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

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

Article 1

In the Criminal Code of the Federation of Bosnia and Herzegovina (“Official Gazette of the Federation of BiH”, nos. 36/03, 37/03, 21/04, 69/04/ 18/05, 42/10, 42/11, 59/14 and 76/14), in Article 2, paragraph (8), the wording: “serving in the Federation with or without remuneration” shall be deleted.

After paragraph (8), new paragraphs (9), (10) and (11) shall be added to read:

“(9) A *lay judge* means a person who is a member of a collegiate body which has the responsibility to decide on culpability of an indicted person and pronouncement of the criminal law sanction in the course of a trial.

(10) An *arbiter* means a person who, on the basis of an agreement on arbitration, is called upon to make a legally binding decision in a dispute submitted to him/her by the parties to the agreement.

(11) A *hate crime* means every criminal offence perpetrated because of racial affiliation, skin colour, religious conviction, national or ethnic origin, language, disability, gender, sexual orientation or gender identity of another person. Such conduct shall be taken as aggravating circumstance if the more serious punishment for qualified form of hate crime is not stipulated by this Code.”

Current paragraphs (9) to (33) shall become paragraphs (12) to (36).

Article 2

In Article 16, paragraph (1), new sentence shall be added to read: “The running of the period set by the statute of limitations shall start at the moment of termination of unlawful state.”

Article 3

In Article 43a, paragraph (2), the wording: “one daily amount of fine or with” shall be deleted.

Article 4

In Article 43b, paragraph (5), the wording: “amnesty or pardon may be” shall be replaced with wording: “pardon may be”.

Article 5

In Article 110, after paragraph (2), new paragraphs (3) and (4) shall be added to read:

“(3) Notwithstanding the provision of paragraph (2) of this Article, the sentence of long-term imprisonment may also be executed in institutions of semi-open type provided that the convicted

person has served two-thirds of the sentence of long-term imprisonment and provided that he/she properly uses privileges out of institution.

(4) The provisions on transfer of the convicted persons set forth by the provisions of the Law on Execution of Criminal Sanctions of the Federation of Bosnia and Herzegovina shall accordingly apply to the procedure of transfer of convicted persons referred to in paragraph (3) of this Article.” Current paragraph (3) shall become paragraph (5).

Article 6

In Article 166, paragraph (2), item c), the wording: “racial, national or religious reasons” shall be replaced with wording: “hate”.

Item e) shall be amended to read:

“e) deprives a life a judge or prosecutor in relation to exercise of their duty of judge or prosecutor, an official or military person in the exercise of duties of safeguarding the security, public peace and order or apprehending the perpetrator of a criminal offence or guarding a person deprived of freedom.”

Article 7

In Article 172, paragraph (4), the wording: “racial, national or religious reasons” shall be replaced with wording: “hate”.

Article 8

Article 202 shall be amended to read:

“Article 202 Funding of Terrorist Activities

(1) Whoever by any means, directly or indirectly, provides or collects funds with the aim that they should be used or knowing that they are to be used, in full or in part, in order to perpetrate:

a) The criminal offence referred to in Article 200 (Taking of Hostages) and 201 (Terrorism) of this Code;

b) Other criminal offence that may cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel the authorities in the Federation to perform or to abstain from performing any act, regardless whether the terrorist activities are executed and whether the funds used for execution of terrorist activities, shall be punished by imprisonment for a term between one and ten years.

(2) Whoever by any means, directly or indirectly, provides or collects funds, shall be punished with sentence referred to in paragraph (1) of this Article if:

a) With aim that they are to be used, in full or in part, for any purpose by the terrorist organisations or individual terrorists; or

b) Knowing that they are to be used, in full or in part, for perpetration of criminal offences referred to in paragraph (1) of this Article by the terrorist organisations or individual terrorists.

(3) 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.

