraph (3).

## **Article 71**

Article 188 shall be deleted.

## **Article 72**

Article 189 shall be amended so as to read:

### ***"Smuggling of Persons***

#### **Article 189**

(1) Whoever, with the aim of gaining profit for themselves or another, illicitly transports or enables the transport of one or more migrants or other persons across the state border, or whoever creates, procures or possesses counterfeit travel or identity documents for that purpose, shall be punished by imprisonment for a term of between one and ten years.

(2) Whoever recruits, transports, hides, harbors or in any other way enables the stay of the smuggled persons in Bosnia and Herzegovina, shall be punished by imprisonment for a term of between six months and five years.

(3) If the criminal offense referred to in Paragraphs (1) and (2) of this Article is committed by an organized group or an organized criminal group, by the abuse of official authority or in such a manner which poses a threat to the life, health or safety of the persons smuggled, or if the smuggled persons were intended for exploitation or treated in another inhuman or degrading manner, the perpetrator shall be punished by imprisonment for a term of between three and fifteen years.

(4) The punishment referred to in Paragraph (3) of this Article shall also be imposed on whoever subjects an individual younger than 18 years of age to the offense referred to in Paragraphs (1) and (2).

(5) If the offense referred to in Paragraphs (1) and (2) of this Articles have caused the death of one or more smuggled persons, the perpetrator shall be punished by imprisonment for a term of not less than five years.

(6) Items and conveyances used for the perpetration of the offense shall be seized.”

## **Article 73**

After Article 189, a new Article 189a shall be added so as to read:

### ***"Organizing a Group or an Association for the Purpose of Perpetrating the Criminal Offenses of Human Trafficking and Smuggling of Migrants***

### **Article 189a**

(1) Whoever organizes a group or another association for the purpose of perpetrating the criminal offenses referred to in Articles 186 (*Trafficking in Persons*) and 189 (*Smuggling of Persons*) of this Code, shall be punished by imprisonment for a term of not less than three years.

(2) Whoever becomes a member of the group or another association referred to in Paragraph (1) of this Article or in any other way assists the group or the association, shall be punished by imprisonment for a term of not less than one year.

(3) The provisions set forth in Article 250 (*Organized Crime*) of this Code shall apply to organizers or leaders and members of the organized group or another association that have perpetrated the criminal offenses referred to in Paragraph (1) of this Article."

### **Article 74**

N/A to English text.

### **Article 75**

In Article 191 Paragraph (1), after the word "compel" the words "Bosnia and Herzegovina" and a comma shall be added, the word "a" shall be replaced by the word "another" and the words "between one and ten years" shall be replaced by the words "not less than three years".

### **Article 76**

In Article 192 Paragraph (1), the words "between one and ten years" shall be replaced by the words "not less than three years".

### **Article 77**

In Article 193 Paragraph (1), the words "between one and ten years" shall be replaced by the words "not less than three years".

After Paragraph (5), a new Paragraph (6) shall be added so as to read:

"(6) Arms, military equipment, products of dual use, as well as the instruments used for their transit and trade/distribution shall be seized."

### **Article 78**

In Article 193a paragraph 1 words: "is creating and improving, producing, purchasing, piling up or storing" shall be replaced with words: "creates and improves, produces,

procures, piles up or stores", while words: "or is directly transferring to someone else" shall be replaced with words: "or transfers directly to someone else".

After paragraph 6, new paragraph 7 shall read:

"(7) Chemical or biological weapon, or any other means for fighting is prohibited under the international law, and means for control of disturbance from this article, as well as means for their transportation and dissemination, shall be confiscated".

#### **Article 79**

In Article 193b Paragraph (1), the abbreviation "CWC", used twice in the vernacular text, shall be replaced by the word "Convention".

After paragraph 3, new paragraph 4 shall inserted with the following working:

"(4) Chemicals from this article shall be confiscated".

#### **Article 80**

The title of Article 193c shall be amended so as to read: "**Activities Contrary to the Regimes Prescribed by the Law on the Implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction**".

In Paragraphs (1), (2) and (3), the abbreviation "CWC" shall be replaced by the word "Convention".

In paragraph 3, word "storing" shall be replaced with word "stores".

New paragraph 4 is added after paragraph 3 with the following wording:

"(4) Chemicals from paragraph 3 shall be confiscated".

