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LAW ON AMENDMENTS TO THE BIH ELECTION LAW

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NOTE: Election Law of Bosnia and Herzegovina was published in the “Official Gazette of Bosnia and Herzegovina”, 23/01.

Pursuant to Article IV/4.a) of the Constitution of Bosnia and Herzegovina, at the 28th session of the House of Representatives, held on 27 April 2016, and the 3rd emergency session of the House of Peoples, held on 27 April 2016, the Parliamentary Assembly of Bosnia and Herzegovina adopted the following

LAW ON AMENDMENTS TO THE BIH ELECTION LAW

Article 1

In the Election Law of Bosnia and Herzegovina [“Official Gazette of BiH”, 23/01, 7/02, 9/02, 9/02, 20/02, 25/02 (Correction), 4/04, 20/04, 25/05, 77/05, 11/06, 24/06, 33/08, 37/08, 32/10, 15/12 (CCBH Decision U-9/09), 11/13 (CCBH Decision U-4/11), 18/13 and 7/14] in Chapter One – titled as *General Provisions*, in Article 1.2, under paragraph (3), the words: „ paragraphs (11) and (12)“ shall be replaced with the words „ paragraphs (16) and (17)“.

Article 2

In Article 1.2a, in paragraph (1), the words: “paragraph (12)” shall be replaced with the words: “paragraph (17)”.

In the same Article, in paragraph (3), the words: “paragraph (11)” shall be replaced with the words: “paragraph (16)”.

Article 3

In Article 1.3a, in paragraph (1), after the word: “recalled”, the comma shall be deleted and a full stop added instead, whereas the words: “and all their rights and obligations shall commence on the day when the representative body has been constituted”, shall be deleted,

In the same Article, in paragraph (3), after the words: “the Central Election Commission of BiH”, the full stop shall be deleted and the following words added: “within the period of seven (7) days following the receipt of the declaration”.

Article 4

In Article 1.8, in paragraph (1), after the words: “civil servants”, the following words shall be added: “the Chief Auditor and the Deputy Chief Auditors in the Audit Office of the Institutions of BiH and the Governor and the Vice-Governors of the Central Bank of BiH”.

In the same Article and paragraph, after the word „status“, a new sentence shall be added to read as follows:

“Should the Central Election Commission determine that the person referred to in this paragraph has not resigned from the position or has failed to act in accordance with the law regulating his/her status during the period between the certification of candidacy and the printing of ballots, this person shall be removed from the certified list of candidates. Should the same also be determined after the printing of ballots, this person shall not receive the mandate even if he/she has won the mandate.”

In the same Article in paragraph (4), after the words: “and one position in an executive body of authority” the full stop shall be replaced with a comma and the following words shall be added: “except in the period by the time when the executive bodies of authority are constituted which were elected in the ordinary elections within the same election cycle”.

Article 5

In Article 1.10, in paragraph (3) of the Election Law of BiH, the words: „ If the member “shall be replaced with the words: „If the elected member of an authority“.

Article 6

In Chapter Two – titled as *Competent Authorities Responsible for the Conduct of the Elections*, in Article 2.2, paragraph (2) shall be amended to read as follows: “(2) The member of the election commission shall be a person with appropriate qualifications (i.e. educational background) and experience in the administration of the elections, whereas the member of the polling station committee shall be a person with appropriate qualifications (i.e. educational background)”.

In the same Article in paragraph (4) the words: ”that the number of members of the sex that is less represented within the Municipal Election Commission and the Polling Station Committee reaches a minimum of 40% of the total number of members”, shall be deleted, and the following words shall be added instead: “the gender representation [within the Municipal Election Commission and the Polling Station Committee] in accordance with the Law on Gender Equality in Bosnia and Herzegovina, unless the Election Commission and the Polling Station Committee are made of three candidates when the equal representation exists in the case where one of the genders is represented with 1/3 of the total number of members.”

Article 7

In Article 2.14 in paragraph (1) the words: “The composition of an election commission shall in

general reflect the equal representation of both genders. The equal gender representation shall exist in the case when one of the genders is represented with minimum of 40% of the total number of members of the Election Commission.”, shall be replaced with the following words:

”Efforts shall be made to ensure the gender representation within the Election Commission in accordance with the Law on Gender Equality in Bosnia and Herzegovina, unless the Election Commission is made of three candidates when the equal representation exists in the case where one of the genders is represented with 1/3 of the total number of members.”

Article 8

In Article 2.15, in paragraph (1), the words: “appointed in the same manner and procedure that the previous member was appointed”, shall be replaced with the words: “appointed in the manner and procedure as prescribed by Article 2.12 paragraph (5) of this Law”.