(4) Funds referred to in paragraphs (1) and (2) of this Article shall be deemed to be means of all kinds, both consisting of items or rights, both material or nonmaterial, movable or immovable, regardless of how they were acquired, and legal documents or instruments in every form, including also electronic and digital proving the ownership or right of ownership of the property including but not limiting to the bank credits, traveller cheques, bank cheques, money orders, shares, securities, bonds, promissory notes and credit letters.”

Article 9

In Article 203, paragraph (4), the wording: “hatred on the grounds of national or ethnic origin, race, religion, sex or language” shall be replaced with wording: “hate”.

Article 10

In Article 210, paragraphs (1) and (2) shall be amended to read:

“(1) Whoever, for profit or other benefit, induces, incites or lures another in offering sexual services or in another way enables turning another over to a third person for offering sexual services, or in any way takes part in organizing or managing of sexual services offering, shall be punished by imprisonment for a term between six months and five years.

(2) The fact whether the person who is induced, incited, lured or coerced has already been engaged in prostitution is of no relevance to the perpetration of criminal offence under this Article.”

Article 11

After Article 210, new articles 210a and 210b shall be added to read:

“Article 210a Human Trafficking

(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 other benefits to achieve the consent of a person having control over another person, recruits, transports, transfers, harbours or receives a person for the purpose of the exploitation of that, shall be punished by imprisonment for a term of not less than five years.

(2) Whoever recruits, solicits, transports, transfers, harbours or receives a person younger than 18 years of age with the purpose of exploitation by prostitution or other form of sexual exploitation, forced labour or services, forced begging, 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 at least ten years.

(3) Exploitation, for the purpose of this Article, shall imply: prostitution of another person or other forms of sexual exploitation, forced labour or services, forced begging, slavery or a similar status, servitude or the removal of organs or of some other type of exploitation.

- (4) If the criminal offense referred to in Paragraphs (1) and (2) of this Article has been committed by an official person while executing official duty, the perpetrator shall be punished by imprisonment for a term of at least ten years.
- (5) 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.
- (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 at least ten years or long-term imprisonment.
- (8) Items, vehicles and facilities used for the perpetration of the offence shall be seized.
- (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.
- (10) Criminal proceedings shall not be conducted against the victim of human trafficking who was forced by the perpetrator of criminal offence to take part in perpetration of the criminal offence if such their conduct was direct consequence of their status of victim of human trafficking.

Article 210b Organized Human Trafficking

- (1) Whoever organizes or runs a group of people, organized group of people, or group of people for organized crime which by joint action perpetrates or attempts to perpetrate criminal offence referred to in Article 210a (Human Trafficking) of this Code, shall be punished by imprisonment for a term of at least ten years or long-term imprisonment.
- (2) Whoever perpetrates criminal offence within the group referred to in paragraph (1) of this Article shall be punished by imprisonment for a term of at least ten years.
- (3) A member of the group referred to in paragraph (1) of this Article who exposes such group or association may be relieved of punishment.”

Article 12

Article 272 shall be amended to read:

“Article 272 Money Laundering

- (1) Whoever directly or indirectly accepts, exchanges, keeps, disposes of, uses in commercial or other activity, makes conversion or their transfer or otherwise conceals or tries to conceal their nature, source, location, disposal, movement, ownership or other right, and such money or property gain was acquired through perpetration of criminal offence specified by this Code, shall be punished by imprisonment for a term between six months and five years.
- (2) If the perpetrator of the act referred to in paragraph (1) of this Article is also at the same time a perpetrator of or an accomplice to the criminal offence 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 eight years.

(3) If the money or property gain referred to in paragraph (1) of this Article is of great value, the perpetrator shall be punished by imprisonment for a term between one and ten years.

(4) If the criminal offences referred to in paragraphs (1), (2) and (3) of this Article are committed by several persons who joined with the intention of committing such criminal offences, the perpetrator shall be punished by imprisonment for a term between two and twelve years.

(5) If, in perpetrating the criminal offence referred to in paragraphs (1) and (2) of this Article, the perpetrator acted out of negligence regarding the circumstance that the money or property gain were acquired by perpetration of criminal offence, the perpetrator shall be punished by a fine or imprisonment for a term not exceeding three years.