#### **Article 81**

Article 194 shall be amended so as to read:

#### ***"Illicit Procurement and Disposal of Nuclear Material***

#### **Article 194**

(1) Whoever, without authorization, procures, receives, hands over to another or enables another to get in possession of or possess, use, transport, process, store, dispose of or proliferate nuclear or other radioactive material or device, shall be punished by imprisonment for a term not exceeding five years.

(2) Whoever appropriates nuclear or other radioactive material or device by theft, fraud, use of force, threat or any other form of intimidation, shall be punished by imprisonment for a term between one and ten years.

(3) Whoever, by perpetrating the acts referred to in Paragraphs (1) and (2) of this Article, causes risk to human lives or people's health or property or environment on a large scale, shall be punished by imprisonment for a term of not less than three years.

(4) If the perpetration of the criminal offense referred to in Paragraphs (1) through (3) of this Article has resulted in the death of one or more persons, or damage to property or environment on a large scale, the perpetrator shall be punished by imprisonment for a term of not less than five years.

(5) If the criminal offense referred to in Paragraphs (1) and (3) of this Article is perpetrated by negligence, the perpetrator shall be punished by imprisonment for a term not exceeding three years.

(6) If the criminal offense referred to in Paragraph (4) of this Article is perpetrated by negligence, the perpetrator shall be punished by imprisonment for a term not exceeding ten years.

(7) Whoever, in order to compel a state, international organization or a natural or legal person to perform or refrain from performing an act, threatens to endanger the lives of people or property on a large scale through the use of nuclear material, shall be punished by imprisonment for a term of not less than three years."

(8) Nuclear or other radioactive material or device referred to in this Article and means for their transport shall be confiscated."

## **Article 82**

After Article 194, a new Article 194a shall be added so as to read:

### ***"Endangering a Nuclear Facility*** **Article 194a**

(1) Whoever perpetrates an act aimed at obstructing the operation of a nuclear facility, or uses or damages a nuclear facility in the manner causing a risk of leakage of nuclear or other radioactive material, shall be punished by imprisonment for a term between one and five years.

(2) Whoever, by perpetrating the act referred to in Paragraph (1) of this Article, causes threat to human life or health or property or environment on a large scale, shall be punished by imprisonment for a term of not less than one year.

(3) Whoever perpetrates the criminal offense referred to in Paragraphs (1) and (2) of this Article by negligence, shall be punished by a fine or imprisonment for a term not exceeding three years.

(4) If the perpetration of the criminal offense referred to in Paragraphs (1) and (2) of this Article has resulted in the death of one or more persons, or damage to property or environment on a large scale,

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

(5) Whoever perpetrates the criminal offense referred to in Paragraph (4) of this Article by negligence,

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

(6) Whoever threatens to perpetrate the act referred to in Paragraphs (1) and (2) of this Article,

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

### **Article 83**

In Article 195 Paragraph (1), the words "between one and ten years" shall be replaced by the words "at least three years".

In Paragraph (2), the words "three years" shall be replaced by the words "five years".

In Paragraph (3), the words "six months and five years" shall be replaced by the words "one and ten years".

### **Article 84**

The title of Article 197 shall be amended so as to read, "***Hijacking an Aircraft or a Ship or Occupying a Fixed Platform***".

In Paragraph (1), after the word "type" the words "or a fixed platform" shall be added.

In Paragraph (2), after the word "vessel" the words "or the fixed platform" shall be added.

### **Article 85**

In the title of Article 198, after the word "navigation" the words "or fixed platforms" shall be added.

In Paragraph (1), the words "communicates false information regarding the flight of the aircraft" shall be replaced by the words "communicates the information he knows is false".

In Paragraph (2), the word "employed" shall be deleted.

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

"(3) The punishment referred to in Paragraph (1) of this Article shall be imposed on whoever performs violence against a person aboard a ship or a vessel or a fixed platform, destroys a ship or a vessel or a fixed platform, causes damage to a ship, a vessel or to its cargo or a fixed platform, places or causes to be placed on a ship or a vessel or a fixed platform, by any means whatsoever, an explosive or other device or substance capable of destroying or damaging the ship, the vessel or its cargo or the fixed platform, destroys or damages maritime navigational facilities or interferes with their operation, communicates the information he knows is false or perpetrates another act of violence, endangering thereby the safe navigation or the safety of the voyage of the ship or the safety of the vessel or the fixed platform."

In Paragraphs (5) and (7) after the word "vessel" the words "or fixed platform" shall be added.

