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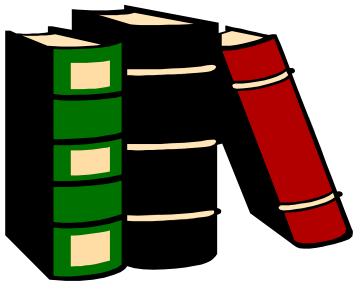

LAW ON AMENDMENTS TO THE CRIMINAL PROCEDURE CODE OF THE BRCKO DISTRICT OF BOSNIA AND HERZEGOVINA

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

Article 1

In The Criminal Procedure Code of the Brčko District of Bosnia and Herzegovina ("Official Gazette of the Brčko District of Bosnia and Herzegovina No. 33/13 – Consolidated text and No. 27/14), Article 84 shall be amended to read as follows:

"Article 84
(Right of the Witness to Refuse to Respond)

(1) The witness shall be entitled to refuse to answer such questions with respect to which a reply is likely to result in the danger of bringing prosecution upon himself.

(2) The witnesses exercising the right referred to in to Paragraph (1) of this Article shall answer the same questions, provided that the Chief Prosecutor has issued an affirmation in writing indicating that he/she shall not undertake criminal prosecution of the witness for the actions stated in the witness's testimony. A copy of the Chief Prosecutor's written affirmation shall be delivered to the witnesses.

(3) The Chief Prosecutor may issue the affirmation referred to in Paragraph (2) of this Article on condition that the witness's testimony is of importance for preventing, exposing and proving of a serious criminal offense of another person for which a prison sentence of ten or more years of imprisonment is prescribed, as well as for the criminal offenses referred to in Paragraph (4) of this Article.

(4) The Chief Prosecutor may issue the affirmation referred to in Paragraph (2) of this Article in the proceedings conducted on account of:

a) the criminal offences against the State (Chapter XV);

b) the criminal offences against humanity and values protected by international law prescribed by the Criminal Code of Bosnia and Herzegovina;

c) the criminal offences of terrorism (Chapter XVIII);

d) the criminal offenses of: Unlawful Deprivation of Freedom (Article 176); Kidnapping (Article 177); Sexual Intercourse with a Helpless Person (Article 201, paragraph (1)); Sexual Intercourse through Abuse of Office (Article 202); Forced Sexual Intercourse (Article 203); Sexual Intercourse with a Child (Article 204, paragraph (1)); Debauchery (Article 205, paragraph (2)); Abuse of a Child or a Minor for Pornographic Purposes (Article 208); Money Laundering (Article 265); Tax Evasion (Article 267); Associating to Commit a Criminal Offense (Article 334); Organized Crime (Article 336); Accepting Gifts and Other Forms of Benefits (Article 374); Giving Gifts and Other Forms of Benefits (Article 375); Accepting Reward or Other Forms of Benefits in Exchange for Trading in Influence (Article 376); Giving Reward or Other Forms of Benefits in Exchange for Trading in Influence (Article 376a); Abuse of Office or Official Authority (Article 377); Illegal Favoring (Article 377a); Misappropriation (Article 378); Fraud in Performing an Official Duty (Article 379); Unlawful Release of an Individual Deprived of Liberty (Article 385); Damaging of Computer Information and Programs (Article 387); Computer Sabotage (Article 392).

(5) The affirmation referred to in Paragraph (2) of this Article shall indicate specifically that it refers only to the criminal offense committed by a witness that is punishable with a penalty of the same or lesser gravity than the one established for the criminal offense that is subject to the witness testimony or with regard to which the proceedings are conducted and that it cannot refer to the criminal offences punishable by imprisonment of 10 years or more serious punishment.

(6) By virtue of its ruling the Court shall determine whether the affirmation issued by the Chief Prosecutor referred to in Paragraph (2) of this Article is consistent with paragraphs (3), (4) and (5) of this Article and it shall appoint an attorney-at-law to act as a legal counsel to the witness during the hearing.