In the same Article in paragraph (2), at the end of the text, a new sentence shall be added to read as follows:

”In the event that the appointment of the new member of the Municipal Election Commission has not been made within the period of 30 days, the Central Election Commission of BiH may make the appointment of the new member of the Municipal Election Commission”.

Article 9

In Article 2.19 in paragraph (14), the words: “to attend the training“, shall be replaced with the words: „to attend the special training“.

Article 10

In Chapter Four – titled as *Certification and Candidacy for the Election*, Article 4.4, paragraph (1), at the end of the text, a new sentence shall be added to read as follows:

“The application shall contain the number of the account used for financing the election campaign.”

Paragraph (5) and its sub-paragraphs 1 through 4 of the Election Law of Bosnia and Herzegovina shall be amended to read as follows:

“In order to be certified for participation in the elections, a political party or an independent candidate must present to the Central Election Commission of BiH an application for participation in the elections, which contains at least:

1. five thousand (5,000) signatures of voters recorded in the Central Voters Register for

the elections of the members of the Presidency of BiH;

2. five thousand (5,000) signatures of voters recorded in the Central Voters Register for the elections of the members of the House of Representatives of the Parliamentary Assembly of BiH;
3. three thousand (3,000) signatures of voters recorded in the Central Voters Register for the elections for the members of the House of Representatives of the Parliament of the Federation of BiH, or for the elections of the members of the National Assembly of the Republika Srpska or for the elections for the President and Vice Presidents of Republika Srpska;
4. five hundred (500) signatures of voters recorded in the Central Voters Register for the elections of the delegates of the Cantonal Assemblies of the Federation of Bosnia and Herzegovina in the canton in which the number of the voters registered in the Central Voters Register on the date of announcement of the elections did not exceed the number of 100,000 voters, or one thousand (1,000) signatures of voters for the elections in the canton where this number exceeded the number of 100,000 voters registered in the Central Voters Register;”

Article 11

In Article 4.5, at the end of paragraph (2), a new sentence shall be added to read as follows: “The supporting signatures that have been collected for a specific level of authority may also be used in the early elections within the same election cycle”.

In the same Article, paragraph (3) shall be deleted.

Article 12

Article 4.8 of the Election Law of Bosnia and Herzegovina shall be deleted.

Article 13

In Article 4.9, the words: “Article 4.8” shall be replaced with the words: “Article 4.4”.

Article 14

In Article 4.10, paragraph (1), the words: „and valid ID Card number “ shall be deleted.

Article 15

In Article 4.11, the words: “in Articles 4.4 and 4.8 of this Law” shall be replaced with the words:

“in Article 4.4 of this Law”.

Article 16

In Article 4.12, in paragraph (1), the sentence which reads: “If the name of a coalition is identical to or so similar to a political party or coalition’s name that it could cause confusion or mislead a voter, the Central Election Commission of BiH shall determine who has the right to use the name for the purposes of the elections”, shall be deleted.

In the same Article, a new paragraph (2) shall be added to read as follows:

“If the name of a coalition is identical to or so similar to a political party or coalition’s name that it could cause confusion or mislead a voter, the Central Election Commission of BiH shall determine who has the right to use the name for the purposes of the elections”.

Paragraphs (2) through (4) shall now be renumbered to become the new paragraphs (3) through (5).

Article 17

In Article 4.15 paragraph (1), after the words: „a single candidates list under one name”, the following words shall be added „and an act designating an official authorized to represent them before the Central Election Commission of Bosnia and Herzegovina.”

In the same Article, in paragraph (3), after the words “shall notify thereof the applicant”, the following words shall be added: “of the list of independent candidates”.

In the same Article in paragraph (3), the word “the leader of the list of independent candidates”, shall be replaced with the following words: “the applicant of the list of independent candidates”.

Article 18

Article 4.16 shall be amended to read as follows:

“Article 4.16

(1) A political party or independent candidate shall enclose a proof that the government stamps have been paid with its application for certification in the amount determined by the Central Election Commission of BiH for every election. The cash amount paid as the Certification fee shall be refunded if a political party or independent candidate wins:

1. for the members of the BiH Presidency, 1/3 of votes of the total number of votes won by an elected member of the BiH Presidency in the elections,