### **Article 86**

In Article 201 Paragraph (1), the words "three years" shall be replaced by the words "five years".

In Paragraph (2), the word "five" shall be replaced by the word "eight".

After Paragraph (3), a new Paragraph (4) shall be added, which shall read:

"(4) Whoever procures or prepares the instruments or removes the obstacles or undertakes some other action thereby creating conditions for the perpetration of the criminal offense referred to in Paragraph (1) of this Article, shall be punished by imprisonment for a term between one and ten years."

In the current Paragraph (4), which shall become Paragraph (5), the word "intentional" shall be deleted.

### **Article 87**

Article 202 shall be amended so as to read:

#### ***"Funding of Terrorist Activities***

### **Article 202**

(1) Whoever by any means, directly or indirectly, provides or collects funds aiming to use them or knowing that they are to be used, in full or in part, in order to perpetrate:

a) A criminal offense referred to in Article 191 (*Taking Hostages*), 192 (*Endangering Internationally Protected Persons*), 194 (*Illicit Procurement and Disposal of Nuclear Material*), 194a (*Endangering a Nuclear Facility*), 196 (*Piracy*), 197 (*Hijacking an Aircraft or a Ship or Occupying a Fixed Platform*), 198 (*Endangering the Safety of Air Traffic and Maritime Navigation or Fixed Platforms*), 199 (*Destruction and Removal of Signal Devices Utilized for Safety of the Air Traffic*), 200 (*Misuse of Telecommunication Signals*), 201 (*Terrorism*), 202a (*Public Inciting to Terrorist Activities*), 202b (*Recruiting for Terrorist Activities*), and 202c (*Training for Terrorist Activities*) of this Code;

b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking active part in the hostilities in an armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or compel the authorities of Bosnia and Herzegovina or any other government or an international organization to perform or to refrain from performing any act,

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

(2) The collected funds designated for the perpetration of or generated through the perpetration of the criminal offense referred to in Paragraph (1) of this Article, shall be seized."

## **Article 88**

After Article 202, new Articles 202a, 202b, 202c and 202d shall be added, which shall read:

### ***"Public Incitement to Terrorist Activities***

#### **Article 202a**

Whoever publicly, on the mass media, disseminates or in any other way communicates a message to the public whose aim is to incite another to perpetrate any of the criminal offenses referred to in Article 191 (*Taking Hostages*), 192 (*Endangering Internationally Protected Persons*), 194 (*Illicit Procurement and Disposal of Nuclear Material*), 194a (*Endangering a Nuclear Facility*), 196 (*Piracy*), 197 (*Hijacking an Aircraft or a Ship or Occupying a Fixed Platform*), 198 (*Endangering the Safety of Air Traffic and Maritime Navigation or Fixed Platforms*), 199 (*Destruction and Removal of Signal Devices Utilized for Safety of the Air Traffic*), 200 (*Misuse of Telecommunication Signals*), 201 (*Terrorism*), 202 (*Funding of Terrorist Activities*), 202b (*Recruiting for Terrorist Activities*), 202c (*Training for Terrorist Activities*), and 202d (*Organizing a Terrorist Group*) of this Code, shall be punished by imprisonment for a term of not less than three years.

### ***Recruitment for Terrorist Activities***

#### **Article 202b**

Whoever recruits or incites another to perpetrate or participate or aide in the perpetration of or to join a terrorist group with the aim of perpetrating any of the criminal offenses referred to in Article 191 (*Taking Hostages*), 192 (*Endangering Internationally Protected Persons*), 194 (*Illicit Procurement and Disposal of Nuclear Material*), 194a (*Endangering a Nuclear Facility*), 196 (*Piracy*), 197 (*Hijacking an Aircraft or a Ship or Occupying a Fixed Platform*), 198 (*Endangering the Safety of Air Traffic and Maritime Navigation or Fixed Platforms*), 199 (*Destruction and Removal of Signal Devices Utilized for Safety of the Air Traffic*), 200 (*Misuse of Telecommunication Signals*), 201

(*Terrorism*), 202 (*Funding of Terrorist Activities*), 202a (*Public Inciting to Terrorist Activities*), and 202c (*Training for Terrorist Activities*) of this Code, shall be punished by imprisonment for a term of not less than three years.