(7) Once the Court has rendered the ruling referred to in Paragraph (6) of this Article, the Chief Prosecutor shall summon the witness so that he/she could give his/her testimony. Before the hearing, the witness shall take an affirmation in writing in order to testify that as a witness in the criminal proceedings he/she shall give a truthful testimony and shall not fail to reveal anything known to him/her about the criminal offense referred to in paragraphs (3) and (4) subject to his/her testimony and about its perpetrator. The witness shall be warned that if he/she refuses to testify, he/she shall be prosecuted for the criminal offense he/she was granted the immunity.

(8) Once the witness has testified, the Chief Prosecutor shall issue a ruling on the immunity enjoyed by the witnesses for the criminal offense arising from the testimony given by the witness in accordance with Paragraph (2) of this Article. The ruling shall provide the factual description and legal qualification of the criminal offense with regard to which no prosecution shall be conducted against the witness.

(9) In the event that the witness has failed to comply with Paragraph (7) of this Article during the course of the criminal proceedings, the Chief Prosecutor shall issue a reasoned ruling refusing to grant immunity to the witness for the criminal offense that was subject to witness testimony referred to in Paragraph (2) of this Article. The Prosecutor shall refuse to grant immunity also in the event that the actions stated in the witness testimony refer to the criminal offences for which no immunity can be granted as required under paragraphs (3), (4) and (5) of this Article. In such events, the witness testimony containing the answers to the questions referred to in Paragraph (1) of this Article shall be separated from the case file, it shall be kept separately without being allowed to be used in the criminal proceedings against the witness.

(10) In the event that the Chief Prosecutor has failed to issue the ruling referred to in Paragraph (8) of this Article, the witness testimony containing the answers to the questions referred to in Paragraph (1) of this Article shall be separated from the case file, it shall be kept separately without being allowed to be used in the criminal proceedings against the witness.

(11) Criminal prosecution for the criminal offence of giving false testimony may be conducted against the witness referred to in Paragraph (2) of this Article.

(12) The property claim of the damaged party from the criminal offense for which the witness was granted the immunity shall fall at the expense of the budget funds."

Article 2

Article 117 shall be amended to read as follows:

"Article 117
(Criminal Offenses as to Which Undercover Investigative Measures May Be Ordered)

Investigative measures referred to in Paragraph (2) of Article 116 of this Code may be ordered for following criminal offenses:

a) the criminal offences against the State (Chapter XV);
b) the criminal offences of terrorism (Chapter XVIII);
c) Kidnapping (Article 177); Abuse of a Child or a Minor for Pornographic Purposes (Article 208); Unauthorized Production and Distribution of Narcotics (Article 232); Money Laundering (Article 265); Associating to Commit a Criminal Offense (Article 334); Organized Crime (Article 336); Accepting Gifts and Other Forms of Benefits (Article 374); Giving Gifts and Other Forms of Benefits (Article 375); Accepting Reward or Other Forms of Benefits in Exchange for Trading in Influence (Article 376); Giving Reward or Other Forms of Benefits in Exchange for Trading in Influence (Article 376a); Abuse of Office or Official Authority (Article 377); Illegal Favoring (Article 377a); Damaging of Computer Information and Programs (Article 387); Computer Fraud (article 389) and Computer Sabotage (Article 392).
d) other criminal offences for which a prison sentence of five (5) years or more can be pronounced."

Article 3

In Article 118, paragraph (3) shall be amended to read as follows:

"(3) The investigative actions referred to under items a) through d) and item g) of Paragraph (2) of Article 116 of this Code may last up to one month; however, in the event that such measures result in some of the desired effects, while there is still any reason justifying their continued undertaking for the purpose of collecting evidence, the duration of these measures may upon the properly reasoned motion of the Prosecutor be prolonged for a term of another month, provided that the measures referred to under items a), b) and c) may last up to six months in total for the criminal offenses for which an imprisonment sentence of minimum of five years or more can be pronounced, whereas they may last up to four months for other criminal offences. The measures referred to under items d) and g) may last up to three months in total for the criminal offenses for which an imprisonment sentence of minimum of five years or more can be pronounced, whereas they may last up to two months for other criminal offenses. Exceptionally, with regard to the criminal offense of Organized Crime and the criminal offenses of Terrorism, the investigative actions referred to under items (a) through (d) and (g) of Paragraph (2) of Article 116 of this Code, in the event that such measures result in some of the desired effects, while there is still any reason justifying their continued undertaking for the purpose of collecting evidence, the duration of these measures may upon the properly reasoned motion of the Prosecutor be prolonged for yet another term of up to three months. The motion for undertaking the measure referred to in item f) of Paragraph 2 of Article 116 of this Code may refer only to a single act, whereas the motion as to each subsequent measure against the same individual must contain a statement of reasons justifying its application. The application of action referred to in Article 116, line 2 of item e) of this Code shall last as long as it is needed to collect evidence, and not longer than a year for criminal offenses for which an imprisonment sentence of five years or more can be pronounced, whereas they may last six months for other criminal offences."