2. for the RS President and Vice President, 1/3 of votes of the total number of votes won by an elected RS President and Vice Presidents in the elections, from among the appropriate constituent people,
 3. for the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina, the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina, for the National Assembly of the Republika Srpska and for the Cantonal Assemblies in the Federation of Bosnia and Herzegovina, more than 3% of the total number of valid votes in the respective electoral unit,
 4. for the Municipal Heads/City Mayors, 1/3 of votes of the total number of votes won by the elected Head/Mayor,
 5. for the Municipal Councilors, more than 3% of the total number of valid votes in the respective electoral unit.
- (2) If a coalition or a list of independent candidates has won the number of votes referred to in paragraph (1) of this Article, each political party in the coalition or each independent candidate on the list of independent candidates shall be considered to have met the requirement for the fee refund. ”

Article 19

At the end of Article 4.18, a new sentence shall be added to read as follows: “The name and surname of the candidate(s) on the candidate list of a certified political entity must be identical to the name and surname of the candidate(s) in the Central Voting Register.”

Article 20

In Article 4.19, paragraph (2) shall be amended to read as follows:

“(2) The number of candidates on the candidates list may be higher by 5 candidates than the number of mandates that are to be allocated.”

Paragraph (3) shall be deleted.

The current paragraphs (4) through (8) shall now be renumbered to become the new paragraphs (3) through (7).

The current paragraph (5) of the Election Law of BiH, which shall now be renumbered to become the new paragraph (4), shall be amended to read as follows:

“The candidates list shall contain: the name and surname of every candidate on the list, their

personal identification number (JMBG number), permanent residence address, declared affiliation with a particular constituent people or group of “Others”, and the signature of the president of the political party, or the signature of a coalition official authorized to represent the coalition before the Central Election Commission of Bosnia and Herzegovina. The declaration of each of the candidates on the list validating the acceptance of candidacy and the statement confirming that there are no impediments referred to in Article 1.8, paragraph (1), and Article 1.10, paragraph (1), sub-paragraph 5 of this Law shall both be enclosed with the proposed list. The declaration and statements must be certified in the way described by law or with the competent Municipal Election Commission.”

The current paragraph (6), which shall now be renumbered to become the new paragraph (5), the words: “paragraph (5) of this Article”, shall be replaced with the words: “paragraph (4) of this Article”.

The current paragraph (8), which shall now be renumbered to become the new paragraph (7), the words: “paragraphs (2) and (3)”, shall be replaced with the words: “paragraph (2)”, whereas the words: “paragraph (4)” shall be replaced with the words: “paragraph (3).

Article 21

In Article 4.20 of the Election Law of Bosnia and Herzegovina, the words: „shall be removed”, shall be replaced with the words: „shall be deleted”.

Article 22

In Article 4.21, in paragraph (3), the full stop shall be deleted and replaced with a comma and the following words: “nor may the candidate withdraw his or her candidacy.”

After paragraph (3), the new paragraph (4) shall be added to read as follows:

“(4) From the certification of the candidates lists until the start of ballot printing, the political party, coalition or list of independent candidates shall be entitled to replace a candidate on the list only in case of death of the candidate, or insofar as the reasons referred to in Article 1.10, paragraph (1), sub-paragraph 5 of this Law have occurred during that period of time.”

Article 23

Paragraph (2) of Article 4.23 shall be deleted.

In the current paragraph (3), which shall now become renumbered to become the new paragraph (2), the words: “paragraph (2) of this Article”, shall be replaced with the words: “Article 4.21, paragraph (4), of this Law”.

In the current paragraph (4) which shall now become renumbered to become the new paragraph (3), the words: “paragraph (3)”, shall be replaced with the words: “paragraph (2)”, whereas the words: “paragraph (2) of this Article”, shall be replaced with the words: “Article 4.21, paragraph (4) of this Law”.

Article 24

In Article 4.24, in paragraph (2), the sentence which reads as follows: “The lists of candidates for compensatory mandates shall comply with paragraph (4) of Article 4.19.”, shall be amended to read as follows:

“Every candidates list submitted for the compensatory mandates shall include the candidates of male and female gender who are equally represented. The equal gender representation shall exist in the case when one of the genders is represented with minimum of 40% of the total number of candidates on the list. The candidates of a less represented gender shall be distributed on the candidate list for compensatory mandates in the following way: at least one candidate of the less represented gender among the first two candidates, two candidates of the less represented gender among the first five candidates, three candidates of the less represented gender among the first eight candidates, etc, etc...”.

Article 25

In Chapter Six – titled as *Protection of the Electoral Right*, in Article 6.4, paragraph (2), the words: “6.3 paragraph (3)”, shall be replaced with the words: “6.3 paragraph (2)”.

Article 26

In Article 6.6 in paragraph (3), the words: “Article 6.3 paragraph (3)”, shall be replaced with the words: “Article 6.3 paragraph (2)”.