### ***Training for Terrorist Activities***

#### **Article 202c**

(1) Whoever trains another person to make or use explosives, firearms or other weapons or harmful or hazardous substances or explosive devices or trains them to apply other specific methods, techniques or skills with the aim of perpetrating any of the criminal offenses referred to in Article 191 (*Taking Hostages*), 192 (*Endangering Internationally Protected Persons*), 194 (*Illicit Procurement and Disposal of Nuclear Material*), 194a (*Endangering a Nuclear Facility*), 196 (*Piracy*), 197 (*Hijacking an Aircraft or a Ship or Occupying a Fixed Platform*), 198 (*Endangering the Safety of Air Traffic and Maritime Navigation or Fixed Platforms*), 199 (*Destruction and Removal of Signal Devices Utilized for Safety of the Air Traffic*), 200 (*Misuse of Telecommunication Signals*), 201 (*Terrorism*), 202 (*Funding of Terrorist Activities*), 202a (*Public Inciting to Terrorist Activities*), and 202b (*Recruiting for Terrorist Activities*) of this Code, shall be punished by imprisonment for a term of not less than three years.

(2) The punishment referred to in Paragraph (1) of this Article shall also be imposed on whoever provides resources for the training, or in any way renders available premises or other space with the knowledge that they would be used for the perpetration of the criminal offense referred to in Paragraph (1) of this Article.

### ***Organizing a Terrorist Group***

#### **Article 202d**

(1) Whoever organizes a terrorist group or in another way brings together not less than three persons for the purpose of perpetration of any of the criminal offenses referred to in Article 191 (*Taking Hostages*), 192 (*Endangering Internationally Protected Persons*), 194 (*Illicit Procurement and Disposal of Nuclear Material*), 194a (*Endangering a Nuclear Facility*), 196 (*Piracy*), 197 (*Hijacking an Aircraft or a Ship or Occupying a Fixed Platform*), 198 (*Endangering the Safety of Air Traffic and Maritime Navigation or Fixed Platforms*), 199 (*Destruction and Removal of Signal Devices Utilized for Safety of the Air Traffic*), 200 (*Misuse of Telecommunication Signals*), 201 (*Terrorism*), 202 (*Funding of Terrorist Activities*), 202a (*Public Inciting to Terrorist Activities*), 202b (*Recruiting for Terrorist Activities*), and 202c (*Training for Terrorist Activities*) of this Code, shall be punished by imprisonment for a term of not less than five years.

(2) Whoever becomes a member of the group referred to in Paragraph (1) of this Article or in any other way participates in the activities of a terrorist group, including providing

financial or any other assistance, shall be punished by imprisonment for a term of not less than three years.

(3) A member of the group referred to in Paragraph (1) of this Article who informs on the group before perpetrating a criminal offense as a member of the group or for the group, shall be punished by a fine or imprisonment for a term not exceeding three years, but may also be relieved from punishment."

### **Article 89**

In Article 209 Paragraph (1), the words "six months and five years" shall be replaced by the words "one and eight years".

After Paragraph (1), a new Paragraph (2) shall be added so as to read:

"(2) If the perpetrator of the act referred to in Paragraph (1) is also a perpetrator of or an accomplice to the criminal offense whose perpetration resulted in the money or property gain referred to in the previous Paragraph, the perpetrator shall be punished by imprisonment for a term between one and ten years."

In the current Paragraph (2), which shall become Paragraph (3), the number "50,000" shall be replaced by the number "200,000", and the words "between one and ten years" shall be replaced by the words "not less than three years".

The current Paragraphs (3) and (4) shall become Paragraphs (4) and (5).

In paragraph 5, words: "from paragraph 1 to 3 of this Article" shall be replaced with words: "from paragraphs 1 to 4 of this Article."

### **Article 90**

Article 210 shall be amended so as to read:

#### ***"Tax Evasion or Fraud***

### **Article 210**

(1) Whoever evades the payment of duties required under the tax legislation of Bosnia and Herzegovina by failing to submit the required information, or by providing false information on the taxable income earned or on the other facts relevant to the determination of the amount of the tax liabilities, provided that the obligation that is evaded exceeds the amount of 10,000 KM,

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

(2) The punishment referred to in Paragraph (1) of this Article shall also be imposed on whoever, with the aim of exercising the right to a refund or indirect tax credit required under the tax legislation of Bosnia and Herzegovina, files a tax return with false information on the amount of refund or indirect tax credit that exceeds 10,000 KM.