(6) Money, property gain, income, profit or other benefit of the property gain achieved by criminal offence referred to in paragraphs (1) to (4) of this Article shall be forfeited.”

Article 13

In Article 293, paragraph (3), the wording: “because of differences in ethnic or national background, race, religion, sex or language” shall be replaced with wording: “out of hate”.

Article 14

In Article 358, paragraph (3), after the wording: “against an”, wording: “a judge, prosecutor or” shall be added.

Article 15

In Article 359, paragraph (1), after the wording: “attack an”, wording: “a judge, prosecutor or” shall be added.

Article 16

After Article 359, new Article 359a shall be added to read:

“Article 359a Coercion against Person Executing a Judicial Function

(1) Whoever coerces a judge or prosecutor by force or serious threat to perform or to not perform something or suffer shall be punished by imprisonment for a term of up to two years.

(2) Whoever perpetrates the offence referred to in paragraph (1) of this Article by threat of murder, serious bodily injury, abduction or within the group for organized crime, shall be punished by imprisonment for a term between six months and five years.”

Article 17

In Article 380, paragraph (1), after the wording: “official person”, wording: “or arbiter or lay judge” shall be added, the wording: “his authority” shall be replaced with wording: “his function”,

and after the wording: “ought perform”, wording: “or who mediates in such bribing of an official or responsible person” shall be added.

In paragraph (2), after the wording: “official person”, wording: “or arbiter or lay judge” shall be added, the wording: “his authority” shall be replaced with wording: “his function”, and after the wording: “ought perform”, wording: “or who mediates in such bribing of an official or responsible person” shall be added.

In paragraph (3), after the wording: “official person”, wording: “or arbiter or lay judge” shall be added.

Article 18

In Article 381, paragraph (1), after the wording: “official person”, wording: “or arbiter or lay judge” shall be added and the wording: “his authority” shall be replaced with wording: “his function”.

In paragraph (2), after the wording: “official person”, wording: “or arbiter or lay judge” shall be added and the wording: “his authority” shall be replaced with wording: “his function”.

In paragraph (3), after the wording: “official person”, wording: “or arbiter or lay judge” shall be added.

Article 19

Article 382 shall be amended to read:

“Article 382

Accepting Reward or Other Form of Benefit for Trading in Influence

(1) Whoever, directly or indirectly, demands or receives or accepts a reward or any other benefit or promise of reward or any other benefit for himself or for another person, that by using his actual or supposed official or social position or position of influence or other status intercedes that an official or responsible person in the Federation or foreign official person or arbiter or lay judge performs or not performs official or other act, shall be punished by imprisonment for a term between six months and five years.

(2) Whoever, by using his official or social position or position of influence or other status intercedes that an official or responsible person in the Federation or foreign official person or arbiter or lay judge performs or not performs official or other act, shall be punished by imprisonment for a term between one year and eight years.

(3) If the perpetrator had demanded or received or accepted a reward or any other benefit for himself or for another person for perpetration of criminal offence referred to in paragraph (2) of this Article, the perpetrator shall be punished by imprisonment for a term between one year and ten years.

(4) Received reward or any other benefit shall be forfeited.”

Article 20

After Article 382, new Article 382a shall be added to read:

“Article 382a

Giving Reward or Other Form of Benefit for Trading in Influence

(1) Whoever, directly or indirectly, gives or offers or promises a reward or any other benefit to a person having official or social position or position of influence or other status intercedes that official or responsible person in the Federation or foreign official person or arbiter or lay judge performs or not performs official or other act, shall be punished by imprisonment for a term between six months and five years.

(2) Whoever, directly or indirectly, at the request of a person having official or social position or position of influence or other status, perpetrates the criminal offence referred to in paragraph (1) of this Article and reports the criminal offence before its revealing or knowledge that the offence has been revealed, may be relieved of punishment.

(3) Received reward or any other benefit shall be forfeited, and in the case referred to in paragraph (2) of this Article, it may be returned to the person who had given the reward or any other benefit.”

Article 21

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