Article 27

In Chapter Nine – titled as *Parliamentary Assembly of Bosnia and Herzegovina*, in Subchapter A – titled as *House of Representatives of the Parliamentary Assembly of BiH*, in Article 9.2a, in sub-paragraph b), after the word: “Ugljevik”, a comma shall be added and the conjunction “and” shall be deleted, while after the word: “Teslić”, the following words shall be added: “and Stanari”.

Sub-paragraph c) shall be amended to read as follows:

“c) Constituency 3 consists of the cities of Trebinje and Zvornik and the municipalities of Osmaci, Šekovići, Vlasenica, Bratunac, Srebrenica, Sokolac, Han Pijesak, Istočna Ilidza, Istočni Stari Grad, Istočno Novo Sarajevo, Trnovo, Pale, Rogatica, Višegrad, Istočni Mostar, Nevesinje, Kalinovik,

Gacko, Foča, Novo Goražde, Čajniče, Rudo, Berkovići, Ljubinje, Bileća and Milići and it shall elect three (3) members.”

Article 28

In Article 9.7a, paragraph (1), the words: “Article 4.19, paragraph (4)” shall be replaced with the words: “Article 4.24, paragraph (2)”.

Article 29

In Article 9.8, in paragraph (2), at two points, the words „five percent (5%)”, shall be replaced with the words: „twenty percent (20%).”

Article 30

In Chapter Thirteen – titled as *Cantonal Assemblies, Municipal Councils/Assemblies, and City Councils/Assemblies*, in Article 13.5, in paragraph (4), after the words: “Mandates”, the following words shall be added: “for the Cantonal Assembly”, whereas at two points in the text the words: „five percent (5%)”, shall be replaced with the words: „twenty percent (20%)”.

After paragraph (4), the new paragraph (5) shall be added to read as follows:

“Mandates for the Municipal Council/Municipal Assembly won by a list shall be distributed first amongst the candidates on the list who individually received at least ten percent (10%) of the total number of valid votes received by that list, these mandates being awarded in the order of the highest number of votes to the lowest number of votes. If there are still mandates to be distributed to a list and the candidates remaining are those who received less than ten percent (10%) of the total valid votes received by that list, then the distribution of the mandates among the remaining candidates from the list shall be done according to their order on the list.”

Article 30

In Chapter Fifteen, titled as *Campaign Finance*, in Article 15.1, paragraph (3) shall be deleted.

Article 32

In Article 15.7, in paragraph (1), the sentence: “Every candidate standing for elected office at the level of BiH or the Entity level shall be obligated, no later than fifteen (15) days from the day of accepting candidacy for the elections, to submit to the Central Election Commission of BiH, on a special form, a signed statement on his or her total property situation, containing:” shall be amended to read as follows: „The candidates elected at all levels of authority shall be obligated to submit to the Central Election Commission of Bosnia and Herzegovina, on a special form, a signed statement on his or her total property situation, containing:“

Article 33

In Article 15.8 in paragraph (1), the words:“except the level of BiH and the Entity level” shall be deleted.

Article 34

In Chapter 19A – titled as *Penalty Provisions*, in Article 19.8, paragraph (1), after sub-paragraph l), a new sub-paragraph m) shall be added to read as follows:

„m) are not present during the entire process of voting without justified cause (Article 5.5);”

The current sub-paragraphs m), n), o), p), r), s), t), u) shall as a result of this particular amendment now be enumerated as the sub-paragraphs n), o), p), r), s), t), u) v).

In the same Article, a new paragraph (2) shall be added to read as follows:

“(2) For the violations referred to in paragraph (1) item a), l), m), n), o), p), r), s) t) and u) of this Article, the members of the Polling Station Committee shall also be fined in the amount from KM 300.00 to KM 3,000. ”

Article 35

In Article 19.9, in paragraph (1), item r) shall be amended to read as follows:

“r) fails to submit, within the period of 30 days following the date of publication of the certified mandates in the Official Gazette of Bosnia and Herzegovina, the statement about the total property situation on the required form (Article 15.7 and Article 15.8).”

After item r), the new item s) shall be added to read as follows:

“s) exceeds the highest amount of funds allowed to be spent for financing of the election campaign referred to in Article 15.10;”

The current sub-paragraphs s), t) and u) shall as a result of this particular amendment now be enumerated as the sub-paragraphs t), u) and v).

Article 36

In Article 19.10, in paragraph (1), the number “200.00” shall be replaced with the number “300.00”.

Article 37

This Law shall enter into force on the eighth day following the date of its publication in the “Official Gazette of Bosnia and Herzegovina”.