(3) Whoever perpetrates the offense referred to in Paragraph (1) of this Article provided that the evaded obligation exceeds the amount of 50,000 KM, or whoever perpetrates the offense referred to in Paragraph (2) of this Article provided that the requested refund or indirect tax credit exceeds the amount of 50,000 KM, shall be punished by imprisonment for a term between one and ten years.

(4) Whoever perpetrates the offense referred to in Paragraph (1) of this Article provided that the evaded obligation exceeds the amount of 200,000 KM, or whoever perpetrates the offense referred to in Paragraph (2) of this Article provided that the requested refund or indirect tax credit exceeds the amount of 200,000 KM, shall be punished by imprisonment for a term of not less than three years."

### **Article 91**

After Article 210, new Articles 210a and 210b shall be added, which shall read:

#### **"Illicit Trade in Excise Goods**

##### **Article 210a**

(1) Whoever unlawfully manufactures, trades in, or sells products not marked with control and tax stamps in the manner required by the tax legislation of Bosnia and Herzegovina, shall be punished by imprisonment for a term between six months and five years.

(2) The products referred to in Paragraph (1) of this Article shall be seized.

#### **Unlawful Storage of Goods**

##### **Article 210b**

(1) Whoever stores the goods taxable under the tax legislation of Bosnia and Herzegovina on the premises not registered for that purpose in accordance with the law, or whoever allows for goods to be stored on his premises that are not registered for that purpose, shall be punished by a fine or imprisonment for a term not exceeding three years.

(2) The punishment referred to in Paragraph (1) of this Article shall also be imposed on whoever, on the premises registered for storing goods in accordance with the law, stores the goods taxable under the tax legislation of Bosnia and Herzegovina which are not accompanied by the required documentation on the origin and the taxes paid."

### **Article 92**

Article 211 shall be amended so as to read:

**"Failure to Pay Taxes  
Article 211**

(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 Bosnia and Herzegovina, 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 93**

In Article 214, paragraph 4 shall be changed in the following manner:

"4 Goods, substances and other objects from paragraph 1 to 3 shall be confiscated".

In paragraph 5, word "vehicle" shall be replaced with words: "mean of transport".

**Article 94**

In Article 217 Paragraphs (1), (2) and (3), after the words "a foreign official person" the words "or an international official" shall be added, and after the word "benefit", appearing twice, the words "for himself or another person" shall be added.

**Article 95**

In Article 218 Paragraphs (1), (2) and (3), after the words "a foreign official person" the words "or an international official" shall be added.

**Article 96**

In Article 219 after paragraph 3, paragraph 4 is added in the following manner:

"4 Any received reward or some other benefit shall be confiscated".

#### **Article 97**

In Article 220, after paragraph 3, paragraph 4 is added in the following manner:

"4 Any gained benefit shall be confiscated".

#### **Article 98**

In Article 221, after paragraph 3, paragraph 4 is added in the following manner:

"4 Money, securities or other mobile items as well as gained benefit shall be confiscated".

#### **Article 99**

In Article 222, after paragraph 3, paragraph 4 is added in the following manner:

"4 Gained benefit in property shall be confiscated."

#### **Article 100**

In Article 224 Paragraph (1), the words "a fine or imprisonment for a term not exceeding three years" shall be replaced by the words "imprisonment for a term between three months and five years".

In Paragraph (2), the words "six months and five years" shall be replaced by the words "one and ten years".

#### **Article 101**

In Article 228, the grammatical aspect of the verb "enable" shall be changed (Note: the latter amendment n/a to English text) and the words "six months and five years" shall be replaced by the words "one and ten years".

#### **Article 102**

The title shall be added to Article 231a which shall read "**Failure to Inform of the Location of a Mass Grave**", and in the text of the Article the words "mass grave" shall be replaced by the words "location of a mass grave".

#### **Article 103**

In Article 237 Paragraph (1), the words "a fine or imprisonment for a term not exceeding one year" shall be replaced by the words "imprisonment for a term not exceeding three years".

In Paragraph (2), the words "a fine or imprisonment for a term not exceeding three years" shall be replaced by the words "imprisonment for a term between six months and five years".

#### **Article 104**

In Article 238, after the words "Constitutional Court of Bosnia and Herzegovina" the comma shall be replaced by the word "or", and the words "or the Human Rights Chamber" shall be deleted.