Article 4

Article 225 shall be amended to read as follows:

"Article 225
(Completion of Investigation)

(1) The Prosecutor shall order a completion of investigation after he concludes that the status is sufficiently clarified to allow the bringing of charges or suspending the investigation. Completion of the investigation shall be noted in the casefile.
(2) If the investigation has not been completed within six months after the order on its conducting has been issued, the prosecutor shall inform the Chief Prosecutor about the reasons for the failure to complete the investigation. The Chief Prosecutor shall immediately, and within the period of 30 days at latest, set a new period of time required for the completion of the investigation that shall not exceed the period of six months, or that shall not exceed the period of one year for the criminal offenses punishable by imprisonment for a term of 10 years or a more severe punishment, and he/she shall order the undertaking of the necessary measures in order to complete the investigation.
(3) If the investigation could not be completed within the period referred to in Paragraph (2) of this Article, the Prosecutor shall inform the Chief Prosecutor within the period eight days about the reasons for the failure of completion of the investigation.
(4) If the investigation is not completed within the time limit referred to in Paragraph (2) of this Article, the suspect, if questioned, and the injured party may file a complaint with the Chief Prosecutor on account of the extended duration of the proceedings. Should the Chief Prosecutor find that the complaint is well-founded, he/she shall take the necessary measures and he/she shall immediately, and not later than within the period of 30 days set a new period within which the investigation must be completed, but which cannot exceed the period of six months, whereof he/she shall inform the complainant.
(5) The indictment shall not be issued if the suspect was not questioned."

Article 5

Article 226 shall be amended to read as follows:

"Article 226
(Issuance of the Indictment)

(1) Should the Prosecutor find during the course of an investigation that there is enough evidence for grounded suspicion that the suspect has committed a criminal offense, the Prosecutor shall prepare and refer the indictment to the preliminary hearing judge within the period of 30 days following the date when the completion of the investigation has been recorded in the case file.

(2) Should the Prosecutor fail to issue an indictment within the period referred to in Paragraph (1) of this Article, he/she shall be bound to inform the Chief Prosecutor within the period of eight days about the reasons for the failure to issue the indictment, and the Chief Prosecutor shall then undertake the measures in order to enable the Prosecutor to issue the indictment within a period that may not exceed 30 days.

(3) Should the Prosecutor fail to issue the indictment within the period referred to in Paragraph (2) of this Article, he/she shall inform the Chief Prosecutor, suspect and the injured party thereof, The suspect and the injured party shall be entitled to file a complaint with the Chief Prosecutor within the period of eight days following the end of that period. Should the Chief

Prosecutor find that the complaint is well founded, he shall take the necessary measures and set the new deadline that shall not exceed 15 days for issuing of the indictment, and shall inform the complainant thereof. Should the Prosecutor fail to issue the indictment even after the mandatory instructions are given by the Chief Prosecutor, it shall be considered that the Prosecutor has given up the criminal prosecution, and shall be bound to, within the period of 15 days, inform the Chief Prosecutor, the suspect and the injured party thereof.

(4) Once the indictment has been issued, the suspect or/and the accused and the defense attorney shall be entitled to examine all the case files and evidence.

(5) Once the indictment has been issued, the parties and/or the defense attorney may file a motion with the preliminary hearing judge requiring from him/her to take the actions as provided under Article 223 of this Code."

Article 6

This Law shall enter into force on the eighth day after its promulgation in the "Official Gazette of the Brčko District of BiH".

Number: 01-02-526/19
Brčko, 30.01.2019

SPEAKER OF THE
ASSEMBLY OF THE BRČKO DISTRICT OF BIH
Esed Kadrić