#### **Article 105**

The title of Article 239 shall be amended so as to read "**Failure to Enforce Decisions of the Constitutional Court of Bosnia and Herzegovina, Court of Bosnia and Herzegovina, Human Rights Chamber and European Court of Human Rights**".

In the text of the Article, after the words "Court of Bosnia and Herzegovina" a comma shall be added, the word "or" shall be deleted, and after the words "Human Rights Chamber of Bosnia and Herzegovina" the words "or European Court of Human Rights" shall be added.

#### **Article 106**

In Article 241 Paragraph (2), the words "between one and ten years" shall be replaced by the words "not less than three years".

#### **Article 107**

After Article 241, new Articles 241a and 241b shall be added, which shall read:

### **"Obstructing an Official Person in Execution of Official Duty**

#### **Article 241a**

(1) Whoever, by force or threat of immediate use of force, prevents an official person in the institutions of Bosnia and Herzegovina from performing an official act falling within the scope of his authority or, by using the same means, coerces him to perform an official act,

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

(2) If, by the criminal offense referred to in Paragraph (1) of this Article, the official person is maltreated or a minor bodily injury is inflicted upon him, or the criminal offense has been perpetrated by threatening to use weapons,

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

(3) Whoever perpetrates the criminal offense referred to in Paragraphs (1) and (2) of this Article against an official person carrying out the work related to the security of Bosnia and Herzegovina, to the apprehension of perpetrators of criminal offenses or to the guarding of confined persons,

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

(4) If the perpetrator of the criminal offense referred to in Paragraphs (1) through (3) of this Article has been provoked by illegal or rude treatment on the part of the official person,

he may be relieved of punishment.

**Attack against an Official Person while Carrying out Security Work, Discovering or  
Apprehending Perpetrators of Criminal Offenses**

**Article 241b**

(1) Whoever attacks or seriously threatens to attack an official person of the institutions of Bosnia and Herzegovina or a person who assists an official person in carrying out work related to the security of Bosnia and Herzegovina, discovering or apprehending perpetrators of criminal offenses or to the guarding of confined persons,

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

(2) If, by the criminal offense referred to in Paragraph (1) of this Article, a minor bodily injury is inflicted upon the official person or upon the person who assists him, or if the criminal offense referred to in Paragraph (1) of this Article is perpetrated with the threat to use weapons,

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

(3) If, by the criminal offense referred to in Paragraph (1) of this Article, a serious bodily injury is inflicted upon the official person or upon the person who assists him,

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

(4) If the perpetrator of the criminal offense referred to in Paragraphs (1) through (3) of this Article has been provoked by illegal or rude treatment on the part of the official person or the person who assists him,

he may be relieved of punishment."

#### **Article 108**

In Article 249 Paragraph (1), the words "for which a punishment of imprisonment of three years or a more severe punishment may be imposed" and a comma shall be deleted, and the words "six months and five years" shall be replaced by the words "one and ten years".

In Paragraph (2), the word "one" shall be replaced by the word "three".

#### **Article 109**

In Article 250 Paragraph (1), (2), (3), (4) and (5), the words "organized criminal group" in appropriate cases in the vernacular text shall be replaced by the words "organized crime group" in the appropriate case.

In Paragraph (2), the words "three years" shall be replaced by the words "five years".

In Paragraph (5), the words "criminal group" at the end of the Paragraph shall be replaced by the words "that group".

#### **Article 110**

The Constitutional and Legal Affairs Committee of the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina and the Constitutional and Legal Affairs Committee of the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina shall be assigned to present the consolidated text of the Criminal Code of Bosnia and Herzegovina within 60 days of the date of publication of this Code in the "Official Gazette of Bosnia and Herzegovina".

#### **Article 111**

Authorized bodies of the Federation of Bosnia and Herzegovina, the Republika Srpska and Brčko District of Bosnia and Herzegovina shall harmonize their respective Criminal Codes with this Code within 90 days of the date of entry into force of this Code.

#### **Article 112**

This Code shall enter into force within 90 days of the date of its publication in the "*Official Gazette of Bosnia and Herzegovina*".

Parliamentary Assembly of B-H No.474/10  
Date: 21 January 2010  
Sarajevo

**Speaker**  
**House of Representatives**  
**Parliamentary Assembly of BiH**  
**Dr Milorad Zivkovic**

**Speaker**  
**House of Peoples**  
**Parliamentary Assembly of BiH**  
**Sulejman Tihic**